

City of Carpinteria
City Council Regular Meeting Agenda
Monday, October 24, 2016
Council Chamber, 5775 Carpinteria Avenue
5:30 p.m. Regular Session

INFORMATION ABOUT CITY COUNCIL MEETINGS:

- The time at which an item on the agenda is scheduled to be heard is an estimate only. The City Council may consider and act on an agenda item in any order it deems appropriate. In addition, an item may be considered earlier or later than the Estimated Time, depending on the length of time which is devoted to other agenda items. All persons interested in an item listed on the agenda are advised to be present throughout the meeting to ensure that they are present when the item is called.
- The regular meeting will be broadcast live over Government Access Television Channel 21 and rebroadcast on Wednesday at 8:00 p.m. and Saturday at 5:00 p.m. Live webstreaming of regular meetings is also available at <http://carpinteria.ca.us> under Government.
- Materials related to an Agenda item submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office at 5775 Carpinteria Avenue, Carpinteria, during normal business hours. Such documents are also available on the City of Carpinteria website at www.carpinteria.ca.us subject to staff's ability to post the documents before the meeting.
- Any written or printed material and/or exhibits presented at a City Council meeting or work session become the property of the City.
- Any information presented to the City Council by the public on any agenda item and during Public Comment using electronic media to be displayed on the overhead projector must be arranged with staff for review of materials in advance of the meeting and no later than close of business Wednesday prior to the Council meeting.
- As a courtesy to others and to avoid interference with the public address system, please refrain from using cell phones in the Council Chambers and please turn off all audible pagers and rings.
- If you wish to speak on a matter scheduled for consideration in a closed session, you will have an opportunity to address the City Council before the Council retires to its closed session deliberations.

**ESTIMATED
TIME:**

5:30 p.m. **CALL TO ORDER**

5:30 p.m. **ROLL CALL**

5:31 p.m. **PLEDGE OF ALLEGIANCE**

5:31 p.m. **INTRODUCTIONS, PROCLAMATIONS AND PRESENTATIONS**

5:31 p.m. **PUBLIC INFORMATION REPORTS AND ANNOUNCEMENTS**

5:32 p.m. **CITY MANAGER'S REPORT**

The City Manager will report to the City Council regarding various City and/or community events and/or matters of interest. There will be no City Council discussion except to ask questions or refer matters to staff; and no action will be taken unless listed on a subsequent agenda.

5:35 p.m. **PRESENTATIONS BY CITIZENS/PUBLIC COMMENT**

This is a time for public comments on matters not otherwise on the agenda but within the subject matter jurisdiction of the City Council. The Public Comment period is limited to 15 minutes and divided among those persons desiring to speak. No person shall speak longer than three minutes; however, the Mayor may establish shorter periods based on the time available and/or the number of persons waiting to speak. Persons wishing to speak on a specific item will be recognized at the time the agenda item is considered.

Please be aware that items on the consent calendar are considered to be routine and are normally enacted by one unanimous vote of the Council. If you wish to speak on a consent calendar item, or on a matter scheduled for consideration in a closed session at the end of the agenda, please do so during the Presentations by Citizens/Public Comment portion of the meeting.

The City and the City Council are not responsible for the content of statements made during the public comment period, or the factual accuracy of any such statements.

AGENDA MODIFICATIONS: The City Council may modify the regular agenda by tabling items, adding urgency items to the agenda or changing

the order in which items are considered. Changes to the Consent Calendar are considered at the time the Consent Calendar is considered.

5:50 p.m.

CONSENT CALENDAR: Individual items may be removed and considered separately at the request of a Councilmember. Any item, which is removed from the Consent Calendar, will be added to the end of the agenda under Other Business.

1. Approve the minutes of the regular meeting held October 10, 2016.
2. Receive and file the Expenditures Report for the period beginning October 5, 2016 and ending October 18, 2016.
3. Receive and file the Quarterly Review of Investment Results and Certifications Concerning Compliance with Investment Policy and Cash Flow Needs for the next six months.
4. Ratify Certificate of Commendation to Peter Chamlee for achieving the highest advancement in Scouting, the Eagle Award.
5. Receive and file the Report of Contracts Executed by the City Manager on behalf of the City for the Period of September 17, 2016 through October 15, 2016.
6. Adopt Resolution No. 5692, declaring certain City owned vehicles and vehicle parts listed in Exhibit A of the Staff Report as surplus assets and authorizing their disposal, as read by title only.

5:51 p.m.

ADMINISTRATIVE MATTERS: None

5:51 p.m.

PUBLIC HEARINGS: None

5:51 p.m.

OTHER BUSINESS:

5:51 p.m.

7. Bob Hansen Creeks Preservation Program Annual Report

Recommendation: Receive a presentation on City efforts to protect and restore City creek resources as part of the Bob Hansen Creeks Preservation Program.

Staff presenter: Nick Bobroff, Senior Planner

- a. Staff Report
- b. Public Comment
- c. City Council Determination

- 6:06 p.m. 8. Agreement with BSN Construction Inc. for the Completion of City Maintenance Project No. 15027-3, Linden Avenue Concrete Repair Phase 3

Recommendation: Approve and authorize the City Manager to sign the agreement with BSN Construction Inc. for the completion of City Maintenance Project No. 15027-3, Linden Avenue Concrete Repair Phase 3.

Staff presenter: Charles W. Ebeling, Public Works Director

- a. Staff Report
- b. Public Comment
- c. City Council Determination

- 6:20 p.m. 9. Ordinance No. 712, an Urgency Ordinance Establishing Regulations Pertaining to the Cultivation of Nonmedical Marijuana for Personal Use, and Ordinance No. 713, an Ordinance Establishing Regulations Pertaining to the Cultivation of Nonmedical Marijuana for Personal Use, Pursuant to Proposition 64, known as the Control, Regulate and Tax Adult Use of Marijuana Act

Recommendation: 1. Approve and adopt Ordinance No. 712, as read by title only; and 2. Approve Ordinance No. 713, on first reading as read by title only, and schedule a second reading for the meeting of November 14, 2016, should voters approve the AUMA.

Staff presenter: Dave Durflinger, City Manager

- a. Staff Report
- b. Public Comment
- c. City Council Determination

- 7:00 p.m. **LEGISLATIVE UPDATE:** The City Council will discuss local, state and/or federal legislation under consideration and decide whether to direct staff to place a matter(s) on a future City Council agenda for consideration.

7:05 p.m. **COMMITTEE REPORTS, INQUIRIES AND OTHER MATTERS
PRESENTED BY COUNCILMEMBERS**

Informational reports from Councilmember representatives on the committees, commissions and organizations listed below. This is also an

opportunity for Councilmembers to request information from staff or seek support from fellow Councilmembers for future agenda items.

1. Representatives to Regional Agencies and Committees
 - a. Beach Erosion Authority for Clean Oceans and Nourishment (BEACON) (Shaw/Alt. Carty)
 - b. California Joint Powers Insurance Authority (CJPIA) (Clark/Alt. Shaw)
 - c. Channel Counties Division, League of California Cities (Nomura/Alt. Shaw)
 - d. Santa Barbara County Association of Governments (SBCAG)(Clark/Alt. Nomura)
 - e. Santa Barbara County Air Pollution Control District (APCD)(Clark/Alt. Nomura)
 - f. Santa Barbara Joint Housing Task Group (Carty & Shaw)
 - g. Central Coast Collaborative on Homelessness (C3H) (Clark)
 - h. South Coast Task Force on Youth Safety Leadership and Executive Council (Carty & Clark)
2. Joint and Standing Committees
 - a. City Council/Chamber of Commerce Board of Directors Committee (Carty & Nomura)
 - b. City Council/Public Safety Committee (Clark & Shaw)
 - c. City Council/School Board Committee (Stein & Carty)
 - d. City Council/Utilities Committee (Stein & Nomura)
 - e. City Council/First District Supervisor Committee (Stein & Carty)
 - f. City Council Finance/Budget Committee (Stein & Clark)
3. Ad Hoc Committees
 - a. Public Facility Site Acquisition/Development Committee (Carty & Nomura)
 - b. Transportation Committee (Stein & Shaw)
 - c. Joint City Council / Planning Committee General Plan and Coastal Plan Update Committee (Stein & Clark)
 - d. Housing Assistance Benefit Committee (Stein & Nomura)
4. City Representatives on other Committees
 - a. Community Media Access Center (Gary Dobbins)
 - b. Santa Barbara Coastal Vector Control District (Ronald Hurd)

- c. Santa Barbara Metropolitan Transit District (Chuck McQuary)

7:10 p.m. **ATTENDANCE OF COUNCILMEMBERS FOR FUTURE MEETINGS**

7:10 p.m. **ADJOURNMENT**

The next regular meeting to be held on **Monday, November 14, 2016** at **5:30 P.M.**, in the Council Chamber, City Hall, 5775 Carpinteria Avenue, Carpinteria, California.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at 755-5405 or the California Relay Service at (866) 735-2929. Notification 2 business days prior to the meeting will enable the City to make reasonable arrangements for accessibility to this meeting.

This agenda was posted on Wednesday, October 19, 2016, in the City Clerk's Office, on the City Hall Public Notices Board, and on the Internet.

**City of Carpinteria
City Council Minutes
Regular Meeting
Council Chamber
Monday, October 10, 2016**

CALL TO ORDER

Mayor Carty called the meeting to order at 5:30 p.m.

ROLL CALL

Councilmembers present:

Councilmember Al Clark
Councilmember Wade Nomura
Vice Mayor Fred Shaw
Mayor Gregg A. Carty

Councilmember J. Bradley Stein was absent.

Staff members present:

Dave Durlinger, City Manager
Dylan Johnson on behalf of Brownstein Hyatt Farber Schreck, LLP, acting as City
Attorney of the City of Carpinteria
Fidela Garcia, City Clerk
Silvia Echeverria, Code Compliance Supervisor
Charles Ebeling, Public Works Director
Matt Roberts, Parks and Recreation Director
Matt Maechler, Civil Engineer

PLEDGE OF ALLEGIANCE

All present were led in the salute to the flag by Mayor Carty.

INTRODUCTIONS, PROCLAMATIONS AND PRESENTATIONS: None

PUBLIC INFORMATION REPORTS AND ANNOUNCEMENTS: None

CITY MANAGER'S REPORT

- Congratulations to Mayor Carty and the Avocado Festival Boardmembers for another successful festival.

- Information regarding the freeway construction project is available on www.sbroads.com. Information includes the status of Linden Avenue/Casitas Pass Road Interchanges Project and the extension of Via Real over Carpinteria Creek, construction staging and vegetation clearing, and the temporary closure of the bike path. Residents may also sign up for construction updates on the website.
- The City Council and members of the community received a letter today from the California Department of Food and Agriculture to announce an upcoming meeting and the status of their attempts to eradicate the Asian Citrus Psyllid (ACP), which affects citrus trees and has been found in the area. A more extension application of various pesticides will be used to fight ACP. ACP spreads a disease that can kill citrus trees. The meeting will be held on October 13, 2016, from 5:30 p.m. to 7:00 p.m., at the Pacific Graduate Institute in Santa Barbara. For additional information, residents may contact David Pegos at (916) 654-0317 or the Pest Hotline at (800) 491-1899.
- At a prior City Council Meeting there were public speakers who expressed concerns related to criminal activity near the Santa Monica neighborhood and the Sheriff's Department provided a brief response. According to Lt. Perkins the Sheriff's Department is working on gathering additional information requested by the City Council, which includes rumors that parolees are being dropped off in Carpinteria, vouchers are being given for motel stays in that particular area, and crime statistics for the neighborhood surrounding the Santa Monica and Via Real intersection. A report is expected to be presented to the City Council in November.

PRESENTATIONS BY CITIZENS/PUBLIC COMMENT:

Michael Baker, Chief Executive Officer for United Boys and Girls Club, echoed the comments made regarding the successful Avocado Festival. He noted that he previously reported on the importance of children coming to the Boys and Girls Club. He stated that a national survey done on Boys and Girls Clubs showed that a child that attends a Boys and Girls Club 105 times in a calendar year is twice as likely to graduate high school on time with a plan for the future and lead a healthy life style. He noted that the Boys and Girls Club adopted a program called "Club 105", and children who enroll are given a purple membership card. He stated that when children attend 52 days they receive a silver membership card, which gives them special privileges. He also stated that when children attend 105 days they are given a gold card, which gives them additional privileges. He thanked Councilmember Nomura for attending the recent Gold Card Ceremony. He noted that as of today they have 66 children who have achieved 105 days in attendance this calendar year. He stated that they have since created a new blue card category for children who have achieved 200 days attendance. He noted that two children from the Carpinteria Club are nearing blue card status: Angel Gutierrez who has attended 192 days and Desmond Canfield who has attended 190 days. He stated that he has worked with the Boys and Girls Club for 29 years and this is the best staff he has ever worked with in his career. He encouraged the City Council to help

support an event to recognize the children at a City Council meeting. The City Council expressed support for Mr. Baker's suggestion. Councilmember Nomura commended Mr. Baker on his efforts to bring children to the Boys and Girls Club.

AGENDA MODIFICATION: None.

CONSENT CALENDAR

Motion by Vice Mayor Shaw, seconded by Councilmember Nomura, to approve the Consent Calendar.

Upon voice vote, Councilmember Clark, Councilmember Nomura, Vice Mayor Shaw, and Mayor Carty were in favor. Councilmember Stein was absent. Motion carried.

1. Approve the minutes of the regular meeting held September 26, 2016.
2. Receive and file the Expenditures Report for the period beginning September 21, 2016 and ending October 4, 2016.

ADMINISTRATIVE MATTER: None

PUBLIC HEARING: None

OTHER BUSINESS:

3. Request for the Issuance of a Letter of Public Convenience or Necessity (PCN), to California Department of Alcoholic Beverage Control (ABC), for a Type 42 Bar-Tavern License at 5080 Carpinteria Avenue, Sunburst Winery

Recommendation: Staff recommends that the Council make a determination as to whether approval of the requested license to operate a new bar/tavern within the City serves the public's convenience or necessity.

Silvia Echeverria, Code Compliance Supervisor, presented the staff report.

Sara Smith, Carpinteria resident, spoke in support of issuing the license to Sunburst Winery. She noted that she is also a Realtor in the City servicing property sales and vacation rentals management, and one of the most common questions she receives from visitors and buyers is why there are empty commercial buildings on Linden Avenue and Carpinteria Avenue. She stated that Ryan Moore has demonstrated how to run a successful business in town and he and his wife, Ashley, have the creative and organization skills to make that building a success. She also stated that a winery would be a good fit in that area.

Jason Lesh, owner of The Farm Cart located across the street from the proposed Sunburst Winery, stated that he agreed with Ms. Smith's comments. He also stated that he and his wife appreciated the opportunity they have been given to run The Farm Cart in that area. He noted that they receive many comments from visitors and local residents saying that it is nice to see new, younger businesses in that area of Carpinteria. He stated that he believed that the wine tasting room would be very effective and would not create a nuisance, it would be enjoyable, and it would bring some revenue to the other businesses in the area. He encouraged the City Council to approve the request. He stated that as a young businessperson the one thing that is difficult is being able to navigate the hurdles and being able to pay for many of the fees.

Vice Mayor Shaw addressed Mr. Moore and inquired whether he was planning on having an outdoor patio at this location. Mr. Moore responded that his proposed plans include an outdoor seating area set back with a planter. Vice Mayor Shaw inquired whether Mr. Moore was planning on having some form of entertainment in the evening such as a guitar player. Mr. Moore responded that he plans on having similar entertainment such as he has at the coffee shop with mostly acoustic music.

Motion by Councilmember Clark, seconded by Councilmember Nomura, to approve Public Convenience or Necessity (PCN), to California Department of Alcoholic Beverage Control (ABC), for a Type 42 Bar-Tavern License at 5080 Carpinteria Avenue, Sunburst Winery.

Upon voice vote, Councilmember Clark, Councilmember Nomura, Vice Mayor Shaw, and Mayor Carty were in favor. Councilmember Stein was absent. Motion carried.

4. Authorization to Issue Purchase Orders for Site Furnishing and to Seek Bids to Complete the Community Garden Project

Recommendation: Authorize the City Manager to issue purchase orders for park furnishings and to seek public bids from qualified contractors to complete the improvements as shown on the Community Garden Plan set pursuant to Public Contract Code §20164.

Matt Roberts, Parks and Recreation Director, presented the staff report and PowerPoint presentation.

Vice Mayor Shaw inquired regarding security measures to keep people from taking vegetables and fruit from the garden. Mr. Roberts responded that there would be a few security features built in such as fencing and night lighting.

Councilmember Nomura inquired regarding how close they were to the two-year funding timing sequence. Mr. Roberts responded that a large portion of the funding for this project was coming from a grant from the State under the Environmental Enhancement Mitigation Program, which is tied to the loss of agricultural-related Linden

Avenue/Casitas Pass Road Interchanges Project. He noted that the grant contract goes until 2018, and the City agreed to complete this project by June 2017.

Mayor Carty inquired whether the grant would cover all of the costs. Mr. Roberts responded that some of the project costs would not be covered by the grant, and staff proposes that Park Improvement Funds be used for the costs that are not covered.

Councilmember Nomura inquired whether the plots would create revenue to offset operating expenses. Mr. Roberts responded that the intention would be to collect a small monthly or quarterly rental fee less than \$10 per plot.

Mayor Carty inquired whether the cultivation of marijuana would be allowed at this location should Proposition 64 pass. Mr. Roberts responded that staff had not discussed whether they needed a regulation for this; however, this could be dealt with administratively under the park rules.

Councilmember Nomura inquired who would be in charge of maintenance. Mr. Roberts responded that a maintenance program had not yet been completely defined; however, it was expected that there would be some ongoing maintenance costs and there would be revenues to offset expenses through park rental fees. He stated that staff hopes to identify and hire a Park Coordinator from money received through the Linden Avenue/Casitas Pass Road Interchanges Project and form a Steering Committee to help coordinate volunteers

Harry Manurus stated that he and his wife, Patty, visited San Francisco's community garden last week. He noted that the community garden currently has 106 people on the waiting list and it could take seven years to secure a plot. He stated that security concerns seem to take care of themselves, and community gardens enhance the neighborhood and brings the spirit of cooperation.

Motion by Vice Shaw, seconded by Councilmember Clark, to authorize the City Manager to issue purchase orders for park furnishings and to seek public bids from qualified contractors to complete the improvements as shown on the Community Garden Plan set pursuant to Public Contract Code §20164.

Upon voice vote, Councilmember Clark, Councilmember Nomura, Vice Mayor Shaw, and Mayor Carty were in favor. Councilmember Stein was absent. Motion carried.

5. A Report on City Options for Responding to Proposition 64, known as the Adult Use of Marijuana Act, on the Ballot for Consideration by California Voters on the November 8, 2016 Election.

Determine which option is desired and direct staff accordingly.

Dave Durflinger, City Manager, presented the staff report.

Dylan Johnson on behalf of Brownstein Hyatt Farber Schreck, LLP, acting as City Attorney of the City of Carpinteria presented the current medical marijuana use under State law and current City regulations for the cultivation and delivery of medical marijuana within the City. He stated that if Proposition 64 passes, marijuana for recreational use would be legalized and commercial activities and personal use would be authorized. He also stated that tonight the City Council would consider the personal use of marijuana because that would become immediately legal under State law on November 9 if the proposition passes. He reviewed the proposed State regulations for personal use and commercial activities as outlined in the staff report.

Mr. Durflinger reviewed the general options outlined in the staff report.

Vice Mayor Shaw inquired regarding impacts to water use if people start to cultivate marijuana. He also inquired whether people may start to cultivate marijuana prior to November 9 should the City Council not adopt a ban prohibiting outdoor cultivation of nonmedical marijuana for personal use and regulations on indoor cultivation for personal use. Dylan Johnson on behalf of Brownstein Hyatt Farber Schreck, LLP, acting as City Attorney of the City of Carpinteria responded that staff had not looked into water impacts for to cultivation of marijuana. He noted that personal use is defined as no more than six plants per residence and he would not know how much water would be needed to cultivate these plants. He addressed the question regarding whether dispensaries would immediately begin operating on November 9 and stated that unless a dispensary is a medical marijuana dispensary, a dispensary of recreational use marijuana would not be permitted to begin to operate until it has a State license. He noted that the State would not begin to issue licenses until 2018, and the City Council would have the authority to prohibit that. He addressed the question regarding outdoor cultivation and stated that on November 9, if the City Council chooses not to prohibit or regulate cultivation of recreational marijuana, then any person in the City would be allowed to cultivate up to six marijuana plants effective November 9.

Vice Mayor Shaw inquired who would be the City's point person to enforce any City regulations. Mr. Durflinger responded that this would depend on the regulations themselves. He stated that if the City Council establishes basic regulations it would likely be a complaint-based system or nuisance provisions that would fall under the City's Code Compliance Division.

There were no Public Comments.

Mayor Carty stated that one of his main concerns was for the youth in the community and exposing them to marijuana cultivation. He also stated that the City needed to have some type of regulation. He inquired regarding the legal age to cultivate marijuana. Dylan Johnson on behalf of Brownstein Hyatt Farber Schreck, LLP, acting as City Attorney of the City of Carpinteria responded that people would have to be at least 21 years old. Mayor Carty expressed concern that the City may be encouraging youth to

use marijuana when it is in everyone's backyard and he would not be in favor of that because he believed the City should have some type of regulation. He also expressed concern with traffic, security, theft, public nuisance, security dogs and noise, and proximity to school bus stops. He suggested that the City Council should get as much information as possible and set something in place before November 8.

Vice Mayor Shaw suggested that the prudent thing with Mayor Carty's concerns would be an absolute ban on any outdoor cultivation before November 9. Mayor Carty stated that he was convinced that the proposition would pass and that he sees nothing wrong with residents cultivating marijuana in their backyard if it is legal to do so. He expressed his preference that marijuana be cultivated outdoors rather than indoors.

Councilmember Clark inquired whether the proposition establishes the legal age for recreational marijuana use. Dylan Johnson on behalf of Brownstein Hyatt Farber Schreck, LLP, acting as City Attorney of the City of Carpinteria responded that the legal age would be over 21.

Councilmember Nomura noted that the decision would be made by the voters; however, he agreed with Option C for staff to prepare and bring back for the Council's consideration proposed regulations prohibiting outdoor cultivation of nonmedical marijuana for personal use and regulations on indoor cultivation for personal use.

Vice Mayor Shaw inquired if the City Council were to direct staff on Option C whether there would be a ban on outdoor cultivation until the City Council decides on a final regulation. Dylan Johnson on behalf of Brownstein Hyatt Farber Schreck, LLP, acting as City Attorney of the City of Carpinteria responded that this would basically be correct in that the City Council could adopt an outdoor cultivation of marijuana prohibition at this time and leave the issue of regulating indoor cultivation. He noted that Option C would prohibit outdoor cultivation and regulate indoor cultivation; however, the City Council could contemplate an interim measure for outdoor cultivation and see how things go then reconsider options later. He noted that there was always the option of a moratorium rather than adopting actual regulations. He also noted that the City of Santa Barbara recently adopted a moratorium for commercial activities. He stated that Option A would direct staff to prepare for the City Council's consideration regulations prohibiting outdoor cultivation of nonmedical marijuana for personal use.

Mayor Carty expressed concern that regulations would be impossible to enforce and that he did not believe the City would be able to enforce banning cultivation in backyards. He suggested limiting the amount of plants that people may cultivate.

Councilmember Clark agreed with Mayor Carty. He stated that if the voters approve this proposition the people would be looking for unfettered ability for personal use and cultivation and he did not want to get in their way. He also stated that he was not convinced that marijuana is the big bad evil thing. He also stated that they could say there is potential for crime or people under 21 getting access to marijuana. He

suggested that some outdoor regulations would be fine, but he would not want to ban cultivation indoors or outdoors or place regulations for indoor cultivation. He also suggested that the City Council take a wait and see approach for outdoor use and see how other jurisdictions react. He stated that he did not favor any of the options presented.

Mayor Carty inquired whether the City could limit outdoor cultivation to less than six plants. Dylan Johnson on behalf of Brownstein Hyatt Farber Schreck, LLP, acting as City Attorney of the City of Carpinteria responded that there was nothing in the law that would prevent the City Council from limiting the amount of plants allowed because the City Council has discretion and authority to completely prohibit it.

Councilmember Clark inquired should the City place a limit to two plants outdoors whether a person could grow four plants indoors. Dylan Johnson on behalf of Brownstein Hyatt Farber Schreck, LLP, acting as City Attorney of the City of Carpinteria responded that this would likely be correct.

Vice Mayor Shaw inquired whether the City Council should place a moratorium to see what happens. Dylan Johnson on behalf of Brownstein Hyatt Farber Schreck, LLP, acting as City Attorney of the City of Carpinteria responded that there was a fourth option to regulate outdoor cultivation. He noted that there was nothing that would prevent the City from adopting regulations or prohibitions as allowed by the AUMA next year or the year after. He stated that the reason some cities are taking a conservative approach in regulating now is that once under general land use law cities allow a use to begin in a person's property, the person could claim that they have used their property for several years to grow marijuana and now they have a conforming use and they could say they have a right to continue using their property for this use.

Councilmember Nomura suggested allowing staff to continue exploring what other jurisdictions are doing and bring back information to the City Council.

Mayor Carty inquired whether there was anything the City Council could put in place for the day after the election. Dylan Johnson on behalf of Brownstein Hyatt Farber Schreck, LLP, acting as City Attorney of the City of Carpinteria responded that options could be adopting a moratorium or a prohibition of outdoor cultivation, which could take effect immediately. He stated that staff could bring this back to the City Council for consideration at the next meeting and the moratorium could take effect immediately on an urgency basis. He noted that the other option would be placing regulations on indoor cultivation, which could also take effect immediately on an urgency basis. He stated that the enacting clause could say it goes into effect November 9 if the proposition passes on November 8.

Mr. Durlinger stated that staff's recommendation would be for the City Council to make a threshold decision tonight. He noted that staff was seeking direction on whether the City Council wanted regulations drafted and if so staff would bring this back at the next

meeting. He also stated that the proposed ordinance would be structured to go into effect only if the proposition passes.

Dylan Johnson on behalf of Brownstein Hyatt Farber Schreck, LLP, acting as City Attorney of the City of Carpinteria stated that an urgency ordinance would become effective without the need to have a second reading and without the 30 day waiting period between the second reading and the effective date.

Mayor Carty stated that the youth in the community was his biggest concern and that he was not against cultivation for personal use.

Mr. Durflinger stated that if the primary concern is people under 21 being exposed to marijuana and the promotion of theft and illicit access to marijuana, the City Council could include fundamental regulations such as no cultivation in front yards or areas that are viewable from public streets rights-of-way, and growing areas need to be secure with minimum fencing and self-latching gates.

Mayor Carty stated that he would be in favor of simpler regulations.

Vice Mayor Shaw commented that the City Council agreed that indoor cultivation is not the issue and that they were concerned with security of outdoor cultivation.

Motion by Vice Mayor Shaw, seconded by Councilmember Nomura, to direct staff to look into Option D for the next Council meeting to prepare for Council consideration regulations on outdoor and indoor cultivation of nonmedical marijuana for personal use.

Councilmember Clark stated that he was not in favor of indoor regulations. He also stated that he had a general interest in regulating outdoor cultivation and that he saw no harm in tabling this for six months. Vice Mayor Shaw inquired whether it would be possible for staff to bring back possible regulations for both indoor and outdoor cultivation so that the City Council may discuss at the next meeting. Councilmember Clark responded that he had already decided on indoor cultivation.

Upon voice vote, Councilmember Nomura, Vice Mayor Shaw, and Mayor Carty were in favor. Councilmember Clark was opposed. Councilmember Stein was absent. Motion carried.

Mr. Durflinger noted that there was discussion regarding outdoor regulation and an interest by Mayor Carty in keeping the regulations minimal. He stated that what was not discussed was characterizing the level of regulation for indoor cultivation. He inquired whether there was the same interest in keeping it minimal to achieve the goals for youth access. Mayor Carty responded that this was correct and that he wanted staff to look into this a little closer.

6. Contract with Avila & Associates, Inc. for Professional Engineering Services for the Linden Avenue and Casitas Pass Road Interchanges Project

Recommendation: Authorize the City Manager to execute an agreement for professional engineering services with Avila and Associates, Inc. for additional engineering services necessary to prepare FEMA floodplain revision documents.

Councilmember Nomura recused himself from this item due to geographic proximity. He stepped down from the dais and exited the Council Chamber at 7:15 p.m.

Charlie Ebeling, Public Works Director, presented the staff report.

Councilmember Clark expressed concern with the risk that the project would not move forward. Mr. Ebeling responded that given that the City is working with FEMA the City was in a good position for FEMA to approve the Letter of Map Revision (LOMR) and end City expenditures. He stated that staff would continue to work as hard as possible with FEMA to complete this work.

There were no Public Comments.

Motion by Vice Mayor Shaw, seconded by Councilmember Clark, to authorize the City Manager to execute an agreement for professional engineering services with Avila and Associates, Inc. for additional engineering services necessary to prepare FEMA floodplain revision documents.

Mayor Carty inquired whether FEMA representatives had visited the City. Mr. Ebeling responded that FEMA representatives from the national office and from the Oakland office have visited the City extensively.

Upon voice vote, Councilmember Clark, Vice Mayor Shaw, and Mayor Carty were in favor. Councilmember Nomura and Councilmember Stein were absent. Motion carried.

Councilmember Nomura returned to the Council Chamber at 7:22 p.m.

7. Amendment to the Measure A Cooperative Agreement for the Carpinteria Children's Project at Main School Sidewalk Infill Project

Recommendation: Approve and authorize the Mayor to sign the Amendment to the Measure A Cooperative Agreement for the Carpinteria Children's Project at Main School Sidewalk Infill Project.

Matt Maechler, Civil Engineer, presented the staff report and PowerPoint presentation.

Mayor Carty inquired regarding the ADA improvements to be done on the driveway and sidewalk. Mr. Maechler responded that there would be a couple of different alternatives

and staff would coordinate with the contractor to decide the preferred alternative to either go behind the driveway apron or through the apron. He stated that the contractor would use Caltrans standard plans, which provide a number of different alternatives. Mayor Carty inquired whether this was required for all new driveway aprons in the city. Mr. Maechler responded that it would be in compliance with the ADA Transition Plan to bring all pedestrian pathways into ADA compliance.

Unidentified speaker addressed the previous item regarding Proposition 64 and inquired what could be done to discourage youth from using marijuana. Dave Durflinger, City Manager, suggested that the City Council invite her back to the next Council meeting where that topic would be discussed in more detail.

Motion by Vice Mayor Shaw, seconded by Councilmember Clark, to approve and authorize the Mayor to sign the Amendment to the Measure A Cooperative Agreement for the Carpinteria Children's Project at Main School Sidewalk Infill Project.

Upon voice vote, Councilmember Clark, Councilmember Nomura, Vice Mayor Shaw, and Mayor Carty were in favor. Councilmember Stein was absent. Motion carried.

LEGISLATIVE UPDATE:

Dave Durflinger, City Manager, reported that the Governor had signed or vetoed all the bills for the legislative session. He noted that in the September 23 issue of *The Advocate* there was reference to SB 272 regarding making certain records available regarding enterprise systems. He explained that these are software systems that cities use and if someone needed to access a record they would need to have that software system to read or access the system. He stated that cities are required to post these enterprise systems on their websites. He also stated that the City had complied with the best of its ability.

Vice Mayor Shaw asked Mr. Durflinger to address AB 1217 regarding Orange County Fire Authority that established a legal precedent for State interference in joint powers authorities, and SB 1069 that prohibits local agencies from imposing parking standards on units that are within a half mile of public transit. Mr. Durflinger responded that AB 1217 was signed. He stated that staff would need to look into SB 1069, which he believed was connected to bonus density law. He noted that the City has had projects where developers propose to use bonus density law to go over the maximum number of units that are allowed per acre on a piece of property; however, cities could then place certain conditions on that request. He stated that this bill indicates that one of those conditions would not include the number of parking spaces and the developer would be preempted from that so they could have more units with less parking. He also stated that the idea with the transit connection is that these residents would use public transit and they would not need to have a car. He also stated that if parking were not available perhaps these residents would be discouraged from having a car.

COMMITTEE REPORTS, INQUIRIES AND OTHER MATTERS PRESENTED BY COUNCILMEMBERS

Vice Mayor Shaw reported that he and Councilmember Nomura attended the League of California Cities Annual Conference last week. He noted that he attended sessions on what Planning Directors wish the Council knew at the dais. He also noted that one of the things that occur is that the City Council receives many acronyms and people are unaware of the meaning of these acronyms. He stated that Public Works Director Charlie Ebeling is very good in preparing his staff reports in defining acronyms. He noted that he also attended a session on Uber and AirBNB. He stated that the Police Chief from Lafayette started an initiative called "Don't feed the bears" and posters were installed throughout the city. He also stated that burglaries had decreased 20 percent. He also reported that he attended a session regarding medical marijuana.

Councilmember Nomura reported that he attended AB 1234 Ethics Training, sessions regarding homelessness and bringing the community together to offer youth programs, a presentation on housing needs, and a presentation regarding engaging youth in cities by holding a summer session for four to five weeks where the youth can job shadow and work with city staff and Councilmembers. He noted that 80 percent of participants are female students. He also reported that he attended a session on the benefits of social media. He noted there were 500 to 600 people in attendance and City Clerk Fidela Garcia also attended the City Clerks session.

Mayor Carty stated that during the Avocado Festival Lt. Mike Perkins participated in the juggling contests. He noted that many residents were impressed that the Sheriff's Department was involved in the Avocado Festival. Deputy Adam Alegria stated that the Sheriff's Department was pleased there were no issues during the Avocado Festival.

ATTENDANCE OF COUNCILMEMBERS FOR FUTURE MEETINGS

All Councilmembers are expected to be in attendance at the October 24, 2016 City Council meeting.

ADJOURNMENT

The meeting was adjourned at 7:42 p.m. by Mayor Carty.

Gregg A. Carty, Mayor

ATTEST:

Fidela Garcia, CMC, City Clerk



City of Carpinteria

COUNCIL AGENDA STAFF REPORT October 24, 2016

ITEM FOR COUNCIL CONSIDERATION

Expenditures for the period beginning October 5, 2016 and ending October 18, 2016.

STAFF RECOMMENDATION

Action Item ____ ; Non-Action Item X

That the City Council accept this report concerning the current list of warrants pursuant to Carpinteria Municipal Code 2.08.150(F).

DISCUSSION

As part of each regular City Council agenda, a list of all checks (attached) dispersed since the last reporting period is presented to the City Council pursuant to C.M.C. 2.08.150(F). The report is provided for City Council and public information and serves as Staff's verification that the expenditures have been reviewed and are within budgeted appropriations.

FINANCIAL CONSIDERATIONS

The warrant register included as an attachment is designed to communicate fiscal activity since the prior reporting period. No action is requested as part of this report.

ATTACHMENTS

Attachment A: Warrant Register for the period beginning October 5, 2016 and ending October 18, 2016.

Staff contact: Monique Epley, Finance Supervisor
(805) 684-5405 ext. 406

moniquee@ci.carpinteria.ca.us


Signature

Reviewed by: John Thornberry, Admin. Services Director



Signature

Reviewed by: Dave Durflinger, City Manager



Signature

4:07 PM

10/18/16

CITY OF CARPINTERIA

Warrant Register

October 5 - 18, 2016

Date	Num	Name	Source Name	Memo	Account	Paid Amount
10/05/16	89051	49ER COMMUNICATIONS, INC	49ER COMMUNICA...	IN38323	1000101 - Operating Cash 10	
09/15/16	IN38323		49ER COMMUNICA...	EMERGENCY RADIOS	2531304 - Radio Maintenance/Rep...	(995.00)
TOTAL						(995.00)
10/05/16	89052	AG ENT INC	AG ENT INC		1000101 - Operating Cash 10	
09/13/16	16254		AG ENT INC	BF TEST	2361221 - Miscellaneous Contracts	(227.81)
09/13/16	16217		AG ENT INC	BF TEST	2361221 - Miscellaneous Contracts	(45.00)
09/13/16	16216		AG ENT INC	BF TEST	2361221 - Miscellaneous Contracts	(85.00)
09/13/16	16219		AG ENT INC	BF TEST	2361221 - Miscellaneous Contracts	(45.00)
09/14/16	16255		AG ENT INC	BF TEST	2361221 - Miscellaneous Contracts	(1,037.31)
TOTAL						(1,440.12)
10/05/16	89053	ALL AROUND LANDSCAPE SUPPLY	ALL AROUND LAN...		1000101 - Operating Cash 10	
07/19/16	S1893798.001		ALL AROUND LAND...	PW SUPPLIES	2531308 - Supplies & Materials 31	(40.80)
09/08/16	S1906360.001		ALL AROUND LAND...	LINDEN	2361221 - Miscellaneous Contracts	(53.20)
09/08/16	S1906321.001		ALL AROUND LAND...	POOL	4866308 - Supplies & Materials 66	(36.84)
09/09/16	S1906594.001		ALL AROUND LAND...	POOL	4866308 - Supplies & Materials 66	(55.47)
TOTAL						(186.31)
10/05/16	89054	BAY ALARM	BAY ALARM	ACCOUNT 544852	1000101 - Operating Cash 10	
09/15/16	5448521609...		BAY ALARM	MONITORING SERVICE FEE	4866308 - Supplies & Materials 66	(186.75)
TOTAL						(186.75)
10/05/16	89055	BOB TRAUTZ LAND DEV CO, INC	BOB TRAUTZ LAND...		1000101 - Operating Cash 10	
08/27/16	4947		BOB TRAUTZ LAND...	COMMUNITY GARDEN GRANT	2000261 - Deferred Revenue 20	(1,118.00)
09/02/16	4948		BOB TRAUTZ LAND...	COMMUNITY GARDEN GRANT	2000261 - Deferred Revenue 20	(1,118.00)
09/02/16	4949		BOB TRAUTZ LAND...	COMMUNITY GARDEN GRANT	2000261 - Deferred Revenue 20	(607.50)
09/09/16	4951		BOB TRAUTZ LAND...	COMMUNITY GARDEN GRANT	2000261 - Deferred Revenue 20	(391.30)
09/19/16	4952		BOB TRAUTZ LAND...	COMMUNITY GARDEN GRANT	2000261 - Deferred Revenue 20	(2,564.53)
TOTAL						(5,799.33)
10/05/16	89056	CARPINTERIA STATE BEACH	CARPINTERIA STA...	20160925-B	1000101 - Operating Cash 10	
09/27/16	20160925-B		CARPINTERIA STA...	2016 TRIATHLON	4863300 - Triathlon Expense	(1,974.00)
TOTAL						(1,974.00)
10/05/16	89057	CENTER GLASS COMPANY *	CENTER GLASS C...	16196	1000101 - Operating Cash 10	
08/22/16	16196		CENTER GLASS CO...	CITY HALL DOORS	3100231 - DIF Gen'l Facilities	(4,068.00)

4:11 PM

10/18/16

CITY OF CARPINTERIA

Warrant Register

October 5 - 18, 2016

Date	Num	Name	Source Name	Memo	Account	Paid Amount
TOTAL						(4,068.00)
10/05/16	89058	CHALLENGE ASPHALT INC	CHALLENGE ASPH...	5076	1000101 · Operating Cash 10	
09/09/16	5076		CHALLENGE ASPH...	LSTP CARP 09	2000261 · Deferred Revenue 20	(13,800.00)
			CHALLENGE ASPH...	LSTP CARP 09	2079275 · Public Work Grants	(13,800.00)
TOTAL						(27,600.00)
10/05/16	89059	CLASSIC CAR WASH	CLASSIC CAR WASH	AUGUST 2016	1000101 · Operating Cash 10	
10/03/16	AUGUST 20...		CLASSIC CAR WASH	AUGUST 2016	1013307 · Vehicle Oper & Maintena...	(85.00)
TOTAL						(85.00)
10/05/16	89060	COAST OFFICE TECHNOLOGY	COAST OFFICE TE...	5003	1000101 · Operating Cash 10	
09/01/16	5003		COAST OFFICE TE...	COMPUTER SUPPORT	1018220 · System Administration	(3,833.75)
TOTAL						(3,833.75)
10/05/16	89061	COASTAL VIEW NEWS	COASTAL VIEW NE...		1000101 · Operating Cash 10	
09/02/16	48774		COASTAL VIEW NE...	CREEK WEEK	3937308 · Supplies & Materails 37	(314.00)
09/06/16	48717		COASTAL VIEW NE...	OIL PAYMENT PROGRAM	2000261 · Deferred Revenue 20	(248.00)
09/16/16	48740		COASTAL VIEW NE...	CERT TRAINING	1024303 · Printing & Advertising 24	(248.00)
09/16/16	48749		COASTAL VIEW NE...	TRIATHLON	4863300 · Triathlon Expense	(314.00)
09/23/16	48789		COASTAL VIEW NE...	CREEK WEEK	3937308 · Supplies & Materails 37	(546.00)
09/29/16	48832		COASTAL VIEW NE...	LEGAL NOTICES	1011303 · Printing & Advertising 11	(560.00)
TOTAL						(2,230.00)
10/05/16	89062	COCA-COLA BOTTLING COMPANY OF SOU...	COCA-COLA BOTT...	8647365	1000101 · Operating Cash 10	
09/03/16	0095155422		COCA-COLA BOTTL...	SODA PURCHASES FOR RESALE @ POOL	4866350 · Supplies for Resale	(85.56)
TOTAL						(85.56)
10/05/16	89063	CRAFCO INC	CRAFCO INC	00430268	1000101 · Operating Cash 10	
09/13/16	00430268		CRAFCO INC	STREETS	2531308 · Supplies & Materials 31	(2,073.90)
TOTAL						(2,073.90)
10/05/16	89064	DIVERSIFIED INSPECTIONS	DIVERSIFIED INSP...	268663	1000101 · Operating Cash 10	
09/23/16	268663		DIVERSIFIED INSP...	EQUIPMENT SAFETY INSPECTION	2531307 · Vehicle Oper & Maintena...	(268.98)
TOTAL						(268.98)

4:07 PM

10/18/16

CITY OF CARPINTERIA

Warrant Register

October 5 - 18, 2016

Date	Num	Name	Source Name	Memo	Account	Paid Amount
10/05/16	89065	DURFLINGER, DAVID	DURFLINGER, DAVID	CELL PHONE REIMBURSEMENT	1000101 · Operating Cash 10	
10/01/16			DURFLINGER, DAVID	CELL PHONE REIMBURSEMENT	1012308 · Supplies & Materials 12	(65.00)
TOTAL						(65.00)
10/05/16	89066	EASY LIFT TRANSPORTATION	EASY LIFT TRANSP...	INVOICE 6279	1000101 · Operating Cash 10	
10/01/16			EASY LIFT TRANSP...	CLAIM PER CONTRACT FOR AUGUST	2734221 · Easy Lift/CART 27	(1,000.00)
TOTAL						(1,000.00)
10/05/16	89067	FIRST BANKCARD	FIRST BANKCARD	0570	1000101 · Operating Cash 10	
09/26/16	0570		FIRST BANKCARD	COMPUTER SUPPLIES	1070417 · Computer Hardware	(3,596.95)
			FIRST BANKCARD	PW SUPPLIES	3845222 · Marketing/Project Carpin...	(737.00)
TOTAL						(4,333.95)
10/05/16	89068	FLORES REYES, ANGELA	FLORES REYES, A...	DEPOSIT REFUND	1000101 · Operating Cash 10	
10/05/16	DEPOSIT R...		FLORES REYES, A...	DEPOSIT REFUND	1000231 · Veterans Building Depos...	(300.00)
TOTAL						(300.00)
10/05/16	89069	GRACENOTE	GRACENOTE	0689124	1000101 · Operating Cash 10	
10/01/16	0689124		GRACENOTE	PROJ 4863 GATV LISTING	1000251 · Development Deposits	(61.50)
TOTAL						(61.50)
10/05/16	89070	HD SUPPLY FACILITIES MAINTENANCE LTD	HD SUPPLY FACILI...	9148705266	1000101 · Operating Cash 10	
09/08/16	9148705266		HD SUPPLY FACILI...	CITY HALL	1013224 · Interior Maintenance	(356.96)
TOTAL						(356.96)
10/05/16	89072	LARSON, RON	LARSON, RON	INVOICE 2016-005	1000101 · Operating Cash 10	
10/05/16	2016-005		LARSON, RON	2016 TRIATHLON	4863300 · Triathlon Expense	(851.14)
TOTAL						(851.14)
10/05/16	89073	LAWSON PRODUCTS INC	LAWSON PRODUC...	9304358472	1000101 · Operating Cash 10	
09/09/16	9304358472		LAWSON PRODUC...	GENERAL SHOP SUPPLIES	2531307 · Vehicle Oper & Maintena...	(308.06)
TOTAL						(308.06)
10/05/16	89074	MARANTETTE, WALLY	MARANTETTE, WA...	TRIATHLON 2016	1000101 · Operating Cash 10	

4:11 PM

10/18/16

CITY OF CARPINTERIA

Warrant Register

October 5 - 18, 2016

Date	Num	Name	Source Name	Memo	Account	Paid Amount
10/05/16	2016 TRIAT...		MARANTETTE, WA...	2016 CARP TRIATHLON	4863300 · Triathlon Expense	(1,650.00)
TOTAL						(1,650.00)
10/05/16	89075	MEDEL, PAUL	MEDEL, PAUL	CELL PHONE REIMBURSEMENT	1000101 · Operating Cash 10	
10/01/16			MEDEL, PAUL	CELL PHONE REIMBURSEMENT	2531308 · Supplies & Materials 31	(65.00)
TOTAL						(65.00)
10/05/16	89076	MICHAEL GREASBY	MICHAEL GREASBY	2016 TRIATHLON	1000101 · Operating Cash 10	
10/05/16	2016 TRIAT...		MICHAEL GREASBY	2016 TRIATHLON	4863300 · Triathlon Expense	(600.00)
TOTAL						(600.00)
10/05/16	89077	MISSION UNIFORM SERVICE	MISSION UNIFORM ...	SEPTEMBER 2016 UNIFORM	1000101 · Operating Cash 10	
09/30/16	SEPT 2016 ...		MISSION UNIFORM ...	UNIFORM EXPENSE	2531198 · Uniform Rental 31	(139.10)
			MISSION UNIFORM ...	UNIFORM EXPENSE	3332198 · Uniform Rental 32	(139.10)
			MISSION UNIFORM ...	UNIFORM EXPENSE	1013198 · Uniform Rental 13	(69.55)
			MISSION UNIFORM ...	UNIFORM EXPENSE	2361198 · Uniform Rental 61	(69.55)
TOTAL						(417.30)
10/05/16	89078	ORGANISTA, MATT	ORGANISTA, MATT	REIMBURSEMENT	1000101 · Operating Cash 10	
10/05/16	REIMBURS...		ORGANISTA, MATT	REIMBURSEMENT RENTAL VAN	4868308 · Supplies & Materials 68	(748.83)
TOTAL						(748.83)
10/05/16	89079	PACIFIC PLUMBING SPECIALITIES	PACIFIC PLUMBIN...	1503-0	1000101 · Operating Cash 10	
09/07/16	1503-0		PACIFIC PLUMBING...	VIOLA	2361221 · Miscellaneous Contracts	(47.90)
TOTAL						(47.90)
10/05/16	89080	PRIESTMAN ELECTRIC	PRIESTMAN ELECT...	6801	1000101 · Operating Cash 10	
09/09/16	6801		PRIESTMAN ELECT...	961 LINDEN	2923225 · Public Right of Way Ligh...	(582.03)
TOTAL						(582.03)
10/05/16	89081	PROFESSIONAL WASH CENTER	PROFESSIONAL W...		1000101 · Operating Cash 10	
04/04/16	8612		PROFESSIONAL W...	ROW BANNERS	3332308 · Supplies & Materials 32	(18.75)
09/21/16	8674		PROFESSIONAL W...	BANNERS	3332308 · Supplies & Materials 32	(31.25)
TOTAL						(50.00)

4:07 PM

10/18/16

CITY OF CARPINTERIA

Warrant Register

October 5 - 18, 2016

Date	Num	Name	Source Name	Memo	Account	Paid Amount
10/05/16	89082	SANTA BARBARA PEST CONTROL	SANTA BARBARA ...	77465	1000101 · Operating Cash 10	
09/15/16	77465		SANTA BARBARA P...	RODENT CONTROL	3332223 · Chemical Treatment	(1,370.00)
TOTAL						(1,370.00)
10/05/16	89083	SATCOM GLOBAL FZE	SATCOM GLOBAL ...	542545	1000101 · Operating Cash 10	
09/01/16	542545		SATCOM GLOBAL F...	IRIDIUM TRADE-UP	1024215 · Disaster Preparedness	(42.75)
TOTAL						(42.75)
10/05/16	89084	SB TIMING LLC	SB TIMING LLC	2016 TRIATHLON TIMING	1000101 · Operating Cash 10	
09/25/16	2016 TRIAT...		SB TIMING LLC	TRIATHLON TIMING	4863300 · Triathlon Expense	(3,000.00)
TOTAL						(3,000.00)
10/05/16	89085	SOUTHERN CALIFORNIA SWIMMING	SOUTHERN CALIF...	SBSC SWIM MEET	1000101 · Operating Cash 10	
10/05/16	SBSC SWIM...		SOUTHERN CALIFO...	SBSC SWIM MEET	4868308 · Supplies & Materials 68	(148.00)
TOTAL						(148.00)
10/05/16	89086	STAPLES ADVANTAGE	STAPLES ADVANT...		1000101 · Operating Cash 10	
08/31/16	3313535003		STAPLES ADVANT...	CITY HALL	1013224 · Interior Maintenance	(86.38)
09/10/16	3314503902		STAPLES ADVANT...	PW SUPPLIES	2531308 · Supplies & Materials 31	(325.84)
TOTAL						(412.22)
10/05/16	89087	STRADLING YOCCA CARLSON & RAUTH	STRADLING YOCC...	314117-0001	1000101 · Operating Cash 10	
09/27/16	314117-0001		STRADLING YOCCA...	MISC EMPLOYMENT MATTERS	1072211 · Personnel Services	(1,540.50)
TOTAL						(1,540.50)
10/05/16	89088	THE BOTTOM LINE	THE BOTTOM LINE	9363	1000101 · Operating Cash 10	
09/30/16	9363		THE BOTTOM LINE	QUICKBOOKS CONSULTING	1018220 · System Administration	(700.00)
TOTAL						(700.00)
10/05/16	89089	THE STORAGE PLACE	THE STORAGE PLA...	10275	1000101 · Operating Cash 10	
10/03/16	10275		THE STORAGE PLA...	OFFSITE STORAGE RENTAL	1013221 · Miscellaneous Contracts ...	(335.00)
			THE STORAGE PLA...	LATE FEE	1013221 · Miscellaneous Contracts ...	(10.00)
TOTAL						(345.00)
10/05/16	89090	TORRES, ALBERT	TORRES, ALBERT	CELL PHONE REIMBURSEMENT	1000101 · Operating Cash 10	

4:11 PM

10/18/16

CITY OF CARPINTERIA

Warrant Register

October 5 - 18, 2016

Date	Num	Name	Source Name	Memo	Account	Paid Amount
10/01/16			TORRES, ALBERT	CELL PHONE REIMBURSEMENT	1022308 · Supplies & Materials 22	(65.00)
TOTAL						(65.00)
10/05/16	89091	USA TRIATHLON	USA TRIATHLON	2016 CARPINTERIA TRIATHLON	1000101 · Operating Cash 10	
10/05/16	2016 TRIAT...		USA TRIATHLON	CARPINTERIA TRIATHLON 2016	4863300 · Triathlon Expense	(435.00)
TOTAL						(435.00)
10/05/16	89092	VENCO POWER SWEEPING INC	VENCO POWER SW...	INVOICE 0045191-IN	1000101 · Operating Cash 10	
09/15/16			VENCO POWER S...	STREET SWEEPING SERVICE	2531227 · Street Sweeping	(3,318.60)
TOTAL						(3,318.60)
10/05/16	89093	VENCO WESTERN INC	VENCO WESTERN I...	2500785-IN	1000101 · Operating Cash 10	
08/31/16	2500785-IN		VENCO WESTERN I...	LINDEN FIELD	2361221 · Miscellaneous Contracts	(1,233.79)
TOTAL						(1,233.79)
10/05/16	89094	VILLAGE POOL SUPPLY	VILLAGE POOL SU...	ACCOUNT #C159	1000101 · Operating Cash 10	
09/23/16	27477		VILLAGE POOL SUP...	POOL	4866338 · Chemicals	(116.80)
TOTAL						(116.80)
10/05/16	89095	ZEE MEDICAL SERVICE CO	ZEE MEDICAL SER...	CUSTOMER # 2310	1000101 · Operating Cash 10	
07/27/16	34151784		ZEE MEDICAL SER...	FIRST AID SUPPLIES	2531308 · Supplies & Materials 31	(224.32)
TOTAL						(224.32)
10/05/16	89096	ALL AROUND LANDSCAPE SUPPLY	ALL AROUND LAN...		1000101 · Operating Cash 10	
09/13/16	S1907396.001		ALL AROUND LAND...	SHOP SUPPLIES	2531308 · Supplies & Materials 31	(56.07)
09/13/16	S1907390.001		ALL AROUND LAND...	SHOP SUPPLIES	2531308 · Supplies & Materials 31	(56.07)
09/13/16	S1907287.001		ALL AROUND LAND...	SHOP SUPPLIES	2531308 · Supplies & Materials 31	(9.47)
09/14/16	S1907666.001		ALL AROUND LAND...	COMMUNITY GARDEN GRANT	2000261 · Deferred Revenue 20	(31.07)
09/14/16	S1907520.001		ALL AROUND LAND...	COMMUNITY GARDEN GRANT	2000261 · Deferred Revenue 20	(55.39)
TOTAL						(208.07)
10/05/16	89097	BIG GREEN CLEANING COMPANY	BIG GREEN CLEAN...		1000101 · Operating Cash 10	
09/14/16	482908		BIG GREEN CLEANI...	ROW	3332221 · Miscellaneous Contracts ...	(288.00)
09/14/16	482911		BIG GREEN CLEANI...	CARP CREEK	3937302 · Environmental Services	(416.00)
09/14/16	482907		BIG GREEN CLEANI...	BEACHES	2861225 · Marsh Park Maintenance	(118.90)
			BIG GREEN CLEANI...	ROW	3332221 · Miscellaneous Contracts ...	(237.70)

4:07 PM

10/18/16

CITY OF CARPINTERIA

Warrant Register

October 5 - 18, 2016

Date	Num	Name	Source Name	Memo	Account	Paid Amount
			BIG GREEN CLEANI...	PARKS	2361221 · Miscellaneous Contracts	(475.40)
TOTAL						(1,536.00)
10/05/16	89098	DEL OZONE	DEL OZONE		1000101 · Operating Cash 10	
09/13/16	208745		DEL OZONE	POOL	4866223 · Equipment Maintenance ...	(1,387.50)
09/13/16	208744		DEL OZONE	POOL	4866223 · Equipment Maintenance ...	(270.00)
TOTAL						(1,657.50)
10/05/16	89099	DURFLINGER, DAVID	DURFLINGER, DAVID	REIMBURSEMENT	1000101 · Operating Cash 10	
10/03/16	REIMBURS...		DURFLINGER, DAVID	MEETING REIMBURSEMENT	1012306 · Meetings & Travel 12	(51.19)
TOTAL						(51.19)
10/05/16	89100	GRAINGER	GRAINGER		1000101 · Operating Cash 10	
09/12/16	9222508328		GRAINGER	PW SUPPLIES	3332308 · Supplies & Materials 32	(130.45)
09/12/16	9222508336		GRAINGER	PW SUPPLIES	3332308 · Supplies & Materials 32	(35.59)
09/12/16	92202019086		GRAINGER	STREETS	2923225 · Public Right of Way Ligh...	(143.53)
09/12/16	9225893263		GRAINGER	POOL	4866308 · Supplies & Materials 66	(130.45)
TOTAL						(440.02)
10/05/16	89101	HD SUPPLY FACILITIES MAINTENANCE LTD	HD SUPPLY FACILI...		1000101 · Operating Cash 10	
09/13/16	9148825500		HD SUPPLY FACILI...	TRIATHLON	2862308 · Supplies & Materials 62	(99.48)
09/14/16	9148865929		HD SUPPLY FACILI...	TRIATHLON	4863300 · Triathlon Expense	(15.10)
TOTAL						(114.58)
10/05/16	89102	IRONSMITH, INC	IRONSMITH, INC	16760	1000101 · Operating Cash 10	
09/13/16	16760		IRONSMITH, INC	PW SUPPLIES	4179619 · Street Maintenance 79	(5,530.00)
TOTAL						(5,530.00)
10/05/16	89103	LAWSON PRODUCTS INC	LAWSON PRODUC...	9304365468	1000101 · Operating Cash 10	
09/13/16	9304365468		LAWSON PRODUC...	GENERAL SHOP SUPPLIES	3332308 · Supplies & Materials 32	(53.78)
TOTAL						(53.78)
10/05/16	89104	MAC BROWN EXCAVATING INC	MAC BROWN EXCA...		1000101 · Operating Cash 10	
09/14/16	6347		MAC BROWN EXCA...	COMMUNITY GARDEN GRANT	2000261 · Deferred Revenue 20	(17,550.00)
09/14/16	6346		MAC BROWN EXCA...	COMMUNITY GARDEN GRANT	2000261 · Deferred Revenue 20	(2,350.00)
TOTAL						(19,900.00)

4:11 PM

10/18/16

CITY OF CARPINTERIA
Warrant Register
 October 5 - 18, 2016

Date	Num	Name	Source Name	Memo	Account	Paid Amount
10/05/16	89105	MARANTETTE, WALLY	MARANTETTE, WA...	REIMBURSEMENT	1000101 · Operating Cash 10	
10/05/16	REIMBURS...		MARANTETTE, WA...	TRIATHLON REIMBURSEMENT	4863300 · Triathlon Expense	(325.10)
TOTAL						(325.10)
10/05/16	89106	SO CA EDISON	SO CA EDISON		1000101 · Operating Cash 10	
09/27/16	2-19-146-8248		SO CA EDISON	9TH STREET	2923220 · Street Lighting	(40.38)
09/27/16	2-17-070-7434		SO CA EDISON	1 CARP AVE	2923220 · Street Lighting	(57.49)
09/28/16	2-14-791-5870		SO CA EDISON	101 ASH AVE	2923220 · Street Lighting	(116.21)
09/28/16	2-22-684-6459		SO CA EDISON	100 LINDEN	2923220 · Street Lighting	(29.54)
09/29/16	2-32-832-7564		SO CA EDISON	PROJ 4865	1000251 · Development Deposits	(1,095.71)
			SO CA EDISON	VETS HALL	4865309 · Misc Operating Expense...	(539.67)
09/29/16	2-30-652-4281		SO CA EDISON	SEASIDE	4865309 · Misc Operating Expense...	(67.03)
09/30/16	2-26-504-7225		SO CA EDISON	CARP AVE	2923220 · Street Lighting	(24.34)
TOTAL						(1,970.37)
10/05/16	89107	STAPLES ADVANTAGE	STAPLES ADVANT...		1000101 · Operating Cash 10	
09/11/16	3314621813		STAPLES ADVANT...	OFFICE SUPPLIES	1013308 · Supplies & Materials 13	(193.10)
09/14/16	3314724325		STAPLES ADVANT...	OFFICE SUPPLIES	1013308 · Supplies & Materials 13	(982.78)
09/14/16	3314724327		STAPLES ADVANT...	OFFICE SUPPLIES	1013308 · Supplies & Materials 13	(77.70)
09/14/16	3314724323		STAPLES ADVANT...	CITY HALL	1013224 · Interior Maintenance	(280.21)
09/14/16	3314724324		STAPLES ADVANT...	MOVIES IN THE PARK	2531308 · Supplies & Materials 31	(49.12)
09/15/16	3314845738		STAPLES ADVANT...	CITY HALL	1013224 · Interior Maintenance	(156.30)
09/15/16	3314845735		STAPLES ADVANT...	STREETS	2531308 · Supplies & Materials 31	(147.36)
TOTAL						(1,886.57)
10/05/16	89108	VENCO WESTERN INC	VENCO WESTERN I...	INVOICE #0151048-IN	1000101 · Operating Cash 10	
09/24/16	0151048-IN		VENCO WESTERN I...	ROW	3332221 · Miscellaneous Contracts ...	(1,793.19)
			VENCO WESTERN I...	CITY HALL	1013225 · Grounds Maintenance	(742.10)
			VENCO WESTERN I...	PROJ 4865	1000251 · Development Deposits	(221.26)
			VENCO WESTERN I...	VETS HALL	4865220 · Grounds Maintenance 65	(108.66)
			VENCO WESTERN I...	POOL	4866220 · Grounds Maintenance 66	(221.73)
			VENCO WESTERN I...	ROW	3323220 · Parking Lot Landscape	(211.19)
			VENCO WESTERN I...	PARKS	2361225 · Park Maintenance 61	(4,523.56)
TOTAL						(7,821.69)
10/05/16	89109	BOB TRAUTZ LAND DEV CO, INC	BOB TRAUTZ LAND...	4950	1000101 · Operating Cash 10	
09/08/16	4950		BOB TRAUTZ LAND...	BEACH PLATFORMS	2862308 · Supplies & Materials 62	(411.42)
TOTAL						(411.42)
10/06/16	89110	CLASSIC CAR WASH	CLASSIC CAR WASH	OCTOBER 2016 1	1000101 · Operating Cash 10	

4:07 PM

10/18/16

CITY OF CARPINTERIA

Warrant Register

October 5 - 18, 2016

Date	Num	Name	Source Name	Memo	Account	Paid Amount
10/06/16	OCTOBER 2...		CLASSIC CAR WASH	OCTOBER 2016	1013307 · Vehicle Oper & Maintena...	(68.00)
TOTAL						(68.00)
10/12/16	89111	76 FLEET SERVICES	76 FLEET SERVICES	47071517	1000101 · Operating Cash 10	
09/22/16	47071517		76 FLEET SERVICES	VEHICLE FUEL	3332307 · Vehicle Oper & Maintena...	(168.86)
			76 FLEET SERVICES	VEHICLE FUEL	2531307 · Vehicle Oper & Maintena...	(38.59)
			76 FLEET SERVICES	VEHICLE FUEL	1013307 · Vehicle Oper & Maintena...	(101.57)
TOTAL						(309.02)
10/12/16	89112	ACCESS CONTROL SECURITY, INC.	ACCESS CONTROL...	0024559	1000101 · Operating Cash 10	
09/21/16	0024559		ACCESS CONTROL...	VETS HALL SECURITY	4848352 · VETS HALL RENTALS	(153.30)
TOTAL						(153.30)
10/12/16	89113	AERIOCONNECT	AERIOCONNECT	841861	1000101 · Operating Cash 10	
10/03/16	841861		AERIOCONNECT	DSL MONTHLY SERVICE CHARGE - NOVEMBE...	1018222 · Equipment Maintenance	(66.06)
TOTAL						(66.06)
10/12/16	89114	ALL AROUND LANDSCAPE SUPPLY	ALL AROUND LAN...		1000101 · Operating Cash 10	
09/16/16	S1908168.001		ALL AROUND LAND...	COMMUNITY GARDEN GRANT	2000261 · Deferred Revenue 20	(21.66)
09/16/16	S1908049.001		ALL AROUND LAND...	COMMUNITY GARDEN GRANT	2000261 · Deferred Revenue 20	(45.37)
TOTAL						(67.03)
10/12/16	89115	ALLEN ASSOCIATES	ALLEN ASSOCIATES	PROJECT 5572 REFUND	1000101 · Operating Cash 10	
10/10/16	PROJ 5572 ...		ALLEN ASSOCIATES	PROJECT 5572 REFUND	1000251 · Development Deposits	(2,780.00)
TOTAL						(2,780.00)
10/12/16	89116	CARPINTERIA STATE BEACH	CARPINTERIA STA...	FY 16-17 STATE BEACH RECEIPTS	1000101 · Operating Cash 10	
09/26/16	FY 16-17 FE...		CARPINTERIA STA...	FY 16-17 BEACH FEES	2323103 · STATE DAY USE PAR...	(43,858.98)
TOTAL						(43,858.98)
10/12/16	89117	COASTAL VIEW NEWS	COASTAL VIEW NE...		1000101 · Operating Cash 10	
10/07/16	48899		COASTAL VIEW NE...	PET ADS	1047303 · Printing & Advertising 47	(50.00)
10/07/16	48881		COASTAL VIEW NE...	OIL PAYMENT PROGRAM	2000261 · Deferred Revenue 20	(248.00)
TOTAL						(298.00)
10/12/16	89118	COUNTY OF SANTA BARBARA	COUNTY OF SANTA...	FY 15-16 PROGRAM	1000101 · Operating Cash 10	

4:11 PM

10/18/16

CITY OF CARPINTERIA

Warrant Register

October 5 - 18, 2016

Date	Num	Name	Source Name	Memo	Account	Paid Amount
10/07/16	15-16 PROG...		COUNTY OF SANTA...	FY 15-16 PROGRAM - PHARMACEUTICALS	3937308 · Supplies & Materails 37	(950.59)
TOTAL						(950.59)
10/12/16	89119	COX COMMUNICATIONS	COX COMMUNICAT...	001-3011-022093901	1000101 · Operating Cash 10	
10/01/16	0013011022...		COX COMMUNICATI...	INTERNET SERVICES	1018222 · Equipment Maintenance	(132.00)
TOTAL						(132.00)
10/12/16	89120	DIVISION OF THE STATE ARCHITECT	DIVISION OF THE S...	2016 Q3 DISABILITY ACCESS FEES	1000101 · Operating Cash 10	
09/30/16	2016Q3 FEES		DIVISION OF THE S...	2016 Q3 DISABILITY ACCESS FEES	1000262 · Disability Access Fee	(63.90)
TOTAL						(63.90)
10/12/16	89121	DORRANCE WAY GROUP	DORRANCE WAY G...		1000101 · Operating Cash 10	
10/10/16	PROJ 1586 ...		DORRANCE WAY G...	PROJ 1586 REFUND	1000251 · Development Deposits	(34.35)
10/10/16	PROJ 10870...		DORRANCE WAY G...	PROJ 10870 REFUND	1000251 · Development Deposits	(1,418.65)
TOTAL						(1,453.00)
10/12/16	89122	FAITH LUTHERAN CHURCH	FAITH LUTHERAN ...	PROJ 5612 REFUND	1000101 · Operating Cash 10	
10/10/16	PROJ 5612 ...		FAITH LUTHERAN ...	PROJ 5612 REFUND	1000251 · Development Deposits	(944.73)
TOTAL						(944.73)
10/12/16	89123	FIRST BANKCARD	FIRST BANKCARD		1000101 · Operating Cash 10	
09/26/16	1949		FIRST BANKCARD	CODE ENFORCEMENT	1022169 · Uniform Allowance	(287.50)
09/26/16	2142		FIRST BANKCARD	TRIATHLON	4863300 · Triathlon Expense	(133.49)
			FIRST BANKCARD	TRIATHLON	4863300 · Triathlon Expense	(132.00)
			FIRST BANKCARD	CITY HALL	1013224 · Interior Maintenance	(30.10)
			FIRST BANKCARD	TRIATHLON	4863300 · Triathlon Expense	(199.80)
			FIRST BANKCARD	P & R SUPPLIES	1069308 · Supplies & Materials 69	(14.99)
			FIRST BANKCARD	FIRST FRIDAY	4868308 · Supplies & Materials 68	(8.35)
			FIRST BANKCARD	CITY HALL DOORS	1013224 · Interior Maintenance	(58.48)
			FIRST BANKCARD	JR GUARDS AWARDS	4867308 · Supplies & Materials 67	(207.36)
			FIRST BANKCARD	TRIATHLON	4863308 · Special Events Expenses	(1,181.62)
			FIRST BANKCARD	TRIATHLON	4866308 · Supplies & Materials 66	(756.87)
			FIRST BANKCARD	TRIATHLON	4863300 · Triathlon Expense	(82.69)
			FIRST BANKCARD	TRIATHLON	4863300 · Triathlon Expense	(131.73)
			FIRST BANKCARD	FINANCE CHARGES	1069308 · Supplies & Materials 69	(46.36)
			FIRST BANKCARD	TRAVEL MEALS	1016306 · Meetings & Travel 16	(15.38)
			FIRST BANKCARD	CITY HALL	1016312 · Flexible Benefits Admin	(22.02)
			FIRST BANKCARD	CITY HALL	1016312 · Flexible Benefits Admin	(14.66)
			FIRST BANKCARD	PW WATER	3332308 · Supplies & Materials 32	(10.19)
			FIRST BANKCARD	MEETINGS & TRAVEL	1016306 · Meetings & Travel 16	(216.50)
			FIRST BANKCARD	RECRUITING	1016303 · Recruitment Advertising	(651.25)
09/26/16	1438					

4:07 PM

10/18/16

CITY OF CARPINTERIA

Warrant Register

October 5 - 18, 2016

Date	Num	Name	Source Name	Memo	Account	Paid Amount
09/26/16	9259		FIRST BANKCARD	RECRUITING	1016303 · Recruitment Advertising	(24.00)
			FIRST BANKCARD	RECRUITING	1016303 · Recruitment Advertising	(351.00)
			FIRST BANKCARD	RECRUITING	1016303 · Recruitment Advertising	(199.00)
			FIRST BANKCARD	RECRUITING	1016303 · Recruitment Advertising	(30.00)
			FIRST BANKCARD	RECRUITING	1016303 · Recruitment Advertising	(495.00)
			FIRST BANKCARD	CITY HALL	1013308 · Supplies & Materials 13	(91.38)
			FIRST BANKCARD	RECRUITING	1016303 · Recruitment Advertising	(306.41)
			FIRST BANKCARD	SAFETY MEETING	3332308 · Supplies & Materials 32	(145.44)
			FIRST BANKCARD	SAFETY MEETING	3332308 · Supplies & Materials 32	(12.94)
			FIRST BANKCARD	SAFETY MEETING	3332308 · Supplies & Materials 32	(39.07)
			FIRST BANKCARD	SAFETY MEETING	3332308 · Supplies & Materials 32	(264.82)
			FIRST BANKCARD	EBELING SAFETY EQUIPMENT	1030308 · Supplies & Materials 30	(161.98)
			FIRST BANKCARD	TRAINING	1030306 · Meetings & Travel 30	(50.00)
			FIRST BANKCARD	TRAINING	1030306 · Meetings & Travel 30	(50.00)
			FIRST BANKCARD	CREDIT FOR MISAPPLIED PAYMENT	1069308 · Supplies & Materials 69	(57.46)
09/26/16	5544		FIRST BANKCARD	EXECUTIVE MANAGER'S MEETING	1012306 · Meetings & Travel 12	(79.52)
09/26/16	3727		FIRST BANKCARD	CERT	1024308 · Supplies & Materials 24	(135.40)
			FIRST BANKCARD	CERT	1024308 · Supplies & Materials 24	(149.94)
			FIRST BANKCARD	CERT CONFERENCE	1024306 · Meetings & Travel 24	(613.02)
TOTAL						(7,457.72)
10/12/16	89124	FRONTIER COMMUNICATIONS	FRONTIER COMMU...	80568476130422055	1000101 · Operating Cash 10	
10/07/16	8056847613...		FRONTIER COMMU...	TELEPHONE SERVICE	1013301 · Telephone 13	(131.42)
TOTAL						(131.42)
10/12/16	89125	GALLS INC	GALLS INC	006049987	1000101 · Operating Cash 10	
09/13/16	006049987		GALLS INC	UNIFORM SUPPLIES - CODE ENFORCEMENT	1022169 · Uniform Allowance	(49.97)
TOTAL						(49.97)
10/12/16	89126	HARTHORN, ROY	HARTHORN, ROY	1289	1000101 · Operating Cash 10	
09/30/16	1289		HARTHORN, ROY	PLAN CHECK	1010188 · BLDG PLAN CHECK C...	(8,034.36)
TOTAL						(8,034.36)
10/12/16	89127	INSTITUTE FOR LOCAL GOVERNMENT	INSTITUTE FOR LO...	1599	1000101 · Operating Cash 10	
10/13/16	1599		INSTITUTE FOR LO...	ETHICS SELF TEST - BOARD MEMBER	1051308 · Supplies & Materials 51	(50.00)
TOTAL						(50.00)
10/12/16	89128	KELLY GREEN	KELLY GREEN	SEPTEMBER 2016 FIRST FRIDAY	1000101 · Operating Cash 10	
08/31/16	FIRST FRID...		KELLY GREEN	SEPTEMBER 2016 FIRST FRIDAY	1044302 · Marketing Materials	(150.00)
TOTAL						(150.00)

4:11 PM

10/18/16

CITY OF CARPINTERIA

Warrant Register

October 5 - 18, 2016

Date	Num	Name	Source Name	Memo	Account	Paid Amount
10/12/16	89129	KEOUGH, JEFF	KEOUGH, JEFF	VOID: CELL PHONE REIMBURSEMENT	1000101 · Operating Cash 10	
TOTAL						0.00
10/12/16	89130	MAILFINANCE	MAILFINANCE	INVOICE #H6139342	1000101 · Operating Cash 10	
09/17/16	H6139342		MAILFINANCE	OCT - JAN 2017	1018308 · Supplies & Materials 18	(630.18)
TOTAL						(630.18)
10/12/16	89131	NOMURA, WADE	NOMURA, WADE	TRAVEL PER DIEM	1000101 · Operating Cash 10	
09/30/16	TRAVEL PE...		NOMURA, WADE	TRAVEL PER DIEM - NOMURA	1051306 · Meetings & Travel 51	(152.64)
TOTAL						(152.64)
10/12/16	89132	RADIOSHACK	RADIOSHACK	VOID: ACCT: 00000403062193	1000101 · Operating Cash 10	
TOTAL						0.00
10/12/16	89133	SHAW, FRED	SHAW, FRED	TRAVEL PER DIEM	1000101 · Operating Cash 10	
09/30/16	TRAVEL PE...		SHAW, FRED	TRAVEL PER DIEM	1051306 · Meetings & Travel 51	(140.93)
TOTAL						(140.93)
10/12/16	89134	SHAW, JEFF	SHAW, JEFF	PROJECT 1762 REFUND	1000101 · Operating Cash 10	
10/10/16	PROJ 1762 ...		SHAW, JEFF	PROJ 1762 REFUND	1000251 · Development Deposits	(3,469.64)
TOTAL						(3,469.64)
10/12/16	89135	SIMON, MATT	SIMON, MATT	TRAVEL PERDIEM	1000101 · Operating Cash 10	
09/30/16	TRAVEL PE...		SIMON, MATT	CONFERENCE TRAVEL PERDIEM	4862312 · Kayak Program Misc Ex...	(218.60)
TOTAL						(218.60)
10/12/16	89136	SO CA GAS COMPANY	SO CA GAS COMP...		1000101 · Operating Cash 10	
10/04/16	01691395006		SO CA GAS COMPA...	CIVIC CENTER	1013314 · Utility - Natural Gas	(123.37)
10/04/16	006-514-270...		SO CA GAS COMPA...	POOL	4866314 · Utility - Natural Gas 66	(1,232.22)
TOTAL						(1,355.59)
10/12/16	89137	SOLID WASTE SOLUTIONS INC	SOLID WASTE SOL...	INVOICE #128	1000101 · Operating Cash 10	
10/02/16	128		SOLID WASTE SOL...	AB949 COORDINATION	3937221 · Solid Waste	(543.00)

4:07 PM

10/18/16

CITY OF CARPINTERIA
Warrant Register
 October 5 - 18, 2016

Date	Num	Name	Source Name	Memo	Account	Paid Amount
TOTAL						(543.00)
10/12/16	89138	STAPLES ADVANTAGE	STAPLES ADVANT...		1000101 · Operating Cash 10	
09/16/16	3314930599		STAPLES ADVANT...	OFFICE SUPPLIES	1013308 · Supplies & Materials 13	(122.20)
09/17/16	3315123767		STAPLES ADVANT...	OFFICE SUPPLIES	1013308 · Supplies & Materials 13	(263.61)
09/17/16	3315123770		STAPLES ADVANT...	OFFICE SUPPLIES	1013308 · Supplies & Materials 13	(172.76)
09/17/16	3315123761		STAPLES ADVANT...	POOL SUPPLIES	4866308 · Supplies & Materials 66	(84.75)
TOTAL						(643.32)
10/12/16	89139	STATESIDE SERVICES, INC	STATESIDE SERVL...	PROJECT 5713 REFUND	1000101 · Operating Cash 10	
10/10/16	PROJ 5713 ...		STATESIDE SERVL...	PROJ 5713 REFUND	1000251 · Development Deposits	(709.84)
TOTAL						(709.84)
10/12/16	89140	WOOLF, LISA*	WOOLF, LISA*	PROJECT 1724 REFUND	1000101 · Operating Cash 10	
10/10/16	PROJ 1724 ...		WOOLF, LISA*	PROJ 1724 REFUND	1000251 · Development Deposits	(0.38)
TOTAL						(0.38)
10/12/16	89141	ALL AROUND LANDSCAPE SUPPLY	ALL AROUND LAN...		1000101 · Operating Cash 10	
09/19/16	S1908751.001		ALL AROUND LAND...	POOL	4866308 · Supplies & Materials 66	(42.65)
09/20/16	S1908890.001		ALL AROUND LAND...	COMMUNITY GARDEN GRANT	2000261 · Deferred Revenue 20	(47.92)
09/22/16	S1909649.001		ALL AROUND LAND...	TRI	4863300 · Triathlon Expense	(4.49)
TOTAL						(95.06)
10/12/16	89142	FRONTIER COMMUNICATIONS	FRONTIER COMMU...	80568445080926025	1000101 · Operating Cash 10	
09/22/16	8056844508...		FRONTIER COMMU...	TELEPHONE SERVICE	1013301 · Telephone 13	(97.65)
TOTAL						(97.65)
10/12/16	89143	GRAINGER	GRAINGER	9230238181	1000101 · Operating Cash 10	
09/20/16	9230238181		GRAINGER	AVO FEST	2531308 · Supplies & Materials 31	(65.05)
TOTAL						(65.05)
10/12/16	89144	KRIEG, TERRY E CPA	KRIEG, TERRY E C...	FY 15-16 SECOND PROGRESS PAYMENT	1000101 · Operating Cash 10	
10/12/16	2ND BILLIN...		KRIEG, TERRY E CPA	FY 15-16 SECOND PROGRESS PAYMENT	1014229 · Annual Audit	(10,000.00)
TOTAL						(10,000.00)
10/12/16	89145	SO CA EDISON	SO CA EDISON	2-01-201-6465	1000101 · Operating Cash 10	

4:11 PM

10/18/16

CITY OF CARPINTERIA
Warrant Register
 October 5 - 18, 2016

Date	Num	Name	Source Name	Memo	Account	Paid Amount
10/06/16	2-01-201-6465		SO CA EDISON	STREET LIGHTING	2923220 · Street Lighting	(7,127.95)
TOTAL						(7,127.95)
10/12/16	89146	STAPLES ADVANTAGE	STAPLES ADVANT...		1000101 · Operating Cash 10	
09/22/16	3315472081		STAPLES ADVANT...	OFFICE SUPPLIES	1013308 · Supplies & Materials 13	(57.61)
09/22/16	3315472082		STAPLES ADVANT...	OFFICE SUPPLIES	1013308 · Supplies & Materials 13	(241.54)
09/22/16	3315472083		STAPLES ADVANT...	OFFICE SUPPLIES	1013308 · Supplies & Materials 13	(60.11)
09/22/16	3315472084		STAPLES ADVANT...	OFFICE SUPPLIES	1013308 · Supplies & Materials 13	(40.92)
09/22/16	3315472085		STAPLES ADVANT...	OFFICE SUPPLIES	1013308 · Supplies & Materials 13	(118.30)
TOTAL						(518.48)
10/12/16	89147	TRAFFIC TECHNOLOGIES LLC	TRAFFIC TECHNOL...	22390	1000101 · Operating Cash 10	
09/20/16	22390	15018	TRAFFIC TECHNOL...	PW SUPPLIES	2531308 · Supplies & Materials 31	(822.58)
TOTAL						(822.58)
10/12/16	89148	WATER GEAR INC	WATER GEAR INC		1000101 · Operating Cash 10	
09/19/16	002522318		WATER GEAR INC	POOL RESALE ITEMS	4866350 · Supplies for Resale	(195.80)
09/22/16	00252381		WATER GEAR INC	POOL RESALE ITEMS	4866350 · Supplies for Resale	(245.09)
TOTAL						(440.89)
10/12/16	89149	WEST GROUP	WEST GROUP	565-139-500	1000101 · Operating Cash 10	
09/30/16	834802547		WEST GROUP	SUBSCRIPTION PRODUCT CHARGES	1051305 · Dues & Subscriptions 51	(136.66)
TOTAL						(136.66)
10/12/16	89150	CALIFORNIA STATE DISBURSEMENT UNIT	CALIFORNIA STAT...	CASE NUMBER 0850182383-01	1000101 · Operating Cash 10	
10/12/16	PAYROLL 1...		CALIFORNIA STATE...	PAYROLL WITHHOLDING 10-13-16	1000105 · ICMA Cash	(330.46)
TOTAL						(330.46)
10/12/16	89151	EDD-SDI	EDD-SDI	776-5147-9	1000101 · Operating Cash 10	
10/12/16	PAYROLL 1...		EDD-SDI	PAYROLL 10-13-16	1000223 · SDI Withheld	(780.69)
TOTAL						(780.69)
10/12/16	89152	EDD-SIT	EDD-SIT	932-0283-6	1000101 · Operating Cash 10	
10/12/16	PAYROLL 1...		EDD-SIT	PAYROLL 10-13-16	1000221 · SIT Withheld	(3,914.76)
TOTAL						(3,914.76)

4:07 PM

10/18/16

CITY OF CARPINTERIA

Warrant Register

October 5 - 18, 2016

Date	Num	Name	Source Name	Memo	Account	Paid Amount
10/12/16	89153	SEUI LOCAL 620	SEUI LOCAL 620	PAYROLL 10-13-16	1000101 - Operating Cash 10	
10/12/16	PAYROLL 1...		SEUI LOCAL 620	PAYROLL 10-13-16	1000229 - SEIU Local 620	(168.67)
TOTAL						(168.67)
10/12/16	89154	T. ROWE PRICE	T. ROWE PRICE	PAYROLL CONTRIBUTION - ANTHONY VEGA	1000101 - Operating Cash 10	
10/12/16	PAYROLL 1...		T. ROWE PRICE	PAYROLL 10-13-16 ANTHONY VEGA	1000105 - ICMA Cash	(50.00)
TOTAL						(50.00)
10/12/16	89155	UNITED WAY OF SANTA BARBARA COUNTY	UNITED WAY OF S...	PAYROLL 10-13-16	1000101 - Operating Cash 10	
10/12/16	PAYROLL 1...		UNITED WAY OF S...	PAYROLL 10-13-16	1000224 - United Way Payable	(24.00)
TOTAL						(24.00)
10/12/16	89156	VANTAGEPOINT TRANSFER AGENTS - 457	VANTAGEPOINT TR...	VOID: PAYROLL 10-13-16	1000101 - Operating Cash 10	
TOTAL						0.00
10/12/16	89157	RADIOSHACK	RADIOSHACK	ACCT: 00000403062193	1000101 - Operating Cash 10	
10/01/16	0000040306...		RADIOSHACK	CITY HALL EMERGENCY RADIOS	2531304 - Radio Maintenance/Rep...	(61.54)
TOTAL						(61.54)
10/13/16	89158	BROWNSTEIN HYATT FARBER SCHRECK	BROWNSTEIN HYA...		1000101 - Operating Cash 10	
09/27/16	652929		BROWNSTEIN HYA...	MOBILE HOME RENT STABILIZATION	1017223 - MHRS Ordinance	(54.00)
09/27/16	652927		BROWNSTEIN HYA...	CITY ATTORNEY RETAINER	1017220 - City Attorney Retainer	(37,740.50)
10/07/16	654044		BROWNSTEIN HYA...	CITY ATTORNEY RETAINER	1017220 - City Attorney Retainer	(45,713.50)
TOTAL						(83,508.00)
10/13/16	89159	VANTAGEPOINT TRANSFER AGENTS - 457	VANTAGEPOINT TR...	PAYROLL 10-13-16	1000101 - Operating Cash 10	
10/12/16	PAYROLL 1...		VANTAGEPOINT TR...	PAYROLL 10-13-16	1000105 - ICMA Cash	(1,025.00)
TOTAL						(1,025.00)
10/13/16	89160	CARPINTERIA UNIFIED SCHOOL DISTRICT	CARPINTERIA UNIF...	2016 CARP TRIATHLON	1000101 - Operating Cash 10	
10/07/16	2016 CARP ...		CARPINTERIA UNIF...	2016 CARP TRIATHLON	4863300 - Triathlon Expense	(108.03)
TOTAL						(108.03)
10/13/16	89161	S.M.A.R.T., LLC	S.M.A.R.T., LLC	2016 CARP TRIATHLON	1000101 - Operating Cash 10	

4:11 PM

10/18/16

CITY OF CARPINTERIA

Warrant Register

October 5 - 18, 2016

Date	Num	Name	Source Name	Memo	Account	Paid Amount
10/07/16	2016 CARP ...		S.M.A.R.T., LLC	TRIATHLON 2016	4863300 · Triathlon Expense	(360.00)
TOTAL						(360.00)
10/13/16	89162	BARRETT, BRIAN	BARRETT, BRIAN	ICMA REIMBURSEMENT	1000101 · Operating Cash 10	
10/07/16	ICMA REIM...		BARRETT, BRIAN	ICMA REIMBURSEMENT	Suspense	(50.00)
TOTAL						(50.00)
10/13/16	89163	CalPERS	CalPERS	OCTOBER 2016 HEALTH	1000101 · Operating Cash 10	
10/07/16	OCTOBER 2...		CalPERS	OCTOBER 2016 HEALTH	1051194 · Wellness 51	(4,661.12)
			CalPERS	OCTOBER 2016 HEALTH	1011194 · Wellness 11	(1,877.65)
			CalPERS	OCTOBER 2016 HEALTH	1012194 · Wellness 12	(2,782.72)
			CalPERS	OCTOBER 2016 HEALTH	1013194 · Wellness 13	(1,472.98)
			CalPERS	OCTOBER 2016 HEALTH	1014194 · Wellness 14	(4,366.62)
			CalPERS	OCTOBER 2016 HEALTH	1016194 · Wellness 16	(666.91)
			CalPERS	OCTOBER 2016 HEALTH	1030194 · Wellness 30	(5,471.08)
			CalPERS	OCTOBER 2016 HEALTH	2531194 · Wellness 31	(4,418.94)
			CalPERS	OCTOBER 2016 HEALTH	1041194 · Wellness 41	(3,742.17)
			CalPERS	OCTOBER 2016 HEALTH	1042194 · Wellness 42	(1,413.96)
			CalPERS	OCTOBER 2016 HEALTH	1069194 · Wellness 69	(2,155.50)
			CalPERS	OCTOBER 2016 HEALTH	1022194 · Wellness 22	(2,606.04)
			CalPERS	OCTOBER 2016 HEALTH	2361194 · Wellness 61	(1,472.98)
			CalPERS	OCTOBER 2016 HEALTH	3332194 · Wellness 32	(1,472.98)
			CalPERS	OCTOBER 2016 HEALTH	1044194 · Wellness 44	(1,472.98)
			CalPERS	PROJ 4860	1000251 · Development Deposits	(320.98)
			CalPERS	OCTOBER 2016 HEALTH	1016196 · Health Insurance Surcha...	(143.74)
			CalPERS	OCTOBER 2016 HEALTH	4868194 · Wellness 68	(1,133.06)
TOTAL						(41,652.41)
10/17/16	89164	BALMADRID, ARLENE	BALMADRID, ARLE...	DEDUCTION REIMBURSEMENT	1000101 · Operating Cash 10	
10/17/16	REIMBURS...		BALMADRID, ARLENE	ICMA REIMBURSEMENT	Suspense	(100.00)
TOTAL						(100.00)
10/17/16	89165	CHEPLEY, DAN	CHEPLEY, DAN	ICMA REIMBURSEMENT	1000101 · Operating Cash 10	
10/17/16	ICMA REIM...		CHEPLEY, DAN	ICMA DEDUCTION REIMBURSEMENT	Suspense	(100.00)
TOTAL						(100.00)

TOTAL \$343,542.70



City of Carpinteria

COUNCIL AGENDA STAFF REPORT October 24, 2016

ITEM FOR COUNCIL CONSIDERATION

Quarterly Review of Investment Results and Certifications Concerning Compliance with Investment Policy and Cash Flow Needs for the next six months

STAFF RECOMMENDATION

Action Item ☐ Non-Action Item ☒

Receive and file the report

Motion: None required

BACKGROUND / DISCUSSION

California Government Code Section 53600 states that "all governing bodies of local agencies or persons authorized to make investment decisions on behalf of those local agencies are trustees and therefore fiduciaries subject to the "prudent investor standard"

The prudent investor standard states that "a trustee shall act with the care, skill, prudence and diligence that a prudent person acting in a like capacity would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. When investing public funds, the primary objective of a trustee shall be to safeguard the principal of the funds under its control. The secondary objective shall be to meet the liquidity needs of the depositor. The third objective shall be to achieve a return on the funds under its control."

California Government Code Section 53646 mandates that cities annually adopt a written investment policy and that quarterly reports be prepared concerning the City's financial holdings, a statement of compliance with the policy and a statement concerning the City's ability to meet its cash flow needs in the ensuing six months.

This report is no longer mandatory but is provided each quarter because it is informative for the Council and the public, and because the cost of preparation is minimal. However, because the City chooses to prepare the report, copies of the second and fourth calendar quarter reports must be submitted to the California Debt and Investment Advisory Commission within 60 days after the close of the second and fourth calendar quarters.

POLICY CONSISTENCY

All portfolio investment transactions for the quarter ended September 30, 2016, have been made in full compliance with the Statement of Investment Policy adopted September 26, 2016.

As a part of the City's 2004 work program, the Council directed staff to investigate alternative investment practices that could yield better returns while maintaining security. The first step in this process was the change in the investment policy. On December 27, 2004 the City Council, by adoption of Resolution 4898, modified the City's investment policy, expanding the list of 'Authorized Investments'. Now, in addition to investment in the Local Agency Investment Fund and other FDIC insured accounts, the City can invest in 'Other investments authorized and governed by California Government Code 53601.

FINANCIAL CONSIDERATIONS

Cash Statement: At September 30, 2016, the City held cash investments as shown in the table below.

Table I

	Bank Balance at 9/30/16	Quarterly Earnings	Avg. Annualized Return
Charles Schwab	\$12,406,341.21	\$31,140.51	1.02%
LAIF	20,779.45	31.57	0.60%
MB&T Checking	538,464.61	0.00	0.00%
MB&T Money Market	1,970,642.98	953.14	0.20%
Total	\$14,936,228.25	\$32,125.22	0.97%

The last of the Notes invested in the Treasury Direct program matured on June 30, 2016 and so now all of the Notes held by the City are in the Charles Schwab account only. Also, the Charles Schwab statement provides market value estimates so that staff no longer makes these estimates.

Investments:

Changes in the market value of Treasury securities are inversely proportional to changes in interest rates demanded in the open market, i.e. when rates rise market values fall, when rates fall market values rise. The sensitivity of a portfolio's market value to these changes in market rates is a function of its days to maturity and its coupon rate. Securities with longer maturities and/or lower coupon rates are more sensitive to changes in market interest rates. As a security matures, changes in its value become less sensitive to market rate changes.

At September 30 the portfolio's average days to maturity was 632 days or 1.73 years, the average coupon rate was 1.03%, the average yield to maturity was 1.15% and the par value was \$12,176,000.00. The portfolio had a net positive cash flow of \$551,992.08 during the quarter.

The estimated market value of the portfolio as shown on the Charles Schwab statement is \$12,406,341.21. This represents a net gain of \$256,617.71 or 2.11% of the net investment of \$12,149,723.50. In other words, if the City were to sell all of its holdings, the proceeds from the sale would be approximately this much more than what was paid for them. The City does not intend to sell nor does it have any foreseeable need to sell any securities. The intention of the City's investment policy is to hold all securities to maturity; and securities so held are redeemed at par value resulting in no net market gain or loss.

The City is required to recognize as interest income or loss any market gains or losses in its Comprehensive Annual Financial Report (CAFR) as if the Notes were actually sold. To avoid what could be significant swings in income and the Unassigned (Available) Fund Balance from year to year these gains or losses are recorded as increases or decreases in the City's Economic Uncertainty Reserve. In this way the Unassigned Fund Balance is unaffected by market forces.

Attached for City Council review are statements from Charles Schwab, LAIF, and Montecito Bank & Trust as of September 30, 2016. Also attached is a recap of investment activity during the quarter, a subsidiary ledger listing showing the various yields and maturities of securities in the Charles Schwab portfolio, and a Treasury Note portfolio segment analysis.

The City of Carpinteria will be able to meet all expenditure obligations that might reasonably be anticipated for the next six-month period ending March 31, 2017.

LEGAL

This report has been prepared in compliance with California Government Code Sections 53600 and 53646.

PRINCIPAL PARTIES EXPECTED AT MEETING

Unknown

ATTACHMENTS

- A. Charles Schwab Statement
- B. LAIF Statement
- C. Montecito Bank & Trust Bank Statement
- D. Investment Activity Recap
- E. Charles Schwab Subsidiary Ledger Listing
- F. Charles Schwab Portfolio Segment Analysis

Staff contact: John Thornberry
Administrative Services Director
JohnT@ci.carpinteria.ca.us
805-755-4448



Signature

Reviewed by: Dave Durflinger, City Manager



Signature

Attachment A

Charles Schwab Statement



Schwab One® Account
Account Number: 8975-8685

Statement Period: September 1, 2016 to September 30, 2016
Page 1 of 9

Last Statement: August 31, 2016

*Protect your privacy and the environment.
Switch to eStatements at schwab.com/lesspaper.
Questions? Call 1-800-435-4000*

Account Of

CITY OF CARPINTERIA
5775 CARPINTERIA AVE
CARPINTERIA CA 93013-2603

Mail To

CITY OF CARPINTERIA
5775 CARPINTERIA AVE
CARPINTERIA CA 93013-2603

Account Value Summary

Cash & Sweep Money Market Funds	\$ 164,259.34
Total Investments Long	\$ 12,242,081.87
Total Investments Short	\$ 0.00
Total Account Value	\$ 12,406,341.21

Change in Account Value

Starting Account Value	\$ 12,387,622.85
Transactions & Income	\$ 11,274.65
Income Reinvested	\$ 0.00
Change in Value of Investments	\$ 7,443.71
Ending Account Value	\$ 12,406,341.21
Year-to-Date Change in Value Since 1/1/16	\$ 422,527.44

Rate Summary

Value Adv Money Fd SWVXX	0.33%
Sch Investor Money Fund	0.24%

Please see "Endnotes For Your Account" section for an explanation of the endnote codes and symbols on this statement.

Attachment B

LAIF Statement



BETTY T. YEE

California State Controller

**LOCAL AGENCY INVESTMENT FUND
REMITTANCE ADVICE**

Agency Name	CARPINTERIA
Account Number	98-42-142

As of 10/14/2016, your Local Agency Investment Fund account has been directly credited with the interest earned on your deposits for the quarter ending 09/30/2016.

Earnings Ratio		.00001651908048883
Interest Rate		0.60%
Dollar Day Total	\$	1,911,314.18
Quarter End Principal Balance	\$	20,779.45
Quarterly Interest Earned	\$	31.57

Attachment C

Montecito Bank & Trust Bank Statement

000 00005 01

PAGE: 1

ACCOUNT:

195024588

09/30/2016

H

City of Carpinteria

30-0

* HOLD AT BRANCH *

20

189

SUMMARY OF ACCOUNTS

ACCOUNT TYPE	ACCOUNT NUMBER	CURRENT BALANCE	MATURITY DATE
Business Money Market ACCOUNT	195020078	1,970,642.98	
Business Analysis Checking ACCOUNT	195024588	538,464.61	
TOTAL CURRENT BALANCE		2,509,107.59	

Business Analysis Checking ACCOUNT 195024588

MINIMUM BALANCE	407,859.66	LAST STATEMENT 08/31/16	454,404.11
AVG AVAILABLE BALANCE	594,795.86	83 CREDITS	2,117,381.26
AVERAGE BALANCE	632,345.82	296 DEBITS	2,033,320.76
		THIS STATEMENT 09/30/16	538,464.61

- - - - - DEPOSITS - - - - -

REF #	TRACE #	DATE	AMOUNT	REF #	TRACE #	DATE	AMOUNT
0195994092	09/01	3,506.28		0195248058	09/20	10,381.28	
0195289587	09/06	8,037.95		0195329612	09/21	541,157.60	
0195377605	09/07	12,097.80		0195394084	09/22	985.57	
0195439647	09/08	981.90		0195476573	09/23	356.26	
0195439645	09/08	7,982.04		0195476578	09/23	79,672.28	
0195560586	09/09	2,179.49		0195678003	09/27	9,015.87	
0195777560	09/13	220,413.58		0195768537	09/28	329.46	
0195854528	09/14	587.75		0195851532	09/29	1,482.96	
0195932704	09/15	2,560.88		0195851524	09/29	4,430.00	
0195141135	09/19	3,875.96		0195851526	09/29	71,684.82	

- - - - - OTHER CREDITS - - - - -

DESCRIPTION	DATE	AMOUNT
INTUIT PYMT SOLN DEPOSIT 524771995651758	09/01	235.57

Attachment D
Investment Activity Recap

September 30, 2016

Investment Activity Recap

Month	Average Daily Investment	Return	ROI %	Ending Balance	% Portfolio
Charles Schwab					
7	\$12,284,338.63	\$10,356.15	1.01%	\$12,233,981.27	86.48%
8	12,233,981.27	10,382.57	1.02%	12,190,427.70	83.37%
9	12,190,427.70	10,401.79	1.02%	12,149,723.50	82.77%
Total / Average	\$12,236,747.26	\$31,140.51	1.02%		
LAIF					
7	\$20,722.99	\$28.23		\$20,751.22	0.15%
8	20,751.22			20,751.22	0.14%
9	20,751.22			20,751.22	0.14%
Total / Average		\$28.23	0.55%		
Montecito Bank & Trust Checking					
7	\$712,168.36			\$468,142.77	3.31%
8	576,775.24			454,404.11	3.11%
9	632,345.82			538,464.61	3.67%
Total / Average	\$640,517.68				
Montecito Bank & Trust Money Market					
7	\$1,708,515.15	\$179.42	0.13%	\$1,423,062.87	10.06%
8	1,549,716.33	388.65	0.30%	1,957,366.60	13.39%
9	1,772,533.26	385.07	0.26%	1,970,642.98	13.42%
Total / Average	\$1,675,882.32	\$953.14	0.23%		
\$1.15					
Recap					
7	\$14,725,745.13	\$10,563.80	0.86%	\$14,145,938.13	100.00%
8	14,381,224.06	10,771.22	0.90%	14,622,949.63	100.00%
9	14,616,058.00	10,786.86	0.89%	14,679,582.31	100.00%
Total / Average	\$14,553,147.26	\$32,121.88	0.88%		

Attachment E

Charles Schwab Subsidiary Ledger Listing

City of Carpinteria
es Subsidiary Ledger Listing
Portfolio

Amount 2,916.02

September 30, 2016

Line	Type	Issue Date	CUSIP	Maturity Date	Net	Discount	Par Value	Coupon \$	Coupon %	Yield %	Days to Maturity	Accrued Interest \$/\$1,000	Price per \$100	Modified Duration	Next Coupon Date	Line
1	2	09/30/2014	912828F47	09/30/2016	138,754.39	245.61	139,000.00	347.50	0.5000%	0.5890%	*	*	99.823303	*	09/30/2016	1
2	5	09/30/2011	912828R11	09/30/2016	92,932.16	67.84	93,000.00	465.00	1.0000%	1.0150%	*	*	99.927052	*	09/30/2016	2
3	2	10/31/2014	912828F88	10/31/2016	999.00	1.00	1,000.00	1.88	0.3750%	0.4253%	31	*	99.900000	0.0833	10/31/2016	3
4	5	10/31/2011	912828RM4	10/31/2016	239,358.75	641.25	240,000.00	1,200.00	1.0000%	1.0550%	31	*	99.732813	0.0833	10/31/2016	4
5	2	11/30/2014	912828G46	11/30/2016	999.17	0.83	1,000.00	2.50	0.5000%	0.5419%	61	0.01374	99.916676	0.1667	11/30/2016	5
6	5	11/30/2011	912828RU6	11/30/2016	241,268.77	731.23	242,000.00	1,058.75	0.8750%	0.9370%	61	*	99.697840	0.1667	11/30/2016	6
7	2	12/31/2014	912828H29	12/31/2016	998.45	1.55	1,000.00	3.13	0.6250%	0.7030%	92	*	99.845361	0.2500	12/31/2016	7
8	5	12/31/2011	912828RX0	12/31/2016	241,940.96	59.04	242,000.00	1,058.75	0.8750%	0.8800%	92	0.07212	99.975602	0.2500	12/31/2016	8
9	2	01/31/2015	912828H78	01/31/2017	1,998.41	1.59	2,000.00	5.00	0.5000%	0.5399%	123	0.02762	99.920700	0.3333	01/31/2017	9
10	5	01/31/2012	912828SC5	01/31/2017	262,692.06	307.94	263,000.00	1,150.63	0.8750%	0.8990%	123	*	99.882914	0.3333	01/31/2017	10
11	2	02/28/2015	912828J35	02/28/2017	128,736.95	263.05	129,000.00	322.50	0.5000%	0.8027%	151	0.02717	99.796087	0.4167	02/28/2017	11
12	5	02/28/2012	912828SJ0	02/28/2017	279,658.51	341.49	280,000.00	1,225.00	0.8750%	0.9000%	151	*	99.878039	0.4167	02/28/2017	12
13	2	03/31/2015	912828J92	03/31/2017	124,756.82	243.18	125,000.00	312.50	0.5000%	0.5980%	182	*	99.805456	0.5000	03/31/2017	13
14	5	03/31/2012	912828SM3	03/31/2017	270,473.67	526.33	271,000.00	1,355.00	1.0000%	1.0400%	182	0.05464	99.805782	0.5000	03/31/2017	14
15	2	04/30/2015	912828K66	04/30/2017	104,916.56	83.44	105,000.00	262.50	0.5000%	0.5400%	212	*	99.920537	0.5812	10/31/2016	15
16	5	04/30/2012	912828SM3	04/30/2017	270,841.30	158.70	271,000.00	1,185.63	0.8750%	0.8870%	212	*	99.941436	0.5812	10/31/2016	16
17	2	05/31/2015	912828SY7	05/31/2017	111,948.96	51.04	112,000.00	350.00	0.6250%	0.6480%	243	0.01708	99.954426	0.6651	11/30/2016	17
18	5	05/31/2012	912828SY7	05/31/2017	285,270.72	1,729.28	287,000.00	896.88	0.6250%	0.7480%	243	*	99.397464	0.6651	11/30/2016	18
19	2	06/30/2015	912828XJ4	06/30/2017	114,847.22	152.78	115,000.00	359.38	0.6250%	0.6920%	273	*	99.867151	0.7484	12/31/2016	19
20	5	06/30/2012	912828TB6	06/30/2017	297,970.79	29.21	298,000.00	1,117.50	0.7500%	0.7520%	273	0.04076	99.990200	0.7481	12/31/2016	20
21	2	07/31/2015	912828XP0	07/31/2017	100,869.83	130.17	101,000.00	315.63	0.6250%	0.6900%	304	*	99.871114	0.8318	01/31/2017	21
22	5	07/31/2012	912828TG5	07/31/2017	296,768.27	1,231.73	298,000.00	745.00	0.5000%	0.5640%	304	*	99.586667	0.8321	01/31/2017	22
23	2	08/31/2015	912828TM2	08/31/2017	96,926.89	73.11	97,000.00	303.13	0.6250%	0.6830%	335	*	99.924626	0.9151	02/28/2017	23
24	5	08/31/2012	912828TM2	08/31/2017	293,799.25	1,200.75	295,000.00	921.88	0.6250%	0.7080%	335	*	99.592967	0.9151	02/28/2017	24
25	2	09/30/2015	912828F47	09/30/2017	94,860.61	139.39	95,000.00	296.88	0.6250%	0.6990%	365	*	99.853270	0.9984	03/31/2017	25
26	5	09/30/2012	912828TS9	09/30/2017	284,692.16	307.84	285,000.00	890.63	0.6250%	0.6470%	365	0.01717	99.891985	0.9984	03/31/2017	26
27	5	10/31/2012	912828TW0	10/31/2017	274,676.92	323.08	275,000.00	1,031.25	0.7500%	0.7740%	396	*	99.882515	1.0777	10/31/2016	27
28	2	11/30/2015	912828M72	11/30/2017	93,864.37	135.63	94,000.00	411.25	0.8750%	0.9480%	426	*	99.855714	1.1601	11/30/2016	28
29	5	11/30/2012	912828MA6	11/30/2017	282,777.54	222.46	283,000.00	884.38	0.6250%	0.6410%	426	*	99.921392	1.1620	11/30/2016	29
30	2	12/31/2015	912828N55	12/31/2017	91,898.31	101.69	92,000.00	460.00	1.0000%	1.0560%	457	*	99.889463	1.2425	12/31/2016	30
31	5	12/31/2012	912828UE8	12/31/2017	280,738.61	261.39	281,000.00	1,053.75	0.7500%	0.7690%	457	*	99.906978	1.2444	12/31/2016	31
32	2	01/31/2016	912828P20	01/31/2018	96,789.15	210.85	97,000.00	363.75	0.7500%	0.8599%	488	0.02060	99.782632	1.3277	01/31/2017	32
33	5	01/31/2013	912828UJ7	01/31/2018	291,800.51	199.49	292,000.00	1,277.50	0.8750%	0.8890%	488	*	99.931681	1.3268	01/31/2017	33
34	2	02/28/2016	912828UR9	02/28/2018	100,998.00	4.00	101,000.00	378.75	0.7500%	0.7520%	516	*	99.996037	1.4111	02/28/2017	34
35	5	02/28/2013	912828UR9	02/28/2018	301,600.88	399.12	302,000.00	1,132.50	0.7500%	0.7770%	516	*	99.867840	1.4111	02/28/2017	35
36	2	03/31/2016	912828Q45	03/31/2018	91,996.36	3.64	92,000.00	402.50	0.8750%	0.8770%	547	*	99.996043	1.4935	03/31/2017	36
37	5	03/31/2013	912828UU2	03/31/2018	281,861.96	138.04	282,000.00	1,057.50	0.7500%	0.7600%	547	0.02049	99.951048	1.4944	03/31/2017	37
38	2	04/30/2016	912828Q94	04/30/2018	91,949.40	50.60	92,000.00	345.00	0.7500%	0.7778%	577	0.04076	99.945000	1.5721	10/31/2016	38
39	5	04/30/2013	912828UZ1	04/30/2018	280,824.57	1,175.43	282,000.00	881.25	0.6250%	0.7100%	577	*	99.583182	1.5740	10/31/2016	39
40	2	05/31/2016	912828R51	05/31/2018	98,911.92	88.08	99,000.00	433.13	0.8750%	0.9200%	608	*	99.911026	1.6536	11/30/2016	40
41	5	05/31/2013	912828VE7	05/31/2018	295,352.75	647.25	296,000.00	1,480.00	1.0000%	1.0450%	608	*	99.781333	1.6518	11/30/2016	41
42	2	06/30/2016	912828R93	06/30/2018	102,755.08	244.92	103,000.00	321.88	0.6250%	0.7450%	638	*	99.762218	1.7407	12/31/2016	42
43	5	06/30/2013	912828VK3	06/30/2018	303,404.37	1,595.63	305,000.00	2,096.88	1.3750%	1.4839%	638	0.03736	99.476843	1.7296	12/31/2016	43
44	2	07/31/2016	912828S68	07/31/2018	102,979.61	20.39	103,000.00	386.25	0.7500%	0.7600%	669	0.02038	99.980208	1.8222	01/31/2017	44
45	5	07/31/2013	912828WQ0	07/31/2018	292,506.59	493.41	293,000.00	2,014.38	1.3750%	1.4100%	669	*	99.831599	1.8129	01/31/2017	45
46	2	08/31/2016	912828C3	08/31/2018	99,980.19	19.81	100,000.00	375.00	0.7500%	0.7600%	700	*	99.980189	1.9055	02/28/2017	46
47	5	08/31/2013	912828RE2	08/31/2018	291,264.43	1,735.57	293,000.00	2,197.50	1.5000%	1.6238%	700	0.12431	99.407655	1.8944	02/28/2017	47
48	2	09/30/2016	912828T42	09/30/2018	100,000.00	*	100,000.00	375.00	0.7500%	0.7500%	730	*	100.000000	1.9888	03/31/2017	48
49	5	09/30/2013	912828RH5	09/30/2018	286,158.25	841.75	287,000.00	1,973.13	1.3750%	1.4360%	730	*	99.706706	1.9796	03/31/2017	49
50	5	10/31/2013	912828WD8	10/31/2018	133,676.67	323.33	134,000.00	837.50	1.2500%	1.3000%	761	*	99.758710	2.0524	10/31/2016	50
51	5	11/30/2013	912828A34	11/30/2018	125,453.87	546.13	126,000.00	787.50	1.2500%	1.3399%	791	0.06868	99.566562	2.1358	11/30/2016	51
52	5	12/31/2013	912828A75	12/31/2018	124,401.64	598.36	125,000.00	937.50	1.5000%	1.6000%	822	*	99.521314	2.2130	12/31/2016	52
53	5	01/31/2014	912828B33	01/31/2019	134,534.37	465.63	135,000.00	1,012.50	1.5000%	1.5720%	853	*	99.655089	2.2963	01/31/2017	53
54	5	02/28/2014	912828C24	02/28/2019	132,808.64	191.36	133,000.00	997.50	1.5000%	1.5300%	881	*	99.856123	2.3797	02/28/2017	54

City of Carpinteria
es Subsidiary Ledger Listing
Portfolio

Amount 2,916.02

September 30, 2016

Line	Type	Issue Date	CUSIP	Maturity Date	Net	Discount	Par Value	Coupon \$	Coupon %	Yield %	Days to Maturity	Accrued Interest \$/\$1,000	Price per \$100	Modified Duration	Next Coupon Date	Line
55	5	03/31/2014	912828C65	03/31/2019	130,437.37	562.63	131,000.00	1,064.38	1.6250%	1.7150%	912	*	99.570515	2.4600	03/31/2017	55
56	5	04/30/2014	912828D23	04/30/2019	133,316.06	683.94	134,000.00	1,088.75	1.6250%	1.7320%	942	*	99.489600	2.5234	10/31/2016	56
57	5	05/31/2014	912828WL0	05/31/2019	134,915.80	84.20	135,000.00	1,012.50	1.5000%	1.5130%	973	0.08197	99.937629	2.6114	11/30/2016	57
58	5	06/30/2014	912828WS5	06/30/2019	132,714.05	285.95	133,000.00	1,080.63	1.6250%	1.6700%	1003	*	99.784997	2.6902	12/31/2016	58
59	5	07/31/2014	912828WW6	07/31/2019	136,379.00	621.00	137,000.00	1,113.13	1.6250%	1.7200%	1034	*	99.546716	2.7734	01/31/2017	59
60	5	08/31/2014	912828D80	08/31/2019	127,871.54	128.46	128,000.00	1,040.00	1.6250%	1.6460%	1065	0.08978	99.899637	2.8568	02/28/2017	60
61	5	09/30/2014	912828F39	09/30/2019	125,700.04	299.96	126,000.00	1,102.50	1.7500%	1.8000%	1095	*	99.761940	2.9356	03/31/2017	61
62	5	10/31/2014	912828F62	10/31/2019	996.79	3.21	1,000.00	7.50	1.5000%	1.5670%	1126	*	99.678995	3.0060	10/31/2016	62
63	5	11/30/2014	912828G61	11/30/2019	995.45	4.55	1,000.00	7.50	1.5000%	1.5950%	1156	0.04121	99.545300	3.0893	11/30/2016	63
64	5	12/31/2014	912828G95	12/31/2019	994.56	5.44	1,000.00	8.13	1.6250%	1.7390%	1187	*	99.456337	3.1663	12/31/2016	64
65	5	01/31/2015	912828H52	01/31/2020	1,996.33	3.67	2,000.00	12.50	1.2500%	1.2880%	1218	0.06906	99.816712	3.2687	01/31/2017	65
66	5	02/28/2015	912828J50	02/28/2020	116,410.58	589.42	117,000.00	804.38	1.3750%	1.4799%	1246	0.07473	99.496222	3.3401	02/28/2017	66
67	5	03/31/2015	912828J84	03/31/2020	113,934.14	65.86	114,000.00	783.75	1.3750%	1.3870%	1278	*	99.942226	3.4291	03/31/2017	67
68	5	04/30/2015	912828K58	04/30/2020	94,977.13	22.87	95,000.00	653.13	1.3750%	1.3800%	1308	*	99.975923	3.4890	10/31/2016	68
69	5	05/31/2015	912828XE5	05/31/2020	101,706.85	293.15	102,000.00	765.00	1.5000%	1.5600%	1339	0.04098	99.712598	3.5638	11/30/2016	69
70	5	06/30/2015	912828XH8	06/30/2020	104,574.04	425.96	105,000.00	853.13	1.6250%	1.7100%	1369	*	99.594321	3.6387	12/31/2016	70
71	5	07/31/2015	912828XM7	07/31/2020	92,000.00	*	92,000.00	747.50	1.6250%	1.6250%	1400	*	100.000000	3.7223	01/31/2017	71
72	5	08/31/2015	912828L32	08/31/2020	87,627.93	372.07	88,000.00	605.00	1.3750%	1.4630%	1431	*	99.577196	3.8222	02/28/2017	72
73	5	09/30/2015	912828L65	09/30/2020	85,619.90	380.10	86,000.00	591.25	1.3750%	1.4670%	1461	*	99.558026	3.9055	03/31/2017	73
74	5	10/31/2015	912828L99	10/31/2020	84,836.56	163.44	85,000.00	584.38	1.3750%	1.4150%	1492	0.07555	99.807718	3.9622	10/31/2016	74
75	5	11/30/2015	912828M98	11/30/2020	84,817.24	182.76	85,000.00	690.63	1.6250%	1.6700%	1522	*	99.784990	4.0241	11/30/2016	75
76	5	12/31/2015	912828N48	12/31/2020	83,859.97	140.03	84,000.00	735.00	1.7500%	1.7850%	1553	*	99.833292	4.0968	12/31/2016	76
77	5	01/31/2016	912828N89	01/31/2021	87,489.11	510.89	88,000.00	605.00	1.3750%	1.4959%	1584	0.03777	99.419442	4.2120	01/31/2017	77
78	5	02/28/2016	912828P87	02/28/2021	91,803.96	196.04	92,000.00	517.50	1.1250%	1.1690%	1612	*	99.786910	4.3172	02/28/2017	78
79	5	03/31/2016	912828Q37	03/31/2021	100,586.10	413.90	101,000.00	631.25	1.2500%	1.3350%	1643	*	99.590195	4.3895	03/31/2017	79
80	5	04/30/2016	912828Q78	04/30/2021	101,378.75	(378.75)	101,000.00	694.38	1.3750%	1.2973%	1673	0.07473	100.375000	4.4328	10/31/2016	80
81	5	05/31/2016	912828R77	05/31/2021	89,913.36	86.64	90,000.00	618.75	1.3750%	1.3950%	1704	*	99.903732	4.5157	11/30/2016	81
82	5	06/30/2016	912828S27	06/30/2021	92,581.69	418.31	93,000.00	523.13	1.1250%	1.2180%	1734	*	99.550203	4.6257	12/31/2016	82
83	5	07/31/2016	912828S76	07/31/2021	93,749.81	250.19	94,000.00	528.75	1.1250%	1.1800%	1765	0.03057	99.733839	4.7091	01/31/2017	83
84	5	08/31/2016	912828F6	08/31/2021	91,000.00	*	91,000.00	511.88	1.1250%	1.1250%	1796	*	100.000000	4.7927	02/28/2017	84
85	5	09/30/2016	912828T34	09/30/2021	90,982.35	17.65	91,000.00	511.88	1.1250%	1.1290%	1826	*	99.980607	4.8760	03/31/2017	85
06/23/2018					12,381,410.05	\$26,589.95	\$12,408,000.00	\$812.50	1.0275%	1.1527%	632	0.01456	\$99.785703	1.7153	30-Sep-16	
less Maturations					231,686.55	313.45	232,000.00									
					\$12,149,723.50	\$26,276.50	\$12,176,000.00									
					12,381,410.05	Schwab	12,408,000.00									
					\$12,381,410.05		\$12,408,000.00									
Market					12,406,341.21											
Net					12,149,723.50											
Gain					256,617.71											
					2.11%											

Attachment F

Charles Schwab Portfolio Segment Analysis

September 30, 2016

Portfolio Segment Analysis

Month	Average Daily Investment	Return	ROI %	Net Cash Flow
7	\$12,284,338.63	\$10,356.15	1.0116%	\$254,437.52
8	12,233,981.27	10,382.57	1.0184%	245,263.14
9	12,190,427.70	10,401.79	1.0239%	2,916.02
Total / Average	\$12,236,747.26	\$31,140.51	1.0179%	\$502,616.68

ALL NOTES / BILLS	
Net Investment	\$12,149,723.50
Discount	26,276.50
Par Value	\$12,176,000.00
Coupon %	1.0275%
Yield to Maturity	1.1527%
Annual Yield \$	\$140,348.64
Days to Maturity	632
Years to Maturity	1.7304
Modified Duration	1.7054

5 YEAR NOTES				
	All	Most Recent	Maximum	Minimum
Net	\$10,194,744.24	\$90,982.35	\$303,404.37	\$994.56
Discount	24,255.76	17.65	1,735.57	(378.75)
Par	10,219,000.00	91,000.00	305,000.00	1,000.00
Coupon \$	55,416.36	511.88	2,197.50	7.50
Coupon %	1.0846%	1.1250%	1.7500%	0.5000%
Yield %	1.3112%	1.1290%	1.8000%	0.5840%
Years to Maturity	1.87	5.00	5.00	

2 YEAR NOTES				
	All	Most Recent	Maximum	Minimum
Net	\$1,954,979.26	\$100,000.00	\$138,754.39	\$998.45
Discount	2,020.74		263.05	
Par	1,957,000.00	100,000.00	139,000.00	1,000.00
Coupon \$	7,135.04	375.00	460.00	1.88
Coupon %	0.7292%	0.7500%	1.0000%	0.3750%
Yield %	0.7669%	0.7500%	1.0560%	0.4253%
Years to Maturity	1.18	2.00	2.00	

Certificate of Commendation

Peter Chamlee

Eagle Scout, Carpinteria Troop 147

*is congratulated by the City Council and the Citizens of Carpinteria,
for receiving the highest and most honored rank in scouting,*

The Eagle Award

*This badge of honor, reflecting your ability, initiative and perseverance,
is an achievement earned by only a select few of the nation's youth.*

*The skills and responsibilities you have developed to become an
Eagle Scout will prove invaluable to you throughout your life.*

*We wish you every success and personal happiness
in the bright future that lies before you.*

10/16/2016

Date

Gregg A. Carty

Gregg A. Carty, Mayor



City of Carpinteria

COUNCIL AGENDA STAFF REPORT October 24, 2016

ITEM FOR COUNCIL CONSIDERATION

Contracts Executed by the City Manager on behalf of the City for the Period of September 17, 2016 through October 15, 2016.

STAFF RECOMMENDATION

Action Item ; Non-Action Item X

Receive and file Report of Contracts Executed by the City Manager for the period of September 17, 2016 through October 15, 2016.

Motion: I move to receive and file the Report of Contracts Executed by the City Manager for the period of September 17, 2016 through October 15, 2016.

DISCUSSION

The City Manager is delegated authority by the Carpinteria Municipal Code (CMC), §2.08.150B, to execute contracts on behalf of the City in the amount of \$30,000 or less. Pursuant to CMC §2.08.150C, a list of all contracts executed by the City Manager is provided for City Council information and appended to this Staff Report as Attachment A. Attachment A lists all contracts entered into on behalf of the City for goods, construction and services for the period of September 17, 2016 through October 15, 2016.

FINANCIAL CONSIDERATIONS

All contracts entered into are within the appropriated budgeted amounts.

ATTACHMENTS

- A. Report of Contracts Executed by the City Manager

Staff contact: Fidela Garcia, City Clerk
(805) 755-4403, fidelag@ci.carpinteria.ca.us

Reviewed by: Dave Durflinger, City Manager

Signature


Signature

ATTACHMENT A

Report of Contracts Executed by the City Manager Period of September 17, 2016 through October 15, 2016

VENDOR	PURPOSE	AMOUNT
WESTERN OIL SPREADING SERVICES, INC.	BAILARD AVENUE SLURRY OF ANGLED PARKING	\$16,775
THOMSON REUTERS	ONLINE LAW LIBRARY (3 YEAR CONTRACT)	\$1,639.93 ANNUALLY



City of Carpinteria

COUNCIL AGENDA STAFF REPORT October 24, 2016

ITEM FOR COUNCIL CONSIDERATION

Declaration of City-owned Vehicles and Vehicle Parts as Surplus Assets

STAFF RECOMMENDATION

Action Item X; Non-Action Item

It is recommended that the City Council adopt the attached Resolution No. 5692 declaring the vehicles and vehicle parts listed in Exhibit A as surplus assets and authorizing their disposal.

Motion: I move to approve and adopt Resolution No. 5692, as read by title only.

BACKGROUND / DISCUSSION

Various items in the City's inventory of equipment reach an age or a state of disrepair or are otherwise no longer needed. The purpose of this agenda matter is to request that the City Council approve disposing of certain vehicles and vehicle parts identified in the attached list.

POLICY CONSISTENCY

Carpinteria Municipal Code Section 3.32.050 authorizes the Administrative Services Director, as purchasing officer, to supervise the exchange or trade-in of all supplies and equipment which have become unsuitable for city use for new supplies and equipment. Disposal of assets requires Council approval.

City staff will seek to sell or donate defunct property to non-profit or public programs that may have some use for them.

FINANCIAL CONSIDERATIONS

Proceeds, if any, from the sale of these assets, are deposited into the Equipment Replacement Fund.

ATTACHMENTS

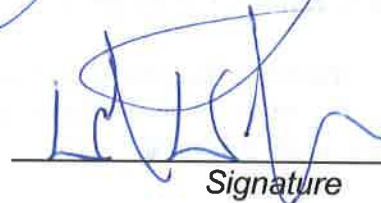
Resolution No. 5692
Exhibit A, list of items to be declared surplus

Staff contact: John Thornberry,
Administrative Services Director
805-755-4448 JohnT@ci.carpinteria.ca.us



Signature

Reviewed by: Dave Durlinger, City Manager



Signature

RESOLUTION NO. 5692

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA
DECLARING CERTAIN VEHICLES AND VEHICLE PARTS AS SURPLUS ASSETS**

WHEREAS, staff conducted an analysis of certain equipment as listed in the attached Exhibit A.; and

WHEREAS, the City Council authorized replacement of the vehicles listed on Exhibit A; and

WHEREAS, the City Council last declared vehicles as surplus on December 10, 2012 per Resolution 5421; and

WHEREAS, there will be no impact on fund balance as a result of the subject vehicles and vehicle parts disposal; and

WHEREAS, there is no perceived future need for the vehicles and vehicle parts in City operations.

NOW, THEREFORE, THE CARPINTERIA CITY COUNCIL HEREBY RESOLVES that the vehicles and vehicle parts shown in the attached Exhibit A are declared surplus and are to be disposed of in the most economical way possible.

PASSED, APPROVED AND ADOPTED this 24th day of October, 2016 by the following called vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

MAYOR, CITY OF CARPINTERIA

Declaration of City-owned Vehicles as Surplus Assets

October 24, 2016

Page 2

ATTEST:

CITY CLERK, CITY OF CARPINTERIA

I hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held this 26th day of September 2016.

CITY CLERK, CITY OF CARPINTERIA

APPROVED AS TO FORM:

Peter N. Brown, on behalf of
Brownstein Hyatt Farber Schreck, LLP
acting as City Attorney of the City of Carpinteria

Exhibit A

Model Year	Make	Model	VIN
1994	Ford	Ranger Pickup	1FTCR10A4RUE75321
2008	Piaggio	Vespa MP3 250	ZAPM479M975002751
1999	Dodge	Ram 2500	3B6KC2628XM585309
2002	Ford	Think	1FABP225520104078
2002	Ford	Think	1FABP22572010371
2013	Ford	Tail Gate F250	X
2016	Ford	Tail Gate F250	X
2014	Ford	Tail Gate F250	X
2013	Ford	Step Bumper	X
2013	Ford	Step Bumper	X
2016	Ford	Step Bumper	X



City of Carpinteria

COUNCIL AGENDA STAFF REPORT October 24, 2016

ITEM FOR COUNCIL CONSIDERATION

Bob Hansen Creeks Preservation Program Annual Report

STAFF RECOMMENDATION

Action Item X ; Non-Action Item

Receive a presentation on City efforts to protect and restore City creek resources as part of the Bob Hansen Creeks Preservation Program.

Motion: I move to receive and file the annual Bob Hansen Creeks Preservation Program Report.

BACKGROUND

Each year, as part of the City's ongoing implementation of the Bob Hansen Creeks Preservation Program, City staff provides an update to the City Council on current efforts underway related to the preservation and restoration of the City's four creeks: Carpinteria Creek, Franklin Creek, Lagunitas Creek and Santa Monica Creek.

DISCUSSION

City staff continues to participate in efforts to protect and restore Carpinteria's creeks. Some of these activities have become routine and are undertaken on an annual or ongoing basis, while others are project-specific efforts, or projects that the City lends its support to as a member of the Carpinteria Creek Watershed Coalition (CCWC) or similar multi-jurisdictional efforts. Below is a brief summary of projects and activities completed since the 2015 annual update as well as a description of projects/events that are expected to be undertaken in support of protecting Carpinteria creeks within the next year (2017).

Development Review and Resource Protection

CDD staff continues to review development proposals for projects adjacent to City creeks and ensure that projects presently under construction avoid impacts to adjacent creeks resources through proper mitigation measures. Since the 2015 update, City staff has worked on the following creeks-related development projects:

- Carpinteria Avenue Bridge Replacement: The project design team continues to develop and refine construction plans for the replacement of the existing Carpinteria Avenue Bridge with a new three-span bridge that will meet current safety and design requirements, including improving the hydraulic capacity of the bridge to accommodate 100-year storm flows. The new bridge would also further reduce obstructions to steelhead migration by removing the existing row of piers from the creek's low flow channel.

A Draft Environmental Impact Report (EIR) was prepared for the project and considered, among others, the project's potential impacts to biological resources associated with Carpinteria Creek and water quality, and identified appropriate mitigation measures for these impacts including restoration of all disturbed areas and construction of stormwater facilities including vegetated bioswales and storm drain filters. The Draft EIR was circulated for a 45-day public review and comment period beginning on March 25, 2016. During the public review period, a hearing was also held with the City's Environmental Review Committee (ERC) to consider the adequacy of the EIR. The ERC recommended approval of the Draft EIR to the Planning Commission with minor revisions, which have since been incorporated into the Proposed Final EIR.

The 65% engineered plans for the bridge design, which included lighting, landscaping and architectural treatments for the bridge structure, were recently reviewed by the City's Architectural Review Board at their September 15, 2016 meeting, wherein the Board recommended preliminary approval of the project. Staff is currently preparing the project and Proposed Final EIR to be reviewed and considered by the Planning Commission later this fall. It is anticipated the permitting process and design work will be completed by early 2017, and construction could begin as soon as summer/fall 2017.

- Linden-Casitas Interchanges and Via Real Extension: The Conditional Use Permit and Coastal Development Permit application for the project was approved by the City Council in November, 2015. Caltrans recently satisfied all project conditions necessary to begin construction, including pre-construction sensitive species monitoring, and officially broke ground in September 2016. Vegetation clearing in and around Carpinteria Creek has recently been completed (October 2016) in the lead up to beginning construction on the replacement of the U.S. 101 bridges over Carpinteria Creek and the Via Real extension across the creek. Work is anticipated to continue over the next approximately four years. As part

of the project, Caltrans will be responsible for the successful replanting and restoration of affected portions of Carpinteria Creek.

- Mimaki Grading and Creek Restoration, 5800 Via Real: Following the Planning Commission's August 2015 approval of the Coastal Development Permit to allow the grading and re-contouring of the agricultural property for use as an avocado orchard, and the restoration of unpermitted habitat clearing activities within the Carpinteria Creek corridor, grading and habitat restoration efforts were completed in Fall 2015. Site improvements included permanent onsite stormwater protection measures, including permanent bio-swales, stormwater detention basin and protected overflow escape. Re-grading of compromised creek banks, and compensatory habitat restoration totaling close to one acre was required to mitigate for the unpermitted clearing activities.

Recent reports from the applicant's consulting biologist (summer 2016) indicate that the habitat restoration component of the project is making good progress, with most plantings having successfully survived the first year. Ongoing monitoring, weeding and plant replacement, as needed, is required over the next four years to ensure successful restoration of the site.

City staff continues to work closely with other agencies including Santa Barbara County Flood Control District to review and permit routine creek maintenance projects in City watersheds. County Flood Control District staff annually survey City creeks and flood control facilities to identify necessary maintenance needs to ensure adequate storm flow capacities through all waterways. No maintenance activities were identified for City creeks in 2015 aside from minor clearing of accumulated vegetation in Franklin and Santa Monica Creeks. For 2016, Flood Control staff identified several areas requiring vegetation clearing in Carpinteria and Lagunitas Creeks. Clearing activities in both creeks were completed in September/October of this year. Flood Control also recently replaced the fencing along the Franklin Creek bike path from Foothill Road to Meadow Lane. In addition, the removal of accumulated soil from the lower Franklin Creek channel is scheduled to occur during November, 2016.

The City's Biological Consultant, Vince Semonsen, and City Planning and Public Works staff completed approximately eight walks of parts of the City's creeks to look for sources of illicit discharges, unpermitted development and other threats to the well-being of the creeks as well as to monitor the progress of various development and restoration sites and gauge overall creek health. The City Biologist's annual report, which includes monitoring of current and ongoing projects for the calendar year, was recently completed and will be posted to the City website.

The City also continues to address impacts to City creeks as a result of urban runoff and stormwater events as required by the State Water Quality Control Board Phase II Small Municipality Separate Storm Sewer System Permit (Order No. 2013-0001 DWQ)

(Phase II Permit). The Public Works Department continues to implement the Regional Water Quality Control Board's Post-Construction Runoff Controls for Central Coast municipalities through the Stormwater Technical Guidance for Low Impact Development. The Technical Guide is currently being updated and revisions are expected to be published in early spring of 2017.

The City recently submitted its third annual report for compliance with the Phase II Permit, which regulates and addresses all aspects of stormwater runoff including source reduction, illicit discharge elimination, water quality and education/outreach. Included with this year's report was an Effectiveness Assessment of the best management practices submitted last year, water quality monitoring data from the four storm events from 2015, and an update on the pollutant load modeling effort, all of which were prepared to reflect regional cooperation in implementation of water quality standards. Additionally, an Enforcement Response Plan was drafted as part of the Year 3 requirements.

The City continues to work on the Illicit Discharge Detection and Elimination Program, tracking and abating unpermitted discharges into the City's storm drains and/or creeks. As part of this program, the City has updated its master storm drain map to include drainage areas and the location of all inlets and outfalls to allow for a more detailed understanding of the City's storm drain system. Fourteen illicit discharges were identified and abated through warnings and/or citations over the last year. The Illicit Discharge Program and the Post-Construction Runoff Program were both subject to a routine audit by Regional Water Quality Control Board staff on August 2, 2016. The results of that audit have not yet been received.

Public Works, Parks and Recreation Department, and Code Compliance staff have also been actively abating homeless encampments within the City, including in, or adjacent to, City creeks. Homeless encampments pose a threat to creek resources due to habitat damage/vegetation removal, trash accumulation and human waste. Over the course of the last year, Code Compliance staff made contact with and/or abated approximately 18 homeless encampments located in, or near, City creeks. Carpinteria Creek, particularly around the Carpinteria Avenue Bridge, has continued to be an area with a regular occurrence of illicit encampments. Thirteen cleanups of homeless encampments were conducted in Carpinteria Creek, netting approximately 4,500 pounds of trash. Recognizing the ongoing challenges with homeless encampments in this area, the project design team for the Carpinteria Avenue Bridge replacement is considering design solutions to be implemented as part of bridge construction that would aid in discouraging encampments in this area.

In the spring of 2016, the State Water Resources Control Board initiated the development of total maximum daily loads (TMDLs) for nutrient pollutants for the Carpinteria Salt Marsh. The TMDL process is intended to provide a regulatory framework for achieving water quality standards for the intended pollutant(s). The City, along with the County of Santa Barbara and affected property owners, is participating in

the TMDL development process. On October 12, 2016, the City received a Draft Water Quality Data Analysis Report presenting preliminary water quality data that may be used to develop nutrient TMDLs for Franklin Creek within the Carpinteria Salt Marsh watershed. As the scope of this project evolves, the City is encouraging Water Board staff to actively engage the Carpinteria Valley agricultural, business and residential communities.

Public Education and Outreach

The City annually sends letters to property owners and occupants adjacent to City creeks notifying them of the creek's special status and additional restrictions that apply to development and maintenance activities near creeks in the City. This year's notice, which is scheduled to be sent out by October 21, 2016, invites interested residents to attend the Council meeting to learn more about the community's efforts to preserve and protect creek resources. In total, approximately 350 notices will be sent out to property owners and residents adjacent to the City's creeks.

The City has also been involved in various outreach/educational efforts, including helping to host/organize creek and beach cleanups several times a year in coordination with local volunteer groups, schools and the Carpinteria Creek Watershed Coalition (CCWC), incorporating watershed-based curriculum at the local elementary schools as part of an after-school program, helping to host evening community presentations about our local creeks with the CCWC, leading Carpinteria Salt Marsh tours, offering drought tolerant landscaping workshops and once again sponsoring and participating in the Santa Barbara County Creek Week events and Coastal Cleanup Day.

The City's Integrated Pest Management (IPM) committee continues to meet and work on pest and weed control issues on City-owned properties. Finally, the City partnered with the Carpinteria Valley Water District offering a greywater workshop to the public to reduce water use and encourage sustainable landscaping practices.

Cumulatively, over 300 person hours were spent in the last year participating in public outreach/education, and trash pick-up events by City staff and volunteers/docents. It is also estimated that hundreds of residents and visitors participated in docent-led walks through the Salt Marsh or bird watching along Carpinteria Creek. For this year's Santa Barbara County Creek Week, the City-affiliated events included tours of the Carpinteria Salt Marsh, an evening presentation in partnership with the National Weather Service and South Coast Habitat Restoration on the ongoing drought and its impacts on the community, two wildlife kayak paddles, and beach cleanups in conjunction with California Coastal Clean-up Day at Carpinteria, Tarpits and Jellybowl Beaches. A total of 115 volunteers collected more than 200 pounds of trash and recyclables along Carpinteria's coastline.

Carpinteria Creek Restoration Efforts

The City continues to be an active member of the Carpinteria Creek Watershed Coalition. The Coalition, which is made up of various stakeholders including resource protection agencies, local government, property owners and interested residents, works together to restore and protect the resources of Carpinteria Creek. Over the years the Coalition has focused their energies on removing manmade obstructions to fish passage from the Creek and undertaking outreach efforts to build support for, and appreciation of, the Carpinteria Creek watershed.

In this last year, the Coalition completed the final major fish passage project (known as the "Upper Carpinteria Creek Crossing" project) on the Carpinteria branch of Carpinteria Creek. The project involved removing an undersized bridge and adjacent concrete channel, restoring the creek bed and banks to a more natural setting, and installing a new free-span bridge over the creek channel.

With this project completed, both branches of Carpinteria Creek are now free of major obstructions and open to fish passage up to their historic upper natural limits for the first time in decades. It is hoped that upcoming winter storm flows coupled with the now unobstructed creek channels will allow Southern Steelhead to once again reach their historic spawning grounds and repopulate Carpinteria Creek. As Carpinteria Creek was previously identified as a top priority watershed for steelhead recovery on the South Coast, the removal of the final major obstruction marks a major achievement for statewide steelhead recovery efforts as well as for the local community.

Upcoming Projects and Endeavors

In the coming year, City staff anticipates continuing work on a variety of creeks-related projects including:

- Beginning construction on the Carpinteria Avenue Bridge Replacement;
- Supporting Friends of the Franklin Trail to complete phase III of the Franklin Trail which would re-open a historic hiking trail into the Santa Ynez mountains and the upper reaches of the Carpinteria Creek watershed;
- Continuing construction of the Highway 101 Linden-Casitas Interchanges and Via Real Extension project and continue working with Caltrans on the Highway 101 HOV Lanes project;
- Water quality monitoring as part of a regional monitoring program, in coordination with other Santa Barbara County agencies;
- Continued development of a regional pollutant loading model;
- Ongoing implementation of the RWQCB's post-construction stormwater requirements for development projects;
- Undertaking small-scale stormwater improvements either as stand-alone projects, such as the Ash Avenue Water Quality Control and Drainage

Improvement project or as part of larger Development Projects (such as stormwater/drainage improvements for private development);

- Pursuing grants for stormwater projects;
- Developing a Citywide Low Impact Development strategy for public parking lot retrofits; and
- Participation in the development of the new Total Maximum Daily Loads for Franklin Creek within the Carpinteria Salt Marsh watershed.

Additionally, the City will continue to lend its support to the Carpinteria Creek Watershed Coalition to continue restoring Carpinteria Creek and to raise awareness throughout the Carpinteria Valley of the community's unique creek resources.

The City intends to continue to work towards protecting and preserving creek resources within the City and working collaboratively with other organizations and agencies in the Carpinteria Valley to implement a watershed-based approach to creek protection and restoration.

PRINCIPAL PARTIES EXPECTED AT MEETING

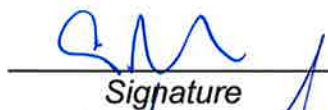
- Mauricio Gomez, Director of South Coast Habitat Restoration and Chair of the Carpinteria Creek Watershed Coalition
- Representatives of the Carpinteria Creek Watershed Coalition and the Carpinteria Creeks Committee

Staff contact: Nick Bobroff, Senior Planner
(805) 755-4407; nickb@ci.carpinteria.ca.us



Signature

Staff contact: Erin Maker
(805) 880-3415; erinm@ci.carpinteria.ca.us



Signature

Reviewed by: Dave Durlinger, City Manager



Signature



City of Carpinteria

COUNCIL AGENDA STAFF REPORT October 24, 2016

ITEM FOR COUNCIL CONSIDERATION

Agreement with BSN Construction Inc. for the completion of City Maintenance Project No. 15027-3, Linden Avenue Concrete Repair Phase 3

STAFF RECOMMENDATION

Action Item X ; Non-Action Item

Approve and authorize the City Manager to sign the agreement with BSN Construction Inc. for the completion of City Maintenance Project No. 15027-3, Linden Avenue Concrete Repair Phase 3.

Motion: I move to approve and authorize the City Manager to sign the agreement with BSN Construction Inc. for the completion of City Maintenance Project No. 15027-3, Linden Avenue Concrete Repair Phase 3.

BACKGROUND

The City of Carpinteria has a Right-of-Way Maintenance Program that provides general maintenance and repairs to public rights-of-way. This program focuses on maintaining the City's sidewalks, street tree inventory and other landscaped areas within the public right-of-way. Additionally, the City has a Street Tree Management Program relating to the planting, care, removal, and replacement of trees, shrubs and any other plantings in public areas governed by Carpinteria Municipal Code (CMC) Chapter 12.28. More specifically, pursuant to CMC Section 12.28.210, the Public Works Director is responsible for the replacement of street trees and may cause the street trees to be removed by the City if they are deemed to be unhealthy, undesirable, or causing excessive damage to existing public improvements or other street trees.

In 2012, the City completed the first phase of the Linden Avenue Concrete Repair Project, which included the replacement of street trees, curb, gutter and sidewalk at four Linden Avenue locations. In June of this year, the City completed the second phase of

the project at 507 Linden Avenue and 973 Linden Avenue (Fig.1) which included the replacement of two street trees, curb, gutter and sidewalk.

Figure 1



The third phase of the project will address three additional locations at 606 (Fig 2), 865 (Fig. 3) and 970 Linden Avenue (Fig. 4). All three locations have received extensive concrete repairs over the years and are once again in need of repair. The identified sidewalk, curb, and gutter locations are currently cracked and lifted due to the root structures of adjacent street trees and may present potential risk for pedestrian travel.

Figure 2



Figure 3



Figure 4



DISCUSSION

The project scope includes the replacement of three trees and a total of approximately 104 lineal feet of curb, gutter and sidewalk at 606, 865 and 970 Linden Avenue. The replacement trees selected for these locations are Ginkgo Biloba Fairmont trees.

During the entire construction phase of this project, local businesses will have the option to remain open with access provided for their customers. BSN Construction Inc. will coordinate all construction activities with the affected businesses and City Departments, to reduce any potential negative impacts from their work activities. The total number of working days anticipated for this project is 16.

POLICY CONSISTENCY

The proposed project is included in the Street and Thoroughfares section of the City's Capital Improvement Program. This project also addresses many of the goals, objectives and policy statements in the pedestrian circulation section of the Circulation Element of the City of Carpinteria General Plan. In addition, the improvements will comply with current Americans with Disabilities Act Standards.

The proposed project is consistent with CMC Section 12.28.210, which states that the Public Works Director is responsible for the replacement of street trees and may cause the street trees to be removed by the City if they are deemed to be unhealthy, undesirable, or causing excessive damage to existing public improvements or other street trees.

The City maintains a list of approved street trees and trees that require removal are replaced with a tree species from the list unless there are extraordinary circumstances that preclude replacement. The approved Linden Avenue replacement tree is the Ginkgo Biloba Fairmont.

FINANCIAL CONSIDERATIONS

The total project construction cost is \$43,900. This project will be funded through Measure A.

LEGAL

This project is exempt from the formal bid process in accordance with Chapter 1.09 California Public Contract Code, Section 22032(a) of the California Uniform Construction Cost Accounting Commission, Cost Accounting Policies and Procedures Manual which states that *"Public projects of forty-five thousand dollars or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order."*

The proposed agreement will allow BSN Construction Inc. to complete City Maintenance Project No. 15027-3, Linden Avenue Concrete Repair Phase 3. The proposed agreement form is a standard agreement form approved by the City Attorney.

OPTIONS

The City Council could choose to not authorize the City Manager to sign the agreement with BSN Construction Inc. and direct staff to make revisions.

PRINCIPAL PARTIES EXPECTED AT MEETING

No principal parties are expected to attend.

ATTACHMENTS

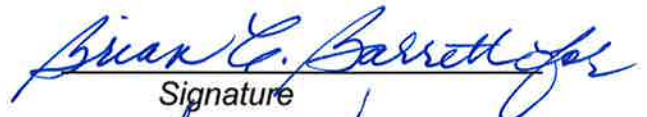
Attachment A: Agreement with BSN Construction Inc. for Construction Contractor Services

Staff contact:
Melissa Angeles, Engineering Technician
(805) 755-4445
MelissaA@ci.carpinteria.ca.us



Signature

Reviewed by:
Charles W. Ebeling, Public Works Director



Signature

Reviewed by: Dave Durflinger, City Manager



Signature

ATTACHMENT A

Agreement with BSN Construction Inc. for Construction Contractor Services

THIS PAGE INTENTIONALLY LEFT BLANK

AGREEMENT FOR CONSTRUCTION CONTRACTOR SERVICES

THIS AGREEMENT FOR CONSTRUCTION CONTRACTOR SERVICES (“**Agreement**”) is made and effective as of the ____ day of _____, 2016 by and between the City of Carpinteria, a municipal corporation (“**City**”), and BSN Construction Inc. (“**Contractor**”) (collectively, the “**Parties**”) at Carpinteria, California, with reference to the following facts:

- A. City has determined that it is necessary and appropriate to engage a contractor to carry out the services described herein; and
- B. Contractor has represented itself as being fully qualified and available to perform the contracting services necessary to complete the work in a timely manner; and
- C. City desires to contract with Contractor and Contractor is willing to perform the contracting services, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. SERVICES.

- 1.1 **Basic Work.** City hereby retains Contractor to perform the services described and set forth in the attached Exhibit A (“**Basic Work**”), which is incorporated by this reference as though set forth in full. Contractor agrees to furnish at his own expense all labor, materials, equipment, tools, transportation, and services necessary for the successful completion of the Basic Work, except such materials, equipment and services as may be stipulated in Exhibit A. Contractor shall complete the Basic Work according to a schedule of performance which is also set forth in Exhibit A. The Parties agree and acknowledge that time is of the essence in performance of this Agreement.
- 1.2 **Additional Work.** In addition to the Basic Work, City may elect to have Contractor perform additional work that is beyond the current scope of the Basic Work (“**Additional Work**”). Such Additional Work shall be mutually agreed to in advance and specified in a writing, which shall also specify the basis for the Contractor’s fee for such Additional Work. Basic Work and Additional Work are referenced collectively as “**Work**.”

2. PERFORMANCE.

- 2.1 **Standard of Performance.** Contractor shall faithfully, competently and diligently perform the obligations and responsibilities required by this Agreement, applying best management practices and the same standards of care utilized by persons commonly engaged in providing similar services as are required of Contractor hereunder in meeting its obligations under this Agreement. Contractor shall review all plans and specifications and report any errors or omissions to the City before beginning any Work. Contractor shall not engage the assistance of subcontractors for performance of the Work unless previously agreed to in writing by the Public Works Director or his/her designee.

All Work is to be completed in accordance with, and as applicable to the latest revision of Santa Barbara County's Engineering Design Standards, City of Carpinteria Municipal Code, Caltrans Standard Specifications for Public Works Construction, and traffic control as set forth in accordance with the provisions of the California MUTCD or as specified by the Public Works Director or his/her designee.

- 2.2 **Completion of Work.** Work shall be completed within 45 days of the signed date of this Agreement, unless extended in writing by the City.
 - 2.3 **Labor and Materials.** Contractor agrees to furnish at his own expense all labor, materials, equipment, tools, transportation, and services necessary for the successful completion of the Work, except such materials, equipment and services as may be stipulated in Exhibit A. Contractor shall supervise fulfillment of the provisions of this Agreement by its employees and subcontractors and shall be responsible for the timely performance of the Work as required by this Agreement.
 - 2.4 **Review of Work.** Contractor shall furnish City with reasonable opportunities from time to time to ascertain whether the Work is being performed in accordance with this Agreement. All work done and materials furnished shall be subject to final review and approval by the Public Works Director or his/her designee; Contractor is not authorized to provide final approval or review, which is solely City's function and role. City review and approval of such Work shall not, however, relieve Contractor of any of its obligations under this Agreement.
 - 2.5 **Contract Administration.** The Public Works Director or his/her designee shall represent the City in all matters relating to the administration of this Agreement. The Public Works Director or his/her designee shall have the authority to act on the City's behalf to review and approve all Work submitted by Contractor and may execute all necessary documents to authorize Contractor to perform Additional Work as provided for herein.
 - 2.6 **Representations and Warranties.** Contractor represents and warrants to City that: (i) its fulfillment of its obligations and, as applicable, performance the Work under this Agreement, will not violate any applicable or breach any contracts with third parties and (ii) it has the right, power and authority to fulfill its obligations, and, as applicable perform the Work, and enter into this Agreement; (iii) the Work contemplated hereunder will be performed by adequately trained and properly licensed personnel in a professional manner, with such personnel having the requisite skill and expertise necessary to perform and complete the Work in accordance with best management practices and industry standards and in accordance with the terms and conditions of this Agreement; and (iv) the Work and all deliverables provided hereunder will conform to the specifications agreed-to by the parties.
3. **TERM.** This Agreement shall be effective as of the date first above written and shall continue until all Work to be provided by Contractor are completed to the satisfaction of the City.

4. **COMPENSATION.**

- 4.1 **Basic Work.** For Basic Work, City shall pay Contractor on a time and materials basis, not to exceed amount of forty three thousand nine hundred and 00/100 dollars (\$43,900.00) as full compensation for all labor, materials, equipment, tools, transportation, and Work. This compensation shall be paid in accordance with the payment rates and schedule as set forth in **Exhibit B** attached hereto and incorporated herein by this reference as though set forth in full, based on the actual time spent on the tasks and the actual price of the necessary materials.

Contractor agrees that the above named price shall be full compensation for successful completion of the Basic Work pursuant to the terms outlined in **Exhibit A**, as well as for furnishing all said labor, materials, equipment, tools, transportation and services, furnishing and removing all plant, temporary structures, tools, and equipment, and doing everything required by this Agreement, for all loss and damages arising out of the nature of the Work, or from the action of the elements, or from any unforeseen difficulties which may arise during the prosecution of the Work until its acceptance by City, and for all risks of every description connected with the Work, for all expenses resulting from the suspension or discontinuance of work, except as are expressly stipulated in this Agreement to be borne by City and for completing the Work in accordance with the requirements of this Agreement.

- 4.2 **Additional Work.** Contractor shall not be compensated for any Work rendered in connection with its performance of this Agreement which is in addition to the Basic Work, unless such Additional Work is authorized in advance and in writing in the method provided for herein. Contractor will submit fee estimates for such Additional Work upon request of City.
- 4.3 **Consideration.** Contractor agrees to perform the Work according to the terms of this Agreement for the abovementioned price and City agrees to pay Contractor at the time, in the manner, and upon the conditions stipulated in this Agreement. City and Contractor, for themselves, their heirs, executors, administrators, successors, and assigns, do hereby agree to the full performance of the covenants contained in this Agreement and in the attached Exhibits.
- 4.4 **Invoices.** Each and every payment by City shall be subject to City's receipt of an invoice outlining the items for which payment is requested. Payment to Contractor as to any undisputed fees shall be made, after verification of Contractor's performance, within 30 (thirty) days of receipt of invoice. If City disputes any of Contractor's fees, it shall give written notice to Contractor within 30 (thirty) days of receipt of an invoice of such disputed fees. The City shall pay interest at the legal rate on any invoices not paid within 30 days of submission where the validity of the request is not disputed and the request has been properly submitted.
- 4.5 **Withholding.** City reserves the right to withhold future payment to Contractor if any aspect of the Contractor's work is found to be substantially inadequate. City shall notify

Contractor in writing of deficiencies believed to be substantially inadequate within thirty (30) days after completion of Work.

- 4.6 **Taxes/Insurance/Licenses.** Contractor shall be solely responsible for the payment of any federal, state, or local income tax, social security tax, workers' compensation insurance, state disability insurance, and any other taxes or insurance which Contractor is responsible for paying as an independent contractor under federal, state or local law. At all times during the term of this Agreement, Contractor and all subcontractors shall have in full force and effect all licenses necessary for the performance of Work hereunder, including without limitation, business licensing from City, all at the sole cost of Contractor.

5. **RECORDS.**

- 5.1 **Financial Records.** Contractor shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of Work under this Agreement. Contractor shall also maintain adequate records of Work provided in sufficient detail to permit an evaluation of Work. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible.
- 5.2 **Access to Records.** Contractor shall provide free access to the representatives of City or its designees at reasonable times to books and records as set forth in Section 5.1; shall give City the right to examine and audit said books and records; shall permit City to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of four (4) years after receipt of final payment.
- 5.3 **Original Records.** Upon completion of, or in the event of termination or suspension of this Agreement, all completed and incomplete original agreements, data, documents, designs, drawings, exhibits, maps, models, computer files, reports, studies, surveys, notes, and other work, materials or documents prepared or used to prepare Contractor's work product in the course of providing the Work pursuant to this Agreement ("**Contractor Work Product**") shall become the sole property of City once the Contractor has received payment. City may duplicate, disclose, disseminate, use, reuse or otherwise dispose of Contractor Work Product in whole or in part in any manner it deems appropriate, without the permission of Contractor. With respect to computer files, Contractor shall make available to the City, at Contractor's office and upon reasonable written request by City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files. Contractor may retain copies of such Contractor Work Product as a part of its record of professional activity.

6. **TERMINATION.**

- 6.1 **Termination Without Cause.** This Agreement may be terminated by either party for any reason upon ten (10) days prior written notice by the terminating party to the other

party. In the event of a termination, the date of termination shall be deemed to be the first business day occurring after the expiration of the notice period. Upon receipt of said notice, Contractor shall immediately cease all work under this Agreement, unless the notice provides otherwise. If City suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.

6.2 **Termination With Cause.** City may terminate this Agreement with cause, effective immediately upon written notice of such termination to the other party and failure of the breaching party to correct to the City's satisfaction within five (5) days of receiving such notice, based upon the occurrence of any of the following events:

- Material breach of this Agreement by Contractor;
- Cessation of Contractor, or subcontractors under his or her control, to be licensed, as required;
- Failure to substantially comply with any applicable federal, state or local law or regulation;
- Filing by or against Contractor of any petition under any law for the relief of debtors; and,
- Filing of a criminal complaint against Contractor for any crime, other than minor traffic offenses.

6.3 **Performance and Payment Upon Termination.** In the event this Agreement is terminated, with or without cause, City shall pay Contractor for the outstanding balance owed for Work performed up to the time of termination. Upon termination of the Agreement, Contractor shall submit an invoice to City as provided for herein and shall submit to the City all of its files for any billable or non-billable matters in which the Contractor is involved under the scope of this Agreement.

6.4 **Termination Upon Mutual Consent.** This Agreement may also be terminated by mutual consent of the Parties and in accordance with the terms and conditions of any plan of termination established by the Parties. In the event of a termination by mutual consent, the date of termination shall be such date as is agreed upon by the Parties. The Parties may agree to suspend or terminate a portion of this Agreement and such suspension or termination shall not make void or invalidate the remainder of this Agreement.

7. **DISPUTE RESOLUTION.** If any dispute, claim or disagreement shall arise relative to the interpretation or enforcement of this Agreement, the Parties shall use commercially reasonable efforts to settle the dispute, claim or disagreement. To this end, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If they do not reach such a solution within a period of thirty (30) days, then, upon notice by either party to the other, the dispute, claim or disagreement shall be submitted to final, binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. The arbitrator shall have the authority to assess arbitration costs and expenses against either or both Parties. The decision in the arbitration shall be binding on all Parties, and judgment on any arbitration award may be entered in any court of competent jurisdiction.

8. **INSURANCE.** Prior to the beginning of the Work and for the duration of this Agreement, Contractor shall maintain insurance coverage as specified in the attached Exhibit C, which is incorporated by this reference as though set forth in full.
9. **INDEMNIFICATION.** To the fullest extent permitted by law, Contractor shall indemnify, protect, defend and hold harmless City and any of its officials, employees and agents ("**Indemnified Parties**") from and against any and all losses, liabilities, obligations, claims, penalties, damages, costs, interest, actions, judgments, suits and expenses or disbursements of any kind or nature whatsoever, including attorneys' fees and costs ("**Claims**"), which in any way relate to this Agreement or to the performance of this Agreement by any individual or entity for whom Contractor is legally liable, including but not limited to, officers, agents, employees, subcontractors or consultants of Contractor ("**Agents**"). Contractor shall also indemnify, defend and hold harmless Indemnified Parties from and against any and all Claims which arise out of the negligence, recklessness, strict liability or willful misconduct of the Contractor and Agents.
10. **RELEASE OF INFORMATION.**
- 10.1 **Confidentiality.** All information gained by Contractor in performance of this Agreement shall be considered confidential and shall not be released except to the City, directly or indirectly, by Contractor without City's prior written authorization. Contractor, its officers, employees or subcontractors shall not voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Work performed under this Agreement unless requested by the City Attorney or authorized in writing by the City Manager or his designee. Response to a subpoena or court order shall not be considered "voluntary" provided that Contractor shall give City prompt written notice of any such court order or subpoena. The provisions of this Paragraph shall survive the termination of this Agreement.
- 10.2 **Notice and Cooperation.** Contractor shall promptly notify the City Manager and City Attorney in writing if Contractor, its officers, employees, agents or subcontractors are served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any person or party related to this Agreement and/or Contractor's related Work. City has no obligation to, but may exercise discretion to represent Contractor and/or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide the City an opportunity to review any response to discovery requests provided by Contractor. However, City's right to review any such response does not grant or imply a right of City to control, direct, dictate or rewrite said response.
11. **RELATIONSHIP TO CITY.**
- 11.1 **Independent Contractor.** Contractor is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the Work under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Neither City nor any of its officers, employees or agents shall have control over the conduct of Contractor or any of Contractor's officers, employees, subcontractors, or agents, except as set forth in this Agreement. Contractor shall not at

any time or in any manner represent that it or any of its officers, employees, subcontractors or agents are in any manner officers, employees or agents of City. Contractor shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.

- 11.2 **No Employee Privileges.** No City employee benefits shall be available to Contractor in connection with the performance of this Agreement. Except for the fees paid to Contractor as provided in the Agreement, City shall not pay salaries, wages or other compensation to Contractor for performing Work hereunder for City. City shall not be liable for compensation or indemnification to Contractor for injury or sickness arising out of performing Work hereunder.
- 11.3 **Contractor Duty to City.** Contractor understands and agrees that its responsibility to provide complete and accurate Work is owed solely to City and that its accountability under this contract shall likewise be solely to City and not to any City applicants or any other third person or entity.
- 11.4 **Interest of Contractor.** Contractor agrees to comply with all applicable conflict of interest codes. Contractor represents and warrants to City that it presently has no interests, and covenants that it shall not acquire any interests, direct or indirect, financial or otherwise, which would conflict with the performance of the Work to be provided by Contractor under this Agreement. Contractor further covenants that, in the performance of this Agreement, no subcontractor or employee having such an interest shall be employed by Contractor. Contractor certifies that neither he nor any of his officer, employees, subcontractors, or agents has or will have any prohibited financial interest under this Agreement.
- 11.5 **Undue Influence.** Contractor declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement or financial inducement. No officer or employee of City will receive compensation, directly or indirectly, from Contractor or any officer, employee, subcontractor or agent of Contractor, in connection with the award of this Agreement or any Work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling City to any and all remedies at law or in equity.
- 11.6 **Third Party Beneficiaries.** This Agreement is entered into solely for the benefit of the City and the Contractor and will not confer any rights upon any person not expressly a party to this Agreement.

12. GENERAL PROVISIONS.

- 12.1 **Further Assurances.** City and Contractor each agree to cooperate with one another, to use their best efforts, to act in good faith, and to promptly perform such acts and execute such documents or instruments as are reasonably necessary and proper to consummate the transactions contemplated by this Agreement.

- 12.2 **Notices.** All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if personally served or on the second day after mailing if mailed by first-class mail, registered or certified, return receipt requested, postage prepaid and properly addressed as follows:

To City:

Dave Durlinger, City Manager
City of Carpinteria
5775 Carpinteria Avenue
Carpinteria, CA 93013-2698
P: (805) 684-5405
F: (805) 684-5304

To Contractor:

Ben Nakaba, President
BSN Construction Inc.
3445 Telegraph Rd., Ste. 107
Ventura, CA 93003
(805) 676-1864
(805) 676-1210

Any party may change their address for the purpose of this paragraph by giving the other party written notice of the new address in the above manner.

- 12.3 **Legal Responsibilities.** Contractor shall keep itself informed of state, federal and laws and regulations which in any manner affect those employed by it or in any way affect the performance of its Work pursuant to this Agreement. The Contractor shall reasonably observe and comply with such laws and regulations. The City and its officers and employees shall not be liable at law or in equity occasioned by failure of the Contractor to comply with this Section.
- 12.4 **Notice of Claims.** City agrees to timely notify Contractor of the receipt of any third party claim related to the Agreement.
- 12.5 **Licenses.** At all times during the term of this Agreement, Contractor and all officer employees, subcontractors or agents of Contractor shall have in full force and effect, all licenses required by law for the performance of Work described in this Agreement.
- 12.6 **Labor Conditions.** City is a public entity in the state of California, and therefore, City and Contractor are subject to the provisions of the Government Code and the Labor Code of the state of California. All provisions of law applicable to public contracts and/or this Agreement are incorporated herein by this reference and are made a part of this Agreement to the same extent as if they were fully stated in the Agreement and shall be complied with by Contractor.
- 12.7 **Labor Requirements.** Contractor shall abide by all federal and California laws and regulations regarding wages, including, without limitation, the Fair Labor Standards Act and the California Labor Code, which, in part, mandate that 8 hours' labor constitutes a legal days' work, and require Contractor to pay the general prevailing wage rates. The California statutory provisions for penalties for failure to pay prevailing wages will be enforced and the statutory provisions for penalties for failure to comply with California's wage and hour laws will be enforced. In addition, Contractor must secure the payment of workers' compensation to its employees as provided by California law. Contractor must also comply with the statutory requirements relating to the employment of apprentices.

Additionally, Contractor is required to comply with all statutory requirements relating to certified payroll records, including the maintenance of the records, their certification, and their availability for inspection.

12.8 **Discrimination.** No person shall be excluded from employment in the performance of this Agreement on the grounds of race, creed, color, sex, age, marital status, sexual orientation or place of national origin. Contractor shall comply with all local, state, and federal laws relating to equal employment opportunity rights.

12.9 **Assignment.** Contractor shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of City, which shall have the sole discretion to consent to any proposed assignment. Specifically, but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

City and Contractor each binds itself, its successors, assigns and legal representatives to the other party, its successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in this Agreement.

12.10 **Waiver.** No waiver of a provision of this Agreement shall constitute a waiver of any other provision, whether or not similar. No waiver shall constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

12.11 **Force Majeure.** Neither Contractor nor City shall be liable for any delays resulting from circumstances or causes beyond its reasonable control, including, without limitation, fire or other casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority.

12.12 **Construction of Terms.** All parts of this Agreement shall in all cases be construed according to their plain meaning and shall not be construed in favor or against either of the parties. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, in whole or in part, the remainder of this Agreement shall remain in full force and effect and shall not be affected, impaired or invalidated thereby. In the event of any provision shall be adjudged invalid, void or unenforceable, the parties hereto agree to enter into a supplemental agreement to effectuate the intent of the parties and the purposes of this Agreement.

12.13 **Controlling Law.** The City and Contractor understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement, with venue proper only in the County of Santa Barbara, State of California.

12.14 **Authorization.** All officers and individuals executing this and other documents on behalf of the respective parties hereby certify and warrant that they have the capacity and have been duly authorized to execute said documents on behalf of the entities indicated.

- 12.15 **Entire Agreement.** This Agreement, along with its attached exhibits, which are incorporated herein by this reference, constitutes the entire Agreement between the parties and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. This Agreement may be altered, amended or modified only by a supplemental writing executed by the parties to this Agreement and by no other means. Each party waives any future right to claim, contest, or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreement, course of conduct, waiver or estoppel.
- 12.16 **Counterparts.** This Agreement may be executed in counterparts, each of which shall remain in full force and effect as to each party.
- 12.17 **Severability.** In the event that any term or provision of this Agreement shall be held to be invalid, void or unenforceable, then the remainder of this Agreement shall not be affected, impaired or invalidated, and each such term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the parties have executed this Agreement at the place and as of the date first written above.

"CITY"
City of Carpinteria

"CONTRACTOR"

By: _____
David Durlinger, City Manager

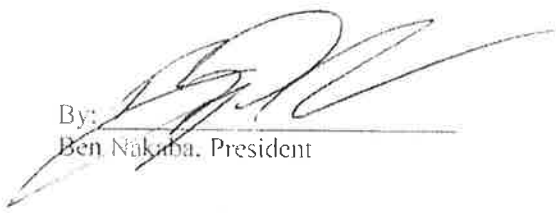
By: 
Ben Nakaba, President

EXHIBIT A
BASIC WORK



CONSTRUCTION

9/19/16

Proposal

Submitted to:

City of Carpinteria
5775 Carpinteria Ave
Carpinteria, CA 93013
Public Works

Prepared by:

Ben Nakaba
President
BSN Construction Inc.
3445 Telegraph Rd Ste 107
Ventura, CA 93003
Ph: (805) 676-1864
Fax: (805) 676-1210
bnakaba@bsncon.com

Description

Prevailing Wage rates:

Location # 1 (Blum and Sons)

606 Linden Ave:

1. Approx: 50 lineal ft. Saw cut asphalt and concrete, demo, load and haul off.
2. Form for curb and gutter 6" high curb and 2' wide gutter, pour 560- C- 3250 mix. 50' x 30" wide curb and gutter. Import and install 6" base under curb and gutter.
3. Pour 4" thick sidewalk on existing sub grade and match existing joints, 560-C-3250 mix. Approx 525 SF
4. Patch back asphalt on existing subgrade Approx: 160 square feet.

Location # 2 (Sushi Terri)

970 Linden Ave:

1. Approx: 27 lineal ft. Saw cut asphalt and concrete, demo, load and haul off.
2. Form for curb and gutter 6" high curb and 2' wide gutter, pour 560- C- 3250 mix. 27' x 30" wide curb and gutter. Import and install 6" base under curb and gutter.
3. Pour 4" thick sidewalk on existing sub grade and match existing joints, 560-C-3250 mix. Approx 240 SF
4. Patch back asphalt on existing subgrade Approx: 140 square feet.



CONSTRUCTION

Location # 3 (Old Cajun Kitchen)

865 Linden Ave:

1. Approx: 27 lineal ft. Saw cut asphalt and concrete, demo, load and haul off.
2. Form for curb and gutter 6" high curb and 2' wide gutter, pour 560- C- 3250 mix. 27' x 30" wide curb and gutter. Import and install 6" base under curb and gutter.
3. Pour 4" thick sidewalk on existing sub grade and match existing joints, 560-C-3250 mix. Approx 228 SF
4. Patch back asphalt on existing subgrade Approx: 150 square feet.

Total: \$43,900.00

Exclusions:

1. Permits, survey, bonds, fees, testing, inspections.

EXHIBIT B

**PAYMENT RATES AND SCHEDULE
(SEE EXHIBIT A)**

EXHIBIT C
INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of the Work, Contractor will maintain insurance in conformance with the requirements set forth below. Contractor will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Contractor agrees to amend, supplement or endorse the existing coverage to do so. Contractor acknowledges that the insurance coverage and policy limits set forth in this Section constitute the minimum amount of coverage required. Any insurance proceeds available to City in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to City.

Contractor shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office “Commercial General Liability” policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$1,000,000 per accident. If Contractor owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Contractor or Contractor’s employees will use personal autos in any way on this project, Contractor shall provide evidence of personal auto liability coverage for each such person.

Workers Compensation on a state-approved policy form providing statutory benefits as required by law with employer’s liability limits no less than \$1,000,000 per accident or disease.

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a “pay on behalf” basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured’s liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to City for injury to employees of Contractor, subcontractors or others involved in the Work. The scope of coverage provided is subject to approval of City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Insurance procured pursuant to these requirements shall be written by insurers that are admitted carriers in the state of California and with an A.M. Bests rating of A- or better and a minimum financial size VII.

General conditions pertaining to provision of insurance coverage by Contractor. Contractor and City agree to the following with respect to insurance provided by Contractor:

1. Contractor agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds City, its officials, employees, volunteers and agents, using standard ISO endorsement No. CG 2010 with an edition prior to 1992. Contractor also agrees to require all contractors and subcontractors to do likewise.
2. No liability insurance coverage provided to comply with this Agreement shall prohibit Contractor, or Contractor's employees or agents, from waiving the right of subrogation prior to a loss. Contractor agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all contractors and subcontractors to do likewise.
3. All insurance coverage and limits provided by Contractor and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.
4. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.
5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.
6. All coverage types and limits required are subject to approval, modification and additional requirements by the City, as the need arises. Contractor shall not make any reductions in scope of coverage (e.g., elimination of contractual liability or reduction of discovery period) that may affect City's protection without City's prior written consent.
7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Contractor's general liability policy, shall be delivered to City at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by City shall be charged to and promptly paid by Contractor or deducted from sums due Contractor, at City option.
8. Certificate(s) are to reflect that the insurer will provide 30 (thirty) days notice to City of any cancellation of coverage. Contractor agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.
9. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Contractor or any subcontractor, is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self-insurance available to City.

10. Contractor agrees to ensure that subcontractors, and any other party involved with the project who is brought onto or involved in the project by Contractor, provide the same minimum insurance coverage required of Contractor. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Section. Contractor agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to City for review.
11. Contractor agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to City. If Contractor's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time the City shall review options with the Contractor, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.
12. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Contractor ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Contractor, the City will negotiate additional compensation proportional to the increased benefit to City.
13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
14. Contractor acknowledges and agrees that any actual or alleged failure on the part of City to inform Contractor of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.
15. Contractor will renew the required coverage annually as long as City or its employees or agents face an exposure from operations of any type pursuant to this Agreement. This obligation applies whether or not the Agreement is canceled or terminated for any reason. Termination of this obligation is not effective until City executes a written statement to that effect.
16. Contractor shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Contractor's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City within five days of the expiration of the coverages.
17. The provisions of any workers' compensation or similar act will not limit the obligations of Contractor under this Agreement. Contractor expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials and agents.

18. Requirements of specific coverage features or limits contained in this Section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be limiting or all-inclusive.
19. These insurance requirements are intended to be separate and distinct from any other provision in this agreement and are intended by the parties here to be interpreted as such.
20. The requirements in this Section supersede all other Sections and provisions of this Agreement to the extent that any other Section or provision conflicts with or impairs the provisions of this Section.
21. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
22. The City's failure to comply with reporting requirements should not affect coverage required under the Agreement.

Contractor agrees to provide immediate notice to City of any claim or loss against Contractor arising out of the work performed under this agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

ACORDTM CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/17/2016

PRODUCER (818) 761-8422
La France & La France Ins. Agency, Inc.
5756 Lankershim Blvd.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

North Hollywood, CA 91601-

INSURED

BSN CONSTRUCTION INC
PO BOX 6714

VENTURA CA 93006-

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: COLONY INSURANCE COMPANY

INSURER B: UNITED FINANCIAL CASUALTY

INSURER C: MIDWEST EMPLOYERS CASUALTY

INSURER D: ZURICH INSURANCE CO

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A		GENERAL LIABILITY		/ /	/ /	EACH OCCURRENCE \$ 1,000,000
		☒ COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
		☐ CLAIMS MADE ☒ OCCUR	103GL0004642-04	06/14/2016	06/14/2017	MED EXP (Any one person) \$ 5,000
				/ /	/ /	PERSONAL & ADV INJURY \$ 1,000,000
		GEN'L AGGREGATE LIMIT APPLIES PER				GENERAL AGGREGATE \$ 2,000,000
		☒ POLICY ☐ PRO-JECT ☐ LOC		/ /	/ /	PRODUCTS - COMP/OP AGG \$ 2,000,000
B		AUTOMOBILE LIABILITY		/ /	/ /	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000
		☐ ANY AUTO	03326897	10/16/2015	10/16/2016	BODILY INJURY (Per person) \$
		☐ ALL OWNED AUTOS		/ /	/ /	BODILY INJURY (Per accident) \$
		☒ SCHEDULED AUTOS		/ /	/ /	PROPERTY DAMAGE (Per accident) \$
		☒ HIRED AUTOS		/ /	/ /	
		☒ NON-OWNED AUTOS		/ /	/ /	
				/ /	/ /	
		GARAGE LIABILITY		/ /	/ /	AUTO ONLY - EA ACCIDENT \$
		☐ ANY AUTO		/ /	/ /	OTHER THAN EA ACC \$
				/ /	/ /	AUTO ONLY: AGG \$
		EXCESS/UMBRELLA LIABILITY		/ /	/ /	EACH OCCURRENCE \$
		☐ OCCUR ☐ CLAIMS MADE		/ /	/ /	AGGREGATE \$
				/ /	/ /	\$
		DEDUCTIBLE		/ /	/ /	\$
		RETENTION \$		/ /	/ /	\$
C		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	BNUWC0133789	10/30/2015	10/30/2016	☒ WC STATU-TORY LIMITS ☐ OTH-ER
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?		/ /	/ /	E.L. EACH ACCIDENT \$ 1,000,000
		If yes, describe under SPECIAL PROVISIONS below		/ /	/ /	E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
				/ /	/ /	E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D		OTHER INLAND MARINE	EC71167060	06/14/2016	06/14/2017	RENTED & LEASED EQUIP 50,000
				/ /	/ /	
				/ /	/ /	

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS
certificate holder is included as additional insured.

CERTIFICATE HOLDER

() - () -

City of Carpinteria
5775 Carpinteria Ave

Carpinteria CA 93013-

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL _____ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

La France

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

COMMERCIAL GENERAL LIABILITY
CG 20 33 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – AUTOMATIC STATUS WHEN REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and
2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

2. "Bodily injury" or "property damage" occurring after:

- a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement you have entered into with the additional insured; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

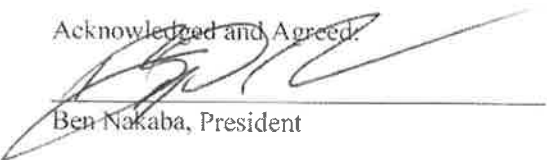
This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

EXHIBIT D

WORKERS' COMPENSATION STATEMENT

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

Acknowledged and Agreed:



Ben Nakaba, President



City of Carpinteria

COUNCIL AGENDA STAFF REPORT October 24, 2016

ITEM FOR COUNCIL CONSIDERATION

Ordinance No. 712, an urgency ordinance establishing regulations pertaining to the cultivation of nonmedical marijuana for personal use, and Ordinance No. 713, an ordinance establishing regulations pertaining to the cultivation of nonmedical marijuana for personal use, pursuant to Proposition 64, known as the Control, Regulate and Tax Adult Use of Marijuana Act.

STAFF RECOMMENDATION

Action Item X Non-Action Item

1. Approve and adopt Ordinance No. 712, as read by title only.
2. Approve Ordinance No. 713, on first reading, and schedule the second reading for the meeting of November 14, 2016, should voters approve the AUMA.

Motion: I move to (1.) Approve and adopt Ordinance No. 712, as read by title only, an urgency ordinance establishing regulations pertaining to cultivation of nonmedical marijuana for personal use, and (2.) Approve Ordinance No. 713, on first reading, an ordinance establishing regulations pertaining to cultivation of nonmedical marijuana for personal use, and, should voters approve the AUMA, schedule the second reading for the meeting of November 14, 2016.

BACKGROUND

Proposition 64, known as the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"), will be on the ballot for the November 8th election. If passed by the voters, the AUMA will legalize, under state law, nonmedical marijuana activities for personal use, as well commercial nonmedical marijuana activities, upon issuance of a state license.¹

The AUMA includes allowances for personal use and cultivation of marijuana as well as various commercial activities. Under the AUMA, personal use and cultivation are

¹ As a reminder, all marijuana activities, whether for medical or nonmedical purposes, remain illegal under the Federal Controlled Substances Act, 21 U.S.C. § 801 *et seq.*

exempt from state licensing requirements and taxation and would go into effect immediately, i.e., November 9, 2016. Commercial activities are subject to state licensing, oversight and taxation and it is believed that the state will be ready to license commercial marijuana activities by January 2018.

At its regular meeting of October 10, 2016, the City Council received a report on current state laws relating to medical marijuana and on the AUMA, with a focus on its provisions concerning nonmedical marijuana cultivation for personal use. The Council directed that draft regulations be prepared for its consideration that would establish local regulation of nonmedical marijuana cultivation for personal use, as would be permitted under the AUMA.

The October 10 report to the City Council was provided in the context of the City's recent receipt of information and public concerns about marijuana cultivation and its potential impacts. On September 12, the League of California Cities released two documents to its members, including the City of Carpinteria, explaining key elements of the AUMA, and beginning on September 16, the City received a number of complaints about marijuana cultivation operations located just outside the City, including near Carpinteria and Rincon High Schools. The complaints included problems residents were having with odors and other public health and safety concerns.

The purpose of this agenda matter is to allow the Council to establish, as an urgency matter, local regulations on cultivation of nonmedical marijuana for personal use, and to initiate the process of establishing the same regulations via the first reading of a standard ordinance

DISCUSSION

I. The AUMA

The report provided to the Council at its October 10, 2016 meeting provided an overview of existing state and local regulations related to medical marijuana and an overview of the AUMA. (See attachment C.) In general, if adopted by the voters, the AUMA would immediately legalize, the use, possession, cultivation, drying, processing, transport and purchase of marijuana for personal nonmedical purposes.

Local agencies retain the authority to prohibit outdoor cultivation, but they may not prohibit cultivation conducted in a private residence or a fully enclosed and secure accessory structure. However, they may impose reasonable regulations on such indoor cultivation.

The AUMA contains a number of limitations and restrictions on personal use and cultivation of marijuana for nonmedical purposes:

- No person under 21 years of age may engage in any activities related to use and cultivation of marijuana, including possession of marijuana.
- No person may provide or give marijuana to a person under 21 years of age.
- No person may cultivate, process or possess more than six living marijuana plants within a single residence or upon the grounds of the residence at one time.
- The living marijuana plants and any marijuana produced from the plants in excess of 28.5 grams must be kept within the person's private residence or grounds of the residence, must be kept in a locked space, and must not be visible by normal unaided vision from a public place.
- No person may smoke² or ingest marijuana or marijuana products in any public place.
- No person may smoke marijuana or marijuana products in a location where smoking tobacco is prohibited.
- No person may smoke marijuana or marijuana products within 1,000 feet of a school, day care center, or youth center while children are present, except in or upon the grounds of a private residence if such smoking is not detectable by others on the grounds of the school, day care center or youth center when children are present.
- No person may possess, smoke or ingest marijuana or marijuana products in or upon the grounds of a school, day care center, or youth center while children are present.

Penalties for violating provisions of the AUMA range from community service and drug counseling for minor offenses to imprisonment and fines for major offenses.

It is important to bear in mind that the proposed ordinance would only regulate the cultivation of marijuana for nonmedical purposes. Under current state law, a qualified patient or primary caregiver may maintain no more than six mature or 12 immature marijuana plants per qualified patient, unless a doctor recommends that such quantity does not meet the patient's needs. (Health & Safety Code § 11362.77.)

Current law also prohibits any medical marijuana cooperative, collective, dispensary, operator, establishment or provider that has a storefront or mobile retail outlet which ordinarily requires a local business license from being located within a 600-foot radius of

² "Smoke" means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated marijuana or marijuana product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoke" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

a school.³ (Health & Safety Code § 11362.768(b).) Such establishments are prohibited within the City of Carpinteria. (CMC § 14.59.030.A.) The law does not prohibit an individual qualified patient or primary caregiver from cultivating marijuana outdoors or impose on such individual cultivation any separation standard from schools.

A qualified patient may not smoke marijuana in any place where smoking is prohibited by law or within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the medical use occurs within a residence. (Health & Safety Code § 11362.79.)

II. Potential Impacts to City from Legalization of Nonmedical Marijuana

The passage of the AUMA would immediately allow personal indoor and outdoor cultivation of nonmedical marijuana within the City. Cities that have elected to regulate personal indoor and outdoor cultivation of marijuana have cited public health and safety issues as a part of the basis for the need to regulate in this area. Recently the City has received a number of complaints about odors emanating from marijuana growing operations apparently located in unincorporated areas of the County. City residents have complained of strong odors impacting their health and Carpinteria High School staff have stated that the odors have at times inundated the school campus. The complaints also include concerns about crime and negative impacts on property values.

While personal cultivation is limited to no more than six plants per residence, widespread unregulated indoor and outdoor cultivation could have negative effects on the health, safety, and welfare of City residents, including potential impacts from odors, aesthetics and safety related to conducting cultivation activities.

III. Regulations Included in Draft Ordinance Nos. 712 and 713

As a part of the direction provided by the City Council at its October 10, 2016 meeting on this matter, the City Council requested that regulations be drafted in response to its concerns over the potential for access to marijuana by persons under the age of 21 and the potential for residents and the public in general to be exposed to odors and other nuisances that could impact quality of life and property values.

As summarized above, the AUMA includes a number of provisions that would apply statewide to nonmedical marijuana cultivation for personal use and which could help to address, at least in part, concerns expressed by the City Council.

A. AUMA: Prohibition on Use in Public Areas

³ The AUMA imposes the same separation standard on commercial marijuana activities, including cultivation, but not on individual cultivation for personal use. Again, no person may commence commercial activities without a state license and the state is not expected to begin issuing licenses until 2018. Local agencies retain the authority to regulate or prohibit commercial nonmedical marijuana activities.

No person may smoke or ingest marijuana or marijuana products in any public place and no person may smoke marijuana or marijuana products in a location where smoking tobacco is prohibited. No person may smoke marijuana or marijuana products within 1,000 feet of a school, day care center, or youth center while children are present, except in or upon the grounds of a private residence if such smoking is not detectable by others on the grounds of the school, day care center or youth center when children are present. No person may possess, smoke or ingest marijuana or marijuana products in or upon the grounds of a school, day care center, or youth center while children are present.

These provisions will limit the risk that people, including children, will be effected by negative impacts of using marijuana in the City, such as exposure to marijuana smoke.

B. AUMA: Restrictions on Cultivation

No person may cultivate, process or possess more than six living marijuana plants within a single residence or upon the grounds of the residence at one time. The living marijuana plants and any marijuana produced from the plants in excess of 28.5 grams must be kept within the person's private residence or grounds of the residence, must be kept in a locked space, and must not be visible by normal unaided vision from a public place.

These requirements limit the risk that large amounts of marijuana plants will be grown on individual properties and that such plants will be accessible to others such that it might encourage criminal behavior such as trespassing and theft.

C. AUMA: Restrictions on Underage Use

No person under 21 years of age may engage in any activities related to use and cultivation of marijuana, including possession of marijuana. No person may provide or give marijuana to a person under 21 years of age.

These restrictions, which make it illegal for a person under the age of 21 to possess and use marijuana, and for someone to provide marijuana to a person under the age of 21, limit the risk that widespread cultivation will result in widespread underage use.

D. Ordinance Nos. 712 and 713

The proposed Ordinances include regulations drafted to expand upon and fill gaps in the state regulations to address concerns particular to Carpinteria. The proposed regulations would be added to Title 8, Health and Safety, of the Carpinteria Municipal Code.

The proposed regulations restrict outdoor cultivation to rear yards and provide that there shall be no exterior evidence of cultivation occurring on a property when viewed from a

public place. The intent of these regulations is to ensure that cultivation activities do not cause negative aesthetic impacts and are performed in more secure locations. The regulations require that cultivation not be located within building setbacks in order to provide a buffer between cultivation activities and neighboring properties to limit the potential negative effects of cultivation on neighbors, including dust, light pollution, and odors.

The proposed regulations prohibit outdoor cultivation in apartment and condominiums because the private outdoor spaces for such units, such as patios, are typically located in such close proximity that it is not possible to achieve a reasonable buffer zone to limit nuisance impacts on neighbors. The regulations propose prohibiting cultivation in common areas of condominiums and apartment buildings to discourage underage access to plants and avoid potential negative aesthetic and nuisance effects of cultivation on other residents of the building who use such common areas.

The proposed regulations require that areas used for cultivation comply with all applicable building standards in order to protect the public health and safety against any risks posed by cultivation such as fire and smoke risks associated with use of high-powered lighting or processing activities.

Finally, the proposed regulations prohibit cultivation within 600 feet of schools, day care centers and youth centers to limit the potential for nuisance impacts on children.

For some residences, the application of one or more of the proposed regulations would preclude outdoor cultivation; however, such residences would still be able to conduct indoor cultivation in accord with the regulations and the provisions of the AUMA.

V. Enforcement

As discussed above, the regulations proposed in Ordinance Nos. 712 and 713 would become a part of Title 8, Health and Safety, of the City Municipal Code. As with all Municipal Code regulations, they are enforceable through the City's Code Compliance and/or Law Enforcement functions. It is anticipated that the subject regulations concerning cultivation of nonmedical marijuana for personal use would be enforced primarily on a complaint basis. The standard Municipal Code remedies would be available for violations including penalties that are a part of Chapter 1.08, Penalties.

FINANCIAL CONSIDERATIONS

Costs to the City would occur in enforcing the regulations proposed as a part of Ordinance Nos. 712 and 713. Enforcement is expected to occur in response to complaints and, therefore, the City would experience costs proportional to the volume of complaints received and the amount of investigation required by City Code Compliance staff and, if necessary, the City Attorney's office.

Revenue to the City would occur through any fines levied in response to violations. Fines would be imposed pursuant to the Penalties provisions of the Carpinteria Municipal Code, Chapter 1.08. The fines for municipal code violations range from a minimum of \$100 for the first violation and up to \$500 for each subsequent violation. In certain cases, the City could also seek to recover costs through a civil action in court.

LEGAL

I. Procedure for Adoption

Should the Council determine to adopt the proposed ordinances, staff is proposing that the Council adopt Ordinance No. 712 by urgency procedures to ensure that the regulations take effect immediately upon adoption of the AUMA.

Standard ordinance adoption procedures require that the ordinance be introduced at a public meeting and then adopted at a subsequent regular public meeting of the Council held at least 5 days after the meeting at which the ordinance was introduced. (Govt. Code § 36934.) The ordinance does not become effective until 30 days after it is adopted. (Govt. Code § 36937.) The Council's next regular meeting is November 14, five days after the AUMA would take effect.

However, an urgency ordinance for the immediate preservation of the public peace, health or safety may be adopted at introduction and take effect immediately. (Govt. Code §§ 36934, 36937.) An urgency ordinance must contain a declaration of the facts constituting the urgency and must be and passed by a four-fifths vote of the city council. (Govt. Code § 36937.)

Staff believes that the necessary findings regarding the potential health and safety effects of widespread personal cultivation can be made, as stated in the recitals to the proposed ordinance.

The City's typical practice in the case of urgency ordinances is to also adopt an identical ordinance by standard procedures as a backup. Ordinance No. 713 is being brought forth simultaneously for the Council's consideration.

Ordinance No. 712 would take effect on November 9, 2016, only if the AUMA is adopted by the voters at the November 8 election. If the AUMA is not adopted by the voters, Ordinance No. 712 will not take effect and Ordinance No. 713 would not be scheduled for a second reading.

OPTIONS

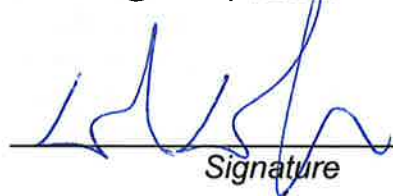
1. Approve and adopt Ordinance No. 712 and approve Ordinance No. 713 on first reading (Staff recommendation)

2. Direct that staff make revisions to Ordinances No. 712 and 713 and bring the matter back at a later date for further consideration. If this option is selected and the Council may wish to schedule a special meeting in order to allow for adoption of Ordinance No. 712 as an urgency matter prior to the potential November 9, effective date of the AUMA.
3. Direct that the matter be tabled until further action of the City Council.

ATTACHMENTS

- A. Ordinance No. 712
- B. Ordinance No. 713
- C. City Council Staff Report of October 10, 2016

Project Contact: Dave Durflinger, 805 755-4400, daved@ci.carpinteria.ca.us



Signature

Reviewed by: Dylan Johnson,
on behalf of
Brownstein Hyatt Farber Schreck, LLP
Attorney for the City of Carpinteria



Signature

ATTACHMENT A

ATTACHMENT B

ORDINANCE NO. 712

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA, AMENDING THE MUNICIPAL CODE BY ADDING CHAPTER 8.14, CULTIVATION OF NONMEDICAL MARIJUANA

WHEREAS, Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA"), includes allowances for personal use and cultivation of nonmedical marijuana; and

WHEREAS, if the AUMA is adopted by voters at the election of November 8, 2016, allowances for personal use and cultivation of nonmedical marijuana will go into effect immediately and such activities will be allowed by state law in the City of Carpinteria; and

WHEREAS, the AUMA allows local governments, which includes the City of Carpinteria, to prohibit and/or regulate outdoor cultivation of nonmedical marijuana and regulate indoor cultivation of nonmedical marijuana; and

WHEREAS, on October 10, 2016, the City Council considered a report on the AUMA that included information about potential impacts to the City from legalization of nonmedical marijuana and options for regulating cultivation of nonmedical marijuana for personal use, among other things; and

WHEREAS, California Government Code Section 36937 provides that an urgency ordinance for the immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency, and passed by a four-fifths vote of the city council, may take effect immediately; and

WHEREAS, the City began receiving complaints on or about September 16, 2016 from area residents and Carpinteria High School staff about negative impacts related to marijuana cultivation operations occurring in the vicinity of the City, including complaints that marijuana odors were inundating the High School, safety concerns related to criminal activities and use of weapons to protect cultivation sites, and negative impacts on property values; and

WHEREAS, if personal cultivation becomes widespread throughout the City, it is likely to present significant risks to public health and safety by creating and intensifying the same nuisance and safety issues complained about by area residents, if not reasonably regulated; and

WHEREAS, standard ordinance adoption procedures require at least two public hearings and adoption at a regular meeting, while the City Council does not hold its next regular meeting until November 14; and

WHEREAS, the potential negative impacts of nonmedical marijuana on City residents came to the City's attention too late to adopt an ordinance that would take effect prior to the potential adoption of the AUMA by standard procedures; and

WHEREAS, after deliberation, the City Council determined that should the AUMA become law and allowances for personal use and cultivation of nonmedical marijuana be established, that the public peace, health and safety in the City of Carpinteria would be at risk due to the potential for persons under the age of 21 attempting to gain access to marijuana at private homes and residential properties and the potential for the creation of public nuisances.

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

SECTION 1. Recitals Incorporated.

The above recitals are incorporated herein and are each relied upon independently by the City Council in its adoption of this Ordinance.

SECTION 2. Declaration of Urgency.

The City Council of the City hereby finds and declares that, for the reasons set forth in the above Recitals, there is a need to enact an urgency ordinance establishing regulations on cultivation of nonmedical marijuana for the protection of public peace, health, and safety.

SECTION 3. Amendment to the Carpinteria Municipal Code

Chapter 8.14, Cultivation of Nonmedical Marijuana, is hereby added to Title 8 of the Carpinteria Municipal Code to read as follows:

CHAPTER 8.14 – Use and Cultivation of Nonmedical Marijuana

18.14.010	Purpose and Intent
18.14.020	Definitions
18.14.030	Cultivation of Nonmedical Marijuana
18.14.040	Public Nuisance
18.14.050	Enforcement

Section 8.14.010 Purpose and Intent

The purpose and intent of this chapter is to provide reasonable regulations on the cultivation of nonmedical marijuana, in accordance with Health and Safety Code section 11362.2. The intent is to protect the health, safety and welfare of the public by requiring that nonmedical marijuana be cultivated only in areas that meet all applicable building standards; by ensuring that evidence of cultivation is not visible to the general public; by

preventing odor created by nonmedical marijuana plants and cultivation activities from impacting adjacent properties; and by ensuring that nonmedical marijuana grown in the City remains secured. This chapter is not intended to give any person independent legal authority to use or grow nonmedical marijuana.

No part of this Chapter shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § 800 *et seq.*, nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation.

Section 8.14.020 Definitions

"Accessory building or structure" means a building containing no kitchen and located upon the same building site as the building or use to which it is accessory the use of which is customarily incidental, appropriate and subordinate to the use of the main building, or to the main use of the land

"Apartment" means a separate room or suite of rooms of a part of a building with kitchen or cooking facilities occupied or suitable for occupation as a residence by one full family for eating, living and sleeping purposes.

"City" means the City of Carpinteria.

"Common area" includes, but is not limited to, recreational areas and facilities for the use of the residents of a project, such as playgrounds, community gardens, landscaped areas for common use, hallways, indoor and outdoor courtyards, or other open areas of the site.

"Condominium" means an estate in real property consisting of a separately owned interest in a portion of a parcel of real property or building, including residences, apartments, offices or stores. A condominium may include, in addition, a separate legally protected interest in other portions of real property.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or otherwise processing of marijuana plants or any part thereof.

"Indoors" means inside a fully enclosed and secure structure or within a residential structure.

"Marijuana" means marijuana, as defined in Health and Safety Code section 11018.

"Marijuana products" means marijuana products, as defined in Health and Safety Code section 11018.1.

"Nonmedical marijuana" means marijuana that is intended to be used for nonmedical purposes pursuant to Health and Safety Code section 11362.1 *et seq.*

"Outdoor" means any location within the city that is not within a fully enclosed and secure structure.

"Parcel" means parcel, as defined in Title 14 of this Code.

"Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability corporation, collective, cooperative, or combination thereof in whatever form or character.

"Premises" means the area of land in one ownership surrounding a house or building and including any house or building thereon.

"Public place" means any public or private place open to the general public, including, for example, streets, sidewalks, parking lots, parking garages, plazas, parks, playgrounds and schools.

"Rear yard" means rear yard, as defined in Title 14 of this code.

"School" means any school providing instruction in kindergarten or any grades 1 through 12.

Section 8.14.030 Cultivation of Nonmedical Marijuana

A. Cultivation of nonmedical marijuana shall be subject to the following regulations and restrictions:

1. All areas used for cultivation must comply with applicable building standards and regulations, including regulations pertaining to ventilation and fire protection.
2. Outdoor cultivation is permitted only within the rear yard of any premises.
3. Marijuana plants shall not be maintained within building setback areas established in Title 14 of this code.
4. Outdoor cultivation is prohibited in all apartments and condominiums. Cultivation is prohibited in all common areas of apartment and condominium projects.
5. As viewed from a public place, there shall be no exterior evidence of cultivation occurring on the premises, including but not limited to, any marijuana plants, equipment used in the growing and cultivation operation, and any light emanating from cultivation lighting.

6. Outdoor cultivation may not take place on any parcel with a boundary line that is located within 600 feet of the boundary line of any parcel owned or occupied by a school, day care center or youth center.

Section 8.14.040 Public Nuisance

- A. Any activity or condition caused or permitted to exist in violation of this chapter shall constitute a public nuisance.
- B. Cultivation that adversely affects public health or safety, or adjacent or nearby residents, by creating odor, dust, glare, heat, noise, noxious gasses, smoke, vibration or other impacts, or is hazardous due to use or storage of materials, processes, products or waste materials, constitutes a public nuisance.

Section 8.14.050 Enforcement

Violation of this chapter may be enforced pursuant to the provisions of this code. Nothing in this chapter in any way limits any other remedies that may be available to the city, or any penalty that may be imposed by the city, for violations of this chapter.

SECTION 4. Effective Date

This Ordinance shall take effect on November 9, 2016, but only if the voters adopt Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act, at the election occurring on November 8, 2016. Within 15 days following passage, this ordinance, or a summary of it, shall be published once with the names of the members of the City Council voting for and against the same in the Coastal View News, a newspaper of general circulation, published in the City of Carpinteria.

SECTION 5. Severability

If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this ordinance, and each provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

SECTION 6. CEQA Exemption

The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change

in the environment), 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly) and 15061(b)(3) (it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment).

PASSED, APPROVED, AND ADOPTED this 24th day of October, 2016, by the following called vote:

AYES: Councilmembers:

NOES: Councilmember(s):

ABSENT: Councilmember(s):

Mayor of the City of Carpinteria

ATTEST:

City Clerk, City of Carpinteria

I hereby certify that the foregoing Ordinance was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held on the 24th day of October 2016.

City Clerk, City of Carpinteria

APPROVED AS TO FORM:

Peter N. Brown, on behalf of Brownstein, Hyatt, Farber,
Schreck, LLP, acting as City Attorney of
the City of Carpinteria

ATTACHMENT C

ORDINANCE NO. 713

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA, AMENDING THE MUNICIPAL CODE BY ADDING CHAPTER 8.14, CULTIVATION OF NONMEDICAL MARIJUANA

**THE CITY COUNCIL OF THE CITY OF CARPINTERIA DOES HEREBY ORDAIN
AS FOLLOWS:**

SECTION 1. Amendment to the Carpinteria Municipal Code

Chapter 8.14, Cultivation of Nonmedical Marijuana, is hereby added to Title 8 of the Carpinteria Municipal Code to read as follows:

CHAPTER 8.14 – Use and Cultivation of Nonmedical Marijuana

- 18.14.010 Purpose and Intent**
- 18.14.020 Definitions**
- 18.14.030 Cultivation of Nonmedical Marijuana**
- 18.14.040 Public Nuisance**
- 18.14.050 Enforcement**

Section 8.14.010 Purpose and Intent

The purpose and intent of this chapter is to provide reasonable regulations on the cultivation of nonmedical marijuana, in accordance with Health and Safety Code section 11362.2. The intent is to protect the health, safety and welfare of the public by requiring that nonmedical marijuana be cultivated only in areas that meet all applicable building standards; by ensuring that evidence of cultivation is not visible to the general public; by preventing odor created by nonmedical marijuana plants and cultivation activities from impacting adjacent properties; and by ensuring that nonmedical marijuana grown in the City remains secured. This chapter is not intended to give any person independent legal authority to use or grow nonmedical marijuana.

No part of this Chapter shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § 800 *et seq.*, nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation.

Section 8.14.020 Definitions

"Accessory building or structure" means a building containing no kitchen and located upon the same building site as the building or use to which it is accessory the use of which is customarily incidental, appropriate and subordinate to the use of the main building, or to the main use of the land

"Apartment" means a separate room or suite of rooms of a part of a building with kitchen or cooking facilities occupied or suitable for occupation as a residence by one full family for eating, living and sleeping purposes.

"City" means the City of Carpinteria.

"Common area" includes, but is not limited to, recreational areas and facilities for the use of the residents of a project, such as playgrounds, community gardens, landscaped areas for common use, hallways, indoor and outdoor courtyards, or other open areas of the site.

"Condominium" means an estate in real property consisting of a separately owned interest in a portion of a parcel of real property or building, including residences, apartments, offices or stores. A condominium may include, in addition, a separate legally protected interest in other portions of real property.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or otherwise processing of marijuana plants or any part thereof.

"Indoors" means inside a fully enclosed and secure structure or within a residential structure.

"Marijuana" means marijuana, as defined in Health and Safety Code section 11018.

"Marijuana products" means marijuana products, as defined in Health and Safety Code section 11018.1.

"Nonmedical marijuana" means marijuana that is intended to be used for nonmedical purposes pursuant to Health and Safety Code section 11362.1 *et seq.*

"Outdoor" means any location within the city that is not within a fully enclosed and secure structure.

"Parcel" means parcel, as defined in Title 14 of this Code.

"Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability corporation, collective, cooperative, or combination thereof in whatever form or character.

"Premises" means the area of land in one ownership surrounding a house or building and including any house or building thereon.

"Public place" means any public or private place open to the general public, including, for example, streets, sidewalks, parking lots, parking garages, plazas, parks, playgrounds and schools.

"Rear yard" means rear yard, as defined in Title 14 of this code.

"School" means any school providing instruction in kindergarten or any grades 1 through 12.

Section 8.14.030 Cultivation of Nonmedical Marijuana

A. Cultivation of nonmedical marijuana shall be subject to the following regulations and restrictions:

1. All areas used for cultivation must comply with applicable building standards and regulations, including regulations pertaining to ventilation and fire protection.
2. Outdoor cultivation is permitted only within the rear yard of any premises.
3. Marijuana plants shall not be maintained within building setback areas established in Title 14 of this code.
4. Outdoor cultivation is prohibited in all apartments and condominiums. Cultivation is prohibited in all common areas of apartment and condominium projects.
5. As viewed from a public place, there shall be no exterior evidence of cultivation occurring on the premises, including but not limited to, any marijuana plants, equipment used in the growing and cultivation operation, and any light emanating from cultivation lighting.
6. Outdoor cultivation may not take place on any parcel with a boundary line that is located within 600 feet of the boundary line of any parcel owned or occupied by a school, day care center or youth center.

Section 8.14.040 Public Nuisance

- A. Any activity or condition caused or permitted to exist in violation of this chapter shall constitute a public nuisance.
- B. Cultivation that adversely affects public health or safety, or adjacent or nearby residents, by creating odor, dust, glare, heat, noise, noxious gasses, smoke, vibration or other impacts, or is hazardous due to use or storage of materials, processes, products or waste materials, constitutes a public nuisance.

Section 8.14.050 Enforcement

Violation of this chapter may be enforced pursuant to the provisions of this code. Nothing in this chapter in any way limits any other remedies that may be available to the city, or any penalty that may be imposed by the city, for violations of this chapter.

SECTION 2. Effective Date

This Ordinance shall be in full force and effect 30 days following its enactment in accordance with California law; and before the expiration of 15 days following passage, this Ordinance shall be published once with the names of the members of the City Council voting for and against the same in the Coastal View News, a newspaper of general circulation, published in the City of Carpinteria.

SECTION 3. Severability

If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this ordinance, and each provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

SECTION 4. CEQA Exemption

The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly) and 15061(b)(3) (it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment).

PASSED, APPROVED, AND ADOPTED this 14th day of November 2016, by the following called vote:

AYES: Councilmembers:

NOES: Councilmember(s):

ABSENT: Councilmember(s):

Mayor of the City of Carpinteria

ATTEST:

City Clerk, City of Carpinteria

I hereby certify that the foregoing Ordinance was duly and regularly introduced at the regular meeting of the City Council of the City of Carpinteria held on the 24th day of October 2016 and adopted at the regular meeting of the City Council held on 14th day of November 2016.

City Clerk, City of Carpinteria

APPROVED AS TO FORM:

Peter N. Brown, on behalf of Brownstein, Hyatt, Farber,
Schreck, LLP, acting as City Attorney of
the City of Carpinteria



City of Carpinteria

COUNCIL AGENDA STAFF REPORT October 10, 2016

ITEM FOR COUNCIL CONSIDERATION

A report on City options for responding to Proposition 64, known as the Adult Use of Marijuana Act, on the ballot for consideration by California voters on the November 8, 2016 election.

STAFF RECOMMENDATION

Action Item X Non-Action Item

Determine which option is desired and direct staff accordingly.

BACKGROUND

Proposition 64, known as the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"), will be on the ballot for the November 8th election. If passed by the voters, the AUMA will legalize, under state law, nonmedical marijuana activities for personal use, as well commercial nonmedical marijuana activities, upon issuance of a state license.¹

The AUMA includes allowances for personal use and cultivation of marijuana as well as various commercial activities. Under the AUMA, personal use and cultivation are exempt from state licensing requirements and taxation and would go into effect immediately, i.e. November 9, 2016. Commercial activities are subject to state licensing, oversight and taxation and it is believed that the state will be ready to license commercial marijuana activities by January 2018.

The purpose of this agenda matter is to allow the Council to decide if it wishes to direct staff to draft an ordinance regulating aspects of nonmedical marijuana cultivation for personal use that would become permissible immediately should voters approve the AUMA. Specifically, the Council will be considering whether or not to have staff draft regulations that would: (1) prohibit or regulate outdoor cultivation of nonmedical marijuana for personal use, and (2) regulate indoor cultivation of nonmedical marijuana

¹ As a reminder, all marijuana activities, whether for medical or nonmedical purposes, remain illegal under the Federal Controlled Substances Act, 21 U.S.C. § 801 *et seq.*

for personal use. If the Council directs that an ordinance concerning cultivation of marijuana for personal use be drafted, it would be considered at the next regular meeting of October 24, 2016.

In preparing this matter for City Council consideration City staff and legal counsel have reviewed AUMA and various analyses of the measure, including an analysis provided by the League of California Cities, regulatory responses, to date, by other California cities, and the City's current medical marijuana regulations, which are a part of zoning regulations in the City's Municipal Code (CMC Chapter 14.59).

DISCUSSION

I. Current Medical Marijuana Regulations

The Compassionate Use Act of 1996 ("CUA") legalized medical marijuana use under state law. (Health & Safety Code § 11362.5.) The CUA permits the possession and cultivation of medical marijuana by a qualified patient or primary caregiver for the personal medical purposes of the patient, upon recommendation of a physician. (*Id.*) Qualified patients and primary caregivers are permitted to associate to collectively or cooperatively cultivate marijuana for medical purposes, until the state begins issuing licenses pursuant to the Medical Marijuana Regulation and Safety Act ("MMRSA"), at which time a license will be required to cultivate. (Health & Safety Code § 11362.775.)

A primary caregiver may maintain no more than six mature or 12 immature marijuana plants per qualified patient, unless a doctor recommends that the amount does not meet the patient's needs. (Health & Safety Code § 11362.77.) It remains illegal under state law to cultivate or distribute marijuana for a profit until the state begins issuing licenses for commercial cannabis activities under the MMRSA. (Health & Safety Code § 11362.765(a).) No medical marijuana cooperative, collective, dispensary, operator, establishment, or provider who possesses, cultivates or distributes medical marijuana may be located within a 600-foot radius of a school. (Health & Safety Code § 11362.768(b).)

The Carpinteria Municipal Code prohibits medical marijuana cultivation and delivery within the City, except by a primary caregiver or a qualified patient when conducted in accord with state law. (CMC § 14.59.030.) The Code also prohibits the establishment of a medical marijuana dispensary, which includes any facility or location where the owner or operator cultivates, sells, or provides medical marijuana to any person. (CMC § 14.59.030, 14.08.444.)

Santa Barbara County regulations prohibit all cultivation of medical marijuana with the exception of cultivation by a qualified patient or primary caregiver conducted on a lot that contains the lawful residential structure occupied by the qualified patient. (SB

County Code § 35-1003.) However, cultivation locations that were in operation prior to January 19, 2016, may continue operating as a legal non-conforming use if they are legal under state law. (*Id.*)

II. The AUMA

If it is adopted by the voters on November 8, 2016, the AUMA would legalize nonmedical use of marijuana.

Personal use of marijuana, including possession, cultivation, drying, processing, transport, and purchase, would become legal on November 9. An individual would be allowed to cultivate no more than six living plants per residence or grounds of the residence. While local agencies retain the authority to prohibit outdoor cultivation, they may not prohibit cultivation conducted in a private residence or a fully enclosed and secure accessory structure. However, they may impose reasonable regulations on indoor cultivation.

The AUMA also authorizes commercial nonmedical marijuana activities, such as cultivation, possession, manufacture, distribution, processing, storing and transport. But no person may engage in commercial nonmedical marijuana activities, including cultivation, without a state license. The state is not expected to begin issuing licenses until January of 2018. Again, no licensee may be located within 600 feet of a school.

Under the AUMA, local agencies retain the authority to regulate and prohibit commercial nonmedical marijuana activities.

III. Potential Impacts to City from Legalization of Nonmedical Marijuana

The passage of the AUMA would immediately allow personal indoor and outdoor cultivation of nonmedical marijuana within the City. Cities that have elected to regulate personal indoor and outdoor cultivation of marijuana have cited public health and safety issues as a part of the basis for the need to regulate in this area. Recently the City has received a number of complaints about odors emanating from marijuana growing operations apparently located in unincorporated areas of the County. City residents have complained of strong odors impacting their health and Carpinteria High School staff have stated that the odors have at times inundated the school campus. The complaints also include concerns about crime and negative impacts on property values.

While personal cultivation is limited to no more than six plants per residence, widespread unregulated indoor and outdoor cultivation could have negative effects on the health, safety, and welfare of City residents, including potential impacts from odors, aesthetics and safety related to conducting cultivation activities.

IV. Options for Regulating Cultivation of Nonmedical Marijuana for Personal Use

If the AUMA passes, personal nonmedical marijuana activities will become legal on November 9. The City Council will have two issues to consider:

1. Whether to prohibit or regulate outdoor cultivation of nonmedical marijuana for personal use.

Some cities have decided to adopt moratoriums on outdoor cultivation to allow time to study the issues and potential impacts of outdoor cultivation. The Council could also choose to adopt regulations applicable to outdoor cultivation.

2. Whether to adopt reasonable regulations on indoor cultivation of nonmedical marijuana for personal use.

The following are examples of regulations that other cities have considered or established in response to issues identified with marijuana cultivation for personal use:

- No person may cultivate marijuana without a permit or license issued by the City
- Cultivation may only take place in specified zones within the City
- The primary use of the property must remain residential
- All areas used for cultivation must comply with all building standards and regulations, including regulations pertaining to ventilation and fire protection; the building official may require installation of fire suppression sprinklers
- Limits on the dimensions of the cultivation area within the structure
- Establish a maximum wattage for grow lights
- Gas products or generators may not be used in cultivation
- Ventilation and filtration systems must be installed to prevent marijuana plant odors from exiting the structure
- Specify the allowed location for accessory structures used for cultivation, such as requiring that the structure be located in the backyard and specifying setbacks
- A security system must be installed on any accessory structure used for cultivation
- Each property shall be limited to six plants regardless of the number of people residing on the property
- The cultivator must reside full-time in the residence where cultivation is taking place

- Cultivation shall not take place in rooms used for cooking, sleeping or sanitary facilities when such cultivation would prevent the primary use of cooking meals, sleeping and bathing
- The cultivator may not participate in cultivation at any other locations within the City
- Cultivation shall only take place on impervious surfaces
- There shall be no exterior evidence of cultivation taking place within the structure when viewed from a public right-of-way
- The cultivation area shall not be accessible to persons under the age of 21
- Marijuana in excess of a specified quantity produced by plants kept for indoor personal cultivation must be kept in a locked space on the grounds of the private residence not visible from the public right-of-way
- Written consent of the property owner to cultivate on the property shall be obtained and kept on the premises, available for inspection by law enforcement authorities
- A fire extinguisher must be kept in the same room where the cultivation occurs
- Any violation of the above standards constitute a public nuisance; cultivation shall not result in a nuisance or adversely affect the health, welfare, or safety of the resident or nearby residents by creating dust, glare, heat, noise, noxious gasses, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes

The Council could also consider whether to declare that certain activities related to nonmedical marijuana constitute a public nuisance. For example, a public nuisance may be deemed to exist if cultivation produces:

- Odors which are disturbing to people of reasonable sensitivity residing or present on adjacent or nearby property or areas open to the public
- Repeated responses to the parcel by law enforcement personnel
- A repeated disruption to the free passage of persons or vehicles in the neighborhood or excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public
- Any other impacts on the neighborhood which are disruptive of normal activity in the area including, but not limited to, grow lighting visible outside the dwelling,

excessive vehicular traffic or parking occurring at or near the dwelling, and
excessive noise emanating from the dwelling

FINANCIAL CONSIDERATIONS

I. Fees

As discussed above, the City has the authority to regulate marijuana use that would become permissible under the AUMA, should it be passed by voters. As such, the City may establish fees to offset costs associated with the processing of permits, inspection of premises, and other similar activities that result from the operation of local regulations.

II. Taxation²

The AUMA would impose new state taxes on medical and nonmedical marijuana. The tax included in the ballot measure is an excise tax imposed at a rate of 15% of gross retail sales receipts. The tax would be in addition to existing state and local sales tax. In Santa Barbara County, which has an 8% sales tax rate, the excise plus sales tax would be a minimum of 23%, and, because the AUMA does not pre-empt local taxation, could be higher in local jurisdictions that elect to establish a local tax. Some cities and counties in California have discussed the possibility of pursuing local taxes on various aspects of marijuana sales and/or cultivation. Any local marijuana tax would have to be approved through the procedures for new taxes established in state law, i.e., Proposition 218.

Beginning January 1, 2018, a separate state cultivation tax on all harvested marijuana would go into effect and be applied at rates specific to flowers and leaves.

The AUMA would prohibit cities and counties from taxing medical marijuana and would exempt marijuana cultivated for personal use from taxation.

The AUMA includes a formula for the programmatic allocation of state taxes collected on marijuana. It appears that this could benefit Carpinteria depending on how the distribution program is structured. After the state takes out costs for regulating marijuana and university research and development, tax revenue would be distributed to youth programs, substance abuse education, prevention and treatment, environmental cleanup and remediation, and state and local programs aimed at reducing DUI and negative health impacts resulting from marijuana legalization.

² The Control, Regulate and Tax Adult Use of Marijuana Act, League of California Cities Memorandum, September 26, 2016.

LEGAL

The City Attorney's Office has assisted in drafting this staff report and is available to answer questions.

OPTIONS

The City Council may receive this report and take no action; however, should the City Council determine that it wishes to consider regulation of the cultivation of nonmedical marijuana for personal use, staff recommends it consider the following options.

- A. Direct staff to prepare for Council consideration regulations prohibiting outdoor cultivation of nonmedical marijuana for personal use.
- B. Direct staff to prepare for Council consideration regulations on indoor cultivation of nonmedical marijuana for personal use.
- C. Direct staff to prepare for Council consideration regulations prohibiting outdoor cultivation of nonmedical marijuana for personal use and regulations on indoor cultivation for personal use in accord with Council direction provided at the hearing.
- D. Direct staff to prepare for Council consideration regulations on outdoor and indoor cultivation of nonmedical marijuana for personal use in accord with Council direction provided at the hearing.

ATTACHMENTS

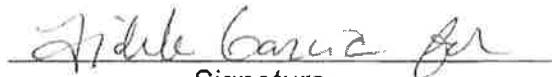
- A. Text of Proposition 64, the Control, Regulate and Tax Adult Use Marijuana Act
- B. League of California Cities Frequently Asked Questions

Project Contact: Dave Durflinger, 805 755-4400, daved@ci.carpinteria.ca.us


Signature

Reviewed by: Dylan Johnson,
on behalf of

Brownstein Hyatt Farber Schreck, LLP
Attorney for the City of Carpinteria


Signature

SECTION 1. TITLE.

This measure shall be known as the Control, Regulate and Tax Adult Use of Marijuana Act ("the Adult Use of Marijuana Act").

SECTION 2. FINDINGS AND DECLARATIONS.

A. Currently in California, nonmedical marijuana use is unregulated, untaxed, and occurs without any consumer or environmental protections. The Control, Regulate and Tax Adult Use of Marijuana Act will legalize marijuana for those over 21 years old, protect children, and establish laws to regulate marijuana cultivation, distribution, sale and use, and will protect Californians and the environment from potential dangers. It establishes the Bureau of Marijuana Control within the Department of Consumer Affairs to regulate and license the marijuana industry.

B. Marijuana is currently legal in our state for medical use and illegal for nonmedical use. Abuse of the medical marijuana system in California has long been widespread, but recent bipartisan legislation signed by Governor Jerry Brown is establishing a comprehensive regulatory scheme for medical marijuana. The Control, Regulate and Tax Adult Use of Marijuana Act (hereafter called the Adult Use of Marijuana Act) will consolidate and streamline regulation and taxation for both nonmedical and medical marijuana.

C. Currently, marijuana growth and sale is not being taxed by the State of California, which means our state is missing out on hundreds of millions of dollars in potential tax revenue every year. The Adult Use of Marijuana Act will tax both the growth and sale of marijuana to generate hundreds of millions of dollars annually. The revenues will cover the cost of administering the new law and will provide funds to: invest in public health programs that educate youth to prevent and treat serious substance abuse; train local law enforcement to enforce the new law with a focus on DUI enforcement; invest in communities to reduce the illicit market and create job opportunities; and provide for environmental cleanup and restoration of public lands damaged by illegal marijuana cultivation.

D. Currently, children under the age of 18 can just as easily purchase marijuana on the black market as adults can. By legalizing marijuana, the Adult Use of Marijuana Act will incapacitate the black market, and move marijuana purchases into a legal structure with strict safeguards against children accessing it. The Adult Use of Marijuana Act prohibits the sale of nonmedical marijuana to those under 21 years old, and provides new resources to educate youth against drug abuse and train local law enforcement to enforce the new law. It bars marijuana businesses from being located within 600 feet of schools and other areas where children congregate. It establishes mandatory and strict packaging and labeling requirements for marijuana and marijuana products. And it mandates that marijuana and marijuana products cannot be advertised or marketed towards children.

E. There are currently no laws governing adult use marijuana businesses to ensure that they operate in accordance with existing California laws. Adult use of marijuana may only be

accessed from the unregulated illicit market. The Adult Use of Marijuana Act sets up a comprehensive system governing marijuana businesses at the state level and safeguards local control, allowing local governments to regulate marijuana-related activities, to subject marijuana businesses to zoning and permitting requirements, and to ban marijuana businesses by a vote of the people within a locality.

F. Currently, illegal marijuana growers steal or divert millions of gallons of water without any accountability. The Adult Use of Marijuana Act will create strict environmental regulations to ensure that the marijuana is grown efficiently and legally, to regulate the use of pesticides, to prevent wasting water, and to minimize water usage. The Adult Use of Marijuana Act will crack down on the illegal use of water and punish bad actors, while providing funds to restore lands that have been damaged by illegal marijuana grows. If a business does not demonstrate they are in full compliance with the applicable water usage and environmental laws, they will have their license revoked.

G. Currently, the courts are clogged with cases of non-violent drug offenses. By legalizing marijuana, the Adult Use of Marijuana Act will alleviate pressure on the courts, but continue to allow prosecutors to charge the most serious marijuana-related offenses as felonies, while reducing the penalties for minor marijuana-related offenses as set forth in the Act.

H. By bringing marijuana into a regulated and legitimate market, the Adult Use of Marijuana Act creates a transparent and accountable system. This will help police crackdown on the underground black market that currently benefits violent drug cartels and transnational gangs, which are making billions from marijuana trafficking and jeopardizing public safety.

I. The Adult Use of Marijuana Act creates a comprehensive regulatory structure in which every marijuana business is overseen by a specialized agency with relevant expertise. The Bureau of Marijuana Control, housed in the Department of Consumer Affairs, will oversee the whole system and ensure a smooth transition to the legal market, with licenses issued beginning in 2018. The Department of Consumer Affairs will also license and oversee marijuana retailers, distributors, and microbusinesses. The Department of Food and Agriculture will license and oversee marijuana cultivation, ensuring it is environmentally safe. The Department of Public Health will license and oversee manufacturing and testing, ensuring consumers receive a safe product. The State Board of Equalization will collect the special marijuana taxes, and the Controller will allocate the revenue to administer the new law and provide the funds to critical investments.

J. The Adult Use of Marijuana Act ensures the nonmedical marijuana industry in California will be built around small and medium sized businesses by prohibiting large-scale cultivation licenses for the first five years. The Adult Use of Marijuana Act also protects consumers and small businesses by imposing strict anti-monopoly restrictions for businesses that participate in the nonmedical marijuana industry.

SECTION 3. PURPOSE AND INTENT.

The purpose of the Adult Use of Marijuana Act is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of marijuana. It is the intent of the People in enacting this Act to accomplish the following:

- (a) Take nonmedical marijuana production and sales out of the hands of the illegal market and bring them under a regulatory structure that prevents access by minors and protects public safety, public health, and the environment.
- (b) Strictly control the cultivation, processing, manufacture, distribution, testing and sale of nonmedical marijuana through a system of state licensing, regulation, and enforcement.
- (c) Allow local governments to enforce state laws and regulations for nonmedical marijuana businesses and enact additional local requirements for nonmedical marijuana businesses, but not require that they do so for a nonmedical marijuana business to be issued a state license and be legal under state law.
- (d) Allow local governments to ban nonmedical marijuana businesses as set forth in this Act.
- (e) Require track and trace management procedures to track nonmedical marijuana from cultivation to sale.
- (f) Require nonmedical marijuana to be comprehensively tested by independent testing services for the presence of contaminants, including mold and pesticides, before it can be sold by licensed businesses.
- (g) Require nonmedical marijuana sold by licensed businesses to be packaged in child-resistant containers and be labeled so that consumers are fully informed about potency and the effects of ingesting nonmedical marijuana.
- (h) Require licensed nonmedical marijuana businesses to follow strict environmental and product safety standards as a condition of maintaining their license.
- (i) Prohibit the sale of nonmedical marijuana by businesses that also sell alcohol or tobacco.
- (j) Prohibit the marketing and advertising of nonmedical marijuana to persons younger than 21 years old or near schools or other places where children are present.
- (k) Strengthen the state's existing medical marijuana system by requiring patients to obtain by January 1, 2018, a new recommendation from their physician that meets the strict standards signed into law by the Governor in 2015, and by providing new privacy protections for patients who obtain medical marijuana identification cards as set forth in this Act.

- (l) Permit adults 21 years and older to use, possess, purchase and grow nonmedical marijuana within defined limits for use by adults 21 years and older as set forth in this Act.
- (m) Allow local governments to reasonably regulate the cultivation of nonmedical marijuana for personal use by adults 21 years and older through zoning and other local laws, and only to ban outdoor cultivation as set forth in this Act.
- (n) Deny access to marijuana by persons younger than 21 years old who are not medical marijuana patients.
- (o) Prohibit the consumption of marijuana in a public place unlicensed for such use, including near K-12 schools and other areas where children are present.
- (p) Maintain existing laws making it unlawful to operate a car or other vehicle used for transportation while impaired by marijuana.
- (q) Prohibit the cultivation of marijuana on public lands or while trespassing on private lands.
- (r) Allow public and private employers to enact and enforce workplace policies pertaining to marijuana.
- (s) Tax the growth and sale of marijuana in a way that drives out the illicit market for marijuana and discourages use by minors, and abuse by adults.
- (t) Generate hundreds of millions of dollars in new state revenue annually for restoring and repairing the environment, youth treatment and prevention, community investment, and law enforcement.
- (u) Prevent illegal production or distribution of marijuana.
- (v) Prevent the illegal diversion of marijuana from California to other states or countries or to the illegal market.
- (w) Preserve scarce law enforcement resources to prevent and prosecute violent crime.
- (x) Reduce barriers to entry into the legal, regulated market.
- (y) Require minors who commit marijuana-related offenses to complete drug prevention education or counseling and community service.
- (z) Authorize courts to resentencing persons who are currently serving a sentence for offenses for which the penalty is reduced by the Act, so long as the person does not pose a risk to public safety, and to redesignate or dismiss such offenses from the criminal records of persons who have completed their sentences as set forth in this Act.

(aa) Allow industrial hemp to be grown as an agricultural product, and for agricultural or academic research, and regulated separately from the strains of cannabis with higher delta-9 tetrahydrocannabinol concentrations.

SECTION 4. PERSONAL USE.

Sections 11018 of the Health and Safety Code is hereby amended, and Sections 11018.1 and 11018.2 of the Health and Safety Code are hereby added to read:

11018. Marijuana

"Marijuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the ~~mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination:~~

(a) *industrial hemp, as defined in Section 11018.5; or*

(b) *the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.*

11018.1. Marijuana Products

"Marijuana products" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

11018.2. Marijuana Accessories

"Marijuana accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

Sections 11362.1 through 11362.45 are added to the Health and Safety Code, to read:

11362.1,

(a) *Subject to Sections 11362.2, 11362.3, 11362.4, and 11362.45, but notwithstanding any other provision of law, it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to:*

(1) *Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams of marijuana not in the form of concentrated cannabis;*

- (2) Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than eight grams of marijuana in the form of concentrated cannabis, including as contained in marijuana products;
 - (3) Possess, plant, cultivate, harvest, dry, or process not more than six living marijuana plants and possess the marijuana produced by the plants;
 - (4) Smoke or ingest marijuana or marijuana products; and
 - (5) Possess, transport, purchase, obtain, use, manufacture, or give away marijuana accessories to persons 21 years of age or older without any compensation whatsoever.
- (b) Paragraph (5) of subdivision (a) is intended to meet the requirements of subdivision (f) of Section 863 of Title 21 of the United States Code (21 U.S.C. § 863(f)) by authorizing, under state law, any person in compliance with this section to manufacture, possess, or distribute marijuana accessories.
- (c) Marijuana and marijuana products involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure, and no conduct deemed lawful by this section shall constitute the basis for detention, search, or arrest.

11362.2.

(a) Personal cultivation of marijuana under paragraph (3) of subdivision (a) of Section 11362.1 is subject to the following restrictions:

- (1) A person shall plant, cultivate, harvest, dry, or process plants in accordance with local ordinances, if any, adopted in accordance with subdivision (b) of this section.
- (2) The living plants and any marijuana produced by the plants in excess of 28.5 grams are kept within the person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place.

(3) Not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time.

(b)(1) A city, county, or city and county may enact and enforce reasonable regulations to reasonably regulate the actions and conduct in paragraph (3) of subdivision (a) of Section 11362.1.

(2) Notwithstanding paragraph (1), no city, county, or city and county may completely prohibit persons engaging in the actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure.

(3) Notwithstanding paragraph (3) of subdivision (a) of Section 11362.1, a city, county, or city and county may completely prohibit persons from engaging in actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 outdoors upon the grounds of a private residence.

(4) Paragraph (3) of this subdivision shall become inoperable upon a determination by the California Attorney General that nonmedical use of marijuana is lawful in the State of California under federal law, and an act taken by a city, county, or city and county under paragraph (3) shall be deemed repealed upon the date of such determination by the California Attorney General.

(5) For purposes of this section, "private residence" means a house, an apartment unit, a mobile home, or other similar dwelling.

11362.3.

(a) Nothing in Section 11362.1 shall be construed to permit any person to:

(1) Smoke or ingest marijuana or marijuana products in any public place, except in accordance with Section 26200 of the Business and Professions Code.

(2) Smoke marijuana or marijuana products in a location where smoking tobacco is prohibited.

(3) Smoke marijuana or marijuana products within 1,000 feet of a school, day care center, or youth center while children are present at such a school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 of the Business and Professions Code or Chapter 3.5 of Division 8 of the Business and Professions Code and only if such smoking is not detectable by others on the grounds of such a school, day care center, or youth center while children are present.

(4) Possess an open container or open package of marijuana or marijuana products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

(5) Possess, smoke or ingest marijuana or marijuana products in or upon the grounds of a school, day care center, or youth center while children are present.

(6) Manufacture concentrated cannabis using a volatile solvent, unless done in accordance with a license under Chapter 3.5 of Division 8 or Division 10 of the Business and Professions Code.

(7) Smoke or ingest marijuana or marijuana products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

(8) Smoke or ingest marijuana or marijuana products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation except as permitted on a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation that is operated in accordance with Section 26200 of the Business and Professions Code and while no persons under the age of 21 years are present.

(b) For purposes of this section, "day care center" has the same meaning as in Section 1596.76.

(c) For purposes of this section, "smoke" means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated marijuana or marijuana product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoke" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

(d) For purposes of this section, "volatile solvent" means volatile organic compounds, including: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O₂ or H₂; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.

(e) For purposes of this section, "youth center" has the same meaning as in Section 11353.1.

(f) Nothing in this section shall be construed or interpreted to amend, repeal, affect, restrict, or preempt laws pertaining to the Compassionate Use Act of 1996.

11362.4.

(a) A person who engages in the conduct described in paragraph (1) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a one hundred dollar (\$100) fine; provided, however, that persons under the age of 18 shall instead be required to complete four hours of a drug education program or counseling, and up to 10 hours of community service, over

a period not to exceed 60 days once the drug education program or counseling and community service opportunity are made available to the person

(b) A person who engages in the conduct described in paragraphs (2) through (4) of subdivision (a) of Section 11362.3 shall be guilty of an infraction punishable by no more than a two hundred and fifty dollar (\$250) fine, unless such activity is otherwise permitted by state and local law; provided, however, that persons under the age of 18 shall instead be required to complete four hours of drug education or counseling, and up to 20 hours of community service, over a period not to exceed 90 days once the drug education program or counseling and community service opportunity are made available to the person.

(c) A person who engages in the conduct described in paragraph (5) of subdivision (a) of Section 11362.3 shall be subject to the same punishment as provided under subdivisions (c) or (d) of Section 11357.

(d) A person who engages in the conduct described in paragraph (6) of subdivision (a) of Section 11362.3 shall be subject to punishment under Section 11379.6.

(e) A person who violates the restrictions in subdivision (a) of Section 11362.2 is guilty of an infraction punishable by no more than a two hundred and fifty dollar (\$250) fine.

(f) Notwithstanding subdivision (e), a person under the age of 18 who violates the restrictions in subdivision (a) of Section 11362.2 shall be punished under subdivision (a) of Section 11358.

(g)(1) The drug education program or counseling hours required by this section shall be mandatory unless the court makes a finding that such a program or counseling is unnecessary for the person or that a drug education program or counseling is unavailable.

(2) The drug education program required by this section for persons under the age of 18 must be free to participants and provide at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of marijuana and other controlled substances.

(h) Upon a finding of good cause, the court may extend the time for a person to complete the drug education or counseling, and community service required under this section.

11362.45.

Nothing in section 11362.1 shall be construed or interpreted to amend, repeal, affect, restrict, or preempt:

(a) Laws making it unlawful to drive or operate a vehicle, boat, vessel, or aircraft, while smoking, ingesting, or impaired by, marijuana or marijuana products, including, but not limited to, subdivision (e) of Section 23152 of the Vehicle Code, or the penalties prescribed for violating those laws.

(b) Laws prohibiting the sale, administering, furnishing, or giving away of marijuana, marijuana products, or marijuana accessories, or the offering to sell, administer, furnish, or give away marijuana, marijuana products, or marijuana accessories to a person younger than 21 years of age.

(c) Laws prohibiting a person younger than 21 years of age from engaging in any of the actions or conduct otherwise permitted under Section 11362.1.

(d) Laws pertaining to smoking or ingesting marijuana or marijuana products on the grounds of, or within, any facility or institution under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or on the grounds of, or within, any other facility or institution referenced in Section 4573 of the Penal Code.

- (e) Laws providing that it would constitute negligence or professional malpractice to undertake any task while impaired from smoking or ingesting marijuana or marijuana products.
- (f) The rights and obligations of public and private employers to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of marijuana in the workplace, or affect the ability of employers to have policies prohibiting the use of marijuana by employees and prospective employees, or prevent employers from complying with state or federal law.
- (g) The ability of a state or local government agency to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 within a building owned, leased, or occupied by the state or local government agency.
- (h) The ability of an individual or private entity to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 on the individual's or entity's privately owned property.
- (i) Laws pertaining to the Compassionate Use Act of 1996.

SECTION 5. USE OF MARIJUANA FOR MEDICAL PURPOSES.

Sections 11362.712, 11362.713, 11362.84 and 11362.85 are added to the Health and Safety Code, and 11362.755 of the Health and Safety Code is amended to read:

11362.712.

- (a) Commencing on January 1, 2018, a qualified patient must possess a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code. Failure to comply with this requirement shall not, however, affect any of the protections provided to patients or their primary caregivers by Section 11362.5.
- (b) A county health department or the county's designee shall develop protocols to ensure that, commencing upon January 1, 2018, all identification cards issued pursuant to Section 11362.71 are supported by a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code.

11362.713.

- (a) Information identifying the names, addresses, or social security numbers of patients, their medical conditions, or the names of their primary caregivers, received and contained in the records of the Department of Public Health and by any county public health department are hereby deemed "medical information" within the meaning of the Confidentiality of Medical Information Act (Civil Code § 56, et seq.) and shall not be disclosed by the Department or by any county public health department except in accordance with the restrictions on disclosure of individually identifiable information under the Confidentiality of Medical Information Act.
- (b) Within 24 hours of receiving any request to disclose the name, address, or social security number of a patient, their medical condition, or the name of their primary caregiver, the Department of Public Health or any county public health agency shall contact the patient and inform the patient of the request and if the request was made in writing, a copy of the request.
- (c) Notwithstanding Section 56.10 of the Civil Code, neither the Department of Public Health, nor any county public health agency, shall disclose, nor shall they be ordered by agency or court to disclose, the names, addresses, or social security numbers of patients, their medical

conditions, or the names of their primary caregivers, sooner than the 10th day after which the patient whose records are sought to be disclosed has been contacted.

(d) No identification card application system or database used or maintained by the Department of Public Health or by any county department of public health or the county's designee as provided in Section 11362.71 shall contain any personal information of any qualified patient, including but not limited to, the patient's name, address, social security number, medical conditions, or the names of their primary caregivers. Such an application system or database may only contain a unique user identification number, and when that number is entered, the only information that may be provided is whether the card is valid or invalid.

11362.755.

(a) ~~The department shall establish application and renewal fees for persons seeking to obtain or renew identification cards that are sufficient to cover the expenses incurred by the department, including the startup cost, the cost of reduced fees for Medi-Cal beneficiaries in accordance with subdivision (b), the cost of identifying and developing a cost-effective Internet-Web-based system, and the cost of maintaining the 24-hour toll-free telephone number. Each county health department or the county's designee may charge an additional~~ a fee for all costs incurred by the county or the county's designee for administering the program pursuant to this article.

(b) *In no event shall the amount of the fee charged by a county health department exceed \$100 per application or renewal.*

(c) Upon satisfactory proof of participation and eligibility in the Medi-Cal program, a Medi-Cal beneficiary shall receive a 50 percent reduction in the fees established pursuant to this section.

(d) *Upon satisfactory proof that a qualified patient, or the legal guardian of a qualified patient under the age of 18, is a medically indigent adult who is eligible for and participates in the County Medical Services Program, the fee established pursuant to this section shall be waived.*

(e) *In the event the fees charged and collected by a county health department are not sufficient to pay for the administrative costs incurred in discharging the county health department's duties with respect to the mandatory identification card system, the Legislature, upon request by the county health department, shall reimburse the county health department for those reasonable administrative costs in excess of the fees charged and collected by the county health department.*

11362.84.

The status and conduct of a qualified patient who acts in accordance with the Compassionate Use Act shall not, by itself, be used to restrict or abridge custodial or parental rights to minor children in any action or proceeding under the jurisdiction of family or juvenile court.

11362.85.

Upon a determination by the California Attorney General that the federal schedule of controlled substances has been amended to reclassify or declassify marijuana, the Legislature may amend or repeal the provisions of the Health and Safety Code, as necessary, to conform state law to such changes in federal law.

SECTION 6. MARIJUANA REGULATION AND SAFETY.

Division 10 is hereby added to the Business and Professions Code to read as follows:

Division 10. Marijuana

Chapter 1. General Provisions and Definitions

26000.

(a) *The purpose and intent of this division is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of nonmedical marijuana and marijuana products for adults 21 years of age and over.*

(b) *In the furtherance of subdivision (a), this division expands the power and duties of the existing state agencies responsible for controlling and regulating the medical cannabis industry under Chapter 3.5 of Division 8 to include the power and duty to control and regulate the commercial nonmedical marijuana industry.*

(c) *The Legislature may, by majority vote, enact laws to implement this division, provided such laws are consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.*

26001.

For purposes of this division, the following definitions shall apply:

(a) *"Applicant" means the following:*

(1) *The owner or owners of a proposed licensee. "Owner" means all persons having (A) an aggregate ownership interest (other than a security interest, lien, or encumbrance) of 20 percent or more in the licensee and (B) the power to direct or cause to be directed, the management or control of the licensee.*

(2) *If the applicant is a publicly traded company, "owner" includes the chief executive officer and any member of the board of directors and any person or entity with an aggregate ownership interest in the company of 20 percent or more. If the applicant is a nonprofit entity, "owner" means both the chief executive officer and any member of the board of directors.*

(b) *"Bureau" means the Bureau of Marijuana Control within the Department of Consumer Affairs.*

(c) *"Child resistant" means designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for normal adults to use properly.*

(d) *"Commercial marijuana activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products as provided for in this division.*

(e) *"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.*

(f) *"Customer" means a natural person 21 years of age or over.*

(g) *"Day care center" shall have the same meaning as in Section 1596.76 of the Health and Safety Code.*

(h) *"Delivery" means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.*

(i) *"Director" means the Director of the Department of Consumer Affairs.*

- (j) "Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities licensed pursuant to this division.
- (k) "Fund" means the Marijuana Control Fund established pursuant to Section 26210.
- (l) "Kind" means applicable type or designation regarding a particular marijuana variant or marijuana product type, including, but not limited to, strain name or other grower trademark, or growing area designation.
- (m) "License" means a state license issued under this division.
- (n) "Licensee" means any person or entity holding a license under this division.
- (o) "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the licensee.
- (p) "Local jurisdiction" means a city, county, or city and county.
- (q) "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.
- (r) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of marijuana or marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a **fixed** location that packages or repackages marijuana or marijuana products or labels or re-labels its container, that holds a state license pursuant to this division.
- (s) "Marijuana" has the same meaning as in Section 11018 of the Health and Safety Code, except that it does not include marijuana that is cultivated, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 of Division 8.
- (t) "Marijuana accessories" has the same meaning as in Section 11018.2 of the Health and Safety Code.
- (u) "Marijuana products" has the same meaning as in Section 11018.1 of the Health and Safety Code, except that it does not include marijuana products manufactured, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 of Division 8.
- (v) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of marijuana.
- (w) "Operation" means any act for which licensure is required under the provisions of this division, or any commercial transfer of marijuana or marijuana products.
- (x) "Package" means any container or receptacle used for holding marijuana or marijuana products.
- (y) "Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
- (z) "Purchaser" means the customer who is engaged in a transaction with a licensee for purposes of obtaining marijuana or marijuana products.
- (aa) "Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of marijuana or marijuana products by a licensee to the licensee from whom such marijuana or marijuana product was purchased.

(bb) "Testing service" means a laboratory, facility, or entity in the state, that offers or performs tests of marijuana or marijuana products, including the equipment provided by such laboratory, facility, or entity, and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in commercial marijuana activity in the state.

(2) Registered with the Department of Public Health.

(cc) "Unique identifier" means an alphanumeric code or designation used for reference to a specific plant on a licensed premises.

(dd) "Unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset, that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent business person.

(ee) "Youth center" shall have the same meaning as in Section 11353.1 of the Health and Safety Code.

Chapter 2. Administration

26010.

(a) The Bureau of Medical Marijuana Regulation established in Section 19302 in Chapter 3.5 of Division 8 is hereby renamed the Bureau of Marijuana Control. The director shall administer and enforce the provisions of this division in addition to the provisions of Chapter 3.5 of Division 8. The director shall have the same power and authority as provided by subdivisions (b) and (c) of Section 19302.1 for purposes of this division.

(b) The bureau and the director shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Bureau of Medical Marijuana Regulation under Chapter 3.5 of Division 8.

(c) In addition to the powers, duties, purposes, responsibilities, and jurisdiction referenced in subdivision (b), the bureau shall heretofore have the power, duty, purpose, responsibility, and jurisdiction to regulate commercial marijuana activity as provided in this division.

(d) Upon the effective date of this section, whenever "Bureau of Medical Marijuana Regulation" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the bureau.

26011.

Neither the chief of the bureau nor any member of the Marijuana Control Appeals Panel established under Section 26040 shall have nor do any of the following:

(a) Receive any commission or profit whatsoever, directly or indirectly, from any person applying for or receiving any license or permit under this division or Chapter 3.5 of Division 8.

(b) Engage or have any interest in the sale or any insurance covering a licensee's business or premises.

(c) Engage or have any interest in the sale of equipment for use upon the premises of a licensee engaged in commercial marijuana activity.

(d) Knowingly solicit any licensee for the purchase of tickets for benefits or contributions for benefits.

(e) Knowingly request any licensee to donate or receive money, or any other thing of value, for the benefit of any person whatsoever.

26012.

(a) It being a matter of statewide concern, except as otherwise authorized in this division:

(1) The Department of Consumer Affairs shall have the exclusive authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation, storage unrelated to manufacturing activities, distribution, and sale of marijuana within the state.

(2) The Department of Food and Agriculture shall administer the provisions of this division related to and associated with the cultivation of marijuana. The Department of Food and Agriculture shall have the authority to create, issue, and suspend or revoke cultivation licenses for violations of this division.

(3) The Department of Public Health shall administer the provisions of this division related to and associated with the manufacturing and testing of marijuana. The Department of Public Health shall have the authority to create, issue, and suspend or revoke manufacturing and testing licenses for violations of this division.

(b) The licensing authorities and the bureau shall have the authority to collect fees in connection with activities they regulate concerning marijuana. The bureau may create licenses in addition to those identified in this division that the bureau deems necessary to effectuate its duties under this division.

(c) Licensing authorities shall begin issuing licenses under this division by January 1, 2018.

26013.

(a) Licensing authorities shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer and enforce their respective duties under this division in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Such rules and regulations shall be consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

(b) Licensing authorities may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce their respective duties under this division. Any emergency regulation prescribed, adopted or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(c) Regulations issued under this division shall be necessary to achieve the purposes of this division, based on best available evidence, and shall mandate only commercially feasible procedures, technology, or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, nor shall such regulations make compliance unreasonably impracticable.

26014.

(a) The bureau shall convene an advisory committee to advise the bureau and licensing authorities on the development of standards and regulations pursuant to this division, including best practices and guidelines that protect public health and safety while ensuring a regulated environment for commercial marijuana activity that does not impose such unreasonably

impracticable barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for marijuana.

(b) The advisory committee members shall include, but not be limited to, representatives of the marijuana industry, representatives of labor organizations, appropriate state and local agencies, public health experts, and other subject matter experts, including representatives from the Department of Alcoholic Beverage Control, with expertise in regulating commercial activity for adult-use intoxicating substances. The advisory committee members shall be determined by the director.

(c) Commencing on January 1, 2019, the advisory committee shall publish an annual public report describing its activities including, but not limited to, the recommendations the advisory committee made to the bureau and licensing authorities during the immediately preceding calendar year and whether those recommendations were implemented by the bureau or licensing authorities.

26015.

A licensing authority may make or cause to be made such investigation as it deems necessary to carry out its duties under this division.

26016.

For any hearing held pursuant to this division, except a hearing held under Chapter 4, a licensing authority may delegate the power to hear and decide to an administrative law judge. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

26017.

In any hearing before a licensing authority pursuant to this division, the licensing authority may pay any person appearing as a witness at the hearing at the request of the licensing authority pursuant to a subpoena, his or her actual, necessary, and reasonable travel, food, and lodging expenses, not to exceed the amount authorized for state employees.

26018.

A licensing authority may on its own motion at any time before a penalty assessment is placed into effect, and without any further proceedings, review the penalty, but such review shall be limited to its reduction.

Chapter 3. Enforcement

26030.

Grounds for disciplinary action include:

(a) Failure to comply with the provisions of this division or any rule or regulation adopted pursuant to this division.

(b) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 3 (commencing with Section 490) of Division 1.5.

(c) Any other grounds contained in regulations adopted by a licensing authority pursuant to this division.

(d) Failure to comply with any state law including, but not limited to, the payment of taxes as required under the Revenue and Taxation Code, except as provided for in this division or other California law.

(e) Knowing violations of any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a licensee.

(f) Failure to comply with the requirement of a local ordinance regulating commercial marijuana activity.

(g) The intentional and knowing sale of marijuana or marijuana products by a licensee to a person under the legal age to purchase or possess.

26031.

Each licensing authority may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action. The disciplinary proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.

26032.

Each licensing authority may take disciplinary action against a licensee for any violation of this division when the violation was committed by the licensee's agent or employee while acting on behalf of the licensee or engaged in commercial marijuana activity.

26033.

Upon suspension or revocation of a license, the licensing authority shall inform the bureau. The bureau shall then inform all other licensing authorities.

26034.

Accusations against licensees under this division shall be filed within the same time limits as specified in Section 19314 or as otherwise provided by law.

26035.

(a) The director shall designate the persons employed by the Department of Consumer Affairs for purposes of the administration and enforcement of this division. The director shall ensure that a sufficient number of employees are qualified peace officers for purposes of enforcing this division.

26036.

Nothing in this division shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority, including, but not limited to, under the Fish and Game Code, the Food and Agricultural Code, the Government Code, the Health and Safety Code, the Public Resources Code, the Water Code, or the application of those laws.

26037.

(a) The actions of a licensee, its employees, and its agents that are: (1) permitted under a license issued under this division and any applicable local ordinances; and (2) conducted in accordance

with the requirements of this division and regulations adopted pursuant to this division, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

(b) The actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to a state license and any applicable local ordinances, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

26038.

(a) A person engaging in commercial marijuana activity without a license required by this division shall be subject to civil penalties of up to three times the amount of the license fee for each violation, and the court may order the destruction of marijuana associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section by a licensing authority shall be deposited into the General Fund except as provided in subdivision (b).

(b) If an action for civil penalties is brought against a licensee pursuant to this division by the Attorney General on behalf of the people, the penalty collected shall be deposited into the General Fund. If the action is brought by a district attorney or county counsel, the penalty shall first be used to reimburse the district attorney or county counsel for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund. If the action is brought by a city attorney or city prosecutor, the penalty collected shall first be used to reimburse the city attorney or city prosecutor for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund.

(c) Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person engaging in commercial marijuana activity in violation of this division.

Chapter 4. Appeals

26040.

(a) There is established in state government a Marijuana Control Appeals Panel which shall consist of three members appointed by the Governor and subject to confirmation by a majority vote of all of the members elected to the Senate. Each member, at the time of his or her initial appointment, shall be a resident of a different county from the one in which either of the other members resides. Members of the panel shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The members of the panel may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty, corruption or incompetency.

(c) A concurrent resolution for the removal of any member of the panel may be introduced in the Legislature only if five Members of the Senate, or ten Members of the Assembly, join as authors,

26041.

All personnel of the panel shall be appointed, employed, directed, and controlled by the panel consistent with state civil service requirements. The director shall furnish the equipment, supplies, and housing necessary for the authorized activities of the panel and shall perform such other mechanics of administration as the panel and the director may agree upon.

26042.

The panel shall adopt procedures for appeals similar to the procedures used in Articles 3 and 4 in Chapter 1.5 in Division 9 of the Business and Professions Code. Such procedures shall be adopted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, section 11340 et seq.).

26043.

(a) When any person aggrieved thereby appeals from a decision of the bureau or any licensing authority ordering any penalty assessment, issuing, denying, transferring, conditioning, suspending or revoking any license provided for under this division, the panel shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the panel shall not receive evidence in addition to that considered by the bureau or the licensing authority.

(b) Review by the panel of a decision of the bureau or a licensing authority shall be limited to the following questions:

(1) Whether the bureau or any licensing authority has proceeded without or in excess of its jurisdiction.

(2) Whether the bureau or any licensing authority has proceeded in the manner required by law.

(3) Whether the decision is supported by the findings.

(4) Whether the findings are supported by substantial evidence in the light of the whole record.

26044.

(a) In appeals where the panel finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the bureau or licensing authority, it may enter an order remanding the matter to the bureau or licensing authority for reconsideration in the light of such evidence.

(b) Except as provided in subdivision (a), in all appeals, the panel shall enter an order either affirming or reversing the decision of the bureau or licensing authority. When the order reverses the decision of the bureau or licensing authority, the board may direct the reconsideration of the matter in the light of its order and may direct the bureau or licensing authority to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the bureau or licensing authority.

26045.

Orders of the panel shall be subject to judicial review under Section 1094.5 of the Code of Civil Procedure upon petition by the bureau or licensing authority or any party aggrieved by such order.

Chapter 5. Licensing

26050.

(a) The license classification pursuant to this division shall, at a minimum, be as follows:

- (1) Type 1 = Cultivation; Specialty outdoor; Small.
- (2) Type 1A = Cultivation; Specialty indoor; Small.
- (3) Type 1B = Cultivation; Specialty mixed-light; Small.
- (4) Type 2 = Cultivation; Outdoor; Small.
- (5) Type 2A = Cultivation; Indoor; Small.
- (6) Type 2B = Cultivation; Mixed-light; Small.
- (7) Type 3 = Cultivation; Outdoor; Medium.
- (8) Type 3A = Cultivation; Indoor; Medium.
- (9) Type 3B = Cultivation; Mixed-light; Medium.
- (10) Type 4 = Cultivation; Nursery.
- (11) Type 5 = Cultivation; Outdoor; Large.
- (12) Type 5A = Cultivation; Indoor; Large.
- (13) Type 5B = Cultivation; Mixed-light; Large.
- (14) Type 6 = Manufacturer 1.
- (15) Type 7 = Manufacturer 2.
- (16) Type 8 = Testing.
- (17) Type 10 = Retailer.
- (18) Type 11 = Distributor.
- (19) Type 12 = Microbusiness.

(b) All licenses issued under this division shall bear a clear designation indicating that the license is for commercial marijuana activity as distinct from commercial medical cannabis activity licensed under Chapter 3.5 of Division 8. Examples of such a designation include, but are not limited to, "Type 1 – Nonmedical," or "Type INM."

(c) A license issued pursuant to this division shall be valid for 12 months from the date of issuance. The license may be renewed annually.

(d) Each licensing authority shall establish procedures for the issuance and renewal of licenses.

(e) Notwithstanding subdivision (c), a licensing authority may issue a temporary license for a period of less than 12 months. This subdivision shall cease to be operable on January 1, 2019.

26051.

(a) In determining whether to grant, deny, or renew a license authorized under this division, a licensing authority shall consider factors reasonably related to the determination, including, but not limited to, whether it is reasonably foreseeable that issuance, denial, or renewal of the license could:

- (1) allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power;
- (2) perpetuate the presence of an illegal market for marijuana or marijuana products in the state or out of the state;
- (3) encourage underage use or adult abuse of marijuana or marijuana products, or illegal diversion of marijuana or marijuana products out of the state;
- (4) result in an excessive concentration of licensees in a given city, county, or both;

(5) present an unreasonable risk of minors being exposed to marijuana or marijuana products;
or

(6) result in violations of any environmental protection laws.

(b) A licensing authority may deny a license or renewal of a license based upon the considerations in subdivision (a).

(c) For purposes of this section, "excessive concentration" means when the premises for a retail license, microbusiness license, or a license issued under Section 26070.5 is located in an area where either of the following conditions exist:

(1) The ratio of a licensee to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licensees to population in the county in which the applicant premises are located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for marijuana or marijuana products.

(2) The ratio of retail licenses, microbusiness licenses, or licenses under Section 26070.5 to population in the census tract, division or jurisdiction exceeds that allowable by local ordinance adopted under Section 26200.

26052.

(a) No licensee shall perform any of the following acts, or permit any such acts to be performed by any employee, agent, or contractor of such licensee:

(1) Make any contract in restraint of trade in violation of Section 16600;

(2) Form a trust or other prohibited organization in restraint of trade in violation of Section 16720;

(3) Make a sale or contract for the sale of marijuana or marijuana products, or to fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the consumer or purchaser thereof shall not use or deal in the goods, merchandise, machinery, supplies, commodities, or services of a competitor or competitors of such seller, where the effect of such sale, contract, condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of trade or commerce;

(4) Sell any marijuana or marijuana products at less than cost for the purpose of injuring competitors, destroying competition, or misleading or deceiving purchasers or prospective purchasers;

(5) Discriminate between different sections, communities, or cities or portions thereof, or between different locations in such sections, communities, cities or portions thereof in this state, by selling or furnishing marijuana or marijuana products at a lower price in one section, community, or city or any portion thereof, or in one location in such section, community, or city or any portion thereof, than in another, for the purpose of injuring competitors or destroying competition; or

(6) Sell any marijuana or marijuana products at less than the cost thereof to such vendor, or to give away any article or product for the purpose of injuring competitors or destroying competition.

(b) Any person who, either as director, officer or agent of any firm or corporation, or as agent of any person, violates the provisions of this chapter, assists or aids, directly or indirectly, in such violation is responsible therefor equally with the person, firm or corporation for which such person acts.

- (c) A licensing authority may enforce this section by appropriate regulation.*
- (d) Any person or trade association may bring an action to enjoin and restrain any violation of this section for the recovery of damages.*

26053.

- (a) The bureau and licensing authorities may issue licenses under this division to persons or entities that hold licenses under Chapter 3.5 of Division 8.*
- (b) Notwithstanding subdivision (a), a person or entity that holds a state testing license under this division or Chapter 3.5 of Division 8 is prohibited from licensure for any other activity, except testing, as authorized under this division.*
- (c) Except as provided in subdivision (b), a person or entity may apply for and be issued more than one license under this division.*

26054.

- (a) A licensee shall not also be licensed as a retailer of alcoholic beverages under Division 9 or of tobacco products.*
- (b) No licensee under this division shall be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in paragraph (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law.*
- (c) It shall be lawful under state and local law, and shall not be a violation of state or local law, for a business engaged in the manufacture of marijuana accessories to possess, transport, purchase or otherwise obtain small amounts of marijuana or marijuana products as necessary to conduct research and development related to such marijuana accessories, provided such marijuana and marijuana products are obtained from a person or entity licensed under this division or Chapter 3.5 of Division 8 permitted to provide or deliver such marijuana or marijuana products.*

26054.1

- (a) No licensing authority shall issue or renew a license to any person that cannot demonstrate continuous California residency from or before January 1, 2015. In the case of an applicant or licensee that is an entity, the entity shall not be considered a resident if any person controlling the entity cannot demonstrate continuous California residency from and before January 1, 2015.*
- (b) Subdivision (a) shall cease to be operable on December 31, 2019 unless reenacted prior thereto by the Legislature.*

26054.2

- (a) A licensing authority shall give priority in issuing licenses under this division to applicants that can demonstrate to the authority's satisfaction that the applicant operated in compliance with the Compassionate Use Act and its implementing laws before September 1, 2016, or currently operates in compliance with Chapter 3.5 of Division 8.*
- (b) The bureau shall request that local jurisdictions identify for the bureau potential applicants for licensure based on the applicants' prior operation in the local jurisdiction in compliance with state law, including the Compassionate Use Act and its implementing laws, and any*

applicable local laws. The bureau shall make the requested information available to licensing authorities.

(c) In addition to or in lieu of the information described in subdivision (b), an applicant may furnish other evidence to demonstrate operation in compliance with the Compassionate Use Act or Chapter 3.5 of Division 8. The bureau and licensing authorities may accept such evidence to demonstrate eligibility for the priority provided for in subdivision (a).

(d) This section shall cease to be operable on December 31, 2019 unless otherwise provided by law.

26055.

(a) Licensing authorities may issue state licenses only to qualified applicants.

(b) Revocation of a state license issued under this division shall terminate the ability of the licensee to operate within California until the licensing authority reinstates or reissues the state license.

(c) Separate licenses shall be issued for each of the premises of any licensee having more than one location, except as otherwise authorized by law or regulation.

(d) After issuance or transfer of a license, no licensee shall change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until prior written assent of the licensing authority or bureau has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.

(e) Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.

26056.

An applicant for any type of state license issued pursuant to this division shall comply with the same requirements as set forth in Section 19322 of Chapter 3.5 of Division 8 unless otherwise provided by law, including electronic submission of fingerprint images, and any other requirements imposed by law or a licensing authority, except as follows:

(a) notwithstanding paragraph (2) of subdivision (a) of Section 19322 of Chapter 3.5 of Division 8, an applicant need not provide documentation that the applicant has obtained a license, permit or other authorization to operate from the local jurisdiction in which the applicant seeks to operate;

(b) an application for a license under this division shall include evidence that the proposed location meets the restriction in subdivision (b) of Section 26054; and

(c) for applicants seeking licensure to cultivate, distribute, or manufacture nonmedical marijuana or marijuana products, the application shall also include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:

(1) Cultivation

(2) Extraction and infusion methods.

(3) The transportation process.

- (4) The inventory process.
- (5) Quality control procedures.
- (6) The source or sources of water the applicant will use for the licensed activities, including a certification that the applicant may use that water legally under state law.
- (d) The applicant shall provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy including aggregate square footage and individual square footage of separate cultivation areas, if any.

26056.5.

The bureau shall devise protocols that each licensing authority shall implement to ensure compliance with state laws and regulations related to environmental impacts, natural resource protection, water quality, water supply, hazardous materials, and pesticide use in accordance with regulations, including but not limited to, the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), the California Endangered Species Act (Fish and Game Code, Section 2800 et. seq.), lake or streambed alteration agreements (Fish and Game Code, Section 1600 et. seq.), the Clean Water Act, the Porter-Cologne Water Quality Control Act, timber production zones, wastewater discharge requirements, and any permit or right necessary to divert water.

26057.

- (a) The licensing authority shall deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure under this division.
- (b) The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:
 - (1) Failure to comply with the provisions of this division, any rule or regulation adopted pursuant to this division, or any requirement imposed to protect natural resources, including, but not limited to, protections for instream flow and water quality.
 - (2) Conduct that constitutes grounds for denial of licensure under Chapter 2 of Division 1.5, except as otherwise specified in this section and Section 26059.
 - (3) Failure to provide information required by the licensing authority.
 - (4) The applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:
 - (A) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code

(C) A felony conviction involving fraud, deceit, or embezzlement.

(D) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

(E) A felony conviction for drug trafficking with enhancements pursuant to Sections 11370.4 or 11379.8.

(5) Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 of Division 1.5, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.

(6) The applicant, or any of its officers, directors, or owners, has been subject to fines or penalties for cultivation or production of a controlled substance on public or private lands pursuant to Sections 12025 or 12025.1 of the Fish and Game Code.

(7) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial marijuana activities or commercial medical cannabis activities, has had a license revoked under this division or Chapter 3.5 of Division 8 in the three years immediately preceding the date the application is filed with the licensing authority, or has been sanctioned under Sections 12025 or 12025.1 of the Fish and Game Code.

(8) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(9) Any other condition specified in law.

26058.

Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing.

26059.

An applicant shall not be denied a state license if the denial is based solely on any of the following:

(a) A conviction or act that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made for which the applicant or licensee has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(b) A conviction that was subsequently dismissed pursuant to Sections 1203.4, 1203.4a, or 1203.41 of the Penal Code or any other provision allowing for dismissal of a conviction.

Chapter 6. Licensed Cultivation Sites

26060.

(a) Regulations issued by the Department of Food and Agriculture governing the licensing of indoor, outdoor, and mixed-light cultivation sites shall apply to licensed cultivators under this division.

(b) Standards developed by the Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis shall apply to licensed cultivators under this division.

(c) The Department of Food and Agriculture shall include conditions in each license requested by the Department of Fish and Wildlife and the State Water Resources Control Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability, and to otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.

(d) The regulations promulgated by the Department of Food and Agriculture under this division shall, at a minimum, address in relation to commercial marijuana activity, the same matters described in subdivision (e) of Section 19332 of Chapter 3.5 of Division 8.

(e) The Department of Pesticide Regulation, in consultation with the State Water Resources Control Board, shall promulgate regulations that require that the application of pesticides or other pest control in connection with the indoor, outdoor, or mixed light cultivation of marijuana meets standards equivalent to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

26061.

(a) The state cultivator license types to be issued by the Department of Food and Agriculture under this division shall include Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, and Type 5, Type 5A, and Type 5B unless otherwise provided by law.

(b) Except as otherwise provided by law, Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B and Type 4 licenses shall provide for the cultivation of marijuana in the same amount as the equivalent license type for cultivation of medical cannabis as specified in subdivision (g) of Section 19332 of Chapter 3.5 of Division 8.

(c) Except as otherwise provided by law:

(1) Type 5, or "outdoor," means for outdoor cultivation using no artificial lighting greater than one acre, inclusive, of total canopy size on one premises.

(2) Type 5A, or "indoor," means for indoor cultivation using exclusively artificial lighting greater than 22,000 square feet, inclusive, of total canopy size on one premises.

(3) Type 5B, or "mixed-light," means for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, greater than 22,000 square feet, inclusive, of total canopy size on one premises.

(d) No Type 5, Type 5A, or Type 5B cultivation licenses may be issued before January 1, 2023.

(e) Commencing on January 1, 2023, A Type 5, Type 5A, or Type 5B licensee may apply for and hold a Type 6 or Type 7 license and apply for and hold Type 10 license. A Type 5, Type 5A, or Type 5B licensee shall not eligible to apply for or hold a Type 8, Type 11, or Type 12 license.

26062.

The Department of Food and Agriculture, in conjunction with the bureau, shall establish a certified organic designation and organic certification program for marijuana and marijuana products in the same manner as provided in Section 19332.5 of Chapter 3.5 of Division 8.

26063.

(a) The bureau shall establish standards for recognition of a particular appellation of origin applicable to marijuana grown or cultivated in a certain geographical area in California.

(b) Marijuana shall not be marketed, labeled, or sold as grown in a California county when the marijuana was not grown in that county.

(c) The name of a California county shall not be used in the labeling, marketing, or packaging of marijuana products unless the marijuana contained in the product was grown in that county.

26064.

Each licensed cultivator shall ensure that the licensed premises do not pose an unreasonable risk of fire or combustion. Each cultivator shall ensure that all lighting, wiring, electrical and mechanical devices, or other relevant property is carefully maintained to avoid unreasonable or dangerous risk to the property or others.

26065.

An employee engaged in the cultivation of marijuana under this division shall be subject to Wage Order No. 4-2001 of the Industrial Welfare Commission.

26066.

Indoor and outdoor marijuana cultivation by persons and entities licensed under this division shall be conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies, shall address environmental impacts of marijuana cultivation and shall coordinate when appropriate with cities and counties and their law enforcement agencies in enforcement efforts.

26067.

(a) The Department of Food and Agriculture shall establish a Marijuana Cultivation Program to be administered by the secretary. The secretary shall administer this section as it pertains to the cultivation of marijuana. For purposes of this division, marijuana is an agricultural product.

(b) A person or entity shall not cultivate marijuana without first obtaining a state license issued by the department pursuant to this section.

(c)(1) The department, in consultation with, but not limited to, the bureau, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for marijuana. In implementing the program, the department shall consider issues including, but not limited to, water use and environmental impacts. In implementing the program, the department shall ensure that:

- (A) Individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability. If a watershed cannot support additional cultivation, no new plant identifiers will be issued for that watershed.
- (B) Cultivation will not negatively impact springs, riparian wetlands and aquatic habitats.
- (2) The department shall establish a program for the identification of permitted marijuana plants at a cultivation site during the cultivation period. A unique identifier shall be issued for each marijuana plant. The department shall ensure that unique identifiers are issued as quickly as possible to ensure the implementation of this division. The unique identifier shall be attached at the base of each plant or as otherwise required by law or regulation.
- (A) Unique identifiers will only be issued to those persons appropriately licensed by this section.
- (B) Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section 26170.
- (C) The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each marijuana plant.
- (D) The department may promulgate regulations to implement this section.
- (3) The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.
- (d) Unique identifiers and associated identifying information administered by local jurisdictions shall adhere to the requirements set by the department and be the equivalent to those administered by the department.
- (e) (1) This section does not apply to the cultivation of marijuana in accordance with Section 11362.1 of the Health and Safety Code or the Compassionate Use Act.
- (2) Subdivision (b) of this section does not apply to persons or entities licensed under either paragraph (3) of subdivision (a) of Section 26070 or subdivision (b) of Section 26070.5.
- (f) "Department" for purposes of this section means the Department of Food and Agriculture.

Chapter 7. Retailers and Distributors

26070. Retailers and Distributors

- (a) State licenses to be issued by the Department of Consumer Affairs are as follows:
 - (1) "Retailer," for the retail sale and delivery of marijuana or marijuana products to customers.
 - (2) "Distributor," for the distribution of marijuana and marijuana products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority.
 - (3) "Microbusiness," for the cultivation of marijuana on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee complies with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of marijuana shall include conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flow needed to maintain flow variability, and otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.
- (b) The bureau shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of marijuana and marijuana products. The transportation

safety standards established by the bureau shall include, but not be limited to, minimum standards governing the types of vehicles in which marijuana and marijuana products may be distributed and delivered and minimum qualifications for persons eligible to operate such vehicles.

(c) Licensed retailers and microbusinesses, and licensed nonprofits under Section 26070.5, shall implement security measures reasonably designed to prevent unauthorized entrance into areas containing marijuana or marijuana products and theft of marijuana or marijuana products from the premises. These security measures shall include, but not be limited to, all of the following:

(1) Prohibiting individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the dispensary.

(2) Establishing limited access areas accessible only to authorized personnel.

(3) Other than limited amounts of marijuana used for display purposes, samples, or immediate sale, storing all finished marijuana and marijuana products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

26070.5

(a) The bureau shall, by January 1, 2018, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant to subdivision (b).

The bureau shall consider factors including, but not limited to, the following:

(1) Should nonprofit licensees be exempted from any or all state taxes, licensing fees and regulatory provisions applicable to other licenses in this division?

(2) Should funding incentives be created to encourage others licensed under this division to provide professional services at reduced or no cost to nonprofit licensees?

(3) Should nonprofit licenses be limited to, or prioritize those, entities previously operating on a not-for-profit basis primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low income persons?

(b) Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low income persons so long as the local jurisdiction:

(1) confirms the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit entities;

(2) licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this division;

(3) provides notice to the bureau of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity's operation, and;

(4) certifies to the bureau that any such licensed entity will not generate annual gross revenues in excess of two million dollars (\$2,000,000).

(c) Temporary local licenses authorized under subdivision (b) shall expire after twelve months unless renewed by the local jurisdiction.

(d) The bureau may impose reasonable additional requirements on the local licenses authorized under subdivision (b).

(c) (1) No new temporary local licenses shall be issued pursuant to this section after the date the bureau determines that creation of nonprofit licenses under this division is not feasible, or if the bureau determines such licenses are feasible, **after** the date a licensing agency commences issuing state nonprofit licenses.

(2) If the bureau determines such licenses are feasible, no temporary license issued under subdivision (b) shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses.

(3) If the bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under subdivision (b). The bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under subdivision (b).

Chapter 8. Distribution and Transport

26080.

(a) This division shall not be construed to authorize or permit a licensee to transport or distribute, or cause to be transported or distributed, marijuana or marijuana products outside the state, unless authorized by federal law.

(b) A local jurisdiction shall not prevent transportation of marijuana or marijuana products on public roads by a licensee transporting marijuana or marijuana products in compliance with this division.

Chapter 9. Delivery

26090.

(a) Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.

(b) A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers.

(c) A local jurisdiction shall not prevent delivery of marijuana or marijuana products on public roads by a licensee acting in compliance with this division and local law as **adopted** under Section 26200.

Chapter 10. Manufacturers and Testing Laboratories

26100.

The Department of Public Health shall promulgate regulations governing the licensing of marijuana manufacturers and testing laboratories. Licenses to be issued are as follows:

(a) "Manufacturing Level 1," for sites that manufacture marijuana products using nonvolatile solvents, or no solvents.

(b) "Manufacturing Level 2," for sites that manufacture marijuana products using volatile solvents.

(c) "Testing," for testing of marijuana and marijuana products. Testing licensees shall have their facilities or devices licensed according to regulations set forth by the Department. A testing

licensee shall not hold a license in another license category of this division and shall not own or have ownership interest in a non-testing facility licensed pursuant to this division.

(d) For purposes of this section, "volatile solvents" shall have the same meaning as in subdivision (d) of Section 11362.2 of the Health and Safety Code unless otherwise provided by law or regulation.

26101.

(a) Except as otherwise provided by law, no marijuana or marijuana products may be sold pursuant to a license provided for under this division unless a representative sample of such marijuana or marijuana product has been tested by a certified testing service to determine:

(1) Whether the chemical profile of the sample conforms to the labeled content of compounds, including, but not limited to, all of the following:

(A) Tetrahydrocannabinol (THC).

(B) Tetrahydrocannabinolic Acid (THCA).

(C) Cannabidiol (CBD).

(D) Cannabidiolic Acid (CBDA).

(E) The terpenes described in the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.

(F) Cannabigerol (CBG).

(G) Cannabinol (CBN).

(2) That the presence of contaminants does not exceed the levels in the most current version of the American Herbal Pharmacopoeia monograph. For purposes of this paragraph, contaminants includes, but is not limited to, all of the following:

(A) Residual solvent or processing chemicals, including explosive gases, such as Butane, propane, O₂ or H₂, and poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.

(B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.

(C) Microbiological impurity, including total aerobic microbial count, total yeast mold count, *P. aeruginosa*, *aspergillus* spp., *s. aureus*, aflatoxin B1, B2, G1, or G2, or ochratoxin A.

(b) Residual levels of volatile organic compounds shall satisfy standards of the cannabis inflorescence monograph set by the United States Pharmacopeia (U.S.P. Chapter 467).

(c) The testing required by paragraph (a) shall be performed in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025 to test marijuana and marijuana products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement.

(d) Any pre-sale inspection, testing transfer, or transportation of marijuana products pursuant to this section shall conform to a specified chain of custody protocol and any other requirements imposed under this division.

26102.

A licensed testing service shall not handle, test, or analyze marijuana or marijuana products unless the licensed testing laboratory meets the requirements of Section 19343 in Chapter 3.5 of Division 8 or unless otherwise provided by law.

26103.

A licensed testing service shall issue a certificate of analysis for each lot, with supporting data, to report the same information required in Section 19344 in Chapter 3.5 of Division 8 or unless otherwise provided by law.

26104.

(a) A licensed testing service shall, in performing activities concerning marijuana and marijuana products, comply with the requirements and restrictions set forth in applicable law and regulations.

(b) The Department of Public Health shall develop procedures to:

(1) ensure that testing of marijuana and marijuana products occurs prior to distribution to retailers, microbusinesses, or nonprofits licensed under Section 26070.5;

(2) specify how often licensees shall test marijuana and marijuana products, and that the cost of testing marijuana shall be borne by the licensed cultivators and the cost of testing marijuana products shall be borne by the licensed manufacturer, and that the costs of testing marijuana and marijuana products shall be borne a nonprofit licensed under Section 26070.5; and

(3) require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards promulgated by the Department of Public Health, unless remedial measures can bring the marijuana or marijuana products into compliance with quality assurance standards as promulgated by the Department of Public Health.

26105.

Manufacturing Level 2 licensees shall enact sufficient methods or procedures to capture or otherwise limit risk of explosion, combustion, or any other unreasonably dangerous risk to public safety created by volatile solvents. The Department of Public Health shall establish minimum standards concerning such methods and procedures for Level 2 licensees.

26106.

Standards for the production and labeling of all marijuana products developed by the Department of Public Health shall apply to licensed manufacturers and microbusinesses, and nonprofits licensed under Section 26070.5 unless otherwise specified by the Department of Public Health.

Chapter 11. Quality Assurance, Inspection, and Testing

26110.

(a) All marijuana and marijuana products shall be subject to quality assurance, inspection, and testing.

(b) All marijuana and marijuana products shall undergo quality assurance, inspection, and testing in the same manner as provided in Section 19326 in Chapter 3.5 of Division 8 except as otherwise provided in this division or by law.

Chapter 12. Packaging and Labeling

26120.

(a) Prior to delivery or sale at a retailer, marijuana and marijuana products shall be labeled and placed in a resealable, child resistant package.

(b) Packages and labels shall not be made to be attractive to children.

(c) All marijuana and marijuana product labels and inserts shall include the following information prominently displayed in a clear and legible fashion in accordance with the requirements, including font size, prescribed by the bureau or the Department of Public Health; ~~not less than 8 point font~~:

(1) Manufacture date and source.

(2) The following statements, in bold print:

(A) For marijuana: "**GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.**"

(B) For marijuana products: "**GOVERNMENT WARNING: THIS PRODUCT CONTAINS MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF MARIJUANA PRODUCTS MAY BE DELAYED UP TO TWO HOURS. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.**"

(3) For packages containing only dried flower, the net weight of marijuana in the package.

(4) Identification of the source and date of cultivation, the type of marijuana or marijuana product and the ~~date~~ of manufacturing and packaging.

(5) The appellation of origin, if any.

(6) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total, and the potency of the marijuana or marijuana product by reference to the amount of tetrahydrocannabinol and cannabidiol in each serving.

(7) For marijuana products, a list of all ingredients and disclosure of nutritional information in the same manner as the federal nutritional labeling requirements in 21 C.F.R. section 101.9.

(8) A list of any solvents, nonorganic pesticides, herbicides, and fertilizers that were used in the cultivation, production, and manufacture of such marijuana or marijuana product.

(9) A warning if nuts or other known allergens are used.

(10) Information associated with the unique identifier issued by the Department of Food and Agriculture.

(11) Any other requirement set by the bureau or the Department of Public Health.

(d) Only generic food names may be used to describe the ingredients in edible marijuana products.

(e) In the event the bureau determines that marijuana is no longer a schedule I controlled substance under federal law, the label prescribed in subdivision (c) shall no longer require a statement that marijuana is a schedule I controlled substance.

Chapter 13. Marijuana Products

26130.

(a) Marijuana products shall be:

(1) Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain marijuana.

(2) Produced and sold with a standardized dosage of cannabinoids not to exceed ten (10) milligrams tetrahydrocannabinol per serving.

(3) Delineated or scored into standardized serving sizes if the marijuana product contains more than one serving and is an edible marijuana product in solid form.

(4) Homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(5) Manufactured and sold under sanitation standards established by the Department of Public Health, in consultation with the bureau, for preparation, storage, handling and sale of food products.

(6) Provided to customers with sufficient information to enable the informed consumption of such product, including the potential effects of the marijuana product and directions as to how to consume the marijuana product, as necessary.

(b) Marijuana, including concentrated cannabis, included in a marijuana product manufactured in compliance with law is not considered an adulterant under state law.

Chapter 14. Protection of Minors

26140.

(a) No licensee shall:

(1) Sell marijuana or marijuana products to persons under 21 years of age.

(2) Allow any person under 21 years of age on its premises.

(3) Employ or retain persons under 21 years of age.

(4) Sell or transfer marijuana or marijuana products unless the person to whom the marijuana or marijuana product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.

(b) Persons under 21 years of age may be used by peace officers in the enforcement of this division and to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish marijuana to minors. Notwithstanding any provision of law, any person under 21 years of age who purchases or attempts to purchase any marijuana while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase marijuana. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the bureau in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3,5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) Notwithstanding subdivision (a), a licensee that is also a dispensary licensed under Chapter 3.5 of Division 8 may:

(1) Allow on the premises any person 18 years of age or older who possesses a valid identification card under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card;

(2) Sell marijuana, marijuana products, and marijuana accessories to a person 18 years of age or older who possesses a valid identification card under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

Chapter 15. Advertising and Marketing Restrictions

26150.

For purposes of this chapter:

(a) "Advertise" means the publication or dissemination of an advertisement.

(b) "Advertisement" includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of marijuana or marijuana products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:

(1) Any label affixed to any marijuana or marijuana products, or any individual covering, carton, or other wrapper of such container that constitutes a part of the labeling under provisions of this division.

(2) Any editorial or other reading material (e.g., news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any licensee, and which is not written by or at the direction of the licensee.

(c) "Advertising sign" is any sign, poster, display, billboard, or any other stationary or permanently-affixed advertisement promoting the sale of marijuana or marijuana products which are not cultivated, manufactured, distributed, or sold on the same lot.

(d) "Health-related statement" means any statement related to health, and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of marijuana or marijuana products and health benefits, or effects on health.

(e) "Market" or "Marketing" means any act or process of promoting or selling marijuana or marijuana products, including but not limited to, sponsorship of sporting events, point of sale advertising, development of products specifically designed to appeal to certain demographics, etc.

26151.

(a) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content.

(b) Any advertising or marketing placed in broadcast, cable, radio, print and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.

(c) Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older prior to engaging in such communication or dialogue controlled by the licensee. For purposes of this section, such method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.

(d) All advertising shall be truthful and appropriately substantiated.

26152.

No licensee shall.

(a) Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter tends to create a misleading impression;

(b) Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof;

(c) Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the marijuana originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement;

(d) Advertise or market on a billboard or similar advertising device located on an Interstate Highway or State Highway which crosses the border of any other state;

(e) Advertise or market marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products;

(f) Publish or disseminate advertising or marketing containing symbols, language, music, gestures, cartoon characters or other content elements known to appeal primarily to persons below the legal age of consumption; or

(g) Advertise or market marijuana or marijuana products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

26153.

No licensee shall give away any amount of marijuana or marijuana products, or any marijuana accessories, as part of a business promotion or other commercial activity.

26154.

No licensee shall publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of marijuana consumption.

26155.

(a) The provisions of subsection (g) of section 26152 shall not apply to the placement of advertising signs inside a licensed premises and which are not visible by normal unaided vision from a public place, provided that such advertising signs do not advertise marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products.

(b) This chapter does not apply to any noncommercial speech.

Chapter 16. Records

26160.

- (a) A licensee shall keep accurate records of commercial marijuana activity.*
- (b) All records related to commercial marijuana activity as defined by the licensing authorities shall be maintained for a minimum of seven years.*
- (c) The bureau may examine the books and records of a licensee and inspect the premises of a licensee as the licensing authority, or a state or local agency, deems necessary to perform its duties under this division. All inspections shall be conducted during standard business hours of the licensed facility or at any other reasonable time.*
- (d) Licensees shall keep records identified by the licensing authorities on the premises of the location licensed. The licensing authorities may make any examination of the records of any licensee. Licensees shall also provide and deliver copies of documents to the licensing agency upon request.*
- (e) A licensee, or its agent or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section, has engaged in a violation of this division.*
- (f) If a licensee, or an agent or employee of a licensee, fails to maintain or provide the records required pursuant to this section, the licensee shall be subject to a citation and fine of up to thirty thousand dollars (\$30,000) per individual violation.*

26161.

- (a) Every sale or transport of marijuana or marijuana products from one licensee to another licensee must be recorded on a sales invoice or receipt. Sales invoices and receipts may be maintained electronically and must be filed in such manner as to be readily accessible for examination by employees of the bureau or Board of Equalization and shall not be commingled with invoices covering other commodities.*
- (b) Each sales invoice required by subdivision (a) shall include the name and address of the seller and shall include the following information:*
 - (1) Name and address of the purchaser.*
 - (2) Date of sale and invoice number.*
 - (3) Kind, quantity, size, and capacity of packages of marijuana or marijuana products sold.*
 - (4) The cost to the purchaser, together with any discount applied to the price as shown on the invoice.*
 - (5) The place from which transport of the marijuana or marijuana product was made unless transport was made from the premises of the licensee.*
 - (6) Any other information specified by the bureau or the licensing authority.*

Chapter 17. Track and Trace System

26170.

- (a) The Department of Food and Agriculture, in consultation with the bureau and the State Board of Equalization, shall expand the track and trace program provided for under Article 7.5 to include the reporting of the movement of marijuana and marijuana products throughout the distribution chain and provide, at a minimum, the same level of information for marijuana and marijuana products as required to be reported for medical cannabis and medical cannabis*

products, and in addition, the amount of the cultivation tax due pursuant to Part 14.5 of the Revenue and Taxation Code. The expanded track and trace program shall include an electronic seed to sale software tracking system with data points for the different stages of commercial activity including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.

(b) The Department, in consultation with the bureau, shall ensure that licensees under this division are allowed to use third-party applications, programs and information technology systems to comply with the requirements of the expanded track and trace program described in subdivision (a) to report the movement of marijuana and marijuana products throughout the distribution chain and communicate such information to licensing agencies as required by law.

(c) Any software, database or other information technology system utilized by the Department to implement the expanded track and trace program shall support interoperability with third-party cannabis business software applications and allow all licensee-facing system activities to be performed through a secure application programming interface (API) or comparable technology which is well documented, bi-directional, and accessible to any third-party application that has been validated and has appropriate credentials. The API or comparable technology shall have version control and provide adequate notice of updates to third-party applications. The system should provide a test environment for third-party applications to access that mirrors the production environment.

Chapter 18. License Fees

26180.

Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this division, as follows:

(a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this division. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this division as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 26170, but shall not exceed the reasonable regulatory costs to the licensing authority.

(b) The total fees assessed pursuant to this division shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this division.

(c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.

(d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Marijuana Control Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation by the Legislature, by the designated licensing authority for the administration of this division.

26181.

The State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies may establish fees to cover the costs of their marijuana regulatory programs.

Chapter 19. Annual Reports; Performance Audit

26190.

Beginning on March 1, 2020, and on or before March 1 of each year thereafter, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities concerning commercial marijuana activities and post the report on the authority's website. The report shall include, but not be limited to, the same type of information specified in Section 19353, and a detailed list of the petitions for regulatory relief or rulemaking changes received by the office from licensees requesting modifications of the enforcement of rules under this division.

26191.

(a) Commencing January 1, 2019, and by January 1 of each year thereafter, the Bureau of State Audits shall conduct a performance audit of the bureau's activities under this division, and shall report its findings to the bureau and the Legislature by July 1 of that same year. The report shall include, but not be limited to, the following:

(1) The actual costs of the program.

(2) The overall effectiveness of enforcement programs.

(3) Any report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(b) The Legislature shall provide sufficient funds to the Bureau of State Audits to conduct the annual audit required by this section.

Chapter 20. Local Control

26200.

(a) Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(b) Nothing in this division shall be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing requirements.

(c) A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial marijuana activity within the local jurisdiction. Within ten (10) days of notification, the bureau shall inform the relevant licensing authorities. Within ten (10) days of being so informed by the bureau, the relevant licensing authorities shall commence proceedings under Chapter 3 of this Division to determine whether a license issued to the licensee should be suspended or revoked.

(d) Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of marijuana or marijuana products on the premises of a retailer or microbusiness licensed under this division if:

(1) Access to the area where marijuana consumption is allowed is restricted to persons 21 years of age and older;

- (2) Marijuana consumption is not visible from any public place or non-age restricted area; and
- (3) Sale or consumption of alcohol or tobacco is not allowed on the premises.

26201.

Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations.

26202.

- (a) A local jurisdiction may enforce this division and the regulations promulgated by the bureau or any licensing authority if delegated the power to do so by the bureau or a licensing authority.
- (b) The bureau or any licensing authority shall implement the delegation of enforcement authority in subdivision (a) through a memorandum of understanding between the bureau or licensing authority and the local jurisdiction to which enforcement authority is to be delegated.

Chapter 21. Funding

26210.

- (a) The Medical Marijuana Regulation and Safety Act Fund established in Section 19351 of Chapter 3.5 of Division 8 is hereby renamed the Marijuana Control Fund.
- (b) Upon the effective date of this section, whenever "Medical Marijuana Regulation and Safety Act Fund" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the Marijuana Control Fund.

26211.

- (a) Funds for the initial establishment and support of the regulatory activities under this division, including the public information program described in subdivision (c), and for the activities of the Board of Equalization under Part 14.5 of Division 2 of the Revenue and Taxation Code until July 1, 2017, or until the 2017 Budget Act is enacted, whichever occurs later, shall be advanced from the General Fund and shall be repaid by the initial proceeds from fees collected pursuant to this division, any rule or regulation adopted pursuant to this division, or revenues collected from the tax imposed by Sections 34011 and 34012 of the Revenue and Taxation Code, by January 1, 2025.
 - (1) Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this division, and to the Board of Equalization, as necessary, to implement the provisions of Part 14.5 of Division 2 of the Revenue and Taxation Code.
 - (2) Within 45 days of this section becoming operative:
 - (A) The Director of Finance shall determine an amount of the initial advance from the General Fund to the Marijuana Control Fund that does not exceed thirty million dollars (\$30,000,000); and
 - (B) There shall be advanced a sum of five million dollars (\$5,000,000) from the General Fund to the Department of Health Care Services to provide for the public information program described in subdivision (c).

(b) Notwithstanding subdivision (a), the Legislature shall provide sufficient funds to the Marijuana Control Fund to support the activities of the bureau, state licensing authorities under this division, and the Board of Equalization to support its activities under Part 14.5 of Division 2 of the Revenue and Taxation Code. It is anticipated that this funding will be provided annually beginning on July 1, 2017.

(c) The Department of Health Care Services shall establish and implement a public information program no later than September 1, 2017. This public information program shall, at a minimum, describe the provisions of the Control, Regulate, and Tax Adult Use of Marijuana Act of 2016, the scientific basis for restricting access of marijuana and marijuana products to persons under the age of 21 years, describe the penalties for providing access to marijuana and marijuana products to persons under the age of 21 years, provide information regarding the dangers of driving a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation while impaired from marijuana use, the potential harms of using marijuana while pregnant or breastfeeding, and the potential harms of overusing marijuana or marijuana products.

Section 147.6 of the Labor Code is hereby added as follows:

147.6.

(a) By March 1, 2018, the Division of Occupational Safety and Health shall convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations related to the activities of licensees under Division 10 of the Business and Professions Code, including but not limited to, whether specific requirements are needed to address exposure to second-hand marijuana smoke by employees at facilities where on-site consumption of marijuana is permitted under subdivision (d) of Section 26200 of the Business and Professions Code, and whether specific requirements are needed to address the potential risks of combustion, inhalation, armed robberies or repetitive strain injuries.

(b) By October 1, 2018, the advisory committee shall present to the board its findings and recommendations for consideration by the board. By October 1, 2018, the board shall render a decision regarding the adoption of industry-specific regulations pursuant to this section.

Section 13276 of the Water Code is amended to read:

13276.

(a) The multiagency task force, the Department of Fish and Wildlife and State Water Resources Control Board pilot project to address the Environmental Impacts of Cannabis Cultivation, assigned to respond to the damages caused by marijuana cultivation on public and private lands in California, shall continue its enforcement efforts on a permanent basis and expand them to a statewide level to ensure the reduction of adverse impacts of marijuana cultivation on water quality and on fish and wildlife throughout the state.

(b) Each regional board shall, and the State Water Resources Control Board may, address discharges of waste resulting from medical marijuana cultivation and commercial marijuana cultivation under Division 10 of the Business and Profession Code and associated activities, including by adopting a general permit, establishing waste discharge requirements, or taking action pursuant to Section 13269. In addressing these discharges, each regional board shall include conditions to address items that include, but are not limited to, all of the following:

(1) Site development and maintenance, erosion control, and drainage features.

- (2) Stream crossing installation and maintenance.
- (3) Riparian and wetland protection and management.
- (4) Soil disposal.
- (5) Water storage and use.
- (6) Irrigation runoff.
- (7) Fertilizers and soil.
- (8) Pesticides and herbicides.
- (9) Petroleum products and other chemicals.
- (10) Cultivation-related waste.
- (11) Refuse and human waste.
- (12) Cleanup, restoration, and mitigation.

SECTION 7. MARIJUANA TAX.

Part 14.5 (commencing with Section 34010) is added to Division 2 of the Revenue and Taxation Code, to read:

Part 14.5. Marijuana Tax

34010.

For purposes of this part:

- (a) "Board" shall mean the Board of Equalization or its successor agency.
- (b) "Bureau" shall mean the Bureau of Marijuana Control within the Department of Consumer Affairs.
- (c) "Tax Fund" means the California Marijuana Tax Fund created by Section 34018.
- (d) "Marijuana" shall have the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean medical cannabis.
- (e) "Marijuana products" shall have the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean medical concentrates and medical cannabis products.
- (f) "Marijuana flowers" shall mean the dried flowers of the marijuana plant as defined by the Board.
- (g) "Marijuana leaves" shall mean all parts of the marijuana plant other than marijuana flowers that are sold or consumed.
- (h) "Gross receipts" shall have the same meaning as set forth in Section 6012.
- (i) "Retail sale" shall have the same meaning as set forth in Section 6007.
- (j) "Person" shall have the same meaning as set for in section 6005.
- (k) "Microbusiness" shall have the same meaning as set for in Section 26070(a)(3) of the Business and Professions Code.
- (l) "Nonprofit" shall have the same meaning as set for in Section 26070.5 of the Business and Professions Code.

34011.

- (a) *Effective January 1, 2018, a marijuana excise tax shall be imposed upon purchasers of marijuana or marijuana products sold in this state at the rate of fifteen percent (15%) of the gross receipts of any retail sale by a dispensary or other person required to be licensed pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or a retailer, microbusiness,*

nonprofit, or other person required to be licensed pursuant to Division 10 of the Business and Professions Code to sell marijuana and marijuana products directly to a purchaser.

(b) Except as otherwise provided by regulation, the tax levied under this section shall apply to the full price, if non-itemized, of any transaction involving both marijuana or marijuana products and any other otherwise distinct and identifiable goods or services, and the price of any goods or services, if a reduction in the price of marijuana or marijuana products is contingent on purchase of those goods or services.

(c) A dispensary or other person required to be licensed pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 of the Business and Professions Code shall be responsible for collecting this tax and remitting it to the board in accordance with rules and procedures established under law and any regulations adopted by the board.

(d) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.

(e) Gross receipts from the sale of marijuana or marijuana products for purposes of assessing the sales and use tax under Part 1 of this division shall include the tax levied pursuant to this section.

(f) No marijuana or marijuana products may be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.

(g) The sales and use tax imposed by Part 1 of this division shall not apply to retail sales of medical cannabis, medical cannabis concentrate, edible medical cannabis products or topical cannabis as those terms are defined in Chapter 3.5 of Division 8 of the Business and Professions Code when a qualified patient (or primary caregiver for a qualified patient) provides his or her card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

34012.

(a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested marijuana that enters the commercial market upon all persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code. The tax shall be due after the marijuana is harvested.

(1) The tax for marijuana flowers shall be nine dollars and twenty five cents (\$9.25) per dry-weight ounce.

(2) The tax for marijuana leaves shall be set at two dollars and seventy five cents (\$2.75) per dry-weight ounce.

(b) The board may adjust the tax rate for marijuana leaves annually to reflect fluctuations in the relative price of marijuana flowers to marijuana leaves.

(c) The board may from time to time establish other categories of harvested marijuana, categories for unprocessed or frozen marijuana or immature plants, or marijuana that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with marijuana flowers.

(d) The board may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the marijuana is packaged.

(e) The tax stamps and product bags shall be of the designs, specifications and denominations as may be prescribed by the board and may be purchased by any licensee under Chapter 3.5 of Division 8 of the Business and Professions Code or under Division 10 of the Business and Professions Code.

(f) Subsequent to the establishment of a tax stamp program, the board may by regulation provide that no marijuana may be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.

(g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26170 of the Business and Professions Code.

(h) Persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code shall be responsible for payment of the tax pursuant to regulations adopted by the board. No marijuana may be sold unless the tax has been paid as provided in this part.

(i) All marijuana removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.

(j) The tax imposed by this section shall be imposed on all marijuana cultivated in the state pursuant to rules and regulations promulgated by the board, but shall not apply to marijuana cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act.

(k) Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the board annually thereafter for inflation.

34013.

(a) The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code). For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the tax imposed by this part, and references to "feepayer" shall include a person required to pay or collect the tax imposed by this part.

(b) The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

(c) The board shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag marijuana or marijuana products, or the packages thereof, to designate prior tax payment.

(d) The board may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board may remain in effect for two years from adoption.

(e) Any person who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and

shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code or pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code. (f) The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board's request, the Attorney General shall bring the actions.

34014.

(a) All persons required to be licensed involved in the cultivation and retail sale of marijuana or marijuana products must obtain a separate permit from the board pursuant to regulations adopted by the board. No fee shall be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a cultivator, dispensary, retailer, microbusiness or nonprofit pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code without a permit or after a permit has been canceled, suspended, or revoked, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.

(b) The board may require every licensed dispensary, cultivator, microbusiness, nonprofit, or other person required to be licensed, to provide security to cover the liability for taxes imposed by state law on marijuana produced or received by the cultivator, microbusiness, nonprofit, or other person required to be licensed in accordance with procedures to be established by the board. Notwithstanding anything herein to the contrary, the board may waive any security requirement it imposes for good cause, as determined by the board. "Good cause" includes, but is not limited to, the inability of a cultivator, microbusiness, nonprofit, or other person required to be licensed to obtain security due to a lack of service providers or the policies of service providers that prohibit service to a marijuana business. A person may not commence or continue any business or operation relating to marijuana cultivation until any surety required by the board with respect to the business or operation have been properly prepared, executed and submitted under this part.

(c) In fixing the amount of any security required by the board, the board shall give consideration to the financial hardship that may be imposed on licensees as a result of any shortage of available surety providers.

34015.

(a) The marijuana excise tax and cultivation tax imposed by this part is due and payable to the board quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the board by each person required to be licensed for cultivation or retail sale under Divisions 8 or 10 of the Business and Professions Code using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board. If the cultivation tax is paid by stamp pursuant to section 34012(d) the board may by regulation determine when and how the tax shall be paid.

(b) The board may require every person engaged in the cultivation, distribution or retail sale of marijuana and marijuana products required to be licensed pursuant to Chapter 3.5 of Division 8 of the Business or Professions Code or Division 10 of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media respecting the person's inventory, purchases, and sales during the preceding month and any other information as the board may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

34016.

(a) Any peace officer, or board employee granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (3) and to conduct inspections in accordance with the following paragraphs, inclusive.

(1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

(2) Inspections may be at any place at which marijuana or marijuana products are sold to purchasers, cultivated, or stored, or at any site where evidence of activities involving evasion of tax may be discovered.

(3) Inspections shall be requested or conducted no more than once in a 24-hour period.

(b) Any person who fails or refuses to allow an inspection shall be subject to a misdemeanor. Each offense shall be punished by a fine not to exceed five thousand dollars (\$5,000), or imprisonment not exceeding one year in a county jail, or both the fine and imprisonment. The court shall order any fines assessed be deposited in the California Marijuana Tax Fund.

(c) Upon discovery by the board or a law enforcement agency that a licensee or any other person possesses, stores, owns, or has made a retail sale of marijuana or marijuana products, without evidence of tax payment or not contained in secure packaging, the board or the law enforcement agency shall be authorized to seize the marijuana or marijuana products. Any marijuana or marijuana products seized by a law enforcement agency or the board shall within seven days be deemed forfeited and the board shall comply with the procedures set forth in Sections 30436 through 30449, inclusive.

(d) Any person who renders a false or fraudulent report is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars (\$1,000) for each offense.

(e) Any violation of any provisions of this part, except as otherwise provided, is a misdemeanor and is punishable as such.

(f) All moneys remitted to the board under this part shall be credited to the California Marijuana Tax Fund.

34017.

The Legislative Analyst's Office shall submit a report to the Legislature by January 1, 2020, with recommendations to the Legislature for adjustments to the tax rate to achieve the goals of undercutting illicit market prices and discouraging use by persons younger than 21 years of age while ensuring sufficient revenues are generated for the programs identified in Section 34019.

34018.

(a) The California Marijuana Tax Fund is hereby created in the State Treasury. The Tax Fund shall consist of all taxes, interest, penalties, and other amounts collected and paid to the board pursuant to this part, less payment of refunds.

(b) Notwithstanding any other law, the California Marijuana Tax Fund is a special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are hereby continuously appropriated for the purposes of the Control,

Regulate and Tax Adult Use of Marijuana Act without regard to fiscal year and shall be expended only in accordance with the provisions of this part and its purposes.

(c) Notwithstanding any other law, the taxes imposed by this part and the revenue derived therefrom, including investment interest, shall not be considered to be part of the General Fund, as that term is used in Chapter 1 (commencing with section 16300) of Part 2 of Division 4 of the Government Code, shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered "moneys" for purposes of subdivisions (a) and (b) of Section 8 of Article XVI of the California Constitution and its implementing statutes.

34019.

(a) Beginning with fiscal year 2017-2018 the Department of Finance shall estimate revenues to be received pursuant to sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. **Before** any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:

(1) Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however, such costs shall not exceed four percent (4%) of tax revenues received.

(2) Reasonable costs incurred by the Bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the Department of Public Health for implementing, administering, and enforcing Chapter 3.5 of Division 8 of the Business and Professions Code and Division 10 of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code or pursuant to **Chapter 3.5** of Division 8 of the Business and Professions Code. This paragraph shall remain operative through fiscal year 2022-2023.

(3) Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide **Regulation** for carrying out their respective duties under Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code to the extent those costs are not otherwise reimbursed.

(4) Reasonable costs incurred by the Controller for performing duties imposed by the Control, *Regulate and Tax Adult Use of Marijuana Act*, including the audit required by Section 34020.

(5) Reasonable costs incurred by the State Auditor for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.

(6) Reasonable costs incurred by the Legislative Analyst's **Office** for performing duties imposed by Section 34017.

(7) **Sufficient** funds to reimburse the Division of Labor Standards Enforcement and Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and **enforcing** state labor laws to licensees under Chapter 3.5 of Division 8 of the Business and Professions Code and Division 10 of the Business and Professions Code.

(b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with fiscal year 2018-2019 until fiscal year 2028-2029 to research and evaluate the implementation and **effect** of the Control, *Regulate and Tax Adult Use of Marijuana Act*, and shall, if appropriate, make recommendations to the

Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The Bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:

(1) Impacts on public health, including health costs associated with marijuana use, as well as whether marijuana use is associated with an increase or decrease in use of alcohol or other drugs.

(2) The impact of treatment for maladaptive marijuana use and the effectiveness of different treatment programs.

(3) Public safety issues related to marijuana use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the Act at preventing underage access to and use of marijuana and marijuana products, and studying the health-related effects among users of varying potency levels of marijuana and marijuana products.

(4) Marijuana use rates, maladaptive use rates for adults and youth, and diagnosis rates of marijuana-related substance use disorders.

(5) Marijuana market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax marijuana based on potency, and the structure and function of licensed marijuana businesses.

(6) Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the nonmedical marijuana industry and, if so, recommendations as to the most effective measures for preventing such behavior.

(7) The economic impacts in the private and public sectors, including but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.

(8) Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the Act, and whether different agencies might do so more effectively. (9) Environmental issues related to marijuana production and the criminal prohibition of marijuana production.

(10) The geographic location, structure, and function of licensed marijuana businesses, and demographic data, including race, ethnicity, and gender, of license holders.

(11) The outcomes achieved by the changes in criminal penalties made under the Control, Regulate, and Tax Adult Use of Marijuana Act for marijuana-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of marijuana or marijuana products to a more serious offense.

(c) The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning fiscal year 2018-2019 until fiscal year 2022-2023 to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research

institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products.

(d) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning fiscal year 2018-2019 and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until fiscal year 2022-2023, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor's Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the Department of Social Services, to administer a Community Reinvestments grants program to local health departments and at least fifty-percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The Office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the Office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than four percent (4%) for administrative costs related to implementation, evaluation and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

(e) The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the Center including the enhanced understanding of the efficacy and adverse effects of marijuana as a pharmacological agent.

(f) By July 15 of each fiscal year beginning in fiscal year 2018-2019, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:

(1) Sixty percent (60%) shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The Department of Health Care services shall enter into inter-agency agreements with the Department of Public Health and the Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:

(A) Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, foster care providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

(B) Grants to schools to develop and support Student Assistance Programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

(C) Grants to programs for outreach, education and treatment for homeless youth and out-of-school youth with substance use disorders

(D) Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.

(E) Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other co-occurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy. When indicated, referrals must be made to other providers.

(F) To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers and all their children.

(G) Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.

(H) Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.

(I) Construction of community-based youth treatment facilities.

(J) The departments may contract with each county behavioral health program for the provision of services.

(K) Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated assessments or submitted reports prepared by the applicable county to demonstrate and validate need.

(L) The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.

(M) The departments may use up to four percent (4%) of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation and oversight of the programs.

(N) If the Department of Finance ever determines that funding pursuant to marijuana taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.

(O) The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.

(2) Twenty percent (20%) shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:

(A) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by marijuana cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.

(B) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale and use of marijuana and marijuana products on public lands, and to facilitate the investigation, enforcement and prosecution of illegal cultivation, production, sale, and use of marijuana or marijuana products on public lands.

(C) To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency task force established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of marijuana cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

(D) For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).

(E) Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of Statutes of 2014).

(3) Twenty percent (20%) shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

(A) To the Department of the California Highway Patrol for conducting training programs for detecting, testing and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of marijuana. The Department may hire personnel to conduct the training programs specified in this subparagraph.

(B) To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention and enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana.

(C) To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The Board shall not make any grants to local governments which have banned

the cultivation, including personal cultivation under Section 11362.2(b)(3) of the Health and Safety Code, or retail sale of marijuana or marijuana products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

(D) For purposes of this paragraph the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in fiscal year 2022-2023 the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before fiscal year 2022-2023 pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

(g) Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

(h) **Effective July 1, 2028,** the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f) of this section. Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in fiscal year 2027-2028. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f) of this section.

34020.

The Controller shall periodically audit the Tax Fund to ensure that those funds are used and accounted for in a manner consistent with this part and as otherwise required by law.

34021.

(a) The taxes imposed by this Part shall be in addition to any other tax imposed by a city, county, or city and county.

34021.5

(a) (1) A county may impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, ~~donating~~, selling, or distributing marijuana or marijuana products by a licensee operating under Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code.

(2) The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.

(3) In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county. A tax imposed pursuant to this section is a tax and not a fee or special assessment. The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.

(4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), as specified in the ordinance, regardless of whether the activity is undertaken

individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.

(b) A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.

(c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.

(d) This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use tax imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of the Revenue and Taxation Code.

SECTION 8. CRIMINAL OFFENSES, RECORDS, AND RESENTENCING.

Sections 11357, 11358, 11359, 11360 and 11361.5 of the Health and Safety Code are amended, and Sections 11361.1 and 11361.8 are added to read as follows:

11357. Possession

(a) ~~Except as authorized by law, every person who possesses any concentrated cannabis shall be punished by imprisonment in the county jail for a period of not more than one year or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 of the Penal Code if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code.~~

(ba) Except as authorized by law, ~~every person who possession of not more than 28.5 grams of marijuana, other than or not more than four grams of concentrated cannabis, is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100), or both, shall be punished or adjudicated as follows:~~

(1) ~~Persons under the age of 18 shall be guilty of an infraction and shall be required to:~~

(A) ~~Upon a finding that a first offense has been committed, complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days.~~

(B) ~~Upon a finding that a second offense or subsequent offense has been committed, complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days.~~

(2) ~~Persons at least 18 years of age but less than 21 years of age shall be guilty of an infraction and punishable by a fine of not more than one hundred dollars (\$100).~~

(cb) Except as authorized by law, ~~every person who possession of more than 28.5 grams of marijuana, or more than four grams of other than concentrated cannabis, shall be punished as follows:~~

(1) ~~Persons under the age of 18 who possess more than 28.5 grams of marijuana or more than four grams of concentrated cannabis, or both, shall be guilty of an infraction and shall be required to:~~

(A) Upon a finding that a first offense has been committed, complete eight hours of drug education or counseling and up to 40 hours of community service over a period not to exceed 90 days.

(B) Upon a finding that a second or subsequent offense has been committed, complete 10 hours of drug education or counseling and up to 60 hours of community service over a period not to exceed 120 days.

(2) Persons 18 years of age or over who possess more than 28.5 grams of marijuana, or more than four grams of concentrated cannabis, or both, shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(dc) Except as authorized by law, every person 18 years of age or over who possesses not more than 28.5 grams of marijuana, or not more than four grams of other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished by a as follows:

(1) A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.

(2) A fine of not more than five hundred dollars (\$500), or by imprisonment in a county jail for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

(ed) Except as authorized by law, every person under the age of 18 who possesses not more than 28.5 grams of marijuana, or not more than four grams of other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor or an infraction and shall be punished in the same manner provided in paragraph (1) of subdivision (b) of this section, subject to the following dispositions:

(1) A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.

(2) A fine of not more than five hundred dollars (\$500), or commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

11358. Planting, harvesting, or processing

Every person who plants, cultivates, harvests, dries, or processes any marijuana plants, or any part thereof, except as otherwise provided by law, shall be punished as follows:

(a) Every person under the age of 18 who plants, cultivates, harvests, dries, or processes any marijuana plants shall be punished in the same manner provided in paragraph (1) of subdivision (b) of section 11357.

(b) Every person at least 18 years of age but less than 21 years of age who plants, cultivates, harvests, dries, or processes not more than six living marijuana plants shall be guilty of an infraction and a fine of not more than one hundred dollars (\$100).

(c) Every person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living marijuana plants shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(d) Notwithstanding subdivision (c), a person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living marijuana plants, or any part thereof, except as otherwise provided by law, shall may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if:

(1) the person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(2) the person has two or more prior convictions under subdivision (c); or

(3) the offense resulted in any of the following:

(A) violation of Section 1052 of the Water Code relating to illegal diversion of water;

(B) violation of Section 13260, 13264, 13272, or 13387 of the Water Code relating to discharge of waste;

(C) violation of Fish and Game Code Section 5650 or Section 5652 of the Fish and Game Code relating to waters of the state;

(D) violation of Section 1602 of the Fish and Game Code relating to rivers, streams and lakes;

(E) violation of Section 374.8 of the Penal Code relating to hazardous substances or Sections 25189.5, 25189.6, or 25189.7 of the Health and Safety Code relating to hazardous waste;

(F) violation of Section 2080 of the Fish and Game Code relating to endangered and threatened species or Section 3513 of the Fish and Game Code relating to the Migratory Bird Treaty Act; or

(G) intentionally or with gross negligence causing substantial environmental harm to public lands or other public resources.

11359. Possession for sale

Every person who possesses for sale any marijuana, except as otherwise provided by law, shall be punished as follows:

(a) Every person under the age of 18 who possesses marijuana for sale shall be punished in the same manner provided in paragraph (1) of subdivision (b) of section 11357.

(b) Every person 18 years of age or over who possesses marijuana for sale shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(c) Notwithstanding subdivision (b), a person 18 years of age or over who possesses marijuana for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if:

(1) the person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(2) the person has two or more prior convictions under subdivision (b); or

(3) the offense occurred in connection with the knowing sale or attempted sale of marijuana to a person under the age of 18 years.

(d) Notwithstanding subdivision (b), a person 21 years of age or over who possesses marijuana for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if the offense involves knowingly hiring, employing, or using a person 20 years of age or younger in unlawfully cultivating, transporting, carrying, selling, offering to sell, giving away, preparing for sale, or peddling any marijuana.

11360. Unlawful transportation, importation, sale, or gift

(a) Except as otherwise provided by this section or as authorized by law, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any marijuana shall be punished as follows:

(1) Persons under the age of 18 years shall be punished in the same manner as provided in paragraph (1) of subdivision (b) of section 11357.

(2) Persons 18 years of age or over shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(3) Notwithstanding paragraph (2), a person 18 years of age or over may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period two, three, or four years if:

(A) the person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(B) the person has two or more prior convictions under paragraph (2);

(C) the offense involved the knowing sale, attempted sale, or the knowing offer to sell, furnish, administer or give away marijuana to a person under the age of 18 years; or

(D) the offense involved the import, offer to import, or attempted import into this state, or the transport for sale, offer to transport for sale, or attempted transport for sale out of this state, of more than 28.5 grams of marijuana or more than four grams of concentrated cannabis.

(b) Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of an ~~infraction-misdemeanor~~ and shall be punished by a fine of not more than one hundred dollars (\$100). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his or her written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

(c) For purposes of this section, "transport" means to transport for sale.

(d) This section does not preclude or limit prosecution for any aiding and abetting or conspiracy offenses.

11361.1.

(a) The drug education and counseling requirements under sections 11357, 11358, 11359, and 11360 shall be:

(1) mandatory, unless the court finds that such drug education or counseling is unnecessary for the person, or that a drug education or counseling program is unavailable;

(2) free to participants, and the drug education provide at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of marijuana and other controlled substances.

(b) For good cause, the court may grant an extension of time not to exceed 30 days for a person to complete the drug education and counseling required under sections 11357, 11358, 11359, and 11360.

Subdivision (a) of Section 11361.5 of the Health and Safety Code is amended to read:

11361.5. Destruction of arrest and conviction records; Procedure; Exceptions

(a) Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency pertaining to the arrest or conviction of any person for a violation of subdivision (b), ~~(c), (d), or (e)~~ of Section 11357 or subdivision (b) of Section 11360, *or pertaining to the arrest or conviction of any person under the age of 18 for a violation of any provision of this article except Section 11357.5*, shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction, except with respect to a violation of subdivision (ed) of Section 11357, *or any other violation by a person under the age of 18 occurring upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs*, the records shall be retained until the offender attains the age of 18 years at which time the records shall be destroyed as provided in this section. Any court or agency having custody of the records, *including the statewide criminal databases*, shall provide for the timely destruction of the records in accordance with subdivision (c), *and such records must also be purged from the statewide criminal databases. As used in this subdivision, "records pertaining to the arrest or conviction" shall include records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether defendant was acquitted or charges were dismissed. The two-year period beyond which records shall not be kept pursuant to this subdivision shall not apply to any person who is, at the time at which this subdivision would otherwise require record destruction, incarcerated for an offense subject to this subdivision. For such persons, the two-year period shall begin to run from the date the person is released from custody.* The requirements of this subdivision do not apply to records of any conviction occurring prior to January 1, 1976, or records of any arrest not followed by a conviction occurring prior to that date, *or records of any arrest for an offense specified in subdivision (c) of Section 1192.7, or subdivision (c) of Section 667.5 of the Penal Code.*

Section 11361.8 is added to the Health and Safety Code to read:

11361.8

(a) *A person currently serving a sentence for a conviction, whether by trial or by open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that Act been in effect at the time of the offense may petition for a recall or dismissal of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing or dismissal in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by this Act.*

(b) *Upon receiving a petition under subdivision (a), the court shall presume the petitioner satisfies the criteria in subdivision (a) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in subdivision (a), the court shall grant the petition to recall the sentence or dismiss the sentence because it is legally invalid unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety.*

- (1) In exercising its discretion, the court may consider, but shall not be limited to evidence provided for in subdivision (b) of Section 1170.18 of the Penal Code.
- (2) As used in this section, "unreasonable risk of danger to public safety" has the same meaning as provided in subdivision (c) of Section 1170.18 of the Penal Code.
- (c) A person who is serving a sentence and resentenced pursuant to subdivision (b) shall be given credit for any time already served and shall be subject to supervision for one year following completion of his or her time in custody or shall be subject to whatever supervision time he or she would have otherwise been subject to after release, whichever is shorter, unless the court, in its discretion, as part of its resentencing order, releases the person from supervision. Such person is subject to parole supervision under Penal Code Section 3000.08 or post-release community supervision under subdivision (a) of Section 3451 of the Penal Code by the designated agency and the jurisdiction of the court in the county in which the offender is released or resides, or in which an alleged violation of supervision has occurred, for the purpose of hearing petitions to revoke supervision and impose a term of custody.
- (d) Under no circumstances may resentencing under this section result in the imposition of a term longer than the original sentence, or the reinstatement of charges dismissed pursuant to a negotiated plea agreement.
- (e) A person who has completed his or her sentence for a conviction under Sections 11357, 11358, 11359, and 11360, whether by trial or open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that Act been in effect at the time of the offense, may file an application before the trial court that entered the judgment of conviction in his or her case to have the conviction dismissed and sealed because the prior conviction is now legally invalid or redesignated as a misdemeanor or infraction in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by this Act.
- (f) The court shall presume the petitioner satisfies the criteria in subdivision (e) unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria in subdivision (e). Once the applicant satisfies the criteria in subdivision (e), the court shall redesignate the conviction as a misdemeanor or infraction or dismiss and seal the conviction as legally invalid as now established under the Control, Regulate and Tax Adult Use of Marijuana Act.
- (g) Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subdivision (e).
- (h) Any felony conviction that is recalled and resentenced under subdivision (b) or designated as a misdemeanor or infraction under subdivision (f) shall be considered a misdemeanor or infraction for all purposes. Any misdemeanor conviction that is recalled and resentenced under subdivision (b) or designated as an infraction under subdivision (f) shall be considered an infraction for all purposes.
- (i) If the court that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition or application.
- (j) Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.
- (k) Nothing in this and related sections is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of the Control, Regulate and Tax Adult Use of Marijuana Act.

(l) A resentencing hearing ordered under this act shall constitute a "post-conviction release proceeding" under paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution (Marsy's Law).

(m) The provisions of this section shall apply equally to juvenile delinquency adjudications and dispositions under Section 602 of the Welfare and Institutions Code if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act.

(l) The Judicial Council shall promulgate and make available all necessary forms to enable the filing of the petitions and applications provided in this section.

SECTION 9. INDUSTRIAL HEMP.

Section 11018.5 of the Health and Safety Code is amended to read as follows:

11018.5. Industrial hemp

(a) "Industrial hemp" means a fiber or oilseed crop, or both, that is limited to nonpsychoactive types of the plant Cannabis sativa L. and the seed produced therefrom, having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; and that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant; the resin extracted from any part of the plant; and or any other every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or mature stalks, except the resin or flowering tops extracted produced therefrom, fiber, oil, or cake, or the sterilized seed, or any component of the seed, of the plant that is incapable of germination.

(b) The possession, use, purchase, sale, cultivation, processing, manufacture, packaging, labeling, transporting, storage, distribution, use and transfer of industrial hemp shall not be subject to the provisions of this Division or of Division 10 of the Business and Professions Code, but instead shall be regulated by the Department of Food and Agriculture in accordance with the provisions of Division 24 of the Food and Agricultural Code, inclusive.

Sections 81000, 81006, 81008, and 81010 of the Food and Agricultural Code are amended to read, and Section 81007 of the Food and Agricultural Code is repealed as follows:

81000. Definitions

For purposes of this division, the following terms have the following meanings:

(a) "Board" means the Industrial Hemp Advisory Board.

(b) "Commissioner" means the county agricultural commissioner.

(c) "Established agricultural research institution" means a public or private institution or organization that maintains land for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers; any institution that is either:

(1) a public or private institution or organization that maintains land or facilities for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers; or

(2) an institution of higher education (as defined in Section 1001 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that grows, cultivates or manufactures industrial hemp for

purposes of research conducted under an agricultural pilot program or other agricultural or academic research.

(d) "Industrial hemp" has the same meaning as that term is defined in Section 11018.5 of the Health and Safety Code.

(e) "Secretary" means the Secretary of Food and Agriculture.

(f) "Seed breeder" means an individual or public or private institution or organization that is registered with the commissioner to develop seed cultivars intended for sale or research.

(g) "Seed cultivar" means a variety of industrial hemp.

(h) "Seed development plan" means a strategy devised by a seed breeder, or applicant seed breeder, detailing his or her planned approach to growing and developing a new seed cultivar for industrial hemp.

81006. Industrial hemp growth limitations; Prohibitions; Imports; Laboratory testing

(a)(1) Except when grown by an established agricultural research institution or a registered seed breeder, industrial hemp shall be grown only as a densely planted fiber or oilseed crop, or both, in acreages of not less than ~~five acres~~ *one-tenth of an acre* at the same time, and ~~no portion of an acreage of industrial hemp shall include plots of less than one contiguous acre.~~

(2) Registered seed breeders, for purposes of seed production, shall only grow industrial hemp as a densely planted crop in acreages of not less than *one-tenth of an acre* at the same time, and ~~no portion of the acreage of industrial hemp shall include plots of less than one contiguous acre.~~

(3) Registered seed breeders, for purposes of developing a new California seed cultivar, shall grow industrial hemp as densely as possible in dedicated acreage of not less than *one-tenth of an acre* and in accordance with the seed development plan. The entire area of the dedicated acreage is not required to be used for the cultivation of the particular seed cultivar.

(b) Ornamental and clandestine cultivation of industrial hemp is prohibited. All plots shall have adequate signage indicating they are industrial hemp.

(c) Pruning and tending of individual industrial hemp plants is prohibited, except when grown by an established agricultural research institution or when the action is necessary to perform the tetrahydrocannabinol (THC) testing described in this section.

(d) Culling of industrial hemp is prohibited, except when grown by an established agricultural research institution, when the action is necessary to perform the THC testing described in this section, or for purposes of seed production and development by a registered seed breeder.

(e) Industrial hemp shall include products imported under the Harmonized Tariff Schedule of the United States (2013) of the United States International Trade Commission, including, but not limited to, hemp seed, per subheading 1207.99.03, hemp oil, per subheading 1515.90.80, oilcake, per subheading 2306.90.01, true hemp, per heading 5302, true hemp yarn, per subheading 5308.20.00, and woven fabrics of true hemp fibers, per subheading 5311.00.40.

(f) Except when industrial hemp is grown by an established agricultural research institution, a registrant that grows industrial hemp under this section shall, before the harvest of each crop and as provided below, obtain a laboratory test report indicating the THC levels of a random sampling of the dried flowering tops of the industrial hemp grown.

(1) Sampling shall occur as soon as practicable when the THC content of the leaves surrounding the seeds is at its peak and shall commence as the seeds begin to mature, when the first seeds of approximately 50 percent of the plants are resistant to compression.

- (2) The entire fruit-bearing part of the plant including the seeds shall be used as a sample. The sample cut shall be made directly underneath the inflorescence found in the top one-third of the plant.
- (3) The sample collected for THC testing shall be accompanied by the following documentation:
- (A) The registrant's proof of registration.
 - (B) Seed certification documentation for the seed cultivar used.
 - (C) The THC testing report for each certified seed cultivar used.
- (4) The laboratory test report shall be issued by a laboratory registered with the federal Drug Enforcement Administration, shall state the percentage content of THC, shall indicate the date and location of samples taken, and shall state the Global Positioning System coordinates and total acreage of the crop. If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the words "PASSED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report. If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent, the words "FAILED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report.
- (5) If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the laboratory shall provide the person who requested the testing not less than 10 original copies signed by an employee authorized by the laboratory and shall retain one or more original copies of the laboratory test report for a minimum of two years from its date of sampling.
- (6) If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent and does not exceed 1 percent, the registrant that grows industrial hemp shall submit additional samples for testing of the industrial hemp grown.
- (7) A registrant that grows industrial hemp shall destroy the industrial hemp grown upon receipt of a first laboratory test report indicating a percentage content of THC that exceeds 1 percent or a second laboratory test report pursuant to paragraph (6) indicating a percentage content of THC that exceeds three-tenths of 1 percent but is less than 1 percent. If the percentage content of THC exceeds 1 percent, the destruction shall take place within 48 hours after receipt of the laboratory test report. If the percentage content of THC in the second laboratory test report exceeds three-tenths of 1 percent but is less than 1 percent, the destruction shall take place as soon as practicable, but no later than 45 days after receipt of the second test report.
- (8) A registrant that intends to grow industrial hemp and who complies with this section shall not be prosecuted for the cultivation or possession of marijuana as a result of a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent but does not exceed 1 percent.
- (9) Established agricultural research institutions shall be permitted to cultivate or possess industrial hemp with a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent if that cultivation or possession contributes to the development of types of industrial hemp that will comply with the three-tenths of 1 percent THC limit established in this division.
- (10) Except for an established agricultural research institution, a registrant that grows industrial hemp shall retain an original signed copy of the laboratory test report for two years from its date of sampling, make an original signed copy of the laboratory test report available to the department, the commissioner, or law enforcement officials or their designees upon request, and shall provide an original copy of the laboratory test report to each person purchasing,

transporting, or otherwise obtaining from the registrant that grows industrial hemp the fiber, oil, cake, or seed, or any component of the seed, of the plant.

(g) If, in the Attorney General's opinion issued pursuant to Section 8 of the act that added this division, it is determined that the provisions of this section are not sufficient to comply with federal law, the department, in consultation with the board, shall establish procedures for this section that meet the requirements of federal law.

~~81007. Prohibitions; De-minimis considerations~~

~~(a) Except as provided in subdivision (b) or as necessary to perform testing pursuant to subdivision (f) of Section 81006, the possession, outside of a field of lawful cultivation, of resin, flowering tops, or leaves that have been removed from the hemp plant is prohibited.~~

~~(b) The presence of a de-minimis amount, or insignificant number, of hemp leaves or flowering tops in hemp bales that result from the normal and appropriate processing of industrial hemp shall not constitute possession of marijuana.~~

81008. Attorney General reports; Requirements

(a) Not later than January 1, 2019, ~~or five years after the provisions of this division are authorized under federal law, whichever is later,~~ the Attorney General shall report to the Assembly and Senate Committees on Agriculture and the Assembly and Senate Committees on Public Safety the reported incidents, if any, of the following:

(1) A field of industrial hemp being used to disguise marijuana cultivation.

(2) Claims in a court hearing by persons other than those exempted in subdivision (f) of Section 81006 that marijuana is industrial hemp.

(b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2023, or four years after the date that the report is due, whichever is later.

81010. Operation of division

(a) *This division, and Section 221 of the Food and Agricultural Code, shall not become operative unless authorized under federal law on January 1, 2017.*

(b) The possession, use, purchase, sale, production, manufacture, packaging, labeling, transporting, storage, distribution, use, and transfer of industrial hemp shall be regulated in accordance with this division. The Bureau of Marijuana Control has authority to regulate and control plants and products that fit within the definition of industrial hemp but that are produced, processed, manufactured, tested, delivered, or otherwise handled pursuant to a license issued under Division 10 of the Business and Professions Code.

SECTION 10. AMENDMENT.

This Act shall be broadly construed to accomplish its purposes and intent as stated in Section 3. The Legislature may by majority vote amend the provisions of this Act contained in Sections 5 and 6 to implement the substantive provisions of those sections, provided that such amendments are consistent with and further the purposes and intent of this Act as stated in Section 3.

Amendments to this Act that enact protections for employees and other workers of licensees under Section 6 of this Act that are in addition to the protections provided for in this Act or that

otherwise expand the legal rights of such employees or workers of licensees under Section 6 of this Act shall be deemed to be consistent with and further the purposes and intent of this Act. The Legislature may by majority vote amend, add, or repeal any provisions to further reduce the penalties for any of the offenses addressed by this Act. Except as otherwise provided, the provisions of the Act may be amended by a two-thirds vote of the Legislature to further the purposes and intent of the Act.

SECTION 11. CONSTRUCTION AND INTERPRETATION.

The provisions of this Act shall be liberally construed to effectuate the purposes and intent of the Control, Regulate and Tax the Adult Use of Marijuana Act; provided, however, no provision or provisions of this Act shall be interpreted or construed in a manner to create a positive conflict with federal law, including the federal Controlled Substances Act, such that the provision or provisions of this Act and federal law cannot consistently stand together.

SECTION 12. SEVERABILITY.

If any provision in this Act, or part thereof, or the application of any provision or part to any person or circumstance is held for any reason to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

SECTION 13. CONFLICTING INITIATIVES.

In the event that this measure and another measure or measures concerning the control, regulation, and taxation of marijuana, medical marijuana, or industrial hemp appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure shall be null and void.

September 12, 2016



Frequently Asked Questions (FAQs)

Adult Use of Marijuana Act¹

Proposition 64

Question #1: If passed, when will the AUMA take effect?

Answer: The AUMA will take effect November 9, 2016, the day after the election. But note, the AUMA requires a state license to engage in commercial nonmedical marijuana activity. Licensing authorities are required to begin issuing licenses by January 1, 2018 and the League anticipates that the issuance of licenses will not occur much in advance of January 1, 2018. Thus, the AUMA provisions legalizing commercial nonmedical marijuana activity will not become operational until the state begins issuing licenses (likely in late-2017). The AUMA provisions legalizing personal use and cultivation of nonmedical marijuana take effect November 9, 2016.

Question #2: Assuming the AUMA passes, can private individuals cultivate nonmedical marijuana at home beginning November 9, 2016?

Answer: Yes, within a residence by a person 21 years and older for personal use. The AUMA provides that local governments can reasonably regulate, but cannot prohibit personal indoor cultivation of up to six marijuana plants. This includes cultivation in a greenhouse that is on the property of the residence but not physically part of the home, as long as it is fully enclosed, secure, and not visible from a public space. Because this activity is not subject to state licensing requirements, private individuals may cultivate up to six living marijuana plants indoors beginning November 9, 2016—unless a city enacts an ordinance imposing a reasonable regulatory scheme that would preclude them from doing so before complying with the city's regulatory requirements. Cities cannot adopt or enforce bans on private indoor cultivation of six living nonmedical marijuana plants on or after November 9, 2016.

Local governments may regulate or ban all outdoor personal cultivation. However, the AUMA includes language purporting to repeal any ordinance that bans personal outdoor

¹ Please consult your City Attorney before taking action to implement the AUMA. The answers to these FAQs may be different in your city based upon your municipal code, regulations, and policies. The answers do not constitute legal advice from the League of California Cities®.

cultivation upon the California Attorney General's determination that nonmedical use of marijuana is lawful under federal law.

Question #3: What does the AUMA say about possession, transporting, purchasing or giving away of non-medical marijuana?

Answer: A person 21 years of age or older may possess, process, transport, purchase or give away to persons 21 years of age or older not more than 28.5 grams of marijuana in the non-concentrated form and not more than 8 grams of marijuana in a concentrated form including marijuana products. If the AUMA passes, these activities will be lawful under state law and cannot be prohibited under local law.

Question #4: Do cities that ban or regulate medical marijuana businesses need to update their ordinances to include nonmedical marijuana?

Answer: Yes. The AUMA prohibits state licensing authorities from issuing a license to a commercial nonmedical marijuana business if operation of the business violates a local ordinance of the jurisdiction in which the business will operate. This means that a city wishing to adopt business or land use regulations prohibiting or regulating commercial nonmedical marijuana businesses must adopt an ordinance prior to the date the state begins issuing licenses, which the League anticipates will be in late 2017.²

Question #5: Can cities be confident that a permissive zoning code, by itself, provides sufficient protection against nonmedical marijuana businesses setting up shop without local approval?

Answer: No. It is unlikely that cities will succeed in arguing that nonmedical marijuana land uses are prohibited by permissive zoning codes under the AUMA, because the AUMA does not contain the same protective language as the MMRSA with respect to permissive zoning. Therefore, cities that wish to ban all or some nonmedical marijuana activities should adopt express prohibitions, even if they operate under a permissive zoning code.

Question #6: Are cities at risk of losing the opportunity to impose bans on personal outdoor cultivation if they don't act until after the November election?

Answer: No. A city may adopt an ordinance banning or regulating personal outdoor cultivation at any time. However, if a city does not adopt a ban or regulatory scheme before November 9, 2016, individuals will be able to cultivate marijuana outdoors for personal use until such time as the city enacts a ban or regulatory scheme. Because the logistics of enforcing a ban after an individual's outdoor cultivation operations have begun, the best practice may be to adopt an ordinance before November 9, 2016.

Question #7: Are cities at risk of losing the opportunity to impose bans on nonmedical marijuana businesses, if they don't act until after the November election?

² Please see Question #8 regarding the use of public roads for transportation and delivery.

Answer: No. However, if a city does not adopt an ordinance expressly banning or regulating nonmedical marijuana businesses before the state begins issuing state licenses nonmedical businesses, a state-licensed nonmedical marijuana business will be able to operate within its jurisdiction without local permission or permitting. This is due to a provision in the AUMA that provides that state licenses cannot be issued where the activity would violate a local ordinance. If a jurisdiction has no ordinance regulating nonmedical marijuana businesses, then the local regulatory scheme is silent on that type of activity, and the state can unilaterally issue a license under terms fully compliant with the AUMA. Cities may adopt an ordinance expressly banning or regulating such operations after the state begins to issue licenses, but it will be difficult to terminate the state licensee's operations until the state license is up for renewal. Therefore, the best practice is to adopt an ordinance before the state begins issuing state licenses.

Question #8: Can cities ban deliveries under the AUMA?

Answer: Yes. Cities can ban deliveries within their territorial limits. However, cities cannot prevent the use of public roads for the delivery of marijuana. For example, if a licensed delivery company located in City A must travel on public roads through City B to make an authorized delivery in City C, City B cannot prohibit the licensed delivery company from travelling on public roads in City B to get to City C. In addition, cities may not prevent the use of public roads within its jurisdiction to transport nonmedical marijuana.

Question #9: What is the best way for cities to notify the state licensing agencies of their local ordinances that regulate and/or prohibit commercial non-medical marijuana activities within their jurisdictions?

Answer: Unless the state licensing agencies indicate otherwise, cities should mail copies of their local ordinances that regulate or prohibit commercial nonmedical marijuana activities within their jurisdictions to the Department of Consumer Affairs, the Department of Food and Agriculture, and the Department of Public Health. Cities should regularly check each Department's website to ensure that this practice complies with any regulations the Departments may pass regarding notice of local ordinances. In addition, Cities should ensure that any updates or amendments to local ordinances that regulate or prohibit commercial nonmedical marijuana activities are promptly submitted to each Department.



Oct. 10, 2016

Issue #86

IN THIS ISSUE:

Page 5: League Board Establishes Governance, Transparency & Labor Relations Policy Committee

Page 6: Lodi Council Member JoAnne Mounce Elected League President

Palos Verdes Estates Council Member James Goodhart Elected League First Vice President

Page 7: South San Francisco Council Member Rich Garbarino Elected League Second Vice President

League of California Cities' Annual Conference Brings Together Over 1,800 City Officials for Education, Recognition, Networking and Resources

Over the course of three days last week, more than 1,800 California city officials joined together at the League's 118th Annual Conference & Expo in Long Beach. The event featured approximately 55 educational sessions, 250 exhibitors, engaging keynote speakers, recognition of excellent work by cities, along with individual recognitions, the adoption of one resolution and the swearing in of new League's executive officers and board of directors.

For more, see Page 2.

.....

After Extensive Deliberations League Board of Directors Adopts Oppose Position on Proposition 57, Due to Public Safety Concerns

The League board of directors on Oct. 6 voted to oppose Proposition 57, the Public Safety Rehabilitation Act of 2016, (36-1) with two directors abstaining. The vote followed an extended deliberative process commencing with the League's Public Safety Policy Committee in April, and initial discussion by the board of directors in June and a board delegation attending a meeting requested by Gov. Jerry Brown to discuss the measure in July. Fundamental to the League's opposition to the measure are public safety concerns stemming from reducing sentences for specific crimes which — despite debates over legal definitions — are clearly violent.

For more, see Page 2.

.....

Loomis Wins \$3,000 U.S. Communities Voucher for Grand Prize during League Annual Conference

The city of Loomis won the grand prize drawing on Friday, Oct. 7, during the closing general session of the League's 118th Annual Conference & Expo. For the third year in a row, the League sponsored U.S. Communities <http://www.uscommunities.org/lccprogram> offered a \$3,000 voucher as the grand prize to be used with any of the program's 40 suppliers to purchase a wide range of products or services.

For more, see Page 2.

League President and Rancho Cucamonga Mayor Dennis Michael welcomed attendees on Wednesday afternoon at the start of the first general session.

"I am honored to be here with so many of our colleagues from cities throughout California. This is our largest gathering of city officials each year and the Annual Conference is always an amazing three days full of education and networking. Attending this conference is an investment in your city," said Michael. "Thank you for being part of an organization dedicated to making our cities stronger! The Annual Conference is an opportunity to gather new information and resources that we can all put to use in our cities and celebrate the accomplishments of an organization that formed 118 years ago to protect local control and provide an educational forum for city officials. That mission is as strong today as it was in 1898 when a group of California city officials originally came together to work on common issues."

Attendees were also welcomed on Wednesday by city of Long Beach Mayor Robert Garcia.

Thursday National League of Cities President and Joplin, Mo. Council Member Melodee Colbert-Kean provided an update on NLC's efforts.

The lucky city of Loomis won the Grand Prize Drawing on Friday afternoon taking home a \$3,000 U.S. Communities voucher to use at any of the program's 40 vendors for the products and services they provide to help cities meet their residents' needs.

Helen Putnam Award for Excellence

The first general session included the prestigious Helen Putnam Award for Excellence, given to cities for their outstanding efforts to deliver services and engage residents. This year's winners are the cities of:

- CCS Partnership Intergovernmental Collaboration Award: Concord for its Central Valley Family Justice Center.
- Community Services & Economic Development: Manhattan Beach for its Connected! program.
- Economic Development through the Arts: Palm Desert for its First Weekend Palm Desert.
- Enhancing Public Trust, Ethics & Community Involvement Rancho Cucamonga for its Kitten Nursery.
- Health & Wellness Programs: Woodland for its Commit2Fit.
- Housing Programs & Innovations: Fairfield for its Neighborhood Revitalization at Parkway Gardens.
- Internal Administration: San Diego for its Performance & Analytics Department.
- League Partners Award for Excellence in City Business Relations: Bakersfield for the Bakersfield Homeless Center Workforce Partnership.
- Planning & Environmental Quality: Claremont for the Claremont Tree Crisis Intervention & Outreach.
- Public Safety: Santa Clarita for its Special Needs Registry.
- Public Works, Infrastructure & Transportation: Oxnard for its Public Works/City Corps Partnership.
- Ruth Vreeland Award for Engaging Youth in City Government: Lodi for its Storm Drain Detective Student Volunteer Program.

The League produced a short video, which was played during the session, highlighting each of these outstanding cities.

Chris McKenzie Delivers Final Annual Report before Retirement

League members had an opportunity to hear from their executive director for the last time in his 17 year tenure with the organization. Chris McKenzie, who retires later this month, reported on the League's accomplishments in the past 12 months, focusing on both legislative advocacy and the new Health Benefits Marketplace, which the League launched in August to provide cities with

a cost-saving option to provide health care and other benefits to their current and retired employees.

On the advocacy front, McKenzie discussed how the news for cities was largely positive in 2016, with Gov. Jerry Brown agreeing with the League 76 percent of the time. He highlighted several bills, such as AB 2220 (Cooper) and AB 350 (Alejo), which will help improve implementation and reduce legal costs associated with the California Voting Rights Act. The Governor, McKenzie reported, signed two helpful economic development bills — AB 2492 (Alejo and E. Garcia) and AB 806 (Dodd and Frazier). In addition, McKenzie reported that the Governor vetoed numerous bills that would have undermined local authority.

Attendees also heard McKenzie reflect on his career in public service, most specifically his service to the cities of California.

“Public service is a joy when you serve with people of integrity who believe passionately in democracy and their duty to nurture and protect it. I am so grateful for the experience I have had the last 17 years as the League’s executive director because I have been graced with colleagues, officers and directors, committee chairs and members, division officers and members, department officers and members, and caucus officers and members who believe having strong local government institutions is the bedrock of democracy and the foundation of our relationship with those we are privileged to serve,” said McKenzie. “It has been a joy to work day in and day out with you and our many, many colleagues over the years. Our 17 years together have included four successful ballot measure campaigns to protect city authority and revenues and more legislative campaigns than I can ever hope to count.”

Special Recognition

Charlotte Dickson, who founded the HEAL Cities Campaign was honored on Thursday for founding this important effort that has led 185 cities throughout California to adopted policies and practices that will ensure healthy outcomes for California children and families.

To date, cities representing a combined 14 million residents have joined the campaign, pledging to build more bike lanes and sidewalks, create complete streets, bring farmers markets into underserved areas of town, start worksite wellness programs and include health policies and goals into General Plan updates.

Institute for Local Government Beacon Award

Thursday’s general session also included the recognition of the four recipients of the Institute for Local Government’s prestigious 2016 Beacon Award, which honors local governments that lead the way on climate, energy and sustainability through voluntary action. Seven received silver level recognition, the city of Colma received gold.

The eight winning cities are:

- Davis;
- American Canyon;
- Benicia;
- Emeryville;
- Hermosa Beach;
- Santa Monica;
- Manhattan Beach; and
- Colma.

The Institute for Local Government, the nonprofit research affiliate of the League of California Cities, launched the Beacon Program in 2009 with support from the California Public Utilities Commission to mobilize voluntary local action to achieve energy savings and reduce GHG emissions.

Keynote Speakers

Annual conference featured two engaging keynote speakers whose presentations inspired and educated the assembled city officials.

Jason Roberts, an arts activist and co-creator of the Better Block Project engaged League members on Wednesday with his philosophy on how to build a better block and make real change in communities today.

Thursday, League members heard from Dr. Christopher Thornberg, founding partner of Beacon Economics, who dived into the California economy and the forces at play in this state.

League Honors Senate President Pro Tem Kevin de León as Legislator of the Year

The League's Legislator of the Year Award is designed to recognize legislators who, over the course of the past legislative session, have done extraordinary work that will help California cities. President Dennis Michael announced that this year, the League officers selected Senate President pro Tem Kevin de León (D-Los Angeles) for his herculean efforts on homelessness.

Sen. De León was unable to attend the Closing General Session on Friday, and the award will be given him at a later date. The League selected him because he championed the passage of the No Place Like Home proposal that will fund housing and supportive services for California's mentally ill homeless men, women and children.

New League Officers and Board of Directors

Lodi Council Member JoAnne Mounce advanced into the role of League president, replacing Rancho Cucamonga Mayor L. Dennis Michael, who has held the position for the past year.

Palos Verdes Estates Council Member James Goodhart was elected first vice president.

South San Francisco Council Member Rich Garbarino joins the executive officers as second vice president.

Under the League's bylaws officers serve a one-year term with the outgoing president, Michael, becoming immediate past president and continuing as an active member of the League's executive committee. Mounce fills the role of her current position after serving the past year as the first vice president and Council Member Goodhart becomes first vice president after serving his past term of second vice president.

Resolution

The General Assembly approved one resolution on Vision Zero and Towards Zero, which addresses traffic safety. The final resolution is available on the League's website.

More information is available at www.cacities.org/resolutions.

'Prop. 57' Continued from Page 1...

The provision generating the most concern is the change to parole rules for offenders defined as "non-violent" under current law. Under Prop. 57, many offenders would be eligible to seek parole after serving the full term of their primary offense, without factoring in any sentencing enhancements they received in addition to the base term.

Offences that could trigger earlier parole under the measure include:

- Assault with a deadly weapon;
- Throwing acid with the intent to disfigure;
- Rape of an unconscious person;
- Rape accomplished by the use of an intoxicating or controlled substance;
- Discharging a firearm at a motor vehicle; and
- Discharging a firearm at an unoccupied dwelling; and the furnishing of a weapon used in a crime.

If Prop. 57 passes, offenders convicted of such crimes would be eligible for parole at an earlier date. While the Board of Parole Hearings would retain the discretion it has under current law to weigh for itself an inmate's progress toward meaningful rehabilitation, and deny parole to any offender, the possibility that this particular universe of offenders would potentially be released early has fueled concerns among city officials and the law enforcement community alike.

Compounding concerns of city officials have been the public safety impacts of two recent changes affecting sentencing of offenders which law enforcement officials allege have contributed to recent increases in crime: the 2011 prison realignment measure, that shifted many state offenders into county jails thereby reducing bed space for local offenders, and Prop. 47 in 2014, which further re-categorized many serious crimes as misdemeanors.

The League joins the California Police Chiefs Association and many other law enforcement organizations in opposing Prop. 57. Visit <http://www.stop57.com> for more information on the opposition.

A sample resolution for cities to use in opposition to Prop. 57 is available on the League's website.

'Voucher' Continued from Page 1...

The U.S. Communities Government Purchasing Alliance, an important strategic partner of the League of California Cities®, is a government purchasing cooperative that reduces the cost of goods and services by aggregating the purchasing power of public agencies nationwide. U.S. Communities provides world class procurement resources and solutions to local and state government agencies, school districts (K-12), higher education, and nonprofits.

Through U.S. Communities, state and local governments have access to a broad line of competitively solicited contracts with best in class national suppliers. Participating in this cooperative is easy, efficient and especially helpful for the small and medium sized cities because it allows them to get the same cost-saving discounts that are often available to larger cities.

The League is a founding sponsor of U.S. Communities and purchases made through the program help keep the League's membership dues low.

League Board Establishes Governance, Transparency & Labor Relations Policy Committee

On Oct. 6, the League board of directors took the formal step to establish a new league legislative policy committee — voting unanimously to establish the new Governance, Transparency & Labor Relations (GTL) policy committee. GTL will have a renewed focus on technology (open data), healthcare, elections and political reform. Additionally, the committee will oversee pension (OPEB) and workers compensation reform as well as other related issues.

The move comes after a subcommittee established by the board looked at consolidating both the Administrative Services (AS) and Employee Relations (ER) policy committees. The subcommittee held a series of meetings, reviewed past attendance records, committee action items and policy trends dating back nine years. Additionally, the subcommittee hosted an informational webinar for League division presidents as well as members of both AS and ER policy committees to solicit feedback and provide direction during the consolidation process.

Subcommittee members felt that a consolidation and a rebranding of the committees was the best way to drive attendance and engage our elected officials on these critical issues. As both a board member and co-chair of the consolidation subcommittee, Grass Valley Council Member Jan Arbuckle applauded the board for Thursday's action. "It's critical that we have active engagement from elected officials from across the state to weigh in on some of the most dynamic issues that affect our cities and towns. I was pleased to co-chair the subcommittee that oversaw this consolidation — and I commend the board for their swift action as we tackle these tough issues in the coming years."

Similar to the Leagues other policy committees, the GTL policy committee will use their collective knowledge and experience to recommend to the League board of directors preliminary positions on legislation.

A full description of the GTL Policy Committee is available on the League's website. Looking to get involved? Contact your professional department president, division president or your regional public affairs manager for more information.

Lodi Council Member JoAnne Mounce Elected League President

Lodi Council Member JoAnne Mounce was installed as League president on Oct. 7 during the 118th Annual Conference & Expo in Long Beach and will now lead the organization for the coming year. Elected as League second vice president in 2014, she advanced to the office of first vice president in September 2015.

"Working with the League of California Cities for years has been an important priority for my service on the Lodi City Council because I truly believe in the effectiveness of this dynamic organization that advocates on behalf of all cities. I am honored to be elected president by my peers and come to this leadership position with a desire to represent all of California's diverse cities in Sacramento and Washington, D.C. I look forward to working with my League colleagues on the most pressing issues facing local government in this coming year."

First elected to the Lodi City Council in 2004, Council Member Mounce has since been appointed mayor twice. She has held many positions within the League of California Cities, including member of the board of directors, served twice as president of the Central Valley Division, member of the Administrative Services Policy Committee and member of the Audit Committee. Council Member Mounce has worked to gather signatures and raise funds for several League sponsored ballot measures.

Her professional experience includes 30 years in the accounting and tax management industry. As a small business owner, Council Member Mounce focuses on business start-ups and assisted many San Joaquin County businesses untangle governmental compliance. For the past 10 years, she has managed the Stockton-based accounting firm Dougherty CPAs, Inc.

Council Member Mounce has served locally on the Lodi Youth Commission, the San Joaquin Council of Governments, and as liaison to the Central Valley Division of the League of California Cities. As a third generation Lodian, she is an active volunteer with LRWF Unit, the Lodi Historical Society and many other community organizations.

League Executive Director Chris McKenzie congratulated Council Member Mounce on her new presidential role for the League of California Cities. "JoAnne is an incredibly dedicated public servant who believes in the power of local engagement and understands the impact cities have when they work together. Her professional background in financial planning and accounting is an incredible asset to our organization because she is able to look at issues through both the macro and micro lens and evaluate the long-term effects of policies."

Palos Verdes Estates Council Member James Goodhart Elected League First Vice President

Palos Verdes Estates Council Member James Goodhart was elected League first vice president during the League's 118th Annual Conference & Expo in Long Beach. He will serve as first vice president for a one-year term before advancing to president in September 2017.

"California's cities are integral to the success of this state. Statewide policies that support local control benefit the state as a whole and our ability to innovate. We have made great progress in the economic recovery but there is more work to be done, and we need greater investment in infrastructure to ensure our continued success. I am honored to serve the League as first vice

president and continue working with our executive officers, board of directors and greater membership on major statewide policy issues facing California cities," said Council Member Goodhart.

First elected to the Palos Verdes Estates City Council in 2005, Council Member Goodhart was re-elected to the council in 2009, and he is now serving his third four-year term. He previously served four years on the Palos Verdes Peninsula Unified School District Board of Education and the Southern California Regional Occupation Center. Along with his commitment to education, Council Member Goodhart served as a Peninsula Education Foundation trustee, a director of the San Pedro/Peninsula YMCA, and a member of the city's Planning Commission and Finance Committee.

Prior to his election as a League officer, Council Member Goodhart was actively involved with the League of California Cities. He has served on the League's Los Angeles Division's board of directors, as chair the Environmental Quality Policy Committee and as president of the New Mayors and Council Members Department from 2012-2013. In addition, Council Member Goodhart sits on the South Bay Service Council of the Metropolitan Transit Authority and has been a member of the Palos Verdes Transit Authority board of directors since 2005. He is also the immediate past chair of the South Bay Cities Council of Governments.

Professionally, Council Member Goodhart was employed in the aerospace industry and is a retired registered mechanical engineer.

League Executive Director Chris McKenzie congratulated Council Member Goodhart on becoming first vice president for the League of California Cities. "Jim's extensive background in business and project management combined with his contributions as a public servant will be an asset to the League's executive committee. He brings his expertise and commitment to his community and to all California cities"

South San Francisco Council Member Rich Garbarino Elected League Second Vice President

South San Francisco Council Member Rich Garbarino was installed as second vice president during the League's 118th Annual Conference & Expo in Long Beach and will advance to the office of first vice president in September 2017.

Council Member Garbarino remarked on his great appreciation for the League and why he is looking forward to his new leadership position. "It is a privilege to serve as the League's second vice president and contribute to the cities of California in a greater capacity. We have worked very hard to create solid relationships with legislators and I am committed to continuing this priority. When the Legislature passes policies that support California cities, the entire state is stronger."

Rich Garbarino was first appointed to the South San Francisco City Council in December 2002 to fill the vacancy left by the election of Gene Mullin to the California State Assembly. In 2003, he was officially elected to his first four-year term on the South San Francisco City Council and then subsequently re-elected in 2007, 2011, and 2015 with his current term expiring in 2019.

Engaged locally, Council Member Garbarino is also very involved regionally and statewide through the League of California Cities on the board of directors, the organization's Peninsula Division and Public Safety Policy Committee. Locally he worked on the passage of Measure W to fund city services and infrastructure improvements as well as served as chair of several Association of Bay Area of Governments committees and the Local Agency Formation Committee.

Professionally, Council Member Garbarino worked at San Francisco State University in several capacities, Homart Development, Bechtel Power Corporation, Bekins Building Maintenance Corporation and in a family-owned business.

League Executive Director Chris McKenzie congratulated Council Member Garbarino on becoming second vice president for the League of California Cities. "Rich is an incredibly

engaged public servant whose experience locally in so many capacities on behalf of the city of South San Francisco gives him great leadership skills with the League. He brings a great deal of experience to our organization and will be an asset to our officers as they work to continue legislative relationships and focus on issues effecting cities."

CA Cities Advocate

LEGISLATION AND POLICY AFFECTING CALIFORNIA CITIES



Oct. 14, 2016

Issue #87

IN THIS ISSUE:

Page 3: Long-Range Financial Planning Session Set for Upcoming Municipal Finance Institute
California City Solutions: San Luis Obispo Creates Unified Approach to Public Engagement

Proposition 64 Webinar Scheduled for Oct. 20

League members are invited to participate on a 90-minute webinar on various aspects of Proposition 64, the Adult Use of Marijuana Act (AUMA). *For more, see Page 2.*



How Long Until Our Local Streets and Roads Crumble?

Oct. 26 Webinar will Detail Results of 2016 Local Streets and Roads Needs Assessment

The results are in and once again the biennial Local Streets and Roads Needs Assessment has concluded that California's local system remains on the brink of a rapid, downward spiral if maintenance funding shortfalls are not addressed. *For more, see Page 2.*



\$100 Million in GO-Biz California Competes Tax Credits Available in January

Cities looking to attract, retain or expand jobs in their community should consider the Governor's Office of Business and Economic Development (GO-Biz) California Competes Tax Credit Program as part of their strategy. *For more, see Page 2.*

'Marijuana webinar' Continued from Page 1...

Scheduled Oct. 20 from 10–11:30 a.m., the webinar is free for League members and League Partners. Non-member cities will be charged \$100.

The webinar will cover two main areas:

- How the AUMA differs from the legislation signed last year, the Medical Marijuana Regulation and Safety Act
 - State licensing and local regulations
 - Indoor cultivation
 - Sales taxes — what is allowed and what is not
 - Content of local ordinances
- Regulatory changes for local government if Prop. 64 passes
 - Regulation of indoor cultivation for personal use
 - Local taxation
 - Deliveries
 - Regulation of medical vs. non-medical marijuana
 - Preserving local regulatory authority
 - Updating ordinances
 - Notifying state licensing entities

Registration

Register online by Oct. 18 at 5 p.m. Two connections per city will be permitted for this webinar.

Webinar log-in information will be emailed on Oct. 19 by close of business.

For questions about how to register for the webinar, please contact Megan Dunn. For other questions, please contact Sarah Nowshiravan.

'LSR webinar' Continued from Page 1...

Cities, counties and transportation officials are invited to a briefing on this crucial research that will be released on Oct 25.

Scheduled for Oct. 26 from 2–3 p.m., the webinar will cover the report's findings, what they mean for your community, and how you can help get the word out about the funding shortfall. The 2016 update surveyed all of California's 482 cities and 58 counties, capturing data from more than 99 percent of the state's local streets and roads.

This webinar is free for League and California State Association of Counties/County Engineers Association of California members and Partners. There are only 500 lines available so please register for one line per entity.

Registration

Oct. 19 at 5 p.m. is the registration deadline and registration can be completed online. Webinar log-in information and background materials will be sent to attendees by Oct. 25.

For registration questions, please contact Megan Dunn. For all other questions related to the streets and roads report, contact Meghan McKelvey.

'GoBIZ' Continued from Page 1...

Applications will be accepted for the California Competes Tax Credit program during its next funding period, which will be open from Jan. 2–23, 2017. This is the second application period for the program this fiscal year, offering \$100 million. Twenty-five percent of these funds are reserved for small businesses with gross receipts of less than \$2 million.

Applications are evaluated based on the factors required by statute, including total jobs created, total investment, average wage, economic impact, strategic importance and more. Applications are accepted online through a free and interactive website at www.calcompetes.ca.gov.

GO-Biz is authorized to award \$200 million in each fiscal year 2015-16 through 2017-18 in tax credits.

For more information please email CalCompetes@gov.ca.gov or call (916) 322-4051.

Information on Go-Biz

GO-Biz serves as California's office for economic development and offers a range of services to business owners. Those services include attraction, retention and expansion services, site selection, permit streamlining, clearing of regulatory hurdles, small business assistance, international trade development, assistance with state government, important informational briefings and much more.

Long-Range Financial Planning Session Set for Upcoming Municipal Finance Institute

Attendees at the League's Municipal Finance Institute will not want to miss a special session on long-range financial planning. [Registration](#) for this two-day conference is open now through Nov. 8 and can be completed online.

Scheduled for Nov. 30–Dec. 1 at the Monterey Marriott, the session will feature Palo Alto Administrative Services Director Daniel Jordan and La Cañada Flintridge Finance Director Daniel Jordan.

This important session will examine the critical bridge long-range financial planning plays in connecting local governments' strategic plans to the annual budget process. Presenters will cover the mechanics of how to use long-range fiscal forecasting, appropriate methods for projecting revenues and expenditures and using standard spreadsheet software to create forecasting models accounting for a variety of scenarios.

Municipal Finance Institute Details

The full conference registration includes two days of educational sessions; Wednesday lunch and reception, Thursday breakfast and lunch; and electronic access to all program materials.

Additional [conference information](#) can be found online.

Please contact [Megan Dunn](#) for registration questions.

California City Solutions: San Luis Obispo Creates Unified Approach to Public Engagement

This story is part of an ongoing series featuring Helen Putnam Award entries. The 2016 entries will be available on the League's website as a resource for cities in a searchable database called [California City Solutions](#). San Luis Obispo's Public Engagement and Noticing Manual was submitted in 2016 for the Enhancing Public Trust, Ethics, and Community Involvement award category.

Meaningful public engagement is a core component of how the city of San Luis Obispo provides services to its residents. Keeping up with the multiple ways in which the public receives information and new outreach strategies can be a challenge. Digital tools, in particular, offer ways to transform the public engagement process. San Luis Obispo created the Public Engagement and Noticing (PEN) manual to help the city enhance its efforts following an internal assessment

identified a need for a consistent approach when engaging the public and created the Public Engagement and Noticing (PEN) manual to support this effort.

Resident groups and other stakeholders all identified the need for greater clarity, noticing and outreach regarding development projects and policy initiatives. Some expressed concern about inconsistency of outreach and tools used between departments, and how that affected early and effective public engagement. Staff decided that it needed a unified approach to public engagement to ensure that the community could receive information and provide feedback on key issues.

The PEN manual was drafted to provide a concise and easy-to-read guide for city staff to use when engaging the community on various types of city projects and policy initiatives. It also serves as a document to help inform city council and community expectations about how and when the city engages the public.

Collaboratively produced with city staff and a local consultant, comprises four major components:

1. **The Action Plan Matrix** helps identify the level of public engagement staff is expected to use based on the type of project. Levels of public engagement are divided into three communication objectives: inform, consult, and collaborate. These communications objectives were modeled after work done by the International Association of Public Participation. Objectives are listed horizontally across the top of the matrix. Types of projects are divided into four levels of complexity (i.e. decision-making process) and listed vertically on the left hand side of the matrix: staff level, department head/city manager, advisory bodies, and city council.

To use the matrix, the level of complexity of the project is determined, and then staff identifies what communication objectives are expected based on that level. For example:

- Completing a paving project is considered a staff level service delivery, and the expected communication objective is to inform the community about the project.
- Developing a new policy document, like a Climate Action Plan, requires city council approval, and the expected communication objective is to collaborate with the public to develop recommendations.

2. **Identification of outreach tools** makes it clear how staff can achieve effective and meaningful public engagement. Outreach tools are listed for each communication objective in two categories: what is expected, and what can be done to go above and beyond. For example, it is expected that staff will do official noticing, use the website to electronically notify interested parties, post information on the city website and contact key community liaisons when informing the public is the communication objective.

If an issue is designated as needing consultation or collaboration with the public additional tools are required such as surveys, focus groups, workshops, neighborhood meetings and the use of online public comment forum tools like Open Town Hall from Peak Democracy. After a successful pilot, the city began using this program (branded as Open City Hall) as a required part of all projects which require collaboration with the public. This tool has allowed the city to engage with a new segment of the community who were not previously aware of how to be involved or were unable to for a variety of reasons.

3. **Where and when.** This is one of the most important aspects of public The PEN manual includes a sample list of established community organizations and interest groups, media contacts, and venues with capacity and address information.
4. **Best practices** are identified and described for each communication tools, which will help gather meaningful public input and formalize expectations for community members about what will take place.

Templates are included for outreach tools such as e-notification, fact sheets, flyers, advertisements, postcards and signage. This helps to standardize the city's outreach materials.

The city's PEN manual is a tool to help staff determine how to maximize engagement tools at their disposal to achieve meaningful engagement with the public and result in policy informed by a broader section of the community.

Results indicate:

- Over 400 community member participated in a community forum to help identify goals and priorities for the upcoming fiscal year. Another 751 people participated through Open City Hall and mailed surveys.
- The city currently has a 92 percent approval rating from users of the Open City Hall engagement tool with 1,779 individual visitors and 1,281 comments posted. This is the equivalent of 64 hours of public testimony. The use of this tool, through the implementation of the PEN manual, has made the process for collecting feedback much more efficient saving both staff time and resources.

The San Luis Obispo City Council officially endorsed the manual in August 2015 and the Action Plan Matrix has been used during meetings to provide clear direction to staff from the city council as to the desired level of engagement for a given item. The PEN manual has also been featured as a model for other cities to replicate by the National Research Center.
