



AGENDA OF A REGULAR MEETING - NATIONAL CITY CITY COUNCIL/  
COMMUNITY DEVELOPMENT COMMISSION – HOUSING AUTHORITY OF  
THE CITY OF NATIONAL CITY  
ONLINE ONLY MEETING

<https://www.nationalcityca.gov/webcast>

LIVE WEBCAST  
COUNCIL CHAMBERS  
CIVIC CENTER

1243 NATIONAL CITY BOULEVARD  
NATIONAL CITY, CALIFORNIA  
TUESDAY, MAY 19, 2020 – 6:00 PM

*ALEJANDRA SOTELO-SOLIS*  
Mayor

*MONA RIOS*  
Vice Mayor

*JERRY CANO*  
Councilmember

*RON MORRISON*  
Councilmember

*GONZALO QUINTERO*  
Councilmember

**NOTICE:** The health and well-being of National City residents, visitors, and employees during the COVID-19 outbreak remains our top priority. The City of National City is coordinating with the County of San Diego Health Human Services Agency, and other agencies to take measures to monitor and reduce the spread of the novel coronavirus (COVID-19). **The World Health Organization has declared the outbreak a global pandemic and local and state emergencies have been declared providing reprieve from certain public meeting laws such as the Brown Act.**

As a result, the City Council Meeting will occur only online to ensure the safety of City residents, employees and the communities we serve. A live webcast of the meeting may be viewed on the city's website at [www.nationalcityca.gov](http://www.nationalcityca.gov). For Public Comments see **"PUBLIC COMMENTS"** section below

**ORDER OF BUSINESS:** Public sessions of all Regular Meetings of the City Council / Community Development Commission - Housing Authority (hereafter referred to as Elected Body) begin at 6:00 p.m. on the first and third Tuesday of each month. Public Hearings begin at 6:00 p.m. unless otherwise noted. Closed Meetings begin in Open Session at 5:00 p.m. or such other time as noted, and after announcing closed session items, convenes into a Closed Meeting. If a workshop is scheduled, the subject and time of the workshop will appear on the agenda. The Mayor and Council members also sit as the Chairperson and Members of the Board of the Community Development Commission (CDC).

**REPORTS:** All open session agenda items and reports as well as all documents and writings distributed to the Elected Body less than 72 hours prior to the meeting, are available for review on the City's website at [www.nationalcityca.gov](http://www.nationalcityca.gov). Regular Meetings of the Elected Body are webcast and archived on the City's website at [www.nationalcityca.gov](http://www.nationalcityca.gov).

**PUBLIC COMMENTS:** The City Council will receive public comments via e-mail at [clerk@nationalcityca.gov](mailto:clerk@nationalcityca.gov) regarding any matters within the jurisdiction of the City Council. **Written comments or testimony from the public (limited to three minutes) must be submitted via e-mail by 4:00 p.m. on the day of the City Council Meeting. All comments received from the public will be made a part of the record of the meeting.**

1243 National City Blvd.  
National City, CA 91950  
619-336-4240

Meeting agendas and  
minutes available on the  
City's website at  
[WWW.NATIONALCITYCA.GOV](http://WWW.NATIONALCITYCA.GOV)

The time limit established for public testimony is three minutes per speaker. The Mayor or Chairperson may limit the length of comments due to the number of persons wishing to speak or if comments become repetitious or unrelated.

**WRITTEN AGENDA:** With limited exceptions, the Elected Body may take action only upon items appearing on the written agenda. Items not appearing on the agenda must be brought back on a subsequent agenda unless they are of a demonstrated emergency or urgent nature, and the need to take action on such items arose after the agenda was posted.

**CONSENT CALENDAR:** Consent calendar items involve matters which are of a routine or noncontroversial nature. All consent items are adopted by approval of a single motion by the City Council. Prior to such approval, any item may be removed from the consent portion of the agenda and separately considered, upon request of a Councilmember, a staff member, or a member of the public.

Upon request, this agenda can be made available in appropriate alternative formats to persons with a disability in compliance with the Americans with Disabilities Act. Please contact the City Clerk's Office at (619) 336-4228 to request a disability-related modification or accommodation. Notification 24-hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

**AVISO:** La salud y el bienestar de los residentes, visitantes y empleados de National City durante el brote de COVID-19 sigue siendo nuestra máxima prioridad. El Ayuntamiento de la Ciudad de National City se está coordinando con la Agencia de Salud y Servicios Humanos del Condado de San Diego y otras agencias para tomar medidas con el fin de monitorear y reducir la propagación del nuevo coronavirus (COVID-19). La Organización Mundial de la Salud declaró el brote como una pandemia global y se han manifestado emergencias locales y estatales que resultan en la suspensión de ciertas leyes de reuniones públicas, tal como la Ley Brown.

Como resultado de ello, la junta del Concejo Municipal del Ayuntamiento se llevará a cabo solamente en línea para garantizar la seguridad de los residentes, empleados y comunidades locales que atendemos. Se podrá ver una transmisión en vivo de la junta en el sitio web del Ayuntamiento en [www.nationalcityca.gov](http://www.nationalcityca.gov). Para comentarios públicos, vea la sección “COMENTARIOS PÚBLICOS” más adelante.

**ORDEN DEL DÍA:** Las sesiones públicas de todas las juntas ordinarias del Concejo Municipal/Comisión de Desarrollo Comunitario - Autoridad de Vivienda (en lo sucesivo denominado Órgano Electo) inician a las 6:00 p.m. el primer y tercer martes de cada mes. Las audiencias públicas inician a las 6:00 p.m., a menos que se indique lo contrario. Las juntas cerradas inician en sesión abierta a las 5:00 p.m. o en cualquier otro momento que se indique, y tras anunciar los temas de la sesión cerrada, la junta se realiza como sesión cerrada. Si se programa una reunión de discusión y análisis, el tema y la hora de la misma aparecerán en la agenda. La Alcaldesa y los Concejales se reúnen por igual que el Presidente y los integrantes del Consejo de la Comisión de Desarrollo Comunitario.

**INFORMES:** Todos los temas e informes de la agenda de la sesión abierta, así como todos los documentos y escritos entregados al Órgano Electo menos de 72 horas antes de la sesión, aparecerán en el sitio web del Ayuntamiento. Las juntas ordinarias del Órgano Electo se transmiten por Internet y se archivan en el sitio web del Ayuntamiento en [www.nationalcityca.gov](http://www.nationalcityca.gov).

**COMENTARIOS PÚBLICOS:** El Concejo Municipal recibirá comentarios públicos por correo electrónico en [clerk@nationalcityca.gov](mailto:clerk@nationalcityca.gov) sobre cualquier asunto dentro de la jurisdicción del Concejo

Municipal. **Los comentarios escritos o el testimonio del público (limitado a tres minutos) deben enviarse por correo electrónico antes de las 4:00 p.m. en el día de la sesión del Concejo Municipal. Todos los comentarios recibidos del público formarán parte del acta de la sesión.**

**AGENDA ESCRITA:** Con contadas excepciones, el Órgano Electo puede tomar medidas únicamente sobre los temas que aparecen en la agenda escrita. Los temas que no aparezcan en la agenda deben aparecer en una agenda subsecuente, a menos que sean de emergencia o urgencia demostrada, y la necesidad de tomar medidas sobre esos temas haya surgido después de haber sido publicada la agenda.

**CALENDARIO DE CONSENTIMIENTO:** Los temas del calendario de consentimiento implican cuestiones de naturaleza rutinaria o no controvertida. Todos los temas de consentimiento se adoptan mediante la aprobación de una sola moción del Concejo Municipal. Antes de la aprobación, cualquier tema puede eliminarse de la parte de consentimiento de la agenda y considerarse aparte, a petición de un concejal, individuo del personal del Ayuntamiento o persona del público.

Previa solicitud, esta agenda puede estar disponible en formatos alternativos apropiados para personas con discapacidades, en observancia de la Ley de Estadounidenses con Discapacidades. Llame al teléfono (619) 336-4228 de la Oficina del Secretario del Ayuntamiento para solicitar una modificación o adaptación de acceso relativa a la discapacidad. Notificar 24 horas antes de la sesión permitirá al Ayuntamiento hacer arreglos razonables para garantizar la accesibilidad a esta junta.

## **OPEN TO THE PUBLIC**

### **A. CITY COUNCIL**

**CALL TO ORDER**

**ROLL CALL**

**PLEDGE OF ALLEGIANCE TO THE FLAG**

**PUBLIC COMMENTS (THREE-MINUTE TIME LIMIT)**

**PROCLAMATIONS AND CERTIFICATES**

1. [National City Celebrates National Public Works Week - May 17-23, 2020](#)
2. [National City Proclaims Fair Housing Month](#)

**AWARDS AND RECOGNITIONS**

**PRESENTATIONS**

**INTERVIEWS / APPOINTMENTS**

**REGIONAL BOARDS AND COMMITTEE REPORTS (FIVE-MINUTE TIME LIMIT)**

**CONSENT CALENDAR**

3. [Motion of the City Council of the City of National City approving the waiving of the reading of the text of the Ordinances or Resolutions that are having a Public Hearing considered at this meeting and providing that such Ordinances or Resolutions shall be introduced and/or adopted after a reading of the title only. \(City Clerk\)](#)
4. [Resolution of the City Council of the City of National City approving the Memorandum of Understanding \(MOU\) between the City of National City and the National City Firefighters' Association \(NCFFA\). \(Human Resources\)](#)
5. [Resolution of the City Council of the City of National City authorizing the establishment of ADA Improvements appropriation of \\$40,031.14 and use of General Fund unassigned fund balance from revenues received through SB-1186 - License Fee and Use for Construction-Related Accessibility to fund activities or programs that facilitate accessibility compliance. \(Engineering/Public Works\)](#)
6. [Resolution of the City Council of the City of National City: 1\) ratifying the City Manager's declaration of emergency for the 2424 Granger Avenue sink hole repairs; and 2\) waiving of competitive bidding procedures under emergency conditions consistent with Section 22050 "Emergency Contracting](#)

[Procedures” of the California Public Contract Code and Chapter 2.62 “Alternative Bid Procedures for Public Projects,” Section 2.62.070 “Emergencies” of the National City Municipal Code contracting per the emergency contracting procedure. \(Engineering/Public Works\)](#)

7. [Resolution of the City Council of the City of National City: 1\) ratifying the City Manager’s declaration of emergency for the 1415 Earle Drive sink hole repairs; and 2\) waiving of competitive bidding procedures under emergency conditions consistent with Section 22050 “Emergency Contracting Procedures” of the California Public Contract Code and Chapter 2.62 “Alternative Bid Procedures for Public Projects,” Section 2.62.070 “Emergencies” of the National City Municipal Code contracting per the emergency contracting procedure. \(Engineering/Public Works\)](#)
8. [Resolution of the City Council of the City of National City authorizing the Mayor to execute a Memorandum of Understanding \(MOU\) between the San Diego Metropolitan Transit System \(MTS\) and the City of National City regarding bus shelter and bus bench advertising. \(Engineering/Public Works\)](#)
9. [National City Sales Tax Update Newsletter – Fourth Quarter 2019. \(Finance\)](#)
10. [Investment transactions for the month ended February 29, 2020. \(Finance\)](#)
11. [Warrant Register #40 for the period of 3/25/20 through 3/31/20 in the amount of \\$65,490.00. \(Finance\)](#)
12. [Warrant Register #41 for the period of 4/1/20 through 4/7/20 in the amount of \\$4,018,407.45. \(Finance\)](#)

#### **PUBLIC HEARINGS: ORDINANCES AND RESOLUTIONS**

13. [Public Hearing and Adoption of an Ordinance of the City Council of the City of National City amending Section 18.30.320 \(Pawn shops and businesses engaged in secondhand dealing and/or the purchase and selling of gold and other precious metals\) of Title 18 \(Zoning\) of the National City Municipal Code. \(Applicant: City-Initiated\) \(Case File No. 2019-14 A\) \(Planning\)](#)
14. [Public Hearing and Adoption of an Ordinance of the City Council of the City of National City Establishing Local Campaign Contribution Limits. \(City Clerk and City Attorney\)](#)

#### **NON CONSENT RESOLUTIONS**

15. [Resolution of the City Council of the City of National City amending City Council Policy No.107 by adding Sections F and G regarding non-resident appointed board members. \(City Attorney\)](#)

#### **NEW BUSINESS**

16. [Notice of Decision – Planning Commission approval of a Conditional Use Permit \(CUP\) for the on-site sale of beer and wine at a proposed restaurant \(Bonchon\) located at 1420 East Plaza Blvd., Suite 'D-04'. \(Applicant: Hosik Bang & Hyeonyee Lee\) \(Case File No. 2020-03 CUP\) \(Planning\)](#)

**B. COMMUNITY DEVELOPMENT COMMISSION - HOUSING AUTHORITY**

**CONSENT RESOLUTIONS - HOUSING AUTHORITY**

**PUBLIC HEARINGS: RESOLUTIONS - HOUSING AUTHORITY**

**NON CONSENT RESOLUTIONS - HOUSING AUTHORITY**

**NEW BUSINESS - HOUSING AUTHORITY**

**C. REPORTS**

**STAFF REPORTS**

17. [COVID-19 Update. \(City Manager\)](#)

**MAYOR AND CITY COUNCIL**

**CLOSED SESSION**

**CLOSED SESSION REPORT**

**ADJOURNMENT**

Regular Meeting of the City Council and Community Development Commission - Housing Authority of the City of National City - Tuesday - June 2, 2020 - 6:00 p.m. - Council Chambers - National City, California.

City Council Legislative Recess:

July 7, 2020 - City Council Meeting - Dispensed With

July 21, 2020 - City Council Meeting - Dispensed With

The following page(s) contain the backup material for Agenda Item: [National City Celebrates National Public Works Week - May 17-23, 2020](#)  
Please scroll down to view the backup material.

Item # \_\_\_\_  
05/19/20

**National City Celebrates  
National Public Works Week - May 17-23, 2020**

**(Engineering/Public Works)**

# PROCLAMATION

FROM THE OFFICE OF THE MAYOR OF NATIONAL CITY

**National Public Works Week Proclamation**  
**May 17 – 23, 2020**  
**“It Starts Here”**

**WHEREAS**, public works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life and well-being of the people of **City of National City**; and,

**WHEREAS**, these infrastructure, facilities and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers and employees at all levels of government and the private sector, who are responsible for rebuilding, improving and protecting our nation’s transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and,

**WHEREAS**, it is in the public interest for the citizens, civic leaders and children in City of National City to gain knowledge of and to maintain a progressive interest and understanding of the importance of public works and public works programs in their respective communities; and,

**WHEREAS**, the year 2020 marks the 60th annual National Public Works Week sponsored by the American Public Works Association/Canadian Public Works Association be it now,

**RESOLVED**, I, Alejandra Sotelo-Solis do hereby designate the week May 17 – 23, 2020 as National Public Works Week; I urge all citizens to join with representatives of the American Public Works Association/Canadian Public Works Association and government agencies in activities, events and ceremonies designed to pay tribute to our public works professionals, engineers, managers and employees and to recognize the substantial contributions they make to protecting our national health, safety, and quality of life.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of National City to be affixed this 19th day of May 2020.

\_\_\_\_\_  
Alejandra Sotelo-Solis  
Mayor

\_\_\_\_\_  
Mona Rios  
Vice Mayor

\_\_\_\_\_  
Ron Morrison  
Council Member

\_\_\_\_\_  
Gonzalo Quintero  
Council Member

\_\_\_\_\_  
Jerry Cano  
Council Member



⇄ CALIFORNIA ⇄  
**NATIONAL CITY**

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The following page(s) contain the backup material for Agenda Item: [National City Proclaims Fair Housing Month](#)

Please scroll down to view the backup material.

Item # \_\_\_\_  
05/19/20

## National City Proclaims Fair Housing Month

# PROCLAMATION

FROM THE OFFICE OF THE MAYOR OF NATIONAL CITY

**WHEREAS**, April marks the anniversary of the passage of the fair housing act of 1968, which is sought to eliminate discrimination in housing opportunities and to affirmatively further housing choices for all Americans; and,

**WHEREAS**, CSA has addressed the ongoing struggle for dignity and equal housing opportunities for all; and,

**WHEREAS**, vigorous local efforts to combat discrimination have been effectively eradicating such practices; and,

**WHEREAS**, affirmatively furthering strong collaborations, community outreach, and education of fair housing rights between CSA San Diego County and the City of National City has led to broader awareness of fair housing law among the most vulnerable populations,

**NOW, THEREFORE, BE IT RESOLVED**, I, Alejandra Sotelo-Solis OF THE City of National City, by virtue of the authority vested in me by the City of National City, hereunto set my hand and affix the official seal and together with the City Council do hereby proclaim the month of April, 2020 as:

## FAIR HOUSING MONTH

**As the Mayor of the City of National City in the pursuit of the shared goal and responsibility of providing equal housing opportunities for all men and women in the City of National City I, hereby urge all citizens of National City to take a moment to join us in the national celebration of Fair Housing Month!**

\_\_\_\_\_  
Alejandra Sotelo-Solis  
Mayor

\_\_\_\_\_  
Mona Rios  
Vice Mayor

\_\_\_\_\_  
Ron Morrison  
Council Member

\_\_\_\_\_  
Gonzalo Quintero  
Council Member



\_\_\_\_\_  
Jerry Cano  
Council Member

— CALIFORNIA —  
**NATIONAL CITY**

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The following page(s) contain the backup material for Agenda Item: [Motion of the City Council of the City of National City approving the waiving of the reading of the text of the Ordinances or Resolutions that are having a Public Hearing considered at this meeting and providing that such Ordinances or Resolutions shall be introduced and/or adopted after a reading of the title only. \(City Clerk\)](#)

Please scroll down to view the backup material.

Item # \_\_\_\_

05/19/20

**MOTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY APPROVING THE WAIVING OF THE READING OF THE TEXT OF THE ORDINANCES OR RESOLUTIONS THAT ARE HAVING A PUBLIC HEARING CONSIDERED AT THIS MEETING AND PROVIDING THAT SUCH ORDINANCES OR RESOLUTIONS SHALL BE INTRODUCED AND/OR ADOPTED AFTER A READING OF THE TITLE ONLY.**

(City Clerk)

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City approving the Memorandum of Understanding \(MOU\) between the City of National City and the National City Firefighters' Association \(NCFFA\). \(Human Resources\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 19, 2020

**AGENDA ITEM NO.** |

**ITEM TITLE:**

Resolution of the City Council of the City of National City Approving the Memorandum of Understanding (MOU) between the City and the National City Firefighters' Association (NCFFA).

**PREPARED BY:** Robert J. Meteau Jr.

**DEPARTMENT:** Human Resources

**PHONE:** 336-4308

**APPROVED BY:** 

**EXPLANATION:**

The labor agreement between the City of National City and the National City Firefighters' Association (NCFFA) will expire June 30, 2020. City representatives began meeting and conferring in good faith with NCFFA representatives in March 2020, for the purpose of negotiating a successor agreement. On May 8, 2020 the NCFFA membership voted to ratify the terms of a 18-month agreement, from July 1, 2020 to December 31, 2021 as set forth by the negotiating teams. A complete summary of the terms of the agreement is attached.

**FINANCIAL STATEMENT:**

**APPROVED:**  **Finance**

**ACCOUNT NO.**

**APPROVED:** \_\_\_\_\_ **MIS**

**Fiscal Impact:**

Up to \$32,000 if all 24 hours of vacation is cashed-out, and up to \$48,000 if all used and require back-filling with overtime.

**ENVIRONMENTAL REVIEW:**

This is not a project, and therefore, is not subject to environmental review.

**ORDINANCE:** INTRODUCTION:

**FINAL ADOPTION:**

**STAFF RECOMMENDATION:**

Adopt the resolution approving the 18-month agreement reached between the City National of City negotiating team and the City of National City Firefighters' Association (NCFFA).

**BOARD / COMMISSION RECOMMENDATION:**

**ATTACHMENTS:**

Summary of Package Tentative Agreement between the City and NCFFA  
NCFFA Memorandum of Understanding  
Resolution

**CITY OF NATIONAL CITY / NATIONAL CITY FIREFIGHTERS’  
ASSOCIATION MOU NEGOTIATIONS  
PACKAGE TENTATIVE AGREEMENT REACHED ON 4/30/20**

**ARTICLE 6, SECTION 2 (Vacation Accrual)**

All personnel shall be governed by the following vacation accrual rates per pay periods of service:

Pay Cycles	Fire Suppression Personnel	40-Hour Assignment TEMPORARY	40-Hour Assignment PERMANENT
0 - 130 pay cycles	5.54 hrs. p/pay cycle	3.96 hrs. p/pay cycle	3.08 hrs. p/pay cycle
131 - 390 pay cycles	7.39 hrs. p/ pay cycle	5.28 hrs. p/pay cycle	4.62 hrs. p/pay cycle
390+ pay cycles	9.24 hrs. p/ pay cycle	6.6 hrs. p/pay cycle	6.15 hrs. p/pay cycle

In addition, persons employed on July 1, 2020 shall receive a 1-time contribution of 24 hours to their vacation accrual bank.

**ARTICLES 22, SECTION 2 (Salary)**

Modify the first paragraph of Article 22, Section 2 as follows:

There will no wage increase during the term of this 7/20 – 12/21 MOU. Effective the first full pay period in July 2018, all employees shall receive a 3.0% wage increase. Effective the first full pay period in July 2019, all employees shall receive a further 3.0% wage increase.

**ARTICLE 34 – TERMS OF PROVISIONS**

The provisions of this Memorandum of Understanding shall be effective and binding from July 1, 2020~~July 1, 2018~~ through December 31, 2021~~June 30, 2020~~.

This MOU is subject to all future and current applicable Federal or State and Local laws and regulations.

If any part or provision of this MOU is in conflict with such applicable provisions of Federal or State laws or regulations, or is otherwise held to be invalid or unenforceable by any tribunal of competent jurisdiction, such part or provision shall be suspended and superseded by such applicable law or regulations, and the remainder of the MOU shall not be affected. The Association will be duly notified of any such judicial or legislative action invalidating any section of this Agreement, and the Employees' Association and/or the City shall have right to meet and confer within thirty (30) days concerning said section. This MOU shall supersede all past agreements and City or department rules and ordinances that are in conflict with or are addressed by this MOU.

In addition, the City and the Association may mutually agree in writing to meet and confer on any subject within the scope of representation.

## **ARTICLES 7 (VACATION), 11 (SICK LEAVE), 30 (DEFERRED COMPENSATION) AND 33 (POST RETIREMENT HEALTH CARE TRUST)**

*An element of this package tentative agreement is agreement on a Side Letter that included the following revisions to the current July 2018 – June 2020 MOU, which terms would also be incorporated into the new July 2020 – December 2021 MOU.*

### **Article 7 – Annual Vacation Leave**

#### **Section 6 Terminal Vacation Leave**

Upon termination of employment ~~for any cause~~, an eligible employee shall ~~be entitled to elect to either receive as a contribution to the Southern California Firefighters Benefit Trust's Post-Retirement Medical Benefit Trust (PRMBT) (Article 33) or to the employee's deferred compensation account (Article 30), and shall receive that transfer to the PRMBT or deferred compensation account, base salary in lieu for on a pre-tax basis, the value of the employee's accrued vacation leave hours calculated at the employee's annual average rate of base hourly rate. number of accumulated vacation hours credited to the employee's account under the provisions of this section. All vacation granted upon completion of an employee's last day of work shall be a lump sum payment termed "terminal vacation pay" and shall be paid at their annual average rate of base salary. Employees shall not have the option to receive, or any other right to, cash payment for their accrued vacation at time of separation from employment. If an employee fails to notify the City's Finance Department of the employee's election of either the PRMBT or the employee's deferred compensation account, the employee's terminal vacation leave shall be contributed/transferred to the PRMBT.~~

#### **Section 7**

~~An employee shall have the right once each calendar year prior to November 15th, to request in writing to the Finance Department to have a designated number of the employee's accrued vacation leave hours transferred/contributed on a pre-tax basis to the PRMBT (Article 33) or the employee's deferred compensation account (Article 30). Employees shall not have the option to receive, or any other right to, cash payment for their accrued vacation during employment under this Section. Upon notice of opportunity from the Fire Chief, requests to sellback accrued vacation may be submitted for approval by the Fire Chief.~~

### **Article 11 – Sick Leave With Pay**

#### **Section 12 Sick Leave Incentive Pay**

- (A) **56 Hour Work Week** – ~~A s~~Sworn members of the Fire Department working ~~on~~ a twenty-four (24) hour shift ~~schedule basis using that uses~~ forty-eight (48) hours of sick leave or ~~less fewer in any fiscal year~~ may ~~elect to either receive as a transfer/contribution to the Southern California Firefighters Benefit Trust's Post-Retirement Medical Benefit Trust (PRMBT) (Article 33) or the employee's deferred compensation account (Article 30) on a pre-tax basis~~ ~~convert~~ fifty percent (50%) of the ~~if~~ employee's remaining ~~annually~~ ~~yearly~~ sick leave ~~accrual~~ at the annual base salary. Remaining ~~annually~~ ~~yearly~~ sick leave not ~~contributed/transferred to the PRMBT or the employee's deferred compensation account~~ ~~converted to pay~~ shall be carried over and accumulated for use when

needed. [Employees shall have no right to cash payments at any time under the sick leave incentive program.](#)

[Sick leave incentive program transfers/contributions](#) Pay shall be computed based on the following schedule and all computations shall be rounded to the nearest whole hour:

Remaining Annual Sick Leave Accrual at End of Fiscal Year	Hours that may be <a href="#">contributed/transferred to PRMBT or Deferred Compensation</a> converted at annual base salary
<b>56 HOUR WORK WEEK</b>	<b>56 HOUR WORK WEEK</b>
144 Hours	72 Hours
132 Hours	66 Hours
120 Hours	60 Hours
108 Hours	54 Hours
96 Hours	48 Hours
<a href="#">Fewer</a> Less than 96 Hours	No Payoff

- (B) **40 Hour Work Week** - Sworn members of the Fire Department working other than a twenty-four (24) hour shift schedule earn sick leave at the rate of 3.69 hours per full pay period of service. [An employee](#) ~~Persons~~ in this work assignment ~~that uses~~ using thirty-two (32) hours of sick leave or fewer, during the fiscal year, may ~~elect to either receive as a transfer/contribution to the PRMBT (Article 33) or the employee's deferred compensation account (Article 30) on a pre-tax basis~~ convert fifty percent (50%) of the ~~employee's~~ their remaining ~~annual yearly~~ sick leave accrual at the ~~employee's~~ annual base salary. Remaining yearly sick leave not ~~converted to pay~~ converted/transferred to the PRMBT or the employee's deferred compensation account shall be carried over and accumulated for use when needed. [Employees shall have no right to cash payments under the sick leave incentive program.](#)

[Sick leave incentive program transfers/contributions](#) Pay shall be computed based on the following schedule, and all computations shall be rounded to the nearest whole hour:

Remaining Annual Sick Leave Accrual at End of Fiscal Year	Hours that may be <a href="#">contributed/transferred to PRMBT or Deferred Compensation</a> converted at annual base salary
<b>40 HOUR WORK WEEK</b>	<b>40 HOUR WORK WEEK</b>
96 Hours	48 Hours
88 Hours	44 Hours
80 Hours	40 Hours
72 Hours	36 Hours
64 Hours	32 Hours
<a href="#">Fewer</a> Less than 64 Hours	No Payoff

- (C) Except as provided in (D) below, sick leave hours contributed/transferred to the PRMBT or deferred compensation under this Section~~converted~~ shall be subtracted from the employee's accumulative sick leave balance. ~~The remaining sick leave hours shall be carried over accumulated per Section 2 (3) herein.~~
- (D) An employee who has the maximum accumulation of sick leave at the beginning of the previous fiscal year (July 1<sup>st</sup>) and who used no sick leave during the year, shall not have the amount of sick leave for which compensation is contributed/transferred to the PRMBT or deferred compensation~~received~~ under the sick leave incentive program deducted from the employee's accumulative yearly sick leave balance and shall remain at the maximum accumulation.
- (E) The City will process~~make~~ the full sick leave incentive contribution/transfer to the PRMBT or deferred compensation account at the time of payment in the paycheck for the first full pay period in August. The amount of the contribution/transfer~~Pay~~ will be computed based on the employee's salary step on June 30 of the preceding fiscal year.
- (F) Contributions/transfers to the PRMBT or deferred compensation under this sick leave incentive program~~Payment~~ will be made to an employee hired during the fiscal year on a prorated basis provided the employee~~he~~ is on the payroll June 30. A p~~Permanent~~ employees who terminates or retires during the fiscal year will receive the contribution/transfer to the PRMBT or deferred compensation~~be compensated~~ on a prorated basis based on the employee's subject to their official~~formal~~ separation or retirement~~date~~. If the employee fails to notify the City's Finance Department of the employee's election of either the PRMBT or the employee's deferred compensation account, the permanent employee's sick leave under this sick leave incentive program shall be contributed/transferred to the PRMBT.

### Article 33 – Post-Retirement Healthcare Trust

The City and FFA will contract with the Southern California Firefighters Benefit Trust to provide a Post-Retirement Medical Benefit Trust (PRMBT)~~a company to provide a post-retirement healthcare trust for represented employees contingent on the FFA specifying a provider acceptable to the City and with the agreement of FFA that there-.~~ All FFA represented employees will contribute \$100/month to the PRMBT via payroll deductions effective the first full pay period after the PRMBT is established. No FFA represented employee may opt out of the payroll contributions to the PRMBT or opt to receive the payroll contributions in cash. Employees shall also have the option to have sick leave accruals earned under Article 11, Section 12 (Sick Leave Incentive Pay) transferred annually to the PRMBT, and vacation accruals transferred annually (Article 7, Section 7) and at time of separation (Article 7, Section 6) to the PRMBT to the extent and as provided in those Articles of this MOU, with no option to receive the sick leave or vacation accruals in cash.

The City will incur~~will be~~ no financial cost or obligation in connection with this contract or benefit~~to the City.~~ The City shall have no administrative responsibilities or liabilities related to this benefit, other than processing payroll deductions and leave transfers and contribution reporting on participating employees to the PRMBT. All FFA represented employees will contribute \$100/month to the post-retirement healthcare plan via payroll deductions effective the first full pay period after the trust is established. The City shall have no administrative responsibilities or liabilities related to this benefit, other than processing of payroll deductions.

The FFA shall hold the City harmless for the City's actions related to this Article, and indemnify the City against any liability the C~~city~~ may incur as a result of this Article, including but not limited to, allowing the

FFA to participate in [the PRMBT a post-retirement healthcare plan and/](#) or the City's processing of payroll deductions [or sick and vacation leave transfers](#) as set forth in this Article.

CITY OF NATIONAL CITY



**MEMORANDUM  
OF  
UNDERSTANDING**

BETWEEN

CITY OF NATIONAL CITY  
CALIFORNIA

and

NATIONAL CITY  
FIREFIGHTERS' ASSOCIATION

AGREEMENT PERIOD

JULY 1, 202018 - DECEMBER 31, 2021 ~~JUNE 30, 2020~~

**MEMORANDUM OF UNDERSTANDING CONCERNING WAGES AND OTHER TERMS AND  
CONDITIONS OF EMPLOYMENT BETWEEN THE CITY OF NATIONAL CITY AND THE  
NATIONAL CITY FIREFIGHTERS' ASSOCIATION  
FOR THE FOLLOWING PERIOD OF TIME:  
JULY 1, 2020 – DECEMBER 31, 2021**

The representatives of the City Manager of the City of National City, for and on behalf of the City Council of the City of National City, have met and conferred with the representatives of the National City Firefighters' Association, an organization representing employees of the City of National City, in accordance with the provisions of Section 3500 et. Seq., of the Government Code of the State of California, and;

As a result of meeting and conferring in good faith with said Group, agreement has been reached on the following terms and conditions of employment as applied to those employees who are members of and represented by the Association; and the Memorandum of Understanding concerning said agreed terms and conditions of employment has been approved by the City Council of the City of National City on May 19, 2020, by Resolution No. 2020-\_\_\_\_\_.

**For the CITY:**

\_\_\_\_\_  
**BRAD RAULSTON**  
City Manager

\_\_\_\_\_  
**EDWARD KREISBERG**  
Chief Negotiator

\_\_\_\_\_  
**TONY WINNEY**  
Assistant City Manager

\_\_\_\_\_  
**ROBERT J. METEAU**  
Director of Human Resources

\_\_\_\_\_  
**LILIA MUÑOZ**  
Human Resources Analyst

\_\_\_\_\_  
**ROBERT HERNANDEZ**  
Battalion Chief

\_\_\_\_\_  
**MARK ROBERTS**  
Director of Finance

**For the NCFFA:**

\_\_\_\_\_  
**STUART ADAMS**  
Chief Negotiator

\_\_\_\_\_  
**JAMES STILES**  
NCFFA Representative

\_\_\_\_\_  
**MARK BEVERIDGE**  
NCFFA Representative

\_\_\_\_\_  
**JEREMY DAY**  
NCFFA Representative

\_\_\_\_\_  
**KEVIN HAMEL**  
NCFFA Representative

\_\_\_\_\_  
**SCOTT ROBINSON**  
NCFFA Representative

\_\_\_\_\_  
**RONNEY WILSON**  
NCFFA Representative

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## ARTICLE 1 – RECOGNITION/IMPLEMENTATION

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### Section 1 Recognition

The National City Firefighters' Association is the exclusive representative of probationary and career employees in the following classes:

- ➔ Firefighter
- ➔ Fire Engineer
- ➔ Fire Captain
- ➔ Battalion Chief
- ➔ Deputy Fire Marshal

### Section 2 Implementation

This Memorandum constitutes a mutual recommendation to be jointly submitted to the City Council of National City. It is agreed that this Memorandum shall not be binding upon the parties either in whole or in part unless and until:

- a) The City Council acts, by majority vote, to formally approve and adopt said Memorandum.
- b) The City Council acts to appropriate the necessary funds required to implement the provisions of this Memorandum that require funding.
- c) The City Council acts in a timely manner to make the necessary changes in ordinances, resolutions, rules, policies and procedures to implement and conform to this Agreement.

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## ARTICLE 2 – WORK WEEK

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The City agrees to cooperate with the Firefighters' Local 2744 to retain the fifty-six (56) hour work week for Fire Suppression personnel, and the forty (40) hour work week for Staff personnel. The City agrees to meet and confer with the Firefighter's Local 2744 prior to making adjustments to the twenty-four (24) hour duty shift.

- (A) **Fire Suppression** - Fifty-six (56) hours shall constitute the normal work week for personnel assigned to this division. The normal shift length for personnel assigned to this division shall be twenty-four (24) hours. The normal shift change shall occur at 0800 (8:00 a.m.). Sunday routine shall be as follows: The hours from 0800 to 1300 hours shall be regular operations. After 1300 hours shall be considered stand by time and operations personnel are not expected to perform work of a non-emergency nature.
- (B) **Forty Hour Assignment** - Forty (40) hours shall constitute the normal work week for personnel temporarily assigned to the operations, prevention or administration divisions. The normal work day for personnel assigned to this division shall be eight (8) hours, and begin at 0800 (8:00 a.m.) daily. Such assignment shall not exceed twelve (12) months, except for those positions designed and filled as permanent 40-hour assignments or with the consent of the temporarily assigned employee and approval of the Chief.
- (C) **9/80 Assignment** - Employees on a forty hour assignment are eligible to participate in the “Alternative 9/80 Work Schedule” if approved by the Fire Chief or designee. The parties agree that 9/80 alternative work schedule will continue to be monitored and the City retains the right to discontinue the 9/80 schedule so long as the City provides the employee and FFA with thirty (30) days advance notice and provides FFA with a reasonable opportunity to meet and confer on the change.

The standard work schedule for an employee on 9/80 work schedule shall be nine (9) hour days four days per calendar week plus one eight (8) hour Friday once every two calendar weeks. The work week is a 168 hour (i.e. seven 24-hour periods) commencing at the mid-point of the employee’s 8-hour Friday. Due to this work week, and to ensure the 9/80 schedule does not impact overtime, an employee working his regular 9/80 work schedule shall not be entitled to overtime.

Leave time (including admin, vacation and sick) will continue to be accrued at the same rate, but will be taken in accordance with however many hours of work are missed.

Holidays and floating holidays falling on a employee’s 9-hour day will continue to be compensated at a rate of eight (8) hours of the employee’s regular rate of pay and employees will have the option of using accrued leave time (vacation, floater, admin or comp time) for the additional hour. When a holiday falls on an employee’s Friday off, the day will be accrued as a floater to be taken at a later date. These floaters must be used prior to the end o the fiscal year in which the floater was earned. The use of the floater is subject to supervisor approval like other requests to use leave time. If workload and staffing issues, as determined by the supervisors, create a situation in which a holiday leave floater cannot be used by the end of this fiscal year, the holiday leave floater can be carried over to the next fiscal year.

- (D) **4/10 Assignment** - Employees on a forty (40) hour assignment are eligible to participate in the “Alternative 4/10 work schedule”, subject to approval of the Fire Chief.
- (E) **Assignment Allotment** - For the term of the alternative 9/80 and 4/10 work schedule, suppression personnel temporarily assigned to a forty hour workweek shall be entitled up to an additional 14 hours of vacation during the calendar year for temporary assignment. The additional hours will be pro-rated (i.e., not eligible for hours on holidays already passed), and may be rescinded if unused upon return to a 56 hr schedule.
- (F) **Permanent Employees** - shall be entitled up to 26 hours of allotment time during the calendar year to offset holiday time off requirements. This time will be pro-rated based on assignment, 9/80 or 4/10 workweeks.

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## ARTICLE 3 – UNIFORM ALLOWANCE

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Safety equipment prescribed by OSHA or the City, including turnouts, rubber boots, gloves, helmets, leather boots and pants, will be provided by the City.

In addition, the City will provide \$750 annually for each employee covered by this agreement to be applied toward the purchase and maintenance of the shirt, belt, utility jacket and non-safety trousers prescribed by department. The uniform allowance will be included in the first full pay period in July as part of the applicable payroll check. Uniform allowance shall be reported to CalPERS periodically as earned.

All safety equipment prescribed by OSHA and the City provided pursuant to this article will be considered property of the City and may not be worn by the employee while off-duty, except for travel to and from work.

In addition to the above, the City shall provide each newly hired employee an additional \$200 to assist them in making an initial purchase of required uniforms.

Upon successful completion of probation the City will provide each employee one “Class A” dress uniform, consisting of the following:

- Jacket
- One pair of pants
- Shirt
- Shoes
- Tie
- Hat
- Collar device
- Badge holder
- Belt
- Applicable piping

Employees on probation may purchase a “Class A” uniform from the City’s supplier. Upon successful completion of probation, the permanent employee will be eligible for reimbursement, up to the City’s cost for “Class A” uniforms. The monetary value of Class A uniforms is \$857.00 as of January, 2019. The City acknowledges this cost may rise in the future. Reimbursement and the reported amount of reimbursement will be for the actual cost of the uniform.

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## ARTICLE 4 – ACTING ASSIGNMENTS

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### Section 1

Employees may be temporarily assigned to a higher classification when temporary vacancies caused by factors including but not limited to illness, vacations and separations prohibit the department from achieving the staffing levels prescribed under Article 26, Company-Level Staffing.

In such cases of absences, the department shall make reasonable effort to find and utilize department personnel of the same rank. When personnel of the same rank are unavailable or such use is impractical as determined by the department director, acting appointments may be made as allowed under Civil Service Rule 407.5. When vacancies are the result of employee separation, the department will make every effort to backfill the position as quickly as possible and in a manner consistent with City Policy and Civil Service Rules.

### Section 2      Eligibility

Fire Department personnel may be eligible to assume acting assignments under the following conditions:

1. The employee is on an active eligible list promulgated by the Human Resources Department for the classification to be filled.
2. In the absence of an active eligible list:
  - a) The employee was on the most recently expired eligible list for the classification to be filled.
  - b) The individual has been certified by the department as meeting requirements of the position to be filled.

### Section 3      Compensation

1. Acting assignments shall be compensated at a rate of 5% above the base salary of the employee assuming the acting assignment.
2. Acting assignments continuing beyond six months, calculated cumulatively in a fiscal year, shall be compensated at 10% above base pay effective at six months and one day for the remaining duration of any acting assignment within that fiscal year.
3. Compensation for acting assignments shall reset to 5% above the base salary of the employee assuming acting assignment after the start of new fiscal year (any employee in an active acting assignment that continues into the new fiscal year shall not be reset to 5% until there is a break in acting exceeding 30 days).
4. An employee assuming an acting assignment of two classifications or higher, shall be compensated at 10% above base pay, or one step above the employee's current pay step, whichever is greater, for the duration of the acting assignment.

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## ARTICLE 5 – HOLIDAYS

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### Section 1

Eligible suppression personnel temporarily assigned to a forty (40) hour work week shall be entitled to the following fixed holidays with pay if they occur during such assignment:

1. New Year's Day
2. Easter Sunday
3. Memorial Day
4. Independence Day
5. Labor Day
6. Thanksgiving Day
7. Christmas Day

Personnel permanently assigned to a 40 hour/week shall be entitled to the same fixed holidays with pay as Fire Management personnel.

1. New Year's Day - January 1<sup>st</sup>
2. Martin Luther King - 3<sup>rd</sup> Monday in January
3. Cesar Chavez Birthday - March 31<sup>st</sup>
4. Memorial Day - Last Monday in May
5. Independence Day - July 4<sup>th</sup>
6. Labor Day - 1<sup>st</sup> Monday in September
7. Thanksgiving Day - 4<sup>th</sup> Thursday in November
8. Day after Thanksgiving
9. Christmas Eve Day - December 24<sup>th</sup>
10. Christmas Day - December 25<sup>th</sup>

Also each employee permanently assigned to 40 hour/week shall be credited with four (4) floating holidays at the start of each fiscal year and pro-rated according to date of hire for new employees.

1. Lincoln's Birthday - February
2. Washington's Birthday - 3<sup>rd</sup> Monday in February
3. Columbus Day - 2<sup>nd</sup> Monday in October
4. Veterans' Day - November 11<sup>th</sup>

### Section 2 Appointed and Religious Holidays

With Council approval, every day appointed by the President of the United States or by the Governor of California for a Public fast, thanksgiving or holiday, with the exception of Good Friday, shall be honored as an additional Holiday. Employees may request time off to attend religious or other religious activities on Good Friday or on other recognized religious holidays during the year; such time off shall be charged to the employees' annually accumulated leave or compensating time off. If the employee has no accumulated annual leave or compensating time off, such time off shall be without pay.

### Section 3 Holidays Occurring On Normal Work Day, During Sick Leave or Annual Leave or On a Weekend - 40 Hour/Week Assignment

In the event an employee is required to work on a holiday, which holiday falls on the employee's regular day off, hourly compensation shall be based on the overtime rate. If a holiday falls on the employee's regular day off and the employee is not required to work such employee shall be granted equivalent compensatory time off as approved by the department head.

When an employee is absent on annual leave, sick leave or compensating time off, a holiday immediately preceding, immediately following or wholly within such leave period shall be recorded as holiday and not as a day of leave.

If a holiday falls on Saturday, the preceding Friday will be observed as a holiday. If the holiday falls on Sunday, the next following Monday will be observed as a holiday.

#### **Section 4 Fire Suppression Holiday Work Schedule**

The normal workday on holidays for employees assigned to Suppression (56-hour week) shall consist of daily morning routine, answering emergency calls and the performance of assigned supervisory duties. For purposes of this section, the following days shall be modified workdays:

1. New Year's Day – January 1<sup>st</sup>
2. Memorial Day – 4<sup>th</sup> Monday in May
3. Easter Sunday
4. Independence Day – July 4<sup>th</sup>
5. Labor Day – 1<sup>st</sup> Monday in September
6. Thanksgiving Day – 4<sup>th</sup> Thursday in November
7. Christmas Day – December 25<sup>th</sup>

The Fire Chief shall designate that the holiday work schedule be followed on days appointed by the President of the United States or by the Governor of California for a public fast, thanksgiving or holiday and approved by Council.

The provisions of the other sections of this article do not apply to observance of the Fire Suppression holiday work schedule.

#### **Section 5**

In lieu of holiday time off, represented employees shall receive 11.1 hours of base salary for each 28 day work period.

#### **Section 6**

Forty (40) hour employees on a 40 hour schedule shall accrue vacation as per Article 7 of the MOU.

Employees working a 9/80 schedule are entitled to one (1) additional hour of vacation to be utilized and reported on each holiday taken.

Employees working a 4/10 schedule are entitled to two (2) additional hours of vacation to be utilized and reported on each holiday taken.

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## ARTICLE 6 – LEAVE ELIGIBILITY AND PROCEDURE

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### **Section 1      Leave Categories**

Eligible employees shall be entitled to holidays and annual vacation, and shall be allowed sick, injury, emergency and Family Care Leave of absences as provided in this MOU. (See Article 9)

### **Section 2      Request for Leave**

All requests for leaves of absence, whether with or without pay, shall be submitted in advance and consistent with current Department policy and practice, and, except as provided in the case of Compulsory Leave, Court Leave and Special Meetings, must meet the approval of the appointing authority.

### **Section 3      Leave Approval**

Except in the case of sick, emergency or military leave, the time during which any leave of absence shall be taken by an employee shall be designated by the appointing authority, and the request for such leave, shall be entered into Telestaff.

### **Section 4      Leave of Absence - Commencement and Termination**

Each leave of absence shall be granted for a specific period of time and a specific cause, and if such cause shall cease to exist prior to the expiration of the period for which the leave is granted, such leave shall thereafter be invalid.

### **Section 5      Leave of Absence - Failure to Report**

Leaves of absence shall be indicated on the Telestaff roster and submitted to the Director of Finance for checking and certification. Failure of an employee to report at the expiration of leave shall separate the employee from City service and shall be considered, in effect a resignation; provided, however, an appointing authority may cancel such separation if circumstances warrant such cancellation (as determined by the appointing authority).

### **Section 6**

Leaves of absence must contain a time for termination of the leave and the reason for granting the leave. A copy of a written order granting a leave of absence must be filed with the appointing authority and the Personnel Department. No post-dated leave of any kind may be granted to any employee in the classified service.

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## ARTICLE 7 – ANNUAL VACATION LEAVE

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### Section 1

All employees shall be entitled to annual vacation leave with pay.

### Section 2 Accrual Rates

All personnel shall be governed by the following vacation accrual rates per pay periods of service:

Pay Cycles	Fire Suppression Personnel	40-Hour Assignment TEMPORARY	40-Hour Assignment PERMANENT
0 - 130 pay cycles	5.54 hrs. p/pay cycle	3.96 hrs. p/pay cycle	3.08 hrs. p/pay cycle
131 - 390 pay cycles	7.39 hrs. p/ pay cycle	5.28 hrs. p/pay cycle	4.62 hrs. p/pay cycle
390+ pay cycles	9.24 hrs. p/ pay cycle	6.6 hrs. p/pay cycle	6.15 hrs. p/pay cycle

In addition, persons employed on July 1, 2020 shall receive a 1-time contribution of 24 hours to their vacation accrual bank.

### Section 3 Vacation Usage

Vacation schedules shall be arranged by the department head with particular regard to the needs of the City, and as far as possible, with the wishes of the employee.

1. Vacation authorized by the department director or designee shall not be deemed payable until the employee's eligibility is verified by the Finance Department.
2. Each employee may use any accrued vacation in accordance with the Department's Standard Operating Procedures Manual.
3. An eligible employee may take earned vacation in any increment of four (4) hours or more with the approval of the department head or his/her designee.

### Section 4 Maximum Vacation Accumulation

An eligible employee may accumulate vacation to a maximum of 3.0 times an employee's annual accrual. Vacation accrual will discontinue upon reaching the maximum until the employee reduces vacation accumulation. The maximum allowable accruals are as follows:

432 hours for all 56-hour safety employees with less than five (5) year's service.  
309 hours for permanent 40-hour safety employees with less than five (5) year's service.

576 hours for all 56-hour safety employees with five (5) to fifteen (15) year's service.  
412 hours for permanent 40-hour safety employees with five (5) to fifteen (15) year's service.

721 hours for all 56-hour safety employees with fifteen (15) plus year's service.  
515 hours for permanent 40-hour safety employees with fifteen (15) plus year's service.

## Section 5 Vacation Selection and Coverage

Vacation selection and coverage shall be as provided in accordance with current Departmental Policy 206 as written and effective July 1, 2015.

## Section 6 Terminal Vacation Leave

~~Upon termination of employment for any cause, an eligible employee shall be entitled to elect to either receive as a contribution to the Southern California Firefighters Benefit Trust's Post-Retirement Medical Benefit Trust (PRMBT) (Article 33) or to the employee's deferred compensation account (Article 30), and shall receive that transfer to the PRMBT or deferred compensation account, base salary in lieu for on a pre-tax basis, the value of the employee's accrued vacation leave hours calculated at the employee's annual average rate of base hourly rate. number of accumulated vacation hours credited to the employee's account under the provisions of this section. All vacation granted upon completion of an employee's last day of work shall be a lump sum payment termed "terminal vacation pay" and shall be paid at their annual average rate of base salary. Employees shall not have the option to receive, or any other right to, cash payment for their accrued vacation at time of separation from employment. If an employee fails to notify the City's Finance Department of the employee's election of either the PRMBT or the employee's deferred compensation account, the employee's terminal vacation leave shall be contributed/transferred to the PRMBT.~~

~~Upon termination of employment for any cause, an eligible employee shall be entitled to base salary in lieu for the number of accumulated vacation hours credited to the employee's account under the provisions of this section. All vacation granted upon completion of an employee's last day of work shall be a lump sum payment termed "terminal vacation pay" and shall be paid at their annual average rate of base salary.~~

## Section 7

~~An employee shall have the right once each calendar year prior to November 15th, to request in writing to the Finance Department to have a designated number of the employee's accrued vacation leave hours transferred/contributed on a pre-tax basis to the PRMBT (Article 33) or the employee's deferred compensation account (Article 30). Employees shall not have the option to receive, or any other right to, cash payment for their accrued vacation during employment under this Section.~~

~~Upon notice of opportunity from the Fire Chief, requests to sellback accrued vacation may be submitted for approval by the Fire Chief.~~

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## ARTICLE 8 – MILITARY LEAVE

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In addition to the leaves of absence provided in this Article, City officers or employees who are also members of the armed services or militia or organized reserves of this State or National shall be entitled to the leaves of absence and the employment rights and privileges provided by the Military and Veterans' Code of the State of California.

1. The term "military service" as used herein shall signify service on active duty with any branch of service above mentioned, as well as training or education under the supervision of the United States preliminary to induction into the military service.
2. The terms "active service" or "active duty" shall include the period during which such officer or employee while in military service is absent from duty on account of sickness, wounds, leave or other lawful cause.
3. No employee serving under a permanent appointment in the Classified Service shall be subjected by any person directly or indirectly by reason of his absence on military leave to any loss or diminution of vacation, holiday, insurance, pension, retirement or other privilege or benefit now offered or conferred by law, or be prejudiced by reason of such leave with reference to promotion, continuance in office or employment, re-appointment or re-employment.
4. When military leave is granted to an employee in the Classified Service pursuant to this section, the position held by such employee shall be filled temporarily only during the employee's absence, except in the event of the employee's death while on leave, and said employee shall be entitled to be restored to such position, or to a position of like seniority, status and pay, upon return from such leave, provided the employee is still mentally and physically qualified to perform the duties of such position, and provided said employee makes application for re-employment within ninety (90) days after being relieved from such military service.
5. During absence on military leave, any employee in the Classified Service who has been employed continuously by the City for a period of not less than one (1) year prior to the date upon which such absence begins, shall receive his regular salary for a period not to exceed thirty (30) calendar days in any one fiscal year.

All services of said employee in the recognized military service shall be counted as employment with the City.

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## ARTICLE 9 – FAMILY CARE LEAVE

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Refer to Citywide Council Policy on Family Leave Policy.

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## ARTICLE 10 – COURT LEAVE

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An employee who is required by subpoena or court order to serve as a juror, or as a witness who is not a party to a court action, shall be granted leave for such purpose upon presentation of proof of said employee's required attendance to the appointing authority and the Personnel Director. The employee shall receive full pay for the time served on court duty during scheduled working hours, provided the money received as a juror or witness on regular duty days is deposited with the Finance Department for credit to the proper fund. Employees shall be reimbursed for witness fees for all incidental expenses incurred, including parking, pursuant to such appearance while on regular duty days. It is the employee's responsibility to notify the department operations officer no later than the beginning of the next work shift that he has received a summons for jury duty or subpoena.

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## ARTICLE 11 – SICK LEAVE WITH PAY

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The intent of this Article is to provide a continuity of full salary to those employees who are unable, because of illness or injury, to perform the duties of their positions or who would expose fellow workers or the public to contagious disease and are thereby forced to be absent from employment, and to provide necessary time off from work for unexpected medical and dental care, subject administrative regulations designed to prevent malingering or abuse of these privileges.

### Section 1 Sick Leave Definition

Sick leave is the necessary absence from duty of an employee because of:

- A. Diagnosis, care, or treatment of the employee’s existing health condition or preventive care for an employee; or
- B. The serious disability of the employee while on a scheduled vacation.
- C. The absence of an employee for authorized medical or dental care.
- D. Diagnosis, care, or treatment of an existing health condition of, or preventive care for an employee’s family member. For the purposes of using sick leave under this policy only, “family member” shall mean an employee’s parent, child, spouse, registered domestic partner, parent-in-law, sibling, grandchild or grandparent. The care of a family member meeting the requirements of Federal Family Medical Leave Act or California Family Rights Act.
- E. The death of an immediate family member.

In addition, an employee who is a victim of domestic violence, sexual assault, or stalking may use accrued paid sick leave under this policy for the following reasons:

- 1. To obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or the victim’s child;
- 2. To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking;
- 3. To obtain services from a domestic violence shelter, program, or rape crisis center;
- 4. To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking;
- 5. To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

## **Section 2 Sick Leave Earning and Accumulation**

1. 56-hour Fire Suppression personnel of the Fire Department shall earn 5.54 hours of sick leave for each full pay cycle of employment. Permanent 40-hour employees shall earn 3.69 hours of sick leave per pay cycle.
2. **Accumulated Sick Leave:** Each permanent or probationary 56-hour employee covered by this Memorandum shall be eligible to accumulate sick leave up to a maximum of 1,200 hours, (herein called "accumulative sick leave"). Sick leave accrual will be credited on the last day of each pay period up to the 1,200-hour maximum limitation. Permanent 40-hour employees may accumulate up to 857 hours.
3. Upon reaching the maximum accumulated sick leave (1,200 hours), accrual will discontinue and will resume only after the employee's balance falls below 1,200 hours. Accrual will resume on the last day of the pay period in which the employee's balance falls below the 1,200-hour level. Said accrual will occur at the established rate as defined in paragraph (1) above.

## **Section 3 Sick Leave Usage**

Employees using sick leave pursuant to this Article for non-work related illness or injury which has a sixty (60) consecutive day duration shall, upon the sixty-first (61<sup>st</sup>) consecutive day of illness, utilize provisions of Article 20 herein, Long Term Disability Insurance.

## **Section 4 Limitation on Time Chargeable to Sick Leave**

1. No person shall be entitled to sick leave with pay while absent from duty on account of any of the following causes:
  - a) Disability arising from any sickness or injury purposely self-inflicted or caused by any willful misconduct.
  - b) Sickness or disability sustained while on leave of absence other than his/her regular vacation.
  - c) No paid sick leave shall be granted in excess of the employee's sick leave credit.
  - d) An employee may be granted sick leave with pay only for injury, illness or exposure to contagious disease that incapacitates the employee for work.
2. Absence that is chargeable to sick leave in accordance with this shall be charged in an amount not smaller than one (1) hour for the first hour of absence; thereafter, in increments of not less than fifteen (15) minutes.

## **Section 5 Sick Leave Compensation**

1. In order to receive compensation while on sick leave, the employee must follow applicable Department staffing procedures.
2. Notification shall be made prior to or not later than the beginning of the work day/shift in the employee's respective department.

## **Section 5 Sick Leave Compensation (continued)**

3. The department head may waive the above requirements if, in his opinion, an emergency or other exceptional circumstances so warrants.
4. Computation of sick leave shall not include regular days off or holidays, provided these are not in conflict with the established schedule within each department.

## **Section 6 Physician's Statement Required**

1. When absence is for more than three (3) consecutive working days, the department head may require the employee to furnish a certificate or statement from a regular licensed and practicing physician, at the employee's own expense, whose license will be honored by the County Health Officer, indicating the nature and duration of the employee's incapacity, or other adequate evidence if the employee was not examined by a physician. The appointing authority may require evidence of incapacity in cases of short periods of absence.
2. The department head is responsible for sick leave during the first three days before the filing of a physician's certificate is required. This responsibility may be implemented by a visitation or any other reasonable method deemed necessary by the department head. Sick leave with pay shall be authorized by the department head subject to verification of the employee's eligibility by the Personnel Director.
3. When absence is for more than five (5) working days in a two (2) week period or there is in the judgment of the department head a questionable usage of sick leave over a number of pay periods, the department head may require the employee to submit to an examination at City expense by a physician designated or approved by the City Manager. The department head shall be entitled to a written report from the examining physician indicating the specific nature and duration of the employee's illness or incapacity.

## **Section 7 Separation from City Service**

All eligibility from sick leave with pay shall be canceled upon separation of the employee from City service, provided that if such separation is by lay-off, his accumulated eligibility may be restored to him in whole or in part by the Civil Service Commission upon re-employment.

## **Section 8 Illness during Vacation**

An employee who becomes incapacitated due to illness or injury while on paid vacation may substitute sick leave credits for vacation provided the employee's request for sick leave substitution is accompanied by a doctor's statement.

## **Section 9 Holidays during Sick Leave**

For 40-hour permanently and temporarily assigned employees, paid fixed holidays immediately preceding, immediately following or wholly within the period for which sick leave is granted shall not be regarded as part of such period of sick leave.

## **Section 10 Sick Leave Reporting for Payroll Purposes**

Reports of absences of employees must be made to the City Manager at the same time the department head files his payroll report. The department head who fails to report the absence of an employee from duty and thus enables the employee to receive pay in excess of the amount to which he is legally entitled shall be held liable for the amount illegally paid.

**Section 11 Evidence of Cause of Absence**

In all cases of absence because of sickness or injury of the employee or illness or death in the employee's family, the employee may be required to furnish to the appointing authority satisfactory evidence substantiating the facts justifying such leave. Failure to furnish such evidence upon request shall be sufficient reason for denying the leave of absence with pay.

**Section 12 Sick Leave Incentive Pay**

(A) **56 Hour Work Week** – ~~A s~~ Sworn members of the Fire Department working ~~on~~ a twenty-four (24) hour shift ~~schedule that uses~~~~basis using~~ forty-eight (48) hours of sick leave or fewer in any fiscal year ~~less~~ may elect to either receive as a transfer/contribution to the Southern California Firefighters Benefit Trust’s Post-Retirement Medical Trust (PRMBT) (Article 33) or the employee’s deferred compensation account (Article 30) on a pre-tax basis ~~convert~~ fifty percent (50%) of their ~~employee’s~~ remaining ~~annual yearly~~ sick leave accrual at the annual base salary. ~~Remaining annual yearly sick leave not contributed/transferred to the PRMBT or the employee’s deferred compensation account~~~~converted to pay~~ shall be carried over and accumulated for use when needed. Employees shall have no right to cash payments at any time under the sick leave incentive program.

Sick leave incentive program transfers/contributions~~Pay~~ shall be computed based on the following schedule and all computations shall be rounded to the nearest whole hour:

<b>Remaining Annual Sick Leave Accrual at End of Fiscal Year</b>	<b>Hours that may be <u>contributed/transferred to PRMBT or Deferred Compensation</u><del>converted</del> at annual base salary</b>
<b>56 HOUR WORK WEEK</b>	<b>56 HOUR WORK WEEK</b>
144 Hours	72 Hours
132 Hours	66 Hours
120 Hours	60 Hours
108 Hours	54 Hours
96 Hours	48 Hours
<u>Fewer</u> <del>Less</del> than 96 Hours	No Payoff

(B) **40 Hour Work Week** - Sworn members of the Fire Department working other than a twenty-four (24) hour shift schedule earn sick leave at the rate of 3.69 hours per full pay period of service. An employee~~Persons~~ in this work assignment that uses, using thirty-two (32) hours of sick leave or fewer~~less~~, during the fiscal year, may elect to either receive as a transfer/contribution to the PRMBT (Article 33) or the employee’s deferred compensation account (Article 30) on a pre-tax basis~~convert~~ fifty percent (50%) of the employee’s~~their~~ remaining ~~annual yearly~~ sick leave accrual at the employee’s annual base salary. Remaining yearly sick leave not ~~converted to pay~~ converted/transferred to the PRMBT or the employee’s deferred compensation account shall be carried over and accumulated for use when needed. Employee’s shall have no right to cash payments under the sick leave incentive program.

Sick leave incentive program transfers/contribution~~Pay~~ shall be computed based on the following schedule, and all computations shall be rounded to the nearest whole hour:

<b>Remaining Annual Sick Leave Accrual at End of Fiscal Year</b>	<b>Hours that may be <u>contributed/transferred to PRMBT or Deferred Compensation</u><del>converted</del> at annual base salary</b>
------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------

40 HOUR WORK WEEK	40 HOUR WORK WEEK
96 Hours	48 Hours
88 Hours	44 Hours
80 Hours	40 Hours
72 Hours	36 Hours
64 Hours	32 Hours
<u>Fewer</u> <del>Less</del> than 64 Hours	No Payoff

**Section 12 Sick Leave Incentive Pay (continued)**

- (C) Except as provided in (D) below, sick leave hours contributed/transferred to the PRMBT or deferred compensation under this Section ~~converted~~ shall be subtracted from the employee's ~~accumulative~~ sick leave balance. ~~The remaining sick leave hours shall be carried over accumulated per Section 2 (3) herein.~~
- (D) An employee who has the maximum accumulation of sick leave at the beginning of the previous fiscal year (July 1<sup>st</sup>) and who used no sick leave during the year, shall not have the amount of sick leave for which compensation is contributed/transferred to the PRMBT or deferred compensation~~received~~ under the sick leave incentive program deducted from the employee's ~~accumulative~~ yearly sick leave balance and shall remain at the maximum accumulation.
- (E) The City will ~~process~~make the full sick leave incentive contribution/transfer to the PRMBT or deferred compensation account at the time of payment in the paycheck ~~for~~ the first full pay period in August. ~~The amount of the contribution/transfer~~ Pay will be computed based on the employee's salary step on June 30 of the preceding fiscal year.
- (F) Contributions/transfers to the PRMBT or deferred compensation under this sick leave incentive program~~Payment~~ will be made to an employee hired during the fiscal year on a prorated basis provided the employee~~he~~ is on the payroll June 30. A p~~Permanent~~ employees who terminates or retires during the fiscal year will receive the contribution/transfer to the PRMBT or deferred compensation~~be compensated~~ on a prorated basis based on the employee's official ~~subject to their formal separation or retirement date.~~ If the employee fails to notify the City's Finance Department of the employee's election of either the PRMBT or the employee's deferred compensation account, the permanent employee's sick leave under this sick leave incentive program shall be contributed/transferred to the PRMBT.

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## ARTICLE 12 – COMPENSATION PLAN

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### Section 1 Salary Advancement

The Compensation Plan of the City of National City has the following Characteristics:

1. The salary range for Firefighter consists of seven (7) steps, “A” through “G”; the ranges for other classifications consist of five (5) steps each ("A" through "E").
2. The increase from one step to the next step on each range is as indicated in the Salary Schedule.

Salary advancement for each employee shall not be automatic, but shall depend upon the increased value of an employee to the City, as reflected by the recommendations of the employee's supervisor and department head, and all other pertinent evidence. The success of the Compensation Plan depends upon incentives that will encourage employees to put forth increasing efforts as they advance through the salary steps of the salary range.

### Section 2 Salary Steps

The steps of the range shall be interpreted and applied as follows: the second, third, fourth, fifth, sixth and seventh salary steps are merit and seniority adjustments to encourage an employee to continue to improve his work:

- (A) The first base salary step (as shown in the schedule for base salary) is the minimum rate and will normally be the hiring rate. Appointment may be made to other than the normal entering salary step upon the recommendation of the department head and upon the approval of the City Manager, when it is decided that such action is in the best interests of the City.
- (B) The second salary step: When 13 full pay cycles are completed after hire into a permanent position, the employee is eligible for consideration for this salary advancement. This salary advancement shall be made only after a satisfactory performance evaluation and the Fire Chief recommends the advancement subject to approval by the City Manager.
- (C) The third salary step: When 13 full pay cycles are completed at the 2<sup>nd</sup> step in a permanent position, the employee is eligible for consideration for this salary advancement. This salary advancement shall be made only after a satisfactory performance evaluation and the Fire Chief recommends the advancement subject to approval by the City Manager.
- (D) The fourth salary step: When 13 full pay cycles are completed at the 3<sup>rd</sup> step in a permanent position, the employee is eligible for consideration for this salary advancement. This salary advancement shall be made only after a satisfactory performance evaluation and the Fire Chief recommends the advancement subject to approval by the City Manager.

- (E) The fifth salary step: Twenty-six (26) full pay cycles of satisfactory service at the fourth step normally shall make an employee eligible for consideration of this advancement. This salary advancement shall be made only after satisfactory performance evaluation and if recommended by the department head subject to approval by the City Manager.
- (F) The sixth salary step: Twenty-six (26) full pay cycles of satisfactory service at the fifth step normally shall make an employee eligible for consideration of this advancement. This salary advancement shall be made only after satisfactory performance evaluation and if recommended by the department head subject to approval by the City Manager.
- (G) The seventh salary step: Twenty-six (26) full pay cycles of satisfactory service at the sixth step normally shall make an employee eligible for consideration of this advancement. This salary advancement shall be made only after satisfactory performance evaluation and if recommended by the department head subject to approval by the City Manager.

All rates shown, and conditions set forth herein, are in full payment for service rendered and are intended to cover full payment for the number of hours now regularly worked in each class. Each promotion shall carry with it advancement to the promotional step that is equal to but not less than 5% above the employee's current base rate of pay. Promotions may be made at a higher step with the concurrence of the department director, the City Manager and the Human Resources Director.

The provisions of this Article are based upon the schedules adopted by the City Council.

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## ARTICLE 13 – “Y” RATE

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Step "Y" of the salary range for any class is hereby defined as any rate of pay in excess of Step "E" of the range for the class. An employee shall be paid at Step "Y" solely under one of the following two (2) conditions:

1. Upon the reduction of the maximum salary rate for a class, an employee having other than provisional status who immediately prior to such time was paid at a higher rate for such class than the new maximum rate shall, in the absence of any contrary orders by the City Council for economy reasons, continue to be paid at the former rate.
2. Any employee who is reclassified from a class in which said employee has acquired permanent status to a class with a lower maximum rate of pay may, at the discretion of the City Manager, continue to receive the same rate of pay or may have said salary reduced.

In the event of an increase in the salary rate applicable to a class, regardless of the method by which such increase is accomplished, any employee who immediately prior thereto has been paid at Step "Y" shall receive no increase unless the increased salary for employees at Step "E" for the class exceeds the salary already being paid to said employee in which case the employee shall be paid at Step "E".

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## ARTICLE 14 – FORTY-HOUR ASSIGNMENT PAY

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Those employees classified as:

1. Firefighter (excluding new trainees in the fire academy); or
2. Fire Engineer; or
3. Fire Captain; or
4. Battalion Chief

And temporarily assigned to a forty (40) hour assignment, shall receive a ten percent (10%) pay differential for the duration of said assignment. The assignment pay is intended for Fire Department mission-related objectives and assignments; not to compensate light duty personnel for the loss of overtime pay. Employees in a modified duty status due to a work related injury may continue to work a 24-hour shift schedule and thus not receive 40-hour assignment differential pay if the Department concludes, in its discretion, the Department can accommodate the work restriction with the employee working a shift schedule.

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## ARTICLE 15 – REVISION OF THE COMPENSATION PLAN

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In the absence of any contrary orders by the City Council for reasons of economy, the following method shall be observed in determining the step at which each employee shall be paid beginning the effective date of a change of the maximum salary for said employees' class or position:

1. If the maximum salary is raised, the step at which the employee will be paid shall not be affected thereby.
2. If the maximum salary is lowered, the employee should be paid at the rate in the new range, which is the same as the rate to which he was paid in the former range. If the maximum rate of the new range is lower than the employee's salary in the former range the employee may, pursuant to Article 14, be paid at the "Y" rate.

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## ARTICLE 16 – OVERTIME

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1. The smallest unit of time credited as overtime shall be one-quarter hour.
2. Overtime worked that is less than one-quarter hour shall be rounded-off to the nearest quarter hour each pay period.
3. The City of National City has elected a 28-day work period for fire suppression employees under the 7K exemptions contained in the Fair Labor Standards Act to coincide with the City's regular pay periods. Effective with the first pay period after ratification and approval of this MOU by the City Council, time worked outside of an employee's regularly scheduled shift shall be compensated at an employee's overtime rate. Authorized paid leave (including but not limited to vacation leave, administrative, compensatory leave and sick leave) will be counted as time worked for purposes of calculating overtime.
4. Employees may be credited with compensating time for overtime worked, upon prior request of the employee and approval of the Fire Chief, up to a maximum of 480 hours. Time off shall be requested and must be approved at least seven (7) days prior to the requested date of absence.
5. An employee may use compensating time in advance of accruing it with the Fire Chief's approval, providing that any negative balance is owed to the City at separation or retirement.
6. The City may not force use of compensatory time off or vacation in order to avoid overtime payment.
7. The maximum consecutive hours worked by any employee shall be based on the follow criteria:
  - a) Strike team – as needed
  - b) For unplanned absences such as sick leave, 4850 and unexpected vacancies, time worked shall not exceed 96 hours consecutive except with prior approval of the Chief of the department
  - c) For known or planned absences such as shift exchanges or vacation relief, time worked shall not exceed more than 96 hours except with prior approval of the Chief of the department.

Authorization shall be received prior to working a greater than 96 hours consecutive period by the Chief of the Department or by his/her designee. The City and the FFA recognize that safety is of the utmost importance and mutually agree to put safety first, but also understand that staffing shortages may require forced holdovers in certain circumstances. Force holdovers shall not force represented employees to work beyond 72 hours except in extreme staffing shortages (i.e. strike teams, natural disasters, etc.)

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## ARTICLE 17 – LONGEVITY PAY

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In addition to other compensation paid for the services of employees, longevity pay for continuous and uninterrupted service shall be applied as follows: continued at same level for those employees receiving longevity pay as of June 30, 1984. No employees not receiving longevity pay as of that date will be eligible to receive it in the future; no employee currently receiving it will be eligible for increase in longevity pay.

Current levels of longevity pay are:

- (a) After five (5) years of continuous and uninterrupted service the sum of \$10.00 per month;
- (b) After ten (10) years of continuous and uninterrupted service the sum payment of \$15.00 per month;
- (c) After fifteen (15) years of continuous and uninterrupted service the sum payment of \$20.00 per month;
- (d) After twenty (20) years of continuous and uninterrupted service the sum payment of \$25.00 per month;
- (e) After twenty-five (25) years of continuous and uninterrupted service the sum payment \$30.00 per month, which shall be the maximum payable.

Vacations, sick leave, military leave and absence authorized by the Fire Chief of National City shall not be considered as interruption of service.

In the event an officer or employee ceases to be employed by National City for a reason other than military service or lay-off, all rights to longevity pay shall be forfeited and expire, and if said officer or employee is subsequently re-employed by the City, said employee or officer shall not be entitled to any longevity pay by reason of any prior employment.

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## ARTICLE 18 – EMPLOYEE AND DEPENDENT HEALTH & DENTAL INSURANCE

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### Section 1

As a benefit to full-time employees covered by this Memorandum of Understanding, the City will provide a group health insurance and a group dental insurance program. The benefits and limitations of the programs are to be designed cooperatively by the Employees' Association, the Insurance Carriers and the City. The Association and City agree to select and implement health insurance programs that meet the requirements of the Health Maintenance Act of 1973.

In the event the cost of insurances selected by the employee exceeds the contribution by the City, the employee must pay the excess amount.

### Section 2 Cash Back and Cash-in-Lieu

An employee must select coverage for health and dental insurance to be eligible for cash-in-lieu. If coverage selected costs less than the contribution by the City, the difference shall be paid to the employee in the form of money to a maximum of \$100/month. Effective the first full pay period following City Council approval of this 2018-2020 MOU, an employee that opts out of City health and attests to alternative family health coverage shall receive a taxable payment of \$150 per month. Effective the first full pay period in July 2019, an employee that opts out of City health and attests to alternative family health coverage shall receive a taxable payment of \$200 per month.

### Section 3 Medical & Dental Benefits

As of January 31, 2019, the City contributes the following amounts for health and dental benefits:

#### CITY'S CONTRIBUTION IF ELECT THE KAISER HIGH DEDUCTIBLE HEALTH PLAN (Kaiser HDHP)

Employee Only	\$457.56/month
Employee +1	\$736.80/month
Employee +2 or more	\$1,029.81/month

#### CITY'S CONTRIBUTION FOR ALL PLANS OTHER THAN KAISER HIGH DEDUCTIBLE HEALTH PLAN (Kaiser HDHP):

Employee Only	\$527.41/month
Employee +1	\$876.54/month
Employee +2 or more	\$1,227.43/month

Effective the first full pay period following City Council adoption of this 2018-2020 MOU, the City will contribute the same amount regardless of what health plan an employee chooses equal to the amounts contributed to the non-high deductible plans. Also, effective the first full pay period following City Council adoption of this 2018-2020 MOU, the City will contribute \$50 per month more than the City would be otherwise obligated to contribute under the cost sharing methodology described in the next paragraph. Effective the first full pay period in July 2019, the City will contribute an additional/further \$50/month.

Each health plan year (currently February through the following January), the City's new contribution obligation shall be the City's monthly contribution amounts from the prior health plan year plus 50% of any increase in the applicable Kaiser health plan rate and least costly dental rate.

During the term of this MOU, in the event that HealthNet withdraws or is eliminated as an insurer for the City under this provision and/or significant changes to coverage occur, immediately upon receipt of said notice and/or at its earliest opportunity, the City shall meet and confer with the Association on the issue of insurance benefits to adjust for such withdrawal/elimination of HealthNet. Options within this meet and confer to deal with the withdrawal/elimination of HealthNet include, but are not limited to, selection of an alternate insurance provider, increases in City contributions towards health care, opt out options for employees with proof of alternate insurance together with an opt out contribution, etc.

#### **Section 4      Retiree Health Benefit**

Employees covered by this MOU, who retire from the City of National City with at least 20 full years of service with the National City Fire Department, shall receive a monthly contribution towards their medical premium as follows:

- a. For employees who retire after July 1, 2002 and before July 1, 2011: \$5/month for each year of service with National City Fire Department.
- b. For employees who retire on or between July 1, 2011 and June 30, 2014: \$10/month for each year of service with National City Fire Department.
- c. For employees who retire on or after July 1, 2014: \$20/month for each year of service with National City Fire Department.

This contribution shall continue until reaching age 65. A qualifying retiree may receive these contributions even if not enrolled in a City health plan, so long as the retiree annually provides the City with written proof (e.g. a copy of health insurance invoice and payment) that the retiree is using the contributions to pay for health premiums and understands that the retiree is solely responsible for any taxes that might be due as a result of the City's contributions.

Terminal vacation pay and/or sick leave payment upon retirement or PERS adding unused sick leave accruals toward retirement credit shall not be included in the calculation of 20 full years of service. If the City increases this benefit for the Police Officers' Association, that increase shall also apply to the Firefighters' Association, but not to former members of the FFA already retired at the time the increase is made, unless the increase for the POA applies to its former members already retired at the time the increase is implemented.

Retirees eligible for this benefit are responsible for paying the Health Insurance Premium and the City will forward this benefit amount on a monthly basis directly to the Retiree. This benefit will be canceled upon non-payment of premium or otherwise becoming ineligible. The Retiree is also responsible for notification to the City of address change and health coverage from another source.

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## ARTICLE 19 – EMPLOYEE LIFE INSURANCE

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As a benefit to full-time employees covered by this Memorandum of Understanding, the City will provide a group life insurance program. The benefits and limitations of the Life Insurance Program are to be designed cooperatively by the Employees' Association, Insurance Carrier and the City. The City will provide \$50,000 Life Insurance with Accidental Death and Dismemberment as a City paid benefit. In the event the cost of providing Employee Life Insurance exceeds the established City contribution, employee must pay the excess amount.

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## ARTICLE 20 – LONG TERM DISABILITY INSURANCE

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It is the intent of this article to provide an income protection plan to firefighter employees who are unable to work because of non-work related injury, illness or disability.

- (A) The Firefighters' Association, at its option, may change insurance carriers and/or plan benefits for its group Long Term Disability (LTD) Program no more than once in any twelve (12) month period upon proper notice to the City's Labor Relations Representative.
- (B) The City shall pay \$33.90 per month to each represented firefighter employee in the form of a taxable pay type and shall deduct the monthly premium and pay the insurance carrier directly. Any excess of City contribution over the premium cost shall be available to the employee as cash-in-lieu.
- (C) The City shall continue to make health, dental and life insurance contributions to represented employees in accordance with Article 18 and 19 of this MOU for the duration of the disability or twelve (12) consecutive months whichever is less, unless this benefit is extended by the Fire Chief and the City Manager.
- (D) The disabled employee shall use accumulated sick leave during the waiting period for the benefit to be effective and thereafter on leave without pay status. The City shall be notified as to the effective date of benefit by the responsible party.

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## ARTICLE 21 – PUBLIC EMPLOYEES’ RETIREMENT SYSTEM

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This article has been updated as of January, 2016 with the intent of accurately describing the tiered retire system and the optional retirement benefits available to represented employees. It is not intended to add, delete or otherwise modify benefits previously mutually agreed to by the City and NCCFA.

### **Section 1 City’s Contract with CalPERS**

Consistent with the Government Code of the State of California, employees are local safety members of the Public Employees' Retirement System and are entitled to retirement benefits as indicated in the contract between the Board of Administration of California Public Employees Retirement System (CalPERS) and the City Council and in accordance with the Public Employees’ Retirement Law and related regulations.

### **Section 2 Retirement Benefits**

(A) Tier One: 3.0% at 50 Retirement Plan – Unit Members Hired On or Before July 1, 2011

This subsection A (including subsections) shall apply to bargaining unit members hired on or before July 1, 2011.

1. 3.0% at 50 Retirement Plan

The 3.0% at 50 retirement plan will be available to eligible bargaining unit members covered by subsection A.

2. Required Unit Member Contribution

Each unit member shall pay the full member contribution to CalPERS equal to nine percent (9%) of the compensation paid to the member for service rendered. Effective the first full pay period in July 2018, each unit employee shall contribute 1.0% toward the employer PERS rate for a total of 10.0% overall contributed toward their pensions. Effective the first full pay period in July 2019, each unit employee shall contribute an additional 2.0% for a total of 3.0% toward the employer PERS rate, and a total of 12.0% overall contributed toward their pensions. These payments of the 1% and 2% herein shall be in accordance with California Government Code section 20516 (f). In addition, the payments shall be made on a pre-tax basis pursuant to IRS code section 414 (h) (2).

3. Final Compensation

For the purposes of determining a retirement benefit, final compensation for bargaining unit members covered by subsection A shall mean the highest twelve (12) consecutive month period.

(B) Tier Two: 3.0% at 55 Retirement Plan – Unit Members Hired After July 1, 2011 But Before January 1, 2013, and Classic Members as Determined by CalPERS

This subsection B (including its subsections) shall apply to bargaining unit members hired after July 1, 2011 but before January 1, 2013. In addition, this subsection B (including its subsections) shall apply to bargaining unit members hired on or after January 1, 2013, who are qualified for pension reciprocity as stated in Government Code Section 7522.02(c) and related CalPERS reciprocity requirements (“Classic Members”).

1. 3.0% at 55 Retirement Plan

The 3.0% at 55 retirement plan will be available to eligible bargaining unit members covered by subsection B.

2. Required Unit Member Contribution

Each unit member shall pay the full member contribution to CalPERS equal to nine percent (9%) of the compensation paid the member for service rendered. Effective the first full pay period in July 2018, each unit employee shall contribute 1.0% toward the employer PERS rate for a total of 10.0% overall contributed toward their pensions. Effective the first full pay period in July 2019, each unit employee shall contribute an additional 2.0% for a total of 3.0% toward the employer PERS rate, and a total of 12.0% overall contributed toward their pensions. These payments of the 1% and 2% herein shall be in accordance with California Government Code section 20516 (f). In addition, the payments shall be made on a pre-tax basis pursuant to IRS code section 414 (h) (2).

3. Final Compensation

For the purposes of determining a retirement benefit, final compensation for bargaining unit members covered by subsection B shall mean the highest twelve (12) consecutive month period.

(C) Tier Three: 2.7% at 57 Retirement Plan - Unit Members Hired On or After January 1, 2013

This subsection C (including its subsections) shall apply to bargaining unit members who were hired on or after January 1, 2013, and who do not qualify for pension reciprocity as stated in Government Code Section 7522.02(c).

1. 2.7% at 57 Retirement Plan

As required by Government Code Section 7522.25, the 2.7% at 57 retirement plan will be available to eligible bargaining unit members covered by subsection C.

2. Required Unit Member Contribution

As required by Government Code Section 7522.30, bargaining unit members covered by subsection C shall pay, through payroll deductions, fifty percent (50%) of normal costs.

3. Final Compensation

As required by Government Code Section 7522.32, for the purposes of determining a retirement benefit, final compensation for bargaining unit members covered by subsection C shall mean the highest annual average pensionable compensation earned during thirty-six (36) consecutive months of service.

### **Section 3      Optional Retirement Benefits**

The City shall provide bargaining unit members with those optional benefits which it has elected to provide in its contract with CalPERS and in accordance with the Public Employees Retirement Law.

The list of optional benefits, as provided in the City's Safety Plan Annual Valuation Report prepared by CalPERS, and as stated in the City's contract with CalPERS is provided as an attachment. Some or all of the listed benefits may not be available to Tier Three members.

The above provision is subject to the terms and conditions of the City's contract with CalPERS, and any applicable local, state or federal law.

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## ARTICLE 22 – SALARIES

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### Section 1 Total Compensation

The City of National City strives whenever fiscally prudent to provide fire suppression personnel with total compensation comparable to the average of the 18 City Fire Departments in the County of San Diego.

Total compensation surveys for bargaining unit members shall be performed according to the following criteria:

- (A) Benchmark classifications for the total compensation survey shall be: Firefighter; Engineer; Captain; and Battalion Chief.
- (B) Agencies to be surveyed for determining total compensation shall be: Carlsbad; Chula Vista; Coronado; Del Mar; El Cajon; Encinitas; Escondido; Imperial Beach; La Mesa; Lemon Grove; National City; Oceanside; Poway; San Diego; San Marcos; Santee; Solana Beach; and Vista.
- (C) Compensation items to be surveyed and included for each classification shall be: Employee Salary (top step); Medical contributions; Uniform Pay; Retirement contribution (EPMC paid by employer); Education Incentive; Paramedic Pay (for Firefighter classification only); and EMT Pay (for the Fire Captain, Engineer, and Battalion Chief classifications only).

### Section 2 Salary Increases

~~There will be no wage increase during the term of this 7/20 – 12/21 MOU. Effective the first full pay period in July 2018, all employees shall receive a 3.0% wage increase. Effective the first full pay period in July 2019, all employees shall receive a further 3.0% wage increase.~~

The language set forth in the remainder of Section 2 below describes the process the City and FFA agreed upon to determine salary increases in 2015, 2016 and 2017. That language is retained below as a historical record of the methodology used in those three years but, as described in the prior paragraph, is not being used to determine salary adjustments during this 2018-2020 MOU.

Year 1 (2015)

At the City's expense, the City will conduct and complete a total compensation survey of all bargaining unit classifications, according to the criteria for conducting total compensation surveys stated in Section 1, above. The total compensation survey shall be based on compensation data from comparable agencies in effect on December 1, 2015. Comparable agency compensation adjustments approved which are implemented after December 1, 2015 shall not be considered in the survey. The City will give NCCFFA the opportunity to verify the underlying data used in the compensation survey before the survey is finalized. After the total compensation survey is completed and the results of the survey are provided to NCCFFA, the parties will meet to mutually agree no later than January 11, 2016 on the single subject of implementing the results of the total compensation survey and will consider the following factors, including but not limited to:

- Determine the appropriate wage increases for NCCFFA classifications which are below average market
- Recruitment and retention challenges of any particular classifications(s)

- The extent the classification is below market average

The total amount of funds available for compensation increases for below market bargaining unit classifications will be equal to 4% of base salary for all employees represented by NCFFA and the total amount available shall be used in its entirety for increases to base salary for below market bargaining unit classifications. Any increases shall be effective the first full pay period following Council approval of this MOU or the first full pay period of December 2015 whichever is earlier.

#### Year 2 (2016)

At the City's expense, the City will conduct and complete a total compensation survey of all bargaining unit classifications, according to the criteria for conducting total compensation surveys stated in Section 1, above. The total compensation survey shall be based on compensation data of comparable agencies in effect on July 1, 2016. Comparable agency compensation adjustments approved after July 1, 2016 but retroactive to or before July 1, 2016 shall not be considered in the survey. The City will give NCFFA the opportunity to verify the underlying data used in the compensation survey before the survey is finalized. After the total compensation survey is completed and the results of the survey are provided to NCFFA, the parties will meet to mutually agree no later than June 1, 2016 on the single subject of implementing the results of the total compensation survey and will consider the following factors, including but not limited to:

- Determine the appropriate wage increases for NCFFA classifications which are below average market
- Recruitment and retention challenges of any particular classifications(s)
- The extent the classification is below market average

The total amount of funds available for compensation increases for below market bargaining unit classifications will be equal to 4% of total compensation (Total compensation defined as: annual salary, bilingual pay, uniform pay, EMT pay, Paramedic Pay, Holiday Pay, Residency Pay, Workers Compensation, CalPERS, and Medicare effective July 2016) for all employees represented by NCFFA and the total amount available shall be used in its entirety for increases to base salaries for below market bargaining unit classifications. Any increases shall be effective the first full pay period in August 2016 or the first full pay period following reaching agreement, whichever is later.

#### Year 3 (2017)

At the City's expense, the City will conduct and complete a total compensation survey of all bargaining unit classifications, according to the criteria for conducting total compensation surveys stated in Section 1, above. The total compensation survey shall be based on compensation data from comparable agencies in effect on July 1, 2017. Comparable agency compensation adjustments approved which are implemented after July 1, 2017 shall not be considered in the survey. The City will give NCFFA the opportunity to verify the underlying data used in the compensation survey before the survey is finalized. After the total compensation survey is completed and the results of the survey are provided to NCFFA, the parties will meet to mutually agree no later than June 1, 2017 on the single subject of implementing the results of the total compensation survey and will consider the following factors, including but not limited to:

- Determine the appropriate wage increases for NCFFA classifications which are below average market
- Recruitment and retention challenges of any particular classifications(s)
- The extent the classification is below market average

The total amount of funds available for compensation increases for below market bargaining unit classifications will be equal to 3% of base salary for all employees represented by NCFFA and the total amount available shall be used in its entirety for increases to base salary for below market bargaining unit classifications. Any increases shall be effective the first full pay period in August 2017 or the first full pay period following reaching agreement, whichever is later.

### **Section 3      Bilingual Pay**

Those represented employees who can demonstrate competency in the Spanish or Tagalog languages as verified by the Personnel Department shall receive 2.0% incentive pay to the hourly base salaries. Effective the first full pay period following City Council approval of this 2018-2020 MOU, represented employees who can demonstrate competency in the Spanish or Tagalog languages as verified by the Human Resources Department shall receive 4.0% incentive pay to the hourly base salaries.

### **Section 4      Residency Incentive Pay**

Those represented employees who can show actual residency within the City limits of National City shall receive an additional 2% incentive pay to their hourly base salaries for as long as they remain residents of National City.

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## ARTICLE 23 – CALL BACK AND STANDBY/ON-CALL

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1. All employees covered by the terms of the Agreement who are called back to work from off-duty and arrive at station for duty shall be paid for not less than two (2) hours at one and one-half (1½) times the base salary rate. Immediate call back will receive one (1) additional hour of travel time.
2. Off-duty personnel may be required by the Fire Chief to remain on standby/on-call status and shall receive one-half (.5) hour of base salary for each four (4) hours of required standby time.

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## ARTICLE 24 – SHIFT EXCHANGES

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The City agrees that employees shall have the right to exchange, subject to prior approval of the Chief or his authorized designee, duty shifts when the changes do not interfere with the operation of the Fire Department. The Association agrees that shift exchanges shall in no way become subject to overtime pay.

1. The Chief's authorized designee may be one shift Captain from the requesting individual and one shift Captain from the receiving man involved in the shift exchange. The Chief may change his designee at any time.
2. Shift exchanges may be for a minimum of one (1) hour to a maximum of twenty-four (24) hours for any one request.
3. Refer to Article 16 Overtime for consecutive hours worked criteria.
4. Working in excess of twenty-four (24) hours will not be cause for denial.

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## ARTICLE 25 – TRAINING

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### Section 1 Training

EMT Training – The City agrees to provide all training and re-certification for represented employees to maintain County of San Diego EMT certification. EMT training will be provided on City time (during regularly scheduled work hours).

Fire Investigation Training – Up to \$500 annually will be provided to employees assigned to Fire Investigation for specialized training in fire investigation that is considered necessary by the Fire Marshal and approved by the Fire Chief.

### Section 2

The Educational Expenses Reimbursement Plan is available to employees who wish to improve their work performance through furthering their education. The plan provides reimbursement for up to \$2,000 per employee, per fiscal year with a maximum pool of training funds per fiscal year of \$20,000 for FFA represented employees, and is open to all employees who meet the following criteria:

- (A) Successful completion of probation.
- (B) A proposed course of instruction related to the employee’s employment with the City. The City Manager or his designee has the final authority on determining whether a course is job related. Request must be submitted in writing on appropriate department form according to established procedures.
- (C) The reimbursement may be used to cover the costs of tuition, registration, travel expenses and books.
- (D) If a letter grade is given, the course must be passed with a grade of “C” or better. If taken on pass/fail basis, employee must pass course(s) taken. If no grade or pass/fail is given, then reimbursement shall be given upon presentation of successful completion of training.
- (E) The employee must show written documentation of the expenditures being claimed for reimbursement.
- (F) While the general maximum reimbursement per employee per fiscal year is \$2,000 (see above), in the last month of the fiscal year, employees who have completed approved courses exceeding the \$2,000 per employee limit shall be eligible for additional reimbursement if the \$20,000 for that fiscal year has not all been used. Reimbursement payments beyond \$2,000 per employee shall be made in equal amounts to requesting employees, but may not exceed \$3,000 per employee for courses completed in that fiscal year.

Reimbursement under this Plan will be made upon completion of the above requirements and paid from the fund for the fiscal year in which the course is paid by the employee.

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## ARTICLE 26 – COMPANY-LEVEL STAFFING

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### Section 1

Each of the two (2) engine companies shall be staffed with a minimum of three (3) Personnel in the following manner: one (1) rated Fire Captain, one (1) rated Fire Engineer and one (1) rated Firefighter. Engine companies shall be staffed to perform engine company operations.

### Section 2

Each Truck Company shall be staffed with a minimum of four (4) Personnel in the following manner: one (1) rated Fire Captain, one (1) rated Fire Engineer and two (2) rated Firefighters, except as provided in Section 3 below. The Truck Company shall be staffed to perform truck company operations.

### Section 3

The City shall be obligated to staff each company with rated personnel at all times. Circumstances in which non-rated personnel are used shall be governed by Article 4, Out-of-Class Pay. Inability to provide rated personnel may be permitted in circumstances out of the Department's control, such as sick leave, special leave, off the job-incurred injury, or illness, on the job-incurred injury or illness or natural disasters.

### Section 4

In the event a Battalion Chief is on vacation, an attempt must be made to fill the vacancy with a rated Battalion Chief. In the event a Captain is on vacation, an attempt must be made to fill the vacancy with a rated Captain. In the event an Engineer is on vacation, an attempt must be made to fill the vacancy with a rated Engineer.

### Section 5

Refer to Overtime article 16 for consecutive hours worked criteria.

### Section 6

Minimum daily staffing shall be no less than thirteen (13) personnel comprised of two (2) engine companies, one (1) truck, one (1) Battalion Chief and either one (1) two-personnel squad or additional personnel to other equipment.

### Section 7

The City is committed to enhancing service levels and evaluating the impact of constant manning for the betterment of its residents and the NCCFA who serve them.

### Section 8

Each Command Vehicle will be staffed with one (1) rated fire Battalion Chief.

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## ARTICLE 27 – MANAGEMENT RIGHTS

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Except--and only to the extent--that specific provision of this Agreement expressly provides otherwise, it is hereby mutually agreed that the City has and will continue to retain, regardless of the frequency of exercise, rights to operate and manage its affairs in each and every respect. The rights reserved to the sole discretion of the City shall include, but not be limited to the right:

to determine the mission of its constituent departments, commissions, boards; set standards of service; determine the procedures and standards of selection for employment and promotions; direct its employees; establish and enforce dress standards; determine the methods and means to relieve its employees from duty because of lack of work or other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content and intent of job classifications; determine methods of financing; determine style and/or types of City-issued wearing apparel, equipment or technology to be used; determine and/or change the facilities, methods technology, means, organizational structure and size and composition of the work force and allocate and assign work by which the City operations are to be conducted; determine and change the number of locations, relocations and types of operations, processes and materials to be used in carrying out all City functions including the right to contract for or subcontract any work or operations of the City; to assign work to and schedule employees in accordance with requirements as determined by the City and to establish and change work schedules and assignments upon reasonable notice; establish and modify productivity and performance programs and standards; suspend, demote, reprimand, withhold salary increases and benefits, or otherwise discipline employees for legal cause; establish reasonable employee performance standards including, but not limited to, quality, and quantity; standards; and to require compliance therewith; take all necessary actions to carry out its mission in emergencies; and exercise control and discretion over its organization and the technology of performing its work.

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## ARTICLE 28 – EMPLOYEE GRIEVANCE PROCEDURE

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### Section 1 Purpose

The purpose and objectives of this Grievance Procedure of the City of National City are:

- (A) To promote improved employer-employee relations by establishing grievance procedures on matters within the scope of a Memorandum of Understanding between the City and a recognized employee association for which appeal or hearing is not provided by other regulations.
- (B) To assure fair and equitable treatment of all employees and promote harmonious relations among employees, supervisors and management.
- (C) To encourage the settlement of disagreements informally at the employee-supervisor level and provide an orderly procedure to handle grievances throughout the several supervisory levels where necessary.
- (D) To provide that appeals shall be conducted as informally as possible.
- (E) To resolve grievances as quickly as possible and correct, if possible, the cause of grievances, thereby reducing the number of grievances and future similar complaints.

This grievance procedure is applicable to all employees in positions within a bargaining unit represented by an employee association. This procedure does not supersede the grievance or other appeal procedures in the Civil Service Rules of the City.

### Section 2 Identification of Participants

For the purpose of this grievance procedure, the following definitions shall apply:

- (A) **Association**: The employee organization recognized by the City to represent employees in the grievant bargaining unit.
- (B) **City**: The City of National City.
- (C) **City Manager**: The City Manager or his designee.
- (D) **Department**: A major organizational unit of the City.
- (E) **Department Head or Head of a Department**: The chief executive officer of a department.
- (F) **Employee or City Employee**: A member of a bargaining unit either at the time of initiation of the grievance or within seven (7) calendar days prior to initiation of the grievance.
- (G) **Employee Representative**: An individual who appears on behalf of the employee.

- (H) **Grievance**: A complaint of an employee, or a group of employees or the Association on behalf of its membership as a whole, arising out of the application or interpretation of existing provisions of an MOU.
- (I) **Immediate Supervisor**: The individual who normally assigns reviews or directs the work of an employee.
- (J) **Management**: (1) Any employee having significant responsibilities for formulating and administering City policies and programs, including but not limited to the chief executive officer and department heads; (2), Any employee having authority to exercise independent judgment to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward or discipline other employees, or having the responsibility to direct them or to adjust their grievances, or effectively to recommend such action if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.
- (K) **Memorandum of Understanding (MOU)**: A written agreement between an employee organization and the City, which is a result of the meet and confer process.
- (L) **Director of Personnel**: The Director of Personnel or his designee.
- (M) **Second Level Supervisor**: The individual to whom an immediate supervisor normally reports.

### **Section 3      Scope of Grievance Procedure**

- (A) To be reviewable under this procedure, a grievance must:
  1. Concern matters or incidents that have occurred; and
  2. Result from an act or omission by management which is alleged to be a violation of a specific provision of a current Memorandum of Understanding; and
  3. Arise out of a specific situation, act or acts complained of as being unfair which result in specified inequity or damage to the employee(s).
- (B) A grievance is not reviewable under this procedure if either it is a matter which would require the modification of the MOU or a policy established by the City Council or by law. Also, a grievance is not reviewable under this procedure if it is reviewable under some other administrative or Civil Service procedure such as:
  1. Applications for changes in title, job classification or salary;
  2. Appeals from formal disciplinary proceedings;
  3. Appeals arising out of Civil Service examinations;
  4. Appeals from work performance evaluations.

- (C) A complaint may not be considered under this procedure if a grievance has been filed on the same matter under the Civil Service Grievance Procedure (Rule IX).

#### **Section 4 Special Provisions of the Grievance Procedure**

- (A) **Procedure for Presentation**: In presenting a grievance the employee shall follow the sequence and the procedure outlined in Section 5 of this Procedure.
- (B) **Prompt Presentation**: The employee shall discuss the grievance with the immediate supervisor promptly after the act or omission of management causing the grievance.
- (C) **Submittal of Grievance**: The written grievance shall be submitted on a form prescribed by the Director of Personnel for this purpose. At each level, the form must be completed fully, signed by the grievant and hand delivered or sent by U.S. mail to the designated reviewer's office with a copy being sent to the Personnel Office, also within the specified time limits.
- (D) **Statement of Grievance**: The grievance must contain a statement of:
1. The specific situation, act or acts complained of as being unfair; and
  2. The specific provision(s) of the MOU which has been violated; and
  3. The inequity or damage suffered by the employee; and
  4. The relief sought; and
  5. The representative of the grievant (if applicable).
- (E) **Employee Representative**: The employee may choose someone to provide representation at any step in the procedure. No person hearing a grievance need recognize more than one representative for any employee at any one time.
- (F) **Handled During Working Hours**: Whenever possible, grievance hearings and meetings with reviewers will be conducted during the regularly scheduled working hours of the parties involved.
- (G) **Extension of Time**: The time limit within which action must be taken or a decision made as specified in this procedure may be extended by mutual written consent of the parties involved. A statement of the duration of such extension of time must be signed by both parties involved at the step to be extended.
- (H) **Consolidation of Grievances**: If the grievance involves a group of employees or if a number of employees file separate grievances on the same matter, the grievances may be handled by management as a single grievance.

- (I) **Settlement**: A grievance shall be considered settled and not subject to further consideration or re-filing if any of the following conditions exist:
1. The grievant indicates in writing that the grievance is withdrawn.
  2. The specific remedy requested on the grievance form is granted.
  3. The grievant does not submit the grievance to the next higher level of review with the normal time limits or extended time limits obtained in writing by mutual agreement.
- (J) **Rejection**: A grievance may be rejected for consideration at any time during the grievance review process for any of the following reasons:
1. The grievant does not meet the definition of "employee" indicated in Section 2.
  2. The subject of the grievance is outside the scope of the procedure as indicated in Section 3.
  3. The grievant does not comply with any of the requirements of Sections 4 or 5.
- (K) **Representation**: The grievant may elect to be represented by the Association or any other person or to represent himself/herself. If the grievant elects to not be represented by the Association, the Association shall be given a copy of the grievance and its resolution.
- (L) **Deletion of Step(s)**: By mutual written consent of the department head and the grievant, any one or more of the first three (3) steps of the procedure may be omitted in consideration of a specific grievance when it is felt that this is in the best interests of an equitable and expeditious resolution of the grievance.
- (M) **Reprisals**: The grievance procedure is considered an integral part of the employee-employer relation policy of the City. As such, it is intended to assure a grievant and his/her representative the right to present the grievance without fear of disciplinary action or reprisal of any kind by his/her supervisor or other agents of the City provided he/she observes the provisions of the grievance procedure.

## Section 5      **Grievance Procedure Steps**

An employee submitting a grievance shall follow the following procedure:

- STEP I      **Immediate Supervisor**: The employee shall discuss the grievance with the immediate supervisor within 20 calendar days of the alleged act or omission of management causing the grievance. Within seven (7) calendar days the supervisor shall give a decision to the employee verbally.

STEP II      **Department Head:** If the employee and supervisor cannot reach an agreement as to a solution of the grievance or the employee has not received a decision within the time limit, the employee may within seven (7) calendar days present the grievance in writing to the department head. The department head shall hear the grievance and give a written decision to the employee within fourteen (14) calendar days.

STEP III      **Hearing:**

(a)      **Grievance to Director of Personnel:** If the grievant and the department head cannot reach an agreement as to a solution of the grievance or the employee has not receive a written decision within the time limit, the grievant may within fourteen (14) calendar days present the grievance in writing to the Director of Personnel.

(b)      **Selection of Board Members:** Subject to Section 6 of this Article, within seven (7) calendar days of receiving the grievance at this level, the Director of Personnel shall meet with the grievant and/or the grievant's representative to select two members of a grievance hearing board. The grievant and/or representative shall select one member; the Director of Personnel shall select another member.

The two board members shall select a third member to serve as Chairperson. The board members may be any persons who are not directly involved in the incidents of the grievance or in the line of supervision over the grievant either at the time of the hearing or at the time the incidents referred to in the grievance occurred. Any person nominated to be the chairperson shall be subject to disqualification and the action of the Board cancelled if it can be shown that he/she had direct interest in the resolution of the grievance.

(c)      **Hearing Procedures:**

1. The board members shall be given prior access to the grievance form, all written responses and all supportive material attached thereto.
2. The board shall provide written announcement of the location, date and time of the hearing to each side.
3. The hearing may be public or closed as requested by the grievant.
4. The manager who is the subject of the grievance shall be represented by the Director of Personnel or other person designated by him/her.
5. Each side shall have the opportunity to present written and oral evidence. Witnesses shall be under oath.
6. The board shall rule on the admissibility of evidence. Legal rules of evidence shall not apply.

7. Each side shall receive a copy of the written evidence and have the opportunity to question the witnesses of the other side.
8. The parties shall have the right to record hearings by audio recorders or, by mutual agreement, by court reporter.
9. The board members, if City employees, are entitled to carry out all activities connected with the hearing, including preparation for the hearing and preparation of report on City work time.
10. Consistent with the above requirements, the board may establish such additional procedures, as it deems necessary to carry out its responsibilities.

(d) **Board Report:**

1. The board shall submit a written report of its findings to the City Manager with copies to the grievant, the appropriate department head and the Director of Personnel.
2. The report shall contain only the following:
  - (a) Recommendation on each specific remedy requested on the grievance form.
  - (b) Findings of fact about the alleged violation(s) by management.
  - (c) The date, time and location of the hearing, the names of witnesses and a copy of all pertinent documents.
3. The board may recommend that no remedy be granted, that the remedy sought be granted or that an alternate remedy be granted. In order to grant some remedy to the grievant, it must be shown to the satisfaction of the board that such remedy is justified by a preponderance of evidence is consistent with the relevant MOU and the grievant met the requirements of the grievance procedure.
4. There shall be only one report from the board.
5. The discussions of the board members are confidential. All copies of materials and working papers of the board members shall be maintained by the Chairperson of the Board for 90 days after the decision of the City Manager is disseminated and then destroyed as soon as practical thereafter.
6. Necessary clerical support for the board shall be made available by the Office of the City Manager.

(e) **City Manager's Response:** The City Manager shall provide written response to both parties and the members of the board on the resolution of the grievance. If the City Manager disagrees with any recommendation of the Board, his written response shall indicate strong and compelling reason(s) for that disagreement. Basis for disagreement may be any one or more of the following:

1. The Board substantially deviated from the hearing procedures.
2. The recommendation is in excess of the remedy sought on the initial grievance submittal.
3. The recommendation is inconsistent with the MOU.
4. The recommendation is inconsistent with the facts as stated in the grievance form and/or the written information provided by the Board.

**The decision of the City Manager shall be final and not subject to further appeal except for such appeals to the Courts and State or Federal compliance agencies as provided by law.**

## **Section 6 Interpretation and Application**

The Director of Personnel is responsible for the interpretation and application of this grievance procedure. In the event of disagreement with the Director of Personnel's actions or interpretations, the final authority will be the City Manager. The City Manager's determinations on the application and interpretation of the grievance procedure are final and not subject to further appeal or grievance.

## **Section 7 Implementation**

If the City later grants binding arbitration as the final step for grievance resolution to the Police Officers' Association, that procedure shall be incorporated into this Article and applied to the members of the Firefighters' Association.

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## ARTICLE 29 – PARAMEDIC ASSESSMENT COMPANY

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### Section 1 Definition

A Paramedic Assessment Company consists of a fire apparatus with advanced life support capability (ALS) staffed by a Fire Captain, Fire Engineer and Firefighters. Paramedics (EMT-P) on the assessment company shall carry out duties as defined by the appropriate San Diego County and State of California Emergency Medical Services (EMS) agencies.

### Section 2 Funding

Costs of the Paramedic Assessment Company program are paid from reimbursements for services provided by the Fire Department to the City's Ambulance Transportation Services Program. Costs are to include licensing, continuing education, supplies, compensation and any other costs directly attributed to the program.

### Section 3 Components of the Program

- 1) Eligibility for Training: An employee must receive prior City approval to participate in the paramedic training and certification program, and the City retains sole discretion to approve or deny an employee's participation in paramedic training. Additionally, employees will be eligible for Paramedic training-only upon successful completion of their probationary period with the City of National City.
- 2) Lateral or new hires: Lateral or new hires with current Paramedic certification will be eligible for Paramedic duty after completion of department approved certification process with the City of National City.
- 3) Promotions: EMT-P licensing shall not be considered grounds to disqualify nor restrict employees from pursuing promotional opportunities within the Department.

Required length of service:

Employees entering the program agree to maintain their EMT-P status for a four year (4) period. After this four (4) year period, an EMT-P may end participation in the program only if qualified EMT-P replacement is available and by submitting a written resignation from the program ninety (90) days prior. In the case of simultaneous resignation requests, resignation will be based on seniority. Upon resignation, EMT-P compensation and reimbursements shall end.

Reimbursement to the City:

Employees who gain EMT-P certification as a function of their employment with the City have an obligation to provide EMT-P services to the City for a period of four (4) years from the time they receive EMT-P certification. Employees, who voluntarily resign from City employment before four (4) years, will be obligated to reimburse the City for all costs associated with EMT-P training. Extenuating circumstances that require an individual to leave the program or leave City employment prior to completing his or her four (4) year commitment may be considered on a case-by-case basis before assessing the reimbursement costs.

**Section 4      Paramedic Specialty Compensation & EMT Compensation - Paramedic Assessment Company**

Upon licensing and for as long as they remain in the Paramedic program, employees holding the EMT-P license shall receive an additional 15% incentive pay to their hourly base salaries for as long as the employee maintains current EMT-P certification.

EMT-P employees shall be compensated at the rate of one and a half (1½) times for continuing education outside of regular work hours. This compensation will not exceed the minimum forty (40) hours of continuing education required by the State every two years to maintain EMT-P status.

EMT Compensation - Paramedic Assessment Company:

EMT employees who are not EMT-P's shall receive an additional 1½% incentive pay to their current wage step hourly base salaries.

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## ARTICLE 30 – DEFERRED COMPENSATION

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FFA employees shall have the option to enroll in either the ICMA or the Nationwide plan but not both. The City will not agree to any enhancements to the Nationwide plan that would jeopardize the tax exempt status of the City's current plan with the IRS.

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## ARTICLE 31 – CATASTROPHIC LEAVE

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Bargaining unit members are eligible to use catastrophic leave under the City's catastrophic leave policy and must meet all eligibility requirements under that policy, except that bargaining unit members may retain 96 hours of sick leave and 96 hours of vacation leave in their leave balances.

Both banks must be exhausted or be projected by Human Resources staff to reach to a maximum of 96 hours during the anticipated term of absence in order to be eligible for a catastrophic leave bank.

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## ARTICLE 32 – ASSOCIATION BANK

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### Section 1 Leave Bank

The intent of this article is to provide National City employees representing the National City Firefighters' Association (FFA) with a leave bank that can be utilized when conducting business benefitting the local association and its members such as but not limited to attending meetings and conferences on behalf of the association and/or its member(s).

The cumulative Association Leave Bank maximum accrual is 360 hours per fiscal year.

1. Should the Association Leave Bank reach 360 hours in any fiscal year, additional donations shall not be accepted until the start of the next fiscal year up to a maximum of 360 hours.
2. The initial Association Leave Bank will be established by the City immediately following City Council approval. The maximum accrual for the first fiscal year of the Association Leave Bank will be prorated based upon the date of City Council approval.
3. The City shall not contribute leave time to the Association Leave Bank

### Section 2 Voluntary Donations

1. Hours shall be donated to the Association Leave Bank on a voluntary basis by FFA represented employees using a prescribed donation form.
2. Employees may donate vacation, sick or compensatory time credits.
3. Donations must be for a minimum of four (4) hours for each type of time transferred and in whole (one) hour increments thereafter.
4. Donating employees must have a minimum vacation balance of 112 hours after donation.
5. Sick leave donations will be credited at a rate of 50% (ex: a donation of four (4) hours will be credited to the Association Leave Bank as two (2) hours).
6. Sick leave donations will be counted against the donor's annual sick leave usage for purposes of Article 11, Section 12, Sick Leave Incentive Pay, at 50% of the number of hours donated (a donation of ten (10) hours will be counted as five (5) hours used for Article 11, Section 12 only).
7. Donating employees forfeit any right or claim to leave credits once they are donated.
8. Leave will be transferred on an hour-for-hour basis, regardless of the salary of the employees involved.

### Section 3 Use of the Leave Bank

Hours donated to the Association Leave Bank may be used by members of the FFA:

1. In lieu of or in conjunction with the employees own leave balances when conducting association business during the employee's scheduled work shift(s).
2. Determining which association activities are qualifying and which employees are eligible to utilize the Association Leave Bank is done at the discretion of the FFA Executive Board.

3. Requests for leave must be reviewed and are subject to approval by the department head or designee consistent with department policy.
4. Employees using donated leave shall record the use in Telestaff with the date of usage and the number of hours used.
5. It is the responsibility of FFA to monitor the hours available for use in the leave bank.

#### **Section 4 Administration**

1. Upon receipt of a donation form, the Finance Department will review to ensure that the employee(s) meet the eligibility requirements and that the leave bank has not reached its maximum accrual for the fiscal year.
2. If all eligibility criteria are met, the Finance Department will transfer the donated leave to the Association Leave Bank.  
If any part of the eligibility criteria is not met, the donation form will be returned to the donating employee without being processed.

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## ARTICLE 33 – POST-RETIREMENT HEALTHCARE TRUST

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The City and FFA will contract with the Southern California Firefighters Benefit Trust to provide a Post-Retirement Medical Benefit Trust (PRMBT)~~a company to provide a post-retirement healthcare trust for represented employees contingent on the FFA specifying a provider acceptable to the City and with the agreement of FFA that there will be no financial cost or obligation to the City.~~ All FFA represented employees will contribute \$100/month to the PRMBT post-retirement healthcare plan via payroll deductions effective the first full pay period after the trust is established. No FFA represented employee may opt out of the payroll contributions to the PRMBT or opt to receive the payroll contributions in cash. Employees shall also have the option to have sick leave accruals earned under Article 11, Section 12 (Sick Leave Incentive Pay) transferred annually to the PRMBT, and vacation accruals transferred annually (Article 7, Section 7) and at time of separation (Article 7, Section 6) to the PRMBT to the extent and as provided in those Articles of this MOU, with no option to receive the sick leave or vacation accruals in cash.

~~The City will incur no financial cost or obligation in connection with this contract or benefit. The City shall have no administrative responsibilities or liabilities related to this benefit, other than processing of payroll deductions and leave transfers and contribution reporting on participating employees to the PRMBT.~~

The FFA shall hold the City harmless for the City's actions related to this Article, and indemnify the City against any liability the City may incur as a result of this Article, including but not limited to allowing the FFA to participate in the PRMBT~~a post-retirement healthcare plan~~ and/or the City's processing of payroll deductions or sick and vacation leave transfers as set forth in this Article.

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## ARTICLE 34 – TERMS OF PROVISIONS

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The provisions of this Memorandum of Understanding shall be effective and binding from July 1, 2020~~18~~ through December 31~~June 30~~, 2021~~0~~.

This MOU is subject to all future and current applicable Federal or State and Local laws and regulations.

If any part or provision of this MOU is in conflict with such applicable provisions of Federal or State laws or regulations, or is otherwise held to be invalid or unenforceable by any tribunal of competent jurisdiction, such part or provision shall be suspended and superseded by such applicable law or regulations, and the remainder of the MOU shall not be affected. The Association will be duly notified of any such judicial or legislative action invalidating any section of this Agreement, and the Employees' Association and/or the City shall have right to meet and confer within thirty (30) days concerning said section. This MOU shall supersede all past agreements and City or department rules and ordinances that are in conflict with or are addressed by this MOU.

In addition, the City and the Association may mutually agree in writing to meet and confer on any subject within the scope of representation.

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## ARTICLE 35 - DEFINITIONS

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**BASE SALARY** – Shall mean, for 56-hour personnel, the hourly rate derived by dividing the annual salary as developed by the Finance Department on their published salary schedule by the average number of scheduled work hours (2912) hours. For 40-hour personnel, the hourly salary derived by dividing the annual salary by 2080 hours. The annual salary does not include overtime, special or incentive pays or cash-outs.

**COMPENSATION PLAN** – Shall mean the official schedule of pay approved by the City Council assigning one or more rates of pay to each class title.

**COMPENSATORY LEAVE** – Shall mean time off from work in lieu of monetary payment for overtime worked.

**CONTINUOUS SERVICE** – Shall mean employment in the City service uninterrupted by separation, and applies to the time a person has been employed on a permanent basis, or to the continuation of employment from temporary to a permanent appointment, without any break in service.

**DEMOTION** – Shall mean the appointment of an employee holding a position in one class to a position in another class having a lower maximum salary rate, or to a lower step within the same.

**DEPARTMENT** – Shall mean an administrative branch including a group of employees under the immediate charge of a chief executive officer of a department of the City government, which latter officer shall be known as the department head.

**EMPLOYEE** – Shall mean a person who is legally an incumbent of a position in the Classified Service or who is on authorized leave of absence from such a position with the right to return to his position. Employee shall include OFFICER.

**IMMEDIATE FAMILY** – Immediate family shall include the husband, wife, domestic partner (as defined by and registered with the California Secretary of State), mother and father of husband and wife and domestic partner, son, daughter, brother and sister of the employee, or any relative by blood or marriage or domestic partnership residing in the same household.

**INTERIM APPOINTMENT** – Shall mean a short-term appointment made from an eligible list.

**LAY-OFF** – Shall mean the involuntary, non-disciplinary separation of an employee from a position resulting from lack of work, lack of funds or abolishment of a position.

**LEAVE** – Shall mean an approved type of absence from work as provided for by these rules.

**NORMAL WORK DAY** – Shall mean operations personnel are not expected to work on projects of a non-emergency nature after 1700 hours. If an individual elects to work on a project or other administrative assignment after 1700 hours he shall do so of his own free choosing. No coercion, harassment or persuasion shall be placed on any individual either by the fire department administration or by the labor body.

**PAY CYCLE** – Two-week period for pay purposes.

**PAY DAY** – Day on which pay is given for previous pay cycle.

**PAY PERIOD** – 28-day period for purposes of overtime.

**PERMANENT EMPLOYEE** – Shall mean an employee who has been appointed to a permanent position. A permanent employee may be serving a probationary period.

**PERMANENT POSITION** – Shall mean a specific office or classification, whether occupied or vacant, carrying responsibilities and calling for the performance of certain duties by one individual. This position shall be included in the Classified Service and may be either on a part-time or full-time basis.

**PERMANENT STATUS** – Shall mean the satisfactory completion of one (1) year of probationary service and continuing permanent appointment.

**DIRECTOR OF PERSONNEL** – Shall mean the City Manager or the person appointed by the City Manager to act as Secretary to the Civil Commission, to administer the activities of the Personnel Department and to exercise general supervision over the employment policy of the City subject to the direction of the Commission.

**POSITION** – Shall mean any specific officer or classification whether occupied or vacant, carrying certain responsibilities and calling for the performance of certain duties by one individual, either on a part-time or full-time basis.

**PROBATIONARY PERIOD** – Shall mean the working test period during which an employee is required to demonstrate his fitness by the actual performance of the duties and responsibilities of his position and during which time he may be terminated without right of appeal to the Civil Service Commission.

**PROBATIONARY STATUS** – Shall mean service in a permanent position prior to completion of the prescribed period of probationary service.

**PROBATIONER** – Shall be an employee in the Classified Service who is serving a probationary period.

**PROVISIONAL APPOINTMENT** – Shall mean the temporary appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in the class in the absence of available eligible; any non-permanent appointment, other than seasonal, part-time or emergency appointment, which is not made from a re-employment list or an eligible list.

**SALARY RANGE** - Shall mean one or more, but commonly five (5) specific pay rates having a percentage relationship to one another, assigned to a class of positions as the compensation for the class.

**SALARY RATE** – Shall mean a specific dollar amount, expressed as an annual rate, a monthly rate, a semi-monthly rate, a bi-weekly rate or an hourly rate, as shown in the compensation plan of the City.

**SALARY STEP** – Shall mean the location of a rate within a salary range, as identified by a letter of the alphabet.

**TELESTAFF** – Shall mean the department recognized staffing and payroll computer software program.

**TEMPORARY ASSIGNMENT** – Assignment of personnel to a 40-hour workweek in a position that is not designated as a permanent 40-hour assignment.

**TEMPORARY EMPLOYEE** – Shall mean an employee appointed to a position of a non-permanent nature on provisional basis.

**WORK DAY** – Shall mean an eight (8) hour period as a normal work period.

**WORK SHIFT** – Shall mean twenty-four (24) hour period as normal work.

**RESOLUTION NO. 2020 -**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY  
APPROVING THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE  
CITY AND THE NATIONAL CITY FIREFIGHTERS' ASSOCIATION (NCFFA)**

**WHEREAS**, the labor agreement between the City of National City ("City") and the National City Firefighters' Association ("NCFFA") will expire on June 30, 2020; and

**WHEREAS**, in March, 2020, City representatives and representatives of the NCFFA began meeting and conferring in good faith for the purpose of negotiating a successor agreement; and

**WHEREAS**, said meet and confer was conducted pursuant to California Government Code Section 3500, et seq.; and

**WHEREAS**, on May 8, 2020, the NCFFA membership voted to ratify the terms of an 18-month agreement, from July 1, 2020 to December 31, 2021, as set forth by the negotiating teams.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of National City that the City Manager is hereby authorized to execute a Memorandum of Understanding (MOU) between the City of National City and the National City Firefighters' Association for an 18-month agreement, from July 1, 2020 to December 31, 2021. Said Memorandum of Understanding shall be on file in the Office of the City Clerk, and reference is made thereto for all particulars contained therein.

**BE IT FURTHER RESOLVED** that the City Council of the City of National City hereby authorizes the City Manager to reflect the compensation plan as set forth in the subject MOU in the final budget for Fiscal Year 2020-2021.

**PASSED and ADOPTED this 19th day of May, 2020**

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

**ATTEST:**

\_\_\_\_\_  
Michael R. Dalla, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Angil P. Morris-Jones  
City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City authorizing the establishment of ADA Improvements appropriation of \\$40,031.14 and use of General Fund unassigned fund balance from revenues received through SB-1186 - License Fee and Use for Construction-Related Accessibility to fund activities or programs that facilitate accessibility compliance. \(Engineering/Public Works\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 19, 2020

**AGENDA ITEM NO.** |

**ITEM TITLE:**

Resolution of the City Council of the City of National City approving the establishment of a General Fund appropriation of \$40,031.14 and use of General Fund unassigned fund balance for Americans with Disabilities Act-compliant accessibility improvements funded by SB 1186 revenues collected to fund activities or programs that facilitate accessibility compliance.

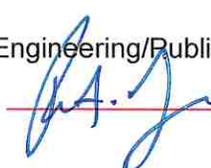
**PREPARED BY:** Jose Lopez, Deputy City Engineer

**PHONE:** 619-336-4312

**EXPLANATION:**

See attached.

**DEPARTMENT:** Engineering/Public Works

**APPROVED BY:** 

**FINANCIAL STATEMENT:**

**ACCOUNT NO.** |

Expenditure Account: 001-409-500-498-6574 (ADA Improvements) - \$40,031.14

This appropriation requires the use of General Fund unassigned fund balance of \$40,031.14. Approval of this appropriation will increase the fiscal-year-to-date use of General Fund unassigned fund balance from \$4,231,744 to \$4,271,775.

**ENVIRONMENTAL REVIEW:**

N/A

**ORDINANCE:** INTRODUCTION:

FINAL ADOPTION:

**APPROVED:**  Finance

**APPROVED:** \_\_\_\_\_ MIS

**STAFF RECOMMENDATION:**

Adopt Resolution approving the establishment of a General Fund appropriation of \$40,031.14 and use of General Fund unassigned fund balance for Americans with Disabilities Act-compliant accessibility improvements funded by SB 1186 revenues collected to fund activities or programs that facilitate accessibility compliance.

**BOARD / COMMISSION RECOMMENDATION:**

N/A

**ATTACHMENTS:**

1. Explanation w/ Exhibit
2. Resolution

## Explanation

On September 19, 2012, Governor Brown signed into law SB-1186. This law became effective January 1, 2013. The City started collecting Disability Access revenues in FY13 in compliance with SB-1186. The SB-1186 fee is applied to the sale of business licenses and renewals as follows:

- January 1, 2013 through December 31, 2017, a one-dollar (\$1) additional fee to be paid by any applicant for a local business license, permit or similar instrument when it is issued or renewed. The fee is divided between the local entity that collected the funds, which retains 70 percent, and Department of State Architect (DSA), which receives 30 percent.
- January 1, 2018 through December 31, 2023, a four-dollar (\$4) additional fee is to be paid by any applicant for a local business license, permit or similar instrument when it is issued or renewed. If no such instrument exists, the fee is to be paid by an applicant for a building permit. The fee is divided between the local entity that collected the funds, which retains 90 percent, and DSA, which receives 10 percent.
- On and after January 1, 2024, the fees and requirements remain in effect but the amount will reduce to one-dollar (\$1). The city, county, or city and county will retain 70 percent of the fees collected and submit 30 percent to DSA.

As of June 30, 2019, the city has collected a total of \$40,031.14. Here is a summary of SB-1186 Disability Access revenues collected by fiscal year:

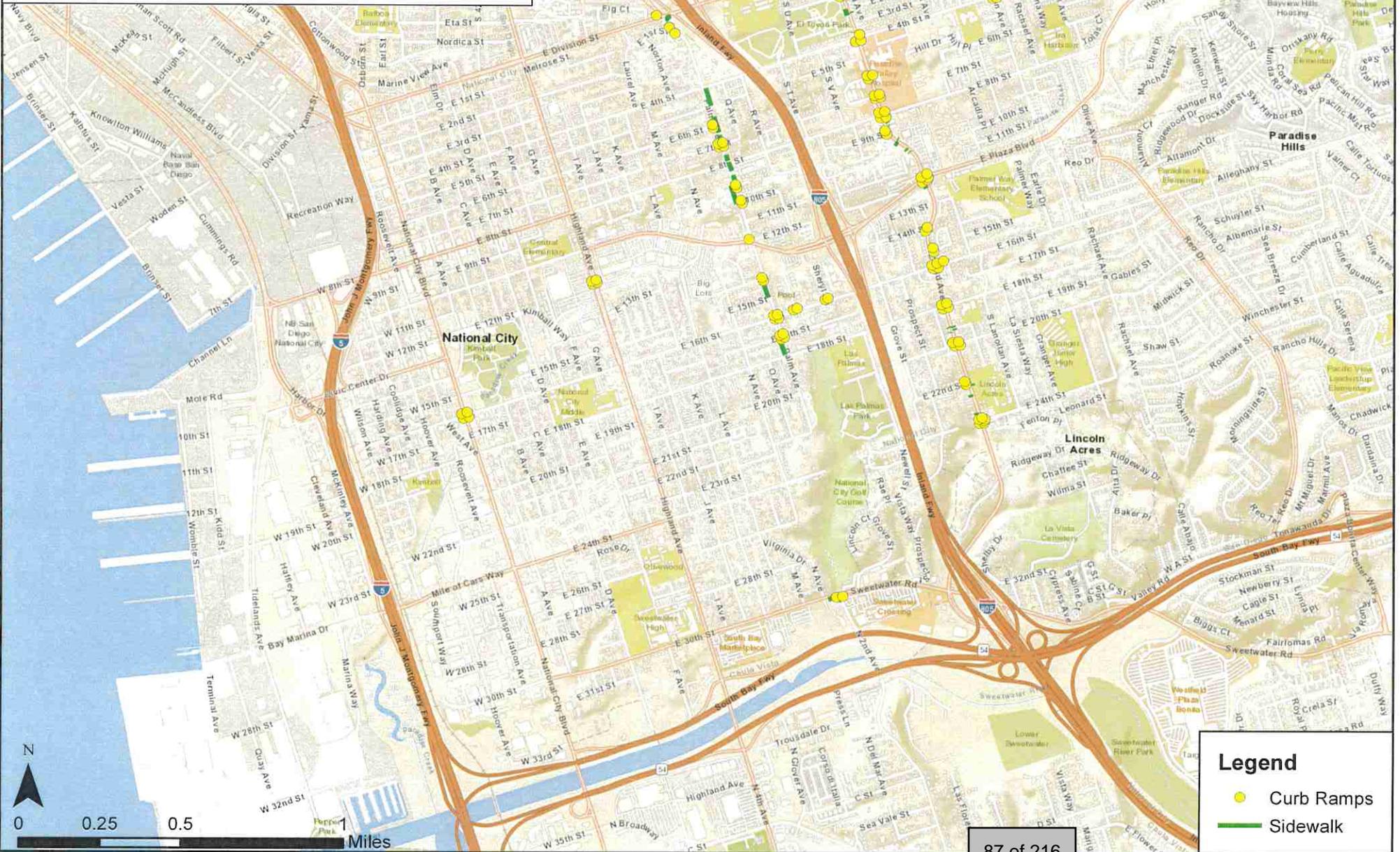
- FY19 \$15,398.06
- FY18 \$12,969.80
- FY17 \$2,559.60
- FY16 \$1,535.40
- FY15 \$3,325.50
- FY14 \$1,513.38
- FY13 \$2,729.40

The purpose of the fee is to increase disability access and compliance with construction-related accessibility requirements at businesses and facilities that are open to the public.

If this resolution is adopted, staff will be appropriating the funds to further advance the City's ADA Transition Plan efforts in the form of sidewalk and pedestrian ramps citywide consistent with SB-1186. In FY 2020, through grant funded projects and PW staff efforts, approximately 13,200 square feet of sidewalk was replaced, and 101 pedestrian ramps were upgraded to the latest ADA standard (see attached Exhibit).

Staff recommends that the City Council adopts the resolution establishing a General Fund appropriation of \$40,031.14 and use of General Fund unassigned fund balance for Americans with Disabilities Act-compliant accessibility improvements funded by SB 1186 revenues collected to fund activities or programs that facilitate accessibility compliance

# City of National City ADA Program Installation of ADA New Sidewalk and ADA Compliant Curb Ramps and Sidewalk Replacement FY 2020



**RESOLUTION NO. 2020 -**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY,  
APPROVING THE ESTABLISHMENT OF A GENERAL FUND APPROPRIATION OF  
\$40,031.14 AND USE OF GENERAL FUND UNASSIGNED FUND BALANCE FOR  
AMERICANS WITH DISABILITIES ACT-COMPLIANT ACCESSIBILITY  
IMPROVEMENTS FUNDED BY SB-1186 REVENUES COLLECTED TO FUND  
ACTIVITIES OR PROGRAMS THAT FACILITATE ACCESSIBILITY COMPLIANCE**

**WHEREAS**, on September 19, 2012, Governor Brown signed into law SB-1186 which became effective January 1, 2013 and

**WHEREAS**, the City of National City ("City") started collecting Disability Access revenues in Fiscal Year 2013 in compliance with SB-1186; and

**WHEREAS**, the SB-1186 fee is applied to the sale of business licenses and renewals as follows:

- January 1, 2013 through December 31, 2017, a one-dollar (\$1) additional fee to be paid by any applicant for a local business license, permit or similar instrument when it is issued or renewed. The fee is divided between the local entity that collected the funds, which retains 70 percent, and Department of State Architect (DSA), which receives 30 percent.
- January 1, 2018 through December 31, 2023, a four-dollar (\$4) additional fee is to be paid by any applicant for a local business license, permit or similar instrument when it is issued or renewed. If no such instrument exists, the fee is to be paid by an applicant for a building permit. The fee is divided between the local entity that collected the funds, which retains 90 percent, and DSA, which receives 10 percent.
- On and after January 1, 2024, the fees and requirements remain in effect but the amount will reduce to one-dollar (\$1). The City, County, or City and County will retain 70 percent of the fees collected and submit 30 percent to DSA; and

**WHEREAS**, as of June 30, 2019, the City has collected a total of \$40,031.14; and

**WHEREAS**, the purpose of the fee is to increase disability access and compliance with construction-related accessibility requirements at businesses and facilities that are open to the public; and

**WHEREAS**, City Staff will be appropriating the funds to further advance the City's ADA Transition Plan efforts in the form of sidewalk and pedestrian ramps citywide consistent with SB-1186; and

**WHEREAS**, in Fiscal Year 2020, through grant funded projects and Public Works Staff efforts, approximately 13,200 square feet of sidewalk was replaced, and 101 pedestrian ramps were upgraded to the latest ADA standard; and

**WHEREAS**, City Staff is recommending the Council to adopt the resolution establishing a General Fund appropriation of \$40,031.14 and the use of General Fund unassigned fund balance for Americans with Disabilities Act-compliant accessibility improvements funded by SB 1186 revenues collected to fund activities or programs that facilitate accessibility compliance.

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**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of National City hereby approves the establishment of a general fund appropriation of \$40,031.14 and the use of General Fund unassigned fund balance for Americans with Disabilities Act-compliant accessibility improvements funded by SB-1186 revenues collected to fund activities or programs that facilitate accessibility compliance.

**PASSED and ADOPTED this 19th day of May, 2020.**

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

**ATTEST:**

\_\_\_\_\_  
Michael R. Dalla, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Angil P. Morris-Jones  
City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City: 1\) ratifying the City Manager’s declaration of emergency for the 2424 Granger Avenue sink hole repairs; and 2\) waiving of competitive bidding procedures under emergency conditions consistent with Section 22050 “Emergency Contracting Procedures” of the California Public Contract Code and Chapter 2.62 “Alternative Bid Procedures for Public Projects,” Section 2.62.070 “Emergencies” of the National City Municipal Code contracting per the emergency contracting procedure. \(Engineering/Public Works\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 19, 2020

**AGENDA ITEM NO.**

**ITEM TITLE:**

Resolution of the City Council of the City of National City: 1) Ratifying the City Manager's declaration of emergency for the 2424 Granger Avenue sink hole repairs; and 2) waiving of competitive bidding procedures under emergency conditions consistent with Section 22050 "Emergency Contracting Procedures" of the California Public Contract Code and Chapter 2.62 "Alternative Bid Procedures for Public Projects," Section 2.62.070 "Emergencies" of the National City Municipal Code contracting per the emergency contracting procedure.

**PREPARED BY:** Jose Lopez, Deputy City Engineer

**PHONE:** 619-336-4312

**DEPARTMENT:** Engineering/Public Works

**APPROVED BY:** 

**EXPLANATION:**

See attached.

**FINANCIAL STATEMENT:**

**ACCOUNT NO.**

Funds are available in account # 001-409-500-598-7049 (Storm Drain Improvements)

**APPROVED:** 

**Finance**

**APPROVED:** \_\_\_\_\_

**MIS**

**ENVIRONMENTAL REVIEW:**

Statutorily Exempt under Public Resources Code § 21080, and 14 CCR § 15269 (b).

**ORDINANCE:** INTRODUCTION:  FINAL ADOPTION:

**STAFF RECOMMENDATION:**

Adopt Resolution ratifying the declaration of emergency for the 2424 Granger Avenue sink hole repair, and waiving of competitive bidding procedures under emergency conditions.

**BOARD / COMMISSION RECOMMENDATION:**

N/A

**ATTACHMENTS:**

1. Explanation
2. Declaration of Emergency Letter from City Manager
3. Resolution

## Explanation

On Monday, April 13, 2020, Public Works was notified of a sinkhole that had formed at 2424 Granger Avenue. The City has a storm drain easement on the property over a public 18 inch Corrugated Metal Pipe (CMP) within the residential lot. Public Works Crews quickly responded and secured the site and surveyed the situation. The sinkhole is about 12 feet in diameter and about 6 feet deep. On April 13<sup>th</sup>, based on the recommendation of the Deputy City Engineer, the City Manager declared this work as an "emergency," consistent with the provisions included in Section 22050 "Emergency Contracting Procedures" of the California Public Contract Code and Section 2.60.230 "Emergency Purchases-Emergency Defined" of the National City Municipal Code.

Staff contacted MJC Construction, a contractor currently listed on the City's qualified contractor list, for informal bidding. Staff has been coordinating with the contractor to mobilize as soon as possible to address the repairs. The contractor will mobilize for construction the week of May 4<sup>th</sup>. The repair work is expected to be completed by May 18, 2020. At this time, the not-to-exceed estimate to complete the emergency work is \$35,000.

Staff also requests that City Council ratify the City Manager's declaration of emergency and waiving of competitive bidding procedures, as provided under emergency contracting procedures.



**Engineering & Public Works Department**  
1243 National City Boulevard, National City, CA 91950  
Phone: (619) 336-4380 Fax: (619) 336-4397

April 13, 2020

Brad Raulston, City Manager

RE: REQUEST FOR EMERGENCY SERVICES – 2424 GRANGER AVENUE SINKHOLE REPAIR

Dear Brad,

On Monday, April 13, 2020 Public Works was notified of a sinkhole that had formed at 2424 Granger Avenue. The City has a storm drain easement on the property over a public 18 inch Corrugated Metal Pipe (CMP) within the residential lot. Public Works Crews quickly responded and secured the site and surveyed the situation. The sinkhole is about 12 feet in diameter and about 6 feet deep. The sinkhole is an imminent threat to public health and safety. I recommend that you declare this work as an “emergency,” consistent with Section 2.60.230 “Emergency Purchases-Emergency Defined” of the National City Municipal Code.

Our department will be working with all other present utilities and the resident to perform this repair as safe and as quickly as possible given the Covid-19 situation. Staff will solicit quotes for the emergency construction services necessary to repair the failed CMP and surrounding areas. We will keep you informed of the progress.

Sincerely,



Roberto Yano  
Deputy City Engineer

I, Brad Raulston, hereby declare the repair efforts for 2424 Granger Avenue Sinkhole as emergency work.



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Brad Raulston  
City Manager

cc: City Attorney

**RESOLUTION NO. 2020 –**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY:  
1) RATIFYING THE CITY MANAGER’S DECLARATION OF EMERGENCY FOR THE  
2424 GRANGER AVENUE SINK HOLE REPAIRS; AND 2) WAIVING OF  
COMPETITIVE BIDDING PROCEDURES UNDER EMERGENCY CONDITIONS  
CONSISTENT WITH SECTION 22050 “EMERGENCY CONTRACTING  
PROCEDURES” OF THE CALIFORNIA PUBLIC CONTRACT CODE AND  
CHAPTER 2.62 “ALTERNATIVE BID PROCEDURES FOR PUBLIC PROJECTS,”  
SECTION 2.62.070 “EMERGENCIES” OF THE NATIONAL CITY MUNICIPAL CODE  
CONTRACTING PER THE EMERGENCY CONTRACTING PROCEDURE**

**WHEREAS**, on Monday, April 13, 2020, the National City Public Works Department was notified of a sinkhole that had formed at 2424 Granger Avenue; and

**WHEREAS**, the City of National City (“City”) has a storm drain easement on the property over a public 18 inch Corrugated Metal Pipe (“CMP”) within the residential lot; and

**WHEREAS**, the City Public Works Crew quickly responded and secured the site and surveyed the situation; and

**WHEREAS**, the sinkhole was approximately 12 feet in diameter and 6 feet deep; and

**WHEREAS**, on April 13, 2020, based on the recommendation of the Deputy City Engineer, the City Manager declared this work as an “Emergency,” consistent with the provisions included in Section 22050 “Emergency Contracting Procedures” of the California Public Contract Code and Section 2.60.230 “Emergency Purchases-Emergency Defined” of the National City Municipal Code; and

**WHEREAS**, City Staff contacted MJC Construction, a contractor currently listed on the City’s qualified contractor list, for informal bidding; and

**WHEREAS**, the repair work is expected to be completed by May 18, 2020 with and estimated not-to-exceed amount of \$35,000; and

**WHEREAS**, City Staff is recommending the Council to ratify the City Manager’s Declaration of Emergency for the 2424 Granger Avenue sink hole repairs; and

**WHEREAS**, City Staff is also requesting the waiving of competitive bidding procedures under emergency conditions consistent with Section 22050 “Emergency Contracting Procedures” of the California Public Contract Code and Chapter 2.62 “Alternative Bid Procedures for Public Projects,” Section 2.62.070 “Emergencies” of the National City Municipal Code contracting per the emergency contracting procedure.

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**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of National City hereby ratifies the City Manager’s Declaration of Emergency for the 2424 Granger Avenue sink hole repairs.

**BE IT FURTHER RESOLVED**, by the City Council of the City of National City does hereby waive the competitive bidding procedures under emergency conditions consistent with Section 22050 “Emergency Contracting Procedures” of the California Public Contract Code and Chapter 2.62 “Alternative Bid Procedures for Public Projects,” Section 2.62.070 “Emergencies” of the National City Municipal Code contracting per the emergency contracting procedure.

**BE IT FURTHER RESOLVED**, by the City Council of the City of National City does hereby authorize the City Manager to execute an agreement with MJC Construction for the emergency repair work on Granger Avenue as it relates to the sink hole.

**PASSED and ADOPTED this 19th day of May, 2020**

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

**ATTEST:**

\_\_\_\_\_  
Michael R. Dalla, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Angil P. Morris-Jones  
City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City: 1\) ratifying the City Manager’s declaration of emergency for the 1415 Earle Drive sink hole repairs; and 2\) waiving of competitive bidding procedures under emergency conditions consistent with Section 22050 “Emergency Contracting Procedures” of the California Public Contract Code and Chapter 2.62 “Alternative Bid Procedures for Public Projects,” Section 2.62.070 “Emergencies” of the National City Municipal Code contracting per the emergency contracting procedure. \(Engineering/Public Works\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 19, 2020

**AGENDA ITEM NO.**

**ITEM TITLE:**

Resolution of the City Council of the City of National City: 1) Ratifying the City Manager's declaration of emergency for the 1415 Earle Drive sink hole repairs; and 2) waiving of competitive bidding procedures under emergency conditions consistent with Section 22050 "Emergency Contracting Procedures" of the California Public Contract Code and Chapter 2.62 "Alternative Bid Procedures for Public Projects," Section 2.62.070 "Emergencies" of the National City Municipal Code contracting per the emergency contracting procedure.

**PREPARED BY:** Jose Lopez, Deputy City Engineer

**PHONE:** 619-336-4312

**DEPARTMENT:** Engineering/Public Works

**APPROVED BY:** 

**EXPLANATION:**

See attached.

**FINANCIAL STATEMENT:**

**ACCOUNT NO.**

Funds are available in account # 001-409-500-598-7049 (Storm Drain Improvements)

**APPROVED:** 

Finance

**APPROVED:** \_\_\_\_\_

MIS

**ENVIRONMENTAL REVIEW:**

Statutorily Exempt under Public Resources Code § 21080, and 14 CCR § 15269 (b).

**ORDINANCE:** INTRODUCTION:

FINAL ADOPTION:

**STAFF RECOMMENDATION:**

Adopt Resolution ratifying the declaration of emergency for the 1415 Earle Drive sink hole repair, and waiving of competitive bidding procedures under emergency conditions.

**BOARD / COMMISSION RECOMMENDATION:**

N/A

**ATTACHMENTS:**

1. Explanation
2. Declaration of Emergency Letter from City Manager
3. Resolution

## Explanation

On Tuesday, April 7, 2020, Public Works was notified of a sinkhole that had formed at 1415 Earle Drive. The City has a storm drain easement on the property over a public 72 inch Corrugated Metal Pipe (CMP) within the residential lot. City Public Works Crews quickly responded and secured the site and surveyed the situation. The sinkhole was approximately 9 feet in diameter and 7 feet deep. On April 7<sup>th</sup>, based on the recommendation of the Deputy City Engineer, the City Manager declared this work as an "emergency," consistent with the provisions included in Section 22050 "Emergency Contracting Procedures" of the California Public Contract Code and Section 2.60.230 "Emergency Purchases-Emergency Defined" of the National City Municipal Code.

Staff contacted MJC Construction, a contractor currently listed on the City's qualified contractor list, for informal bidding. On April 10<sup>th</sup>, MJC Construction began the repair work on Earle Avenue. The repair work was completed on April 28<sup>th</sup>, 2020. At this time, the not-to-exceed estimate to complete the emergency work is \$95,000.

Staff also requests that City Council ratify the City Manager's declaration of emergency and waiving of competitive bidding procedures, as provided under emergency contracting procedures.



**Engineering & Public Works Department**  
1243 National City Boulevard, National City, CA 91950  
Phone: (619) 336-4380 Fax: (619) 336-4397

April 7, 2020

Brad Raulston, City Manager

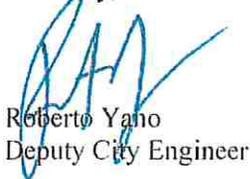
RE: REQUEST FOR EMERGENCY SERVICES – 1425 EARLE DRIVE SINKHOLE REPAIR

Dear Brad,

On Tuesday April 7, 2020 Public Works was notified of a sinkhole that had formed at 1415 Earle Drive. The City has a storm drain easement on the property over a public 72 inch Corrugated Metal Pipe (CMP) within the residential lot. Public Works Crews quickly responded and secured the site and surveyed the situation. The sinkhole is about 9 feet in diameter and about 7 feet deep. The sinkhole is an imminent threat to public health and safety. I recommend that you declare this work as an “emergency,” consistent with Section 2.60.230 “Emergency Purchases-Emergency Defined” of the National City Municipal Code.

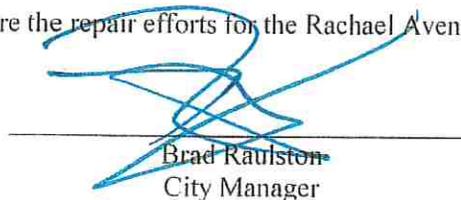
Our department will be working with all other present utilities and the resident to perform this repair as safe and as quickly as possible given the Covid-19 situation. Staff will solicit quotes for the emergency construction services necessary to repair the failed CMP and surrounding areas. We will keep you informed of the progress.

Sincerely,



Roberto Yano  
Deputy City Engineer

I, Brad Raulston, hereby declare the repair efforts for the Rachael Avenue Sinkhole as emergency work.



Brad Raulston  
City Manager

cc: City Attorney

RESOLUTION NO. 2020 –

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY: 1) RATIFYING THE CITY MANAGER’S DECLARATION OF EMERGENCY FOR THE 1415 EARLE DRIVE SINK HOLE REPAIRS; AND 2) WAIVING OF COMPETITIVE BIDDING PROCEDURES UNDER EMERGENCY CONDITIONS CONSISTENT WITH SECTION 22050 “EMERGENCY CONTRACTING PROCEDURES” OF THE CALIFORNIA PUBLIC CONTRACT CODE AND CHAPTER 2.62 “ALTERNATIVE BID PROCEDURES FOR PUBLIC PROJECTS,” SECTION 2.62.070 “EMERGENCIES” OF THE NATIONAL CITY MUNICIPAL CODE CONTRACTING PER THE EMERGENCY CONTRACTING PROCEDURE**

**WHEREAS**, on Tuesday, April 7, 2020, the National City Public Works Department was notified of a sinkhole that had formed at 1415 Earle Drive; and

**WHEREAS**, the City of National City (“City”) has a storm drain easement on the property over a public 72 inch Corrugated Metal Pipe (“CMP”) within the residential lot; and

**WHEREAS**, the City Public Works Crew quickly responded and secured the site and surveyed the situation; and

**WHEREAS**, the sinkhole was approximately 9 feet in diameter and 7 feet deep; and

**WHEREAS**, on April 7, 2020, based on the recommendation of the Deputy City Engineer, the City Manager declared this work as an “Emergency,” consistent with the provisions included in Section 22050 “Emergency Contracting Procedures” of the California Public Contract Code and Section 2.60.230 “Emergency Purchases-Emergency Defined” of the National City Municipal Code; and

**WHEREAS**, City Staff contacted MJC Construction, a contractor currently listed on the City’s qualified contractor list, for informal bidding; and

**WHEREAS**, on April 10, 2020, MJC Construction began the repair work on Earle Drive and completed said work on April 28, 2020 in the not-to-exceed estimated amount of \$95,000; and

**WHEREAS**, City Staff is recommending the Council to ratify the City Manager’s Declaration of Emergency for the 1415 Earle Drive sink hole repairs; and

**WHEREAS**, City Staff is also requesting the waiving of competitive bidding procedures under emergency conditions consistent with Section 22050 “Emergency Contracting Procedures” of the California Public Contract Code and Chapter 2.62 “Alternative Bid Procedures for Public Projects,” Section 2.62.070 “Emergencies” of the National City Municipal Code contracting per the emergency contracting procedure.

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///  
///

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of National City hereby ratifies the City Manager's Declaration of Emergency for the 1415 Earle Drive sink hole repairs.

**BE IT FURTHER RESOLVED**, by the City Council of the City of National City does hereby waive the competitive bidding procedures under emergency conditions consistent with Section 22050 "Emergency Contracting Procedures" of the California Public Contract Code and Chapter 2.62 "Alternative Bid Procedures for Public Projects," Section 2.62.070 "Emergencies" of the National City Municipal Code contracting per the emergency contracting procedure.

**BE IT FURTHER RESOLVED**, by the City Council of the City of National City does hereby authorize the City Manager to execute an agreement with MJC Construction for the emergency repair work on Earle Drive as it relates to the sink hole.

**PASSED and ADOPTED this 19th day of May, 2020**

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

**ATTEST:**

\_\_\_\_\_  
Michael R. Dalla, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Angil P. Morris-Jones  
City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City authorizing the Mayor to execute a Memorandum of Understanding \(MOU\) between the San Diego Metropolitan Transit System \(MTS\) and the City of National City regarding bus shelter and bus bench advertising. \(Engineering/Public Works\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 19, 2020

**AGENDA ITEM NO.**

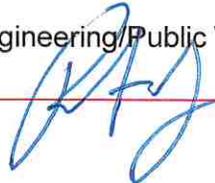
**ITEM TITLE:**

Resolution of the City Council of the City of National City authorizing the Mayor to execute a Memorandum Of Understanding (MOU) between the San Diego Metropolitan Transit System (MTS) and the City of National City regarding bus shelter and bus bench advertising.

**PREPARED BY:** Luca Zappiello, Assistant Engineer - Civil

**PHONE:** 619-336-4360

**DEPARTMENT:** Engineering/Public Works

**APPROVED BY:** 

**EXPLANATION:**

See attached.

**FINANCIAL STATEMENT:**

**ACCOUNT NO.**

N/A

**APPROVED:** \_\_\_\_\_ **Finance**

**APPROVED:** \_\_\_\_\_ **MIS**

**ENVIRONMENTAL REVIEW:**

N/A

**ORDINANCE:** INTRODUCTION:  FINAL ADOPTION:

**STAFF RECOMMENDATION:**

Adopt the Resolution authorizing the Mayor to execute an MOU between MTS and the City of National City

**BOARD / COMMISSION RECOMMENDATION:**

N/A

**ATTACHMENTS:**

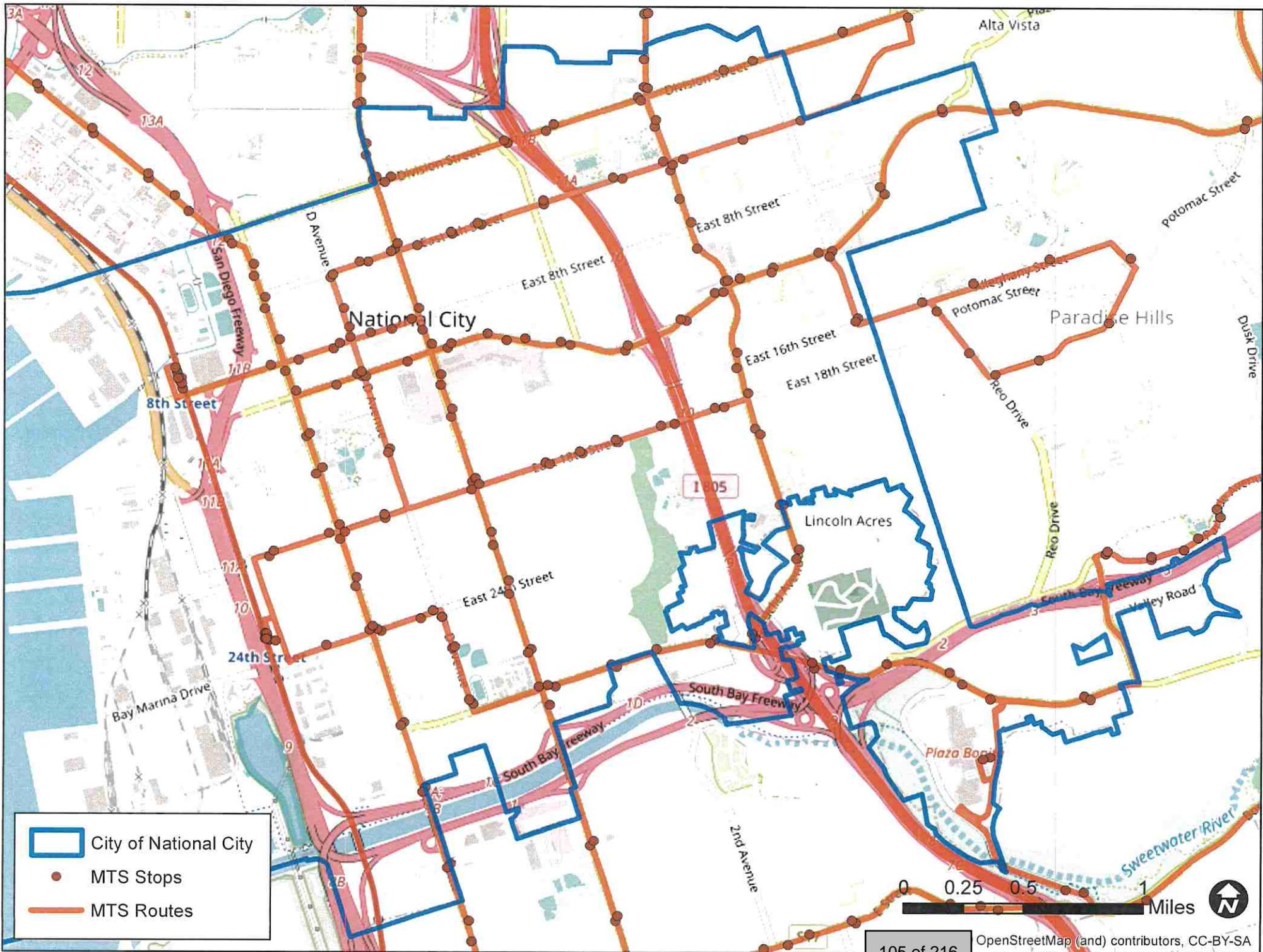
1. Explanation
2. Memorandum Of Understanding (MOU)
3. Resolution

## **EXPLANATION**

The San Diego Metropolitan Transit System (MTS) is the statutorily designated public transit provider for the portion of San Diego County that includes the City of National City (City). MTS desires to enter into a 10 year Memorandum Of Understanding (MOU) with the City of National City (City) in order to install shelters and benches within the public-right-of-way at no cost to the City. It should be noted that the City had a previous MOU with MTS that expired in 2004. Since then, MTS has continued to work with the City to install shelters and benches within the City's public-right-of-way. Attached is an exhibit illustrating MTS bus stops within National City, followed by two tables identifying MTS owned bus shelters and benches. At this time, MTS desires to formally acknowledge their cooperative agreement regarding bus stop improvements within the City.

This new MOU provides the criteria for locating transit shelters and transit bus benches, among other things. It also establishes the City as final authority to approve or deny the installation of any shelter or bus bench and remove or relocate any shelter or bus bench at no cost to the City. The advertising policy and permissible signage are regulated under the MTS Policy No. 21 titled "MTS revenue-generating display advertising, concessions, and merchandise" (see attachment "A"). All maintenance for every shelter is the sole responsibility of MTS. The revenue generated from MTS advertising contracts is intended to fund the purchase of new transit shelters and benches as well as to fund services within MTS's jurisdiction.

Staff recommends Council adopt the resolution authorizing the Mayor to execute the MOU between MTS and the City of National City.



## MTS Bus Stop Amenities

### Shelters

City of National City									
12503	48	National City Blvd.	2nd St.	1	SE,NB,NS	13'	06/19/17		929
50142	49	National City Blvd.	12th St.	1	SE,NB,NS	13'	06/19/17		932
50111	51	National City Blvd.	18th St.	1	SW,SB,FS	13'	06/19/17		932
50139	52	D Ave.	E 15th St. (Morgan Towers)	1	NE,NB,FS	13'	10/08/19		967
12138	54	Highland Ave.	E 12th St (Wal-Mart)	1	SW,SB,FS	13'	06/28/17		929
50031	55	Plaza Blvd.	Highland Ave.	1	SE,EB,FS	13'	07/17/17		962, 963
50081	280	Division St.	Euclid Ave.	1	NW,WB,FS	13'	07/25/18		967
50194	654	D Ave.	15th St. (Boys & Girls Club)	1	NW,SB,NS	13'	08/13/18		967

**Total: 8**

### Benches

STOP #	STREET	CROSS STREET	CRNR	CITY	TYPE	COUNT
99338	HIGHLAND AVE.	4TH ST	NE	NC	METAL	1
50115	HIGHLAND AVE.	4TH ST	NW	NC	METAL	1
50121	EUCLID AVE	DIVISION ST	NW	NC	METAL	1
59005	PLAZA BLVD	EUCLID AVE.	SW	NC	METAL	1
50085	PLAZA BLVD	EUCLID AVE.	NW	NC	METAL	1
50042	4TH ST	EUCLID AVE.	SE	NC	METAL	1
50042	4TH ST	EUCLID AVE.	SE	NC	METAL	1
50090	PLAZA BLVD	HARBISON AV.	NW	NC	METAL	1
50095	D AV.	E 8TH ST.	NW	NC	METAL	1
11714	NATIONAL CITY BL.	3RD ST.	NW	NC	METAL	1
11714	NATIONAL CITY BL.	3RD ST.	NW	NC	METAL	1
50001	PLAZA BLVD	D AV.	SW	NC	METAL	1
60507	NATIONAL CITY BL.	7TH ST.	NE	NC	METAL	1
60280	NATIONAL CITY BL.	W. 8TH ST.	SW	NC	METAL	1
60280	NATIONAL CITY BL.	W. 8TH ST.	SW	NC	METAL	1
50051	MILE OF CARS WY	HOOVER AVE.	NE	NC	METAL	1
50003	PLAZA BLVD	HIGHLAND AV.	SS	NC	METAL	1
50003	PLAZA BLVD	HIGHLAND AV.	SS	NC	METAL	1
50035	PLAZA BLVD	L AVE	SE	NC	METAL	1
50035	PLAZA BLVD	L AVE	SE	NC	METAL	1

50058	PLAZA BLVD.	HIGHLAND AVE.	NE	NC	METAL	1
11730	HIGHLAND AVE.	14TH ST	SW	NC	METAL	1
12873	HIGHLAND AVE.	18TH ST	NE	NC	METAL	1
11733	HIGHLAND AVE.	18TH ST	NW	NC	METAL	1
99483	HIGHLAND AVE.	21ST ST	NE	NC	METAL	1
99484	HIGHLAND AVE.	21ST ST	SW	NC	METAL	1
99485	HIGHLAND AVE.	28TH ST	SW	NC	METAL	1
12884	HIGHLAND AVE.	28TH ST	NE	NC	METAL	1
50062	30TH ST	HIGHLAND AVE.	NW	NC	METAL	1
60073	NATIONAL CITY BL.	33RD ST.	NE	NC	METAL	1
60073	NATIONAL CITY BL.	33RD ST.	NE	NC	METAL	1
50080	D AV.	30TH ST.	NE	NC	METAL	1
50080	D AV.	30TH ST.	NE	NC	METAL	1
99418	NATIONAL CITY BL.	35TH ST	SW	NC	METAL	1
50009	PLAZA BLVD	PALM AV.	SW	NC	METAL	1
50186	PLAZA BLVD.	1858	NW	NC	METAL	1
50082	18TH ST.	NEWELL ST.	NW	NC	METAL	1
50068	18TH ST.	PALM AVE.	NE	NC	METAL	1
99285	18TH ST.	L AVE.	NE	NC	METAL	1
50065	18TH ST.	N AVE.	NE	NC	METAL	1
50083	18TH ST.	PROSPECT ST.	NW	NC	METAL	1
50043	PLAZA BLVD	GROVE ST	SE	NC	METAL	1
50043	PLAZA BLVD	GROVE ST	SE	NC	METAL	1
50070	PLAZA BLVD.	GROVE ST.	NE	NC	METAL	1
50133	EUCLID AVE.	RIDGEWAY DR.	SW	NC	METAL	1
50063	PLAZA BLVD	N AVE.	NE	NC	METAL	1
99486	E. 8TH ST	HIGHLAND AVE.	NW	NC	METAL	1
99286	18TH ST.	HIGHLAND AVE.	NE	NC	METAL	1
99286	18TH ST.	HIGHLAND AVE.	NE	NC	METAL	1
99315	18TH ST.	HIGHLAND AVE.	SW	NC	CONCRETE	1

50084	SWEETWATER RD	PROSPECT ST.	NW	NC	METAL	1
50091	SWEETWATER RD	VALLEY RD	NW	NC	METAL	1
50093	SWEETWATER RD	STOCKMAN ST	NE	NC	METAL	1
50093	SWEETWATER RD	STOCKMAN ST	NE	NC	METAL	1
99338	HIGHLAND AVE.	4TH ST	NE	NC	METAL	1
50115	HIGHLAND AVE.	4TH ST	NW	NC	METAL	1
99306	4TH ST	HIGHLAND AV	NW	NC	CONCRETE	1
99276	PARADISE VALLEY RD	PLAZA ENT	SW	NC	METAL	1
99279	PARADISE VALLEY RD	PLAZA ENT	NW	NC	METAL	1
50190	PLAZA BLVD	2721 BLK	NE	NC	METAL	1
50072	PLAZA BLVD	EUCLID AVE.	NE	NC	METAL	1
50132	EUCLID AVE	E 24TH ST	F-S/B	NC	METAL	1
50158	EUCLID AVE	E 24TH ST	F-N/B	NC	METAL	1
50127	EUCLID AVE	1ST ST	SW	NC	METAL	1
50176	EUCLID AVE	1ST ST	F-N/B	NC	METAL	1
99290	D AV.	PLAZA BLVD	NW	NC	METAL	1
50145	D AV.	4TH AVE	SE	NC	METAL	1

**Total: 67**



1255 Imperial Avenue, Suite 1000  
San Diego, CA 92101-7490  
(619) 231-1466 • FAX (619) 234-3407

## Policies and Procedures

No. 21

SUBJECT:

Board Approval: 4/12/2018

MTS REVENUE-GENERATING DISPLAY ADVERTISING, CONCESSIONS, AND  
MERCHANDISE

PURPOSE:

To establish a policy and guidelines concerning a revenue-generating advertising, concessions, and merchandise program encompassing trolley stations, San Diego Metropolitan Transit System (MTS) property and facilities, and selected printed materials.

Advertising on bus shelters and benches within the public rights-of-way shall be governed by the policies of the applicable jurisdiction. The City of San Diego policy is included as Attachment A.

BACKGROUND:

Public transit operators and administration agencies have historically utilized advertising, concessions, and merchandising programs to supplement operational and capital funds. A sound advertising and concessions program can be a viable, alternative income source while promoting transit use and ensuring rider convenience and safety. This policy advances the advertising program's revenue-generating objective while also prohibiting advertisements that could detract from that goal, such as by harming advertisement sales, reducing ridership or tarnishing's MTS's reputation. MTS's justifications for its advertising program and policy include:

- 1) Generating advertising revenue;
- 2) Increasing ridership by promoting MTS's services, programs and benefits;
- 3) Informing MTS riders of local, state or federal programs, services or benefits;
- 4) Preserving ridership by avoiding controversial content;
- 5) Preventing the risk of imposing controversial views on a captive audience;
- 6) Preserving the marketing potential of the advertising space by avoiding controversial content;
- 7) Maintaining a position of neutrality on matters of public debate; and
- 8) Reducing the risk of diversion of resources from transit operations that are caused by controversial content.

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Metropolitan Transit System (MTS) is a California public agency comprised of San Diego Transit Corp., San Diego Trolley, Inc. and San Diego and Arizona Eastern Railway Company (nonprofit public benefit corporations). MTS is the taxicab administrator for seven cities.

MTS member agencies include the cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, Santee, and the County of San Diego.



**EXHIBIT A**

POLICY:

It is the policy of MTS that advertising spaces on MTS property, which includes the exterior and interior of buses and light rail vehicles (LRVs), bus benches, bus shelters, related transportation facilities and selective printed materials, shall constitute a non-public forum subject to uniform viewpoint-neutral restrictions. This policy has been drafted to ensure a non-public forum status on its advertising spaces and MTS staff will accordingly enforce this policy with that intention.

The following guidelines will be reviewed by staff to reflect the current policies of the MTS Board of Directors and to reflect changes in the trends of social and economic acceptance and appropriateness of various forms of advertising and concessions.

21.1 Advertising - Procedure

- 21.1.1 Safety, rider convenience, and information needs will take precedence over revenue generation.
- 21.1.2 Quantity, quality, and placement of all advertising will be controlled by and subject to the specific approval of MTS.
- 21.1.3 MTS reserves the right to reject any advertisement that does not meet the MTS Board of Director's standards as set forth in this policy.
- 21.1.4 Upon written demand by the Chief Executive Officer on stated grounds that shall be reasonable, any advertisement or other display deemed to be noncompliant with this policy shall immediately be removed. No refund shall be made for the time such objectionable material was on display.
- 21.1.5 MTS reserves the right to allow exceptions to the policy if MTS determines that application of the policy as written would likely be unconstitutional in any particular situation.

21.2 Advertising - Permitted Content

The subject matter for all advertising materials displayed on MTS property shall be limited to Commercial Speech. Commercial Speech is speech that: does no more than propose a commercial transaction; or is an expression related solely to the economic interests of the speaker and its audience (e.g. promotes for sale, lease or other financial benefit a product, service, event or other property interest). Notwithstanding the above general rule requiring Commercial Speech, the following content are allowed:

- 21.2.1 MTS Operations Advertising that promotes MTS transit services, programs or products, including co-sponsorships with third parties that would increase ridership or otherwise support MTS's mission.
- 21.2.2 Public Service Advertisements from Local, State or Federal Governmental Agencies regarding public programs, public services and public events that are not otherwise prohibited under this Policy.

### 21.3 Advertising – Prohibited Content

No advertisement will be permitted that in whole or in part:

- a. intends to demean or disparage any individual, group, company, product or institution;
- b. contains false, deceptive or grossly misleading information;
- c. expresses or advocates an opinion, position or viewpoint on matters of public debate about economic, political, religious, social or moral issues;
- d. directly or indirectly refers to religion;
- e. is of a political or electoral nature;
- f. portrays, solicits or condones acts of violence, murder, sedition, terrorism, vandalism, or other unlawful acts against any individual, group, animal, company or institution;
- g. depicts nudity or portions of nudity that would be considered as pornographic, erotic or obscene. The rule of "public acceptance" should be used in such cases (i.e., if the advertisement has already gained public acceptance, then it may be considered as acceptable to MTS);
- h. contains messages or graphic representations of adult entertainment, such as escort services, adult telephone services, adult internet sites and other adult entertainment establishments;
- i. contains messages or graphic representations describing or suggesting explicit sexual acts, sexual organs, or excrement where such statements or words have as their purpose or effect of sexual arousal, gratification, or affront;
- j. promotes the use or ingestion of or offers in commerce the sale of alcohol, marijuana, tobacco, electronic smoking product or any other device that causes smoke, mist or vapor, firearms, or firearm-related products;
- k. condones any type of discrimination;
- l. contains profane language and/or appearance or suggestion of profane language;
- m. contains any material that is an infringement of copyright, trademark or service mark;
- n. implies or declares an endorsement of MTS of any service, product or point of view without written authorization from MTS;

- o. depicts unsafe transit behavior aboard buses, trolleys, rail line tracks or other transit facility;
- p. is reasonably foreseeable that it will result in harm to, disruption of, or interference with the normal operations of MTS's transportation system;
- q. conflicts with any applicable federal, state, or local law, statute, or ordinance;
- r. impedes vehicular or pedestrian traffic, restricts the visibility of directional/traffic signs and informational material, encroaches on necessary sight lines (e.g., driver/operator view of waiting patrons) or presents any other safety risks or hazards (e.g., flashing lights, sound makers, mirrors or other special effects);
- s. contains a website address or telephone number that directs visitors or callers to material that violates any of the prohibitions within this policy; or
- t. is mischaracterized as a commercial advertisement but upon examination is intended to distribute a non-commercial message.

21.4 Advertising – General Conditions

- 21.4.1 Advertising industry standard sizes will be used for all advertising treatments.
- 21.4.2 Advertising treatments will be maintained in "like-new" condition. Damage to the advertisement or its housing will be corrected within forty-eight (48) hours.
- 21.4.3 All advertisements shall clearly identify the sponsor(s).

21.5 Advertising - LRVs and Buses

- 21.5.1 LRVs and buses, may carry wrap advertising formats rather than conventional advertising formats, at the discretion of the Chief Executive Officer.
- 21.5.2 Transit information material may be placed inside LRVs and buses at the discretion of the Chief Executive Officer. Such information can include, in accordance with this policy, the promotion of regularly scheduled public transit routes that will serve major community events. The subject matter and proposed advertisement regarding such event must comply with the provisions set forth under this policy.
- 21.5.3 Super King and Mural formats are approved for acceptable use on buses. The size specification for the Super King is 226 inches x 30 inches and is placed between the front and rear wheel wells on the street side of the bus. Murals are defined as encompassing the space under the vehicle

passenger windows on each side of the bus and extending from the front of the bus to just past the rear wheel well.

21.6 Advertising - Transit Centers, Major Transit Points, Stations, and Stops

21.6.1 Advertising treatments (housings) will be designed to complement the architecture of the transit centers/stations and the flavor of the surrounding community. MTS plan specifications will be followed wherever applicable. Advertising treatments will be designed, constructed, and placed in accordance with all applicable local, state, and federal standards.

21.6.2 Any unsold display advertising space within transit centers, major transit points, and stations will be allocated for MTS related advertisements and displays.

21.7 Advertising - Printed Materials

21.7.1 Advertising space may be allowed in printed materials (e.g., timetables, maps, and informational brochures) at the discretion of the Chief Executive Officer.

21.7.2 Advertising space may be allowed on the reverse side of regional passes, tickets, and transfers at the discretion of the Chief Executive Officer.

21.7.3 No advertising space shall supersede necessary transit information and/or regulations.

21.7.4 At the discretion of the Chief Executive Officer, MTS may allocate space in printed materials to inform transit customers about private entities actively participating in transit services (e.g., pass and ticket-sales outlets).

21.8 Concessions

21.8.1 Concession formats, quantity, and placement will be approved and controlled by the MTS Board of Directors.

21.8.2 Contracts for any concession format or related development will be awarded in accordance with existing MTS policies.

21.8.3 During hours of business, concessionaires will provide the public with transit information materials as directed and supplied by MTS or its designated representative.

21.8.4 Concession treatments/structures will be designed to complement the architecture of the transit centers/stations and the flavor of the surrounding community. MTS plan specifications will be followed wherever applicable. Concession treatments/structures will be designed, constructed, and placed in accordance with all applicable local, state, and federal standards.

21.8.5 Concession treatments/structures will not impede vehicular or pedestrian traffic, will not restrict the visibility of directional signs and informational materials, and will not encroach on necessary sight lines.

21.8.6 Concessionaire contracts will include remittance to MTS on a monthly basis.

21.8.7 Any and all concession on-site signing and displays will be in accordance with existing MTS policies and subject to approval of the Chief Executive Officer.

21.9 Merchandise

21.9.1 Any and all system-related merchandise will be of the highest available quality and project a positive transit image.

21.9.2 Merchandise licensing agreements and royalty payments will be made in accordance with existing MTS policies.

21.10 Revenue

All revenue received from any form of advertising shall be accrued according to MTS policy and allocated during the annual budget process.

21.11 Contractor Services

MTS may engage contractor(s) services for the development, implementation, management, and maintenance of advertising, concessions, and/or merchandise programs in conformance with existing MTS Board of Directors policies and in the best interests of MTS.

Attachment A – City of San Diego Advertising Policy

Original Policy approved on 5/9/1983.

Policy revised on 6/6/1985.

Policy revised on 7/9/1987.

Policy revised on 6/23/1988.

Policy revised on 3/22/1990.

Policy revised on 3/14/1991.

Policy revised on 4/9/1992.

Policy revised on 5/12/1994.

Policy revised on 8/11/1994.

Policy revised on 6/22/1995.

Policy revised on 3/27/1997.

Policy revised on 6/11/1998.

Policy revised on 2/22/2001

Policy revised on 2/26/2004.

Policy revised on 12/10/2009.

Policy revised on 6/18/2015

Policy revised on 1/18/2018

Policy revised on 4/12/2018

EXHIBIT A

ATTACHMENT A  
MTS POLICY NO. 21  
CITY OF SAN DIEGO  
ADVERTISING POLICY

Subject:

ADVERTISING ON BUS STOP SHELTERS AND BENCHES

Background:

The City of San Diego (City) entered into a Memorandum of Understanding (MOU) with the Metropolitan Transit Development Board (MTS), adopted July 25, 1988, and amended February 25, 1991, and June 21, 1999, authorizing MTS to install bus stop shelters and bus benches in public rights-of-way in the City. Pursuant to the MOU, MTS contracted with third parties for the construction, installation, and maintenance of the bus stop shelters and benches. In exchange, MTS's contractors receive the proceeds from the sale of advertising space on the shelters and benches.

MTS regulated the content of the advertising placed on the bus stop shelters and benches according to its Policies and Procedures No. 21. After advertising containing a religious message was removed pursuant to that policy, valid concerns were raised that the policy may violate due process and first amendment rights governing public speech.

Purpose:

It is the intent of the City Council to establish a policy governing advertising on bus stop shelters and benches in the public rights-of-way within the City that will be included by amendment in the MOU between the City and MTS, and administered by MTS.

It is the further intent of the City Council to prohibit advertising on bus stop shelters and benches of alcoholic beverages, tobacco products, and firearms in recognition of the fact that many public transit patrons are minors, that possession of these products by minors is illegal and dangerous, and that advertising is a persuasive medium for encouraging the use of these products by minors.

This policy applies only to advertising space located in designated areas on bus stop shelters and benches, as described in the MOU between the City and MTS.

Policy:

Advertising on Bus Stop Shelters and Benches:

1. In its agreement with its advertising contractors, MTS shall reserve the right to reject any advertisement, commercial or noncommercial, which does not meet the standards set forth in this policy.
2. All advertising posted on bus stop shelters and benches must conform to the following criteria:

- A. Defamatory Advertising. No advertising will be permitted that falsely disparages any person, product, or company, or that is likely to damage the reputation of any person, product, or company.
  - B. Advertising Condoning Criminal Conduct. No advertising will be permitted that is likely to incite or produce imminent unlawful activity.
  - C. Obscene Advertising. No advertising will be permitted that contains obscene matter or matter harmful to minors, as defined in California Penal Code Sections 311 and 313.
  - D. False Advertising. No advertisement will be permitted that contains false or grossly misleading information.
  - E. Alcohol, Tobacco, and Firearms. No advertisement will be permitted that promotes the sale of alcoholic beverages, tobacco or tobacco products, or firearms.
  - F. Existing Laws. All advertisements must conform to applicable federal, state, and local laws.
3. The City may make demand upon the Chief Executive Officer of MTS for the removal of any advertisement, commercial or noncommercial, that does not conform to this policy. Such demand shall be in writing and shall state reasonable grounds for the demand. MTS shall consider and act upon the demand in accordance with this policy.

## EXHIBIT A

MEMORANDUM OF UNDERSTANDING (MOU)  
BETWEEN THE CITY OF NATIONAL CITY  
AND THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM  
REGARDING BUS SHELTER AND BUS BENCH ADVERTISING

This MOU, dated \_\_\_\_\_, 2020, is entered into by and between the CITY OF NATIONAL CITY (CITY), a municipal corporation, and the SAN DIEGO METROPOLITAN TRANSIT SYSTEM (MTS), a public entity (also known as San Diego Metropolitan Transit Development Board or MTDB).

**RECITALS**

- A. MTS is the statutorily designated public transit provider for the portion of San Diego County that includes the CITY, as set forth in Public Utilities Code section 120000, *et seq.*;
- B. MTS and CITY are authorized by Public Utilities Code section 120268 to enter into cooperative agreements to establish uniform policies and procedures governing the use of bus passenger loading zones and establishing responsibility and standards for the maintenance of bus loading zones and any associated improvements;
- C. MTS and CITY had a Memorandum of Understanding (MTS Doc. No. 00-89-535) dated April 11, 1989 (1989 MOU), which expired in 2004, in which the CITY gave MTS the exclusive authority to install, or cause to be installed, transit shelters within the public right-of-way of the CITY;
- D. Notwithstanding the expiration of the 1989 MOU, in order to improve transit amenities for its passengers, including CITY residents and visitors, MTS has continued to install, maintain and replace bus shelters at locations where ridership is sufficiently high;
- E. MTS has recently purchased new transit shelters with solar lighting and receptacles for trash and recycling;
- F. MTS has recently purchased new bus benches that will improve the streetscape of the CITY;
- G. MTS has a third-party contract for installation, maintenance and advertising at transit shelters throughout MTS's jurisdiction, including within CITY;
- H. MTS has a third-party contract for the maintenance and advertising at transit benches throughout MTS's jurisdiction, including within CITY;
- I. The revenue generated from the MTS advertising contracts is intended to fund the purchase of the new transit shelters and benches, as well as to fund continued transit services within MTS's jurisdiction, including the CITY; and
- J. MTS and CITY desire to enter into a new MOU to formally acknowledge their cooperative agreement regarding bus stop improvements within the CITY.

**AGREEMENT**

NOW, THEREFORE, the CITY shall grant to MTS for the period of 10 years, the exclusive authority to install, or cause to be installed, transit shelters and benches within the public-right-of-way of the CITY, provided the following conditions are complied with by MTS:

1. Term. This MOU shall commence upon \_\_\_\_\_, 2020. MTS shall have the right to administer its transit shelter and bus bench programs from \_\_\_\_\_, 2020 through \_\_\_\_\_, 2030. This MOU may be extended by mutual agreement by both parties. Any extension of this MOU must be approved in writing by the City Council.
  
2. Location Criteria for Transit Shelters and Transit Bus Benches
  - a. Transit shelters and bus benches *with advertising* shall be permitted only in commercial, industrial or multifamily housing areas in CITY unless otherwise authorized by the City Manager.
  
  - b. Transit shelters and bus benches *without advertising* shall be permitted in all areas where a MTS bus stop is located, so long as CITY has not exercised its authority under this MOU to reject a proposed transit shelter or bus bench location or to request the removal of an existing transit shelter or bus bench.
  
  - c. As transit shelter and bus bench maintenance contracts depend on advertising revenue to be sustainable, CITY shall allow a ratio of at least 4-to-1 advertising to non-advertising shelters and benches.
  
  - d. CITY, through the City Manager, shall have final authority to approve or deny the installation of any transit shelter or bus bench notwithstanding the fact that any proposed installation otherwise complies with the terms of this MOU; provided, however, that MTS shall not be required by CITY to install a transit shelter or bus bench at any specific location.
  
  - e. MTS shall provide a list of existing locations of all bus benches and transit shelters to the CITY and notify the CITY whenever changes are made in the CITY. All new installations shall conform to the terms of this MOU.
  
  - f. The CITY shall have the authority to cause a transit shelter or bus bench to be removed or relocated from any location at no cost to the CITY, upon making written demand to MTS for such removal.
  
  - g. There shall be no other criteria used for the placement of advertising shelters or benches.
  
3. Advertising Policy and Permissible Signage

- a. Transit shelter advertising is typically limited to two advertising panels that do not exceed four feet in width and six feet in height. Other permissible advertising includes digital advertising and "wrap" materials that are applied to the shelter structure.
- b. All advertising shall comply with MTS Policy No. 21 titled "MTS REVENUE-GENERATING DISPLAY ADVERTISING, CONCESSIONS, AND MERCHANDISE," attached as Exhibit A, which may be revised from time-to-time by the MTS Board of Directors.
- c. The CITY may request that MTS exercise its right to remove any advertisement, commercial, or noncommercial that does not conform to MTS Policy No. 21. Such demand shall be in writing and state reasonable grounds for the demand. Within thirty days' receipt of such demand, MTS shall consider and act upon the demand in accordance with the policy and legal requirements. Within thirty days of such consideration and action, if MTS fails to remove the Subject Material, MTS shall provide the CITY a written response identifying all reasons why the Subject Material was not removed.

4. Maintenance

- a. MTS, through its Contractors, shall be responsible for providing ongoing maintenance for every transit shelter or bench which it caused to be installed and currently exists in the public right-of-way.
- b. Transit shelters and bus benches shall be maintained in a state of good repair throughout the life of this MOU, and such services shall include, but not be limited to, refurbishing, reconditioning, and replacing worn or damaged transit shelters or bus benches if necessary.
- c. Routine inspections and trash removal shall be performed.
- d. Transit shelters and bus benches shall be repaired or replaced within 48 hours of notification to MTS of any damage, vandalism, or graffiti found on any transit shelter or bus bench.

5. Notices. MTS shall use its best efforts to notify the underlying property owners, as indicated on the most recent tax assessor's rolls, and building occupants that a new transit shelter or bus bench with or without advertising is proposed to be installed within 100 feet of their property in the public right-of-way prior to any transit shelter installation. Such notice will not be required if a shelter or bus bench currently exists and is simply being replaced by a new shelter or bus bench unless it is significantly modified.

6. Permits. MTS's contractor will be required to comply with all rules, regulations, and laws of the CITY and any applicable state or federal laws. All traffic control shall be per the San Diego Regional Standard Drawings and the California Manual on Uniform Traffic Control Devices, Latest Edition.

7. Electrification. MTS's contractor will secure all electrical permits necessary for the installation of new shelters. Solar-powered shelters shall not require any permit, MTS's contractor shall assume all costs associated with lighting and powering transit shelters.

8. CITY and Private Furniture

a. Notwithstanding that the CITY has granted to MTS the exclusive authority to install bus benches and transit shelters within the public right-of-way in the CITY, MTS agrees to allow the CITY to authorize others to place transit shelters, benches and appurtenances in the public right-of-way conditioned upon those shelters, benches, and appurtenances being placed in such locations as the CITY and MTS may agree to from time to time.

i. Process. Private entities authorized to install transit shelters, benches, and appurtenances pursuant to this amendment will be required to provide the design, construction, and maintenance for the shelter and bench. Installation will be permitted through a CITY encroachment permit process. The location of the shelters or benches shall conform to the MTS Design Standard Guidelines. MTS will provide the plan review for comment, but will not be responsible or liable for design, construction, or maintenance of the transit shelters or benches that are not installed as part of its existing shelter or bench contract.

ii. Indemnity. The CITY undertakes and agrees to defend, indemnify, and hold harmless MTS and any and all of MTS's officers, agents, employees, assigns, and successors in interest from and against all suits and causes of action, claims, losses, demands, and expenses including, but not limited to: attorney's fees and costs of litigation, damage or liability of any nature whatsoever for death or injury to any person including CITY employees and agents, or damage or destruction of any property of either party hereto or any third person in any section on the part of the CITY or its permitted private entities whether or not contributed to by an act or omission whether passive, active, or otherwise except for the sole negligence of MTS or any of MTS's officers, agents, and employees, in which case MTS shall hold the CITY harmless.

iii. Advertising. Advertising on the CITY's shelters or benches shall be solely for the purpose of announcing events of noncommercial nature taking place at an adjacent public facility owned or operated by the private entity authorized to install the shelter or bench and shall not be used for posting schedules of public meetings at the facility. Advertising space shall not be leased to any third party. Acknowledgement of sponsorship shall be permitted within the space reserved for advertising posters. All advertising posted on the shelters and benches must conform to the advertising criteria set forth in Section 2 of this MOU. MTS may make demand upon the CITY for the removal of any advertisement that does not conform to the aforementioned advertising criteria. Such demand shall be in writing and shall state reasonable grounds for the demand. The CITY shall consider and act upon the demand in accordance with those advertising criteria.

Advertising display panels shall be configured in such a way to be similar to MTS's shelters and benches. Advertising display panels shall be no greater in size than those used in MTS's shelters and benches. MTS shall be given first-right-of-refusal to utilize one advertising panel in each shelter for the purpose of posting transit information.

iv. Insurance. The CITY shall require any permitted private entity to maintain insurance to same extent required of MTS pursuant to this Memorandum of Understanding.

v. Maintenance. For pre-existing and future benches, shelters, trash receptacles, and other bus stop infrastructure and amenities not installed by MTS: MTS does not assume any responsibility in this MOU for repairs, maintenance, cleaning, installation, replacement, removal, trash and recycling service, graffiti abatement, painting, or any other work not agreed to elsewhere. MTS will not be responsible for damage caused by furniture and amenities installed by the City or others (apart from MTS and/or its designees), nor for the restoration of the area to City standard from any condition caused by the installation, damage, repair, or removal of any such infrastructure.

MTS shall maintain responsibility for all work related to the bus stop pole (if any), bus stop blade, and any MTS-provided information or amenities attached to the bus stop pole, including installation, repair, replacement, removal, cleaning, and graffiti abatement. MTS shall be responsible for MTS-provided and installed benches and shelters as specified in this MOU.

9. Indemnity & Hold Harmless. MTS undertakes and agrees to defend, indemnify, and hold harmless the CITY and any and all of the CITY's officers, agents, employees, volunteers, assigns, and successors in interest from and against all suits and causes of actions, claims, loss, demands, expenses, including, but not limited to, attorneys' fees and costs of litigation, damage or liability, or any nature whatsoever, for death or injury to any person, including MTS's employees and agents, or damage or destruction to any property of either party hereto or third person in any manner arising by reason of or incident to the performance of this MOU on the part of MTS, except for active negligence of the CITY or any of the City's officers, agents, contractors or employees, in which case the CITY shall hold MTS harmless and MTS shall have no obligation to defend and indemnify the CITY or its officers, agents, employees, volunteers, assigns or successors. CITY will cooperate reasonably in the defense of any action, and MTS shall employ competent counsel, reasonably acceptable to the City Attorney.

The indemnity, defense, and hold harmless obligations contained herein shall survive the termination of this MOU for any alleged or actual omission, act, or negligence under this MOU that occurred during the term of this MOU.

10. Termination of this MOU.

a. By CITY: The CITY may terminate this MOU if MTS or its contractor materially breaches the terms and conditions set forth herein, and the CITY shall owe no payment to MTS or its contractor. If the CITY terminates this MOU, the CITY may require MTS to remove every transit shelter and/or bus bench in the public rights-of-way. The City may terminate this MOU without cause, by serving upon MTS written notice of termination of this MOU one hundred twenty (120) days in advance of said date of termination, and the CITY shall pay MTS the current value for every transit shelter or bus bench in the public right-of-way.

The method of calculating the current value of a transit shelter or bus bench will be as follows:

$$\text{CURRENT VALUE} = \frac{\left[ \text{Transit Shelter/Bus Bench Unit Price} \right]}{\text{Depreciation Period (in months)}} \left[ \text{Depreciation Period - Months in Service (in months)} \right]$$

For purposes of calculating the current value the transit shelter or bus bench:

- the unit price shall be the unit price listed in the contractor’s financial plan submitted with the bid documents plus the installation costs of the bus bench or transit shelter;
- the depreciation period for transit shelters and bus benches will be ninety-six (96) months; and
- the number of months in service will be calculated from the date the transit shelter or bus bench is placed in service to the date of termination.

b. By MTS: MTS may terminate this MOU without cause, by serving upon CITY written notice of termination of this MOU three hundred sixty five (365) days in advance of said date of termination. No later than the date of termination, MTS shall either (i) reach an agreement with CITY for CITY to take possession and ownership of the transit shelters and bus benches that remain installed within the CITY, or (ii) remove each and every transit shelter and bus bench and restore the sidewalk to a safe and usable condition.

11. Insurance. During the term of the MOU, MTS shall require its contractor, at no cost to the CITY, to maintain the following levels and types of insurance:

a. Commercial general liability insurance for bodily injury (including death) and property damage, which provides total limits of not less than two million dollars (\$2,000,000.00) combined single limit per occurrence and \$4,000,000 aggregate. Coverages included shall be:

- i. Premises and operations;

- ii. Contractual liability expressly, including liability assumed under this MOU, with deletion of the exclusion as to performance of operations within the vicinity of any railroad bridge, trestle, track, roadbed, tunnel, underpass, and crossway;
- iii. Personal injury liability;
- iv. Independent contractors; and
- v. Cross-liability clause providing that the insurance applies separately to each insured except with respect to the limits of liability.
- vi. Such insurance shall include the following endorsement (copies of which shall be provided):
  - (1) Inclusion of the CITY, its officers, agents, employees, and volunteers as additional insureds with respect to activities, services, or operations under this MOU;
  - (2) Inclusion of MTS, and its subsidiaries, its officers, agents, and employees as additional insureds with respect to activities, services, or operations under this MOU; and
  - (3) Stipulation that the contractor's insurance is primary insurance and that no insurance of the CITY or MTS will be called upon to contribute to a loss.

b. Comprehensive automobile liability insurance for bodily injury (including death) and property damage, which provides total limits of not less two million dollars (\$2,000,000.00) combined single limit per occurrence applicable to all owned, nonowned, and hired vehicles. This policy shall name the CITY and its officers, agents, employees, and volunteers, as well as MTS and its subsidiary agencies, as additional insureds, and a separate additional insured endorsement shall be provided for each additional insured.

c. Statutory workers' compensation coverage including a broad form all states endorsement; employer's liability insurance for not less than one million dollars (\$1,000,000.00) per occurrence for all individuals engaged in services or operations to implement this MOU, including an insurer's waiver of subrogation in favor of both the CITY and MTS along with their directors, officers, representatives, agents, employees and volunteers

d. MTS shall also provide CITY with satisfactory evidence of self-insurance that meets or exceeds the types and levels of insurance outlined above.

Notices. No notice, request, demand, instruction, or other document to be given hereunder to any party shall be effective for any purpose unless personally delivered to the person at the appropriate address set forth below (in which event, such notice shall be deemed effective only upon such delivery) or delivered by certified mail, return receipt requested, as follows:

To The CITY:  
 Roberto Yano  
 Director of Public Works / City Engineer  
 City of National City  
 1243 National City Blvd  
 National City, CA 91950

To MTS:  
 Paul C. Jablonski  
 Chief Executive Officer  
 Metropolitan Transit System  
 1255 Imperial Avenue, Suite 1000  
 San Diego, California 92101

Notices so mailed shall be deemed to have been given forty-eight (48) hours after the deposit of same in any United States Post Office mailbox. The addresses and addressees, for the purpose of this paragraph, may be changed by giving written notice of such change in the manner herein provided for giving notice. Unless and until such written notice of change is received, the last address and addressee stated by written notice, or provided herein if no such written notice of change has been received, shall be deemed effective.

12. Attorneys' Fees & Governing Law. If legal action be commenced to enforce or to declare the effect of any provisions of the MOU, the court as part of its judgment shall award reasonable attorneys' fees and costs to the prevailing party. This MOU shall be governed by and construed in accordance with the laws of the State of California. The venue for any legal action arising under this Agreement shall be in either state or federal court in the County of San Diego, State of California.
13. Prevailing Wages. State prevailing wage rates may apply to work performed under this MOU. State prevailing wages rates apply to all public works contracts as set forth in California Labor Code, including but not limited to, Sections 1720, 1720.2, 1720.3, 1720.4, and 1771. MTS is solely responsible to determine if State prevailing wage rates apply and, if applicable, pay such rates in accordance with all laws, ordinances, rules, and regulations.
14. No Waiver. The waiver by one (1) party of the performance of any covenant, condition, or promise shall not invalidate this MOU nor shall it be considered a waiver by such party of any other covenant, condition, or promise hereunder. The waiver by either or both parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or identical act required to be performed at a later time. The exercise of any remedy provided by law and the provisions of this MOU for any remedy shall not exclude other consistent remedies unless they are expressly excluded.
15. Severance. If any provision of this MOU is found to be unenforceable, the remainder of the provisions shall continue to be given full force and effect.
16. Amendments. No change in or addition to this MOU or any part hereof shall be valid unless in writing and properly authorized by the CITY and MTS.
17. Entire Agreement. This MOU supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of any party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

18. Construction. The parties acknowledge and agree that (i) each party is of equal bargaining strength, (ii) each party has actively participated in the drafting, preparation and negotiation of this MOU, (iii) each such party has consulted with or has had the opportunity to consult with its own, independent counsel and such other professional advisors as such party has deemed appropriate, relative to any and all matters contemplated under this MOU, (iv) each party and such party's counsel and advisors have reviewed this MOU, (v) each party has agreed to enter into this MOU following such review and the rendering of such advice, and (vi) any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this MOU, or any portions hereof, or any amendments hereto.

SAN DIEGO METROPOLITAN TRANSIT  
SYSTEM



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Paul C. Jablonski  
Chief Executive Officer

APPROVED AS TO FORM:



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Karen Landers  
General Counsel

CITY OF NATIONAL CITY

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By: Alejandra Sotelo-Solis  
Title: Mayor

APPROVED AS TO FORM:

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Angil P. Morris-Jones  
City Attorney

**RESOLUTION NO. 2020 -**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY  
AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF  
UNDERSTANDING (MOU) BETWEEN THE SAN DIEGO METROPOLITAN TRANSIT  
SYSTEM (MTS) AND THE CITY OF NATIONAL CITY REGARDING  
BUS SHELTER AND BUS BENCH ADVERTISING**

**WHEREAS**, The San Diego Metropolitan Transit System (“MTS”) is the statutorily designated public transit provider for the portion of San Diego County that includes the City of National City (City); and

**WHEREAS**, MTS desires to enter into a ten (10) year Memorandum of Understanding (“MOU”) with the City of National City (“City”) in order to install shelters and benches within the public-right-of-way at no cost to the City; and

**WHEREAS**, the City had a previous MOU with MTS that expired in 2004; and

**WHEREAS**, since then, MTS has continued to work with the City to install shelters and benches within the City’s public-right-of-way; and

**WHEREAS**, MTS desires to formally acknowledge their cooperative agreement regarding bus stop improvements within the City; and

**WHEREAS**, the MOU provides the criteria for locating transit shelters and transit bus benches, among other things; and

**WHEREAS**, the MOU also establishes the City as final authority to approve or deny the installation of any shelter or bus bench and remove or relocate any shelter or bus bench at no cost to the City; and

**WHEREAS**, the advertising policy and permissible signage are regulated under the MTS Policy No. 21 titled “MTS revenue-generating display advertising, concessions, and merchandise” and that all maintenance for every shelter is the sole responsibility of MTS; and

**WHEREAS**, the revenue generated from MTS advertising contracts is intended to fund the purchase of new transit shelters and benches as well as to fund services within MTS’s jurisdiction; and

**WHEREAS**, City Staff is recommending the Council to adopt the resolution authorizing the Mayor to execute the Memorandum of Understanding (MOU) between the San Diego Metropolitan Transit System (“MTS”) and the City of National City regarding bus shelter and bus bench advertising.

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**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of National City hereby authorizes the Mayor to execute a ten (10) year Memorandum of Understanding (“MOU”) between the San Diego Metropolitan Transit System (“MTS”) and the City of National City regarding bus shelter and bus bench advertising.

**PASSED and ADOPTED this 19th day of May, 2020.**

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

**ATTEST:**

\_\_\_\_\_  
Michael R. Dalla, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Angil P. Morris-Jones  
City Attorney

The following page(s) contain the backup material for Agenda Item: [National City Sales Tax Update Newsletter – Fourth Quarter 2019. \(Finance\)](#)  
Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 19, 2020

**AGENDA ITEM NO.:**

**ITEM TITLE:**

National City Sales Tax Update Newsletter – Fourth Quarter 2019

**PREPARED BY:** Mark Roberts, Finance Director

**PHONE:** 619-336-4330

**DEPARTMENT:** Finance

**APPROVED BY:** Mark Roberts

**EXPLANATION:**

National City has an ongoing contract with Hinderliter, de Llamas & Associates (HdL) to provide sales tax consulting/auditing services. Staff meets quarterly with a representative of HdL to review sales tax results and trends within the City and State-wide.

Attached is the "National City Sales Tax Update" newsletter for the fourth quarter of calendar year 2019, which summarizes sales tax data for the period.

**FINANCIAL STATEMENT:**

**ACCOUNT NO.**  
NA

**APPROVED:** Mark Roberts **FINANCE**

**APPROVED:** \_\_\_\_\_ **MIS**

**ENVIRONMENTAL REVIEW:**

This is not a project and, therefore, not subject to environmental review.

**ORDINANCE:** INTRODUCTION  FINAL ADOPTION

**STAFF RECOMMENDATION:**

Accept and file the report.

**BOARD / COMMISSION RECOMMENDATION:**

**ATTACHMENTS:**

National City Sales Tax Update Newsletter – Fourth Quarter 2019

# Q4 2019



# National City Sales Tax Update

First Quarter Receipts for Fourth Quarter Sales (October - December 2019)

## National City In Brief

National City's receipts from October through December were 12.1% above the fourth sales period in 2018. Excluding reporting aberrations, actual sales were up 8.7%, exceeding the State and regional trend.

The City's performance was strong in nearly every major sales tax category, with broad-based, positive performance. The largest contributor to the overall improvement was growth in allocations from the countywide use tax pool. This was boosted by a recent legislative change that provides the State the ability to collect tax revenue from the sales of smaller, third-party internet retailers on marketplace internet platforms.

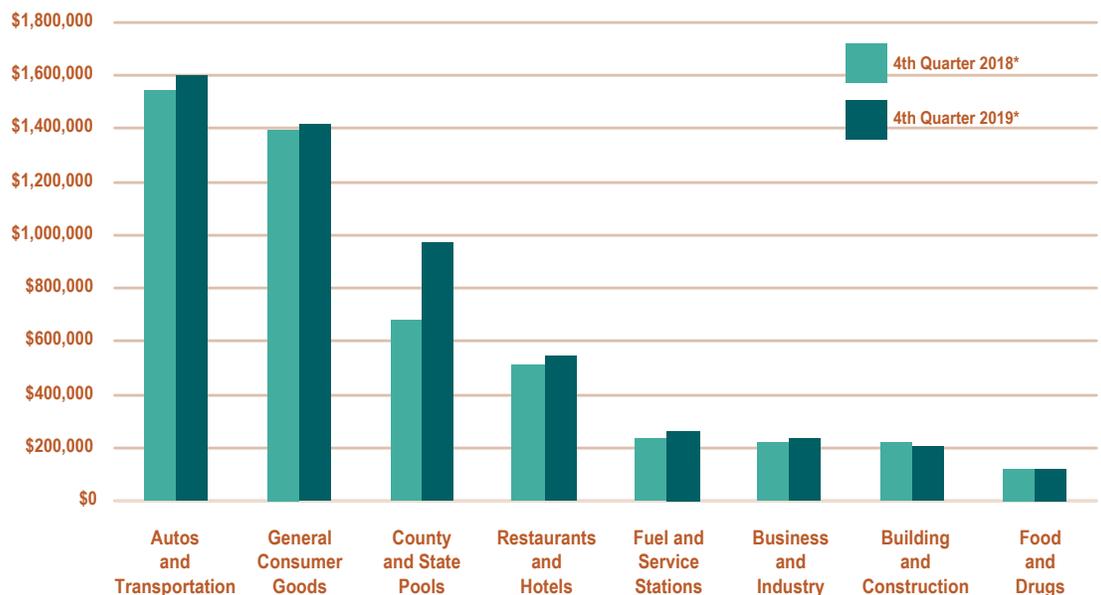
New car sales were up 2.4%, outperforming the 3.4% statewide decline.

The recent opening of a new family apparel retailer was also a factor in the strong performance.

Voter-approved Measure D generated \$3,565,375 additional revenue this quarter.

Net of aberrations, taxable sales for all of San Diego County grew 5.6% over the comparable time period; the Southern California region was up 4.4%.

## SALES TAX BY MAJOR BUSINESS GROUP



\*Allocation aberrations have been adjusted to reflect sales activity

### TOP 25 PRODUCERS

IN ALPHABETICAL ORDER

Arco AM PM	Perry Ford
Ball Mitsubishi	Probuild Company
Burlington Coat Factory	Ron Baker Chevrolet
C & M Motors Truck Center	Ross
Frank Hyundai	South Bay Volkswagen
Frank Subaru	T Mobile
Frank Toyota	Target
JC Penney	USA Gasoline
Macys	Victoria's Secret
Mossy Nissan	Walmart Supercenter
National City Gas & Carwash	Wescott Mazda
Nordstrom Rack	Westair Gases & Equipment
Perry Chrysler	
Dodge Jeep Ram	

### REVENUE COMPARISON

Two Quarters – Fiscal Year To Date (Q3 to Q4)

	2018-19	2019-20
Point-of-Sale	\$8,736,434	\$8,683,241
County Pool	1,322,158	1,698,001
State Pool	4,413	3,962
<b>Gross Receipts</b>	<b>\$10,063,005</b>	<b>\$10,385,204</b>
<b>Measure D</b>	<b>\$6,550,818</b>	<b>\$6,864,408</b>

**California Overall**

Statewide sales and use tax receipts from 2019's fourth quarter were 4.2% higher than last year's holiday quarter after factoring for accounting anomalies.

The increase came from the acceleration in online shopping which generated huge gains in the countywide use tax pools for merchandise shipped from out-of-state and from California based fulfillment warehouses in those cases where the warehouse is also point-of-sale. This segment was further boosted by the first full quarter of California's implementation of the Wayfair vs South Dakota ruling that requires out-of-state retailers to collect and remit sales tax on merchandise sold to California customers. The ruling has led to an increase in sales tax receipts of roughly \$2.95 per capita while also producing double digit gains for in-state online fulfillment centers.

In contrast, soft sales and closeouts resulted in a decline in almost every category of brick-and-mortar spending during the holiday season while new cannabis retailers helped boost what would have been a soft quarter for the food-drug group. Most other sales categories including new cars and business-industrial purchases were also down. Restaurant group gains were modest compared to previous quarters.

Overall, the rise in county pool receipts offset what would have been otherwise, a flat or depressed quarter for most jurisdictions.

**Covid-19**

The coronavirus impact will first be seen in next quarter's data reflecting January through March sales. Based on recovery rates being reported in some Asian countries, the virus's disruption of supply chains will be deepest in the first and second quarter and largely resolved by mid-summer. However, recovery from social distancing and home confinements could take longer

with the deepest tax declines expected in the restaurant/hospitality, travel/transportation and brick-and-mortar retail segments. Layoffs and furloughs are also expected to reduce purchases of new cars and other high cost durable goods. The losses from the state's high-tech innovation industries may be more modest while the food-drug and online retail groups could exhibit increases.

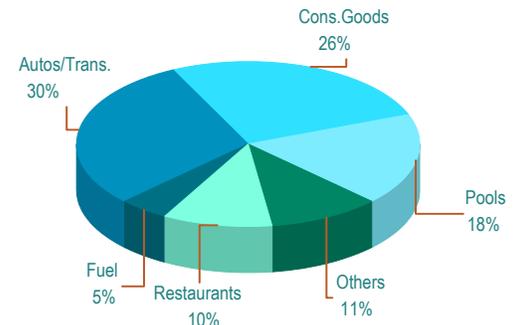
Assuming that the virus is largest contained by the end of September, HdL's economic scenario projects that tax declines will bottom out in the first quarter of 2021 but with only moderate gains for several quarters after. Data from previous downturns suggests that the return to previous spending is not immediate and often evolves. Businesses emerge with ways to operate with fewer employees and more moderate capital investment. Consumers take time to fully get back to previous levels of leisure travel, dining and spending and may permanently transfer to newly discovered services, activities and/or online retail options.

**SALES PER CAPITA\***



\*Allocation aberrations have been adjusted to reflect sales activity

**REVENUE BY BUSINESS GROUP**  
National City This Quarter\*



\*Allocation aberrations have been adjusted to reflect sales activity

**NATIONAL CITY TOP 15 BUSINESS TYPES\*\***

Business Type	*In thousands of dollars			
	National City Q4 '19*	Change	County Change	HdL State Change
Auto Lease	131.4	12.0%	1.1%	3.2%
Auto Repair Shops	72.3	19.1%	-0.9%	-1.0%
Building Materials	168.9	-4.3%	2.7%	1.4%
Casual Dining	198.2	5.2%	4.0%	3.8%
Department Stores	222.2	-1.7%	-10.5%	-4.8%
Discount Dept Stores	— CONFIDENTIAL —	—	4.1%	3.6%
Electronics/Appliance Stores	102.6	-7.9%	-6.9%	-6.6%
Family Apparel	303.1	8.8%	2.5%	1.3%
New Motor Vehicle Dealers	1,193.9	2.4%	-2.1%	-3.4%
Quick-Service Restaurants	294.6	9.3%	2.5%	1.9%
Service Stations	258.9	10.4%	-2.0%	0.2%
Shoe Stores	89.6	4.9%	3.1%	-0.3%
Specialty Stores	115.3	1.7%	-5.1%	-3.8%
Used Automotive Dealers	100.0	-6.5%	4.0%	4.6%
Women's Apparel	79.8	-12.1%	-8.6%	-4.8%
<b>Total All Accounts</b>	<b>4,388.7</b>	<b>3.4%</b>	<b>0.4%</b>	<b>0.2%</b>
<b>County &amp; State Pool Allocation</b>	<b>968.9</b>	<b>41.9%</b>	<b>37.7%</b>	<b>26.7%</b>
<b>Gross Receipts</b>	<b>5,357.6</b>	<b>8.7%</b>	<b>5.6%</b>	<b>4.2%</b>

\*\* Accounting aberrations such as late payments, fund transfers, and audit adjustments have been adjusted to reflect the quarter in which the sales occurred.

The following page(s) contain the backup material for Agenda Item: [Investment transactions for the month ended February 29, 2020. \(Finance\)](#)  
Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 19, 2020

**AGENDA ITEM NO.:**

**ITEM TITLE:**

Investment transactions for the month ended February 29, 2020.

**PREPARED BY:** *Ron Gutlay*

**PHONE:** 619-336-4346

**DEPARTMENT:** Finance

**APPROVED BY:** *Mark Ralvito*

**EXPLANATION:**

In accordance with California Government Code Section 53646 and Section XI A of the City of National City's investment policy, a monthly report shall be submitted to the legislative body accounting for transactions made during the reporting period.

The attached listing reflects investment transactions of the City of National City's investment portfolio for the month ending February 29, 2020.

**FINANCIAL STATEMENT:**

**ACCOUNT NO.**  
NA

**APPROVED:** *Mark Ralvito* **FINANCE**

**APPROVED:** \_\_\_\_\_ **MIS**

**ENVIRONMENTAL REVIEW:**

This is not a project and, therefore, not subject to environmental review.

**ORDINANCE:** INTRODUCTION  FINAL ADOPTION

**STAFF RECOMMENDATION:**

Accept and file the Investment Transaction Ledger for the month ended February 29, 2020.

**BOARD / COMMISSION RECOMMENDATION:**

NA

**ATTACHMENTS:**

Investment Transaction Ledger



Transaction Type	Settlement Date	CUSIP	Quantity	Security Description	Price	Acq/Disp Yield	Amount	Interest Pur/Sold	Total Amount	Gain/Loss
<b>ACQUISITIONS</b>										
Purchase	02/04/2020	60934N807	425.65	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	425.65	0.00	425.65	0.00
Purchase	02/07/2020	60934N807	9,187.50	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	9,187.50	0.00	9,187.50	0.00
Purchase	02/16/2020	60934N807	7,125.00	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	7,125.00	0.00	7,125.00	0.00
Purchase	02/17/2020	60934N807	2,750.00	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	2,750.00	0.00	2,750.00	0.00
Purchase	02/18/2020	60934N807	3,368.75	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	3,368.75	0.00	3,368.75	0.00
Purchase	02/18/2020	60934N807	148.33	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	148.33	0.00	148.33	0.00
Purchase	02/18/2020	60934N807	438.96	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	438.96	0.00	438.96	0.00
Purchase	02/18/2020	60934N807	579.00	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	579.00	0.00	579.00	0.00
Purchase	02/18/2020	60934N807	280.25	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	280.25	0.00	280.25	0.00
Purchase	02/18/2020	60934N807	211.79	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	211.79	0.00	211.79	0.00
Purchase	02/18/2020	60934N807	613.33	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	613.33	0.00	613.33	0.00
Purchase	02/18/2020	60934N807	300,482.50	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	300,482.50	0.00	300,482.50	0.00
Purchase	02/18/2020	60934N807	11,447.60	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	11,447.60	0.00	11,447.60	0.00
Purchase	02/18/2020	60934N807	46,911.52	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	46,911.52	0.00	46,911.52	0.00
Purchase	02/18/2020	60934N807	21,749.06	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	21,749.06	0.00	21,749.06	0.00
Purchase	02/18/2020	60934N807	25,483.02	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	25,483.02	0.00	25,483.02	0.00



Transaction Type	Settlement Date	CUSIP	Quantity	Security Description	Price	Acq/Disp Yield	Amount	Interest Pur/Sold	Total Amount	Gain/Loss
<b>ACQUISITIONS</b>										
Purchase	02/21/2020	60934N807	626.87	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	626.87	0.00	626.87	0.00
Purchase	02/26/2020	43813RAC1	70,000.00	Honda Auto Receivables 2020-1 A3 1.61% Due 4/22/2024	99.980	1.62%	69,986.28	0.00	69,986.28	0.00
Purchase	02/29/2020	60934N807	600,000.00	Federated Investors Govt Oblig Fund Inst.	1.000	1.24%	600,000.00	0.00	600,000.00	0.00
Purchase	02/29/2020	60934N807	12,468.75	Federated Investors Govt Oblig Fund Inst.	1.000	1.24%	12,468.75	0.00	12,468.75	0.00
<b>Subtotal</b>			<b>1,114,297.88</b>				<b>1,114,284.16</b>	<b>0.00</b>	<b>1,114,284.16</b>	<b>0.00</b>
Security Contribution	02/29/2020	90SDCP\$00	31,000.00	County of San Diego Pooled Investment Pool	1.000		31,000.00	0.00	31,000.00	0.00
<b>Subtotal</b>			<b>31,000.00</b>				<b>31,000.00</b>	<b>0.00</b>	<b>31,000.00</b>	<b>0.00</b>
<b>TOTAL ACQUISITIONS</b>			<b>1,145,297.88</b>				<b>1,145,284.16</b>	<b>0.00</b>	<b>1,145,284.16</b>	<b>0.00</b>

<b>DISPOSITIONS</b>										
Sale	02/26/2020	60934N807	69,986.28	Federated Investors Govt Oblig Fund Inst.	1.000	1.22%	69,986.28	0.00	69,986.28	0.00
<b>Subtotal</b>			<b>69,986.28</b>				<b>69,986.28</b>	<b>0.00</b>	<b>69,986.28</b>	<b>0.00</b>
Paydown	02/18/2020	02582JHE3	0.00	American Express Credit Trust 2017-3 A 1.77% Due 11/15/2022	100.000		0.00	280.25	280.25	0.00
Paydown	02/18/2020	02587AAJ3	300,000.00	American Express Credit Trust 2017-1 A 1.93% Due 9/15/2022	100.000		300,000.00	482.50	300,482.50	4,535.16
Paydown	02/18/2020	161571GX6	0.00	Chase Issuance Trust 2015-A4 A4 1.84% Due 4/15/2022	100.000		0.00	613.33	613.33	0.00
Paydown	02/18/2020	43814UAG4	0.00	Honda Auto Receivables Trust 2018-2 A3 3.01% Due 5/18/2022	100.000		0.00	438.96	438.96	0.00
Paydown	02/18/2020	43814WAB1	11,205.53	Honda Auto Receivables Trust 2019-1 A2 2.75% Due 9/20/2021	100.000		11,205.53	242.07	11,447.60	0.72



Transaction Type	Settlement Date	CUSIP	Quantity	Security Description	Price	Acq/Disp Yield	Amount	Interest Pur/Sold	Total Amount	Gain/Loss
<b>DISPOSITIONS</b>										
Paydown	02/18/2020	43815NAC8	0.00	Honda Auto Receivables Trust 2019-3 A3 1.78% Due 8/15/2023	100.000		0.00	148.33	148.33	0.00
Paydown	02/18/2020	477870AC3	0.00	John Deere Owner Trust 2019-B A3 2.21% Due 12/15/2023	100.000		0.00	211.79	211.79	0.00
Paydown	02/18/2020	47788EAB4	46,714.85	John Deere Owner Trust 2018-B A2 2.83% Due 4/15/2021	100.000		46,714.85	196.67	46,911.52	1.92
Paydown	02/18/2020	47789JAB2	21,388.28	John Deere Owner Trust 2019-A A2 2.85% Due 12/15/2021	100.000		21,388.28	360.78	21,749.06	0.97
Paydown	02/18/2020	65479JAD5	0.00	Nissan Auto Receivables Owner 2019-C A3 1.93% Due 7/15/2024	100.000		0.00	579.00	579.00	0.00
Paydown	02/18/2020	89238KAD4	25,038.64	Toyota Auto Receivables Trust 2017-D A3 1.93% Due 1/18/2022	100.000		25,038.64	444.38	25,483.02	69.44
Paydown	02/21/2020	43815HAC1	0.00	Honda Auto Receivables Trust 2018-3 A3 2.95% Due 8/22/2022	100.000		0.00	626.87	626.87	0.00
<b>Subtotal</b>			<b>404,347.30</b>				<b>404,347.30</b>	<b>4,624.93</b>	<b>408,972.23</b>	<b>4,608.21</b>
Maturity	02/29/2020	912828J50	600,000.00	US Treasury Note 1.375% Due 2/29/2020	100.000		600,000.00	0.00	600,000.00	1,591.74
<b>Subtotal</b>			<b>600,000.00</b>				<b>600,000.00</b>	<b>0.00</b>	<b>600,000.00</b>	<b>1,591.74</b>
Security Withdrawal	02/05/2020	60934N807	2,267.22	Federated Investors Govt Oblig Fund Inst.	1.000		2,267.22	0.00	2,267.22	0.00
<b>Subtotal</b>			<b>2,267.22</b>				<b>2,267.22</b>	<b>0.00</b>	<b>2,267.22</b>	<b>0.00</b>
<b>TOTAL DISPOSITIONS</b>			<b>1,076,600.80</b>				<b>1,076,600.80</b>	<b>4,624.93</b>	<b>1,081,225.73</b>	<b>6,199.95</b>
<b>OTHER TRANSACTIONS</b>										
Interest	02/07/2020	06406RAA5	400,000.00	Bank of NY Mellon Corp Callable Note Cont 1/7/2022 2.6% Due 2/7/2022	0.000		5,200.00	0.00	5,200.00	0.00



Transaction Type	Settlement Date	CUSIP	Quantity	Security Description	Price	Acq/Disp Yield	Amount	Interest Pur/Sold	Total Amount	Gain/Loss
<b>OTHER TRANSACTIONS</b>										
Interest	02/07/2020	40428HPV8	290,000.00	HSBC USA Inc Note 2.75% Due 8/7/2020	0.000		3,987.50	0.00	3,987.50	0.00
Interest	02/16/2020	3137EAE9	600,000.00	FHLMC Note 2.375% Due 2/16/2021	0.000		7,125.00	0.00	7,125.00	0.00
Interest	02/17/2020	3135G0N82	440,000.00	FNMA Note 1.25% Due 8/17/2021	0.000		2,750.00	0.00	2,750.00	0.00
Interest	02/18/2020	3130A7CV5	490,000.00	FHLB Note 1.375% Due 2/18/2021	0.000		3,368.75	0.00	3,368.75	0.00
Interest	02/29/2020	912828J50	600,000.00	US Treasury Note 1.375% Due 2/29/2020	0.000		4,125.00	0.00	4,125.00	0.00
Interest	02/29/2020	912828L24	450,000.00	US Treasury Note 1.875% Due 8/31/2022	0.000		4,218.75	0.00	4,218.75	0.00
Interest	02/29/2020	912828L32	600,000.00	US Treasury Note 1.375% Due 8/31/2020	0.000		4,125.00	0.00	4,125.00	0.00
<b>Subtotal</b>			<b>3,870,000.00</b>				<b>34,900.00</b>	<b>0.00</b>	<b>34,900.00</b>	<b>0.00</b>
Dividend	02/04/2020	60934N807	747,947.36	Federated Investors Govt Oblig Fund Inst.	0.000		425.65	0.00	425.65	0.00
<b>Subtotal</b>			<b>747,947.36</b>				<b>425.65</b>	<b>0.00</b>	<b>425.65</b>	<b>0.00</b>
<b>TOTAL OTHER TRANSACTIONS</b>			<b>4,617,947.36</b>				<b>35,325.65</b>	<b>0.00</b>	<b>35,325.65</b>	<b>0.00</b>

The following page(s) contain the backup material for Agenda Item: [Warrant Register #40 for the period of 3/25/20 through 3/31/20 in the amount of \\$65,490.00. \(Finance\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 19, 2020

**AGENDA ITEM NO.:**

**ITEM TITLE:**

Warrant Register #40 for the period of 3/25/20 through 3/31/20 in the amount of \$65,490.00. (Finance)

**PREPARED BY:** Karla Apalategui, Senior Accounting Assistant

**DEPARTMENT:** Finance

**PHONE:** 619-336-4572

**APPROVED BY:** 

**EXPLANATION:**

Per Government Section Code 37208, attached are the warrants issued for the period 3/25/20 - 3/31/20. Consistent with Department of Finance's practice, listed below are all payments above \$50,000.

<u>Vendor</u>	<u>Check/Wire</u>	<u>Amount</u>	<u>Explanation</u>
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No Warrants over \$50,000 issued during this period

**FINANCIAL STATEMENT:**

**APPROVED:** 

**FINANCE**

**ACCOUNT NO.**

**APPROVED:** \_\_\_\_\_

**MIS**

Warrant total \$65,490.00.

**ENVIRONMENTAL REVIEW:**

This is not a project and, therefore, not subject to environmental review.

**ORDINANCE:** INTRODUCTION  FINAL ADOPTION

**STAFF RECOMMENDATION:**

Ratify warrants totaling \$65,490.00.

**BOARD / COMMISSION RECOMMENDATION:**

**ATTACHMENTS:**

Warrant Register # 40



**WARRANT REGISTER # 40  
3/31/2020**

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
SHEPPARD MULLIN RICHTER	SETTLEMENT	346934	3/31/20	40,000.00
ACEDO, I	RETIREE HEALTH BENEFITS / APRIL 2020	346935	3/31/20	160.00
ANDERSON, E	RETIREE HEALTH BENEFITS / APRIL 2020	346936	3/31/20	110.00
BEARD, P	RETIREE HEALTH BENEFITS / APRIL 2020	346937	3/31/20	70.00
BECK, L	RETIREE HEALTH BENEFITS / APRIL 2020	346938	3/31/20	140.00
BISHOP, R	RETIREE HEALTH BENEFITS / APRIL 2020	346939	3/31/20	110.00
BOEGLER, C	RETIREE HEALTH BENEFITS / APRIL 2020	346940	3/31/20	260.00
BULL, P	RETIREE HEALTH BENEFITS / APRIL 2020	346941	3/31/20	580.00
CAMEON, C	RETIREE HEALTH BENEFITS / APRIL 2020	346942	3/31/20	400.00
CARRILLO, R	RETIREE HEALTH BENEFITS / APRIL 2020	346943	3/31/20	290.00
COLE, L	RETIREE HEALTH BENEFITS / APRIL 2020	346944	3/31/20	165.00
COLLINSON, C	RETIREE HEALTH BENEFITS / APRIL 2020	346945	3/31/20	420.00
CONDON, D	RETIREE HEALTH BENEFITS / APRIL 2020	346946	3/31/20	280.00
CORDERO, E	RETIREE HEALTH BENEFITS / APRIL 2020	346947	3/31/20	520.00
DANESHFAR, Z	RETIREE HEALTH BENEFITS / APRIL 2020	346948	3/31/20	250.00
DEESE, L	RETIREE HEALTH BENEFITS / APRIL 2020	346949	3/31/20	660.00
DESROCHERS, P	RETIREE HEALTH BENEFITS / APRIL 2020	346950	3/31/20	110.00
DIAZ, M	RETIREE HEALTH BENEFITS / APRIL 2020	346951	3/31/20	680.00
DILLARD, S	RETIREE HEALTH BENEFITS / APRIL 2020	346952	3/31/20	480.00
DREDGE, J	RETIREE HEALTH BENEFITS / APRIL 2020	346953	3/31/20	250.00
EISER III, G	RETIREE HEALTH BENEFITS / APRIL 2020	346954	3/31/20	250.00
ESPIRITU, D	RETIREE HEALTH BENEFITS / APRIL 2020	346955	3/31/20	620.00
ETZLER, J	RETIREE HEALTH BENEFITS / APRIL 2020	346956	3/31/20	460.00
FABINSKI, D	RETIREE HEALTH BENEFITS / APRIL 2020	346957	3/31/20	220.00
FERNANDEZ, R	RETIREE HEALTH BENEFITS / APRIL 2020	346958	3/31/20	270.00
FIFIELD, K	RETIREE HEALTH BENEFITS / APRIL 2020	346959	3/31/20	540.00
GAUT, A	RETIREE HEALTH BENEFITS / APRIL 2020	346960	3/31/20	700.00
GELSKEY, K	RETIREE HEALTH BENEFITS / APRIL 2020	346961	3/31/20	115.00
GIBBS JR, R	RETIREE HEALTH BENEFITS / APRIL 2020	346962	3/31/20	120.00
GONZALES, M	RETIREE HEALTH BENEFITS / APRIL 2020	346963	3/31/20	1,920.00
HANSON, E	RETIREE HEALTH BENEFITS / APRIL 2020	346964	3/31/20	135.00
HARLAN, M	RETIREE HEALTH BENEFITS / APRIL 2020	346965	3/31/20	500.00
HAUG, S	RETIREE HEALTH BENEFITS / APRIL 2020	346966	3/31/20	120.00
HERNANDEZ, G	RETIREE HEALTH BENEFITS / APRIL 2020	346967	3/31/20	500.00
HERNANDEZ, M	RETIREE HEALTH BENEFITS / APRIL 2020	346968	3/31/20	600.00
HERNANDEZ, R	RETIREE HEALTH BENEFITS / APRIL 2020	346969	3/31/20	400.00
HODGES, B	RETIREE HEALTH BENEFITS / APRIL 2020	346970	3/31/20	200.00
IBARRA, J	RETIREE HEALTH BENEFITS / APRIL 2020	346971	3/31/20	780.00
JAMES, R	RETIREE HEALTH BENEFITS / APRIL 2020	346972	3/31/20	140.00
JONES, D	RETIREE HEALTH BENEFITS / APRIL 2020	346973	3/31/20	480.00
JUNIEL, R	RETIREE HEALTH BENEFITS / APRIL 2020	346974	3/31/20	50.00
KIMBLE, R	RETIREE HEALTH BENEFITS / APRIL 2020	346975	3/31/20	300.00
KLOS, F	RETIREE HEALTH BENEFITS / APRIL 2020	346976	3/31/20	480.00
LEACH, D	RETIREE HEALTH BENEFITS / APRIL 2020	346977	3/31/20	600.00
LIMFUECO, M	RETIREE HEALTH BENEFITS / APRIL 2020	346978	3/31/20	160.00
MATIENZO, M	RETIREE HEALTH BENEFITS / APRIL 2020	346979	3/31/20	100.00
MC CABE, T	RETIREE HEALTH BENEFITS / APRIL 2020	346980	3/31/20	280.00



**WARRANT REGISTER # 40  
3/31/2020**

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
MCDANIEL, P	RETIREE HEALTH BENEFITS / APRIL 2020	346981	3/31/20	290.00
MEDINA, R	RETIREE HEALTH BENEFITS / APRIL 2020	346982	3/31/20	105.00
MENDOZA, G	RETIREE HEALTH BENEFITS / APRIL 2020	346983	3/31/20	290.00
MINER, D	RETIREE HEALTH BENEFITS / APRIL 2020	346984	3/31/20	580.00
MORRISON, R	RETIREE HEALTH BENEFITS / APRIL 2020	346985	3/31/20	520.00
NAGLE, D	RETIREE HEALTH BENEFITS / APRIL 2020	346986	3/31/20	460.00
NOTEWARE, D	RETIREE HEALTH BENEFITS / APRIL 2020	346987	3/31/20	120.00
OLIVARES, G	RETIREE HEALTH BENEFITS / APRIL 2020	346988	3/31/20	280.00
OLIVERIA, H	RETIREE HEALTH BENEFITS / APRIL 2020	346989	3/31/20	360.00
PAUU JR, P	RETIREE HEALTH BENEFITS / APRIL 2020	346990	3/31/20	340.00
PEASE JR, D	RETIREE HEALTH BENEFITS / APRIL 2020	346991	3/31/20	140.00
PETERS, S	RETIREE HEALTH BENEFITS / APRIL 2020	346992	3/31/20	290.00
POST, R	RETIREE HEALTH BENEFITS / APRIL 2020	346993	3/31/20	280.00
RAY, S	RETIREE HEALTH BENEFITS / APRIL 2020	346994	3/31/20	190.00
ROARK, L	RETIREE HEALTH BENEFITS / APRIL 2020	346995	3/31/20	135.00
RODRIGUEZ, M	RETIREE HEALTH BENEFITS / APRIL 2020	346996	3/31/20	260.00
RUIZ, J	RETIREE HEALTH BENEFITS / APRIL 2020	346997	3/31/20	310.00
SANCHEZ, L	RETIREE HEALTH BENEFITS / APRIL 2020	346998	3/31/20	330.00
SERVATIUS, J	RETIREE HEALTH BENEFITS / APRIL 2020	346999	3/31/20	340.00
SHOEMSKER, M	RETIREE HEALTH BENEFITS / APRIL 2020	347000	3/31/20	480.00
SHORT, C	RETIREE HEALTH BENEFITS / APRIL 2020	347001	3/31/20	300.00
SMITH, J	RETIREE HEALTH BENEFITS / APRIL 2020	347002	3/31/20	320.00
STEWART, W	RETIREE HEALTH BENEFITS / APRIL 2020	347003	3/31/20	200.00
STRASEN, W	RETIREE HEALTH BENEFITS / APRIL 2020	347004	3/31/20	135.00
TIPTON, B	RETIREE HEALTH BENEFITS / APRIL 2020	347005	3/31/20	250.00
VERRY, L	RETIREE HEALTH BENEFITS / APRIL 2020	347006	3/31/20	280.00
VILLAGOMEZ, J	RETIREE HEALTH BENEFITS / APRIL 2020	347007	3/31/20	480.00
WHITE, J	RETIREE HEALTH BENEFITS / APRIL 2020	347008	3/31/20	230.00
YBARRA, A	RETIREE HEALTH BENEFITS / APRIL 2020	347009	3/31/20	220.00

**A/P Total 65,490.00**

**GRAND TOTAL \$ 65,490.00**

**CERTIFICATION**

IN ACCORDANCE WITH SECTIONS 37202, 37208, AND 372059 OF THE GOVERNMENT CODE, WE HEREBY CERTIFY TO THE ACCURACY OF THE DEMANDS LISTED ABOVE AND TO THE AVAILABILITY OF FUNDS FOR THE PAYMENT THEREOF AND FURTHER THAT THE ABOVE CLAIMS AND DEMANDS HAVE BEEN AUDITED AS REQUIRED BY LAW.

*Mark Roberts*

MARK ROBERTS, DIRECTOR OF FINANCE

BRAD RAULSTON, CITY MANAGER

**FINANCE COMMITTEE**

ALEJANDRA SOTELO-SOLIS, MAYOR/CHAIRWOMAN

MONA RIOS, VICE MAYOR

JERRY CANO, COUNCILMEMBER

GONZALO QUINTERO, COUNCILMEMBER

RONALD J. MORRISON, COUNCILMEMBER

I HEREBY CERTIFY THAT THE FOREGOING CLAIMS AND DEMANDS WERE APPROVED AND THE CITY TREASURER IS AUTHORIZED TO ISSUE SAID WARRANTS IN PAYMENT THEREOF BY THE CITY COUNCIL ON THE 19<sup>TH</sup> OF MAY 2020.

AYES \_\_\_\_\_

NAYS \_\_\_\_\_

ABSENT \_\_\_\_\_

The following page(s) contain the backup material for Agenda Item: [Warrant Register #41 for the period of 4/1/20 through 4/7/20 in the amount of \\$4,018,407.45. \(Finance\)](#)  
Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 19, 2020

**AGENDA ITEM NO.:**

**ITEM TITLE:**

Warrant Register #41 for the period of 4/1/20 through 4/7/20 in the amount of \$4,018,407.45. (Finance)

**PREPARED BY:** Karla Apalategui, Senior Accounting Assistant

**DEPARTMENT:** Finance

**PHONE:** 619-336-4572

**APPROVED BY:** 

**EXPLANATION:**

Per Government Section Code 37208, attached are the warrants issued for the period 4/1/20 - 4/7/20. Consistent with Department of Finance's practice, listed below are all payments above \$50,000.

<u>Vendor</u>	<u>Check/Wire</u>	<u>Amount</u>	<u>Explanation</u>
Baker Electric Inc	347022	141,885.75	Las Palmas Pool Electrical
Dick Miller Inc	347040	922,740.15	Paradise Creek Park Expansion
Portillo Concrete	347074	269,492.20	Euclid Ave Bicycle & Ped Enh.
SD Mechanical Energy	347083	284,708.30	NC Public Library Chiller
Select Electrical Inc	347086	63,628.91	Citywide Traffic Signal & ADA Imp.

**FINANCIAL STATEMENT:**

**APPROVED:**  **FINANCE**

**ACCOUNT NO.**

**APPROVED:** \_\_\_\_\_ **MIS**

Warrant total \$4,018,407.45.

**ENVIRONMENTAL REVIEW:**

This is not a project and, therefore, not subject to environmental review.

**ORDINANCE:** INTRODUCTION  FINAL ADOPTION

**STAFF RECOMMENDATION:**

Ratify warrants totaling \$4,018,407.45.

**BOARD / COMMISSION RECOMMENDATION:**

**ATTACHMENTS:**

Warrant Register # 41



**WARRANT REGISTER # 41  
4/7/2020**

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
ACE UNIFORMS & ACCESSORIES INC	STATION UNIFORMS	347010	4/7/20	950.63
AETNA BEHAVIORAL HEALTH	EMPLOYEE ASSISTANCE PROGRAM - APRIL	347011	4/7/20	1,034.62
AIR POLLUTION CONTROL DISTRICT	FIRE STATION NO. 34	347012	4/7/20	460.00
ALDEMCO	FOOD / NUTRITION	347013	4/7/20	1,565.22
ALL FRESH PRODUCTS	CONSUMABLES NUTRITION	347014	4/7/20	242.11
ALTA LANGUAGE SERVICES INC	EMPLOYEE BILINGUAL TESTING	347015	4/7/20	66.00
AMEDEE, W	MILEAGE REIMBURSEMENT	347016	4/7/20	31.05
ANGELO'S TOWING AND RECOVERY	TOWING SERVICE PD VEHICLES	347017	4/7/20	900.00
APWA SAN DIEGO CHAPTER	APWA MEMBERSHIP / LOPEZ / ENGINEERING	347018	4/7/20	243.00
AT&T	AT&T SBC ANNUAL PHONE SERVICE FOR FY20	347019	4/7/20	8,942.73
AT&T	AT&T SBC ANNUAL PHONE SERVICE FOR FY20	347020	4/7/20	591.92
BAJA PARTS & EQUIPMENT INC	PARTS - CAT LOADER FRONT BUCKET	347021	4/7/20	2,543.74
BAKER ELECTRIC INC	LAS PALMAS POOL ELECTRICAL	347022	4/7/20	141,885.75
BAVENCOFF JR, D	TRAINING REIM ASSOCIATION OF THRT	347023	4/7/20	20.00
CALIFA GROUP	SUBSCRIPTION RENEWAL FOR PRONUNCIATOR	347024	4/7/20	1,995.00
CALIFORNIA ELECTRIC SUPPLY	PC FIXTURE / PW	347025	4/7/20	998.33
CLAIMS MANAGEMENT ASSOCIATES	PROFESSIONAL SERVICES	347026	4/7/20	7,200.00
CLAIMS MANAGEMENT ASSOCIATES	PROFESSIONAL SERVICES	347027	4/7/20	6,400.00
CLEAN HARBORS ENVIRONMENTAL	CONTRACT SERVICES	347028	4/7/20	932.74
CLF WAREHOUSE INC	MOP 80331 AUTO SUPPLIES - PW	347029	4/7/20	82.54
COMMERCIAL AQUATIC SERVICE INC	CHEMICALS - CHLORINE, ACID TABLETS	347030	4/7/20	3,256.19
CONCENTRA MEDICAL CENTERS	PRE-EMPLOYMENT PHYSICAL	347031	4/7/20	924.00
COSTAR REALTY INFORMATION INC	ANNUAL SUBSCRIPTION FROM 7/1/20-11/30/20	347032	4/7/20	2,063.85
COUNTY OF SAN DIEGO	MAIL PROCESSING SERVICES	347033	4/7/20	1,502.53
COUNTYWIDE MECHANICAL SYSTEMS	CITYWIDE ON-SITE HVAC SERVICES	347034	4/7/20	270.00
COX COMMUNICATIONS	COX DATA VIDEO SERVICES FY20	347035	4/7/20	3,860.06
CV VENTURES LLC	FAIR SHARE CONTRIBUTION	347036	4/7/20	3,173.72
DAY WIRELESS SYSTEMS	COMMUNICATIONS EQUIP. SERVICE	347037	4/7/20	1,000.54
DE LAGE LANDEN	LEASE 20 SHARP COPIERS FOR FY20.	347038	4/7/20	2,939.63
DEPARTMENT OF JUSTICE	NEW EMPLOYEE FINGERPRINT RESULTS / PD	347039	4/7/20	224.00
DICK MILLER INC	PARADISE CREEK PARK EXPANSION	347040	4/7/20	922,740.15
EBSCO INFORMATION SERVICES	DATABASE LEARNING EXPRESS SUBSCRIPTION	347041	4/7/20	4,355.00
EXPRESS PIPE AND SUPPLY	CITYWIDE PLUMBING PARTS, MATERIALS TOOL	347042	4/7/20	4,129.19
FEDEX	PERSONNEL INVESTIGATION MATERIALS	347043	4/7/20	72.68
FORDYCE CONSTRUCTION INC	PUBLIC LIBRARY 2ND FLOOR TUTORING FL.	347044	4/7/20	10,581.20
FRAUSTO, R	TRAINING REIM FRAUSTO BCKGRD INV	347045	4/7/20	74.96
GEOSYNTEC CONSULTANTS INC	JOES POCKET FARM	347046	4/7/20	5,631.05
GOLDEN BELL PRODUCTS INC	SEWER CLEAN 350	347047	4/7/20	179.44
GONZALES, G	TRAINING REIM / PD	347048	4/7/20	521.57
GONZALES, G	TRAINING REIM FIREARMSE / PD	347049	4/7/20	265.83
GRAINGER	GRAINGER MOP FY20	347050	4/7/20	2,772.14
HAAKER EQUIPMENT COMPANY	6 WIRE SKID 4" TIGER TAIL 36"	347051	4/7/20	108.75
HERNANDEZ, A	TRAINING REIM POLICE BDG A HERNANDEZ	347052	4/7/20	69.49
IDEMIA IDENTITY & SECURITY USA	NEW EMPLOYEE FINGERPRINT TEST SUBMISSION	347053	4/7/20	14.00
IRON MOUNTAIN	RECORD MANAGEMENT AND STORAGE FOR FY20	347054	4/7/20	426.42
JJJ ENTERPRISES	FIRE AND SECURITY ALARM MONITORING	347055	4/7/20	235.00
KD 18TH LLC	REFUND FOR 2017-7358 THRU 7363 C&D DEPOSIT	347056	4/7/20	14,201.60



**WARRANT REGISTER # 41  
4/7/2020**

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
KD 18TH LLC	2017-6772 & 6773 - REFUND OF C&D DEPOSIT	347057	4/7/20	4,980.20
KD 18TH LLC	REFUND FOR 2018-7822 C&D DEPOSIT	347058	4/7/20	3,457.00
KD 18TH LLC	REFUND OF 2018-7764 C&D DEPOSIT	347059	4/7/20	3,022.60
KNOX SERVICES	KNOX ATTORNEY SERVICES/ CAO	347060	4/7/20	79.75
KTUA	WATERFRONT TO HOMEFRONT	347061	4/7/20	12,360.00
LASER SAVER INC	MOP / INK CARTRIDGES / PD	347062	4/7/20	418.47
LOPEZ, TERESA YOLANDA	TRANSLATION SERVICES	347063	4/7/20	160.00
METEAU JR, R	SHRM MEMBERSHIP 2020	347064	4/7/20	219.00
MONTANEZ, RICK	REFUND OF CONSTRUCTION & DEMO DEPOSIT	347065	4/7/20	3,920.00
MUNICIPAL CODE CORPORATION	MUNICIPAL CODE SUPP #54, UPDATE 1	347066	4/7/20	661.00
NEW READERS PRESS	BOOKS FOR LITERACY COLLECTION	347067	4/7/20	3,092.15
NV5 INC	GEOTECHNICAL OBSERVER PARADISE CREEK	347068	4/7/20	40,150.19
OFFICE SOLUTIONS BUSINESS	MOP83778 - OFFICE PAPER / LIBRARY	347069	4/7/20	457.73
OVERLAND CONSTRUCTION, INC.	OVERPMT OF 2019-9290 BUILDING PLAN CHECK	347070	4/7/20	212.80
PARTS AUTHORITY METRO LLC	MOP 75943 AUTO SUPPLIES - PW	347071	4/7/20	248.40
PARTS AUTHORITY METRO LLC	MOP 75943 AUTO SUPPLIES - PW	347072	4/7/20	142.69
PENSKE FORD	R&M CITY VEHICLES FOR FY 2019	347073	4/7/20	139.43
PORTILLO CONCRETE INC	EUCLID AVE.BICYCLE & PED. ENH.	347074	4/7/20	269,492.20
POWERSTRIDE BATTERY CO INC	PRO LOGIX, BATTERY CHARGER	347075	4/7/20	818.80
PRO BUILD COMPANY	MOP 45707 PAINT SUPPLIES / NSD	347076	4/7/20	1,018.68
PROFESSIONAL SEARCH GROUP LLC	TEMP SERVICES	347077	4/7/20	5,088.00
PRUDENTIAL OVERALL SUPPLY	MOP 45742 LAUNDRY SERVICES - PW	347078	4/7/20	593.15
RAD CONSTRUCTION	REFUND OF 2020-9579 CONST & DEMO DEP	347079	4/7/20	219.20
RELY ENVIRONMENTAL	FIRE STA.,#31,34.PD,CITY HALL	347080	4/7/20	6,488.38
ROCKLIKE CONSTRUCTION CO. INC.	REFUND OF 2019-8524 C&D FOR WASTE DISPOSAL	347081	4/7/20	2,436.70
SAN DIEGO GAS & ELECTRIC	GAS & ELECTRIC / NUTRITION	347082	4/7/20	187.82
SAN DIEGO MECHANICAL ENERGY	NATIONAL CITY PUBLIC LIBRARY CHILLER	347083	4/7/20	284,708.30
SDG&E	GAS AND ELECTRIC UTILITIES FOR	347084	4/7/20	10,804.40
SEAPORT MEAT COMPANY	FOOD / NUTRITION	347085	4/7/20	371.88
SELECT ELECTRIC INC	CITYWIDE TRAFFIC SIGNAL & ADA IMP.	347086	4/7/20	63,628.91
SHARP ELECTRONICS CORPORATION	MAINTENANCE 20 SHARP COPIERS FOR FY20	347087	4/7/20	3,033.51
SITEONE LANDSCAPE SUPPLY LLC	MOP 69277 LANDSCAPE SUPPLIES - PW	347088	4/7/20	160.65
SMART & FINAL	CASA DE SALUD TEEN SNAKS	347089	4/7/20	255.90
SMART SOURCE OF CALIFORNIA LLC	BUSINESS CARD IMPRINTS / VM RIOS	347090	4/7/20	50.23
SOUTH COAST EMERGENCY	BAR SPRING / PW	347091	4/7/20	160.15
SOUTHERN CALIF TRUCK STOP	MOP 45758 GENERAL AUTO SUPPLIES - PW	347092	4/7/20	85.40
SOUTHWEST SIGNAL SERVICE	ADDITIONAL INVOICE 80285	347093	4/7/20	17,724.82
STAPLES BUSINESS ADVANTAGE	COVID-19 VIDEO CONFERENCE	347094	4/7/20	2,134.71
STAPLES BUSINESS ADVANTAGE	MOP OFFICE SUPPLIES/HED	347095	4/7/20	1,983.45
STATEWIDE TRAFFIC SAFETY	28" CONES OR/BLACK 7LBS W/6 RE	347096	4/7/20	499.96
SWEETWATER AUTHORITY	WATER BILL FOR FACILITIES FY 2020	347097	4/7/20	12,854.52
SYSCO SAN DIEGO INC	FOOD NUTRITION	347098	4/7/20	2,210.24
TAB PRODUCTS CO	TAB FILING SUPPLIES	347099	4/7/20	104.68
TERMINIX INTERNATIONAL	CITY OWNED FACILITIES ONGOING PEST	347100	4/7/20	1,060.00
THE REGENTS OF THE UNIVERSITY	NEWSPAPER DIGITIZATION PROJECT	347101	4/7/20	30,000.00
THE SHERWIN WILLIAMS CO	MOP 77816 PAINT SUPPLIES / NSD	347102	4/7/20	118.14
THE STAR NEWS	ADVERTISING NOTICES FOR FY20	347103	4/7/20	92.25



**WARRANT REGISTER # 41  
4/7/2020**

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
T'S & SIGNS	COMMUNITY SERVICES EMERGENCYS BACK PACKS	347104	4/7/20	232.73
TURF STAR INC	CABLE BREAK / PW	347105	4/7/20	112.73
U S BANK	CREDIT CARD CHARGES / HR	347106	4/7/20	860.69
U S BANK	CREDIT CARD CHARGES / CSD	347107	4/7/20	217.01
VALLEY INDUSTRIAL SPECIALTIES	MOP 46453 BUILDING SUPPLIES - PW	347108	4/7/20	298.02
VERIZON WIRELESS	VERIZON CELLULAR SERVICES FOR FY20	347109	4/7/20	146.40
VISTA PAINT	GRACO GREEN DOT LASER GUIDE	347110	4/7/20	2,113.83
WAXIE SANITARY SUPPLY	JANITORIAL SUPPLIES	347111	4/7/20	3.83
WEST COAST ARBORISTS	ONGOING TREE TRIMMING SERVICE	347112	4/7/20	7,600.00
WEST COAST ARBORISTS INC	ARBORIST SERVICES	347113	4/7/20	16,940.00
WEST, GRAY	REFUND OF 2019-8727 C&D DEPOSIT	347114	4/7/20	4,773.80
WILLY'S ELECTRONIC SUPPLY	MOP 45763 BUILDING SUPPLIES - PW	347115	4/7/20	93.00

**A/P Total 1,988,176.85**

**SECTION 8 HAPS**

<b>Start Date</b>	<b>End Date</b>	
4/1/2020	4/7/2020	<b>994,883.00</b>

**PAYROLL**

<b>Pay period</b>	<b>Start Date</b>	<b>End Date</b>	<b>Check Date</b>	
6	3/9/2020	3/23/2020	4/1/2020	<b>1,035,347.60</b>

**GRAND TOTAL** **\$ 4,018,407.45**

**CERTIFICATION**

IN ACCORDANCE WITH SECTIONS 37202, 37208, AND 372059 OF THE GOVERNMENT CODE, WE HEREBY CERTIFY TO THE ACCURACY OF THE DEMANDS LISTED ABOVE AND TO THE AVAILABILITY OF FUNDS FOR THE PAYMENT THEREOF AND FURTHER THAT THE ABOVE CLAIMS AND DEMANDS HAVE BEEN AUDITED AS REQUIRED BY LAW.

*Mark Roberts*

MARK ROBERTS, DIRECTOR OF FINANCE

BRAD RAULSTON, CITY MANAGER

**FINANCE COMMITTEE**

ALEJANDRA SOTELO-SOLIS, MAYOR/CHAIRWOMAN

MONA RIOS, VICE MAYOR

JERRY CANO, COUNCILMEMBER

GONZALO QUINTERO, COUNCILMEMBER

RONALD J. MORRISON, COUNCILMEMBER

I HEREBY CERTIFY THAT THE FOREGOING CLAIMS AND DEMANDS WERE APPROVED AND THE CITY TREASURER IS AUTHORIZED TO ISSUE SAID WARRANTS IN PAYMENT THEREOF BY THE CITY COUNCIL ON THE 19<sup>TH</sup> OF MAY 2020.

AYES \_\_\_\_\_

NAYS \_\_\_\_\_

ABSENT \_\_\_\_\_

The following page(s) contain the backup material for Agenda Item: [Public Hearing and Adoption of an Ordinance of the City Council of the City of National City amending Section 18.30.320 \(Pawn shops and businesses engaged in secondhand dealing and/or the purchase and selling of gold and other precious metals\) of Title 18 \(Zoning\) of the National City Municipal Code. \(Applicant: City-Initiated\) \(Case File No. 2019-14 A\) \(Planning\)](#)  
Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 19, 2020

**AGENDA ITEM NO.**

**ITEM TITLE:**

Public Hearing and Adoption of an Ordinance of the City Council of the City of National City amending Section 18.30.320 (Pawn shops and businesses engaged in secondhand dealing and/or the purchase and selling of gold and other precious metals) of Title 18 (Zoning) of the National City Municipal Code. (Applicant City-Initiated) (Case File 2019-14 A)

**PREPARED BY:** Martin Reeder, AICP 

**DEPARTMENT:** Community Development

**PHONE:** 619-336-4313

**APPROVED BY:** 

**EXPLANATION:**

Chapter 18.30.320 contains requirements for pawn shops and secondhand businesses, some of which conflict with the State of California Business and Professions Code (B&P). In particular, the Municipal Code requires that secondhand businesses be accessory to a principal use that sells the same product as new (e.g. phones, jewelry, etc.) and also requires a Conditional Use Permit (CUP). B&P Section 21625 specifically preempts these requirements. In order to avoid conflict with the B&P, NCMC Section 18.30.320 (A) (4) should be modified to replace "Conditional Use Permit" with "police permit". In addition, NCMC Section 18.30.320 (A) (7) should be removed completely, as this requirement is preempted by B&P Section 21625. Additional language has been added to ensure adequate fees are charged to offset the cost of issuing a police permit.

A strikethrough/underline version of the changes are attached to this staff report.

The attached Ordinance contains the requested change.

**FINANCIAL STATEMENT:**

**APPROVED:** \_\_\_\_\_ **Finance**

**ACCOUNT NO.**

**APPROVED:** \_\_\_\_\_ **MIS**

**ENVIRONMENTAL REVIEW:**

Not a project per the California Environmental Quality Act as defined in Section 15378.

**ORDINANCE:** INTRODUCTION:  FINAL ADOPTION:

**STAFF RECOMMENDATION:**

Staff concurs with the Planning Commission's recommendation and recommends that the amendments to Title 18 be adopted.

**BOARD / COMMISSION RECOMMENDATION:**

The Planning Commission unanimously recommended approval of the amendment.

Ayes: Natividad, Flores, Sendt, Yamane, Garcia, Dela Paz

**ATTACHMENTS:**

- |                          |                                           |
|--------------------------|-------------------------------------------|
| 1. Findings              | 4. Planning Commission Resolution 2020-04 |
| 2. Proposed Code changes | 5. Ordinance                              |
| 3. Public Hearing Notice |                                           |

## **RECOMMENDED FINDINGS FOR APPROVAL**

1. That the proposed amendments to section 18.30.320 are consistent with the General Plan, as Land Use Policy LU-2.9 encourages the designation of land for commercial, office, and service uses sufficient to meet future city needs, which this amendment does not conflict with.
2. That the proposed amendments have been reviewed and been found to comply with the California Environmental Quality Act (CEQA); the amendments are not considered to be a project under CEQA as there would be no physical impact as a result of the change. Secondhand dealing is a commercial use that is typically permitted by right without CEQA review.

**18.30.320 - Pawn shops and businesses engaged in secondhand dealing and/or the purchase and selling of gold and other precious metals.**

A. Restrictions.

1. No pawn shops and businesses engaged in secondhand dealing and/or the purchase and selling of gold and other precious metals shall be located within two thousand feet of another such business. This shall not apply to shopping centers of fifty thousand square feet or more.
2. Pawn shops and businesses engaged in secondhand dealing and/or the purchase and selling of gold and other precious metals shall be no closer than two hundred fifty feet from residential zones.
3. No pawn shop or businesses engaged in secondhand dealing and/or the purchase and selling of gold and other precious metals shall be located east of Interstate 805. This shall not apply to shopping centers of fifty thousand square feet or more.
4. A ~~conditional-use~~ police permit is required, the processing of which shall comply with Business and Professions Code Section 21641. The Chief of Police shall charge a nonrefundable fee(s) or the required renewal fee(s) to cover the costs of processing the police permit and actual costs incurred to process the application and to collect and transmit the fee charged by the Department of Justice.
5. A pawn shop or businesses engaged in secondhand dealing and/or the purchase and selling of gold and other precious metals that provides payday lending is not exempt from the regulations of payday lenders.
6. No more than six pawn shops shall be allowed within National City.
- ~~7. Secondhand dealers (as defined in the Glossary) shall only be permitted as accessory to a legitimate retail business that sells as new the item(s) in question as its primary business function.~~
  - ~~a. Total gross receipts of precious metals purchased or taken for credit shall not exceed fifty percent of total retail sales of precious metals.~~

~~8-7.~~ All pawnbrokers and secondhand dealers shall require, at minimum, a secondhand dealer license and shall abide by state-mandated reporting requirements for secondhand tangible personal property as required in the Business and Professions Code.

- b. These requirements shall also be required of retail businesses that offer trade-ins or credit for secondhand tangible personal property.

**CITY OF NATIONAL CITY  
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the City Council of the City of National City will hold a Public Hearing after the hour of 6:00 p.m., Tuesday, May 19, 2019, to consider:

**A CODE AMENDMENT AMENDING SECTION 18.30.320 (PAWN SHOPS AND BUSINESSES ENGAGED IN SECONDHAND DEALING AND/OR THE PURCHASE AND SELLING OF GOLD AND OTHER PRECIOUS METALS) OF TITLE 18 (ZONING) OF THE NATIONAL CITY MUNICIPAL CODE.**

The Planning Commission conducted a Public Hearing at their meeting of May 4, 2020 and voted 6-0 to recommend adoption of the Code Amendment.

Due to the precautions taken to combat the spread of coronavirus (COVID-19), City Hall, including the City Council Chambers, are closed to the public. Anyone interested in this public hearing may observe the City Council meeting on the City's website at <http://www.nationalcityca.gov/government/city-clerk/council-webcast>. Information on how to register comments at the public hearing will be made available prior to the meeting.

If you challenge the nature of the proposed action in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice, or in written correspondence delivered to the undersigned, or to the City Council of the City of National City at, or prior to, the Public Hearing.

Michael Dalla, City Clerk

RESOLUTION NO. 2020-04

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NATIONAL CITY, CALIFORNIA, RECOMMENDING ADOPTION TO THE CITY COUNCIL OF A CODE AMENDMENT AMENDING SECTION 18.30.320 (PAWN SHOPS AND BUSINESSES ENGAGED IN SECONDHAND DEALING AND/OR THE PURCHASE AND SELLING OF GOLD AND OTHER PRECIOUS METALS) OF TITLE 18 (ZONING) OF THE NATIONAL CITY MUNICIPAL CODE.  
APPLICANT: CITY-INITIATED.  
CASE FILE NO. 2019-24 A

WHEREAS, pursuant to the terms and provisions of the Government Code of the State of California, proceedings were duly initiated for the amendment of the National City Municipal Code, per Chapter 18.32.320; and,

WHEREAS, the Planning Commission of the City of National City, California, considered said proposed amendment at a duly advertised public hearing held on May 4, 2020 at which time the Planning Commission considered evidence; and,

WHEREAS, at said public hearings the Planning Commission considered the staff report provided for Case File No. 2019-24 A, which is maintained by the City and incorporated herein by reference; along with any other evidence presented at said hearing; and,

WHEREAS, the Planning Commission recommends adoption to the City Council of the City of National City amendment to Chapter 18.30.320 (Pawn shops and businesses engaged in secondhand dealing and/or the purchase and selling of gold and other precious metals) of Title 18 (Zoning) of the National City Municipal Code; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law; and,

WHEREAS, this action is taken in an effort to comply with applicable State and Federal law; and,

WHEREAS, the action hereby taken is found to be essential for the preservation of the public health, safety and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Planning Commission of the City of National City, California, that the evidence presented to the Planning Commission at the public hearing held on May 4, 2020, support the following findings:

ATTACHMENT 4

1. That the proposed amendments to section 18.30.320 are consistent with the General Plan, as Land Use Policy LU-2.9 encourages the designation of land for commercial, office, and service uses sufficient to meet future city needs, which this amendment does not conflict with.
2. That the proposed amendments have been reviewed and been found to comply with the California Environmental Quality Act (CEQA); the amendments are not considered to be a project under CEQA as there would be no physical impact as a result of the change. Secondhand dealing is a commercial use that is typically permitted by right without CEQA review.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

**CERTIFICATION:**

This certifies that the Resolution was adopted by the Planning Commission at their meeting of May 4, 2020, by the following vote:

**AYES:** Natividad, Dela Paz, Flores, Sendt, Yamane, Garcia

**NAYS:** None.

**ABSENT:** None.

**ABSTAIN:** None.



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CHAIRPERSON

**ORDINANCE NO. 2020 –**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY  
AMENDING SECTION 18.30.320 (PAWN SHOPS AND BUSINESSES ENGAGED IN  
SECONDHAND DEALING AND/OR THE PURCHASE AND SELLING OF GOLD AND  
OTHER PRECIOUS METALS) OF TITLE 18 (ZONING)  
OF THE NATIONAL CITY MUNICIPAL CODE**

**WHEREAS**, pursuant to the terms and provisions of the California Government Code, proceedings were duly initiated for the amendment of the National City Municipal Code (“NCMC”); and

**WHEREAS**, on May 4, 2020, a noticed Public Hearing was held by the Planning Commission, and all persons interested were given the opportunity to be heard by the National City Planning Commission; and

**WHEREAS**, the Planning Commission regularly and duly certified its report to the City Council of National City and has recommended approval of amending NCMC Title 18; and

**WHEREAS**, pursuant to a published 10-day notice of the adoption of said Ordinance, a Public Hearing was held by the City Council on May 19, 2020, and at said Public Hearing, all persons interested were given the opportunity to be heard by the City Council.

**NOW, THEREFORE, the City Council of the City of National City does ordain as follows:**

**Section 1.** All protests, if any, against said amendment to the Municipal Code and each of them be and hereby are denied and overruled.

**Section 2.** Chapter 18.30.320 is hereby amended to read as follows:

18.30.320 - Pawn shops and businesses engaged in secondhand dealing and/or the purchase and selling of gold and other precious metals.

A. Restrictions.

1. No pawn shops and businesses engaged in secondhand dealing and/or the purchase and selling of gold and other precious metals shall be located within two thousand feet of another such business. This shall not apply to shopping centers of fifty thousand square feet or more.
2. Pawn shops and businesses engaged in secondhand dealing and/or the purchase and selling of gold and other precious metals shall be no closer than two hundred fifty feet from residential zones.
3. No pawn shop or businesses engaged in secondhand dealing and/or the purchase and selling of gold and other precious metals shall be located east of Interstate 805. This shall not apply to shopping centers of fifty thousand square feet or more.

4. A police permit is required, the processing of which shall comply with Business and Professions Code Section 21641. The Chief of Police shall charge a nonrefundable fee(s) or the required renewal fee(s) to cover the costs of processing the police permit and actual costs incurred to process the application and to collect and transmit the fee charged by the Department of Justice.
5. A pawn shop or businesses engaged in secondhand dealing and/or the purchase and selling of gold and other precious metals that provides payday lending is not exempt from the regulations of payday lenders.
6. No more than six (6) pawn shops shall be allowed within National City.
7. All pawnbrokers and secondhand dealers shall require, at minimum, a secondhand dealer license and shall abide by state-mandated reporting requirements for secondhand tangible personal property as required in the Business and Professions Code.
  - a. These requirements shall also be required of retail businesses that offer trade-ins or credit for secondhand tangible personal property.

**Section 3.** This Ordinance shall take effect and be in force thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days after its passage, it 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 Star News, a newspaper of general circulation published in the County of San Diego, California.

**PASSED and ADOPTED this 19<sup>th</sup> day of May, 2020.**

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Alejandra Sotelo-Solis, Mayor

**ATTEST:**

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Michael R. Dalla, City Clerk

**APPROVED AS TO FORM:**

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Angil P. Morris-Jones  
City Attorney

The following page(s) contain the backup material for Agenda Item: [Public Hearing and Adoption of an Ordinance of the City Council of the City of National City Establishing Local Campaign Contribution Limits. \(City Clerk and City Attorney\)](#)  
Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 19, 2020

**AGENDA ITEM NO.** \_\_\_\_\_

**ITEM TITLE:**

Public Hearing and Adoption of an Ordinance of the City Council of the City of National City Establishing Local Campaign Contribution Limits. (City Clerk and City Attorney)

**PREPARED BY:** Michael R. Dalla

**DEPARTMENT:** City Clerk / City Attorney

**PHONE:** (619) 336-4226

**APPROVED BY:** 

**EXPLANATION:**

On October 1, 2019, the City Council directed the City Attorney to prepare a Campaign Contribution Ordinance for City Council consideration that would:

- Establish a \$1,000 contribution limit per individual, business or union, and a \$2,000 contribution limit per political party for local candidates in City elections.
- The Ordinance was introduced for first reading (as amended), at the Regular City Council Meeting of May 5, 2020, and is presented for second reading and adoption on May 19, 2020.
- If adopted, the effective date of the Ordinance will be January 2021.

Explanation is continued on attached page.

**FINANCIAL STATEMENT:**

N/A

**APPROVED:** \_\_\_\_\_ **Finance**

**APPROVED:** \_\_\_\_\_ **MIS**

**ACCOUNT NO.**

**ENVIRONMENTAL REVIEW:**

**ORDINANCE: INTRODUCTION:**

**FINAL ADOPTION:**

**STAFF RECOMMENDATION:**

Conduct the Public Hearing and Adopt the Ordinance.

**ATTACHMENTS:**

Explanation  
PowerPoint Slide  
Ordinance

## **EXPLANATION (continued)**

At the October 1, 2019 meeting of the City Council, a presentation was made by the City Clerk regarding Campaign Contributions in National City elections. Data was presented showing a dramatic increase in campaign contributions made to National City candidates during the last four Municipal Election cycles (2012–2018).

Some of the key facts contained in the City Clerk’s presentation were:

- 67% of the cities in San Diego have Campaign Contribution Limit Ordinances.
- Contribution Limits range from \$100 in Poway to \$4,300 in Escondido.
- The average contribution limit for all twelve (12) cities is \$750.00.
- Half of the cities do not allow contributions from businesses.
- Total Candidate Contributions in National City increased by over 2900% from 2012 to 2018.
- The average contribution per National City Candidate in 2018 was a record \$49,666.
- 88% of Candidate Contributions in 2018 were from outside of National City.

Based on the information and data presented, the City Clerk recommended that the City Council consider joining with other cities within the County and State, and adopt a local Campaign Contribution Limit Ordinance, by approving the following:

**ACTION TAKEN:** The City Council directed that 1) The City Attorney prepare a draft Campaign Contribution Limit Ordinance for Council review and possible adoption, with a recommended effective date of January 2021; 2) That the contribution limit in the Ordinance be established at \$1,000 per individual, business or union and \$2,000 per political party; 3) That the Ordinance include a mechanism for annual automatic adjustments based on changes in the Consumer Price Index (CPI).

According to the City Clerk, such an Ordinance, “would be an important step toward ensuring that our local elections remain honest and fair by placing realistic and enforceable limits on the amount of money that may be contributed to political campaigns, preventing improper or undue influence by contributors, and to help maintain public trust in the electoral process”.

The chart on the following page shows National City in relation to the other Cities in the County if the Ordinance is adopted.

**JURISDICTION**

**CONTRIBUTION LIMIT**

**NOTES**

Chula Vista.....	\$350 Per Individual \$1,190 Per Political Party	No Businesses, PAC's, Unions
Coronado.....	\$200 Per Individual No Limit on Political Parties	No Businesses
Del Mar.....	\$200 Per Individual / Entity \$2,500 Per Political Party	No Businesses
Encinitas .....	\$250 Per Individual	
Escondido.....	\$4,300 Per Individual, Business, Union, Political Party	
Lemon Grove.....	\$1,090 Per Individual, Business, Union, Political Party	
<b>NATIONAL CITY.....</b>	<b>\$1,000 Per Individual, Business, Labor Union \$2,000 Per Political Party (includes PAC's)</b>	
Poway.....	\$100 Per Individual	
San Diego.....	\$600 Per Individual (Council) \$1,150 Per Individual (Mayor)	No Businesses
San Marcos.....	\$250 Per Individual \$500 Per Political Party	No Businesses
Santee.....	\$700 Per Individual	
Solana Beach.....	\$180 Per Individual	
Vista.....	\$480 Per Individual	No Businesses
County of San Diego.....	\$850 Per Individual	

**ORDINANCE NO. 2020 -**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY  
ADDING CHAPTER 2.75, TITLED, "ELECTION CAMPAIGN REGULATIONS",  
TO THE NATIONAL CITY MUNICIPAL CODE**

**WHEREAS**, in order to protect the integrity of the electoral process, and to serve the best interests of the people of National City, it is the desire of the City Council to adopt realistic and enforceable regulations applicable to political campaign contributions; and

**WHEREAS**, such regulations may be enacted pursuant to the authority granted to the City by Article XI, Section 7 of the California Constitution, and are specifically authorized by Sections 81013 and 85703(a) of the Government Code, found in the Political Reform Act of 1974; and

**WHEREAS**, the regulations hereby enacted are intended to supplement the provisions of state law with regard to the making, acceptance, expenditure, and reporting of campaign contributions.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY HEREBY ORDAINS AS FOLLOWS:**

**Section 1.** That Chapter 2.75 is added to the National City Municipal Code, to read as follows:

**CHAPTER 2.75  
ELECTION CAMPAIGN REGULATIONS**

Sections

- 2.75.010 Purpose and Intent
- 2.75.020 Definitions
- 2.75.030 Campaign Contributions – Limitations and Exclusions
- 2.75.040 Campaign Expenditures – Uncontrolled by Candidate or Committee
- 2.75.050 Retention of Records
- 2.75.060 Electioneering
- 2.75.070 City Measures -- Exemption
- 2.75.080 Duties of City Clerk
- 2.75.090 Effect of Receipt of Funds on Voting
- 2.75.100 Enforcement Authority
- 2.75.110 Enforcement – Criminal or Civil Liability
- 2.75.120 Enforcement – Administrative
- 2.75.130 Civil Actions by Residents
- 2.75.140 Time for Commencement of Actions

2.75.010 Purpose and Intent. It is the purpose and intent of the City Council in enacting this Chapter:

- A. To place realistic and enforceable limits on the amounts of money that may be contributed to political campaigns in City elections.
- B. To preserve an orderly political forum in which individuals may express themselves effectively.
- C. To prevent the exercise by campaign contributors of potential undue or improper influence over elected officials.
- D. To promote participation in government and foster trust that the democratic process is not subverted by affluent special interest groups.
- E. To provide for the full and fair enforcement of the provisions of this chapter.

2.75.020 Definitions. For the purposes of this chapter, the words and phrases used herein shall have the meanings ascribed to them by the Political Reform Act of 1974, Government Code Section 82000 et seq., except as follows:

- A. "Candidate" applies to persons seeking an elective City office.
- B. "City Election" means any primary, general, or special election, including recall election, held within the City of National City, for elective City office.
- C. "Committee" means a candidate's controlled committee or a committee formed primarily to support or oppose a candidate, or a city general purpose committee active only in the City.
- D. "Contribution" shall have the same meaning as set forth in Government Code Section 82015, but with respect to an election for City office, except that the exclusion set forth therein for costs of a meeting or fund-raising event in the home or office of the occupant shall be limited to costs of \$1,000.00 or less.
- E. "Controlled Committee" means a committee which is controlled directly or indirectly by a candidate or which acts jointly with a candidate or controlled committee in connection with the making of expenditures. A candidate controls a committee if he or she, his or her agent, or any other committee he or she controls, has a significant influence on the actions or decisions of the committee.
- F. "Electioneering" means the visible display or audible dissemination of information that advocates for or against any candidate.
- G. "Elective City Office" means member of the City Council, including the Mayor.
- H. "Enforcement Authority" means the special counsel, officer, agent, or entity designated by action of the City Attorney to enforce the provisions of this chapter. Nothing in this chapter shall be construed as limiting the authority of any law enforcement agency or prosecuting attorney from enforcing the provisions of this chapter where such law enforcement agency or prosecuting attorney otherwise has lawful authority to do so.

- I. "Expenditure" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.
- J. "General Purpose Committee" shall have the same meaning as set forth in Government Code Section 82027.5.
- K. "Independent Committee" means a committee that receives contributions or makes expenditures for the purpose of influencing or attempting to influence a City election, which is not made with the cooperation, consultation, or in concert with, or at the request or suggestion of, any candidate or his or her committee, or any of their agents.
- L. "Individual" means a natural person, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, labor union, committee, and any other organization or group of persons acting in concert, who meets the definition set forth in Government Code Section 82047. "Individual" does not include a Political Party Committee, a Political Action Committee, or an Independent Committee.
- M. "Political Action Committee" means an organization that pools campaign contributions from members and donates those contributions to campaigns for or against candidates or ballot measures.
- N. "Party Committee" means the state central committee or county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 or 5151 of the Elections Code.

2.75.030 Campaign Contributions – Limitations and Exclusions.

- A. Contributions by individuals to candidates or controlled committees. No individual shall make any contribution to a candidate and/or the candidate's controlled committee, with respect to any single City election, which will cause the total amount contributed by such individual to the candidate and the candidate's controlled committee, when combined, to exceed \$1000.00 in a calendar year.
- B. Acceptance or solicitation by candidates or controlled committees from individuals. No candidate or controlled committee, including the candidate's campaign treasurer, shall solicit or accept any contribution from any individual with respect to any single City election, which will cause the total amount contributed by such individual to the candidate and the candidate's controlled committee, when combined, to exceed \$1000.00 in a calendar year.
- C. Contributions by candidates. The provisions of subsections A and B of this section shall not apply to contributions from a candidate to his or her controlled committee, nor to the expenditure by the candidate of his or her personal funds on behalf of his or her own candidacy.

- D. Contributions by political party committees, political action committees and independent committees to candidates or controlled committees. No political party committee, political action committee or independent committee, shall make any contribution to a candidate and/or the candidate's controlled committee, with respect to any single City election, which will cause the total amount contributed to the candidate and the candidate's controlled committee, when combined, to exceed \$2,000 in a calendar year.
- E. Acceptance or solicitation by candidates or controlled committees from political party committees, political action committees and independent committees. No candidate or controlled committee, including the candidate's campaign treasurer, shall solicit or accept any contribution from any political party committee, political action committee, or independent committee, with respect to any single City election, which will cause the total amount accepted by such political party committee, political action committee, or independent committee to the candidate and the candidate's controlled committee, when combined, to exceed \$2,000 in a calendar year.
- F. Family contributions. Contributions by spouses shall be treated as separate contributions and shall not be aggregated. Contributions by children under 18 years of age shall be treated as contributions attributed equally to each parent or guardian.
- G. Applicability of section to candidate and committees. The provisions of this section are applicable to any contributions made to a candidate or controlled committee whether used by such candidate or controlled committee to finance a current campaign, to pay debts incurred in prior campaigns, or otherwise.
- H. Contributions by city contractors. No individual who contracts with the City of National City, either for the rendition of personal services or for the furnishing of any materials, supplies, or equipment to the City, or for the sale or lease of any land or building, to or from the City, shall make any contribution to a City candidate or controlled committee at any time between the commencement of negotiations for and (i) the completion of performance of such contract or (ii) the termination of negotiations for such contract, whichever occurs later.
- I. Contributions from City employees.
  - 1. It is unlawful for a candidate or a candidate's controlled committee, to solicit, directly or indirectly, a contribution from a City employee with knowledge that the person from whom the contribution is solicited is a City employee.
  - 2. This subsection shall not prohibit a candidate or a candidate's controlled committee from soliciting contributions from City employees if the solicitation is part of a solicitation made to a significant segment of the public that may include City employees, and the solicitation does not otherwise violate the provisions of this chapter.

3. Nothing in this subsection prohibits a City employee from making a contribution to a candidate, and nothing in this subsection prohibits a candidate from accepting a contribution from a City employee.

4. As used in this subsection, the term "City employee" means any employee of the City of National City (City) or any of its organizational subdivisions, agencies, offices, boards, or commissions.

- J. Aggregation of contributions from different individuals financed, maintained, or controlled by same individual. Contributions from different individuals, but which are financed, maintained, or controlled by the same individual, shall be aggregated for purposes of the contribution limits of subsections A and B of this section. All contributions made by an individual whose contribution activity is financed, maintained, or controlled by an individual, shall be deemed to be made by the same individual.
- K. A contribution drawn from a checking account or credit card account held by an individual doing business as a sole proprietorship is considered a contribution from that individual for purposes of this subsection, and may lawfully be received by a candidate for elected City office. A non-monetary contribution in the form of goods and services donated by an individual doing business as a sole proprietorship is considered a contribution from that individual for purposes of this subsection, and may lawfully be received by a candidate for elective City office.
- L. Adjustments for cost of living. The campaign contribution limits and contribution acceptance and solicitation limits specified in subsections A, B, C and D of this section shall be adjusted in February of each odd-numbered year commencing in 2023, for changes in the Consumer Price Index (CPI) over the previous two-year period. The City Clerk shall apply the annual percent change in the CPI for All Urban Consumers (CPI-U) for the San Diego Metropolitan Area to determine the appropriate rate of increase or decrease. Adjustments made pursuant to this subsection shall be rounded to the nearest \$5.00.

2.75.040 Campaign Expenditures - Uncontrolled by Candidate or Committee.

Persons or organizations not subject to the control of a candidate or committee, but who make independent expenditures for or against a candidate or committee, shall indicate clearly on any material published, displayed, or broadcast the names of the persons or organizations who made the expenditures, the true names of any persons on whose behalf the expenditures were made, and that the expenditures were not authorized by a candidate or committee.

2.75.050 Retention of Records. The candidate, committee, or authorized agent thereof shall retain all campaign records for a period of three (3) years after the election.

2.75.060 Electioneering. It is unlawful for any person to participate in electioneering as a candidate, for a candidate, committee, or any other election campaign on City-owned property or at a City-hosted or City-sponsored event. This includes, but is not limited to, any of the following:

- A. A display of a candidate's name, likeness, or logo.
- B. A display of a ballot measure number, title, subject, or logo.

- C. Distribution of buttons, hats, pencils, pens, shirts, signs, or stickers containing electioneering information.
- D. Dissemination of audible electioneering information.

2.75.070 City Measures - Exemptions. This chapter shall not apply to contributions or expenditures by a person or committee on behalf of a committee supporting or opposing a City measure.

2.75.080 Duties of City Clerk. In addition to other duties of the City Clerk under the terms of this chapter, the City Clerk must:

- A. Supply appropriate forms and manuals prescribed by the California Fair Political Practices Commission (FPPC). These forms and manuals must be furnished to all candidates and committees, and to all other persons required to report;
- B. Determine whether required documents have been filed, and if so, whether they conform with the requirements of state law;
- C. Notify promptly all persons and known committees who have failed to file a document in the form and at the time required by state law;
- D. Report apparent violations of this chapter and applicable state law to the Enforcement Authority;
- E. Compile and maintain a current list of all statements or parts of statements filed with the City Clerk's office pertaining to each candidate and each measure;
- F. Cooperate with the City Attorney and Enforcement Authority in the performance of the duties of the Enforcement Authority as prescribed in this chapter and applicable state laws.

2.75.090 Effect of Receipt of Funds on Voting. Within twelve (12) months after receiving income totaling \$1,000.00 or more from any source, no holder of elective City Office shall make, participate in making, or attempt to influence, any government decision or action that will have a reasonably foreseeable material financial effect on any source of income that is distinguishable from its effect on the public generally, or on a significant segment of the public, as defined in the Political Reform Act of 1974.

2.75.100 Enforcement Authority.

- A. Role of City Attorney. The City Attorney shall not investigate or prosecute any alleged violations of this chapter, but shall defend the constitutionality and legality of this chapter in any civil proceedings in which the City or City Council is a party.
- B. Role of special counsel. Review of complaints of violation of this chapter and criminal prosecution, shall be conducted only by special counsel who shall be the District Attorney, the Attorney General, or such other qualified and independent special counsel, or combination of the foregoing, as may be appointed by the City Attorney. All special counsel shall have the authority to

prosecute any and all Municipal Code violations of this chapter. However, special counsel other than the Attorney General or District Attorney, shall not have authority to prosecute matters exclusively within the powers of the Attorney General or District Attorney under Government Code Section 91001. Special counsel shall also conduct civil litigation to compel compliance with this chapter or to enjoin conduct in violation of this chapter, and shall conduct administrative enforcement under Section 2.75.120 of this chapter.

- C. Appointment of special counsel. At least ninety (90) days prior to a City election, special counsel shall be appointed by the City Attorney. Should the appointment of additional special counsel become necessary or appropriate, the City Attorney may appoint such additional special counsel as may be required. The appointment of special counsel shall be in writing, and copies of the written appointment shall be provided to the City Council, City Manager, and City Clerk. The cost of special counsel shall be paid from the City general fund. Any activity by the special counsel in accordance with this chapter, shall not be subject to review or control by the City Attorney or City Council.
- D. Initiation of investigations. Any person residing in the City who believes that a violation of this chapter has occurred, may file a written complaint requesting investigation of such violation by the special counsel. If the special counsel determines that there is reason to believe a violation of this chapter has occurred, the special counsel shall conduct an investigation and may commence such civil criminal, or administrative legal action as he or she deems necessary for the enforcement of this chapter.
- E. Investigative powers of special counsel. The special counsel shall have such investigative powers as are necessary for the performance of duties described in this article, and may be furnished records of campaign contributions and expenditures of any person or committee. In the event that production of such records is refused, the special counsel may commence civil litigation to compel such production.
- F. Immunity of special counsel. The special counsel shall be immune from liability for enforcement of this chapter.

2.75.110 Enforcement – Criminal or Civil Liability.

- A. Criminal and civil liability. Any knowing or willful violation of any provision of this chapter may be prosecuted either as an infraction or misdemeanor, at the discretion of the prosecutor. In addition to any other penalty provided by law, any willful or knowing failure to report truthfully any contribution or expenditure, shall be punishable by a fine of not less than \$1,000.00. The campaign treasurer of any committee shall be both criminally and civilly liable for any violation of this article by the committee. In addition, the candidate shall be both criminally and civilly liable for any violation by a committee controlled by the candidate.
- B. Forfeiture of contributions. In any legal action brought under this chapter for injunctive relief or civil liability, where it is determined that a candidate or committee has accepted a contribution or contributions in excess of the applicable limits set forth in this chapter, the full amount of said contribution(s) shall be forfeited to the City's general fund. If funds are not available in the

election campaign account for this purpose, the candidate or campaign treasurer shall be personally liable to pay said amount to the City's general fund.

2.75.120 Enforcement – Administrative

- A. Additional to other remedies. The remedies provided for by this section are in addition to all other legal remedies, civil or criminal, which may be pursued by the City to address any violation of this chapter.
- B. Notice and order. Whenever the special counsel appointed pursuant to Section 2.75.100, determines that there is probable cause that a violation of one or more provisions of this chapter has occurred or exists, a written notice and order may be issued to the alleged violator.
- C. Contents of notice and order. The notice and order shall refer to the code section violated and describe how the sections are or have been violated, and the dates of all violations. The notice and order shall also state a date, time and place for a hearing which shall be held no fewer than ten (10) days following service of the notice.
- D. Service of Notice and Order. The notice and order shall be served upon the alleged violator by personal service, or by certified mail, with postage prepaid and return receipt requested.
- E. Designation of Hearing Officer. The City Attorney shall designate a hearing officer, who shall not be a City employee. The compensation of the hearing officer, if any, shall be paid by the City. The retention and compensation of the hearing officer shall not be directly or indirectly conditioned upon the outcome of the hearing.
- F. Violation established by preponderance of evidence. At the hearing, the hearing officer shall consider whether a preponderance of evidence demonstrates the existence of a violation.
- G. Conduct of Hearing. Hearings shall be conducted in an expeditious manner to enable all interested parties to present relevant evidence. Formal rules of evidence shall not be applied. Time limits for presenting evidence, order of testimony, handling of exhibits, and similar matters, shall be determined at the discretion of the hearing officer. The alleged violator or any other interested persons may present testimony or documentary evidence concerning the existence of the violations, and the alleged violator may cross-examine witnesses. The hearing officer may continue the hearing to obtain additional evidence, or for other good cause.
- H. Failure to attend hearing. Failure of the alleged violator to attend the hearing shall constitute an admission of the violation by the alleged violator and a failure to exhaust administrative remedies that may bar judicial review.
- I. Decision by hearing officer. After considering all the testimony and the evidence submitted at the hearing, the hearing officer shall issue a written decision, including findings regarding the existence of each violation, the

reasons for the decision, and providing notice of the right to judicial review. The written decision shall be issued within thirty (30) days of the conclusion of the hearing, and served on the alleged violator within ten (10) days of its issuance. The decision shall be final upon service upon the alleged violator, subject only to judicial review as permitted by law.

- J. Imposition of penalty. If the hearing officer finds by a preponderance of the evidence that the alleged violator committed the violation, the hearing officer shall impose a penalty and a date the penalty and any costs of the hearing shall be due and payable by the violator.
- K. Amount of penalty. The administrative penalty for a violation of this chapter shall be a maximum \$1,000.00 per violation, and the maximum total penalty shall not exceed \$10,000.00. In determining the amount of penalty to be imposed, the hearing officer shall consider the following factors: duration of the violation, frequency of recurrence of the violation, seriousness of the violation, history of violations, good faith effort of the violator to correct the violation, economic effect of the violation on the violator, impact of the violation on the community and the City, and any other relevant factors that justice may require.
- L. Failure to pay penalty. Upon the failure of any person to pay the assessed administrative penalty by the date specified in the hearing officer's decision, the unpaid amount shall constitute a personal obligation of the violator. The City Attorney shall collect the obligation by use of any appropriate legal means.
- M. Judicial review. Any person subject to the decision of the hearing officer, may obtain judicial review of the decision pursuant to the provisions of Government Code Section 53069.4.

2.75.130 Civil Actions by Residents.

- A. Any resident of the City may bring a civil action regarding the provisions of this chapter, as follows:
  - 1. To enjoin an actual or threatened violation;
  - 2. To compel compliance by a private person;
  - 3. To obtain declaratory relief.
- B. Any action brought under this Section 2.75.130, shall be commenced within six (6) months of the time the alleged violation occurred.

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2.75.140 Time for Commencement of Actions. Except as provided in Section 2.75.130, any action brought alleging violation of this chapter must be commenced within two (2) years of the date of the alleged violation.

**Section 2.** That this Ordinance shall become effective on January 1, 2021.

**PASSED and ADOPTED this 19th day of May, 2020.**

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

**ATTEST:**

\_\_\_\_\_  
Michael R. Dalla, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Angil P. Morris-Jones  
City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City amending City Council Policy No.107 by adding Sections F and G regarding non-resident appointed board members. \(City Attorney\)](#)  
Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** May 19, 2020

**AGENDA ITEM NO.** |

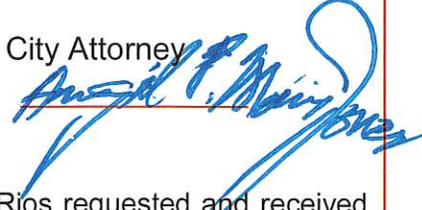
**ITEM TITLE:**

Resolution of the City Council of the City of National City amending City Council Policy #107 by adding Sections F and G regarding Non-Resident Appointed Board members.

**PREPARED BY:** Angil P. Morris-Jones

**DEPARTMENT:** City Attorney

**PHONE:** 619 336-4220

**APPROVED BY:** 

**EXPLANATION:**

At the City Council Meeting of April 7, 2020 during Council comments Vice Mayor Rios requested and received unanimous consent by the City Council to consider an amendment to the City Council Policy regarding Appointments of City Boards, Committees and Commissions which have an unscheduled vacancy.

After a discussion of the proposed amendment to Policy #107 during May 5, 2020 meeting, the City Council voted 4 to 1 for staff to bring back a resolution to amend City Council Policy #107 by adding Sections F and G.

The Resolution to amend City Council Policy #107 would add Section F which provide that an unscheduled vacancy automatically occurs when a resident holding an appointed position on a City Board, Committee or Commission becomes a non-resident by moving out of the National City limits. Section F will also provide how to fill that vacancy.

Section G would provide that only National City Residents may be elected to the Office of Chair of a City Board, Committee or Commission.

**FINANCIAL STATEMENT:**

**APPROVED:** \_\_\_\_\_ **Finance**

**ACCOUNT NO.**

**APPROVED:** \_\_\_\_\_ **MIS**

**ENVIRONMENTAL REVIEW:**

**ORDINANCE:** INTRODUCTION:  FINAL ADOPTION:

**STAFF RECOMMENDATION:**

Adopt Resolution.

**BOARD / COMMISSION RECOMMENDATION:**

**ATTACHMENTS:**

1. Amended City Council Policy #107 with added Sections F and G.
2. Resolution

# CITY COUNCIL POLICY

## CITY OF NATIONAL CITY

**TITLE: Appointments to Boards and Commissions**

**POLICY: # 107**

**ADOPTED: June 17, 1986**

**AMENDED: May 19, 2020**

### **PURPOSE**

To establish a procedure to serve as a guide in making appointments to various City Boards and Commissions. The City currently has the following boards, commissions, and committees (generally referred to as Boards and Commissions) to which this Policy would apply: Board of Library Trustees; Civil Service Commission; Community and Police Relations Commission; Park, Recreation and Senior Citizens Advisory Committee; Planning Commission; Public Art Committee; Traffic Safety Committee; and, Veterans and Military Families Advisory Committee.

### **POLICY**

#### **Appointment Process**

- A. Opportunity to apply. All interested individuals shall be given an opportunity to submit applications for vacancies on City Board and Commissions. Incumbent Commissioners are not automatically re-appointed but are required to fill out an abbreviated application provided by the City Clerk, indicating their interest in continuing to serve.
- B. Unexpired terms. If an incumbent Commissioner was appointed to fill an unexpired term and the Commissioner has served for less than one year in that position, the Council may re-appoint the incumbent without considering other applicants.
- C. Vacancies. When Commissioner vacancies occur, the following procedure shall be followed:
  1. Schedule vacancy. When a term is or has expired, a public notice of the vacancy shall be made. Interested individuals will be invited to submit applications for the vacancy on a form provided by the City Clerk.
  2. Unscheduled vacancy. An unscheduled vacancy shall be filled pursuant to and consistent with Government Code section 54974, which provides generally as follows: When an unscheduled vacancy occurs, whether due to resignation, death, termination, or other causes, a special vacancy notice shall be posted in the office of the City Clerk and the National City Library, and in other places as directed by the City Council, not earlier than 20 days before or not later than 20 days after the vacancy occurs. Final appointment shall not be made by the City Council for at least 10 working days after the posting of the notice in the City Clerk's office. However, the City Council may, if it finds that an emergency exists, fill the unscheduled vacancy immediately. A person appointed to fill the vacancy shall

serve only on an acting basis until the final appointment is made pursuant to this section.

3. Applications will be reviewed by the entire City Council and applicants will be interviewed by the entire City Council.

D. Implementation. Implementation of Council policy for appointment to Boards and Commissions requires the following:

1. Preparation of appointments list by the City Council. On or before December 31 of each year, the City Council via the City Clerk shall prepare an appointments list (known as the Local Appointments List) of all regular and ongoing boards, commissions, and committees which are appointed by the Mayor and/or the City Council, in compliance with Government Code section 54972, which generally requires a list of all appointive terms which will expire during the next calendar year, the name of the incumbent appointee, the date of appointment, the date the term expires, and the necessary qualifications for the position; and a list of all boards, commissions, and committees whose members serve at the pleasure of the City Council, and the necessary qualifications for each position.
2. Notice. Placement of a legal/public notice in a local San Diego newspaper advertising appointive vacancies;
3. Expiration of term. A letter to be sent to all office holders as their terms expire asking if they would like to re-apply for the position;
4. Interviews. Interviews to be held for those who file applications for all committees with current vacancies. Each applicant will have the opportunity to make a brief (approximately 5 minute) presentation of their interests and qualifications before the City Council at a regular Council meeting. All appointments and interviews before the City Council will be scheduled as needed to fill unexpected vacancies, with every effort to be made before an individual's term expires. Interviews may take place at one meeting, with appointments made at a subsequent meeting.

E. Vacancies for Council Appointed Positions. If the vacancy is for a Council-appointed position, and there is more than one applicant for a given position, the voting process will proceed as follows

1. Once the interviews are complete, each Councilmember votes for his/her choice via a written ballot. Each Councilmember shall print and sign his/her name on the ballot. All ballots shall be considered a public record and open to inspection by the public.

2. The ballots are passed to the City Clerk who announces the number of votes for each candidate. In the event of a tie, each Councilmember votes again until one (1) candidate has the majority vote, and is declared to be the new Commissioner.
  3. Re-appointment beyond two terms. Anyone wishing to be re-appointed to any Board or Commission, and has served two or more full terms already, must be approved a four-fifths vote of the Council. In these instances, if all five members of the Council are not present or if one member abstains or recuses his/her vote, the four-fifths requirement would be changes to require only a simple majority.
- F. An automatic vacancy upon becoming a Non-Resident. An unscheduled vacancy automatically occurs when a resident holding an appointment position on a City Board, Committee or Commission becomes a non-resident by moving out of National City limits. When an unscheduled vacancy occurs due to a resident becoming a non-resident, the unscheduled vacancy may be filled as follows:
1. A special vacancy notice shall be posted in the Office of the City Clerk and the National City Library, and in other places as directed by the City Council, not earlier than 20 days before or not later than 20 days after the vacancy occurs. Final Appointment at a City Council Meeting, shall not be made by the Appointing Authority for at least 10 working days after the posting of the notice in the City Clerk's Office.
  2. The Appointing Authority may appoint the former resident to a Non-Residential position if a Non-Residential position is vacant.
  3. However, the Appointing Authority may, if it finds that an emergency exist, fill the unscheduled vacancy immediately. A person appointed to fill the vacancy shall serve only on an acting basis until the final appointment is made pursuant to this section.
- G. Only City Residents may be elected to Chair. To be eligible to be elected as the Chairperson of a City Board, Committee or Commission, the member must be a resident of the City.

#### **Appointing Authority**

Under the Government Code, the Mayor has appointment power to all Boards and Commissions, subject to ratification by the City Council, unless there is a State law which directly, or by implication, grants the appointment power to the City Council. The following is a list of City Boards and Commissions divided between the Mayor and City Council as the Appointment power exists.

**TITLE: Appointments to Boards and Commissions**

**POLICY: # 107**

**ADOPTED: June 17, 1986**

**AMENDED: May 19, 2020**

Mayor's Appointments:

Board of Library Trustees  
Traffic Safety Committee  
Parks, Recreation and Senior Citizens Advisory Committee  
Sweetwater Authority  
Community and Police Relations Commission  
(CPRC)  
Public Art Committee  
Veterans and Military Families Advisory Committee

City Council Appointments:

Planning Commission (including Committee for Housing and  
Community Development)  
Port Commission  
Civil Service Commission

**Related Policy References**

Government Code section 40605  
Government Code section 54970, et.seq.  
National City Municipal Code Title 16 (pending)

**Prior Policy Amendments**

None

**RESOLUTION NO. 2020 -**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY  
AMENDING CITY COUNCIL POLICY #107 BY ADDING SECTIONS F AND G  
REGARDING NON-RESIDENT APPOINTED BOARD MEMBERS**

**WHEREAS**, the City Council during the May 5<sup>th</sup> City Council Meeting discussed amending Policy #107 by adding Sections F and G and thereafter directed Staff to draft a Resolution accordingly.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of National City that National City Council Policy #107, entitled "Appointments to Boards and Commissions" is hereby amended as follows:

- F. An automatic vacancy upon becoming a Non-Resident. An unscheduled vacancy automatically occurs when a resident holding an appointment position on a City Board, Committee or Commission becomes a non-resident by moving out of National City limits. When an unscheduled vacancy occurs due to a resident becoming a non-resident, the unscheduled vacancy may be filled as follows:
1. A special vacancy notice shall be posted in the Office of the City Clerk and the National City Library, and in other places as directed by the City Council, not earlier than 20 days before or not later than 20 days after the vacancy occurs. Final Appointment at a City Council Meeting, shall not be made by the Appointing Authority for at least 10 working days after the posting of the notice in the City Clerk's Office.
  2. The Appointing Authority may appoint the former resident to a Non-Residential position if a Non-Residential position is vacant.
  3. However, the Appointing Authority may, if it finds that an emergency exist, fill the unscheduled vacancy immediately. A person appointed to fill the vacancy shall serve only on an acting basis until the final appointment is made pursuant to this section.
- G. Only City Residents may be elected to Chair. To be eligible to be elected as the Chairperson of a City Board, Committee or Commission, the member must be a resident of the City.

**PASSED and ADOPTED this 19th day of May, 2020.**

\_\_\_\_\_  
Alejandra Sotelo-Solis, Mayor

**ATTEST:**

\_\_\_\_\_  
Michael R. Dalla, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Angil P. Morris-Jones  
City Attorney

The following page(s) contain the backup material for Agenda Item: [Notice of Decision – Planning Commission approval of a Conditional Use Permit \(CUP\) for the on-site sale of beer and wine at a proposed restaurant \(Bonchon\) located at 1420 East Plaza Blvd., Suite ‘D-04’. \(Applicant: Hosik Bang & Hyeonyee Lee\) \(Case File No. 2020-03 CUP\) \(Planning\)](#)  
Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA  
COUNCIL AGENDA STATEMENT**

**MEETING DATE:** | May 19, 2020 |

**AGENDA ITEM NO.** |

**ITEM TITLE:**

Notice of Decision – Planning Commission approval of a Conditional Use Permit (CUP) for the on-site sale of beer and wine at a proposed restaurant (Bonchon) located at 1420 East Plaza Blvd. Ste. 'D-04'. (Applicant: Hosik Bang & Hyeonyee Lee) (Case File No. 2020-03 CUP)

*MR*

**PREPARED BY:** Martin Reeder, AICP – Principal Planner

**DEPARTMENT:** Community Development

**PHONE:** | 619-336-4310 |

**APPROVED BY:** \_\_\_\_\_ 

**EXPLANATION:**

The business has applied for a Conditional Use Permit (CUP) to sell beer and wine at a proposed restaurant (Bonchon) under a Type 41 (On Sale Beer & Wine) license with the California Department of Alcoholic Beverage Control (ABC). Proposed sales hours of the beer and wine are 11:30 a.m. to 10:00 p.m. Monday through Thursday, 11:30 a.m. to 12:00 a.m. Friday and Saturday, and 5:00 p.m. to 10:00 p.m. Sunday. No live entertainment is proposed.

The Planning Commission conducted a public hearing on May 4, 2020. Commissioners asked questions regarding business operations, Police Department comments, and hours of operation. The Commission voted to approve the CUP based on required findings and subject to Conditions of Approval.

The attached Planning Commission staff report describes the proposal in detail. |

**FINANCIAL STATEMENT:**

**APPROVED:** \_\_\_\_\_ **Finance**

**ACCOUNT NO.** |

**APPROVED:** \_\_\_\_\_ **MIS**

**ENVIRONMENTAL REVIEW:**

Not a project per the California Environmental Quality Act as defined in Section 15378.

**ORDINANCE:** | **INTRODUCTION:**

**FINAL ADOPTION:**

**STAFF RECOMMENDATION:**

Staff concurs with the decision of the Planning Commission and recommends that the Notice of Decision be filed. |

**BOARD / COMMISSION RECOMMENDATION:**

The Planning Commission approved the Conditional Use Permit.  
Ayes: Natividad, DelaPaz, Flores, Yamane, Garcia, Sendt |

**ATTACHMENTS:**

- |                                     |                           |
|-------------------------------------|---------------------------|
| 1. Overhead                         | 3. Resolution No. 2020-03 |
| 2. Planning Commission Staff Report | 4. Reduced Plans          |

2020-03 CUP – 1420 E. Plaza Blvd. – Overhead





Item no. **4**  
May 4, 2020

COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION  
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

**PLANNING COMMISSION STAFF REPORT**

Title: PUBLIC HEARING – CONDITIONAL USE PERMIT FOR THE ON-SITE SALE OF BEER AND WINE SALES AT AN EXISTING RESTAURANT (BONCHON) LOCATED AT 1420 E. PLAZA BLVD. STE. 'D-04'

Case File No.: 2020-03 CUP

Location: Bay Plaza

Assessor's Parcel Nos.: 557-322-15

Staff report by: Chris Stanley, Assistant Planner

Applicant: Hosik Bang & Hyeonyee Lee

Zoning designation: MXD-2 (Major Mixed-Use District)

Adjacent use and zoning:

North: South Bay Plaza / MXD-2

East: Single Family Residential / RS-2

South: National School District Administrative Center / I (Institutional)

West: Single Family Residential / RS-2

Environmental review: Not a project per California Environmental Quality Act (CEQA) as defined in Section 15378

Staff recommendation: Approve

**ATTACHMENT 2**

Staff Recommendation

Staff recommends approval of the on-site sale of beer and wine at an existing restaurant, Bonchon, subject to the attached recommended conditions. The sale of alcohol is conditionally-allowed in the Major Mixed-Use District zone and would be accessory to food sales at the restaurant.

Executive Summary

The business has applied for a Conditional Use Permit (CUP) to sell beer and wine at an existing restaurant (Bonchon). The restaurant has applied for Type 41 (On Sale Beer & Wine) license with the California Department of Alcoholic Beverage Control (ABC). The hours for the sale of beer and wine, as proposed by the applicant, are 11:30 a.m. to 10:00 p.m. Monday through Thursday, 11:30 a.m. to 12:00 a.m. Friday and Saturday, and 5:00 p.m. to 10:00 p.m. Sunday. No live entertainment is proposed.

Site Characteristics

The project location is an existing 2,000 square-foot restaurant located at 1420 East Plaza Blvd. Ste. 'D-04'. The development is located on the south side of Plaza Blvd. in the middle of the block between 'L' and 'N' Avenues. and is part of South Bay Plaza. Commercial uses exist to the north and west; east of the property is residential and south is the National School District Administrative Center.

Proposed Use

The applicant is proposing to sell beer and wine at the existing restaurant, Bonchon. Bonchon is a national chain restaurant, with one other restaurant in San Diego. The floor plan provided with this application shows three booths, nine tables, and bar seating with 19 chairs and bench seating. The proposed hours for the on-site sale of beer and wine are 11:30 a.m. to 10:00 p.m. Monday through Thursday, 11:30 a.m. to 12:00 a.m. Friday and Saturday, and 5:00 p.m. to 10:00 p.m. Sunday. No live entertainment is proposed.

Analysis

Section 18.30.050 of the Land Use Code allows for on-site alcohol sales with an approved CUP. Additional requirements for alcohol CUPs include expanded notification, a community meeting, and distance requirements.

Mailing – All property owners and occupants within a distance of 660 feet are required to be notified of a public hearing for alcohol-related CUP applications. Notice of this public hearing was sent to 125 occupants and owners.

Community Meeting - Pursuant to Section 18.30.050 (C) of the National City Zoning Code, a community meeting was held Monday, February 10, 2020 at 9:30 a.m. at the subject restaurant. The meeting advertisement is attached (Attachment 7); there were no attendees. The applicant stated that the same 125 occupants and owners that were notified of the Planning Commission meeting were notified of the community meeting.

Distance Requirements - Chapter 18.030.050 (D) of the National City Zoning Code requires a 660-foot distance from any public school; there are no schools within 660 feet of the site. In addition, restaurants with greater than 30% of their area devoted to seating are exempt from this distance requirement. The property in question has over 40% of its floor area devoted to seating.

Alcohol Sales Concentration/Location

Per ABC, there are currently 14 on-site sale licenses in this census tract (117) where a maximum of eight are recommended, meaning that the census tract is considered by ABC to be over-saturated with regard to alcohol sales outlets however, one of the 14 outlets is the subject business. For reference, the on-site alcohol outlets in the census tract are:

<b>Name</b>	<b>Address</b>	<b>License Type*</b>	<b>CUP</b>
American Legion Post 255	35 E. 18 <sup>th</sup> St.	52	-
Chuck E. Cheese's	1143 Highland Ave.	41	Y
Royal Mandarin	1132 E. Plaza Blvd. Ste. 205 & 206	41	Y
VFW Post 4630	1401 Highland Ave.	52	Y
Golden Chopsticks	1430 E. Plaza Blvd. E22- 23A	41	Y
Ginza Sushi	925 E. Plaza Blvd. Ste. 'G'	41	Y
Lai Thai	1430 E. Plaza Blvd. E10-11	47	Y
Café La Maze	1441 Highland Ave.	47	-
Grill House at Big Ben	106 E. 8 <sup>th</sup> St.	41	Y
Yi Sushi #2	1430 E. Plaza Blvd. Ste. E-7B	41	Y
Crab Fever	1420 E. Plaza Blvd. D2	41	Y
Karina's	1705 Highland Ave.	41	Y
Sushi Galbi	1519 Highland Ave.	41	Y
Slappy's Burgers and Brews	1105 E. Plaza Blvd.	41	Y

\* Type 41 - On-Sale of Beer and Wine  
 \* Type 47 - On-Sale of Beer, Wine, and Liquor  
 \* Type 52 – Veteran's Club

Census tract 117 includes the area between National City Boulevard and “N” Avenue, and between East 8<sup>th</sup> Street and East 18<sup>th</sup> Street. The attached census tract map shows the location of the subject tract (Attachment 6).

#### Hours of Operation

The applicant is proposing the sale of beer and wine between the hours of 11:30 a.m. to 10:00 p.m. Monday through Thursday, 11:30 a.m. to 12:00 a.m. Friday and Saturday, and 5:00 p.m. to 10:00 p.m. Sunday. The Institute for Public Strategies (IPS) recommends that the serving of alcohol not be permitted after 10:00 p.m. The Police Department rates the sale of alcohol after 11:00 p.m. as a three on their rating system, which indicates a high risk.

#### Institute for Public Strategies

IPS did not provide comments for the proposed project, although they usually recommend that owners, management, and staff be required to attend Responsible Beverage Sales and Service (RBSS) training. In addition, IPS usually recommends that alcohol sales end by 10:00 p.m. The RBSS training is a standard condition of City Council Policy 707 and is included as a condition of approval.

#### Police Department (PD)

The ABC Risk Assessment provided by PD allocated a total of 15 points, which places it in the Medium Risk category. Medium risk is considered 13 to 18 points (see Attachment 9).

#### Findings for Approval

The Municipal Code contains six required findings for CUPs as follows:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code.

The use is allowable within the Major Mixed-Use District zone pursuant to a CUP, and the proposed use meets the required guidelines in the Land Use Code for alcohol sales, as discussed in the staff report.

2. The proposed use is consistent with the General Plan and any applicable specific plan.

Alcohol sales are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. A restaurant use is consistent with the Major Mixed-Use District land use designation contained in the Land Use and Community Character element of the General Plan. In addition, the property is not within a specific plan area.

3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity.

The building is existing and not proposed to be expanded. The proposal involves an accessory use for an existing suite. Potential development in this zone (MXD-2) was analyzed for traffic impacts during the most recent Land Use Update. Because the sale of beer and wine would be accessory to the sale of food, no measurable increase in traffic is expected.

4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

The proposed sale of beer and wine would be accessory to an existing restaurant use where no expansion of the premises is proposed. The addition of beer and wine sales is not expected to increase the demand for parking on the property.

5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located.

The proposed use will be subject to conditions that limit the sale of beer and wine as well as the hours that it will be available; no beer and wine will be sold after 12:00 a.m. and will only be available with the sale of food. In addition, all business staff is required to receive RBSS training.

6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

Per Section 15378, the project is not considered a project under CEQA, as no development is proposed. In addition, the proposed use is similar to other commercial uses in the area, which are permitted by right in the mixed-use zones. Given that there is no calculable increase in traffic and no other impacts are anticipated, staff is of the opinion that the project would not result in any physical changes to the environment.

The following two conditions are also included with alcohol CUPs:

7. The proposed use is deemed essential and desirable to the public convenience or necessity.

Beer and wine sales would contribute to the viability of the restaurant, an allowed use in the Major Mixed-Use District zone.

8. Based on findings 1 through 7 above, public convenience and necessity will be served by a proposed use of the property for the on-site sale of alcoholic beverages pursuant to law.

#### Findings for Denial

Due to there being other on-sale sites in the area, there are also findings for denial as follows:

1. Granting the permit would constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the census tract in which the subject property is located is currently over-concentrated with regard to off-sale alcohol outlets – 14 off-sale outlets are permitted where eight are recommended by the California Department of Alcoholic Beverage Control – and the area has a high crime rate.
2. The proposed use is not deemed essential to the public necessity, as there are already 12 restaurants in the same census tract that serve alcohol.
3. Based on the above findings, public convenience and necessity will not be served by a proposed use of the property for the retail sale of alcoholic beverages pursuant to law.

Conditions of Approval

Standard Conditions of Approval have been included with this permit as well as conditions specific to on-site alcohol sales per Council Policy 707 (hours of operation, employee training, accessory sales, etc.).

Summary

The proposed use is consistent with the General Plan due to alcohol sales for on-site consumption being a conditionally-allowed use in the Major Mixed-Use District zone. The proposed use would be accessory to the existing restaurant use in a commercial area. The addition of on-site beer and wine sales is not expected to increase the demand for parking, other services on the property, or have any significant effects on the area. Although the census tract in which the restaurant is located is over-concentrated with regard to on-sale alcohol licenses, beer and wine will only be available with the sale of food.

Options

1. Approve 2020-03 CUP subject to the conditions listed within, based on the attached findings, or findings to be determined by the Planning Commission; or
2. Deny 2020-03 CUP based on the attached finding or findings to be determined by the Planning Commission; or,
3. Continue the item to a specific date in order to obtain additional information.

Attachments

1. Recommended Findings
2. Recommended Conditions of Approval
3. Overhead
4. Applicant's Plans (Exhibit A, Case File No. 2020-03 CUP, dated 1/22/2020)
5. Public Hearing Notice (Sent to 125 property owners & occupants)
6. Census Tract & Police Beat Maps
7. Community Meeting Advertisement
8. City Council Policy 707
9. Police Department Comments
10. Resolutions

*Martin Reeder for*

CHRIS STANLEY  
Assistant Planner

ARMANDO VERGARA  
Director of Community Development

## **RECOMMENDED FINDINGS FOR APPROVAL**

2020-03 CUP – 1420 E. Plaza Blvd. Ste. D-04

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, because the use is allowable within the Major Mixed-Use District zone pursuant to a CUP, and the proposed use meets the required guidelines in the Land Use Code for alcohol sales, as discussed in the staff report.
2. The proposed use is consistent with the General Plan and any applicable specific plan because alcohol sales are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. A restaurant use is consistent with the Major Mixed-Use District land use designation contained in the Land Use and Community Character element of the General Plan. In addition, the property is not within a specific plan area.
3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, because the building is existing and not proposed to be expanded. The proposal involves an accessory use for an existing suite. Potential development in this zone (MXD-2) was analyzed for traffic impacts during the most recent Land Use Update. Because the sale of beer and wine would be accessory to the sale of food, no measurable increase in traffic is expected.
4. The site is physically suitable for the type, density, and intensity of the use being proposed, including access, utilities, and the absence of physical constraints because the proposed alcohol sales would be accessory to an existing restaurant use where no expansion of the premises is proposed. The addition of beer and wine sales is not expected to increase the demand for parking on the property.
5. Granting the permit would not constitute a nuisance, be injurious, or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located because the proposed use will be subject to conditions that limit the sale of beer and wine as well as the hours that it will be available; no beer or wine will be sold after 12 a.m. and will only be available with the sale of food. In addition, all business staff is required to receive RBSS training.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act because per Section 15378, the project is not

considered a project under CEQA, as no development is proposed. In addition, the proposed use is similar to other commercial uses in the area, which are permitted by right in the mixed-use zones. Given that there is no calculable increase in traffic and no other impacts are anticipated, staff is of the opinion that the project would not result in any physical changes to the environment.

7. The proposed use is deemed essential and desirable to the public convenience or necessity because beer and wine sales would contribute to the viability of the restaurant, an allowed use in the Major Mixed-Use District zone.
8. Based on findings 1 through 7 above, public convenience and necessity will be served by a proposed use of the property for the on-site sales of alcoholic beverages pursuant to law.

**RECOMMENDED FINDINGS FOR DENIAL**

2020-03 CUP – 3030 1420 E. Plaza Blvd. Ste. D-04

1. Granting the permit would constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the census tract in which the subject property is located is currently over-concentrated with regard to off-sale alcohol outlets – 14 off-sale outlets are permitted where eight are recommended by the California Department of Alcoholic Beverage Control – and the area has a high crime rate.
2. The proposed use is not deemed essential to the public necessity, as there are already 12 restaurants in the same census tract that serve alcohol.
3. Based on the above finding, public convenience and necessity will not be served by a proposed use of the property for the retail sales of alcoholic beverages pursuant to law.

## **RECOMMENDED CONDITIONS OF APPROVAL**

2020-03 CUP – 1420 E. Plaza Blvd. Ste. D-04

### **General**

1. This Conditional Use Permit authorizes the sale of beer and wine for on-site consumption at an existing restaurant located at 1420 E. Plaza Blvd. Ste. D-04. Plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2020-03 CUP, dated 1/22/2020.
2. Before this *Conditional Use Permit* shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the *Conditional Use Permit*. The applicant shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Conditional Use Permit* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Director of Community Development prior to recordation.
3. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
4. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
5. This *Conditional Use Permit* may be revoked if the operator is found to be in violation of any Conditions of Approval.

### **Planning**

6. All sellers of alcohol shall receive Responsible Beverage Service and Sales (RBSS) training, including all owners, and managers. The RBSS training must be certified by the Department of Alcoholic Beverage Control (ABC). Proof of completion of an approved RBSS program must be provided prior to issuance of a city business license. As part of the RBSS training, the permittee shall make available a domestic violence training session as provided by the Institute of Public Strategies.

7. The sale of alcoholic beverages shall be permitted only between the hours of 11:30 a.m. to 10 p.m. Monday through Thursday, 11:30 a.m. to 12 a.m. Friday and Saturday, and 5 p.m. to 10 p.m. Sunday.
8. The sale of alcohol shall not exceed the sale of food. With the annual renewal of the City business license, the business proprietor shall submit a statement clearly indicating total alcoholic beverage sales and total food sales. Said statement shall be subject to audit and verification by employees of the City, who are authorized to examine, audit and inspect such books and records of the license, as may be necessary in their judgment to verify that the sale of alcohol does not exceed the sale of food. All information obtained by an investigation of records shall remain confidential.
9. Alcohol shall be available only in conjunction with the purchase of food.
10. No live entertainment is permitted without modification of this CUP or issuance of a Temporary Use Permit.

Police

11. Permittee shall comply with all regulatory provisions of the Business and Professions Code that pertain to the sale, serving, and consumption of alcoholic beverages.



COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION  
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF PUBLIC HEARING  
CONDITIONAL USE PERMIT FOR THE ON-SITE SALE OF BEER AND WINE  
AT AN EXISTING RESTAURANT (BONCHON)  
LOCATED AT 1420 E. PLAZA BLVD. STE. D-04  
CASE FILE NO.: 2020-03 CUP  
APN: 557-322-15

The National City Planning Commission will hold a public hearing at their regular online meeting after the hour of 6:00 p.m. **Monday, May 4, 2020** on the proposed request. The meeting will be LIVE WEBCAST from the City Council Chamber, 1243 National City Boulevard, National City, California. (Applicant: Hosik Bang & Hyeonyee Lee)

Due to the precautions taken to combat the spread of coronavirus (COVID-19), City Hall, including the City Council Chambers, are closed to the public. Anyone interested in this public hearing may observe it on the City's website at <http://www.nationalcityca.gov/government/city-clerk/council-webcast>.

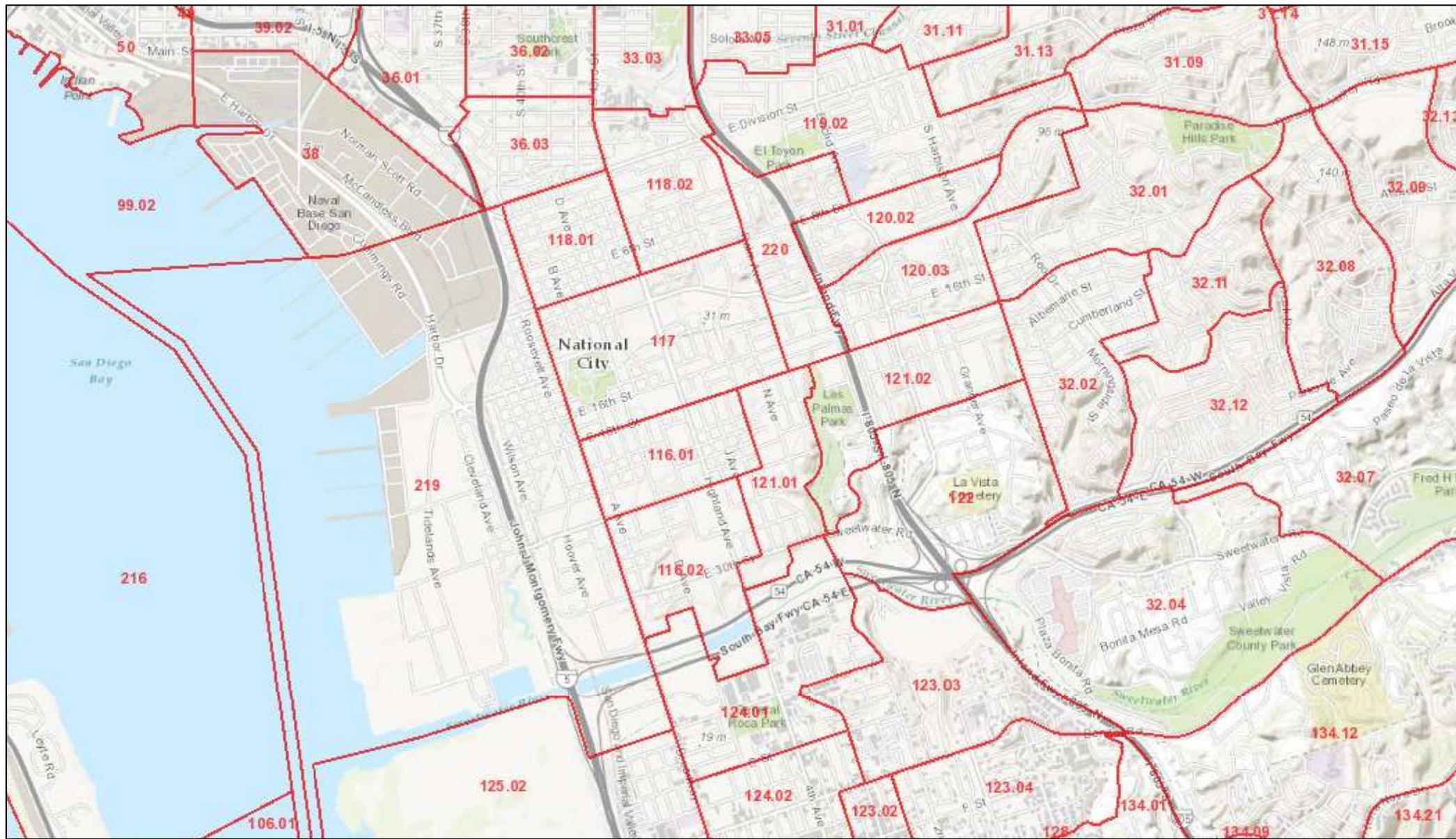
The project site is an existing restaurant in the Major Mixed-Use District (MXD-2) zone. The applicant is proposing to sell beer and wine for on-site consumption (Type 41 License) in the 2,000 square-foot commercial space. The proposed alcohol sales hours are 11:30 a.m. to 10 p.m. Monday through Thursday, 11:30 a.m. to 12 a.m. Friday and Saturday, and 5 p.m. to 10 p.m. Sunday.

Members of the public are invited to comment. Written comments should be received on or before 4:00 p.m., **May 4, 2020** by the Planning Division, who can be contacted at 619-336-4310 or [planning@nationalcityca.gov](mailto:planning@nationalcityca.gov).

If you challenge the nature of the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

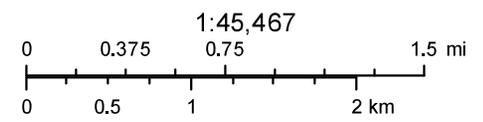
NATIONAL CITY PLANNING DIVISION

ARMANDO VERGARA  
Director of Community Development

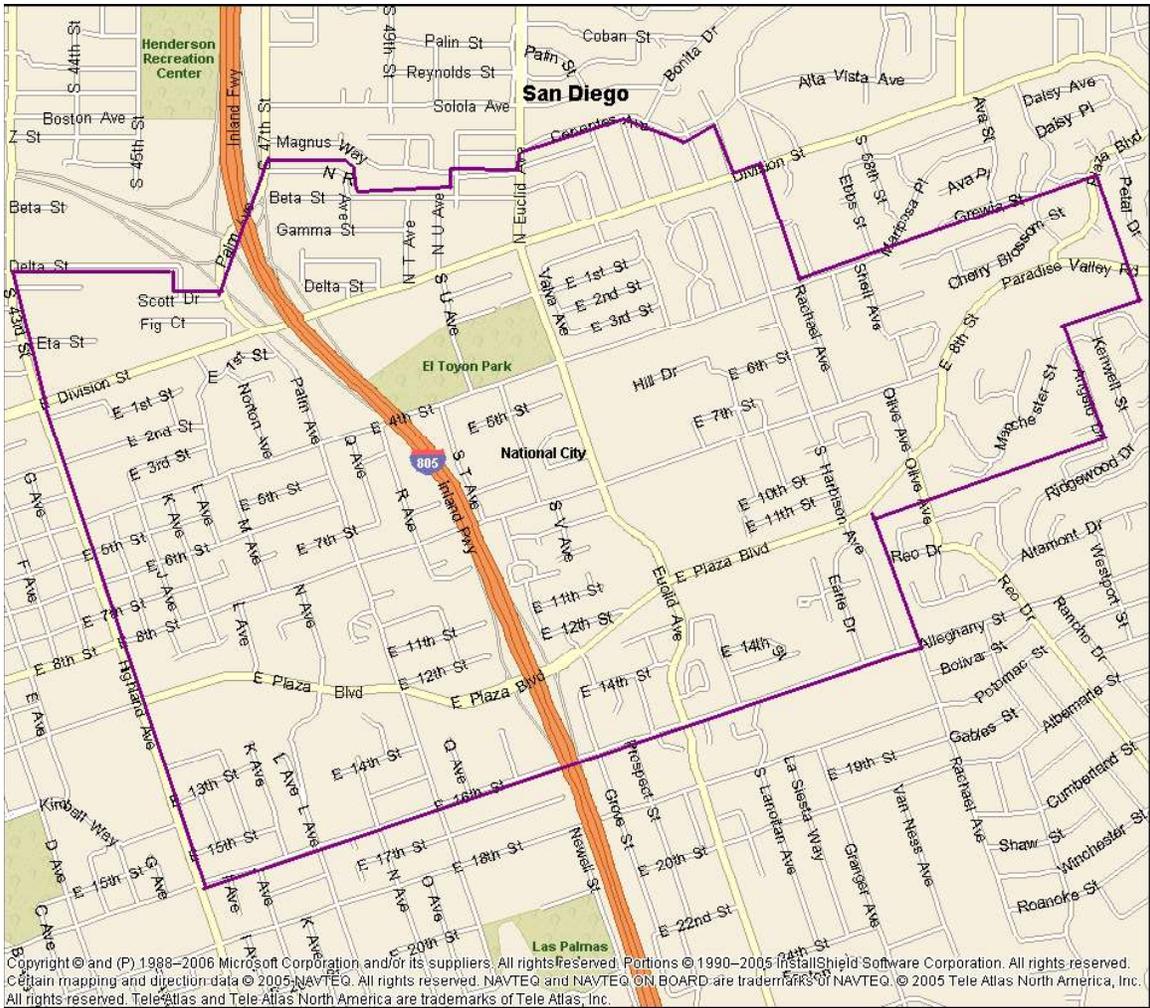


August 25, 2014

CensusTracts 2010



Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community



## City of National City Beat 21

Source: Microsoft Mappoint  
NCPD CAU, 4/18/07

Dear whom I may concern,

B&L Inc. DBA name Bonchon, National City is holding a community meeting to apply new ABC (Alcohol beverage control). The community meeting will be held in the location below:

Date & Time:

Feb. 10<sup>th</sup> 2020

9:30am to 10:30am

1420 E Plaza Blvd suite D-04, National City, CA 91950

Sincerely,

Hosik Bang and Hyeonyee Lim

# CITY COUNCIL POLICY

TITLE: Alcohol Beverage License Application Review Process  
and Alcohol Conditional Use Permit Standards

POLICY  
NUMBER 707

ADOPTED: November 12, 1991

AMENDED OR

REVISED: December 19, 2017

Page 1 of 5

## PURPOSE/BACKGROUND:

To streamline the process of alcohol license application review to ensure timely staff responses and/or protests to the Department of Alcoholic Beverage Control regarding these applications.

The City Municipal Code requires Conditional Use Permits for the sale of alcohol. Such land use regulation is designed to ensure that the health, safety and welfare of the community does not become negatively impacted. In order to minimize any potential adverse effects of alcohol sales for both on and off-site consumption, including public drunkenness, disorderly conduct, illegal sales or domestic violence, the City adopts conditions of approvals and enact policies designed to protect the public from such effects. The following sets forth the City Council's policy on the applicable alcohol standards for Conditional Use Permit applications for both on and off-sale alcohol sales, as well as the Department of Alcoholic Beverage Control application notification requirements.

## POLICY:

The Department of Alcoholic Beverage Control (ABC) sends copies of all alcoholic beverage license applications to the Police Department. The City has thirty days from the date of the ABC mailing to provide comments to the ABC. If no protests are received within that time period, the ABC issues the license.

The Police Department is responsible for ensuring that an appropriate Conditional Use Permit (CUP) exists for the applicant business. If such a CUP exists, the copy of the application is simply filed by the Police Department in the existing file with the notation that there were no objections to the issuance of the license. If it is a new (in the case of an "original" license application) or expanding business or one seeking a license to effect a premises transfer, and no CUP exists, the Police Department is responsible for sending a letter to the ABC protesting the issuance of the license until a CUP is issued by the City.

Whenever such a protest letter is sent to the ABC, that agency notifies the applicant that they must begin the process of obtaining a CUP with the City's Planning Division and that the issuance of the alcoholic beverage license will be delayed until such time as the protest is withdrawn.

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Once a CUP has been issued, the Planning Division notifies the Police Department of that issuance and it is then the responsibility of the Police Department to notify the ABC that the protest is withdrawn.

The CUP application, approval and issuance process is such that it provides all the checks, balances and controls necessary to ensure that businesses seeking alcoholic beverage licenses are in compliance with local standards.

These conditions of approval shall apply to all new Conditional Use Permits (CUPs) for the sale of alcohol for on and/or off-site consumption and modifications of existing CUPs for such sales as specified by the preceding parenthetical references with each condition. These references specify to which type of alcohol CUP being applied for the conditions would apply to – on-sale (restaurant, bar, etc) or off-sale (market, grocery store, etc). Regulation of these conditions and allowances shall be enforced through the Conditional Use Permit process, specifically conditions of approval to read as follows:

1. **(off-sale alcohol)** The sale of beer or malt beverages in quantities of quarts, 22 ounce, 32 ounce, 40 ounce, or similar size containers is prohibited.
2. **(off-sale alcohol)** No beer products shall be sold of less than manufacturer's pre-packaged three-pack quantities of 24 ounce cans per sale. There shall be no sale of single cans or bottles.
3. **(off-sale alcohol)** No sale of wine shall be sold in containers of less than 750 milliliters. The sale of wine with an alcoholic content greater than 15% by volume is prohibited.
4. **(off-sale alcohol)** Flavored malt beverages, also known as premium malt beverages and flavored malt coolers, and sometimes commonly referred to as wine coolers, may be sold only by four-pack or other manufacturer's pre-packaged multi-unit quantities.
5. **(off-sale alcohol)** The consumption of alcoholic beverages is prohibited on the subject premises, and on all parking lots and outbuildings and any property or adjacent property under the control of the applicant.
6. **(off-sale alcohol)** All cups and containers shall be sold at or above prevailing prices and in their original multi-container packages of no fewer than 12, and no cups and containers shall be given free of charge.

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7. **(off-sale alcohol)** Ice may be sold only at or about prevailing prices in the area and in quantities of not less than three pounds per sale. Ice shall not be provided free of charge.
8. **(off-sale alcohol)** The display of alcoholic beverages shall be limited to an area in substantial conformance with Exhibit \_\_\_\_, Case File No. \_\_\_\_, dated \_\_\_\_.
9. **(off-sale alcohol)** Permittee shall post signs on the exterior building walls in compliance with Chapter 10.30.070 of the National City Municipal Code. Additionally, the permittee shall post signs, to be approved by the Planning Division, at each entrance to the applicant's premises and parking lot, prohibiting loitering and consumption of alcohol on the premises and adjacent property under his control. Said signs shall not be less than 17 by 22 inches in size, with lettering not less than one inch in height. The signs shall read as follows:
  - a. "No open alcoholic beverage containers are allowed on these premises."
  - b. "No loitering is allowed."
10. **(off-sale alcohol)** Containers of alcohol may not be stored on the premises, after being sold to patrons, for the purpose of later consumption.
11. **(off-sale alcohol)** Exterior advertising and signs of all types, promoting or indicating the availability of alcoholic beverages, including advertising/signs directed to the exterior from within, are prohibited. Interior displays of alcoholic beverages and signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
12. **(off-sale alcohol)** The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of all other commodities during the same period. The applicant shall at all times keep records which reflect separately the gross sales of alcoholic beverages and the gross sales of all other items. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the City Finance Department and any Peace Officer of the California Department of Alcoholic Beverage Control upon demand.
13. **(on and off-sale alcohol)** All sellers and servers of alcohol shall receive Responsible Beverage Service and Sales (RBSS) training, including all owners, and managers. The RBSS training must be certified by the Department of Alcoholic Beverage Control (ABC). Proof of completion of an approved RBSS program must be provided prior to issuance of a city business license. As part -

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- of the RBSS training, the permittee shall make available a domestic violence training session as provided by the Institute of Public Strategies.

14. **(on-sale alcohol)** The sale of alcohol shall not exceed the sale of food. With the annual renewal of the City business license, the business proprietor shall submit a statement clearly indicating total alcoholic beverage sales and total food sales. Said statement shall be subject to audit and verification by employees of the City, who are authorized to examine, audit and inspect such books and records of the license, as may be necessary in their judgment to verify that the sale of alcohol does not exceed the sale of food. All information obtained by an investigation of records shall remain confidential.
15. **(on-sale alcohol)** Alcohol shall be available only in conjunction with the purchase of food.
16. **(on-sale alcohol with patio)** Permittee shall post signs in the patio dining area, including all exits to outdoor seating areas, indicating that alcoholic beverages must be consumed inside the restaurant or patio area and may not be taken off-premises.
17. **(brewery tasting rooms)** The requirements that alcohol be available only with the purchase of food and that alcohol sales not exceed food sales shall not apply to tasting rooms.
18. **(brewery tasting rooms)** Sales of sealed containers (commonly known as growlers) for off-site consumption of the beer produced by the master licensee may be sold and/or consumed at this location.
19. **(brewery tasting rooms)** Hours of operation of tasting rooms shall be limited to between 10:00 a.m. to 10:00 p.m. with last call being at 9:00 p.m.
20. **(brewery tasting rooms)** With the submittal of a business license for a tasting room, the Police Department shall provide an ABC Risk Assessment for each business applicant that indicates whether the business is considered a low, medium, or high risk. In the event that a risk assessment for the business allocates more than 15 points, no business license shall be issued without the issuance of a Conditional Use Permit.

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The sale of three-packs of 24-oz cans of beer shall apply retroactively to all existing off-sale CUPs where a condition exists limiting sales to no less than six-pack quantities. However, business wishing to avail themselves of this modification must conform with all regulations of the Department of Alcoholic Beverage Control (ABC).

The Council may, at its sole discretion, choose to waive or modify any of the above conditions.



**NATIONAL CITY POLICE DEPARTMENT**  
**ALCOHOL BEVERAGE CONTROL**  
**RISK ASSESSMENT**

DATE: 01/29/2020

BUSINESS NAME: Bonchon

ADDRESS: 1420 E. Plaza Blvd, Ste D-04, National City, CA 91950

OWNER NAME: Hosik Bang DOB: 02/09/1964

OWNER ADDRESS: 4690 Convoy St., Ste. 101, San Diego, 92111

(add additional owners on page 2)

**I. Type of Business**

- Restaurant (1 pt)
- Market (2 pts)
- Bar/Night Club (3 pts)
- Tasting Room (1pt)

**II. Hours of Operation**

- Daytime hours (1 pt)
- Close by 11pm (2 pts)
- Close after 11pm (3 pts)

**III. Entertainment**

- Music (1 pt)
- Live Music (2 pts)
- Dancing/Live Music (3 pts)
- No Entertainment (0 pts)

**IV. Crime Rate**

- Low (1 pt)
- Medium (2 pts)
- High (3 pts)

**V. Alcohol Businesses per Census Tract**

- Below (1 pt)
- Average (2 pts)
- Above (3 pts)

**Notes:**

II. Closes after 11 pm on Fridays and Saturdays.

V. Tract allows for 8 on-sale licenses. There are 13 currently active.

VI. 24 calls for service between 8/2019 - 1/2020

VI. Calls for Service at Location (for previous 6 months)

- Below (1 pt)
- Average (2 pts)
- ✓ Above (3 pts)

VII. Proximity Assessment (1/4 mile radius of location)

- Mostly commercial businesses (1 pt)
- ✓ Some businesses, some residential (2 pts)
- Mostly residential (3 pts)

Low Risk ( 12pts or less) Medium Risk (13 – 18pts) High Risk (19 – 24pts)
---------------------------------------------------------------------------------

<b>Total Points</b> <u>15</u>
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VIII. Owner(s) records check

- ✓ No criminal incidents (0 pts)
- Minor criminal incidents (2 pts)
- Multiple/Major criminal incidents (3 pts)

OWNER NAME: Hyonyee Lim DOB: 02/05/1968

OWNER ADDRESS: 808 4th Ave, #317, San Diego, CA 92101

OWNER NAME: \_\_\_\_\_ DOB: \_\_\_\_\_

OWNER ADDRESS: \_\_\_\_\_

**Recommendation:**

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Completed by: Sgt. W. Walters Badge ID: 398

RESOLUTION NO. 2020-03

A RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF NATIONAL CITY, CALIFORNIA  
APPROVING A CONDITIONAL USE PERMIT FOR ON-SITE BEER AND WINE SALES  
AT A PROPOSED RESTAURANT LOCATED AT  
1420 EAST PLAZA BOULEVARD SUITE D-04  
CASE FILE NO. 2020-03 CUP  
APN: 564-322-15

WHEREAS, the Planning Commission of the City of National City considered a Conditional Use Permit for the on-site sale of beer and wine at a new restaurant for a property located at 1420 E. Plaza Blvd. Ste. D-04 at a duly advertised public hearing held on May 4, 2020, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearings the Planning Commission considered the staff report contained in Case File No. 2020-03 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on March 16, 2020, support the following findings:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, because the use is allowable within the Major Mixed-Use District zone pursuant to a CUP, and the proposed use meets the required guidelines in the Land Use Code for alcohol sales, as discussed in the staff report.
2. The proposed use is consistent with the General Plan and any applicable specific plan because alcohol sales are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. A restaurant use is consistent with the Major Mixed-Use District land use designation contained in the Land Use and Community Character element of the General Plan. In addition, the property is not within a specific plan area.

3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, because the building is existing and not proposed to be expanded. The proposal involves an accessory use for an existing suite. Potential development in this zone (MXD-2) was analyzed for traffic impacts during the most recent Land Use Update. Because the sale of beer and wine would be accessory to the sale of food, no measurable increase in traffic is expected.
4. The site is physically suitable for the type, density, and intensity of the use being proposed, including access, utilities, and the absence of physical constraints because the proposed alcohol sales would be accessory to an existing restaurant use where no expansion of the premises is proposed. The addition of beer and wine sales is not expected to increase the demand for parking on the property.
5. Granting the permit would not constitute a nuisance, be injurious, or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located because the proposed use will be subject to conditions that limit the sale of beer and wine as well as the hours that it will be available; no beer or wine will be sold after 12 a.m. and will only be available with the sale of food. In addition, all business staff is required to receive RBSS training.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act because per Section 15378, the project is not considered a project under CEQA, as no development is proposed. In addition, the proposed use is similar to other commercial uses in the area, which are permitted by right in the mixed-use zones. Given that there is no calculable increase in traffic and no other impacts are anticipated, staff is of the opinion that the project would not result in any physical changes to the environment.
7. The proposed use is deemed essential and desirable to the public convenience or necessity because beer and wine sales would contribute to the viability of the restaurant, an allowed use in the Major Mixed-Use District zone.
8. Based on findings 1 through 7 above, public convenience and necessity will be served by a proposed use of the property for the on-site sales of alcoholic beverages pursuant to law.

BE IT FURTHER RESOLVED that the application for a Conditional Use Permit is approved subject to the following conditions:

## General

1. This Conditional Use Permit authorizes the sale of beer and wine for on-site consumption at an existing restaurant located at 1420 E. Plaza Blvd. Ste. D-04. Plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2020-03 CUP, dated 1/22/2020.
2. Before this *Conditional Use Permit* shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the *Conditional Use Permit*. The applicant shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Conditional Use Permit* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Director of Community Development prior to recordation.
3. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
4. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
5. This *Conditional Use Permit* may be revoked if the operator is found to be in violation of any Conditions of Approval.

## Planning

6. All sellers of alcohol shall receive Responsible Beverage Service and Sales (RBSS) training, including all owners, and managers. The RBSS training must be certified by the Department of Alcoholic Beverage Control (ABC). Proof of completion of an approved RBSS program must be provided prior to issuance of a city business license. As part of the RBSS training, the permittee shall make available a domestic violence training session as provided by the Institute of Public Strategies.
7. The sale of alcoholic beverages shall be permitted only between the hours of 11:30 a.m. to 10 p.m. Monday through Thursday, 11:30 a.m. to 12 a.m. Friday and Saturday, and 5 p.m. to 10 p.m. Sunday.
8. The sale of alcohol shall not exceed the sale of food. With the annual renewal of the City business license, the business proprietor shall submit a statement clearly indicating total alcoholic beverage sales and total food sales. Said statement shall be subject to

audit and verification by employees of the City, who are authorized to examine, audit and inspect such books and records of the license, as may be necessary in their judgment to verify that the sale of alcohol does not exceed the sale of food. All information obtained by an investigation of records shall remain confidential.

- 9. Alcohol shall be available only in conjunction with the purchase of food.
- 10. No live entertainment is permitted without modification of this CUP or issuance of a Temporary Use Permit.

Police

- 11. Permittee shall comply with all regulatory provisions of the Business and Professions Code that pertain to the sale, serving, and consumption of alcoholic beverages.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final on the day following the City Council meeting where the Planning Commission resolution is set for review, unless an appeal in writing is filed with the City Clerk prior to 5:00 p.m. on the day of that City Council meeting. The City Council may, at that meeting, appeal the decision of the Planning Commission and set the matter for public hearing.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of May 4, 2020, by the following vote:

AYES: Natividad, Dela Paz, Flores, Sendt, Yamane, Garcia

NAYS: None.

ABSENT: None.

ABSTAIN: None.



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CHAIRPERSON

### SYMBOL LEGEND

DETAIL NUMBER SECTION  
SHEET NUMBER  
DETAIL NUMBER DETAIL  
SHEET NUMBER  
DETAIL NUMBER INTERIOR ELEVATION  
SHEET NUMBER  
DATE OF PAPER  
DOOR NUMBER  
ROOM NUMBER & NAME  
KEYNOTE  
EQUIPMENT NUMBER

### PROJECT SUMMARY

**PROJECT DESCRIPTION**  
RENOVATION IMPROVEMENT FOR A RESTAURANT IN AN EXISTING SHELL

**SCOPE OF WORK**  
NEW INTERIOR NON-BEARING WALL, HANG CEILING AND BOFFIT  
NEW LIGHTING AND NEW ELECTRICAL CONDUIT  
NEW WET-DISH REFRIGER  
NEW TYPE "T" TIGHTEN HOOD SYSTEM  
NEW PLUMBING  
REPLACE AC DUCT AND DRIP TRAYS

**APPLICABLE BUILDING CODES**  
JURISDICTION: CITY OF NATIONAL CITY, CA  
CODES:  
BUILDING: 2016 CALIFORNIA BUILDING CODE  
FIRE: 2016 CALIFORNIA FIRE CODE  
PLUMBING: 2016 CALIFORNIA PLUMBING CODE  
MECHANICAL: 2016 CALIFORNIA MECHANICAL CODE  
ELECTRICAL: 2016 CALIFORNIA ELECTRICAL CODE  
ACCESSIBILITY: 2016 CALIFORNIA ACCESSIBILITY CODE  
ENERGY: 2016 CALIFORNIA ENERGY STANDARDS  
OTHER: 2016 CALIFORNIA GREEN BUILDING CODE

**BUILDING DATA**  
RESTAURANT AREA: 2,000 SF  
NET AREA OF WORK: 2,000 SF  
NUMBER OF STORY: 1  
CONSTRUCTION TYPE: V-B (FIRE SPRINKLED)  
THE FIRE ALARM WILL BE DETERRIED SUBMITTAL TO FIRE DEPARTMENT  
OCCUPANCY: B RESTAURANT

**PROJECT DATA**  
OCCUPANCY CLASSIFICATION: A-2 (RESTAURANT)  
LEASE AREA: 2,000 SF  
OCCUPANCY LOAD CALCULATION:  
STORAGE & BAK AREA: 221 SF @ 200 = 44,200  
KITCHEN & PREP AREA: 773 SF @ 150 = 115,950  
STORAGE ROOM: 47 SF @ 200 = 9,400  
JANITOR ROOM: 70 SF @ 100 = 7,000  
RESTROOMS JAIL & OTHER: 291 SF @ 100 = 29,100  
TOTAL: 545 SF @ 16 = 8,720

**RESTROOM PLUMBING FIXTURE CALCULATIONS**

LAVATORIES	WATER CLOSET	URINAL	WATER CLOSET	URINAL
1-150	1	1	1-150	1
1-150	1	1	1-150	1
1-200	1	1	1-200	1

### BONCHON RESTAURANT

1420 E. PLAZA BLVD, SUITE D-04  
NATIONAL CITY, CA 91950

**SITE PLAN**

RESTROOM PLUMBING FIXTURE CALCULATIONS

LAVATORIES: 1-150, 1-150, 1-200  
WATER CLOSET: 1, 1, 1  
URINAL: 1, 1, 1

PROJECT DIRECTORY

ARCHITECT: J.P. DESIGN CO., 2714 SPRING E AVE, ROSVILL, CA 91976, TEL: (619) 372-4981, CONTACT: PHOTON CHIU

OWNER: BONCHON RESTAURANT, 4850 Camino del Rio North, San Diego, CA 92114, TEL: (619) 214-6142

VICINITY MAP

SHEET INDEX

ARCHITECTURAL  
A-0 COVER SHEET, SITE PLAN & INDEX  
GENERAL NOTES  
A-1 DOOR SCHEDULE, ACCESSIBILITY DETAIL  
A-2 FLOOR PLAN, EQUIPMENT SCHEDULE & BAK COUNTER DETAIL  
A-2.1 WALK-IN COOLER & FREEZER SPEC SHEET  
A-3 FLOOR FINISH PLAN & REFLECT CEILING PLAN  
A-4 DIMENSION PLAN INTERIOR ELEVATION  
A-5 INTERIOR ELEVATION  
M-9 ROOF EQUIPMENT PLAN, AC DUCT PLAN  
M-1 EXHAUST FAN & MAKEUP AIR SHEET  
M-2 WRAP SPEC SHEET  
E-1 POWER PLAN & LIGHTING PLAN  
E-2 LIGHTING T-24  
P-1 HOT/COLD WATER SUPPLY, GAS LINE & WASTE PLAN

SCALE 1/8"=1'-0"

N

REVISION

BONCHON RESTAURANT  
1420 E. PLAZA BLVD., SUITE D-04  
NATIONAL CITY, CA 91950

BONCHON  
HANDCRAFTED TASTE & FLAVOR

COVER SHEET

DATE: 08-29-2019  
BY: AS SHOWN

A-0

**EQUIPMENT SCHEDULE** SCALE: 7/8" = 1'-0"

NO	ROOM NAME	FLOOR	BASE	WALLS	CEILING	REMARKS
101	PREP AREA					
102	SERVICE AREA					
103	KITCHEN					
104	FRONT & REAR AREA					
105	RESTROOM					
106	LINE					
107	STORAGE ROOM					
108	WATER ROOM					
109	MECHANICAL/ELECTRICAL					

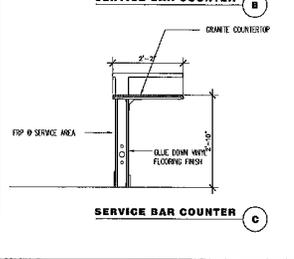
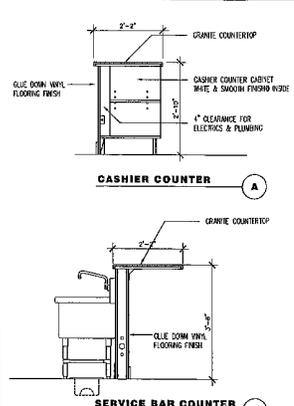
**FINISH SCHEDULE NOTES:**

- Wall and ceiling to be as shown, unless otherwise noted, and consistent with a light neutral color having a light reflective value of 70% or greater, unless otherwise noted.
- All cabinet and building materials to be finished, smooth, non-absorbent, and suitable for use in food preparation areas in accordance with applicable health codes.
- Trim and base to be as shown, unless otherwise noted, and consistent with the finish schedule.
- All equipment shall be fully installed, in accordance with applicable codes, and suitable for use in food preparation areas in accordance with applicable health codes.
- Where specified with "E.C.", indicate finish, except for "E.C. specified behind all cases and dishwashers, outside to be as shown, E.C. top.
- A note, 12" tall section of wall measured 24" A.F.F. in kitchen/prep areas, unless noted, shall be installed for development of ceiling up utility.
- A note, 12" tall section of wall measured 24" A.F.F. in restaurant/strip areas.

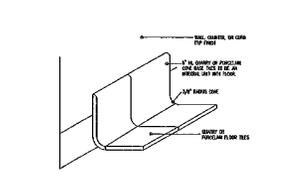
**FLOOR PLAN** SCALE: 1/8" = 1'-0"

ITEM	DESCRIPTION	QTY.	MAKE & MODEL	UNIT	AMOUNT	REMARKS
CE1	SINK & SERVICE COUNTER (SEE DETAIL SA-1)	1	CONCRETE			
CE2	CASHER (POS)	2	BY DESIGN		100 2.0	
CE3	BACK BAR COOLER	1	"SAGE" 60000		85 3.0	SELF-CONTAINED
CE4	FRONT CASE W/IN REFRIGERATOR	1	"SAGE"		85	
CE5	GLASS DOOR BACK BAR COOLER	1	"SAGE"		110	SELF-CONTAINED
CE6	ICE MAKER (150-LB/DAY) W/ STORAGE BIN	1	"MANTONCO" 1012A-320	1/2"	7/5	
CE7	WALL MOUNTED HAND SINK W/ SOAP & TOWEL DISPENSER	2	"KORNDORF" 7-175-26	1/2"	1/2"	
CE8	3-COMM. BAR SINK	1	"KORNDORF" 7-175-26	1/2"	1/2"	
CE9	WALL MOUNTED HAND SINK W/ SOAP & TOWEL DISPENSER	1	"KORNDORF" 7-175-26	1/2"	1/2"	
CE10	DRINK DISPENSER W/ 3 DISPENSERS	1	"SAGE" 60000		110 1.0	
CE11	3-COMM. SINK	1	"KORNDORF" FC-3-184-100	1/2"	1/2"	
CE12	3-COMM. SINK W/ HOT WATER DISPENSER (RIGHT SIDE)	1	"KORNDORF" FC-3-184-100	1/2"	1/2"	
CE13	1-COMM. SINK W/ HOT WATER DISPENSER (LEFT SIDE)	1	"KORNDORF" FC-1-184-100	1/2"	1/2"	
CE14	STAINLESS STEEL WORK TABLE	4	"SAGE"			
CE15	48" SANDWICH STATION	2	"REVERAGE" 48" SPE48		15 4.0	SELF-CONTAINED
CE16	DISHWASHER W/ 3 CYCLES	2	"KORNDORF" 7-175-26		105 4.0	SELF-CONTAINED
CE17	PROOFER	1	"KORNDORF" 7-175-26		100 1.0	
CE18	ELECTRIC RICE COOKER/WARMER	2	"PROCTOR SILEX" 37500		105 1.0	
CE19	3-COMM. REFRIGERATOR	1	"SAGE" 60000		110 1.0	SELF-CONTAINED
CE20	DEEP FRYER	2	"TITAN" 1-22-110		105 6.0	
CE21	12-BURNER RANGE W/ OVEN	1	"S.M. RANGE" 1334-60		300	
CE22	36" COMB. OVEN RANGE	1	"TITAN" 20-18	1/2"	7/5	
CE23	36" W x 4" OXIDIZANT HOOD	1	"SAGE" 48"			
CE24	WALL MOUNT W/ SHOWERHEAD PROTECTION DEVICE	1	"TAVEL" 1818	1/2"	1/2"	
CE25	WATERPROOF BACK W/ CHEMICAL STORAGE	1	"SAGE"			
CE26	HANDLING WATER HEATER	2	"SAGE" 200"			
CE27	STORAGE SHELVING (MIN. 6" LUMBER FEET)	N/A	"SAGE" 1800/1800/1800			
CE28	60" SPASH GUARD	4	"SAGE"			
CE29	AIR CURTAIN (MOTOR SWITCH: ACRYLIC)	1	"SAGE" 36"			
CE30	EMERGENCY LOCKER (ON 4" R. ROUND LEGS)	1	"SAGE" 48"			
CE31	WOODEN LAMINATE WALL PANELING	1	BY DESIGN			

**SERVICE COUNTER DETAIL** SCALE: 3/4" = 1'-0"

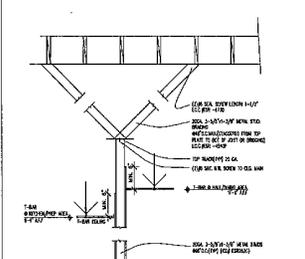
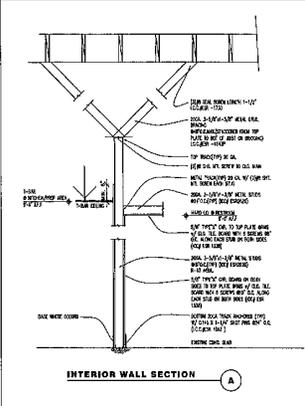


**SERVICE AREA COVE BASE** SCALE: 1/2" = 1'-0"

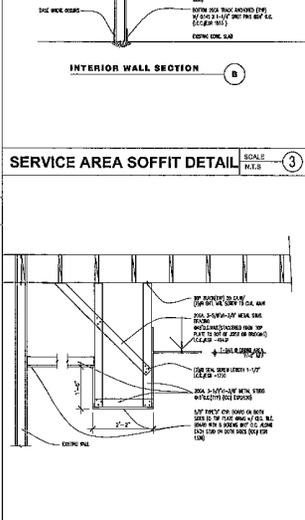


**NO USE** SCALE: 1/2" = 1'-0"

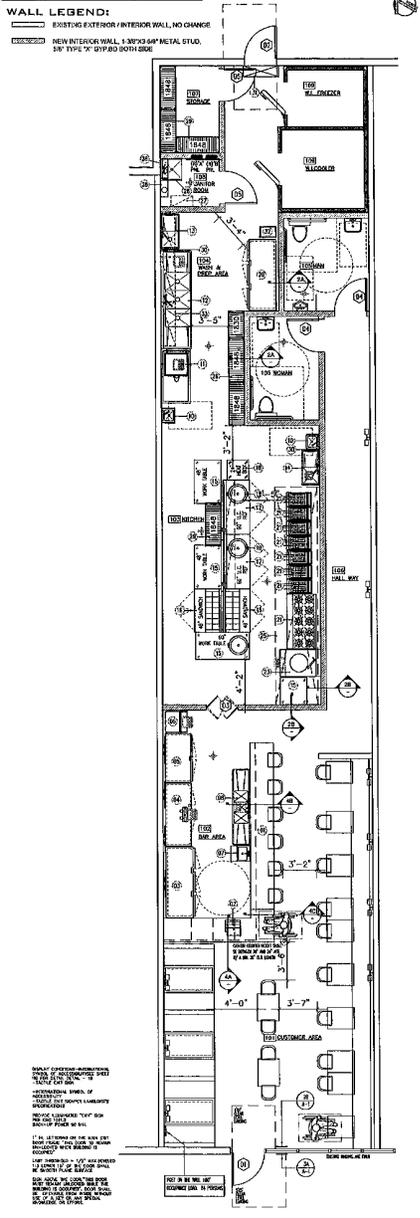
**INTERIOR WALL DETAIL** SCALE: 1/2" = 1'-0"



**SERVICE AREA SOFFIT DETAIL** SCALE: 1/2" = 1'-0"



**FLOOR PLAN** SCALE: 1/8" = 1'-0"



**J.P. CONSTRUCTION CO.**  
**J.P. DESIGN CO.**

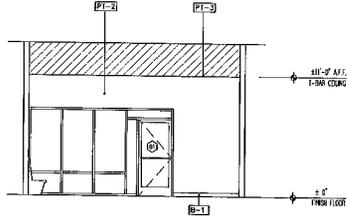
**BONCHON RESTAURANT**  
 1420 E. PLAZA BLVD., SUITE D-04  
 NATIONAL CITY, CA 91908

**Bonchon**  
 HANDCRAFTED TASTE & FLAVOR

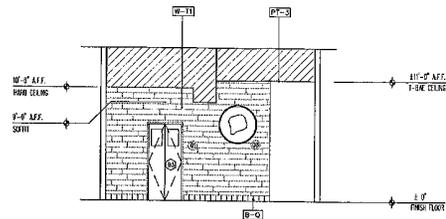
**AS 2**

**DIMENSION PLAN & ELEVATIONS**

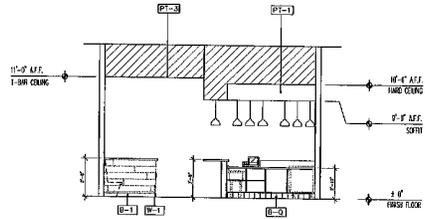
SCALE: 3/4"=1'-0"



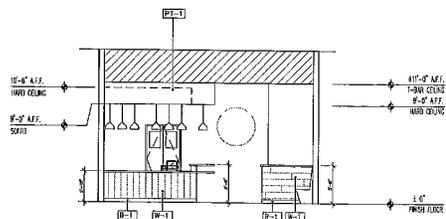
**INTERIOR ELEVATION**  
SCALE: 1/4"=1'-0" ④



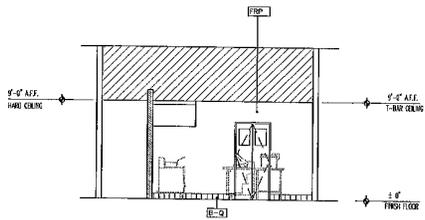
**INTERIOR ELEVATION**  
SCALE: 1/4"=1'-0" ①



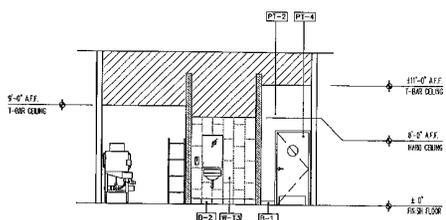
**INTERIOR ELEVATION**  
SCALE: 1/4"=1'-0" ⑤



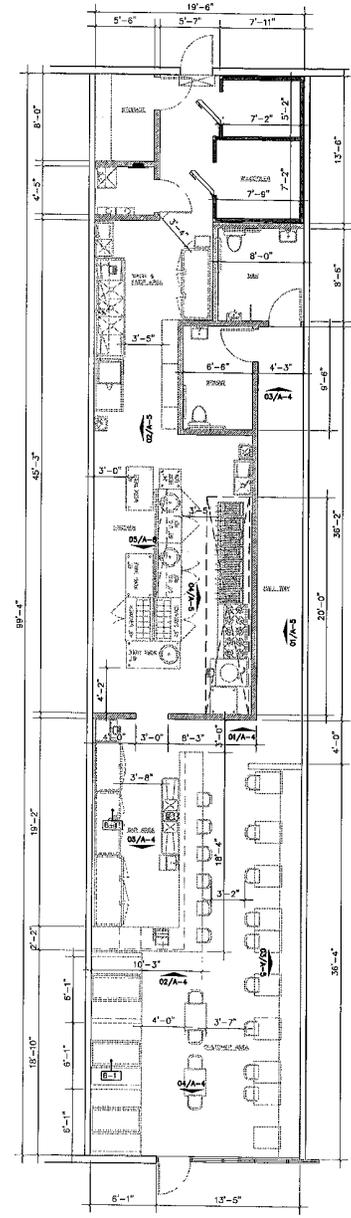
**INTERIOR ELEVATION**  
SCALE: 1/4"=1'-0" ②



**INTERIOR ELEVATION**  
SCALE: 1/4"=1'-0" ⑥



**INTERIOR ELEVATION**  
SCALE: 1/4"=1'-0" ③



**J.P. DESIGN CO.**  
1420 E. PLAZA BLVD., SUITE D-04  
NATIONAL CITY, CA 91960

**BONCHON RESTAURANT**  
HAND-CRAFTED TASTE & FLAVOR

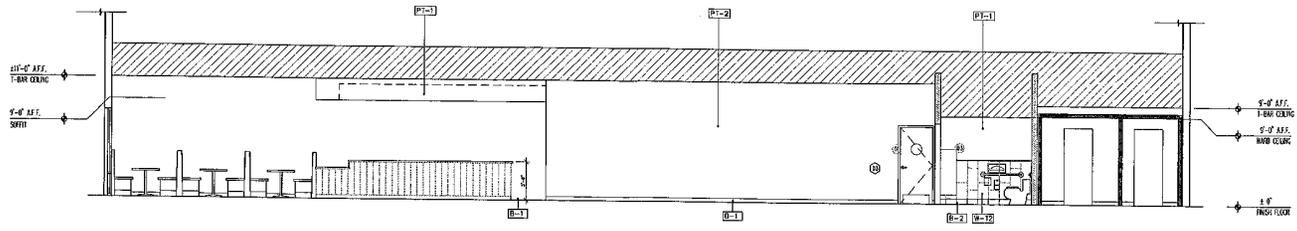
**VISION ELEVATION**

NO.	8-1045
DATE	J.P.
SCALE	1/4"
BY	P.D.
REV.	02-30-2019
DESCRIPTION	AS SHOWN

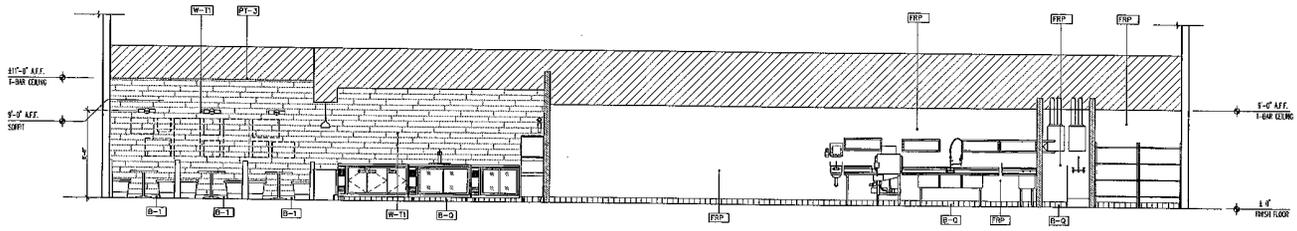
A-4

**INTERIOR ELEVATIONS**

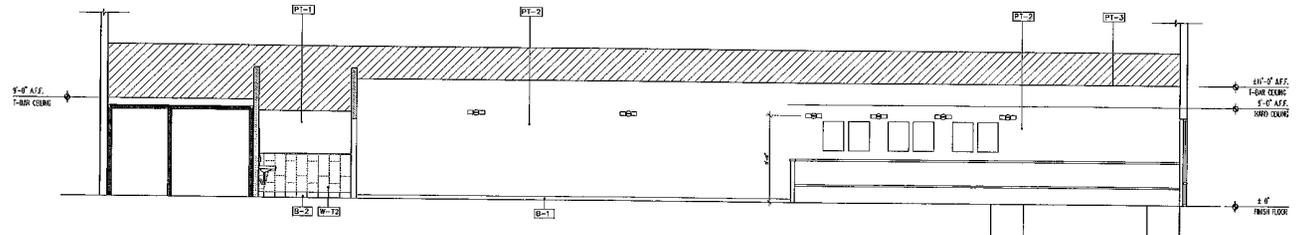
SCALE: 1/4"=1'-0" ①



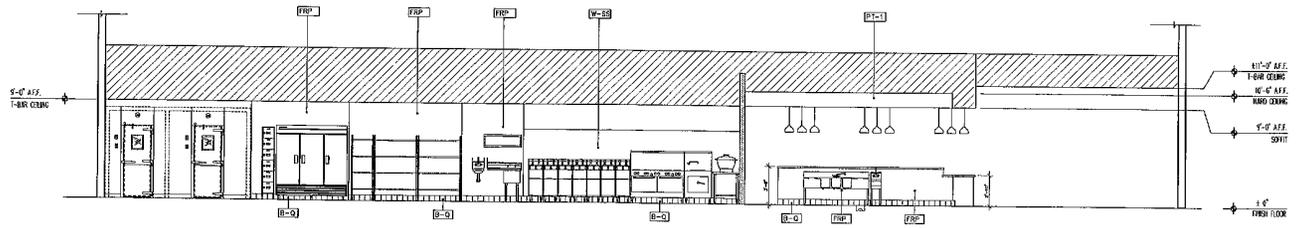
**INTERIOR ELEVATION**  
SCALE: 1/4"=1'-0" ①



**INTERIOR ELEVATION**  
SCALE: 1/4"=1'-0" ②



**INTERIOR ELEVATION**  
SCALE: 1/4"=1'-0" ③



**INTERIOR ELEVATION**  
SCALE: 1/4"=1'-0" ④

**CONSTRUCTION CO.**  
**J.P. DESIGN CO.**  
ARCHITECTS

**BONCHON RESTAURANT**  
4430 E. PLAZA BLVD., SUITE D-04  
NATIONAL CITY, OH 45150

**Bonchon**  
HANDCRAFTED TASTE & FLAVOR

INTERIOR ELEVATION  
NO. 10-10-15  
DATE: J.P.  
DRAWN: K.L.  
CHECK: J.P.  
SCALE: 1/4"=1'-0"  
PROJECT: 00-30-2009  
AS SHOWN

A-5

The following page(s) contain the backup material for Agenda Item: [COVID-19 Update.](#)  
[\(City Manager\)](#)

Please scroll down to view the backup material.

**Item # \_\_\_\_**  
**05/19/20**

**COVID-19 Update**

**(City Manager)**