CITY OF PITTSBURG
AGENDA

OCTOBER 04, 2021

CITY HALL COUNCIL CHAMBER
65 CIVIC AVENUE, PITTSBURG, CA

SPECIAL MEETING – OPEN SESSION
5:00 P.M.

CLOSED SESSION
5:05 P.M.

REGULAR MEETINGS
7:00 P.M.

CITY COUNCIL
HOUSING AUTHORITY
PITTSBURG ARTS AND COMMUNITY FOUNDATION
PITTSBURG POWER COMPANY
SOUTHWEST PITTSBURG GEOLOGIC HAZARD ABATEMENT DISTRICT II
SUCCESSOR AGENCY

PRESIDING

Marilyn "Merl" Craft, Mayor/Chair
Holland Barrett White, Vice- Mayor/Chair
Shanelle Scales-Preston, Council Member/Board Member
Juan Antonio Banales, Council Member/Board Member
Jelani Killings, Council Member/Board Member

FOR HOUSING AUTHORITY:
S.L. Floyd, Housing Authority Member
Annie Hill Herring, Housing Authority Member

Pittsburg City Council meetings are held the first and third Mondays of each month at 7:00 p.m. The Housing Authority meets in conjunction with the City Council on the third Monday of each month. The Pittsburg City Council meets regularly in the Council Chamber at 65 Civic Avenue, unless otherwise noted above. The City Council also sits as the Board of Directors of several other City agencies. The stipends for all agency members conform to state statutes governing compensation amounts. All other Agencies meet on an as needed basis and will be listed above if applicable. Copies of the open session agenda packets, which are distributed to the City Council, are on file in the office of the City Clerk, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning 72 hours in advance, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except from noon to 1:00 p.m. and City holidays). The agenda and reports are also located on the City's website at www.ci.pittsburg.ca.us. Additionally, if any reports or documents, which are public records, are distributed to the City Council less than 72 hours before the meeting, those reports and documents will also be available for public inspection in the City Clerk's Office and on the day of the meeting in the Council Chamber at the public counter area below the dais.

5:00 P.M. - CONVENE IN OPEN SESSION FOR SPECIAL MEETING

COMBINED CITY COUNCIL, HOUSING AUTHORITY, PITTSBURG POWER COMPANY, SOUTHWEST PITTSBURG GHAD II CONSIDERATION

1. Adoption of Resolutions Making Findings in Support of Continuing to Hold Public Meetings by Teleconference Pursuant to California Government Code Section 54953(e)

   On September 16, Governor Newsom signed Assembly Member Robert Rivas' (D-Salinas) Assembly Bill 361 (AB 361) which amends the Brown Act to allow cities to continue to meet remotely during proclaimed states of emergency under specified conditions.

AUDIENCE REMARKS

The Audience Remarks period is for the public to comment on any items scheduled to be heard during the Closed Session portion of the meeting, if applicable.

5:05 P.M. - CONVENE IN CLOSED SESSION

2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Section 54956.8:

   Property: W. Leland Rd. (APN 093-460-017); City negotiators: Garrett Evans, Jordan Davis; Negotiating parties: Robert Rowland on behalf of Gerald Alves; Under negotiation: Price and terms of payment

3. CONFERENCE WITH LABOR NEGOTIATORS Pursuant to Section 54957.6:

   City designated representatives: Garrett Evans, Stacy Shell, Charles Sakai, Sloan Sakai Yeung & Wong LLP

   Employee organizations: American Federation of State, County, and Municipal Employees Local 512 Management/Professional/Confidential Unit and Miscellaneous A Unit; Pittsburg Police Officers' Association; Pittsburg Police Managers Group; Teamsters Local 856; International Brotherhood of Electrical Workers Local 1295

   Unrepresented employees: Management Group; Senior Executive Team

7:00 P.M. - CONVENE IN OPEN SESSION FOR REGULAR MEETING

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

PROCLAMATIONS

4. Clean Air Day

5. National Breast Cancer Awareness Month

6. National Arts and Humanities Month

7. National Filipino American History Month

8. National Italian American Heritage Month

9. National Immigrants Day

PRESENTATIONS

10. Contra Costa District Attorney's Office and Public Safety

CITY MANAGER REPORTS/REMARKS

The City Manager may make brief announcements or informal comments at this time and brief the Council on items of interest. (No Action Required)

PUBLIC COMMENTS

See Public Advisory.

COMMITTEE REPORTS

Council Members may make a report on their committee assignments at this time. (see attached list of adhoc committees and other public agencies in which Council members particiapte). (No Action Required)

PITTSBURG ARTS AND COMMUNITY FOUNDATION

CONSIDERATION

11. Adoption of a Pittsburg Arts and Community Foundation Resolution to approve the Budget for Fiscal Year 2021-22 and Appropriation of Funds for Fiscal Year 2021-22

The Pittsburg Arts and Community Foundation (Foundation) is a local non-profit organization that promotes literacy, arts, and community services. A major component of the Foundation is the Railroad Book Depot. This item is the annual operating budget for the Foundation for Fiscal Year 2021-22.

CITY COUNCIL MEETING

PUBLIC HEARING

12. Introduction and Waive First Reading of Ordinances Amending Title 18 of the Pittsburg Municipal Code Related to Large Family Daycares, Vehicle Parking Requirements, and Other Miscellaneous Text Amendments

This is a public hearing on amendments to City of Pittsburg Municipal Code (PMC) Title 18, the “Zoning Code,” related to large family daycares, vehicle

parking requirements, and other miscellaneous text amendments intended to clarify minor inconsistencies and ensure compliance with recent amendments and additions to State Law. On June 8, 2021, the Planning Commission adopted Resolution No. 10164, recommending City Council approval of the proposed amendments to the PMC.

CONSIDERATION

CONFLICT OF INTEREST STATEMENT

City Council/Agency Members may make any conflict of interest declarations pertaining to Consent Calendar items at this time.

COMBINED CITY COUNCIL, PITTSBURG ARTS AND COMMUNITY FOUNDATION, PITTSBURG POWER COMPANY, SUCCESSOR AGENCY AND SOUTHWEST PITTSBURG GHAD II CONSENT CALENDAR

13. Minutes of September 20, 2021

14. Adoption of a Pittsburg Power Company Resolution Authorizing the Use of Fund Balance to Supplement the Pittsburg Arts and Community Foundation Fiscal Year 2021-22 Deficit

    The Pittsburg Arts & Community Foundation (Foundation) is requesting a subsidy from the Pittsburg Power Company of $200,000 to balance its Fiscal Year 2021-2022 operating budget.

15. Adoption of a City Council Resolution to Amend the Master Pay Schedule as Required by California Public Employees' Retirement System

    To comply with CalPERS' interpretation of the requirements of California Code of Regulations, Title 2, Section 570.5 by amending the single master pay schedule already on the City's website representing all previously approved actions on the individual classifications of the pay schedule. The single master pay schedule will be submitted to the City Council for approval each time any single MOU or compensation plan is brought to the City Council for approval.

16. Adoption of a City Council Resolution Authorizing an Application to the Proposition 68 Per Capita Grant Program for the Buchanan Park Pond Loop Replacement Project

    City Council approval is required for staff to submit a grant application to the Proposition 68 Per Capita Grant for the Buchanan Park Pond Loop Replacement Project.

17. Adoption of Ordinance No. 21-1495 Approving a Development Agreement for the Mt. Diablo Resource Recovery Enhancements Project

    On September 20, 2021, the City Council introduced and waived further reading of an ordinance approving a Development Agreement for Mt. Diablo Resource Recovery Park Enhancements Project, AP-21-1553. This item is being brought before the City Council for adoption.

18. Adoption of a City Council Resolution to Authorize Appropriation of Measure M Funds to Park and Street Projects

The City Council approved the FY 2021-22 City Operating Budget with approximately $1 million from Measure M sales tax revenues set aside for projects in the City's parks and road repairs. If approved, the resolution will authorize the appropriation of these funds among eight projects identified by the Finance Subcommittee.

COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

Council Members may request items to be considered for future agendas. An item will only be brought forward with a majority vote and will appear on a future agenda with staff recommendations for further Council consideration.

COUNCIL MEMBER REMARKS

Council Members may make brief announcements or informal comments at this time. (No Action Required)

ADJOURNMENT to October 18, 2021

PUBLIC ADVISORY:
THE CITY COUNCIL CHAMBER WILL NOT BE OPEN TO THE PUBLIC

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the meeting of the City Council will be conducted electronically through Zoom and broadcast live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber will not be open for the meeting. Council Members will be participating electronically and will not be physically present in the Council Chamber.

Beginning with the January 19, 2021 City Council Meeting, live comments will be allowed by members of the public via teleconferencing during Zoom meetings and written comments received after 3:00 p.m. will be read aloud by staff. To be placed in a queue to comment, please adhere to the following instructions.

To Participate in Public Comment During the Meeting:

- Notify the City Clerk's Office via email by 3:00 p.m. on the meeting date that you would like to be placed in the queue for general Public Comments, or comments on a specific agenda item. Requests received after 3:00 p.m. on the date of the meeting will not be able to comment.
- Email your name and telephone number to meetingcomments@ci.pittsburg.ca.us. We need both identifications to pair you with the item you wish to speak on. You must also be sure that you call in using the number you have provided or we may not be able to identify you as a speaker.
- Your email must include the words **"FOR PUBLIC COMMENT"** in the subject line and specify the **Agenda Item number or Non-Agenda** as appropriate.
- You will receive an email confirmation with instructions to log in.
- Once the meeting starts (check the Streaming Media link on our website – www.ci.pittsburg.ca.us) you can phone in to Zoom. If you log in before the event has actually started you may be disconnected.
- You will be added to the meeting as an attendee and will be called upon by staff for phone-in comments.
- Speakers will be muted until their opportunity to provide public comment.
- All comments will be subject to the three-minute time limitation (approximately 350 words).
- Begin your comment by providing your name and city of residence for the record – although providing this is not required for participation.
- Just as in a live meeting inside the Council Chamber, only one comment per agenda item per person is allowed.

In the event a quorum of the City Council loses electrical power or suffers an internet connection outage not corrected within 15 minutes, the meeting will be adjourned. Any items noticed as public hearings will be continued to the next regularly scheduled meeting of the City Council. Any other agenda items the Council has not taken action on will be placed on a future agenda.

NOTICE TO PUBLIC

GENERAL INFORMATION

Copies of the open session agenda packets, which are distributed to the City Council, are on file in the office of the City Clerk, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning 72 hours in advance, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except City holidays). The full packets are also located on the City's website at www.ci.pittsburg.ca.us. If any reports or documents, which are public records, are distributed to the City Council less than 72 hours before the meeting, those reports or documents will be available for public inspection in the City Clerk's Office and on the day of the meeting in the Council Chamber at the public counter area below the dais.

SPEAKER'S CARD

Members of the audience who wish to address the City Council on issues that are not scheduled for the agenda and on any items listed as part of the agenda should complete a Speaker's Card available at the dais. Please read the card carefully in order to fill out the card properly. Submit the completed card to the City Clerk before the item is called, preferably before the meeting begins. Individuals will be given three minutes to address the Council unless additional time is allowed as provided for spokespersons. Speakers are not permitted to yield their time to another speaker. Prior to speaking, each member of the public shall state their name and business and City of residence in a clear and audible tone of voice. Pursuant to the Brown Act, no action may be taken by the City Council on items not already scheduled on the agenda; however, the City Council may refer your comments/concerns to staff or request that the item be placed on a future agenda.

PUBLIC HEARINGS

Persons who wish to speak on Public Hearings listed on the agenda will be heard when the Public Hearing is opened, except on Public Hearing items previously heard and closed to public comment. After the public has commented, the item is closed to public comment and brought to the Council/Agency level for discussion and action. Further comment from the audience will not be received unless requested by the Council/Agency.

There is a 90-day limit for the filing of a challenge in the Superior Court to certain City administrative decisions and orders which require a hearing by law, the receipt of evidence, and the exercise of discretion. The 90-day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge an action take by the City Council in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised in the public hearing, or in written correspondence delivered to the City Council prior to or at the public hearing. The City Council may be requested to reconsider a decision if the request is made prior to the next City Council meeting, regardless of whether it is a regular or special meeting.

NOTICE TO THE DISABLED AND VISUALLY OR HEARING IMPAIRED

In compliance with the Americans with Disabilities Act, the City of Pittsburg will provide special assistance for disabled citizens. Upon request, an agenda for any meeting shall be made available in appropriate alternative formats. The Council Chamber is equipped with sound amplifier units for use by the hearing impaired. The units operate in conjunction with the Chamber's sound system. You may request the sound amplifier from the City Clerk for personal use during Council meetings. If you need special assistance to participate in this meeting, or are requesting a specially formatted agenda, please contact the City Clerk at 925-252-4850. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting or provide the requested agenda format. (28 CFR 35.102-35.104 ADA Title II)

DISRUPTIVE CONDUCT

The Council requests that you observe the order and decorum of our Council Chamber by turning off or setting to vibrate all cellular telephones, and that you refrain from making personal, impertinent, or slanderous remarks. Boisterous and disruptive behavior while the Council is in session, and the display of signs in a manner which violates the rights of others or prevents others from watching or fully participating in the Council meeting, is a violation of our Municipal Code and any person who engages in such conduct can be ordered to leave the Council Chamber by the Mayor.

LIVE MEDIA BROADCASTING ADVISEMENT

City Council meetings are webcast live on the City's website at www.ci.pittsburg.ca.us on the Streaming Media page. Past meetings are also archived on that webpage. City Council meetings are also broadcast live on CCTV, Channel 24 also re-run at a later date. For more information, please contact the City Clerk's office at 252-4850.

City Council Outside Agency / Liaison / Sub-Committees Assignments - 2021

Updated August 16, 2021

OUTSIDE AGENCY BOARDS	COUNCIL MEMBER(S)	TYPE	MEETS	STAFF
ABAG	Merl Craft / Holland White Alternate	Standing	Annual	G. Evans
Delta Diablo**	Juan Banales / Shanelle Scales-Preston Alt.	Standing	2nd Wednesday	R. Abono
East Co. Co. County Habitat Conservancy	Juan Banales / Jelani Killings Alternate	Standing	Monthly	Planning
East County Water Management	Juan Banales / Jelani Killings Alternate	Standing	Annual	R. Abono
MCE Clean Energy Board	Shanelle Scales-Preston / Holland White Alt.	Standing	4 Per Year	D. Buchanan
TRANSPLAN / ECCRFFA	Holland White / Juan Banales Alternate	Standing	2nd Thursday	R. Abono
Tri-Delta Transit (2 reps)***	S. Scales-Preston & Merl Craft / Jelani Killings Alt.	Standing	Last Wednesday	R. Abono

LIAISON TO	COUNCIL MEMBER(S)	TYPE	MEETS	STAFF
East Bay League of Calif. Cities	Shanelle Scales-Preston / Merl Craft Alt.	Standing	3rd Thursday	*Rotational
Mayor's Conference	Merl Craft / Holland White Alt.	Standing	1st Thursday	G. Evans
School Districts Committee (2x2)	Merl Craft & Holland White / Shanelle Scales-Preston Alt.	Standing	2nd Thursday even months	G. Evans

SUBCOMMITTEES	COUNCIL MEMBER(S)	TYPE	MEETS	STAFF
American Rescue Plan Act (ARPA)	Merl Craft & Holland White	Ad Hoc	As needed	G. Evans
CAC CDBG Subcommittee	S. Scales-Preston & Jelani Killings / Holland White Alt.	Standing	As needed	M. Aliotti
City Council Policy and Procedures Review	Juan Banales & Merl Craft	Ad Hoc	As needed	G. Evans
City Infrastructure and Transportation	Holland White & Juan Banales / S. Scales-Preston Alt.	Standing	Ad needed	G. Evans
Community Services Subcommittee	Merl Craft & Shanelle Scales-Preston / Juan Banales Alt.	Standing	As needed	M. Aliotti
Constituent Management Services	S. Scales-Preston & Juan Banales / Holland White Alt.	Ad Hoc	As needed	G. Evans
Government Performance Subcommittee	Holland White & Juan Banales	Ad Hoc	As needed	G. Evans
Hills Committee	Juan Banales & Jelani Killings / Merl Craft Alt.	Ad Hoc	As needed	G. Evans
Pittsburg Recognition Committee	Merl Craft / Juan Banales Alt.	Standing	As needed	J. Hecht
Economic Develop/Waterfront Subcommittee	Jelani Killings & Holland White / Juan Banales Alt.	Standing	As needed	J. Davis
Finance Subcommittee	Juan Banales & Holland White / Jelani Killings Alt.	Standing	As needed	P. Rodrigues
Land Use Subcommittee	Juan Banales & Holland White / Merl Craft Alt.	Standing	As needed	J. Davis
Pittsburg Arts & Community Foundation	Merl Craft & S. Scales-Preston / Jelani Killings Alt.	Standing	As needed	G. Evans
Pittsburg Police Activities League (PAL)	S. Scales-Preston & Holland White / Juan Banales Alt.	Standing	Monthly	B. Addington
Power Company Advisory	S. Scales-Preston & Holland White / Juan Banales Alt.	Standing	As needed	D. Buchanan
Public Safety Subcommittee	Holland White & Shanelle Scales-Preston	Standing	As needed	B. Addington
Sister City Committee	Jelani Killings & Merl Craft / Holland White Alt.	Standing	As needed	K. Simonton

*Rotational Staff as assigned by City Manager
**Stipend of $209 per month
***Stipend of $100 per month

COMMISSION/SUBCOMMITTEE MEETING SCHEDULE

Following is a tentative list of currently scheduled Commission meetings for the upcoming month. For further information, please visit our website at www.ci.pittsburg.ca.us and click on the CALENDAR link for meetings, dates, times and locations.

Commission	Tentative Meeting Dates
Planning Commission	2nd and 4th Tuesdays
Community Advisory Commission	1st Wednesday

Planning Commission meetings are regularly held the second and fourth Tuesdays of the month in the Pittsburg City Hall Council Chambers.

Community Advisory Commission meetings are regularly held the first Wednesday of the month in the Pittsburg City Hall Council Chambers.

In addition to the Commission Meetings listed above, there are several Council Member Subcommittees that meet on an “as needed basis”. For a list of subcommittees that Council Members and staff are assigned to, please see the “Council Committee List” attached to the agenda.

Subcommittee Meetings that are anticipated to occur in the coming month vary. The meeting dates, times and locations for these meetings are yet to be determined. This information will be posted on the City’s website, www.ci.pittsburg.ca.us , as soon as it is determined. Please check the Calendar on the City’s website for information.

For further information, contact the City staff member assigned to that Commission or Subcommittee.

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of Resolutions Making Findings in Support of Continuing to Hold Public Meetings by Teleconference Pursuant to California Government Code Section 54953(e)

MEETING DATE: October 4, 2021

EXECUTIVE SUMMARY

On September 16, Governor Newsom signed Assembly Member Robert Rivas' (D-Salinas) Assembly Bill 361 (AB 361) which amends the Brown Act to allow cities to continue to meet remotely during proclaimed states of emergency under specified conditions.

FISCAL IMPACT

There is no fiscal impact to the General Fund by this action.

RECOMMENDATION

The City Council, Successor Agency Governing Board, Pittsburg Power Company Governing Board, and Housing Authority Governing Board, adopt the attached resolutions and hold remote public meetings for the month of October 2021 in accordance with the requirements of AB 361.

BACKGROUND

Beginning in March 2020, Governor Newsom issued a series of Executive Orders aimed at containing the novel coronavirus. Among these were Executive Orders—N-25-20 and N-29-20 (collectively, the "Brown Act Orders") — that waived requirements in the Brown Act expressly or impliedly requiring the physical presence of legislative body members, staff, or the public at local agency meetings. Specifically, the orders:

- waived the requirement that local agencies provide notice of each teleconference location from which a member of the legislative body will be participating in a public meeting,
- waived the requirement that each teleconference location be accessible to the public,

- waived the requirement that members of the public be able to address the legislative body at each teleconference conference location,
- waived the requirement that local agencies post agendas at all teleconference locations, and,
- waived the requirement that at least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction.

On June 11, 2021, the Governor issued Executive Order N-08-21, to begin winding down some of the prior measures that were adopted to respond to COVID-19. Notably, N-08-21 rescinds the Brown Act Orders, effective September 30, 2021.

On September 16, Governor Newsom signed Assembly Member Robert Rivas' (D-Salinas) Assembly Bill 361 which allows cities to continue to meet remotely during proclaimed states of emergency under modified Brown Act requirements that are similar but not identical to the rules and procedures established by the Brown Act Orders.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

Cities that wish to continue meeting by teleconference beyond September 30 must comply with the requirements of California Government Code Section 54953, which was amended by AB 361.

Specifically, newly amended Government Code Section 54953 requires the following procedures:

- Give notice and post agendas as otherwise required by the Brown Act;
- List on the agenda how the public can electronically attend and comment at the meeting. Note that a public agency is not required to offer an in-person option for the public to attend and comment at such a meeting;
- Provide an opportunity to comment in advance of and during the meeting;
- Allow a reasonable amount of time to register, if required, and comment on each agenda item or at least the amount of time allowed per agency meeting protocols, whichever is longer;
- No action may be taken during a disruption that inhibits the broadcast of the meeting or the public's ability to comment;
- All votes must be via rollcall;
- Comply with state and federal civil rights and non-discrimination laws; and
- Take all precautions to protect the statutory and constitutional rights of the public.

While it only applies in situations where the Governor has proclaimed a state of emergency, and not, for instance, when only a local health officer has declared an emergency, AB 361 provides an explicit avenue for local public agencies to meet remotely in the case of a public health, or other, emergency that inhibits the opportunity to meet in person. AB 361 provides the flexibility to meet by teleconference through December 31, 2023, unless extended.

The City Council resolution, if approved, would also authorize teleconferenced meetings of the Planning Commission, Community Advisory Commission, and all other boards, commissions, and subcommittees.

ATTACHMENTS:
AB361
Resolutions

Report Prepared By:
Garrett Evans, City Manager

Assembly Bill No. 361

CHAPTER 165

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly

resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and

to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 89305.6 is added to the Education Code, to read:

89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing

and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically

or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body

shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter

2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for

the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting

of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting,

members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the

legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint

powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7. The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.

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BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Making Findings in Support of Continuing to Hold Public Meetings By Teleconference Pursuant to California Government Code Sec. 54953(e)	))))	RESOLUTION NO. 21-

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency due to COVID-19; and

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors issued an emergency proclamation to respond to COVID-19; and

WHEREAS, on March 16, 2020, the City Council proclaimed the existence of a local emergency in response to COVID-19; and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20, which suspended specified requirements under the Brown Act with regard to teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended measures to promote social distancing; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, which modified and replaced the Brown Act language of Executive Order N-25-20, continuing to suspend specified requirements under the Brown Act for teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended social distancing measures; and

WHEREAS on June 11, 2021, the Governor issued Executive Order N-08-21, which modified and replaced the Brown Act language of Executive Order N-29-20 and set forth an end date of September 30, 2021; and

WHEREAS, in September 2021 the State Legislature passed Assembly Bill 361, which was signed into law by the Governor on September 19, 2021; and

WHEREAS, AB 361 amended the Brown Act at Government Code Section 54953 to allow, until January 1, 2024, a legislative body to use teleconferencing without adhering to specified requirements so long as, among other circumstances, the meeting is held during a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing, and so long as the legislative body reconsiders the circumstances every 30 days; and

WHEREAS, on September 20, 2021, the Contra Costa County Health Officer issued recommendations for public meetings, which recommendations include social distancing.

NOW, THEREFORE BE IT RESOLVED that the City Council hereby makes the following findings:

1. The circumstances of the state of emergency have been reconsidered. The state of emergency declared by the Governor has not been terminated. The state of emergency declared by the County Board of Supervisors has not been terminated. The state of emergency declared by the City Council has not been terminated.

2. State or local officials continue to impose or recommend measures to promote social distancing. The County Health Official on September 21, 2021, issued a recommendation for social distancing, among other recommendations, during public meetings.

BE IT FURTHER RESOLVED that the City Council hereby approves meetings of the City Council, Planning Commission, Community Advisory Commission, and any other commission, board or subcommittee, to be held by teleconference, in compliance with California Government Code Section 54953(e).

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 4th day of October 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Merl Craft, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

BEFORE THE GOVERNING BOARD OF THE HOUSING AUTHORITY OF THE CITY OF PITTSBURG

In the Matter of:

Making Findings in Support of Continuing to Hold Public Meetings By Teleconference Pursuant to California Government Code Sec. 54953(e)	))))	RESOLUTION NO. 21-

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency due to COVID-19; and

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors issued an emergency proclamation to respond to COVID-19; and

WHEREAS, on March 16, 2020, the City Council proclaimed the existence of a local emergency in response to COVID-19; and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20, which suspended specified requirements under the Brown Act with regard to teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended measures to promote social distancing; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, which modified and replaced the Brown Act language of Executive Order N-25-20, continuing to suspend specified requirements under the Brown Act for teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended social distancing measures; and

WHEREAS on June 11, 2021, the Governor issued Executive Order N-08-21, which modified and replaced the Brown Act language of Executive Order N-29-20 and set forth an end date of September 30, 2021; and

WHEREAS, in September 2021 the State Legislature passed Assembly Bill 361, which was signed into law by the Governor on September 19, 2021; and

WHEREAS, AB 361 amended the Brown Act at Government Code Section 54953 to allow, until January 1, 2024, a legislative body to use teleconferencing without adhering to specified requirements so long as, among other circumstances, the meeting is held during a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing, and so long as the legislative body reconsiders the circumstances every 30 days; and

WHEREAS, on September 20, 2021, the Contra Costa County Health Officer issued recommendations for public meetings, which recommendations include social distancing.

NOW, THEREFORE BE IT RESOLVED that the Housing Authority Governing Board hereby makes the following findings:

1. The circumstances of the state of emergency have been reconsidered. The state of emergency declared by the Governor has not been terminated. The state of emergency declared by the County Board of Supervisors has not been terminated. The state of emergency declared by the City Council has not been terminated.

2. State or local officials continue to impose or recommend measures to promote social distancing. The County Health Official on September 21, 2021, issued a recommendation for social distancing, among other recommendations, during public meetings.

BE IT FURTHER RESOLVED that the Housing Authority Governing Board hereby approves meetings to be held by teleconference, in compliance with California Government Code Section 54953(e).

PASSED AND ADOPTED by the Housing Authority Governing Board at a regular meeting on the 4th day of October, 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Merl Craft, Chair

ATTEST:

_____
Alice E. Evenson, Agency Secretary

BEFORE THE GOVERNING BOARD OF THE PITTSBURG ARTS AND COMMUNITY FOUNDATION

In the Matter of:

Making Findings in Support of Continuing to Hold Public Meetings By Teleconference Pursuant to California Government Code Sec. 54953(e)	))))	RESOLUTION NO. 21-

WHEREAS, the Pittsburg Arts and Community Foundation is a 501(c)(3) nonprofit formed for the purpose of providing assistance to the City of Pittsburg and its Bylaws provide at Article III Section 1 that meetings of the board shall be held in compliance with the Brown Act; and

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency due to COVID-19; and

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors issued an emergency proclamation to respond to COVID-19; and

WHEREAS, on March 16, 2020, the City Council proclaimed the existence of a local emergency in response to COVID-19; and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20, which suspended specified requirements under the Brown Act with regard to teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended measures to promote social distancing; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, which modified and replaced the Brown Act language of Executive Order N-25-20, continuing to suspend specified requirements under the Brown Act for teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended social distancing measures; and

WHEREAS on June 11, 2021, the Governor issued Executive Order N-08-21, which modified and replaced the Brown Act language of Executive Order N-29-20 and set forth an end date of September 30, 2021; and

WHEREAS, in September 2021 the State Legislature passed Assembly Bill 361, which was signed into law by the Governor on September 19, 2021; and

WHEREAS, AB 361 amended the Brown Act at Government Code Section 54953 to allow, until January 1, 2024, a legislative body to use teleconferencing without adhering to specified requirements so long as, among other circumstances, the meeting is held during a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing, and so long as the legislative body reconsiders the circumstances every 30 days; and

WHEREAS, on September 20, 2021, the Contra Costa County Health Officer issued recommendations for public meetings, which recommendations include social distancing.

NOW, THEREFORE BE IT RESOLVED that the Governing Board of the Pittsburg Arts and Community Foundation hereby makes the following findings:

1. The circumstances of the state of emergency have been reconsidered. The state of emergency declared by the Governor has not been terminated. The state of emergency declared by the County Board of Supervisors has not been terminated. The state of emergency declared by the City Council has not been terminated.

2. State or local officials continue to impose or recommend measures to promote social distancing. The County Health Official on September 21, 2021, issued a recommendation for social distancing, among other recommendations, during public meetings.

BE IT FURTHER RESOLVED that the Governing Board of the Pittsburg Arts and Community Foundation hereby approves meetings to be held by teleconference, in compliance with California Government Code Section 54953(e).

PASSED AND ADOPTED by the Governing Board of the Pittsburg Arts and Community Foundation at a regular meeting on the 4th day of October, 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Merl Craft, Chair

ATTEST:

_____
Alice E. Evenson, Agency Secretary

BEFORE THE PITTSBURG POWER COMPANY GOVERNING BOARD

In the Matter of:

Making Findings in Support of Continuing to Hold Public Meetings By Teleconference Pursuant to California Government Code Sec. 54953(e)	))))	RESOLUTION NO. 21-

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency due to COVID-19; and

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors issued an emergency proclamation to respond to COVID-19; and

WHEREAS, on March 16, 2020, the City Council proclaimed the existence of a local emergency in response to COVID-19; and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20, which suspended specified requirements under the Brown Act with regard to teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended measures to promote social distancing; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, which modified and replaced the Brown Act language of Executive Order N-25-20, continuing to suspend specified requirements under the Brown Act for teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended social distancing measures; and

WHEREAS on June 11, 2021, the Governor issued Executive Order N-08-21, which modified and replaced the Brown Act language of Executive Order N-29-20 and set forth an end date of September 30, 2021; and

WHEREAS, in September 2021 the State Legislature passed Assembly Bill 361, which was signed into law by the Governor on September 19, 2021; and

WHEREAS, AB 361 amended the Brown Act at Government Code Section 54953 to allow, until January 1, 2024, a legislative body to use teleconferencing without adhering to specified requirements so long as, among other circumstances, the meeting is held during a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing, and so long as the legislative body reconsiders the circumstances every 30 days; and

WHEREAS, on September 20, 2021, the Contra Costa County Health Officer issued recommendations for public meetings, which recommendations include social distancing.

NOW, THEREFORE BE IT RESOLVED that the Pittsburg Power Company Governing Board hereby makes the following findings:

1. The circumstances of the state of emergency have been reconsidered. The state of emergency declared by the Governor has not been terminated. The state of emergency declared by the County Board of Supervisors has not been terminated. The state of emergency declared by the City Council has not been terminated.

2. State or local officials continue to impose or recommend measures to promote social distancing. The County Health Official on September 21, 2021, issued a recommendation for social distancing, among other recommendations, during public meetings.

BE IT FURTHER RESOLVED that the Pittsburg Power Company Governing Board hereby approves meetings to be held by teleconference, in compliance with California Government Code Section 54953(e).

PASSED AND ADOPTED by the Pittsburg Power Company Governing Board at a regular meeting on the 4th day of October, 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Merl Craft, Chair

ATTEST:

_____
Alice E. Evenson, Executive Secretary

BEFORE THE GOVERNING BOARD OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF PITTSBURG

In the Matter of:

Making Findings in Support of Continuing to Hold Public Meetings By Teleconference Pursuant to California Government Code Sec. 54953(e)	))))	RESOLUTION NO. 21-

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency due to COVID-19; and

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors issued an emergency proclamation to respond to COVID-19; and

WHEREAS, on March 16, 2020, the City Council proclaimed the existence of a local emergency in response to COVID-19; and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20, which suspended specified requirements under the Brown Act with regard to teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended measures to promote social distancing; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, which modified and replaced the Brown Act language of Executive Order N-25-20, continuing to suspend specified requirements under the Brown Act for teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended social distancing measures; and

WHEREAS on June 11, 2021, the Governor issued Executive Order N-08-21, which modified and replaced the Brown Act language of Executive Order N-29-20 and set forth an end date of September 30, 2021; and

WHEREAS, in September 2021 the State Legislature passed Assembly Bill 361, which was signed into law by the Governor on September 19, 2021; and

WHEREAS, AB 361 amended the Brown Act at Government Code Section 54953 to allow, until January 1, 2024, a legislative body to use teleconferencing without adhering to specified requirements so long as, among other circumstances, the meeting is held during a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing, and so long as the legislative body reconsiders the circumstances every 30 days; and

WHEREAS, on September 20, 2021, the Contra Costa County Health Officer issued recommendations for public meetings, which recommendations include social distancing.

NOW, THEREFORE BE IT RESOLVED that the Governing Board of the Successor Agency to the Redevelopment Agency of the City of Pittsburg hereby makes the following findings:

1. The circumstances of the state of emergency have been reconsidered. The state of emergency declared by the Governor has not been terminated. The state of emergency declared by the County Board of Supervisors has not been terminated. The state of emergency declared by the City Council has not been terminated.

2. State or local officials continue to impose or recommend measures to promote social distancing. The County Health Official on September 21, 2021, issued a recommendation for social distancing, among other recommendations, during public meetings.

BE IT FURTHER RESOLVED that the Governing Board of the Successor Agency to the Redevelopment Agency of the City of Pittsburg hereby approves meetings to be held by teleconference, in compliance with California Government Code Section 54953(e).

PASSED AND ADOPTED by the Governing Board of the Successor Agency to the Redevelopment Agency of the City of Pittsburg at a regular meeting on the 4th day of October, 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Merl Craft, Chair

ATTEST:

_____
Alice E. Evenson, Agency Secretary

BEFORE THE GOVERNING BOARD OF THE SOUTHWEST PITTSBURG GEOLOGIC HAZARD ABATEMENT DISTRICT II

In the Matter of:

Making Findings in Support of Continuing to Hold Public Meetings By Teleconference Pursuant to California Government Code Sec. 54953(e)	))))	RESOLUTION NO. 21-

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency due to COVID-19; and

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors issued an emergency proclamation to respond to COVID-19; and

WHEREAS, on March 16, 2020, the City Council proclaimed the existence of a local emergency in response to COVID-19; and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20, which suspended specified requirements under the Brown Act with regard to teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended measures to promote social distancing; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, which modified and replaced the Brown Act language of Executive Order N-25-20, continuing to suspend specified requirements under the Brown Act for teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended social distancing measures; and

WHEREAS on June 11, 2021, the Governor issued Executive Order N-08-21, which modified and replaced the Brown Act language of Executive Order N-29-20 and set forth an end date of September 30, 2021; and

WHEREAS, in September 2021 the State Legislature passed Assembly Bill 361, which was signed into law by the Governor on September 19, 2021; and

WHEREAS, AB 361 amended the Brown Act at Government Code Section 54953 to allow, until January 1, 2024, a legislative body to use teleconferencing without adhering to specified requirements so long as, among other circumstances, the meeting is held during a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing, and so long as the legislative body reconsiders the circumstances every 30 days; and

WHEREAS, on September 20, 2021, the Contra Costa County Health Officer issued recommendations for public meetings, which recommendations include social distancing.

NOW, THEREFORE BE IT RESOLVED that the Governing Board of the Southwest Pittsburg Geologic Hazard Abatement District II hereby makes the following findings:

1. The circumstances of the state of emergency have been reconsidered. The state of emergency declared by the Governor has not been terminated. The state of emergency declared by the County Board of Supervisors has not been terminated. The state of emergency declared by the City Council has not been terminated.

2. State or local officials continue to impose or recommend measures to promote social distancing. The County Health Official on September 21, 2021, issued a recommendation for social distancing, among other recommendations, during public meetings.

BE IT FURTHER RESOLVED that the Governing Board of the Southwest Pittsburg Geologic Hazard Abatement District II hereby approves meetings to be held by teleconference, in compliance with California Government Code Section 54953(e).

PASSED AND ADOPTED by the Governing Board of the Southwest Pittsburg Geologic Hazard Abatement District II at a regular meeting on the 4th day of October, 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Merl Craft, Chair

ATTEST:

_____
Alice E. Evenson, City Clerk

City of Pittsburg
65 Civic Avenue • Pittsburg, California 94565

Proclamation

CLEAN AIR DAY
OCTOBER 7, 2021

WHEREAS, air pollution contributes to higher rates of cancer and heart and lung diseases, which adversely affect health; and

WHEREAS, California has some of the most polluted regions in the United States; and

WHEREAS, it is vital that we protect the health and well-being of our residents, visitors, and workforce; and

WHEREAS, emissions from vehicles, industry, and even household sources significantly affects the natural environment, air quality and well-being of residents, employees, and visitors of the City of Pittsburg; and

WHEREAS, individual actions such as not idling vehicles, walking or biking to work and school, carpooling, and conserving energy can directly improve air quality in our region; and

WHEREAS, everyone can play a role; and

WHEREAS, education about air quality can raise community awareness, encourage our communities to develop environmentally healthier habits, and improve our communities' well-being; and

WHEREAS, Californians will be joining together across the state to clean the air on October 7, 2020; and

WHEREAS, the City of Pittsburg is committed to the health of our residents, workforce, visitors, and community at large; and

NOW, THEREFORE, I, Merl Craft, Mayor, on behalf of the City Council of the City of Pittsburg, do hereby proclaim October 7, 2021, as "California Clean Air Day" in the City of Pittsburg and encourage all residents to participate in California Clean Air Day and help clean the air for all Californians.

Merl Craft, Mayor

ATTEST:

Alice E. Evenson, City Clerk

October 7, 2021

City of Pittsburg
65 Civic Avenue • Pittsburg, California 94565

Proclamation

NATIONAL BREAST CANCER AWARENESS MONTH
OCTOBER 2021

WHEREAS, October is National Breast Cancer Awareness Month; and

WHEREAS, breast cancer is the second most commonly diagnosed form of cancer for women in the United States and remains the second leading cause of cancer death among American women; and

WHEREAS, Mammography, an "xray of the breast," is recognized as the single most effective method of detecting breast changes long before physical symptoms can be seen or felt; and

WHEREAS, early detection and improved treatment is believed to have significantly reduced the number of deaths caused by breast cancer; and

WHEREAS, researchers, scientists, and numerous nonprofit organizations are dedicated to discovering the cure for breast cancer and during the month of October we acknowledge the extraordinary commitment and effort invested in this cause; and

WHEREAS, we recognize that over two and a half million Americans are breast cancer survivors that give us hope of a better future.

NOW, THEREFORE, I, Merl Craft, Mayor of the City of Pittsburg, on behalf of the entire City Council, do hereby proclaim the month of October 2021 as National Breast Cancer Awareness Month in the City of Pittsburg.

Merl Craft, Mayor

ATTEST:

Alice E. Evenson, City Clerk

October 4, 2021

City of Pittsburg
65 Civic Avenue • Pittsburg, California 94565

Proclamation

NATIONAL ARTS AND HUMANITIES MONTH
OCTOBER 2021

WHEREAS, the coronavirus has had a devastating impact on America's arts sector, with 99% of producing and presenting organizations having canceled events and artists being among the most severely affected segment of the nation's workforce; yet notwithstanding this fact, the arts have helped collectively lead us throughout the darkest times of the pandemic—lifting our spirits, unifying communities, and jump-starting the economy; and

WHEREAS, the nation's 120,000 nonprofit arts organizations, the National Endowment for the Arts, the National Endowment for the Humanities, the nation's 4,500 local arts agencies, and the arts and humanities councils of the 50 states and the six U.S. jurisdictions and districts have regularly issued official proclamations on an annual basis designating October as National Arts and Humanities Month; and

WHEREAS, the arts and humanities embody much of the accumulated wisdom, intellect, and imagination of humankind, enhance and enrich the lives of every American and play a unique role in the lives of our families, our communities, and our country; and

WHEREAS, cities and states, through their local and state arts agencies representing thousands of cultural organizations, have celebrated the value and importance of culture in the lives of Americans and the health of thriving communities during National Arts and Humanities Month for several years; and

WHEREAS, the humanities help diverse communities across the United States explore their history and culture with the support and partnership of the National Endowment for the Humanities, the 50 state and 6 territorial and district humanities councils, and local educational and cultural institutions; and

WHEREAS, the nation's arts and culture sector, nonprofit, commercial, education, is a $919.7 billion industry that supports 5.2 million jobs, 4.3% of the nation's economy, and boasts a $33 billion international trade surplus; and

WHEREAS, the nonprofit arts industry alone generates $166.3 billion in economic activity annually, spending by organizations and their audiences, which supports 4.6 million jobs and generates $27.5 billion in government revenue; and

WHEREAS, every attendee to an arts event spends $31.47 per person, per event, beyond the cost of admission on items such as meals, parking, and lodging - a vital income source for local businesses.

NOW, THEREFORE, BE IT RESOLVED, I, Merl Craft, Mayor of the City of Pittsburg on behalf of the entire City Council do hereby proclaim October as National Arts and Humanities Month in Pittsburg and call upon our community members to celebrate and promote the arts and culture in our nation and to specifically encourage the greater participation by those said community members in taking action for the arts and humanities in their towns and cities.

Merl Craft, Mayor

Alice E. Evenson, City Clerk
ATTEST: October 4, 2021

City of Pittsburg
65 Civic Avenue • Pittsburg, California 94565

Proclamation

NATIONAL FILIPINO-AMERICAN HISTORY MONTH
"VICTORY AND HUMANITY: Upholding Filipino Heritage and Identity"
OCTOBER 2021

WHEREAS, the City of Pittsburg celebrates the diversity and history of our City; and

WHEREAS, the earliest documented Filipino presence in the continental United States was on October 18, 1587, when the first "Luzones Indios" set foot in Morro Bay, California, on board the Manila-built galleon ship Nuestra Senora de Esperanza; and

WHEREAS, the Filipino American National Historical Society recognizes the year of 1763 as the date of the first permanent Filipino settlement in the United States in St. Malo, Louisiana, which set in motion the focus on the story of our Nation's past from a new perspective by concentrating on the economic, cultural, social, and other notable contributions that Filipino-Americans have made in countless ways toward the development of the history of the United States; and

WHEREAS, the Filipino-American community is the second largest Asian-American group in the United States, with a population of approximately 3,100,000 people; and

WHEREAS, Filipino-American servicemen and servicewomen have a longstanding history serving in the Armed Services, from the Civil War to the Iraq and Afghanistan conflicts, including the 250,000 Filipinos who fought under the United States flag during World War II to protect and defend this country. Nine Filipino-Americans have received the Congressional Medal of Honor, the highest award for valor in action against an enemy force that can be bestowed upon an individual serving in the United States Armed Forces; and

WHEREAS, Filipino-Americans are an integral part of the United States health care system as nurses, doctors, and other medical professionals and have contributed greatly to the fine arts, music, dance, literature, education, business, literature, journalism, sports, fashion, politics, government, science, technology, and other fields in the United States that enrich the landscape of the country; and

WHEREAS, efforts should continue to promote the study of Filipino-American history and culture, as mandated in the mission statement of the Filipino-American National Historical Society, because the roles of Filipino Americans and other people of color have been overlooked in the writing, teaching, and learning of United States history; and

NOW, THEREFORE, I, Merl Craft, Mayor of the City of Pittsburg, on behalf of the entire City Council, do hereby proclaim the month of October 2021 as National Filipino-American History Month in the City of Pittsburg.

Merl Craft, Mayor

ATTEST:
Alice E. Evenson, City Clerk
October 4, 2021

City of Pittsburg
65 Civic Avenue • Pittsburg, California 94565

Proclamation

NATIONAL ITALIAN-AMERICAN HERITAGE MONTH
OCTOBER 2021

WHEREAS, the City of Pittsburg celebrates the diversity and history of our City; and

WHEREAS, between 1880 and 1914, nearly four million people left the familiar comfort and sweep of Italy to make a new life for themselves and their families in the unknown land of America. Young and old, rich and poor, Italian immigrants saw in the shores of the United States a symbol of hope and opportunity. Many came with little money and few possessions. Many carried only a love of freedom, a belief in hard work, and an abiding faith in the importance of family; and

WHEREAS, bound together by a shared heritage and by a common experience as newcomers in a new culture, the Italian-American community drew its strength from within. During work days that often began before dawn and ended well after dusk, Italian-Americans relied on the knowledge and determination that continue to drive our economy today. Working side by side when times were tight, family members depended on one another to survive and, ultimately, to prosper. And their success was apparent in the bright faces of the countless sons and daughters who followed their example and went on to raise families of their own. Today, third and fourth generations of Italian-Americans maintain that tradition of community, looking back on the courage of their ancestors with heartfelt gratitude and unparalleled pride; and

WHEREAS, Italian-Americans have indeed worked hard to build upon their rich heritage over the last century, and the fruits of their labors are evident in every aspect of our national life. From politics to business to academia, their diverse talents and skills have sustained our society and enriched our daily lives; and

WHEREAS, this month, we pause to recognize their many extraordinary accomplishments. More than that, we reflect on the unique cultural heritage that, a hundred years ago, helped to turn the dream of a distant land into the reality of an American home.

NOW, THEREFORE, I, Merl Craft, Mayor of the City of Pittsburg, on behalf of the entire City Council, do hereby proclaim the month of October 2021 as National Italian-American Heritage Month in the City of Pittsburg.

Merl Craft, Mayor

ATTEST:
Alice E. Evenson, City Clerk

October 4, 2021

City of Pittsburg
65 Civic Avenue • Pittsburg, California 94565

Proclamation

NATIONAL IMMIGRANTS DAY
October 28, 2021

WHEREAS, for centuries, people throughout the world have come to our great nation with the hope that they would be able to secure a better life for themselves and their families; and

WHEREAS, the United States is truly a country of great ethnic diversity and multicultural character which has provided our nation with boundless energy and strength and contributed significantly to our growth, progress, and prosperity; and

WHEREAS, millions of immigrants settled throughout the vast territory of the United States, supported the ideals of independence and liberty, and demonstrated the dedication and perseverance that enabled them to make their dreams come true; and

WHEREAS, the City of Pittsburg is proud of our immigrants throughout history and today that have made a home here in the City.

NOW, THEREFORE, BE IT RESOLVED, I, Merl Craft, Mayor of the City of Pittsburg, California, on behalf of the entire City Council, hereby proclaim October 28, 2021 as National Immigrants Day and urge all residents to celebrate this day with proper celebrations and activities.

Merl Craft, Mayor

Alice E. Evenson, City Clerk

ATTEST: October 28, 2021

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Chair and Governing Board Members

FROM: Garrett Evans, Executive Director

SUBJECT: Adoption of a Pittsburg Arts and Community Foundation Resolution to approve the Budget for Fiscal Year 2021-22 and Appropriation of Funds for Fiscal Year 2021-22

MEETING DATE: October 4, 2021

EXECUTIVE SUMMARY

The Pittsburg Arts and Community Foundation (Foundation) is a local non-profit organization that promotes literacy, arts, and community services. A major component of the Foundation is the Railroad Book Depot. This item is the annual operating budget for the Foundation for Fiscal Year 2021-22.

FISCAL IMPACT

The Foundation's budget for Fiscal Year 2021-22 estimates revenues of $1,284,379 and expenditures of $1,481,111.

Staff is requesting a subsidy from Pittsburg Power Company of $200,000 to balance the budget. When allocation of the American Rescue Plan Act (ARPA) funds are considered, the City Council may consider allocating funds to the Foundation since supporting non-profit organizations is an eligible use of ARPA funds, thereby reimbursing the Pittsburg Power Company.

RECOMMENDATION

The Board approve and adopt the proposed Foundation operating budget for Fiscal Year 2021-22.

BACKGROUND

Best accounting practices for a not-for-profit entity includes an annual operating budget, while allowing monitoring of the financial objectives of the Foundation. Each year the Foundation presents the operating budget for the next fiscal year. For Fiscal Year 2021-22, the Preliminary Operating Budget Summary document was posted to the Foundation's website prior to this meeting.

SUBCOMMITTEE FINDINGS

The Foundation's Preliminary Operating Budget for the Fiscal Year 2021-22 was presented to the Foundation's subcommittee on August 31, 2021. The Foundation's Subcommittee did not recommend any changes to the proposed budget being presented.

STAFF ANALYSIS

The Foundation's proposed operating budget for Fiscal Year 2021-22 includes an additional $900,000 in revenues and expenses due to a pass-through grant expected from the John H. and Regina K. Scully Foundation for renovations of the Pittsburg California Theatre.

Both revenues and expenses have been reduced by approximately 50% due to the following: 1) reduction of the bookstore operation due to COVID-19; full operation is anticipated in January 2022; 2) the Foundation's budget no longer supports the California Theater operations; and 3) changes in Foundation staffing.

Below is a summary of highlights for Fiscal Year 2020-21 and goals for Fiscal Year 2021-22:

Highlights from the Fiscal Year 2020-21 were:

- Created window displays to provide art in the downtown during the Shelter in Place.
- Railroad Book Depot pivoted to allow for increased online sales and services during the Pandemic allowing a steady stream of revenue during an uncertain time.
- The Old Town Art Centre began offering classes and programming in April 2021.

Foundation's Fiscal Year 2021-22 goals:

- Continue to foster partnerships with the California Theatre, City of Pittsburg Recreation Department, Pittsburg Unified School District and other non-profit organizations to facilitate education and cultural awareness.
- Old Town Art Center to expand classes, galleries, and other art related activities for the community.
- Increase community art projects to beautify blighted areas and bring creativity through art in unexpected areas.
- "Beyond the Box" Utility Box Mural Project
- Community Cultural Wall at Ace Hardware
- Provide art education and literacy programs for young children at the Railroad Book Depot.
- Increase revenue for the Old Town Art Center by 25%.
- Increase revenue for the Railroad Book Depot by 25%.

ATTACHMENTS: PACF Resolution
PACF Budget for Fiscal Year 2021-22
Presentation

Report Prepared By: Paul Rodrigues, Finance Director

BEFORE THE GOVERNING BOARD OF THE PITTSBURG ARTS AND COMMUNITY FOUNDATION

In the Matter of:

A Resolution Approving the Pittsburg Arts and Community Foundation Budget For Fiscal Year 2021-22) RESOLUTION NO. 21-

WHEREAS, the Pittsburg Arts and Community Foundation, Inc. (Foundation) is a nonprofit, 501(c)3 Foundation formed for the purpose of providing assistance to the City of Pittsburg, and all actions, budgets, projects and programs that the Foundation engages in or approves must be reasonably related to, or in furtherance of the Foundation's charitable purposes as stated in the Articles of Incorporation as amended on March 1, 2010; and

WHEREAS, the Foundation prepares and adopts the Pittsburg Arts and Community Foundation, Inc. budget with the intent of providing a planned program for services and a financial system to carry out the planned program of services; and

WHEREAS, the Treasurer has submitted a budget for FY 2021-22 with estimated revenues of $1,284,379 and expenditures of $1,481,111; and

WHEREAS, the Pittsburg Power Company will subsidize the Foundation in the amount of $200,000 to balance the budget. When allocation of the American Rescue Plan Act (ARPA) funds are considered, the City Council may consider allocating funds to the Foundation since supporting non-profit organizations is an eligible use of ARPA funds, thereby reimbursing the Pittsburg Power Company; and

WHEREAS, the management supports the proposed operating budget for Fiscal Year 2021-2022.

NOW, THEREFORE, BE IT RESOLVED by Pittsburg Arts and Community Foundation, Inc. Board as follows:

Section 1. The recitals set forth above are true and correct statements and are hereby incorporated in conjunction with the respective staff report.

Section 2. The proposed Fiscal Year 2021-22 budget for the Foundation is reasonably related to and/or in furtherance of the Foundation's charitable purposes as stated in the Articles of Incorporation.

Section 3. Those funds are hereby and shall be appropriated in the estimated revenue of $1,284,379 and expenditures of $1,481,111.

Section 5. The Executive Director is hereby authorized to approve payment of goods and services received by the Pittsburg Arts and Community Foundation, Inc. in accordance with the Foundation's approved budget, programs and policies.

Section 6. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by the Pittsburg Arts and Community Foundation Board at a regular meeting on the 4th day of October 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Merl Craft, Chair

ATTEST:

_____
Alice E. Evenson, Agency Secretary

Year	Type	Level	Allocation	GL Account Number	Account Description	2020 Actuals	2021 Amended Budget	2021 Actuals	2022 Dept Request
2022	R	1	Revenue (various queries)	560-48100-5504	Pittsburg Arts and Community Foundation - PACF - General Administration - Special Events	20404	10000	0	-
2022	R	1	Revenue (various queries)	560-48100-5565	Pittsburg Arts and Community Foundation - PACF - General Administration - Food & Beverage Sales	605	0	0	-
2022	R	1	Revenue (various queries)	560-48100-5830	Pittsburg Arts and Community Foundation - PACF - General Administration - Other Revenue	13348	1000000	13882	-
2022	R	1	Revenue (various queries)	560-48100-5831	Pittsburg Arts and Community Foundation - PACF - General Administration - Donations	53664	70	322	5,000.00
								TOTAL	**5,000.00**
2022	R	1	Revenue (various queries)	560-48101-5504	Pittsburg Arts and Community Foundation - Literacy Program - Special Events	2895	0	0	-
2022	R	1	Revenue (various queries)	560-48101-5830	Pittsburg Arts and Community Foundation - Literacy Program - Other Revenue	444	0	996	-
2022	R	1	Revenue (various queries)	560-48101-5855	Pittsburg Arts and Community Foundation - Literacy Program - Other Revenue - PPC	50000	0	0	-
								TOTAL	**-**
2022	R	1	Revenue (various queries)	560-48103-5147	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Other Grant Funding	0	0	77800	-
2022	R	1	Revenue (various queries)	560-48103-5550	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Overage (Shortage)	-12	0	18	-
2022	R	1	Revenue (various queries)	560-48103-5661	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - BookStore Sales	52723	33865	34586	32,000.00
2022	R	1	Revenue (various queries)	560-48103-5830	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Other Revenue	1838	0	248	200.00
									32,200.00
2022	R	1	Revenue (various queries)	560-48105-5504	Pittsburg Arts and Community Foundation - Theatre Productions - Special Events -	14340	5063	259	-
2022	R	1	Revenue (various queries)	560-48105-5565	Pittsburg Arts and Community Foundation - Theatre Productions - Food & Beverage Sales	7237	0	-103	-
2022	R	1	Revenue (various queries)	560-48105-5569	Pittsburg Arts and Community Foundation - Theatre Productions - Other Service Charges	125000	0	0	-
2022	R	1	Revenue (various queries)	560-48105-5831	Pittsburg Arts and Community Foundation - Theatre Productions - Donations	509	0	0	900,000.00
									900,000.00
2022	R	1	Revenue (various queries)	560-48107-5335	Pittsburg Arts and Community Foundation - Plaza Marina Property Mgnt - Late payment fee	646	0	277	600.00
2022	R	1	Revenue (various queries)	560-48107-5572	Pittsburg Arts and Community Foundation - Plaza Marina Property Mgnt - Building Allocated Charges	38660	38668	32828	40,000.00
2022	R	1	Revenue (various queries)	560-48107-5711	Pittsburg Arts and Community Foundation - Plaza Marina Property Mgnt - Rental Income	152363	162586	133290	167,400.00
									208,000.00
2022	R	1	Revenue (various queries)	560-48108-5335	Pittsburg Arts and Community Foundation - Vidrio Comm Property Mgnt - Late payment fee	292	0	0	-
2022	R	1	Revenue (various queries)	560-48108-5572	Pittsburg Arts and Community Foundation - Vidrio Comm Property Mgnt - Building Allocated Charges	16544	20302	8348	21,000.00
2022	R	1	Revenue (various queries)	560-48108-5711	Pittsburg Arts and Community Foundation - Vidrio Comm Property Mgnt - Rental Income	55119	54159	40076	57,600.00
									78,600.00
2022	R	1	Revenue (various queries)	560-48109-5704	Pittsburg Arts and Community Foundation - 159 4th Street - Interest income	16234	15141	7678	15,141.00
2022	R	1	Revenue (various queries)	560-48109-5711	Pittsburg Arts and Community Foundation - 159 4th Street - Rental Income	15888	17330	15164	16,860.00
2022	R	1	Revenue (various queries)	560-48109-5730	Pittsburg Arts and Community Foundation - 159 4th Street - Loan Payoffs	27485	28578	14182	28,578.00
									60,579.00

Total Revenue **1,284,379.00**

Year	Type	Level	Allocation	GL Account Number	Account Description	2020 Actuals	2021 Amended Budget	2021 Actuals	2022 Dept Request
2022	E	1	Expenses (various queries)	560-48100-1101	Pittsburg Arts and Community Foundation - PACF - General Administration - Salaries and Wages	55381	38988	23116	90,012.00
2022	E	1	Expenses (various queries)	560-48100-1131	Pittsburg Arts and Community Foundation - PACF - General Administration - Salaries- Part-time	0	0	0	8,424.00
2022	E	1	Expenses (various queries)	560-48100-1211	Pittsburg Arts and Community Foundation - PACF - General Administration - Health Insurance - Employees	0	0	0	27,396.00
2022	E	1	Expenses (various queries)	560-48100-1241	Pittsburg Arts and Community Foundation - PACF - General Administration - Dental Insurance	0	0	0	2,142.00
2022	E	1	Expenses (various queries)	560-48100-1251	Pittsburg Arts and Community Foundation - PACF - General Administration - Workers' Compensation	120	0	-17	3,210.00
2022	E	1	Expenses (various queries)	560-48100-1252	Pittsburg Arts and Community Foundation - PACF - General Administration - Unemployment Insurance	110	0	0	510.00
2022	E	1	Expenses (various queries)	560-48100-1261	Pittsburg Arts and Community Foundation - PACF - General Administration - F I C A & Medicare	4237	0	1444	7,531.00
2022	E	1	Expenses (various queries)	560-48100-1301	Pittsburg Arts and Community Foundation - PACF - General Administration - Office Supplies & Materials	0	170	0	250.00
2022	E	1	Expenses (various queries)	560-48100-1321	Pittsburg Arts and Community Foundation - PACF - General Administration - Postage	180	170	0	170.00
2022	E	1	Expenses (various queries)	560-48100-1341	Pittsburg Arts and Community Foundation - PACF - General Administration - Other Special Departmental Supplies	5264	1500	330	1,700.00
2022	E	1	Expenses (various queries)	560-48100-1399	Pittsburg Arts and Community Foundation - PACF - General Administration - Miscellaneous Services & Supplies	14	1000000	435	10,000.00
2022	E	1	Expenses (various queries)	560-48100-2040	Pittsburg Arts and Community Foundation - PACF - General Administration - Insurance Premium	8811	5096	8092	10,000.00
2022	E	1	Expenses (various queries)	560-48100-2199	Pittsburg Arts and Community Foundation - PACF - General Administration - Other Contractual & Professional Service	8483	73950	4899	15,000.00
2022	E	1	Expenses (various queries)	560-48100-2203	Pittsburg Arts and Community Foundation - PACF - General Administration - Advertising & Promotion	4251	3000	115	1,000.00
2022	E	1	Expenses (various queries)	560-48100-2210	Pittsburg Arts and Community Foundation - PACF - General Administration - Festival & Events	12643	5000	0	-
2022	E	1	Expenses (various queries)	560-48100-2243	Pittsburg Arts and Community Foundation - PACF - General Administration - Information Systems Alloc Chgs	15303	11121	11121	15,609.00
2022	E	1	Expenses (various queries)	560-48100-2301	Pittsburg Arts and Community Foundation - PACF - General Administration - Credit card discount & fees	217	340	0	500.00
2022	E	1	Expenses (various queries)	560-48100-2362	Pittsburg Arts and Community Foundation - PACF - General Administration - Other fees	1638	100	25	100.00
								TOTAL	**193,554.00**
2022	E	1	Expenses (various queries)	560-48101-1131	Pittsburg Arts and Community Foundation - Literacy & Visual Arts Program - Salaries- Part-time	0	0	0	3,120.00
2022	E	1	Expenses (various queries)	560-48101-1251	Pittsburg Arts and Community Foundation - Literacy & Visual Arts Program - Workers' Compensation	-102	0	0	102.00
2022	E	1	Expenses (various queries)	560-48101-1252	Pittsburg Arts and Community Foundation - Literacy & Visual Arts Program - Unemployment Insurance	0	0	0	81.00
2022	E	1	Expenses (various queries)	560-48101-1261	Pittsburg Arts and Community Foundation - Literacy & Visual Arts Program - F I C A & Medicare	0	0	0	239.00
2022	E	1	Expenses (various queries)	560-48101-1301	Pittsburg Arts and Community Foundation - Literacy & Visual Arts Program - Office Supplies & Materials	1393	255	1051	500.00
2022	E	1	Expenses (various queries)	560-48101-1341	Pittsburg Arts and Community Foundation - Literacy & Visual Arts Program - Other Special Departmental Supplies	756	850	910	1,000.00
2022	E	1	Expenses (various queries)	560-48101-1391	Pittsburg Arts and Community Foundation - Literacy & Visual Arts Program - Utilities - Gas	29	255	8	500.00
2022	E	1	Expenses (various queries)	560-48101-1392	Pittsburg Arts and Community Foundation - Literacy & Visual Arts Program - Utilities - Electric	174	850	0	1,000.00
2022	E	1	Expenses (various queries)	560-48101-1394	Pittsburg Arts and Community Foundation - Literacy & Visual Arts Program - Utilities - Water	226	850	213	1,000.00
2022	E	1	Expenses (various queries)	560-48101-2001	Pittsburg Arts and Community Foundation - Literacy & Visual Arts Program - Utilities - Telephone Service	1647	1615	0	1,615.00
2022	E	1	Expenses (various queries)	560-48101-2002	Pittsburg Arts and Community Foundation - Literacy & Visual Arts Program - Utilities - WiFi/Cellphone Service	0	0	248	-

2022	E	1	Expenses (various queries)	560-48101-2199	Pittsburg Arts and Community Foundation - Literacy & Visual Arts Program - Other Contractual & Professional Service	84318	2150	31445	15,000.00
2022	E	1	Expenses (various queries)	560-48101-2203	Pittsburg Arts and Community Foundation - Literacy & Visual Arts Program - Advertising & Promotion	81	425	0	500.00
2022	E	1	Expenses (various queries)	560-48101-2218	Pittsburg Arts and Community Foundation - Literacy & Visual Arts Program - Maintenance Agreements	7000	0	0	2,500.00
2022	E	1	Expenses (various queries)	560-48101-2234	Pittsburg Arts and Community Foundation - Literacy & Visual Arts Program - Lease Payments	10500	20500	20500	24,000.00
2022	E	1	Expenses (various queries)	560-48101-2287	Pittsburg Arts and Community Foundation - Literacy & Visual Arts Program - Tenant Improvements	31960	0	0	-
2022	E	1	Expenses (various queries)	560-48101-2362	Pittsburg Arts and Community Foundation - Literacy & Visual Arts Program - Other Fees	38	170	22	170.00
								TOTAL	**51,327.00**

2022	E	1	Expenses (various queries)	560-48103-1101	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Salaries and Wages	0	0	13846	-
2022	E	1	Expenses (various queries)	560-48103-1131	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Salaries-Part-time	124757	37598	77825	83,875.00
2022	E	1	Expenses (various queries)	560-48103-1251	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Workers' Compensation	4606	1248	2045	2,735.00
2022	E	1	Expenses (various queries)	560-48103-1252	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Unemployment Insurance	2550	988	1007	996.00
2022	E	1	Expenses (various queries)	560-48103-1261	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - F I C A & Medicare	9544	2877	7337	6,416.00
2022	E	1	Expenses (various queries)	560-48103-1301	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Office Supplies & Materials	1416	1800	1331	1,800.00
2022	E	1	Expenses (various queries)	560-48103-1321	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Postage	37	250	131	250.00
2022	E	1	Expenses (various queries)	560-48103-1331	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Misc Equip & Furniture < $5,000	886	900	0	900.00
2022	E	1	Expenses (various queries)	560-48103-1341	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Other Special Departmental Supplies	306	100	231	100.00
2022	E	1	Expenses (various queries)	560-48103-1351	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Bookstore Purchases	28714	16615	28118	17,000.00
2022	E	1	Expenses (various queries)	560-48103-1391	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Utilities - Gas	0	0	412	100.00
2022	E	1	Expenses (various queries)	560-48103-1392	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Utilities - Electric	9952	5950	14486	14,000.00
2022	E	1	Expenses (various queries)	560-48103-1399	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Miscellaneous Services & Supplies	587	850	104	850.00
2022	E	1	Expenses (various queries)	560-48103-2001	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Utilities - Telephone Service	2552	1700	2476	2,300.00
2022	E	1	Expenses (various queries)	560-48103-2003	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Membership Dues & Subscriptions	288	0	119	-
2022	E	1	Expenses (various queries)	560-48103-2199	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Other Contractual & Professional Service	0	500	667	500.00
2022	E	1	Expenses (various queries)	560-48103-2203	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Advertising & Promotion	1683	300	918	1,500.00
2022	E	1	Expenses (various queries)	560-48103-2218	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Maintenance Agreements	9804	8964	10074	12,000.00
2022	E	1	Expenses (various queries)	560-48103-2219	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Maintenance & Repairs	2577	1950	1900	2,125.00
2022	E	1	Expenses (various queries)	560-48103-2223	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Donations	35	0	0	-
2022	E	1	Expenses (various queries)	560-48103-2301	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Credit card discount & fees	3907	2550	3251	3,000.00
2022	E	1	Expenses (various queries)	560-48103-2361	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Property Tax Payment	62	150	33	150.00
2022	E	1	Expenses (various queries)	560-48103-2362	Pittsburg Arts and Community Foundation - PACF - Bookstore Operations - Other fees	2969	5000	2417	5,000.00
								TOTAL	**155,597.00**

2022	E	1	Expenses (various queries)	560-48105-1101	Pittsburg Arts and Community Foundation - Theatre Productions - Salaries and Wages	104226	0	16782	-

2022	E	1	Expenses (various queries)	560-48105-1211	Pittsburg Arts and Community Foundation - Theatre Productions - Health Insurance - Employees	8890	0	0	-
2022	E	1	Expenses (various queries)	560-48105-1241	Pittsburg Arts and Community Foundation - Theatre Productions - Dental Insurance	526	0	0	-
2022	E	1	Expenses (various queries)	560-48105-1251	Pittsburg Arts and Community Foundation - Theatre Productions - Workers' Compensation	15	0	59	-
2022	E	1	Expenses (various queries)	560-48105-1252	Pittsburg Arts and Community Foundation - Theatre Productions - Unemployment Insurance	296	0	0	-
2022	E	1	Expenses (various queries)	560-48105-1261	Pittsburg Arts and Community Foundation - Theatre Productions - F I C A & Medicare	7973	0	1284	-
2022	E	1	Expenses (various queries)	560-48105-1399	Pittsburg Arts and Community Foundation - Theatre Productions - Miscellaneous Services & Supplies	13697	0	0	-
2022	E	1	Expenses (various queries)	560-48105-2199	Pittsburg Arts and Community Foundation - Theatre Productions - Other Contractual & Professional Service	7474	0	0	900,000.00
2022	E	1	Expenses (various queries)	560-48105-2203	Pittsburg Arts and Community Foundation - Theatre Productions - Advertising & Promotion	947	0	0	-
2022	E	1	Expenses (various queries)	560-48105-2301	Pittsburg Arts and Community Foundation - Theatre Productions - Credit card discount & fees	78	0	0	-
								TOTAL	**900,000.00**
2022	E	1	Expenses (various queries)	560-48106-2199	Pittsburg Arts and Community Foundation - Community Events - Other Contractual & Professional Service	3500	0	0	-
2022	E	1	Expenses (various queries)	560-48106-2203	Pittsburg Arts and Community Foundation - Community Events - Advertising & Promotion	151	425	0	500.00
2022	E	1	Expenses (various queries)	560-48106-2210	Pittsburg Arts and Community Foundation - Community Events - Festival & Events	2150	1500	0	10,000.00
								TOTAL	**10,500.00**
2022	E	1	Expenses (various queries)	560-48107-1391	Pittsburg Arts and Community Foundation - Plaza Marina Property Mgnt - Utilities - Gas	10120	9000	8642	10,000.00
2022	E	1	Expenses (various queries)	560-48107-1392	Pittsburg Arts and Community Foundation - Plaza Marina Property Mgnt - Utilities - Electric	24634	21600	19063	21,724.00
2022	E	1	Expenses (various queries)	560-48107-2199	Pittsburg Arts and Community Foundation - Plaza Marina Property Mgnt - Other Contractual & Professional Service	0	0	7	7.00
2022	E	1	Expenses (various queries)	560-48107-2218	Pittsburg Arts and Community Foundation - Plaza Marina Property Mgnt - Maintenance Agreements	63000	59883	59883	59,800.00
2022	E	1	Expenses (various queries)	560-48107-2219	Pittsburg Arts and Community Foundation - Plaza Marina Property Mgnt - Maintenance & Repairs	5800	0	606	-
								TOTAL	**91,531.00**
2022	E	1	Expenses (various queries)	560-48108-1394	Pittsburg Arts and Community Foundation - Vidrio Comm Property Mgnt - Utilities - Water	1492	3000	1670	3,000.00
2022	E	1	Expenses (various queries)	560-48108-2218	Pittsburg Arts and Community Foundation - Vidrio Comm Property Mgnt - Maintenance Agreements	20915	20915	21546	21,000.00
2022	E	1	Expenses (various queries)	560-48108-2219	Pittsburg Arts and Community Foundation - Vidrio Comm Property Mgnt - Maintenance & Repairs	0	2000	0	2,000.00
2022	E	1	Expenses (various queries)	560-48108-2232	Pittsburg Arts and Community Foundation - Vidrio Comm Property Mgnt - Building Rental	0	2	0	2.00
								TOTAL	**26,002.00**
2022	E	1	Expenses (various queries)	560-48109-2234	Pittsburg Arts and Community Foundation - 159 4th Street - Lease Payments	51198	52600	26023	52,600.00
								TOTAL	**52,600.00**

Total Exp	**1,481,111.00**
Net	**(196,732.00)**

City of Pittsburg

Item No.

Pittsburg Arts and Community Foundation Fiscal Year 2021-22 Operating Budget

Proposed FY 2021-22 Budget

Revenues	$ 1,284,379
Expenses	$ 1,481,111
Net	**$ (196,732)**

Highlights for FY20/21

- Railroad Book Depot implemented a virtual bookstore allowing for online sales during pandemic
- Relocation from Art Shack to the Old Town Art Centre
- Offering of art classes and exhibits resumed April 2021
- Outdoor art exhibits held in conjunction with car shows

Budget Assumptions for FY20/21

Revenues:

- Reduction of large fundraising events due to COVID-19 restrictions
- Reduction in expected grant funding
- Anticipated rents delayed due to commercial rent moratorium
- Scully Foundation grant expected in the amount of $900,000 for California Theatre improvements

Expenditures:

- Railroad Book Depot operations
- Literacy/Art programs

Recommendation

Staff recommends the Board approve the resolution adopting the proposed Pittsburg Arts and Community Foundation Operating Budget for FY 2021-22.

Office of the City Manager
65 Civic Avenue
Pittsburg, CA 94565

MEMO: October 4, 2021

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

RE: **Introduction and Waive First Reading of Ordinances Amending Title 18 of the Pittsburg Municipal Code Related to Large Family Daycares, Vehicle Parking Requirements, and Other Miscellaneous Text Amendments**

EXECUTIVE SUMMARY

This is a public hearing on amendments to City of Pittsburg Municipal Code (PMC) Title 18, the "Zoning Code," related to large family daycares, vehicle parking requirements, and other miscellaneous text amendments intended to clarify minor inconsistencies and ensure compliance with recent amendments and additions to State Law. On June 8, 2021, the Planning Commission adopted Resolution No. 10164, recommending City Council approval of the proposed amendments to the PMC.

FISCAL IMPACT

None from this action.

RECOMMENDATION

City Council open the public hearing, take public comment, close the public hearing, and take the following actions:

1. Introduce, waive further reading, and pass to second reading, an ordinance amending Title 18 of the PMC related to large family daycares;
2. Introduce, waive further reading, and pass to second reading, an ordinance amending Title 18 of the PMC related to vehicle parking requirements; and
3. Introduce, waive further reading, and pass to second reading, an ordinance amending Title 18 of the PMC related zoning definitions, screening requirements, and other miscellaneous items.

BACKGROUND

Under the current PMC, large family day care uses require Zoning Administrator approval for those that do not meet four specific limitations: (1) outdoor activities shall not occur before 8:00 a.m. on weekdays and 9:00 a.m. on weekends, and shall not occur after 9:00 p.m. any day of the week; (2) a minimum of one paved off-street drop-off/pick-up parking space is provided on site (note, this is in addition to any required parking for the residential unit); (3) the off-street parking space is reserved exclusively for child loading and drop-off during all hours of operation, and parents shall be provided notice about the availability of the designated drop-off/pick-up location; and (4) the use is separated from other large family day care homes by a minimum of 300 feet in all directions. In 2019, the State Legislature enacted Senate Bill 234 to require that a large family daycare home, serving seven to 14 children, be treated as residential use of the property for purposes of local ordinances. The intent of the state law is to facilitate the availability of good, cost-effective childcare in a home environment in the neighborhood.

Regarding mobile food vendors, currently the PMC states that mobile food vendors have a time limit imposed to, “remain on a site for no more than 30 minutes in a 24-hour period.” In 2018, the State Legislature enacted Senate Bill 946, which limits the authority of local government to regulate sidewalk vending. State law allows local restrictions only if the requirements are directly related to objective health, safety, or welfare concerns. Following staff’s review of the existing limitations, and their nexus, staff proposes elimination of the 30-minute restriction.

In addition to the above sections, Planning staff has noticed inconsistencies in the PMC that the proposed amendments would correct. Other proposed amendments codify interpretations made by Planning staff and would merely be declaratory of existing law.

On October 27, 2020, in accordance with PMC 18.10.020(b) the Planning Commission authorized staff to initiate a study to review a variety of potential amendments to Title 18 of the PMC in order to address the concerns noted above and clarify any minor internal inconsistencies, while also ensuring compliance with recently updated provisions of State Law. The modifications were to generally include updates to zoning definitions, parking requirements, screening requirements, and allowable use regulations. Since that time, staff has reviewed applicable new state laws, and associated standards adopted in other cities. The resulting proposed ordinances have also been reviewed by all impacted City departments/divisions, including Code Enforcement, Engineering, Building, City Manager’s Office and the City Attorney’s Office.

On June 8, 2021, the Planning Commission held a duly noticed public hearing and voted 6-1 to adopt Resolution No. 10164, recommending City Council approval of amendments to the PMC related to miscellaneous code updates. A Planning Commissioner recommended amending the definition of mobile food vendor to include language calling out the requirements for stationary food vendors.

General Plan: The proposed amendments are consistent with the objectives, policies, general land uses and programs in the General Plan, and comply with state law. Specifically, amendments to section 18.80.025.B.2, 'Utility Equipment,' support Land Use Element Policy 2-P-20, which would require undergrounding of utility service/transformer boxes, and any other type of utility boxes, in new residential subdivisions. Permitting large family daycares in all residential zoning districts would support Growth Management Element 3-G-1, by helping to balance development of housing options and job opportunities, providing the opportunity to approve more large family day cares.

All of the other revisions proposed are primarily intended to eliminate existing inconsistencies within the PMC and with state law, codify existing staff interpretations, and in general adhere to good planning practices. Further, the amendments proposed would enable the Planning Division to provide more efficient and consistent information and/or guidance to the general public related to specific land uses and code enforcement items. These additional amendments are minor and administrative in nature, and while there are no General Plan policies that specifically address the changes, they are intended to continue support the policies currently in place, and thus can be considered consistent with the General Plan.

Zoning: California Government Code sections 65853–65855, and PMC sections 18.48.010–18.48.060, identify the procedures for processing zoning amendments. As identified in these code sections, the Planning Commission is the recommending body for zoning changes, with final decision-making authority assigned to the City Council. Pursuant to PMC Section 18.16.020 and 18.48.030, specifically, the Planning Commission shall include written findings to support any recommendation it makes to the City Council to amend the Municipal Code.

Required Findings: In order to approve an amendment to the Zoning Ordinance, the City Council must find (in accordance with PMC Section 18.48.030) that:

1. The change proposed is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plan.

2. In the case of a base district, overlay district or general land use regulation, the change proposed is compatible with the uses authorized in, and the regulations prescribed for, the land use district for which it is proposed.

3. A community need is demonstrated for the change proposed.

4. Its adoption will be in conformity with public convenience, general welfare and good zoning practice.

Environmental: This project is exempt from the requirements of the California Environmental Quality Act (CEQA) under the general rule of applicability of the state CEQA Guidelines, section 15061, in that there is no possibility that the activity in question would have a significant negative physical impact on the environment.

The amendments proposed would not materially change the type of uses permitted within any areas of the City. Other amendments to Title 18 are intended only to provide clarity and would not result in any direct significant negative physical impacts on the environment.

Public Notice: On or prior to September 24, 2021, notice of the October 4, 2021, public hearing to consider this item was posted at City Hall and on the 'public notices' page of the City's website; was delivered to the Pittsburg Library; was published in the local newspaper (East Contra Costa County Times) as a 1/8 page advertisement; and was mailed via first class mail or electronic mail to interested parties and individuals and organizations that requested such notice, in accordance with PMC sections 18.14.010, and Government Code section 65090 and 65091.

SUBCOMMITTEE FINDINGS

On January 28, 2020, the Land Use Subcommittee held a meeting and discussed potential updates to the PMC that would help provide clarity for the public on recurring code enforcement issues. Staff received direction to request the Planning Commission initiate a study for the proposed changes.

STAFF ANALYSIS

The proposed amendments have been developed with feedback from the Planning Commission, specifically during the public hearing held on June 8, 2021, as well as discussions amongst the Land Use Subcommittee, staff research, and stakeholder feedbacks.

Staff believes that the proposed amendments which have been drafted to align with the new state law are consistent with the listed objectives, policies, and programs set forth in the General Plan and the base zoning districts. The proposed amendments comply with state law and are expected to result in more clarity for the public and a decrease in Code Enforcement complaints received. Amendments related to large family daycares would help to provide business opportunities for residents in Pittsburg, while also providing a necessary service for working parents. Amendments related to off-street parking reductions would encourage the establishment businesses in the City, which may otherwise be denied due to an inability to provide the required number of off-street parking spaces where special circumstances may apply.

Planning Commission Recommendation: During the public hearing before the Planning Commission on June 8, 2021, the Planning Commission, as part of the motion to adopt a resolution recommending City Council adoption of the proposed amendments, raised a concern that stationary food vendors are not addressed in the changes for mobile food vendors. While staff agrees that it is appropriate to address this; after further consideration, staff believes a more thorough review is required to adequately address the concern.

ATTACHMENTS:

1. Ordinance (Large Family Daycares)
2. Ordinance (Parking Reduction)
3. Ordinance (Miscellaneous Text Amendments)
4. Planning Commission Resolution No. 10164
5. Public Hearing Notice

Report prepared by: Celina Palmer, Assistant Planner

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Ordinance Amending Title 18 of the Pittsburg Municipal Code Related to Large Family Daycares	)))	ORDINANCE NO. 21-

WHEREAS, pursuant to the City's police power under Article XI Section 7 of the California Constitution, the City Council of the City of Pittsburg has the authority to enact and enforce ordinances and regulations for the public peace, morals, and welfare of the City and its residents; and

WHEREAS, effective January 1, 2020, the state legislature adopted Senate Bill (SB) 234 to support establishment of large family daycares by prohibiting cities and counties from requiring that large family childcare providers obtain a zoning permit and business license; and

WHEREAS, on October 27, 2020, in accordance with Pittsburg Municipal Code (PMC) 18.10.020(b), the Planning Commission authorized staff to initiate a study to review a variety of potential amendments to Title 18 of the PMC in order to clarify minor inconsistencies while also ensuring compliance with recently amended State Law; and

WHEREAS, PMC section 18.16.020 identifies the Planning Commission as the advisory body to the City Council on proposed changes to zoning text amendments; and

WHEREAS, on June 8, 2021, the Planning Commission held a duly noticed public hearing to consider various amendments to PMC Title 18, and voted 6-1 to adopt Resolution No. 10164, recommending City Council approval of the proposed amendments; and

WHEREAS, in order to adopt a zoning text amendment, and in accordance with PMC sections 18.16.020 and 18.48.030, the City Council must find that:

1. the amendments are consistent with the objectives, policies, general land uses and programs in the General Plan;

2. the land use regulation is compatible with uses and regulations of the land use district for which it is proposed;

3. there is a community need for the change proposed; and

4. the change will be in conformity with the public convenience, general welfare, and good zoning practice; and

WHEREAS, on or prior to September 24, 2021, notice of the October 4, 2021, public hearing to consider this item was posted at City Hall and on the 'public notices' page of the City's website; was delivered to the Pittsburg Library; was published in the local newspaper (East Contra Costa County Times) as a 1/8 page advertisement; and was mailed via first class mail or electronic mail to interested parties and individuals and organizations that requested such notice, in accordance with PMC sections 18.14.010, and

Government Code section 65090 and 65091; and

WHEREAS, on October 4, 2021, the City Council held a duly noticed public hearing and voted to introduce and waive further reading of an ordinance amending PMC Title 18 related to large family daycares.

NOW, THEREFORE, the City Council of the City of Pittsburg does ORDAIN as follows:

SECTION 1. Findings.

A. The City Council finds that each fact set forth in the preceding recitals is true and correct and incorporated by reference.

B. Based on the City Council staff report entitled, "Introduction and Waive First Reading of an Ordinance to Amend Title 18 of the Pittsburg Municipal Code Related to Miscellaneous Zoning Code Updates,'" dated October 4, 2021, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the public hearing, the City Council finds that:

1. All recitals above are true and correct and are incorporated herein by reference.

2. This project is exempt from the requirements of the California Environmental Quality Act under the general rule of applicability of the state CEQA Guidelines, section 15061, in that there is no possibility that the activity in question would have a significant negative physical impact on the environment. The amendments proposed are procedural in nature and would ensure compliance with state law.

3. The proposed amendments are consistent with the current General Plan Land Use goals, specifically goals 2-G-6, which calls for use of infill land and underutilized sites, whereby allowing large family daycares on existing single family residential sites would increase their utilization potential; 3-G-1, which call for balance development of housing options and job opportunities, in which providing the opportunity to approve more large family day cares would increase the number of jobs available in the area and support working parents/guardians; 6-G-2, which calls for retention and attraction of businesses that meet the City's economic development objectives; and 6-P-8, which calls for encouraging supporting home-based businesses in Pittsburg.

4. The proposed amendments are compatible with uses and regulations of the land use district for which they are proposed, in that the proposed text amendments will modify the requirements for large family daycares in residential districts and family childcare homes are treated as residential use of property and a use by right as the law SB 234 calls for. The proposed text

amendments will not permit any large day care uses in any zoning district in which similar uses are not currently allowed or alter any development standards which would substantially alter the character of the zone districts in which these uses are permitted.

5. There is a community need for the proposed amendments, in that permitting large family day cares in all residential areas can provide a necessary service to working parents in the City, through increased availability and greater access to childcare, and provides additional business opportunities for residents.

6. The proposed amendments will be in conformity with the public convenience, general welfare, and good zoning practice, in that the proposed amendments will further implement policies of the General Plan, eliminate existing inconsistencies in the municipal code, and help ensure consistency with state law; and will facilitate the availability of good, cost-effective childcare in a home environment in the neighborhood. Further, no development standards will be altered as to change the character of the zone districts in which these uses are permitted.

C. The Staff Report entitled, "Introduction and Waive First Reading of an Ordinance to Amend Title 18 of the Pittsburg Municipal Code Related to Miscellaneous Zoning Code Updates," dated October 4, 2021, is referenced hereto as additional support for findings.

SECTION 2. The schedule in Section 18.50.010, "RR, RS-40, RS-10, RS-6, RS-5, RS-4, RM, RMD, RH and RHD districts – Land use regulations" of the PMC is amended to read as follows (new language shown in bold italic, deleted language shown in strikethrough):

RR, RS-40, RS-10, RS-6, RS-5, RS-4, RM, RMD, RH AND RHD DISTRICTS – LAND USE REGULATIONS.

P = Permitted
U = Use Permit
T = Temporary Activity Permit
L = Limited (See Additional Use Regulations)
Z = Zoning Administrator Approval
– = Not Permitted

	RR	RS-40	RS-10	RS-6	RS-5	RS-4	RM	RMD	RH	RHD
Day Care Home										
Large	~~L-163~~ ***P***	~~L-163~~ ***P***	~~L-163~~ ***P***	~~L-163~~ ***P***	~~L-163~~ ***P***	~~L-163~~ ***P***	~~L-163~~ ***P***	~~L-163~~ ***P***	~~L-163~~ ***P***	~~L-163~~ ***P***

~~L-163~~

~~Permitted; provided, that (1) outdoor activities shall not occur before 8:00 a.m. on weekdays and 9:00 a.m. on weekends, and shall not occur after 9:00 p.m. any day of the week; (2) a minimum of one paved off-street drop-off/pick-up parking space is provided on site (note, this is in addition to any required parking for the residential unit); (3) the off-street parking space is reserved exclusively for child loading and drop-off during all hours of operation, and parents shall be provided notice about the availability of the designated drop-off/pick-up location; and (4) the use is separated from other large family day care homes by a minimum of 300 feet in all directions, as measured from property line to property line. Zoning administrator approval required for any use that does not meet all of these requirements. Zoning administrator approval process (when required) shall adhere to the requirements of state law, including the California Child Day Care Facilities Act (California Health and Safety Code Section 1597.46(a)(3)), as amended from time to time.~~

SECTION 3. Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption.

SECTION 4. Severability. If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

SECTION 5. Publication. The ordinance shall be posted and published in accordance with the California Government Code.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Pittsburg held on October 4, 2021, and was adopted and ordered published at a meeting of the City Council held on _____ by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

_____
Merl Craft, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Ordinance Amending Title 18 of the Pittsburg Municipal Code Related to Off-Street Parking Requirements	)))	ORDINANCE NO. 21-

WHEREAS, pursuant to the City's police power under Article XI Section 7 of the California Constitution, the City Council of the City of Pittsburg has the authority to enact and enforce ordinances and regulations for the public peace, morals, and welfare of the City and its residents; and

WHEREAS, on October 27, 2020, in accordance with Pittsburg Municipal Code (PMC) section 18.10.020(b), the Planning Commission authorized staff to initiate a study to review a variety of potential amendments to Title 18 of the PMC in order to clarify minor inconsistencies while also ensuring compliance with recently amended State Law; and

WHEREAS, PMC section 18.16.020 identifies the Planning Commission as the advisory body to the City Council on proposed changes to zoning text amendments; and

WHEREAS, on June 8, 2021, the Planning Commission held a duly noticed public hearing to consider various amendments to PMC Title 18, and voted 6-1 to adopt Resolution No. 10164, recommending City Council approval of the proposed amendments; and

WHEREAS, in order to adopt a zoning text amendment, and in accordance with PMC sections 18.16.020 and 18.48.030, the City Council must find that:

1. the amendments are consistent with the objectives, policies, general land uses and programs in the General Plan;

2. the land use regulation is compatible with uses and regulations of the land use district for which it is proposed;

3. there is a community need for the change proposed; and

4. the change will be in conformity with the public convenience, general welfare, and good zoning practice; and

WHEREAS, on or prior to September 24, 2021, notice of the October 4, 2021, public hearing to consider this item was posted at City Hall and on the 'public notices' page of the City's website; was delivered to the Pittsburg Library; was published in the local newspaper (East Contra Costa County Times) as a 1/8 page advertisement; and was mailed via first class mail or electronic mail to interested parties and individuals and organizations that requested such notice, in accordance with PMC sections 18.14.010, and Government Code section 65090 and 65091; and

WHEREAS, on October 4, 2021, the City Council held a duly noticed public hearing and voted to introduce and waive further reading of an ordinance amending PMC Title 18 related to off-street parking requirements.

NOW, THEREFORE, the City Council of the City of Pittsburg does ORDAIN as follows:

SECTION 1. Findings.

A. The City Council finds that each fact set forth in the preceding recitals is true and correct and incorporated by reference.

B. Based on the City Council staff report entitled, "Introduction and Waive First Reading of an Ordinance to Amend Title 18 of the Pittsburg Municipal Code Related to Miscellaneous Zoning Code Updates,'" dated October 4, 2021, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the public hearing, the City Council finds that:

1. All recitals above are true and correct and are incorporated herein by reference.

2. This project is exempt from the requirements of the California Environmental Quality Act under the general rule of applicability of the state CEQA Guidelines, section 15061, in that the amendments proposed are procedural in nature and would not materially change the type of uses permitted within any areas of the City, but rather establish a commercial parking exception process for new uses that can demonstrate a reduced parking demand (through a professional parking demand study). Further, specific requests for parking reductions would be subject to approval of a use permit, at which time impacts resulting from the parking reduction would be further reviewed once more details are made available.

3. The proposed amendments are consistent with the current General Plan Land Use goals, specifically goals 6-G-4, which calls for maintaining and enhancing an attractive climate for conducting business in Pittsburg; 6-P-6, which calls for maintaining efficient licensing and development permitting procedures and regulations; 7-P-4, which calls for requiring that all traffic studies be conducted by professional transportation consultants selected by the Planning and Building and Engineering Departments, with the City acting as the lead agency.

4. The proposed amendments are compatible with uses and regulations of the land use district for which they are proposed, in that the proposed text amendments will not permit any specific type of uses in any zoning district in which similar uses are not currently allowed or alter any development standards which would substantially alter the character of the zone districts in which these uses are permitted.

5. There is a community need for the proposed amendments, in that the proposed text amendment could potentially encourage the establishment businesses in the City, which may otherwise be denied due to an inability to provide the required number of off-street parking spaces where special circumstances may apply.

6. The proposed amendments will be in conformity with the public convenience, general welfare, and good zoning practice, in that the proposed text amendment could potentially encourage the establishment businesses in the City, providing the City with increased tax revenues, which may be used to fund services that support the general welfare of the public, such as police services and parks.

C. The Staff Report entitled, "Introduction and Waive First Reading of an Ordinance to Amend Title 18 of the Pittsburg Municipal Code Related to Miscellaneous Zoning Code Updates," dated October 4, 2021, is referenced hereto as additional support for findings.

SECTION 2. Section 18.78.040, "Off-street parking and loading spaces required by type of use" of the PMC is amended to include the following section (new language shown in bold italic, deleted language shown in strikethrough):

H. Subject to approval of a use permit, the net number of parking spaces required in Schedule A of this section may be reduced by up to 25 percent. A use permit for a parking reduction under this section may be granted only after a determination that:

1. The applicable findings required for approval of a use permit under section 18.16.040 can be made;
2. As demonstrated by a parking study, due to special circumstances, such as the nature of the use, proximity to transit, transportation characteristics of the use, or implementation of a transportation demand management program, there will be a reduced demand and/or need for parking at the site; and
3. The applicant has demonstrated that the project could provide additional parking in the future if the parking demand increases.

SECTION 3. Section Titles and Numbering. All titles and numbering shall be updated as necessary to reflect the proposed additions or deletions.

SECTION 4. Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption.

SECTION 5. Severability. If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

SECTION 6. Publication. The ordinance shall be posted and published in accordance with the California Government Code.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Pittsburg held on October 4, 2021, and was adopted and ordered published at a meeting of the City Council held on _____ by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

_____
Merl Craft, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Ordinance Amending Title 18 of the Pittsburg Municipal Code Related to Miscellaneous Text Amendments	)))	ORDINANCE NO. 21-

WHEREAS, pursuant to the City's police power under Article XI Section 7 of the California Constitution, the City Council of the City of Pittsburg has the authority to enact and enforce ordinances and regulations for the public peace, morals, and welfare of the City and its residents; and

WHEREAS, on October 27, 2020, in accordance with Pittsburg Municipal Cide (PMC) section 18.10.020(b), the Planning Commission authorized staff to initiate a study to review a variety of potential amendments to Title 18 of the PMC in order to clarify minor inconsistencies while also ensuring compliance with recently amended State Law; and

WHEREAS, PMC section 18.16.020 identifies the Planning Commission as the advisory body to the City Council on proposed changes to zoning text amendments; and

WHEREAS, on June 8, 2021, the Planning Commission held a duly noticed public hearing to consider various amendments to PMC Title 18,and voted 6-1 to adopt Resolution No. 10164, recommending City Council approval of the proposed amendments; and

WHEREAS, in order to adopt a zoning text amendment, and in accordance with PMC sections 18.16.020 and 18.48.030, the City Council must find that:

1. the amendments are consistent with the objectives, policies, general land uses and programs in the General Plan;

2. the land use regulation is compatible with uses and regulations of the land use district for which it is proposed;

3. there is a community need for the change proposed; and

4. the change will be in conformity with the public convenience, general welfare, and good zoning practice; and

WHEREAS, on or prior to September 24, 2021, notice of the October 4, 2021, public hearing to consider this item was posted at City Hall and on the 'public notices' page of the City's website; was delivered to the Pittsburg Library; was published in the local newspaper (East Contra Costa County Times) as a 1/8 page advertisement; and was mailed via first class mail or electronic mail to interested parties and individuals and organizations that requested such notice, in accordance with PMC sections 18.14.010, and Government Code section 65090 and 65091; and

WHEREAS, on October 4, 2021, the City Council held a duly noticed public hearing and voted to introduce and waive further reading of an ordinance amending PMC Title 18 for miscellaneous text amendments.

NOW, THEREFORE, the City Council of the City of Pittsburg does ORDAIN as follows (new language shown in bold italic, deleted language shown in strikethrough):

SECTION 1. Findings.

A. The City Council finds that each fact set forth in the preceding recitals is true and correct and incorporated by reference.

B. Based on the City Council staff report entitled, "Introduction and Waive First Reading of an Ordinance to Amend Title 18 of the Pittsburg Municipal Code Related to Miscellaneous Zoning Code Updates,'" dated October 4, 2021, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the public hearing, the City Council finds that:

1. All recitals above are true and correct and are incorporated herein by reference.

2. This project is exempt from the requirements of the California Environmental Quality Act under the general rule of applicability of the state CEQA Guidelines, section 15061, in that there is no possibility that the activity in question would have a significant negative physical impact on the environment. The proposed revisions to the zoning code do not include any mapping changes that would allow new uses in areas not previously permitted, and the text changes/clarifications proposed would not result in any direct significant negative physical impacts on the environment.

3. The proposed amendments are consistent with the current General Plan Land Use goals - most specifically, Land Use Element Policy 2-P-20, requiring undergrounding of utility service/transformer boxes - and would help ensure consistency with state law. The proposed amendments comply with state law and are expected to result in more clarity for the public and a decrease in Code Enforcement complaints received.

4. The proposed text amendments will take effect City-wide. Amendments related to food pantries, specialty food markets, mobile vendors, and temporary commercial entertainment uses will not conflict with any base district land use or development regulations. Additional regulations regarding home occupations, off-street parking, storage of vehicles and vessels, and mechanical and utility equipment provide clarification and will not conflict with any base district land use or development regulations.

5. There is a community need for the proposed amendments, in that the changes proposed will eliminate existing inconsistencies within the code and

with state law and codify existing staff use determinations, and in general adhere to good planning practices. Further, the amendments proposed will enable the Planning Division to provide more efficient and consistent information and/or guidance to the general public related to specific land uses and code enforcement.

6. The proposed amendments will be in conformity with the public convenience, general welfare, and good zoning practice, in that the proposed amendments will further implement policies of the General Plan, eliminate existing inconsistencies in the municipal code, and help ensure consistency with state law. Further, the proposed amendments to the PMC comply with state law and are expected to result in more clarity for the public and a decrease in Code Enforcement complaints received.

C. The Staff Report entitled, "Introduction and Waive First Reading of an Ordinance to Amend Title 18 of the Pittsburg Municipal Code Related to Miscellaneous Zoning Code Updates," dated October 4, 2021, is referenced hereto as additional support for findings.

SECTION 2. Chapter 18.06, Article II, "Definitions" of the PMC is amended to include the following section:

18.06.328 Food Pantry.

"Food Pantry" means a use where free food and beverage items, excluding alcohol, are distributed to the public at any frequency more than 3 times per year, with no onsite consumption.

SECTION 3. Section 18.08.080(12)(c), "Specialty Food Market" of the PMC is amended to read as follows:

c. Specialty Food Market. Establishment engaged in the sale of limited food items or product lines. This classification includes ***food pantry***, butcher shop, dry coffee or tea store, and meat or produce market.

SECTION 4. Section 18.08.160(G), "Temporary use classifications" of the PMC is amended to read as follows:

G. Mobile Food Vendor. Sale of food or beverage items from a truck, push cart, wagon or similar vehicle that is self-contained for potable water, wastewater and power, but that is not on a permanent foundation. This classification includes only those vendors whose vehicles have obtained all appropriate permits from the county health department ~~and that remain on a site for no more than 30 minutes in a 24-hour period~~. This classification excludes those vendors that impede vehicular or pedestrian circulation and excludes food sales occurring on public streets ~~as governed by Chapter 10.16 PMC~~.

SECTION 5. Section 18.50.405, “Standards for home occupation permit” of the PMC is amended to read as follows:

A home occupation permit may be issued only if the use meets all of the following conditions:

A. The home occupation is not incompatible in any way with the residential character of the neighborhood;

B. There is no external evidence of its operation;

C. The use conforms to all of the following conditions:

1. Only a resident of the dwelling unit may be engaged or employed in the home occupation;
2. The primary function of the home occupation will not necessitate providing services to customers or clients within or on the site of the dwelling unit. An exception to this condition is the provision of an educational service and the supply of goods or materials to be used in conjunction with the educational service if the educational service does not create a neighborhood nuisance by the generation of noise or pedestrian or vehicular traffic beyond that normal for the area in which the use is located;
3. No goods, samples, materials or objects in connection with the operation of the home occupation may be stored or displayed on the site of the dwelling unit. This condition is not intended to prohibit the temporary interior storage of materials used in the operation of the home occupation; provided, that the storage complies with subsection (C)(5) of this section and does not create a health or safety problem or neighborhood nuisance;
4. No goods, products, or items may be maintained and sold from the dwelling as an activity of the home occupation, except as provided by subsection (C)(2) of this section. This does not include an activity regulated under the temporary use section of this title;
5. Not more than 20 percent of the total floor area of the dwelling or 10 percent of the site may be used in conjunction with the home occupation;
6. No sign, nameplate, or any other form of advertising used in connection with the home occupation may be displayed on the site;
7. No structure, addition, alteration or remodeling of the dwelling is permitted in connection with the home occupation;
8. Access to that portion of the dwelling used for the home occupation may only be through the main entrance to the dwelling unit;
9. ~~One commercial motor vehicle, not exceeding a gross vehicle weight of 15,000 pounds, together with equipment, tools, and stock-in-trade may be maintained on site, provided such vehicle is used as the applicant’s means of transportation and such tools and equipment are not used for the performance of services on the site and stock-in-trade is not sold from the site;~~ ***No vehicle or vessel prohibited by Chapter 18.78.070 PMC***

shall be maintained on site, unless it meets one or more of the exceptions set forth in section 18.78.070.B PMC;

10. No noise, dust, smoke, odor, nor electrical interference may be emitted in conjunction with the home occupation and the use must comply with the performance standards prescribed by Chapter 18.82 PMC.

Notwithstanding the requirements and conditions set forth in subsection (C), ~~The~~ planning staff may ~~refuse~~ ***deny*** a home occupation permit ***request*** ~~even though the use may technically qualify with all these conditions if it finds~~ ***upon a finding*** that there is the possibility that the use may disrupt the residential neighborhood or that it is not in keeping with the intent and purpose of a home occupation.

SECTION 6. Section 18.50.415, "Uses not permitted as home occupations" of the PMC is amended to read as follows:

The following occupations or activities and every similar use when conducted on a commercial basis and performed on the site of the applicant's dwelling may not be considered a home occupation and therefore not permitted in an R district.

A. The repair, manufacture, processing, or alteration of goods, materials, objects, or equipment. However, dressmaking, tailoring and the manufacturing of arts and crafts items or the creation of artistic works, intended for off-site sale in which no equipment or process is used which creates an adverse impact on the neighborhood is permitted if the activity complies with PMC 18.50.405. This provision is also not intended to exclude the creation or processing of clerical, graphic, computer-generated, or administrative associate products;

B. A use involving food handling, processing, or packing***, except as permitted under Health and Safety Code section 113758 as a Cottage Food Operation****;*

C. Harboring, training, or raising animals, with the exception of the breeding and selling of no more than two litters or broods of domestic animals in any calendar year;

D. Either major or minor vehicle equipment repair or painting, including off-site mobile services. However, windshield or glass repair and minor dent removal are permitted; provided, that the service does not necessitate removal or replacement of any automobile body panel, engine part or paint; and provided, that the activity complies with the provisions of PMC 18.50.205 and 18.50.405;

E. Sale or servicing of firearms or ammunition;

F. Automobile washing and detailing, including off-site mobile services.

SECTION 7. The schedule in Section 18.52.010, "CO, CN, CC, CS, CSD, CW and CP districts – Land use regulations" of the PMC is amended to read as follows:

CO, CN, CC, CS, CSD, CW AND CP DISTRICTS – LAND USE REGULATIONS.

P = Permitted
U = Use Permit
T = Temporary Activity Permit
L = Limited (See Additional Use Regulations)
Z = Zoning Administrator Approval
– = Not Permitted

	CO	CN	CC	CS	CSD	CW	CP
Alcoholic beverage establishment or restaurant with live entertainment	-	U	U	U	U	U	L-129
L-129	"Permitted for live or recorded music in full-service, ~~and~~ self-service restaurants, ***and/or food shops***, between the hours of 10:00 a.m. and 10:00 p.m.; provided, that the noise generated is not audible beyond the property line or lease space for the use. When the provisions above are not met, a conditional use permit***, special event permit*** or temporary activity permit is required."						

SECTION 8. The schedule in Section 18.53.020, "M district – Land use regulations" of the PMC is amended to read as follows:

M DISTRICT – LAND USE REGULATIONS.

P = Permitted
U = Use Permit
T = Temporary Activity Permit
L = Limited (See Additional Use Regulations)
Z = Zoning Administrator Approval
– = Not Permitted

	M
Alcoholic beverage establishment or restaurant with live entertainment	L-129

L-129	"Permitted for live or recorded music in full-service, ~~and~~ self-service restaurants, ***and/or food shops***, between the hours of 10:00 a.m. and 10:00 p.m.; provided, that the noise generated is not audible beyond the property line or lease space for the use. When the provisions above are not met, a conditional use permit***, special event permit*** or temporary activity permit is required."

SECTION 9. Section 18.80.025, "Mechanical and utility equipment" of the PMC is amended to read as follows:

A. Mechanical Equipment. Except as provided in subsection (B) of this section, exterior mechanical equipment (except solar collectors and operating mechanical equipment in the IG district located more than 50 feet from an R, C, GS, PD or OS district boundary) must be screened from view on all sides. Equipment to be screened includes, but is not limited to, heating, air conditioning, refrigeration equipment, plumbing line and ductwork. Satellite receiving antenna must be screened as prescribed by PMC 18.84.615. The city may require screening of the top of equipment if necessary to protect a significant view.

B. Utility Equipment.

1. Utility Meters. A utility meter must be screened from view from the public right-of-way, but need not be screened on top or when located on the interior side of a single-family dwelling or duplex. A water meter located in a required front yard or in a corner side yard must be enclosed in a subsurface vault.
2. Utility Transformers and Junction Boxes. ~~A~~ ***All new*** transformer or junction box***es shall*** ~~may~~ be placed in a subsurface vault***. For new projects, developer shall underground existing and required on and off-site utilities as set forth in Title 17 of the Pittsburg Municipal Code, or as deemed necessary by the City Engineer. The City Engineer shall determine whether undergrounding is not feasible and if so, is authorized to allow above ground utilities.*** ~~or, if~~ ***If*** mounted aboveground, ***utility transformers and junction boxes*** must be obscured from view by landscaping, architecturally designed and painted enclosures, or screening. The city may require an alternate location, method of screening or placement in a subsurface vault if necessary to protect site aesthetics or safety.

C. Screening Specifications. Screening material may have evenly distributed openings or perforations not exceeding 50 percent of the surface area and must effectively screen mechanical equipment so that it is obscured from a street or adjoining lot.

SECTION 10. Section 18.84.430, "Where permitted" of the PMC is amended to read as

follows:

> Temporary outdoor sales or storage is subject to the permit requirements outlined by the base district land use regulations applicable to the site. Outdoor sales and storage for uses other than for a temporary period of time require a use permit in those applicable base districts unless otherwise specifically permitted in an IG district. Outdoor food service accessory to an eating and drinking establishment is permitted subject to approval of an outdoor dining permit. ~~However, no outdoor~~ ***Outdoor*** preparation of food or beverages ~~is~~ ***for a temporary period of time may only be*** permitted ***in conjunction with a temporary activity permit or special event permit, subject to approval from Contra Costa County Health Department***. A use permit, temporary activity permit or outdoor dining permit, for outdoor storage, display or food service, may require yards (PMC 18.06.745), screening, or planting areas necessary to prevent adverse impacts on surrounding properties and to the visual character of scenic corridors identified in the general plan. If these impacts cannot be prevented, the city shall deny the outdoor dining permit.

SECTION 11. Titles and Numbering. All titles and numbering shall be updated as necessary to reflect the proposed additions or deletions.

SECTION 12. Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption.

SECTION 13. Severability. If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

SECTION 14. Publication. The ordinance shall be posted and published in accordance with the California Government Code.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Pittsburg held on October 4, 2021, and was adopted and ordered published at a meeting of the City Council held on _____ by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

_____
Merl Craft, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Recommending the City Council Adopt Amendments to Title 18 of the Pittsburg Municipal Code	)))	Resolution No. 10164

The Planning Commission DOES RESOLVE as follows:

Section 1. Background

A. On January 28, 2020, the Land Use Subcommittee held a meeting and discussed potential updates to the Pittsburg Municipal Code (PMC) that would help provide clarity for the public on recurring code enforcement issues. Staff received direction related to the storage of recreational vehicles (RVs) on private residentially zoned property.

B. On April 28, 2020, in accordance with PMC 18.10.020(b), the Planning Commission authorized staff to initiate a study to review the text of PMC section 18.78.070, "Parking or Storage of Vehicles and Vessels."

C. After the April 28, 2020 Planning Commission meeting, staff identified other miscellaneous "clean-up" amendments would be needed to ensure Title 18 of the PMC is consistent with recent amendments to State Law and to clarify requirements that may have been confusing.

D. On October 27, 2020, in accordance with PMC 18.10.020(b), the Planning Commission authorized staff to initiate an expanded study to review a variety of potential amendments to Title 18 of the PMC in order to address the concerns listed above and clarify minor inconsistencies while also ensuring compliance with recently amended State Law. The modifications generally include updates to zoning definitions, parking requirements, screening requirements, and allowable use regulations.

E. PMC section 18.16.020 identifies the Planning Commission as the advisory body to the City Council on proposed changes to zoning text amendments.

F. In order to recommend approval of a zoning text amendment, the Planning Commission must find (in accordance with PMC sections 18.16.020 and 18.48.030) that:

1. the amendments are consistent with the objectives, policies, general land uses and programs in the General Plan;

2. the land use regulation is compatible with uses and regulations of the land use district for which it is proposed;

3. there is a community need for the change proposed; and

4. the change will be in conformity with the public convenience, general welfare, and good zoning practice.

G. This project is exempt from the requirements of the California Environmental Quality Act (CEQA) under the general rule of applicability of the state CEQA Guidelines, section 15061, in that the activity in question consists of zoning text changes that would not result in a physical impact on the environment. The proposed revisions to the zoning code do not include any mapping changes that would allow new uses in areas not previously permitted, and the text changes/clarifications proposed would not result in any direct significant negative physical impacts on the environment.

H. On or prior to May 29, 2021, in accordance with Government Code sections 65853 and PMC section 18.14.020, a "Notice of Public Hearing" for the June 8, 2021, public hearing on this item was published in the East County Times; was posted at City Hall and in the "Public Notices" section of the city website; and was mailed via first class or electronic mail to local service agencies whose services might be significantly affected by this project, and to individuals who had previously filed written request for such notice.

I. On June 8, 2021, the Planning Commission held a duly noticed public hearing to consider recommendation for City Council approval of amendments to PMC Title 18.

Section 2. Findings

A. Based on the Planning Commission staff report entitled, "Recommendation on Adoption of Amendments to Title 18 of the Pittsburg Municipal Code for Miscellaneous Zoning Code Updates,'" dated June 8, 2021, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the public hearing, the Planning Commission finds that:

1. All recitals above are true and correct and are incorporated herein by reference.

2. This project is exempt from the requirements of the California Environmental Quality Act (CEQA) under the general rule of applicability of the state CEQA Guidelines, section 15061, in that the activity in question consists of zoning text changes that would not result in a physical impact on the environment. The proposed revisions to the zoning code do not include any mapping changes that would allow new uses in areas not previously permitted, and the text changes/clarifications proposed would not result in any direct significant negative physical impacts on the environment.

3. The proposed amendments regarding modifications to the PMC are

consistent with the objectives, policies, general land uses and programs in the General Plan, and would help ensure consistency with state law. Most specifically, Land Use Element Policy 2-P-20, requiring undergrounding of utility service/transformer boxes, and Growth Management Element 3-G-1, by helping to balance development of housing options and job opportunities.

4. The proposed text amendments will take effect City-wide. Amendments related to food pantries, specialty food markets, mobile vendors, and temporary commercial entertainment uses will not conflict with any base district land use or development regulations. Amendments proposed related to large family day cares will eliminate existing inconsistencies by aligning those requirements with state law. Additional regulations regarding home occupations, off-street parking, storage of vehicles and vessels, and mechanical and utility equipment provide clarification and will not conflict with any base district land use or development regulations.

5. There is a community need for the proposed changes regarding large family daycares; in that, permitting large family day cares in all residential areas can provide a service to working parents in the City and provide additional business opportunities for residents. The remaining changes proposed will eliminate existing inconsistencies within the code and with state law and codify existing staff use determinations, and in general adhere to good planning practices. Further, the amendments proposed will enable the Planning Division to provide more efficient and consistent information and/or guidance to the general public related to specific land uses and code enforcement items.

6. The proposed changes will be in conformity with the public convenience, general welfare, and good zoning practice, in that the proposed amendments will further implement policies of the General Plan, eliminate existing inconsistencies in the municipal code, and help ensure consistency with state law.

7. Based on the staff report and associated information, and based on the written and oral testimony presented at the public hearing, the Planning Commission further finds that the draft amendments to the PMC comply with state law and are expected to result in more clarity for the public and a decrease in Code Enforcement complaints received.

B. The Staff Report entitled, "Recommendation on Adoption of Amendments to Title 18 of the Pittsburg Municipal Code for Miscellaneous Zoning Code Updates,'" dated June 8, 2021, is referenced hereto as additional support for findings.

Section 3. Decision

Based on the findings and the authority set forth above, the Planning Commission hereby recommends that the City Council adopt an ordinance amending Pittsburg Municipal Code,

Title 18, in order to read substantially as shown below (~~strikethrough~~ indicates deletion; ***bold italic*** indicates insertion):

Chapter 18.06, Article II, "Definitions" of the PMC is amended to include the following section:

18.06.328 Food Pantry.

"Food Pantry" means a use where free food and beverage items, excluding alcohol, are distributed to the public at any frequency more than 3 times per year, with no onsite consumption.

Section 18.08.080(12)(c), "Specialty Food Market" of the PMC is amended to read as follows:

c. Specialty Food Market. Establishment engaged in the sale of limited food items or product lines. This classification includes ***food pantry***, butcher shop, dry coffee or tea store, and meat or produce market.

Section 18.08.160(G), "Temporary use classifications" of the PMC is amended to read as follows:

G. Mobile Food Vendor. Sale of food or beverage items from a truck, push cart, wagon or similar vehicle that is self-contained for potable water, wastewater and power, but that is not on a permanent foundation. This classification includes only those vendors whose vehicles have obtained all appropriate permits from the county health department ~~and that remain on a site for no more than 30 minutes in a 24-hour period~~. This classification excludes those vendors that impede vehicular or pedestrian circulation and excludes food sales occurring on public streets ~~as governed by Chapter 10.16 PMC~~. ***Stationary food vendors do not fall under this use classification and are subject to a Special Event or Temporary Activity Permit.***

The schedule in Section 18.50.010, "RR, RS-40, RS-10, RS-6, RS-5, RS-4, RM, RMD, RH and RHD districts – Land use regulations" of the PMC is amended to read as follows:

RR, RS-40, RS-10, RS-6, RS-5, RS-4, RM, RMD, RH AND RHD DISTRICTS – LAND USE REGULATIONS.

P = Permitted
U = Use Permit
T = Temporary Activity Permit
L = Limited (See Additional Use Regulations)
Z = Zoning Administrator Approval
– = Not Permitted

	RR	RS-40	RS-10	RS-6	RS-5	RS-4	RM	RMD	RH	RHD
Day Care Home										
Large	~~L-163~~ ***P***	~~L-163~~ ***P***	~~L-163~~ ***P***	~~L-163~~ ***P***	~~L-163~~ ***P***	~~L-163~~ ***P***	~~L-163~~ ***P***	~~L-163~~ ***P***	~~L-163~~ ***P***	~~L-163~~ ***P***

~~L-163~~

~~Permitted; provided, that (1) outdoor activities shall not occur before 8:00 a.m. on weekdays and 9:00 a.m. on weekends, and shall not occur after 9:00 p.m. any day of the week; (2) a minimum of one paved off-street drop-off/pick-up parking space is provided on site (note, this is in addition to any required parking for the residential unit); (3) the off-street parking space is reserved exclusively for child loading and drop-off during all hours of operation, and parents shall be provided notice about the availability of the designated drop-off/pick-up location; and (4) the use is separated from other large family day care homes by a minimum of 300 feet in all directions, as measured from property line to property line. Zoning administrator approval required for any use that does not meet all of these requirements. Zoning administrator approval process (when required) shall adhere to the requirements of state law, including the California Child Day Care Facilities Act (California Health and Safety Code Section 1597.46(a)(3)), as amended from time to time.~~

Section 18.50.405, "Standards for home occupation permit" of the PMC is amended to read as follows:

A home occupation permit may be issued only if the use meets all of the following conditions:

A. The home occupation is not incompatible in any way with the residential character of the neighborhood;

B. There is no external evidence of its operation;

C. The use conforms to all of the following conditions:

1. Only a resident of the dwelling unit may be engaged or employed in the home occupation;
2. The primary function of the home occupation will not necessitate providing services to customers or clients within or on the site of the dwelling unit. An exception to this condition is the provision of an educational service and the supply of goods or materials to be used in conjunction with the educational service if the educational service does not create a neighborhood nuisance by the generation of noise or pedestrian or vehicular traffic beyond that normal for the area in which the use is located;
3. No goods, samples, materials or objects in connection with the operation of the home occupation may be stored or displayed on the site of the

dwelling unit. This condition is not intended to prohibit the temporary interior storage of materials used in the operation of the home occupation; provided, that the storage complies with subsection (C)(5) of this section and does not create a health or safety problem or neighborhood nuisance;

4. No goods, products, or items may be maintained and sold from the dwelling as an activity of the home occupation, except as provided by subsection (C)(2) of this section. This does not include an activity regulated under the temporary use section of this title;
5. Not more than 20 percent of the total floor area of the dwelling or 10 percent of the site may be used in conjunction with the home occupation;
6. No sign, nameplate, or any other form of advertising used in connection with the home occupation may be displayed on the site;
7. No structure, addition, alteration or remodeling of the dwelling is permitted in connection with the home occupation;
8. Access to that portion of the dwelling used for the home occupation may only be through the main entrance to the dwelling unit;
9. ~~One commercial motor vehicle, not exceeding a gross vehicle weight of 15,000 pounds, together with equipment, tools, and stock-in-trade may be maintained on site, provided such vehicle is used as the applicant's means of transportation and such tools and equipment are not used for the performance of services on the site and stock-in-trade is not sold from the site;~~ ***No vehicle or vessel prohibited by Chapter 18.78.070 PMC shall be maintained on site, unless it meets one or more of the exceptions set forth in section 18.78.070.B PMC;***
10. No noise, dust, smoke, odor, nor electrical interference may be emitted in conjunction with the home occupation and the use must comply with the performance standards prescribed by Chapter 18.82 PMC.

Notwithstanding the requirements and conditions set forth in subsection (C), ~~The~~ planning staff may ~~refuse~~ ***deny*** a home occupation permit ***request*** ~~even though the use may technically qualify with all these conditions if it finds~~ ***upon a finding*** that there is the possibility that the use may disrupt the residential neighborhood or that it is not in keeping with the intent and purpose of a home occupation.

Section 18.50.415, "Uses not permitted as home occupations" of the PMC is amended to read as follows:

The following occupations or activities and every similar use when conducted on a commercial basis and performed on the site of the applicant's dwelling may not be considered a home occupation and therefore not permitted in an R district.

A. The repair, manufacture, processing, or alteration of goods, materials, objects, or equipment. However, dressmaking, tailoring and the manufacturing of arts and crafts items or the creation of artistic works, intended for off-site sale in which no equipment or process is used which creates an adverse impact on the neighborhood is permitted if the activity complies with PMC 18.50.405. This

provision is also not intended to exclude the creation or processing of clerical, graphic, computer-generated, or administrative associate products;

B. A use involving food handling, processing, or packing***, except as permitted under Health and Safety Code section 113758 as a Cottage Food Operation;***

C. Harboring, training, or raising animals, with the exception of the breeding and selling of no more than two litters or broods of domestic animals in any calendar year;

D. Either major or minor vehicle equipment repair or painting, including off-site mobile services. However, windshield or glass repair and minor dent removal are permitted; provided, that the service does not necessitate removal or replacement of any automobile body panel, engine part or paint; and provided, that the activity complies with the provisions of PMC 18.50.205 and 18.50.405;

E. Sale or servicing of firearms or ammunition;

F. Automobile washing and detailing, including off-site mobile services.

The schedule in Section 18.52.010, "CO, CN, CC, CS, CSD, CW and CP districts – Land use regulations" of the PMC is amended to read as follows:

CO, CN, CC, CS, CSD, CW AND CP DISTRICTS – LAND USE REGULATIONS.

P = Permitted
U = Use Permit
T = Temporary Activity Permit
L = Limited (See Additional Use Regulations)
Z = Zoning Administrator Approval
– = Not Permitted

	CO	CN	CC	CS	CSD	CW	CP
Alcoholic beverage establishment or restaurant with live entertainment	-	U	U	U	U	U	L-129
L-129	"Permitted for live or recorded music in full-service, ~~and~~ self-service restaurants, ***and/or food shops***, between the hours of 10:00 a.m. and 10:00 p.m.; provided, that the noise generated is not audible						

	beyond the property line or lease space for the use. When the provisions above are not met, a conditional use permit, ***special event permit*** or temporary activity permit is required."

The schedule in Section 18.53.020, "M district – Land use regulations" of the PMC is amended to read as follows:

M DISTRICT – LAND USE REGULATIONS.

P = Permitted
U = Use Permit
T = Temporary Activity Permit
L = Limited (See Additional Use Regulations)
Z = Zoning Administrator Approval
– = Not Permitted

	M
Alcoholic beverage establishment or restaurant with live entertainment	L-129
L-129	"Permitted for live or recorded music in full-service, ~~and~~ self-service restaurants, ***and/or food shops***, between the hours of 10:00 a.m. and 10:00 p.m.; provided, that the noise generated is not audible beyond the property line or lease space for the use. When the provisions above are not met, a conditional use permit, ***special event permit*** or temporary activity permit is required."

Section 18.78.040, "Off-street parking and loading spaces required by type of use" of the PMC is amended to include the following section:

H. Subject to approval of a use permit, the net number of parking spaces required in Schedule A of this section may be reduced by up to 25 percent. A use permit for a parking reduction under this section may be granted only after a determination that:

1. The applicable findings required for approval of a use permit under section 18.16.040 can be made;
2. As demonstrated by a parking study, due to special circumstances, such as the nature of the use, proximity to transit, transportation characteristics

of the use, or implementation of a transportation demand management program, there will be a reduced demand and/or need for parking at the site; and

3. The applicant has demonstrated that the project could provide additional parking in the future if the parking demand increases.

Section 18.78.070, "Parking or storage of vehicles and vessels" of the PMC is amended to read as follows:

A. Prohibition. No person may park or store any of the following vehicles, vessels or items on public or private property in a district except as provided in subsection (B) of this section:

1. Airplane;
~~2. Boat;~~
~~3~~***2***. Bus;
~~4. Camper;~~
~~5. Camp car or house car;~~
~~6. Carry all;~~
~~7~~***3***. Golf cart;
~~8~~***4***. Implements of husbandry;
~~9~~***5***. Mobile home;
~~10~~***6***. Recreational vehicle ***and watercraft (including, but not limited to, a boat, camper, camp car or house car, or carry all)***;
~~11~~***7***. Semitrailer;
~~12~~***8***. Tow car;
~~13~~***9***. Trailer;
~~14~~***10***. Travel coach;
~~15~~***11***. Travel trailer;
~~16~~***12***. Truck (except a pickup truck ~~with a gross vehicle weight of 15,000 or fewer pounds~~);
~~17~~***13***. Truck tractor;
~~18~~***14***. Utility trailer~~.~~;
15. Portable storage pod.

The definitions of the enumerated vehicles and vessels are those set forth in the Vehicle Code or (if not defined) by common usage.

B. Exceptions. Notwithstanding the prohibition in subsection (A) of this section, a vehicle or vessel referred to in subsection (A) of this section may be parked or stored if it meets one of the following conditions:

1. It is parked or stored on a paved surface for less than 72 hours total in any 30-day period on a parcel in a permitted location. This exception does not apply to a commercial vehicle;
2. It is not visible by being maintained in a garage or other building or behind a fence, wall or landscaping; or***, in the case of a recreational vehicle, stored behind a minimum six-foot tall fence; or***

3. For pick-up or delivery, the loading or unloading of a commercial vehicle is permitted for up to five hours subject to PMC 10.16.130.

Section 18.80.025, "Mechanical and utility equipment" of the PMC is amended to read as follows:

A. Mechanical Equipment. Except as provided in subsection (B) of this section, exterior mechanical equipment (except solar collectors and operating mechanical equipment in the IG district located more than 50 feet from an R, C, GS, PD or OS district boundary) must be screened from view on all sides. Equipment to be screened includes, but is not limited to, heating, air conditioning, refrigeration equipment, plumbing line and ductwork. Satellite receiving antenna must be screened as prescribed by PMC 18.84.615. The city may require screening of the top of equipment if necessary to protect a significant view.

B. Utility Equipment.

1. Utility Meters. A utility meter must be screened from view from the public right-of-way, but need not be screened on top or when located on the interior side of a single-family dwelling or duplex. A water meter located in a required front yard or in a corner side yard must be enclosed in a subsurface vault.
2. Utility Transformers and Junction Boxes. ~~A~~ ***All new*** transformer or junction box***es shall*** ~~may~~ be placed in a subsurface vault***. For new projects, developer shall underground existing and required on and off-site utilities as set forth in Title 17 of the Pittsburg Municipal Code, or as deemed necessary by the City Engineer. The City Engineer shall determine whether undergrounding is not feasible and if so, is authorized to allow above ground utilities.*** ~~or, if~~ ***If*** mounted aboveground, ***utility transformers and junction boxes*** must be obscured from view by landscaping, architecturally designed and painted enclosures, or screening. The city may require an alternate location, method of screening or placement in a subsurface vault if necessary to protect site aesthetics or safety.

C. Screening Specifications. Screening material may have evenly distributed openings or perforations not exceeding 50 percent of the surface area and must effectively screen mechanical equipment so that it is obscured from a street or adjoining lot.

Section 18.84.430, "Where permitted" of the PMC is amended to read as follows:

Temporary outdoor sales or storage is subject to the permit requirements outlined by the base district land use regulations applicable to the site. Outdoor sales and storage for uses other than for a temporary period of time require a use permit in those applicable base districts unless otherwise specifically permitted in an IG district. Outdoor food service accessory to an eating and drinking establishment is permitted subject to approval of an outdoor dining permit. ~~However, no outdoor~~ ***Outdoor*** preparation of food or beverages ~~is~~ ***for a temporary period of time may only be*** permitted ***in conjunction with a temporary activity permit or special event permit, subject to approval from Contra Costa County Health Department***. A use permit,

temporary activity permit or outdoor dining permit, for outdoor storage, display or food service, may require yards (PMC 18.06.745), screening, or planting areas necessary to prevent adverse impacts on surrounding properties and to the visual character of scenic corridors identified in the general plan. If these impacts cannot be prevented, the city shall deny the outdoor dining permit.

On motion by Commissioner Foster, seconded by Commissioner Robinson, the foregoing resolution was passed and adopted the 8th day of June 2021, by the Planning Commission of the City of Pittsburg, California by the following vote:

AYES: Foster, C. Moreno., H. Moreno, Perkins, Popova, Robinson

NAYES: Coniglio

ABSTAIN: None

ABSENT: None

I hereby certify that the above Resolution No. 10164 was adopted by the Planning Commission of the City of Pittsburg on June 8, 2021.

JORDAN DAVIS, AICP, SECRETARY
PITTSBURG PLANNING COMMISSION

City of Pittsburg
Community Development Department – Planning Division
65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the **CITY COUNCIL of the City of Pittsburg** will conduct a public hearing on:

DATE: **October 4, 2021**
TIME: **7:00 p.m.**
PLACE: **Streaming Video (see public advisory on next page)**

Concerning the following matter:

Introduction and Waive First Reading of Ordinances Amending Title 18 of the Pittsburg Municipal Code Related to Large Family Daycares, Vehicle Parking Requirements, and Other Miscellaneous Text Amendments

This is a public hearing on amendments to City of Pittsburg Municipal Code (PMC) Title 18, the "Zoning Code," related to large family daycares, vehicle parking requirements, and other miscellaneous text amendments intended to clarify minor inconsistencies and ensure compliance with recently updated provisions of State Law. On June 8, 2021, the Planning Commission adopted Resolution No. 10164, recommending City Council approval of the proposed amendments to the PMC.

PROJECT PLANNER: Celina Palmer, (925) 252-4029 or cpalmer@ci.pittsburg.ca.us

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Why am I receiving this notice?
You are receiving this notice because you have either previously requested notifications from the Planning Division, or a project has been proposed in your neighborhood and all property owners within a minimum 300-foot radius of the project site are being notified.

Where can I get more information about this project?
The file for this project is available for public inspection; please contact the project planner listed above to make necessary arrangements.

What can I do if I have comments on the project?
Comments or objections to the project can be made by writing or through oral testimony during the public hearing. Written comments citing the project name may be emailed to the project planner listed above or may be mailed to: Pittsburg Planning Division, 65 Civic Avenue, Pittsburg, CA 94565. You may also register your comments or objections by attending the virtual public hearing on the date and time listed above (see advisory on next page for instructions on how to register a phone-in comment).

Pursuant to Section 65009 of the California Government Code, if you challenge this matter in court, you may be limited to those issues you or someone else raised at the public hearing described in this notice, or in written correspondence on the matter delivered to this agency at, or prior to the public hearing. Any written correspondence delivered to the address noted above before the hearing body's action on the matter will become a part of the administrative record.

Para información en español:
(925) 252-4920

Alice E. Evenson
ALICE EVENSON
CITY CLERK

Project Title: Introduction and Waive First Reading of Ordinances Amending Title 18 of the Pittsburg Municipal Code Related to Large Family Daycares, Vehicle Parking Requirements, and Other Miscellaneous Text Amendments

Location: City-Wide

PUBLIC ADVISORY:
THE CITY COUNCIL CHAMBER WILL NOT BE OPEN TO THE PUBLIC

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the meeting of the City Council will be conducted electronically through Zoom and broadcast live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber will not be open for the meeting. The City Council will be participating electronically and will not be physically present in the Council Chamber.

Effective immediately, live comments will be allowed by members of the public via teleconferencing during Zoom meetings and written comments received after 3:00 p.m. will be read aloud by staff. To be placed in a queue to comment, please adhere to the following instructions.

To Participate in Public Comment During the Meeting:

- Notify the City Clerk's Office via email by 3:00 p.m. on the meeting date that you would like to be placed in the queue for general Public Comments, or comments on a specific agenda item. Requests received after 3:00 p.m. on the date of the meeting will not be able to comment.
- Email your name and telephone number to meetingcomments@ci.pittsburg.ca.us. We need both identifications to pair you with the item you wish to speak on. You must also be sure that you call in using the number you have provided or we may not be able to identify you as a speaker.
- Your email must include the words **"FOR PUBLIC COMMENT"** in the subject line and specify the **Agenda Item number or Non-Agenda** as appropriate.
- You will receive an email confirmation with instructions to log in.
- Once the meeting starts (check the 'Agendas and Live Meetings' link on our homepage at www.pittsburgca.gov) you can phone in to Zoom. If you log in before the event has actually started you may be disconnected.
- You will be added to the meeting as an attendee and will be called upon by staff for phone-in comments.
- Speakers will be muted until their opportunity to provide public comment.
- All comments will be subject to the three-minute time limitation (approximately 350 words).
- Begin your comment by providing your name and city of residence for the record – although providing this is not required for participation.
- Just as in a live meeting inside the Council Chamber, only one comment per agenda item per person is allowed.

The City of Pittsburg thanks you in advance for taking all precautions to prevent the spread of the COVID 19 virus.

CITY OF PITTSBURG
CITY COUNCIL/AGENCY CONCURRENT MEETING MINUTES

DATE: September 20, 2021

LOCATION: Council Chamber, City Hall, 65 Civic Avenue, Pittsburg, CA 94565

CITY COUNCIL.AGENCY MEMBERS
Marilyn Craft, Mayor/Chair
Holland Barrett White, Vice-Mayor/Chair
Shanelle Scales-Preston, Council/Agency Member
Juan Antonio Banales, Council/Agency Member
Jelani Killings, Council/Agency Member
S.L. Floyd, Agency Member
Annie Hill Herring, Agency Member

APPOINTED OFFICIALS
Garrett Evans, City Manager/Executive Director
Donna Mooney, City Attorney/Legal Counsel
Alice E. Evenson, City Clerk/Agency Secretary (elected)
Nancy Parent, City Treasurer (elected)

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the regular meeting of the City Council for September 20, 2021 was conducted electronically for Closed Session and through Zoom with broadcasting live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber was not open for the meeting. Council Members participated electronically or through Zoom and were not physically present in the Council Chamber.

Mayor Craft called the meeting of the City Council to order at 7:34 P.M. in the City Council Chamber at City Hall, 65 Civic Avenue, Pittsburg, CA after convening at 6:00 P.M. for Closed Session for the following items:

1. CONFERENCE WITH LABOR NEGOTIATORS Pursuant to Section 54957.6:

City designated representatives: Garrett Evans, Stacy Shell, Charles Sakai, Sloan Sakai Yeung & Wong LLP

Employee organizations: American Federation of State, County, and Municipal Employees Local 512 Management/Professional/Confidential Unit and Miscellaneous A Unit; Pittsburg Police Officers' Association; Pittsburg Police Managers Group; Teamsters Local 856; International Brotherhood of Electrical Workers Local 1295

Unrepresented employees: Management Group; Senior Executive Team

2. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION, Initiation of litigation pursuant to Section 54956.9(d)(4)

Number of cases: one

City Attorney Mooney stated there was no reportable action taken in Closed Session.

ROLL CALL

All Members were present.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

PROCLAMATIONS

3. National Hispanic Heritage Month

4. Mayor's Monarch Pledge Day

5. Freddy Rivera's 40th Employment Anniversary

CITY MANAGER REPORTS/REMARKS

City Manager Evans reported on COVID-19 management, as well as upcoming City events.

PUBLIC COMMENTS

Bruce Ohlson, Pittsburg, commented on bike lanes in the project outlined in Consent Calendar Item No. 14.

COMMITTEE REPORTS

Member Banales attended the Finance Subcommittee.

Member Killings attended the Economic Development Subcommittee.

Mayor Craft, along with Member Scales-Preston, attended the Community Services Subcommittee.

JOINT PITTSBURG ARTS AND COMMUNITY FOUNDATION AND PITTSBURG POWER COMPANY

CONSIDERATION

6. Adoption of both a Pittsburg Arts and Community Foundation and Pittsburg Power Company Resolution to approve the Budget for Fiscal Year 2021-22 and Appropriation of Funds for Fiscal Year 2021-22.

City Manager/Executive Director Evans stated that this item would be continued to October 4, 2021.

PUBLIC HEARING

7. Adoption of the 2020 Urban Water Management Plan and Water Shortage Contingency Plan

Mayor Craft stated the Public Hearing remains open from August 16, 2021. There being no one to speak to the item, Mayor Craft closed the Public Hearing.

On Motion by Member Banales, seconded by Member Killings to adopt and carried unanimously.

8. Adoption of a City Council Resolution Approving the 2020-2021 Community Development Block Grant Consolidated Annual Performance and Evaluation Report

Mayor Craft opened the Public Hearing. There being no one to speak to the item, Mayor Craft closed the Public Hearing.

On Motion by Vice-Mayor White, seconded by Member Scales-Preston to adopt and carried unanimously.

Member Banales stated he would recuse himself from the following item (Item 9) due to a financial conflict of interest as his employer owns property within the subject project. He left the dais at this time.

9. Adoption of a City Council Resolution adopting the 2nd Addendum to the 2015 Final Environmental Impact Report and approving a Use Permit Amendment and Design Review, and Introduction and Waive Further Reading of an Ordinance Approving a Development Agreement for the Mt. Diablo Resource Recovery Park Enhancements Project, AP-21-1553 (UP, DR, DA)

Mayor Craft opened the Public Hearing. There being no one to speak to the item, Mayor Craft closed the Public Hearing.

On Motion by Member Banales, seconded by Vice-Mayor White to adopt the Resolution and introduce and waive first reading of the Ordinance and carried by the following vote:

AYES: Killings, Scales-Preston, White, Craft
ABSENT: Banales [Recused]

Member Banales returned to the dais at this time.

CONSIDERATION

10. Adoption of a City Council Resolution Approving a Rate Increase requested by Contra Costa Waste Service, Inc. for the Operation of the Recycling Center and Transfer Station

On Motion by Vice-Mayor White, seconded by Member Banales to adopt and carried unanimously.

CONFLICT OF INTEREST STATEMENT

There were no conflicts of interest statements.

COMBINED CITY COUNCIL, PITTSBURG ARTS AND COMMUNITY FOUNDATION, PITTSBURG POWER COMPANY AND SOUTHWEST PITTSBURG GHAD II AND SUCCESSOR AGENCY CONSENT CALENDAR

Prior to voting on the Consent Calendar, Mayor Craft read the following statement aloud:

"Pursuant to Government Code Section 54953 (c) (3), Agenda Item 19 is a recommendation to authorize an amendment to the employment agreement for City Attorney. The amendment will result in increased payroll and benefit costs of $39,686 during Fiscal Year 2021/2022, which will be absorbed into the department's current allocated budget, as approved on June 21, 2021."

On Motion by Vice-Mayor/Chair White, seconded by Member Banales to adopt and carried unanimously.

11. Minutes of August 16, 2021

12. Adoption of a Pittsburg Power Company Resolution Approving the Causeway Bridge Coupling Replacement Project Contract

13. Adoption of a City Council Resolution Authorizing the Acceptance and Appropriation of the State of California Office of Traffic Safety Grant Funds for the Selective Traffic Enforcement Program

14. Adoption of a City Council Resolution to Allocate Funds and Approve Amendment One to Consultant Agreement with NCE for Project Design of Project 2231, OBAG II Pavement Improvement Project (West Leland Road/Loveridge Road)

15. Adoption of a City Council Resolution to Authorize Allocation of U.S. Department of Justice – Bureau of Justice Assistance Edward Byrne Memorial Justice Assistance Grant (JAG)

16. Adoption of a City Council Resolution Approving the Terms and Conditions of Employment for Employees in the American Federation of State, County, and Municipal Employees Union, Local 512, Miscellaneous A and Management/Professional/Confidential Units for the Period July 1, 2021 through June 30, 2022

17. Adoption of a City Council Resolution Authorizing the City Manager to Execute and Agreement Between the City of Pittsburg and R. Giordano Consulting and Investigation Services

18. Adoption of Ordinance No. 21-1494 Amending Chapter 8.16 of the Municipal Code to Amend the City's Standards for Abatement of Weeds

19. Adoption of a City Council Resolution to Authorize an Amendment to the Employment Agreement for the City Attorney

20. Adoption of a City Council Resolution Authorizing the City Manager to Execute First Amendment to Contract for Renewable Diesel

21. Adoption of a City Council Resolution to Accept the Plans and Specifications, Allocate Funds, and Authorize the Award of Project 5060, Filter Media Replacement Project

22. Adoption of a City Council Resolution to Accept a Delta Conservancy Proposition 68 Grant for Improvements to Boat Launch Ramp and Central Harbor Park and Authorize the City Manager to Execute a Grant Agreement and an Agreement for Design Services

23. Adoption of a City Council Resolution Authorizing the City Manager to Execute a First Amendment to the Agreement with De Novo Planning Group for the City's Housing Element Update

COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

There were no requests for future agenda items.

COUNCIL MEMBER REMARKS

There were no Council Member remarks.

ADJOURNMENT

The City Council adjourned at 9:35 P.M. to October 4, 2021.

Respectfully submitted,

Alice E. Evenson, City Clerk

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Chair and Governing Board Members

FROM: Garrett Evans, Executive Director

SUBJECT: Adoption of a Pittsburg Power Company Resolution Authorizing the Use of Fund Balance to Supplement the Pittsburg Arts and Community Foundation Fiscal Year 2021-22 Deficit

MEETING DATE: October 4, 2021

EXECUTIVE SUMMARY

The Pittsburg Arts & Community Foundation (Foundation) is requesting a subsidy from Pittsburg Power Company of $200,000 to balance its Fiscal Year 2021-2022 operating budget.

FISCAL IMPACT

The funding for the subsidy would reduce the available Pittsburg Power Company Fund balance from $4,925,967 to $4,7925,967.

When allocation of the American Rescue Plan Act (ARPA) funds are considered, the City may consider allocating funds to the Foundation since supporting non-profit organizations is an eligible use of ARPA funds, thereby reimbursing the Pittsburg Power Company.

RECOMMENDATION

The Governing Board of the Pittsburg Power Company approve the subsidy of $200,000 to the Pittsburg Arts and Community Foundation to balance its Fiscal Year 2021-2022 operating budget.

BACKGROUND

Pittsburg Power Company's Fiscal Year 2021-22 operating budget was approved by Resolution at the June 21, 2021 meeting of the Governing Board. The approved operating budget left a fund balance of $4,925,967.

SUBCOMMITTEE FINDINGS

The Pittsburg Arts and Community Foundation's Preliminary Operating Budget for the Fiscal Year 2021-22 was presented to the Foundation's subcommittee on August 31, 2021.

STAFF ANALYSIS

The Pittsburg Arts and Community Foundation provides community benefit to the residents of Pittsburg through the arts and literacy programs and is seeking funds in the amount of $200,000 to offset the deficit and balance its Operating Budget for Fiscal Year 2021-2022.

Pittsburg Power Company has funding available in Fund balance to provide a subsidy to the Foundation to allow for a balanced budget. When allocation of the American Rescue Plan Act (ARPA) funds are considered, the City may consider allocating funds to the Foundation since supporting non-profit organizations is an eligible use of ARPA funds, thereby reimbursing the PPC's fund balance.

ATTACHMENTS: Resolution

Report Prepared By: Paul Rodrigues, Finance Director

BEFORE THE GOVERNING BOARD OF THE PITTSBURG POWER COMPANY

In the Matter of:

Authorizing the Use of the Pittsburg Power Company Fund Balance to Supplement the Pittsburg Arts and Community Foundation Fiscal Year 2021-22 Deficit	RESOLUTION NO. 21-

WHEREAS, the Pittsburg Arts and Community Foundation (Foundation) provides community benefit to the residents of Pittsburg through the arts and literacy programs; and

WHEREAS, the Foundation is seeking funds in the amount of $200,000 to offset the deficit and balance the Foundation Operating Budget for Fiscal Year 2021-2022; and

WHEREAS, the Governing Board proposes to use the Pittsburg Power Company (PPC) fund balance to provide funding to the Foundation for the purpose of balancing the Operating Budget for Fiscal Year 2021-2022; and

WHEREAS, when allocation of the American Rescue Plan Act (ARPA) funds are considered, the City may consider allocating funds to the Foundation since supporting non-profit organizations is an eligible use of ARPA funds, thereby reimbursing the PPC's fund balance.

NOW, THEREFORE, the Governing Board of the Pittsburg Power Company DOES RESOLVE as follows:

Section 1. Findings and Authorization

A. The recitals set forth above are true and correct statements and are hereby incorporated in conjunction with the respective staff report.

B. The amount of $200,000 is transferred from PPC Fund Balance into Foundation Fund No. 560 to offset the deficit and balance the Foundation Operating Budget for Fiscal Year 2021-2022.

C. The Executive Director or his/her designee is hereby authorized to approve payment of goods and services received by the PPC in accordance with its approved budgets, programs, and policies.

D. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by the Governing Board of the Pittsburg Power Company at a regular meeting held on the 4th day of October 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Merl Craft, Chair

ATTEST:

_____
Garrett Evans, Executive Secretary

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution to Amend the Master Pay Schedule as Required by California Public Employees' Retirement System

MEETING DATE: October 4, 2021

EXECUTIVE SUMMARY

To comply with CalPERS' interpretation of the requirements of California Code of Regulations, Title 2, Section 570.5 by amending the single master pay schedule already on the City's website representing all previously approved actions on the individual classifications of the pay schedule. The single master pay schedule will be submitted to the City Council for approval each time any single MOU or compensation plan is brought to the City Council for approval.

FISCAL IMPACT

The amendment of previously approved separate pay schedules as a single master pay schedule has no fiscal impact to the City for preparation or distribution, as the actions already occurred.

RECOMMENDATION

The City Council adopt a resolution to amend the City of Pittsburg's master pay schedule for all employee classifications, so the City is in compliance with the requirements of the California Code of Regulations, Title 2, Section 570.5 and the California Public Employees' Retirement System (CalPERS) relating to publicly available pay schedules for purposes of determining the amount of "compensation earnable" pursuant to Government Code Sections 20630, 20636, and 20636.1.

BACKGROUND

CalPERS, pursuant to their interpretation of California Code of Regulations, Title 2, Section 570.5, recommends all CalPERS employers to maintain their compensation levels in one publicly available document, approved and adopted by the governing body, which must meet all of the following requirements:

• Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
• Identifies the position title for every employee position;
• Shows the pay rate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
• Indicates the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually;
• Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
• Indicates an effective date and date of any revisions;
• Is retained by the employer and available for public inspection for not less than five years; and
• Does not reference another document in lieu of disclosing the pay rate.

SUBCOMMITTEE FINDINGS

This item was not reviewed by a subcommittee.

STAFF ANALYSIS

The updates to master pay schedule reflect salary adjustments approved by the City Council on July 19, 2021, for members of IBEW and on September 20, 2021, for AFSCME members and the approval of City Attorney's employment agreement.

The adoption of the resolution will comply with CalPERS' interpretation of the requirements of Code of Regulations section 570.5 by amending the single master pay schedule already on the City's website representing all previously approved actions on the individual classifications of the pay schedule.

ATTACHMENTS:

Resolution
Pay Schedule

Report Prepared By: Griselda Clift, Senior Human Resources Analyst

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Amending the Master Pay Schedule)
to Include Previously Approved) RESOLUTION NO. 21-
Positions and Compensation)

WHEREAS, the California Public Employees' Retirement System (CalPERS) has requested all CalPERS employers list their compensation levels on one document, approved and adopted by the governing body, in accordance with Title 2 California Code of Regulations section 570.5, and meeting all of the following requirements thereof:

- Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
- Identifies the position title for every employee position;
- Shows the pay rate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
- Indicates the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually;
- Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
- Indicates an effective date and date of any revisions;
- Is retained by the employer and available for public inspection for not less than five years; and
- Does not reference another document in lieu of disclosing the pay rate; and

WHEREAS, the City now desires to amend the master pay schedule to include previously approved compensation levels for all bargaining groups and all compensation plans of the City of Pittsburg.

NOW, THEREFORE BE IT RESOLVED that the City Council hereby amends the master pay schedule as shown in the attached salary schedule.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 4th day of October 2021, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

_____
Merl Craft, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

CLASSIFICATION	RANGE	EFFECTIVE	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	*Max/w all incentives	UNIT
Account Clerk (Part 1 of 2)	109	07/11/21	3,811	4,002	4,202	4,412	4,633			4,683	AFSCME
Account Clerk (Part 2 of 2)	170	07/11/21	4,372	4,591	4,821	5,062	5,315			5,365	AFSCME
Accountant I	350	07/11/21	5,779	6,068	6,371	6,690	7,025			7,075	MPC
Accountant II	500	07/11/21	6,470	6,793	7,133	7,490	7,864			7,914	MPC
Accounting Technician	220	07/11/21	5,106	5,361	5,629	5,910	6,206			6,256	AFSCME/MPC
Administrative Analyst I	390	07/11/21	5,971	6,270	6,583	6,912	7,258			7,308	MPC
Administrative Analyst II	700	07/11/21	6,914	7,260	7,623	8,004	8,404			8,454	MPC
Administrative Assistant (Part 1 of 2)	100	07/11/21	3,805	3,995	4,195	4,405	4,625			4,675	AFSCME
Administrative Assistant (Part 2 of 2)	160	07/11/21	4,406	4,626	4,857	5,100	5,355			5,405	AFSCME/MPC
Administrative Officer	860	07/11/21	9,367	9,835	10,327	10,843	11,385			11,435	MPC
Administrative Coordinator	350	07/11/21	5,779	6,068	6,371	6,690	7,025			7,075	MPC
Administrative Specialist	290	07/11/21	5,457	5,730	6,017	6,318	6,634			6,684	MPC
Assistant City Clerk	820	07/11/21	8,004	8,404	8,824	9,265	9,728			9,778	MPC
Assistant City Engineer	920	07/11/21	10,530	11,056	11,609	12,189	12,798			12,848	MPC
Assistant Director of Economic Dev & Recreation	887	07/14/19	10,700				13,004			13,004	Mgmt Group
Assistant Director of Finance	887	07/14/19	10,700				13,004			13,004	Mgmt Group
Assistant Director of Planning	887	06/21/21	10,700				13,004			13,654	Mgmt Group
Assistant Director of Public Works	895	07/11/21	11,475	12,049	12,651	13,284	13,948			13,998	MPC
Assistant Engineer	510	07/11/21	6,657	6,990	7,339	7,706	8,091			8,546	MPC
Assistant Planner	450	07/11/21	6,368	6,686	7,020	7,371	7,740			8,177	MPC
Assistant to the City Manager	835	07/14/19	10,278				12,492			12,492	Mgmt Group
Associate Engineer	780	07/11/21	7,708	8,093	8,498	8,923	9,369			9,887	MPC
Associate Planner	740	07/11/21	7,371	7,740	8,127	8,533	8,960			9,458	MPC
Building Inspection Supervisor	810	07/11/21	8,975	9,424	9,895	10,390	10,909			10,959	MPC
Business License Coordinator	315	07/11/21	5,637	5,919	6,215	6,526	6,852			6,902	AFSCME
Chief Building Official	895	07/11/21	11,475	12,049	12,651	13,284	13,948			13,998	MPC
Chief of Police	955	07/14/19	15,022				18,991			23,074	Sr. Exec Team
City Attorney	943	09/20/21					20,240			20,240	Contract
City Clerk							470			470	Elected Official
City Council							500			500	Elected Official
City Council -- member of a different governing board											
if serving on Tri Delta Transit		$100 per meeting		visit www.TriDeltaTransit.com							
if serving on Delta Diablo Sanitation District		$209 per meeting		visit ddsd.org							
City Engineer	935	07/14/19	11,455				13,923			13,923	Mgmt Group
City Manager	960	02/05/20					20,962			20,962	Contract
City Treasurer							470			470	Elected Official
Code Enforcement Officer I	258	07/11/21	5,313	5,579	5,858	6,151	6,459			6,509	AFSCME
Code Enforcement Officer II	415	07/11/21	6,150	6,458	6,781	7,120	7,476			7,526	AFSCME
Code Enforcement Supervisor	820	07/11/21	8,004	8,404	8,824	9,265	9,728			9,778	MPC
Combination Building Inspector	520	07/11/21	6,684	7,018	7,369	7,737	8,124			8,174	AFSCME
Community Outreach Coordinator	315	07/11/21	5,637	5,919	6,215	6,526	6,852			6,902	AFSCME
Community Relations Manager	700	07/11/21	6,914	7,260	7,623	8,004	8,404			8,454	MPC
Community Services Specialist	258	07/11/21	5,313	5,579	5,858	6,151	6,459			6,509	AFSCME
Compliance Principal	830	07/11/21	8,467	8,890	9,335	9,802	10,292			10,857	MPC
Contract Analyst	390	07/11/21	5,971	6,270	6,583	6,912	7,258			7,308	MPC
Crime Analyst	700	07/11/21	6,914	7,260	7,623	8,004	8,404			8,454	MPC
Customer Service Representative	95a	07/11/21	3,456	3,629	3,810	4,001	4,201			4,251	AFSCME
Deputy City Clerk	330	07/11/21	5,730	6,017	6,318	6,634	6,966			7,016	MPC

*Please see Benefit Matrix for bilingual pay, education incentives, holiday pay and shift differential.

Revised Council Approved: 7/19/2021; 10/4/2021

CLASSIFICATION	RANGE	EFFECTIVE	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	*Max/w all incentives	UNIT
Deputy City Manager	950	07/14/19	14,744				18,815			18,815	Sr. Exec Team
Development Manager	890	07/11/21	10,530	11,056	11,609	12,189	12,798			12,848	MPC
Director of Community & Economic Development	940	07/14/19	12,608				15,936			15,936	Sr. Exec Team
Director of Community Services	940	07/14/19	12,608				15,936			15,936	Sr. Exec Team
Director of Finance	940	07/14/19	12,608				15,936			15,936	Sr. Exec Team
Director of Human Resources	940	07/14/19	12,608				15,936			15,936	Sr. Exec Team
Director of Public Works	945	07/14/19	13,624				16,562			16,562	Sr. Exec Team
Director of Records and Council Services	8351	07/14/19	10,278				12,492			12,492	Sr. Exec Team
Director of Recreation and Maint. Services	920	07/14/19	11,455				13,923			13,923	Mgmt Group
Director of Water Utilities	935	07/14/19	13,112				15,936			15,936	Mgmt Group
Economic Development Manager	860	07/11/21	9,367	9,835	10,327	10,843	11,385			11,435	MPC
Electrical Technician	420	07/01/18	6,011	6,312	6,628	6,959	7,307			7,892	Teamsters
Electrical Apprentice	200	07/01/18	4,801	5,041	5,293	5,558	5,836			6,303	Teamsters
Engineering Analyst	820	07/11/21	8,004	8,404	8,824	9,265	9,728			9,778	MPC
Engineering Technician I	310	07/11/21	5,579	5,858	6,151	6,459	6,782			6,832	AFSCME
Engineering Technician II	460	07/11/21	6,462	6,785	7,124	7,480	7,854			7,904	AFSCME
Environmental Affairs Manager	890	07/11/21	10,530	11,056	11,609	12,189	12,798			12,848	MPC
Environmental Health Specialist I	390	07/11/21	5,971	6,270	6,583	6,912	7,258			7,308	MPC
Environmental Health Specialist II	700	07/11/21	6,914	7,260	7,623	8,004	8,404			8,454	MPC
Equipment Mechanic	270	07/01/18	5,310	5,576	5,855	6,148	6,455			6,971	Teamsters
Equipment Shop Supervisor	530	07/11/21	6,767	7,105	7,460	7,833	8,225			8,275	MPC
Executive Assistant	400	07/14/19	6,018				7,314			7,314	Mgmt Group
Executive Assistant to the Chief of Police	330	07/11/21	5,730	6,017	6,318	6,634	6,966			7,016	MPC
Finance Division Manager	855	07/11/21	9,210	9,670	10,153	10,661	11,194			11,244	MPC
Financial Analyst	580	07/11/21	7,260	7,623	8,004	8,404	8,824			8,874	MPC
Geographical Information Systems (GIS) Analyst	760	07/11/21	7,511	7,887	8,281	8,695	9,130			9,180	MPC
Harbormaster	830	07/11/21	8,467	8,890	9,335	9,802	10,292			10,342	MPC
Housing Inspector	315	07/11/21	5,637	5,919	6,215	6,526	6,852			6,902	AFSCME
Housing Manager	855	07/11/21	9,210	9,670	10,153	10,661	11,194			11,244	MPC
Housing Program Analyst I	390	07/11/21	5,971	6,270	6,583	6,912	7,258			7,308	MPC
Housing Program Analyst II	700	07/11/21	6,914	7,260	7,623	8,004	8,404			8,454	MPC
Housing Specialist	210	07/11/21	5,020	5,271	5,535	5,812	6,103			6,153	AFSCME
Human Resources Analyst	700	07/11/21	6,914	7,260	7,623	8,004	8,404			8,454	MPC
Human Resources Manager	890a	07/14/19	10,278				12,492			12,492	Mgmt Group
Human Resources Specialist	330	07/11/21	5,730	6,017	6,318	6,634	6,966			7,016	MPC
Information Technology Analyst I	420	07/11/21	6,162	6,470	6,793	7,133	7,490			7,540	MPC
Information Technology Analyst II	720	07/11/21	7,212	7,573	7,952	8,350	8,767			8,817	MPC
Information Technology Manager	855	07/11/21	9,210	9,670	10,153	10,661	11,194			11,244	MPC
Lead Community Services Specialist	415	07/11/21	6,150	6,458	6,781	7,120	7,476			7,526	AFSCME
Lead Electrical Technician	705	08/19/19	6,959	7,307	7,672	8,056	8,459			9,136	Teamsters
Lead Marina Services Worker	320	07/01/18	5,558	5,836	6,128	6,434	6,756			7,094	Teamsters
Lead Police Records Clerk	255	07/11/21	5,355	5,623	5,904	6,199	6,509			6,559	AFSCME
Lead Public Works Superintendent	885	07/11/21	10,951	11,499	12,074	12,678	13,312			13,362	MPC
Maintenance Assistant	95	07/01/18	3,372	3,541	3,718	3,904	4,099			4,304	Teamsters
Maintenance Ld Worker - Env. Services/Fac. Util.	320	07/01/18	5,558	5,836	6,128	6,434	6,756			7,296	Teamsters
Maintenance Worker I - Env. Services/Fac. Util.	140	07/01/18	4,148	4,355	4,573	4,802	5,042			5,445	Teamsters
Maintenance Worker II - Env. Services/Fac. Util.	200	07/01/18	4,801	5,041	5,293	5,558	5,836			6,303	Teamsters

*Please see Benefit Matrix for bilingual pay, education incentives, holiday pay and shift differential.

CLASSIFICATION	RANGE	EFFECTIVE	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	*Max/w all incentives	UNIT
Office Assistant	95a	07/11/21	3,456	3,629	3,810	4,001	4,201			4,251	AFSCME
Payroll Specialist	330	07/11/21	5,730	6,017	6,318	6,634	6,966			7,016	MPC
Permit Center Supervisor	820	07/11/21	8,004	8,404	8,824	9,265	9,728			9,778	MPC
Permit Technician	260	07/11/21	5,385	5,654	5,937	6,234	6,546			6,596	AFSCME
Pest Control Specialist	470	07/01/18	6,243	6,555	6,883	7,227	7,588			7,967	Teamsters
Planning Manager	890	07/11/21	10,530	11,056	11,609	12,189	12,798			12,848	MPC
Planning Technician	260	07/11/21	5,385	5,654	5,937	6,234	6,546			6,596	AFSCME
Police Captain	650	07/14/19	12,730	13,366	14,034	14,736	15,473	16,247		20,552	PMG
Police Evidence Technician I	260	07/11/21	5,385	5,654	5,937	6,234	6,546			6,596	AFSCME
Police Evidence Technician II	425	07/11/21	6,234	6,546	6,873	7,217	7,578			7,628	AFSCME
Police Lieutenant	640	07/14/19	11,097	11,652	12,235	12,847	13,489	14,163		17,916	PMG
Police Officer	600	07/14/19	6,053	6,356	6,674	7,008	7,358	7,726	8,112		POA
Police Officer (Continuation of Steps H & I)								8,518	8,944	12,479	POA
Police Records Clerk (Part 1 of 2)	110	07/11/21	3,996	4,196	4,406	4,626	4,857			4,907	AFSCME
Police Records Clerk (Part 2 of 2)	180	07/11/21	4,625	4,856	5,099	5,354	5,622			5,672	AFSCME
Police Records Supervisor	540	07/11/21	6,754	7,092	7,447	7,819	8,210			8,260	MPC
Police Sergeant	625	07/14/19	8,599	9,029	9,480	9,954	10,452	10,975		16,078	POA
Police Services Administrator	830	07/11/21	8,467	8,890	9,335	9,802	10,292			10,342	MPC
Power Company Manager	920a	07/14/19	11,455				13,923			13,923	Mgmt Group
Property and Evidence Coordinator	410	07/11/21	6,149	6,456	6,779	7,118	7,474			7,524	AFSCME
Public Works Superintendent	880	07/11/21	9,460	9,933	10,430	10,951	11,499			11,549	MPC
Public Works Supervisor	530	07/11/21	6,767	7,105	7,460	7,833	8,225			8,275	MPC
Purchasing Analyst	720	07/11/21	7,212	7,573	7,952	8,350	8,767			8,817	MPC
Records Specialist	330	07/11/21	5,730	6,017	6,318	6,634	6,966			7,016	AFSCME
Recreation Coordinator	230	07/11/21	5,182	5,441	5,713	5,999	6,299			6,349	AFSCME
Recreation Supervisor	550	07/11/21	6,769	7,107	7,462	7,835	8,227			8,277	MPC
Redevelopment Project Manager	820	07/11/21	8,004	8,404	8,824	9,265	9,728			9,778	MPC
Revenue Operations Supervisor	745	07/11/21	7,419	7,790	8,180	8,589	9,018			9,068	MPC
Senior Administrative Analyst	820	07/11/21	8,004	8,404	8,824	9,265	9,728			9,778	MPC
Senior Civil Engineer	860	07/11/21	9,367	9,835	10,327	10,843	11,385			11,435	MPC
Senior Combination Building Inspector	760	07/11/21	7,511	7,887	8,281	8,695	9,130			9,180	MPC
Senior Financial Analyst	790	07/11/21	8,406	8,826	9,267	9,730	10,216			10,266	MPC
Senior Housing Program Analyst	820	07/11/21	8,004	8,404	8,824	9,265	9,728			9,778	MPC
Senior Human Resources Analyst	820	07/11/21	8,004	8,404	8,824	9,265	9,728			9,778	MPC
Senior Information Technology Analyst	820	07/11/21	8,004	8,404	8,824	9,265	9,728			9,778	MPC
Senior Planner	840	07/11/21	8,534	8,961	9,409	9,879	10,373			10,942	MPC
Senior Redevelopment Project Manager	860	07/11/21	9,367	9,835	10,327	10,843	11,385			11,435	MPC
Sweeper Operator	140	07/01/18	4,148	4,355	4,573	4,802	5,042			5,294	Teamsters
Utility Lineworker	742	07/11/21	7,323	7,689	8,073	8,477	8,901			9346	IBEW
Utility Maintenance Worker (Electric/Gas)	312	07/11/21	5,578	5,857	6,150	6,458	6,781			7,120	IBEW
Utility Supervisor	810	07/11/21	8,975	9,424	9,895	10,390	10,909			10959	MPC
Utility Technician - (Electric/Gas)	863	07/11/21	9,305	9,770	10,258	10,771	11,310			11,876	IBEW
Water Instrument/Maintenance Technician I	480	07/01/18	7,040	7,392	7,762	8,150	8,558			8,986	Teamsters
Water Instrument/Maintenance Technician II	750	07/01/18	8,150	8,557	8,985	9,434	9,906			10,401	Teamsters
Water Maintenance Mechanic I	480	07/01/18	7,040	7,392	7,762	8,150	8,558			8,986	Teamsters
Water Maintenance Mechanic II	750	07/01/18	8,150	8,557	8,985	9,434	9,906			10,401	Teamsters
Water Plant Apprentice Operator	200	07/01/18	4,801	5,041	5,293	5,558	5,836			6,128	Teamsters
Water Plant Operator	560	07/01/18	7,071	7,425	7,796	8,186	8,595			9,755	Teamsters

*Please see Benefit Matrix for bilingual pay, education incentives, holiday pay and shift differential.

CLASSIFICATION	RANGE	EFFECTIVE	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	*Max/w all incentives	UNIT
Water Plant Superintendent	883	07/11/21	10,430	10,952	11,500	12,075	12,679			13,129	MPC
Water Plant Supervisor	810	07/11/21	8,975	9,424	9,895	10,390	10,909			11,996	MPC
Water Quality Analyst I	380	07/01/18	6,198	6,508	6,833	7,175	7,534			8,371	Teamsters
Water Quality Analyst II	710	07/01/18	7,462	7,835	8,227	8,638	9,070			9,984	Teamsters
HOURLY / SEASONAL CLASSIFICATIONS			**Step A**	**Step B**	**Step C**	**Step D**	**Step E**	**Step F**	**Step G**	**Step H/ I**	**Step J/K**
Expert Consultant	0910	03/16/15	30.00				100.00				
High School Intern	0550	01/01/21					14.00				
Intern (college-level)	0510	01/01/20	14.50		16.00		17.50		19.00		
Maintenance Aide	0530	01/01/21	14.00	14.48	15.25	16.06	16.92	17.82	18.76	19.76(H) / 20.81(I)	21.92 (J) 22.69 (K)
Maintenance Helper	0520	01/01/21					14.00				
Police Officer Trainee	6009	07/14/19	29.10								
Recreation Leader I	0550	01/01/21					14.00				
Recreation Leader II	0560	01/01/21	14.50	15.00	15.50	16.00	16.50	17.00			
Recreation Leader III	0570	01/01/21	15.00	15.50	16.00	16.50	17.00	17.50	18.00	18.50 (H) / 19.00 (I)	19.50 (J) /20.00 (K)
HOURLY / SEASONAL CLASSIFICATIONS ARE NOT ELIGIBLE FOR INCENTIVES											

*Please see Benefit Matrix for bilingual pay, education incentives, holiday pay and shift differential.

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Authorizing an Application to the Proposition 68 Per Capita Grant Program for the Buchanan Park Pond Loop Replacement Project

MEETING DATE: October 4, 2021

EXECUTIVE SUMMARY

City Council approval is required for staff to submit a grant application to the Proposition 68 Per Capita Grant for the Buchanan Park Pond Loop Replacement Project.

FISCAL IMPACT

The City is eligible for a $222,440 grant for an eligible project at a recreational facility. If approved, the resolution will allocate grant funds to the Buchanan Park Pond Loop Replacement Project. This Project is not included in the City's Five-Year Capital Improvement Program and is not funded. No matching funds are required.

RECOMMENDATION

City Council adopt the Resolution authorizing an application to the California Department of Parks and Recreation's Proposition 68 Per Capita Grant Program for the Buchanan Park Pond Loop Replacement Project and designating the City Manager as the City's authorized representative for execution of all documents required to fulfill the requirements of the grant.

BACKGROUND

On June 5, 2018, California voters approved Proposition 68, to create the California Drought, Water, Parks, Climate, Coastal Protection and Outdoor Access for All Act of 2018. This act includes various grant programs, including a Per Capita Grant to award funds to cities, counties, and special districts to support recreation capital projects at recreation facilities. The amount of the award is based on the recipients' population.
Based on its population and median household income, the City is eligible to receive $222,440 to rehabilitate existing infrastructure or construct new facilities.

As administrator of the program, the California Department of Recreation developed guidelines for local agencies to apply and reviews the applications to ensure the projects are consistent with the goals of the program. Eligible projects must be capital outlay for recreation purposes, either through acquisition or projects that build, expand, or renovate recreational facilities. Grantees must complete projects by June 30, 2024.

If approved, the resolution authorizes staff to prepare an application to the Per Capita Grant Program for the Buchanan Park Pond Loop Replacement Project, agrees to the terms of the funding agreement and designates the City Manager as the City's representative for purposes of grant administration.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

Buchanan Park is one of the most heavily used parks and recreational facilities in the City. The facility includes a swimming pool, bocce courts, horseshoe pits, picnic and play areas, and a pond with a walkway "loop" surrounding the water feature. Currently, the concrete walkway is deteriorated, uneven and in need of replacement.

The Director of Public Works/City Engineer recommends replacement of the current walkway loop around the pond, and placement of rip rap or similar materials to repair and reduce erosion below the new walkway. The project also includes removal of overgrown vegetation.

The Per Capita Grant is an appropriate fund source for the pond walkway replacement project.

The deadline for applications is December 31, 2021. If approved, the project is scheduled to be completed in 2022. Staff recommends approval of the attached resolution.

ATTACHMENTS: Funding Agreement
Resolution

Report Prepared By: Jill Hecht, Deputy City Manager

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Resolution to Approve Application for Per Capita Grant Funds for the Buchanan Park Pond Loop Replacement Project	))))	RESOLUTION NO. 21 -

The Pittsburg City Council DOES RESOLVE as follows:

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Per Capita Grant Program, setting up necessary procedures governing application(s); and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the grantee's Governing Body to certify by resolution the approval of project application(s) before submission of said applications to the State; and

WHEREAS, the grantee will enter into a contract(s) with the State of California to complete project(s).

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pittsburg hereby:

Section 1. Approves the filing of a project application for Per Capita program grant project, Buchanan Park Pond Loop Replacement Project

Section 2. Certifies that said grantee has or will have available, prior to commencement of project work utilizing Per Capita funding, sufficient funds to complete the project.

Section 3. Certifies that the grantee has or will have sufficient funds to operate and maintain the project.

Section 4. Certifies that the project proposed will be consistent with the park and recreation element of the City of Pittsburg General Plan (PRC §80063(a)).

Section 5. Certifies that these funds will be used to supplement, not supplant, local revenues in existence as of June 5, 2018 (PRC §80062(d)).

Section 6. Certifies that it will comply with the provisions of §1771.5 of the State Labor Code.

Section 7. (PRC §80001(b)(8)(A-G)) To the extent practicable, as identified in the "Presidential Memorandum--Promoting Diversity and Inclusion in Our National Parks, National Forests, and Other Public Lands and Waters," dated January 12, 2017, the City of Pittsburg will consider a range of actions that include, but are not limited to, the following: (A) Conducting active outreach

to diverse populations, particularly minority, low-income, and disabled populations and tribal communities, to increase awareness within those communities and the public generally about specific programs and opportunities. (B) Mentoring new environmental, outdoor recreation, and conservation leaders to increase diverse representation across these areas. (C) Creating new partnerships with state, local, tribal, private, and non-profit organizations to expand access for diverse populations. (D) Identifying and implementing improvements to existing programs to increase visitation and access by diverse populations, particularly minority, low-income, and disabled populations and tribal communities. (E) Expanding the use of multilingual and culturally appropriate materials in public communications and educational strategies, including through social media strategies, as appropriate, that target diverse populations. (F) Developing or expanding coordinated efforts to promote youth engagement and empowerment, including fostering new partnerships with diversity-serving and youth-serving organizations, urban areas, and programs. (G) Identifying possible staff liaisons to diverse populations.

Section 8. Agrees that to the extent practicable, the project(s) will provide workforce education and training, contractor and job opportunities for disadvantaged communities (PRC §80001(b)(5)).

Section 9. Certifies that the grantee shall not reduce the amount of funding otherwise available to be spent on parks or other projects eligible for funds under this division in its jurisdiction. A one-time allocation of other funding that has been expended for parks or other projects, but which is not available on an ongoing basis, shall not be considered when calculating a recipient's annual expenditures. (PRC §80062(d)).

Section 10. Certifies that the grantee has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide.

Section 11. Delegates the authority to the City Manager or his/her designee to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the grant scope.

Section 12. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 4th day of October, 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Merl Craft, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

State of California – The Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Sample Grant Contract
Per Capita Grant Program

GRANTEE: Grantee Name

GRANT PERFORMANCE PERIOD is from July 1, 2018 through June 30, 2024

CONTRACT PERFORMANCE PERIOD is from July 1, 2018 through June 30, 2048

The GRANTEE agrees to the terms and conditions of this contract (CONTRACT), and the State of California, acting through its Director of the Department of Parks and Recreation, pursuant to the State of California, agrees to fund the total State grant amount indicated below.

The GRANTEE agrees to complete the PROJECT SCOPE(s) as defined in the Development PROJECT SCOPE/Cost Estimate Form or acquisition documentation for the application(s) filed with the State of California.

The General and Special Provisions attached are made a part of and incorporated into the Contract.

Total State grant amount not to exceed $ [GRANT amount]

GRANTEE

AUTHORIZED REPRESENTATIVE Signature Date

Print Name and Title

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION

AUTHORIZED REPRESENTATIVE Signature Date

Print Name and Title

<table>
<tr><td colspan="6">CERTIFICATION OF FUNDING (FOR STATE USE ONLY)</td></tr>
<tr><td colspan="2">AMOUNT OF ESTIMATE $</td><td>CONTRACT NUMBER</td><td colspan="3">FUND</td></tr>
<tr><td colspan="2">ADJ. INCREASING ENCUMBRANCE $</td><td>APPROPRIATION</td><td colspan="3" rowspan="2"></td></tr>
<tr><td colspan="2">ADJ. DECREASING ENCUMBRANCE $</td><td>ITEM VENDOR NUMBER</td></tr>
<tr><td colspan="2">UNENCUMBERED BALANCE $</td><td>LINE ITEM ALLOTMENT</td><td>CHAPTER</td><td>STATUTE</td><td>FISCAL YEAR</td></tr>
<tr><td>T.B.A. NO.</td><td>B.R. NO.</td><td>INDEX</td><td colspan="2">Funding Source</td><td>OBJ. EXPEND</td></tr>
<tr><td colspan="6">I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance.</td></tr>
<tr><td colspan="4">SIGNATURE OF ACCOUNTING OFFICER</td><td colspan="2">DATE</td></tr>
</table>

I. RECITALS

This CONTRACT is entered into between the California Department of Parks and Recreation (hereinafter referred to as "GRANTOR," "DEPARTMENT" or "STATE") and [grantee name] (hereinafter referred to as "GRANTEE").

The DEPARTMENT hereby grants to GRANTEE a sum (also referred to as "GRANT MONIES") not to exceed $grant amount, subject to the terms and conditions of this CONTRACT and the 20xx/xx California State Budget, Chapter xx, statutes of 20xx, Item number – 3790-xxx-xxxx (appropriation chapter and budget item number hereinafter referred to as "PER CAPITA GRANT"). These funds shall be used for completion of the GRANT SCOPE(S).

The Grant Performance Period is from July 1, 20xx to June 30, 20xx.

II. GENERAL PROVISIONS

A. Definitions

As used in this CONTRACT, the following words shall have the following meanings:

1. The term "ACT" means the California Drought, Water, Parks Climate, Coastal Protection, and Outdoor Access for All Act of 2018, as referred to in section I of this CONTRACT.
2. The term "APPLICATION" means the individual project APPLICATION packet for a project pursuant to the enabling legislation and/or grant program process guide requirements.
3. The term "DEPARTMENT" or "STATE" means the California Department of Parks and Recreation.
4. The term "DEVELOPMENT" means capital improvements to real property by means of, but not limited to, construction, expansion, and/or renovation, of permanent or fixed features of the property.
5. The term "GRANTEE" means the party described as the GRANTEE in Section I of this CONTRACT.
6. The term "GRANT SCOPE" means the items listed in the GRANT SCOPE/Cost Estimate Form or acquisition documentation found in each of the APPLICATIONS submitted pursuant to this grant.
7. The term "PROCEDURAL GUIDE" means the document identified as the "Procedural Guide for California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018 Per Capita Program." The PROCEDURAL GUIDE provides the procedures and policies controlling the administration of the grant.

B. Project Execution

1. Subject to the availability of GRANT MONIES in the act, the STATE hereby grants to the GRANTEE a sum of money not to exceed the amount stated in Section I of this CONTRACT, in consideration of, and on condition that, the sum be expended in carrying out the purposes as set forth in the enabling legislation and referenced in the APPLICATION, Section I of this CONTRACT, and under the terms and conditions set forth in this CONTRACT.

   The GRANTEE shall assume any obligation to furnish any additional funds that may be necessary to complete the GRANT SCOPE(S).

   The GRANTEE agrees to submit any change or alteration from the original GRANT SCOPE(S) in writing to the STATE for prior approval. This applies to any and all changes that occur after

STATE has approved the APPLICATION. Changes in the GRANT SCOPE(S) must be approved in writing by the STATE.

2. The GRANTEE shall complete the GRANT SCOPE(S) in accordance with the time of the Grant Performance Period set forth in Section I of this CONTRACT, and under the terms and conditions of this CONTRACT.
3. The GRANTEE shall comply with the California Environmental Quality Act (Public Resources Code, §21000, et seq., Title 14, California Code of Regulations, §15000 et seq.).
4. The GRANTEE shall comply with all applicable current laws and regulations affecting DEVELOPMENT projects, including, but not limited to, legal requirements for construction contracts, building codes, health and safety codes, and laws and codes pertaining to individuals with disabilities, including but not limited to the Americans With Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) and the California Unruh Act (California Civil Code §51 et seq.).

C. Procedural Guide

1. GRANTEE agrees to abide by the PROCEDURAL GUIDE.
2. GRANTEE acknowledges that STATE may make reasonable changes to its procedures as set forth in the PROCEDURAL GUIDE. If STATE makes any changes to its procedures and guidelines, STATE agrees to notify GRANTEE within a reasonable time.

D. Project Administration

1. If GRANT MONIES are advanced for DEVELOPMENT projects, the advanced funds shall be placed in an interest bearing account until expended. Interest earned on the advanced funds shall be used on the project as approved by the STATE. If grant monies are advanced and not expended, the unused portion of the grant and any interest earned shall be returned to the STATE within 60 days after project completion or end of the Grant Performance Period, whichever is earlier.
2. The GRANTEE shall submit written project status reports within 30 calendar days after the STATE has made such a request. In any event, the GRANTEE shall provide the STATE a report showing total final project expenditures within 60 days of project completion or the end of the grant performance period, whichever is earlier. The Grant Performance Period is identified in Section I of this CONTRACT.
3. The GRANTEE shall make property or facilities acquired and/or developed pursuant to this contract available for inspection upon request by the STATE.

E. Project Termination

1. Project Termination refers to the non-completion of a GRANT SCOPE. Any grant funds that have not been expended by the GRANTEE shall revert to the STATE.

2. The GRANTEE may unilaterally rescind this CONTRACT at any time prior to the commencement of the project. The commencement of the project means the date of the letter notifying GRANTEE of the award or when the funds are appropriated, whichever is later. After project commencement, this CONTRACT may be rescinded, modified or amended only by mutual agreement in writing between the GRANTEE and the STATE, unless the provisions of this CONTRACT provide that mutual agreement is not required.

3. Failure by the GRANTEE to comply with the terms of the (a) PROCEDURAL GUIDE, (b) any legislation applicable to the ACT, (c) this CONTRACT as well as any other grant contracts, specified or general, that GRANTEE has entered into with STATE, may be cause for suspension of all obligations of the STATE unless the STATE determines that such failure was due to no fault of the GRANTEE. In such case, STATE may reimburse GRANTEE for eligible costs properly incurred in performance of this CONTRACT despite non-performance of the GRANTEE. To qualify for such reimbursement, GRANTEE agrees to mitigate its losses to the best of its ability.

4. Any breach of any term, provision, obligation or requirement of this CONTRACT by the GRANTEE shall be a default of this CONTRACT. In the case of any default by GRANTEE, STATE shall be entitled to all remedies available under law and equity, including but not limited to: a) Specific Performance; b) Return of all GRANT MONIES; c) Payment to the STATE of the fair market value of the project property or the actual sales price, whichever is higher; and d) Payment to the STATE of the costs of enforcement of this CONTRACT, including but not limited to court and arbitration costs, fees, expenses of litigation, and reasonable attorney fees.

5. The GRANTEE and the STATE agree that if the GRANT SCOPE includes DEVELOPMENT, final payment may not be made until the work described in the GRANT SCOPE is complete and the GRANT PROJECT is open to the public.

F. Budget Contingency Clause

If funding for any fiscal year is reduced or deleted by the budget act for purposes of this program, the STATE shall have the option to either cancel this contract with no liability occurring to the STATE, or offer a CONTRACT amendment to GRANTEE to reflect the reduced grant amount. This Paragraph shall not require the mutual agreement as addressed in Paragraph E, provision 2, of this CONTRACT.

G. Hold Harmless

1. The GRANTEE shall waive all claims and recourse against the STATE including the right to contribution for loss or damage to persons or property arising from, growing out of or in any way connected with or incident to this CONTRACT except claims arising from the concurrent or sole negligence of the STATE, its officers, agents, and employees.

2. The GRANTEE shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability costs arising out of the ACQUISITION, DEVELOPMENT, construction, operation or maintenance of the property described as the project which claims, demands or causes of action arise under California Government Code Section 895.2 or otherwise except for liability arising out of the concurrent or sole negligence of the STATE, its officers, agents, or employees.

3. The GRANTEE agrees that in the event the STATE is named as codefendant under the provisions of California Government Code Section 895 et seq., the GRANTEE shall notify the STATE of such fact and shall represent the STATE in the legal action unless the STATE undertakes to represent itself as codefendant in such legal action in which event the GRANTEE agrees to pay the STATE's litigation costs, expenses, and reasonable attorney fees.

4. The GRANTEE and the STATE agree that in the event of judgment entered against the STATE and the GRANTEE because of the concurrent negligence of the STATE and the GRANTEE, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Neither party shall request a jury apportionment.

5. The GRANTEE shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, costs, expenses or liability costs arising out of legal actions pursuant to items to which the GRANTEE has certified. The GRANTEE acknowledges that it is solely responsible for compliance with items to which it has certified.

H. Financial Records

1. The GRANTEE shall maintain satisfactory financial accounts, documents, including loan documents, and all other records for the project and to make them available to the STATE for auditing at reasonable times. The GRANTEE also agrees to retain such financial accounts, documents and records for five years following project termination or issuance of final payment, whichever is later.
   The GRANTEE shall keep such records as the STATE shall prescribe, including records which fully disclose (a) the disposition of the proceeds of STATE funding assistance, (b) the total cost of the project in connection with such assistance that is given or used, (c) the amount and nature of that portion of the project cost supplied by other sources, and (d) any other such records that will facilitate an effective audit.

3. The GRANTEE agrees that the STATE shall have the right to inspect and make copies of any books, records or reports pertaining to this contract or matters related thereto during regular office hours. The GRANTEE shall maintain and make available for inspection by the STATE accurate records of all of its costs, disbursements and receipts with respect to its activities under this contract. Such accounts, documents, and records shall be retained by the GRANTEE for at least five years following project termination or issuance of final payment, whichever is later.

4. The GRANTEE shall use a generally accepted accounting system.

I. Use of Facilities

1. The GRANTEE agrees that the GRANTEE shall operate and maintain the property acquired or developed with the GRANT MONIES, for the duration of the Contract Performance Period.

2. The GRANTEE agrees that, during the Contract Performance Period, the GRANTEE shall use the property acquired or developed with GRANT MONIES under this contract only for the purposes of this grant and no other use, sale, or other disposition or change of the use of the property to one not consistent with its purpose shall be permitted except as authorized by the STATE and the property shall be replaced with property of equivalent value and usefulness as determined by the STATE.

3. The property acquired or developed may be transferred to another entity if the successor entity assumes the obligations imposed under this CONTRACT and with the approval of STATE.

4. Any real Property (including any portion of it or any interest in it) may not be used as security for any debt or mitigation, without the written approval of the STATE provided that such approval shall not be unreasonably withheld as long as the purposes for which the Grant was awarded are maintained. Any such permission that is granted does not make the STATE a guarantor or a surety for any debt or mitigation, nor does it waive the STATE'S rights to enforce performance under the Grant CONTRACT.

5. All real property, or rights thereto, acquired with GRANT MONIES shall be subject to an appropriate form of restrictive title, rights, or covenants approved by the STATE. If the project property is taken by use of eminent domain, GRANTEE shall reimburse STATE an amount at least equal to the amount of GRANT MONIES received from STATE or the pro-rated full market value of the real property, including improvements, at the time of sale, whichever is higher.

6. If eminent domain proceedings are initiated against GRANTEE, GRANTEE shall notify STATE within 10 days of receiving the complaint.

J. Nondiscrimination

1. The GRANTEE shall not discriminate against any person on the basis of sex, race, color, national origin, age, religion, ancestry, sexual orientation, or disability in the use of any property or facility developed pursuant to this contract.

2. The GRANTEE shall not discriminate against any person on the basis of residence except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence and pursuant to law.

3. All facilities shall be open to members of the public generally, except as noted under the special provisions of this project contract or under provisions of the enabling legislation and/or grant program.

K. Severability

If any provision of this CONTRACT or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of the CONTRACT which can be given effect without the invalid provision or application, and to this end the provisions of this CONTRACT are severable.

L. Liability

1. STATE assumes no responsibility for assuring the safety or standards of construction, site improvements or programs related to the GRANT SCOPE. The STATE'S rights under this CONTRACT to review, inspect and approve the GRANT SCOPE and any final plans of implementation shall not give rise to any warranty or representation that the GRANT SCOPE and any plans or improvements are free from hazards or defects.

2. GRANTEE will secure adequate liability insurance, performance bond, and/or other security necessary to protect the GRANTEE's and STATE'S interest against poor workmanship, fraud, or other potential loss associated with completion of the grant project.

M. Assignability

Without the written consent of the STATE, the GRANTEE'S interest in and responsibilities under this CONTRACT shall not be assignable by the GRANTEE either in whole or in part.

N. Use of Grant Monies

GRANTEE shall not use any grant funds (including any portion thereof) for the purpose of making any leverage loan, pledge, promissory note or similar financial device or transaction, without: 1) the prior written approval of the STATE; and 2) any financial or legal interests created by any such leverage loan, pledge, promissory note or similar financial device or transaction in the project property shall be completely subordinated to this CONTRACT through a Subordination Agreement provided and approved by the STATE, signed by all parties involved in the transaction, and recorded in the County Records against the fee title of the project property.

N. Section Headings

The headings and captions of the various sections of this CONTRACT have been inserted only for the purpose of convenience and are not a part of this CONTRACT and shall not be deemed in any manner to modify, explain, or restrict any of the provisions of this CONTRACT.

O. Waiver

Any failure by a party to enforce its rights under this CONTRACT, in the event of a breach, shall *not* be construed as a waiver of said rights; and the waiver of any breach under this CONTRACT shall *not* be construed as a waiver of any subsequent breach.

GRANTEE

AUTHORIZED REPRESENTATIVE Signature Date

Print Name and Title

STATE OF CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

AUTHORIZED REPRESENTATIVE Signature Date

Print Name and Title

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of Ordinance No. 21-1495 Approving a Development Agreement for the Mt. Diablo Resource Recovery Enhancements Project

MEETING DATE: October 4, 2021

EXECUTIVE SUMMARY

On September 20, 2021, the City Council introduced and waived further reading of an ordinance approving a Development Agreement for Mt. Diablo Resource Recovery Park Enhancements Project, AP-21-1553. This item is being brought before the City Council for adoption.

FISCAL IMPACT

One-time revenues related to construction permits and development fees, sales taxes, and other exactions (as outlined in the proposed development agreement) are anticipated with this project. The applicant also would be required to deposit a minimum of $5,000 on an annual basis to reimburse the City for staff time expended in the annual review of the development agreement terms.

RECOMMENDATION

City Council adopt Ordinance 21-1495, approving a Development Agreement for the Mt. Diablo Resource Recovery Enhancements Project.

BACKGROUND

A public hearing for this item was held before the City Council on September 20, 2021. After the close of the public hearing, the Council moved to introduce and waive further reading of the attached ordinance.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

After introducing an Ordinance, the City Council must approve the action by adopting the Ordinance by a majority vote at a subsequent meeting. The Ordinance becomes effective 30 days after the date of its adoption.

ATTACHMENTS:

Proposed Ordinance
Exhibit A to Proposed Ordinance – Development Agreement

Report Prepared By: Jordan Davis, Director of Community and Economic Development

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Ordinance Approving a Development Agreement for the "Mt. Diablo Resource Recovery Enhancements Project, AP-21-1553"	)	ORDINANCE NO. 21-1495

The City Council of the City of Pittsburg DOES ORDAIN as follows:

WHEREAS, on February 2, 2021, Contra Costa Waste Service, Inc., filed Use Permit, Design Review, and Development Agreement Application No. 21-1553 requesting: 1) an amendment to the existing use permit (approved in 2018) for operational enhancements at the existing Mt. Diablo Resource Recovery Park (MDRRP); 2) design review approval of plans to construct five new structures totaling 448,900 square feet of new building area for a total of 570,580 square feet of development; and 3) approval of a Development Agreement at 1300 Loveridge Road. The project site includes a total of 36 acres. The eastern portion of the property is in the IG (General Industrial) District and the western portion of the property is within the IL-O (Limited Industrial with a Limited Overlay) District, Assessor's Parcel Nos. 073-200-013, 073-200-014, 073-200-015, 073-200-026, 073-200-027, 073-200-028 and 073-200-029; and

WHEREAS, the proposed project is governed by the applicable goals and policies of the Pittsburg General Plan, the Pittsburg Municipal Code (PMC), and the City's adopted Design Review and Development Guidelines (DRDGs; Planning Commission Resolution No. 9864); and

WHEREAS, the existing solid waste and recycling facility became operational in 1995 and has expanded its operations to include additional recycling and disposal services. The facility serves as a regional recycling facility serving multiple communities and special districts; and

WHEREAS, on March 6, 1995, the City Council adopted Resolutions Nos. 95-8143, 95-8144, and 95-8145, approving a use permit, variance, and design review of architectural plans (respectively) for the Recycling Center and Transfer Station (RCTS), on a 17.5-acre site located at 1300 Loveridge Road. Prior to that approval, the City Council adopted Resolutions Nos. 95-8134 and 95-8142, certifying the Final Environmental Impact Report (1995 EIR) and adopting mandatory findings of significant environmental impacts and mitigation measures for the project (respectively); and

WHEREAS, on December 18, 1995, the City Council approved Resolution No. 95-8150, authorizing an agreement that allowed the recycling center and transfer station to begin operation; and

WHEREAS, on March 27, 2007, the Planning Commission adopted Resolution Nos. 9691 and 9692 approving a new use permit and design review application to locate the Mt. Diablo Recycling Facility (MDRF) on the existing RCTS site. The MDRF was approved to share the same site as the RCTS; however, both facilities operated independently; and

WHEREAS, on April 22, 2008, the Planning Commission adopted Resolution No. 9755, approving another use permit and design review application, establishing a mixed construction and demolition (Mixed C&D) recycling facility, including a green material processing operations area, on a 6.52-acre portion of the RCTS site. Conditions of approval for the RCTS and the MDRF were carried forward to the subsequent approvals; and

WHEREAS, on January 12, 2010, the Planning Commission adopted Resolution No. 9822 modifying the use permit for MDRF in order to expand the maximum amount of material that could be processed per day, expand hours of operation and the number of employees working at the facility; and

WHEREAS, on May 26, 2015, the Planning Commission adopted Resolution No. 10002, approving a subsequent use permit modification in order to bring the current solid waste and recycling operations at the RCTS, the MDRF and the Mixed C&D facilities under a single entity referred to as the Mt. Diablo Resource Recovery Park (MDRRP). The approval also included an increase in the total amount of materials processed per day at all three facilities from 2,200 tons per day (TPD), to a total of 5,500 TPD; establishment of a new commercial recycling and organic processing programs for residential and commercial food wastes; construction of one biomass gasification unit to process clean wood waste into energy for on-site use; construction of an 18,000 square foot building and related site improvements for the relocation of the SEG Trucking maintenance facility; and, as a possible future phase of the project, a rail haul option for waste transportation purposes; and

WHEREAS, on November 20, 2018, the Planning Commission adopted Resolution No. 10109, approving a subsequent use permit modification to permit improvements, including the relocation of the truck maintenance facility to the southern end of the property; an increase in the number of gasification units from one to three; and a reorganization of the operations to allow a more efficient utilization of the property; and

WHEREAS, the improvements to the MDRRP included in the 2015 and 2018 approvals, as applicable, and proposed with this current application will assist the City of Pittsburg and the region in reducing greenhouse gas emissions by generating renewable energy, increasing solid waste diversion rates, and expanding programs to provide recycling to business and family residences; and

WHEREAS, the proposed expansion and reorganization of the existing facilities will also assist the City of Pittsburg and the region in meeting increasing regulatory requirements and diversion goals established pursuant to Assembly Bill (AB) 1826, Senate Bill (SB) 1383, and related regulations; and

WHEREAS, the proposed project conforms to the applicable General Plan land use designation of Industrial and the applicable goals and policies of the Pittsburg General Plan and the Pittsburg Municipal Code (PMC); and

WHEREAS, the proposed project is subject to the California Environmental Quality Act (CEQA), and the State CEQA Guidelines (Public Resources Code section 21080).

Pursuant to the provisions of the State CEQA Guidelines, an Initial Study was prepared for the Project. Based on the analysis in the study, the Planning Manager determined that potentially significant effects of the project could be lessened through specified mitigations, and subsequently, a Mitigated Negative Declaration was prepared; and

WHEREAS, an Environmental Impact Report was previously prepared for the 2015 MDRRP project (2015 EIR). On May 26, 2015, the Planning Commission adopted Resolution No. 10001, certifying that the Final 2015 EIR was prepared in accordance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. This resolution also approved CEQA findings, adopted a Statement of Overriding Considerations, and a Mitigation and Monitoring and Reporting Program (MMRP) for the MDRRP project; and

WHEREAS, Section 15162(a) of the State CEQA Guidelines states that when an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines that, either: 1) the project proposes substantial changes which will present a new significant impact; 2) there are substantial changes with respect to the circumstances under which the project is undertaken that will present a new significant impact; or 3) there is new information available that was not previously available relating to new or previously identified significant impacts; and

WHEREAS, since the current project proposal further refines what was originally reviewed in the 2015 EIR, and since no new significant impacts were found, preparation of an Addendum to the 2015 EIR pursuant to CEQA Guidelines section 15164 (Addendum to an EIR or Negative Declaration) is the appropriate method for achieving CEQA compliance for the current project; and

WHEREAS, pursuant to Pittsburg Municipal Code (PMC) 18.44.020, the City Council adopted procedures and requirements for considering, adopting and reviewing development agreements on November 25, 1996, through Resolution No. 96-8371. Article V, Section A of City Council Resolution No. 96-8371 states that the Planning Commission shall hold a public hearing to consider the application for a development agreement and may make recommendations to the City Council concerning the application; and

WHEREAS, on August 24, 2021, after conducting a duly noticed public hearing, the Planning Commission adopted Resolution No. 10173, recommending approval of the 2nd EIR Addendum to the 2015 Final EIR, an amendment to the Mt. Diablo Resource Recovery Park use permit, design review, and a Development Agreement; and

WHEREAS, on or prior to Friday, September 10, 2021, in accordance with Government Code sections 65090 and 65091, and PMC section 18.14.020.B, C and D, a “Notice of Public Hearing,” for the September 20, 2021, public hearing on this item was posted at City Hall; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies whose services might be affected by this project, and to individuals who had previously filed written request for such notice; and

WHEREAS, on July 24, 2020, after conducting a duly noticed public hearing, the Planning Commission adopted Resolution No. 10173, recommending approval of the requested Use Permit, Design Review, and development agreement for the Mt. Diablo Resource Recovery Park Enhancements project; and

WHEREAS, on September 20, 2021, the City Council held a duly noticed public hearing to: 1) adopt the proposed 2nd EIR Addendum the 2015 EIR, and approve a use permit amendment, and design review; and 2) introduce and waive further reading of an ordinance approving the proposed Development Agreement, at which time oral and/or written testimony was considered.

Section 1. Findings

A. Based on the City Council staff report entitled, "Adoption of a Resolution adopting the 2nd Addendum to the 2015 Final Environmental Impact Report and approving a Use Permit Amendment and Design Review, and Introduction and Waive Further Reading of an Ordinance Approving a Development Agreement for the Mt. Diablo Resource Recovery Park Enhancements Project, AP-21-1553 (UP, DR, DA)," dated September 20, 2021, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the public hearing, the City Council finds that:

1) All recitals above are true and correct and are incorporated herein by reference.

2) Since the current project proposal for the MDRRP site further refines what was originally reviewed in the 2015 EIR and does not include any new significant impacts, preparation of an Addendum to the 2015 EIR pursuant to CEQA Guidelines section 15164 (Addendum to an EIR or Negative Declaration) is the appropriate method for achieving CEQA compliance for the current project.

3) The 2nd EIR Addendum to the 2015 EIR for the project was prepared in compliance with Public Resources Code section 21000 et seq. and the City Council has independently reviewed and considered the information contained therein.

4) The proposed development agreement is consistent with the General Plan, in that the proposed project conforms to the applicable General Plan land use designation of *Industrial* and the applicable goals and policies of the Pittsburg General Plan and the Pittsburg Municipal Code (PMC).

5) The proposed development agreement will promote the public health, safety, and general welfare, in that the proposed expansion and reorganization of the existing facilities will assist the City of Pittsburg and the region in meeting increasing regulatory requirements and diversion goals established pursuant to Assembly Bill (AB) 1826, Senate Bill (SB) 1383, and related regulations.

B. The City Council Staff Report entitled, "Adoption of a Resolution adopting the 2nd Addendum to the 2015 Final Environmental Impact Report and approving a Use Permit Amendment and Design Review, and Introduction and Waive Further Reading of an Ordinance Approving a Development Agreement for the Mt. Diablo Resource Recovery Park Enhancements Project, AP-21-1553 (UP, DR, DA)," dated September 20, 2021 is referenced hereto as additional support for findings.

Section 2. Decision

Based on the findings and the authority set forth above, the City Council hereby approves a development agreement, as substantially presented in Exhibit "A" of this ordinance.

Section 3. Severability

If any section, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions.

Section 4. Publication

The ordinance shall be posted and published in accordance with the California Government Code.

The foregoing ordinance was introduced at a meeting of the City Council of the City of Pittsburg held on September 20, 2021, and was adopted and ordered published at a meeting of the City Council held on October 4, 2021, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

_____
Merl Craft, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

(Exempt from Recording fees pursuant to
Government Code 27383—Benefits City)

Contra Costa Waste Service, Inc.
1600 Loveridge, LLC
Kirker Creek Business Park, LLC
P.O. Box 5397
Concord, CA 94520
Attention: Legal Dept.

City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
Attention: City Clerk

_____

APN # 073-200-013, 073-200-014, 073-200-015, 073-200-026, 073-200-027, 073-200-028 and 073-200-029

(Space Above This Line Reserved for Recorder's Use)

DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF PITTSBURG, CALIFORNIA
AND
CONTRA COSTA WASTE SERVICE, INC., 1600 LOVERIDGE, LLC, AND KIRKER CREEK BUSINESS PARK, LLC

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DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "**Agreement**") is entered into as of the Effective Date between Contra Costa Waste Service, Inc., a California corporation, 1600 Loveridge, LLC, a California limited liability company, and Kirker Creek Business Park, LLC, a California limited liability company (collectively, "**Developer**"), and the CITY OF PITTSBURG, a California municipal corporation ("**City**"), pursuant to California Government Code § 65864 *et seq*. The Effective Date is _____, 2021.

R E C I T A L S

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California enacted California Government Code § 65864 *et seq*., which authorizes City to enter into an agreement with any person having a legal or equitable interest in real property regarding the development of such property.

B. Pursuant to California Government Code § 65865, City has adopted procedures and requirements for the consideration of development agreements (Resolution No. 89-7466). This Development Agreement has been processed, considered and executed in accordance with such procedures and requirements.

C. Developer has a legal interest in certain parcels of real property consisting of approximately 37 acres, as more particularly described in the **Exhibit A** attached hereto and identified as Assessor's Parcel Numbers 073-200-013, 073-200-014, 073-200-015, 073-200-026, 073-200-027, 073-200-028 and 073-200-029. (the "**Property**"), and as diagrammed in the attached **Exhibit A-1** (the "**Project Site**").

D. On August 9, 2010, Contra Costa Waste Service, Inc. filed Use Permit and Design Review Application No. 10-712 requesting approval to bring the solid waste operations at the Recycling Center and Transfer Station ("RCTS"), the Mt. Diablo Recycling Facility ("MDRF") and the mixed construction and demolition ("Mixed C&D") recycling facility under a single entity referred to as Mt. Diablo Resource Recovery Park ("MDRRP"). The proposal included an increase in the total amount of materials processed per day at the three facilities from 2,200 tons per day ("TPD") to a total of 5,500 TPD; established new commercial recycling and organic processing programs for residential and commercial food wastes; permitted construction of a biomass gasification unit to process clean wood waste into energy for on-site use; and as a possible future phase of the project, a rail haul option for waste transportation purposes.

E. On May 26, 2015, the Planning Commission adopted Resolution No. 10001 Certifying the Environmental Impact Report and Adopting Findings, a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program ("MMRP"), for the Developer. The Final Environmental Impact Report ("FEIR") identified significant potential environmental impacts that could be reduced with the implementation of the FEIR MMRP. At the same meeting, the Planning Commission adopted Resolution No. 10002 approving a Use Permit and Design Review of Plans to consolidate facility operations, expand waste handling capacity, and construct a new truck maintenance building.

F. On November 20, 2018, the Planning Commission adopted Resolution No. 10109, approving a subsequent use permit modification to permit improvements, including the relocation of the truck maintenance facility to the southern end of the property; an increase in the number of gasification units from one to three; and a reorganization of the operations to allow a more efficient utilization of the property.

G. On February 2, 2021, Developer filed Use Permit, Design Review, and Development Agreement Application No. 21-1553 requesting: 1) an amendment to the existing use permit (approved in 2018) for operational enhancements at the existing Property where Mt. Diablo Resource Recovery Park ("MDRRP") is located; 2) design review approval of plans to construct five new structures totaling 448,900 square feet of new building area for a total of 570,580 square feet of development; and 3) approval of a Development Agreement relating to the Property (collectively, the "Project")

H. The Project conforms to the applicable General Plan land use designations of Industrial and Limited Industrial-Limited Overlay and the applicable goals and policies of the Pittsburg General Plan and Pittsburg Municipal Code ("PMC").

I. The MMRP, as required by State CEQA guidelines and incorporated herein by reference, identifies project mitigation, designation of responsibility for mitigation implementation, and the agency responsible for the monitoring action.

J. The Use Permit, Design Review approval, and Development Agreement policies described in these Recitals, together with this Agreement, are collectively referred to herein as the "**Project Approvals**."

K. City has determined that the Project presents certain public benefits and opportunities which are advanced by City and Developer entering into this Agreement. This Agreement will, among other things, require conditions of approval and other exactions resulting in:

1. Developer's formation of a Benefit District or other funding mechanism for the long-term roadway maintenance for Loveridge Road.

2. Developer's construction of certain frontage improvements on Loveridge Road, in conformance with the ultimate roadway design for Loveridge Road between State Route 4 and the project site.

3. Developer's contribution of fair share payment for the implementation of improvements relating to the State Route 4 widening project that would improve capacity at the State Route 4 Eastbound ramps/Loveridge Road Intersection. These improvements include:

- Converting the existing configuration from a "T" intersection to a four-leg intersection;

- Modifying the eastbound approach from its current configuration which provides one shared left-turn/through lane and one right-turn lane to provide two left-turn lanes and one right-turn lane;

- Modifying the southbound approach from its current configuration which provides one through lane and one shared through/right-turn lane to provide two left-turn lanes and two through lanes; and

- Modifying the northbound approach from its current configuration which provides one through lane and one shared through/right-turn lane to provide two through lanes and one right-turn lane.

4. Developer's contribution of fair share payment for the following improvements at the Pittsburg / Antioch Highway Loveridge Road Intersection:

- Installing a dedicated eastbound right-turn lane on Pittsburg-Antioch Highway;

- Installing a second westbound left-turn lane on Pittsburg-Antioch Highway;

- Upgrading existing traffic signal equipment to accommodate the changed intersection lane configurations;

- Installing an additional left-turn lane on the westbound Pittsburg-Antioch Highway approach;

- Installing a dedicated left-turn lane on the northbound Loveridge Road approach;

- Converting the existing shared left-turn/through lane on the northbound Loveridge Road approach to be a through-only lane;

- Modifying the signal phasing in the north/south direction from split phase to having protected left-turns; and

- Upgrading the existing traffic signal equipment to accommodate the recommended intersection lane configurations.

5. The inclusion of the Project Site into the existing Citywide Lighting and Landscape District No. 88-01, at no cost to the City, in order to provide funding for certain landscape and lighting costs, as set forth in Section 5.05 of this Agreement.

6. The inclusion of the Project Site into the City's existing Public Safety Services, Community Facilities District 2005-1, at no cost to the City, in order to provide for police services to the Project Site, as set forth in Section 5.06 of this Agreement.

7. The inclusion of the Project Site into the City's existing Fire Facilities and Fire Safety and Emergency Services, as set forth in Section 5.07 of this Agreement.

L. In exchange for the benefits to City described in the preceding Recital K and others set forth herein, Developer will receive, by this Agreement, assurances that it may proceed with the long-term phased development of the Project in accordance with the "Applicable Law" (defined herein), and therefore desires to enter into this Agreement.

M. On August 24, 2021, pursuant to PMC Section 18.44.020, the Planning Commission held a duly noticed public hearing and adopted Resolution No. 10173, recommending approval of the proposed Agreement.

N. The City Council, after conducting a duly noticed public hearing, has found that this Agreement is consistent with the General Plan and has conducted all necessary proceedings in accordance with the City's rules and regulations for the approval of this Agreement.

O. The City Council, on October 4, 2021, at a duly noticed public meeting adopted Ordinance No. 21-_____, approving and authorizing the execution of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants and obligations set forth herein, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

ARTICLE I
DEFINITIONS

"**Administrative Agreement Amendment**" shall have that meaning set forth in Section 7.02 of this Agreement.

"**Administrative Project Amendment**" shall have that meaning set forth in Section 7.01 of this Agreement.

"**Agreement**" shall mean this Development Agreement.

"**Applicable Fees**" shall have that meaning set forth in Section 3.04 of this Agreement.

"**Applicable Law**" shall have that meaning set forth in Section 6.03 of this Agreement.

"**Buildout**" shall mean the City's issuance to Developer of the last certificate of occupancy required for any portion of the Project Site.

"**CEQA**" shall mean the California Environmental Quality Act.

"**Changes in the Law**" shall have that meaning set forth in Section 6.07 of this Agreement.

"**City**" shall mean the City of Pittsburg, a California municipal corporation.

"**Complaining Party**" shall have that meaning set forth in Section 10.01 of this Agreement.

"**Day**" or "**days**" shall mean calendar day or calendar days.

"**Default Notice**" shall have that meaning set forth in Section 10.01 of this Agreement.

"**Defaulting Party**" shall have that meaning set forth in Section 10.01 of this Agreement.

"**Deficiencies**" shall have that meaning set forth in Section 9.02(a) of this Agreement.

"**Developer**" shall mean Contra Costa Waste Service, Inc., a California corporation, 1600 Loveridge, LLC, a California limited liability company, and Kirker Creek Business Park, LLC, a California limited liability company, collectively.

"**Effective Date**" shall have that meaning set forth in Section 2.01 of this Agreement.

"**Fire Facilities and Fire Safety Emergency Services**" shall have that meaning set forth in Section 5.07 of this Agreement.

"**Fair Share**" shall mean the proportionate share which the Developer, or other party, shall bear of the improvement, facility, or structure which is providing service to the Project, Developer or other party. The term "fair share" or similar terms used herein are not intended by the parties to this Agreement to impose a different or higher burden of proof on the City as to its fees, charges, or other exactions, than exists under applicable State or federal law.

"**Funding Mechanisms**" shall have that meaning set forth in Section 3.11 of this Agreement.

"**General Plan**" shall have that meaning set forth in Recital H of this Agreement.

"**Judgment**" shall have that meaning set forth in Section 9.02(a) of this Agreement.

"**LLD**" shall have that meaning set forth in Section 5.05 of this Agreement.

"**Non-Assuming Transferee**" shall have that meaning set forth in Section 8.03 of this Agreement.

"**Notice of Compliance**" shall have that meaning set forth in Section 8.04 of this Agreement.

"**Periodic Review**" shall have that meaning set forth in Section 10.03 of this Agreement.

"Public Safety Community Facilities District" shall have that meaning set forth in Section 5.06 of this Agreement.

"**Project**" shall have that meaning set forth in Recital G of this Agreement.

"**Project Approvals**" shall have that meaning set forth in Recital J of this Agreement.

"**Project Site**" shall have that meaning set forth in Recital C of this Agreement.

"**Public Improvements**" shall have that meaning set forth in Article XI of this Agreement.

"**Subsequent Approvals**" shall mean those certain other land use approvals, entitlements, and permits other than the Project Approvals that are necessary or desirable for the Project. The Subsequent Approvals may include, without limitation, the following: amendments of the Project Approvals, design review approvals, improvement agreements, use

permits, grading permits, building permits, lot line adjustments, sewer and water connection permits, certificates of occupancy, subdivision maps, PD Plans, rezonings, development agreements, permits, resubdivisions, and any amendments to, or repealing of, any of the foregoing.

"**Term**" shall have that meaning set forth in Section 2.02 of this Agreement.

"**Transfer Agreement**" shall have that meaning set forth in Section 8.02(a) of this Agreement.

If any capitalized terms contained in this Agreement are not defined above, then any such terms shall have the meaning otherwise ascribed to them in this Agreement.

ARTICLE II
EFFECTIVE DATE; TERM

Section 2.01 **Effective Date**. This Agreement shall become effective upon the date the ordinance approving this Agreement becomes effective (the "Effective Date").

Section 2.02 **Term**. The term of this Agreement shall commence upon the Effective Date and continue for a period of twenty (20) years (the "Term"). However, at such time as Developer has complied with all conditions in this Agreement, and upon the City Manager's written authorization after receipt of request by Developer, this Agreement shall terminate and be of no further effect between the parties. The termination shall not alter any of the Project Approvals and related matters as to the Project.

ARTICLE III
OBLIGATIONS OF DEVELOPER

Section 3.01 **Obligations of Developer Generally**. The parties acknowledge and agree that the City's agreement to perform and abide by the covenants and obligations of City set forth in this Agreement is a material consideration for Developer's agreement to perform and abide by its long-term covenants and obligations, as set forth herein. As material consideration for the long-term assurances and vested rights provided by this Agreement and as a condition of approval to one or more of the Project Approvals, Developer agrees to each of the following:

Section 3.02 **Facility Reserve Charges**. Developer agrees to pay City's Facility Reserve Charges ("FRC") as set or modified by the City Council from time to time.

Section 3.03 **Water Infrastructure**. Developer shall comply with the 2015 Water System Master Plan, as amended, as well as any and all future Water System Master Plans adopted by the City.

Section 3.04 **Applicable Fees**. City may levy development fees and charges during the term of this Agreement relative to the development of the Project Site which are in force and effect as of the Effective Date, as more particularly described and according to the payment

schedule set forth on Exhibit B ("Applicable Fees"). Unless otherwise provided in this Agreement, no development fees, or charges, or categories thereof, shall be imposed on the Project other than those fees (including categories within such fees), and charges identified as Applicable Fees on Exhibit B, which exhibit shall exclusively govern the Applicable Fee payment schedule. The parties agree that any and all Project development fees, charges or exactions related to schools, fire prevention, water, sewer, stormwater, and storm drainage facilities, which are to be paid by Developer directly to third-party governmental agencies, are not subject to or within the scope of this Agreement whether such third party charges exist or are subsequently imposed by such third parties, whether directly upon Developer or through City. This provision shall not be construed to benefit any Non-Assuming Transferees, as such term is defined in herein.

Section 3.05 **Applicable Fee Adjustments**. Developer shall pay fees and charges consistent with Section 3.04 above, and the applicable adjustments currently provided in such fees, and as modified from time to time by the City, whether such adjustment or modification is an increase or decrease. Developer retains the right to challenge the imposition of any new fees not referenced in this Agreement or the modification, amendment or adjustment of all Applicable Fees pursuant to Government Code § 66000 *et seq.*, not already authorized by ordinances, resolutions or policies in place at the time of this Agreement's execution. Should the City Council approve a new AB 1600 fee study and/or authorize a decrease in any of the Applicable Fees during the term of this Agreement by ordinance or by resolution, Developer shall have the option, at its sole discretion, to pay the lower fee, as may be adjusted by the applicable CPI or ENR, unless otherwise bound by separate contract or memorandum of understanding with City. In no event shall Developer receive retroactive adjustments for lower fees.

Section 3.06 **City Local Traffic Mitigation Fee**. Prior to issuance of a building permit, the Developer shall pay the Local Transportation Mitigation Fee (PMC Chapter 15.90) (the "LTMF") amount in effect at the time of building permit issuance. The Developer understands that the LTMF is reviewed and adjusted annually to the current Construction Cost Index ("CCI") and may be increased at the City Council's discretion based on revised cost estimates for roadway and transit facilities and other factors that demonstrate an increase is needed to offset traffic impacts caused by new development. The LTMF is calculated by dividing the total fee share of improvement costs by the total number of Dwelling Unit Equivalencies ("DUE") in the City, as described in PMC Chapter 15.90 and the Pittsburg Local Transportation Mitigation Fee Program Update, copies of which are available from the City.

Section 3.07 **Regional Traffic Fee**. Prior to issuance of a building permit, Developer shall pay the Regional Transportation-Development Impact Mitigation Fee (PMC Chapter 15.103) (the "RTDIM") amount in effect at the time of building permit issuance. The RTDIM will be automatically increased or decreased on January 1 of each year based on the percent change in the Engineering News-Record Construction Costs Index – San Francisco Bay Area, between September 1 and September 1 of the preceding two calendar years.

Section 3.08 **Payment of Fair Share Fees.** Prior to issuance of the first development permit for the construction of the North Building (permanent organics processing operations), and in accordance with Mitigation Measures MM 3.7.1 (a) and (b) and MM 3.7.2,

Developer shall pay their Fair Share for the implementation of improvements relating to:

- Highway 4 widening project that would improve capacity at the State Route 4 Eastbound ramps / Loveridge Road Intersection; and
- Pittsburg-Antioch Highway/Loveridge Road intersection improvements

The final Fair Share costs of these improvements shall be established through a traffic analysis to be prepared by City consultant, Fehr & Peers. However, barring any revisions to the previously prepared 2011 traffic analysis recommended by the new analysis, the Developer shall comply with the mitigation measures contained within the 2011 analysis. The full cost of the traffic analysis prepared by Fehr and Peers or any subsequent studies prepared shall be reimbursed by the Developer.

Section 3.09 **Deferred Frontage Improvements.** Developer agrees that upon the earlier to occur of (a) seven (7) years from the Effective Date, or (b) commencement of construction by Developer of the bale storage and self-haul phase of the Project (currently identified as 'Phase 7'), Developer shall commence construction of the frontage improvements on Loveridge Road, fronting the entire Project Site. Frontage improvements shall include curb, gutter, sidewalk, landscaping, lighting, and undergrounding of utilities, as well as storm drain facility improvements required to meet the storm water control needs of the Project. The design of these improvements shall be in conformance with the City's ultimate roadway design for Loveridge Road between State Route 4 and the Project Site, and subject to the City Engineer's review and approval.

Section 3.10 **Payment for Reconstruction of and Ongoing Maintenance for Loveridge Road.** Developer agrees to pay their Fair Share of reconstruction costs for Loveridge Road. Developer shall annex that portion of the Project Site that contains the main processing plant into a Community Facilities District or similar funding mechanism established by the City for the on-going maintenance of Loveridge Road in perpetuity. The costs of reconstruction of the roadway and ongoing maintenance costs shall be determined through a study conducted by the City or consultant hired by the City, and shall be based on truck trips attributed to the business operated by Developer on the Project Site, or other measurement deemed mutually acceptable by the Developer and the City. The full cost of the study or any subsequent studies prepared shall be reimbursed by the Developer.

Section 3.11 **Fees, Assessments and/or Taxes to be Paid by Developer**. Developer agrees to pay its Fair Share of any levies imposed by any assessment district, landscaping and lighting district, community facilities district, tax-exempt financing mechanisms, or other funding mechanisms related to public safety, traffic, fire, or other infrastructure improvements (including, without limitation, design, acquisition, construction and maintenance costs) (collectively, "Funding Mechanisms") within the Project Site, provided that such Funding Mechanism is referenced herein and/or was legally created pursuant to Applicable Law and subject to the terms of this Agreement concerning the imposition of fees on the Developer, including without limitation, Section 5.08 herein.

Section 3.12 **C.3 Facilities**. Developer shall submit a complete Stormwater Control Plan and Report compliant with the requirements set forth in the City's most current NPDES permit. The C.3 treatment facilities shall be adequately sized to treat the stormwater runoff from

the associated drainage management areas. The grading and/or building plans shall include drawings and specifications necessary to implement all measures in the approved Stormwater Control Plan. Design features should incorporate low impact development design standards as outlined in the most current edition of the Contra Costa Clean Water Program's C.3 Guidebook. These features include limiting directly connected impervious area, and incorporating pervious pavements, self-retaining areas, treatment BMPs, permanent stormwater control BMPs, and other features that control stormwater flow and potential for stormwater pollutants. Grading and/ or building permits shall not be issued until this condition is met to the satisfaction of the Engineering and Planning Divisions.

Section 3.13 **Payment of Local Sales and Use Taxes.** Any purchase, acquisition, and/or supply of goods and materials, as well as any new or replacement equipment and supplies purchased by the Developer or its contractors, subcontractors, agents or affiliates, subject to the limitation set forth below, in connection with this Project shall be apportioned and paid to and at the applicable sales tax rate in effect for the City as administrated by the California Department of Tax and Fee Administration ("CDTFA"); provided, however, that Developer shall only be required to use commercially reasonable efforts to ensure compliance with this subsection from its contractors, subcontractors, agents, or affiliates and Developer shall not incur any liability to the City under this Section 3.13 with respect to any circumstances beyond the control of Developer. At no point may Developer or its contractors, subcontractors, agents or affiliates contractually agree to waive or share sales and use taxes from this Project with any other city, county or other entity in the State of California, regardless of agreement they might have with another jurisdiction where they have offices or conduct business. The City of Pittsburg will be the sole jurisdiction of record to the transfer of title. Developer and its contractors, subcontractors, agents and affiliates shall comply with the Sales and Use Tax Requirements ("Requirements") set forth below and all CDTFA requirements. If the City becomes aware of modifications necessary to such Requirements, City may propose to incorporate new or revised requirements, subject to Developer's agreement which shall not be unreasonably withheld, conditioned or delayed. Except as expressly provided for herein, failure by Developer, its contractors, subcontractors, agents or affiliates to comply with this condition to ensure appropriate taxes are properly paid and passed through to the City will result in Developer paying a fee equivalent to the taxes which the City would have received had Developer, its contractors, subcontractors, agents or affiliates taken such actions to ensure the sales taxes referenced in the first sentence of this subsection are apportioned to the City.

Developer, its contractors, subcontractors, agents or affiliates, and/or future project owners and/or operators, as applicable, shall adhere to the following steps in effort to maximize the City's allocation of sales and use taxes associated with project construction and operations by taking the following steps:

A. Prior to issuance of a grading or building permit or within 60 days of the effective date of this approval, whichever comes first, the developer shall register with the CDTFA and keep such registration current throughout the operational life of the project.

B. Apply for a Use Tax Direct Pay Permit. Upon receipt of registration, provide a copy to the City and/or their consultant for verification.

C. Self-accrue and pay use taxes in accordance CDFTA requirements.

D. Report local and district use taxes to CDFTA on applicable use tax returns.

E. Developer shall use commercially reasonable efforts to endeavor to require all contractors, subcontractors, agents and affiliates providing building materials and fixtures, such as but not limited to, bulk lumber, concrete, structural steel and pre-fabricated building components to be used in connection with the construction and development of, or incorporated into, the Project, to:

i. obtain a Seller's Permit;

ii. issue a resale certificate to any supplier of material that will allow it to buy property without payment of tax;

iii. file timely Sales and Use tax returns and report local tax on materials consumed and fixtures sold by the contractor, subcontractor, agent or affiliate based on the sole jobsite location located in the City of Pittsburg;

iv. elect to obtain a sub permit for the job site of any contract valued at Five Million Dollars ($5,000,000) or more enabling the contractor, subcontractor, agent or affiliate to make a direct allocation of the tax based on the jobsite located in the City of Pittsburg; and

v. otherwise designate the Property as the place of use of materials used in the construction of the Project in order to have the full local use tax portion of the sales and use tax distributed directly to the City of Pittsburg.

F. Developer shall use commercially reasonable efforts to endeavor to require and instruct each of its contractors, subcontractors, agents and affiliates to cooperate with the City to ensure the local use tax is allocated to City of Pittsburg.

G. To assist City in its efforts to ensure that the full amount of such local sales/use tax is allocated to the City, Developer or its General Contractor shall provide City with a quarterly spreadsheet, which includes a list of all subcontractors, agents or affiliates with contracts in excess of the amount set forth above, a description of all applicable work, and the dollar value of such subcontracts or agreements. City or City's consultant may use the information provided it to contact each contractor, subcontractor, agent or affiliate to determine which may qualify to register the jobsite for allocation of the local use tax to the City of Pittsburg.

Section 3.14 **Fiberoptic Internet Service.** In the event the City of Pittsburg establishes an internet service provider ("ISP") and offers high-speed internet service to the Project Site, Developer shall agree to take service from the City's ISP at the highest service level available to commercial users for the term of Agreement; provided, however, that Developer shall have no obligations under this subsection in the event that it demonstrates to the City Manager that the proposed service levels, bandwidth, pricing, and/or any other material factor relating to the prospective ISP provider are inferior to the internet service then in effect at the Project Site.

Section 3.15 **Utility Service by Pittsburg Power Company.** In the event the

Pittsburg Power Company ("PPC") offers electric and/or gas service to the Project Site, Developer shall take all reasonable steps to become customers of PPC or other municipal utility identified by the City; provided, however, that Developer shall have no obligations under this subsection in the event that it demonstrates to the City Manager that the proposed service levels, pricing, and/or any other material factor relating to the prospective electric and/or gas provider are inferior to the electric and/or gas service then in effect at the Project Site and/or would cause any material hinderance relating to the operation of the Project Site. For purposes of clarity, the terms of this subsection shall in no way prohibit or impede the Developer from producing energy on the Project Site and/or utilizing any such energy that is generated on the Project Site. Any obligation of Developer pursuant to this subsection is further expressly conditioned upon PPC or any other municipal utility identified by the City negotiating and entering into a power purchase agreement with Developer on terms acceptable to Developer, in its sole discretion.

Section 3.16 **Enhanced Infrastructure Financing.** City may, at its discretion, pursue establishment of an Enhanced Infrastructure Financing District ("EIFD") as a mechanism for, among other things, funding infrastructure improvements within the City that serve the Project and may also serve other properties. Developer agrees to use reasonable efforts to support City's establishment of an EIFD.

ARTICLE IV
OBLIGATIONS OF CITY

Section 4.01 **Obligations of City Generally**. The parties acknowledge and agree that Developer's agreement to perform and abide by its covenants and obligations set forth in this Agreement, including Developer's decision to process the siting of the Project in the City, is a material consideration for City's agreement to perform and abide by the long-term covenants and obligations of City, as set forth herein.

Section 4.02 **Availability of Public Services**.

(a) General. To the extent permitted by law and consistent with its authority, City shall reserve such capacity for water services as may be necessary to serve the Project. This reservation of water infrastructure capacity shall be assured for the Term to the extent consistent with applicable law.

(b) Construction Water. City shall make construction water available to the Project by permitting the Project to hook up to existing City water supply infrastructure, at a location reasonably determined by the City, at Developer's cost and on those terms and conditions and charges customarily applied by City to similar projects consistent with City standards. City shall also permit Developer to install such temporary construction water pipelines and related infrastructure as reasonably necessary to provide construction water to the Project site for Developer's use in any and all Project grading and construction operations, as long as such water is unrelated to potable use.

Section 4.03 **Developer's Right to Rebuild**. City agrees that Developer, in Developer sole's discretion, may renovate or rebuild the Project within the Term of this

Agreement should it become necessary due to natural disaster, changes in seismic requirements, acts of God, acts of terrorism, or damage to work in progress by reason of fire, floods or other casualties. Any such renovation or rebuilding shall be subject to the square footage and height limitations vested by this Agreement, and shall comply with the Project Approvals, the building codes existing at the time of such rebuilding or reconstruction, and the requirements of CEQA and this Agreement.

Section 4.04 **Reimbursement of Infrastructure Costs**.

(a) Reimbursement. Unless otherwise provided for herein, to the extent Developer incurs costs related to the planning and construction of traffic infrastructure, water delivery infrastructure, sewer infrastructure or other public infrastructure required by City or this Agreement for the Project that exceed the Project's Fair Share obligation for such infrastructure, City shall reimburse Developer for the City's portion of such costs (including any management fees provided for in this Agreement), subject to City's prior verification through inspection of the construction that is subject to such reimbursement and upon final acceptance of the infrastructure by the City. This reimbursement shall be paid within sixty (60) days after City's final acceptance or at such other time as mutually agreed upon in writing by the parties. Developer shall be entitled to a management fee of five percent (5%) for City's share of approved infrastructure costs, including but not limited to design and special inspection costs. The management obligations of Developer hereunder shall include contracting and managing the construction of the infrastructure, retaining copies of records, photographs and "as builts" for the improvement(s) as well as attending meetings and providing necessary reports as reasonably requested by City.

(b) City's Authorization of Reimbursement. Notwithstanding any other provision of this Section, or of this Agreement, City shall not be responsible to reimburse or credit Developer for any costs, including as referenced in Section 4.04(a) herein, unless prior to Developer incurring any costs for which Developer will request reimbursement from City, Developer shall first provide written documentation as to the work to be performed, the estimated costs thereof, including a not-to-exceed cap, and such other details as reasonably requested by the City Manager and the City Manager approves the proposed costs and related work. If the City Manager fails to respond within thirty (30) days of its receipt of such estimated costs, Developer shall provide a second written notice to the City Manager and to the City Engineer, if neither responds within thirty (30) days of the City's receipt of the second request, the request shall be deemed approved. The City Manager shall have the discretion to require Developer to obtain competitive bids on any work for which Developer may request reimbursement or credit from the City where the total cost (not just the City's share) of that work is One Hundred Thousand Dollars ($100,000) or more. City shall also have the opportunity to inspect any and all infrastructure during its construction, as well as to review any work product for which Developer requests reimbursement or credits. If mutually agreed by the parties in writing, any reimbursement due Developer pursuant to this Agreement may be satisfied by City in the form of credits, which can actually be used by Developer to offset Developer's payment of any Applicable Fees. In the event there are not enough credits to fully satisfy the reimbursement due Developer and subject to the terms of the mutual agreement between the parties referenced in the prior sentence, City shall reimburse Developer within thirty (30) days of invoicing.

ARTICLE V
COOPERATION — IMPLEMENTATION

Section 5.01 **Processing Application for Subsequent Approvals**. The parties agree that all Subsequent Approvals shall be processed by City in a manner consistent with the following provisions:

(a) Standard of Review. By adopting the Project Approvals, City has made a final policy decision that the Project is in the best interests of the public health, safety and general welfare. Accordingly, City shall not use its discretionary authority in considering any application for a Subsequent Approval to change the policy decisions reflected by the Project Approvals or otherwise prevent or delay development of the Project as set forth in the Project Approvals. Instead, the Subsequent Approvals shall be deemed tools to implement those final policy decisions and shall be issued by City so long as they comply with this Agreement and Applicable Law, as defined below, and are not inconsistent with the Project Approvals as set forth above, and meet the intent and comply with any City adopted Designed Guidelines, as applicable. To the extent permitted by law, City shall not use its discretionary authority in considering these Subsequent Approval applications to revisit or frustrate the policy decisions or material terms reflected by the Project Approvals. Developer agrees that development under this Agreement shall comply with provisions reflected in Uniform Codes (whether building, fire, plumbing, or other applicable uniform codes) which may adopted subsequent to the Effective Date of this Agreement.

(b) Basis for Denial. City may deny an application for a Subsequent Approval only if such application does not comply with this Agreement or Applicable Law, defined below, or does not substantially comply with the Project Approvals (provided, however, that inconsistency with the Project Approvals shall not constitute grounds for denial of a Subsequent Approval which is requested by Developer as an amendment to that Project Approval). City may approve an application for such a Subsequent Approval subject to any conditions necessary to bring the Subsequent Approval into compliance with this Agreement or Applicable Law, or as is necessary to make this Subsequent Approval consistent with the Project Approvals. If City denies any application for a Subsequent Approval, City shall specify in writing the reasons for such denial and may suggest a modification which would be approved by City.

Section 5.02 **Timely Submittals by Developer**. Developer acknowledges that City cannot expedite processing of the Subsequent Approvals until Developer submits complete applications on a timely basis. Developer shall use its best efforts to (a) provide to City in a timely manner any and all documents, applications, plans, and other information necessary for City to carry out its obligations hereunder; and (b) cause Developer's planners, engineers, and all other consultants to provide to City in a timely manner all such documents, applications, plans and other necessary materials as set forth in the Applicable Law. It is the express intent of Developer and City to cooperate and diligently work to obtain any and all Subsequent Approvals consistent with this Agreement.

Section 5.03 **Timely Processing by City**. Upon submission by Developer of all appropriate applications and processing fees for any Subsequent Approval, City shall promptly and diligently commence and complete all steps necessary to act on the Subsequent Approval

applications including, without limitation, (a) providing at Developer's expense and subject to Developer's request and prior written approval, reasonable overtime staff assistance and/or staff consultants for planning and processing of each Subsequent Approval application; (b) if legally required, providing notice and holding public hearings; and (c) acting on any such Subsequent Approval application. If Developer elects to request and approve the use of overtime staff assistance or staff consultants for planning and processing of any Subsequent Approval pursuant to this Section 5.03, Developer's reimbursement to City for such services shall be made in amount equal to City's actual costs of providing such services, in accordance with standard City practice.

Section 5.04 **Other Government Permits**. At Developer's sole discretion and in accordance with Developer's construction schedule, Developer shall apply for such other permits and approvals as may be required by other governmental or quasi-governmental entities in connection with the development of, or the provision of services to, the Project. Permits shall be obtained from each agency having jurisdiction over the Project to the extent required by law including the City of Pittsburg Local Enforcement Agency ("LEA"), the Bay Area Air Quality Management District, San Francisco Bay Regional Water Quality Control Board and the Department of Resources Recycling and Recovery.

Section 5.05 **Lighting and Landscaping District (LLD)**. Developer agrees that the Project Site will be annexed into the City's existing Lighting and Landscaping District, as established pursuant to City Resolution No. 88-7324 ("**LLD**"). Developer agrees that the base assessment applies to the Project and is subject to increase, provided any such increase of the base assessment imposed uniformly or similarly situated properties by City in a manner consistent with State law. Developer further agrees that the base assessment shall be levied upon recordation of each of the Project's final maps. The parties agree that the base LLD assessment described herein shall finance, among other things, the maintenance of any and all landscape improvements and the maintenance of the parks.

Section 5.06 **Public Safety Services.** Developer agrees to annex the Project Site into Community Facilities District 2005-1 which provides funding for an increase of police coverage in the area. The rate of the CFD is subject to City Council Ordinance No. 05-1246.

Section 5.07 **Fire Facilities and Fire Safety and Emergency Services CFD 2017-1**. Developer agrees that the Project Site will be annexed into the City's existing Community Facilities District 2017-1 for Fire Facilities and Fire Safety and Emergency Services (CFD 2017-1). The rate of the CFD 2017-1 fee is subject to City Council Resolution No. 17-13311. Developer shall complete annexation of the property into the CFD 2017-01 prior to the issuance of any building permits.

Section 5.08 **Assessment Districts or Other Funding Mechanisms**. City understands that City's long-term assurances to Developer concerning fees, taxes and assessments related to the Project are a material consideration for Developer agreeing to proceed with the proposed Project and to pay the fees, taxes and assessments described in this Agreement. City shall retain the ability to initiate or process applications for the formation of new assessment districts or other Funding Mechanisms, as defined in Section 3.11 of this Agreement, covering all or any portion of the Project Site. Notwithstanding the foregoing, Developer retains all its rights to oppose the formation or proposed assessment of any new

assessment district, Funding Mechanism, or any and all increases thereto, or to request or pursue assessment credits or reductions, unless otherwise provided for herein or unless such assessment, Funding Mechanism or related increases are in place and legally effective as of the date of this Agreement's Effective Date.

Section 5.09 **Warranty Bonds**. Developer agrees that every infrastructure improvement dedicated to City (except landscaping, unimproved real property or open space dedications) pursuant to this Agreement shall be accompanied by a one (1) year warranty bond in a form and in an amount, and with a surety acceptable to City.

ARTICLE VI
STANDARDS, LAWS AND PROCEDURES GOVERNING THE PROJECT

Section 6.01 **Vested Right to Develop**. Developer shall have a vested right to develop the Project on the Project Site in substantial conformance with the terms and conditions of this Agreement, the Project Approvals (as and when issued), the Subsequent Approvals (as and when issued), and amendments thereto as shall, from time to time, be approved pursuant to this Agreement. Nothing in this Section 6.01 shall be deemed to eliminate or diminish the requirement of Developer to obtain any required Subsequent Approvals.

Section 6.02 **Permitted Uses Vested by this Agreement**. The permitted uses of the Project Site; the density and intensity of use of the Project Site; the maximum height, bulk and size of proposed buildings; and other terms and conditions of development applicable to the Project, shall be as set forth in the Project Approvals and, as and when they are issued (but not in limitation of any right to develop as set forth in the Project Approvals), the Subsequent Approvals.

Section 6.03 **Applicable Law**. "**Applicable Law**" shall mean the existing rules, regulations, official policies, standards and specifications governing permitted uses of the Project Site; governing density; and governing design, improvements, and construction standards and specifications applicable to the Project and Project Site as set forth in this Agreement and the Project Approvals, and in force and effect on the Effective Date of this Agreement. However, this Agreement and this Section shall not be construed to prevent the City, in any subsequent actions applicable to the Project Site, from applying any new rules, regulations, official policies, standards, and specifications that do not conflict with those rules, regulations, official policies, standards, and specifications existing as of the Effective Date of the Agreement.

Section 6.04 **Uniform Codes**. Notwithstanding any other provision of this Agreement, City may apply to the Project Site, at any time during the Term, the then current Uniform Building Code and other uniform construction codes as properly modified by City and uniformly applied on a citywide basis, and City's then current design and construction standards for road and storm drain facilities. In no event shall any such uniform code or standard be adopted for the purpose of preventing or otherwise limiting construction of all or any part of the Project.

Section 6.05 **Moratorium and Conflicting Enactments**. To the extent consistent

with State Law, if any ordinance, resolution or other measure is enacted, whether by action of City, by initiative, referendum, or otherwise, that imposes a building moratorium, or a voter-approval requirement which would otherwise affect the timely development of the Project on all or any part of the Project Site, City agrees that such ordinance, resolution or other measure shall not apply to the Project, the Project Site, this Agreement, the Project Approvals, or the Subsequent Approvals, if any, during the term of this Agreement, unless the building moratorium is imposed as part of a declaration of a local emergency or state of emergency as defined in Government Code Section 8558. Developer reserves the right to challenge in court any City action or inaction which Developer believes is in conflict with Applicable Law or this Agreement.

Section 6.06 **Life Development Approvals and Permits**. To the extent consistent with Applicable Law, the term of any permit or other land use entitlement approved as a Project Approval or Subsequent Approval shall automatically be extended for the duration of this Agreement, including any extensions. The term of this Agreement and any Project Approval or Subsequent Approval shall not include any period of time during which any applicable development moratorium (including, but not limited to, a water or sewer moratorium) or the actions of other public agencies that regulate land use, development or the provision of services to the land, prevents, prohibits or delays the construction of the Project. The term of this Agreement and any Project Approval or Subsequent Approval shall not include any period of time during which any applicable court order or other legal requirement prevents the processing of any Subsequent Approval or prevents any Project development activities.

Section 6.07 **State and Federal Law**. As provided in California Government Code § 65869.5, if any state or federal laws or regulations, enacted after this Agreement's Effective Date prevent or preclude compliance with one or more provisions of this Agreement ("**Changes in the Law**"), such provision of the Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations as may be necessary to comply with Changes in the Law, and City and Developer shall take such action as may be required pursuant to this Agreement including, without limitation, Article V and Section 10.05. Not in limitation of the foregoing, nothing in this Agreement shall preclude City from imposing on Developer any fee specifically required by State or Federal laws and regulations.

Section 6.08 **Timing of Project Construction and Completion**.

(a) Project Phasing. Developer will construct the Project in approximately eight (8) phases in response to the timing for the implementation of various recycling and diversion programs and capacity demands associated with these programs over the Term of the Agreement. Except as otherwise specifically provided by this Agreement with respect to Project infrastructure timing, City and Developer expressly agree that there is no requirement that Developer initiate or complete development of the Project or any particular phase of the Project within any particular period of time, and City shall not impose such a requirement on any Project Approval.

(b) Project Time Schedule. The parties agree that Developer shall be able to develop in accordance with Developer's own time schedule as such schedule may exist from time to time, and Developer shall determine which part of the Project Site to develop first, and at Developer's chosen schedule. In particular, and not in limitation of any of the

foregoing, since the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' desire to avoid that result by acknowledging that Developer shall have the right to develop the Project in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment. Developer's rights under this Section 6.08(b) shall be subject to the requirement that adequate infrastructure to serve each phase of the Project is constructed concurrently with such p*hase. The City Manager shall reasonably det*ermine what infrastructure will be required to serve each phase of the Project, which determination shall be consistent with Applicable Law.

(c) Developer Agreements. Nothing in this Agreement shall exempt Developer from completing work required by a road improvement agreement, or similar agreement in accordance with the terms thereof.

Section 6.09 **Exempting Fees, Mitigation Measures and Similar Requirements Imposed by Outside Agencies**. Notwithstanding any other provision of this Agreement, the City agrees to exclude Developer from any and all discretionary collection agreements regarding fees, mitigation measures and similar requirements including, but not limited to, development impact fees, which other public agencies request the City to impose at City's discretion on the Project or on the Project Site after the Effective Date through the Term of this Agreement. This Section 6.09 shall not prohibit the City from imposing on Developer any fee, mitigation measure or similar requirement or obligation that is required by a local or regional agency in accordance with local, regional, State or Federal obligations and implemented by the City in cooperation with such local, regional, state or federal agency, provided such fee, mitigation measure or similar requirement or obligation is imposed in a similar manner on similarly situated properties within the City as, for example, stormwater-related C.3 requirements and increases thereto.

Section 6.10 **City's Joint-Inspection Jurisdiction**. Developer acknowledges that City has joint inspection jurisdiction within other third-party governmental entities within any and all City rights-of-way and easements.

ARTICLE VII
AMENDMENT

Section 7.01 **Amendment to Project Approvals, Subsequent Approvals**. To the extent permitted by State and Federal law, any Project Approval or Subsequent Approval may, from time to time, be amended or modified in the following manner:

(a) Administrative Project Amendments. Upon the written request of Developer for an amendment or modification to a Project Approval or Subsequent Approval, the City Manager or his/her designee shall determine: (i) whether the requested amendment or modification is minor when considered in light of the Project as a whole; and (ii) whether the requested amendment or modification is consistent with this Agreement, Applicable Law, applicable uniform codes and State or Federal law. If the City Manager or his/her designee

finds that the proposed amendment or modification is minor in the context of the entire Project, consistent with this Agreement and Applicable Law, and will result in no new significant environmental impacts not addressed and mitigated in the EIR, the amendment shall be determined to be an "**Administrative Project Amendment**" and the City Manager or his/her designee may, except to the extent otherwise required by law, approve the Administrative Project Amendment without notice and public hearing. Without limiting the generality of the foregoing, lot line adjustments, reductions in the density, intensity, scale or scope of the Project, minor alterations in vehicle circulation patterns or vehicle access points, substitutions of comparable landscaping for any landscaping shown on any final development plan or landscape plan, variations in the location of structures that do not substantially alter the design concepts of the Project, variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project, and minor adjustments to the Project Site diagram or Project Site legal description shall be treated as Administrative Project Amendments.

(b) Non-Administrative Project Amendments. Any request of Developer for an amendment or modification to a Project Approval or Subsequent Approval which is determined not to be an Administrative Project Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Law and this Agreement.

Section 7.02 **Amendment of this Agreement**. This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the parties hereto or their successors in interest, as follows:

(a) Administrative Agreement Amendments. The City Manager, or his/her designee, may, except to the extent otherwise required by law, enter into certain amendments of this Agreement on behalf of the City as long as any such amendment does not substantially affect (i) the Term of this Agreement, (ii) permitted uses of the Project Site, (iii) provisions for the reservation or dedication of land, (iv) conditions, terms, restrictions or requirements for subsequent discretionary actions, (v) the density or intensity of use of the Project Site or the maximum height or size of proposed buildings or (vi) monetary contributions by Developer ("**Administrative Agreement Amendment**"), and shall not, except to the extent otherwise required by law, require notice or public hearing before the parties may execute an amendment hereto. For purposes of this Section 7.02(a), the term "substantially affect" shall be evaluated in the context of the entire Project.

(b) Amendment Exemptions. No amendment of a Project Approval or Subsequent Approval, whether done administratively or not, shall require an amendment to this Agreement. Instead, any such matter automatically shall be deemed to be incorporated into the Project and vested under this Agreement when written and executed by both parties.

(c) Amendment Limitations. In consideration of the scope of the benefits to City set forth in this Agreement, any amendment to this Agreement shall only be subject to such new terms and conditions, including new exactions or other obligations, as are reasonably related to the impacts on City directly attributable to such amendment.

ARTICLE VIII
ASSIGNMENT, TRANSFER AND NOTICE

Section 8.01 **Assignment of Interests, Rights and Obligations**.

(a) Developer shall not assign any of its obligations imposed pursuant to this Agreement without the prior written consent of the City Council, as expressed by City Council resolution. The consent of the City Council shall not be unreasonably withheld, provided that in determining whether to consent to such assignment, the City Council may consider all relevant factors relating thereto, including, but not limited to, the qualifications, experience and financial responsibility of the prospective assignee. This Agreement is not transferable upon change in ownership status of the Developer, except as provided hereinabove and in subsections (b) and (c) of this section 8.01.

Except as set forth in subsections (b) and (c) of this section 8.01, the term assignment shall include any dissolution, merger, consolidation or other reorganization of Developer which results in change of control of Developer, or the sale or other transfer by probate proceeding or otherwise of a controlling percentage of Operator's capital stock to a person not a shareholder on the date of the execution of this Agreement.

The Developer, or the prospective assignee, shall pay to the City prior to the effective date of any approved assignment under section 8.01(a) of this Agreement, a sum equal to the costs incurred by the City in reviewing and processing the application for such assignment. The City Manager shall determine the amount required for such reimbursement which determination shall be final and conclusive.

(b) For purposes of this Agreement, the term "assignment" does not include internal business reorganizations or formations of new companies by Developer or formation of trusts by Developer, so long as essential management decisions are retained by Silvio Garaventa, Sr., his spouse, his children, and or their spouses.

(c) For purposes of this Agreement, it is understood and agreed by the parties Developer, as defined within this Agreement, may presently and in the future perform the obligations and responsibilities of the Operator relating to the RCTS. Performance of the obligations and responsibilities of the Operator by such companies shall not be deemed an assignment under this section.

Section 8.02 **Transfer Agreements**.

(a) In connection with the transfer or assignment by Developer of all or any portion of the Project (other than a transfer or assignment by Developer to a Permitted Transferee, an affiliated party, or any deed of trust beneficiary or mortgagee, Developer and the transferee shall enter into a written agreement (a "**Transfer Agreement**") regarding the respective interests, rights and obligations of Developer and the transferee in and under the Agreement, the Project Approvals, and the Subsequent Approvals. Such Transfer Agreement may (i) release Developer from obligations under the Agreement, the Project Approvals, or the Subsequent Approvals that pertain to that portion of the Project being transferred or assigned, as described in the Transfer Agreement, provided that the transferee expressly assumes such obligations, (ii) transfer to the transferee vested rights to improve that portion of the Project

being transferred and (iii) address any other matter deemed by Developer to be necessary or appropriate in connection with the transfer or assignment.

(b) Any Transfer Agreement shall be binding on Developer, City and the transferee. Failure by City to respond within thirty (30) days of a written request by Developer for City's consent shall be deemed City's approval of the Transfer Agreement in question. Such determination concerning the City's consent to a proposed assignment or transfer shall be made by the City Manager and is appealable to the City Council. Upon recordation of any Transfer Agreement in the Official Records of Contra Costa County, Developer shall automatically be released from those obligations assumed by the transferee therein.

(c) Developer shall be free from any and all liabilities accruing on or after the date of any assignment or transfer with respect to those obligations assumed by a transferee pursuant to a Transfer Agreement. No breach or default hereunder by any person succeeding to any portion of Developer's obligations under this Agreement shall be attributed to Developer, nor may Developer's rights hereunder be canceled or diminished in any way by any breach or default by any such person.

Section 8.03 **Notice of Compliance Generally**. Subject to City's finding that the facts contemplated by clauses (a) through (c) herein are true and accurate, within thirty (30) days following any written request which Developer may make from time to time, City shall execute and deliver to Developer (or to any party requested by Developer) a written "**Notice of Compliance**," in recordable form, duly executed and acknowledged by City, that certifies that (a) this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications, (b) there are no current uncured defaults under this Agreement or specifying the dates and nature of any such default, and (c) any other information reasonably requested by Developer. City's failure to deliver such notice within such time period shall constitute a conclusive presumption against City that this Agreement is in full force and effect without modification except as may be represented by the Developer and that there are no uncured defaults in the performance of the Developer, except as may be represented by the Developer. Developer shall have the right at Developer's sole discretion, to record the Notice of Compliance.

ARTICLE IX
COOPERATION IN THE EVENT OF LEGAL CHALLENGE

Section 9.01 **Cooperation**.

(a) Developer agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person not a party to this Agreement challenging the validity of the Agreement or any Project Approval or any Subsequent Project Approval, or otherwise arising out of or stemming from this Agreement. Developer may select its own legal counsel to represent Developer's interests at Developer's sole cost and expense. The parties shall cooperate in defending such action or proceeding.

Developer shall pay for City's costs of defense, whether directly or by timely reimbursement on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent in regard to defense of the action or proceeding. The parties shall use best efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel and Developer agrees to pay directly or timely reimburse on a monthly basis City for all such court costs, attorney fees, and time referenced herein.

(b) Developer also agrees to indemnify, defend and hold harmless the City, its officials, officers, employees, agents and consultants from any claims, costs, damages or other liabilities for any personal injury or death, or property damage, resulting from the construction of the Project or of operations by the Developer, its officers, employees, agents or consultants, under this Agreement, except for such claims, costs, damages, or other liabilities which are caused by the sole or gross negligence of the City, its officials, officers, employees, agents, or consultants. Developer may select its own legal counsel to represent Developer's interests at Developer's sole cost and expense.

(c) The parties agree that this Section 9.01 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this Section 9.01, which shall survive such invalidation, nullification or setting aside.

Section 9.02 **Cure; Reapproval**.

(a) If, as a result of any administrative, legal or equitable action or other proceeding as described in Section 9.01, all or any portion of this Agreement, Project Approvals, or Subsequent Approvals are set aside or otherwise made ineffective by any judgment (a "**Judgment**") in such action or proceeding (based on procedural, substantive or other deficiencies, hereinafter "**Deficiencies"**), the parties agree to use their respective best efforts to sustain and reenact or readopt this Agreement, Project Approvals, and/or Subsequent Approvals that the Deficiencies relate to, as follows, unless the parties mutually agree in writing to act otherwise:

(i) If any Judgment requires reconsideration or consideration by City of this Agreement, Project Approval, or Subsequent Approval, then the City shall consider or reconsider that matter in a manner consistent with the intent of this Agreement. If any such Judgment invalidates or otherwise makes ineffective all or any portion of this Agreement or any Project Approval, or Subsequent Approval, then the parties shall cooperate and shall cure any Deficiencies identified in the Judgment or upon which the Judgment is based in a manner consistent with the intent of this Agreement and the Judgment. Upon the parties cure of such Deficiencies, City shall then take steps consistent with the Judgment necessary readopt or reenact this Agreement and any applicable Project Approval, Subsequent Approval, or any portion thereof.

(ii) Acting in a manner consistent with the intent of this Agreement or a Judgment includes, but is not limited to, recognizing that the parties intend that Developer may expand capacity for waste handling up to 5,500 TPD, establish new commercial

recycling and organic processing programs for residential and commercial food wastes, establish an engineered municipal solid waste conversion unit (gasification) to process clean wood chips, biosolids, and or organic slurry, tires, fiber or refuse derived fuels into energy for on-site use or feedback to the energy grid, relocate the SEG truck maintenance facility, and establish possible future rail haul for transport of waste material, and adopting such ordinances, resolutions, and other enactments, including but not limited to a general plan amendment, rezoning, design review, use permits, solid waste facility permit, grading permits, building permits, sewer and water connection permits, certificates of occupancy, final development plans, development agreements, permits, and any amendments to, or repealing of, any of the foregoing as are necessary to readopt or reenact all or any portion of this Agreement, Project Approvals, and/or Subsequent Approvals without contravening the Judgment.

(b) The parties agree that this Section 9.02 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this Section 9.02, which shall survive such invalidation, nullification or setting aside.

ARTICLE X
DEFAULT; REMEDIES; TERMINATION

Section 10.01 **Defaults**. Any failure by either party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other party (the "**Complaining Party**") (unless such period is extended by mutual written consent), shall constitute a default under this Agreement. The Complaining Party's notice ("**Default Notice**") shall specify the nature of the alleged failure and, may specify the manner in which the failure satisfactorily may be cured By the other party (the "**Defaulting Party**"). Any failures or delays by a Complaining Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of a default or of any such rights or remedies. Delays by a Complaining Party in asserting any of its rights and remedies shall not deprive the Complaining Party of its right to institute and maintain any actions or proceedings, which it may deem necessary to protect, assert, or enforce any such rights or remedies. If the nature of the alleged failure is such that it cannot reasonably be cured within such 30-day period, then no fault shall be deemed to have occurred if: (a) the cure shall be commenced at the earliest practicable date following receipt of the Default Notice; (b) the cure is diligently prosecuted to completion at all times thereafter; (c) at the earliest practicable date (if no event later than thirty (30) days after the Defaulting Party's receipt of the Default Notice), the Defaulting Party provides written notice to the Complaining Party that the cure cannot practicably be completed within such 30-day period; and (d) the cure is completed at the earliest practicable date. In no event shall Complaining Party be precluded from exercising remedies if a default is not cured within one hundred twenty (120) days after the Notice of Default is given. Complaining Party shall not send notice to any third party, including, but not limited to, bonding and surety companies, until such time as the cure opportunities set forth above have expired unless otherwise required by applicable law. Upon the occurrence of a default under this Agreement, the Complaining Party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If

the default is cured consistent with this Section, then no default shall exist and the Complaining Party shall take no further action.

Section 10.02 **Termination**. If City elects to consider terminating this Agreement due to a material uncured default of Developer, then City shall give a notice of intent to terminate this Agreement and the matter shall be scheduled for consideration and review by the City Council at a duly noticed and conducted public hearing. As used herein, a finding of materiality shall be based on the effect of the default in relation to the size and scope of the Project. Developer shall have the right to offer written and oral evidence prior to or at the time of said public hearings. If the City Council determines that a material default has occurred and is continuing, and elects to terminate this Agreement, City shall give written notice of termination of this Agreement to Developer by certified mail and this Agreement shall thereby be terminated sixty (60) days thereafter; provided, however, that if Developer files an action to challenge City's termination of this Agreement within such 60-day period, then this Agreement shall remain in full force and effect until a trial court has affirmed City's termination of this Agreement and all appeals have been exhausted (or the time for requesting any and all appellate review has expired).

Section 10.03 **Periodic Review.**

(a) Conducting the Periodic Review. Throughout the Term of this Agreement, at least once every twelve (12) months following the execution of this Agreement, City shall review the extent of good-faith compliance by Developer with the terms of this Agreement. This review (the "**Periodic Review**") shall be conducted by the City Manager or his/her designee and shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code § 65865.1. Developer also agrees to pay City annually the greater of Five Thousand Dollars ($5,000) or the actual cost of Periodic Review Fee (not to exceed Ten Thousand Dollars ($10,000)), whichever is greater. The Five Thousand Dollars ($5,000) shall be increased annually thereafter by the CPI for the San Francisco Oakland Area, with the first increase implemented in January 2022 reflecting 2021 increases. Such Periodic Review Fee shall only be paid in the years in which a Periodic Review is actually conducted.

(b) Notice. At least ten (10) days prior to the Periodic Review, and in the manner prescribed in Article XII of this Agreement, City shall deposit in the mail to Developer a copy of any staff reports and documents to be used or relied upon in conducting the review and, to the extent practical, related exhibits concerning Developer's performance hereunder. Developer shall be permitted an opportunity to respond to City's evaluation of Developer's performance, either orally at a public hearing or in a written statement, at Developer's election. Such response shall be made to the City Manager.

(c) Good Faith Compliance. During the Periodic Review, the City Manager shall review Developer's good-faith compliance with the terms of this Agreement. At the conclusion of the Periodic Review, the City Manager shall make written findings and determinations, on the basis of substantial evidence, as to whether or not Developer has complied in good faith with the terms and conditions of this Agreement. The decision of the City Manager shall be appealable to the City Council. If the City Manager finds and determines that Developer has not complied with such terms and conditions, the City Manager may recommend

to the City Council that it terminate or modify this Agreement by giving notice of its intention to do so, in the manner set forth in California Government Code §§ 65867 and 65868. The costs incurred by City in connection with the Periodic Review process described herein shall be shared equally by Developer and City.

(d) Failure to Properly Conduct Periodic Review. If, after thirty (30) days following Developer's notice requesting a Periodic Review, City fails to initiate the Periodic Review, such failure shall be conclusively deemed an approval by City of Developer's compliance with the terms of this Agreement.

(e) Written Notice of Compliance. With respect to any year for which Developer has been determined or deemed to have complied with this Agreement, City shall, within thirty (30) days following a written request by Developer, provide Developer with a written notice of compliance, in recordable form, duly executed and acknowledged by City. Developer shall have the right, in Developer's sole discretion, to record such notice of compliance.

Section 10.04 **Excusable Delay; Extension of Time of Performance**. In addition to specific provisions of this Agreement, neither party shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, terrorism, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities (including new or supplemental environmental regulations), enactment of conflicting State or Federal laws or regulations, or judicial decisions. Neither party shall be deemed to be in default where delays in performance or failure to perform are due to a court order arising out of or related to litigation attacking the validity of this Agreement, the Project Approvals, the Subsequent Approvals, or any permit, ordinance, entitlement or other action of a governmental agency other than City necessary for the development of the Project. Developer shall not be deemed to be in default where delays in performance or failure to perform are due to Developer's inability to obtain materials, power or public facilities (such as water or sewer service) to the Project and unrelated to Developer's actions or inactions and beyond Developer's control. Upon the properly noticed request of either party hereto, as required by Section 12.09, an extension of time for the performance of any obligation whose performance has been so prevented or delayed will be set forth in writing. The term of any such extension shall be equal to the period of the excusable delay, or longer, as may be mutually agreed upon in writing.

Section 10.05 **Legal Action**. Either party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, recover damages for any default, enforce by specific performance the obligations and rights of the parties hereto, or to obtain any remedies consistent with the purpose of this Agreement.

Section 10.06 **California Law**. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

Section 10.07 **Resolution of Disputes**. With regard to any dispute involving development of the Project, the resolution of which is not provided for by this Agreement or Applicable Law, Developer shall, at City's request, meet with City. The parties to any such

meetings shall attempt in good faith to resolve any such disputes. If the parties are then unable to resolve their dispute, either party may commence mediation by providing to JAMS, or its successor, and the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. The parties will cooperate with JAMS and with one another in selecting a mediator from JAMS' panel of neutrals, and in scheduling the mediation proceedings. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator and any JAMS employees, are confidential, privileged and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either party may seek equitable relief prior to the mediation to preserve the status quo pending the completion of that process. Except for such an action to obtain equitable relief, neither party may commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session, or ninety (90) days after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties both agree in writing. The provisions of this Section 10.07 may be enforced by any Court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorney's fees, to be paid by the party against whom enforcement is ordered. Nothing in this Section 10.07 shall in any way be interpreted as requiring that Developer and City and/or City's designee reach agreement with regard to those matters being addressed, nor shall the outcome of these meetings be binding in any way on City or Developer unless expressly agreed to in writing by the parties to such meetings.

Section 10.08 **Attorneys' Fees**. In any legal action or other proceeding brought by either party to enforce or interpret a provision of this Agreement, the prevailing party is entitled to reasonable attorneys' fees and any related other costs incurred in that proceeding in addition to any other relief to which it is entitled.

Section 10.09 **Default by City or Developer**. In the event City or Developer defaults under the terms of this Agreement, City or Developer shall have all rights and remedies provided herein and under law.

ARTICLE XI
NO AGENCY, JOINT VENTURE OR PARTNERSHIP

It is specifically understood and agreed to by and between the parties hereto that unless otherwise expressly provided herein (a) the subject development is a private development; (b) City have no interest or responsibilities for, or duty to, third parties concerning any improvements until such time, and only until such time, that City accepts the same pursuant to the provisions of this Agreement or in connection with the various Project Approvals or Subsequent Approvals; (c) Developer shall have full power over and exclusive control of the Project herein described, subject only to the limitations and obligations of Developer under this Agreement, the Project Approvals, Subsequent Approvals, and Applicable Law; and (d) City

and Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership between City and Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between City and Developer. The City agrees that Developer's obligations under this Agreement related to the construction of Project water, sewer and drainage infrastructure improvements, the grading and construction of traffic improvements, and the grading and construction of any other public improvements (collectively, the "**Public Improvements**") are all public works of improvement the City is requiring as a condition of regulatory approval of the Project and that the Project is an otherwise private development. The City further agrees that it will contribute no more money, or the equivalent of money, to the overall Project than is required to construct the Public Improvements and that City maintain no proprietary interest in the overall Project.

ARTICLE XII
MISCELLANEOUS

Section 12.01 **Incorporation of Recitals and Introductory Paragraph**. The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.

Section 12.02 **Enforceability**. City and Developer agree that unless this Agreement is amended or terminated pursuant to the provisions of this Agreement, this Agreement shall be enforceable by any party hereto notwithstanding any change hereafter enacted or adopted (whether by ordinance, resolution, initiative, or any other means) in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance, or any other land use ordinance or building ordinance, resolution or other rule, regulation or policy adopted by City that changes, alters or amends the rules, regulations and policies applicable to the development of the Project Site at the time of the approval of this Agreement as provided by California Government Code § 65866. In the event of any conflict between the provisions of this Agreement and Applicable Law, the Project Approvals or any Subsequent Approval, this Agreement shall prevail.

Section 12.03 **Findings**. City hereby finds and determines that execution of this Agreement furthers public health, safety and general welfare and that the provisions of this Agreement are consistent with the General Plan.

Section 12.04 **Severability**. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the parties. Notwithstanding the foregoing, if any material provision of this Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable, either City or Developer may (in their sole and absolute discretion) terminate this Agreement by providing written notice of such termination to the other party, subject to the express terms contained herein, including without limitation, Section 9.02.

Section 12.05 **Other Necessary Acts**. Each party shall execute and deliver to the

other all such other further instruments and documents as may be reasonably necessary to carry out the Project Approvals, Subsequent Approvals and this Agreement and to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.

Section 12.06 **Construction**. Each reference in this Agreement to this Agreement or any of the Project Approvals or Subsequent Approvals shall be deemed to refer to the Agreement, Project Approval or Subsequent Approval as it may be amended from time to time, whether or not the particular reference refers to such possible amendment. This Agreement has been reviewed and revised by legal counsel for both City and Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

Section 12.07 **Other Miscellaneous Terms**. The singular shall include the plural; the masculine gender shall include the feminine; "shall" is mandatory; "may" is permissive. If there is more than one signer of this Agreement, the signer obligations are joint and several.

Section 12.08 **Covenants Running with the Land**. All of the provisions contained in this Agreement shall be binding upon the parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of the Project, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law including, without limitation, California Civil Code § 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Project, as appropriate, runs with the Project Site and is binding upon the owner of all or a portion of the Project Site and each successive owner during its ownership of such property.

Section 12.09 **Notices**. Any notice or communication required hereunder between City or Developer must be in writing, and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express or other similar courier promising overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any party hereto may at any time, by giving ten (10) days written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given

to the parties at their addresses set forth below:

If to City, to: City Manager
City of Pittsburg
Civic Center
65 Civic Avenue
Pittsburg, CA 94565-2830

With Copies to: Donna Mooney
City Attorney
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

If to Developer, to: Chief Executive Officer
4080 Mallard Drive
Concord, CA 94520

With Copies to: General Counsel
4080 Mallard Drive
Concord, CA 94520

Odne Law, APC
Attn: Christopher Odne, Esq.
1981 North Broadway, Suite 220
Walnut Creek, CA 94596

Section 12.10 **Entire Agreement, Counterparts and Exhibits**. This Agreement is executed in two (2) duplicate counterparts**,** each of which is deemed to be an original. This Agreement consists of twenty-nine (29) pages and three (3) exhibits, which constitute in full the final and exclusive understanding and agreement of the parties and supersedes all negotiations or previous agreements of the parties with respect to all or any part of the subject matter hereof. All waivers of any provisions of this Agreement shall be in writing and signed by the appropriate authorities of City and Developer. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

EXHIBIT A - Legal Description
EXHIBIT A-1 - Project Site Diagram
EXHIBIT B - Applicable Fees

Section 12.11 **Recordation of Development Agreement**. Pursuant to California Government Code § 65868.5, no later than ten (10) days after City enters into this Agreement, the City Clerk shall record an executed copy of this Agreement, or Memorandum thereof, in the Official Records of the County of Contra Costa. The parties agree to cooperate as to preparation, execution, and recording of a Memorandum hereof.

IN WITNESS WHEREOF, this Agreement has been entered into by and between Developer and City as of the day and year first above written.

CITY OF PITTSBURG, a California municipal corporation

_____
Garrett Evans, City Manager

APPROVED AS TO FORM:

_____
Donna Mooney, City Attorney

Contra Costa Waste Service, Inc., a California Corporation

By: _____
Name:_____
Title: _____

1600 Loveridge, LLC, A California limited liability company

By: _____
Name:_____
Title: _____

Kirker Creek Business Park, LLC, A California limited liability company

By: _____
Name:_____
Title: _____

EXHIBIT A

LEGAL DESCRIPTION

All that real property situated in the City of Pittsburg, County of Contra Costa, State of California, described as follows:

Parcel “A” of Parcel Map MS 28-28, filed September 30, 1988, in Book 136 of Parcel Maps at page 1, Contra Costa County Records.

APN 073-200-013

Parcel “B” of Parcel Map MS 28-28, filed September 30, 1988, in Book 136 of Parcel Maps at page 1, Contra Costa County Records.

APN 073-200-014

Parcel “C” of Parcel Map MS 28-28, filed September 30, 1988, in Book 136 of Parcel Maps at page 1, Contra Costa County Records.

APN: 073-200-015

Parcel 4, as said Parcel is shown on the “Parcel Map MS 676-18 2907 Pittsburg-Antioch Highway”, filed May 7, 2018 in Book 213 of Maps at Pages 49, 50 in the official records of the County of Contra Costa.

APN: 073-200-026

Parcel 3, as said Parcel is shown on the “Parcel Map MS 676-18 2907 Pittsburg-Antioch Highway”, filed May 7, 2018 in Book 213 of Maps at Pages 49, 50 in the official records of the County of Contra Costa.

APN: 073-200-027

Parcel 2, as said Parcel is shown on the “Parcel Map MS 676-18 2907 Pittsburg-Antioch Highway”, filed May 7, 2018 in Book 213 of Maps at Pages 49, 50 in the official records of the County of Contra Costa.

APN: 073-200-028

Parcel 1, as said Parcel is shown on the “Parcel Map MS 676-18 2907 Pittsburg-Antioch Highway”, filed May 7, 2018 in Book 213 of Maps at Pages 49, 50 in the official records of the County of Contra Costa.

APN: 073-200-029

EXHIBIT A-1

PROJECT SITE DIAGRAM

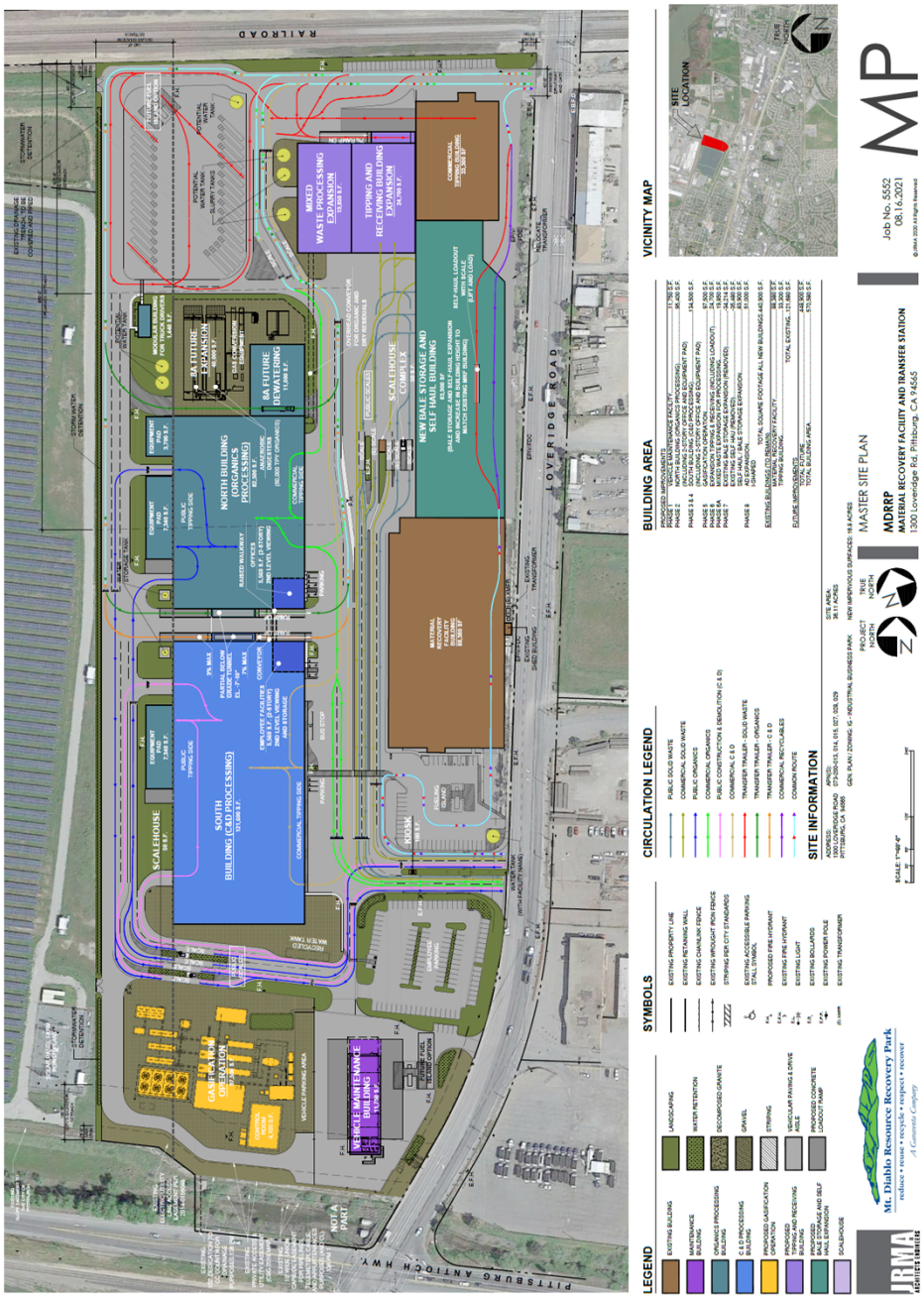

EXHIBIT B

APPLICABLE FEES

	FEE DESCRIPTION	UNIT	FEE
1	Grading Plan Review	Per Engineer's Estimate	2.5% of Engineer's Estimate
2	Grading Inspection	Per Engineer's Estimate	3% of Engineer's Estimate
3	Plan Check - Single Parcel (Acreage)	Per Engineer's Estimate	7% of Engineer's Estimate
4	Inspection - Single Parcel (Acreage)	Per Engineer's Estimate	6.75% of Engineer's Estimate
5	Bacteriological Testing - first	Each request	$228
6	Bacteriological Testing - additional	Each request	$76
7	Geographical Information System (Commercial)	Per Unit + sq. ft.	$110.00/Unit plus $0.06/sq. ft.
8	NPDES processing fee 10,000 sf to 1 acre or Risk Factor 1	Flat Fee	$3,756
9	NPDES processing fee projects >1 acre Risk 2 or 3	Flat Fee Plus Per Unit	$3,755.57 plus $137.71/acre up to 5 acres and $31.30/ac over 5 acres
10	NPDES Inspection Risk Factor 1	Actual Cost	Actual Cost with $15,000 deposit
11	NPDES Inspection Risk Factor 2 and 3	Actual Cost	Actual Cost with $30,000 deposit
12	Local Transportation Mitigation Fee*	Per square foot of gross floor area	$1.83
13	Regional Transportation Mitigation Fee*	Per square foot of gross floor area	$1.76
14	Water Facility Reserve Fee**	Qty and size of water meter	$9,764.00

* Traffic Mitigation fees increase each January 1st by CCI

** Water Facility Reserve Fees increase each November 1st by CCP

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution to Authorize Appropriation of Measure M Funds to Park and Street Projects

MEETING DATE: October 4, 2021

EXECUTIVE SUMMARY

The City Council approved the FY 2021-22 City Operating Budget with approximately $1 million from Measure M sales tax revenues set aside for projects in the City's parks and road repairs. If approved, the resolution will authorize the appropriation of these funds among eight projects identified by the Finance Subcommittee.

FISCAL IMPACT

The resolution will provide $1,028,829 for 11 park and street maintenance and construction projects identified on the Project Appropriation List attached to the report. These funds include $480,000 unexpended Measure M funds from FY 2020-21 and $750,000 set aside from FY 2021-22. This is an eligible use for Measure M sales tax funds.

RECOMMENDATION

City Council approve the resolution authorizing appropriation of $1,028,829 from Measure M revenues among various park and street projects as identified on the Project Appropriation List attached to this report.

BACKGROUND

On June 21, 2021, the City Council approved Resolution 21-13942, approving the FY 2021-22 City Operating Budget. The resolution includes the following provision: "Measure M funds in reserve in FY 2020-21 shall be reallocated as follows: $750 thousand to Streets and $250 thousand to Economic Development. Any Measure M appropriations unused at the end of FY2020-21 will be committed for future appropriations for Measure M projects and activities."

Funds intended for parks and street maintenance projects but unused at the end of FY 2020-21 total $480,000. Funds available from this source for parks and street maintenance identified for FY 2021-22 total $750,000.

Public Works staff has identified two park maintenance projects and nine street maintenance projects proposed to receive these funds, consistent with input and direction from the Finance Subcommittee and reviewed by the Measure M Citizen Oversight Committee.

SUBCOMMITTEE FINDINGS

This item was discussed by the Finance Subcommittee during its reviews of the City's Operating Budget for FY 2020-21.

STAFF ANALYSIS

In 2012, the City faced decreasing revenues, including a 26 percent decrease in sales and property taxes since 2008, amounting to a loss of approximately $2.6 million annually. In addition, the costs to provide essential city services to residents continued to increase.

To avoid reductions in vital City services, the City Council placed Measure P on the June 5, 2012 ballot to temporarily increase the City's sales tax. Pittsburg's voters approved Measure P and the City began collecting the new sales tax beginning in October 2012.

An election to extend Measure P was placed upon the June 2016 ballot, referred to as Measure M and approved by voters. The measure identified public safety, gang prevention, job creation, Senior Center operations, road repairs, youth programs and maintaining other City services to receive the funds from the sales tax.

Each year, the Measure M Citizens Oversight Committee reviews staff's budget plan to verify funds are used consistent with requirements of the ballot measures and make recommendations to the City Council for future uses of these revenues.

Projects identified to receive the appropriations include park maintenance at Oak Hills, DeAnza and Larry Lasater Parks and exercise stations at De Anza Park; maintenance of medians and right-of-way areas; sidewalk replacement; resurfacing public parking lots; road striping and pavement maintenance. A detailed project list is attached to this report.

ATTACHMENTS: Project Appropriation List
Resolution

Report Prepared By: Jill Hecht, Deputy City Manager

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

A Resolution Appropriating Measure M) RESOLUTION NO. 21-
Sales Tax Funds to Parks and Street)
Maintenance Projects)

WHEREAS, On June 21, 2021, the City Council approved Resolution 21-13942, approving the Fiscal Year (FY) 2021-22 City Operating Budget; and

WHEREAS, the Resolution provided for reallocation of $750,000 from Measure M funds held in reserve in FY 2020-21 to streets maintenance and for Measure M appropriations unused at the end of FY 2020-21 to be committed for future appropriations for Measure M projects and activities; and,

WHEREAS, Funds intended for parks and street maintenance projects but unused at the end of FY 2020-21 total $480,000, and for FY 2021-22 total $750,000, for a combined requested appropriation of $1,028,829; and,

WHEREAS, consistent with direction from the City Council's Finance Subcommittee and recommendations from the Measure M Citizens Oversight Committee, staff identified 11 park and street maintenance projects to receive these funds for FY 2021-22; and,

WHEREAS, a list of requested Project Appropriations is appended to the staff report accompanying this resolution.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Pittsburg hereby approves the appropriation of $1,028,829 in Measure M funds to Parks and Street Maintenance Projects as identified on the Project Appropriation List.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 4th day of October, 2021, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

_____
Merl Craft, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

Project Number	Project Title	2020-21 Appropriation	Unexpended Funds Remaining	2021-22 Appropriation	Proposed Project Balance
3001	Measure M-Park Maint. (OakHills, DeAnza, Lasater)	$0	$0	$100,000	$100,000
3016	Measure M-De Anza Park Exercise Stations	$15,000	$15,000	$0	$15,000
2002	Measure M-LS Median & Row Maint. & Rejuv	$100,000	$100,000	$100,000	$100,000
2003	Measure M-Sidewalk Replacement	$10,000	$10,000	$50,000	$60,000
2030	Measure M-Striping	$25,000	$25,000	$50,000	$70,000
2031	Measure M-Crack Seal	$25,000	$25,000	$100,000	$125,000
2032	Measure M-Parking Lot Resurfacing	$75,000	$75,000	$0	$75,000
2033	Measure M-Rubberized Cape Seal	$0	$0	$150,000	$150,000
2034	Measure M-Pavement Repairs	$35,000	$35,000	$100,000	$135,000
2035	Measure M-Road Maint. Preparation	$120,000	$23,829	$100,000	$123,829
2036	Measure M-Willow Pass Rd On-Ramp	$75,000	$75,000	$0	$75,000
	TOTAL	**$480,000**		**$750,000**	**$1,028,829**