



City of San Juan Bautista

The "City of History"

www.san-juan-bautista.ca.us

**CITY COUNCIL
REGULAR MEETING
TUESDAY, MAY 16, 2023, 5:00 P.M.**

HYBRID MEETING

City Hall, Council Chambers
311 Second Street, San Juan Bautista, California

AGENDA

ZOOM WEBINAR PARTICIPATION

The meeting can also be accessed by the public in the following methods: Through Zoom (<https://zoom.us/join>) per the instruction stated below, and on Facebook.

JOIN ZOOM WEBINAR TO PARTICIPATE LIVE

<https://us02web.zoom.us/j/88373320235>

To participate telephonically:

call 1 (669) 900-6833

Webinar ID: 883 7332 0235

1. CALL TO ORDER

- A. Pledge of Allegiance – Councilmember Sabathia
- B. Roll Call

2. CLOSED SESSION – 5:00 P.M. – 6:00 P.M.

Receive public communications from the audience on Closed session items. The City Council will recess to closed session pursuant to:

- a. **Public Employee Performance Evaluation** – (California Government Code section §54957(b)(1)) – the City Manager.

3. PROCLAMATION

- A. Public Works Week, May 21-27, 2023
- B. National Preservation Month Awards: *Native Daughters of the Golden West, Parlor 179; and Drew and Peggy Neubauer*
- C. LGBTQ+ Pride Month, June 2023

4. GENERAL PUBLIC COMMENT

Public comments generally are limited to three minutes per speaker on items that are not on the agenda and are under the City's subject matter jurisdiction. The Mayor may further limit the time for public comments depending on the agenda schedule.

SUBMISSION OF PUBLIC COMMENTS PROCEDURES

If you wish to make a general public comment and are attending in person, please fill out a speaker card. If you are attending via Zoom, join the Zoom Webinar, and use the "Raise Hand" or if joining by telephone, press *9 on your telephone keypad icon.

Written comments may be submitted via mail to the Deputy City Clerk at City Hall (P.O. Box 1420, San Juan Bautista, CA 95045), or emailed to deputycityclerk@san-juan-bautista.ca.us no later than 3:00 p.m. on the day of the meeting. Written comments will be read into the record provided that the reading does not exceed three (3) minutes.

5. PRESENTATIONS

- A. San Juan Bautista Business Association Annual Report

6. PUBLIC HEARING

- A. Weed Abatement

Recommendation: Approve a **RESOLUTION** declaring the condition of certain properties to constitute a public nuisance, ordering the abatement of weeds thereon, and conduct a public hearing for the receipt of objections.

7. CONSENT

All matters listed under the San Juan Bautista City Council Consent Agenda may be enacted by one motion unless a member of the City Council or the public requests discussion or a separate vote.

- A. Approve the Affidavit of Posting Agenda.
- B. Waive the Reading of Ordinances and Resolutions on the Agenda Beyond the Title.
- C. Approve the Regular Meeting Minutes of January 24, 2023.
- D. Approve the Joint Workshop Meeting Minutes of January 31, 2023.
- E. Approve the Special Meeting Minutes of January 31, 2023.
- F. Approve the Regular Meeting Minutes of February 21, 2023.
- G. Approve the Joint Workshop Meeting Minutes of March 7, 2023.
- H. Approve a **RESOLUTION** Confirming the continued Existence of Two Local Emergencies Related to Excessive Winter Storms Affecting the City of San Juan Bautista.
- I. Approve a **RESOLUTION** Ratifying the Engineer's Report for Fiscal Year 2023-2024 for Valle Vista Landscape and Lighting Maintenance Assessment District No. 1.
- J. Approve a **RESOLUTION** Declaring the City's Intention to Levy and Collect Assessments Within Valle Vista Landscape and Lighting Maintenance Assessment District No. 1 for Fiscal Year 2023-24 and Setting the Time and Place for a Hearing On Said Assessment.
- K. Approve a **RESOLUTION** Authorizing approval of a contract with David J Powers and Associates, Inc. for environmental review of Development Permit In Response to a Notice To Abate A Public Nuisance: 451 San Juan Hollister Rd.
- L. Approve a **RESOLUTION** approving a grant application to the Land and Water Conservation Fund program to help fund the Abbe Park Renovation project; committing to providing matching funds; agreeing to maintain Abbe Park for outdoor uses; and appointing the City Manager as the agent for the City administering the grant through the completion of the project.

- M. Approve a **RESOLUTION** authorizing the City Manager to approve a Professional Services Contract with Realty Group Inc. to prepare and obtain Certification of the City of San Juan Bautista 6th Cycle Housing Element Update (2024-2031).

8. INFORMATIONAL ITEMS AND REPORTS

- A. Reports from City Council Representatives to Regional Organizations and Committees
- B. City Council Announcements
This is an opportunity for the Council and staff to share the community calendar and announce upcoming dates of interest to the general public.
- C. Treasurer's Report and Monthly Financial Statements
Receive Report from City Treasurer Michelle Sabathia.
- D. City Manager's Report
 - a. Fire Department Update
 - b. Sheriff Department Update

9. DISCUSSION ITEMS

- A. Economic Development Corporation of San Benito County (EDC) - San Benito County Comprehensive Economic Development Strategy (CEDS) strategy schedule for publication of the draft and public review.
- B. Revising Title 13 "Violations" by Repealing and Replacing Article 4 "Noticed Nuisance Abatement Procedure" and Article 5 "Emergency Nuisance Abatement Procedures" of Chapter 1 "Enforcement" by Adoption of an Ordinance Entitled "Alternative Public Nuisance Abatement Procedures."
- C. Receive presentation of the City's Draft Budget for Fiscal Year 2023/24, and schedule workshops. Draft Fiscal Year 2023/34 Budget.
- D. Discussion related to letter dated April 26, 2023 regarding the Use of Name "San Juan Bautista Business Association.
- E. Revisiting Zoning Code Section 11-04-110 Regarding Regulation of Large-Scale Retail, Formula Retail, Formula Restaurant and Formula Visitor Accommodations Businesses.

10. ACTION ITEMS

A. Approve the Agreement with the City of Hollister for Domestic Wastewater Treatment

Recommendation: Approve a **RESOLUTION** authorizing the Mayor to execute the Agreement with the City of Hollister, and directing the City Manager to present the Agreement to the City of Hollister for approval.

B. Approve a Public Utility Easement Deed from the City of Hollister for the Sanitary Sewer Force Main to Hollister Project.

Recommendation: Approve a **RESOLUTION** authorizing the Mayor to execute the Public Utility Easement Deed ("Deed") for the transportation of domestic wastewater (the "Grantee's Facilities") along with the right of ingress and egress over, upon and across that certain real property commonly known as San Benito County APNs 052-100-0010 (2690 Old San Juan Hollister Road) and 052-100-0070 (2690 Old San Juan Hollister Road. and direct the City Manager to present this Easement to the City of Hollister for approval.

C. Review Zoning Ordinance Chapter 11-04 Additional Development Standards, Section 11-04-030 Mixed Use, Commercial and Industrial Districts.

Recommendation: Direct the Planning Commission to evaluate and recommend to the City Council alternatives for amendment of Zoning Ordinance Section 11-04-030 and any related Zoning Ordinance provisions.

11. ADJOURNMENT

AGENDA MATERIAL / ADDENDUM

Any addendums will be posted within 72 hours of regular meetings or 24 hours of special meetings, unless otherwise allowed under the Brown Act. City Council reports may be viewed at the City of San Juan Bautista City Hall at 311 Second Street San Juan Bautista, and are posted on the City website www.san-juan-bautista.ca.us subject to Staff's ability to post the documents before the meeting, or by emailing deputycityclerk@san-juan-bautista.ca.us or calling the Deputy Clerk (831) 623-4661 during normal business hours.

In compliance with the Americans with Disabilities Act, and Govt. Code 54953(a), the City will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the Deputy City Clerk, a minimum of 48 hours prior to the meeting at (831) 623-4661.

PUBLIC NOTIFICATION

This agenda was posted on Friday, May 12, 2023, on the bulletin board at City Hall, 311 Second Street, the bulletin board at the City Library, 801 Second Street, the bulletin board at the entrance to the United States Post Office, 301 The Alameda, and the City's website.

Meetings are streamed live at <https://www.facebook.com/cityofsanjuanbautista/>.

***San Juan Bautista
California***



~ National Public Works Week, May 21-27, 2023 ~

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 San Juan Bautista; 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 residents; and

WHEREAS, it is in the public interest for the residents, civic leaders and children in San Juan Bautista to gain knowledge of and to maintain an ongoing interest and understanding of the importance of public works and public works programs in their community; and

WHEREAS, the **63rd Annual National Public Works Week** theme "Connecting the World through Public Works," highlights the way public works professionals connect us physically, through infrastructure, and inspirationally, through service to their communities, whether as first responders, or daily workers carrying out their duties with pride.

NOW, THEREFORE, I Mayor Jordan, on behalf of the San Juan Bautista City Council, do hereby designate the week **MAY 21–27, 2023** as "**NATIONAL PUBLIC WORKS WEEK**" and urge all residents to join with representatives of the American 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. water saving ideas and assistance.

Dated this 16th day of May 2023

Leslie Q. Jordan, Mayor



San JUAN BAUTISTA HISTORICAL SOCIETY

P.O. Box 1 San Juan Bautista, CA 95045-0001

(831) 524-1605 sjbhistoricalsociety@gmail.com

Third & Monterey Streets

To: Historic Resources Board and Planning Commissioners

Re: National Preservation Month recognitions

Date: April 11, 2023

Dear Members of the Historic Resources Board and Planning Commission,

In May 2012, the Planning Commission implemented a program to recognize property owners and businesses that have made significant improvements to their properties that enhance and maintain the overall area and help attract visitors to the City. Their guidelines for selection are the *Secretary of the Interior Standards for the Treatment of Historic Properties*, which “are intended to promote responsible preservation practices that help protect our Nation’s irreplaceable cultural resources.”

Tonight the Historic Resources Board and Planning Commission are asked to approve the Historical Society’s selections by resolution, and formal recognition will be made by City Council at their May 18 meeting. Staff will send letters to the property owners congratulating them and inviting them to appear at that City Council meeting.

After careful consideration, the SJB Historical Society recommends that the owners of the properties below be honored with Certificates of Recognition for their investments of time, talent and treasure.

Private: The Neubauer property at 201 Fourth Street, built circa 1898, is a charming one-story, single-family residence in the Folk style, surrounded by 3 mature pepper trees. It was originally located on the Taix-Lushbaugh-Santana property, now Jardine’s.

The character-defining features of this Folk style home have been maintained and include:

- Steeply pitch side gabled roof
- Exterior cladding in horizontal beveled siding and board and batten
- Dropped secondary porch roof with squared wood porch supports
- Wood sash double hung windows

Rental properties often appear neglected, but between tenants, the property owner has applied fresh paint to the house and picket-style fence and has done a lot to freshen up the gardens as well, maintaining the historic landscaping.

Public: The Pico-Boronda Adobe/Native Daughters of the Golden West Adobe at 203 Fourth Street, built in 1836 has been very well maintained since purchased by NDGW Parlor in 1935. In recent years, they have added a new roof, restored the balcony and exterior stairs, remediated issues with the Sala flooring, done extensive repair work on the 4 adobe walls, and more. The character defining features of this Monterey style building have been maintained and include

- Adobe structural system clad in plaster
- Hipped roof

- A large wood door with wrought iron hinges and door handle
- Wood sash double-hung windows with multiple panes
- Full width balcony

These property owners have modeled responsible stewardship of historic buildings that welcome visitors and residents to the nationally-registered Third Street Historic District. The many character-defining features of these structures have been preserved, and the rehabilitations have extended the economic lives of the buildings and enhanced the historic ambiance of authentic San Juan Bautista.

Thank you for your consideration.

Wanda Guibert

Wanda Guibert, San Juan Bautista Society

**San Juan Bautista
California**



~ LGBTQ+ Pride Month, June 2023 ~

WHEREAS, the City Council of San Juan Bautista recognizes and proclaims the month of **June 2023** as Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ+) “**Pride Month**” throughout the City of San Juan Bautista; and

WHEREAS, City of San Juan Bautista joins to observe Pride Month with a Pride flag raising ceremony to honor the history of the LGBTQ liberation movement and to support the rights of all residents to experience equality and freedom from discrimination; and

WHEREAS, the rainbow flag is widely recognized as a symbol of pride, inclusion, and support for social movements that advocate for LGBTQ+ people in society; and

WHEREAS, the City of San Juan Bautista is committed to supporting visibility, dignity and equality for LGBTQ+ people in our diverse community; and

WHEREAS, this nation was founded on the principle that every individual has infinite dignity and worth, and the City Council calls upon the people of San Juan Bautista to embrace this principle and work to eliminate prejudice everywhere it exists; and

WHEREAS, celebrating **Pride Month** influences awareness and provides support and advocacy for the Pride Month LGBTQ+ community, and is an opportunity to take action and engage in dialogue to strengthen alliances, build acceptance and advance equal rights; and

WHEREAS, the rainbow flag will be raised on June 1, 2023 recognizing all LGBTQ+ residents whose influential and lasting contributions to our neighborhoods make San Juan Bautista a vibrant community in which to live, work and visit.

NOW, THEREFORE BE IT RESOLVED I Mayor Jordan, on behalf of the San Juan Bautista City Council do hereby proclaims **JUNE 2023** as “**PRIDE MONTH**” in support of the LGBTQ+ community.

Dated this 16 day of May 2023

Mayor Leslie Q. Jordan



CITY OF SAN JUAN BAUTISTA CITY COUNCIL STAFF REPORT

DATE: MAY 16, 2023

DEPARTMENT: FIRE

FROM: BOB MARTIN DEL CAMPO, FIRE CHIEF

BY: ALISIA V. CORPUZ, SENIOR SUPPORT SERVICES ASSISTANT

TITLE: ABATEMENT HEARING

RECOMMENDED ACTION:

Staff recommends that the City Council Approve a Resolution declaring the condition of certain properties to constitute a public nuisance, ordering the abatement of weeds thereon, and conduct a public hearing for the receipt of objections.

BACKGROUND INFORMATION:

This Public Hearing is to hear objections to the proposed abatement of weeds and other flammable materials existing on said properties (Attachment 1); and written notice of the proposed abatement and hearing date was mailed to all affected property owners in the manner and form required by law on April 21, 2023.

DISCUSSION:

Annually, the City has a weed abatement program to reduce the fire hazard and other noxious and dangerous aspects of weeds growing on public and private property. The action proposed is adopt the Resolution declaring certain properties to constitutes a public nuisance, ordering the abatement thereon, setting a public hearing and ordering notices to be sent to affected property owners. All costs associated with the program shall be assessed as liens filed on the property on which abatement is performed.

FISCAL IMPACT:

Estimated costs to be recovered from property owners.

ATTACHMENTS:

Attachment 1 – 2023 Weed Abatement

RESOLUTION NO. 2023-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA
DECLARING THE CONDITION OF CERTAIN PROPERTIES TO CONSTITUTE A
PUBLIC NUISANCE AND ORDERING THE ABATEMENT OF WEEDS THEREON,
AND CONDUCT A HEARING FOR THE RECEIPT OF OBJECTIONS TO THE
PROPOSED ABATEMENT**

WHEREAS, at the City Council Meeting on April 18, 2023, the City Council adopted Resolution 2023-22 declaring weeds to be a nuisance; and

WHEREAS, a Public Hearing was scheduled for May 16, 2023 at San Juan Bautista Council Chambers, to hear objections to the proposed abatement of weeds and other flammable materials existing on said properties; and

WHEREAS, written notice of the abatement date of May 15, 2023, and Public Hearing date of May 16, 2023 was mailed to all affected property owners in the manner and form required by law; and

WHEREAS, on May 16, 2023 at the Public Hearing, the City Council received and considered all reports, recommendations and testimony relating to the proposed abatement of identified properties.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Fire Chief, and/or his representative or agent, is hereby theorized to abate weeds and other flammable materials existing or maintained on those properties identified in the attached Exhibit "A".
2. The Fire Chief, and/or his representative or agent, shall keep an itemized accounting of costs relating to each such abatement, including administrative costs, and after confirmation by the City council, said costs shall constitute a lien against the subject property, and personal obligation of the property owner.

PASSED AND APPROVED by the City Council of the City of San Juan Bautista on the 16th day of May, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

Leslie Q. Jordan, Mayor

ATTEST:

Elizabeth Soto, Deputy City Clerk

**2023
Weed Abatement
Official List
Exhibit "A"**

Parcel No.	Owner/Caretaker	Mailing Address	City	State	Zip	Physical Location
002-130-004-000	THOENY FAMILY TRUST	2981 SAN JUAN HOLLISTER RD	SJB	CA	95045	501 THIRD STREET
002-160-013-000	GARRATT PATICK-REGINA ET AL	PO BOX 1052	SJB	CA	95045	0 THIRD STREET
002-190-010-000	LIU GEORGINA L	9816 HILL STREET	MENSINGTON	MD	20895	0 FOURTH STREET
002-19-011-000	GAVILAN INV LLC A CA LTD LIAB CO	PO BOX 1962	LOS GATOS	CA	94023	33 WASHINGTON STREET - OPEN LOT
002-210-002-000	SANTANA ANGELINA ALICIA ET AL	PO BOX 940	SJB	CA	95045	0 FOURTH STREET
002-220-003-000	CITY OF SAN JUAN BAUTISTA	PO BOX 1086	SJB	CA	95045	
002-230-001-000	LOAYZA ROSA & EDMUNDO	2096 STONE AVE	SAN JOSE	CA	95125	1130 FIRST STREET
002-240-013-000	RIBEIRO ALBERT D-ESTHER	PO BOX 1328	SJB	CA	95045	1024 FIRST STREEET
002-250-005-000	COKE DALE C LIVING TRUST	PO BOX 186	AROMAS	CA	95004	0 FIRST STREET
002-250-006-000	DIOCESE OF MONTEREY ED & WEL CORP	PO BOX 2048	SJB	CA	95045	0 SECOND STREET
002-260-056-000	HILLSIDE VISTAS LLC A CA LTD LIAB CO	144 W LAKE AVE	WATSONVILLE	CA	95076	0 THIRD STREET # PCL A
002-270-002-000	SAN BENITO CO CHPTR JAPANESE-AMER CIT	PO BOX 631	SJB	CA	95045	708 FIRST STREET
002-290-043-000	RAYMER FAMILY TRUST	PO BOX 449	SJB	CA	95045	0 MONTEREY STREET
002-310-002-000	ROMAN CATHOLIC BISHOP OF MONTEREY	PO BOX 2048	SJB	CA	95045	0 RODEO GROUNDS
002-320-002-000	AVILLA MARY DOROTHY REV TR ET AL	130 SAN JUAN HWY	SJB	CA	95045	63 MUCKELEMI STREET
002-320-006-000	POST 6359 VETERANS OF FOREIGN WARS	PO BOX 501	SJB	CA	95045-0501	SAN JUAN BAUTISTA
002-320-008-000	MANNING KATHLEEN ET AL	130 SAN JUAN HWY	SJB	CA	95045-9527	0 MONTEREY STREET
002-340-006-000	FERNANDEZ ROBERT & MARTHA	535 ANZAR ROAD	SJB	CA	95045	11 FRANKLIN STREET
002-340-007-000	FERNANDEZ ROBERT & MARTHA	535 ANZAR ROAD	SJB	CA	95045	0 FRANKLIN STREET
002-350-002-000	H & H RODRIGUEZ RANCH DEVELOPMENT LLC	1441 DENTWOOD DRIVE	SAN JOSE	CA	95118	0 SAN JUAN LATERAL
002-350-030-000	AVILLA MARY DOROTHY REV TR ET AL	130 SAN JUAN HWY	SJB	CA	95045	0 MUCKELEMI STREET
002-370-020-000	ALEXANDER PATRICIA M	PO BOX 142	SJB	CA	95045	400 SIXTH STREET
002-420-017-000	NINO REAL ESTATE	55 BEST ROAD	HOLLISTER	CA	95023	302 SEVENTH STREET

**2023
Weed Abatement
Official List
Exhibit "A"**

002-430-020-000	DALOIA FAM TR	2289 KENWOOD AVE	SAN JOSE	CA	95128	0 FRANKLIN STREET
002-470-008-000	FIRPO ANGELA LIVING TRUST	PO BOX 983	SJB	CA	95045	0 FRANKLIN STREET
002-480-005-000	CERDA HILOLITO G-SILVA R	15354 CASTROVILLE BLVD	CASTROVILLE	CA	95012-9727	100 THE ALAMEDA
002-490-002-000	NEUBAUER ANDREW-MARGARET LIV TRUST	PO BOX 1357	SJB	CA	95045	10 FRANKLIN STREET
002-510-001-000	MEDINA PAUL TR ET AL	1627 E 213 STREET	CARSON	CA	90745	501 WASHINGTON STREET
002-510-020-000	FERNANDEZ NANCY C	PO BOX 754	SJB	CA	95045	171 LANG STREET
002-520-012-000	SJB DEVELOPMENT A CA CORP	1534-D FREMONT BLVD	SEASIDE	CA	93955	0 THE ALAMEDA
002-520-013-000	HACIENDA DE LEAL LLC A CA LTD LIAB CO	300 MARANATHA DRIVE	HOLLISTER	CA	95023	410 THE ALAMEDA
002-530-021-000	ALNAS JOHN-LUPE FAMILY TRUST	PO BOX 664	SJB	CA	95045	18 LANG STREET
002-540-011-000	DENNY CARA L	PO BOX 954	SJB	CA	95045	0 POLK STREET
002-550-003-000	KURASAKI KAZUKO ET AL	PO BOX 1450	SJB	CA	95045-1450	400 SAN JUAN HOLLISTER HWY
002-550-004-000	KURASAKI KAZUKO ET AL	PO BOX 1450	SJB	CA	95045-1450	400 SAN JUAN HOLLISTER HWY
002-550-006-000	DIAS GEORGE J JR & GEORGE A	PO BOX 640	SJB	CA	95045	1020 MISSION VINEYARD RD
002-563-002-000	HANSON ABE-SHARON	PO BOX 424	SJB	CA	95045	153 LANG STREET
002-510-018-000	LEAVER BETTY LOU & CARL D	175 LANG STREET	SJB	CA	95045	175 LANG STREET

AFFIDAVIT OF POSTING

I, Elizabeth Soto, Do Now Declare, Under the Penalties of Perjury That I Am the Deputy City Clerk / Administrative Services Manager in the City of San Juan Bautista and That I Posted Three (3) True Copies of the attached City Council Agenda. I Further Declare That I Posted Said Agenda on the 12th day of May 2023, and in the Following Locations in said City of San Juan Bautista, County of San Benito, California.

1. On The Bulletin Board at City Hall, 311 Second Street.
2. On The Bulletin Board at The City Library, 801 Second Street.
3. On The Bulletin Board at The Entrance to The United States Post Office, 301 The Alameda

Signed at San Juan Bautista, County of San Benito, California, on the 12th day of May 2023.



Elizabeth Soto
Deputy City Clerk / Administrative Services Manager

WAIVER OF READING OF ORDINANCES

State law requires that an ordinance be read in its entirety prior to adoption unless the City Council waives reading beyond the title. Reading an entire ordinance at the meeting is extremely time-consuming; reading of the title alone usually gives the audience sufficient understanding of what the Council is considering.

To ensure that this waiver is consistently approved by the Council, Council should make the waiver at each meeting, thus, you should do it at this point on the Consent Agenda. The Council then does not have to worry about making this motion when each ordinance comes up on the agenda.

GC § 36934

**SAN JUAN BAUTISTA CITY COUNCIL
UNOFFICIAL MEETING MINUTES
JANUARY 24, 2023**

1. CALL TO ORDER

Mayor Jordan called the meeting to order at 6:01 p.m. in the Council Chambers.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present:

Mayor Pro Tem John Freeman
Councilmember Scott Freels
Councilmember Jackie Morris-Lopez
Councilmember EJ Sabathia
Mayor Leslie Q. Jordan

Staff Present:

Don Reynolds, City Manager
Robert Rathie, City Attorney
Norma Alley, Regional Governmental Services
Elizabeth Soto, CMC, CPMC, Deputy City Clerk

2. CEREMONIAL ITEMS

A. Swearing in of Elizabeth Soto as Deputy City Clerk and Administrative Services Manager
Mayor Jordan administered the oath of office to Deputy City Clerk/Administrative Services Manager Elizabeth Soto.

PUBLIC COMMENT

No public comment received.

CONSENT ITEMS

- A. Adopt a Resolution of the City Council of the City of San Juan Bautista Proclaiming and Reaffirming the Existence of Local Emergencies in the City.
- B. Approve the Affidavit of Posting Agenda
- C. Approve the Affidavit of Posting Public Hearing Notice
- D. Adopt a Resolution of the City Council of the City of San Juan Bautista Approving the City of San Juan Bautista Debt Management Policy
- E. Waive Reading of Ordinances and Resolutions on the Agenda Beyond Title

No public comment received.

MOTION:

Upon motion by councilmember Sabathia, second by Mayor Pro Tem Freeman, the consent agenda, items A-E was approved. AYES: Councilmembers: Freeman, Freels, Morris-Lopez, Sabathia, and Mayor Jordan. NOES: None; ABSTAIN: None; ABSENT: None. Motion Carried.

PRESENTATIONS, PROCLAMATIONS, INFORMATIONAL ITEMS AND REPORTS

A. Proclamation for San Benito County LULAC for their 35th Anniversary

Mayor Jordan presented Mary Edge with a proclamation recognizing LULAC's 35th Anniversary.

B. Proclamation for Black History Month

Mayor Jordan proclaimed February 2023 as Black History Month.

C. City Council and Staff Announcements

Council announced upcoming events and reported on previous events/happenings attended.

D. Reports from City Council Representatives to Regional Organizations and Committees and Report by Attendees to League of California Cities New Council Academy

City councilmembers reported on meetings they attended.

E. Treasurer's Report and Monthly Financial Statements

City Accountant Wendy Cummings, CPA, provided a brief overview on the financial report and fielded questions from the Council.

The following member of the public commented on the report:
Ida Pisano

F. City Manager's Report

a. Fire Department Update

b. Sherriff Department Update

Hollister Fire Chief Bob Martin Del Campo provided a brief update regarding fire department activities and happenings.

City Manager Don Reynolds provided a brief report, accompanied by a PowerPoint, regarding city activities and fielded questions from the City Council.

Councilmember Sabathia requested to receive more frequent updates rather than an overall summary on what is happening with the Urban Growth Boundary/Sphere of Influence Subcommittee, specifically how does the city reconcile the desires of these property owners against what is best for the city; education and update on the Vacancy and Use Tax; and would like the Noise Ordinance be brought forward for the City Council.

Mayor Jordan requested an update on the Nuisance Property Ordinance.

PUBLIC HEARINGS

- A. Adopt an Ordinance Amending Chapter 5, Article 1 of the City of San Juan Bautista Building Code, and adopting the California Building Standards Code 2022 Edition of the California Fire Code and Appendices Title 24, Part 9. *(Continued to the next meeting)*
- B. Adopt an Ordinance Amending Chapter 5, Article 1 of the City of San Juan Bautista Municipal Code regarding the Adoption of the 2022 California Building Codes and Related International Codes. *(Continued to the next meeting)*

ACTION ITEMS

A. Fiscal Year 2021-2022 Audit Presentation by Ryan Jolley; and Adopt a Resolution of the City Council of the City of San Juan Bautista Accepting the San Juan Bautista Municipal Audit for Fiscal Year 2021-2022.

Bryant L. Jolley, Certified Public Accountant, provided an overview of the Fiscal Year 2021-2022 Audit and pointed out that it was a clean audit where the audit they found the city's books and records to be in accordance with generally accepted accounting principles. Mr. Jolley fielded questions from the Council.

No public comment received.

MOTION:

Upon motion by Mayor Pro Tem Freeman, second by Councilmember Freels, **RESOLUTION 2023-04** accepting the Fiscal Year 2021-2022 Audit Report for the City of San Juan Bautista was approved.

AYES: Councilmembers: Freeman, Freels, Morris-Lopez, Sabathia, and Mayor Jordan.

NOES: None; ABSTAIN: None; ABSENT: None. Motion Carried.

B. Adopt a Resolution of the City Council of the City of San Juan Bautista Authorizing the City Manager to Execute a Professional Services Agreement with Citygate to Complete a Strategic Plan, Organizational Review, Fiscal Sustainability Update, and Public Safety Services Review.

City Manager Don Reynolds stated that in 2020, the city hired Citygate to facilitate a Strategic Plan, conduct an organizational study, and evaluate the City's General Fund and Enterprise Funds. David DeRoos, Citygate provided a brief overview of the core project cost, and fielded questions from the Council.

No public comment received.

MOTION:

Upon motion by Councilmember Sabathia, second by Mayor Pro Tem Freeman, **RESOLUTION 2023-05** Authorizing the City Manager to Execute a Professional Services Agreement with

Citygate to complete a Strategic Plan, Organizational Review, Fiscal Sustainability Update, and Public Safety Services Review was approved.

AYES: Councilmembers: Freeman, Freels, Morris-Lopez, Sabathia, and Mayor Jordan.

NOES: None; ABSTAIN: None; ABSENT: None. Motion Carried.

C. Select First Foundation Bank as the Interim Financing Lender for the Wastewater Treatment System Compliance Project and Adopt a Resolution Authorizing the City Manager to Commence Financing Negotiations and Drafting of Legal Documents for the \$14.6 Million Wastewater Revenue Bond Anticipation Notes/Line of Credit.

City Manager Reynolds introduced Dmitry Semenov with Ridgeline Municipal Strategies, who provided the report. The financing resolution and financing documents will be brought forth during the January 31, 2023 Council meeting for approval.

Received public comment

MOTION:

Upon motion by Councilmember Freels, second by Councilmember Morris-Lopez, approved to select First Foundation Bank as the Interim Financing Lender for the Wastewater Treatment System Compliance Project, and approve **RESOLUTION 2023-05** Authorizing the City Manager to Commence Financing Negotiations and Drafting of Legal Documents for the \$14.6 Million Wastewater Revenue Bond Anticipation Notes/Line of Credit was approved.

AYES: Councilmembers: Freeman, Freels, Morris-Lopez, Sabathia, and Mayor Jordan.

NOES: None; ABSTAIN: None; ABSENT: None. Motion Carried.

D. Adopt a Resolution of the City Council of the City of San Juan Bautista Authorizing the City Manager to Execute an Agreement with Microvi Biotech Inc. for Water Treatment Services.

City Manager Don Reynolds provided the report and fielded questions from the Council.

No public comment received.

MOTION:

Upon motion by Councilmember Sabathia, second by Mayor Pro Tem Freeman, **RESOLUTION 2023-07** Authorizing the City Manager to Execute an Agreement with Microvi Biotech Inc. for Water Treatment Services was approved.

AYES: Councilmembers: Freeman, Freels, Morris-Lopez, Sabathia, and Mayor Jordan.

NOES: None; ABSTAIN: None; ABSENT: None. Motion Carried.

Mayor Jordan recessed to a short break at 8:53 p.m., and convened at 9:00 p.m.

E. Appointments to Fill Planning Commission Vacancies based on Recommendations by Ad Hoc Committee Report.

Councilmember Sabathia and Mayor Jordan as part of the Ad Hoc Committee, reported on the process of interviewing the candidates and reviewed the questions that were asked of the five applicants.

The Ad Hoc Committee recommended Jose Aranda and Dave Medeiros to the Planning Commission for a four-year term, and Mishele Newkirk-Smith to a two-year term.

Councilmember Morris-Lopez expressed concern on the process of selecting candidates to serve on the Planning Commission.

Received comment from the following member of the public:
Yolanda Delgado

COUNCIL ACTION:

The City Council voted to appoint Jose Aranda and Dave Medeiros to the Planning Commission for a four-year term. AYES: Councilmembers: Freeman, Freels, Sabathia, and Mayor Jordan. NOES: Councilmember Morris-Lopez; ABSTAIN: None; ABSENT: None. Motion Carried.

COUNCIL ACTION:

The City Council voted to appoint Mishele Newkirk-Smith to the Planning Commission for a two-year term. AYES: Councilmembers: Freeman, Freels, Sabathia, and Mayor Jordan. NOES: Councilmember Morris-Lopez; ABSTAIN: None; ABSENT: None. Motion Carried.

City Attorney Rathie stated that the motion is not consistent with the advertisement; therefore, a motion to reconsider will need to be made, and advertised as a two-year term.

Two (2) Two-year term positions will be posted with a deadline to submit applications of Monday, January 30, 2023 at 5:00 p.m. Ad Hoc will meet and bring forth recommendations for two new members.

SUBSTITUTE MOTION:

Upon motion by Mayor Jordan, and second by Councilmember Sabathia to reconsider the appointment of Mishele Newkirk-Smith to a two-year term, readvertise for two (2) two-year terms; Ad Hoc Committee to bring back two recommendations based on applications received.

AYES: Councilmembers: Freeman, Morris-Lopez Sabathia, and Mayor Jordan. NOES: None; ABSTAIN: Councilmember Freels; ABSENT: None. Motion Carried.

F. Mayor's Selection of Representatives to Committees, Regional Boards, etc.

Mayor Jordan reviewed the vacant positions, and announced the appointments of the City Council to the Regional Boards and Committees.

No public comment received.

G. Adopt a Resolution of the City Council of the City of San Juan Bautista Affecting the Disposition of Parklets Pending Governors Action Lifting COVID State of Emergency.

City Manager Don Reynolds provided the report. On October 17, 2022, the Governor's Office announced that the COVID 19 State of Emergency will end on February 28, 2023, and the State will rely on ongoing, enhanced public health initiatives to drive down rates and severity of infection. On December 20, 2022, the City Council directed the City Manager to return with a resolution that would institute a revised policy affecting parklets that would go into effect at such time that the COVID State Of Emergency is lifted, currently scheduled for February 28, 2023.

Councilmember Freels asked what if the remaining parklets would pay for a fee. In response, City Manager Reynolds stated that staff would need to come back with a fee schedule.

Mayor Pro Tem Freeman stated that the city needs to have a firm fee schedule. Mayor Pro Tem Freeman further added that parklet owners receiving free space from the city should be charged for the space.

Councilmember Morris-Lopez asked for clarification on "certain parklets" as referred to in the Resolution. Councilmember Morris-Lopez further added that the feedback from her constituents is that they do not like the parklets of any kind. There are only three establishments that don't have any outdoor eating space.

Councilmember Sabathia stated that he would like to see "certain" defined, and asked for clarification on item number 4 of the Resolution, which states, "not to exceed \$750.00 for parklets." Councilmember Sabathia further added that if the city is taking away square footage that's been benefiting these businesses, how will they be fairly compensating.

Mayor Jordan asked about parking space rental fee and stated that was not discussed at the last meeting.

City Manager Reynolds stated that the city would compensate the parklet owners for the removal of the parklets. Staff did not consider compensating parklet owners for loss in floor space since the parklets were provided by the city during the pandemic. The parking spaces rental fee is a tool that other agencies use. It is a monthly fee for parklets in the downtown, based on the cost of the parking station. It is one model but the but the Council can direct staff to come back in February with another metric.

Received comments from the following members of the public:

In opposition for the removal of parklets

Patricia Bains

Heliena Walton

Christina Hastings

Councilmember comments:

Councilmember Freels commented that the Council voted to keep the parklets in place until the Thirds Street Masterplan, and would like to see this be brought back with more pertinent information.

Mayor Pro Tem Freeman commented that he echoed Councilmember Freels, stated that the city should into a parking policy and consider adding parking to the Thirds Street Masterplan.

Councilmember Morris-Lopez commented that during the pandemic parklets were strictly allowed for restaurants to ensure the six feet apart based on the California Public Health Department and the Center for Disease Control (CDC) recommendations. Councilmember Morris-Lopez further added that she felt strong about removing all of the parklets, these take away from the view of the historic buildings.

Councilmember Sabathia commented that his concern is liability and was concerned with the inconsistencies of how the Resolution is written.

Mayor Jordan commented that pandemic brought about parklets for hospitality, but the city further expanded to include retail parklets. Mayor Jordan stated that if the city retains the parklets, regardless of whether it is retail or hospitality, that staff come up with new versions as an Ordinance or a Resolution, and take into consideration that these are a potential liability.

Councilmember Freels requested the item be continued.

SUBSTITUTE MOTION:

Upon motion by Councilmember Sabathia, second by Councilmember Freels, the San Juan Bautista City Council directed staff to bring back the item in accordance with the discussion was approved.

AYES: Councilmembers: Freeman, Freels, Morris-Lopez, Sabathia, and Mayor Jordan.

NOES: None; ABSTAIN: None; ABSENT: None. Motion Carried.

H. Adopt a Resolution of the City Council of the City of San Juan Bautista Acknowledging the Fire Department will Perform Inspection of Certain Occupancies Required Annually Pursuant to Sections 13146.2 and 13146.3 of the California Health and Safety Code and Authorize the Acceptance of Senate Bill No. 1205.

Fire Chief Bob Martin Del Campo and Fire Marshall Charlie Bedolla provided the report and fielded questions from the Council.

No public comment received.

MOTION:

Upon motion by Councilmember Freels, second by Mayor Pro Tem Freeman, **RESOLUTION 2023-08** Acknowledging the Fire Department will Perform Inspection of Certain Occupancies Required Annually Pursuant to Sections 13146.2 and 13146.3 of the California Health and Safety Code and Authorize the Acceptance of Senate Bill No. 1205 was approved.

AYES: Councilmembers: Freeman, Freels, Morris-Lopez, Sabathia, and Mayor Jordan.

NOES: None; ABSTAIN: None; ABSENT: None. Motion Carried.

I. Adopt a Resolution of the City Council of the City of San Juan Bautista Adopting the 2022 San Benito County Multi-Jurisdictional Hazard Mitigation Plan (“HMP”)

City Manager Don Reynolds outlined 2022 San Benito County Multi-Jurisdictional Hazard Mitigation Plan (HMP). The plan was presented to the City Council and the Public Safety Committee in the fall of 2022.

No public comment received.

MOTION:

Upon motion by Councilmember Sabathia, second by Mayor Pro Tem Freeman,

RESOLUTION 2023-09 Adopting the 2022 San Benito County Multi-Jurisdictional Hazard Mitigation Plan (“HMP”) was approved.

No public comment received.

AYES: Councilmembers: Freeman, Freels, Morris-Lopez, Sabathia, and Mayor Jordan.

NOES: None; ABSTAIN: None; ABSENT: None. Motion Carried.

J. Introduce an Ordinance to Amend Sections 2-1-105 And 2-2-115(B) of the San Juan Bautista Municipal Code to Vest the Authority in the City Manager to Appoint the City Clerk.

City Manager Rathie provided the report and stated that, the City Clerk position has been an elected position. At the December 20, 2022 City Council meeting, the Council directed staff to bring forth an ordinance for consideration which would delegate to and vest authority in the City Manager to appoint, supervise, and exercise authority over the City Clerk.

No public comment received.

MOTION:

Upon motion by Councilmember Freels, second by Mayor Pro Tem Freeman, approve the introduction of the Ordinance to Amend Sections 2-1-105 And 2-2-115(B) of the San Juan Bautista Municipal Code to Vest the Authority in the City Manager to Appoint the City Clerk, and bring back for a second reading was approved.

AYES: Councilmembers: Freeman, Freels, Morris-Lopez, Sabathia, and Mayor Jordan.

NOES: None; ABSTAIN: None; ABSENT: None

DISCUSSION ITEMS

A. Receive an Update on Accepting Applications for Appointment of City Treasurer
City Manager Reynolds provided a brief update.

No public comment received.

ADJOURNMENT

There being no further business, Mayor Jordan adjourned the meeting at 10:50 p.m. Motion to adjourn by Councilmember Sabathia, second by Morris-Lopez.

APPROVED:

Leslie Q. Jordan, Mayor

ATTEST:

Elizabeth Soto, Deputy City Clerk

**SAN JUAN BAUTISTA
JOINT CITY COUNCIL / PLANNING COMMISSION WORKSHOP
UNOFFICIAL MEETING MINUTES
JANUARY 31, 2023**

1. CALL TO ORDER

Mayor Jordan called the meeting to order at 5:31 p.m. in the Council Chambers.
Councilmember Morris-Lopez led the pledge of allegiance.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present:

Councilmember Scott Freels
Mayor Pro Tem John Freeman
Councilmember Jackie Morris-Lopez
Councilmember EJ Sabathia
Mayor Leslie Q. Jordan

Planning Commissioner Jose Aranda
Planning Commissioner Tony Correia (*teleconference*)
Planning Commissioner David Medeiros (*teleconference*)

Absent:

None

Staff Present:

Don Reynolds, City Manager
Robert Rathie, City Attorney
Brian Foucht, ACM, Community Development Director
Norma Alley, Regional Government Services
Elizabeth Soto, CMC, CPMC, Deputy City Clerk

1. WORKSHOP

A. CONDUCT A WORKSHOP REGARDING PUBLIC REVIEW DRAFT OF THE SAN JUAN BAUTISTA ACTIVE TRANSPORTATION AND COMMUNITY CONNECTIVITY PLAN

Don Reynolds, City Manager introduced Tony Hull, Blue Zones; Tony Leonard, CivicWell; Dan Burden, Doug Pike, City Engineer, and Jerry Sanguinetti, MNS Engineers. Tony Hull provided a project overview and presentation of the plan and fielded questions from the Council.

In 2018, the City Council appointed a Parks Master Plan Task Force to further the work of the previous Strategic Plan's "Arts, Recreation, Culture and Wellness Subcommittee." In the late summer of 2019, a draft Parks Master Plan was presented to the City Manager referencing a bike/De Anza Trail plan, and Cultural Walking Tour. Subsequently, in August 2020, the City Council accepted a State Department of Transportation (CAL TRANS) Sustainable

Transportation Planning Grant in the amount of \$188,596 (with a match of \$24,435, 11.47% of grant funds as City staff support) to develop the San Juan Bautista Active Transportation and Community Connectivity Plan (ATP).

Project Objectives:

- Focus on all ages and abilities
- Assess existing conditions
- Identify opportunities
- Multi-modal network focus
- Develop a prioritized implementation strategy
- Context appropriate solutions
- Align with other plans and projects
- Identify best practices
- Identify funding opportunities

Engagement Process:

- Project Advisory Group (PAG)
- Field Discovery Tour & Initial Assessment
- Project Website with Interactive Map
- Community Design Charrette
- Walking Audits
- Bicycling Tour
- Pop-up Tables
- Stakeholder & Focus Group Meetings
- Draft Recommendation Workshop
- Draft Plan Workshop

Engagement: What We Heard

During engagement activities, participants identified several opportunities for improvements and issues that should be addressed. Common themes and priorities that came up included:

- The need for improved bike and pedestrian facilities
- Safety concerns
- Opportunities to improve connectivity
- The benefits of a trail network
- Reduced traffic speeds within the city
- Better connections to schools
- To respect the history of San Juan Bautista
- To address universal design and accessibility challenges
- To address parking needs and event management

Participants also offered their suggestions about several opportunities they felt could be considered:

- Adding more bike lanes
- Increased access to the Anza Trail and open space
- A pedestrian bridge across SR-156
- Curb extensions at intersections
- Charging stations
- Improved Washington Street underpass
- Historical / cultural trail with connection to San Juan Elementary
- Improved maintenance of the Anzar High School Bike Trail
- Roundabouts
- Wider sidewalks at key locations
- Street alignment on 4th
- Angled parking where appropriate

Received public comment from the following members of the public:

Alice Reynold

Emily Renzel

Rosa Vivian Fernandez

Dan DeVries

Sherry Gal

Cara Vonk

ADJOURNMENT

There being no further business, Mayor Jordan adjourned the meeting at 8:19 p.m.

APPROVED:

Leslie Q. Jordan, Mayor

ATTEST:

Elizabeth Soto, Deputy City Clerk

**SAN JUAN BAUTISTA CITY COUNCIL
UNOFFICIAL SPECIAL MEETING MINUTES
JANUARY 31, 2023**

CALL TO ORDER

Mayor Jordan called the meeting to order at 8:29 p.m. in the Council Chambers.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present:

Councilmember Scott Freels
Mayor Pro Tem John Freeman
Councilmember Jackie Morris-Lopez
Councilmember EJ Sabathia
Mayor Leslie Q. Jordan

Absent:

None

Staff Present:

Don Reynolds, City Manager
Robert Rathie, City Attorney
Brian Foucht, ACM, Community Development Director
Norma Alley, Regional Government Services
Elizabeth Soto, CMC, CPMC, Deputy City Clerk

1. CONSENT

A. Affidavit of Posting Agenda

No public comment received.

MOTION:

Upon motion by Councilmember Freels, second by Mayor Pro Tem Freeman, the Affidavit of Posting was approved.

AYES: Councilmembers: Freeman, Freels, Morris-Lopez, Sabathia, and Mayor Jordan. NOES: None; ABSTAIN: None; ABSENT: None

2. ACTION ITEMS

A. Authorizing A Financing Agreement with First Foundation Public Finance Providing for The Issuance of Series 2023 Bond Anticipation Notes in The Amount of \$14.6 Million To Construct the City's Sewer Force Main to Hollister.

City Manager Don Reynolds introduced Cameron Weist, Bond Counsel; Dmitry Semenov, Municipal Advisor; and Wendy Cummings, CPA. Mr. Weist provided the report. The City Council approved The Weist Law Firm to serve as Bond Counsel for the issuance of the Notes and Ridgeline Municipal Strategies, LLC to serve as municipal advisor

The Notes are being structured as interest only Notes, to be issued as one fully registered note with a term of 3 years. Once the Project is complete the City will issue long-term revenue bonds (the “Bonds”) that will be purchased by USDA, the proceeds of which will be used to pay off and replace the Notes. The Resolutions authorizes the issuance of the Notes and approves the form of the Financing Agreement. The approval of the Resolution is necessary for the City to move forward with the issuance of the Notes.

No public comment received.

MOTION:

Upon motion by Councilmember Sabathia, second by Mayor Pro Tem Freeman, **RESOLUTION 2023-10** authorizing and directing the execution of a certain Financing Agreement providing for the issuance of “City of San Juan Bautista, Series 2023 Wastewater Revenue Bond Anticipation Notes (San Juan Bautista to Hollister Force Main Development Project)” in a principal amount not to exceed \$14,600,000 (the “Notes”) and providing for other matters properly related thereto was approved.

AYES: Councilmembers: Freeman, Freels, Morris-Lopez, Sabathia, and Mayor Jordan. NOES: None; ABSTAIN: None; ABSENT: None. Motion Carried.

B. Planning Commission / Historic Resources Board Appointments

City Manager Reynolds stated there are two vacancies; one open seat for an unexpired term ending December 2024; and one (1) open seat to fill an open seat for a 4-year term ending December 2026.

The Ad Hoc Committee members Sabathia and Mayor Jordan, provided their recommendations.

Received comment from the following member of the public:
Cara Vonk

MOTION:

Upon motion by Councilmember Sabathia, second by Mayor Pro Tem Freeman, to Appoint Mishele Newkirk-Smith to the Planning Commission to fill an open seat for a 4-year term ending December 2026.

AYES: Councilmembers: Freeman, Freels, Sabathia, and Mayor Jordan. NOES: None; ABSTAIN: Councilmember Morris-Lopez; ABSENT: None. Motion Carried.

Received comment from the following member of the public:
Cara Vonk

MOTION:

Upon motion by Councilmember Morris-Lopez, second by Councilmember Freels, to Appoint Dan DeVries to the Planning Commission to fill an open seat for an unexpired term ending December 2024.

AYES: Councilmembers: Freeman, Freels, Morris-Lopez, and Mayor Jordan. NOES: Councilmember Sabathia; ABSTAIN: None; ABSENT: None

ADJOURNMENT

There being no further business, Mayor Jordan adjourned the meeting at 8:55 p.m.

APPROVED:

Leslie Q. Jordan, Mayor

ATTEST:

Elizabeth Soto, Deputy City Clerk

**SAN JUAN BAUTISTA CITY COUNCIL
UNOFFICIAL MEETING MINUTES
FEBRUARY 21, 2023**

1. CALL TO ORDER

Mayor Jordan called the meeting to order at 6:01 p.m. in the Council Chambers.

PLEDGE OF ALLEGIANCE

Councilmember Sabathia led the pledge of allegiance.

ROLL CALL

Present:

Mayor Pro Tem John Freeman
Councilmember Jackie Morris-Lopez
Councilmember EJ Sabathia
Mayor Leslie Q. Jordan

Absent:

Councilmember Scott Freels

Staff Present:

Don Reynolds, City Manager
Robert Rathie, City Attorney
Harrison Tregenza, Regional Governmental Services
Elizabeth Soto, CMC, CPMC, Deputy City Clerk

2. PUBLIC COMMENT

Received general public comment

3. PRESENTATION

A. Central Coast Community Energy Annual Update

Judi Young, Central Coast Community Energy (3CE) provided the report highlighting 3CE's accomplishments and plans for 2023.

The following member of the public commented on the report:
Irada Pisano

B. Robert Fulton to Introduce Christopher Ranch Annexation Application

Robert Fulton with the Christopher Ranch Annexation Application provided the presentation.

No public comment received.

4. CONSENT

A. Approve a **RESOLUTION** of the City Council of the City of San Juan Bautista
Proclaiming and Reaffirming the Existence of Local Emergencies in the City.

- B. Waive the Reading of Ordinances and Resolutions on the Agenda Beyond the Title.
- C. Approve the Affidavit of Posting Agenda
- D. Approve the Minutes of January 17, 2023.
- E. Approve a **RESOLUTION** Appointing Elizabeth Soto as a Representative and Don Reynolds as an Alternate Representative to the Board of Directors of the California Intergovernmental Risk Authority (CIRA).
- F. Second Reading - Adopt an **ORDINANCE** to Amend Sections 2-1-105 and 2-2-115(B) of the San Juan Bautista Municipal Code to Vest the Authority in the City Manager to Appoint the City Clerk.
- G. Approve a **RESOLUTION** Authorizing Closure of Streets for Certain Special Events in 2023.

Items D and F were pulled for separate vote, separate discussion.

No public comment received.

MOTION:

Upon motion by Mayor Pro Tem Freeman, second by Councilmember Sabathia, the consent agenda, items A, B, C, E, and G was approved.

AYES: Councilmembers: Freeman, Morris-Lopez, Sabathia, and Mayor Jordan. NOES: None; ABSTAIN: None; ABSENT: Councilmember Freels. Motion Carried.

Mayor Jordan pulled item D for corrections to show City Attorney Rathie was present at the meeting, and pointed out that the affidavit of posting was misstated but has been corrected.

- H. Approve the Minutes of January 17, 2023.

No public comment received.

MOTION:

Upon motion by councilmember Morris-Lopez, second by Councilmember Sabathia, the minutes of January 17, 2023 was approved as amended.

AYES: Councilmembers: Freeman, Morris-Lopez, Sabathia, and Mayor Jordan. NOES: None; ABSTAIN: None; ABSENT: Councilmember Freels. Motion Carried.

City Attorney Rathie stated that the Ordinance would revise the municipal code, vest the power to appoint the city clerk, and make the City Clerk position subject to the authority of the City Manager.

- I. Second Reading - Adopt an **ORDINANCE** to Amend Sections 2-1-105 and 2-2-115(B) of the San Juan Bautista Municipal Code to Vest the Authority in the City Manager to Appoint the City Clerk.

No public comment received.

MOTION:

Upon motion by councilmember Sabathia, second by Mayor Pro Tem Freeman, **ORDINANCE 2023-01** to Amend Sections 2-1-105 and 2-2-115(B) of the San Juan Bautista Municipal Code to Vest the Authority in the City Manager to Appoint the City Clerk was approved.

AYES: Councilmembers: Freeman, Morris-Lopez, Sabathia, and Mayor Jordan. NOES: None; ABSTAIN: None; ABSENT: Councilmember Freels. Motion Carried.

5. INFORMATIONAL ITEMS AND REPORTS

A. City Council Announcements

Mayor Pro Tem Freeman urged and encouraged residents to take advantage of 3CE rebates, and requested to bring forth a review of the franchise ban.

Councilmember Sabathia agreed to have the city revisit the franchise ban. There will be an indoor flea market on March 18th at 507 Thirds Street.

Mayor Jordan announced that the Senior group is asking for volunteers. Poppy Jazz International Film Festival will run April 12-19.

B. Reports from City Council Representatives to Regional Organizations and Committees

Mayor Pro Tem Freeman announced that Integrated Waste Management did not meet. AMBAG met to review the Annual Comprehensive Financial Report.

Mayor Jordan Water Resources Association met to review the budget. The Fire Protection Advisory Committee met and are doing a feasibility study. The Intergovernmental Committee had a Special meeting to discuss Hazel Hawkins Hospital.

No public comment received.

C. Treasurer's Report and Monthly Financial Statements

Receive Report from Wendy Cummings, CPA.

No public comments received.

D. City Manager's Report

The staff report was presented by City Manager Reynolds. Fire Chief Bedolla

The following member of the public commented on the report:

Mariana Thomas

No public comment received.

6. PUBLIC HEARING

- A. Introduce an Ordinance to Amend Chapter 5, Article 1 of the City of San Juan Bautista Building Code, and adopting the California Building Standards Code 2022 Edition of the California Fire Code and Appendices Title 24, Part 9.

Item continued to the next meeting.

The following members of the public commented on the report:

Leslie Austin

Cara Vonk (*via email*)

- B. Introduce an Ordinance to Amend Chapter 10, Article 1-110 of the City of San Juan Bautista Municipal Code Regarding the Adoption of the 2022 California Building Code, and related International Codes and Repealing Chapter 10, Article 1-115.

Item continued to the next meeting.

No public comment received.

7. ACTION ITEMS

A. Appointment of City Treasurer

Councilmember Sabathia recused himself for the reason of material financial interest.

No public comment received.

MOTION:

Upon motion by Mayor Pro Tem Freeman, second by Councilmember Morris-Lopez, Michelle Sabathia was appointed to serve as the City Treasurer.

AYES: Councilmembers: Freeman, Morris-Lopez, and Mayor Jordan. NOES: None; ABSTAIN: Councilmember Sabathia; ABSENT: Councilmember Freels. Motion Carried.

B. Approve the San Juan Bautista Active Transportation and Community Connectivity Plan

City Manager Reynolds, Assistant City Manager/Community Development Director Brian Foucht, Tony Hull from Civilstreet, and Tony Leonard from CivicWell, provided a brief report on the San Juan Bautista Active Transportation Community and Connectivity Plan.

The following members of the public commented on the report:

Cara Vonk (*vía email*)

MOTION:

Upon motion by Mayor Pro Tem Freeman, second by Councilmember Morris-Lopez, **RESOLUTION 2023-14** approving the Active Transportation and Community Connectivity Plan (ATP), and direct the City Manager to integrate recommendations and conclusions contained in

the ATP as necessary into General Plan policies, programs and implementation measures, and further directs the City Manager to plan program and implement projects to accomplish recommendations contained in the ATP was approved.

AYES: Councilmembers: Freeman, Morris-Lopez, Sabathia, and Mayor Jordan. NOES: None; ABSTAIN: None; ABSENT: Councilmember Freels. Motion Carried.

C. Multi-Modal Center and Third Street Master Plan Integrated Plan Grant Funding

Assistant City Manager/Community Development Director Brian Foucht provided the report.

No public comments received.

MOTION:

Upon motion by Councilmember Sabathia, second by Mayor Pro Tem Freeman, **RESOLUTION 2023-15** authorizing the City Manager to submit a grant application to the State Department of Transportation (CAL TRANS) under the Sustainable Transportation Planning Grant program to develop an integrated Multi-Modal Center Plan was approved.

AYES: Councilmembers: Freeman, Morris-Lopez, Sabathia, and Mayor Jordan. NOES: None; ABSTAIN: None; ABSENT: Councilmember Freels. Motion Carried.

D. Fiscal Year 2022-2023 Mid-Year Budget Adjustment

City Manager Reynolds provided the report on the Mid-Year Budget Adjustments for Fiscal Year 2022-2023.

The following members of the public commented on the report:
Michelle Sabathia

MOTION:

Upon motion by Mayor Pro Tem Freeman, second by Councilmember Morris-Lopez, **RESOLUTION 2023-16** amending the budget for Fiscal Year 22/23 as indicated to reflect higher than expected revenues, savings, and several new projects and studies to be initiated before the end of the fiscal year (June 30) was approved.

AYES: Councilmembers: Freeman, Morris-Lopez, Sabathia, and Mayor Jordan. NOES: None; ABSTAIN: None; ABSENT: Councilmember Freels. Motion Carried.

Mayor Jordan recessed for a short break at 10:03 p.m. and reconvened at 10:09 p.m.

E. Mayor's Selection of Representatives to Committees, Regional Boards, etc.

Mayor Jordan announced that this matter needed to be brought back due to the fact that certain Regional Boards such as LAFCO require certain criteria that needs to be met in order to sit on these Boards.

Mayor Jordan announced the changes she made to the appointments to the Regional Boards and Committees.

MOTION:

Upon motion by Councilmember Sabathia, second by Mayor Pro Tem Freeman, the appointment to the Regional Boards and Committees as stated was approved.

AYES: Councilmembers: Freeman, Morris-Lopez, Sabathia, and Mayor Jordan. NOES: None; ABSTAIN: None; ABSENT: Councilmember Freels. Motion Carried.

8. DISCUSSION ITEMS

A. Procedural Changes due State's termination of the State of Emergency due to COVID-19.

City Manager Reynolds reported that the State's State of Emergency is set to end on February 28, 2023. There will be changes to the Personnel Policies relating to the COVID-10 Prevention Program. Hybrid meetings will continue but the new Brown Act changes require officials to be present (unless excused by a "just cause") or follow the teleconference procedures requiring to post meeting agenda at their off-site location.

City Manager Reynolds noted that the parklets will be brought before the Council at the March meeting.

No public comment received.

B. Application for Urban Growth Boundary/Sphere of Influence and Public Safety Committees.

The application for the Urban Growth Boundary/Sphere of Influence and Public Safety Committees have been opened through March 2, 2023.

No public comment received.

ADJOURNMENT

There being no further business, Mayor Jordan adjourned the meeting at 10:50 p.m. Motion to adjourn by Councilmember Sabathia, second by Morris-Lopez.

APPROVED:

Leslie Q. Jordan, Mayor

ATTEST:

Elizabeth Soto, Deputy City Clerk

**CITY OF SAN JUAN BAUTISTA
SPECIAL JOINT CITY COUNCIL/PLANNING COMMISSION WORKSHOP
UNOFFICIAL MEETING MEETINGS
MARCH 7, 2023**

CALL TO ORDER

Mayor Jordan convened the meeting at 5:01 p.m. in the Council Chambers at 311 Second Street.

PLEDGE OF ALLEGIANCE

Councilmember Freels led the pledge of allegiance.

ROLL CALL

Present:

Councilmember Scott Freels
Mayor Pro John Freeman
Councilmember Jackie Morris-Lopez
Councilmember EJ Sabathia
Mayor Leslie Q. Jordan

Commissioner Dan DeVris (*via zoom*)
Commissioner Tony Correia
Commissioner David Medeiros

Chair Jose Aranda

Absent:

Commissioner Mishelle Newkirk-Smith

Also Present:

Don Reynolds, City Manager
Bob Rathie, City Attorney
Norma I. Alley, Regional Government Services
Elizabeth Soto, Deputy City Clerk

WORKSHOP

Workshop Regarding Parliamentary Procedures, Brown Act: New Legislation, and Rules of Decorum.

Norma Alley, RGS Consultant, provided an overview on Parliamentary Procedures, Brown Act: New Legislation, and Rules of Decorum. Ms. Alley reviewed the order of business.

No public comments received.

ADJOURNMENT

Motion to adjourned the meeting by Commissioner Medeiros, second by Councilmember Sabathia. There being no other business, Mayor Jordan adjourned the meeting at 6:01 p.m.

APPROVED:

Leslie Q. Jordan, Mayor

ATTEST:

Elizabeth Soto, Deputy City Clerk

RESOLUTION NO. 2023-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA
CONFIRMING THE CONTINUED EXISTENCE OF TWO LOCAL EMERGENCIES
RELATED TO EXCESSIVE WINTER STORMS AFFECTING THE CITY OF SAN
JUAN BAUTISTA**

WHEREAS, the California Emergency Services Act (Cal. Gov't. Code §§8550-8668) requires the governing body of a city to review the need for continuing a local emergency that has previously been declared at least once every 60 days; and

WHEREAS, on January 12, 2023, the City Manager acting as the Director of Emergency Services (Municipal Code 5-33-030) proclaimed a state of emergency in the City of San Juan Bautista to facilitate the City's response to excessive winter storms, which proclamation was subsequently ratified by the City Council by Resolution No. 2023-01 on January 17, 2023; and

WHEREAS, on March 10, 2023, the City Manager acting as the Director of Emergency Services (Municipal Code 5-33-030) proclaimed a second state of emergency in the City of San Juan Bautista due to excessive winter storms and flooding, which proclamation was subsequently ratified by the City Council by Resolution No. 2023-17 on March 15, 2023; and

WHEREAS, this Council last reviewed the need for continuing the two local emergencies on March 21, 2023; and

WHEREAS, state and local public health and safety emergencies resulting from excessive winter storm activities continue pose a threat to the health and safety of residents in the City of San Juan Bautista.

NOW, THEREFORE, be it resolved by the City Council of the City of San Juan Bautista, that:

1. The City Council hereby finds and declares that both the local emergencies described in this Resolution continue to exist and shall be deemed to continue to exist until their termination is proclaimed by the City Council of the City of San Juan Bautista, California.

PASSED AND APPROVED at a duly noticed regular meeting of the City Council of the City of San Juan Bautista duly held on the 16th day of May, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Leslie Q. Jordan, Mayor

ATTEST:

Elizabeth Soto, Deputy City Clerk

RESOLUTION NO. 2023-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA
RATIFYING THE REPORT PREPARED IN CONNECTION WITH THE FISCAL
YEAR 2023-24 LEVY OF ASSESSMENTS IN CONNECTION WITH VALLE VISTA
LANDSCAPE AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 1**

WHEREAS, pursuant to the Landscaping and Lighting Act of 1972 (Streets & Highways Code Section 22500 *et seq.*) (“Act”), the City levies an annual assessment in connection with its Valle Vista Landscape and Lighting Maintenance Assessment District No. 1 (“District”); and

WHEREAS, the City Council desires to initiate proceedings for the Fiscal Year 2023-24 levy of the assessment in connection with the District; and

WHEREAS, City Staff has prepared the Report and has filed a copy of the Report with the City Clerk, which Report is hereby incorporated herein by reference; and

WHEREAS, the City Council desires to ratify and approve the Report, as filed.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Juan Bautista as follows:

1. The Council finds that the Report contains all information required by the Act.
2. The City Council hereby approves the Report as filed.

PASSED AND APPROVED at a regular meeting of the City Council of the City of San Juan Bautista duly held on the 16th day of May, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Leslie Q. Jordan, Mayor

ATTEST:

Elizabeth Soto, Deputy City Clerk

**CITY OF SAN JUAN BAUTISTA
SAN BENITO COUNTY, CALIFORNIA**

ASSESSMENT REPORT

**VALLE VISTA
LIGHTING AND LANDSCAPE
MAINTENANCE ASSESSMENT DISTRICT NO. 1
FISCAL YEAR 2023-2024**

May 17, 2023

MEMBERS OF THE CITY COUNCIL

**Mayor Leslie Q. Jordan
Mayor Pro Tem John Freeman
Scott Freels
Jackie Morris-Lopez
EJ Sabathia**

**Don Reynolds
Robert Rathie, Wellington Law
Don Reynolds
Nicholas Bryan**

**City Manager
City Attorney
Acting Deputy City Clerk
Public Works Supervisor**

PREPARED BY:

DON REYNOLDS

**ASSESSMENT REPORT
VALLE VISTA
LIGHTING AND LANDSCAPE
MAINTENANCE ASSESSMENT DISTRICT NO. 1**

FISCAL YEAR 2023-2024

The undersigned respectfully submits the enclosed report as directed by the City Council.

I HEREBY CERTIFY that the enclosed Assessment Report, together with Assessment Diagram thereto attached was filed with me on the

 16th day of May , 2023.

Elizabeth Soto, Deputy City Clerk
City of San Juan Bautista
San Benito County, California

By: _____

I HEREBY CERTIFY that the enclosed Assessment Report, together with Assessment Diagram thereto attached, was approved and confirmed by the City Council of the City of San Juan Bautista, San Benito County, California, on the

 16th day of May , 2023.

Elizabeth Soto, Deputy City Clerk
City of San Juan Bautista
San Benito County, California

By: _____

PART A
DESCRIPTION OF WORK
VALLE VISTA
LIGHTING AND LANDSCAPE
MAINTENANCE ASSESSMENT DISTRICT NO. 1

FISCAL YEAR 2023 – 2024

VALLE VISTA LIGHTING AND LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 is described as Tract 294 in San Juan Bautista, San Benito County, CA, as shown in Book 13 of Maps at Page 49 of San Benito County Records, including all 35 lots, Parcel A, Parcel B, Ahwahnee Street, Donner Street, and portions of San Juan Highway and Third Street. Refer to Exhibit B.

Maintenance and operation of any or all public landscaping and irrigation improvements and street lighting located within the bounds of the District, on landscaped strips of land between back of curb and front of walk and for planter walls/fences, including planter walls, grass berms, appurtenant irrigation systems; ornamental planning including lawns, shrubs and trees; including necessary repairs, replacements, water, electric current, spraying, care, supervision, debris removal; park strip repair and replacement: including biological monitoring if required, and any and all other items of work necessary and incidental for the proper maintenance and operation thereof and all additions, improvements and enlargements thereto which may hereafter be made on the following described streets:

Donner Street, Ahwahnee Street, First Street (San Juan Highway) and Third Street – as shown on the “Creekbridge Homes Valle Vista, San Juan Bautista, California”, Sheets L-1 through L-13 and improvement plans prepared by Bellinger Foster Steinmetz.

Maintenance and operation of any or all public landscaping and irrigation improvements, located within the bounds of the District, of the following described areas, including detention basin landscaping and bank protection, park improvements, appurtenant irrigation systems, trees, including necessary repairs, replacements of irrigation distribution system, controller system, and the spraying and care of street trees, monitoring of diseases of trees, shrubs and plants and any and all other items of work necessary and incidental for the proper maintenance and operation thereof and all additions, improvements and enlargements thereto which may thereafter be made on the following described areas of work:

Parcel A Detention Basin, Parcel B Sanitary Sewer Pump Station – located on Ahwahnee Street as shown on the “Wetlands Planting Plan Creekbridge Homes Valle Vista, San Juan Bautista, California”, Sheets L-1 and L-2, dated 03/06/03, file name 01029-L33-L26, and any and all responsibility for maintenance of the pump station shall be borne by the City. The District shall only be responsible for the landscape and irrigation thereof.

Parcel C, Proposed Public Park (San Juan Park) – located on the corner of Donner Street and Third Street as shown on the “Creekbridge Homes Valle Vista, San Juan Bautista, California”, Sheets L-2 and L-3, including the maintenance and operation of irrigation system, lawns, shrubs, walkway, planters, gazebo structure, and removal of all debris and broken limbs from the adjacent eucalyptus trees.

Parcel D, Street Trees; located on the street frontage of Ahwahnee, Donner and First Streets within the Valle Vista Subdivision.

PART D
RULES FOR SPREADING ASSESSMENTS
VALLE VISTA
LIGHTING AND LANDSCAPE
MAINTENANCE ASSESSMENT DISTRICT NO. 1

FISCAL YEAR 2023 – 2024

The District is assessed, on the basis of total development units generated, for the maintenance and operation of the Valle Vista Lighting and Landscape Maintenance Assessment District No. 1, including incidentals and appurtenances and shall include all the costs of maintaining and/or operating the improvements described herein.

GENERAL RULES

1. All costs associated with the maintenance and operation of the Valle Vista Lighting and Landscape Maintenance Assessment District No. 1 improvements including Engineer's Report, printing and advertising of assessment notices and legal fees shall be spread to all parcels on a pro rata development unit basis.
2. Part 2 of Division 15 of the Streets and Highways Code, the Landscaping and Lighting Act of 1972, permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements which include the operation, maintenance and servicing of landscaping, street lighting, and park and recreational facilities. Section 122573 of the Lighting and Landscaping Act of 1972 requires that maintenance assessments be levied according to benefit rather than according to assessed value. In addition, article XIID, Section 4(a) of the California Constitution limits the amount of any assessment to the proportional special benefit conferred on the property

Article XIID provides that publicly owned properties must be assessed unless there is clear and convincing evidence that those properties receive no special benefit from the assessment.

The improvements to be maintained and operated as a result of the formation of the Valle Vista Lighting and Landscape Maintenance Assessment District No. 1 have been installed simultaneously with the development of residential units within the District. Construction and installation of the street lighting and landscape is complete and an assessment will be collected from all developed parcels in proportion to the special benefit derived by each parcel. All of the involved improvements are being installed within or in areas in close proximity to the proposed developed residential lots.

3. In order to determine the appropriate assessment for each developed parcel, a budget for operation and maintenance costs associated with planned improvements in the Valle Vista Project was prepared. (See attached Exhibit A.) All of the improvements to be operated or maintained within the subdivision have been constructed simultaneously with the development of residential lots within the District, to the extent applicable; costs in the District have been prorated to reflect the District's proportionate share of operation and maintenance costs. The total cost of operation and maintenance of the improvements must be collected on an annual basis.

4. Factored Development Units Calculations: Each parcel within the district is zoned for single family residential development and developed as a single family residence. Each single family home receives equal special benefit from the improvements. However, certain parcels have been improved with accessory dwelling units (“granny units”). Because accessory units are typically occupied and used less intensely than the single family homes to which they are associated (and because accessory units do not add additional frontage to a parcel), an accessory unit does not benefit from the improvements to the same extent as a single family home. Based upon a ratio of the square footage, number of plumbing fixture units and bedrooms of the secondary granny units, in relationship to the square footage, number of plumbing fixture units and bedrooms of a single family home, each parcel with a single family home and a secondary granny unit will be assessed at the rate of 1.25 times the rate for a parcel improved only with a single family home.

5. It is intended that the assessment in connection with this District will be levied annually. The maximum assessment rate that may be levied in any year against a single family parcel shall be determined according to the following formula:

$$\text{Assessment Rate} = \frac{\text{Proposed Operation and Maintenance Budget of the Current Fiscal Year}}{\text{Number of Units to be Assessed}}$$

The maximum assessment against parcels with accessory dwellings shall be 1.25 times the then applicable maximum assessment for single family parcels. The actual assessments levied shall not exceed the rate necessary to fund the expenses of the District. So long as the assessment is levied at a rate not higher than the maximum rate calculated pursuant to this paragraph, such levy shall not constitute an “increase” of the assessment pursuant to Proposition 218.

6. Article XIID provides that publicly owned properties must be assessed unless there is clear and convincing evidence that those properties receive no special benefit from the assessment. There are currently two public parcels in the District. These parcels constitute the pond and sewer lift station serving the District, and the landscaping on these parcels will be maintained by the District. As these parcels are permanently planned for use as passive, non-residential, unoccupied public services, they cannot be said to specifically benefit from the services provided by the assessment and therefore are not subject to the assessment.

7. Proposition 218 provides that only special benefits to parcels within the district are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel. Because the landscaping and lighting maintained in connection with this District is located within a discrete subdivision, all benefits of the maintenance services are special benefits accruing to parcels within the district.

RESOLUTION NO. 2023-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA
DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN
VALLE VISTA LANDSCAPE AND LIGHTING MAINTENANCE ASSESSMENT
DISTRICT NO. 1 FOR FISCAL YEAR 2023-24 AND SETTING THE TIME AND PLACE
FOR A HEARING ON SAID ASSESSMENT**

WHEREAS, pursuant to the Landscaping and Lighting Act of 1972 (Streets & Highways Code Section 22500 *et seq.*) (“Act”), the City levies an annual assessment in connection with its Valle Vista Landscape and Lighting Maintenance Assessment District No. 1 (“District”); and

WHEREAS, by prior resolution, this Council ordered preparation of an Assessment Report (“Report”) with respect to the assessment proposed to be levied in connection with the District for Fiscal Year 2023-24, and

WHEREAS, by prior resolution, this Council approved the Report as filed; and

WHEREAS, a copy of the approved Report is on file in the Office of the City Clerk, available for public inspection at said Office, and incorporated herein by reference; and

WHEREAS, the City Council desires to declare its intention to levy the proposed assessment for Fiscal Year 2023-24.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of the City of San Juan Bautista as follows:

1. The Council hereby declares its intention to levy and collect assessments in connection with the District for Fiscal Year 2023-24, as set forth in the Report.
2. The District is designated by the following distinctive name: “Valle Vista Landscaping and Lighting Maintenance Assessment District No. 1.” The District is generally described as a district including the parcels on both sides of Ahwahnee Street and Donner Street, bounded by San Juan Highway and Third Street. Reference is made to the Report for a more complete and exact definition of the territory included in the District.
3. The improvements to be maintained, operated and serviced in connection with the District are generally described as: street lighting and street landscaping within the District; as well as lighting and landscaping associated with the detention basin, sanitary sewer pump station, and a public park located within the District.
4. Reference is hereby made to the Report for a full and detailed description of the public improvements, the boundaries of the District, and the proposed Fiscal Year 2020-21 assessments upon assessable lots and parcels of land within the district.

5. The amount of the assessment for Fiscal Year 2021-22 is not proposed to increase from the rate effective for Fiscal Year 2021-22, adjusted for inflation according to the methodology submitted to property owners as part of a mail ballot protest proceeding in 2008.

6. It is ordered that on June 14, 2022, at the hour of 6:00 o'clock p.m., in the regular meeting place of this Council, the Council Chambers, City Hall, 311 Second Street, San Juan Bautista, California, is the time and place where this Council will hold a public hearing on the proposed assessment. At the Hearing, all interested persons will be permitted to present written and/or oral testimony regarding the proposed assessment. The City Clerk is directed to give notice of the Hearing by one publication of a copy of this Resolution in the local newspaper published and circulated in the City, pursuant to Section 6061 of the California Government Code, said publication to be had and completed at least ten (10) days before the date herein set for the Hearing.

7. The City Council designates Don Reynolds, City Manager, who may be contacted by telephone at (831) 623-4661, as the person whom interested parties may contact for additional information regarding the District or the proposed assessment.

PASSED AND APPROVED at a regular meeting of the City Council of the City of San Juan Bautista duly held on the 17th day of May, 2023, by the following vote:

PASSED AND APPROVED on the 16th day of May, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Leslie Q. Jordan, Mayor

ATTEST:

Elizabeth Soto, Deputy City Clerk

**City of San Juan Bautista
Valle Vista Landscape District**

Fiscal Year 2023/24 Cost Estimate Summary - Valle Vista

Item	Cost
Maintenance	
Landscape Maintenance	\$18,503.00
Water	\$1,976.00
Electricity	\$1,035.00
Rounding Adjustment	<u>\$0.00</u>
Total Maintenance Cost	\$21,514.00
Administrative Cost	\$1,075.70
Reserves	
Operating Reserve (10% of Total Maintenance Cost)	\$0.00
Annual Capital Replacement Reserve	<u>0.00</u>
Total Reserves	\$0.00
Total Estimated Assessment - Fiscal Year 2023/24	\$22,589.70
Total Number of Developed Single Family Parcels	35
Fiscal Year 2023/24 Applied Assessment per Parcel	\$645.42
Fiscal Year 2023/24 Maximum Assessment Tax per Parcel	\$1,660.91

5% of Maintenance Costs

Is there an Operationg Reserve fund for this District

Is there a Capital Reserve fund for this District

Valle Vista parcel count

FY 22/23 was \$620.48, if collections are \$21,717.00

FY 22/23 was \$1,676.19. Used 4.04% for 23/24 as a place

Revenues

<u>Acct #</u>	<u>Description</u>	<u>FY 16/17</u>	<u>FY 17/18</u>
60-415	Special Assessments	21,574	20,074
Reserve Fund Balance			55,812 Est. at YE

-holder

District was formed in 2003. Initial Assessment was set at \$1,596.43, including the County fee of \$15 per parcel. The 2003/04 Eng. Rpt. Also set the estimated assessments for the 2004 through 2008 at \$1,414.71 per parcel. For 2009 and "beyond", the estimated rate was set at \$1,111.86, again, assuming reduced costs in those years. Used the SF/Oakland/Hayward CPI for All Urban Consumers. This is standard, although it was not specified in

		Max.				%
		Assessment	April			Increase
1st Year	2003/04	\$1,596.43	2003	196.3	N/A	N/A
	2004/05	\$1,612.71	2004	198.3	101.019%	1.02%
	2005/06	\$1,630.27	2005	202.5	102.118%	2.12%
	2006/07	\$1,646.88	2006	208.9	103.160%	3.16%
	2007/08	\$1,649.43	2007	215.842	103.323%	3.32%
	2008/09	\$1,642.57	2008	222.074	102.887%	2.89%
	2009/10	\$1,609.20	2009	223.854	100.802%	0.80%
	2010/11	\$1,623.89	2010	227.697	101.717%	1.72%
	2011/12	\$1,641.45	2011	234.121	102.821%	2.82%
	2012/13	\$1,629.64	2012	238.985	102.078%	2.08%
	2013/14	\$1,634.43	2013	244.675	102.381%	2.38%
	2014/15	\$1,640.97	2014	251.495	102.787%	2.79%
	2015/16	\$1,635.38	2015	257.622	102.436%	2.44%
	2016/17	\$1,639.53	2016	264.565	102.695%	2.70%
	2017/18	\$1,656.93	2017	274.589	103.789%	3.79%
	2018/19	\$1,647.84	2018	283.422	103.217%	3.22%
	2019/20	\$1,660.45	2019	294.801	104.015%	4.01%
	2020/21	\$1,614.15	2020	298.074	101.110%	1.11%
	2021/22	\$1,657.19	2021	309.419	103.806%	3.81%
	2022/23	\$1,676.19	2022	324.878	104.996%	5.00%
	2023/24	\$1,660.91	2023	338	104.039%	4.04%

April CPI published in e

based on reduced costs.



CITY OF SAN JUAN BAUTISTA CITY COUNCIL REPORT

AGENDA TITLE: **AUTHORIZE APPROVAL OF A CONTRACT WITH DAVID J. POWERS & ASSOCIATES, INC. FOR ENVIRONMENTAL REVIEW OF DEVELOPMENT PERMIT IN RESPONSE TO A NOTICE TO ABATE A PUBLIC NUISANCE: 451 SAN JUAN HOLLISTER RD (APN: 002-550-008)**

MEETING DATE: **May 16, 2023**

DEPARTMENT HEADS: **ASSISTANT CITY MANAGER-COMMUNITY DEVELOPMENT DIRECTOR**

RECOMMENDED ACTION:

It is recommended that the City Council approve a Resolution next in order (Attachment A) and authorize the City Manager to execute a contract for environmental review in accordance with the Notice To Abate (Attachment B).

BACKGROUND INFORMATION: This and related matters have been before the City Council on several occasions, and most recently, on October 25, 2022 and November 29, 2022 when the Council adopted Resolutions 2022-81 and 2022-87A (Attachment C) declaring a public nuisance to exist on the property and ordering its abatement.

Significant grading on the floodplain located on the property occurred in March of 2022 without a permit having been first obtained and fill and grading spoils have been deposited in the floodplain, including adjacent to and within San Juan Creek. Compliance Orders, a 10-Day Notice of Violation, administrative citations, photographs and comments by staff and the property owner's representative regarding these conditions are part of the record from the City Council consideration of this matter on October 18, 25 and again during public hearings held on November 15 and November 19, 2022. Violations of the SJBMC have also been identified due to the storage of automobiles and heavy equipment, as well as the use of the property as a contractor's yard, all as described in the resolutions and the Notice to Abate. These conditions remain unabated. The temporary uses permitted during the COVID-19 emergency have been terminated and a Temporary Use of Land Permit has been issued to allow the property owner some limited commercial use of the property while the required Development Permit is under review.

DISCUSSION:

The City has accepted a Development Permit application as complete. The Development Permit involves a discretionary decision by the City Manager (SJB MC Section 12-1-310) to require conditions of approval and make required findings. Therefore, this permit is subject to CEQA,

unless a categorical exemption can be applied. The scope of work accommodates a CEQA determination and related notice: Notice of Exemption (NOE) or Notice of (EIR) Preparation (NOP).

The firm of David J Powers and Associates (DJPA) has been identified by City staff as uniquely qualified based on knowledge of San Benito County and other experts in hydrology that have studied the site and the violation, and have the ability to assess the environmental consequences of both the violation and secondary environmental impacts of remediation in the manner required by the Notice To Abate. A purchase order, #1021, was issued to DJPA on April 20, 2023 in the amount of \$8,500 to determine the applicability of any categorical exemption pursuant to CEQA, and the Scope of Work and Budget anticipates that determination will be formally established via either a Notice of Exemption or Notice Of Preparation (of an EIR).

The Community Development Director has determined the scope of work and budget to be warranted and necessary to establish appropriate Development Permit mitigation measures and conditions of approval and recommends that an Agreement using the City's template for professional services be authorized with DJPA in accordance with the scope of work, the cost estimate and estimated schedule in Attachment "A"- Exhibit "B". The Applicant for the Development Permit has been informed of the scope of work and budget.

The applicant has advised the City in writing that they cannot fund the cost any CEQA determination. Therefore, the City will complete the environmental review, and the City Manager is required to keep an accurate account of the City's abatement costs and to subsequently submit a final itemized written report for confirmation by the City Council at a regular meeting. At that time the City Council will hear any objections by the property owner to the costs assessed for the abatement and modify or confirm the report as the City Council may determine. The property owner would then have the opportunity to pay such costs prior to the filing of the report of costs with the County Tax Collector for collection of the city's costs as a special assessment on the next regular tax bill.

STAFF RECOMMENDATION: Staff recommends that the City Council approve the resolution in Attachment A

Attachments:

- A) Resolution 2023-XX (with Exhibit A: DJPA scope of work and budget)
- B) Notice to Abate
- C) Resolution 2022-81 and 2022-87A Declaring A Public Nuisance and Ordering Abatement

RESOLUTION NO. 2023-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA AUTHORIZING THE CITY MANAGER TO APPROVE A CONTRACT WITH DAVID J POWERS & ASSOCIATES FOR ENVIRONMENTAL CONSULTING SERVICES PUBLIC NUISANCE 451 SAN JUAN HOLLISTER ROAD; MIDNIGHT EXPRESS

RECITALS

WHEREAS, on October 25, 2022 the City Council adopted Resolution 2022-81 declaring a public nuisance to exist on property commonly known as 451 San Juan Hollister Rd. and directing the City Manager to publish, post and mail a Notice To Abate such public nuisance identified therein; and

WHEREAS, on October 26, 2022 the City Manager issued the Notice To Abate such nuisance by corrective actions via a Development Permit to restore to pre-violation topographic, hydrologic, and morphological conditions, and remedial actions necessary to restore the ecological function of wetlands and the San Juan Creek corridor; and

WHEREAS, on November 15 and November 29, 2022 the City Council held public hearings on the condition of the property at 451 San Juan Hollister Road and adopted Resolution 2022-87A, overruling objections to abatement of the nuisance and to take all appropriate steps to recover costs incurred by the City associated with abatement proceedings; and

WHEREAS, an application for Development Permit was been submitted on October 13, 2022, and thereafter determined to be incomplete. The Development Permit application was determined to be complete and sufficient for review on February 24, 2023. Additional material outlined in the Notice to Abate was submitted on March 3 and 23, 2023. A Temporary Use of Land Permit was issued by the City Manager on April 28, 2023 that allows limited use of the property for the trucking business (loading and unloading), storage of personal vehicles, and conduct of pallet assembly and repair. Storage containers and construction equipment and items not owned by the applicant are required to be removed; and

WHEREAS, David J Powers and Associates (DJPA) has been identified by City staff as uniquely qualified based on knowledge of San Benito County and other experts in hydrology that have studied the site and the violation, and have the ability to assess the environmental consequences of both the violation and secondary environmental impacts of remediation in the manner required by the Notice to Abate; and

WHEREAS, Purchase Order #1021 was issued to DJPA on April 20, 2023 in the amount of \$8,500 to determine the applicability of any categorical exemption pursuant to CEQA, and the Scope of Work and Budget anticipates that determination will be formally established via either a Notice of Exemption or Notice of Preparation (of an EIR); and

WHEREAS, the Community Development Director has determined the scope of work and budget in the Exhibit “A” to be warranted and necessary to establish appropriate Development Permit mitigation measures and conditions of approval; and

WHEREAS, the applicant for Development Permit has been informed of the scope of work and budget referenced in Attachment A - Exhibit A and has declined in writing to submit funds necessary to complete required environmental review regardless of the determination of CEQA status or related cost.

NOW, THEREFORE, BE IT RESOLVED, that the City Council authorizes the City Manager to execute a contract with David J. Powers & Associates, Inc. for Professional Services using the City’s template form for a professional services agreement, in accordance with the “Scope of Work for 451 San Juan Hollister Road Project,” dated May 4, 2023 (Exhibit A attached hereto), in an amount not to exceed \$164,472.00 (inclusive of Purchase Order #1021) for determination of CEQA status and completion of environmental impact documentation; and

BE IT FURTHER RESOLVED, that the City Council directs that proceedings to recover costs related to processing the Development Permit and conduct of the related environmental review be recovered as represented in the Notice to Abate (October 26, 2022), as set forth in San Juan Bautista Municipal Code Section 13-1-520 Report of Costs.

PASSED, APPROVED, AND ADOPTED at a Regular Meeting of the City Council held on May 16, 2023 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Leslie Q. Jordan, Mayor

ATTEST:

Elizabeth Soto, Deputy City Clerk

**EXHIBIT A
of
ATTACHMENT A**



May 4, 2023

Brian Foucht
Assistant City Manager/Community Development Director
City of San Juan Bautista Planning Department
311 Second Street – P.O. Box 1420
San Juan Bautista, CA 95045

Sent via email to: ACM-CDDirector@san-juan-bautista.ca.us

RE: Scope of Work for 451 San Juan Hollister Road Project

Dear Brian Foucht:

David J. Powers & Associates, Inc. (DJP&A) is pleased to provide you with the attached scope of work to prepare an Environmental Impact Report (EIR) for the 451 San Juan Hollister Road project.

If this proposed scope of work is acceptable to you, it can be attached to the City's standard consultant agreement. Please do not hesitate to contact Fiona Phung (direct line: (408) 454-3427, email: fphung@davidjpowers.com) if you have any questions regarding this proposal.

Sincerely,

**Shannon
George**

Digitally signed by
Shannon George
Date: 2023.05.04
16:31:15 -07'00'

Shannon George
Principal Project Manager, Vice President
Direct: (408) 454-3402
Email: sgeorge@davidjpowers.com

Attachment: Scope of Work

Environmental Consultants and Planners

1871 The Alameda • Suite 200 • San José, CA 95126 • Tel: 408-248-9641 • www.davidjpowers.com



451 San Juan Hollister Road Project Environmental Impact Report Scope of Work

May 4, 2023

Primary Contact

The primary David J. Powers & Associates, Inc. (DJP&A) contact information is provided below.

Name: Fiona Phung
Direct: (408) 454-3427
Email: fphung@davidjpowers.com

Project Understanding

The approximately 18.09-acre project site is located at 451 San Juan Hollister Road in San Juan Bautista [Assessor's Parcel Number (APN) 002-550-008] in the City of San Juan Bautista. The site is currently developed with a trucking business, a transfer dock, vehicle storage, and pallet manufacturing, and is surrounded by residences, industrial, and agricultural uses. San Juan Creek currently flows along the northern and western boundaries of the site. Overtime, unpermitted activities occurred on-site adjacent to the eastern and southern banks of San Juan Creek. Per the U.S. Army Corps of Engineers' preliminary jurisdictional determination, approximately 3.25 acres of the site contains seasonal wetland and 1,500 linear feet along the western and northern border of the site are designated as other waters of the U.S. with instream wetlands. As a result, the City of San Juan Bautista issued a stop order on May 24, 2022 which requested 1) characterization of the fill and 2) a program be developed for remediation including removal of grading spoils, and restoration of the hydraulic capacity and biological habitat of the San Juan Creek to the satisfaction of the jurisdictional agencies.

The City has requested that David J. Powers & Associates, Inc. (DJP&A) review the Development Permit Application to determine the California Environmental Quality Act (CEQA) status and consider the applicability of an exemption (California Code of Regulations, Title 14, Section 15308 and Section 15333) for the 451 San Juan Hollister Road project. DJP&A will prepare a Categorical Exemption Memorandum to determine if the project qualifies for an exemption prior to preparation of the Administrative Draft EIR (ADEIR). If it is concluded that Section 15308 and/or Section 15333 is applicable, the scope of work will be reduced accordingly.

As part of the Categorical Exemption Memorandum, DJP&A will draft a project description to the extent feasible, based on information provided by the City.¹ The project description will be provided to the City for review and comment. A preliminary list of project information needed is included on page 9 of this scope of work.

If the project does not qualify for an exemption, DJP&A will prepare an Environmental Impact Report (EIR) for the project. Our scope includes: 1) preparation of the ADEIR and Notice of Preparation (NOP); 2) preparation of the Draft EIR and Notice of Completion (NOC); 3) preparation of the Final EIR, Mitigation Monitoring and Reporting Program (MMRP), and other related items; and 4) meeting and hearing attendance and project management. These tasks are described below.

Administrative Draft EIR and Notice of Preparation

Kick-Off Meeting and EIR Initiation

DJP&A will virtually attend one EIR kick-off meeting with the City and the project team to discuss the project, further refine the EIR scope as needed, and coordinate the scheduling and preparation of the EIR.

Notice of Preparation

DJP&A will prepare the Notice of Preparation (NOP) for circulation by the City of San Juan Bautista. The NOP will include a brief project description, project location map, and discussion of potential environmental effects of the project. This scope includes DJP&A virtual attendance at one public EIR scoping meeting for the project.² The text of the EIR will incorporate relevant issues raised in the responses to the NOP received during the 30-day NOP circulation period. DJP&A will submit an electronic copy of the NOP to the City for posting on the City's website and will post the NOP to the State Clearinghouse on behalf of the City.

Preparation of Administrative Draft EIR

DJP&A will prepare an EIR consistent with the requirements of the CEQA and the City of San Juan Bautista. The EIR will include an introduction, summary, project description, environmental setting, discussion of environmental impacts, and mitigation measures to reduce significant impacts.

Upon completion of the ADEIR, DJP&A will submit an electronic copy of the document to the City for review and comment. The main sections of the EIR are described below.

¹ The project description will be further refined after the project meetings with City staff, DJP&A, and subconsultants to determine the baseline conditions and characterization of the project area prior to disturbance.

² DJP&A can attend in person if required.

Introduction

The introduction to the EIR will describe the purpose of the EIR, provide a general overview of the CEQA process, and describe the public participation process and opportunities for input.

EIR Summary

A summary of the EIR will include a brief description of the proposed project and identify the impacts of the project and proposed mitigation measures in tabular format. The summary will also briefly describe the project alternatives and address any known areas of public controversy.

Project Description

The EIR will provide a detailed description of the proposed project, including the physical characteristics of the site modifications. This section will also include a list of the project objectives, necessary discretionary actions, and decision-making agencies. Maps and graphics will be provided to illustrate the text.

Consistency with Plans and Policies

Within each resource section, the EIR will discuss whether or not the proposed project is consistent with applicable land use controls, including local, regional, and statewide plans and policies. Particular attention will be given to inconsistencies, if any are identified, and the likelihood that such inconsistencies might result in significant adverse environmental effects.

Existing Environmental Setting, Impacts, and Mitigation Measures

The EIR will provide: 1) a detailed description of the existing environmental setting, based on the conditions that exist at the time the NOP is released; 2) impacts that have resulted from the unpermitted work and any impacts that may result from the proposed site modifications; and 3) feasible mitigation measures to avoid or reduce impacts to a less than significant level.

Based upon our current understanding of the project, we anticipate the key environmental issues for the project will include the following resources:

- **Biological Resources** - A Current and Pre-Violation Conditions Report on jurisdictional habitats will be prepared by H.T. Harvey & Associates (HTH) under contract to DJP&A. The Current and Pre-Violation Conditions Report will describe existing conditions on-site and will provide, to the extent practicable, a characterization of conditions on-site prior to the unpermitted activities. HTH will attend up to three virtual meetings with the City and DJP&A to discuss the project.

The impact on biological resources (e.g., wetland and creek habitats) will be evaluated based on the applicant-provided Biological Resource Habitat Characterization Report dated February 2023 by EMC Planning Group. The Biological Resource Habitat Characterization

Report prepared by EMC Planning Group included a reconnaissance-level biological survey of the site and recommendations to avoid or minimize impacts to special-status species and protected habitats. Peer review will be completed by HTH under contract to DJP&A. HTH will review background information and complete a reconnaissance-level survey of the site to compare the results and conclusions provided in the Biological Resource Habitat Characterization Report. If the peer review concludes that additional analysis is required, this scope assumes that the project applicant will coordinate directly with EMC Planning Group to complete the additional work. Alternatively, if directed by the City, HTH could complete any additional work necessary under contract to DJP&A or provide peer review for any new work.

- **Cultural Resources** – The impact on archaeological resources will be assessed based on the applicant-provided Archaeological Investigation Report dated December 2022 by EMC Planning Group. The Archaeological Investigation Report included a Northwest Information Center (NWIC) archival database search, a Sacred Lands Records search, a review of the soil types on-site, and a pedestrian survey. Peer review will be completed by Albion Environmental (Albion) under contract to DJP&A. Albion will prepare a letter that includes an assessment of the Archaeological Investigation Report, the suitability of the research methods to address the stated goals, the results of the study, the finding of effect, and recommendations. If the peer review concludes that additional analysis is required, this scope assumes that the project applicant will coordinate directly with EMC Planning Group to complete the additional work. Alternatively, if directed by the City, Albion could complete any additional work necessary under contract to DJP&A or provide peer review for any new work.
- **Hydrology and Water Quality** – The EIR will include an overview of the impacts that have occurred on-site related to the floodplain and San Juan Creek. A Floodplain Encroachment Violation Investigation was prepared by Schaaf & Wheeler under contract with the City of San Juan Bautista which included a summary of the observed floodplain violations and recommendations on how to comply with the floodplain regulations. A survey of San Juan Creek and hydraulic conveyance calculations completed by the property owner's engineer was provided to DJP&A. Schaaf & Wheeler, under contract to DJP&A, will prepare a Hydrology Report which will summarize the hydraulic conveyance capacities of the applicant-provided cross sections of San Juan Creek with the Federal Emergency Management Agency (FEMA) Hydraulic Model and include recommendations to restore the conveyance capacity of San Juan Creek to before the unpermitted activities occurred.

Schaaf & Wheeler will attend up to three virtual meetings with the City and DJP&A to determine the baseline and what will be needed for characterization of the hydraulic conveyance capacity of the channel. Based on the meetings, Schaaf & Wheeler will complete additional characterization work under contract to DJP&A.³

³ Schaaf & Wheeler's scope includes up to 40 hours of Assistant Engineering time and eight hours of Senior Project Manager time to do the additional characterization work requested by City staff. Additional work over the allocated time will require additional budget.

Pursuant to CEQA, the EIR will also include a discussion of cumulative impacts; alternatives; growth inducing impacts; significant, unavoidable impacts; significant irreversible environmental changes; references; and a list of the lead agency staff and consultants.

Draft EIR and Notice of Completion

Revision of Administrative Draft EIR/Preparation of Draft EIR

Once the City provides DJP&A with comments on the ADEIR, DJP&A will revise the document and submit an electronic copy to the City for final review and comment. This scope of work assumes two rounds of review by the City. DJP&A will provide the City with up to 15 hard copies of the Draft EIR for public distribution and a PDF of the document for posting on the City's website.

Notice of Completion

DJP&A will prepare the Notice of Completion (NOC), in accordance with the CEQA and City of San Juan Bautista requirements. The NOC will include a brief description of the project, the project location, and will state where copies of the Draft EIR are available for review. DJP&A will submit an electronic draft of the NOC to the City for review and comment. DJP&A will revise and finalize the NOC based on City comments. DJP&A will submit the NOC and a copy of the EIR to the State Clearinghouse on behalf of the City. This scope of work assumes the City will prepare the Notice of Availability (NOA) and file it with the County Clerk.

Final EIR, Mitigation Monitoring and Reporting Program, and Other Related Items

Preparation of Final EIR

Upon completion of the 45-day Draft EIR circulation period, DJP&A will prepare an Administrative Draft Final EIR. The Final EIR will contain the following:

- List of persons and agencies who commented on the Draft EIR;
- Responses to comments on the Draft EIR;
- Revisions to the EIR text, as necessary; and
- Copies of letters received on the Draft EIR.

This scope of work assumes approximately 10 hours of Principal Project Manager time and 35 hours of Project Manager time to respond to comments. If additional effort is required to respond to the comments, it can be completed on a time and materials basis, in accordance with the fee schedule, which follows.

An electronic copy of the Administrative Draft Final EIR will be submitted to City Staff for review. The document will be revised per the comments received, and DJP&A will provide up to 15 copies of the Final EIR to the City for public distribution, a PDF of the document for posting on the City's website and for submittal to the State Clearinghouse.

Preparation of Mitigation Monitoring and Reporting Program

DJP&A will prepare a draft Mitigation Monitoring and Reporting Program (MMRP) for the project. The MMRP will summarize the mitigation measures identified, when mitigation measures will be implemented, who will be responsible for implementation, and who will provide oversight. The draft MMRP will be submitted to the City with the Screencheck EIR for review and comment. Once the City provides DJP&A with comments on the draft MMRP, DJP&A will provide the City with the final MMRP prior to the project hearing.

Findings

Although we are not attorneys and do not prepare legal findings, DJP&A will assist City Staff and the City Attorney in compiling information from the EIR for findings required under CEQA Guidelines Section 15091, if requested to do so.

Notice of Determination

DJP&A will prepare a Notice of Determination (NOD), in accordance with CEQA and City of San Juan Bautista requirements. The NOD will include a brief project description, date of project approval, determination of the project's environmental effects, mitigation measures and conditions of approval, statement whether overriding considerations were adopted, and the location where the Final EIR and record of project approval may be examined.

DJP&A will submit an electronic copy of the draft NOD for the City's review. Based on comments received from the City, DJP&A will revise and finalize the NOD. An electronic copy of the finalized NOD will be submitted to the City.⁴

Meetings and Hearings

This scope of work includes DJP&A attendance at up to three project meetings and two public hearings (e.g., one Planning Commission hearing and one City Council hearing). DJP&A can attend additional public hearings or meetings requested on a time and materials basis.

Project Management and Contract Administration

DJP&A will provide general EIR project management, contract administration, and coordination with the City and project team throughout the EIR process. The DJP&A Project Manager will coordinate with the City on a regular basis using email and telephone communications.

⁴ DJP&A can file the NOD with the State Clearinghouse, if requested by the City.

Estimated Schedule

DJP&A proposes the following optimum schedule for preparation of the EIR. DJP&A can commit to maintain the schedule in the areas that are within our control. Completion of the EIR, as outlined in the schedule below, is based upon receipt of project information listed on the following page in accordance with the schedule. Delays in receiving requested information or responses by others will result in at least day-for-day delays in the overall schedule.

Task	Duration of Task	Time Elapsed
1. DJP&A receives authorization to proceed and requested project information	---	---
2. DJP&A drafts EIR project description and submits to the City for review	1 week	1 week
3. City completes review of draft EIR project description and provides comments to DJP&A	0.5 week	1.5 weeks
4. DJP&A finalizes EIR project description	0.5 week	2 weeks
5. DJP&A prepares and submits Administrative Draft NOP to the City for review	1 week	3 weeks
6. City completes review Administrative Draft NOP and provides comments to DJP&A	1 week	4 weeks
7. DJP&A revises and finalizes NOP for circulation	0.5 week	4.5 weeks
8. 30-day NOP Circulation Period	4 weeks	8.5 weeks
9. Schaaf & Wheeler completes Hydrology Report	3 weeks*	4 weeks
10. DJP&A subconsultants complete peer review of the applicant-provided technical reports	8 weeks**	9 weeks
11. DJP&A completes and submits Administrative Draft EIR (4 weeks after Task 10) to the City for review	4 weeks	13 weeks
12. City completes review of Administrative Draft EIR	4 weeks	17 weeks
13. DJP&A revises document and submits Screencheck EIR and MMRP	2 weeks	19 weeks
14. City completes review of Screencheck EIR and MMRP	2 weeks	21 weeks

Task	Duration of Task	Time Elapsed
15. DJP&A finalizes and prints Draft EIR for public distribution and circulation/posts document to State Clearinghouse website	1 week	22 weeks
16. 45-day Draft EIR Public Circulation Period	6.5 weeks	28.5 weeks
17. DJP&A prepares and submits Administrative Draft Final EIR to the City for review	3 weeks***	31.5 weeks
18. City reviews Administrative Draft Final EIR	2 weeks	33.5 weeks
19. DJP&A revises Administrative Draft Final EIR and submits Screencheck Final EIR	2 weeks	35.5 weeks
20. City reviews Screencheck Final EIR	2 weeks	37.5 weeks
21. DJP&A finalizes and prints Final EIR for public distribution and circulation	1 week	38.5 weeks
22. City circulates Final EIR for public review	1.5 weeks	40
Total		+/- 40 weeks

Notes: *Assumes three weeks once Schaaf & Wheeler receives authorization to proceed. The timing of the Schaaf & Wheeler's characterization work will be discussed during the virtual meeting with City staff and DJP&A.
 **HTH will need up to eight weeks to do their peer review once HTH receives authorization to proceed. HTH will complete the Current and Pre-Violation Conditions Report concurrent with the peer review. Albion may complete their peer review sooner.

***Subject to change based on the number/type of comments received.

Project Information Required

Our scope (including schedule) are based on the assumption that we will receive the below project information concurrent with the authorization to proceed. This scope also assumes DJP&A will receive any and all revisions to the plan set/project description in a timely manner. If DJP&A completes work based upon an obsolete or inaccurate plan set/project description, the environmental review schedule and potentially DJP&A's budget may increase, due to additional time required to revise the document and the need for possible updates to technical reports.

Project Plan Set (in PDF)

- ☐ Site Plan
- ☐ Stormwater Control Plan
- ☐ Grading plan

Project Details

- ☐ Project Objectives
- ☐ Discretionary approvals
- ☐ Maximum depth of excavation (feet)

Technical Reports

- ☐ Archaeological Investigation Report (received)
- ☐ Biological Resource Habitat Characterization Report (received)
- ☐ Floodplain Encroachment Violation Investigation (received)

Cost Estimate

Based on our understanding of the project and technical reports required, the cost for preparation of the document type is estimated not to exceed \$149,520. In addition, this contract includes a 10 percent contingency of \$14,952, which brings the total to \$164,472. The intent of the contingency is to cover unanticipated tasks that may arise during the environmental review process and avoid potential delays related to contract amendments. The contingency will not be used unless authorized by the City in writing. A breakdown of the cost estimate is provided below. Costs will be charged on a time and materials basis, commensurate with work completed.

This scope and budget assumes the project will proceed in accordance with the schedule on the previous page. The budget is based on the anticipated amount of work that would occur during the estimated duration of the project. If the schedule extends beyond the anticipated timeframe due to factors outside of DJP&A's control, and/or if the project includes multiple stops and starts, the proposed budget would need to be increased to account for the additional time spent.

A. David J. Powers & Associates, Inc.	
• Preparation of Categorical Exemption Memorandum, EIR, attendance at meetings, and project management	\$77,757
• Reimbursables (travel, printing, etc.)*	\$1,358
B. Subconsultants*	
• Albion	\$3,081
• H.T. Harvey	\$30,202
• Schaaf & Wheeler	\$37,122
Subtotal (A+B)	\$149,520
C. 10 Percent Contingency	\$14,952
Total (A+B+C)	\$164,472

* Subconsultant and reimbursable expenses include our standard 15 percent administrative fee.

Please note that the cost estimate shown is a not-to-exceed total amount for all tasks combined. DJP&A will complete the EIR for the not-to-exceed total. Within this not-to-exceed total, actual amounts spent on individual tasks/items may be more or less than the estimates. If DJP&A does not need all the time that has been budgeted, we will only bill for the time actually spent completing the work. Our invoices will be submitted on a monthly basis and are payable upon receipt.

DJP&A provides regular, clear and accurate invoices as the work on this project proceeds, in accordance with normal company billing procedures. The cost estimate prepared for this project does not include special accounting or bookkeeping procedures, nor does it include preparation of extraordinary or unique statements or invoices. If a special invoice or accounting process is requested, the service can be provided on a time and materials basis. Any fees charged to DJP&A for Client's third-party services related to invoicing, insurance certificate maintenance, or other administrative functions will be billed as a reimbursable expense.

This scope is valid for 90 days and assumes that no issues arise that would require any additional technical analysis or documentation. In the event additional technical analysis is required, we can complete that work on a time and materials basis, upon your authorization. Project description changes after our notice to proceed is received may have schedule and budget implications.



City of San Juan Bautista

The "City of History"

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City Council

Mayor
Leslie Jordan

Vice Mayor
Mary Edge

Councilmember
John Freeman

Councilmember
Scott Freels

Councilmember
Cesar Flores

City Manager
Don Reynolds

City Clerk
Vacant

City Treasurer
Michelle Sabathia

www.san-juan-bautista.ca.us

NOTICE TO ABATE NUISANCE

NOTICE IS HEREBY GIVEN that on October 25, 2022, the City Council of the City of San Juan Bautista, by Resolution No. 2022-81, declared a public nuisance to exist on the property described as 451 San Juan Hollister Road (APN 002-550-008) in the City of San Juan Bautista, County of San Benito.

The conditions constituting such public nuisance and the actions to be taken for abatement thereof are as follows:

1. **CONDITION:** Grading, earthmoving and the placement of fill, spoils and debris on the property and in and along the San Juan Creek in violation of San Juan Bautista Municipal Code (SJBMC) Title 12 "Floodplains" Section 12-1-080 "Methods of reducing flood losses" specifically Sections (D) control filling, grading, dredging which may increase flood damage," violation of SJBMC Section 12-1-080 (E) "Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas;" and violation of SJBMC Section 12-1-210 "Compliance" "Any person filling, grading or constructing within a designated flood hazard area shall obtain all necessary permits prior to commencement of these activities."

CORRECTIVE ACTIONS: Restore to pre-violation topographic, hydrologic, and morphologic condition.

- a) Submit, as part of the application for Development Permit referenced in subsection (f) below, a study prepared by a Professional Engineer who is a Qualified Stormwater Pollution Prevention Plan Practitioner (QSP) or a Qualified Stormwater Protection Prevent Plan Developer (QSD) as the Engineer of Record, deemed acceptable in writing by the City Flood Plain Manager, characterizing the grading and fill in the floodplain including areas adjacent to the San Juan Creek and hydrologically connected drainages located on the property. The characterization shall determine the pre-violation creek morphology as a means of establishing a baseline to pre-violation values.
- b) Submit a plan, as part of the application for Development Permit referenced in subsection (f) below, prepared by the Engineer of Record, for corrective grading within the floodplain, including removal of grading spoils placed adjacent to or within the San Juan Creek sufficient to achieve pre-violation topographic contours identified in a 2018 topographic survey of the site.

- c) Submit a study, as part of the application for Development Permit referenced in subsection (f) below, prepared by a qualified Ecologist of the relative habitat values of the San Juan Creek as a means of establishing a baseline for restoration of habitat values to pre-violation values as a condition of the Development Permit referenced in subsection (f) below.
- d) Submit, as part of the Development Permit application referenced in Section (f) below, a Phase 1 cultural resources records search, reconnaissance-level field survey, and Native American Consultation in partial fulfillment of the requirements of the California Environmental Quality Act (CEQA).
- e) Submit, as part of the Development Permit application referenced in (f) below, a plan developed by the referenced Engineer of Record for remediation of the subject Nuisance, including removal of grading spoils and restoration of the hydrology and biological habitat values, and any actions necessary to protect cultural resources associated with the subject property including the San Juan Creek and hydrologically connected drainages on the property to the satisfaction of agencies with jurisdiction over those activities and the City of San Juan Bautista Flood Plain Manager.
- f) Complete the application for a Development Permit, a discretionary permit, submitted on October 13, 2022, as described herein, and execute a reimbursement agreement with the City for all costs associated with Development Permit to be issued by the City Floodplain Manager in accordance with Municipal Code Sections 12-1-210.
- g) Submit a cost estimate, prepared by the Engineer of Record of the cost of completing remedial actions.

3. **CONDITION:** Operation a Contractor's Yard without a Use Permit in violation of SJBMC Title 11 "Zoning" Section 11-02-050 requiring a Use Permit in the Industrial District for a Contractor's Yard.

CORRECTIVE ACTION: Submit an application and pay fees for the required Use Permit, a discretionary permit, which conditions shall eliminate occurrences that may adversely affect public health and biological resources such as leaking oil or other fluids or accumulation of abandoned equipment and material, frontage improvements for traffic operations safety, and any flood hazard prevention improvements, including, but not necessarily limited to, a Phase I Soil Analysis, hydrological study, biological resource and cultural resource reconnaissance and mitigations.


4. **CONDITION:** Operation of a Automobile Storage Yard without a Use Permit in violation of SJBMC Title 11 "Zoning" Section 11-02-050 requiring a Use Permit in the Industrial Zone for a Automobile Storage Yard.

CORRECTIVE ACTION: Submit an application and pay fees for the required Use Permit, a discretionary permit, which conditions shall eliminate occurrences that may adversely affect public health and biological resources such as leaking oil or other fluids or accumulation of abandoned equipment and material, frontage improvements for traffic operations safety, and any flood hazard prevention improvements including, but not necessarily limited, to Phase I Soil Analysis, hydrological study, biological resource and cultural resource reconnaissance and mitigations, traffic study.

Upon failure to abate such public nuisance through the corrective actions described herein, the nuisance will be abated by the City of San Juan Bautista and all costs of abatement will be assessed against the property on which the nuisance exists and will constitute a special assessment upon and against such property until paid, said assessment to be collected at the same time and in the same manner as ordinary municipal taxes. A copy of the declaration of nuisance (Resolution No. 2022-81) is on file in the Office of the San Juan Bautista City Clerk.

Any property owner or other person(s) objecting to the proposed abatement by the City of San Juan Bautista is hereby notified to attend a meeting of the City Council of the City of San Juan Bautista to be held on November 15 2022, commencing at 6:00 p.m., at the San Juan Bautista City Hall, 311 Second Street, San Juan Bautista, California, when their objections will be heard and given due consideration.

Dated this 26th day of October, 2022.



Don Reynolds
City Manager
City of San Juan Bautista

RESOLUTION NO. 2022-81

**RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF SAN JUAN BAUTISTA (1)
DECLARING A PUBLIC NUISANCE TO EXIST
ON THE PARCEL COMMONLY KNOWN AS
451 SAN JUAN HOLLISTER ROAD, AND (2) DIRECTING
THE CITY MANAGER TO POST, PUBLISH,
AND MAIL NOTICE OF HEARING TO CONSIDER
ABATEMENT OF SAID PUBLIC NUISANCE**

WHEREAS, this Council is informed by City staff that property situated at 451 San Juan Hollister Road (APN 002-550-008) (sometimes hereafter “the property”) in the City of San Juan Bautista, is in violation of provisions of the Municipal Code, all as more particularly described on the attached “Notice to Abate Public Nuisance”; and

WHEREAS, the Assistant City Manager/Community Development Director has determined that the owner of the property at issue, Kulta Farms, LLC, is in violation of Title 12 “Floodplains,” of the Municipal Code, specifically Sections 12-1-080 and 12-1-210, respectively “Methods of Reducing Flood Losses” and “Compliance”; and

WHEREAS, on October 13, 2022, the property owner, having been informed that such application may be made, submitted an application for a Development Permit, a discretionary permit, in accordance with Section 12-1-300 of the Floodplains Ordinance; and

WHEREAS, upon review of the application the Assistant City Manager/Community Development Director has determined that the application for the Development Permit submitted on October 13, 2022, lacks necessary information, and is therefore incomplete, including, but not necessarily limited to: (1) information required by parts A through E of Section 12-1-300 parts A through E of the Floodplains Ordinance; (2) information required by Section 12-1-310(A) of the Floodplains Ordinance; and (3) information necessary to comply with the California Environmental Quality Act Guidelines, Cal. Code Regs. Title 14 Secs. 15060 and 15063; and

WHEREAS, although the Assistant City Manager/Community Development Director has determined that the property owner may, pursuant to Title 11 “Zoning,” Title 11-20 “Use Permits,” apply for a conditional Use Permit, a discretionary permit, to allow the illegal components of a business, Kulta Farms, LLC, Midnight Express, Inc. and any other business or entity, to operate on the property, the property owner, having been informed that such applications may be made, has not done so; and

WHEREAS, the City Council of the City of San Juan Bautista at a regular meeting held on October 18, 2022, received information from City staff and from the representative of the owner of the property and directed that the matter be returned to the City Council for further consideration.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA HEREBY RESOLVES AS FOLLOWS:

SECTION 1. Based on the recitals set out above, those recitals are hereby incorporated in the body of this Resolution by this reference as if fully set out herein, pursuant to Article 4 of Chapter 13-1 of the San Juan Bautista Municipal Code ("SJBMC"), this Council hereby finds that the evidence presented on October 18 and on October 25, 2022, of the placement of grading and spoils along the San Juan Creek watershed and the changes to the topography of the floodplain affect the neighborhood, therefore constituting a public nuisance per California Civil Code Section 3480, and declares that a public nuisance presently exists on the property as a result of the violation of the Floodplains Ordinance and the maintenance of the illegal uses by the business(es) or the owner currently in operation on the property.

SECTION 2. Pursuant to said Article 4 of Chapter 13-1 of the SJBMC, this Council hereby directs the City Manager to cause to be made all posting, publishing, and mailing of a "Notice to Abate Nuisance" as provided in said Article 4, with respect to the public nuisance hereinabove declared.

SECTION 3. The public hearing pursuant to said Notice shall be held at 6:00 p.m. (or as soon thereafter as the matter is reached on the agenda), Tuesday, November 15, 2022, at the San Juan Bautista City Hall, 311 Second Street, San Juan Bautista, California. The hearing shall be held as provided in said Article 4.

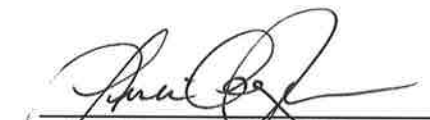
THE FOREGOING RESOLUTION was adopted at a special meeting of the San Juan Bautista City Council on the 25th day of October 2022, by the following vote:

AYES: Jordan, Flores, Freels, Freeman

NOES: None

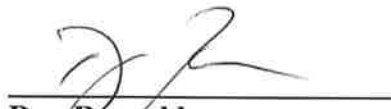
ABSENT: Edge

ABSTAIN: None



Leslie Q. Jordan, Mayor

ATTEST:



Don Reynolds
Acting Deputy City Clerk

RESOLUTION NO. 2022 - 87A

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA AFTER PUBLIC HEARING DECLARING THE CONDITION OF THE PROPERTY AT 451 SAN JUAN HOLLISTER ROAD TO CONSTITUTE A PUBLIC NUISANCE AND ORDERING THE ABATEMENT OF SAID NUISANCE BY THE CITY MANAGER TO PROTECT CITIZENS AND THEIR PROPERTY FROM CONDITIONS THAT THREATEN PUBLIC HEALTH, SAFETY AND WELFARE AND ASSESSING THE COST OF ABATEMENT

WHEREAS, by Resolution No. 2022-81, adopted on October 25, 2022, this Council declared that a public nuisance presently exists on property commonly known as 451 San Juan Hollister Road (APN 002-550-008) (sometimes hereafter “the property”), due to the presence thereon of certain violations of the San Juan Bautista Municipal Code as set forth in” **Attachment A;**” and

WHEREAS, the property is zoned Industrial and the owner of record of the property is Kulta Farms, LLC, a California limited liability company; and

WHEREAS, City staff has attempted to obtain the voluntary compliance of the owner and while the owner has responded, acknowledged the violations, and indicated an intention to proceed with the abatement of the conditions constituting a public nuisance on the property, the owner has had significant and reasonable time to correct all violations but has failed to do so; and

WHEREAS, the owner has the legal responsibility for maintaining the property in conformance with applicable law, ordinance and rules, including abatement of all violations and compliance with all orders of the City; and

WHEREAS, by said resolution this Council also directed posting, publishing and mailing of a Notice to Abate Nuisance (copy attached hereto as “**Attachment B**”) to include a public hearing to be set and heard at 6:00 p.m. on Tuesday, November 15, 2022, at City Hall before this Council, which public hearing may be and was continued in accordance with San Juan Bautista Municipal Code Section 13-1-425; and

WHEREAS, the property was posted, a Notice to Abate was sent by registered and by first class mail to the owner, and the Notice to Abate was published in the Hollister Free Lane, a newspaper of general circulation, on November 4, 2022, all in accordance with San Juan Bautista Municipal Code §§13-1-410 and 13-1-420; and

WHEREAS, said public hearing having been called and heard at the City Council’s regular meeting on Tuesday, November 15, 2022, and continued to a special meeting this date, November 29, 2022, at 5:00 p.m., at which times City staff presented substantial evidence in the record that affirmed the existence of violations of the Municipal Code on the property and all persons were invited to comment, to include any and all objections to the abatement proposed in the notice.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA HEREBY DETERMINES AND RESOLVES AS FOLLOWS:

SECTION 1. That it is in the public interest for the City to take appropriate actions to protect its citizens and their property from conditions that threaten public health, safety and welfare.

SECTION 2. At the hearings staff provided a report regarding the presence of nuisances on the property. The following person spoke and objected regarding the nuisances: During the hearing on November 15, 2022, Ms. Maria Orozco, the owner's representative, spoke and objected to the City's abatement of the nuisances on the basis that the owner was not given the opportunity to abate the violation due to the City wanting to act as the lead. Ms. Orozco stated studies have been performed and it is the owner's intention to remedy the situation as quickly as possible with consultants having been engaged for the necessary studies, without the need for the Schaaf & Wheeler study performed for the City, with two weeks then required to do the studies and two months to "put it together," including addressing the concerns of the California Dept. of Fish & Wildlife.

During the continuance of the hearing on November 29, 2022, Ms. Maria Orozco, the owner's representative, spoke and again objected to the City's abatement of the nuisances due to the owner's lack of ability in March 2022 to abate the nuisances despite having agreed to permit the City and its contractors to conduct studies prior to the property being declared a nuisance. Ms. Orozco stated the owner can do it [the abatement of the conditions constituting a nuisance] "on our own" and Kelley Engineering as the owner's engineer and EMC Planning Group as the owner's environmental consultant have been engaged and the engagement of a biologist and archeologist is pending. Ms. Orozco stated there is a four-to-twelve-week timeline for the engineer who will start with a stabilization plan and then continue to complete other studies. Ms. Orozco stated the City Attorney and the Assistant City Manager/Community Development Director have been provided with an outline of the work which provides the owner with the opportunity to abate the nuisances and she asked not to have the property declared a nuisance.

The City Attorney spoke and in response to Council inquiries described the action contemplated by the adoption of this Resolution as consisting of either a motion overruling the objections, in which case the City Manager would be ordered and empowered to abate the violations of the Municipal Code constituting a public nuisance and to subsequently assess the City's cost to do so for payment by the owner or, in the alternative, to allow the owner's representative's objection in which case the owner would remain solely responsible to take any and all actions to abate the violations. The City Attorney confirmed [per SJBMC §13-1-435] that in the event the City Council should act to overrule the owner's representative's objection and order the City Manager to abate the nuisance that prior to commencement of abatement work by the City the owner would retain the ability to abate the nuisance at its expense.

The Assistant City Manager spoke and in response to Council inquiry described the next step in the process as the review of an application and the actions and time required to comply with the requirements of the California Environmental Quality Act (CEQA) in context of and prior to the issuance of a development permit to the owner or to the City for the work of abatement and, in the event the City undertakes any work the application of the costs for same against the property. The

Assistant City Manager confirmed the City is prepared to work with the owner on a timeline to permit the owner to abate the violations at its expense, to assess the reasonableness of any delays to that timeline, and to continue to monitor progress by the owner against the timeline in consideration of unilateral action taken by the City. The Assistant City Manager confirmed the City reviewed and provided comments to the owner on the scope of work required to abate the violations. The Assistant City Manager confirmed if ownership of the property were sold or otherwise transferred the new owner would assume the obligation to abate the violations and be subject to the provisions of this resolution.

SECTION 3. This Council considered the owner's representative's objection and the comments by the City Attorney and the Assistant City Manager set forth in Section 2 and a motion was then introduced by Mayor Jordan and seconded by Councilmember Freeman to overrule the objections.

SECTION 4. Based on the responses set forth in Section 2, and as to the nuisance conditions listed in the Notice, this Council directs that the objection to abatement of the nuisance by the City is overruled and the Council orders the City Manager to abate the nuisances which are the subject of this Resolution, Resolution 2022-81, and Notice to Abate Nuisance and to take all appropriate steps to recover costs incurred by the City associated with abatement proceedings, including but not limited to costs incurred for involvement of the City Attorney.

THE FOREGOING RESOLUTION was adopted at a special meeting of the San Juan Bautista City Council on the 29th day of November 2022, by the following vote:

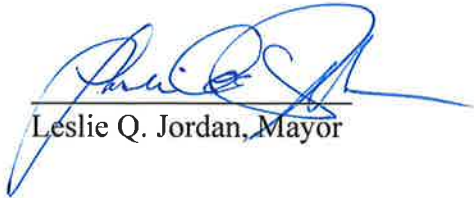
AYES: Councilmembers: Edge, Freeman, and Mayor Jordan

NOES: None

ABSENT: Councilmembers: Flores and Freels

ABSTAIN: None

APPROVED:



Leslie Q. Jordan, Mayor

ATTEST:



Don Reynolds, Acting Deputy City Clerk

ATTACHMENT A

The below listed conditions at 451 San Juan Hollister Road, San Juan Bautista, re being maintained in violation of the San Juan Bautista Municipal Code:

1. **CONDITION:** Grading, earthmoving and the placement of fill, spoils and debris on the property and in and along the San Juan Creek in violation of San Juan Bautista Municipal Code (SJBMC) Title 12 "Floodplains" Section 12-1-080 "Methods of reducing flood losses" specifically Sections (D) control filling, grading, dredging which may increase flood damage," violation of SJBMC Section 12-1-080 (E) "Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas;" and violation of SJBMC Section 12-1-210 "Compliance" "Any person filling, grading or constructing within a designated flood hazard area shall obtain all necessary permits prior to commencement of these activities."
2. **CONDITION:** Operation a Contractor's Yard without a Use Permit in violation of SJBMC Title 11 "Zoning" Section 11-02-050 requiring a Use Permit in the Industrial District for a Contractor's Yard.
- 3.. **CONDITION:** Operation of an Automobile Storage Yard without a Use Permit in violation of SJBMC Title 11 "Zoning" Section 11-02-050 requiring a Use Permit in the Industrial Zone for an Automobile Storage Yard.



CITY OF SAN JUAN BAUTISTA CITY COUNCIL STAFF REPORT

DATE: MAY 16, 2023

DEPARTMENT: ADMINISTRATION

SUBMITTED BY: CITY MANAGER

TITLE: ADOPT RESOLUTION APPROVING A LAND AND WATER
CONSERVATION FUND GRANT APPLICATION FOR ABBE
PARK RENOVATION PROJECT

RECOMMENDED ACTION:

Adopt a resolution approving a grant application to the Land and Water Conservation Fund program to help fund the Abbe Park Renovation project; committing to providing matching funds; agreeing to maintain Abbe Park for outdoor uses; and appointing the City Manager as the agent for the City administering the grant through the completion of the project.

BACKGROUND INFORMATION:

The City has retained the firm California Consulting, Inc. to seek grant opportunities and assist with the application process if an appropriate grant program is found. California Consulting has recently brought to the City's attention a grant opportunity for improving public outdoor recreation venues. The grant program is the Land and Water Conservation Fund (LWCF). It is a federally funded program administered by the State of California Department of Parks and Recreation. The City is eligible to receive the LWCF grant funds as long as they are used for outdoor recreation purposes such as athletic fields, picnic areas, playgrounds and tot lots.

Staff proposes to apply for the grant funds to renovate Abbe Park, located at the southwest corner of Muckelemei St. and 4th St. The park contains the City's Little League baseball field, a T-ball field, picnic areas, and open turf areas. It is proposed that the following improvements/enhancements be included in the scope of work for the grant application:

- Replace the old ballfield lighting with new LED lighting
- Repair various structures associated with the Little League field, including the scorer's booth, concessions building, and bathrooms.
- Retrofit bathrooms for ADA accessibility
- Replace dugout benches with new
- Construct new Tot Lot
- Replace old picnic tables and benches with new

These improvements are estimated to cost approximately \$225,000. The LWCF program can provide 50% of that amount if the application is successful. The City must provide the other 50% (currently estimated to be \$113,000) with local funds. The grant is a reimbursement only program. If the City is a successful recipient of the grant funds it must provide full financing of the project initially and request reimbursement after the work is completed.

The LWCF grant program requires that the application be accompanied with a resolution from the City Council which binds the City to the following:

- Approval of the application for LWCF grant funds
- Commitment to provide matching funds
- Upon completion of the project, Abbe Park will be placed under federal protection, preserving the park's use for outdoor recreation in perpetuity
- Appointment of City Manager as the agent representing the City to conduct all negotiations and execute and submit applicable documents, contracts, and payments pertaining to the project and grant program

The application deadline is June 1, 2023. The City will be notified of the decision to provide grant funds in approximately 6 months from the application deadline date.

FISCAL IMPACT:

The City has \$190,000 of General Fund Reserves in the FY 2022/23 budget for this effort.

ATTACHMENTS:

1. Resolution approving the grant application
2. Exhibit showing proposed improvements

RESOLUTION NO. 2023-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA
APPROVING THE APPLICATION FOR GRANT FUNDS AVAILABLE THROUGH
THE LAND AND WATER CONSERVATION FUND FOR THE “ABBE PARK
RENOVATION” PROJECT**

WHEREAS, the Congress under Public Law 88-578 has authorized the establishment of a federal Land and Water Conservation Fund Grant-In-Aid program, providing matching funds to the State of California and its political subdivisions for acquiring lands and developing Facilities for public outdoor recreation purposes; and

WHEREAS, the California Department of Parks and Recreation is responsible for administration of the program in the State, setting up necessary rules and procedures governing applications by local agencies under the program; and

WHEREAS, The City desires to upgrade the facilities at Abbe Park to improve multi-generational access and to enhance the amenities for park users; and

WHEREAS, the City certifies by resolution the approval of the application and the availability of eligible matching funds prior to submission of the application to the State; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of San Juan Bautista;

1. Approves the filing of an application for Land and Water Conservation Fund assistance for the proposed; ABBE PARK RENOVATION PROJECT;
2. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Grant Administration Guide; and
3. Agrees to abide by 54 U.S.C. §200305(f)(3) which requires, “No property acquired or developed with assistance under this section shall, without the approval of the National Secretary of the Interior, be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location.”
4. Certifies that said agency has matching funds from eligible source(s) and can finance 100 percent of the project, which up to half may be reimbursed; and
5. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.
6. Appoints the CITY MANAGER as agent of the applicant to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws which may be necessary for the completion of the aforementioned project.

PASSED AND APPROVED this 16th day of May, 2023 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

Leslie Q. Jordan, Mayor

ATTEST:

Elizabeth Soto, Deputy City Clerk



CITY OF SAN JUAN BAUTISTA CITY COUNCIL STAFF REPORT

DATE: MAY 16, 2023

DEPARTMENT: ADMINISTRATION

FROM: BRIAN FOUCHT, ASSISTANT CITY MANAGER

TITLE: PROFESSIONAL SERVICES CONTRACT: 6TH CYCLE HOUSING ELEMENT

RECOMMENDED ACTION:

Approve a Resolution authorizing the City Manager to approve a Professional Services Contract with Realty Group Inc. to prepare and obtain Certification of the City of San Juan Bautista 6th Cycle Housing Element Update (2024-2031).

BACKGROUND INFORMATION:

State law requires housing elements to be updated periodically, and the most recent update is due on December 31, 2023. This will update the current Housing Element 2019-2023. Approval by December 31, 2023 will enable the City to revert to the standard eight-year housing element cycle, rather than the current 4-year cycle.

DISCUSSION

The overall budget for this project was established at \$175,000 during the mid-year budget review. An RFP was issued in early March with a due date of March 31. The City received several inquiries, and two responses: Realty Planning Group Inc., and EMC Planning Group. EMC proposed a budget of \$296,501. Realty proposes a budget of \$134,880 (includes an amount for preparation of a Fair Housing Analysis). Both proposals contained the same tasks, schedule and CEQA documentation are represented in each of the proposals. While Realty has more limited experience compared to EMC, rates and costs for nearly all tasks are substantially lower by one-half or more for each task. This is primarily due to Realty's significantly lower hourly rate. The basis for the staff recommended selection is the overall lower cost, which retains funds for any contingency resulting from HCD 90 - day review required prior to adoption by the City. In addition, staff will likely request a separate professional services contract for review of the administrative draft element in July, 2023 prior to submittal to HCD in August, 2023.

RESOLUTION NO. 2023-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA
APPROVING A CONTRACT WITH REALTY PLANNING GROUP TO PROVIDE
SERVICES TO PREPARE A HOUSING ELEMENT**

RECITAL

A. The City Council of the City of San Juan Bautista has reviewed the Realty Planning Group proposal to provide services to update the City's Housing Element.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN JUAN
BAUTISTA, CALIFORNIA, DOES RESOLVE AS FOLLOWS:**

SECTION 1. The proposal is hereby approved and the City Manager is authorized to execute a Contract on behalf of the City.

PASSED AND APPROVED on this 16th day of May 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

Leslie Q. Jordan, Mayor

ATTEST:

Deputy City Clerk Elizabeth Soto

AGREEMENT FOR PROFESSIONAL SERVICES

PREAMBLE

This Agreement for the performance of professional services ("Agreement") is made and entered into on this ____ day of _____ ("Effective Date"), by and between the City of San Juan Bautista, with its principal place of business located at 311 2nd Street / P.O. Box 1420, San Juan Bautista, CA 95045 ("City") and Realty Planners Group, Inc ("Consultant"). City and Consultant may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

WHEREAS, City desires to secure professional services as described in Exhibit "A" entitled "Scope of Services and Fee Schedule"; and

WHEREAS, Consultant hereby represents that it possesses and will maintain the professional qualifications and expertise to provide Professional Services necessary to obtain Certification by The State of California Department of Housing and Community Development (HCD) of San Juan Bautista 6th Cycle Housing Element.

WHEREAS, the Parties have specified herein the terms and conditions under which such services will be provided and paid for.

NOW, THEREFORE, the Parties hereto agree as follows:

AGREEMENT PROVISIONS

1. SCOPE OF SERVICES

Services are described in Exhibit "A", entitled "Scope of Services and Fee Schedule". All of the exhibits referenced in this Agreement are attached and incorporated by this reference.

2. TERM OF AGREEMENT

- A.** Consultant will begin providing the Services described herein upon receipt of an executed Agreement from City.
- B.** Unless extended by mutual written agreement of Parties, or terminated earlier in accordance with this Agreement, Consultant's obligation to perform Services shall commence as described above in paragraph 2A and shall continue in full force and effect until satisfactory completion of all Services.

3. RESPONSIBILITY OF CONSULTANT

Consultant shall be responsible for the quality, technical accuracy, and coordination of Services furnished under this Agreement. Consultant will endeavor to provide Services in a manner consistent with the level of care and skill ordinarily exercised by other professionals providing the same service in the same locale. Consultant shall be solely responsible to City for the performance of Consultant, and any of its employees, agents, subcontractors, or suppliers under this Agreement.

Compliance with Laws. Consultant shall use the standard of care in its profession to comply with all applicable federal, state, and local laws, codes, ordinances, and regulations.

4. RESPONSIBILITY OF CITY

- A.** On behalf of City, the City Manager shall be City's authorized representative and will ensure all required budget, purchase orders, service orders and any other internal documentation necessary to comply with the terms of this agreement are properly and timely prepared in order to enable Consultant to continue services according to terms of Agreement.
- B.** On behalf of City, the City Manager or designee shall be City's authorized representative in the interpretation and enforcement of all work performed in connection with this Agreement. The City Manager shall render decisions in a timely manner pertaining to documents submitted by Consultant in order to avoid unreasonable delay in the orderly and sequential progress of Consultant's services. The City Manager or designee may delegate authority in connection with this Agreement to designees. Consultant shall promptly comply with instructions from City Manager and/or his/her designees.

5. PAYMENT OF COMPENSATION

- A.** In consideration for Consultant's performance of Services, City shall pay Consultant pursuant to Consultant's Standard Rate Schedule, the current version of which is outlined in the attached Exhibit "A", entitled "Scope of Services and Fee Schedule." Payments made by City under this Agreement shall be the amounts charged for Services provided and billed by Consultant, subject to verification by City, pursuant to the standard rates set forth in the Fee Schedule. Consultant may begin services prior to the effective date of this Agreement at its own risk, with the understanding that, upon City approval, City may choose to compensate Consultant for services performed prior to Council authorization, within the limits of the City Manager's authority.
- B.** Consultant shall bill City on a monthly basis for Services provided by Consultant during the preceding month, subject to verification by City. Payment to Consultant for Services will be made within thirty (30) days of date of Consultant

invoice. Amounts unpaid 60 days after invoice date shall bear interest at the rate of 1% per month.

- C. The total disbursement of payments for this contract in its total shall not exceed \$175,000 (One Thousand, One-hundred seventy five Fifty - Thousand Dollars).

6. RIGHT TO TERMINATION

Both parties reserve the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days written notice to the other party. As of the date of termination, Consultant shall immediately cease all services hereunder, except such as may be specifically approved by both Consultant and City's authorized representative after termination has been noticed under this provision ("windup services"). Consultant shall be entitled to compensation for all services rendered prior to termination, and any agreed-upon windup services.

7. NO ASSIGNMENT OF AGREEMENT/SUCCESSORS IN INTEREST

This Agreement is a contract for professional services. City and Consultant bind themselves, their partners, successors, assigns, executors and administrators to all covenants of this Agreement. Except as otherwise set forth in this Agreement, no interest in this Agreement shall be assigned or transferred, either voluntarily or by operation of law, without the prior written approval of both parties.

8. NO AUTHORITY TO BIND CITY

Consultant shall not have authority, expressed or implied, to act on behalf of City as an agent, or to bind City to any obligations whatsoever, unless specifically authorized in writing by the City Manager or his/her authorized representative.

9. NO THIRD PARTY BENEFICIARY

This Agreement shall not be construed to be an Agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

10. CONSULTANT IS AN INDEPENDENT CONSULTANT

It is agreed that in performing the work required under this Agreement, Consultant and any person employed by or contracted with Consultant to furnish labor and/or materials under this Agreement is neither an agent nor employee of City. Consultant has full rights to manage its employees subject to the requirements of the law.

11. CONFIDENTIALITY OF MATERIAL

All memoranda, specifications, plans, data, drawings, descriptions, documents,

discussions or other information received by or for Consultant and all other written information submitted to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant and shall not, without the prior written consent of City, be used for any purposes other than the performance of the Services nor be disclosed to an entity not connected with performance of the Services. Nothing furnished to Consultant, which is otherwise known to Consultant or becomes generally known to the public or is of public record, shall be deemed confidential. Nothing under this Agreement shall be construed to interfere with the City's performance of its obligations under the CA Public Records Act.

12. RIGHT OF CITY TO INSPECT RECORDS OF CONSULTANT

City, through its authorized employees, representatives or agents shall have the right during the term of this Agreement and for three (3) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Consultant for the purpose of verifying any and all charges made by Consultant in connection with Consultant's compensation under this Agreement, including termination of Consultant. Consultant agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to City. City shall disallow any expenses not so recorded.

Consultant shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Consultant agrees to assist City in meeting City's reporting requirements to the State and other agencies with respect to Consultant's Services hereunder.

13. CORRECTION OF SERVICES

Consultant will be given the opportunity and agrees to correct any incomplete, inaccurate or defective Services at no further cost to City, when such defects are due to the negligence, errors, or omissions of Consultant.

14. FORCE MAJEURE

The time for performance of services to be rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of Consultant, including, but not restricted to, acts of God or of any public enemy, acts of the government, fires, earthquakes, floods, epidemic, quarantine restrictions, riots, strikes, freight embargoes and unusually severe weather if Consultant shall, within ten (10) days of the commencement of such condition, notify the City Manager, who shall thereupon ascertain the facts and extent of any necessary delay, and extend the time for performing services if such delay is not the fault of Consultant. City Manager's determination in this respect shall be final and conclusive upon the parties to this Agreement.

15. FAIR EMPLOYMENT

Consultant shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, condition of physical handicap, religion, ethnic background, or marital status, in violation of state or federal law.

16. HOLD HARMLESS/INDEMNIFICATION

Consultant agrees, to the fullest extent permitted by law, to indemnify and hold harmless City from any and all losses, damages, liabilities or costs (including reasonable defense costs recoverable under applicable law on account of negligence) resulting from third-party claims to the extent caused by Consultant's recklessness, willful misconduct, or Consultant's negligent acts, errors or omissions in the performance of Services under this Agreement or that of anyone for whom Consultant is legally responsible, except to the extent caused by City's negligence, recklessness or willful misconduct or that of anyone for whom City is legally responsible. For the purposes of this Agreement, to the extent applicable, the provisions of California Civil Code Section 2782.8 are incorporated herein by reference.

17. INSURANCE REQUIREMENTS

A. Without limiting Consultant's indemnification of City, and prior to commencing any Services required under this Agreement, Consultant shall purchase and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverage's, provisions and endorsements:

1. Commercial General Liability Policy (bodily injury and property damage):
Policy limits are subject to review, but shall in no event be less than, the following:
\$1,000,000 Each Occurrence
\$1,000,000 General Aggregate
\$1,000,000 Products/Completed Operations Aggregate
\$1,000,000 Personal Injury
2. Comprehensive Business Automobile Liability Insurance Policy with policy limits at minimum limit of not less than one million dollars (\$1,000,000) each accident using. Liability coverage shall apply to all owned, non-owned and hired autos.
3. Professional Liability Insurance: One Million Dollars (\$1,000,000) limit per occurrence or claim and Three Million Dollars (\$3,000,000) annual aggregate limit covering Contractor's wrongful acts, errors and omissions.

B. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Consultant, shall, at its sole cost and expense, purchase and maintain not less than the minimum insurance coverage with endorsements and deductibles indicated in this Agreement. Consultant shall file with City all certificates for required insurance policies for City's approval as to adequacy of insurance protection.

C. ADDITIONAL INSURED ENDORSEMENT

General liability insurance shall include endorsements that:

- a. Identify the policy number;
- b. Include a statement that "the City of San Juan Bautista, including its officers, employees and volunteers are additional insureds";
- c. Include a statement that the insurance shall be primary and that the insurance shall not be cancelled except upon prior written consent to City (30 days prior);
- d. Endorsements must be signed by the insurance City or broker, and provided to the City;
- e. Any deviations from the above insurance requirements must be approved by the City's counsel.

18. AMENDMENTS

It is mutually understood and agreed that no alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the Parties and incorporated into this Agreement. Such changes, which are mutually agreed upon by City and Consultant, shall be incorporated via amendments to this Agreement.

19. WAIVER

No term or provision hereof shall be deemed waived and no default or breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented to such breach. The consent by any party to, or waiver of, a breach or default by the other, shall not constitute a consent to, waiver of, or excuse for, any other different or subsequent breach or default

The failure of either party to insist upon or enforce strict conformance by the other party of any provision of this Agreement or to exercise any right under this Agreement shall not be construed as a waiver or relinquishment of such party's right unless made in writing and shall not constitute any subsequent waiver or relinquishment.

20. INTEGRATED DOCUMENT - TOTALITY OF AGREEMENT

This Agreement embodies the Agreement between City and Consultant and its terms and conditions. No other understanding, agreements, conversations, or otherwise, with any officer, agent, or employee of City prior to execution of this Agreement shall affect or modify any of the terms or obligations contained in any documents comprising this Agreement. Any such verbal agreement shall be considered as unofficial information and in no way binding upon City.

All exhibits referred to in this Agreement and any addenda, appendices, attachments, and schedules to this Agreement which, from time to time, may be referred to in any duly executed amendment hereto, are by such reference incorporated in this Agreement and will be deemed to be a part of this Agreement.

21. SEVERABILITY CLAUSE

In the event any one or more of the provisions contained herein shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions which shall remain in full force and effect.

If any part of this agreement is for any reason held to be excessively broad as to time, duration, geographical scope, activity or subject, it will be construed, by limiting or reducing it, so as to be enforceable to the extent reasonably necessary for the protection of the City.

22. NOTICES

All notices to the Parties shall, unless otherwise requested in writing, be sent to City addressed as follows:

City Manager
City of San Juan Bautista
311 2nd Street / P.O. Box 1420
San Juan Bautista, CA 95045

And to Consultant addressed as follows:

Issac George
Realty Planners Group, Inc.
3258 Alta Vista Drive
Fallbrook, CA 92028

23. STATUTES AND LAW GOVERNING CONTRACT

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California.

24. WAIVER OF CONSEQUENTIAL DAMAGES

City and Consultant mutually agree to waive all claims of consequential damages arising from disputes, claims, or other matters relating to this Agreement.

25. DISPUTE RESOLUTION

- A. Unless otherwise mutually agreed to by the Parties, any controversies between Consultant and City regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach, shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party.
- B. The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request that the Superior Court of San Mateo appoint a mediator. The mediation meeting shall not exceed one day or eight (8) hours. The Parties may agree to extend the time allowed for mediation under this Agreement.
- C. The costs of a mediator shall be borne by the Parties equally, and each Party shall bear its own costs incurred in connection with mediation, including but not limited to attorneys' fees.

26. VENUE

In the event that suit shall be brought by either Party, the Parties agree that the venue shall be exclusively vested in the State Courts of the County of San Mateo or where otherwise appropriate, exclusively in the United States District Court, Northern District of California, San Francisco.

27. SIGNATURES

The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Consultant and City.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

Approved as to form:

“City”

City of San Juan Bautista

“Consultant”

NAME

Don Reynolds
City Manager

Issac George, Realty Planners Group, Inc.

Exhibit A
Scope of Services and Fee Schedule

The following are services and fees:

Timeline* & Budget (Flat Rate, Not-to-Exceed Costs).						
No.	Timeline	Task	Hours	Rate (\$)	Total (\$)	Staff
1.	April – Dec. 2023	Task 1: Project Management and Coordination	40	120	4,800	Geo
2.	April – Jul. 2023	Task 2: Community Outreach	40	120	4,800	Geo
3.	April – July 2023	Task 3: Housing and Special Housing Needs	80	120	9,600	Geo
4.	April – July 2023	Task 4: Housing Constraints	50	120	6,000	Geo
5.	April – July 2023	Task 5: Current Housing Element Review	72	120	8,640	Geo
6.	April – July 2023	Task 6: Site Inventory	80	120	9,600	Geo
7.	April – July 2023	Task 7: Goals, Policies, Programs, Quantified Objectives	40	120	4,800	Geo
8.	July 2023	Task 8: Rezoning – identification of sites (Optional)	32	120	3,840	Geo
9.		Task 9: Housing Element Updates and Public Hearings				
10.	July 2023	Task 9.1: Administrative Drafts – Staff Review	75	120	9000	Geo
11.	August 2023	Task 9.2: Public Review Draft (30-days review)	60	120	7,200	Geo
12.	August 2023	Task 9.3: HCD Review Draft (90 days review).	40	120	4,800	Geo
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14.	Nov. – Dec. 2023	Task 9.5: Final Housing Element for Certification (60 days review).	10	120	1,200	Geo
15.	August 2023	Task 10: Environmental Document (CEQA Exemption/IS/MND).	90	120	10,800	Geo
16.	May – July 2023	Task 11: Fair Housing Analysis (Optional)	375	120	45,000	Geo
17.		TOTAL COST (\$)	1124	120	134,880	
18.	* The time-line will be fine-tuned based on contract approval date and city's expectations.					

EXHIBIT - A

San Juan Bautista 6th Cycle Housing Element -
Scope of Work, Budget and Schedule

SCOPE OF WORK

Realty Planners Group (RPG) has a very clear understanding of the goals set forth by the City of San Juan Bautista upon a Project Consultant. We have thoroughly reviewed the goals and objectives of the RFP and we will meet or exceed the City's expectations in terms of the content, timeliness, and cost.

RPG's primary role will be to conduct public meetings; assist in public hearings; and to prepare the work products required by the RFP.

The 6th Cycle Housing Element will address all new housing laws applicable since the last update and will be submitted for certification by the California Housing and Community Development Department (HCD).

The following tasks are anticipated in successfully completing the work products.

Task - 1: Project Management and Coordination.

The hallmark of our service is cost-effectiveness, work quality (quality of task completion, interactions and deliverables), and the proven ability to complete a legally-sufficient, state-certifiable Housing Element on-time, and on budget.

Our approach is to work closely with city staff by arranging monthly zoom meetings and/or monthly reports presenting milestones achieved and the timeline for completion of project activities, telephone conferences, email exchanges, etc.

Early consultation and on-going progress updates with State HCD will also be made. Having completed several Housing Elements, we have developed a great working relationship with HCD staff.

RPG will attend, present, and participate in at least 8 meetings which may include City

Council meetings/hearings, public and stakeholder meetings, zoom meetings, etc.;

RPG will prepare public meeting presentation materials, memos, letters, resolutions, findings of fact, CEQA notices, and other documents as required by the city;

RPG will provide regular e-mail progress reports to the project manager; and

RPG will assist in the preparation of staff reports and exhibits to the City Council; and

RPG will coordinate with City Staff and HCD as necessary.

RPG will work with City staff to finalize a project schedule within 10 working days after the kickoff meeting that includes tasks and milestones for certification of the Housing Element by HCD. The schedule will include timelines for responses to HCD review and HCD certification of the Housing Element as well as City staff review times. The project schedule will be confirmed and/or modified by the Consultant and submitted to the City Project Manager.

RPG will meet with city staff, in person or by zoom, to collect information needed for the project, discuss the project budget and timeline, including major milestones to be completed. We will prepare a memorandum on data needs, including digital data files of base maps, General Plan maps, and other maps available from the city. City-specific data available from HCD's 6th Cycle data package, HCD's RHNA figures, Decennial Census Surveys, American Community Surveys, and data from the city will be incorporated in to the housing element.

Deliverable(s):

Initial Project Schedule, Monthly Schedule Updates.

Task - 2: Community Outreach and Engagement.

Government Code Section 65583(c)(7), require that jurisdictions “...shall make a diligent effort to achieve participation of all economic segments of the community in the development of the housing element.”

RPG will submit an outreach program to the City for review, comment, and approval.

RPG will initiate a Community Outreach, in coordination with City staff, to solicit feedback from residents and stakeholders in a meaningful way. We have experience in engaging with community stakeholders, communicating complex material, forming consensus, and sharing key visions that lead to actionable goals. Those visions will be created from the ground up, using a series of steps:

1) Inform and educate residents, business owners, community organizations, and the civic leaders about housing laws, the City’s housing needs, and receive input on key issues and their suggestions; (2) and ensure that all stakeholders, including hard-to-reach or typically underrepresented populations, such as low-income and ethnically diverse groups, are able to participate in the visioning and plan-making process.

In preparation of these meetings, we will support city staff in creating stakeholder contact mailing lists, develop workshop notices/flyers, sign-in sheets, create workshop exhibits and presentations as necessary. At a minimum, we have identified and will work with the following stakeholders:

San Benito Housing Authority, Aging and Disability Resource Connection of San Benito County, Chamber of Commerce, School Districts, Salvation Army, California Rural Legal Assistance, ChangeLab Solutions, San Benito County Public Health Services Department, Local Government Commission, Habitat for

Humanity, and the Center for Race, Poverty and Environment.

Considering any emerging public health emergencies or restrictions, imposed as a result of the Covid pandemic, we could arrange online meetings via zoom, if needed, in consultation with staff.

We expect to receive input from community stakeholders on homelessness, income limitations, housing shortage, barriers to affordable housing, senior housing, and such other important matters that would guide the city in preparing a housing element compliant with state housing laws.

To ensure that everyone understands the planning process and will be heard, the community workshops can be conducted with a Spanish interpreter.

Public Workshops:

RPG will propose and implement an appropriate community outreach program that meets State HCD standards and meaningfully engages a broad array of community interests in the Housing Element update process. We will prepare outreach materials for distribution and communication/advertising purposes and provide an overview of Community Outreach strategies to be used for this project. Community Outreach and engagement will include at least four (4) community meetings/workshops, two (2) stakeholder meetings, and one (1) Joint PC/CC meeting, in addition to four (4) public hearings/meetings before the Planning Commission and City Council as required.

RPG will prepare presentation materials and facilitate initial meeting(s) to provide the public the legal requirements for the Housing Element. Further, we will explain about the outreach process, technical analysis, and goals and objectives, and examples of potential ac-

tion plans that may be presented in the Housing Element.

Public workshop notice will be prepared in English and Spanish and published at City Hall, local library, and in newspapers of general circulations, and in the City's Facebook page. Copies will also be mailed to the stakeholder list identified herein.

Stakeholder Focus Group:

RPG will prepare (or receive from City) a list of stakeholders representing low- and moderate-income residents to discuss housing problems faced and resources needed; housing consumers and service providers, such as tenants in units at risk of conversion to market-rate, health- and human-service providers, homeless-shelter and mental-health service providers, places of worship, seniors, farm-workers, and non- and for-profit affordable housing developers to seek housing needs and conditions information; advocates or groups with housing interests early in the process, so they can share their ideas on how to meet need the housing needs of those they represent. These groups are often the ones who provide written comments during the housing-element review process. Including them early in the housing-element development process will help to resolve issues or concerns during the development of the element.

In addition, as a part of the general public workshop, we will strive to invite other stakeholder groups into the housing-element development and implementation processes. These might include local or regional business groups such as the local chamber of commerce, which is concerned about the availability of housing for employees and how housing availability affects regional economic growth. Other stakeholders could include grassroots, community-based organizations, neighborhood associations, homeowner/resident organizations, and civic groups, such as the League of Women Voters, and rotary clubs.

We will consult with staff and receive advice on how best to conduct these meetings and modify the program as per the advice received.

Task – 3: Housing and Special Housing Needs.

Government Code Section 65583(a)(3) requires local governments to prepare an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

The City's RHNA numbers are developed by HCD. We will work with HCD on RHNA requirements and other data needs, as needed.

While the City does not have to build these units at its own cost, it is obligated to facilitate the construction of housing units for the different income groups by permitting it in appropriate land use zones which allow such uses. Our analysis will look at the sufficiency of zoned lands to accommodate this need and suggest methods to rezone additional properties to meet those needs.

RPG will incorporate jurisdiction-specific graphs and write-ups for all required data, including population, demographic, housing, market conditions and regional comparisons.

RPG will complete an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs in conformance with Government Code section 65582(a) and in compliance with HCD's Completeness Review Check List. We will evaluate housing conditions using the most current data available on demographics and housing in the City, including resources from the U.S. Census Bureau and the California Department of Finance. The gathered data will be used to draft a housing needs assessment that will analyze:

Population growth, demographics, income distribution and employment trends, projections of the locality's existing and projected housing needs, including the share of the regional housing needs, household characteristics, housing stock characteristics, at-risk housing analysis, an analysis of special housing needs, an analysis for energy conservation, disparities in access to opportunities, etcetera.

RPG will review City documents to aid in understanding local conditions and use the Community Outreach efforts to gauge the community's housing needs.

Deliverable(s):

Initial presentation to City Council/PC; Two Community meetings; one stakeholder focus group meetings; and virtual participation opportunities.

Task – 4: Housing Constraints.

RPG will perform an analysis of potential and actual governmental and non-governmental constraints on the preservation, protection or production of housing across all income levels within the city. Governmental constraints include local land use controls, on- and off-site development standards, building and housing codes, permit processing times, permit processing fees, residential development fees, and delays in permit processing that can cause increases in financing cost. Non-governmental constraints, will include land costs, site improvement costs, constructions costs, finance charges, sales and marketing, taxes and profit. Issues such as NIMBYism, lending practices, labor supply issues, etcetera will also be assessed per the new housing laws.

We will draw on information obtained during Community Outreach to identify constraints and further assessment and propose ways to mitigate identified constraints.

Task – 5: Current Housing Element Review.

RPG will review and evaluate the current Housing Element and its programs, including:

- An evaluation of the existing Housing Element's compliance with applicable statutes and current State Housing Law.
- An assessment of the City's progress in meeting existing Housing Element goals, re-zoning programs, and objectives, including RHNA goals;
- A discussion of the effectiveness of the housing program and policies;
- An analysis of the action programs/projects in the existing housing element compared to the actual accomplishments;
- A summary of how these results are important to a revision of the Housing Element.

Deliverable(s):

One (1) electronic copy in Microsoft Word of the Current Housing Element Review and Evaluation Report.

Task – 6: Site Inventory

Site Inventory (AB 1397, AB 1486, AB 686, SB 6:

Several laws were enacted since 2014 that requires additional information on the City's site inventory analysis required in the Housing Element, as follows:

Design and development of the site inventory (SB 6, 2019); Requirements in the site inventory table (AB 1397, 2017 AB 1486, 2019); Capacity calculation (AB 1397, 2017); Infrastructure requirements (AB 1397, 2017); Suitability of non-vacant sites (AB 1397, 2017); Size of site requirements (AB 1397, 2017); Locational requirements of identified sites

(AB 686, 2018); Sites identified in previous housing elements (AB 1397, 2017); Non-vacant site replacement unit requirements (AB 1397, 2017); Rezone program requirements (AB 1397, 2017).

The vacant land inventory available with the City will be used to show capacity for housing development to accommodate the RHNA requirements throughout the eight-year planning period. Using HCD's Housing Element Site Inventory Guidebook, RPG will analyze existing lands, suitably zoned, to meet the RHNA requirements in each income category, and identify additional lands, if needed, to meet any shortfalls. This will include identifying safe assumptions, evaluating sites and analyzing potential policy strategies to increase site capacity, demonstrating development viability (per State law) and inputting the information into HCD's electronic form for submittal with the updated element.

The suitability of Lower Income RHNA sites will also be analyzed for consistency with best practices recommended by HCD, including proximity to transit routes, schools, jobs, parks and daily services.

Further, we will outline potential housing densities/housing types achievable at these sites, provide schematic visualization where currently allowed densities and heights are proposed to be increased, and indicate how the sum of development from the sites, together with Accessory Dwelling Units (ADUs), will help achieve RHNA needs.

Concurrently, necessary changes to the Zoning Ordinance and/or the General Plan to meet RHNA needs will also be made.

We will evaluate the development capacity for each site in view of new laws that significantly increase the potential for ADU development lot splits permitted under SB9. We will discuss ways to comply with the no-net loss provisions (Section 65583.2 of the Government

Code). If the approval of a development at a lower residential density result in the remaining sites capacity becoming inadequate to accommodate the RHNA by income category, a jurisdiction has up to 180 days from the approval to identify, or rezone, "sufficient additional, adequate, and available sites" to accommodate the remaining RHNA for each income category. Sites identified or rezoned must meet the following criteria: Must be considered an adequate site pursuant to the requirements of Government Code section 65583.2., and if the capacity to be replaced was on a site that was zoned by-right pursuant to Government Code section 65863.2 (h) and (i), then the replacement site must also satisfy those requirements. If the remaining sites in the inventory cannot accommodate the unmet RHNA need, the City must rezone other sites regardless of any city-imposed restrictions such as growth management or open space preservation.

We will input the site inventory information into HCD's electronic form for submittal with the updated element.

We will identify any General Plan policy and mapping updates or revisions and/or zoning ordinance to ensure consistency.

AMBAG's HESS Site Selection Tool could be used during the update process. We will consult with AMBAG staff on availability of current data for the city.

Task – 7: Goals, Policies, Programs, and Quantified Objectives.

RPG will build on the existing Housing Element, public input, and the needs and constraints analyses performed to formulate an implementation plan with appropriate and feasible housing policies. Each action program proposed will have a specific objective, time-frame, funding source and the responsible party for implementation/execution. The implementation plan will satisfy the require-

ments of Government Code section 65583(b) and (c), as noted below:

- Ensure that housing opportunities are available for all persons in the city;
- Preserve and improve the existing stock of affordable housing, including at-risk unit;
- Facilitate development of adequate housing to meet the needs of low- and moderate-income households, meeting regional share of goals;
- Mitigate any governmental constraints to housing production, improvement and/or maintenance;
- Ensure consistency with other General Plan elements and community goals; and identify necessary changes to other General Plan elements, the Zoning Code, and regulatory documents to achieve comprehensive compliance with State Housing Law and to provide the city with necessary legislative framework to meet its housing needs and goals.

This task will include ensuring responsiveness to priorities articulated through the community engagement process as well as ensuring internal consistency with other elements of the General Plan. This task will also include identification of other General Plan policy updates or revisions needed to ensure consistency.

Task – 8: Rezoning (Optional)

Based on the housing sites analyses, consultant will work with staff to identify potential areas for rezoning, if necessary. This task will include consideration of the State requirement for maintaining adequate housing sites inventory throughout the planning cycle.

Task - 9: Housing Element Update and Public Hearings.

RPG will analyze the existing Housing Element and amend it consistent with the housing laws that became effective since the last update. We will review the existing general plan, zoning and development codes of the city, and other relevant documents. We will include implementation programs within the Housing Element that will be implemented by the city through future ordinance amendments or other means.

We will recommend implementation programs, where needed, to comply with the provisions are discussed below:

Accessory Dwelling Unit Legislation (SB 229 and AB 494):

- Clarifies that an ADU can be created through the conversion of a garage, carport or covered parking structure.
- Requires special districts and water corporations to charge a proportional fee scale based upon the ADUs size or its number of plumbing fixtures.
- Reduces the maximum number of parking spaces for an ADU to one space.
- Allows replacement parking spaces to be located in any configuration, as a result, of a parking structure conversion to an ADU.
- Authorizes the Department of Housing and Community Development to review and comment on ADU ordinances.
- Defines the term "tandem parking" to mean two or more automobiles.

No-Net-Loss Law (SB 166).

- A jurisdiction A jurisdiction must maintain adequate sites to accommodate its remaining unmet RHNA by each income category at all times throughout the entire planning period.

- A jurisdiction may not take any action to reduce a parcel's residential density unless it makes findings that the remaining sites identified in its Housing Element sites inventory can accommodate the jurisdiction's remaining unmet RHNA by each income category, or if it identifies additional sites so that there is no net loss of residential unit capacity.
- If a jurisdiction approves a development of a parcel identified in its Housing Element sites inventory with fewer units than shown in the Housing Element, it must either make findings that the Housing Element's remaining sites have sufficient capacity to accommodate the remaining unmet RHNA by each income level, or identify and make available sufficient sites to accommodate the remaining unmet RHNA for each income category.
- A jurisdiction may not disapprove a housing project on the basis that approval of the development would trigger the identification or zoning of additional adequate sites to accommodate the remaining RHNA.

Rental Inclusionary Housing Ordinance (AB 1505):

Palmer/Sixth Street Properties, L.P. v. City of Los Angeles (2009) 175 Cal.App.4th 1396, the Second District California Court of Appeal opined that the city's inclusionary housing requirements associated with a specific plan, as applied to rental housing, conflicted with, and were preempted by, a state law known as the Costa-Hawkins Rental Housing Act. (Civil Code, §§ 1954.50 to 1954.535).

The enactment of AB 1505 reaffirms the authority of local governments to include rental units within inclusionary ordinance requirements and adds a limited HCD review, under certain circumstances, of eco-

nomic feasibility studies to demonstrate the ordinance does not unduly constrain the production of housing.

ADUs and JADUs (SB 13, AB 68, AB 881, AB 670, AB 671 and AB 587):

The Legislature updated Accessory Dwelling Unit and Junior Accessory Dwelling Unit (ADU and JADU) law effective January 1, 2021 to clarify various provisions. These include allowing ADUs and JADUs to be built concurrently with a single-family dwelling, opening areas where ADUs can be created in all zoning districts that allow single-family and multi-family uses, modifying fees from utilities such as special districts and water corporations, limited exemptions or reductions in impact fees, and reduced parking requirements.

JADUs are allowed to be created within the walls of a proposed or existing single-family residence and shall contain no more than 500 square feet. They may share central systems, contain a basic kitchen utilizing small plug-in appliances, may share a bathroom with the primary dwelling, all to reduce development costs.

The Housing Accountability Act (AB 678, B 1515, AB 3194, SB 330):

The Housing Accountability Act (HAA), Government Code section 65589.5, establishes limitations to a local government's ability to deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards and contribute to meeting housing need.

Site Inventory (AB 1397, AB 1486, AB 686, SB 6:

Several laws were enacted since 2014 that requires additional information on the City’s site inventory analysis required in the Housing Element, as follows:

Design and development of the site inventory (SB 6, 2019); Requirements in the site inventory table (AB 1397, 2017 AB 1486, 2019); Capacity calculation (AB 1397, 2017); Infrastructure requirements (AB 1397, 2017); Suitability of non-vacant sites (AB 1397, 2017); Size of site requirements (AB 1397, 2017); Locational requirements of identified sites (AB 686, 2018); Sites identified in previous housing elements (AB 1397, 2017); Non-vacant site replacement unit requirements (AB 1397, 2017); Rezone program requirements (AB 1397, 2017).

AB 571, AB 634, AB 290, SB 728, and the 2021 Appellate Court Decision (Density Bonus Laws):

AB 571 prohibits local governments from charging affordable housing impact fees, including inclusionary zoning fees and in-lieu fees, against affordable units in density bonus housing developments.

AB 634 allows a local government to adopt an ordinance requiring an affordability period of more than 55 years in density bonus housing projects. However, these local ordinances cannot impose affordability periods of more than 55 years in developments financed with low-income housing tax credits.

SB 290 makes several changes to density bonus law, including at least 20% of the units for lower income students in a student housing development; Eliminates the ability of local governments to disapprove a developer’s request for an incentive or concession, or a waiver or modification of development standards; Allows one-half space per bedroom for

housing developments with at least 40% moderate income units within a half mile of a major transit stop; Eliminates the requirement that for-sale units for moderate income households must be in a “common interest development” in order to qualify for a density bonus; Clarifies that for purposes of qualifying for a density bonus, the “total units” in a housing development include affordable units that are designated to satisfy local inclusionary housing requirements; Clarifies that for purposes of qualifying for a density bonus, affordable units for very low or lower income households can be either rental or for-sale units. (Affordable units for moderate income households still must be for-sale units and may not be rental units); SB 728 allows developers in for-sale density bonus housing developments to sell affordable units to nonprofit housing corporations instead of selling the units directly to a low- or moderate-income homebuyers.

An appellate court ruled in 2021 that local agencies cannot require density bonus applicants to submit proformas or other documentation required to prove that requested incentives and concessions are necessary to make the housing development financially feasible. However, local agencies can require applicants to show that requested incentives and concessions will result in cost reductions for the project. *Schreiber v. City of Los Angeles*, 69 Cal. App. 5th (2021).

SB 244 (Analysis of Disadvantaged Unincorporated Communities).

SB 244 requires cities and counties to address the infrastructure needs of disadvantaged unincorporated communities (DUCs) in city and county general plans; Local Agency Formation Commission’s (LAFCO) Municipal Service Reviews (MSRs); and annexation decisions.

For cities and counties, Government Code Section 65302.10(a) requires that before the

due date for adoption of the next housing element after January 1, 2012, the general plan land use element must be updated to identify and describe each DUC (Fringe Community and/or Island Community) that exists within the city's sphere of influence (SOI); analyze for each identified community the water, wastewater, storm water drainage, and structural fire protection needs; and identify financial funding alternatives for the extension of services to identified communities.

SB 244 defines a DUC as a place that meets the following criteria: Contains 10 or more dwelling units adjacent or in close proximity to one another where 12 or more registered voters reside (close proximity may be defined as a density greater than 1 unit per acre); is either within a city SOI (also known as a Fringe Community), is an island within a city boundary (also known as an Island Community), or is geographically isolated and has existed for at least 50 years (also known as a Legacy Community); and has a median household income that is 80 percent or less than the statewide median household income for California.

RPG will perform an analysis to identify DUCs within the City SOI. In conducting the analysis, resources will include the SB 244 Technical Advisory (OPR, dated 2/15/2013), the City's General Plan, and documentation from local jurisdictions, agencies, and special districts. Based on available resources, we will ascertain whether or not DUCs exist within the city and whether or not areas of households exist in the immediate vicinity of the city where households earn 80 percent or less of the statewide median household income.

Fair Housing:

All housing elements must now include a program that promotes and affirmatively furthers fair housing opportunities throughout the community. AB 686 (2018) also requires that all housing elements due on or after January 1,

2021, must contain an Assessment of Fair Housing. This must be factored into site inventory and include goals, policies, and/or programs to combat discrimination, overcome patterns of segregation, and foster inclusive communities.

The housing element land inventory and identification of sites must be consistent with a jurisdiction's duty to AFFH and the findings of its Assessment of Fair Housing. These requirements are detailed below:

Include a Program that Affirmatively Furthers Fair Housing and Promotes Housing Opportunities throughout the Community for Protected Classes (applies to housing elements beginning January 1, 2019); prepare an Assessment of Fair Housing; and prepare the Housing Element Land Inventory and Identification of Sites through the Lens of Affirmatively Furthering Fair Housing.

RPG will review and incorporate the findings of the San Juan Bautista County Transportation Commission's fair housing analysis identifying fair housing issues in the City. The analysis is expected to include a constraints analysis, City specific housing and special housing needs and identification of potential goals, policies and programs that could assist in combating identified constraints. RPG use/adapt this material into our analysis and include programs in the Housing Element to mitigate the effects of economic and social disparities in the community. Examples of AFFH programs that would be included are:

Goal 1: Proactively provide resources and education on fair housing rights, responsibilities, and services.

Strategy: Make fair housing educational materials and referral information available on the City's website and at key locations (e.g., City Hall, libraries, etc.) for the public and other community gathering places

Action Plan: Create a webpage and provide information in hard copy at key locations, including locations with exposure to under-represented and populations with disabilities.

Milestone: Provide and populate a fair housing website and provide materials at key City offices and community locations.

Goal 2. Expand and preserve affordable housing opportunities, both rental and for-sale.

Goal 3. Address disproportionate housing needs of minorities and people with disabilities.

Goal 4. Close gaps in transportation to promote fair housing and access to opportunity.

RPG will assist City staff on preparing public presentation materials/exhibits, and provide staff support at meetings, as needed. The public hearing Notices for mailing/ posting/publishing will be mailed by City staff.

Task – 9.1: Administrative Draft

RPG will prepare and submit an administrative draft Housing Element for review by City staff. Once staff edits are complete, the draft Housing Element will be prepared.

Task – 9.2: Public Draft

Senate Bill 215 requires a public comment period of **30 days**, prior to sending the draft for HCD review. A 30-day notice prior to the public hearing on the draft element will satisfy this noticing requirement. We will arrange with the city to post the Draft Housing Element on the City’s website and provide copies during the Community Outreach. Notice inviting comments from Responsible and Trustee Agencies, stakeholders, nearby cities and

the County (those on the City’s mailing list) will also be given at this stage.

Task – 9.3: HCD Review Draft

Subsequent to the exhaustion of the 30-day public review period, the draft shall be submitted to HCD for a **90-day review** and approval. RPG will incorporate HCD desired requirements into the draft such that there would not be any delays in receiving the provisional approval, prior to certification (Certification is provided after adoption of the Housing Element by the City Council).

Deliverables:

One (1) electronic copy in Microsoft Word of the Administrative Draft Housing Element, and Draft Housing Element; PowerPoint; Two (2) public hearings (Final Draft hearings; Final Adoption and Certification).

Task – 9.4: Final Draft for Adoption.

We will present the Final Draft to Planning Commission and City Council at public meetings, incorporate any further input from Planning Commission and/or City Council, and HCD.

The Notice of Public Hearing to Adopt the Housing Element will be published at this stage. Upon adoption of the Final Draft by the City Council, the Housing Element becomes the Final Adopted Housing Element. Subsequently, a copy of the adopted Housing Element and a certified copy the Resolution adopting the Housing Element will be submitted by staff to HCD for certification.

Task – 9.5: Final Housing Element for Certification.

The Final Housing Element will address all comments from Commission, Council and HCD comments. HCD certification could take up to **60 days**.

Deliverable(s):

One (1) electronic copy in Microsoft Word and one (1) electronic PDF copy of the Draft Final and Final Housing Element, Power-Point, and two (2) public hearings.

One (1) electronic copy in Microsoft Word of the Administrative Draft, Screen check, Public Draft and Final CEQA documents.

PART F – TIMELINE AND BUDGET

Task – 10: CEQA Documentation.

(See next page)

Typically, most jurisdictions issue an Exemption or an Initial Study/Mitigated Negative Declaration (IS/MND) for a housing element update. Unlike a comprehensive amendment of the entire general plan, these updates are different components adopted at different times. Corollary changes required in other elements are typically marginal, and not comprehensive, qualifying for lower levels of environmental review. The RFP seeks to also prepare a new Environmental Justice Element, a policy document and jurisdictions have adopted it with Exemptions and IS/MND. Environmental Justice is defined as “the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.” Therefore, our budget reflects preparations of Exemptions (Categorical or Common-Sense) and/or IS/MND, as needed.

RPG will prepare, post, and file all the appropriate environmental documents for compliance with the California Environmental Quality Act (CEQA), including the Initial Study and the Notice of Intent to adopt a Mitigated Negative Declaration (IS/MND). We will be responsible for preparing all notices and mailings for SB 18 and AB 52. The budget proposed will cover the preparation of an IS/MND or lesser level of review.

The City shall file the required CEQA Notice of Determination within five (5) days of the adoption of the Housing Element.

Deliverable(s):

CITY OF SAN JUAN BAUTISTA – HOUSING ELEMENT PROPOSAL FROM REALTY PLANNERS GROUP

Timeline* & Budget (Flat Rate, Not-to-Exceed Costs).						
No.	Timeline	Task	Hours	Rate (\$)	Total (\$)	Staff
1.	April – Dec. 2023	Task 1: Project Management and Coordination	40	120	4,800	George/Melilli
2.	April – Jul. 2023	Task 2: Community Outreach	40	120	4,800	George/Jihane
3.	April – July 2023	Task 3: Housing and Special Housing Needs	80	120	9,600	George/Jihane
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-- END --



Realty Planners Group, Inc.

3258 Alta Vista Road
Fallbrook, CA 92028

Brian Foucht, AICP
Asst. City Manager/CDD
City of San Juan Bautista, CA.

By Email

Dear Brian Foucht,

As we discussed, the State HCD is requiring a full-fledged Fair Housing Analysis, which either are incorporated into the main body of the Housing Element (HE) or, as is mostly done, attached as an Appendix. If a Regional Fair Housing Study including city data were available, we could have integrated the findings into the Draft Housing Element. As we do not have such a study, a city-specific study is needed.

The contents of the Fair Housing Study will be based on the requirements of HCD who would review and approve the Study for completeness. A link to HCD's requirements is as follows: <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing>. Such a study will have to be submitted along with the Draft Housing Element to HCD for review.

The cost of preparing the Fair Housing Study will be 45,000.00 and an amended budget, including timeline, is attached for your consideration. Once we get the approval to go ahead with the Fair Housing Study, we will simultaneously work on the Study and the Draft HE.

If you have any questions about this offer, please contact Issac George at (661) 549-2006 or issac@planninginstitute.org.

Sincerely,

Issac George

Issac George, Director of Planning & Development/CEO
Realty Planners Group, Inc.

Timeline* & Budget (Flat Rate, Not-to-Exceed Costs).						
No.	Timeline	Task	Hours	Rate (\$)	Total (\$)	Staff
1.	April – Dec. 2023	Task 1: Project Management and Coordination	40	120	4,800	George/Melilli
2.	April – Jul. 2023	Task 2: Community Outreach	40	120	4,800	George/Jihane
3.	April – July 2023	Task 3: Housing and Special Housing Needs	80	120	9,600	George/Jihane
4.	April – July 2023	Task 4: Housing Constraints	50	120	6,000	George
5.	April – July 2023	Task 5: Current Housing Element Review	72	120	8,640	George/Melilli
6.	April – July 2023	Task 6: Site Inventory	80	120	9,600	George/Melilli/Jihane
7.	April – July 2023	Task 7: Goals, Policies, Programs, Quantified Objectives	40	120	4,800	George
8.	July 2023	Task 8: Rezoning – identification of sites (Optional)	32	120	3,840	George
9.		Task 9: Housing Element Updates and Public Hearings				
10.	July 2023	Task 9.1: Administrative Drafts – Staff Review	75	120	9000	George/Melilli
11.	August 2023	Task 9.2: Public Review Draft (30-days review)	60	120	7,200	George
12.	August 2023	Task 9.3: HCD Review Draft (90 days review).	40	120	4,800	George
13.	October 2023	Task 9.4: Final Draft for Adoption by Council	40	120	4,800	George
14.	Nov. – Dec. 2023	Task 9.5: Final Housing Element for Certification (60 days review).	10	120	1,200	George/Jihane
15.	August 2023	Task 10: Environmental Document (CEQA Exemption/IS/MND).	90	120	10,800	George/Melilli
16.	May – July 2023	Task 11: Fair Housing Analysis (Optional)	375	120	45,000	George/Melilli/Jihane
17.		TOTAL COST (\$)	1124	120	134,880	
18.	* The time-line will be fine-tuned based on contract approval date and city's expectations.					

Treasurer's Report
For the Nine-Month Period Ended March 31, 2023
(75% of fiscal year)

General Fund ~

General revenues are running at 70% for the year to date. Correspondingly, general fund expenditures are at 58% for the year to date. The net effect is a positive change in general fund balance of \$492k.

Water Enterprise Fund ~

The water enterprise fund revenues are running at 77% for the year to date, and expenses are at 72%. The net effect is a positive change in the water enterprise fund of \$546k.

Sewer Enterprise Fund ~

The sewer enterprise fund revenues are running at 96% for the year to date, and expenses are at 75%. The net effect is a positive change in the sewer enterprise fund of \$443k.

City of San Juan Bautista
Revenues ~ Budget Vs. Actual
For the Nine Month Period Ended March 31, 2023

Item #5E
City Council Meeting
May 16, 2023

REVENUES	FY22	FY23	Annual		YTD	
Fund	Actuals	Actuals	Budget	Difference	75%	Notes
General Fund	1,613,690	1,907,623	2,737,935	(830,312)	70%	
Special Revenue Funds:						
Capital Projects Fund	164,433	2,312,976	3,186,996	(874,020)	73%	B
Community Development	61,626	52,018	404,514	(352,496)	13%	A
COPS	118,869	118,694	100,000	18,694	119%	C
Parking & Restroom Fd	35,487	22,917	26,000	(3,083)	88%	
Gas Tax Fund	72,974	70,890	98,520	(27,630)	72%	
Valle Vista LLD	15,828	19,897	26,529	(6,632)	75%	
Rancho Vista CFD	48,397	49,891	66,521	(16,630)	75%	
Copperleaf CFD	15,718	16,988	22,650	(5,663)	75%	
Internal Service Funds:						
Blg Rehab. & Replace	28,500	28,500	38,000	(9,500)	75%	
Vehicle Replacement	45,000	45,000	60,000	(15,000)	75%	
Enterprise Funds:						
Water						
Operations	833,740	931,633	1,213,800	(282,167)	77%	
Capital	-	-	79,350	(79,350)	0%	B
Sewer						
Operations	920,461	1,132,942	1,185,000	(52,058)	96%	
Capital	-	-	484,352	(484,352)	0%	B
TOTAL Funds	2,361,033	4,802,345	9,730,167	4,927,822	49%	

A ~ These funds are developer derived and are recognized when received.

B ~ The timing of the projects and the related revenue does not always align with the year-to-date percentages.

C ~ COPS revenues are coming in higher than anticipated at the time of budget.

City of San Juan Bautista
Expenditures ~ Budget Vs. Actual

Item #5E
City Council Meeting
May 16, 2023

For the Nine Month Period Ended March 31, 2023

EXPENDITURES	FY22	FY23	Annual		YTD	
<u>Fund</u>	<u>Actuals</u>	<u>Actuals</u>	<u>Budget</u>	<u>Variance</u>	<u>75%</u>	<u>Note</u>
General Fund	1,360,806	1,415,811	2,425,349	(1,009,538)	58%	
Special Revenue Funds:						
Capital Projects Fund	164,433	2,312,976	3,186,996	(874,020)	73%	A
Community Development	420,013	513,105	671,289	(158,184)	76%	
COPS	75,000	75,000	100,000	(25,000)	75%	
Parking & Restroom Fd	-	-	2,500	(2,500)	0%	
Gas Tax Fund	12,958	15,407	19,000	(3,593)	81%	
Valle Vista LLD	52,679	21,390	26,529	(5,139)	81%	
Rancho Vista CFD	35,455	28,071	66,521	(38,450)	42%	
Copperleaf CFD	12,356	14,916	22,650	(7,734)	66%	
Development Impact Fee Funds						
Public/Civic Facility	2,029	2,025	2,700	(675)	75%	
Library	10,129	3,330	4,440	(1,110)	75%	
Storm Drain	2,576	2,574	3,432	(858)	75%	
Park In-Lieu	224	225	300	(75)	75%	
Public Safety	643	639	852	(213)	75%	
Traffic	324	324	432	(108)	75%	
Enterprise Funds:						
Water:						
Operations	599,699	577,272	805,232	227,960	72%	
Capital	96,807	13,475	79,350	65,875	17%	A
Sewer						
Operations	609,801	690,147	923,911	233,764	75%	
Capital	692,804	454,831	484,352	29,521	94%	
TOTAL Funds	2,837,445	4,725,707	8,825,835	4,100,128	54%	

Footnotes:

A ~ Capital fund transfers/costs are budgeted to be incurred by these funds. Since the costs/transfers occur sporadically during the year, they do not always align with the to date percentages, or prior year amounts. Additionally, some projects have been moved to the next fiscal year.

City of San Juan Batista
Check/Voucher Register - Check Register Current Month
From 4/1/2023 Through 4/30/2023

1110 - Operating
Acct. 1948

Effective Date	Check Number	Vendor Name	Matching Document Date	Check Amount
4/3/2023	216596	Able Septic Tank Service	1/18/2023	1,740.00
4/3/2023	216597	Adriana Ambriz	4/3/2023	38.74
4/3/2023	216598	All Clear Water Services	3/31/2023	4,100.00
4/3/2023	216599	AVAYA	4/5/2023	250.66
4/3/2023	216600	Baker Supplies and Repairs	2/10/2023	291.80
4/3/2023	216601	Bill Jacobson Trucking	3/10/2023	435.00
4/3/2023	216602	Citygate Associates, LLC	3/31/2023	21,449.40
4/3/2023	216603	Clark Pest Control	4/1/2023	111.00
4/3/2023	216604	Clear Gov Inc.	3/3/2023	11,330.00
4/3/2023	216605	Cypress Water Services	3/31/2023	11,175.00
4/3/2023	216606	Data Ticket Inc.	2/28/2023	400.00
4/3/2023	216607	Department of Conservation	3/31/2023	162.79
4/3/2023	216608	Hollister Auto Parts, Inc.	3/15/2023	334.65
4/3/2023	216609	Civic Well	2/28/2023	10,078.26
4/3/2023	216610	Mc Kinnon Lumber Co., Inc.	2/28/2023	329.41
4/3/2023	216611	McKim Corporation	3/20/2023	584,113.92
4/3/2023	216612	Monterey Bay Analytical Services	3/21/2023	1,707.00
4/3/2023	216613	MuniBilling	4/1/2023	449.31
4/3/2023	216614	New SV Media	3/31/2023	308.40
4/3/2023	216615	Ridgeline Municipal Strategies, LLC	3/31/2023	7,817.50
4/3/2023	216616	Ross Recreation Equipment, Inc.	3/31/2023	152.97
4/3/2023	216617	True Value Hardware	2/27/2023	261.16
4/3/2023	216618	United Rotary Brush Corporation	1/20/2023	968.70
4/3/2023	216619	Wallace Group	2/28/2023	847.51
4/3/2023	216620	Wendy L. Cumming, CPA	3/31/2023	5,651.25
4/19/2023	216621	4Leaf, Inc.	3/31/2023	1,679.20
4/19/2023	216622	ACWA Health Benefits Authority	5/1/2023	12,950.65
4/19/2023	216623	at&t	4/7/2023	101.36
4/19/2023	216624	att.com	4/1/2023	66.69
4/19/2023	216625	Brian Foucht	3/31/2023	365.14
4/19/2023	216626	ByWater Solutions	5/1/2023	1,050.00
4/19/2023	216627	C & N Tractors	3/22/2023	120.92
4/19/2023	216628	Carmen Lujan	3/17/2023	14.41
4/19/2023	216629	CCMF City Management Foundation	7/1/2023	400.00
4/19/2023	216630	Charter Communications	3/27/2023	581.96
4/19/2023	216631	City of Hollister	3/31/2023	60,103.91
4/19/2023	216632	EMC Planning Group Inc.	3/31/2023	353.10
4/19/2023	216633	Ferguson Enterprises LLC	3/31/2023	51.44
4/19/2023	216634	Hamner Jewell Associates	3/31/2023	679.25
4/19/2023	216635	Herc Rentals	3/10/2023	4,561.00
4/19/2023	216636	Jessica Sin	4/11/2023	36.28
4/19/2023	216637	John Freeman	4/5/2023	148.16
4/19/2023	216638	Leslie Q. Jordan	4/5/2023	49.39
4/19/2023	216639	Mishele NewKirk-Smith	4/3/2023	675.56

City of San Juan Batista
Check/Voucher Register - Check Register Current Month
From 4/1/2023 Through 4/30/2023

1110 - Operating
Acct. 1948

Effective Date	Check Number	Vendor Name	Matching Document Date	Check Amount
4/19/2023	216640	MNS Engineers, Inc.	3/31/2023	9,855.00
4/19/2023	216641	Monterey Bay Air Resources Dist.	3/31/2023	832.00
4/19/2023	216642	Monterey Bay Analytical Services	3/27/2023	2,027.00
4/19/2023	216643	New SV Media	4/7/2023	1,139.80
4/19/2023	216644	P G & E	3/31/2023	11,851.21
4/19/2023	216645	Petty Cash	4/4/2023	165.50
4/19/2023	216646	Ready Refresh	4/13/2023	258.09
4/19/2023	216647	Rx-Tek	2/3/2023	300.00
4/19/2023	216648	San Benito County Communications Div.	1/1/2023	68,436.42
4/19/2023	216649	San Benito County Sheriff	1/1/2023	91,162.48
4/19/2023	216650	San Juan Bautista Historical Society	3/7/2023	570.00
4/19/2023	216651	Sprint	4/7/2023	452.72
4/19/2023	216652	US Bank Equipment Finance	5/7/2023	249.61
4/19/2023	216653	ACWA Health Benefits Authority	5/1/2023	5,051.56
4/28/2023	216654	4Leaf, Inc.	3/31/2023	8,541.43
4/28/2023	216655	AFLAC	4/30/2023	934.44
4/28/2023	216656	C & N Tractors	3/10/2023	2,176.79
4/28/2023	216657	CALNET	4/19/2023	374.60
4/28/2023	216658	Code Publishing Company	3/22/2023	775.50
4/28/2023	216659	Design Line & Granger	4/20/2023	434.82
4/28/2023	216660	EMC Planning Group Inc.	1/31/2023	2,606.29
4/28/2023	216661	Ferguson Enterprises LLC	4/14/2023	42.48
4/28/2023	216662	Herc Rentals	3/11/2023	1,442.18
4/28/2023	216663	KBA Docusys	4/6/2023	405.05
4/28/2023	216664	Kysmet Security & Patrol Inc	1/31/2023	30,377.00
4/28/2023	216665	Monterey Bay Analytical Services	3/3/2023	4,226.00
4/28/2023	216666	Pacific Coast Tree Service	3/31/2023	2,925.00
4/28/2023	216667	Postmaster	4/20/2023	290.00
4/28/2023	216668	Regional Government Services	3/31/2023	2,598.53
4/28/2023	216669	Revize LLC	5/1/2023	1,975.00
4/28/2023	216670	Ridgeline Municipal Strategies, LLC	3/31/2023	5,015.00
4/28/2023	216671	Ross Recreation Equipment, Inc.	4/25/2023	145.32
4/28/2023	216672	Smith & Enright Landscaping	4/30/2023	3,915.00
4/28/2023	216673	Staples	4/12/2023	733.08
4/28/2023	216674	State Compensation Insurance Fund	5/21/2023	5,338.75
4/28/2023	216675	State Water Resources Control Board	5/16/2023	34,800.00
4/28/2023	216676	Tri-County Fire Protection, Inc.	4/20/2023	311.20
4/28/2023	216677	Valero Wex Bank	4/15/2023	<u>1,008.80</u>
Report Total				<u>1,052,236.50</u>

CITY MANAGER MONTHLY REPORT

Budget- (later in this agenda)

The City's Budget is at the heart of everything the City does

Mandatory adoption before July 1 every year

except when there are extenuating circumstances (State of Emergency)

Municipal Code defines that the City Manager is clearly responsible for its preparation and approval

As such, it has been the City Manager's priority for the past month

Budgeted for City Council and Commission Training

Budgeted for Economic Development and Historic Preservation

CITY MANAGER MONTHLY REPORT

Strategic Plan

Referenced in the Budget

Re-organization of Public Safety

Second Public meeting June 2 Friday at the Library at 5

Focus on General Plan Strategies from 2016

Saturday June 3 is an all day event 9-4 at the Library

Innovation Training

Implementation Plan

Will Further inform the Budget as it evolves

Will result in a final report later in the summer

CITY MANAGER MONTHLY REPORT

Responding to the Floods is not over...

The City Manager and MNS have been working weekly with FEMA on two disasters- New Year's Eve and March 10

Worked with the SB County Foundation, Rotary, and Coordinated with the Mission Farms RV Park.

Conducted outreach to help individuals flood victims

Still completing the COVID 19 disaster claim with FEMA

CITY MANAGER MONTHLY REPORT

City's top priority is wastewater & drinking water...

Focus is currently [wastewater...](#)

Project is out to bid-

Pre-bid meeting was well attended on 5.11.23

Completed negotiations for the permanent Agreement w/Hollister

Completed the negotiations for the Utility Easement w/Hollister

Received formal approval from County RMA regarding use of County roads

Advertising for Construction Management and Inspection

Services specifically for this project

Received the final permits needed – Cal Trans

Prepared and submitted schedule change request for the State

Settlement Agreement and EPA Administrative order on Consent

CITY MANAGER MONTHLY REPORT

Wastewater continued...

Finalizing cost sharing with Hollister and County

County has budgeted for asphalt to repave the whole street

Hollister and City are meeting re: the Dark-Fiber Conduit

“Bid Alternate” for sewer project

Dig-Once policy dictates a broad-band conduit to run with the sewer line

Hollister, County and City are discussing its use,

potential lease etc., private partnerships, possible MOU

CITY MANAGER MONTHLY REPORT

Planning Commission

Customer Service Skill training for staff

Review all municipal codes looking for obsolete items to be amended

But act now to review 11-04-030 and temporary businesses

On this agenda

Post “Parklet Plan” is necessary

Included/invited to be part of the Strategic Planning June

Discussed future workshops on various policies

CITY MANAGER MONTHLY REPORT

Other Important Matters...

- Repairs to the Council Chamber Technology were made

- New stove in Community Hall

- Community Hall Acoustics - out to bid

 - Will need to close the building for 5-6 weeks

- Soliciting feedback on Abbe Park Upgrades (on this agenda)

- 3CE on board to help electrify City Fleet (part of the budget)



CITY OF SAN JUAN BAUTISTA CITY COUNCIL REPORT

DATE: MAY 16, 2023

BY: CITY ATTORNEY

TITLE: **REVISING TITLE 13 “VIOLATIONS” BY REPEALING AND REPLACING ARTICLE “NOTICED NUISANCE ABATEMENT PROCEDURE” AND ARTICLE 5 “EMERGENCY NUISANCE ABATEMENT PROCEDURES” OF CHAPTER 1 “ENFORCEMENT” BY ADOPTION OF AN ORDINANCE ENTITLED “ALTERNATIVE PUBLIC NUISANCE ABATEMENT PROCEDURES.”**

During the discussion at the City Council meeting on April 18, 2023, Council Members directed that a draft nuisance abatement ordinance be provided for review. A draft ordinance follows for that purpose.

The City Council may provide by ordinance for the abatement of any nuisance at the expense of the person maintaining it. The applicable sections of the California Government Code are found at §§38773 through 38773.5. The city may establish procedures by ordinance for recovery of abatement and related administrative costs by a nuisance abatement lien on the real property. However, that remedy is not provided by the nuisance abatement procedures now in the Municipal Code which provide for collection of costs incurred by the city in abatement actions through a special municipal assessment collected on the tax roll.

The draft ordinance would provide, in my opinion, certain advantages over the regulatory scheme currently in the Municipal Code, to wit:

- Expansive and operative definitions including what constitutes a nuisance.
- Enumeration of what constitutes abatement costs.
- Would continue to provide for emergency abatement for an immediate threat to public health, safety or welfare.
- Includes provisions for non-owner occupied properties.
- Includes provision for violations of building standards codes life-safety regulations.
- Provides for issuance and recording of notices of violation, notices to abate, post-deprivation notices, stop work notices and notices of refusal to issue permits. An administrative hearing officer may be delegated to conduct appeals with the City Council having the ability to review *de novo* the decision of the hearing officer.
- Provides for alternate procedures to recover abatement costs by a special assessment on the tax roll or through a lien on the real property that is the situs of the violation.
- Provides for the successor in interest to the owner to be required to sign a statement accepting responsibility for the abatement of a violation existing at the time of sale.

The attached ordinance is submitted for purposes of discussion.

-RWR

**Article 4. Alternative Public Nuisance
Abatement Procedures and Remedies**

Section

- 13-1-400 Purpose, effect, authority, and policy
- 13-1-410 Definitions
- 13-1-420 Conditions creating public nuisance
- 13-1-430 Nuisance abatement authority
- 13-1-440 No duty to enforce
- 13-1-450 Duty of owners and occupants; no unlawful activity permitted
- 13-1-460 Administrative civil remedies
- 13-1-470 Notices
- 13-1-480 Service of notices
- 13-1-490 Recordation of notices
- 13-1-500 Administrative hearing
- 13-1-510 Enforcement of abatement order
- 13-1-520 Liability for abatement costs and/or administrative penalties; interest
- 13-1-530 Lien hearing
- 13-1-540 Alternative lien hearing procedure
- 13-1-550 Enforcement by civil action
- 13-1-560 Refusal to issue permits
- 13-1-570 Transfer of title, interest, or possession
- 13-1-580 Remedies cumulative
- 13-1-590 Severability

13-1-400 Purpose Effect, Authority, and Policy.

(A) It is the intent of the City Council of the City of San Juan Bautista in adopting this article to provide alternative procedures that govern the identification and abatement of public nuisances, as well as, the imposition, enforcement, collection, and administrative review of administrative penalties for violation of the San Juan Bautista Municipal Code and/or State laws within the City of San Juan Bautista.

(B) The provisions of this chapter are supplementary to and cumulative with all other remedies provided in the San Juan Bautista Municipal Code and applicable state and

DRAFT FOR DISCUSSION PURPOSES

federal law. Nothing herein shall be read, interpreted or construed in any manner so as to limit any existing right or power of the City of San Juan Bautista or any other authorized governmental entity to enforce city ordinances, abate any and all nuisances, or employ any remedy otherwise available at law or in equity.

(C) Pursuant to the authority granted by Article XI, Section 7 of the California Constitution, and Cal. Gov't Code, §§ 38773.1 and 53069.4, the City Council does enact this article, which shall be known and may be cited as the "Alternative Public Nuisance Abatement Procedures and Remedies."

(D) It is the policy of the City of San Juan Bautista to seek voluntary compliance with these provisions, but to provide an effective means of enforcement if such compliance is not obtained.

13-1-410 Definitions.

The following definitions shall apply to this chapter as written unless context indicates or requires a different meaning.

Abatement. The removal of the condition(s) constituting a nuisance as identified in the notice issued by the enforcing officer.

Abatement Costs. Any costs or expenses, including city staff time reasonably related to the abatement of a public nuisance under this chapter, and shall include, but shall not be limited to, enforcement, investigation, summaries, reports, notices, telephonic contact, correspondence, mailing expense, title search costs, administrative costs, including the total direct and indirect costs of enforcement established by generally accepted accounting principles that are reasonably and necessarily incurred by the city to investigate, inspect, or cure any violation or monitor the recurrence of any violation that is the subject of a notice issued by the enforcing officer, including, but not limited to, scheduling and participation at hearings, hearing officer costs, expenses incurred by the city, and any other costs associated with the removal, abatement or correction of a violation.

City. The City of San Juan Bautista.

City Hearing Officer. A person designated by the City Manager and appointed to the position of Hearing Officer, established by San Juan Bautista Municipal 2-7-130 (C) and who is independently authorized to conduct administrative hearings and issue recommended decisions pursuant to and as authorized by the San Juan Bautista Municipal Code.

Contiguous. Any two legal parcels which share a mutual boundary. Notwithstanding the foregoing, legal parcels shall be considered contiguous, even if they are separated by roads, streets, utility easements or railroad rights-of-way.

Enforcing Officer or Code Enforcement Officer. The City of San Juan Bautista Code Enforcement Officer, Building Official, Building Inspector, Fire Chief, or their

authorized deputies or designee(s). each of whom is independently authorized to enforce this chapter.

Legal Parcel. Any parcel of real property for which one legal title exists that may be separately sold in compliance with the Subdivision Map Act (commencing with Cal. Gov't Code § 66410, Title 7, Div. 2). Where contiguous Legal Parcels are under common ownership or control, such Legal Parcels shall be counted as a single premises for purposes of this article.

Premises. A single, legal parcel of real property. In addition, where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall be counted as a single Premises for purposes of this article.

Responsible Party. An individual or legal entity, or the agent or legal guardian of such individual or entity, whose action or failure to act results in a violation. This term specifically means and includes, but is not limited to, any of the following:

- (1) Any person or entity that causes, maintains, permits, or allows a violation of this article;
- (2) Any person or entity that owns, possesses, or controls any parcel of real property in the city upon which a violation of this article is maintained;
- (3) Any trustee of any trust that holds legal title to any parcel of real property in the city upon which a violation of this article is maintained;
- (4) Any person or entity that owns, possesses, operates, manages, or controls any business within the county that is responsible for causing or maintaining a violation of this article.

13-1-420 Conditions Creating Public Nuisance.

(A) Without limiting any other provision of this code, any and all of the following are hereby declared unlawful and a public nuisance and a violation of this code:

- (1) Any condition, act, or omission declared by any statute of the State of California or any provision of this code to be a public nuisance;
- (2) Any public nuisance known or recognized in common law or equity;
- (3) Any condition that constitutes a nuisance as defined in Cal. Civil Code § 3479;
- (4) Any use or condition of property that:
 - (a) Poses a danger to human life; or
 - (b) Is unsafe or detrimental to the public health, safety, or welfare.
- (5) Any use of land, buildings, or premises established, operated, or maintained contrary to the provisions of any provision of this code or state law;

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(6) Any real property that has been the situs for nuisance activity and/or violations of any provision of this code or any other state or federal law or regulation, including, but not limited to: disturbing the peace, unreasonably loud noise, loitering, harassment of passersby, illegal gambling, prostitution, sale of stolen goods, acts of violence, acts of vandalism, acts of lewd conduct, public urination, illegal drug activity, public drunkenness, drinking alcoholic beverages in public, or excessive littering.

(7) Any condition that constitutes a visual blight to a reasonable person of average sensibilities. For purposes of this chapter, visual blight is any unreasonable or unlawful condition or use of real property, premises, or building exteriors which by reason of its appearance as viewed at ground level from the public right-of-way or from neighboring premises, is detrimental to the property of others or to the value of property of others, offensive to the senses, or significantly degrades the aesthetic appearance of the neighborhood. Visual blight may include, but is not limited to, the keeping, storing, depositing, scattering over or accumulation on the premises any of the following:

(a) Junk, trash, debris, scrap metal, wood, rubbish, or packing materials, including, but not limited to, building, construction, salvage, and/or recyclable material;

(b) Abandoned, discarded or unused objects or equipment, such as furniture, stoves, appliances, refrigerators, freezers, or other household fixtures, cans or containers, or automotive parts and equipment;

(c) Abandoned, wrecked, disabled, dismantled or inoperative vehicles or parts thereof except inoperative vehicles that are not abandoned, are either registered or are certified pursuant to Cal. Vehicle Code § 4604 and are in an active state of renovation or restoration, or are maintained and stored in accordance with Cal. Vehicle Code § 5052;

(d) Stagnant water or abandoned excavations;

(e) The existence of overgrown, dead, decayed, diseased or hazardous trees, and other vegetation, including but not limited to dead agricultural groves which are:

1. Likely to attract rodents, vermin or other nuisances;
2. Constitutes a fire hazard; or
3. Is dangerous to the public safety and welfare.

(f) Any personal property, object, device, decoration, design, fence, structure or clothesline which is unsightly by reason of its condition or its inappropriate location.

(8) Any condition that constitutes an attractive nuisance; those dangerous objects or conditions that, by their nature may attract children or other curious individuals, including, but not limited to, unprotected hazardous or unfilled pools, ponds, ice boxes, refrigerators, freezers, abandoned wells, shafts, septic tanks, or other excavations.

(9) Continuation of any use or activity on any property after a stop work notice has been issued by an enforcing officer.

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(B) Acts, omissions, or conditions in violation of this chapter that continue, exist, or occur on more than one calendar day constitute separate violations on each day. Violations continuing, existing, or occurring on the service date, the effective date, and each day between the service date and the effective date are separate violations. For each day the nuisance continues to exist, a separate administrative penalty shall be imposed.

(C) The City Council of the City of San Juan Bautista of the City of San Juan Bautista finds that certain conditions as defined in this section cause annoyance, inconvenience or damage to the public with respect to the public's comfort, health, safety, welfare and enjoyment of property. It is the purpose and intent of the City Council to define and proscribe those conditions which are injurious to the public and which constitute a public nuisance, having carefully weighed the interests of the public against the interests of private property owners and possessors in the free use of their property.

13-1-430 Nuisance Abatement Authority.

(A) Whenever necessary to investigate and ascertain, and/or to abate any violation of the provisions of this chapter, or whenever there is reasonable cause to believe that there exists a violation of this chapter, the enforcing officer may enter onto any premises or into any building upon presentation of proper credentials to the owner and/or the occupant thereof. Notwithstanding the foregoing, the enforcing officer may enter onto any premises or into any building under authority of warrant issues pursuant to Cal. Code of Civil Procedure §§ 1822.50 *et seq.* All costs incurred by the city in seeking and obtaining an inspection and/or abatement warrant may be recoverable as abatement costs.

(B) Upon discovering a public nuisance as defined in this chapter, the enforcing officer may do any one or more of the following:

- (1) Issue a notice of violation, and record the notice of violation;
- (2) Issue a notice to abate a public nuisance, record the notice to abate, and abate the public nuisance;
- (3) Impose, determine, and collect an administrative civil penalty;
- (4) Issue a stop work order requiring immediate cessation of the use or activity in accordance with this chapter;
- (5) Seek relief from any court to abate the nuisance and/or collect civil penalties and abatement costs through the Office of the City Attorney, without first going through the administrative procedures set forth in this chapter; or
- (6) Notwithstanding any other provision of this chapter, when any nuisance described in §13-1-420 constitutes an immediate threat to public health, safety, and/or welfare, and when the procedures set forth in this chapter would not result in abatement of that nuisance within a short enough time period to avoid that threat, the enforcing officer may direct any officer or employee of the city to summarily abate the nuisance.

The enforcing officer shall make reasonable efforts to notify the responsible parties, but the formal notice and hearing procedures in this chapter shall not apply; however, the enforcing officer shall issue a post-deprivation notice to the responsible parties. The city may nevertheless recover all its costs for abating that nuisance in the manner set forth in this article.

13-1-440 No Duty to Enforce.

Nothing in this chapter shall be construed as imposing on the enforcing officer or the City of San Juan Bautista any duty to issue any notice hereunder, nor to abate any nuisance, nor to take any other action with regard to any nuisance. Neither the enforcing officer nor the City of San Juan Bautista shall be liable for failure to issue any notice hereunder, nor for failure to abate any nuisance, nor for failure to take any other action with regard to any nuisance.

13-1-450 Duty of Owners and Occupants; No Unlawful Activity Permitted.

No person or entity owning, leasing, occupying or having charge or possession of any premises within the incorporated area of the City of San Juan Bautista shall cause, permit, maintain, conduct or otherwise suffer or allow a public nuisance to exist. It shall be the duty of every owner, occupant, and person that controls any land or interest therein within the incorporated area of the City of San Juan Bautista to remove, abate, and prevent the reoccurrence of the public nuisance upon such land. Such duty of an owner shall exist regardless of whether the owner is in actual possession of his or her real property, and may include an obligation to take action to evict or otherwise remove an occupier who creates a public nuisance upon the owner's property. Nothing in this chapter shall be deemed to authorize or permit any activity that violates any provision of state or federal law.

13-1-460 Administrative Civil Remedies.

(A) In addition to any other remedy or penalty prescribed in this chapter, any nuisance violation may be subject to an administrative civil penalty in the following amounts:

- (1) Up to \$1,000 per day, or part thereof, for the first violation.
- (2) Up to \$2,000 per day, or part thereof, for a second violation of the same ordinance within one year;
- (3) Up to \$5,000 per day, or part thereof, for each additional violation of the same ordinance within one year of the first violation;
- (4) Notwithstanding divisions (A)(1) through (A)(3), any nuisance resulting from a violation of local building and safety codes may be subject to an administrative penalty of up to \$130 per day, or part thereof, for the first violation, up to \$700 per day, or part thereof, for a second violation of the same ordinance within one year, and up to \$1,300 per day, or part thereof, for each additional violation of the same ordinance within one year of the first violation;

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(5) Notwithstanding any other provision of this code, any violation of Chapter 5-31, Cannabis Facilities Regulatory Permit, shall constitute a misdemeanor and shall be subject to an administrative penalty of up to \$10,000 per day, or part thereof;

(6) Notwithstanding any other part of this article, any violation of building, plumbing, electrical, or other similar structural, health and safety, or zoning requirements, if the violation exists as a result of, or to facilitate, the illegal cultivation, manufacture, or distribution of cannabis, shall be subject to immediate fines of \$1,000 per day, per violation. However, a reasonable period of time to remedy the violation(s) shall be provided prior to the imposition of such fine if the responsible party proves all of the following are true at a hearing:

(a) A tenant is in possession of the property that is the subject of the administrative action;

(b) The rental property owner or agent can provide evidence that the rental or lease agreement prohibits the cultivation, manufacture, or distribution of cannabis; and

(c) The rental property owner or agent did not know the tenant was illegally cultivating, manufacturing, or distributing cannabis and no complaint, property inspection, or other information caused the rental property owner or agent to have actual notice of the illegal cannabis cultivation.

(7) Notwithstanding any other part of this code, any violation of a stop work notice shall be subject to an immediate fine of \$2,500 per day.

(B) In determining the amount of the administrative penalty, the enforcing officer, or the court if the violation requires court enforcement without an administrative process, shall take into consideration the nature, circumstances, duration, extent, and gravity of the violation(s), any prior history of violations, the degree of culpability, economic impact, impact of the nuisance upon the community, and any other factors as justice may require.

(C) The administrative penalty may be imposed via the administrative processes set forth in this chapter, as provided in Cal. Gov't Code § 53069.4, or may be imposed by the court if the violation requires court enforcement without an administrative process.

(D) In the case of a continuing violation, if the violation does not create an immediate danger to health or safety, or is not subject to immediate fines as set forth herein, the enforcing officer or the court shall provide for a reasonable period of time, not to exceed ten calendar days, for the person responsible for the violation to correct or otherwise remedy the violation prior to the imposition of administrative penalties.

13-1-470 Notices.

Whenever the enforcing officer determines that a public nuisance as described in this chapter exists on any real property within the incorporated area of the City of San Juan Bautista, he or she is authorized to issue any of the following notices in accordance with this chapter:

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(A) *Notice of violation ("NOV")*. The notice of violation shall be in writing and shall:

(1) Identify the responsible parties, including owner(s) of the property upon which the nuisance exists, as named in the records of the San Benito County Assessor, and occupant(s), if other than the owner(s), and if known or reasonably identifiable (collectively, the "recipients");

(2) Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property;

(3) Identify such property by reference to the assessor's parcel number;

(4) Contain a statement that one or more conditions described in §13-1-420 exist on the premises and that it has been determined by the enforcing officer to be a public nuisance as described in this chapter. The statement required under this paragraph shall describe the nuisance conditions with reference to applicable provisions of this code and/or state law upon which the enforcing officer based his or her determination;

(5) Contain a statement that the recipient(s) must abate the nuisance within ten calendar days after the date that the notice of violation was served, describe the action(s) required to abate the nuisance, and set forth the proposed amount of any administrative penalty (per violation, per day) to be imposed if the conditions are not abated within the time stated;

(6) Contain a statement that unless the recipient(s) voluntarily abate the nuisance within the time specified in division (A)(5) of this section, that the enforcing officer may issue additional notices in accordance with this chapter, and may further record the notice of violation on the subject property with the San Benito County Recorder's Office;

(7) Contain a statement that the recipient(s) may request an administrative hearing to determine whether the conditions identified in the notice of violation constitute a public nuisance by submitting a written request to the enforcing officer no later than seven calendar days of the date of the notice of violation. This written request must identify the recipient(s), provide the recipient(s) contact information, and set forth the reason(s) the hearing is requested. If any responsible party properly requests a hearing, they shall be notified when the matter has been set for hearing. Failure of the recipient(s) to appear at the scheduled hearing and present evidence shall constitute a failure to exhaust administrative remedies.

(B) *Notice to abate a public nuisance ("notice to abate")*. The notice to abate a public nuisance shall be in writing and shall:

(1) Identify the responsible parties, including owner(s) of the property upon which the nuisance exists, as named in the records of the County Assessor, and occupant(s), if other than the owner(s), and if known or reasonably identifiable (collectively, the "recipients");

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(2) Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property;

(3) Identify such property by reference to the assessor's parcel number;

(4) Contain a statement that one or more conditions described in §13-1-420 exist on the premises and that it has been determined by the enforcing officer to be a public nuisance as described in this chapter. The statement required under this paragraph shall describe the nuisance conditions with reference to applicable provisions of this code and/or state law upon which the enforcing officer based his or her determination;

(5) Contain a statement that the recipient(s) must abate the nuisance within ten calendar days after the date that the notice of abate was served, describe the action(s) required to abate the nuisance, set forth the proposed amount of any administrative penalty (per violation, per day) to be imposed if the conditions are not abated within the time stated, and the enforcing officer's intent to record a Notice of Pending Nuisance Abatement Proceeding with the San Benito County Recorder in accordance with §13-1-490.

(6) Contain a statement that the recipient(s) may request an administrative hearing to determine whether the conditions identified in the notice of abate constitute a public nuisance by submitting a written request to the enforcing officer no later than seven calendar days of the date of the notice of abate. This written request must identify the recipient(s), provide the recipient(s) contact information, and set forth the reason(s) the hearing is requested. If any responsible party properly requests a hearing, they shall be notified when the matter has been set for hearing. Failure of the recipient(s) to appear at the scheduled hearing and present evidence shall constitute a failure to exhaust administrative remedies.

(7) Contain a statement that, unless the recipient(s) timely abate the nuisance, or show good cause before the City Hearing Officer why the conditions should not be abated, the enforcing officer will abate the nuisance. It shall also state that the abatement costs, including administrative costs, may be made a special assessment added to the county assessment roll and become a lien on the real property, or be placed on the unsecured tax roll in accordance with this chapter.

(C) *Post-deprivation notice.* The post-deprivation notice shall be in writing and shall:

(1) Identify the responsible parties, including owner(s) of the property upon which the nuisance exists, as named in the records of the San Benito County Assessor, and occupant(s), if other than the owner(s), if known or reasonably identifiable (collectively, the "recipients");

(2) Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property;

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(3) Identify such property by reference to the assessor's parcel number;

(4) Contain a statement that one or more conditions described in §13-1-420 existed on the premises and that it was determined by the enforcing officer to be a public nuisance as described in this article. The statement required under this paragraph shall describe the nuisance conditions with reference to applicable provisions of this code and/or state law upon which the enforcing officer based his or her determination, and set forth the proposed amount of any administrative penalty (per violation, per day) to be imposed;

(5) That the enforcing officer summarily abated the nuisance existing on the premises after it was deemed that other administrative procedures would not result in abatement of the nuisance, which constituted an immediate threat to public health, safety, and/or welfare, within a short enough period of time to avoid said threat;

(6) Contain a statement that the recipient(s) may request an administrative hearing to determine whether the conditions identified in the notice of abate constituted a public nuisance by submitting a written request to the enforcing officer no later than seven calendar days of the date of the notice of abate. This written request must identify the recipient(s), provide the recipient(s) contact information, and set forth the reason(s) the hearing is requested. If any responsible party properly requests a hearing, they shall be notified when the matter has been set for hearing. Failure of the recipient(s) to appear at the scheduled hearing and present evidence shall constitute a failure to exhaust administrative remedies.

(D) *Stop work notice.* The stop work notice shall be in writing and shall:

(1) Identify the responsible parties, including owner(s) of the property upon which the nuisance exists, as named in the records of the San Benito County Assessor, and occupant(s), if other than the owner(s), if known or reasonably identifiable (collectively, the "recipients");

(2) Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property;

(3) Identify such property by reference to the assessor's parcel number;

(4) Contain a statement that one or more conditions described in §13-1-420 exist on the premises and that it has been determined by the enforcing officer to be a public nuisance as described in this article. The statement required under this paragraph shall describe the nuisance conditions with reference to applicable provisions of this code and/or state law upon which the enforcing officer based his or her determination;

(5) Contain a statement that the enforcing officer has ordered the immediate cessation of any use or activity constituting a public nuisance, and set forth the proposed amount of any administrative penalty (per violation, per day) to be imposed if the conditions are not abated within the time stated;

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(6) Contain a statement that it is unlawful and a violation of this code for any person to resume any use or activity that the enforcing officer ordered to be stopped, unless the enforcing officer has expressly authorized the recipient(s) to resume the use or activity based upon the recipient(s) written agreement to take corrective action to abate the nuisance;

(7) Contain a statement that the recipient(s) may request an administrative hearing to determine whether the conditions identified in the stop work notice constitute a public nuisance by submitting a written request to the enforcing officer no later than seven calendar days of the date of the stop work notice. This written request must identify the recipient(s), provide the recipient(s) contact information, and set forth the reason(s) the hearing is requested. If any responsible party properly requests a hearing, they shall be notified when the matter has been set for hearing. Failure of the recipient(s) to appear at the scheduled hearing and present evidence shall constitute a failure to exhaust administrative remedies.

(8) Contain a statement that the timely submission of a request for hearing shall not permit the resumption of the use or activity that the enforcing officer ordered to be ceased.

(E) Notice of refusal to issue permits ("refusal to issue"). The refusal to issue shall be in writing and shall:

(1) Identify the responsible parties, including owner(s) of the property upon which the nuisance exists, as named in the records of the San Benito County Assessor, and occupant(s), if other than the owner(s), and if known or reasonably identifiable (collectively, the "recipients");

(2) Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property;

(3) Identify such property by reference to the assessor's parcel number;

(4) Contain a statement that one or more conditions described in §13-1-420 exist on the premises and that it has been determined by the enforcing officer to be a public nuisance as described in this chapter. The statement required under this paragraph shall describe the nuisance conditions with reference to applicable provisions of this code and/or state law upon which the enforcing officer based his or her determination.

(5) (a) If the applicant disagrees with the determination that a violation exists, he or she may request a hearing in accordance with §13-1-500 within 30 calendar days after issuance of the refusal to issue. A written request for hearing shall be submitted to the City Manager.

(b) If any applicant requests a hearing in accordance with this subdivision, they shall be notified in accordance with §13-1-480, when the matter has been set for

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hearing. Failure of the applicant(s) to appear at the scheduled hearing and present evidence shall constitute a failure to exhaust administrative remedies.

(F) *Invoice for abatement costs and/or administrative penalties ("invoice")*. The invoice shall be in writing and shall:

(1) Identify the responsible parties, including owner(s) of the property upon which the nuisance exists, as named in the records of the San Benito County Assessor, and occupant(s), if other than the owner(s), if known or reasonably identifiable (collectively, the "recipients");

(2) Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property;

(3) Identify such property by reference to the assessor's parcel number;

(4) Set forth the amount(s) due and owing for abatement costs, including administrative costs incurred by the county to abate the nuisance and/or administrative penalties imposed, including any interest which has accrued on any amount due under this article from the effective date of the City Council's decision, as set forth in this article;

(3) A demand for payment of said costs, including accrued interest, to be paid within 30 calendar days after service of the invoice;

(4) If said amounts due and owing are not timely satisfied in full, a lien hearing may be held in accordance with §§13-1-530 and 13-1-540.

13-1-480 Service of Notices.

(A) Any notice issued by the enforcing officer in accordance with this chapter may be served in the following manner:

(1) By delivering it personally to the responsible parties. Service shall be deemed to have been completed upon personal delivery;

(2) By certified mail, addressed to:

(a) The owner at the address shown on the last equalized assessment roll or as otherwise known to the enforcing officer; and

(b) To anyone known to the enforcing officer to be in possession of the property at the street address of the property subject to the notice, if the property is capable of receiving mail. Service shall be deemed to have been completed upon the deposit of said notice, postage prepaid, in the United States mail.

(3) In the event that, after reasonable effort, the enforcing officer is unable to serve the notice as set forth above, service shall be accomplished by posting a copy of such notice conspicuously along the frontage of the real property subject to the notice, or if

the property has no frontage, upon any street, highway, or road then upon the portion of the property nearest to a street, highway, or road, or most likely to give actual notice to the owner and any person known by the enforcing officer to be in possession of the property. Service shall be deemed to have been completed upon posting.

(B) The failure to serve any person described in this section shall not affect the validity of service or the validity of any administrative penalties imposed pursuant to this chapter upon any other person.

(C) The failure of any responsible party to receive such notice shall not affect the validity of the proceedings.

(D) Notwithstanding the foregoing, with the consent of a responsible party, notices under this chapter may be provided by electronic mail (e-mail) or any other means reasonably calculated to provide notice.

13-1-490 Recordation of Notices.

(A) *Notice of pending nuisance abatement proceeding.*

(1) Upon issuance of a notice to abate, the enforcing officer may record a notice of pending nuisance abatement proceeding with the San Benito County Recorder and shall notify the responsible parties of such action. A notice of pending nuisance abatement proceeding shall describe the premises and the condition in violation of this chapter.

(2) If a notice of pending nuisance abatement proceeding is recorded, the enforcing officer shall serve and record a notice of final disposition when the nuisance abatement proceeding has been completed, including any appeals and the completion of any work necessary to abate the nuisance.

(B) *Notice of final disposition.* If the work to abate the nuisance is performed at city expense, the notice of final disposition need not be issued until those costs have been paid or a lien for those costs has been recorded in accordance with §§13-1-530 and 13-1-540. A fee shall be paid by the responsible parties for processing the notice of final disposition. The notice of final disposition shall be served upon any party that was served with the notice and order.

(C) *Notice of non-compliance.*

(1) The enforcing officer may record a notice of non-compliance with the San Benito County Recorder on the property which is the subject of a notice under this chapter if:

- (a) The time limit for abatement expires and abatement has not occurred;
- (b) A use or activity continues after issuance of a stop work notice; or
- (c) If a hearing is held, after the city hearing officer has determined responsibility.

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(2) The notice of non-compliance filed with the San Benito County Recorder shall include a copy of the applicable notice as an attachment.

(D) *Notice of compliance.*

(1) Upon completion of all work to abate a nuisance, including securing of permits where required, and payment of all abatement costs and/or administrative penalties imposed pursuant to this chapter, the enforcing officer may record a notice of compliance with the San Benito County Recorder and shall notify the owner(s) of such action.

(E) *Notice of pendency.*

(1) Whenever the city institutes a judicial action or proceeding to enforce a land use ordinance, a notice of pendency of the action or proceeding may be filed with the San Benito County Recorder's Office. The notice of pendency may be filed at the time of the commencement of the action or proceeding and upon recordation of the notice of pendency, shall have the same effect as a notice recorded in compliance with the Cal. Code of Civil Procedure, §§ 405.20 *et seq.*, as amended.

(2) Upon motion of a party to the judicial action or proceeding, the notice of pendency may be vacated upon an appropriate showing of need therefore by an order of a judge of the court in which the action or proceeding is pending.

13-1-500 Administrative Hearing.

(A) If the enforcing officer determines that all violations have been timely corrected, the enforcing officer may clear the notice and no hearing shall be required.

(B) The City Council may delegate its authority to conduct the administrative proceedings set forth in this section to the City Hearing Officer appointed by the City Manager pursuant to §2-7-130(C) of the San Juan Bautista Municipal Code, as amended. The Hearing Officer shall have full authority and duty to preside over hearings in the manner set forth in §2-7-140 of the San Juan Bautista Municipal Code.

(C) *Administrative hearing and recommended decision.* Pursuant to Cal. Gov't Code § 35____, and §2-7-140 of the San Juan Bautista Municipal Code, the City Hearing Officer shall hold an administrative hearing as follows:

(1) A hearing shall be held within 30 days of the city's receipt of a written request for an administrative hearing, unless the parties agree otherwise, and the city shall provide notice of the time, date, and location of the hearing. Hearings may be held virtually at the election of the city.

(2) At the hearing, the City Hearing Officer shall determine:

(a) With respect to a notice of violation:

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1. Whether the conditions existing on the property constitute a nuisance under this chapter;

2. Whether to impose, modify, or disapprove, in whole or in part, any proposed administrative penalties; and

3. Whether the enforcing officer may record any notices.

(b) With respect to a notice to abate:

1. Whether the conditions existing on the property constitute a nuisance under this article;

2. Whether there is any other good cause why those conditions should not be abated;

3. Whether the hearing officer should impose, modify, or disapprove, in whole or in part, any proposed administrative penalties; and

4. Whether the hearing officer should permit the enforcing officer to record any notices.

(c) With respect to post-deprivation notices:

1. Whether the conditions existing on the property constitute a nuisance under this chapter;

2. Whether the conditions existing on the property constituted an immediate threat the public health, safety, and/or welfare such that the alternative procedures set forth in this chapter would not have resulted in abatement of the nuisance within a short enough period of time to avoid said threat;

3. Whether the Hearing Officer should impose, modify, or disapprove, in whole or in part, any proposed administrative penalties; and

4. Whether the means of abatement were reasonable.

(d) With respect to stop work notices.

1. Whether the conditions existing on the property constitute a nuisance under this article;

2. Whether the hearing officer should impose, modify, or disapprove, in whole or in part, any proposed administrative penalties.

(e) With respect to a notice of refusal to issue permits:

1. Whether the conditions existing on the property constitute a nuisance under this chapter.

(3) At the hearing, the responsible parties shall be given an opportunity to present and elicit testimony and other relevant evidence. Failure of the responsible parties to

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appear and present evidence at the hearing shall be deemed a withdrawal of the request for hearing or a waiver of the right to be personally present at the hearing, and shall constitute a failure to exhaust administrative remedies.

(4) In the event that the responsible parties do not appear and present evidence at the hearing, the City Hearing Officer may base its recommended decision solely upon the evidence submitted by the enforcing officer.

(5) Any hearing conducted pursuant to this article need not be conducted according to technical rules relating to evidence, witnesses and hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. The City Hearing Officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

(6) The standard of proof shall be by a preponderance of the evidence and the burden of proof to establish the existence of the nuisance shall be borne by the enforcing official. The burden of proof that the nuisance has been abated shall be borne by the responsible parties.

(7) The City Hearing Officer may continue the hearing from time to time. Prior to a scheduled hearing, the enforcing officer or the responsible parties may submit a written request for continuance to the city hearing officer. The City Hearing Officer shall issue his or her determination by any means likely to provide notice to the parties at the soonest time possible. In the event the request for continuance is granted, the city hearing officer shall also provide the date and time for the rescheduled hearing.

(8) The City Hearing Officer shall consider the matter de novo.

(9) After the hearing, the City Hearing Officer shall issue a recommended decision in the form of a resolution which shall be served in any manner agreed upon by the parties. If no manner is agreed upon, then service shall be by first class mail, postage prepaid, to, or personally served upon, all parties appearing at the hearing and any other parties upon whom the notice was served.

(D) The City Council shall review the following all recommended decisions from the City Hearing Officer as follows:

(1) The city shall promptly present the recommended decision to the City Council. The City Council may adopt the recommendation without further notice of hearing, or may set the matter for a de novo hearing before the City Council.

(2) In the event that the City Council sets the matter for de novo hearing, such hearing shall be held in accordance with the provisions of this section.

(3) The decision of the City Council shall become effective upon issuance thereof and shall be served by first class mail, postage prepaid, or personally served upon, all

parties appearing at the hearing and any other parties upon whom the notice was served. Service shall be deemed to have been completed upon personal service and/or the deposit of said decision, postage prepaid, in the United States mail.

(4) The decision of the City Council shall be final and conclusive.

13-1-510 Enforcement of Abatement Order.

(A) Any responsible party may abate the nuisance or cause it to be abated at any time prior to commencement of abatement by, or at the direction of, the enforcing officer. Such abatement by any responsible party shall not impair the enforcing officer's ability to impose any administrative penalty accrued prior to such abatement.

(B) Notwithstanding the foregoing, whenever the enforcing officer becomes aware that a responsible party has failed to abate any nuisance within 14 calendar days of the date of service of the decision of the City Council requiring such abatement, or such other time specified by the City Council, the enforcing officer may enter upon the property and abate the nuisance by city personnel, or by private contractor under the direction of the enforcing officer. The enforcing officer may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary. If any part of the work is to be accomplished by private contract, that contract shall be submitted to and approved by the City Manager or City Council, as applicable, prior to commencement of work. Nothing herein shall be construed to require that any private contract under this code be awarded through competitive bidding procedures where such procedures are not required by the general laws of the State of California.

(C) The costs of abatement and administrative costs for every abatement carried out under this section may be recovered in accordance with this chapter.

13-1-520 Liability for Abatement Costs and/or Administrative Penalties; Interest.

(A) In any enforcement action brought pursuant to this chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, each responsible party who causes, permits, suffers, or maintains the nuisance to exist shall be personally liable for:

(1) All costs incurred by the city, including, but not limited to, abatement costs, including administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this article, whether those costs are incurred prior to, during, or following enactment of this article. In addition, the prevailing party shall be entitled to a recovery of the reasonable attorneys' fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the city elects, at the initiation of that action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding;

DRAFT FOR DISCUSSION PURPOSES

(2) Any administrative penalty imposed pursuant to this article. In the event that an administrative penalty is imposed pursuant to this article on two or more responsible parties for the same violation, all such responsible parties shall be jointly and severally liable for the full amount of the administrative penalty imposed. Payment of administrative penalties imposed pursuant to this article does not excuse or discharge any continuation or repeated occurrence of the violation. Payment of the administrative penalty does not bar the city from taking any other enforcement action regarding a violation that is not corrected.

(B) Interest shall accrue on all amounts due under this article, from the effective date of the City Council's Decision, as set forth in §13-1-500, to the date paid pursuant to the laws applicable to civil money judgments.

(C) At such time as the information becomes known, the enforcing officer shall make a demand for abatement costs and/or accrued administrative penalty by issuing an invoice in accordance with §13-1-470 to the responsible parties.

(D) Whenever the amount of abatement costs, including administrative costs, incurred by the city to abate the nuisance, or the amount of any administrative penalty imposed pursuant to this article has not been satisfied in full within 30 calendar days after service of the invoice, and/or has not been timely appealed to the Superior Court in accordance with Cal. Gov't Code § 53069.4(b), or if appealed, such appeal has been dismissed or denied, all or any part of, this obligation may constitute a lien against the real property on which the violation occurred in accordance with the procedures set forth in §§13-1-530 and 13-1-540.

(E) In addition to any other remedy, the city may prosecute a civil action through the City Attorney to collect any costs incurred to abate the nuisance and/or any administrative penalty imposed pursuant to this chapter.

13-1-530 Lien Hearing.

At such time as an invoice for abatement costs and/or administrative penalties due and has not timely been paid:

(A) The enforcing officer shall prepare and present a written report of abatement costs and/or administrative penalties ("report") to the City Council stating, as applicable:

(1) For each abatement carried out, an account of the abatement costs, including costs of administration; and/or

(2) For each accrued administrative penalty, the amount of delinquent administrative penalty.

(B) Upon receipt of the report, the city shall serve a written notice of a lien hearing regarding the report, along with a copy of the invoice upon the responsible parties.

(C) At the time and date set for the lien hearing, the City Council shall meet to review and consider the report and any protests or objections to it, and determine whether the

DRAFT FOR DISCUSSION PURPOSES

amounts owed shall be assessed against such parcel or otherwise attempted to be collected from the owner(s) of such parcel.

(D) At the conclusion of the lien hearing, the City Council may make such modifications in the report as it deems necessary and thereafter shall adopt a resolution confirming, modifying, or discharging the lien amount. As part of the resolution, the City Council may order that all or any part of the cost to abate the nuisance pursuant to this article, including the administrative costs, as confirmed by the City Council be placed upon the county tax roll by the San Benito County Auditor as special assessments against the respective parcels of land, or placed on the unsecured roll, pursuant to Cal. Gov't Code §38772.1; provided, however, that the abatement costs, including the cost of administration, as finally determined, shall not be placed on the tax roll if paid in full prior to entry of said costs on the tax roll.

(E) The liens provided herein shall have no force and effect until recorded with the San Benito County Recorder. The city may cause notices of abatement lien and/or notices of administrative penalty lien to be recorded against the respective parcels of real property pursuant to Cal. Gov't Code §38773.1. Upon recordation, the city shall serve, in the manner set forth in §13-1-480, a copy of the recorded notice(s).

(F) Within 30 calendar days following the City Council's adoption of a resolution imposing a lien, the city will file the judgment lien in the San Benito County Recorder's Office.

(G) Once recorded, any costs or penalties not specially assessed by the City Council pursuant to this section shall have the same force and effect and priority of a judgment lien governed by the provisions of Cal. Code of Civil Procedure § 697.340, and may be extended as provided in Cal. Code of Civil Procedure §§ 683.110 to 683.220, inclusive.

(H) Interest shall accrue on the principal amount of any lien remaining unsatisfied pursuant to the law applicable to civil money judgments.

(I) Once the city receives full payment for outstanding principal, penalties, and costs, the city will record a notice of satisfaction. A fee shall be paid by the responsible parties for processing the notice of satisfaction. This notice of satisfaction will cancel the city's lien under this section.

(J) The lien may be foreclosed and the real property sold, by the filing of a complaint for foreclosure in a court of competent jurisdiction, and the issuance of a judgment to foreclose. There shall be no right to trial by jury. The county shall be entitled to its attorneys' fees and costs.

13-1-540 Alternative Lien Hearing Procedure.

If a City Hearing Officer has been appointed in accordance with §2-7-130(C of this article, the city hearing officer is authorized to conduct the hearing required under §13-1-530 and shall prepare a recommended decision and resolution for the City Council pursuant to Cal. Gov't Code §§38773.1() and _____. The recommended

decision and resolution shall include any proposed modifications to the report. The Hearing Officer shall promptly submit that recommendation and the administrative record to the city staff, who shall promptly present it to the City Council. The City Council may adopt the recommended decision and resolution without further notice of hearing, or may set the matter for a de novo hearing before the City Council. In the event that the City Council sets the matter for de novo hearing, such hearing shall be held in accordance with the provisions of §13-1-530.

13-1-550.160 Enforcement by Civil Action.

As an alternative to any other procedure set forth in this article, the city may abate any nuisance described in this chapter by the prosecution of a civil action through the City Attorney, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this chapter or requiring compliance with other terms. In addition to any other remedy provided by law or equity, the court in such an action may appoint a receiver for the property upon which the violation is occurring, pursuant to Cal. Code of Civil Procedure, § 564, who shall be authorized to take such actions as may be necessary to remedy and remove the violation.

13-1-560 Refusal to Issue Permits.

(A) No department, commission or employee of the City of San Juan Bautista vested with the duty or authority to issue or approve permits, licenses or other entitlements shall do so when there is an outstanding violation, including, but not limited to, a failure to abate a nuisance as described in this article within 14 calendar days of the date of service of the decision of the City Council requiring abatement, or such other time specified by the City Council, involving the real property to which the pending application pertains.

(B) The authority to deny shall apply whether the applicant was the occupant or owner of record at the time of such violation or whether the applicant is either the current occupant or owner of record or a vendor of the current owner of record pursuant to a contract of sale of the real property, with or without actual or constructive knowledge of the violation at the time he or she acquired his or her interest in such real property.

(C) Upon recordation of Notice of violation or notice to abate, all departments, commissions, and/or employees shall refuse to issue permits, licenses, or entitlements involving the premises except those necessary to abate such violation.

(D) Written notice of the refusal to issue identified in §13-1-470 shall be served upon the applicant in accordance with §13-1-480.

(E) The enforcing officer may waive the provisions of this section regarding refusal to issue if he or she determines such waiver to be required to allow necessary or desirable remedial, protective or preventative work.

13-1-570 Transfer of Title, Interest, or Possession.

(A) It shall be unlawful for the owner of any real property to sell, transfer, mortgage, lease, or otherwise dispose of any real property knowing there is a notice issued by the enforcing officer in accordance with §13-1-470 involving that real property until the violations are corrected or until such owner first furnishes the grantee, transferee, mortgagee, or lessee with a true copy of any such notice and shall furnish to the enforcing officer a signed and notarized statement from the grantee, transferee, mortgage, or lessee acknowledging the receipt of a true copy of such notice and fully accepting the responsibility without condition for making the corrections or repairs required by such documents or stating intentions to timely challenge such notice. Failure to provide notice as required in this section is a misdemeanor. The transfer of ownership in violation of this section shall not abrogate the transfer.

(B) Upon transfer of any property with a violation on file indicating the property is unsafe, dangerous or otherwise not habitable, the new owner shall not occupy or use the property until the enforcing officer expressly authorizes such occupation or use.

13-1-580 Remedies Cumulative.

All remedies provided for herein are cumulative and not exclusive, and are in addition to any other remedy or penalty provided by law.

13-1-590 Severability.

If any section, subsection, sentence, clause, portion, or phrase of this article is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The City Council hereby declares that it would have passed this article and each section, subsection, sentence, clause, portion, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.



CITY OF SAN JUAN BAUTISTA CITY COUNCIL STAFF REPORT

DATE: MAY 16, 2023

DEPARTMENT: CITY MANAGER

FROM: DON REYNOLDS

BY: DON REYNOLDS

TITLE: DRAFT BUDGET FOR FISCAL YEAR 2023/24 TRANSMITTAL

RECOMMENDED MOTION:

Introduce the proposed Operating and Capital Improvement Project budgets for Fiscal Year 2023/24, and schedule budget town-hall meeting May 25, 2023, and others, if necessary, in time for final approval on June 13, 2023.

RECOMMENDATION:

Provide staff with recommendations and considerations necessary to produce a final draft budget, and schedule budget town hall meetings May 25, 2023 and if needed May 29, 2023, or June 1st.

EXECUTIVE SUMMARY:

State law requires the City to adopt its budget before the end of the fiscal year, or before June 30th. The attached draft Budget for Fiscal Year 2023/24 is a straight forward, straight-line budget with no spikes in operational expenses. The City's finances remain solid as anticipated during the Mid-Year Budget Review February 21, 2023. Staff is seeking feedback from the City Council May 16, 2023, and suggesting a special town hall meeting May 25th. The goal is to adopt the budget at a special meeting June 13, 2023 and cancelling the regular meeting June 20, 2023. If necessary, this allows for a third special meeting to approve the budget June 27, 2023.

The draft budget includes a total expected revenue of \$4.88 million, with expenses of \$4.09 million, and a projected surplus of \$788,000. The first attachment to this report is a summary of all funds.

DRAFT BUDGET	Revenues	Expenses	Positive Net effect
General Fund	\$ 2,142,500	\$ 2,042,966	\$ 99,534
Sewer Fund	\$ 1,390,000	\$ 1,222,921	\$167,079
Water Fund	\$ 1,345,000	\$ 823,797	\$ 521,203

BACKGROUND:

The City's budget cadence has remained the same since 2019, except when it was interrupted by COVID 19 Pandemic. The fiscal year starts July 1 of every year, the day after the close of the prior fiscal year. The City then completes its accounts payable and receivables for the prior fiscal year, and in the fall, prepares the annual audit. The audit is a critical milestone, because it confirms or refutes the assumptions made while preparing the Budget before actual end of the fiscal year. Accountability is measured by the audit.

At the start of the calendar year, the mid-year budget is prepared for the City that highlights the differences between the projected revenues and expenses in the budget, and the actuals presented in the audit. Typically, there are unexpected savings or increased revenues, and special projects can be funded before the end of the fiscal year. Between February and March, research is done to begin building the next budget, with strategic planning to occur in April and May. That new or updated strategic plan informs the next budget priorities. The budget and new narratives are placed into the "Cleargov" software and published to be accessible to all in an easy-to-understand way, on-line, in PDF and paper formats. Resolution 2022-49 was approved June 14, 2022, adopting the current Budget.

This year, the City's audit was a month behind schedule due to the many changes required by the State law, the implementation of a new chart of accounts, and the implementation of a new financial software designed specifically for small municipalities. The Audit for FY 2021/22 was clean and accepted by the City Council when they adopted Resolution 2023-04, on the 24th of January, 2023.

OPERATIONAL BUDGET STATUS

The Mid-Year Budget Resolution 2023-16 was adopted February 21, 2023. It provided the status of the City's revenues and expenses, describing the critical General Fund, Sewer, and Water Funds in more detail.

MIDYEAR BUDGET REPORT			
at 50% of the year			Positive
	Revenues	Expenses	Net effect
General Fund	49%	39%	\$432,000
Sewer Fund	64%	53%	\$274,000
Water Fund	51%	51%	\$212,000

The General Fund is experiencing some concern with sales tax, but property taxes and transient occupancy taxes are stronger than expected. The second Sheriff deputy position has not been filled, and the new Recreation Technician positions is being recruited for now. These are two big savings that have resulted in lower expenses than budgeted.

The sewer fund is advancing funds to pay for the design of the sewer force main, until the \$1 million federal Environmental Protection Agency grant can be used to reimburse it ("EPA STAG" expected in July 2023). The revenues are high due to the rate increase that will be needed to cover the debt service for the sewer force main on \$10 million dollar loan through the USDA. When these federal resources become available, the sewer fund will be healthy.

The water fund is only now beginning to see revenue increases from the rate increase approved last fall. It has incurred slightly higher expenses than anticipated due to the cost of bringing the Microvi system on-line. "Microvi" is the name of the firm that provided the technology to remove nitrates from the well water at Well 6. Having passed all pilot tests the permit application had to be prepared for the Waterboard, that includes a detailed operational component unique to the City's needs. The "blending" of Well 6 has been approved by the Water Board in March 2023, and the plans to connect Microvi to the City's system are being engineered now.

The Council also received the status of the City's \$500,000 of American Rescue Act funds.

AMERICAN RESCUE PLAN

BASED ON THE JUNE 14, 2022 BUDGET STAFF REPORT		BUDGET	BUDGET	YTD		BALANCE	REAPP?
	CIP	FY 21/22	FY 22/23	TOTAL	FY 22/23		
COVID Tests	-	\$ -	\$ -	\$ -	\$ -	\$ -	
Business Grants	-	\$ 25,000	\$ 25,000	\$ 50,000	\$ 50,000	\$ -	
New Start-Up Business Grants	-	\$ 20,000	\$ 15,000	\$ 35,000	\$ 35,000	\$ -	
Homeless Programs	-	\$ 10,000	\$ -	\$ 10,000	\$ -	\$ 10,000	
Non-Profit Grants	-	\$ 15,000	\$ 10,000	\$ 25,000	\$ 25,000	\$ -	
School Facility/Joint Use Acc	22.07	\$ 175,000	\$ (75,000)	\$ 100,000	\$ 91,480	\$ 8,520	\$ 8,520
Third Street Transformation	22.01		\$ 115,000	\$ 115,000	\$ -	\$ 115,000	
Public Safety Initiative	22.02		\$ 100,000	\$ 100,000	\$ -	\$ 100,000	
Track and Field Contribution	-		\$ 50,000	\$ 50,000	\$ -	\$ 50,000	
Luck Park Historic Improve	23.03		\$ 15,000	\$ 15,000	\$ -	\$ 15,000	
		\$ 245,000	\$ 255,000	\$ 500,000	\$ 201,480	\$ 298,520	\$ 8,520

CIP STATUS

The second attachment to this report, is Exhibit D from the mid-year Budget Resolution 2023-16 that describes the status of the City's capital Improvement ("CIP") Budget. Not much has changed.

The Pavement Management Plan (street improvements) are almost complete awaiting warm weather for striping. The City's largest CIP in decades, the sewer force main is out to bid now, as well as the RFP for the Construction Management/Inspection firm for this project. The City is finally out to bid for the Community Hall acoustics.

The third attachment to this report are the new or changed CIPs approved at Mid-Year. The Strategic Plan was approved and is well underway with Citygate. Fumigation of city facilities has been completed, and Meg Clovis, Historic Preservation consultant has been retained. The biggest change approved at Mid-Year was the need for the Housing Element to be completed before December 31, 2023. The Council approved \$150,000 for that study and community engagement process and this consultant is under contract. The remaining projects on this list have not been able to move forward yet.

The City has completed 7 CIPs in 2022/23, spending close to \$2 million. The Pavement Management Plan (street repair work) at a cost of \$1.4 million, is the primary recipient of this funding. None of these street improvement costs relied upon the General Fund. With \$500,000 going toward park improvements, and of this \$170,000 was from using State Proposition 68 grant funds.

In 2019, the City had no grants pending, in process or recently completed. The City now has more than \$20 million in grants, paying for sewer system upgrades, park improvements, urban planning projects including the completed Active Transportation Plan, and technology upgrades. Grants pending or being applied for include more of the State housing funds, Permanent Local Housing Allocation ("PLHA, "SB2, LEAP and REAP). New grants are being written for Abbe Park upgrades, (a separate report on this agenda, due June 1, 2023), historic preservation, more active transportation planning and street/sidewalk improvements.

There is no record of the City ever filing a disaster claim with FEMA. Today City has three pending claims with FEMA worth more than \$350,000. Inspections of flooding damages occurred the week of May 1st, and will continue through the end of June. Outreach to individual victims for FEMA assistance has been on going and was included in the most recent utility billing. The City is finally ending its COVID 19 Claim.

DISCUSSION

The City uses two budgets: Operational and Capital Improvement Project budgets. The operational budget is the heart to the matters where the business gets done. The CIP consists of one-time expenses that have a beginning, implementation, and an end to them.

OPERATIONAL BUDGET FOR FY 2023/24

The City's Operations Budget is stronger than in past years for a few reasons. Revenues for the General Fund are higher, due to an increase in sales tax, property tax, and transit occupancy tax. The sewer and water enterprise fund are healthy and able to carry the debt needed to improve these systems to federal and State Water Board standards.

But economists warn of the economy slowing, and this has a chilling effect on the City's revenues. The City relies heavily on its sales tax. It is projected to be flat for the next 12-24 months. The City can afford to grow cautiously with its general fund (mostly used for public safety). Staff is recommending that expenses remain where they are, while making some small but important adjustments.

General Fund expenses are well below budget primarily due to the budget unspent for a second dedicated Sheriff deputy. This \$150,000 in funding from the General Fund remains in the budget until a deliberation concerning the reorganization of public safety occurs. This effort is described in the attached narrative "Personnel Changes Considered for Fiscal Year 2023/24 Draft May 10, 2023." After eliminating private security, the City can afford the cost of two new positions in Public Safety as recommended by Citygate. That Narrative also justifies the need for an additional maintenance worker, and a part-time Office Assistant to help with communicating city work and accomplishments with the community, customer service at the front counter, keeping City Hall open until 5 PM each work day, and support for the Deputy City Clerk in human resources and risk management.

The Budget also includes funding to support Economic Development, Historic Preservation, and a new Economic Development Strategy. Funding is included to help train and educate Commissioners as well as Councilmembers. A second part-time position is being requested to support economic development. These services would include helping to draft and implement an Economic Development Strategy, special event coordination, support for the EDCAC, the National Main Street program, and Third Street liaison.

The re-bidding of the contracts for City Engineer and Private Security have improved services and support of staff, and saved the city funds.

The link below is to the City's budget book for FY 23/24. It includes the attached narratives, and line-item details for each fund and department. Please open the spread sheet if you prefer the details, otherwise there are charts and graphs that provide a general overview.

<https://city-san-juan-bautista-ca-budget-book.cleargov.com/10219>

Growing cautiously equals a slightly reduced spending in line with increasing but stable revenues.

CAPITAL IMPROVEMENT BUDGET

Staff is working on a formal CIP for the City Council's first Budget Hearing. Here are some of the highlights anticipated for FY 23/24.

WASTEWATER

The \$14 million contract to build the sanitary sewer force main to Hollister is on schedule to be awarded in late June or July of 2023. This project is critical to move forward with its effort to

come into compliance with the USEPA and decommission its wastewater treatment plant. It is one of the largest CIPs the City has taken on in decades.

IMPORT DRINKING WATER

The Water District and City will soon enter into a permanent agreement and the design of this project to import surface water and blend it with the ground water will be moving forward again this summer. These agreements have already been drafted. It should be ready to bid by next spring, and could start construction before the end next fiscal year. Water quality is the community's number one priority.

PARKS

This past fiscal year saw the completion of several big projects including the two parks, and most of the street improvements. These projects drained the resources for these topics, and one park was slightly subsidized by the General Fund. On this same agenda is a grant application requesting \$380,000 for Abbe Park Upgrades, to include new lights, ADA improvements and a small children's playground. This grant requires a 50% match that could be funded from a part of the General Fund savings from FY 22/23.

The \$1.4 million used for the street improvement project was an accumulation of three years of funding from the State SB1, County Measure G and other resources dedicated for this purpose. No General Fund was needed. The final touches including striping and landscaping will begin in June. There was approximately \$300,000 in savings in the street improvement project that can be used to begin design the next phase of street improvements for FY 24/25.

A small amount of \$143,00 from special grant funds received from COG are being budgeted for sidewalk repairs and to improve ADA accessibility in the older parts of the City.

FLEET ELECTRIFICATION PLAN

The fourth attachment is the beginning of a City Fleet Electrification Plan. 3CE is providing programming and design funds to place a charger at the PWs Yard, and to help by electric vehicles. It provides an aging report of trucks and vehicles no longer in service that need to be replaced. It suggests using smaller utility electric carts around town. Hopefully with 3CE's support, this project can get moving early in July. The consultant was hired by 3CE at its April Board meeting.

STRATEGIC PLANNING AND CLEAR.GOV

The City's use of Clear-Gov helps the community understand the complexities of government budgeting, in the form of number and spread sheets, but also with graphs, charts and narratives. The Strategic Plan narrative is in progress, as the City works to complete this project with the help of Citygate. The attached "Priorities and Issues Narrative" is a direct reflection of the work completed by Citygate from the many interviews completed, the two workshops, and surveys. Issues that include water, economic development, and improving communication. The "Personnel Changes Considered for Fiscal Year 2023/24 Draft May 10, 2023" narrative includes the full-

justification for consideration of adding the 3 full-time and two part-time positions. These are attached to this transmittal letter for those that do not have access to the computer link provided in this report. They will be included in the 180-page Budget when it is printed for the public.

FISCAL IMPACT:

The suggestions in this preliminary budget message are all concepts at this time. As it stands, the City can move forward with the attached draft budget, or it can expand slightly by adding two part-time positions, and re-organizing public safety. Either way, the City will have a balanced budget for FY 23/24 and remain in a strong fiscal position for the new Fiscal Year.

ATTACHMENTS:

- 1) Fund Summary
- 2) Mid-Year Resolution
- 3) Mid-Year CIPs
- 4) Fleet Electrification Plan
- 5) Narrative “Personnel Changes Considered for Fiscal Year 2023/24”
- 6) Narrative “Budget Priorities and Issues for Fiscal Year 2023/24”

FUND SUMMARY - EXHIBIT A

Fund	Revenues	Expenditures	Surplus
General Fund	\$ 2,142,500	\$ 2,042,966	\$ 99,534
Sewer Enterprise	1,390,000	1,222,921	167,079
Water Enterprise	1,345,000	823,797	521,203
Community Development*	404,514	628,536	(224,022)
COPS	100,000	100,000	-
CFD Z2 Rancho Vista	36,978	36,978	-
Valle Vista Lighting Dist.	23,814	23,814	-
Gas Tax	101,000	21,500	79,500
CFD Z1 Copperleaf	15,770	15,770	-
Parking & Restroom Fund	28,000	-	28,000
TOTAL	\$ 5,587,576	\$ 4,916,282	\$ 671,294

* Community Development revenue rarely covers 100% of the costs, and is subsidized by the General Fund Each year

Exhibit 4

RESOLUTION NO. 2023-16

A RESOLUTION OF THE CITY OF SAN JUAN BAUTISTA MAKING CERTAIN FINDINGS IN RELATION TO THE FY 2022/23 BUDGET AND APPROVING CERTAIN ADJUSTMENTS AT THE MID-YEAR TO ACCOUNT FOR SEVERAL SMALL VARIANCES FROM THE ORIGINAL FY 2022/23 BUDGET

WHEREAS, Resolution 2022-49 was adopted June 14, 2022, and the City adopted its budget for FY 2022/23; and

WHEREAS, Resolution 2023-04 was adopted January 24, 2023, the City Council received its audit for FY 2021/22, and the auditor opinion is unmodified, or it is a "clean" report with no material findings; and

WHEREAS, in the attached staff report, analyzing the audit results and final fund balances moving forward, and after reviewing City's budget performance over the past six months staff has summarized its Mid-Year budget review in the two attachments ("Exhibits A" and "B"), one for revenue adjustments and one for expenditure adjustments; and

WHEREAS, in Exhibit A, staff anticipates a slight growth in the General Fund revenues, particularly attributable to better interest rate returns, transient occupancy tax and property tax revenues; at Mid-Year, the General Fund can be summarized as follows:

- 1) **General Fund** revenues are running at 49% for the year to date. Correspondingly, General Fund expenditures are at 37% for the year to date. The net effect is a positive change in general fund balance of \$432k.

WHEREAS, as a result of its review, the Water Enterprise Fund and Wastewater Enterprise Funds can be summarized as follows:

- 1) **Water Enterprise Fund** ~ The water Enterprise Fund revenues are running at 51% for the year to date, and expenses are at 51%. The net effect is a positive change in the water Enterprise Fund of \$212k.
- 2) **Sewer Enterprise Fund** ~ The sewer Enterprise Fund revenues are running at 64% for the year to date, and expenses are at 53%. The net effect is a positive change in the sewer Enterprise Fund of \$274k.

WHEREAS, Exhibit B outlines a few one-time adjustments to the Operational Budget as a result of changes related to the City's major contracts to adjust for cost increased beyond the budget amounts increasing some expenditures while reducing other major contracts, with a net savings of \$200,000 in the General Fund and \$190,000 in Community Development, suggesting that the savings and revenue increases be targeted for the reserves in the respective funds; and

WHEREAS, Exhibit C describes the status of the American Rescue Funds (\$500,000) and the Capital Improvement Budget (provided as Exhibit D for reference). Exhibit C is seeking amendments to the CIP adding \$668,520, increasing budgets for three existing projects, and adding five new projects to the CIP anticipated to be started this fiscal year; and

WHEREAS, of the requested \$668,520, \$415,000 is requested from anticipated savings this year in the General Fund, \$20,000 from the Enterprise Funds, and the majority of new funds provided by grants (\$350,000).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Juan Bautista:

- 1) That the Staff report submitted for the February 21, 2023 Council meeting and its conclusions are hereby deemed to be true and correct, and are made a part of this resolution by reference.
- 2) That the completed Audit of the FY 2021/22 has confirmed and finalized the fund balances heading into FY 2023/24, and that a Mid-Year Budget review of this fiscal year's activity has been completed and that the assumptions and projections made in prior budget preparations have been confirmed and quantified.
- 3) The details of the recommended Mid-Year Budget adjustments for Fiscal Year 2022/23 are provided in Exhibit "A" for revenues, and Exhibit "B" for expenditures and "C" for the allocation of \$668,520 to the CIP, and increasing revenues \$200,000 and reducing expenses by \$265,000 to the Operational Budget.
- 4) That the balance of savings in all funds will be used to increase the reserve amounts in each of the three funds for consideration of new programs and initiatives during FY 23/24.

PASSED AND APPROVED by the City Council of the City of San Juan Bautista at a regular meeting duly held this 21st day of February 2023, by the following vote:

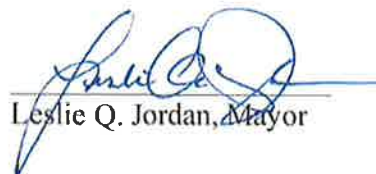
AYES: Councilmembers: Freeman, Morris-Lopez, Sabathia, and Mayor Jordan:

NOES: None


ABSENT: Councilmember Freels

ABSTAIN: None

APPROVED:


Leslie Q. Jordan, Mayor

ATTEST:


Elizabeth Soto, Deputy City Clerk

Attachments:

- A. Revenue Summary
- B. Expense Summary
- C. Allocation of Coronavirus State and Local Fiscal Relief Funds
- D. Existing CIP for FY 22/23

EXHIBIT A
FY 2022/23 MID-YEAR BUDGET REVENUE ADJUSTMENTS

REVENUES	Annual	Proposed		
Fund	Budget	Revised	Difference	Footnotes
General Fund	2,737,935	2,937,935	(200,000)	A
Special Revenue Funds:				
Capital Projects Fund	3,186,996	3,186,996	x	
Community Development	404,514	404,514	x	
COPS	100,000	100,000	x	
Parking & Restroom Fd	26,000	26,000	x	
Gas Tax Fund	98,520	98,520	x	
Valle Vista LLD	26,529	26,529	x	
Rancho Vista CFD	66,521	66,521	x	
Copperleaf CFD	22,650	22,650	x	
Internal Service Funds:				
Blg Rehab. & Replace	38,000	38,000	x	
Vehicle Replacement	60,000	60,000	x	
Enterprise Funds:				
Water				
Operations	1,213,800	1,213,800	x	
Capital	79,350	79,350	x	
Sewer				
Operations	1,185,000	1,185,000	x	
Capital	484,352	484,352	x	
TOTAL Funds	9,730,167	9,930,167	(200,000)	

Footnotes ~

A ~ Increase in general fund revenues for higher property taxes, interest income, T.O.T. taxes, offset by slightly lower than anticipated sales taxes.

EXHIBIT B

FY 2022/2023 MID-YEAR EXPENDITURE ADJUSTMENTS

EXPENDITURES	Annual	Proposed		
<u>Fund</u>	<u>Budget</u>	<u>Budget</u>	<u>Variance</u>	<u>Footnotes</u>
General Fund	2,425,349	2,350,349	(75,000)	A
Special Revenue Funds:				
Capital Projects Fund	3,186,996	3,186,996	-	
Community Development	671,289	481,289	(190,000)	B
COPS	100,000	100,000	-	
Parking & Restroom Fd	2,500	2,500	-	
Gas Tax Fund	19,000	19,000	-	
Valle Vista LLD	26,529	26,529	-	
Rancho Vista CFD	66,521	66,521	-	
Copperleaf CFD	22,650	22,650	-	
Development Impact Fee Funds				
Public/Civic Facility	2,700	2,700	-	
Library	4,440	4,440	-	
Storm Drain	3,432	3,432	-	
Park In-Lieu	300	300	-	
Public Safety	852	852	-	
Traffic	432	432	-	
Enterprise Funds:				
Water:				
Operations	805,232	805,232	-	
Capital	79,350	79,350	-	
Sewer				
Operations	923,911	923,911	-	
Capital	484,352	484,352	-	
TOTAL Funds	8,825,835	8,560,835	(265,000)	

Footnotes:

- A** ~ Decrease in budgeted expenditures for SBC Sheriff services (175k) and increase for private security, (30k), legal fees (25k), and City Clerk position (45k)
- B** ~ Decrease due to lower planning consultant expenditures (160k) and lower building inspection expenditures (30k)

EXHIBIT C

AMERICAN RESCUE PLAN

CIP		BUDGET FY 21/22	BUDGET FY 22/23	TOTAL	YTD FY 22/23	BALANCE	REAPP?
COVID Tests		\$ -	\$ -	\$ -	\$ -	\$ -	
Business Grants		\$ 25,000	\$ 25,000	\$ 50,000	\$ 50,000	\$ -	
New Start-Up Business Grants		\$ 20,000	\$ 15,000	\$ 35,000	\$ 35,000	\$ -	
Homeless Programs		\$ 10,000	\$ -	\$ 10,000	\$ -	\$ 10,000	
Non-Profit Grants		\$ 15,000	\$ 10,000	\$ 25,000	\$ 25,000	\$ -	
School Facility/Joint Use Acce		\$ 175,000	\$ (75,000)	\$ 100,000	\$ 91,480	\$ 8,520	\$ 8,520
Third Street Transformation			\$ 115,000	\$ 115,000	\$ -	\$ 115,000	
Public Safety Initiative			\$ 100,000	\$ 100,000	\$ -	\$ 100,000	
Track and Field Contribution			\$ 50,000	\$ 50,000	\$ -	\$ 50,000	
Luck Park Historic Improveme			\$ 15,000	\$ 15,000	\$ -	\$ 15,000	
		\$ 245,000	\$ 255,000	\$ 500,000	\$ 201,480	\$ 298,520	\$ 8,520

EXHIBIT D

JUNE 6, 2022 CIP

CAPITAL IMPROVEMENT		Project #	FY 22/23 Budget	Status 02.21.23
05.31.2022	BUDGET FY 22/23			
Street Projects				
	Hwy 156 RTL	20.03	590,643	Acq ROW/Cal Trans Plan Check
\$\$	PMP- Shury Seal, Overlay	21.22	1,100,160	30% Complete
	Landscape for Third Street Improvements	22.06	40,500	Included in PMP
NEW	Sidewalk Repairs	23.01	200,000	Included in PMP
Utility projects				
	Rancho Vista Lift Station	20.05	125,000	
	Transfer Switches for Wells 1 + 5	21.07	4,350	Well 5 only so far
	Design Force Main to Hollister	21.20	334,343	100% complete
NEW	Construct Force Main to Hollister	23.02	18,000,000	Bid in March
\$\$	Dias Lift Station Pump Ungrades	22.03	74,572	Purchased Pumps
\$\$	Telemetry	22.04	150,000	
	Lift Station Pump-Emergency Repl	22.05	16,780	
	Emergency Generators	21.23	170,000	
MY	Waste Water Treatment Plant - Mid Year	22.06	23,000	100% Complete
Parks Projects				
FY 21-22	Franklin Park	21.01	267,240	100% Complete
FY 21-22	Verutti Park	19.42	189,701	100% Complete
MY	Joint Use of School	22.07	100,000	100% Complete
NEW	Track and Field Contribution	23.04	50,000	
NEW	Parks Tables and Benches	23.05	20,000	
NEW	Luck Park Historical Imps	23.03	15,000	Assessment complete
	Trail Plan (ATP)	21.02	205,458	95% Complete
Community Facilities Projects				
\$\$	Community Hall Accoustics	21.24	50,000	Bid in March
\$\$	Fire Station Aparatus Bay	21.23	70,000	
Equipment				
	Pipe Threader	21.18	2,500	
\$\$	Steel Trench Plates	21.25	5,000	
Studies				
\$\$	Water/Sewer Rate Study (Prop 218)	21.09	31,993	100% Complete
	Impact Fee Nexus Study	21.10	35,000	
	SB 2 Grant HCD	21.12	159,087	90% Complete
\$\$	LEAP Grant HCD	21.13	20,334	90% Complete
	REAP Grant HCD	21.14	2,611	90% Complete
NEW	Fire District Study	23.06	12,500	RFP/Grant Feasibility
NEW	Housing Element (half this FY half next FY)	23.07	25,000	RFP in March
Special Initiatives				
	Urban Growth/Sphere of Infl	21.11	103,203	Draft SOI/New Committee
\$\$	Third Street Master Plan	22.01	215,000	Following ATP
\$\$	Public Safety Committee Initiative	22.02	200,000	Assesment Concluded/SO and Fire Contracts
			22,152,034	
Subtract Force-Main to Hollister			(18,000,000)	
			4,152,034	



City of San Juan Bautista

Electric Vehicle Readiness Plan



Exhibit 4

FOCUS AREA 1: LEAD BY EXAMPLE



The City of San Juan Bautista is committed to leading by example in a community-wide shift to EVs through the transition of their own fleet vehicles



The business case for fleet electrification grows stronger each year as EV technology advances



Tangible examples from the City fleet can not only reduce long-term fuel and maintenance costs and contribute to adopted greenhouse gas emissions goals, but also help generate familiarity among other potential buyers and demonstrate the case for EV

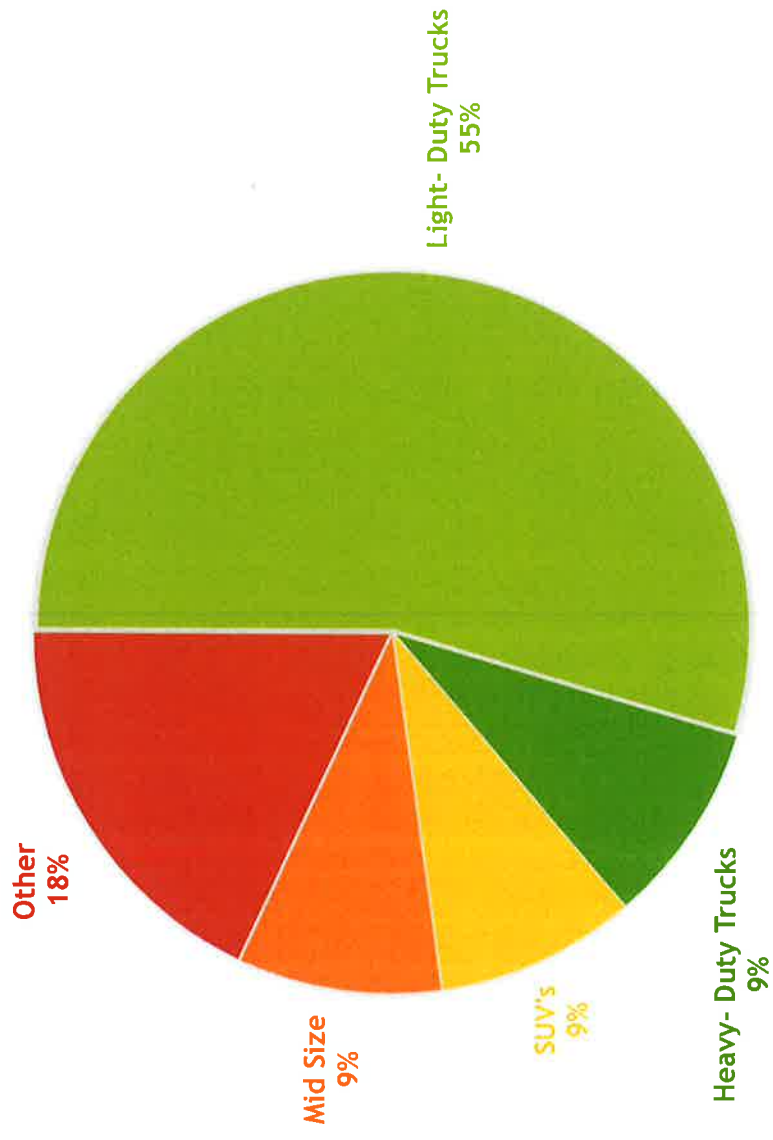
CITY FLEET

- ▶ The City of San Juan Bautista fleet includes a total of 9 vehicles, not including equipment like tractors, trailers, and generators
- ▶ The majority of the fleet are comprised of light-duty trucks (see Figure 1) which have several fully-electric options available today. Currently, each City department pays for its own fuel and contributes to a centralized fund that pays for vehicle replacements based on mileage limits or other thresholds
- ▶ Adjusting this process to include EV considerations is a first step to preparing for an electric fleet, which will become even more attainable as additional electric truck options are released.
- ▶ City fleet vehicles spend the night at two separate facilities. In anticipation of fleet electrification, the City will need to identify and prioritize which facilities need EV charging stations first and how these stations will fit into a centralized charging network control system - to ensure efficient charging patterns and inform budgeting requirements
- ▶ Currently, there is 1 privately owned (blink) and maintained charging station located on Muckelemi St and adjacent to Abbe Park.
- ▶ The City maintains zero charging stations available for public use at this time



Current Fleet Inventory

(Figure 1)



City of San Juan Bautista

Fleet Inventory by Category

- ▶ 6 Light-Duty
- ▶ 1 Heavy-Duty
- ▶ 1 Mid Size
- ▶ 1 SUV

make	model	year	VIN	Lic #
Dodge	P/U	2002	1D7HU18N42J210343	1250048
GMC	P/U	2002	1GDHC24U62E186857	1250037
Chev	Colorado	2016	1GCHSBE34G1355754	1292124
Ford	F150	2008	1FTVF12588KE27414	1360201
Ford	F150-HD	2007	1FTVF12597NA67261	1360200
Ford	F150	1999	1FTZF1725XKA72099	1250044
Ford	F-550	2002	1FDAW57532EC81624	1057628
Ford	F150	2013	1FTMF1CM9DKE66606	1250065
Ford	SUV	2015	1FM5K8AR4FGA88896	1457925

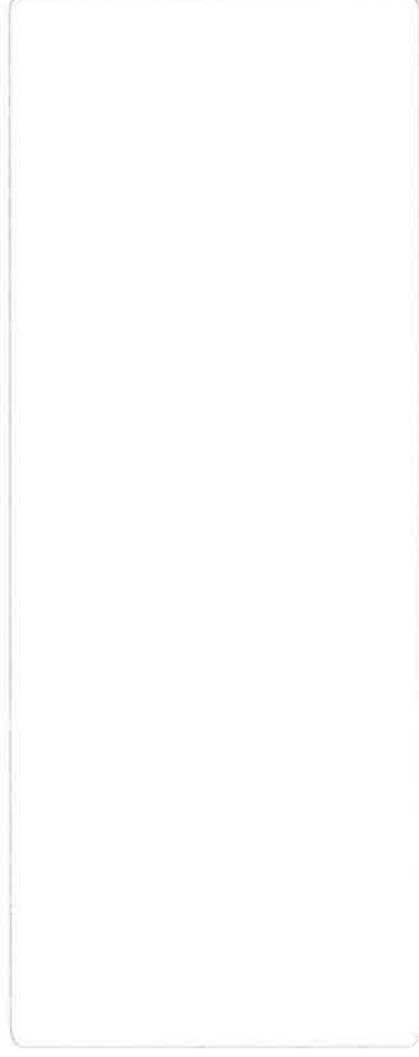
- ▶ The two highlighted vehicles have been earmarked for EV replacement and equate to 22% of SJB's total fleet

FUNDING



How Does 3CE Work?

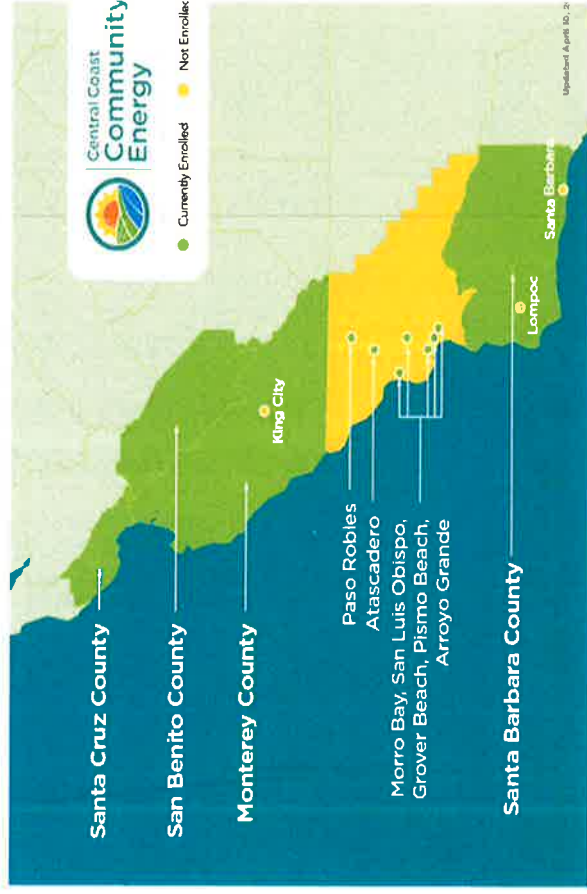
- ▶ As a 3CE customer, your utility (PGE or SCE) continues delivering power as well as maintaining electric infrastructure and billing, but 3CE and the communities we serve now manage where (local vs. California vs. out-of-state) and how (solar, wind, geothermal, etc.) our electricity is generated. With no investors or shareholders to pass profits on to, together with our customers, we choose how best to reinvest in our Central Coast community.
- ▶ PGE or SCE continues charging for Transmission and Distribution, while 3CE now charges for Electric Generation (formerly part of PGE or SCE Bundled Service costs).



Powered By Community Choice

Central Coast Community Energy is the primary electricity provider for the following communities:

County of Monterey, County of San Benito, County of Santa Cruz, County of Santa Barbara, Arroyo Grande, Buellton, Capitola, Carmel, Carpinteria, Del Rey Oaks, Goleta, Gonzales, Greenfield, Grover Beach, Guadalupe, Hollister, Marina, Monterey, Morro Bay, Pacific Grove, Paso Robles, Pismo Beach, Salinas, Sand City, San Juan Bautista, San Luis Obispo, Santa Cruz, Santa Maria, Scotts Valley, Seaside, Soledad, Solvang, and Watsonville. Atascadero will begin service in January 2024.



Thirty-four communities joined Central Coast Community Energy (3CE) with the shared goal of gaining more control over their electricity needs: to reduce greenhouse gas emissions, support the growth of clean and renewable energy, and accelerate additional economic and environmental benefits.

3CE-Central Coast Community Energy

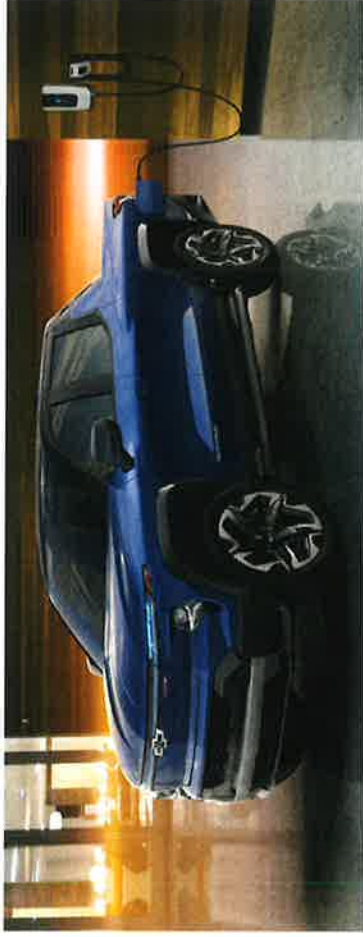
Plan Your Fleet Program

Overview

- ▶ The Plan Your Fleet Program will provide electric vehicle service equipment (EVSE) and fleet transition support to member agencies including planning, design, and engineering technical assistance as appropriate to best serve member agencies where they are in their transition to an all-electric fleet.
- ▶ 450K available to assist agencies plan for fleet transformation



Potential EV Replacement Vehicles



MSRP Price Examples

- Chevy Silverado - \$36,300
- Ford F-150 - \$59,974
- John Deere Gator TE - \$14,999



PERSONNEL CHANGES CONSIDERED FOR FISCAL YEAR 2023/24 DRAFT MAY 10, 2023

The draft budget for Fiscal Year 2023/24, has not funded any of the recommendations in this "PERSONNEL CHANGES" narrative. These suggestions are provided here for discussion during budget deliberations with the residents of the City.

The City continues to adjust and be flexible, serving the community's highest priorities.

The City employs ten-fulltime staff;

Maintenance department has 5 full-time positions, (the same as in 2019), and

Administrative staff has 5 full-time positions (one more than in 2019).

Five part-time staff:

Code Enforcement, (part-time 30-hours),

Library (part-time 30-hours), and 2-part-time positions 20-hours per week)

Recreation (part-time 20 hours).

Maintenance Workers (2)

Part-time staff in the Maintenance Division help cover for regular employees when absent and help keep the downtown clean on weekends and holidays. There are no other part-time administrative staff. On May 2, 2023, The City hired a full-time provisional maintenance worker which is allowed for up to 90-days, paid a 40-hour salary without benefits.

The only position added during fiscal year 2022/23 was the Part-Time Recreation Technician. That recruitment is underway. The position will initially work from the Library. It will serve multiple generational recreation programs. The operations budget will help pay for materials and supplies for these programs starting in FY 2022/23. The cost annual estimated cost is estimated to be \$28,000.

Between July 1, 2022, and December 31, 2022, an election occurred that could have brought forth three new Councilmembers. One incumbent was re-elected, and two new Councilmembers were approved by voters. The City Manager's performance Improvement Plan includes establishing goals and priorities. To welcome and include the new voices in the City's priorities, the City Manager recommended that strategic planning and organization study be conducted early in 2023. At its January 24th City Council meeting Citygate was awarded the contract for this work, which began in March 2023. Their scope included a high-level organization review, and a review of

Exhibit 5

public safety. Six recommendations for staffing changes have been made from this study and analysis.

The staffing changes in this narrative recommend 3 new full-time positions; maintenance worker, public safety coordinator, community service officer and 2-part time positions administrative assistant and economic development coordinator. Two safety positions would be off-set by savings in that Department discontinuing private security services. The maintenance worker position will impact the budget at \$70,000 each, but be paid by the enterprise funds (66%) and General Fund 33%). The administrative assistant position cost of \$25,000 will be spread to all funding sources. The Economic Development Coordinator will be paid by the General Fund and off-set be grants and other outside resources. It will cost \$35,000 annually.

PART-TIME ADMINISTRATIVE ASSISTANT & ECONOMIC DEVELOPMENT COORDINATOR

In FY 22/23, an additional part-time clerical position was shared with the Library, but when this employee resigned, it was filled to only support the Library, as a third part-time position is now vacant. The position was never able to provide coverage for City Hall five days a week.

It is recommended that the Deputy City Clerk, that supervises both Office Assistants, engage the help of part-time staff to support the clerical duties related to all three positions.

Performance improvement plan. (November 2022)

Don should review the duties and responsibilities of the Deputy City Clerk position and communicate with the Council prior to filling the position or seeking adjustments in the salary range.

Don should assess the need for supervision of the Public Works Department and recommend any changes.

MNS Engineering was retained to help with Public Works and act as the City's Engineer. This move has brought a lot of support to the City's Public Works function, as it is staffed by a former deputy public works director from the City of San Francisco who helped address this concern, but there remains the need for clerical support to support the account receivable position, helping to answer phones, to staff the front counter, and support the Human Resource and Risk Management functions delegated to the Deputy City Clerk. This matter was also considered in relation to keeping City Hall open 8-hours a day. Citygate, who are engaged in providing and organizational review of the City as required in City Manager's performance plan, has drafted this recommendation:

City Hall – If you extend hours of operations, you will need part-time personnel for adequate security for cash handling and public counter duties. This position could (if it was an FTE) also have other duties listed within the strategic plan to support other tasks including: writing of fiscal policies and procedures, grant writing and monitoring, public information and marketing (General Plan Strategic Plan objectives 122-127), additional admin support to City Manager*

and Assistant City Manager (related to economic development items (see 264-274, 50-70). A list of these objectives is attached. • 2016 General Plan "Strategic Plan," pages 236-331

If an Administrative Assistant paid \$21-\$25 per hour, the annual cost of 20-hours per week will be approximately \$25,000.

As the City develops its Economic Development Strategy it will need support implementing it, and other related duties. It can support the work needed to develop the Third Street Master Plan. It can support the City in regional efforts to promote tourism. The General Plan objectives support this move. The cost at \$35-\$40 per hour would be \$35,000 per year, but could be off-set in part by the grants received.

MAINTENANCE STAFF

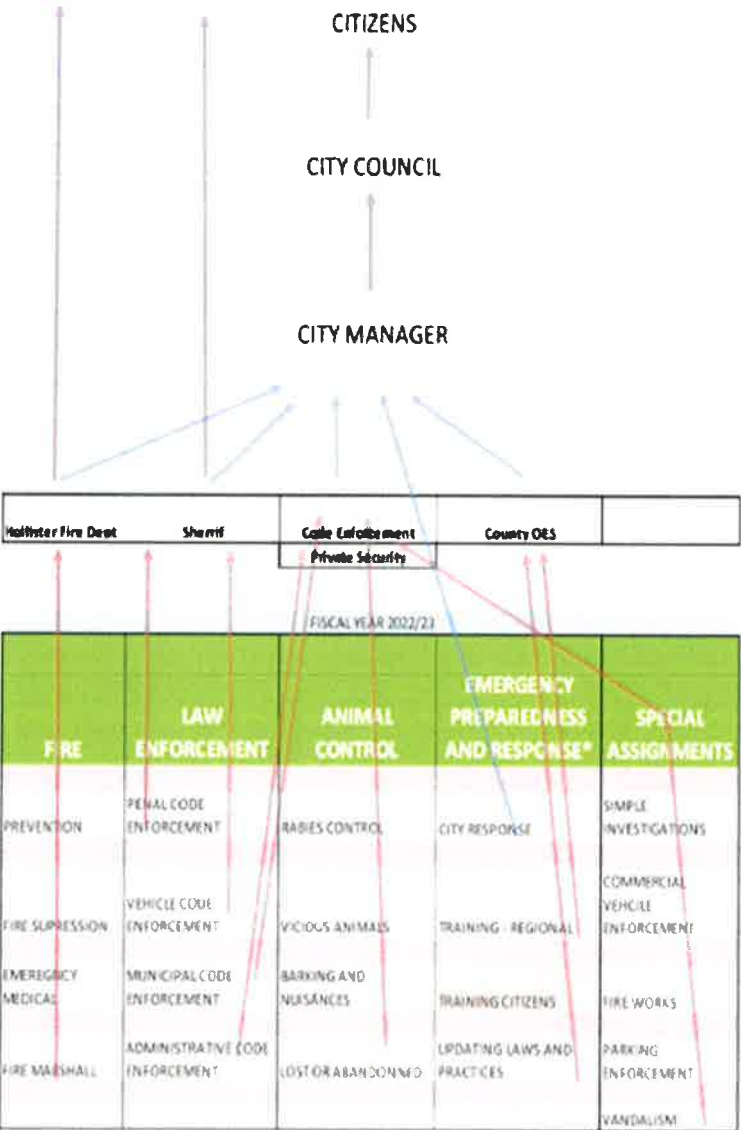
The City Maintenance staff has not changed or increased in several years. But demand has increased. The City has added two new housing developments and increased the number of streets roads and parks accordingly. Recent flooding has exposed the weaknesses of the City's stormwater management system. These flooding events stretch the existing staff beyond the physical limits of their abilities. This past year, the City added Franklin Park, and Verutti Park restrooms. This adds several hours of maintenance to the work-week especially on weekends. An additional full-time maintenance worker would help the City retain staff and react quicker to its many urgent infrastructure needs. A full-time maintenance worker costs approximately \$70,000 per year.

PUBLIC SAFETY

The City's "Public Safety Services" system is very complicated and requires an organizational review. This organizational chart describes the various safety components the City relies upon now. Three significant contracts are involved: San Benito County Sheriff, Hollister Fire and Private Security. After attempting twice to improve public safety service deliveries, the City has yet to meet the deliveries anticipated. The "Code Enforcement" position (City "safety officer") is working out of class at an "X" rated salary level and this must be corrected.

The Safety Officer is the only member of staff supporting Public Safety system before the City Manager. This is not sustainable. The City Manager has 6-related direct reports in the current model. In larger jurisdictions, a code enforcement officer works in Community Development and the Building Official, focused on land use and building code violations, at \$35 dollars per hour, Monday-Friday 9-5 PM. But smaller cities including Hollister, have moved Code Enforcement to the Law Enforcement side of the chart, adding a list of "Special Assignments" duties, with associated salary to off-set the additional duties. Citygate refers to these assignments as "Quality of Life" issues that are very important but may not pose an immediate threat to life or property. These programs expanded in San Juan Bautista since 2019, to address the strategic plan at the time that had as its fifth goal "Quality of Life" matters. They include loud parties after 10 PM, commercial vehicle enforcement, parking enforcement, barking dogs, and many of the functions listed as Special Assignments.

The City’s use of private security to support public safety was in practice in 2019, when the City Manager was hired. The contractor reported directly to the City Manager. That fall, when the code enforcement officer was hired, the code enforcement officer was delegated the task of overseeing the day-to-day operations of private security, and the City Manager supported the budget and policy matters. A job description was brought to the Council updating the duties of the code enforcement officer, accordingly proposing “Public Safety Manager.” An example from the City of Malibu contract with the L.A. Sheriff was provided. This job description was not approved, but the work remained. Below is the existing Organization Chart.



* MULTIJURISDICTIONAL HAZARD MITIGATION PLAN, ADOPTED JANUARY 24, 2023

In 2021/22 the City formed its “Public Safety Committee” meeting to discuss these contracts and consider changes. This is the origin of the City’s first and second (not filled) “Dedicated” sheriff deputy. The City issued a Request for Proposals for private security services before the then current contract expired on June 30, 2022. The City security contractor then terminated the City’s contract May 6, 2022, with a 30-day notice. They did not submit a proposal to continue as the City’s private security service provider. A new contractor was approved by the City Council on May 24, 2022, and the contract started June 6, 2022. The City receives twice the patrol services it had for a cost increase of only 10%. The City also included enforcement of parking violations and administrative citations (that include illegal use of fireworks). This contractor reports 100% to the “Code Enforcement Officer.” “City Code Enforcement” safety employee works Wednesday – Sunday 12-6. Private Security starts one shift at 4 PM to 12 Am, and a second shift 10 PM until 6 AM.

Private Security is deployed to “observe and report,” and to enforce parking and administrative citations. The City’s safety officer is on call 24/7 and the “reports” from private security first go to the City safety officer. If deemed appropriate, a call to the Sheriff or 911 is made. There are times when unsecured private properties are discovered during patrol, that can pause patrolling, while private security officer to monitor the situation until the Sheriff arrives.

Citygate is known for helping public agencies refine the delivery of public safety services and make them more efficient. The initial recommendation from Citygate is to establish a “Public Safety Department” as shown in this org chart, with a manager overseeing the various contracts.

This new management position allows the City Manager to remain neutral on enforcement matters, and potentially act as an arbitrator when disagreements arise.

The Citygate recommendation is to move away from private security altogether. Their recommendation is like the Sheriff’s recommendation; multi-services officers (“MSO” or community service officers “CSO”). This is an unsworn officer, in a uniform and clearly-marked vehicle, that can enforce the City’s quality of life ordinances. Last fall, staff came forward with a recommendation to pay the Sheriff for a CSO rather than a second dedicated deputy, because the Sheriff is having difficulty hiring sworn officers. It was not supported by the City Council. The Citygate recommendation is different in that the CSO would be a City hire, rather than a contract service provider.

Citygate’s draft recommendation:

1. Public Safety Coordinator Position (FTE)

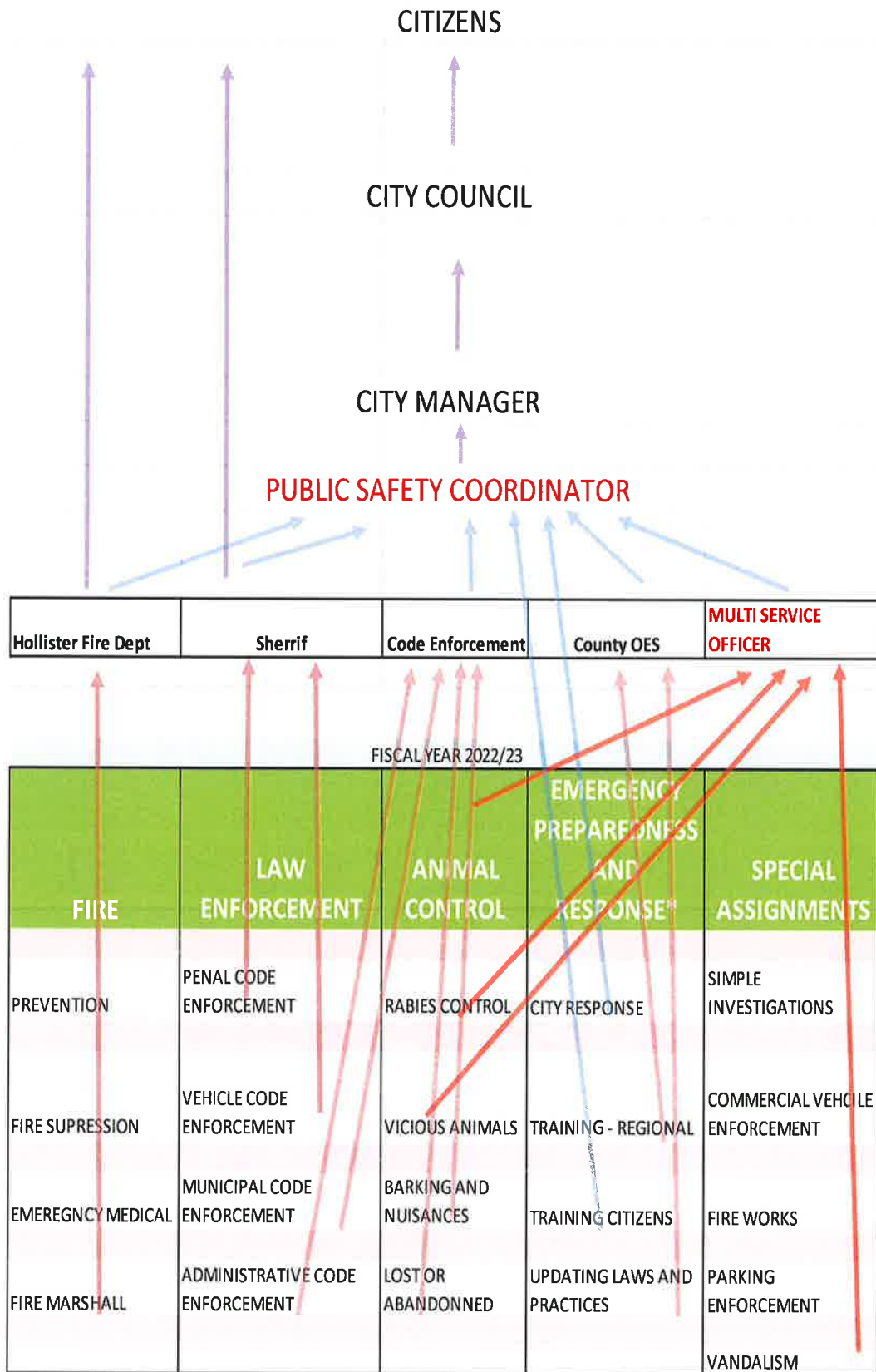
Oversite of police, security, disaster prep and response, all public safety related contracts (including fire, sheriff, animal control, etc.), grants, (SJB 2016 General Plan Strategic Plan Goals including but not limited to 73-87, 231-238, 226-228, etc.) This position could also work closely with Assistant City Manager on zoning, land use, traffic issues.

2. Recruit and Fill the vacant Sheriff's position (I believe already budgeted) (yes and request written reporting requirements on workload indicators i.e., calls for service).
3. Consider removing current security services and replacing them with city staff community service officers that report to the Public Safety Coordinator position in item #1. Building this into the current Sheriff contract is a consideration, but the Sheriff has its own staffing difficulties plus making them city staff give more local control and flexibility for the City Manager.

Need to evaluate recruitment approach, salaries and benefits beyond medical (i.e., taking a vehicle home, signing bonuses etc.).

Lastly, Citygate is helping negotiate the City's Sheriff contract. The next meeting is planned for Friday May 12th. The contract was written in 2009 and is vague. The City is looking for better tools that a Public Safety Coordinator can use to help make certain the law enforcement services are being delivered.

A fiscal analysis indicates that the reduced cost of private security would off-set the cost of two new positions, (\$10,880 per month). Attached is a recommended Public Safety Re-Organization chart.



*

MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN, ADOPTED JANUARY 24, 2023

BUDGET PRIORITIES AND ISSUES

FISCAL YEAR 2023/24

Capital Improvements and Infrastructure

The City is in position to continue to work on priorities and issues remaining from prior years to include its infrastructure, focused on its wastewater, and drinking water first. By the start of the new fiscal year, the construction agreement to build the sewer force main to Hollister will be awarded. The contract for drinking water will be executed and design of this project will resume. Focus on park improvements will include improving the acoustics in the Community Hall, that are out to bid now. And new this year is Abbe Park with a large grant application due June 1, 2023, to upgrade the lights, construction accessibility improvements, and install a small playground.

Three Initiatives from FY 2021 – 23

The City's prior strategic plan launched three initiatives: Urban Growth Boundary/Sphere of Influence; Third Street master plan and Public Safety Initiative. The fiscal status of this work is described in the City Manager's transmittal memorandum, and has not really changed much since the Mid-Year budget discussion. An effort was made to reconvene the UGB/SOI Committee May 7, but due to vacancies and absences, the first meeting of the new Committee has been pushed out to the end of the month. The focus on public safety has been on re-organization discussed in the Transmittal Memo and in the "Personnel Changes" narrative. The City Manager has met twice with different camera system vendors. The implementation strategies have greatly simplified. Hopefully the City can be in contract with a provider before the end of the summer. The Third Street Master Plan is moving forward with a \$365,000 grant application pending with the State. This would pay for the development of a transportation hub on the Alameda, between Franklin and Fourth Street.

Other Priorities

- 1) New priorities for the city include the development of a recreation program. Its staffing and operations are part of the new Budget. Facility improvements are moving forward to help house new programs. The City is sending out an RFP for summer recreation program planning.
- 2) State mandated Housing Element is required to be updated by the end of the Calendar Year. The City set-aside \$170,000 for this at mid-year. Proposals have been reviewed and a contractor is being recommended for the award in May.
- 3) With adequate staff and time, the City needs to complete its climate action plan. State laws are becoming more and more restrictive on jurisdictions that don't have a fully integrated way to reduce the amount of greenhouse gases it produces.
- 4) The City needs to take the next move with the Economic Development Citizen's Advisory Committee and begin drafting the City's Economic Development Strategy. Partnering with State and County agencies, will create a regional partnership to fully take advantage of the City's bountiful history and assets.
- 5) Stormwater Master Plan needs to be developed locally and regionally.

Exhibit 6

- 6) The creation of a Fire District is underway. The County Office of Emergency Services is using grant funding to hire a feasibility consultant.
- 7) Homeless Initiatives continue to be evaluated by the City of Hollister and the County Public Health Department.

Issues

- 1) Improving Communication- getting the message at City Hall out clearly and concisely to all members of the public is the top priority.
- 2) Managing four states of emergency, with three FEMA claims submitted and in process.
- 3) Facilities and Office Space- needs an evaluation and strategic plan
- 4) Full and complete modernization of the web-site and use of technology by City Hall.

PIPAL SPURZEM & LIEM LLP

ATTORNEYS AT LAW

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FACSIMILE

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April 26, 2023

Don Reynolds
City Manager
City of San Juan Bautista
PO Box 1420
San Juan Bautista, CA 95045

Re: Use of Name "San Juan Bautista Business Association"

Dear Mr. Reynolds:

I have been retained by Patricia A. Bains and the SJB Business Association, Inc., to advise them regarding the use of the trade name "San Juan Bautista Business Association." As I understand it, there is another group in town, formerly known as the San Juan Committee, which also wants to use the trade name "San Juan Bautista Business Association." Mrs. Bains asked me to write to you and give you my legal opinion as to which group has the priority legal right to use this trade name in San Benito County.

As I understand the facts, the San Juan Committee was incorporated here in California on March 16, 2018. The San Juan Committee has never registered the fictitious business name, or dba, "San Juan Bautista Business Association," here in San Benito County. However, the SJB Business Association, Inc., did register this dba in San Benito County on October 5, 2022. Subsequently, on March 20, 2023, the San Juan Committee changed their corporate name to the "San Juan Bautista Business Association."

This situation presents a conflict between the registration of this trade name at the state or corporate level as a corporate name, and the registration of the same trade name at the county level as a fictitious business name. In my opinion, the conflict over the use of this trade name is resolved in California Business and Professions Code § 14416. Section 14416 provides as follows:

"If, as to the same or a confusingly similar trade name, in a county, there are both a corporation entitled to the rebuttable presumption created by Section 14415 and

a registrant entitled to the benefit of the presumption created by Section 14411, whichever has filed the fictitious business name statement, filed the articles of incorporation, or obtained the certificate of qualification first in time, and is actually engaged in a trade or business utilizing such fictitious business name, such corporate name, or a confusingly similar name, shall be entitled to the presumption as against the other, that he has the exclusive right to use such fictitious business name, or such corporate name, or a confusingly similar name, as a trade name in the county where the registrant has filed his fictitious business name statement."

In my opinion, this statute clearly provides that the SJB Business Association, Inc., is entitled to the presumption that it has the exclusive right to use the trade name "San Juan Bautista Business Association" here in San Benito County. The San Juan Committee has the right to use their new corporate name outside of San Benito County, but not within San Benito County.

If you have any questions, please feel free to contact me, or have the city attorney contact me. Whatever the outcome of this name dispute, my client's preference is that these two organizations work together for the benefit of the City of San Juan Bautista, rather than become involved in a legal dispute.

Sincerely,

PIPAL SPURZEM & LIEM LLP

By

A handwritten signature in black ink, appearing to read "Peter R. Spurzem", written over a horizontal line.

Peter R. Spurzem

PRS:es

Cc: Ryan Foucht, Assistant City Manager
San Juan Bautista City Council
SJB Business Association, Inc.



Item: 9.E
City Council Meeting
April 18, 2023

CITY OF SAN JUAN BAUTISTA CITY COUNCIL REPORT

DATE: APRIL 18, 2023 – Continued

DEPARTMENT: CITY ATTORNEY

BY: ROBERT W. RATHIE, CITY ATTORNEY

TITLE: REVISITING ZONING CODE SECTION 11-04-110
REGARDING REGULATION OF LARGE-SCALE RETAIL,
FORMULA RETAIL, FORMULA RESTAURANT AND
FORMULA VISITOR ACCOMMODATIONS BUSINESSES.

DISCUSSION ITEM:

During the discussion of Item 6.C. at the City Council meeting on March 21, 2023, Council Members discussed and received comments from members of the public concerning possibly revisiting the “Formula Business Ordinance” with the goal of encouraging a bank, pharmacy or another hotel to locate in San Juan Bautista. The City Council requested that an ordinance revision be brought back at this meeting as a discussion item. The attached change to Section 11-04-110, which like any revision to the Municipal Code would need to be adopted by ordinance, is submitted for that purpose.

This revision would establish a purpose for the regulation and describes the three types of businesses that would continue to be regulated - large-scale retail, formula retail and formula restaurant and further describes and defines the attributes of “large-scale” retail and “formula” retail and restaurant businesses. Reference to “Visitor accommodations” is deleted in the revision.

Neither the present ordinance nor the revision effect a total ban on such businesses and the findings required for a conditional use permit, required in each instance, remain essentially the same.

The proposal would exclude as formula businesses banks or credit unions, pharmacies not otherwise located within a large-scale retail business, grocery stores, and gas stations. Hotels, motels and inns are also excluded from categorization as formula businesses and each is permitted as a conditional use in the Commercial and Mixed Use Districts. Banks are a permitted use in the Commercial and Mixed Use Districts as are drug stores and grocery stores. Gas stations are conditional uses in the Commercial and Industrial Districts. “Large-scale retail business development” is defined in the Zoning Code as meaning any structure of 5,000 square feet or greater occupied by one retail establishment.

The revision also provides that in the event of any conflict with another section of the Municipal Code, Section 11-04-110 would control and that in the event an applicant challenges the

designation of the business as one of the types of businesses regulated by Section 11-04-110 the burden is on the applicant to prove otherwise.

California has a well-established history with formula business restrictions at the city level. In addition to prominent “big box” store regulations, many cities of varying size across the state have enacted prohibitions against formula businesses. California courts have largely upheld these restrictions against legal challenges under the dormant commerce¹ and equal protection clauses of the U.S. Constitution.

It is also a well-established legal principle that a city’s police power has broad application to protect the public health, safety and welfare of its residents which has been interpreted to include regulating formula businesses.

The attached proposed revision of Section 11-04-110 is submitted for purposes of discussion.

-RWR

¹ The Dormant Commerce Clause, or Negative Commerce Clause, in American constitutional law, is a legal doctrine that courts in the United States have inferred from the Commerce Clause in Article I of the US Constitution. The primary focus of the doctrine is barring state protectionism. The Dormant Commerce Clause is used to prohibit state legislation that discriminates against, or unduly burdens, interstate or international commerce.

11-04-110 Large-scale retail business, formula retail or formula restaurant business.

(A) The purpose of this section is to regulate the location and design of large-scale retail business, formula retail business, and formula restaurant business establishments in order to maintain the unique and historic small town visual appearance and character of the City, the diversity of the community's unique commercial area, the quality of life for City residents, and to promote the long-term economic health of visitor-serving businesses and the community as a whole.

(B) "Large-scale retail" means a commercial retail establishment for the sale of merchandise, services or a product to which either of the following apply: (i) such establishment has ground floor street-level facade exceeding twenty-five (25) linear feet on any street, or (ii) the useable area of the building or structure wherein a single business is to be located and conducted is five thousand (5,000) square feet or greater.

(C) "Formula" for purposes of this section means a type of business activity which is required by contractual or other arrangement or affiliation to maintain a standardized ("formula") array of merchandise and/or a product, menu, employee uniforms, décor, façade, design, signage, color scheme, trademark or service mark, name, or similar standardized features which cause it to be substantially identical to other businesses in the United States, regardless of ownership or location, at the time the conditional use permit application required herein is deemed complete.

(D) "Formula retail business" means a commercial retail establishment for the sale of merchandise, services and/or a product including a standard array of merchandise and/or a product and one or more of the other attributes described in subsection (C) above.

(E) "Formula restaurant business" means a retail establishment primarily devoted to the on-site preparation and offering of food and beverage for sale to the public for consumption either on or off the premises and which is required by contractual other arrangement to offer any of the following: standardized menus, ingredients, food preparation, décor, uniforms, architecture, signs or similar standardized features and which causes it to be substantially identical to other restaurants.

(F) Other Definitions.

"Color scheme" means selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the façade.

"Decor" means the style of interior furnishings, which may include, but is not limited to, style of furniture, wall coverings or permanent fixtures.

"Facade" means the face or front of a building, including awnings, looking onto a street or an open space.

"Ground floor street-level facade" means that street level portion of a building facing a public street.

"Service mark" means word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

"Signage" means a sign pursuant to Chapter 11-10 of this title.

“Standardized array of merchandise or a product” means fifty (50) percent or more of in-stock merchandise or a product are from a single distributor bearing uniform markings.

“Standardized array of services” means a substantially common menu or set of services priced and performed in a consistent manner.

“Trademark” means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.

“Uniform apparel” means standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks, dresses, hats, and pins (other than name tags) as well as standardized colors of clothing.

(G) A Conditional Use Permit shall be required for any large-scale retail business, formula retail business, or formula restaurant business in the City. Procedures for each such business’ conditional use permit application shall conform to Chapter 11-20. The following findings shall be required:

- (1) The business offers merchandise, a product and/or services that serve the unmet needs of the population.
- (2) Although a formula-based business may have other store locations throughout the country, State, or region, the business will complement and enhance the existing character of the City.
- (3) Both exterior and interior appearance and presentation of the business are compatible with the existing scale of development, distinctive architecture and pedestrian orientation of the town character and result in an enhancement of the look and feel (i.e., unique historic character) of the surrounding area.
- (4) Signs shall conform to the City sign standards and design guidelines.
- (5) Drive-through food establishments are prohibited.

(H) Large-scale retail, formula retail business, and formula restaurant business are subject to review by the Planning Commission so therefore the business/applicant shall fill out the application requirements for a conditional use permit and any other pertinent applications as specified therein, pay fees specified, and submit plans as set forth therein.

(I) Notwithstanding any other provision of this section, the following types of businesses are not formula businesses: hotels, motels, and inns, banks or credit unions, pharmacies not otherwise located within large-scale retail businesses, grocery stores, or automobile service (i.e., gas) stations.

(J) This section is in addition to, and not in replacement of, any other regulations set forth elsewhere in this title. In the event of a conflict between the provisions of this section, and any other regulations in this title, the provisions of this section shall prevail.

(K) In the event the City determines that a permit application or permit subject to this section is for a large-scale retail or a formula business, the permit applicant or holder bears the burden of proving to the City that the proposed or existing use does not constitute a large-scale retail or a formula business.



CITY OF SAN JUAN BAUTISTA CITY COUNCIL STAFF REPORT

Item: 10.E
City Council Meeting
Date: May 16, 2023

DATE: MAY 16, 2023

DEPARTMENT: CITY MANAGER

FROM: DON REYNOLDS

BY: DON REYNOLDS

TITLE: APPROVE THE AGREEMENT WITH THE CITY OF HOLLISTER
FOR DOMESTIC WASTEWATER TREATMENT

RECOMMENDED MOTION:

A motion is sought to approve the attached Agreement for Domestic Wastewater Treatment and Disposal (“Agreement”) with the City of Hollister.

RECOMMENDATION:

Approve a Resolution authorizing the Mayor to execute the Agreement with the City of Hollister, and directing the City Manager to present the Agreement to the City of Hollister for approval.

EXECUTIVE SUMMARY:

The City has been working towards the resolution of its decades-old permit violations with the United States Environmental Protection Agency (“USEPA”) and the Regional Central Coast Water Quality Control Board (the “Water Board”) since the inspection of its Wastewater Treatment Plant (“WWTP”) in June 2019. The four-year history is well defined in the Recitals of the proposed attached Resolution, and further detailed within the proposed Agreement to treat domestic wastewater with the City of Hollister. This permanent Agreement will replace the Memorandum of Understanding approved in September 2021 between the two cities. This is one of the final and most important steps to be taken to bring the City into compliance with the regulatory agencies, by allowing the construction of the sanitary sewer force main to Hollister, ending the City’s role as a WWTP operator, and decommissioning the City’s WWTP. Early this summer, the City will award the contract to construct this project.

BACKGROUND:

For more than a decade, the City has violated its National Pollution Discharge Elimination System (“NPDES”) Permit by releasing its treated effluent wastewater into a creek associated with the waters of the United States that contains levels of certain specific chemicals in amounts greater

than that allowed by the NPDES Permit limits. Beginning with a state and federal inspection of the City's WWTP in June 2019, continuing today and through the end of next summer, the City will have invested more than \$18 million to correct this problem. Even when the WWTP is operating at its best capacity (as it has been for more than a year), the problem remains that there is too much salt in the treated wastewater. The City's WWTP is not designed to remove salts.

Many studies went into a Water and Wastewater Master Plan and the execution of an Administrative Order on Consent ("AOC") with the USEPA in August 2020. That was followed by the development of the 80-page Preliminary Engineer's Report ("PER") that recommended several different options as solutions to stop these violations from occurring. As provided in the Recitals of the attached proposed Resolution, the City held a town hall meeting late in the summer of 2020 and in October selected a compliance project from the PER that was approved by the USEPA.

During this time and until the fall of 2022, the City was negotiating fines and penalties with the Water Board. Since 2007, the City has been fined every month for releasing too much chloride into No Name Creek. The City was able to negotiate a reduced payment of more than \$1 million in fines, paying cash for \$170,000, and paying \$720,000 back into the compliance project. The compliance schedule for this settlement is directly connected to the schedule in the USEPA's AOC. Both require the City to comply by June 30, 2024.

In the past 18 months, the City has completed the design of the Sanitary Sewer Force Main Project to Hollister ("SSFMPH"). Cost estimates from the design were used to justify the increase of the sewer rates. The City has successfully negotiated \$8 million in state and federal grants and \$10 million in a low interest loan from the USDA. The loan has a 2.5% interest rate and a 40-year term. The debt service for the loan will be covered by the new rates.

The City is currently soliciting bids for the SSFMPH's construction. The award of the contract will complete the effort to finance and build the SSFMPH. This is expected to happen early this summer. Now is the time to execute a permanent agreement for the SSFMPH whereby Hollister will accept the City's domestic wastewater, treat and recycle it for agricultural irrigation.

DISCUSSION

The attached Agreement sets forth the details needed to complete this wastewater deal. The significant components of the agreement can be summarized as follows:

Section I

(A) Hollister will agree to accept the City's domestic wastewater.

(B) The City ("SJB") is responsible for the construction costs of the 7-mile 18" force main. This includes the use of County streets and the Hollister casing underneath Highway 156, and the establishment of a City easement on Hollister's WWTP plant property to construct and maintain the force main as it connects to the Discharge Point provided

for in Exhibit “A.” The easement is proposed for approval under a separate report to the Council in this Agenda.

The plans for this work have been approved by Hollister, and Hollister has the right to inspect the work as it is being completed.

- (C) The City is responsible for all costs associated with the pipeline’s maintenance and operations, off-set by the cost incurred today for treating its own wastewater.
- (D) There is a two-year warranty.

Section II

The term of this Agreement is 40 years, with 4 additional ten-year term options available after the original term expires.

Section III

- (A) Hollister will accept 100% of the City’s wastewater, up to 1.2 million gallons per day. This figure is based upon the General Plan build-out in 2035 and a growth rate of 1.9% per year. Currently the City treats 160,000 gallons per day.
- (B) The City’s domestic wastewater shall not in any way adversely impact the Hollister treatment process, and the Agreement allows Hollister to conduct random water quality sampling as needed. The City’s wastewater will not impact Hollister’s long-term ability to meet its own regulatory average permit limits.

Section IV

- (A) There will be a one-time connection fee based upon Hollister’s current rate schedule for each city connection in the amount of \$2,547,200. This will be paid after completion of the project in one lump sum from a portion of the \$4 million grant provided by the USDA Grant/Loan package.
- (B) The monthly treatment rate is \$46,976.44 which is estimated in Section VI (B) by subtracting the collection system from the rate, and multiplying that amount times the number of “Equivalent Dwelling Units” or “EDU’s in the City (994). These costs will be off-set by the decommissioning of the City’s WWTP, and by charging the industrial customers this same amount plus city indirect costs (more than 100 EDUs).

Section VII

USDA Loan requirements are embedded into the Agreement, and USDA is required to sign it when executed.

The balance of the Agreement's provisions, which are not described in this summary, are standard provisions common to most legal agreements.

If this Agreement is executed, Hollister staff is ready at its next opportunity to present it to the Hollister City Council for approval. It is important that this agreement be executed before the City commits to an \$18.7 million construction contract. It is also critical that this Agreement be approved before moving forward with a formal agreement with the Water District, which is next on the critical path for this project

Working together with partners is a priority for the City of San Juan Bautista. Converting regulators into partners is also critical. This agreement is a model of cooperation amongst various agencies and interests and a model of neighbors helping neighbors. Rather than placing salty water in a creek in violation of state and federal standards, the City will be recycling its wastewater and preserving its ground water. The long-term benefits are difficult to quantify, but there are many.

FISCAL IMPACT:

The fiscal impact of the proposed Agreement was anticipated when the sewer rates were increased in 2021. Since that time the City has secured \$8 million in grants to reduce the debt service. The City will not be certain as to the impact of these savings until the construction contract is awarded in the summer.

ATTACHMENTS:

Proposed Resolution with the Agreement with the City of Hollister for Domestic Wastewater Treatment and Disposal

RESOLUTION NO. 2023- XXX

A RESOLUTION OF THE CITY OF SAN JUAN BAUTISTA APPROVING THE AGREEMENT WITH THE CITY OF HOLLISTER FOR DOMESTIC WASTEWATER TREATMENT AND DISPOSAL

WHEREAS, for decades the City of San Juan Bautista (“SJB” or the “City”) has relied upon source water from wells for its drinking water, that is notoriously “hard,” high in minerals, and includes a high level of salt; and

WHEREAS, these wells are often subject to high nitrate levels causing them to be closed prematurely; and

WHEREAS, high salt levels in the water being discharged into the creek currently exceed the National Pollution Discharge Elimination System (“NPDES”) permit levels, causing ongoing violations of the City’s NPDES Permit; and

WHEREAS, following a June 2019 EPA inspection of the City’s Waste Water Treatment Plant (“WWTP”), and for the last four years, the City has been working towards regaining compliance with its NPDES Permit enforced by the Environmental Protection Agency (“EPA”) and the Regional Water Quality Control Board; and

WHEREAS, in October 2019, the City hired a project manager to assist with the development of a Water and Waste Water Master Plan, and during the process of completing these plans, it was determined that the high levels of salt being discharged into the creek at the WWTP are introduced from its source of ground water and passed through the WWTP to the creek; and

WHEREAS, on April 20, 2020, the City Council appointed its Water Subcommittee consisting of Council Members Leslie Q. Jordan and John Freeman; and

WHEREAS, on August 8, 2020, the City Council adopted Resolution 2020-42, and the City and EPA executed an Administrative Order on Consent (“AOC”), agreeing to resolve the City’s NPDES violations by December 2023, as amended to be June 30, 2024, setting forth a schedule by which certain milestones will be reached; and

WHEREAS, on October 6, 2020, the City Council held a Town Hall meeting to discuss its options for solving the City’s source water and waste water compliance issues; and

WHEREAS, on October 15, 2020, the City Council approved Resolution 2020-51, and agreed to two compliance projects from the analysis provided in the Preliminary Engineers Report (“PER”): “Alternative 3: Regionalization with Hollister WWTP and Off-Site Source Control Hollister Water Treatment Plant operated by the City of Hollister, and West Hills Water Treatment Plant operated by the San Benito County Water District”;

WHEREAS, the wastewater Compliance Project selected and approved by the USEPA is defined as constructing a force main to export SJB’s domestic wastewater to the Domestic Wastewater Treatment Plant (“DWWTP”) owned and operated by Hollister; and

WHEREAS, the DWWTP was designed to serve the greater Hollister urban area, and has, and for the foreseeable future will have, the additional capacity to treat the wastewater generated from SJB; and

WHEREAS, the diversion of an average rate of approximately one hundred sixty thousand (160,000) gallons per day of SJB's domestic wastewater to Hollister's DWWTP for eventual re-use is part of a multi-part water solution that will mutually benefit all San Benito County residents; and

WHEREAS, by recycling and re-using the treated wastewater, the Sanitary Sewer Force Main to Hollister Project ("SSFMHP") will further decrease the demand for groundwater, which will help to conserve the groundwater resources in the region for other uses, including use during drought; and

WHEREAS, the SSFMHP will provide SJB with a much-needed permanent solution to remedy its wastewater treatment issues and allow SJB to de-commission its aged wastewater treatment plant; and

WHEREAS, Hollister and SJB wish to cooperate to ensure an adequate delivery of domestic wastewater to Hollister's DWWTP and to provide the benefits, including the conservation of local groundwater from improved wastewater treatment, directly to all consumers; and

WHEREAS, on September 7, 2021, Hollister and SJB entered into a Memorandum Of Understanding (as amended "MOU") regarding the Parties' agreement for SJB to send domestic wastewater to Hollister, and the MOU was amended by Addendum No. 1 to the MOU dated April 4, 2022; and

WHEREAS, the City relied upon engineer's cost estimates based on 30% drawings and successfully increased the sewer rates in December 2021, and over a five-year period the increased revenue will be capable of absorbing the anticipated cost of debt service to finance the SSFMHP; and

WHEREAS, in 2022, the City received commitments from State, USEPA and USDA authorities committing to fully fund the \$18.7 million SSFMHP, with \$8 million in grant funding, and a low interest loan of \$10.7 million; and

WHEREAS, the City has received approval of the 100% construction plans from the City of Hollister, County of San Benito, and the USDA, and is currently soliciting bids for the SSFMHP construction; and

WHEREAS, the City has received, and complied with all California Environmental Quality Act ("CEQA") requirements and all National Environmental Protection Act ("NEPA") requirements, having the NEPA studies approved by the USDA, and publishing the CEQA Mitigated Negative Declaration in December 2021, without comment, and accepting all mitigation measures as described therein; and

WHEREAS, SJB and Hollister staff have negotiated a cooperative agreement attached to this Resolution to replace the MOU as amended with a permanent Agreement for the City of Hollister, approved by the lender USDA, to accept and process SJB's domestic wastewater (Agreement for Domestic Wastewater Treatment and Disposal, "Agreement"); and

WHEREAS, based upon the history described in these recitals, and the staff report presenting this matter to the City Council on May 16, 2023, the City Council agrees with these conclusions and is prepared to adopt this Resolution and approve the attached Agreement.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA NOW HEREBY FINDS:

1. That the recitals in this Resolution and accompanying staff report are true and correct and are hereby made a part of this Resolution.
2. That CEQA required a Negative Declaration for the SSFMPH and this was completed December 14, 2021, filed with the County Recorder's Office and the State Office of Planning and Research on December 17, 2021, and no comments or concerns have been received by the City, as said public comment period is now closed.
3. That it hereby adopts this Resolution and approves the attached Agreement for Domestic Wastewater Treatment and Disposal subject to any technical changes that may be required by the City's attorney.
4. It authorizes the Mayor to sign the Agreement for Domestic Wastewater Treatment and Disposal and directs the City Manager to provide the signed agreement to the City of Hollister for approval.

PASSED AND ADOPTED by the City Council of the City of San Juan Bautista at a special meeting held on the 16th day of May 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Leslie Q. Jordan, Mayor

ATTEST:

Elizabeth Soto, Deputy City Clerk

AGREEMENT FOR DOMESTIC WASTEWATER TREATMENT AND DISPOSAL

This AGREEMENT FOR DOMESTIC WASTEWATER TREATMENT AND DISPOSAL (the “Agreement”), effective as of _____, 2023 (the “Effective Date”), is made and entered into by and between the CITY OF HOLLISTER, a California municipal corporation (“Hollister”) and the CITY OF SAN JUAN BAUTISTA, a California municipal corporation (“SJB”). Hollister and SJB are sometimes individually referred to as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, SJB’s wastewater treatment plant was not designed to remove salt (e.g., sodium, chloride, and total dissolved solids) from its domestic wastewater, and SJB has for many years been unable to consistently meet local National Pollutant Discharge Elimination System (“NPDES”) permit limits controlling the release of these constituents by discharging treated effluent with constituent concentrations above the prescribed effluent limitations specified in SJB’s NPDES permit into a local waterway (No Name Creek);

WHEREAS, the United States Environmental Protection Agency (“USEPA”) issued an Administrative Order on Consent (the “AOC”) on August 20, 2020, requiring SJB to take all measures necessary to fully and properly comply with all terms and conditions of its NPDES permit or future NPDES wastewater permits issued to SJB by the Central Coast Regional Water Quality Control Board (“RWQCB”);

WHEREAS, on October 15, 2020, the SJB City Council adopted Resolution 2020-51 and approved the selection of various compliance projects to bring its water and wastewater systems into compliance and defined the “Compliance Project” that guides how and when SJB will reach compliance with the provisions of the AOC by June 30, 2024;

WHEREAS, the wastewater Compliance Project selected and approved by the USEPA is defined as constructing a force main to export SJB’s domestic wastewater to the Domestic Wastewater Treatment Plant (“DWWTP”) owned and operated by Hollister;

WHEREAS, the DWWTP was designed to serve the greater Hollister urban area, and has, and for the foreseeable future will have, the additional capacity to treat the wastewater generated from SJB;

WHEREAS, the diversion of an average rate of approximately one hundred sixty thousand (160,000) gallons per day of SJB’s domestic wastewater to Hollister’s DWWTP for eventual re-use as part of a multi-part water solution that will mutually benefit all San Benito County residents;

WHEREAS, by recycling and re-using the treated wastewater, the Sanitary Sewer Force Main to Hollister Project (“SSFMHP”) will further decrease the demand for groundwater, which will help to conserve the groundwater resources in the region for other uses, including use during drought;

WHEREAS, the SSFMHP will provide SJB with a much-needed permanent solution to remedy its wastewater treatment issues and allow SJB to de-commission its aged wastewater treatment plant;

WHEREAS, Hollister and SJB wish to cooperate to ensure an adequate delivery of domestic wastewater to Hollister’s DWWTP and to provide the benefits, including the conservation of local groundwater from improved wastewater treatment, directly to all consumers;

WHEREAS, on September 7, 2021, Hollister and SJB entered into a Memorandum of Understanding (as amended, the “MOU”) regarding the Parties’ agreement for SJB to send domestic wastewater to Hollister, and the MOU was amended by Addendum No. 1 to the MOU dated April 4, 2022;

WHEREAS, on September 30, 2022, the Local Agency Formation Commission of San Benito County (“LAFCo”) confirmed that the SSFMHP is exempt from LAFCo approval pursuant to Government Code Section 56133 (e)(1); and

WHEREAS, the Parties are prepared to move forward with the SSFMHP and desire to memorialize their agreement for implementation of the same.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual agreements set forth herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. WASTEWATER CONVEYANCE AND TREATMENT

A. Acceptance and Delivery of SJB Wastewater. Pursuant to the terms and conditions of this Agreement, Hollister agrees to accept wastewater from SJB at Hollister’s DWWTP and to treat and process such wastewater. SJB shall be responsible for delivering wastewater to Hollister’s DWWTP influent sewer via a high-density polyethylene (HDPE) force main (the “Force Main”) from the SJB wastewater treatment plant to a manhole upstream of the DWWTP pump station, as more particularly depicted in **Exhibit A** (the “Discharge Point”).

B. Construction of SSFMHP. SJB agrees to be responsible for the construction of the Force Main at its sole cost and expense. SJB shall bear all costs for the design, permit approvals, and construction of the Force Main and shall be the sole owner of the Force Main. In the event of a wastewater spill from the Force Main, SJB shall be responsible for any related spill response, reporting, testing, and fines or penalties. Hollister has reviewed construction plans and drawings for the Force Main and has approved the same. The connection of the Force Main to the Discharge Point is subject to Hollister inspection. Upon completion of the connection of the Force Main to the Discharge Point, SJB shall conduct operational performance tests to ensure that all components of the connection of the Force Main to the Discharge Point are constructed to Hollister’s reasonable satisfaction. Hollister agrees to grant SJB all rights-of-way (“ROW”) needed for the Force Main, including ROWs within currently-existing public ROWs held or managed by Hollister. Hollister also agrees to permit SJB to use a forty-two inch (42”) casing pipe (the “Casing Pipe”) owned by Hollister, which is installed across Highway 156 and is currently unused, but may be used for a future capacity expansion. SJB will be permitted to use this Casing Pipe unless and until Hollister requires the same for a future capacity expansion and confirms insufficient capacity exists for both Hollister and SJB to share the Casing Pipe. Upon final completion of the connection of the Force Main to the Discharge Point, Hollister shall inspect the Force Main connection to the Discharge Point, and shall either: (i) notify SJB in writing that the connection is acceptable as constructed; or (ii) if reasonable cause exists for doing so, notify SJB in writing that the connection is not acceptable as constructed, stating in detail the reasons therefor. Final acceptance of the connection of the Force Main to the Discharge Point shall not be achieved until Hollister has accepted the connection as constructed.

C. Operation and Maintenance of SSFMHP. SJB agrees to be responsible for the operation and maintenance of the Force Main at its sole cost and expense. SJB will make improvements as needed, at its sole cost, to accommodate the connection of the Force Main at the Discharge Point. SJB shall also be

responsible for the management of the collection and conveyance of SJB's wastewater, up and until that wastewater reaches the Discharge Point.

D. Warranty. SJB warrants to Hollister all of the following: (a) construction of the SSFMHP shall conform in all material respects to the design approved by Hollister; (b) the SSFMHP as constructed shall meet Hollister and other relevant construction standards including standard engineering practice; (c) the construction of the SSFMHP shall be of a good quality, free from defects in workmanship and performed in a workmanlike and skillful manner; and (d) all materials and other items incorporated in such construction shall be new and of a suitable grade of their respective kind for their intended use, be free from defects in material and workmanship, meet the requirements of the design, and be free from any charge, encumbrance, lien or other security interest. This warranty shall last two (2) years from the time the SSFMHP first delivers wastewater to the DWWTP.

E. Operation and Maintenance of DWWTP. Hollister agrees to be responsible for operation and maintenance of the DWWTP at its sole cost and expense, subject to SJB's payment of fees pursuant to **Article V** below. Hollister shall also be responsible for the management of all SJB's wastewater from and after the time that such wastewater reaches the Discharge Point. In the event of a wastewater spill from the DWWTP or Hollister property after the Discharge Point, Hollister shall be responsible for any related spill response, reporting, testing, and fines or penalties.

F. Reclaimed Water. The Parties acknowledge and agree that the SSFMHP will contribute to the effluent flows at the DWWTP. Reclaimed water generated by the DWWTP from the SSFMHP offers a valuable resource for the region. Hollister shall own all reclaimed water generated from the DWWTP, including reclaimed water produced from the SSFMHP. Hollister shall receive all credit toward groundwater recharge.

II. TERM

This Agreement shall continue from the Effective Date until the date forty (40) years after the date of the initial delivery (the "Service Start Date") of SJB's wastewater to the DWWTP via the Force Main (as extended, the "Term"). The Term shall thereafter automatically extend for up to four (4) additional periods of ten (10) years each (the "Extension Terms"), unless either party provides notice to the other of its desire not to extend the Term at least five (5) years prior to the expiration of the then-current Term. Following the expiration of the Extension Terms, this Agreement may be renewed or extended for such additional terms as may be mutually agreed upon by Hollister and SJB.

III. QUANTITY AND QUALITY

A. Quantity of Wastewater. SJB shall be permitted to convey, and Hollister shall be obligated to accept one hundred percent (100%) of SJB's domestic wastewater flows during the Term. Hollister shall be responsible for ensuring that the DWWTP has sufficient capacity at all times to accept such quantity of wastewater from SJB. Notwithstanding the foregoing, the maximum domestic wastewater volume conveyed by SJB to Hollister will be limited to approximately eight hundred (800) gallons per minute ("gpm") and 1.2 million (1,200,000) gallons per day ("mgd"). To the extent that peak flows from SJB alone exceed eight hundred (800) gpm, excess wastewater will be stored in SJB's wastewater storage basins in order to limit flows to Hollister at or below eight hundred (800) gpm and 1.2 mgd. Flow diverted to storage will be sent to Hollister when peak influent flows have reduced to below eight hundred (800) gpm, up to 1.2 mgd on any given day.

B. Quality of Wastewater; Monitoring. SJB agrees that the export of SJB's domestic wastewater to Hollister shall not materially adversely impact Hollister's treatment process, its ability to use wastewater effluent, or its compliance with its Waste Discharge Requirements ("WDR") permit. Hollister will be added to the SJB Supervisory Control And Data Acquisition ("SCADA") system to allow Hollister the ability to monitor flows from the SJB system. SJB shall regularly monitor its wastewater quality with random sampling for biochemical oxygen demand (BOD), nitrogen (including Total N, Nitrate as N, Ammonia as N, Nitrite as N, and Total Kjeldahl Nitrogen as N), total dissolved solids (TDS), chloride, sulfate, sodium, and boron. SJB shall also have the ability to complete continuous, twenty-four (24) hour flow-proportional sampling on a regular basis. The results of such wastewater sampling will be shared with Hollister. If SJB's wastewater causes Hollister to exceed its long-term average limits for TDS, chloride, sulfate, sodium, boron, or any other limits prescribed in Hollister's WDR and such failure materially adversely affects Hollister, SJB shall correct the situation to the best of its ability and shall be responsible for any associated penalties issued to Hollister due to SJB's flows.

C. Industrial Users. SJB receives domestic wastewater from three (3) industrial users ("Industrial Users") beyond its incorporated boundary, pursuant to written agreements ("Industrial User Agreements") and San Juan Bautista Municipal Code Chapter 5-9 ("Uniform Wastewater Regulations"). SJB agrees to update and bring into current force and effect agreements with all Industrial Users before any domestic wastewater from such Industrial Users is exported to Hollister. No modifications or amendments to the Industrial User Agreements shall be made, and no new Industrial Users shall be accepted, without the express consent or joinder of Hollister, which consent or joinder shall not be unreasonably withheld, conditioned, or delayed.

D. Wastewater Treatment and Permit Compliance. Hollister shall be responsible for treating and processing SJB's wastewater in compliance with Hollister's most current WDR permit, minimum State limits for domestic wastewater treatment, RWQCB requirements and all other applicable laws. Hollister shall also be responsible for any specialized treatment required to produce recycled or reclaimed water and for disposal by means other than reclamation. Hollister shall update the DWWTP Waste Discharge Requirements with the RWQCB to reflect the service arrangement set forth in this Agreement.

IV. EMERGENCY EVENT

The Parties shall coordinate responses to unplanned events that may impact the ability of Hollister to accept and treat wastewater from the SSFMHP. When either Party becomes aware of an issue that requires immediate attention to avoid operational impacts (each an "Emergency Event"), that Party shall:

- a. Investigate to identify possible sources of the issue within a reasonably prompt response time;
- b. If it is determined that the Party aware of the issue is the responsible Party, that Party shall mitigate the issue as necessary to remedy the issue;
- c. The Party aware of the issue shall immediately contact the other Party, regardless of which Party is expected to be responsible; and
- d. Until the responsible Party is agreed upon by SJB and Hollister, both parties shall remain engaged in finding a solution and working collaboratively to resolve any issues.

V. COOPERATION AND INFORMATION SHARING

The Parties agree to work cooperatively and in good faith to implement the SSFMHP. Each Party agrees to provide to the other all pertinent data, previous studies, and related information necessary for the design, construction, completion, operation, and maintenance of the SSFMHP.

VI. FEES AND PAYMENTS

A. Connection Fee. Prior to the Service Start Date, SJB shall pay Hollister a connection fee of Two Million, Five Hundred Forty Seven Thousand, Two Hundred Dollars (\$2,547,200) for the wastewater treatment service provided by Hollister pursuant to this Agreement (the “Connection Fee”).

B. Monthly Fees. Hollister shall levy a monthly fee to SJB for treatment of its wastewater at a rate equal to the treatment portion of the rate assessed for “single family residential” in Hollister Resolution 2018-145, as the same may be amended from time to time. The treatment portion of the monthly rate shall be determined as the ratio of the single-family residential sewer treatment impact fee to the total sewer impact fee (treatment plus collection). For example, through June 30, 2023, the sewer impact fee treatment component is \$5,121.82 and the total sewer impact fee (treatment plus collection) is \$8,711.82, making the treatment component equal to 58.8% of the total. Multiplying this percentage by the current single family wastewater rate of \$80.38 results in a treatment portion of \$47.26. This treatment portion multiplied by nine hundred ninety-four (994) EDUs equals \$46,976.44 per month. Hollister will invoice SJB with a monthly flat rate and an annual “true-up” to occur each April for budget preparation purposes.

C. Penalty for Non-Payment. SJB’s payment in full of the monthly invoice shall be due and payable to Hollister sixty (60) days after the postmarked date on an invoice or the date of email if sent electronically to SJB (“Due Date”). Hollister shall send a secondary invoice to SJB for any bill not paid by the Due Date. In the event the invoice is past due more than one hundred twenty (120) days after the Due Date, Hollister may charge interest on any past due invoice at the rate applied to other Hollister customers, for every month or portion of a month that the past due amount remains unpaid; provided, however, in no event shall such interest rate exceed ten percent (10%) per annum.

D. Addition of New EDUs. New equivalent dwelling units (EDUs) connected to the SJB wastewater system after the Service Start Date shall pay the treatment portion of the Hollister’s then-current applicable sewer connection fee. Such fee will be collected by SJB and transmitted to Hollister each May 1st.

E. Other Costs. Each Party shall bear its own policy, technical, legal, and management costs related to this Agreement.

VII. COMPANION AGREEMENTS

A. Hollister Urban Area Water Supply and Treatment Agreement. The existing Hollister Urban Area Water and Wastewater Treatment Agreement shall be amended by Hollister to include SJB under terms and conditions mutually agreeable to the Parties (“HUA Water Amendment”).

B. San Benito County Water District Pipeline Agreement. SJB shall finalize an agreement with the San Benito County Water District for the development, construction and operation of a water conveyance pipeline for the supply of treated water to SJB from the West Hills Water Treatment Plant (“SBCWD Pipeline Agreement”; together with the HUA Water Amendment, the “Companion Agreements”).

C. ROW Agreements. SJB shall secure all rights, including without limitation ROWs and encroachment permits, from the County of San Benito, Caltrans, or other parties required for the construction, operation, and maintenance of the Force Main at SJB's sole cost and expense.

DRAFT

VIII. USDA LOAN REQUIREMENTS

A. USDA Concurrence. The construction of the Force Main by SJB is being financed by a loan made or insured by, and a grant from, the United States of America, acting through the Rural Development of the United States Department of Agriculture. The provisions of this Agreement pertaining to SJB are conditioned upon the written approval of the State Director of Rural Development.

B. Pledge of Agreement to USDA. As part of the security for the loan provided by the USDA for the SSFMHP, SJB shall be permitted to assign its rights under this Agreement to the USDA. In the event of any occurrence rendering SJB incapable of performing under this Agreement, any successor of SJB, whether as the result of legal process, assignment, or otherwise, shall succeed to the rights of SJB hereunder.

IX. COMPLIANCE WITH CEQA/NEPA

SJB shall be responsible for all environmental impact analysis and mitigation related to the SSFMHP. The California Environmental Quality Act ("CEQA") and National Environmental Protection Act ("NEPA") compliance for the SSFMHP has been completed.

X. NOTICES

All notices sent pursuant to this Agreement shall be given in writing and shall be: personally served; sent by certified or registered mail, return receipt requested; sent by nationally recognized overnight delivery service; or sent by email. Such notices shall be effective upon actual service or delivery, or refusal to accept the same; provided, however, notices given by email shall be effective only if and when received by the party to be notified by 4:00 P.M. Pacific Time on a business day. Email delivery made after such time shall not be deemed effective until the following business day. The Parties shall be addressed as follows, or at any other address designated by such Party upon at least five (5) days' notice to the other Party:

CITY OF HOLLISTER
David Mirrione
Interim City Manager
375 5th Street
Hollister, CA 95023
email: david.mirrione@hollister.ca.gov

CITY OF SAN JUAN BAUTISTA
Don Reynolds
City Manager
311 Second Street
PO Box 1420
San Juan Bautista, CA 95045
email: citymanager@san-juan-bautista.ca.us

XI. INDEMNIFICATION

A. Notice of Claims. Any Party against whom any claim arising from or related to the subject matter of this Agreement is filed shall give prompt written notice of such claim to the other Party.

B. Indemnification. Each Party to this Agreement (as "**Indemnifying Party**") shall indemnify, defend and hold harmless the other Party and its officers, managers, agents, employees, affiliates

and successors (collectively, “**Indemnified Party**”) from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses whatsoever, including without limitation attorneys’ fees and legal costs (“**Damages**”), suffered by the Indemnified Party and arising from the negligence, willful misconduct or breach of this Agreement by the Indemnifying Party; provided, however, such indemnification obligation shall not apply to the extent that any such Damages are caused by the negligence, willful misconduct or breach of this Agreement by the Indemnified Party.

C. Limitation of Liability. Neither Party shall be liable to the other Party for any loss, damage, liability, claim or cause of action for damage to or destruction of property or for injury to or death of persons arising solely from any act or omission of the other Party’s officers, agents, or employees.

XII. DISPUTES

A. Default; Cure. The failure of either Party to perform its obligations under this Agreement, which continues for more than thirty (30) days after receipt of written notice from the other Party stating the existence and nature of such default, shall constitute a “Default”, unless the default cannot be cured in thirty (30) days, and in that event, if the defaulting Party fails to continuously and diligently remedy the default.

B. Waiver. The failure of any Party at any time or times to enforce or require performance of any provision of this Agreement shall in no way operate as a waiver or affect the right of such Party at a later time to enforce the same. No waiver by any Party of any condition or the breach of any term, covenant, representation or warranty contained in this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any other breach of any term, covenant, representation or warranty contained in this Agreement.

C. Equitable Remedies. The Parties agree that irreparable damage would occur and that the Parties would not have any adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. The Parties shall be entitled to all forms of equitable relief, including restraining orders, injunctions and specific performance to prevent breaches and to enforce specifically the terms and provisions of this Agreement in addition to any other remedy to which they are entitled at law or in equity. The Parties waive any requirement for securing or posting of any bond in connection with the obtaining of any equitable relief.

D. Cumulation of Remedies. The Parties agree that in the event of a Default or breach of this Agreement, the Parties shall have all remedies at law or equity available to them, including specific performance and termination of this Agreement, and no remedy or election shall be deemed exclusive but shall, whenever possible, be cumulative with all other remedies at law or in equity.

E. Attorney’s Fees. If any legal action is brought for the enforcement or interpretation of this Agreement, the prevailing Party shall be entitled to recover reasonable attorney’s fees and costs, which may be determined by the court in the same action or in a separate action brought for that purpose.

XIII. DISPUTE RESOLUTION.

A. Settlement by Mutual Agreement. The Parties desire that this Agreement operate between them fairly and reasonably. If during the term of this Agreement a dispute arises between the Parties, or one Party perceives the other as acting unfairly or unreasonably, or a question of interpretation arises hereunder, then the Parties shall cause their respective representatives to promptly confer and exert

their good faith efforts to reach a reasonable and equitable resolution of the issue. If the Parties' representatives are unable to resolve the issue within ten (10) business days, the matter shall be referred within two (2) business days of the lapse of such period to the Parties' responsible officers for resolution. No Party shall seek resolution by mediation of any dispute arising in connection with this Agreement until all Parties' responsible officers, who shall be identified by each Party from time to time, have had at least ten (10) business days to resolve the dispute following referral of the dispute to such responsible officers. If the Parties fail to settle such dispute within such period (including a failure to identify their respective responsible officers and make necessary referrals within such period), the provisions of Section XIII.B shall apply unless the Parties agree that the dispute is to be resolved according to the provisions of Section XIII.C.

B. Mediation. If a dispute under this Agreement is not resolved by the Parties pursuant to Section XIII.A, upon the request of any Party, the Parties shall try in good faith to settle the dispute by nonbinding mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to litigation. Unless otherwise agreed upon by the Parties, the mediation shall be held in San Benito County, California. Each Party will bear the cost and expense of preparing and presenting its own case, including its own attorney's fees and costs of witnesses. Payment of the mediator and other costs and expenses of the mediation will be divided equally on a per-Party basis.

C. Litigation. If a dispute under this Agreement is not resolved by the Parties pursuant to Section XIII.B within sixty (60) days from the date on which a Party first requested mediation, then either Party may seek to resolve such dispute through litigation.

XIV. ENTIRE AGREEMENT

This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous written and oral agreements between the Parties with respect to that subject matter, including without limitation the MOU. This Agreement may only be modified or amended in a writing signed by both Parties.

XV. INDEPENDENT CONTRACTORS

This Agreement calls for the performance of the service of SJB and Hollister as independent contractors. No Party is an agent or employee of any other Party for any purpose and is not entitled to any of the benefits provided by any Party to its employees. This Agreement shall not be construed as forming a joint venture, partnership or any other association or agency among SJB and Hollister other than that of independent contractors.

XVI. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to any otherwise applicable principles of conflicts of laws.

XVII. SEVERABILITY

If any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.

XVIII. NO WAIVER

No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver, nor shall

a waiver in any instance constitute a waiver in any subsequent instance. No waiver shall be binding unless executed in writing by the Party making the waiver.

XIX. COUNTERPARTS; ELECTRONIC SIGNATURE

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original for all purposes, but all of which when taken together shall constitute one agreement. Signatures hereon and upon any documents required to be executed by either Party in connection with this Agreement may, except to the extent original signed copies are required in connection with recording, be delivered by electronic mail and/or executed electronically by means of DocuSign or other similar computer software or applications, shall be valid and effective to bind the party so signing, and shall be deemed originals for all purposes.

XX. EFFECTIVE DATE

This Agreement shall be effective upon duly authorized execution by all of the Parties. It is the product of negotiation and, therefore, shall not be construed against any Party.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS HEREOF, the Parties hereto have caused this Agreement to be executed, on the day and year first-above written.

CITY OF SAN JUAN BAUTISTA

CITY OF HOLLISTER

MAYOR LESLIE Q. JORDAN

MAYOR

APPROVED AS TO FORM:

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

OFFICE OF THE CITY ATTORNEY

By: _____

By: _____

This Agreement is approved on behalf of Rural Development as of _____.

By: _____

Name: _____

Title: _____



CITY OF SAN JUAN BAUTISTA CITY COUNCIL REPORT

DATE: APRIL 18, 2023 – Continued

DEPARTMENT: CITY ATTORNEY

BY: ROBERT W. RATHIE, CITY ATTORNEY

TITLE: REVISITING ZONING CODE SECTION 11-04-110
REGARDING REGULATION OF LARGE-SCALE RETAIL,
FORMULA RETAIL, FORMULA RESTAURANT AND
FORMULA VISITOR ACCOMMODATIONS BUSINESSES.

DISCUSSION ITEM:

During the discussion of Item 6.C. at the City Council meeting on March 21, 2023, Council Members discussed and received comments from members of the public concerning possibly revisiting the “Formula Business Ordinance” with the goal of encouraging a bank, pharmacy or another hotel to locate in San Juan Bautista. The City Council requested that an ordinance revision be brought back at this meeting as a discussion item. The attached change to Section 11-04-110, which like any revision to the Municipal Code would need to be adopted by ordinance, is submitted for that purpose.

This revision would establish a purpose for the regulation and describes the three types of businesses that would continue to be regulated - large-scale retail, formula retail and formula restaurant and further describes and defines the attributes of “large-scale” retail and “formula” retail and restaurant businesses. Reference to “Visitor accommodations” is deleted in the revision.

Neither the present ordinance nor the revision effect a total ban on such businesses and the findings required for a conditional use permit, required in each instance, remain essentially the same.

The proposal would exclude as formula businesses banks or credit unions, pharmacies not otherwise located within a large-scale retail business, grocery stores, and gas stations. Hotels, motels and inns are also excluded from categorization as formula businesses and each is permitted as a conditional use in the Commercial and Mixed Use Districts. Banks are a permitted use in the Commercial and Mixed Use Districts as are drug stores and grocery stores. Gas stations are conditional uses in the Commercial and Industrial Districts. “Large-scale retail business development” is defined in the Zoning Code as meaning any structure of 5,000 square feet or greater occupied by one retail establishment.

The revision also provides that in the event of any conflict with another section of the Municipal Code, Section 11-04-110 would control and that in the event an applicant challenges the designation of the business as one of the types of businesses regulated by Section 11-04-110 the burden is on the applicant to prove otherwise.

California has a well-established history with formula business restrictions at the city level. In addition to prominent “big box” store regulations, many cities of varying size across the state have enacted prohibitions against formula businesses. California courts have largely upheld these restrictions against legal challenges under the dormant commerce¹ and equal protection clauses of the U.S. Constitution.

It is also a well-established legal principle that a city’s police power has broad application to protect the public health, safety and welfare of its residents which has been interpreted to include regulating formula businesses.

The attached proposed revision of Section 11-04-110 is submitted for purposes of discussion.

-RWR

¹ The Dormant Commerce Clause, or Negative Commerce Clause, in American constitutional law, is a legal doctrine that courts in the United States have inferred from the Commerce Clause in Article I of the US Constitution. The primary focus of the doctrine is barring state protectionism. The Dormant Commerce Clause is used to prohibit state legislation that discriminates against, or unduly burdens, interstate or international commerce.



CITY OF SAN JUAN BAUTISTA CITY COUNCIL STAFF REPORT

Item: **10.B**
City Council Meeting
Date May 16, 20**23**

DATE: MAY 16, 2023

DEPARTMENT: CITY MANAGER

FROM: DON REYNOLDS

BY: DON REYNOLDS

**TITLE: APPROVE THE PUBLIC UTILITY EASEMENT DEED WITH
THE CITY OF HOLLISTER FOR DOMESTIC WASTEWATER
TREATMENT**

RECOMMENDED MOTION:

A motion is sought to approve the attached Public Utility Easement Deed (“Deed”) with the City of Hollister for treatment of the City’s domestic wastewater.

RECOMMENDATION:

Approve a Resolution authorizing the Mayor to execute the Public Utility Easement Deed (“Deed”) for Domestic Wastewater Treatment and Disposal with the City of Hollister, and direct the City Manager to present this Easement to the City of Hollister for approval.

EXECUTIVE SUMMARY:

The City has been working towards the resolution of its decades old permit violations with the United States Environmental Protection Agency (“USEPA”) and the Regional Central Coast Water Quality Control Board since the inspection of its Wastewater Treatment Plant in June 2019. The four-year history is well defined in the Recitals of the proposed attached Resolution, and further detailed within the proposed Agreement for Domestic Wastewater Treatment and Disposal (“Agreement”) with the City of Hollister that is provided to the City Council as a separate matter. This permanent Agreement will replace the Memorandum of Understanding approved in September 2021 between the two cities. If and when the Agreement is approved, then this easement is required to allow access by the City of San Juan Bautista on Hollister property to construct and maintain its force main pipeline at the Hollister Wastewater Treatment Plant. (“WWTP”).

BACKGROUND:

For more than a decade, the City has violated its National Pollution Discharge Elimination System (“NPDES”) Permit by releasing its treated effluent wastewater into a creek associated with the waters of the United States that contains levels of certain specific chemicals in amounts greater than that allowed by the NPDES Permit limits. Beginning with a state and federal inspection of the City’s WWTP in June 2019, continuing today and through the end of next summer, the City will have invested more than \$18 million dollars to correct this problem. Even when the WWTP is operating at its best capacity (and it has been for more than a year), the problem remains that there is too much salt in the treated wastewater. The City’s WWTP is not designed to remove salts.

The City is currently soliciting bids for the project’s construction. The award of the contract will complete the effort to finance and build the Sanitary Sewer Force Main Project to Hollister (“SSFMPH”). This is expected to happen early this summer. Now is the time to execute a permanent agreement for the SSFMPH whereby Hollister will accept the City’s domestic waste water, treat and recycle it for agricultural irrigation. If that Agreement is approved, then this easement deed will also need to be approved to implement the Project.

DISCUSSION

The attached draft Public Utility Easement Deed with Hollister sets forth the conditions for which the City of San Juan Bautista can enter on to Hollister’s property at the WWTP to build and maintain its force main as it connects to the Hollister system (“Delivery Point”). There are certain assurances and transfer of liability contained within the deed common to any other deed of this nature. It protects both the rights of San Juan Bautista for the purpose of building and maintaining its force main and the rights of Hollister for any incidental loss or damages or potential trespass from the City.

FISCAL IMPACT:

The attached Deed is unique as it is between two public utilities, and as such, there is no consideration or cost to either side for acquiring the privileges described therein.

ATTACHMENTS:

Proposed Resolution with the Public Utility Easement Deed

RESOLUTION NO. 2023- XXX

A RESOLUTION OF THE CITY OF SAN JUAN BAUTISTA APPROVING THE PUBLIC UTILITY EASEMENT DEED WITH THE CITY OF HOLLISTER FOR DOMESTIC WASTEWATER TREATMENT AND DISPOSAL

WHEREAS, since 2019, the City of San Juan Bautista (the “City” or “SJB”) has been focused on resolving its wastewater violations with the United States Environmental Protection Agency (“USEPA”) and State Water Board; and

WHEREAS, on October 6, 2020, the City Council held a Town Hall meeting to discuss its options for solving the City’s source water and waste water compliance issues; and

WHEREAS, on October 15, 2020, the City Council approved Resolution 2020-51, and agreed to two compliance projects from the analysis provided in the Preliminary Engineers Report (“PER”): “Alternative 3: Regionalization with Hollister WWTP and Off-Site Source Control Hollister Water Treatment Plant operated by the City of Hollister, and West Hills Water Treatment Plant operated by the San Benito County Water District”; and

WHEREAS, the wastewater Compliance Project selected and approved by the USEPA is defined as constructing a force main to export SJB’s domestic wastewater to the Domestic Wastewater Treatment Plant (“DWWTP”) owned and operated by Hollister; and

WHEREAS, on September 7, 2021, Hollister and SJB entered into a Memorandum Of Understanding (as amended, the “MOU”) regarding the parties’ agreement for SJB to send domestic wastewater to Hollister, and the MOU was amended by Addendum No. 1 to the MOU dated April 4, 2022; and

WHEREAS, the City has received approval of the 100% construction plans from the City of Hollister, County of San Benito, and the USDA, and is currently soliciting bids for the Sanitary Sewer Force Main Project to Hollister (“SSFMPH”) construction; and

WHEREAS, the City has received, and complied with all California Environmental Quality Act (“CEQA”) requirements and all National Environmental Protection Act (“NEPA”) requirements, having the NEPA studies approved by the USDA, and publishing the CEQA Mitigated Negative Declaration in December 2021, without comment, and accepting all mitigation measures as described therein; and

WHEREAS, SJB and Hollister staff have negotiated a cooperative agreement to replace the MOU, with a permanent Agreement for the City of Hollister, approved by the lender USDA, to accept and process SJB’s domestic wastewater (Agreement for Domestic Wastewater Treatment and Disposal, “Agreement”) to be considered on this same Agenda as a separate matter; and

WHEREAS, if or when the proposed Agreement with Hollister is approved, the City and Hollister require that a Public Utility Easement Deed be approved and recorded, as attached to this Resolution; and

WHEREAS, the utility easement is located at Hollister's WWTP property and will provide SJB access to that piece of the property needed to construct and maintain its force main, and it has been reviewed and approved by City of Hollister staff; and

WHEREAS, the City Council agrees that the public utility easement deed is necessary to complete the SSFMPH and approves of its written descriptions of the properties in question as provided in the attached Deed.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA NOW HEREBY FINDS:

1. That the recitals in this Resolution and accompanying staff report are true and correct and are hereby made a part of this Resolution.
2. That CEQA required a Negative Declaration for the SSFMPH and this was completed December 14, 2021, filed with the County Recorder's Office and the State Office of Planning and Research, December 17, 2021, and no comments or concerns have been received by the City, as said public comment period is now closed.
3. That it hereby adopts this Resolution and approves the attached Public Utility Easement Deed for access to Hollister property at its wastewater treatment plant required for the treatment and disposal of San Juan Bautista's domestic wastewater, subject to any technical changes that may be required by the City's attorney.
4. It authorizes the Mayor to sign the Public Utility Easement Deed and directs the City Manager to provide the signed Deed to the City of Hollister for approval.

PASSED AND ADOPTED by the City Council of the City of San Juan Bautista at a special meeting held on the 16th day of May 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Leslie Q. Jordan, Mayor

Elizabeth Soto, Deputy City Clerk

**Recording Requested by and
When Recorded, Return to**
City of San Juan Bautista
Attn: City Manager
311 Second Street
San Juan Bautista, CA 95045

A.P.N.(s) _____

PUBLIC UTILITY EASEMENT DEED
(“Blanket Easement” – Sanitary Sewer Force Main to Hollister Project)

Exempt from Recording Fees: Gov. Code 27383
Documentary Transfer Tax: \$0.00;
No documentary transfer tax due: (R&T Code §11922)
Conveyance to government entity.

THIS PUBLIC UTILITY EASEMENT DEED (“Deed”) is made and entered into this _____ day of _____, 2023, by and between the City of Hollister, a California general law city (“Grantor”) and the City of San Juan Bautista, a California general law city (“Grantee”).

WITNESSETH:

For good and valuable consideration, the receipt of which is hereby acknowledged, Grantor hereby grants to Grantee, its successors and assigns, a non-exclusive public utility easement (the “Easement”) for the purpose of laying, operating, maintaining, repairing, replacing and removing one high-density polyethylene force main pipeline (the “Force Main”) ten inches (10”) in nominal outside diameter with all appurtenant facilities for the transportation of domestic wastewater (the “Grantee’s Facilities”) along with the right of ingress and egress over, upon and across that certain real property commonly known as San Benito County APNs 052-100-001 (2690 Old San Juan Hollister Road) and 025-100-007 (2690 Old San Juan Hollister Road) and more particularly described and depicted in **Exhibits A and B**, attached hereto and made a part hereof (the “Easement Property”). Upon completion of construction, Grantee will provide Grantor, at Grantee’s expense, with a survey prepared by a registered civil engineer which shows the exact location of Grantee’s Facilities within the Easement Property, together with “as-built” plans of Grantee’s Facilities. At Grantor’s request, the parties agree to record an amended Easement Deed in conformance with such survey.

Grantor also grants to Grantee, its successors and assigns, a non-exclusive temporary construction easement (the “Temporary Construction Easement”) over, upon, through and across the Easement Property. The Temporary Construction Easement shall expire on: (1) the date on which the initial construction of the Grantee’s Facilities is completed and the Force Main is operational (the “Initial Construction Period”), or (2) three years from the date of this Deed, whichever is earlier. In the event the Initial Construction Period is not commenced within twenty-four (24) months from the date hereof, the Easement and the Temporary Construction Easement shall terminate, unless both

the period for commencement of construction and the term of the Temporary Construction Easement are extended in writing by the Grantor.

Grantee shall have the right of ingress and egress over, upon and across the Easement Property during the Initial Construction Period. Grantee shall also have the right during the Initial Construction Period to engage in construction and staging activities upon the Easement Property and to store materials or equipment on the Easement Property. Grantee agrees to coordinate with Grantor's staff regarding construction, staging and material storage upon the Easement Property during the Initial Construction Period. After expiration of the Initial Construction Period, Grantee shall be permitted to have ingress and egress to and from Grantee's Facilities for the limited purposes described herein over a route or routes across the Easement Property designated in advance by the Grantor. After the expiration of the Initial Construction Period, except in case of an emergency, Grantee agrees to provide Grantor not less than two (2) hours prior notice before Grantee's employees, agents or contractors enter upon the Easement Property for construction, maintenance, repairs or other operations. In the case of an emergency necessitating entry upon the Easement by Grantee, its employees, agents, or contractors without first giving prior notice to Grantor, Grantee agrees to notify Grantor of the nature and extent of any such emergency within twenty-four (24) hours after any such entry.

The Easement granted herein is subject to the following conditions: the erecting of buildings, masonry, walls, masonry fences and other structures or the planting or growing of trees or shrubs, or changing the surface grade, or the installation of privately owned pipelines shall be prohibited unless an encroachment maintenance removal agreement is first reviewed and approved by the City of Hollister Public Works Department. If any such items are placed on the Easement, the Grantor shall provide written notice to Grantee of any such item placed on the Easement and a request for their removal. Should the Grantee fail to remove such item within thirty (30) days of the notice, the Grantor may remove the items without liability for damages arising therefrom and bill Grantee for its actual costs for the removal.

Reserving to the Grantor from the Easement granted herein the continued use of the surface and subsurface of said real property including, but not limited to, the right to pave all or a portion of the Easement.

In addition to the Easement rights and terms set forth above, the parties further hereby mutually covenant and agree as follows:

1. Grantor expressly reserves for itself, its successors and its assigns, the right to grant other easements or licenses at the same location so long as such use does not unreasonably interfere with the rights granted under this Easement. Grantor shall notify Grantee in writing and in advance of Grantor's intention to grant any such easement.

2. The Easement is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, leases and licenses, easements, and rights of way pertaining to Easement Property, whether or not of record.

3. The grant of the Easement shall not imply any warranty or representation on the part of the Grantor that the Easement is sufficient for Grantee's purposes set forth in this Deed.

4. The Grantee shall comply with all applicable laws, ordinances and regulations, including but not limited to all applicable regulatory, environmental and safety requirements at the Grantee's sole cost and expense. The Grantee shall at all times and at its sole cost and expense (i) operate and maintain the Grantee's Facilities in good condition and repair, and in safe condition, (ii) comply with applicable laws, regulations and policies in connection with the design, engineering, procurement, construction, use, operation and maintenance of the Grantee Facilities, including, without limitations, obtaining and maintaining all required governmental permits, and approvals, if any, relating to the Grantee's Facilities; (iii) design, engineer, procure, construct, use, operate and maintain the Grantee's Facilities in accordance with the Grantee's standard practices; and (iv) design, engineer and construct the Grantee's Facilities so as to minimize any interference with the use or operation of the Grantor, including any of the existing infrastructure of the Grantor.

5. The Grantee shall not use, deposit or permit the use or deposit of any hazardous material or toxic waste or other harmful substances in excess of the amounts permitted by law, including the release of domestic wastewater, on Grantor Property. The Grantee shall notify Grantor as soon as practicable of any significant condition(s) on Grantor Property or the Easement posing danger to persons or property resulting from the Grantee's exercising its rights under this Deed. The Grantee shall be solely responsible for, at its sole cost, any cleanup of any hazardous, toxic, or harmful substance releases on the Easement Property and any damages caused thereto as a result of the Grantee's exercising its rights under this Deed.

6. The Grantee shall have the right to cut, trim, control, and remove vegetation, brush and other obstructions located within the Easement. With Grantor's prior written approval, the Grantee may cut, trim, control, and remove vegetation on Grantor's adjacent property which injure or interfere with the Grantee's use, occupation, or enjoyment of the Easement or the construction, operation, maintenance, repair, replacement, removal or inspection of the Grantee's Facilities within the Easement, without liability for damages arising therefrom.

7. Grantor may pave or repave the Easement and install objects such as lights, signs, or fences on the Easement. Grantor shall have the right, but not the obligation, to plant and maintain plants without deep root systems, on the Easement. If, in the process of exercising one or more of the rights described in this Deed, the Grantor finds it necessary to remove any plants with deep root systems which have been placed or planted on the Easement by Grantee, upon providing written notice to Grantee and providing Grantee with reasonable time and opportunity to remove the previously described items placed or planted on the Easement, the Grantor may do so at its own cost without liability for damages arising therefrom and the Grantor shall not be responsible to replace such items after it has exercised its rights under this Deed.

8. In no event shall Grantor:

- (a) Construct or place, longitudinally along or otherwise within the Easement, any tree, underground pipeline, cable, wire,

conduit, valve, stub, or other utility or appurtenance without the prior written notice to the Grantee; or

- (b) Change, by excavation or filling, the present grade or ground level of the Easement by more than two (2) feet without prior written notice to the Grantee.

9. The Grantee shall have and exercise the right of subjacent and lateral support for the full and complete use of the Easement. The Grantor shall take no unreasonable action which would impair the earth cover over, or the lateral or subjacent support for, any of the Grantee's Facilities within the Easement; provided, however, that upon obtaining the specific written permission of the Grantee, the earth cover over any pipeline or lines may be modified; except that permission normally will not be granted for modification resulting in cover of less than three feet, nor greater than eight feet measured vertically from the top of any pipelines or other subsurface portion of Grantee's Facilities. All backfill must be compacted to a minimum of 95% relative compaction so as to prevent settlement or erosion. After any construction, repair or removal in unpaved areas Grantee shall restore or replace the topsoil similar to the surrounding lands which will maintain drainage previous to such work and prevent erosion.

10. Grantor retains the right to the use and occupancy of the Easement Property insofar as such use and occupancy are consistent with the terms of this Deed and do not impair the Grantee's use of the Easement.

11. The Grantee will secure and maintain general liability insurance sufficient to cover any liability for its actions on the Easement Property.

12. The grant of the Easement is made on the express condition that Grantor is free from any and all liability for injury or death to persons or any damage to Grantee's Facilities, Grantee's personal property or any property under the control or custody of the Grantee from whatever cause arising out of the exercise of the rights granted pursuant to this Deed by the Grantee or its contractors, agents, officers, members, employees, invitees, or licensees. The Grantee hereby covenants and agrees to defend and indemnify the Grantor, its officers, employees, agents, and invitees and save them harmless from any and all liability, loss, costs, or obligations on account of, or arising out of, any such injury or losses caused or claimed to be caused by the Grantee's exercise of the rights under the Deed or the Grantee's use of the Easement, however occurring, other than those caused solely by the negligent or willful acts or omissions of Grantor.

13. It is mutually agreed by and between the parties hereto that the Grantee may commence the exercise of its rights to the use of the Easement forthwith, or it may postpone the exercise of all or some part of its rights hereunder to some future time, but not more than two (2) years from the date of this Deed.

14. Grantor represents that it has full right and lawful authority to make the grants herein contained.

15. The failure of either party to insist, in any one or more instances, upon a strict performance of any of the obligations, covenants, or agreements herein contained, or the failure of the either party in any one or more instances to exercise any option, privilege, or right herein contained, shall in no way be construed to constitute a waiver, relinquishment or release of such obligations, covenants, or agreements, and no forbearance by either party of any default hereunder shall in any manner be construed as constituting a waiver of such default.

16. If the Grantee abandons use and operation of the Grantee's Facilities installed on the Easement for five (5) years or longer, such abandonment shall constitute abandonment of (a) its rights under this Deed and (b) abandonment of the Easement. Notwithstanding the foregoing, the Grantee shall be solely responsible for proper removal and disposal of the Grantee's Facilities and any other personal property and waste owned by or under the control of the Grantee.

17. Each and every one of the benefits and burdens of this Deed shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors and assigns of the parties hereto. In the event any party hereto or its successor or assign seeks to enforce its rights hereunder through litigation, arbitration or other administrative proceeding, the non-prevailing party shall be required to pay the reasonable attorney fees and costs of the prevailing party as part of any judgment, order, or award.

18. The Grantor reserves the right to grant further easement interests in the Easement Property to other utilities and grantees if the Grantee's rights to the use of the Easement will not be materially impaired by such grant; provided, that:

- (a) Such further easement interests shall be no closer than ten (10) feet from the Grantee's Facilities, except as stated in (b).
- (b) In the case of utilities crossing Grantee's pipelines or other Grantee's Facilities, crossings shall be perpendicular where possible and the other utilities shall be installed in accordance with the Grantee's regulations and design standards and buried at least one and one (1½) half feet below any existing or future planned Grantee's Facilities. The utility shall take reasonable measures required by the Grantee to protect in place any existing Grantee's Facilities, and the Grantee may require a representative of the Grantor to be on-site for such installation, at the cost of the additional grantee.

19. This Deed shall be construed in accordance with the laws of the State of California. In the event of any dispute over the Deed's terms and conditions, the exclusive venue and jurisdiction for any litigation arising hereunder shall be in San Benito County, California.

20. The above and foregoing constitute the entire agreement between the parties and no additional or different oral representation, promise or agreement shall be binding on any of the parties hereto, with respect to the subject matter of this Deed.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Easement Deed as of the day and year first written above.

GRANTOR:

The City of Hollister,
a California general law city

By: _____

Attest: (Resolution 2023-____)

By: _____
City Clerk

Approved as to form:

By: _____
City Attorney

GRANTEE:

The City of San Juan Bautista
A California general law city

By: _____

Attest: (Resolution 2023-____)

Attest: _____
Deputy City Clerk

Approved as to form:

By: _____
City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF SAN BENITO

On _____, before me _____,

Notary Public, personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF AN BENITO

On _____, before me _____,
Notary Public, personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public (Seal)

EXHIBIT A

LEGAL DESCRIPTION(S) – EASEMENT PROPERTY

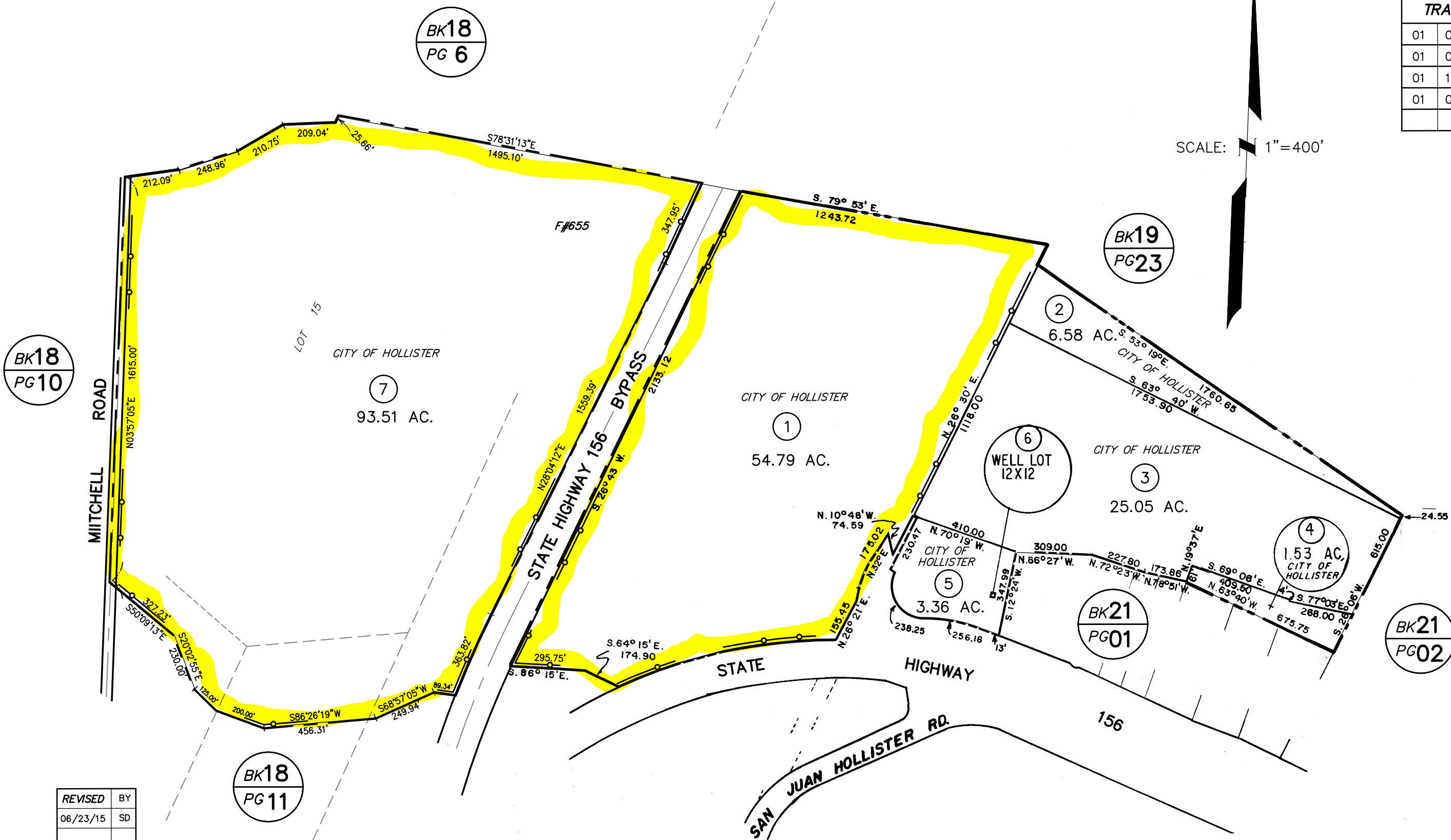
EXHIBIT B

DEPICTION(S) – EASEMENT PROPERTY

THIS MAP IS NOT AN OFFICIAL DOCUMENT AND IS USED FOR ASSESSMENT PURPOSES ONLY.

TRA	
01	002
01	055
01	157
01	075

SCALE: 1"=400'



REVISED	BY
06/23/15	SD

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CITY OF SAN JUAN BAUTISTA CITY COUNCIL STAFF REPORT

DATE: MAY 16, 2023

DEPARTMENT: ASSISTANT CITY MANAGER/COMMUNITY DEVELOPMENT

FROM: BRIAN FOUCHT, ASSISTANT CITY MANAGER/COMMUNITY DEVELOPMENT

BY:

TITLE: REVIEW ZONING ORDINANCE CHAPTER 11-04 ADDITIONAL DEVELOPMENT STANDARDS, SECTION 11-04-030 COMMERCIAL AND INDUSTRIAL DISTRICTS

RECOMMENDED ACTION:

It is recommended that the City Council Direct the Planning Commission to evaluate and recommend to the City Council alternatives for amendment of Zoning Ordinance Section 11-04-030 and any related Zoning Ordinance provisions, consistent with the General Plan.

BACKGROUND AND DISCUSSION:

The stated overall purpose of Zoning Ordinance section 11-04-03 is to assure that all commercial and industrial operations carried out in the City are conducted in such a manner to avoid any nuisance, hazard or commonly recognized offensive condition or characteristic adverse to the public health, safety, and general welfare. (A) (C) and (D) contain qualitative performance standards for commercial and industrial uses, rather than standards based on specified measurements, such as height, setback, coverage, floor area-ratio etc.. The exception are provisions that reference quantified noise thresholds and the more objective standards in 11-04-030.B, which has been the subject of recent controversy following enforcement of those provisions.

The rationale behind zoning overall and any particular section of a zoning ordinance, is that it promotes the good of the entire community in accordance with the General Plan.

Courts have held that a **zoning regulation** is permissible if it is “reasonable” and not arbitrary; if it bears a reasonable and substantial relation to the public health, safety, comfort, morals, and general welfare; and if the means employed are reasonably necessary for the accomplishment of its purpose. Whether a regulation is reasonable must be based on all relevant factors, such as the need of the City; the purpose of the restriction; the location, size, and physical characteristics of the commercial area and adjacent residential areas; the character of commercial areas and related

uses and activities; and its effect on the value of properties. These are exactly the concerns expressed regarding Zoning Ordinance Section 11-04-030.B during the May 2, 2023 Planning Commission meeting and generally in the community.

The concerns expressed relate to the language of Section 11-04030.B, which does not seek to reduce, minimize or moderate the operation of *uses*, but speaks to avoidance, prohibition, and exclusion, with limited exceptions. In other words, the ordinance is restrictive, rather than enabling.

The performance standards contained in Section 11-04-030 (A), (C) and (D) are determined on a case by case, depend on the situation, and involve a determination whether the effects of any specific use (uses in general) “unreasonably adversely” affect the community.

Section of the 11-04-030.B requires the conduct of *all uses* within an enclosed building and restricts the outdoor display of merchandise. These restrictions have recently been questioned regarding whether they are reasonable and necessary and whether they promote the good of the entire community consistent with the General Plan. This particular section is also linked to Zoning Ordinance Section 11-02-050 Permitted and Conditional Uses By Zoning District, Use Matrix which requires a Use Permit for Outdoor Dining as an “accessory use to a principal on-site restaurant.”

The following are the provisions of Zoning Ordinance Section 11-04-030:

11-04-030 Commercial and industrial districts.

The performance standards established in this Section apply to the mixed use, commercial and industrial zoning districts. These standards are intended to assure that all commercial and industrial operations carried out in the City are conducted in such a manner to avoid any nuisance, hazard or commonly recognized offensive condition or characteristic adverse to the public health, safety, and general welfare.

(A) Prohibition of Dangerous or Objectionable Elements. No land or building shall be used or occupied in any manner that would create any dangerous, injurious, noxious or otherwise objectionable explosive or other hazard. Nor shall any use create noise or vibration, smoke, dust, odor or other form of air pollution; heat, cold or dampness; electrical or other disturbance; glare; liquid or solid refuse or wastes; or other substance, condition or element in such a manner or in such amount as to unreasonably adversely affect the surrounding area or adjoining premises.

(B) All uses shall be conducted entirely within an enclosed building with the exception of outdoor dining as an accessory to a restaurant use and outdoor sales display of merchandise in conjunction with antique shops, flower shops, art galleries and similar specialty and craft businesses subject to the following provisions:

(1) Outdoor sales displays may be allowed upon the public sidewalk; provided, that a minimum width of four feet (4') from street curb is maintained clear of any obstructions.

(2) No additional signs or other advertising devices (temporary or permanent) shall be used in conjunction with outdoor sales displays except those allowed in compliance with this Title.

(3) The outdoor sales display of merchandise shall only occur during times when the associated establishment is also open for business.

(4) Only merchandise normally available at the associated business may be displayed outdoors.

(C) Fire and Explosive Hazards. All activities involving storage of flammable or explosive materials shall comply with applicable Uniform Fire Codes.

(D) Radioactive or Electrical Disturbance. No activities shall be permitted which will cause physical hazard by reason of radiation or similar cause to property in the same or adjacent zones or that emit electrical disturbance or affect the operation of any equipment other than that of the creator of such disturbance.

(E) Noise. All commercial and industrial uses shall not cause noise levels in excess of the values listed in Table 1.

STAFF RECOMMENDATION:

Staff recommends that the City Council direct the Planning Commission to evaluate Zoning Ordinance Section 11-04-030, and 11-04-030.B in particular, and recommend to the City Council whether this and any other related section of the Zoning Ordinance should be amended, and if so, alternative regulations consistent with the General Plan.