

# CITY OF SOLANA BEACH

SOLANA BEACH CITY COUNCIL, SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY,  
PUBLIC FINANCING AUTHORITY, & HOUSING AUTHORITY



## AGENDA

### Joint REGULAR Meeting

Wednesday, June 28, 2017 \* 6:00 P. M.

City Hall / Council Chambers, 635 S. Highway 101, Solana Beach, California

Teleconference Location: Monterey Marriott, 350 Calle Principal, Monterey, CA 93940 (Edson)

- City Council meetings are video recorded and archived as a permanent record. The video recording captures the complete proceedings of the meeting and is available for viewing on the City's website.
- Posted Reports & Supplemental Docs contain records up to the cut off time prior to meetings for processing new submittals. Complete records containing meeting handouts, PowerPoints, etc. can be obtained through a [Records Request](#).

#### PUBLIC MEETING ACCESS

The Regular Meetings of the City Council are scheduled for the 2nd and 4th Wednesdays and are broadcast live on Cox Communications-Channel 19, Time Warner-Channel 24, and AT&T U-verse Channel 99. The video taping of meetings are maintained as a permanent record and contain a detailed account of the proceedings. Council meeting tapings are archived and available for viewing on the City's website.

#### AGENDA MATERIALS

A full City Council agenda packet including relative supporting documentation is available at City Hall, the Solana Beach Branch Library (157 Stevens Ave.), La Colonia Community Ctr., and online [www.cityofsolanabeach.org](http://www.cityofsolanabeach.org). Agendas are posted at least 72 hours prior to regular meetings and at least 24 hours prior to special meetings. Writings and documents regarding an agenda of an open session meeting, received after the official posting, and distributed to the Council for consideration, will be made available for public viewing at the same time. In addition, items received at least 1 hour 30 minutes prior to the meeting time will be uploaded online with the courtesy agenda posting. Materials submitted for consideration should be forwarded to the City Clerk's department 858-720-2400. The designated location for viewing public documents is the City Clerk's office at City Hall during normal business hours.

#### SPEAKERS

Please submit a speaker slip to the City Clerk prior to the meeting, or the announcement of the Section/Item, to provide public comment. Allotted times for speaking are outlined on the speaker's slip for each agenda section: Oral Communications, Consent, Public Hearings and Staff Reports.

#### AMERICAN DISABILITIES ACT TITLE 2

In compliance with the Americans with Disabilities Act of 1990, persons with a disability may request an agenda in appropriate alternative formats as required by Section 202. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to the City Clerk's office (858) 720-2400 at least 72 hours prior to the meeting.

As a courtesy to all meeting attendees, please set cellular phones and pagers to silent mode and engage in conversations outside the Council Chambers.

#### CITY COUNCILMEMBERS

**Mike Nichols, Mayor**

**Ginger Marshall, Deputy Mayor**

**David A. Zito, Councilmember**

**Jewel Edson, Councilmember**

**Judy Hegenauer, Councilmember**

Gregory Wade  
City Manager

Johanna Canlas  
City Attorney

Angela Ivey  
City Clerk

**SPEAKERS:**

Please submit your speaker slip to the City Clerk prior to the meeting or the announcement of the Item. Allotted times for speaking are outlined on the speaker's slip for Oral Communications, Consent, Public Hearings and Staff Reports.

**READING OF ORDINANCES AND RESOLUTIONS:**

Pursuant to Solana Beach Municipal Code Section 2.04.460, at the time of introduction or adoption of an ordinance or adoption of a resolution, the same shall not be read in full unless after the reading of the title, further reading is requested by a member of the Council. If any Councilmember so requests, the ordinance or resolution shall be read in full. In the absence of such a request, this section shall constitute a waiver by the council of such reading.

Contribution

**CALL TO ORDER AND ROLL CALL:**

**CLOSED SESSION REPORT:** (when applicable)

**FLAG SALUTE:**

**APPROVAL OF AGENDA:**

**PROCLAMATIONS/CERTIFICATES:** *Ceremonial*

*None at the posting of this agenda*

**PRESENTATIONS:** *Ceremonial items that do not contain in-depth discussion and no action/direction.*

*None at the posting of this agenda*

**ORAL COMMUNICATIONS:**

This portion of the agenda provides an opportunity for members of the public to address the City Council on items relating to City business and not appearing on today's agenda by submitting a speaker slip (located on the back table) to the City Clerk. Comments relating to items on this evening's agenda are taken at the time the items are heard. Pursuant to the Brown Act, no action shall be taken by the City Council on public comment items. Council may refer items to the City Manager for placement on a future agenda. The maximum time allotted for each presentation is THREE MINUTES (SBMC 2.04.190). Please be aware of the timer light on the Council Dais.

**COUNCIL COMMUNITY ANNOUNCEMENTS / COMMENTARY:**

*An opportunity for City Council to make brief announcements or report on their activities. These items are not agendized for official City business with no action or substantive discussion.*

**A. CONSENT CALENDAR:** (Action Items) (A.1. - A.10.)

Items listed on the Consent Calendar are to be acted in a single action of the City Council unless pulled for discussion. Any member of the public may address the City Council on an item of concern by submitting to the City Clerk a speaker slip (located on the back table) before the Consent Calendar is addressed. Those items removed from the Consent Calendar by a member of the Council will be trailed to the end of the agenda, while Consent Calendar items removed by the public will be discussed immediately after approval of the Consent Calendar.

**A.1. This Item was left blank.**

**A.2. Register Of Demands.** (File 0300-30)

Recommendation: That the City Council

1. Ratify the list of demands for May 27, 2017 through June 9, 2017.

**[Item A.2. Report \(click here\)](#)**

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**A.3. General Fund Adopted Budget for Fiscal Year 2016-2017 Changes.** (File 0330-30)

Recommendation: That the City Council

1. Receive the report listing changes made to the Fiscal Year 2016-2017 General Fund Adopted Budget.

**[Item A.3. Report \(click here\)](#)**

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**A.4. League of California Cities' 2017 Annual Business Meeting Voting Delegates Designees.** (File 0140-10)

Recommendation: That the City Council

1. Appoint Mayor Nichols, primary voting delegate, Councilmember Edson, 1<sup>st</sup> alternate, and City Manager, Gregory Wade, 2<sup>nd</sup> alternate, as the voting delegates for the 2017 Annual Business Meeting of the League of California Cities Annual Conference being held September 13-15 in Sacramento, or provide alternative appointments.
2. Authorize the City Clerk to attest to the appointments and submit the Official Voting Form to the League of California Cities by September 1, 2017.

**[Item A.4. Report \(click here\)](#)**

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**A.5. City Hall Passenger Elevator Upgrades.** (File 0710-35)

Recommendation: That the City Council

1. Adopt **Resolution 2017-089**:
  - a. Authorizing the City Engineer to accept as complete the City Hall Passenger Elevator Upgrades, Bid No. 2016-07, constructed by 24 Hour Elevator, Inc.
  - b. Authorizing the City Clerk to file a Notice of Completion.

[Item A.5. Report \(click here\)](#)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**A.6. Wastewater Bond Refunding Professional Services Agreements.** (File 0340-45)

Recommendation: That the City Council

1. **Resolution 2017-108** authorizing the City Manager to execute a Professional Services Agreement with Del Rio Advisors, LLC for Municipal Advisors services in connection with the possible refinancing of the 2006 Bonds.
2. **Resolution 2017-109** authorizing the City Manager to execute a Professional Services Agreement with Kronick Moskovitz Tiedemann & Girard for Bond Counsel services in connection with the possible refinancing of the 2006 Bonds.
3. **Resolution 2017-110** authorizing the City Manager to execute a Professional Services Agreement with Quint & Thimmig, LLP for Disclosure Counsel services in connection with the possible refinancing of the 2006 Bonds.
4. **Resolution 2017-111** authorizing the City Manager to execute a Professional Services Agreement with Hilltop Securities for Underwriting services in connection with the possible refinancing of the 2006 Bonds.

[Item A.6. Report \(click here\)](#)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**A.7. Special Legal Services – Nossaman LLP.** (File 0400-05)

Recommendation: That the City Council

1. Adopt **Resolution 2017-102** approving the Professional Services Agreement for Legal Services with Nossaman LLP and to authorize the City Manager to execute the agreement.

[Item A.7. Report \(click here\)](#)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*



**A.8. Sewer and Storm Drain Maintenance and Video Inspection.** (File 1040-48)

Recommendation: That the City Council

1. Adopt **Resolution 2017-097**:

- a. Waiving the formal construction bid process because the Request for Proposals (RFP) process provides a more efficient, effective, and convenient method for hiring a sewer maintenance contractor that would provide the higher level of service required pursuant to Solana Beach Municipal Code section 3.08.140(G).
- b. Awarding a contract to Affordable Pipeline Service, Inc. in the amount not to exceed \$431,170, in Fiscal Year (FY) 2017-18, for the Sewer and Storm Drain Maintenance and Video Inspection Agreement.
- c. Authorizing the City Manager to execute the contract on behalf of the City.
- d. Authorizing the City Manager to extend the agreement for up to four additional one year terms, at the City's option, at an amount not to exceed the amount identified and budgeted for each subsequent year.

[Item A.8. Report \(click here\)](#)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**A.9. Debt Management Policy.** (File 0340-80)

Recommendation: That the City Council

1. **Resolution 2017-107** approving the City of Solana Beach's Debt Management Policy.
2. **Resolution SA-019** approving the Successor Agency's Debt Management Policy.
3. **Resolution PFA-004** approving the Solana Beach Public Financing Authority's Debt Management Policy.

[Item A.9. Report \(click here\)](#)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**A.10. City of Solana Beach's Commitment to the Paris Climate Agreement.** (File 0230-25)

Recommendation: That the City Council

1. Reaffirm the City's commitment to the goals of the Paris Climate Agreement by confirming the decision to sign on to the "We Are Still In" Open Letter and consider signing on to the U.S. Climate Mayors commitment.

[Item A.10. Report \(click here\)](#)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**NOTE: The City Council shall not begin a new agenda item after 10:30 p.m. unless approved by a unanimous vote of all members present. (SBMC 2.04.070)**

**B. PUBLIC HEARINGS:** (B.1. – B.4.)

This portion of the agenda provides citizens an opportunity to express their views on a specific issue as required by law after proper noticing by submitting a speaker slip (located on the back table) to the City Clerk. After considering all of the evidence, including written materials and oral testimony, the City Council must make a decision supported by findings and the findings must be supported by substantial evidence in the record. An applicant or designees for a private development/business project, for which the public hearing is being held, is allotted a total of fifteen minutes to speak, as per SBMC 2.04.210. A portion of the fifteen minutes may be saved to respond to those who speak in opposition. All other speakers have three minutes each. Please be aware of the timer light on the Council Dais.

**B.1. Public Hearing: Introduce (1st Reading) Ordinance 479 Authorizing a Transportation Impact Fee Program – Establishing the Transportation Impact Fee.** (File 0840-10)

Recommendation: That the City Council

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Introduce **Ordinance 479** establishing the Transportation Impact Fee.
3. Adopt **Resolution 2017-018**:
  - a. Accepting the Transportation Impact Fee Program Nexus Study, dated June 2017.
  - b. Establishing the TIF and determining that the TIF shall be paid based upon the use of land set forth in the fee rate table included in the Transportation Impact Fee Program Nexus Study, dated June 2017.
  - c. Establishing that the TIF shall become effective upon the effective date of Ordinance 479.

**[Item B.1. Report \(click here\)](#)**

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**B.2. Public Hearing: Streetlight Assessment for Fiscal Year 2017-18.** (File 0497-30)

Recommendation: That the City Council

1. Conduct the Public Hearing: Open the public hearing, Report Council disclosures, Receive public testimony, Close the public hearing.
2. Adopt **Resolution 2017-100** confirming the diagram and assessment; providing for the levy of the annual assessment in a special maintenance district; confirming the Engineer's Report; and ordering the transmission of charges to the County Auditor for collection.
3. Adopt **Resolution 2017-101** ordering the levy and collection of annual assessments for FY 2017-18.

[Item B.2. Report \(click here\)](#)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**B.3. Public Hearing: Solana Beach Coastal Rail Trail Maintenance District.** (File 0495-20)

Recommendation: That the City Council

1. Conduct the Public Hearing: Open the public hearing, Report Council disclosures, Receive public testimony, Close the public hearing.
2. Adopt **Resolution 2017-098**, amending and/or approving the Engineer's Report regarding the Coastal Rail Trail Maintenance District.
3. Adopt **Resolution 2017-099**, ordering the levy and collection of the annual assessments regarding the Coastal Rail Trail Maintenance District for Fiscal Year 2017/18.

[Item B.3. Report \(click here\)](#)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**B.4. Public Hearing: Commercial Solid Waste Rate Increases Fiscal Year (FY) 2017-18.** (File 1030-15)

Recommendation: That the City Council

1. Conduct the Public Hearing: Open the Public Hearing; Report Council Disclosures; Report written protests received; Receive Public Testimony; Close the Public Hearing.
2. Following the Public Hearing, if the City does not receive written protests against the proposed increases to the rates for the trash collection fees by a majority of owners of the parcels within the City, adopt **Resolution 2017-104** approving EDCO's rate review request increasing commercial solid waste and recycling rates for FY 2017-18 in accordance with the Franchise Agreement.

[Item B.4. Report \(click here\)](#)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**C. STAFF REPORTS:** (C.1. - C.3.)

*Submit speaker slips to the City Clerk.*

**C.1. General and Specialized Law Enforcement and Traffic Services Agreement.**

(File 0250-30)

Recommendation: That the City Council

1. Adopt **Resolution 2017-112** authorizing the City Manager to execute the Agreement for General and Specialized Law Enforcement and Traffic Services between the City of Solana Beach and the County of San Diego for a five-year term beginning July 1, 2017 through June 30, 2022.

**[Item C.1. Report \(click here\)](#)**

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**C.2. Refunding Of Solana Beach Public Financing Authority, Subordinate Wastewater Revenue Bonds, Series 2006.** (File 0340-45)

Recommendation: That the City Council

1. Approve **Resolution 2017-105** authorizing the issuance and sale of Wastewater Revenue Refunding Bonds and approving certain other actions in connections therewith.

**[Item C.2. Report \(click here\)](#)**

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**C.3. Adopt (2nd Reading) Ordinance 477 Subjecting the City of Solana Beach to the California Uniform Public Construction Cost Accounting Act.** (File 0370-28)

Recommendation: That the City Council

1. Adopt **Ordinance 477** that details the formation of the Solana Beach Uniform Public Construction Cost Accounting Policies and Procedures.

**[Item C.3. Report \(click here\)](#)**

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**WORKPLAN COMMENTS:**

*Adopted June 8, 2016*

**COMPENSATION & REIMBURSEMENT DISCLOSURE:**

GC: Article 2.3. Compensation: 53232.3. (a) Reimbursable expenses shall include, but not be limited to, meals, lodging, and travel. 53232.3 (d) Members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

**COUNCIL COMMITTEE REPORTS:**

**Regional Committees: (outside agencies, appointed by this Council)**

- a. City Selection Committee (meets twice a year) – Nichols (Edson, alternate).
- b. County Service Area 17 – Marshall (Nichols, alternate).
- c. Escondido Creek Watershed Authority – Marshall/Staff (no alternate).
- d. League of Ca. Cities’ San Diego County Executive Committee – Nichols (Edson, alternate) and any subcommittees.
- e. League of Ca. Cities’ Local Legislative Committee – Nichols (Edson, alternate)
- f. League of Ca. Cities’ Coastal Cities Issues Group (CCIG) – Nichols (Edson, alternate)
- g. North County Dispatch JPA – Marshall (Edson, alternate).
- h. North County Transit District – Edson (Nichols, alternate)
- i. Regional Solid Waste Association (RSWA) – Nichols (Hegenauer, alternate).
- j. SANDAG – Zito (Primary), Edson (1<sup>st</sup> alternate), Nichols (2<sup>nd</sup> alternate) and any subcommittees.
- k. SANDAG Shoreline Preservation Committee – Zito (Hegenauer, alternate).
- l. San Dieguito River Valley JPA – Hegenauer (Nichols, alternate).
- m. San Elijo JPA – Marshall, Zito (City Manager, alternate).
- n. 22<sup>nd</sup> Agricultural District Association Community Relations Committee – Marshall, Edson.

**Standing Committees: (All Primary Members) (Permanent Committees)**

- a. Business Liaison Committee – Zito, Edson.
- b. Highway 101 / Cedros Ave. Development Committee – Edson, Nichols.
- c. Fire Dept. Management Governance & Organizational Evaluation – Edson, Hegenauer
- d. I-5 Construction Committee – Zito, Edson.
- e. Parks and Recreation Committee – Nichols, Zito
- f. Public Arts Committee – Marshall, Hegenauer.
- g. School Relations Committee – Nichols, Hegenauer.

**ADJOURN:**

**AFFIDAVIT OF POSTING**

STATE OF CALIFORNIA }  
 COUNTY OF SAN DIEGO } §  
 CITY OF SOLANA BEACH }

I, Angela Ivey, City Clerk of the City of Solana Beach, do hereby certify that this Agenda for the June 28, 2017 Council Meeting was called by City Council, Successor Agency to the Redevelopment Agency, Public Financing Authority, and the Housing Authority of the City of Solana Beach, California, was provided and posted on June 21, 2017 at 4:30 p.m. on the City Bulletin Board at the entrance to the City Council Chambers. Said meeting is held at 6:00 p.m., June 28, 2017, in the Council Chambers, at City Hall, 635 S. Highway 101, Solana Beach, California.

Angela Ivey, City Clerk  
 City of Solana Beach, CA

## **UPCOMING CITIZEN CITY COMMISSION AND COMMITTEE MEETINGS:**

*Regularly Scheduled, or Special Meetings that have been announced, as of this Agenda Posting. Dates, times, locations are all subject to change. See the City's Commission's website or the City's Events Calendar for updates.*

- **Budget & Finance Commission**  
Thursday, July 20, 2017, 6:30 p.m. (City Hall)
- **Climate Action Commission**  
Wednesday, July 19, 2017, 5:30 p.m. (City Hall)
- **Parks & Recreation Commission**  
Thursday, July 13, 2017, 4:00 p.m. (Fletcher Cove Community Center)
- **Public Arts Commission**  
Tuesday, July 25, 2017, 5:30 p.m. (City Hall)
- **View Assessment Commission**  
Tuesday, July 18, 2017, 6:00 p.m. (Council Chambers)



# STAFF REPORT CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Gregory Wade, City Manager  
**MEETING DATE:** June 28, 2017  
**ORIGINATING DEPT:** Finance  
**SUBJECT:** Register of Demands

## BACKGROUND:

Section 3.04.020 of the Solana Beach Municipal Code requires that the City Council ratify a register of demands which represents all financial demands made upon the City for the applicable period.

Register of Demands- 05/27/17 through 06/09/17

|   |              |    |            |
|---|--------------|----|------------|
| Check Register-Disbursement Fund (Attachment 1) |              | \$ | 329,013.80 |
| Council Payroll                                 | June 1, 2017 |    | 4,209.81   |
| Federal & State Taxes                           | June 1, 2017 |    | 420.89     |
| PERS Retirement (EFT)                           | June 1, 2017 |    | 517.90     |
| Net Payroll                                     | June 2, 2017 |    | 168,282.51 |
| Federal & State Taxes                           | June 2, 2017 |    | 46,748.97  |
| PERS Retirement (EFT)                           | June 2, 2017 |    | 42,885.21  |

|       |  |    |                   |
|-------|--|----|-------------------|
| TOTAL |  | \$ | <u>592,079.09</u> |
|-------|--|----|-------------------|

## DISCUSSION:

Staff certifies that the register of demands has been reviewed for accuracy, that funds are available to pay the above demands, and that the demands comply with the adopted budget.

## CEQA COMPLIANCE STATEMENT:

Not a project as defined by CEQA.

## FISCAL IMPACT:

The register of demands for May 27, 2017 through June 9, 2017 reflects total expenditures of \$592,079.09 from various City funding sources.

|                                     |
|-------------------------------------|
| CITY COUNCIL ACTION: _____<br>_____ |
|-------------------------------------|



**WORK PLAN:**

N/A

**OPTIONS:**

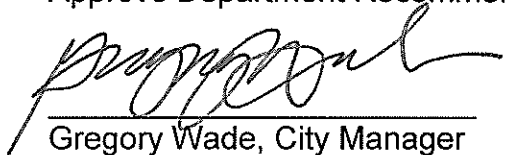
- Ratify the register of demands.
- Do not ratify and provide direction.

**DEPARTMENT RECOMMENDATION:**

Staff recommends that the City Council ratify the above register of demands.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation.



Gregory Wade, City Manager

Attachments:

1. Check Register – Disbursement Fund

PENTAMATION  
 DATE: 06/12/2017  
 TIME: 16:23:02

CITY OF SOLANA BEACH, CA  
 CHECK REGISTER - DISBURSEMENT FUND

PAGE NUMBER: 1  
 ACCTPA21

SELECTION CRITERIA: transact.gi\_cash='1011' and transact.ck\_date between '20170527 00:00:00.000' and '20170609 00:00:00.000'  
 ACCOUNTING PERIOD: 12/17

FUND - 001 - GENERAL FUND

| CASH ACCT | CHECK NO    | ISSUE DT | VENDOR | NAME                     | BUDGET UNIT | DESCRIPTION           | SALES TAX | AMOUNT     |
|-----------|-------------|----------|--------|--------------------------|-------------|-----------------------|-----------|------------|
| 1011      | 90254       | 06/01/17 | 4711   | ABEL PEREZ               | 50900007700 | 05/20-MILEAGE         | 0.00      | 9.63       |
| 1011      | 90255       | 06/01/17 | 1135   | AFFORDABLE PIPELINE SERV | 00165006520 | K-STORM DRAIN MAINT   | 0.00      | 1,000.00   |
| 1011      | 90255       | 06/01/17 | 1135   | AFFORDABLE PIPELINE SERV | 00165006520 | H-STORM DRAIN MAINT   | 0.00      | 1,000.00   |
|           | TOTAL CHECK |          |        |                          |             |                       | 0.00      | 2,000.00   |
| 1011      | 90256       | 06/01/17 | 5226   | ASHLEY SAMMIS            | 25055005570 | RMBS BRK IN PRK SUPP  | 0.00      | 12.93      |
| 1011      | 90257       | 06/01/17 | 2875   | CARDIAC SCIENCE CORPORAT | 27060006120 | CSA17.17 5 AUTO AED   | 0.00      | 6,460.00   |
| 1011      | 90257       | 06/01/17 | 2875   | CARDIAC SCIENCE CORPORAT | 27060006120 | CSA17.17 5 AUTO AED   | 0.00      | 70.63      |
|           | TOTAL CHECK |          |        |                          |             |                       | 0.00      | 6,530.63   |
| 1011      | 90258       | 06/01/17 | 4168   | CHEN RYAN ASSOCIATES     | 45999055550 | 9905.01 TRFFC PE04/29 | 0.00      | 900.00     |
| 1011      | 90259       | 06/01/17 | 5051   | CINTAS CORPORATION NO. 2 | 00165006570 | FIRST AID SUPPLIES-PW | 0.00      | 62.17      |
| 1011      | 90259       | 06/01/17 | 5051   | CINTAS CORPORATION NO. 2 | 00165006570 | FIRST AID SUPPLIES-CH | 0.00      | 69.98      |
|           | TOTAL CHECK |          |        |                          |             |                       | 0.00      | 132.15     |
| 1011      | 90260       | 06/01/17 | 2572   | DRIVE AUTO CARE          | 00160006170 | 13 TOY TCMA-BTRY/FLTR | 0.00      | 213.44     |
| 1011      | 90261       | 06/01/17 | 134    | DIXIELINE LUMBER CO INC  | 00165006560 | SCREWS/SILICONE       | 0.00      | 9.84       |
| 1011      | 90262       | 06/01/17 | 372    | EMPLOYMENT DEVELOPMENT D | 00150005400 | SUI PE 03/31/17       | 0.00      | 2,194.00   |
| 1011      | 90263       | 06/01/17 | 94     | ESGIL CORPORATION        | 00155005560 | BLDG PRMT 02/12-2/18  | 0.00      | 22,739.63  |
| 1011      | 90264       | 06/01/17 | 1792   | HARRIS & ASSOC. INC.     | 21355005550 | 1714.08 101/DAHL EIR  | 0.00      | 28,725.05  |
| 1011      | 90264       | 06/01/17 | 1792   | HARRIS & ASSOC. INC.     | 21355005550 | 1714.08 101/DAHL EIR  | 0.00      | 994.95     |
|           | TOTAL CHECK |          |        |                          |             |                       | 0.00      | 29,720.00  |
| 1011      | 90265       | 06/01/17 | 1011   | HDL-HINDERLITER, DE LLAM | 00150005300 | Q2 CY STAX-CONTRACT   | 0.00      | 1,068.90   |
| 1011      | 90265       | 06/01/17 | 1011   | HDL-HINDERLITER, DE LLAM | 00150005300 | Q4 CY16 STAX AUDIT    | 0.00      | 1,043.36   |
|           | TOTAL CHECK |          |        |                          |             |                       | 0.00      | 2,112.26   |
| 1011      | 90266       | 06/01/17 | 3299   | HELIX ENVIRONMENTAL      | 21355005550 | 1715.04 PRFSVC PE4/16 | 0.00      | 410.00     |
| 1011      | 90267       | 06/01/17 | 3928   | HITZKE DEVELOPMENT CORP  | 26599465580 | 9946 DRAW#11 TO 263   | 0.00      | -43,123.68 |
| 1011      | 90267       | 06/01/17 | 3928   | HITZKE DEVELOPMENT CORP  | 26599465580 | 9946 DRAW#11 TO 263   | 0.00      | -7,816.48  |
| 1011      | 90267       | 06/01/17 | 3928   | HITZKE DEVELOPMENT CORP  | 26399465580 | 9946POST-ETLMT DRW 1  | 0.00      | 22,608.52  |
| 1011      | 90267       | 06/01/17 | 3928   | HITZKE DEVELOPMENT CORP  | 26399465580 | 9946 HITZKE DRAW #11  | 0.00      | 43,123.68  |
| 1011      | 90267       | 06/01/17 | 3928   | HITZKE DEVELOPMENT CORP  | 26399465580 | 9946 HITZKE DRAW #11  | 0.00      | 7,816.48   |
|           | TOTAL CHECK |          |        |                          |             |                       | 0.00      | 22,608.52  |
| 1011      | 90268       | 06/01/17 | 11     | ICMA RETIREMENT TRUST-45 | 001         | ICMA PD 06/01/17      | 0.00      | 6,374.71   |
| 1011      | 90268       | 06/01/17 | 11     | ICMA RETIREMENT TRUST-45 | 001         | ICMA PD 06/02/17      | 0.00      | 8,325.90   |
|           | TOTAL CHECK |          |        |                          |             |                       | 0.00      | 14,700.61  |
| 1011      | 90269       | 06/01/17 | 3859   | ICMA RETIREMENT TRUST-RH | 001         | ICMA PD 06/02/17      | 0.00      | 1,936.09   |
| 1011      | 90270       | 06/01/17 | 5254   | JACK HARDING             | 00150005400 | DOJ LIVESCAN          | 0.00      | 20.00      |
| 1011      | 90271       | 06/01/17 | 5257   | JASON COULTER            | 001         | RFND FCCC RENTAL5/13  | 0.00      | 500.00     |

PENTAMATION  
 DATE: 06/12/2017  
 TIME: 16:23:02

CITY OF SOLANA BEACH, CA  
 CHECK REGISTER - DISBURSEMENT FUND

PAGE NUMBER: 2  
 ACCTPA21

SELECTION CRITERIA: transact\_gl\_cash='1011' and transact\_ck\_date between '20170527 00:00:00.000' and '20170609 00:00:00.000'  
 ACCOUNTING PERIOD: 12/17

FUND - 001 - GENERAL FUND

| CASH ACCT   | CHECK NO | ISSUE DT | VENDOR | NAME                     | BUDGET UNIT  | DESCRIPTION           | SALES TAX | AMOUNT    |
|-------------|----------|----------|--------|--------------------------|--------------|-----------------------|-----------|-----------|
| 1011        | 90272    | 06/01/17 | 5255   | JOSEPH OLSON             | 001500005400 | PRE-EMPLOYMENT DOJ    | 0.00      | 18.00     |
| 1011        | 90273    | 06/01/17 | 5253   | ERIC KONZEN              | 001500005400 | DOJ LIVESCAN          | 0.00      | 20.00     |
| 1011        | 90274    | 06/01/17 | 1130   | MCDUGAL LOVE ECKIS SMIT  | 001500005250 | PROF SERV PE 04/30/17 | 0.00      | 51.00     |
| 1011        | 90274    | 06/01/17 | 1130   | MCDUGAL LOVE ECKIS SMIT  | 001500005250 | PROF SERV PE 04/30/17 | 0.00      | 136.00    |
| 1011        | 90274    | 06/01/17 | 1130   | MCDUGAL LOVE ECKIS SMIT  | 001500005250 | PROF SERV PE 04/30/17 | 0.00      | 187.00    |
| 1011        | 90274    | 06/01/17 | 1130   | MCDUGAL LOVE ECKIS SMIT  | 001500005250 | PROF SERV PE 04/30/17 | 0.00      | 204.00    |
| 1011        | 90274    | 06/01/17 | 1130   | MCDUGAL LOVE ECKIS SMIT  | 001500005250 | PROF SERV PE 04/30/17 | 0.00      | 306.00    |
| 1011        | 90274    | 06/01/17 | 1130   | MCDUGAL LOVE ECKIS SMIT  | 001500005250 | PROF SERV PE 04/30/17 | 0.00      | 335.52    |
| 1011        | 90274    | 06/01/17 | 1130   | MCDUGAL LOVE ECKIS SMIT  | 120500005460 | CLM.1704 PE 04/30/17  | 0.00      | 595.00    |
| 1011        | 90274    | 06/01/17 | 1130   | MCDUGAL LOVE ECKIS SMIT  | 001500005250 | PROF SERV PE 04/30/17 | 0.00      | 944.45    |
| 1011        | 90274    | 06/01/17 | 1130   | MCDUGAL LOVE ECKIS SMIT  | 001500005250 | PROF SERV PE 04/30/17 | 0.00      | 1,292.00  |
| 1011        | 90274    | 06/01/17 | 1130   | MCDUGAL LOVE ECKIS SMIT  | 001500005250 | PROF SERV PE 04/30/17 | 0.00      | 5,500.00  |
| 1011        | 90274    | 06/01/17 | 1130   | MCDUGAL LOVE ECKIS SMIT  | 001500005250 | PROF SERV PE 04/30/17 | 0.00      | 6,003.97  |
| 1011        | 90274    | 06/01/17 | 1130   | MCDUGAL LOVE ECKIS SMIT  | 001500005250 | PROF SERV PE 04/30/17 | 0.00      | 22,188.47 |
| 1011        | 90274    | 06/01/17 | 1130   | MCDUGAL LOVE ECKIS SMIT  | 001500005250 | PROF SERV PE 04/30/17 | 0.00      | 37,743.41 |
| TOTAL CHECK |          |          |        |                          |              |                       |           |           |
| 1011        | 90275    | 06/01/17 | 111    | MISSION LINEN & UNIFORM  | 21100007600  | LAUNDRY-PUB WORKS     | 0.00      | 1.56      |
| 1011        | 90275    | 06/01/17 | 111    | MISSION LINEN & UNIFORM  | 50900007700  | LAUNDRY-PUB WORKS     | 0.00      | 6.25      |
| 1011        | 90275    | 06/01/17 | 111    | MISSION LINEN & UNIFORM  | 00165006560  | LAUNDRY-PUB WORKS     | 0.00      | 7.03      |
| 1011        | 90275    | 06/01/17 | 111    | MISSION LINEN & UNIFORM  | 00165006520  | LAUNDRY-PUB WORKS     | 0.00      | 7.04      |
| 1011        | 90275    | 06/01/17 | 111    | MISSION LINEN & UNIFORM  | 00165006530  | LAUNDRY-PUB WORKS     | 0.00      | 12.50     |
| 1011        | 90275    | 06/01/17 | 111    | MISSION LINEN & UNIFORM  | 00165006530  | LAUNDRY-PUB WORKS     | 0.00      | 34.38     |
| TOTAL CHECK |          |          |        |                          |              |                       |           |           |
| 1011        | 90276    | 06/01/17 | 66     | NORTH COUNTY DISPATCH (J | 00160006120  | Q4 DISPATCH SVC       | 0.00      | 11,858.40 |
| 1011        | 90277    | 06/01/17 | 50     | OFFICE DEPOT INC         | 00150005350  | POST IT NOTES         | 0.00      | 11.41     |
| 1011        | 90278    | 06/01/17 | 54     | 1 STOP TONER & INKJET, L | 00150005300  | TONER-FINANCE         | 0.00      | 64.64     |
| 1011        | 90278    | 06/01/17 | 54     | 1 STOP TONER & INKJET, L | 00170007110  | TONER-LA COLONIA      | 0.00      | 193.93    |
| 1011        | 90278    | 06/01/17 | 54     | 1 STOP TONER & INKJET, L | 00155005550  | TONER-PLANNING        | 0.00      | 301.62    |
| TOTAL CHECK |          |          |        |                          |              |                       |           |           |
| 1011        | 90279    | 06/01/17 | 1953   | PALOMAR COLLEGE          | 001          | SPRING17-C#31484-DM   | 0.00      | 1,008.00  |
| 1011        | 90279    | 06/01/17 | 1953   | PALOMAR COLLEGE          | 00160006120  | SPRING17-C#31484-SB   | 0.00      | 1,680.00  |
| TOTAL CHECK |          |          |        |                          |              |                       |           |           |
| 1011        | 90280    | 06/01/17 | 4767   | PARTNERSHIPS WITH INDUST | 00165006570  | TRASH ABTMTN PE05/15  | 0.00      | 1,319.60  |
| 1011        | 90281    | 06/01/17 | 619    | PURE FLO - CMGR #24581 ( | 00150005350  | DRINK WATER-APR       | 0.00      | 161.47    |
| 1011        | 90282    | 06/01/17 | 1112   | RANCHO SANTA FE SECURITY | 00165006560  | RESTRM LCK/UNLOCK-MAY | 0.00      | 515.00    |
| 1011        | 90283    | 06/01/17 | 5256   | RICHARD O'REILLY         | 001500005400 | DOJ LIVESCAN          | 0.00      | 20.00     |
| 1011        | 90284    | 06/01/17 | 141    | SANTA FE IRRIGATION DIST | 00165006560  | M#1166687 03/16-05/15 | 0.00      | 256.18    |
| 1011        | 90284    | 06/01/17 | 141    | SANTA FE IRRIGATION DIST | 20375007510  | M#13185128 03/16-5/15 | 0.00      | 329.83    |
| TOTAL CHECK |          |          |        |                          |              |                       |           |           |
| 1011        | 90285    | 06/01/17 | 736    | SDG&E                    | 20375007510  | UTILITIES-04/06-05/09 | 0.00      | 1,725.04  |

PENTAMATION  
 DATE: 06/12/2017  
 TIME: 16:23:02

CITY OF SOLANA BEACH, CA  
 CHECK REGISTER - DISBURSEMENT FUND

PAGE NUMBER: 3  
 ACCTPA21

SELECTION CRITERIA: transact\_gl\_cash='1011' and transact\_ck\_date between '20170527 00:00:00.000' and '20170609 00:00:00.000'  
 ACCOUNTING PERIOD: 12/17

FUND - 001 - GENERAL FUND

| CASH ACCT   | CHECK NO | ISSUE DT | VENDOR | NAME                         | BUDGET UNIT | DESCRIPTION           | SALES TAX | AMOUNT    |
|-------------|----------|----------|--------|------------------------------|-------------|-----------------------|-----------|-----------|
| 1011        | 90285    | 06/01/17 | 736    | SDG&E                        | 00165006530 | UTILITIES-04/06-05/09 | 0.00      | 1,051.66  |
| 1011        | 90285    | 06/01/17 | 736    | SDG&E                        | 00165006570 | UTILITIES-04/06-05/09 | 0.00      | 1,452.01  |
| 1011        | 90285    | 06/01/17 | 736    | SDG&E                        | 00165006530 | UTILITIES-04/06-05/09 | 0.00      | 414.00    |
| 1011        | 90285    | 06/01/17 | 736    | SDG&E                        | 00165006540 | UTILITIES-04/06-05/09 | 0.00      | 432.56    |
| 1011        | 90285    | 06/01/17 | 736    | SDG&E                        | 00165006540 | UTILITIES-04/06-05/09 | 0.00      | 874.83    |
| 1011        | 90285    | 06/01/17 | 736    | SDG&E                        | 00165006570 | UTILITIES-04/06-05/09 | 0.00      | 4,743.06  |
| 1011        | 90285    | 06/01/17 | 736    | SDG&E                        | 21100007600 | UTILITIES-04/06-05/09 | 0.00      | 6,480.36  |
| TOTAL CHECK |          |          |        |                              |             |                       | 0.00      | 17,173.52 |
| 1011        | 90286    | 06/01/17 | 1073   | SEASIDE HEATING & AIR CO     | 00165006570 | HVAC MAINT-APR-FD     | 0.00      | 120.00    |
| 1011        | 90287    | 06/01/17 | 3909   | SECTRAN SECURITY INC         | 12050005460 | COURIER SVC-MAY       | 0.00      | 106.00    |
| 1011        | 90287    | 06/01/17 | 3909   | SECTRAN SECURITY INC         | 12050005460 | COURIER SVC FUEL-MAY  | 0.00      | 7.42      |
| TOTAL CHECK |          |          |        |                              |             |                       | 0.00      | 113.42    |
| 1011        | 90288    | 06/01/17 | 13     | SOLANA BEACH FIREFIGHTER 001 |             | FD DUES PD 06/02/17   | 0.00      | 823.50    |
| 1011        | 90289    | 06/01/17 | 1231   | STAPLES CONTRACT & COMME     | 00150005350 | WIPES/HIGHLIGHTERS    | 0.00      | 20.73     |
| 1011        | 90289    | 06/01/17 | 1231   | STAPLES CONTRACT & COMME     | 00150005400 | PENS                  | 0.00      | 36.60     |
| 1011        | 90289    | 06/01/17 | 1231   | STAPLES CONTRACT & COMME     | 00150005300 | BINDERS               | 0.00      | -73.26    |
| 1011        | 90289    | 06/01/17 | 1231   | STAPLES CONTRACT & COMME     | 00150005350 | POCKET FOLDERS        | 0.00      | -9.14     |
| 1011        | 90289    | 06/01/17 | 1231   | STAPLES CONTRACT & COMME     | 00150005350 | TAPE                  | 0.00      | -9.03     |
| 1011        | 90289    | 06/01/17 | 1231   | STAPLES CONTRACT & COMME     | 00150005300 | BUS CARD HOLDER       | 0.00      | -7.53     |
| 1011        | 90289    | 06/01/17 | 1231   | STAPLES CONTRACT & COMME     | 00150005300 | BINDERS/KEY RING      | 0.00      | 67.32     |
| 1011        | 90289    | 06/01/17 | 1231   | STAPLES CONTRACT & COMME     | 00150005300 | FLOOR MAT/ERASER      | 0.00      | 62.50     |
| 1011        | 90289    | 06/01/17 | 1231   | STAPLES CONTRACT & COMME     | 00150005300 | BINDERS/FOLDERS/SHPNR | 0.00      | 176.11    |
| TOTAL CHECK |          |          |        |                              |             |                       | 0.00      | 264.30    |
| 1011        | 90290    | 06/01/17 | 683    | STATE CONTROLLER'S OFFIC     | 00160006140 | 2016 OFFSET PROGRAM   | 0.00      | 47.45     |
| 1011        | 90291    | 06/01/17 | 4959   | TELECOM LAW FIRM             | 21355005550 | 1717.15 PROF SVC-APR  | 0.00      | 2,250.00  |
| 1011        | 90292    | 06/01/17 | 1458   | THE UNIFORM SPECIALIST       | 00160006120 | PHILLIPS-PANTS/SHIRTS | 0.00      | 911.40    |
| 1011        | 90293    | 06/01/17 | 12     | UNITED WAY OF SAN DIEGO 001  |             | UNITED WY PD 06/02/17 | 0.00      | 70.00     |
| 1011        | 90294    | 06/01/17 | 2097   | UT SAN DIEGO - NRTH COUN     | 20375007510 | FY 18 MID FEES        | 0.00      | 110.87    |
| 1011        | 90294    | 06/01/17 | 2097   | UT SAN DIEGO - NRTH COUN     | 00150005300 | PUB NTC-F18 FIRE BEN  | 0.00      | 120.69    |
| 1011        | 90294    | 06/01/17 | 2097   | UT SAN DIEGO - NRTH COUN     | 42093866510 | 9386.05-BID #2017-04  | 0.00      | 618.52    |
| TOTAL CHECK |          |          |        |                              |             |                       | 0.00      | 850.08    |
| 1011        | 90295    | 06/01/17 | 2189   | WILLDAN                      | 67185008510 | CD-RV BND BRBRA/GRNDS | 0.00      | 750.00    |
| 1011        | 90295    | 06/01/17 | 2189   | WILLDAN                      | 67285008520 | CD-RVN BND PACIFIC    | 0.00      | 250.00    |
| TOTAL CHECK |          |          |        |                              |             |                       | 0.00      | 1,000.00  |
| 1011        | 90296    | 06/08/17 | 4979   | ACTON MOBILE                 | 25560006180 | JG RENT 06/04/17      | 0.00      | 1,357.43  |
| 1011        | 90297    | 06/08/17 | 1135   | AFFORDABLE PIPELINE SERV     | 50900007700 | I-SEWER CLEANING-FC   | 0.00      | 487.50    |
| 1011        | 90297    | 06/08/17 | 1135   | AFFORDABLE PIPELINE SERV     | 50900007700 | J-SEWER CLEANING-FC   | 0.00      | 550.00    |
| TOTAL CHECK |          |          |        |                              |             |                       | 0.00      | 1,037.50  |
| 1011        | 90298    | 06/08/17 | 4452   | ALL THE KING'S FLAGS         | 00165006560 | POW/US/CA FLAGS       | 0.00      | 157.64    |

PENTAMATION  
 DATE: 06/12/2017  
 TIME: 16:23:02

CITY OF SOLANA BEACH, CA  
 CHECK REGISTER - DISBURSEMENT FUND

PAGE NUMBER: 4  
 ACCTPA21

SELECTION CRITERIA: transact\_gl\_cash='1011' and transact\_ck\_date between '20170527 00:00:00.000' and '20170609 00:00:00.000'  
 ACCOUNTING PERIOD: 12/17

FUND - 001 - GENERAL FUND

| CASH ACCT   | CHECK NO | ISSUE DT | VENDOR | NAME                     | BUDGET UNIT  | DESCRIPTION            | SALES TAX | AMOUNT    |
|-------------|----------|----------|--------|--------------------------|--------------|------------------------|-----------|-----------|
| 1011        | 90298    | 06/08/17 | 4452   | ALL THE KING'S FLAGS     | 001650006570 | POW/US/CA FLAGS        | 0.00      | 157.64    |
| TOTAL CHECK |          |          |        |                          |              |                        | 0.00      | 315.28    |
| 1011        | 90299    | 06/08/17 | 112    | ALLIANT INSURANCE SVCS I | 255700071110 | JR GRD/DAY CAMP INS    | 0.00      | 1,399.50  |
| 1011        | 90299    | 06/08/17 | 112    | ALLIANT INSURANCE SVCS I | 25560006180  | JR GRD/DAY CAMP INS    | 0.00      | 12,595.50 |
| TOTAL CHECK |          |          |        |                          |              |                        | 0.00      | 13,995.00 |
| 1011        | 90300    | 06/08/17 | 1122   | APPLE ONE, INC           | 001500005150 | TEMP HELP PE 05/20     | 0.00      | 969.84    |
| 1011        | 90301    | 06/08/17 | 4523   | ARC ERGONOMICS           | 12050005460  | 2 ERGO CHAIR           | 0.00      | 2,098.92  |
| 1011        | 90301    | 06/08/17 | 4523   | ARC ERGONOMICS           | 12050005460  | 1 ERGO CHAIR           | 0.00      | 591.55    |
| 1011        | 90301    | 06/08/17 | 4523   | ARC ERGONOMICS           | 12050005460  | 1 ERGO CHAIR           | 0.00      | 724.62    |
| 1011        | 90301    | 06/08/17 | 4523   | ARC ERGONOMICS           | 12050005460  | 3 ERGO CHR, FOOT REST  | 0.00      | 2,144.82  |
| TOTAL CHECK |          |          |        |                          |              |                        | 0.00      | 5,559.91  |
| 1011        | 90302    | 06/08/17 | 3704   | ARCO GASPRO PLUS         | 00160006140  | AUTO FUEL 05/03-06/02  | 0.00      | 38.29     |
| 1011        | 90302    | 06/08/17 | 3704   | ARCO GASPRO PLUS         | 00165006560  | AUTO FUEL 05/03-06/02  | 0.00      | 65.37     |
| 1011        | 90302    | 06/08/17 | 3704   | ARCO GASPRO PLUS         | 00165006570  | AUTO FUEL 05/03-06/02  | 0.00      | 108.94    |
| 1011        | 90302    | 06/08/17 | 3704   | ARCO GASPRO PLUS         | 00160006120  | AUTO FUEL 05/03-06/02  | 0.00      | 187.15    |
| 1011        | 90302    | 06/08/17 | 3704   | ARCO GASPRO PLUS         | 00160006170  | AUTO FUEL 05/03-06/02  | 0.00      | 263.32    |
| 1011        | 90302    | 06/08/17 | 3704   | ARCO GASPRO PLUS         | 00165006530  | AUTO FUEL 05/03-06/02  | 0.00      | 315.95    |
| 1011        | 90302    | 06/08/17 | 3704   | ARCO GASPRO PLUS         | 00165006510  | AUTO FUEL 05/03-06/02  | 0.00      | 119.84    |
| 1011        | 90302    | 06/08/17 | 3704   | ARCO GASPRO PLUS         | 50900007700  | AUTO FUEL 05/03-06/02  | 0.00      | 130.73    |
| 1011        | 90302    | 06/08/17 | 3704   | ARCO GASPRO PLUS         | 00165006520  | AUTO FUEL 05/03-06/02  | 0.00      | 348.62    |
| TOTAL CHECK |          |          |        |                          |              |                        | 0.00      | 1,578.21  |
| 1011        | 90303    | 06/08/17 | 5261   | ARIANNE BETTAZZI         | 001          | REND FCCC 5/19/17      | 0.00      | 500.00    |
| 1011        | 90304    | 06/08/17 | 4832   | AT&T CALNET 3            | 00160006120  | 9391050348-04/20-5/19  | 0.00      | 82.12     |
| 1011        | 90304    | 06/08/17 | 4832   | AT&T CALNET 3            | 00160006120  | 9391050348-03/20-4/19  | 0.00      | 82.12     |
| TOTAL CHECK |          |          |        |                          |              |                        | 0.00      | 164.24    |
| 1011        | 90305    | 06/08/17 | 4832   | AT&T CALNET 3            | 00160006120  | 9391012280 04/24-5/23  | 0.00      | 313.91    |
| 1011        | 90306    | 06/08/17 | 4832   | AT&T CALNET 3            | 00165006540  | 9391012279 04/24-5/23  | 0.00      | 42.16     |
| 1011        | 90307    | 06/08/17 | 4832   | AT&T CALNET 3            | 50900007700  | 9391012277 04/24-5/23  | 0.00      | 12.48     |
| 1011        | 90308    | 06/08/17 | 2975   | BABI-KINI/MICHELSON INC  | 25560006180  | JRIG RASHGUARDS        | 0.00      | 784.08    |
| 1011        | 90308    | 06/08/17 | 2975   | BABI-KINI/MICHELSON INC  | 25560006180  | JRIG SWIM SUITS        | 0.00      | 1,769.04  |
| 1011        | 90308    | 06/08/17 | 2975   | BABI-KINI/MICHELSON INC  | 25560006180  | JRIG BOARDSHORTS       | 0.00      | 2,376.00  |
| 1011        | 90308    | 06/08/17 | 2975   | BABI-KINI/MICHELSON INC  | 25560006180  | JRIG SHIRTS            | 0.00      | 3,837.24  |
| 1011        | 90308    | 06/08/17 | 2975   | BABI-KINI/MICHELSON INC  | 25560006180  | JRIG RASHGUARDS        | 0.00      | 8,324.64  |
| TOTAL CHECK |          |          |        |                          |              |                        | 0.00      | 17,091.00 |
| 1011        | 90309    | 06/08/17 | 1561   | CDW GOVERNMENT INC       | 00150005450  | CLEANING TAPE          | 0.00      | 66.85     |
| 1011        | 90309    | 06/08/17 | 1561   | CDW GOVERNMENT INC       | 00150005450  | WIRELESS KEYBOARD      | 0.00      | 32.24     |
| TOTAL CHECK |          |          |        |                          |              |                        | 0.00      | 99.09     |
| 1011        | 90310    | 06/08/17 | 2631   | CLEAN STREET             | 00165006550  | FIESTA DEL SOL-5/22    | 0.00      | 467.00    |
| 1011        | 90311    | 06/08/17 | 127    | COX COMMUNICATIONS INC   | 00150005450  | CTVINTPRNT 05/19-06/18 | 0.00      | 525.58    |

SELECTION CRITERIA: transact\_gl\_cash='1011' and transact\_ck\_date between '20170527 00:00:00.000' and '20170609 00:00:00.000'  
 ACCOUNTING PERIOD: 12/17

FUND - 001 - GENERAL FUND

| CASH ACCT | CHECK NO    | ISSUE DT | VENDOR | NAME                                 | BUDGET UNIT | DESCRIPTION           | SALES TAX | AMOUNT    |
|-----------|-------------|----------|--------|--------------------------------------|-------------|-----------------------|-----------|-----------|
| 1011      | 90312       | 06/08/17 | 5260   | CRAIG & HEATHER HUNSAKER 001         |             | RFND SBGR 311/212 EL  | 0.00      | 15,000.00 |
| 1011      | 90313       | 06/08/17 | 5264   | DANIEL DISEP 001                     |             | RFND-SB-0627587       | 0.00      | 347.50    |
| 1011      | 90314       | 06/08/17 | 2217   | DELL MARKETING L.P. 13550005450      |             | JR GUARD LAPTOP       | 0.00      | 958.05    |
| 1011      | 90315       | 06/08/17 | 134    | DIXIELINE LUMBER CO INC 00165006570  |             | PICTURE HOOKS         | 0.00      | 2.50      |
| 1011      | 90315       | 06/08/17 | 134    | DIXIELINE LUMBER CO INC 00165006570  |             | LIGHT SWITCH & PLATES | 0.00      | 7.22      |
| 1011      | 90315       | 06/08/17 | 134    | DIXIELINE LUMBER CO INC 00165006530  |             | COIL CHAIN            | 0.00      | 7.74      |
| 1011      | 90315       | 06/08/17 | 134    | DIXIELINE LUMBER CO INC 00165006570  |             | CAULKING (3)          | 0.00      | 16.13     |
|           | TOTAL CHECK |          |        |                                      |             |                       | 0.00      | 33.59     |
| 1011      | 90316       | 06/08/17 | 94     | ESGIL CORPORATION 00155005560        |             | BLDG PRMT 05/08-05/14 | 0.00      | 7,158.01  |
| 1011      | 90317       | 06/08/17 | 5259   | FRED GONZALES CONCRETE, 001          |             | RFND-EP#3882/325 S SI | 0.00      | 1,000.00  |
| 1011      | 90318       | 06/08/17 | 2928   | HARVEY-MEYERHOFF CONSULT 21355005550 |             | 1714.20/959 GENEVIEVE | 0.00      | 2,750.00  |
| 1011      | 90319       | 06/08/17 | 87     | ISLA VERDE HOA 20575007530           |             | LANDSCAPE MAINT-MAY   | 0.00      | 425.00    |
| 1011      | 90320       | 06/08/17 | 5263   | MARILYN LIEBOWITZ 001                |             | RFND-SB-0622892       | 0.00      | 347.50    |
| 1011      | 90321       | 06/08/17 | 111    | MISSION LINEN & UNIFORM 21100007600  |             | LAUNDRY-PUB WORKS     | 0.00      | 1.56      |
| 1011      | 90321       | 06/08/17 | 111    | MISSION LINEN & UNIFORM 50900007700  |             | LAUNDRY-PUB WORKS     | 0.00      | 6.25      |
| 1011      | 90321       | 06/08/17 | 111    | MISSION LINEN & UNIFORM 00165006560  |             | LAUNDRY-PUB WORKS     | 0.00      | 7.03      |
| 1011      | 90321       | 06/08/17 | 111    | MISSION LINEN & UNIFORM 00165006520  |             | LAUNDRY-PUB WORKS     | 0.00      | 7.04      |
| 1011      | 90321       | 06/08/17 | 111    | MISSION LINEN & UNIFORM 00165006530  |             | LAUNDRY-PUB WORKS     | 0.00      | 12.50     |
|           | TOTAL CHECK |          |        |                                      |             |                       | 0.00      | 34.38     |
| 1011      | 90322       | 06/08/17 | 5157   | MUTT MUTT 00165006520                |             | 7 MUTT-MITT CARTONS   | 0.00      | 490.19    |
| 1011      | 90323       | 06/08/17 | 4797   | PAMELA ELLIOTT LANDSCAPE 21355005550 |             | 1714.02/684 VIA DE LA | 0.00      | 250.00    |
| 1011      | 90323       | 06/08/17 | 4797   | PAMELA ELLIOTT LANDSCAPE 21355005550 |             | 1716.05/840 VERA ST   | 0.00      | 250.00    |
| 1011      | 90323       | 06/08/17 | 4797   | PAMELA ELLIOTT LANDSCAPE 21355005550 |             | 1717.08/520 N GRANADO | 0.00      | 250.00    |
| 1011      | 90323       | 06/08/17 | 4797   | PAMELA ELLIOTT LANDSCAPE 21355005550 |             | 1714.02/684 VIA DE LA | 0.00      | 250.00    |
| 1011      | 90323       | 06/08/17 | 4797   | PAMELA ELLIOTT LANDSCAPE 21355005550 |             | 1716.24/223 OCEAN ST  | 0.00      | 250.00    |
| 1011      | 90323       | 06/08/17 | 4797   | PAMELA ELLIOTT LANDSCAPE 21355005550 |             | 1717.19/980 AVOCADO#2 | 0.00      | 375.00    |
| 1011      | 90323       | 06/08/17 | 4797   | PAMELA ELLIOTT LANDSCAPE 21355005550 |             | 1716.26/502 MAR VISTA | 0.00      | 375.00    |
| 1011      | 90323       | 06/08/17 | 4797   | PAMELA ELLIOTT LANDSCAPE 21355005550 |             | 1717.05/425 S RIOS    | 0.00      | 375.00    |
| 1011      | 90323       | 06/08/17 | 4797   | PAMELA ELLIOTT LANDSCAPE 21355005550 |             | 1716.07/246 BARBARA   | 0.00      | 375.00    |
| 1011      | 90323       | 06/08/17 | 4797   | PAMELA ELLIOTT LANDSCAPE 21355005550 |             | 1714.08/343 HWY 101   | 0.00      | 250.00    |
|           | TOTAL CHECK |          |        |                                      |             | PROF SVC-MAY          | 0.00      | 3,375.00  |
| 1011      | 90324       | 06/08/17 | 1112   | RANCHO SANTA FE SECURITY 00165006560 |             | ALARM MONITORING-MAY  | 0.00      | 174.50    |
| 1011      | 90325       | 06/08/17 | 86     | SAN ELIJO HILLS II HOA 20775007550   |             | LANDSCAPE MAINT-MAY   | 0.00      | 6,550.00  |
| 1011      | 90326       | 06/08/17 | 88     | SANTA FE HILLS HOA 20475007520       |             | LANDSCAPE MAINT-MAY   | 0.00      | 12,250.00 |
| 1011      | 90327       | 06/08/17 | 141    | SANTA FE IRRIGATION DIST 00165006560 |             | GRP#3-12 03/16-05/15  | 0.00      | 129.83    |

SELECTION CRITERIA: transact\_gl\_cash='1011' and transact\_ck\_date between '20170527 00:00:00.000' and '20170609 00:00:00.000'  
 ACCOUNTING PERIOD: 12/17

FUND - 001 - GENERAL FUND

| CASH ACCT | CHECK NO    | ISSUE DT | VENDOR | NAME                     | BUDGET UNIT | DESCRIPTION            | SALES TAX | AMOUNT    |
|-----------|-------------|----------|--------|--------------------------|-------------|------------------------|-----------|-----------|
| 1011      | 90327       | 06/08/17 | 141    | SANTA FE IRRIGATION DIST | 00165006560 | GRP#3-12 03/16-05/15   | 0.00      | 129.83    |
| 1011      | 90327       | 06/08/17 | 141    | SANTA FE IRRIGATION DIST | 20375007510 | GRP#3-12 03/16-05/15   | 0.00      | 178.01    |
| 1011      | 90327       | 06/08/17 | 141    | SANTA FE IRRIGATION DIST | 20875007580 | GRP#3-12 03/16-05/15   | 0.00      | 399.79    |
|           | TOTAL CHECK |          |        |                          |             |                        | 0.00      | 837.46    |
| 1011      | 90328       | 06/08/17 | 4281   | SIEMENS INDUSTRY, INC    | 00165006540 | TRAFFIC CALL OUT-MAY   | 0.00      | 162.42    |
| 1011      | 90329       | 06/08/17 | 1231   | STAPLES CONTRACT & COMME | 50900007700 | PENS/FOLDERS           | 0.00      | 112.56    |
| 1011      | 90330       | 06/08/17 | 5266   | SUE ANN GREENBERG        | 001         | RFND-SB-0627657        | 0.00      | 42.50     |
| 1011      | 90331       | 06/08/17 | 3066   | SUMMIT ENVIRONMENTAL GRO | 4509266190  | 9926 PROF SVC SND-MAY  | 0.00      | 1,430.00  |
| 1011      | 90331       | 06/08/17 | 3066   | SUMMIT ENVIRONMENTAL GRO | 45999036190 | 9903 SUBCON-EVEREST    | 0.00      | 3,694.35  |
| 1011      | 90331       | 06/08/17 | 3066   | SUMMIT ENVIRONMENTAL GRO | 45999036190 | 9903 PROF SVC LCP-MAY  | 0.00      | 5,280.00  |
|           | TOTAL CHECK |          |        |                          |             |                        | 0.00      | 10,404.35 |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 4 J'S CNCRNT   | 0.00      | 366.29    |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 PLUS 4 J'S     | 0.00      | 428.48    |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 SALRY PROJCTNS | 0.00      | 486.84    |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 EAC APP SRVR   | 0.00      | 579.58    |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 WORKFLOW CNTR  | 0.00      | 730.28    |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 CASH RECEPTNG  | 0.00      | 843.88    |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 MISC BILLING   | 0.00      | 1,446.63  |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 COGNOS         | 0.00      | 1,674.45  |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 BUS LICENSES   | 0.00      | 1,794.37  |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 FIXED ASSETS   | 0.00      | 1,935.80  |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 EAC            | 0.00      | 2,392.06  |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 4 J'S          | 0.00      | 3,837.60  |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 HUM RESRSES    | 0.00      | 4,636.67  |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 SOL SRVR       | 0.00      | 6,802.95  |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 FUND ACCTNG    | 0.00      | 208.00    |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 H J'S          | 0.00      | 214.25    |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 DATANGO        | 0.00      | 2,249.27  |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | FY16/17 OPTIO          | 0.00      | 160.00    |
| 1011      | 90332       | 06/08/17 | 5258   | SUPERION LLC             | 00150005300 | ACA TRAINING           | 0.00      | 32,531.99 |
|           | TOTAL CHECK |          |        |                          |             |                        | 0.00      | 17.87     |
| 1011      | 90333       | 06/08/17 | 4899   | ZACHARY TOTH             | 00160006120 | MILEAGE-05/04/17       | 0.00      | 239.30    |
| 1011      | 90334       | 06/08/17 | 1147   | TRAFFIC SAFETY SOLUTIONS | 00165006540 | PARADE/BARCD W/LIGHTS  | 0.00      | 2,450.00  |
| 1011      | 90335       | 06/08/17 | 4651   | TRIPLE S POWER CLEANING  | 00165006530 | PRSR WSH WLKS HWY 101  | 0.00      | 190.63    |
| 1011      | 90336       | 06/08/17 | 2097   | UT SAN DIEGO - NRTH COUN | 00155005550 | PUB HRNG-1716.24 DRP   | 0.00      | 91.00     |
| 1011      | 90337       | 06/08/17 | 5265   | VICTOR MIGUEL PEREZ      | 001         | RFND- SB0628300        | 0.00      | 60.35     |
| 1011      | 90338       | 06/08/17 | 37     | XEROX CORPORATION        | 00150005350 | EXCESS BLK-03/21-4/22  | 0.00      | 199.60    |
| 1011      | 90338       | 06/08/17 | 37     | XEROX CORPORATION        | 00150005350 | W7830PT UPSTRS-APR     | 0.00      | 72.34     |
| 1011      | 90338       | 06/08/17 | 37     | XEROX CORPORATION        | 00150005350 | EXCESS CLR-03/21-4/22  | 0.00      | 367.25    |
| 1011      | 90338       | 06/08/17 | 37     | XEROX CORPORATION        | 00150005350 | EXCESS CLR-03/21-4/22  | 0.00      | 218.98    |
| 1011      | 90338       | 06/08/17 | 37     | XEROX CORPORATION        | 00150005350 | W7830PT CLRKS-APR      | 0.00      |           |



PENTAMATION  
 DATE: 06/12/2017  
 TIME: 16:23:02

CITY OF SOLANA BEACH, CA  
 CHECK REGISTER - DISBURSEMENT FUND

PAGE NUMBER: 7  
 ACCTPA21

SELECTION CRITERIA: transact.gl\_cash='1011' and transact.chk\_date between '20170527 00:00:00.000' and '20170609 00:00:00.000'  
 ACCOUNTING PERIOD: 12/17

FUND - 001 -- GENERAL FUND

| CASH ACCT          | CHECK NO | ISSUE DT | VENDOR | NAME              | BUDGET UNIT | -----DESCRIPTION----- | SALES TAX | AMOUNT     |
|--------------------|----------|----------|--------|-------------------|-------------|-----------------------|-----------|------------|
| 1011               | 90338    | 06/08/17 | 37     | XEROX CORPORATION | 00150005350 | EXCESS CLR-03/21-4/22 | 0.00      | 21.54      |
| 1011               | 90338    | 06/08/17 | 37     | XEROX CORPORATION | 00150005350 | EXCESS BLK-03/21-4/22 | 0.00      | 27.08      |
| 1011               | 90338    | 06/08/17 | 37     | XEROX CORPORATION | 00150005350 | EXCESS CLR-03/21-4/22 | 0.00      | 134.96     |
| TOTAL CHECK        |          |          |        |                   |             |                       |           | 1,102.10   |
| TOTAL CASH ACCOUNT |          |          |        |                   |             |                       |           | 329,013.80 |
| TOTAL FUND         |          |          |        |                   |             |                       |           | 329,013.80 |
| TOTAL REPORT       |          |          |        |                   |             |                       |           | 329,013.80 |



# STAFF REPORT CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Gregory Wade, City Manager  
**MEETING DATE:** June 28, 2017  
**ORIGINATING DEPT:** Finance  
**SUBJECT:** Report on Changes Made to the General Fund Adopted Budget for Fiscal Year 2016-2017

**BACKGROUND:**

Staff provides a report at each Council meeting that lists changes made to the current Fiscal Year (FY) General Fund Adopted Budget.

The information provided in this Staff Report lists the changes made through June 14, 2017.

**DISCUSSION:**

The following table reports the revenue, expenditures, and transfers for 1) the Adopted General Fund Budget approved by Council on June 8, 2016 (Resolution 2016-080) and 2) any resolutions passed by Council that amended the Adopted General Fund Budget.

**GENERAL FUND - ADOPTED BUDGET PLUS CHANGES**  
 As of June 14, 2017

| Action        | Description                        | Revenues   | Expenditures | Transfers from GF | Net Surplus |
|---------------|------------------------------------|------------|--------------|-------------------|-------------|
| Reso 2016-080 | Adopted Budget                     | 16,512,500 | (16,148,700) | (350,800) (1)     | \$ 13,000   |
| Reso 2016-112 | Qtr-Year Budget Adjustments        | -          | 130,700      | 76,900 (2)        | 220,600     |
| Reso 2017-029 | Mid-Year Budget Adjustments        | 350,000    | (311,200)    | (29,000) (3)      | 230,400     |
| Reso 2017-030 | Qtr-Year Budget Adjustments        | 333,500    | 239,000      | (572,500)         | 230,400     |
|               |                                    |            |              |                   |             |
| (1)           | Transfers to:                      |            |              |                   |             |
|               | Debt Service for Public Facilities |            | 153,300      |                   |             |
|               | City CIP Fund                      |            | 152,500      |                   |             |
|               | Asset Replacement                  |            | 45,000       | 350,800           |             |
| (2)           | Transfer from:                     |            |              |                   |             |
|               | City CIP Fund                      |            |              | (76,900)          |             |
| (3)           | Transfer to:                       |            |              |                   |             |
|               | City CIP Fund                      |            |              | 29,000            |             |
| (4)           | Transfer to:                       |            |              |                   |             |
|               | City CIP Fund                      |            |              | 572,500           |             |

**COUNCIL ACTION:**

---



---

**CEQA COMPLIANCE STATEMENT:**

Not a project as defined by CEQA

**FISCAL IMPACT:**

N/A

**WORK PLAN:**

N/A

**OPTIONS:**

- Receive the report.
- Do not accept the report

**DEPARTMENT RECOMMENDATION:**

Staff recommends that the City Council receive the report listing changes made to the FY 2016-2017 General Fund Adopted Budget.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation

  
\_\_\_\_\_  
Gregory Wade, City Manager



# STAFF REPORT CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Gregory Wade, City Manager  
**MEETING DATE:** June 28, 2017  
**ORIGINATING DEPT:** City Clerk's Department *GW*  
**SUBJECT:** **League of California Cities' 2017 Annual Business Meeting  
Voting Delegates Designees**

---

## **BACKGROUND:**

The League of California Cities (League) will host its 2017 Annual Conference September 13-15 in Sacramento. The Annual Business Meeting will be held on September 15<sup>th</sup> at 12:30 p.m. where the League membership will consider and take action on resolutions that establish League policy. The League resolutions and policy-making decisions, in conjunction with the League's efforts, help to guide cities to improve the quality and responsiveness of local government. The League requires each City Council to designate its voting delegate, and may appoint up to two alternate voting delegates.

This item is before Council to officially appoint voting delegates for the League's 2017 Annual Conference, as required, and which will be attested by the City Clerk and forwarded to the League.

## **DISCUSSION:**

Consistent with League bylaws, a City's voting delegate and alternate(s) must be designated by City Council action in order to act on behalf of the City of Solana Beach. The voting delegate and alternate(s) must be registered to attend the conference, and at least one delegate must be present at the Business Meeting and in possession of the voting card in order to cast a vote. Transferring voting cards to non-designated individuals will not be allowed, but they may be transferred freely between the voting delegate and alternate(s).

### *Designated Delegates*

Currently serving on the League Executive Committee is Mayor Nichols, primary, and Councilmember Edson, alternate.

### *Designating Additional Alternate Delegate*

In the past, the City Council has appointed the City Manager as a second alternate, in case either the primary or alternate are unable to be present at the meeting when votes are called.

CITY COUNCIL ACTION: \_\_\_\_\_  
\_\_\_\_\_

Therefore, City Manager Gregory Wade is recommended to be appointed as the 2<sup>nd</sup> alternate voting delegate.

**CEQA COMPLIANCE STATEMENT:** N/A

**FISCAL IMPACT:**

Fiscal impact will include costs for the delegates' travel, lodging and meals, which has already been budgeted.

**WORK PLAN:** N/A

**OPTIONS:**

- Appoint voting delegates to represent the City of Solana Beach at the 2017 League of California Cities Annual Conference.
- Do not appoint voting delegates, forfeiting all or some voting rights for Solana Beach.


**DEPARTMENT RECOMMENDATION:**

Staff recommends that the City Council:

1. Appoint Mayor Nichols, primary voting delegate, Councilmember Edson, 1<sup>st</sup> alternate, and City Manager, Gregory Wade, 2<sup>nd</sup> alternate, as the voting delegates for the 2017 Annual Business Meeting of the League of California Cities Annual Conference being held September 13-15 in Sacramento, or provide alternative appointments.
2. Authorize the City Clerk to attest to the appointments and submit the Official Voting Form to the League of California Cities by September 1, 2017.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation.

  
\_\_\_\_\_  
Gregory Wade, City Manager

Attachment:

1. Correspondence from League of California Cities, Voting Procedures, and Delegate/Alternate Form.



1400 K Street, Suite 400 • Sacramento, California 95814  
Phone: 916.658.8200 Fax: 916.658.8240  
[www.cacities.org](http://www.cacities.org)

**Council Action Advised by July 31, 2017**

May 3, 2017

**TO: Mayors, City Managers and City Clerks**

**RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES  
League of California Cities Annual Conference – September 13 – 15, Sacramento**

The League's 2017 Annual Conference is scheduled for September 13 – 15 in Sacramento. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly), scheduled for 12:30 p.m. on Friday, September 15, at the Sacramento Convention Center. At this meeting, the League membership considers and takes action on resolutions that establish League policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote in the event that the designated voting delegate is unable to serve in that capacity.

**Please complete the attached Voting Delegate form and return it to the League's office no later than Friday, September 1, 2017. This will allow us time to establish voting delegate/alternate records prior to the conference.**

Please note the following procedures that are intended to ensure the integrity of the voting process at the Annual Business Meeting.

- **Action by Council Required.** Consistent with League bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates must be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. To register for the conference, please go to our website: [www.cacities.org](http://www.cacities.org). In order to cast a vote, at least one voter must be present at the

Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.

- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may *not* transfer the voting card to another city official.
- **Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they must sign in at the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the Sacramento Convention Center, will be open at the following times: Wednesday, September 13, 8:00 a.m. – 6:00 p.m.; Thursday, September 14, 7:00 a.m. – 4:00 p.m.; and Friday, September 15, 7:30 a.m.– Noon. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to the League office by Friday, September 1. If you have questions, please call Carly Shelby at (916) 658-8279.

Attachments:

- Annual Conference Voting Procedures
- Voting Delegate/Alternate Form



## Annual Conference Voting Procedures

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to League policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the League Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: \_\_\_\_\_

2017 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM

Please complete this form and return it to the League office by Friday, September 1, 2017. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

In order to vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

1. VOTING DELEGATE

Name: \_\_\_\_\_

Title: \_\_\_\_\_

2. VOTING DELEGATE - ALTERNATE

Name: \_\_\_\_\_

Title: \_\_\_\_\_

3. VOTING DELEGATE - ALTERNATE

Name: \_\_\_\_\_

Title: \_\_\_\_\_

PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES.

OR

ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

Name: \_\_\_\_\_ E-mail \_\_\_\_\_

Mayor or City Clerk \_\_\_\_\_ Phone: \_\_\_\_\_
(circle one) (signature)

Date: \_\_\_\_\_

Please complete and return by Friday, September 1, 2017

League of California Cities
ATTN: Carly Shelby
1400 K Street, 4th Floor
Sacramento, CA 95814

FAX: (916) 658-8240
E-mail: cshelby@cacities.org
(916) 658-8279



# STAFF REPORT CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Gregory Wade, City Manager  
**MEETING DATE:** June 28, 2017  
**ORIGINATING DEPT:** Engineering Department  
**SUBJECT:** **Consideration of Resolution No. 2017-089: Notice of Completion for the City Hall Passenger Elevator Upgrades**

---

## **BACKGROUND:**

As part of the annual elevator inspection performed by the State of California, several required upgrades to the City Hall elevator were noted. In order to stay in compliance with elevator safety regulations, the elevator motor, doors and other related equipment needed to be replaced. It should be noted that no major repairs or equipment replacement for the elevator has taken place since the building became the City Hall in approximately 1994.

The City has had a contract with 24 Hour Elevator, Inc. for elevator preventative maintenance services and repairs since 2014. Staff advertised for construction bids for the Solana Beach City Hall Passenger Elevator Upgrades, Bid No. 2016-07. Since the City did not receive any construction bids for the upgrades to the passenger elevator, Staff negotiated a contract directly with 24 Hour Elevator for the required upgrades, as allowed by the California Public Contract Code.

This item is before the City Council to report the final project costs, accept the project as complete and direct the City Clerk to file a Notice of Completion.

## **DISCUSSION:**

24 Hour Elevator completed all work on this project in accordance with the approved plans and specifications of Bid No. 2016-07 to the satisfaction of the City Engineer. No change orders were issued on the project. The City will release the retention, in the amount of \$1,276.85, thirty-five (35) days after the Notice of Completion is recorded.

CITY COUNCIL ACTION:

---

---

**CEQA COMPLIANCE STATEMENT:**

The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(a) of the State CEQA Guidelines.

**FISCAL IMPACT:**

There was \$28,537 appropriated for construction of the project, which included \$3,000 for contingencies. Since there were no issued change orders, the construction contingency was not used during construction. However, a portion of the contingency, in the amount of \$1,350, will be used to perform a load test on the elevator. Although the load test was not required to certify the upgrades recently completed, the load test is required to renew the annual permit for the elevator. This load test is required every five years per state regulations. The total cost of the project was \$25,937.06 which includes \$25,537 for the elevator work and \$400.06 for advertisement of the construction bids. The total cost does not include the money needed to pay for the load test.

**WORK PLAN:**

This project is consistent with Item B.9 (City Hall Deferred Maintenance) of the Community Character Priorities of the FY 2016/17 Work Plan.

**OPTIONS:**

- Adopt Staff recommendation.
- Approve Staff recommendation with alternative amendments/modifications.
- Provide direction/feedback.

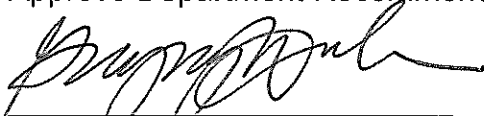
**DEPARTMENT RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution 2017-089:

1. Authorizing the City Engineer to accept as complete the City Hall Passenger Elevator Upgrades, Bid No. 2016-07, constructed by 24 Hour Elevator, Inc.
2. Authorizing the City Clerk to file a Notice of Completion.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation.

  
\_\_\_\_\_  
Gregory Wade, City Manager

Attachments:

1. Resolution No. 2017-089

**RESOLUTION 2017 - 089**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, ACCEPTING AS COMPLETE THE CITY HALL PASSENGER ELEVATOR UPGRADE PROJECT, BID NO. 2016-07, AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION**

**WHEREAS**, as part of the annual elevator inspection performed by the State of California, several required upgrades to the City Hall elevator were noted. In order to stay in compliance with elevator safety regulations, the elevator motor, doors and other related equipment need to be replaced.

**WHEREAS**, in September 2016, Staff advertised for construction bids for the Solana Beach City Hall Passenger Elevator Upgrades, Bid No. 2016-07. Since no construction bids were received, Staff negotiated a contract directly with 24 Hour Elevator, Inc.

**NOW, THEREFORE**, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the above recitations are true and correct.
2. That the City Council accepts as complete the City Hall Passenger Elevator Upgrades, Bid No. 2016-07, constructed by 24 Hour Elevator, Inc.
3. That the City Council authorizes the City Clerk to file a Notice of Completion for the project.

**PASSED AND ADOPTED** this 28th day of June, 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –  
NOES: Councilmembers –  
ABSTAIN: Councilmembers –  
ABSENT: Councilmembers –

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk



# STAFF REPORT CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Gregory Wade, City Manager  
**MEETING DATE:** June 28, 2017  
**ORIGINATING DEPT:** Finance  
**SUBJECT:** **Authorize City Manager to Execute Professional Services Agreements with Consultants Required for Wastewater Bond Refunding**

---

## **BACKGROUND:**

In January 2007, the Solana Beach Public Financing Authority (Authority) issued Subordinate Wastewater Revenue Bonds (the “2006 Bonds”) in the amount of \$9,825,000 to finance capital improvements to the Sewer System.

At the May 10, 2017 Council meeting, Staff provided information to the City Council regarding refunding the 2006 Bonds and engaged the services of Kenneth Dieker of Del Rio Advisors, LLC (Municipal Advisor) to assist Staff in the refunding process. Mr. Dieker was the municipal advisor on the issuance of the 2006 Bonds as well as other debt issuances done by the City of Solana Beach (City).

This Staff Report is before Council to seek authorization for City Manager to execute Professional Services Agreements (PSA) with consultants for the possible refinancing of the 2006 Bonds through the issuance of 2017 Wastewater Revenue Refunding Bonds (the “2017 Bonds”)

## **DISCUSSION:**

The following Financing Team has been assembled to assist with the proposed refunding of the Wastewater Bonds:

1. Municipal Advisor – Del Rio Advisors, LLC
  - a. The Municipal Advisor is retained to advise and assist the City in formulating and/or executing a debt financing plan to accomplish the public purposes chosen by the City and further advise the City on matters pertinent to the

COUNCIL ACTION:

---

---



debt issue, such as structure, timing, terms, marketing, credit enhancement, fairness of pricing and credit ratings.

- b. The Municipal Advisor serves the City in a "fiduciary capacity", representing the City's interests in negotiations with underwriters/placement agents, rating agencies, banks and other parties.
  - c. Municipal Advisor firms are required to register with the Securities and Exchange Commission (SEC) and with the Municipal Securities Rulemaking Board (MSRB), and are regulated by the MSRB.
2. Bond Counsel – Kronick Moskovitz Tiedemann & Girard
- a. Bond Counsel is the law firm retained to provide a legal opinion confirming the City is authorized to issue proposed securities, the City has met all legal requirements necessary for the issuance, and that the interest on the proposed securities will be exempt from federal income taxation and, where applicable, from state and local taxation.
  - b. Bond Counsel prepares and/or reviews authorizing resolutions, ordinances, and prepares the legal documents relating to the issuance.
3. Disclosure Counsel – Quint & Thimmig LLP
- a. Disclosure Counsel prepares the Official Statement and the Continuing Disclosure Agreement/Certificate and sometimes prepares the Bond Purchase Agreement.
4. Underwriter – Hilltop Securities
- a. The Underwriter purchases the bonds from the City and sells them to both retail and institutional investors.
  - b. The Underwriter does not have a fiduciary duty to the City with respect to the bonds.
  - c. The Underwriters' primary role is to purchase the bonds from the City with a view to distribution to investors in an arm's-length commercial transaction.

All Financing Team members would provide professional services to the City and would be funded through the issuance of the 2017 Bonds. As is typical in municipal bond financings, the professional services costs of the financing team members are only paid if the bond deal is successfully completed, or closed. In other words, payment of the costs of issuance is contingent upon the completion of the bond deal.

All contingent costs of issuance would be deducted from the proceeds of the 2017 Bonds and would be included as part of the final financing documents.

**CEQA COMPLIANCE STATEMENT:**

Not a project as defined by CEQA, in that these activities are government fiscal activities that do not involve any commitment to any specific project. (CEQA Guidelines Section 15378(b)(4).)

**FISCAL IMPACT:**

The fee of Del Rio Advisors, LLC acting as Municipal Advisor to the City is contingent upon closing and is currently estimated at \$37,500, including expenses. The fee for Kronick Moskowitz Tiedemann & Girard acting as Bond Counsel, is also contingent upon closing and is currently estimated at \$30,000. The fee of Quint & Thimmig, LLP, acting as Disclosure Counsel, is also contingent upon closing is currently estimated at \$22,500. The fee for Hilltop Securities, acting as Underwriter, is contingent and is estimated at \$42,000 which is calculated as 0.65% of the proposed amount of 2017 Bonds to be issued in the estimated amount of \$6,500,000. The fee of the Underwriter is a variable fee and is generally based upon an agreed upon percentage and the purchase of the bonds governed by the terms and conditions of the Bond Purchase Agreement. All fees will be paid at closing as part of the cost of issuance and have been accounted for in the calculation of the estimated savings resulting from the issuance of the 2017 Bonds.

**WORK PLAN:**

N/A

**OPTIONS:**

- Approve Staff recommendation.
- Approve Staff recommendation with alternative amendments / modifications.
- Deny Staff recommendation

**DEPARTMENT RECOMMENDATION:**

Staff recommends that the City Council approve:

1. Resolution 2017-108 authorizing the City Manager to execute a Professional Services Agreement with Del Rio Advisors, LLC for Municipal Advisors services in connection with the possible refinancing of the 2006 Bonds.
2. Resolution 2017-109 authorizing the City Manager to execute a Professional Services Agreement with Kronick Moskowitz Tiedemann & Girard for Bond Counsel services in connection with the possible refinancing of the 2006 Bonds.
3. Resolution 2017-110 authorizing the City Manager to execute a Professional Services Agreement with Quint & Thimmig, LLP for Disclosure Counsel services in connection with the possible refinancing of the 2006 Bonds.

4. Resolution 2017-111 authorizing the City Manager to execute a Professional Services Agreement with Hilltop Securities for Underwriting services in connection with the possible refinancing of the 2006 Bonds.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation.



Gregory Wade, Executive Director

**Attachments**

1. Resolution 2017-108
2. Resolution 2017-109
3. Resolution 2017-110
4. Resolution 2017-111

**RESOLUTION NO. 2017-108**

**A RESOLUTION OF THE CITY OF SOLANA BEACH APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE, A PROFESSIONAL SERVICES AGREEMENT WITH DEL RIO ADVISORS, LLC FOR MUNICIPAL ADVISORS SERVICES RELATING TO THE POTENTIAL REFUNDING OF THE SERIES 2006 SUBORDINATE WASTEWATER REVENUE BONDS**

**WHEREAS**, in January 2007, the Solana Beach Public Financing Authority (Authority) issued Subordinate Wastewater Revenue Bonds (the 2006 Bonds) in the amount of \$9,825,000 to finance capital improvements to the Sewer System; and

**WHEREAS**, at the May 10, 2017 City Council meeting, Staff provided information to the Council regarding refunding the 2006 Bonds and Council directed Staff to proceed with the potential issuance of the 2017 Wastewater Revenue Refunding Bonds (the 2017 Bonds) ; and

**WHEREAS**, based on market conditions as of June 2017, issuance of the 2017 Bonds is estimated to result in total savings of \$1,705,752 and net present value ("NPV") savings of approximately \$1,212,932. This equates to 15.59% in NPV; and

**WHEREAS**, the City of Solana Beach (City) desires to take advantage of the current low interest rate environment in order to minimize its total interest costs on outstanding debt by refinancing/refunding the 2006 Bonds at a comparatively lower interest rate than the current bond issue's average bond coupon rate and as low of a cost of issuance as possible; and

**WHEREAS**, in order to effectuate the refunding of the 2006 Bonds, the City desires to retain the services of Del Rio Advisors, LLC for Municipal Advisors services, including without limitation the following: advise and assist the issuer in formulating and/or executing a debt financing plan to accomplish the public purposes chosen by the issuer and further advise the issuer on matters pertinent to the debt issue, such as structure, timing, terms, marketing, credit enhancement, fairness of pricing and credit ratings; and

**WHEREAS**, Del Rio Advisors, LLC is a municipal advisor firm registered with the Securities and Exchange Commission ("SEC") and with the Municipal Securities Rulemaking Board ("MSRB") and has represented that it possesses the necessary qualifications to provide the services required by the City; and

**WHEREAS**, the City staff has authorized the preparation of a Professional Services Agreement ("PSA") to retain the services of Del Rio Advisors, LLC as a "Municipal Advisor" to the City and recommends the City's approval relating to same; and

**WHEREAS**, pursuant to the Agreement, and subject to the conditions below, Del Rio Advisors, LLC shall be compensated for work completed, in the amount of \$37,500 for basic services rendered under the Agreement and all accrued expenses. Del Rio

Advisors, LLC would be compensated for additional services only upon prior written approval of the City. According to the Agreement, payment to Del Rio Advisors, LLC for compensation and accrued expenses not to exceed \$37,500 is contingent on the closing of the bond issuance and will be made by the City from the costs of issuance of the bonds and will be made available within thirty (30) calendar days of receipt of the invoice; and

**WHEREAS**, all of the prerequisites with respect to the approval of this Resolution have been met.

**NOW, THEREFORE, BE IT RESOLVED** by the City of Solana Beach, as follows:

- Section 1.** The foregoing recitals are true and correct and are a substantive part of this Resolution.
- Section 2.** The City hereby approves the Professional Services Agreement (“Agreement”) with Del Rio Advisors, LLC in substantial form as the Agreement attached as Exhibit “A”, for Municipal Advisor services for compensation and accrued expenses of \$37,500 which fee is contingent on the successful closing of the bond issuance.
- Section 3.** The City Manager, or designee, of the City is hereby authorized and directed to execute the Agreement in substantial form as the Agreement attached as Exhibit “A”.
- Section 4.** The City Manager, or designee, of the City is hereby authorized to make non-substantive changes and amendments to the Agreement deemed necessary and as approved by the City Manager of the City and its legal counsel and to take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the City.
- Section 5.** The City determines that the activity approved by this Resolution is not a “project” for purposes of CEQA, as that term is defined by Guidelines Section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per Section 15378(b)(5) of the Guidelines.
- Section 6.** If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City declares that its board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

**Section 7.** This Resolution shall take effect upon the date of its adoption

**PASSED, APPROVED, AND ADOPTED** this 28<sup>th</sup> day of June, 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –  
NOES: Councilmembers –  
ABSTAIN: Councilmembers –  
ABSENT: Councilmembers –

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk

## EXHIBIT "A"

# City of Solana Beach

## PROFESSIONAL SERVICES AGREEMENT

### FOR MUNICIPAL ADVISORY SERVICES FOR REFINANCING OF WASTE WATER REVENUE BONDS, SERIES 2006

THIS Professional Services Agreement ("AGREEMENT") is made and entered into this 10th day of May, 2017 by and between the CITY OF SOLANA BEACH, a municipal corporation ("CITY"), and, DEL RIO ADVISORS, LLC a partnership, LLC, LLP, California corporation, etc., ("CONSULTANT") (collectively "PARTIES").

**WHEREAS**, the CITY desires to employ a CONSULTANT to furnish Municipal Advisory ("PROFESSIONAL SERVICES") for the refinancing of Waste Water Revenue Bonds, Series 2006 ("PROJECT"); and

**WHEREAS**, the CITY has determined that CONSULTANT is qualified by experience and ability to perform the services desired by CITY, and CONSULTANT is willing to perform such services; and

**WHEREAS**, CONSULTANT will conduct all the work as described and detailed in this AGREEMENT to be provided to the CITY.

**NOW, THEREFORE**, the PARTIES hereto mutually covenant and agree with each other as follows:

#### 1. PROFESSIONAL SERVICES.

- 1.1. **Scope of Services.** The CONSULTANT shall perform the PROFESSIONAL SERVICES as set forth in the written Scope of Services, attached as Exhibit "A" Scope of Services and Fee, at the direction of the CITY. CITY shall provide CONSULTANT access to appropriate staff and resources for the coordination and completion of the projects under this AGREEMENT. For all work to be performed on site at City Hall, the CITY and CONSULTANT agree that the Scope of Services begins when the CONSULTANT arrives at City Hall and terminates when the CONSULTANT leaves City Hall. Travel time to and from City Hall shall not be considered time on the job or compensated by the CITY.
- 1.2. **Project Coordinator.** The is hereby designated as the Project Coordinator for CITY and will monitor the progress and execution of this AGREEMENT. CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this AGREEMENT for CONSULTANT. is hereby designated as the Project Director for CONSULTANT.
- 1.3. **City Modification of Scope of Services.** CITY may order changes to the Scope of Services within the general scope of this AGREEMENT consisting of additions, deletions, or other revisions. If such changes cause a change in the CONSULTANT's cost of, or time required for, completion of the Scope of Services, an equitable adjustment to CONSULTANT's compensation and/or contract time shall be made, subject to the CITY'S approval. All such changes shall be authorized in writing, executed by CONSULTANT and CITY.

#### 2. DURATION OF AGREEMENT.

- 2.1. **Term.** The term of this AGREEMENT shall be for a period of one year beginning from the date of execution of the AGREEMENT. Time is of the essence in the performance of work under this AGREEMENT, unless otherwise specified.

- 2.2. **Extensions.**  If marked, the CITY shall have the option to extend the AGREEMENT for additional one (1) year periods or parts thereof for an amount not to exceed \_\_\_\_\_ per AGREEMENT year. Extensions shall be in the sole discretion of the City Manager and shall be based upon CONSULTANT's satisfactory past performance, CITY needs, and appropriation of funds by the City Council. The CITY shall give written notice to CONSULTANT prior to exercising the option.
- 2.3. **Delay.** Any delay occasioned by causes beyond the control of CONSULTANT may merit an extension of time for the completion of the Scope of Services. When such delay occurs, CONSULTANT shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the PROFESSIONAL SERVICES when justified by the circumstances.
- 2.4. **City's Right to Terminate for Default.** Should CONSULTANT be in default of any covenant or condition hereof, CITY may immediately terminate this AGREEMENT for cause if CONSULTANT fails to cure the default within ten (10) calendar days of receiving written notice of the default.
- 2.5. **City's Right to Terminate without Cause.** Without limiting its rights in the event of CONSULTANT's default, CITY may terminate this AGREEMENT, without cause, by giving written notice to CONSULTANT. Such termination shall be effective upon receipt of the written notice. CONSULTANT shall be compensated for all effort and material expended on behalf of CITY under the terms of this AGREEMENT, up to the effective date of termination. All personal property remaining in CITY facilities or on CITY property thirty (30) days after the expiration or termination of this AGREEMENT shall be, at CITY's election, considered the property of CITY.

**3. COMPENSATION.**

- 3.1. **Total Amount.** The total cost for all work described in the Scope of Services and Fee (Exhibit "A") shall not exceed thirty seven thousand, five hundred dollars (\$37,500) without prior written authorization from CITY. CONSULTANT shall bill the CITY for work provided and shall present a written request for such payment monthly.
- 3.2. **Additional Services.** CITY may, as the need arises or in the event of an emergency, request additional services of CONSULTANT. Should such additional services be required, CITY and CONSULTANT shall agree to the cost prior to commencement of these services.
- 3.3. **Costs.** Any costs billed to the CITY shall be in accordance with any terms negotiated and incorporated herein as part of Exhibit "A" Scope of Services and Fee.

**4. INDEPENDENT CONTRACTOR.**

- 4.1. CONSULTANT is, for all purposes arising out of this AGREEMENT, an independent contractor. The CONSULTANT has and shall retain the right to exercise full control and supervision of all persons assisting the CONSULTANT in the performance of said services hereunder, the CITY only being concerned with the finished results of the work being performed. Neither CONSULTANT nor CONSULTANT's employees shall in any event be entitled to any benefits to which CITY employees are entitled, including, but not limited to, overtime, retirement benefits, workers' compensation benefits, injury leave or other leave benefits. CONSULTANT is solely responsible for all such matters, as well as compliance with social security and income tax withholding and all other regulations and laws governing such matters.

**5. STANDARD OF PERFORMANCE.**

While performing the PROFESSIONAL SERVICES, CONSULTANT shall exercise the reasonable professional care and skill customarily exercised by reputable members of CONSULTANT's profession practicing in the metropolitan Southern California Area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.



## 6. WARRANTY OF CONSULTANT'S LICENSE.

CONSULTANT warrants that CONSULTANT is properly licensed with the applicable government agency(ies) for any PROFESSIONAL SERVICES that require a license. If the CONSULTANT lacks such license, this AGREEMENT is void and of no effect.

## 7. AUDIT OF RECORDS.

- 7.1. At any time during normal business hours and as often as may be deemed necessary the CONSULTANT shall make available to a representative of CITY for examination all of its records with respect to all matters covered by this AGREEMENT and shall permit CITY to audit, examine and/or reproduce such records. CONSULTANT shall retain such financial and program service records for at least four (4) years after termination or final payment under this AGREEMENT.
- 7.2. The CONSULTANT shall include the CITY's right under this section in any and all of their subcontracts, and shall ensure that these sections are binding upon all subcontractors.

## 8. CONFIDENTIALITY.

All professional services performed by CONSULTANT, including but not limited to all drafts, data, correspondence, proposals, reports, research and estimates compiled or composed by CONSULTANT, pursuant to this AGREEMENT, are for the sole use of the CITY, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the CITY. This provision does not apply to information that (a) was publicly known, or otherwise known to CONSULTANT, at the time that it was disclosed to CONSULTANT by the CITY, (b) subsequently becomes publicly known through no act or omission of CONSULTANT or (c) otherwise becomes known to CONSULTANT other than through disclosure by the CITY. Except for any subcontractors that may be allowed upon prior agreement, neither the documents nor their contents shall be released to any third party without the prior written consent of the CITY. The sole purpose of this section is to prevent disclosure of CITY's confidential and proprietary information by CONSULTANT or subcontractors.

## 9. CONFLICTS OF INTEREST.

- 9.1. CONSULTANT shall at all times comply with all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including but not limited to California Government Code Section 81000 *et seq.* (Political Reform Act) and Section 1090 *et seq.* CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the CITY in which the CONSULTANT has a financial interest as defined in Government Code Section 87103. CONSULTANT represents that it has no knowledge of any financial interests which would require it to disqualify itself from any matter on which it might perform services for the CITY.
- 9.2. If, in performing the PROFESSIONAL SERVICES set forth in this AGREEMENT, the CONSULTANT makes, or participates in, a "governmental decision" as described in Title 2, Section 18700.3(a) of the California Code of Regulations, or performs the same or substantially all the same duties for the CITY that would otherwise be performed by a CITY employee holding a position specified in the department's conflict of interest code, the CONSULTANT shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the CONSULTANT's relevant financial interests.
- 9.3.  If checked, the CONSULTANT shall comply with all of the reporting requirements of the Political Reform Act. Specifically, the CONSULTANT shall file a Fair Political Practices Commission Form 700 (Assuming Office Statement) within thirty (30) calendar days of the CITY's determination that the CONSULTANT is subject to a conflict of interest code. The CONSULTANT shall also file a Form 700 (Annual Statement) on or before April 1 of each year of the AGREEMENT, disclosing any financial interests held during the previous calendar year for which the CONSULTANT was subject to a conflict of interest code.

- 9.4. CITY represents that pursuant to California Government Code Section 1090 *et seq.*, none of its elected officials, officers, or employees has an interest in this AGREEMENT.

#### 10. DISPOSITION AND OWNERSHIP OF DOCUMENTS.

- 10.1. All documents, data, studies, drawings, maps, models, photographs and reports prepared by CONSULTANT under this AGREEMENT, whether paper or electronic, shall become the property of CITY for use with respect to this PROJECT, and shall be turned over to the CITY upon completion of the PROJECT or any phase thereof, as contemplated by this AGREEMENT.
- 10.2. Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the CITY and CONSULTANT thereby expressly waives and disclaims, any copyright in, and the right to reproduce, all written material, drawings, plans, specifications or other work prepared under this AGREEMENT, except upon the CITY's prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the CITY, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

#### 11. INSURANCE

- 11.1. CONSULTANT shall procure and maintain for the duration of the AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONSULTANT, their agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than "A" and "VII" unless otherwise approved in writing by the CITY's Risk Manager.
- 11.2. CONSULTANT's liabilities, including but not limited to CONSULTANT's indemnity obligations, under this AGREEMENT, shall not be deemed limited in any way to the insurance coverage required herein. All policies of insurance required hereunder must provide that the CITY is entitled to thirty (30) days prior written notice of cancellation or non-renewal of the policy or policies, or ten (10) days prior written notice for cancellation due to non-payment of premium. Maintenance of specified insurance coverage is a material element of this AGREEMENT.
- 11.3. **Types and Amounts Required.** CONSULTANT shall maintain, at minimum, the following insurance coverage for the duration of this AGREEMENT:
- 11.3.1.  **Commercial General Liability (CGL).** If checked the CONSULTANT shall maintain CGL Insurance written on an ISO Occurrence form or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of \$1,000,000.00 per occurrence and subject to an annual aggregate of \$2,000,000.00. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.
- 11.3.2.  **Commercial Automobile Liability.** If checked the CONSULTANT shall maintain Commercial Automobile Liability Insurance for all of the CONSULTANT's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1,000,000.00 per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

- 11.3.3.  Workers' Compensation.** If checked the CONSULTANT shall maintain Worker's Compensation insurance for all of the CONSULTANT's employees who are subject to this AGREEMENT and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum \$1,000,000.00 employers' liability coverage. The CONSULTANT shall provide an endorsement that the insurer waives the right of subrogation against the CITY and its respective elected officials, officers, employees, agents and representatives.
- 11.3.4.  Professional Liability.** If checked the CONSULTANT shall also maintain Professional Liability (errors and omissions) coverage with a limit of \$1,000,000 per claim and \$2,000,000 annual aggregate. The CONSULTANT shall ensure both that (1) the policy retroactive date is on or before the date of commencement of the Scope of Services; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Scope of Services or termination of this AGREEMENT whichever occurs last. The CONSULTANT agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the CITY's exposure to loss. All defense costs shall be outside the limits of the policy.
- 11.4. Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions are the responsibility of the CONSULTANT and must be declared to and approved by the CITY. At the option of the CITY, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the CITY, its officers, officials, employees and volunteers, or (2) the CONSULTANT shall provide a financial guarantee satisfactory to the CITY guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- 11.5. Additional Required Provisions.** The commercial general liability and automobile liability policies shall contain, or be endorsed to contain, the following provisions:
- 11.5.1.** The CITY, its officers, officials, employees, and representatives shall be named as additional insureds. The CITY's additional insured status must be reflected on additional insured endorsement form (20 10 1185 or 20 10 1001 and 20 37 1001) which shall be submitted to the CITY.
- 11.5.2.** The policies are primary and non-contributory to any insurance that may be carried by the CITY, as reflected in an endorsement which shall be submitted to the CITY.
- 11.6. Verification of Coverage.** CONSULTANT shall furnish the CITY with original certificates and amendatory endorsements effecting coverage required by this Section 11. The endorsement should be on forms provided by the CITY or on other than the CITY's forms provided those endorsements conform to CITY requirements. All certificates and endorsements are to be received and approved by the CITY before work commences. The CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

## **12. INDEMNIFICATION.**

CONSULTANT agrees to indemnify, defend, and hold harmless the CITY, and its officers, officials, agents and employees from any and all claims, demands, costs or liabilities that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, its employees, agents, and subcontractors in the performance of services under this AGREEMENT. CONSULTANT's duty to indemnify under this section shall not include liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence or willful misconduct by the CITY or its elected officials, officers, agents, and employees. CONSULTANT's indemnification obligations shall not be limited by the insurance provisions of this AGREEMENT. The PARTIES expressly agree that any payment, attorney's fees, costs or expense CITY incurs or makes to or on behalf of an injured employee under the CITY's self-administered workers' compensation is included as a loss, expense, or cost for the purposes of this section, and that this section will survive the expiration or early termination of this AGREEMENT.

**13. SUBCONTRACTORS.**

- 13.1. The CONSULTANT's hiring or retaining of third parties (i.e. subcontractors) to perform services related to the PROJECT is subject to prior approval by the CITY.
- 13.2. All contracts entered into between the CONSULTANT and its subcontractor shall also provide that each subcontractor shall obtain insurance policies which shall be kept in full force and effect during any and all work on this PROJECT and for the duration of this AGREEMENT. The CONSULTANT shall require the subcontractor to obtain, all policies described in Section 11 in the amounts required by the CITY, which shall not be greater than the amounts required of the CONSULTANT.
- 13.3. In any dispute between the CONSULTANT and its subcontractor, the CITY shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The CONSULTANT agrees to defend and indemnify the CITY as described in Section 12 of this AGREEMENT should the CITY be made a party to any judicial or administrative proceeding to resolve any such dispute.

**14. NON-DISCRIMINATION.**

CONSULTANT shall not discriminate against any employee or applicant for employment because of sex, race, color, age, religion, ancestry, national origin, military or veteran status, disability, medical condition, genetic information, gender expression, marital status, or sexual orientation. CONSULTANT shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their sex, race, color, age, religion, ancestry, national origin, military or veteran status, disability, medical condition, genetic information, gender expression, marital status, or sexual orientation and shall make reasonable accommodation to qualified individuals with disabilities or medical conditions. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by CITY setting forth the provisions of this non-discrimination clause.

**15. NOTICES.**

All communications to either party by the other party shall be delivered to the persons listed below. Any such written communications by mail shall be conclusively deemed to have been received by the addressee five (5) calendar days after the deposit thereof in the United States mail, postage prepaid and properly addressed as noted below.

Marie Marron Berkuti,  
 Finance Manager/Treasurer  
 City of Solana Beach  
 635 S. Highway 101  
 Solana Beach, CA 92075

Kenneth L. Dieker  
 Principal  
 Del Rio Advisors, LLC  
 1325 Country Clud Dr.  
 Modesto, CA 95356

**16. ASSIGNABILITY.**

This AGREEMENT and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT's duties be delegated or sub-contracted, without the express written consent of the CITY.

#### **17. RESPONSIBILITY FOR EQUIPMENT.**

CITY shall not be responsible nor held liable for any damage to persons or property consequent upon the use, misuse, or failure of any equipment used by CONSULTANT or any of CONSULTANT's employees or subcontractors, even if such equipment has been furnished, rented, or loaned to CONSULTANT by CITY. The acceptance or use of any such equipment by CONSULTANT, CONSULTANT's employees, or subcontractors shall be construed to mean that CONSULTANT accepts full responsibility for and agrees to exonerate, indemnify and hold harmless CITY from and against any and all claims for any damage whatsoever resulting from the use, misuse, or failure of such equipment.

#### **18. CALIFORNIA LAW; VENUE.**

This AGREEMENT shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this AGREEMENT shall be brought in the county of San Diego, California. CONSULTANT hereby waives any and all rights it might have pursuant to California Code of Civil Procedure Section 394.

#### **19. COMPLIANCE WITH LAWS.**

The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this AGREEMENT whether now in force or subsequently enacted. This includes maintaining a City of Solana Beach Business Certificate.

#### **20. ENTIRE AGREEMENT.**

This AGREEMENT sets forth the entire understanding of the PARTIES with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein. No change, alteration, or modification of the terms or conditions of this AGREEMENT, and no verbal understanding of the PARTIES, their officers, agents, or employees shall be valid unless agreed to in writing by both PARTIES.

#### **21. NO WAIVER.**

No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this AGREEMENT, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this AGREEMENT shall constitute a waiver of any such breach of such covenant, term or condition.

#### **22. SEVERABILITY.**

The unenforceability, invalidity, or illegality of any provision of this AGREEMENT shall not render any other provision unenforceable, invalid, or illegal.

#### **23. DRAFTING AMBIGUITIES.**

The PARTIES agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this AGREEMENT, and the decision of whether or not to seek advice of counsel with respect to this AGREEMENT is a decision which is the sole responsibility of each Party. This AGREEMENT shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the AGREEMENT.

#### **24. CONFLICTS BETWEEN TERMS.**

If an apparent conflict or inconsistency exists between the main body of this AGREEMENT and the Exhibits, the main body of this AGREEMENT shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this AGREEMENT, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this AGREEMENT, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this AGREEMENT.

**25. EXHIBITS INCORPORATED.**

All Exhibits referenced in this AGREEMENT are incorporated into the AGREEMENT by this reference.

**26. SIGNING AUTHORITY.**

- 26.1. The representative for each Party signing on behalf of a corporation, partnership, joint venture, association, or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, association, or entity and agrees to hold the other Party or PARTIES hereto harmless if it is later determined that such authority does not exist.
- 26.2.  If checked, a proper notary acknowledgement of execution by CONSULTANT must be attached.

**IN WITNESS WHEREOF**, the PARTIES hereto have executed this AGREEMENT the day and year first hereinabove written.

CITY OF SOLANA BEACH, a municipal corporation

CONSULTANT, a Limited Liability Corporation

By:

By:

\_\_\_\_\_  
City Manager, Gregory Wade

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Kenneth L. Dieker  
Principal

ATTEST:

\_\_\_\_\_  
City Clerk, Angela Ivey

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Marie Marron Berkuti, Finance Manager/Treasurer

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney, Johanna N. Canlas

EXHIBIT "A"  
SCOPE OF SERVICES AND FEE



# Del Rio Advisors, LLC

---

*"Independent Registered Municipal Advisor"*

April 4, 2017

Ms. Marie Berkuti  
Finance Manager / Treasurer  
City of Solana Beach  
635 South Highway 101  
Solana Beach, CA 92075

RE: Engagement Agreement / Disclosures

Dear Ms. Berkuti:

This letter specifies a proposed engagement agreement between Del Rio Advisors, LLC ("MA") and the City of Solana Beach or any Authority utilized by the City to issue obligations ("City/Authority"). This letter also provides certain written policies and disclosures to be provided by the Municipal Advisor to the Municipal Entity effective July 1, 2014 and now required by both the Securities and Exchange Commission ("SEC") and the Municipal Securities Rulemaking Board ("MSRB").

## Scope of Municipal Advisory Activities to be Performed

Under the new regulations, Municipal Advisors are now required to provide a specific list of services to be performed while acting as Municipal Advisor. This list can be amended at any time upon written agreement between the parties.

- Review all underwriter and placement agent proposals for specific transactions and make recommendations
- Either create or actively participate in the development of a sound financial plan
- Determine the most cost effective way to carry out the plan that is being considered including recommending innovative alternatives
- If requested, take primary responsibility for all quantitative analysis related to the project including: sources and uses of funds, debt service schedules, yield calculations, savings calculations, etc.
- Develop a detailed financing schedule and interested parties list

---

***Del Rio Advisors, LLC***

*1325 Country Club Drive*

*Modesto, CA 95356*

*Phone: (209) 543-8704*

*Fax: (209) 554-0427*

*Mobile: (209) 480-1862*

*Email: [kdieker@delrioadvisors.com](mailto:kdieker@delrioadvisors.com)*



# Del Rio Advisors, LLC

---

*"Independent Registered Municipal Advisor"*

- Coordinate the efforts of bond counsel, disclosure counsel, underwriter(s), placement agent(s), trustee and consultants with respect to the preparation and approval of the financing documents
- Review and comment on all documents <sup>(1)</sup>
- Attend all meetings and present materials as needed
- If needed, prepare and coordinate comprehensive presentations to the rating agencies and bond insurers
- Prepare detailed costs of issuance and, if public sale, recommend a gross spread level
- Undertake pre-pricing analysis prior to sale; advise the issuer and help in the negotiation with respect to pricing on the day of sale
- Coordinate the approval, delivery and printing of all legal documents, closing certificates and the final official statement <sup>(1)</sup>
- Perform any other tasks or projects, as required, and amend this list as necessary to describe any new projects or tasks.
- If acting in the capacity of an Independent Registered Municipal Advisor ("IRMA") with regard to the IRMA exemption of the SEC Rule, MA will review all third-party recommendations submitted to the MA in writing by the Agency.

Note:

<sup>(1)</sup> MA will review and comment on all documents and assist in preparing any documents necessary for the sale of a new issue or reoffering of municipal securities, including the official statement, offering memorandum or similar disclosure documents. However, besides tables or charts specifically prepared by MA and footnoted as such, MA takes no responsibility for the accuracy or completeness of any of the data provided by others, including the City/Authority, contained therein. MA may rely upon data provided by others in the preparation of tables and charts and takes no responsibility for the accuracy or completeness of the data provided.

---

***Del Rio Advisors, LLC***

*1325 Country Club Drive*

*Modesto, CA 95356*

*Phone: (209) 543-8704*

*Fax: (209) 554-0427*

*Mobile: (209) 480-1862*

*Email: [kdieker@delrioadvisors.com](mailto:kdieker@delrioadvisors.com)*



 DRALLC  
**Del Rio Advisors, LLC**

---

*"Independent Registered Municipal Advisor"*

**Term of Engagement Agreement**

The commencement date of the engagement is the execution date as indicated on the signature page of this engagement and the end date is the earlier of termination by either party or December 31, 2018.

**Termination of Engagement Agreement**

This engagement may be terminated by either party with 30 days' written notice delivered by registered mail to the other party. If terminated, City/Authority will pay any standard reimbursable expenses accrued to date.

**Compensation and Out-of-Pocket Expenses**

Del Rio Advisors, LLC proposes to act at Municipal Advisor on the following issuance of municipal securities:

*Successor Agency to the Solana Beach Redevelopment Agency  
Solana Beach Redevelopment Project  
Tax Allocation Bonds, Series 2006*

The size of the refunding transaction is not yet determined. Del Rio Advisors, LLC proposes a fixed contingent fee, including expenses, of \$22,500. Again, the proposed fee is contingent upon successful closing of the transaction.

*Solana Beach Pubic Financing Authority  
Subordinate Wastewater Revenue Bonds, Series 2006*

The size of the refunding transaction is not yet determined. Del Rio Advisors, LLC proposes a fixed contingent fee, including expenses, of \$37,500 if the bonds are offered in a public sale and a fixed contingent fee, including expenses, of \$22,500 if the bonds are offered in a direct placement. Again, the proposed fee is contingent upon successful closing of the transaction.

---

***Del Rio Advisors, LLC***

*1325 Country Club Drive*

*Modesto, CA 95356*

*Phone (209) 543-8704*

*Fax: (209) 554-0427*

*Mobile (209) 480-1862*

*Email: [kdieler@delrioadvisors.com](mailto:kdieler@delrioadvisors.com)*



# Del Rio Advisors, LLC

---

*"Independent Registered Municipal Advisor"*

## **Fiduciary Duty**

MA is registered as a Municipal Advisor with the SEC and Municipal Securities Rulemaking Board (MSRB). As such, MA has a Fiduciary duty to the City/Authority and must provide both a Duty of Care and Loyalty that entail the following:

### Duty of Care

- a) exercise due care in performing its municipal advisory activities;
- b) possess the degree of knowledge and expertise needed to provide the City/Authority with informed advice;
- c) make a reasonable inquiry as to the facts that are relevant to the determination as to whether to proceed with a course of action or that form the basis for any advice provided to the City/Authority; and
- d) undertake a reasonable investigation to determine that MA is not forming any recommendation on materially inaccurate or incomplete information; MA must have a reasonable basis for:
  - i. any advice provided to or on behalf of the City/Authority;
  - ii. any representations made in a certificate that it signs that will be reasonably foreseeably relied upon by the City/Authority, any other party involved in the municipal securities transaction or municipal financial product, or investors in the City/Authority securities; and
  - iii. any information provided to the City/Authority or other parties involved in the municipal securities transaction when participating in the preparation of an official statement.

---

### ***Del Rio Advisors, LLC***

*1325 Country Club Drive*

*Modesto, CA 95356*

*Phone (209) 543-8704*

*Fax (209) 554-0427*

*Mobile (209) 480-1862*

*Email: [kdieker@delrioadvisors.com](mailto:kdieker@delrioadvisors.com)*



# Del Rio Advisors, LLC

---

*"Independent Registered Municipal Advisor"*

## Duty of Loyalty

MA must deal honestly and with the utmost good faith with City/Authority and act in City/Authority's best interests without regard to the financial or other interests of MA. MA will eliminate or provide full and fair disclosure (included herein) to City/Authority about each material conflict of interest (as applicable). MA will not engage in municipal advisory activities with City/Authority as a municipal entity, if it cannot manage or mitigate its conflicts in a manner that will permit it to act in City/Authority's best interests.

## **Conflicts of Interest and Other Matters Requiring Disclosures:**

- As of the date of the Agreement, there are no actual or potential conflicts of interest that MA is aware of that might impair its ability to render unbiased and competent advice or to fulfill its fiduciary duty. If MA becomes aware of any potential conflict of interest that arises after this disclosure, MA will disclose the detailed information in writing to City/Authority in a timely manner.
- The fee paid to MA increases the cost of investment to City/Authority. The increased cost occurs from compensating MA for municipal advisory services provided.
- MA does not act as principal in any of the transaction(s) related to this Agreement.
- During the term of the municipal advisory relationship, this agreement will be promptly amended or supplemented to reflect any material changes in or additions to the terms or information within this agreement and the revised writing will be promptly delivered to City/Authority.
- MA does not have any affiliate that provides any advice, service, or product to or on behalf of the client that is directly or indirectly related to the municipal advisory activities to be performed by MA;
- MA has not made any payments directly or indirectly to obtain or retain the City/Authority's municipal advisory business;

---

### ***Del Rio Advisors, LLC***

*1325 Country Club Drive*

*Modesto, CA 95356*

*Phone: (209) 543-8704*

*Fax: (209) 554-0427*

*Mobile: (209) 480-1862*

*Email: [kateker@delrioadvisors.com](mailto:kateker@delrioadvisors.com)*



# Del Rio Advisors, LLC

---

*"Independent Registered Municipal Advisor"*

- MA has not received any payments from third parties to enlist MA's recommendation to City/Authority of its services, any municipal securities transaction or any municipal finance product;
- MA has not engaged in any fee-splitting arrangements involving MA and any provider of investments or services to City/Authority;
- MA has a conflict of interest from compensation for municipal advisory activities to be performed, that is contingent on the size or closing of any transactions as to which MA is providing advice;
- MA does not have any other engagements or relationships that might impair MA's ability either to render unbiased and competent advice to or on behalf of City/Authority or to fulfill its fiduciary duty to the City/Authority, as applicable; and
- MA does not have any legal or disciplinary events that are material to City/Authority's evaluation of the municipal advisory or the integrity of its management or advisory personnel.

## **Legal Events and Disciplinary History**

MA does not have any legal events and disciplinary history on their Form MA and Form MA-I, which includes information about any criminal actions, regulatory actions, investigations, terminations, judgments, liens, civil judicial actions, customer complaints, arbitrations and civil litigation. City/Authority may electronically access MA's most recent Forms MA and each most recent Forms MA-I filed with the Commission at the following website:

[www.sec.gov/edgar/searchedgar/companysearch.html](http://www.sec.gov/edgar/searchedgar/companysearch.html).

There have been no material changes to a legal or disciplinary event disclosure on any Form MA or Form MA-I filed with the SEC.

---

### ***Del Rio Advisors, LLC***

*1325 Country Club Drive  
Modesto, CA 95356  
Phone (209) 543-8704  
Fax: (209) 554-0427  
Mobile: (209) 480-1862  
Email: [kdieker@delrioadvisors.com](mailto:kdieker@delrioadvisors.com)*



# Del Rio Advisors, LLC

---

*"Independent Registered Municipal Advisor"*

## **Recommendations**

If MA makes a recommendation of a municipal securities transaction or municipal financial product or if the review of a recommendation of another party is requested in writing by City/Authority and is within the scope of the engagement, MA will determine, based on the information obtained through reasonable diligence of MA whether a municipal securities transaction or municipal financial product is suitable for City/Authority. In addition, MA will inform City/Authority of:

- the evaluation of the material risks, potential benefits, structure, and other characteristics of the recommendation;
- the basis upon which MA reasonably believes that the recommended municipal securities transaction or municipal financial product is, or is not, suitable for City/Authority; and
- whether MA has investigated or considered other reasonably feasible alternatives to the recommendation that might also or alternatively serve the City/Authority's objectives.

If City/Authority elects a course of action that is independent of or contrary to the advice provided by MA, MA is not required on that basis to disengage from City/Authority.

## **Record Retention**

Effective July 1, 2014, pursuant to the Securities and Exchange Commission (SEC) record retention regulations, MA is required to maintain in writing, all communication and created documents between MA and City/Authority for five (5) years.

---

### ***Del Rio Advisors, LLC***

*1325 Country Club Drive*

*Modesto, CA 95356*

*Phone (209) 543-8704*

*Fax: (209) 554-0427*

*Mobile: (209) 480-1862*

*Email [kdieker@delrioadvisors.com](mailto:kdieker@delrioadvisors.com)*



# Del Rio Advisors, LLC

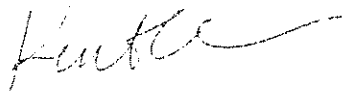
*"Independent Registered Municipal Advisor"*

## Various Matters

Based upon the date of execution below, MA may begin work immediately on the understanding that the City/Authority may use this engagement letter as either an exhibit to any standard form of City/Authority contract or if one is not available will become the agreement between the parties. If there are any questions regarding the above, please do not hesitate to contact Kenneth L. Dieker of Del Rio Advisors, LLC. If the foregoing terms meet with your approval, please **acknowledge receipt** by executing this letter, scan and email a copy to [kdieker@delrioadvisors.com](mailto:kdieker@delrioadvisors.com).

Sincerely,

Del Rio Advisors, LLC

By:   
Kenneth L. Dieker, Principal

City/Authority

By: \_\_\_\_\_  
Ms. Marie Berkuti, Finance Manager / Treasurer

Dated as of \_\_\_\_\_, 2017

---

### **Del Rio Advisors, LLC**

1325 Country Club Drive  
Modesto, CA 95356  
Phone: (209) 543-8704  
Fax: (209) 554-0427  
Mobile: (209) 480-1862  
Email: [kdieker@delrioadvisors.com](mailto:kdieker@delrioadvisors.com)

**RESOLUTION NO. 2017-109**

**A RESOLUTION OF THE CITY OF SOLANA BEACH APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE, A PROFESSIONAL SERVICES AGREEMENT WITH KRONICK MOSKOVITZ TIEDEMANN & GIRARD FOR BOND COUNSEL SERVICES RELATING TO THE POTENTIAL REFUNDING OF THE SERIES 2006 SUBORDINATE WASTEWATER REVENUE BONDS**

**WHEREAS**, in January 2007, the Solana Beach Public Financing Authority (Authority) issued Subordinate Wastewater Revenue Bonds (the 2006 Bonds) in the amount of \$9,825,000 to finance capital improvements to the Sewer System; and

**WHEREAS**, at the May 10, 2017 City Council meeting, Staff provided information to the Council regarding refunding the 2006 Bonds and Council directed Staff to proceed with the potential issuance of the 2017 Wastewater Revenue Refunding Bonds (the 2017 Bonds) ; and

**WHEREAS**, based on market conditions as of June 2017, issuance of the 2017 Bonds is estimated to result in total savings of \$1,705,752 and net present value ("NPV") savings of approximately \$1,212,932. This equates to 15.59% in NPV; and

**WHEREAS**, the City of Solana Beach (City) desires to take advantage of the current low interest rate environment in order to minimize its total interest costs on outstanding debt by refinancing/refunding the 2006 Bonds at a comparatively lower interest rate than the current bond issue's average bond coupon rate and as low of a cost of issuance as possible; and

**WHEREAS**, in order to effectuate the refunding of the 2006 Bonds, the City desires to retain the services of Kronick Moskowitz Tiedemann & Girard for Bond Counsel services, including without limitation the following: provide a legal opinion confirming the issuer is authorized to issue proposed securities, the issuer has met all legal requirements necessary for the issuance, and that the interest on the proposed securities will be exempt from federal income taxation and, where applicable, from state and local taxation; prepare and/or review authorizing resolutions, ordinances, and prepare the legal documents relating to the issuance; and

**WHEREAS**, Kronick Moskowitz Tiedemann & Girard is a Bond Counsel firm registered with the Securities and Exchange Commission ("SEC") and with the Municipal Securities Rulemaking Board ("MSRB") and has represented that it possesses the necessary qualifications to provide the services required by the City; and

**WHEREAS**, the City staff has authorized the preparation of a Professional Services Agreement ("PSA") to retain the services of Kronick Moskowitz Tiedemann & Girard as a "Bond Counsel" to the City and recommends the City's approval relating to same; and

**WHEREAS**, pursuant to the Agreement, and subject to the conditions below, Kronick Moskowitz Tiedemann & Girard shall be compensated for work completed, in

the amount of \$30,000 for basic services rendered under the Agreement and all accrued expenses. Kronick Moskowitz Tiedemann & Girard would be compensated for additional services only upon prior written approval of the City. According to the Agreement, payment to Kronick Moskowitz Tiedemann & Girard for compensation and accrued expenses not to exceed \$30,000 is contingent on the closing of the bond issuance and will be made by the City from the costs of issuance of the bonds and will be made available within thirty (30) calendar days of receipt of the invoice; and

**WHEREAS**, all of the prerequisites with respect to the approval of this Resolution have been met.

**NOW, THEREFORE, BE IT RESOLVED** by the City of Solana Beach, as follows:

- Section 1.** The foregoing recitals are true and correct and are a substantive part of this Resolution.
- Section 2.** The City hereby approves the Professional Services Agreement (“Agreement”) with Kronick Moskowitz Tiedemann & Girard in substantial form as the Agreement attached as Exhibit “A”, for Bond Counsel services for compensation and accrued expenses of \$30,000 which fee is contingent on the successful closing of the bond issuance.
- Section 3.** The City Manager, or designee, of the City is hereby authorized and directed to execute the Agreement in substantial form as the Agreement attached as Exhibit “A”.
- Section 4.** The City Manager, or designee, of the City is hereby authorized to make non-substantive changes and amendments to the Agreement deemed necessary and as approved by the City Manager of the City and its legal counsel and to take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the City.
- Section 5.** The City determines that the activity approved by this Resolution is not a “project” for purposes of CEQA, as that term is defined by Guidelines Section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per Section 15378(b)(5) of the Guidelines.
- Section 6.** If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City declares that its board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.



**Section 7.** This Resolution shall take effect upon the date of its adoption

**PASSED, APPROVED, AND ADOPTED** this 28<sup>th</sup> day of June, 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –  
NOES: Councilmembers –  
ABSTAIN: Councilmembers –  
ABSENT: Councilmembers –

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk

## EXHIBIT "A"

# City of Solana Beach

## PROFESSIONAL SERVICES AGREEMENT

### FOR BOND COUNSEL FOR REFINANCING OF WASTE WATER REVENUE BONDS, SERIES 2006

THIS Professional Services Agreement ("AGREEMENT") is made and entered into this 10th day of May, 2017 by and between the CITY OF SOLANA BEACH, a municipal corporation ("CITY"), and, KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD a partnership, LLC, LLP, California corporation, etc., ("CONSULTANT") (collectively "PARTIES").

**WHEREAS**, the CITY desires to employ a CONSULTANT to furnish Bond Counsel ("PROFESSIONAL SERVICES") for the refinancing of Waste Water Revenue Bonds, Series 2006 ("PROJECT"); and

**WHEREAS**, the CITY has determined that CONSULTANT is qualified by experience and ability to perform the services desired by CITY, and CONSULTANT is willing to perform such services; and

**WHEREAS**, CONSULTANT will conduct all the work as described and detailed in this AGREEMENT to be provided to the CITY.

**NOW, THEREFORE**, the PARTIES hereto mutually covenant and agree with each other as follows:

#### 1. PROFESSIONAL SERVICES.

- 1.1. **Scope of Services.** The CONSULTANT shall perform the PROFESSIONAL SERVICES as set forth in the written Scope of Services, attached as Exhibit "A" Scope of Services and Fee, at the direction of the CITY. CITY shall provide CONSULTANT access to appropriate staff and resources for the coordination and completion of the projects under this AGREEMENT. For all work to be performed on site at City Hall, the CITY and CONSULTANT agree that the Scope of Services begins when the CONSULTANT arrives at City Hall and terminates when the CONSULTANT leaves City Hall. Travel time to and from City Hall shall not be considered time on the job or compensated by the CITY.
- 1.2. **Project Coordinator.** The is hereby designated as the Project Coordinator for CITY and will monitor the progress and execution of this AGREEMENT. CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this AGREEMENT for CONSULTANT. is hereby designated as the Project Director for CONSULTANT.
- 1.3. **City Modification of Scope of Services.** CITY may order changes to the Scope of Services within the general scope of this AGREEMENT consisting of additions, deletions, or other revisions. If such changes cause a change in the CONSULTANT's cost of, or time required for, completion of the Scope of Services, an equitable adjustment to CONSULTANT's compensation and/or contract time shall be made, subject to the CITY'S approval. All such changes shall be authorized in writing, executed by CONSULTANT and CITY.

#### 2. DURATION OF AGREEMENT.

- 2.1. **Term.** The term of this AGREEMENT shall be for a period of one year beginning from the date of execution of the AGREEMENT. Time is of the essence in the performance of work under this AGREEMENT, unless otherwise specified.

- 2.2. **Extensions.**  If marked, the CITY shall have the option to extend the AGREEMENT for additional one (1) year periods or parts thereof for an amount not to exceed \_\_\_\_\_ per AGREEMENT year. Extensions shall be in the sole discretion of the City Manager and shall be based upon CONSULTANT's satisfactory past performance, CITY needs, and appropriation of funds by the City Council. The CITY shall give written notice to CONSULTANT prior to exercising the option.
- 2.3. **Delay.** Any delay occasioned by causes beyond the control of CONSULTANT may merit an extension of time for the completion of the Scope of Services. When such delay occurs, CONSULTANT shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the PROFESSIONAL SERVICES when justified by the circumstances.
- 2.4. **City's Right to Terminate for Default.** Should CONSULTANT be in default of any covenant or condition hereof, CITY may immediately terminate this AGREEMENT for cause if CONSULTANT fails to cure the default within ten (10) calendar days of receiving written notice of the default.
- 2.5. **City's Right to Terminate without Cause.** Without limiting its rights in the event of CONSULTANT's default, CITY may terminate this AGREEMENT, without cause, by giving written notice to CONSULTANT. Such termination shall be effective upon receipt of the written notice. CONSULTANT shall be compensated for all effort and material expended on behalf of CITY under the terms of this AGREEMENT, up to the effective date of termination. All personal property remaining in CITY facilities or on CITY property thirty (30) days after the expiration or termination of this AGREEMENT shall be, at CITY's election, considered the property of CITY.

### 3. COMPENSATION.

- 3.1. **Total Amount.** The total cost for all work described in the Scope of Services and Fee (Exhibit "A") shall not exceed thirty thousand dollars (\$30,000) without prior written authorization from CITY. CONSULTANT shall bill the CITY for work provided and shall present a written request for such payment monthly.
- 3.2. **Additional Services.** CITY may, as the need arises or in the event of an emergency, request additional services of CONSULTANT. Should such additional services be required, CITY and CONSULTANT shall agree to the cost prior to commencement of these services.
- 3.3. **Costs.** Any costs billed to the CITY shall be in accordance with any terms negotiated and incorporated herein as part of Exhibit "A" Scope of Services and Fee.

### 4. INDEPENDENT CONTRACTOR.

- 4.1. CONSULTANT is, for all purposes arising out of this AGREEMENT, an independent contractor. The CONSULTANT has and shall retain the right to exercise full control and supervision of all persons assisting the CONSULTANT in the performance of said services hereunder, the CITY only being concerned with the finished results of the work being performed. Neither CONSULTANT nor CONSULTANT's employees shall in any event be entitled to any benefits to which CITY employees are entitled, including, but not limited to, overtime, retirement benefits, workers' compensation benefits, injury leave or other leave benefits. CONSULTANT is solely responsible for all such matters, as well as compliance with social security and income tax withholding and all other regulations and laws governing such matters.

### 5. STANDARD OF PERFORMANCE.

While performing the PROFESSIONAL SERVICES, CONSULTANT shall exercise the reasonable professional care and skill customarily exercised by reputable members of CONSULTANT's profession practicing in the metropolitan Southern California Area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

## 6. WARRANTY OF CONSULTANT'S LICENSE.

CONSULTANT warrants that CONSULTANT is properly licensed with the applicable government agency(ies) for any PROFESSIONAL SERVICES that require a license. If the CONSULTANT lacks such license, this AGREEMENT is void and of no effect.

## 7. AUDIT OF RECORDS.

- 7.1. At any time during normal business hours and as often as may be deemed necessary the CONSULTANT shall make available to a representative of CITY for examination all of its records with respect to all matters covered by this AGREEMENT and shall permit CITY to audit, examine and/or reproduce such records. CONSULTANT shall retain such financial and program service records for at least four (4) years after termination or final payment under this AGREEMENT.
- 7.2. The CONSULTANT shall include the CITY's right under this section in any and all of their subcontracts, and shall ensure that these sections are binding upon all subcontractors.

## 8. CONFIDENTIALITY.

All professional services performed by CONSULTANT, including but not limited to all drafts, data, correspondence, proposals, reports, research and estimates compiled or composed by CONSULTANT, pursuant to this AGREEMENT, are for the sole use of the CITY, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the CITY. This provision does not apply to information that (a) was publicly known, or otherwise known to CONSULTANT, at the time that it was disclosed to CONSULTANT by the CITY, (b) subsequently becomes publicly known through no act or omission of CONSULTANT or (c) otherwise becomes known to CONSULTANT other than through disclosure by the CITY. Except for any subcontractors that may be allowed upon prior agreement, neither the documents nor their contents shall be released to any third party without the prior written consent of the CITY. The sole purpose of this section is to prevent disclosure of CITY's confidential and proprietary information by CONSULTANT or subcontractors.

## 9. CONFLICTS OF INTEREST.

- 9.1. CONSULTANT shall at all times comply with all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including but not limited to California Government Code Section 81000 *et seq.* (Political Reform Act) and Section 1090 *et seq.* CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the CITY in which the CONSULTANT has a financial interest as defined in Government Code Section 87103. CONSULTANT represents that it has no knowledge of any financial interests which would require it to disqualify itself from any matter on which it might perform services for the CITY.
- 9.2. If, in performing the PROFESSIONAL SERVICES set forth in this AGREEMENT, the CONSULTANT makes, or participates in, a "governmental decision" as described in Title 2, Section 18700.3(a) of the California Code of Regulations, or performs the same or substantially all the same duties for the CITY that would otherwise be performed by a CITY employee holding a position specified in the department's conflict of interest code, the CONSULTANT shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the CONSULTANT's relevant financial interests.
- 9.3.  If checked, the CONSULTANT shall comply with all of the reporting requirements of the Political Reform Act. Specifically, the CONSULTANT shall file a Fair Political Practices Commission Form 700 (Assuming Office Statement) within thirty (30) calendar days of the CITY's determination that the CONSULTANT is subject to a conflict of interest code. The CONSULTANT shall also file a Form 700 (Annual Statement) on or before April 1 of each year of the AGREEMENT, disclosing any financial interests held during the previous calendar year for which the CONSULTANT was subject to a conflict of interest code.

- 9.4. CITY represents that pursuant to California Government Code Section 1090 *et seq.*, none of its elected officials, officers, or employees has an interest in this AGREEMENT.

#### 10. DISPOSITION AND OWNERSHIP OF DOCUMENTS.

- 10.1. All documents, data, studies, drawings, maps, models, photographs and reports prepared by CONSULTANT under this AGREEMENT, whether paper or electronic, shall become the property of CITY for use with respect to this PROJECT, and shall be turned over to the CITY upon completion of the PROJECT or any phase thereof, as contemplated by this AGREEMENT.
- 10.2. Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the CITY and CONSULTANT thereby expressly waives and disclaims, any copyright in, and the right to reproduce, all written material, drawings, plans, specifications or other work prepared under this AGREEMENT, except upon the CITY's prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the CITY, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

#### 11. INSURANCE

- 11.1. CONSULTANT shall procure and maintain for the duration of the AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONSULTANT, their agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than "A" and "VII" unless otherwise approved in writing by the CITY's Risk Manager.
- 11.2. CONSULTANT's liabilities, including but not limited to CONSULTANT's indemnity obligations, under this AGREEMENT, shall not be deemed limited in any way to the insurance coverage required herein. All policies of insurance required hereunder must provide that the CITY is entitled to thirty (30) days prior written notice of cancellation or non-renewal of the policy or policies, or ten (10) days prior written notice for cancellation due to non-payment of premium. Maintenance of specified insurance coverage is a material element of this AGREEMENT.
- 11.3. **Types and Amounts Required.** CONSULTANT shall maintain, at minimum, the following insurance coverage for the duration of this AGREEMENT:
- 11.3.1.  **Commercial General Liability (CGL).** If checked the CONSULTANT shall maintain CGL Insurance written on an ISO Occurrence form or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of \$1,000,000.00 per occurrence and subject to an annual aggregate of \$2,000,000.00. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.
- 11.3.2.  **Commercial Automobile Liability.** If checked the CONSULTANT shall maintain Commercial Automobile Liability Insurance for all of the CONSULTANT's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1,000,000.00 per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

- 11.3.3.  Workers' Compensation.** If checked the CONSULTANT shall maintain Worker's Compensation insurance for all of the CONSULTANT's employees who are subject to this AGREEMENT and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum \$1,000,000.00 employers' liability coverage. The CONSULTANT shall provide an endorsement that the insurer waives the right of subrogation against the CITY and its respective elected officials, officers, employees, agents and representatives.
- 11.3.4.  Professional Liability.** If checked the CONSULTANT shall also maintain Professional Liability (errors and omissions) coverage with a limit of \$1,000,000 per claim and \$2,000,000 annual aggregate. The CONSULTANT shall ensure both that (1) the policy retroactive date is on or before the date of commencement of the Scope of Services; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Scope of Services or termination of this AGREEMENT whichever occurs last. The CONSULTANT agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the CITY's exposure to loss. All defense costs shall be outside the limits of the policy.
- 11.4. Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions are the responsibility of the CONSULTANT and must be declared to and approved by the CITY. At the option of the CITY, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the CITY, its officers, officials, employees and volunteers, or (2) the CONSULTANT shall provide a financial guarantee satisfactory to the CITY guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- 11.5. Additional Required Provisions.** The commercial general liability and automobile liability policies shall contain, or be endorsed to contain, the following provisions:
- 11.5.1.** The CITY, its officers, officials, employees, and representatives shall be named as additional insureds. The CITY's additional insured status must be reflected on additional insured endorsement form (20 10 1185 or 20 10 1001 and 20 37 1001) which shall be submitted to the CITY.
- 11.5.2.** The policies are primary and non-contributory to any insurance that may be carried by the CITY, as reflected in an endorsement which shall be submitted to the CITY.
- 11.6. Verification of Coverage.** CONSULTANT shall furnish the CITY with original certificates and amendatory endorsements effecting coverage required by this Section 11. The endorsement should be on forms provided by the CITY or on other than the CITY's forms provided those endorsements conform to CITY requirements. All certificates and endorsements are to be received and approved by the CITY before work commences. The CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

## **12. INDEMNIFICATION.**

CONSULTANT agrees to indemnify, defend, and hold harmless the CITY, and its officers, officials, agents and employees from any and all claims, demands, costs or liabilities that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, its employees, agents, and subcontractors in the performance of services under this AGREEMENT. CONSULTANT's duty to indemnify under this section shall not include liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence or willful misconduct by the CITY or its elected officials, officers, agents, and employees. CONSULTANT's indemnification obligations shall not be limited by the insurance provisions of this AGREEMENT. The PARTIES expressly agree that any payment, attorney's fees, costs or expense CITY incurs or makes to or on behalf of an injured employee under the CITY's self-administered workers' compensation is included as a loss, expense, or cost for the purposes of this section, and that this section will survive the expiration or early termination of this AGREEMENT.

**13. SUBCONTRACTORS.**

- 13.1. The CONSULTANT's hiring or retaining of third parties (i.e. subcontractors) to perform services related to the PROJECT is subject to prior approval by the CITY.
- 13.2. All contracts entered into between the CONSULTANT and its subcontractor shall also provide that each subcontractor shall obtain insurance policies which shall be kept in full force and effect during any and all work on this PROJECT and for the duration of this AGREEMENT. The CONSULTANT shall require the subcontractor to obtain, all policies described in Section 11 in the amounts required by the CITY, which shall not be greater than the amounts required of the CONSULTANT.
- 13.3. In any dispute between the CONSULTANT and its subcontractor, the CITY shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The CONSULTANT agrees to defend and indemnify the CITY as described in Section 12 of this AGREEMENT should the CITY be made a party to any judicial or administrative proceeding to resolve any such dispute.

**14. NON-DISCRIMINATION.**

CONSULTANT shall not discriminate against any employee or applicant for employment because of sex, race, color, age, religion, ancestry, national origin, military or veteran status, disability, medical condition, genetic information, gender expression, marital status, or sexual orientation. CONSULTANT shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their sex, race, color, age, religion, ancestry, national origin, military or veteran status, disability, medical condition, genetic information, gender expression, marital status, or sexual orientation and shall make reasonable accommodation to qualified individuals with disabilities or medical conditions. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by CITY setting forth the provisions of this non-discrimination clause.

**15. NOTICES.**

All communications to either party by the other party shall be delivered to the persons listed below. Any such written communications by mail shall be conclusively deemed to have been received by the addressee five (5) calendar days after the deposit thereof in the United States mail, postage prepaid and properly addressed as noted below.

Marie Marron Berkuti,  
Finance Manager/Treasurer  
City of Solana Beach  
635 S. Highway 101  
Solana Beach, CA 92075

Jonathan P. Cristy  
Kronick, Moskovitz, Tiedemann & Girard  
400 Capitol Mall  
27<sup>th</sup> Floor  
Sacramento, CA 95814

**16. ASSIGNABILITY.**

This AGREEMENT and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT's duties be delegated or sub-contracted, without the express written consent of the CITY.

**17. RESPONSIBILITY FOR EQUIPMENT.**

CITY shall not be responsible nor held liable for any damage to persons or property consequent upon the use, misuse, or failure of any equipment used by CONSULTANT or any of CONSULTANT's employees or subcontractors, even if such equipment has been furnished, rented, or loaned to CONSULTANT by CITY. The acceptance or use of any such equipment by CONSULTANT, CONSULTANT's employees, or subcontractors shall be construed to mean that CONSULTANT accepts full responsibility for and agrees to exonerate, indemnify and hold harmless CITY from and against any and all claims for any damage whatsoever resulting from the use, misuse, or failure of such equipment.

**18. CALIFORNIA LAW; VENUE.**

This AGREEMENT shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this AGREEMENT shall be brought in the county of San Diego, California. CONSULTANT hereby waives any and all rights it might have pursuant to California Code of Civil Procedure Section 394.

**19. COMPLIANCE WITH LAWS.**

The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this AGREEMENT whether now in force or subsequently enacted. This includes maintaining a City of Solana Beach Business Certificate.

**20. ENTIRE AGREEMENT.**

This AGREEMENT sets forth the entire understanding of the PARTIES with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein. No change, alteration, or modification of the terms or conditions of this AGREEMENT, and no verbal understanding of the PARTIES, their officers, agents, or employees shall be valid unless agreed to in writing by both PARTIES.

**21. NO WAIVER.**

No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this AGREEMENT, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this AGREEMENT shall constitute a waiver of any such breach of such covenant, term or condition.

**22. SEVERABILITY.**

The unenforceability, invalidity, or illegality of any provision of this AGREEMENT shall not render any other provision unenforceable, invalid, or illegal.

**23. DRAFTING AMBIGUITIES.**

The PARTIES agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this AGREEMENT, and the decision of whether or not to seek advice of counsel with respect to this AGREEMENT is a decision which is the sole responsibility of each Party. This AGREEMENT shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the AGREEMENT.

**24. CONFLICTS BETWEEN TERMS.**

If an apparent conflict or inconsistency exists between the main body of this AGREEMENT and the Exhibits, the main body of this AGREEMENT shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this AGREEMENT, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this AGREEMENT, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this AGREEMENT.



**25. EXHIBITS INCORPORATED.**

All Exhibits referenced in this AGREEMENT are incorporated into the AGREEMENT by this reference.

**26. SIGNING AUTHORITY.**

- 26.1. The representative for each Party signing on behalf of a corporation, partnership, joint venture, association, or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, association, or entity and agrees to hold the other Party or PARTIES hereto harmless if it is later determined that such authority does not exist.
- 26.2.  If checked, a proper notary acknowledgement of execution by CONSULTANT must be attached.

**IN WITNESS WHEREOF**, the PARTIES hereto have executed this AGREEMENT the day and year first hereinabove written.

CITY OF SOLANA BEACH, a municipal corporation

CONSULTANT, a California Corporation

By:

By:

\_\_\_\_\_  
City Manager, Gregory Wade

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Jonathan P. Cristy

Kronick, Moskovitz, Tiedemann & Girard

ATTEST:

\_\_\_\_\_  
City Clerk, Angela Ivey

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Marie Marron Berkuti, Finance Manager/Treasurer

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney, Johanna N. Canlas

**EXHIBIT "A"**  
**SCOPE OF SERVICES AND FEE**

**CITY OF SOLANA BEACH**  
**AGREEMENT FOR BOND COUNSEL SERVICES**  
**(Refunding of Wastewater Revenue Bonds)**

This Agreement is between Kronick, Moskovitz, Tiedemann & Girard, a Professional Corporation (hereinafter "KMTG"), and the City of Solana Beach (hereinafter the "City"). The subject matter of the representation governed by this Agreement is described in Paragraph 1.

1. **Scope of Services.** The City retains KMTG under this Agreement to provide such legal services as necessary for the authorization, issuance, and sale of bonds (the "Bonds") to refund the Solana Beach Public Financing Authority Subordinate Wastewater Revenue Bonds, Series 2006.

In particular, KMTG shall provide the following bond counsel services:

- (a) Consult with the City and its administrative officers, municipal advisor, investment banker, and other consultants and assist in the implementation of the financing.
- (b) Prepare all resolutions of the City Council and other legal documents necessary for the authorization, issuance, sale, and delivery of the Bonds.
- (c) Confer with the City's other consultants regarding the structure of the bond issue and review any documents to be prepared by such other parties in the proceedings for compliance with law.
- (d) Prepare and arrange the execution and delivery of the Bonds (in typewritten, book-entry form).
- (e) Prepare a comprehensive closing memorandum, receipts for the Bonds, receipt for the proceeds of the Bonds, signature certificates, an arbitrage/rebate certificate and associated certificate of the underwriter, Form 8038-G, DTC Letter of Representations, CDIAC report of final sale, forms of opinions of other counsel, and all other necessary closing certificates/documents.
- (f) Prepare and deliver to each participant in the financing a complete transcript of the proceedings for the authorization, issuance, and sale of the Bonds.
- (g) Upon due and proper completion of the proceedings, deliver our final approving opinion confirming the validity of the Bonds and opinions that interest on the Bonds is excluded from gross income for federal income tax purposes and is exempt from State of California personal income taxes, under existing statutes, regulations, rulings, and court decisions.

2. **Services Outside the Scope of this Agreement.** KMTG's duties in this engagement are limited to those set forth in Paragraph 1. Among other things, KMTG has not undertaken to do any of the following:

(a) Render services under this Agreement in connection with compliance by the City with covenants in the financing documents after the closing, including arbitrage rebate and continuing disclosure (i.e., preparation of any annual reports or listed event notices).

(b) Render services under this Agreement with respect to any litigation concerning the financing.

If the City requests KMTG to provide any such services, compensation therefor shall be made and calculated at KMTG's hourly rate schedule for the type of services requested (public finance or litigation) in effect at the time such services are rendered.

3. **Commencement of Services.** KMTG's obligation to provide legal services under this Agreement shall commence upon KMTG's receipt of a copy of this Agreement signed and dated by the City.

4. **Completion of Services.** KMTG's representation of the City with respect to the Bonds will be concluded upon their issuance. Nevertheless, subsequent to issuance, KMTG will prepare and distribute to the participants in the transaction a transcript of the proceedings.

5. **Duties of KMTG and the City**

(a) **Duties of KMTG.** KMTG shall provide those legal services reasonably required to represent the City in the matters described in Paragraph 1 of this Agreement. KMTG shall also take reasonable steps to keep the City informed of significant developments and to respond to the City's inquiries.

(b) **Duties of the City.** The City shall cooperate with KMTG, keep them informed of developments, perform the obligations it has agreed to perform under this Agreement, and pay KMTG's bills in a timely manner.

6. **KMTG Personnel.** While one attorney at KMTG may be primarily responsible for completing the work that is within the scope of this Agreement, that attorney may also delegate work to other attorneys, paralegals, law clerks and office personnel within KMTG when it is determined that such delegation is appropriate in representation of the City's interests. If the City so requests, the City will be notified prior to any delegation and a decision will be made in consultation with the City.

7. **Disclaimer of Guarantee.** KMTG cannot guarantee the successful conclusion of any legal matter. KMTG has made no promises or guarantees to the City about the outcome of the City's matters, and nothing in this Agreement shall be construed as such a promise or guarantee.

8. **Compensation.** For the bond counsel services described in Paragraph 1, the City shall pay KMTG compensation in the amount of \$30,000. In addition to its fees for legal services, KMTG will bill the City for its out-of-pocket expenses, such as travel, delivery and courier service, postage, long distance telephone tolls, and similar expenses. Except as provided

in Section 12 (Termination), the fees and costs for the services relating to the issuance of the Bonds will be payable solely from the proceeds of the Bonds issued pursuant to the proceedings.

9. **Statements.** KMTG shall send the City a statement for its fees and costs at the time of issuance of the Bonds.

10. **Legal Action Upon Default.** If the City does not pay the balance when due or breaches any other terms of this Agreement, KMTG may commence any legal action for collection of the balance due. The City and KMTG agree that all legal proceedings related to the subject matter of this Agreement shall be maintained in courts sitting within the State of California, County of Sacramento. The City and KMTG agree that the jurisdiction and venue for such proceedings shall lie exclusively with such courts. Further, the prevailing party in any such dispute shall be entitled to reasonable costs, including attorneys' fees.

11. **Arbitration of Fee Dispute.** If a dispute arises between KMTG and the City regarding KMTG's fees or costs under this Agreement and KMTG files suit in any court, or begins an arbitration proceeding other than through the State Bar or a local bar association under Business and Professions Code sections 6200-6206, the City will have the right to stay that suit or arbitration proceeding by timely electing to arbitrate the dispute through the State Bar or a local bar association under Business and Professions Code sections 6200-6206, in which event KMTG must submit the matter to that arbitrator.

12. **Termination.** This Agreement may be terminated by the City or KMTG, or modified by mutual consent, at any time. KMTG and the City each agree to sign any documents reasonably necessary to complete KMTG's discharge or withdrawal. If the City terminates this Agreement, then the City shall pay KMTG a fee determined by the extent of the services rendered by KMTG to the date of the termination at the hourly rates specified below, together with KMTG's out-of-pocket expenses, but not in excess of the amounts specified in Section 8 (Compensation).

| <u>Billing Professional</u>  | <u>Rates Per Hour</u> |       |
|------------------------------|-----------------------|-------|
|                              | from                  | to    |
| Shareholders                 | \$275                 | \$475 |
| Principals/Senior Associates | 225                   | 375   |
| Associate Attorneys          | 200                   | 300   |
| Paralegals                   | 95                    | 160   |
| Document Clerk/Law Clerk     | 95                    | 100   |

13. **The City's Files.** At the City's request, upon the termination of services under this Agreement, KMTG will promptly release all of the City's papers and property to the City (subject to any applicable protective orders or non-disclosure agreements).

14. **Destruction of the City's File.** If the City does not request the return of the City's papers and property, KMTG will retain the City's file for a period of seven years from the date of delivery of the Bonds, after which time KMTG may have the City's file destroyed. The City acknowledges that it will not be notified prior to the destruction of its papers and property

and consents to the same. If the City desires to have the City's file maintained beyond seven years after the City's matter is concluded, separate arrangements with KMTG must be made.

15. **Modification by Subsequent Agreement.** This Agreement may be modified only by a written instrument signed by both parties.

**KMTG:**

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD,  
A Professional Corporation

DATED: \_\_\_\_\_

By: \_\_\_\_\_  
Jonathan P. Cristy

**CITY:**

CITY OF SOLANA BEACH

DATED: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

## RESOLUTION NO. 2017-110

### A RESOLUTION OF THE CITY OF SOLANA BEACH APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE, A PROFESSIONAL SERVICES AGREEMENT WITH QUINT & THIMMIG LLP FOR DISCLOSURE COUNSEL SERVICES RELATING TO THE POTENTIAL REFUNDING OF THE SERIES 2006 SUBORDINATE WASTEWATER REVENUE BONDS

**WHEREAS**, in January 2007, the Solana Beach Public Financing Authority (Authority) issued Subordinate Wastewater Revenue Bonds (the 2006 Bonds) in the amount of \$9,825,000 to finance capital improvements to the Sewer System; and

**WHEREAS**, at the May 10, 2017 City Council meeting, Staff provided information to the Council regarding refunding the 2006 Bonds and Council directed Staff to proceed with the potential issuance of the 2017 Wastewater Revenue Refunding Bonds (the 2017 Bonds) ; and

**WHEREAS**, based on market conditions as of June 2017, issuance of the 2017 Bonds is estimated to result in total savings of \$1,705,752 and net present value ("NPV") savings of approximately \$1,212,932. This equates to 15.59% in NPV; and

**WHEREAS**, the City of Solana Beach (City) desires to take advantage of the current low interest rate environment in order to minimize its total interest costs on outstanding debt by refinancing/refunding the 2006 Bonds at a comparatively lower interest rate than the current bond issue's average bond coupon rate and as low of a cost of issuance as possible; and

**WHEREAS**, in order to effectuate the refunding of the 2006 Bonds, the City desires to retain the services of Quint & Thimmig LLP for Disclosure Counsel services, including without limitation the following: prepare the Official Statement and the Continuing Disclosure Agreement/Certificate and, if required, the Bond Purchase Agreement.; and

**WHEREAS**, Quint & Thimmig LLP is a Disclosure Counsel firm registered with the Securities and Exchange Commission ("SEC") and with the Municipal Securities Rulemaking Board ("MSRB") and has represented that it possesses the necessary qualifications to provide the services required by the City; and

**WHEREAS**, the City staff has authorized the preparation of a Professional Services Agreement ("PSA") to retain the services of Quint & Thimmig LLP as a "Disclosure Counsel" to the City and recommends the City's approval relating to same; and

**WHEREAS**, pursuant to the Agreement, and subject to the conditions below, Quint & Thimmig LLP shall be compensated for work completed, in the amount of \$22,500 for basic services rendered under the Agreement and all accrued expenses. Quint & Thimmig LLP would be compensated for additional services only upon prior written approval of the City. According to the Agreement, payment to Quint & Thimmig

LLP for compensation and accrued expenses not to exceed \$22,500 is contingent on the closing of the bond issuance and will be made by the City from the costs of issuance of the bonds and will be made available within thirty (30) calendar days of receipt of the invoice; and

**WHEREAS**, all of the prerequisites with respect to the approval of this Resolution have been met.

**NOW, THEREFORE, BE IT RESOLVED** by the City of Solana Beach, as follows:

- Section 1.** The foregoing recitals are true and correct and are a substantive part of this Resolution.
- Section 2.** The City hereby approves the Professional Services Agreement (“Agreement”) with Quint & Thimmig LLP in substantial form as the Agreement attached as Exhibit “A”, for Disclosure Counsel services for compensation and accrued expenses of \$22,500 which fee is contingent on the successful closing of the bond issuance.
- Section 3.** The City Manager, or designee, of the City is hereby authorized and directed to execute the Agreement in substantial form as the Agreement attached as Exhibit “A”.
- Section 4.** The City Manager, or designee, of the City is hereby authorized to make non-substantive changes and amendments to the Agreement deemed necessary and as approved by the City Manager of the City and its legal counsel and to take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the City.
- Section 5.** The City determines that the activity approved by this Resolution is not a “project” for purposes of CEQA, as that term is defined by Guidelines Section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per Section 15378(b)(5) of the Guidelines.
- Section 6.** If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City declares that its board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

**Section 7.** This Resolution shall take effect upon the date of its adoption

**PASSED, APPROVED, AND ADOPTED** this 28<sup>th</sup> day of June, 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –  
NOES: Councilmembers –  
ABSTAIN: Councilmembers –  
ABSENT: Councilmembers –

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk



## EXHIBIT "A"

# City of Solana Beach

## PROFESSIONAL SERVICES AGREEMENT

### FOR DISCLOSURE COUNSEL FOR REFINANCING OF WASTE WATER REVENUE BONDS, SERIES 2006

THIS Professional Services Agreement ("AGREEMENT") is made and entered into this 10th day of May, 2017 by and between the CITY OF SOLANA BEACH, a municipal corporation ("CITY"), and, QUINT & THIMMIG LLP a partnership, LLC, LLP, California corporation, etc., ("CONSULTANT") (collectively "PARTIES").

**WHEREAS**, the CITY desires to employ a CONSULTANT to furnish Disclosure Counsel ("PROFESSIONAL SERVICES") for the refinancing of Waste Water Revenue Bonds, Series 2006 ("PROJECT"); and

**WHEREAS**, the CITY has determined that CONSULTANT is qualified by experience and ability to perform the services desired by CITY, and CONSULTANT is willing to perform such services; and

**WHEREAS**, CONSULTANT will conduct all the work as described and detailed in this AGREEMENT to be provided to the CITY.

**NOW, THEREFORE**, the PARTIES hereto mutually covenant and agree with each other as follows:

#### 1. PROFESSIONAL SERVICES.

- 1.1. **Scope of Services.** The CONSULTANT shall perform the PROFESSIONAL SERVICES as set forth in the written Scope of Services, attached as Exhibit "A" Scope of Services and Fee, at the direction of the CITY. CITY shall provide CONSULTANT access to appropriate staff and resources for the coordination and completion of the projects under this AGREEMENT. For all work to be performed on site at City Hall, the CITY and CONSULTANT agree that the Scope of Services begins when the CONSULTANT arrives at City Hall and terminates when the CONSULTANT leaves City Hall. Travel time to and from City Hall shall not be considered time on the job or compensated by the CITY.
- 1.2. **Project Coordinator.** The is hereby designated as the Project Coordinator for CITY and will monitor the progress and execution of this AGREEMENT. CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this AGREEMENT for CONSULTANT. is hereby designated as the Project Director for CONSULTANT.
- 1.3. **City Modification of Scope of Services.** CITY may order changes to the Scope of Services within the general scope of this AGREEMENT consisting of additions, deletions, or other revisions. If such changes cause a change in the CONSULTANT's cost of, or time required for, completion of the Scope of Services, an equitable adjustment to CONSULTANT's compensation and/or contract time shall be made, subject to the CITY'S approval. All such changes shall be authorized in writing, executed by CONSULTANT and CITY.

#### 2. DURATION OF AGREEMENT.

- 2.1. **Term.** The term of this AGREEMENT shall be for a period of one year beginning from the date of execution of the AGREEMENT. Time is of the essence in the performance of work under this AGREEMENT, unless otherwise specified.

- 2.2. **Extensions.**  If marked, the CITY shall have the option to extend the AGREEMENT for additional one (1) year periods or parts thereof for an amount not to exceed \_\_\_\_\_ per AGREEMENT year. Extensions shall be in the sole discretion of the City Manager and shall be based upon CONSULTANT's satisfactory past performance, CITY needs, and appropriation of funds by the City Council. The CITY shall give written notice to CONSULTANT prior to exercising the option.
- 2.3. **Delay.** Any delay occasioned by causes beyond the control of CONSULTANT may merit an extension of time for the completion of the Scope of Services. When such delay occurs, CONSULTANT shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the PROFESSIONAL SERVICES when justified by the circumstances.
- 2.4. **City's Right to Terminate for Default.** Should CONSULTANT be in default of any covenant or condition hereof, CITY may immediately terminate this AGREEMENT for cause if CONSULTANT fails to cure the default within ten (10) calendar days of receiving written notice of the default.
- 2.5. **City's Right to Terminate without Cause.** Without limiting its rights in the event of CONSULTANT's default, CITY may terminate this AGREEMENT, without cause, by giving written notice to CONSULTANT. Such termination shall be effective upon receipt of the written notice. CONSULTANT shall be compensated for all effort and material expended on behalf of CITY under the terms of this AGREEMENT, up to the effective date of termination. All personal property remaining in CITY facilities or on CITY property thirty (30) days after the expiration or termination of this AGREEMENT shall be, at CITY's election, considered the property of CITY.

### 3. COMPENSATION.

- 3.1. **Total Amount.** The total cost for all work described in the Scope of Services and Fee (Exhibit "A") shall not exceed twenty two thousand, five hundred dollars (\$22,500) without prior written authorization from CITY. CONSULTANT shall bill the CITY for work provided and shall present a written request for such payment monthly.
- 3.2. **Additional Services.** CITY may, as the need arises or in the event of an emergency, request additional services of CONSULTANT. Should such additional services be required, CITY and CONSULTANT shall agree to the cost prior to commencement of these services.
- 3.3. **Costs.** Any costs billed to the CITY shall be in accordance with any terms negotiated and incorporated herein as part of Exhibit "A" Scope of Services and Fee.

### 4. INDEPENDENT CONTRACTOR.

- 4.1. CONSULTANT is, for all purposes arising out of this AGREEMENT, an independent contractor. The CONSULTANT has and shall retain the right to exercise full control and supervision of all persons assisting the CONSULTANT in the performance of said services hereunder, the CITY only being concerned with the finished results of the work being performed. Neither CONSULTANT nor CONSULTANT's employees shall in any event be entitled to any benefits to which CITY employees are entitled, including, but not limited to, overtime, retirement benefits, workers' compensation benefits, injury leave or other leave benefits. CONSULTANT is solely responsible for all such matters, as well as compliance with social security and income tax withholding and all other regulations and laws governing such matters.

### 5. STANDARD OF PERFORMANCE.

While performing the PROFESSIONAL SERVICES, CONSULTANT shall exercise the reasonable professional care and skill customarily exercised by reputable members of CONSULTANT's profession practicing in the metropolitan Southern California Area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

## 6. WARRANTY OF CONSULTANT'S LICENSE.

CONSULTANT warrants that CONSULTANT is properly licensed with the applicable government agency(ies) for any PROFESSIONAL SERVICES that require a license. If the CONSULTANT lacks such license, this AGREEMENT is void and of no effect.

## 7. AUDIT OF RECORDS.

- 7.1. At any time during normal business hours and as often as may be deemed necessary the CONSULTANT shall make available to a representative of CITY for examination all of its records with respect to all matters covered by this AGREEMENT and shall permit CITY to audit, examine and/or reproduce such records. CONSULTANT shall retain such financial and program service records for at least four (4) years after termination or final payment under this AGREEMENT.
- 7.2. The CONSULTANT shall include the CITY's right under this section in any and all of their subcontracts, and shall ensure that these sections are binding upon all subcontractors.

## 8. CONFIDENTIALITY.

All professional services performed by CONSULTANT, including but not limited to all drafts, data, correspondence, proposals, reports, research and estimates compiled or composed by CONSULTANT, pursuant to this AGREEMENT, are for the sole use of the CITY, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the CITY. This provision does not apply to information that (a) was publicly known, or otherwise known to CONSULTANT, at the time that it was disclosed to CONSULTANT by the CITY, (b) subsequently becomes publicly known through no act or omission of CONSULTANT or (c) otherwise becomes known to CONSULTANT other than through disclosure by the CITY. Except for any subcontractors that may be allowed upon prior agreement, neither the documents nor their contents shall be released to any third party without the prior written consent of the CITY. The sole purpose of this section is to prevent disclosure of CITY's confidential and proprietary information by CONSULTANT or subcontractors.

## 9. CONFLICTS OF INTEREST.

- 9.1. CONSULTANT shall at all times comply with all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including but not limited to California Government Code Section 81000 *et seq.* (Political Reform Act) and Section 1090 *et seq.* CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the CITY in which the CONSULTANT has a financial interest as defined in Government Code Section 87103. CONSULTANT represents that it has no knowledge of any financial interests which would require it to disqualify itself from any matter on which it might perform services for the CITY.
- 9.2. If, in performing the PROFESSIONAL SERVICES set forth in this AGREEMENT, the CONSULTANT makes, or participates in, a "governmental decision" as described in Title 2, Section 18700.3(a) of the California Code of Regulations, or performs the same or substantially all the same duties for the CITY that would otherwise be performed by a CITY employee holding a position specified in the department's conflict of interest code, the CONSULTANT shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the CONSULTANT's relevant financial interests.
- 9.3.  If checked, the CONSULTANT shall comply with all of the reporting requirements of the Political Reform Act. Specifically, the CONSULTANT shall file a Fair Political Practices Commission Form 700 (Assuming Office Statement) within thirty (30) calendar days of the CITY's determination that the CONSULTANT is subject to a conflict of interest code. The CONSULTANT shall also file a Form 700 (Annual Statement) on or before April 1 of each year of the AGREEMENT, disclosing any financial interests held during the previous calendar year for which the CONSULTANT was subject to a conflict of interest code.

- 9.4. CITY represents that pursuant to California Government Code Section 1090 *et seq.*, none of its elected officials, officers, or employees has an interest in this AGREEMENT.

#### 10. DISPOSITION AND OWNERSHIP OF DOCUMENTS.

- 10.1. All documents, data, studies, drawings, maps, models, photographs and reports prepared by CONSULTANT under this AGREEMENT, whether paper or electronic, shall become the property of CITY for use with respect to this PROJECT, and shall be turned over to the CITY upon completion of the PROJECT or any phase thereof, as contemplated by this AGREEMENT.
- 10.2. Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the CITY and CONSULTANT thereby expressly waives and disclaims, any copyright in, and the right to reproduce, all written material, drawings, plans, specifications or other work prepared under this AGREEMENT, except upon the CITY's prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the CITY, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

#### 11. INSURANCE

- 11.1. CONSULTANT shall procure and maintain for the duration of the AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONSULTANT, their agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than "A" and "VII" unless otherwise approved in writing by the CITY's Risk Manager.
- 11.2. CONSULTANT's liabilities, including but not limited to CONSULTANT's indemnity obligations, under this AGREEMENT, shall not be deemed limited in any way to the insurance coverage required herein. All policies of insurance required hereunder must provide that the CITY is entitled to thirty (30) days prior written notice of cancellation or non-renewal of the policy or policies, or ten (10) days prior written notice for cancellation due to non-payment of premium. Maintenance of specified insurance coverage is a material element of this AGREEMENT.
- 11.3. **Types and Amounts Required.** CONSULTANT shall maintain, at minimum, the following insurance coverage for the duration of this AGREEMENT:
- 11.3.1.  **Commercial General Liability (CGL).** If checked the CONSULTANT shall maintain CGL Insurance written on an ISO Occurrence form or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of \$1,000,000.00 per occurrence and subject to an annual aggregate of \$2,000,000.00. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.
- 11.3.2.  **Commercial Automobile Liability.** If checked the CONSULTANT shall maintain Commercial Automobile Liability Insurance for all of the CONSULTANT's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1,000,000.00 per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

- 11.3.3.  Workers' Compensation.** If checked the CONSULTANT shall maintain Worker's Compensation insurance for all of the CONSULTANT's employees who are subject to this AGREEMENT and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum \$1,000,000.00 employers' liability coverage. The CONSULTANT shall provide an endorsement that the insurer waives the right of subrogation against the CITY and its respective elected officials, officers, employees, agents and representatives.
- 11.3.4.  Professional Liability.** If checked the CONSULTANT shall also maintain Professional Liability (errors and omissions) coverage with a limit of \$1,000,000 per claim and \$2,000,000 annual aggregate. The CONSULTANT shall ensure both that (1) the policy retroactive date is on or before the date of commencement of the Scope of Services; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Scope of Services or termination of this AGREEMENT whichever occurs last. The CONSULTANT agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the CITY's exposure to loss. All defense costs shall be outside the limits of the policy.
- 11.4. Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions are the responsibility of the CONSULTANT and must be declared to and approved by the CITY. At the option of the CITY, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the CITY, its officers, officials, employees and volunteers, or (2) the CONSULTANT shall provide a financial guarantee satisfactory to the CITY guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- 11.5. Additional Required Provisions.** The commercial general liability and automobile liability policies shall contain, or be endorsed to contain, the following provisions:
- 11.5.1.** The CITY, its officers, officials, employees, and representatives shall be named as additional insureds. The CITY's additional insured status must be reflected on additional insured endorsement form (20 10 1185 or 20 10 1001 and 20 37 1001) which shall be submitted to the CITY.
- 11.5.2.** The policies are primary and non-contributory to any insurance that may be carried by the CITY, as reflected in an endorsement which shall be submitted to the CITY.
- 11.6. Verification of Coverage.** CONSULTANT shall furnish the CITY with original certificates and amendatory endorsements effecting coverage required by this Section 11. The endorsement should be on forms provided by the CITY or on other than the CITY's forms provided those endorsements conform to CITY requirements. All certificates and endorsements are to be received and approved by the CITY before work commences. The CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

## **12. INDEMNIFICATION.**

CONSULTANT agrees to indemnify, defend, and hold harmless the CITY, and its officers, officials, agents and employees from any and all claims, demands, costs or liabilities that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, its employees, agents, and subcontractors in the performance of services under this AGREEMENT. CONSULTANT's duty to indemnify under this section shall not include liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence or willful misconduct by the CITY or its elected officials, officers, agents, and employees. CONSULTANT's indemnification obligations shall not be limited by the insurance provisions of this AGREEMENT. The PARTIES expressly agree that any payment, attorney's fees, costs or expense CITY incurs or makes to or on behalf of an injured employee under the CITY's self-administered workers' compensation is included as a loss, expense, or cost for the purposes of this section, and that this section will survive the expiration or early termination of this AGREEMENT.

**13. SUBCONTRACTORS.**

- 13.1. The CONSULTANT's hiring or retaining of third parties (i.e. subcontractors) to perform services related to the PROJECT is subject to prior approval by the CITY.
- 13.2. All contracts entered into between the CONSULTANT and its subcontractor shall also provide that each subcontractor shall obtain insurance policies which shall be kept in full force and effect during any and all work on this PROJECT and for the duration of this AGREEMENT. The CONSULTANT shall require the subcontractor to obtain, all policies described in Section 11 in the amounts required by the CITY, which shall not be greater than the amounts required of the CONSULTANT.
- 13.3. In any dispute between the CONSULTANT and its subcontractor, the CITY shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The CONSULTANT agrees to defend and indemnify the CITY as described in Section 12 of this AGREEMENT should the CITY be made a party to any judicial or administrative proceeding to resolve any such dispute.

**14. NON-DISCRIMINATION.**

CONSULTANT shall not discriminate against any employee or applicant for employment because of sex, race, color, age, religion, ancestry, national origin, military or veteran status, disability, medical condition, genetic information, gender expression, marital status, or sexual orientation. CONSULTANT shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their sex, race, color, age, religion, ancestry, national origin, military or veteran status, disability, medical condition, genetic information, gender expression, marital status, or sexual orientation and shall make reasonable accommodation to qualified individuals with disabilities or medical conditions. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by CITY setting forth the provisions of this non-discrimination clause.

**15. NOTICES.**

All communications to either party by the other party shall be delivered to the persons listed below. Any such written communications by mail shall be conclusively deemed to have been received by the addressee five (5) calendar days after the deposit thereof in the United States mail, postage prepaid and properly addressed as noted below.

Marie Marron Berkuti,  
 Finance Manager/Treasurer  
 City of Solana Beach  
 635 S. Highway 101  
 Solana Beach, CA 92075

Brian Quint  
 Partner  
 900 Larkspur Landing Circle,  
 Suite 270  
 Larkspur, CA 94393

**16. ASSIGNABILITY.**

This AGREEMENT and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT's duties be delegated or sub-contracted, without the express written consent of the CITY.

#### **17. RESPONSIBILITY FOR EQUIPMENT.**

CITY shall not be responsible nor held liable for any damage to persons or property consequent upon the use, misuse, or failure of any equipment used by CONSULTANT or any of CONSULTANT's employees or subcontractors, even if such equipment has been furnished, rented, or loaned to CONSULTANT by CITY. The acceptance or use of any such equipment by CONSULTANT, CONSULTANT's employees, or subcontractors shall be construed to mean that CONSULTANT accepts full responsibility for and agrees to exonerate, indemnify and hold harmless CITY from and against any and all claims for any damage whatsoever resulting from the use, misuse, or failure of such equipment.

#### **18. CALIFORNIA LAW; VENUE.**

This AGREEMENT shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this AGREEMENT shall be brought in the county of San Diego, California. CONSULTANT hereby waives any and all rights it might have pursuant to California Code of Civil Procedure Section 394.

#### **19. COMPLIANCE WITH LAWS.**

The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this AGREEMENT whether now in force or subsequently enacted. This includes maintaining a City of Solana Beach Business Certificate.

#### **20. ENTIRE AGREEMENT.**

This AGREEMENT sets forth the entire understanding of the PARTIES with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein. No change, alteration, or modification of the terms or conditions of this AGREEMENT, and no verbal understanding of the PARTIES, their officers, agents, or employees shall be valid unless agreed to in writing by both PARTIES.

#### **21. NO WAIVER.**

No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this AGREEMENT, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this AGREEMENT shall constitute a waiver of any such breach of such covenant, term or condition.

#### **22. SEVERABILITY.**

The unenforceability, invalidity, or illegality of any provision of this AGREEMENT shall not render any other provision unenforceable, invalid, or illegal.

#### **23. DRAFTING AMBIGUITIES.**

The PARTIES agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this AGREEMENT, and the decision of whether or not to seek advice of counsel with respect to this AGREEMENT is a decision which is the sole responsibility of each Party. This AGREEMENT shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the AGREEMENT.

#### **24. CONFLICTS BETWEEN TERMS.**

If an apparent conflict or inconsistency exists between the main body of this AGREEMENT and the Exhibits, the main body of this AGREEMENT shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this AGREEMENT, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this AGREEMENT, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this AGREEMENT.

**25. EXHIBITS INCORPORATED.**

All Exhibits referenced in this AGREEMENT are incorporated into the AGREEMENT by this reference.

**26. SIGNING AUTHORITY.**

- 26.1. The representative for each Party signing on behalf of a corporation, partnership, joint venture, association, or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, association, or entity and agrees to hold the other Party or PARTIES hereto harmless if it is later determined that such authority does not exist.
- 26.2.  If checked, a proper notary acknowledgement of execution by CONSULTANT must be attached.

**IN WITNESS WHEREOF**, the PARTIES hereto have executed this AGREEMENT the day and year first hereinabove written.

CITY OF SOLANA BEACH, a municipal corporation

CONSULTANT, a Limited Liability Partnership

By:

By:

\_\_\_\_\_  
City Manager, Gregory Wade

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Brian Quint  
Partner

ATTEST:

\_\_\_\_\_  
City Clerk, Angela Ivey

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Marie Marron Berkuti, Finance Manager/Treasurer

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney, Johanna N. Canlas



**EXHIBIT "A"**  
**SCOPE OF SERVICES AND FEE**

**CITY OF SOLANA BEACH**  
**Wastewater Refunding Revenue Bonds, Series 2017**



---

**Agreement for Legal Services**

---

THIS AGREEMENT FOR LEGAL SERVICES is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between the CITY OF SOLANA BEACH (the "City") and QUINT & THIMMIG LLP, Larkspur, California ("Attorneys").

WITNESSETH:

WHEREAS, the Solana Beach Public Financing Authority has previously issued its Solana Beach Public Financing Authority Subordinate Wastewater Revenue Bonds, Series 2006 (the "2006 Bonds") to finance certain capital improvements to the City's wastewater system;

WHEREAS, the City has determined to issue its revenue bonds (the "Refunding Bonds") to refund the 2006 Bonds;

WHEREAS, the City requires the services of disclosure counsel in connection with the authorization, issuance and sale of the Refunding Bonds;

WHEREAS, the City has determined that Attorneys are qualified by training and experience to perform the services of disclosure counsel and Attorneys are willing to provide such services; and

WHEREAS, the public interest, economy and general welfare will be served by this Agreement for Legal Services;

NOW, THEREFORE, IT IS HEREBY AGREED, as follows:

Section 1. Duties of Attorneys. Attorneys shall provide legal services, as *disclosure counsel*, in connection with the preparation of the official statement to be used in connection with the offering and sale of the Refunding Bonds (the "Official Statement"), the continuing disclosure certificate and the bond purchase agreement between the City and the underwriter of the Refunding Bonds. Such services shall include the following:

Section 1. Duties of Attorneys.

(a) *Services Provided.* Attorneys shall provide legal services, as disclosure counsel, in connection with the preparation of the preliminary and final official statements to be used in connection with the offering and sale of the Refunding Bonds (the "Official Statements"), the continuing disclosure certificate and the bond purchase agreement between the City and the underwriter of the Refunding Bonds. Such services shall include the following:

(i) Prepare the Official Statements in connection with the offering of the Refunding Bonds;

(ii) Confer and consult with the officers and administrative staff of the City as to matters relating to the Official Statement;

(iii) Attend all meetings of the City and any administrative meetings at which the Official Statements are to be discussed, deemed necessary by Attorneys for the proper exercise of their due diligence with respect to the Official Statements, or when specifically requested by the City to attend;

(iv) On behalf of the City, prepare the continuing disclosure certificate in a form which is acceptable to the City and the underwriter of the Refunding Bonds;

(v) On behalf of the City, prepare the bond purchase agreement, if required, between the City and the underwriter of the Refunding Bonds in a form which are acceptable to the City and the underwriter of the Refunding Bonds;

(vi) Subject to the completion of proceedings to the satisfaction of Attorneys, provide letters of Attorneys addressed to the City and the underwriter of the Refunding Bonds to the effect that, although Attorneys have not undertaken to determine independently or assume any responsibility for the accuracy, completeness or fairness of the statements contained in the Official Statements, in the course of Attorneys participation in the preparation of the Official Statements Attorneys have been in contact with representatives of the City and others concerning the contents of the Official Statements and related matters, and, based upon the foregoing, nothing has come to Attorneys attention to lead Attorneys to believe that the Official Statements (except for any financial or statistical data or forecasts, numbers, charts, estimates, projections, assumptions or expressions of opinion included therein, and information relating to The Depository Trust Company and its book-entry system, as to which Attorneys need express no view) as of the date of the Official Statements or the date of the closing for the Refunding Bonds contain any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(vii) Such other and further services as are normally performed by disclosure counsel in connection with the issuance of bonds.

(b) *Services Not Provided.* Attorneys shall not be responsible for:

(i) any continuing disclosure requirements under federal securities laws that may apply to the Refunding Bonds during the period following the closing of the Refunding Bonds,

(ii) on-going advice and preparation of necessary documentation regarding compliance with section 148 of the Internal Revenue Code of 1986, relating to arbitrage limitations and rebate provisions applicable to the Refunding Bonds, or

(iii) the representation of the City in connection with any litigation involving the Refunding Bonds.

Without limiting the generality of the foregoing, Attorneys shall not be responsible for preparing any documentation related to, or for providing any, ongoing continuing disclosure, arbitrage and rebate computation services or litigation services in respect of the Refunding Bonds without a separate agreement between the City and Attorneys. In addition, unless specifically retained to do so by a separate agreement between Attorneys and the City, Attorneys shall not be responsible for auditing or otherwise reviewing or assuring compliance by the City with any past or existing continuing disclosure obligations of the City related to any debt obligations.

Section 2. Compensation. For the services set forth under Section 1 above, Attorneys shall be paid a legal fee of \$22,500.00, inclusive of all out-of-pocket expenses.

*Payment of said fees shall be entirely contingent,* shall be due and payable upon the delivery of the Refunding Bonds and shall be payable solely from the proceeds of the Refunding Bonds and from no other funds of the City.

Section 3. Responsibilities of the City. The City shall cooperate with Attorneys and shall furnish Attorneys with certified copies of all proceedings taken by the City, or other documents deemed necessary by Attorneys to render an opinion upon the validity of such proceedings. All costs and expenses incurred incidental to the Refunding Bonds, including the cost and expense of preparing certified copies of proceedings required by Attorneys in connection with the Refunding Bonds and any other expenses incurred in connection with the Refunding Bonds, shall be paid from the proceeds of the Refunding Bonds.

Section 4. Non-Legal Services. In performing their services as bond counsel pursuant to this Agreement for Legal Services, it is understood and acknowledged by the City that Attorneys will not be providing financial advisory, placement agent, investment banking or other similar services. It is expected that the City will engage other consultants to provide any such services with respect to the Refunding Bonds.

Section 5. Termination of Agreement. This Agreement for Legal Services may be terminated at any time by the City, with or without cause, upon written notice to Attorneys. In the event of such termination, all finished and unfinished documents shall, at the option of the City, become its property and shall be delivered by Attorneys to the City.

Section 6. Amendment or Modification. No amendment, modification, or other alteration of this Agreement shall be valid unless in writing and signed by both of the parties hereto.


Section 7. Entire Agreement. This Agreement contains the entire agreement of the parties hereto. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

CITY OF SOLANA BEACH

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

QUINT & THIMMIG LLP

By  \_\_\_\_\_  
Brian D. Quint, Partner

**RESOLUTION NO. 2017-111**

**A RESOLUTION OF THE CITY OF SOLANA BEACH  
APPROVING AND AUTHORIZING THE CITY MANAGER  
TO EXECUTE, A PROFESSIONAL SERVICES  
AGREEMENT WITH HILLTOP SECURITIES INC. FOR  
UNDERWRITER SERVICES RELATING TO THE  
POTENTIAL REFUNDING OF THE SERIES 2006  
SUBORDINATE WASTEWATER REVENUE BONDS**

**WHEREAS**, in January 2007, the Solana Beach Public Financing Authority (Authority) issued Subordinate Wastewater Revenue Bonds (the 2006 Bonds) in the amount of \$9,825,000 to finance capital improvements to the Sewer System; and

**WHEREAS**, at the May 10, 2017 City Council meeting, Staff provided information to the Council regarding refunding the 2006 Bonds and Council directed Staff to proceed with the potential issuance of the 2017 Wastewater Revenue Refunding Bonds (the 2017 Bonds) ; and

**WHEREAS**, based on market conditions as of June 2017, issuance of the 2017 Bonds is estimated to result in total savings of \$1,705,752 and net present value ("NPV") savings of approximately \$1,212,932. This equates to 15.59% in NPV; and

**WHEREAS**, the City of Solana Beach (City) desires to take advantage of the current low interest rate environment in order to minimize its total interest costs on outstanding debt by refinancing/refunding the 2006 Bonds at a comparatively lower interest rate than the current bond issue's average bond coupon rate and as low of a cost of issuance as possible; and

**WHEREAS**, in order to effectuate the refunding of the 2006 Bonds, the City desires to retain the services of Hilltop Securities Inc. for Underwriter services, including without limitation the following: purchases the bonds from the City and sells them to both retail and institutional investors; and

**WHEREAS**, Hilltop Securities Inc. is a Underwriter firm registered with the Securities and Exchange Commission ("SEC") and with the Municipal Securities Rulemaking Board ("MSRB") and has represented that it possesses the necessary qualifications to provide the services required by the City; and

**WHEREAS**, the City staff has authorized the preparation of a Professional Services Agreement ("PSA") to retain the services of Hilltop Securities Inc. as a "Underwriter" to the City and recommends the City's approval relating to same; and

**WHEREAS**, pursuant to the Agreement, and subject to the conditions below, Hilltop Securities Inc. shall be compensated for work completed, in the amount of \$29,153 for basic services rendered under the Agreement and all accrued expenses. Hilltop Securities Inc. would be compensated for additional services only upon prior written approval of the City. According to the Agreement, payment to Hilltop Securities Inc. for compensation and accrued expenses not to exceed \$42,000 is contingent on the closing of the bond issuance and will be made by the City from the costs of issuance

of the bonds and will be made available within thirty (30) calendar days of receipt of the invoice; and

**WHEREAS**, all of the prerequisites with respect to the approval of this Resolution have been met.

**NOW, THEREFORE, BE IT RESOLVED** by the City of Solana Beach, as follows:

- Section 1.** The foregoing recitals are true and correct and are a substantive part of this Resolution.
- Section 2.** The City hereby approves the Professional Services Agreement (“Agreement”) with Hilltop Securities Inc. in substantial form as the Agreement attached as Exhibit “A”, for Underwriter services for compensation and accrued expenses of \$42,000 which fee is contingent on the successful closing of the bond issuance.
- Section 3.** The City Manager, or designee, of the City is hereby authorized and directed to execute the Agreement in substantial form as the Agreement attached as Exhibit “A”.
- Section 4.** The City Manager, or designee, of the City is hereby authorized to make non-substantive changes and amendments to the Agreement deemed necessary and as approved by the City Manager of the City and its legal counsel and to take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the City.
- Section 5.** The City determines that the activity approved by this Resolution is not a “project” for purposes of CEQA, as that term is defined by Guidelines Section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per Section 15378(b)(5) of the Guidelines.
- Section 6.** If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City declares that its board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

**Section 7.** This Resolution shall take effect upon the date of its adoption

**PASSED, APPROVED, AND ADOPTED** this 28<sup>th</sup> day of June, 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –  
NOES: Councilmembers –  
ABSTAIN: Councilmembers –  
ABSENT: Councilmembers –

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk

## EXHIBIT "A"

# City of Solana Beach

## PROFESSIONAL SERVICES AGREEMENT

### FOR UNDERWRITING FOR THE REFINANCING OF WASTE WATER REVENUE BONDS, SERIES 2006

THIS Professional Services Agreement ("AGREEMENT") is made and entered into this 10th day of May, 2017 by and between the CITY OF SOLANA BEACH, a municipal corporation ("CITY"), and, HILLTOP SECURITIES, INC. a partnership, LLC, LLP, California corporation, etc., ("CONSULTANT") (collectively "PARTIES").

**WHEREAS**, the CITY desires to employ a CONSULTANT to furnish Underwriting ("PROFESSIONAL SERVICES") for the refinancing of Waste Water Revenue Bonds, Series 2006 ("PROJECT"); and

**WHEREAS**, the CITY has determined that CONSULTANT is qualified by experience and ability to perform the services desired by CITY, and CONSULTANT is willing to perform such services; and

**WHEREAS**, CONSULTANT will conduct all the work as described and detailed in this AGREEMENT to be provided to the CITY.

**NOW, THEREFORE**, the PARTIES hereto mutually covenant and agree with each other as follows:

#### 1. PROFESSIONAL SERVICES.

- 1.1. **Scope of Services.** The CONSULTANT shall perform the PROFESSIONAL SERVICES as set forth in the written Scope of Services, attached as Exhibit "A" Scope of Services and Fee, at the direction of the CITY. CITY shall provide CONSULTANT access to appropriate staff and resources for the coordination and completion of the projects under this AGREEMENT. For all work to be performed on site at City Hall, the CITY and CONSULTANT agree that the Scope of Services begins when the CONSULTANT arrives at City Hall and terminates when the CONSULTANT leaves City Hall. Travel time to and from City Hall shall not be considered time on the job or compensated by the CITY.
- 1.2. **Project Coordinator.** The is hereby designated as the Project Coordinator for CITY and will monitor the progress and execution of this AGREEMENT. CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this AGREEMENT for CONSULTANT. is hereby designated as the Project Director for CONSULTANT.
- 1.3. **City Modification of Scope of Services.** CITY may order changes to the Scope of Services within the general scope of this AGREEMENT consisting of additions, deletions, or other revisions. If such changes cause a change in the CONSULTANT's cost of, or time required for, completion of the Scope of Services, an equitable adjustment to CONSULTANT's compensation and/or contract time shall be made, subject to the CITY'S approval. All such changes shall be authorized in writing, executed by CONSULTANT and CITY.

#### 2. DURATION OF AGREEMENT.

- 2.1. **Term.** The term of this AGREEMENT shall be for a period of one year beginning from the date of execution of the AGREEMENT. Time is of the essence in the performance of work under this AGREEMENT, unless otherwise specified.



- 2.2. **Extensions.**  If marked, the CITY shall have the option to extend the AGREEMENT for additional one (1) year periods or parts thereof for an amount not to exceed \_\_\_\_\_ per AGREEMENT year. Extensions shall be in the sole discretion of the City Manager and shall be based upon CONSULTANT's satisfactory past performance, CITY needs, and appropriation of funds by the City Council. The CITY shall give written notice to CONSULTANT prior to exercising the option.
- 2.3. **Delay.** Any delay occasioned by causes beyond the control of CONSULTANT may merit an extension of time for the completion of the Scope of Services. When such delay occurs, CONSULTANT shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the PROFESSIONAL SERVICES when justified by the circumstances.
- 2.4. **City's Right to Terminate for Default.** Should CONSULTANT be in default of any covenant or condition hereof, CITY may immediately terminate this AGREEMENT for cause if CONSULTANT fails to cure the default within ten (10) calendar days of receiving written notice of the default.
- 2.5. **City's Right to Terminate without Cause.** Without limiting its rights in the event of CONSULTANT's default, CITY may terminate this AGREEMENT, without cause, by giving written notice to CONSULTANT. Such termination shall be effective upon receipt of the written notice. CONSULTANT shall be compensated for all effort and material expended on behalf of CITY under the terms of this AGREEMENT, up to the effective date of termination. All personal property remaining in CITY facilities or on CITY property thirty (30) days after the expiration or termination of this AGREEMENT shall be, at CITY's election, considered the property of CITY.

### 3. COMPENSATION.

- 3.1. **Total Amount.** The total cost for all work described in the Scope of Services and Fee (Exhibit "A") shall not exceed forty-two thousand dollars (\$42,000) without prior written authorization from CITY. CONSULTANT shall bill the CITY for work provided and shall present a written request for such payment monthly.
- 3.2. **Additional Services.** CITY may, as the need arises or in the event of an emergency, request additional services of CONSULTANT. Should such additional services be required, CITY and CONSULTANT shall agree to the cost prior to commencement of these services.
- 3.3. **Costs.** Any costs billed to the CITY shall be in accordance with any terms negotiated and incorporated herein as part of Exhibit "A" Scope of Services and Fee.

### 4. INDEPENDENT CONTRACTOR.

- 4.1. CONSULTANT is, for all purposes arising out of this AGREEMENT, an independent contractor. The CONSULTANT has and shall retain the right to exercise full control and supervision of all persons assisting the CONSULTANT in the performance of said services hereunder, the CITY only being concerned with the finished results of the work being performed. Neither CONSULTANT nor CONSULTANT's employees shall in any event be entitled to any benefits to which CITY employees are entitled, including, but not limited to, overtime, retirement benefits, workers' compensation benefits, injury leave or other leave benefits. CONSULTANT is solely responsible for all such matters, as well as compliance with social security and income tax withholding and all other regulations and laws governing such matters.

### 5. STANDARD OF PERFORMANCE.

While performing the PROFESSIONAL SERVICES, CONSULTANT shall exercise the reasonable professional care and skill customarily exercised by reputable members of CONSULTANT's profession practicing in the metropolitan Southern California Area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

## 6. WARRANTY OF CONSULTANT'S LICENSE.

CONSULTANT warrants that CONSULTANT is properly licensed with the applicable government agency(ies) for any PROFESSIONAL SERVICES that require a license. If the CONSULTANT lacks such license, this AGREEMENT is void and of no effect.

## 7. AUDIT OF RECORDS.

- 7.1. At any time during normal business hours and as often as may be deemed necessary the CONSULTANT shall make available to a representative of CITY for examination all of its records with respect to all matters covered by this AGREEMENT and shall permit CITY to audit, examine and/or reproduce such records. CONSULTANT shall retain such financial and program service records for at least four (4) years after termination or final payment under this AGREEMENT.
- 7.2. The CONSULTANT shall include the CITY's right under this section in any and all of their subcontracts, and shall ensure that these sections are binding upon all subcontractors.

## 8. CONFIDENTIALITY.

All professional services performed by CONSULTANT, including but not limited to all drafts, data, correspondence, proposals, reports, research and estimates compiled or composed by CONSULTANT, pursuant to this AGREEMENT, are for the sole use of the CITY, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the CITY. This provision does not apply to information that (a) was publicly known, or otherwise known to CONSULTANT, at the time that it was disclosed to CONSULTANT by the CITY, (b) subsequently becomes publicly known through no act or omission of CONSULTANT or (c) otherwise becomes known to CONSULTANT other than through disclosure by the CITY. Except for any subcontractors that may be allowed upon prior agreement, neither the documents nor their contents shall be released to any third party without the prior written consent of the CITY. The sole purpose of this section is to prevent disclosure of CITY's confidential and proprietary information by CONSULTANT or subcontractors.

## 9. CONFLICTS OF INTEREST.

- 9.1. CONSULTANT shall at all times comply with all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including but not limited to California Government Code Section 81000 *et seq.* (Political Reform Act) and Section 1090 *et seq.* CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the CITY in which the CONSULTANT has a financial interest as defined in Government Code Section 87103. CONSULTANT represents that it has no knowledge of any financial interests which would require it to disqualify itself from any matter on which it might perform services for the CITY.
- 9.2. If, in performing the PROFESSIONAL SERVICES set forth in this AGREEMENT, the CONSULTANT makes, or participates in, a "governmental decision" as described in Title 2, Section 18700.3(a) of the California Code of Regulations, or performs the same or substantially all the same duties for the CITY that would otherwise be performed by a CITY employee holding a position specified in the department's conflict of interest code, the CONSULTANT shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the CONSULTANT's relevant financial interests.
- 9.3.  If checked, the CONSULTANT shall comply with all of the reporting requirements of the Political Reform Act. Specifically, the CONSULTANT shall file a Fair Political Practices Commission Form 700 (Assuming Office Statement) within thirty (30) calendar days of the CITY's determination that the CONSULTANT is subject to a conflict of interest code. The CONSULTANT shall also file a Form 700 (Annual Statement) on or before April 1 of each year of the AGREEMENT, disclosing any financial interests held during the previous calendar year for which the CONSULTANT was subject to a conflict of interest code.

- 9.4. CITY represents that pursuant to California Government Code Section 1090 *et seq.*, none of its elected officials, officers, or employees has an interest in this AGREEMENT.

#### 10. DISPOSITION AND OWNERSHIP OF DOCUMENTS.

- 10.1. All documents, data, studies, drawings, maps, models, photographs and reports prepared by CONSULTANT under this AGREEMENT, whether paper or electronic, shall become the property of CITY for use with respect to this PROJECT, and shall be turned over to the CITY upon completion of the PROJECT or any phase thereof, as contemplated by this AGREEMENT.
- 10.2. Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the CITY and CONSULTANT thereby expressly waives and disclaims, any copyright in, and the right to reproduce, all written material, drawings, plans, specifications or other work prepared under this AGREEMENT, except upon the CITY's prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the CITY, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

#### 11. INSURANCE

- 11.1. CONSULTANT shall procure and maintain for the duration of the AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONSULTANT, their agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than "A" and "VII" unless otherwise approved in writing by the CITY's Risk Manager.
- 11.2. CONSULTANT's liabilities, including but not limited to CONSULTANT's indemnity obligations, under this AGREEMENT, shall not be deemed limited in any way to the insurance coverage required herein. All policies of insurance required hereunder must provide that the CITY is entitled to thirty (30) days prior written notice of cancellation or non-renewal of the policy or policies, or ten (10) days prior written notice for cancellation due to non-payment of premium. Maintenance of specified insurance coverage is a material element of this AGREEMENT.
- 11.3. **Types and Amounts Required.** CONSULTANT shall maintain, at minimum, the following insurance coverage for the duration of this AGREEMENT:
- 11.3.1.  **Commercial General Liability (CGL).** If checked the CONSULTANT shall maintain CGL Insurance written on an ISO Occurrence form or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of \$1,000,000.00 per occurrence and subject to an annual aggregate of \$2,000,000.00. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.
- 11.3.2.  **Commercial Automobile Liability.** If checked the CONSULTANT shall maintain Commercial Automobile Liability Insurance for all of the CONSULTANT's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1,000,000.00 per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

- 11.3.3.  **Workers' Compensation.** If checked the CONSULTANT shall maintain Worker's Compensation insurance for all of the CONSULTANT's employees who are subject to this AGREEMENT and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum \$1,000,000.00 employers' liability coverage. The CONSULTANT shall provide an endorsement that the insurer waives the right of subrogation against the CITY and its respective elected officials, officers, employees, agents and representatives.
- 11.3.4.  **Professional Liability.** If checked the CONSULTANT shall also maintain Professional Liability (errors and omissions) coverage with a limit of \$1,000,000 per claim and \$2,000,000 annual aggregate. The CONSULTANT shall ensure both that (1) the policy retroactive date is on or before the date of commencement of the Scope of Services; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Scope of Services or termination of this AGREEMENT whichever occurs last. The CONSULTANT agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the CITY's exposure to loss. All defense costs shall be outside the limits of the policy.
- 11.4. **Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions are the responsibility of the CONSULTANT and must be declared to and approved by the CITY. At the option of the CITY, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the CITY, its officers, officials, employees and volunteers, or (2) the CONSULTANT shall provide a financial guarantee satisfactory to the CITY guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- 11.5. **Additional Required Provisions.** The commercial general liability and automobile liability policies shall contain, or be endorsed to contain, the following provisions:
- 11.5.1. The CITY, its officers, officials, employees, and representatives shall be named as additional insureds. The CITY's additional insured status must be reflected on additional insured endorsement form (20 10 1185 or 20 10 1001 and 20 37 1001) which shall be submitted to the CITY.
- 11.5.2. The policies are primary and non-contributory to any insurance that may be carried by the CITY, as reflected in an endorsement which shall be submitted to the CITY.
- 11.6. **Verification of Coverage.** CONSULTANT shall furnish the CITY with original certificates and amendatory endorsements effecting coverage required by this Section 11. The endorsement should be on forms provided by the CITY or on other than the CITY's forms provided those endorsements conform to CITY requirements. All certificates and endorsements are to be received and approved by the CITY before work commences. The CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

## 12. INDEMNIFICATION.

CONSULTANT agrees to indemnify, defend, and hold harmless the CITY, and its officers, officials, agents and employees from any and all claims, demands, costs or liabilities that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, its employees, agents, and subcontractors in the performance of services under this AGREEMENT. CONSULTANT's duty to indemnify under this section shall not include liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence or willful misconduct by the CITY or its elected officials, officers, agents, and employees. CONSULTANT's indemnification obligations shall not be limited by the insurance provisions of this AGREEMENT. The PARTIES expressly agree that any payment, attorney's fees, costs or expense CITY incurs or makes to or on behalf of an injured employee under the CITY's self-administered workers' compensation is included as a loss, expense, or cost for the purposes of this section, and that this section will survive the expiration or early termination of this AGREEMENT.

**13. SUBCONTRACTORS.**

- 13.1. The CONSULTANT's hiring or retaining of third parties (i.e. subcontractors) to perform services related to the PROJECT is subject to prior approval by the CITY.
- 13.2. All contracts entered into between the CONSULTANT and its subcontractor shall also provide that each subcontractor shall obtain insurance policies which shall be kept in full force and effect during any and all work on this PROJECT and for the duration of this AGREEMENT. The CONSULTANT shall require the subcontractor to obtain, all policies described in Section 11 in the amounts required by the CITY, which shall not be greater than the amounts required of the CONSULTANT.
- 13.3. In any dispute between the CONSULTANT and its subcontractor, the CITY shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The CONSULTANT agrees to defend and indemnify the CITY as described in Section 12 of this AGREEMENT should the CITY be made a party to any judicial or administrative proceeding to resolve any such dispute.

**14. NON-DISCRIMINATION.**

CONSULTANT shall not discriminate against any employee or applicant for employment because of sex, race, color, age, religion, ancestry, national origin, military or veteran status, disability, medical condition, genetic information, gender expression, marital status, or sexual orientation. CONSULTANT shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their sex, race, color, age, religion, ancestry, national origin, military or veteran status, disability, medical condition, genetic information, gender expression, marital status, or sexual orientation and shall make reasonable accommodation to qualified individuals with disabilities or medical conditions. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by CITY setting forth the provisions of this non-discrimination clause.

**15. NOTICES.**

All communications to either party by the other party shall be delivered to the persons listed below. Any such written communications by mail shall be conclusively deemed to have been received by the addressee five (5) calendar days after the deposit thereof in the United States mail, postage prepaid and properly addressed as noted below.

Marie Marron Berkuti,  
Finance Manager/Treasurer  
City of Solana Beach  
635 S. Highway 101  
Solana Beach, CA 92075

Mike Cavanaugh  
Managing Director  
2533 South Coast Hwy  
Suite 250  
Cardiff, CA 92007

**16. ASSIGNABILITY.**

This AGREEMENT and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT's duties be delegated or sub-contracted, without the express written consent of the CITY.

**17. RESPONSIBILITY FOR EQUIPMENT.**

CITY shall not be responsible nor held liable for any damage to persons or property consequent upon the use, misuse, or failure of any equipment used by CONSULTANT or any of CONSULTANT's employees or subcontractors, even if such equipment has been furnished, rented, or loaned to CONSULTANT by CITY. The acceptance or use of any such equipment by CONSULTANT, CONSULTANT's employees, or subcontractors shall be construed to mean that CONSULTANT accepts full responsibility for and agrees to exonerate, indemnify and hold harmless CITY from and against any and all claims for any damage whatsoever resulting from the use, misuse, or failure of such equipment.

**18. CALIFORNIA LAW; VENUE.**

This AGREEMENT shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this AGREEMENT shall be brought in the county of San Diego, California. CONSULTANT hereby waives any and all rights it might have pursuant to California Code of Civil Procedure Section 394.

**19. COMPLIANCE WITH LAWS.**

The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this AGREEMENT whether now in force or subsequently enacted. This includes maintaining a City of Solana Beach Business Certificate.

**20. ENTIRE AGREEMENT.**

This AGREEMENT sets forth the entire understanding of the PARTIES with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein. No change, alteration, or modification of the terms or conditions of this AGREEMENT, and no verbal understanding of the PARTIES, their officers, agents, or employees shall be valid unless agreed to in writing by both PARTIES.

**21. NO WAIVER.**

No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this AGREEMENT, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this AGREEMENT shall constitute a waiver of any such breach of such covenant, term or condition.

**22. SEVERABILITY.**

The unenforceability, invalidity, or illegality of any provision of this AGREEMENT shall not render any other provision unenforceable, invalid, or illegal.

**23. DRAFTING AMBIGUITIES.**

The PARTIES agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this AGREEMENT, and the decision of whether or not to seek advice of counsel with respect to this AGREEMENT is a decision which is the sole responsibility of each Party. This AGREEMENT shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the AGREEMENT.

**24. CONFLICTS BETWEEN TERMS.**

If an apparent conflict or inconsistency exists between the main body of this AGREEMENT and the Exhibits, the main body of this AGREEMENT shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this AGREEMENT, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this AGREEMENT, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this AGREEMENT.

**25. EXHIBITS INCORPORATED.**

All Exhibits referenced in this AGREEMENT are incorporated into the AGREEMENT by this reference.

**26. SIGNING AUTHORITY.**

- 26.1. The representative for each Party signing on behalf of a corporation, partnership, joint venture, association, or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, association, or entity and agrees to hold the other Party or PARTIES hereto harmless if it is later determined that such authority does not exist.
- 26.2.  If checked, a proper notary acknowledgement of execution by CONSULTANT must be attached.

**IN WITNESS WHEREOF**, the PARTIES hereto have executed this AGREEMENT the day and year first hereinabove written.

CITY OF SOLANA BEACH, a municipal corporation

CONSULTANT, a California Corporation

By:

By:

\_\_\_\_\_  
City Manager, Gregory Wade

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Mike Cavanaugh  
Managing Director

ATTEST:

\_\_\_\_\_  
City Clerk, Angela Ivey

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Marie Marron Berkuti, Finance Manager/Treasurer

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney, Johanna N. Canlas

**EXHIBIT "A"**  
**SCOPE OF SERVICES AND FEE**



**Mike Cavanaugh**  
Managing Director  
Public Finance

June 21, 2017

Marie Marron Berkuti  
Finance Manager/Treasurer  
City of Solana Beach  
635 South Highway 101  
Solana Beach, CA 92075

Re: Underwriter Engagement Letter- 2017 Refunding Sewer Revenue Bonds

Dear Ms. Berkuti:

On behalf of Hilltop Securities Inc. ("we" or "HilltopSecurities"), we wish to thank you for the opportunity to serve as underwriter for the planned financing (the "Securities"), in connection with the 2017 Refunding Sewer Revenue Bonds. This letter will confirm the terms of our engagement; however, it is anticipated that this letter will be replaced and superseded by a bond purchase agreement to be entered into by the parties (the "Purchase Agreement") if and when the Securities are priced following the successful completion of the public offering process.

1. Services to be Provided by HilltopSecurities. The City of Solana Beach (the "Issuer") hereby engages HilltopSecurities to serve as the sole managing underwriter of the proposed offering and issuance of the Securities, and in such capacity HilltopSecurities agrees to provide customary underwriting services, including but not limited to:

- a. Review and evaluate of the proposed terms of the offering and the Securities
- b. Coordinate with the Issuer for the offering of the Securities
- c. Develop a marketing plan/bid specifics for the offering, including identification of potential investors
- d. Assist in the preparation of offering documents
- e. Assist in obtaining rating(s) for the Securities (if applicable)
- f. Contact potential investors, provide them with offering-related information, respond to their inquiries and, if requested, coordinate due diligence sessions
- g. Consult with Bond Counsel and other service providers about the offering and the terms of the Securities



**EXHIBIT "A"**  
**SCOPE OF SERVICES AND FEE**

- h. Relay information regarding the offering process to the Issuer
- i. Negotiate the pricing, including the interest rate, and other terms of the Securities
- j. Obtain CUSIP number(s) for the Securities and arrange for their DTC book-entry eligibility
- k. Plan and arrange for the closing and settlement of the issuance and the delivery of securities
- l. Such other usual and customary underwriting services as may be requested

As an underwriter, HilltopSecurities will not be required to purchase the Securities except pursuant to the terms of the Purchase Agreement, which will not be signed until successful completion of the offering period. This letter does not obligate HilltopSecurities to purchase any of the Securities. Any commitment to purchase Securities is subject to future credit, legal and business approvals by HilltopSecurities.

2. No Advisory or Fiduciary Role. Issuer acknowledges and agrees that: (i) the primary role of HilltopSecurities, as an underwriter, is to purchase Securities for resale to investors in an arm's length commercial transaction between Issuer, and HilltopSecurities and that HilltopSecurities has financial and other interests that may differ from those of the Issuer; (ii) HilltopSecurities is not acting as a municipal advisor, financial advisor, or fiduciary to Issuer or the Issuer and has not assumed any advisory or fiduciary responsibility to Issuer or the Issuer with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether HilltopSecurities has provided other services or is currently providing other services to the Issuer on other matters); (iii) the only obligation HilltopSecurities has to Issuer or the Issuer with respect to the transaction contemplated hereby expressly are set forth in this agreement; and (iv) Issuer and the Issuer has consulted or will consult its own financial and/or municipal, legal, accounting, tax and other advisors, as applicable, to the extent it deems appropriate.

3. Fees and Expenses. HilltopSecurities' underwriting fee/spread will not exceed .65% of the principal amount of the Securities issued. The underwriting fee/spread will represent the difference between the price that HilltopSecurities pays for the Securities and the public offering price stated on the cover of the final offering document. The Issuer and/or Borrower will be responsible for paying all other costs of issuance, including without limitation, bond counsel, underwriter's counsel, rating agency, and all other expenses incident to the performance of the Issuer's obligations under the proposed offering. Issuer further acknowledges it is aware of the "Municipal Advisor Rule" of the Securities and Exchange Commission (effective July 1, 2014) and the underwriter exclusion from the definition of "municipal advisor" for a firm serving as an underwriter or placement agent for a particular issuance of municipal securities. Issuer expects that HilltopSecurities will provide advice on the structure, timing, terms, and other matters concerning the Securities.

4. Term and Termination. The term of this engagement shall extend from the date of this letter to the closing of the offering of the Securities. Notwithstanding the forgoing, either party may terminate HilltopSecurities' engagement at any time upon at least 30 days' prior written notice to the other party.

**EXHIBIT "A"**  
**SCOPE OF SERVICES AND FEE**

5. Miscellaneous. This letter shall be governed and construed in accordance with the laws of the State of California. This Agreement may not be amended or modified except by means of a written instrument executed by both parties hereto. This Agreement may not be assigned by either party without the prior written consent of the other party. This Agreement may be executed in counterparts.

If there is any aspect of this Agreement that you believe requires further clarification, please do not hesitate to contact us. If the foregoing is consistent with your understanding of our engagement, please sign and return the enclosed copy of this letter.

Again, we thank you for the opportunity to assist you with your proposed financing and the confidence you have placed in us.

Very truly yours,  
Hilltop Securities Inc.



By: \_\_\_\_\_

Mike Cavanaugh  
Managing Director

This Letter and Agreement is hereby accepted for and on behalf of the City of Solana Beach, California.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



# STAFF REPORT CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Gregory Wade, City Manager  
**MEETING DATE:** June 28, 2017  
**ORIGINATING DEPT:** City Attorney's Office  
**SUBJECT:** **Council Consideration of Approval of a Professional Services Agreement for Special Legal Services with Nossaman LLP**

---

## **BACKGROUND:**

Since 2013, Steven Kaufmann has served as special counsel and has represented the City of Solana Beach in court actions filed against the City related to the Local Coastal Plan/Land Use Plan (LCP/LUP). Mr. Kaufman has since left his previous law firm and recently joined Nossaman LLP.

This item is before Council to consider approval of a professional services agreement between the City of Solana Beach and Nossaman LLP.

## **DISCUSSION:**

Since the certification of the Land Use Plan (LUP) in 2013 and subsequent amendment in 2014 (LUPA), the City has been actively defending four separate cases: *Steinberg v. City of Solana Beach*, Case No. 37-2013-00044897-CU-WM-NC, *Homeowner's Association of the Solana Beach & Tennis Club v. City of Solana Beach*, Case No. 37-2013-00046245-CU-WM-NC, *Beach & Bluff Conservancy v. City of Solana Beach*, Case No. 37-2013-00046561-CU-WM-NC, and *Hamilton v. City of Solana Beach*, Case No. 37-2014-00034514-CU-WM-NC, challenging specific provisions of the City's certified LUP/LUPA.

In December 2016, Judge Casserly upheld five of the City's LUP/LUPA policies and sided with plaintiffs on 1 LUP policy and a portion of another policy in *Homeowner's Association of the Solana Beach & Tennis Club v. City of Solana Beach*, Case No. 37-2013-00046245-CU-WM-NC, *Beach & Bluff Conservancy v. City of Solana Beach*, Case

CITY COUNCIL ACTION:

---

---

No. 37-2013-00046561-CU-WM-NC. The Beach & Bluff Conservancy has since appealed the Court's decision.

To ensure continuity in the ongoing litigation, it is recommended for the City Council to approve the Professional Services Agreement with Nossaman LLP.

**CEQA COMPLIANCE:**

Not a project as defined by CEQA

**FISCAL IMPACT:**

At this time, there are sufficient funds allocated for legal services in the City Attorney's budget for the 2017-2018 and 2018-2019 fiscal years for special counsel work.

**WORK PLAN:** N/A

**OPTIONS:**

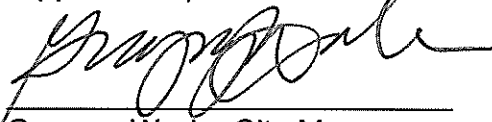
- Approve Staff recommendation.
- Provide alternate direction.

**DEPARTMENT RECOMMENDATION:**

Staff recommends the City Council adopt Resolution 2017-102 (Attachment 1) approving the Professional Services Agreement (Attachment 2) for Legal Services with Nossaman LLP and to authorize the City Manager to execute the agreement.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation



Gregory Wade, City Manager

Attachments:

1. Resolution No. 2017-102
2. Professional Services Agreement for Legal Services with Nossaman LLP

**RESOLUTION 2017-102**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, APPROVING THE PROFESSIONAL SERVICES AGREEMENT FOR LEGAL SERVICES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT BETWEEN THE CITY OF SOLANA BEACH AND NOSSAMAN LLP**

**WHEREAS**, the City requires legal services of independent special counsel to represent the City of Solana Beach ("CITY"); and

**WHEREAS**, Steven H. Kauffman has represented the CITY in the cases of *Steinberg v. City of Solana Beach*, Case No. 37-2013-00044897-CU-WM-NC, *Homeowner's Association of the Solana Beach & Tennis Club v. City of Solana Beach*, Case No. 37-2013-00046245-CU-WM-NC, *Beach & Bluff Conservancy v. City of Solana Beach*, Case No. 37-2013-00046561-CU-WM-NC, and any related cases pertaining to the City's Local Coastal Plan Land Use Plan since 2013; and

**WHEREAS**, on December 3, 2014, the CITY was served with a complaint in the case *Hamilton v. City of Solana Beach*, Case No. 37-2014-00034514-CU-WM-NC, challenging specific provisions of the City's Local Coastal Plan Land Use Plan as being inconsistent with California's Coastal Act; and

**WHEREAS**, the CITY continues to require the legal services of an independent special counsel to represent it in these matters; and

**WHEREAS**, the City Council has determined that it is necessary and appropriate to retain Steven H. Kaufmann of the law firm of Nossaman LLP to provide legal services to the City as special counsel to represent the CITY in the cases noted above and any subsequent and/or related cases.

**NOW, THEREFORE**, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the above recitations are true and correct.
2. That the City Council approves the Professional Services Agreement for Legal Services with Nossaman LLP, and authorizes the City Manager to execute the agreement.

//

//

**PASSED AND ADOPTED** this 28th day of June 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –  
NOES: Councilmembers –  
ABSTAIN: Councilmembers –  
ABSENT: Councilmembers –

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk

## City of Solana Beach

### PROFESSIONAL SERVICES AGREEMENT FOR SPECIAL COUNSEL SERVICES FOR LEGAL SERVICES

THIS Professional Services Agreement ("AGREEMENT") is made and entered into this 1<sup>st</sup> day of April, 2017 by and between the CITY OF SOLANA BEACH, a municipal corporation ("CITY"), and the law firm Nossaman LLP, a law firm of attorneys licensed to practice in the State of California ("CONSULTANT") (collectively "PARTIES").

WHEREAS, associated with another law firm, Steven Kaufmann has represented the CITY in the cases of *Steinberg v. City of Solana Beach*, Case No. 37-2013-00044897-CU-WM-NC, *Homeowner's Association of the Solana Beach & Tennis Club v. City of Solana Beach*, Case No. 37-2013-00046245-CU-WM-NC, *Beach & Bluff Conservancy v. City of Solana Beach*, Case No. 37-2013-00046561-CU-WM-NC, *Hamilton v. City of Solana Beach*, Case No. 37-2014-00034514-CU-WM-NC, and any related cases pertaining to the City's Local Coastal Plan Land Use Plan; and

WHEREAS, Mr. Kaufmann now works for CONSULTANT; and

WHEREAS, the CITY continues to require the legal services of an independent special counsel to represent it in these matters.

NOW, THEREFORE, the PARTIES hereto mutually covenant and agree with each other as follows:

#### 1. PROFESSIONAL SERVICES.

1.1. **Scope of Services.** The CONSULTANT shall perform the PROFESSIONAL SERVICES as set forth in the written Scope of Services, attached as Exhibit "A" Scope of Services and Fee, at the direction of the CITY. CITY shall provide CONSULTANT access to appropriate staff and resources for the coordination and completion of the projects under this AGREEMENT.

1.2. **City Modification of Scope of Services.** CITY may order changes to the Scope of Services within the general scope of this AGREEMENT consisting of additions, deletions, or other revisions. If such changes cause a change in the CONSULTANT's cost of, or time required for, completion of the Scope of Services, an equitable adjustment to CONSULTANT's compensation and/or contract time shall be made, subject to the CITY'S approval. All such changes shall be authorized in writing, executed by CONSULTANT and CITY.

#### 2. DURATION OF AGREEMENT.

2.1 **Term.** The services to be provided by CONSULTANT under this Agreement shall begin as of the date of this Agreement and shall remain in full force

and effect unless and until the parties hereto terminate the same. At that time, any of the terms and conditions of this Agreement may be renegotiated.

**2.2 City's Right to Terminate for Default.** Should CONSULTANT be in default of any covenant or condition hereof, CITY may immediately terminate this AGREEMENT for cause if CONSULTANT fails to cure the default within ten (10) calendar days of receiving written notice of the default.

**2.3 City's Right to Terminate without Cause.** Without limiting its rights in the event of CONSULTANT's default, CITY may terminate this AGREEMENT, without cause, by giving written notice to CONSULTANT. Such termination shall be effective upon receipt of the written notice. CONSULTANT shall be compensated for all effort and material expended on behalf of CITY under the terms of this AGREEMENT, up to the effective date of termination. All personal property remaining in CITY facilities or on CITY property thirty (30) days after the expiration or termination of this AGREEMENT shall be, at CITY's election, considered the property of CITY.

### **3. COMPENSATION.**

**3.1** All fees for services rendered and costs billed to the CITY shall be in accordance with any terms negotiated and incorporated herein as part of Exhibit "A" Scope of Services and Fee.

**3.2.** Monthly legal services set forth in Scope of Services (Exhibit A) and costs shall be submitted on one general account invoice.

**3.3. Additional Services.** CITY may, as the need arises or in the event of an emergency, request additional services of CONSULTANT. Should such additional services be required, CITY and CONSULTANT shall agree to the cost prior to commencement of these services.

**4. INDEPENDENT CONTRACTOR.** CONSULTANT is, for all purposes arising out of this AGREEMENT, an independent contractor. The CONSULTANT has and shall retain the right to exercise full control and supervision of all persons assisting the CONSULTANT in the performance of said services hereunder, the CITY only being concerned with the finished results of the work being performed.

**5.** Neither CONSULTANT nor CONSULTANT's employees shall in any event be entitled to any benefits to which CITY employees are entitled, including, but not limited to, overtime, retirement benefits, workers' compensation benefits, injury leave or other leave benefits. CONSULTANT is solely responsible for all such matters, as well as compliance with social security and income tax withholding and all other regulations and laws governing such matters.

**6. STANDARD OF PERFORMANCE.** While performing the PROFESSIONAL SERVICES, CONSULTANT shall exercise the reasonable



professional care and skill customarily exercised by reputable members of CONSULTANT's profession practicing in the metropolitan Southern California Area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**7. WARRANTY OF CONSULTANT's LICENSE.** CONSULTANT warrants that CONSULTANT is properly licensed with the applicable government agency(ies) for any PROFESSIONAL SERVICES that require a license. If the CONSULTANT lacks such license, this AGREEMENT is void and of no effect.

**8. AUDIT OF RECORDS.**

**7.1.** At any time during normal business hours and as often as may be deemed necessary the CONSULTANT shall make available to a representative of CITY for examination all of its records with respect to all matters covered by this AGREEMENT and shall permit CITY to audit, examine and/or reproduce such records. CONSULTANT shall retain such financial and program service records for at least four (4) years after termination or final payment under this AGREEMENT.

**7.2.** The CONSULTANT shall include the CITY's right under this section in any and all of their subcontracts, and shall ensure that these sections are binding upon all subcontractors.

**8. CONFIDENTIALITY.** All professional services performed by CONSULTANT, including but not limited to all drafts, data, correspondence, proposals, reports, research and estimates compiled or composed by CONSULTANT, pursuant to this AGREEMENT, are for the sole use of the CITY, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the CITY. This provision does not apply to information that (a) was publicly known, or otherwise known to CONSULTANT, at the time that it was disclosed to CONSULTANT by the CITY, (b) subsequently becomes publicly known through no act or omission of CONSULTANT or (c) otherwise becomes known to CONSULTANT other than through disclosure by the CITY. Except for any subcontractors that may be allowed upon prior agreement, neither the documents nor their contents shall be released to any third party without the prior written consent of the CITY. The sole purpose of this section is to prevent disclosure of CITY's confidential and proprietary information by CONSULTANT or subcontractors.

**9. CONFLICTS OF INTEREST.**

**9.1.** CONSULTANT shall at all times comply with all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including but not limited to California Government Code Section 81000 *et seq.* (Political Reform Act) and Section 1090 *et seq.* CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the CITY in which the CONSULTANT has a financial interest

as defined in Government Code Section 87103. CONSULTANT represents that it has no knowledge of any financial interests which would require it to disqualify itself from any matter on which it might perform services for the CITY.

9.2. If, in performing the PROFESSIONAL SERVICES set forth in this AGREEMENT, the CONSULTANT makes, or participates in, a "governmental decision" as described in Title 2, Section 18700.3(a) of the California Code of Regulations, or performs the same or substantially all the same duties for the CITY that would otherwise be performed by a CITY employee holding a position specified in the department's conflict of interest code, the CONSULTANT shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the CONSULTANT's relevant financial interests.

9.3.  If checked, the CONSULTANT shall comply with all of the reporting requirements of the Political Reform Act. Specifically, the CONSULTANT shall file a Fair Political Practices Commission Form 700 (Assuming Office Statement) within thirty (30) calendar days of the CITY's determination that the CONSULTANT is subject to a conflict of interest code. The CONSULTANT shall also file a Form 700 (Annual Statement) on or before April 1 of each year of the AGREEMENT, disclosing any financial interests held during the previous calendar year for which the CONSULTANT was subject to a conflict of interest code.

9.4. CITY represents that pursuant to California Government Code Section 1090 *et seq.*, none of its elected officials, officers, or employees has an interest in this AGREEMENT.

10. **DISPOSITION AND OWNERSHIP OF DOCUMENTS.** CONSULTANT's files for matters involving the PROFESSIONAL SERVICES, and works in progress thereof, are the property of the City and upon termination of this AGREEMENT, shall, upon demand, be immediately delivered to the City. CONSULTANT may retain copies of pertinent documents, unless expressly prohibited or restricted by the City.

## 11. **INSURANCE**

11.1. CONSULTANT shall procure and maintain for the duration of the AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONSULTANT, their agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than "A" and "VII" unless otherwise approved in writing by the CITY's Risk Manager.

11.2. CONSULTANT's liabilities, including but not limited to CONSULTANT's indemnity obligations, under this AGREEMENT, shall not be deemed limited in any way to the insurance coverage required herein. All policies of insurance required hereunder must provide that the CITY is entitled to thirty (30) days prior written notice of cancellation or non-renewal of the policy or policies, or ten (10) days prior

written notice for cancellation due to non-payment of premium. Maintenance of specified insurance coverage is a material element of this AGREEMENT.

**11.3. Types and Amounts Required.** CONSULTANT shall maintain, at minimum, the following insurance coverage for the duration of this AGREEMENT:

**11.3.1.**  **Commercial General Liability (CGL).** If checked the CONSULTANT shall maintain CGL Insurance written on an ISO Occurrence form or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of \$1,000,000.00 per occurrence and subject to an annual aggregate of \$2,000,000.00. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

**11.3.2.**  **Commercial Automobile Liability.** If checked the CONSULTANT shall maintain Commercial Automobile Liability Insurance for all of the CONSULTANT's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1,000,000.00 per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

**11.3.3.**  **Workers' Compensation.** If checked the CONSULTANT shall maintain Worker's Compensation insurance for all of the CONSULTANT's employees who are subject to this AGREEMENT and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum \$1,000,000.00 employers' liability coverage. The CONSULTANT shall provide an endorsement that the insurer waives the right of subrogation against the CITY and its respective elected officials, officers, employees, agents and representatives.

**11.3.4.**  **Professional Liability.** If checked the CONSULTANT shall also maintain Professional Liability (errors and omissions) coverage with a limit of \$1,000,000 per claim and \$2,000,000 annual aggregate. The CONSULTANT shall ensure both that (1) the policy retroactive date is on or before the date of commencement of the Scope of Services; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Scope of Services or termination of this AGREEMENT whichever occurs last. The CONSULTANT agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the CITY's exposure to loss. All defense costs shall be outside the limits of the policy.

**11.4. Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions are the responsibility of the CONSULTANT and must be declared to and approved by the CITY. At the option of the CITY, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the

CITY, its officers, officials, employees and volunteers, or (2) the CONSULTANT shall provide a financial guarantee satisfactory to the CITY guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

**11.5. Additional Required Provisions.** The commercial general liability and automobile liability policies shall contain, or be endorsed to contain, the following provisions:

**11.5.1.** The CITY, its officers, officials, employees, and representatives shall be named as additional insureds. The CITY's additional insured status must be reflected on additional insured endorsement form (20 10 1185 or 20 10 1001 and 20 37 1001) which shall be submitted to the CITY.

**11.5.2.** The policies are primary and non-contributory to any insurance that may be carried by the CITY, as reflected in an endorsement which shall be submitted to the CITY.

**11.6. Verification of Coverage.** CONSULTANT shall furnish the CITY with original certificates and amendatory endorsements effecting coverage required by this Section. The endorsement should be on forms provided by the CITY or on other than the CITY's forms provided those endorsements conform to CITY requirements. All certificates and endorsements are to be received and approved by the CITY before work commences. The CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

**12. INDEMNIFICATION.** CONSULTANT agrees to indemnify, defend, and hold harmless the CITY, and its officers, officials, agents and employees from any and all claims, demands, costs or liability that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, its employees, agents, and subcontractors in the performance of services under this AGREEMENT. CONSULTANT's duty to indemnify under this section shall not include liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence or willful misconduct by the CITY or its elected officials, officers, agents, and employees. CONSULTANT's indemnification obligations shall not be limited by the insurance provisions of this AGREEMENT. The PARTIES expressly agree that any payment, attorney's fees, costs or expense CITY incurs or makes to or on behalf of an injured employee under the CITY's self-administered workers' compensation is included as a loss, expense, or cost for the purposes of this section, and that this section will survive the expiration or early termination of this AGREEMENT.

**13. NON-DISCRIMINATION.** CONSULTANT shall not discriminate against any employee or applicant for employment because of sex, race, color, age, religion, ancestry, national origin, military or veteran status, disability, medical condition, genetic information, marital status, or sexual orientation. CONSULTANT shall take affirmative

action to insure that applicants are employed and that employees are treated during employment without regard to their sex, race, color, age, religion, ancestry, national origin, military or veteran status, disability, medical condition, genetic information, marital status, or sexual orientation and shall make reasonable accommodation to qualified individuals with disabilities or medical conditions. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by CITY setting forth the provisions of this non-discrimination clause.

**14. NOTICES.** All communications to either party by the other party shall be delivered to the persons listed below. Any such written communications by mail shall be conclusively deemed to have been received by the addressee five (5) calendar days after the deposit thereof in the United States mail, postage prepaid and properly addressed as noted below.

Gregory Wade  
City Manager  
City of Solana Beach  
635 S. Highway 101  
Solana Beach, CA 92075

Steven H. Kaufmann  
Nossaman, LLP  
777 South Figueroa Street, 34th Floor  
Los Angeles, CA 90017

**15. ASSIGNABILITY.** This AGREEMENT and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT's duties be delegated or sub-contracted, without the express written consent of the CITY.

**16. CALIFORNIA LAW; VENUE.** This AGREEMENT shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this AGREEMENT shall be brought in the county of San Diego, California. CONSULTANT hereby waives any and all rights it might have pursuant to California Code of Civil Procedure Section 394.

**17. COMPLIANCE WITH LAWS.** The CONSULTANT shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this AGREEMENT whether now in force or subsequently enacted. This includes maintaining a City of Solana Beach Business Certificate.

**18. ENTIRE AGREEMENT.** This AGREEMENT sets forth the entire understanding of the PARTIES with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein. No change, alteration, or modification of the terms or conditions of this AGREEMENT, and no verbal understanding of the PARTIES, their officers, agents, or employees shall be valid unless agreed to in writing by both PARTIES.

19. **NO WAIVER.** No failure of either the CITY or the CONSULTANT to insist upon the strict performance by the other of any covenant, term or condition of this AGREEMENT, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this AGREEMENT shall constitute a waiver of any such breach of such covenant, term or condition.

20. **SEVERABILITY.** The unenforceability, invalidity, or illegality of any provision of this AGREEMENT shall not render any other provision unenforceable, invalid, or illegal.

21. **DRAFTING AMBIGUITIES.** The PARTIES agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this AGREEMENT, and the decision of whether or not to seek advice of counsel with respect to this AGREEMENT is a decision which is the sole responsibility of each Party. This AGREEMENT shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the AGREEMENT.

22. **CONFLICTS BETWEEN TERMS.** If an apparent conflict or inconsistency exists between the main body of this AGREEMENT and the Exhibits, the main body of this AGREEMENT shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this AGREEMENT, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this AGREEMENT, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this AGREEMENT.

23. **EXHIBITS INCORPORATED.** All Exhibits referenced in this AGREEMENT are incorporated into the AGREEMENT by this reference.

24. **SIGNING AUTHORITY.**

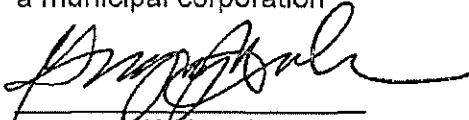
24.1. The representative for each Party signing on behalf of a corporation, partnership, joint venture or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, or entity and agrees to hold the other Party or PARTIES hereto harmless if it is later determined that such authority does not exist.

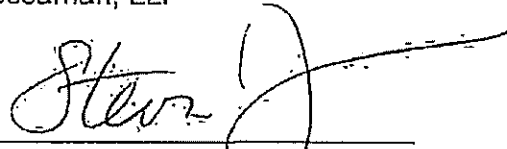
24.2.  If checked, a proper notary acknowledgement of execution by CONSULTANT must be attached.

**IN WITNESS WHEREOF,** the PARTIES hereto have executed this AGREEMENT the day and year first hereinabove written.

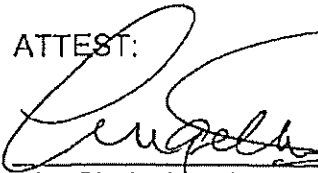
CITY of SOLANA BEACH,  
a municipal corporation

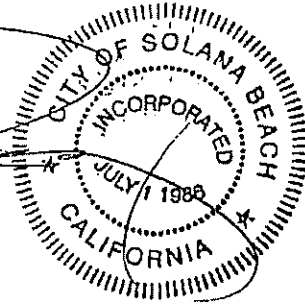
Nossaman, LLP

  
\_\_\_\_\_  
Gregory Wade, City Manager

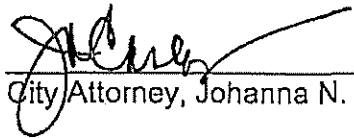
  
\_\_\_\_\_  
Steven H. Kaufmann, Partner

ATTEST:

  
\_\_\_\_\_  
City Clerk, Angela Ivey



APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney, Johanna N. Canlas

**EXHIBIT "A"**  
**SCOPE OF SERVICES AND FEE**

**A. SCOPE OF SERVICES**

To assist, advise and represent the CITY as special counsel in connection with the matters of *Steinberg v. City of Solana Beach*, Case No. 37-2013-00044897-CU-WMNC, *Homeowner's Association of the Solana Beach & Tennis Club v. City of Solana Beach*, Case No. 37-2013-00046245-CU-WM-NC, *Beach & Bluff Conservancy v. City of Solana Beach*, Case No. 37-2013-00046561-CU-WM-NC, *Hamilton v. City of Solana Beach*, Case No. 37-2014-00034514-CU-WM-NC, and any related cases.

**B. SCHEDULE OF FEES**

1. The City agrees to pay to CONSULTANT an hourly rate of four hundred twenty-five dollars (\$425.00) per hour for services rendered. CONSULTANT shall bill the CITY for work provided and shall present a written request for such payment monthly.

2. Fees for legal services will be paid on a time and material basis in accordance with the above fee schedule. CONSULTANT's fee shall include and CONSULTANT shall be responsible for the payment of all federal, state, and local taxes of any kind which are attributable to the compensation received.

3. **Billing Increments.** All invoices shall be detailed in six (6) minute, or one-tenth (0.1) hour, increments.

3. **Description of Work Performed.** The invoice must briefly describe each item of work performed, the identity of the attorney, paralegal, or expert who performed the work and the date of the work. For example, if four distinct tasks were done on a file in one day, the tasks shall be separately noted on the bill with an individual time charge for each.

4. **Prohibition Against Payment for Specified Activities.** Absent special circumstances and the prior written approval by the City, the City is not obligated to pay for the following:

a. **Secretarial Time.** The City will not pay for secretarial time or secretarial overtime. The City does not pay attorneys or paralegals for secretarial tasks or tasks that should be subsumed into the attorneys' overhead. For example, the City will not reimburse attorneys for time spent faxing, mailing, arranging for messengers, or calendaring.

b. **Word Processing.** The City does not reimburse for the costs of word processing.



**c. Minimum Billing Time.** The City will not pay minimum billing time charges. Attorney shall charge only for actual time spent. For example, minimum of 12 minutes for a phone call or 24 minutes for letters is unreasonable unless that is an accurate measure of time spent.

**d. File Opening and Closing.** The City will not pay for time for file opening or file closing. These are not true tasks or adequate descriptions for legal activities.

**e. Prior Work.** The City will not pay for products that attorneys have performed and billed for in other matters. This applies to the use of forms.

**f. Travel costs.** CONSULTANT shall not be reimbursed for travel cost or mileage without the express consent of the CITY.

## **5. Reimbursable Expenses.**

**a. Photocopying Charges.** The City will reimburse for photocopying costs only on a per-copy basis. The maximum charge reimbursable is \$0.20 per page for the copying of black and white documents and \$1.00 per page for the copying of color documents, including any time spent making the copies. Outside copying services will be used if the cost of doing so is less expensive to the City.

**b. Facsimile Charges.** Facsimile transmission may be used when necessary. The City will pay for facsimile transmissions based upon reasonable rates associated with actual cost, excluding secretarial time, not to exceed \$1.00 per page.

**c. Telephone/Mail Delivery Charges.** Long distance telephone, cellular phone, and postal charges will be reimbursed at actual cost. FedEx and similar delivery services shall be reimbursed only if CONSULTANT has obtained the prior approval of the City, through the City Manager. Charges associated with delivery of materials, service of subpoenas, and other documents, and filing by messenger services will be reimbursed at actual cost. CONSULTANT should use reasonable efforts to accomplish work sufficiently in advance to allow delivery, filing, and service by U.S. Mail when not otherwise prescribed by law. Rush delivery costs will be reimbursed only if attorneys have obtained the prior approval of the City, through the City Manager.

**d. Mileage.** Mileage reimbursement for CONSULTANT will be at \$.55 per mile or the current IRS rate with prior approval from the City.

**e. Invoice Review and Discussion.** The City will not pay for time used to prepare invoices or for discussion of invoices. If the City has questions about invoices or request additional information on invoices, attorneys must provide the information without charge to the City.

**C. RETURN AND DISPOSITION OF FILES**

After its services conclude, CONSULTANT will deliver to CITY the files that it created in providing representation to CITY, along with any funds or CITY property in its possession.



# STAFF REPORT CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Gregory Wade, City Manager  
**MEETING DATE:** June 28, 2017  
**ORIGINATING DEPT:** Engineering Department  
**SUBJECT:** **Consideration of Resolution No. 2017-097: Award Agreement for Sewer and Storm Drain Maintenance and Video Inspection**

---

## **BACKGROUND:**

The City currently has a service agreement for basic cleaning of sewer and as-needed maintenance services for the City's storm drain system that includes an annual scheduled cleaning of an estimated 255,000 feet of sewer line. Preventative maintenance is also performed under this agreement on the two low-flow diverters located at the Fletcher Cove Park and Seascape Sur Beach Access, the siphon structure in San Elijo Lagoon, sewer laterals at several City facilities and over 30 storm drain catch basins throughout the City.

In addition to routine cleaning and preventative maintenance, the service agreement includes a video inspection component and an "on-call" component to the contract to handle investigations, emergencies and spills as directed by Staff.

The City's service agreement with the current service provider will terminate at the end of this fiscal year on June 30, 2017. On April 27, 2017, Staff posted a Request for Proposals (RFP) to solicit proposals from private industry service providers.

This item is before the City Council to consider the proposals received and to consider an agreement for the services effective July 1, 2017 for a period of one year and authorize the City Manager to approve extensions to the agreement for up to four additional one-year terms.

CITY COUNCIL ACTION:

---

---

## **DISCUSSION:**

In April 2017, Staff evaluated the sewer cleaning, storm drain cleaning, and video needs and prepared an RFP to solicit proposals for providing such services. A summary of the required services are detailed below.

- CCTV inspection without cleaning – Storm Drain (as-needed)
- CCTV inspection without cleaning – Sewer Line
- General sewer line cleaning (per year)
- Herbicidal foaming to eliminate roots in sewer lines (as-needed)
- Clean hot-spot sewer lines
- General storm cleaning (as-needed)
- Clean siphon structure
- Clean Continuous Deflective Separation (CDS) Units
- Preventative sewer line cleaning
- Clean manhole and sewer line to restrooms at Fletcher Cove Park
- Inspect the Stevens Creek storm drain box channel
- Clean grease interceptor wet well and sewer line to street at La Colonia Park
- Dye testing to check for leaks (as-needed)
- On-call/emergency call outs (sewer spill, storm drain stoppage, etc.)
- Miscellaneous sewer/storm drain maintenance
- Clean 35 catch basins
- Additional, unanticipated services (as needed)
- Mark out sewer line locations for Dig Alert requests (as-needed)

The scope of work identified above falls under the state Public Contracts Code (PCC) exception to public contracting requirements. Section 20161 of the PCC specifically exempts sewer maintenance work from the competitive bidding process. Further, Government Code section 4526 specifies that contracts for professional services do not need to be competitively bid, but rather, may be awarded based upon “demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.” Thus, cost is not the sole determinative factor in deciding whether to award such professional services contracts.

In response to the RFP issued by the City in April 2017, four proposals were submitted to the City. The RFP requested the contractors provide information regarding their understanding of the project, their experience in performing similar types of services, their capability to provide services for the size of the City’s network, their professionalism and their ability to respond to emergencies. The RFP also requested that the cost of these services be calculated using unit prices for each type of service multiplied by the anticipated quantities or frequencies of the services. Table 1 on the next page provides a list of all service providers and the corresponding cost for the services as listed above.

**Table 1 – Bid Results**

| <b>Contractors</b>  | <b>Bid Amount</b> |
|---|-------------------|
| Affordable Pipeline Services  | \$431,170         |
| Innerline Engineering   | \$440,350         |
| Downstream Services   | \$782,524         |
| Hoffman Southwest Corp., dba<br>Professional Pipe Services (Pro-Pipe) | \$851,200         |

Three Staff members then independently reviewed the proposals, rated the contractor's qualifications and ranked them based on the above mentioned criteria. All raters agreed that Affordable Pipeline Services (Affordable) is the most qualified candidate. Affordable is a local service provider with a maintenance yard and headquarters office located within 13 miles of the City. Affordable responded to the RFP very well and provided ample evidence in support of their qualifications and experience. All raters agree that Affordable would be the best fit for the City's Sewer maintenance program.

This contract is structured to provide "anticipated routine work" such as sewer cleaning, root foaming and videotaping as well as "scheduled preventative maintenance" such as monthly cleaning of the CDS units, monthly services for the siphon structure, and sewer main and lateral cleaning at City facilities. The contract also includes unanticipated components such as emergency/on-call services, as-needed services like dye testing and other miscellaneous services. Because of the nature of these types of services, it is impossible to determine the exact contract amount for these unanticipated items. For the purpose of comparing the cost of services from each service provider, Staff used the exact quantities and metrics to estimate the cost of the contract for the first year as presented in Table 1.

The costs presented in Table 1 include a 7.5% contingency to cover the cost of unanticipated emergency responses. Staff will carefully monitor all aspects of the contract including the unanticipated emergency responses to ensure the work provided each year does not exceed the budgeted amount. If at any time during the terms of this contract it is determined that the contingency amount may be exceeded, Staff will return to the City Council to seek and appropriate additional funds.

While the evaluation process was independent of the proposed cost, as shown above, Affordable also offered the lowest cost for similar services in addition to being the most qualified contractor for this work.

**CEQA COMPLIANCE STATEMENT:**

Exempt pursuant to Section 15301(b) of the State CEQA Guidelines.

**FISCAL IMPACT:**

Cost for the sewer and storm drain maintenance contract comes from two budget units, with the bulk of the cost each year for sewer line cleaning coming from the Sanitation Professional Services Account. Storm drain cleaning and related storm drain facility maintenance is funded from the Environmental Professional Services Account.

Staff recommends the City Council authorize the City Manager to enter into a service maintenance agreement with Affordable in the amount of \$401,170 for maintenance services for sewer and storm drain system plus an additional \$30,000 contingency amount for unforeseen incidents for a yearly contract total of \$431,170.

**WORK PLAN:**

Maintenance of the City's sanitary sewer system and storm drains is consistent with the Environmental Sustainability section of the proposed 2017/18 Work Plan.

**OPTIONS:**

- Adopt Staff recommendations.
- Provide direction to Staff and award a modified maintenance contract.
- Reject maintenance bids and provide direction to Staff.


**DEPARTMENT RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution No. 2017-097:

1. Waiving the formal construction bid process because the Request for Proposals (RFP) process provides a more efficient, effective, and convenient method for hiring a sewer maintenance contractor that would provide the higher level of service required pursuant to Solana Beach Municipal Code section 3.08.140(G).
2. Awarding a contract to Affordable Pipeline Service, Inc. in the amount not to exceed \$431,170, in Fiscal Year (FY) 2017/18, for the Sewer and Storm Drain Maintenance and Video Inspection Agreement.
3. Authorizing the City Manager to execute the contract on behalf of the City.
4. Authorizing the City Manager to extend the agreement for up to four additional one year terms, at the City's option, at an amount not to exceed the amount identified and budgeted for each subsequent year.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation.

  
\_\_\_\_\_  
Gregory Wade, City Manager

Attachments:

1. Resolution No. 2017-097

**RESOLUTION NO. 2017-097**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, AWARDING THE SEWER AND STORM DRAIN MAINTENANCE AND VIDEO INSPECTION CONTRACT TO AFFORDABLE PIPELINE SERVICES, INC. IN THE AMOUNT OF \$431,170**

**WHEREAS**, the work associated with the sewer and storm drain maintenance and video inspection contract has been classified as a service contract or professional service instead of a public works construction project per section 20161 of the Public Contract Code (PCC); and

**WHEREAS**, the PCC specifically exempts sewer maintenance work from the competitive bidding process of the public contracting law; and

**WHEREAS**, Government Code section 4526 specifies that contracts for professional services do not need to be competitively bid, but rather, may be awarded based upon “demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.”; and

**WHEREAS**, the formal bid requirements under Solana Beach Municipal Code (SBMC) section 3.08.140 may be waived by the City Council when it is necessary or convenient for the management of the of the City’s affairs pursuant to SBMC section 3.08.140(G); and

**WHEREAS**, a flexible contracting process involving sewer maintenance and related services facilitates a more efficient and convenient management of City’s affairs; and

**WHEREAS**, a Request for Proposals (RFP) process provides a more efficient and effective method for hiring a sewer maintenance contractor that would provide the higher level of service required; and

**WHEREAS**, the City issued a Request for Proposals (RFP) for these professional services in April 2017 that was consistent with the City’s purchasing ordinance.

**NOW, THEREFORE**, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the above recitations are true and correct.
2. That the City Council waive the formal bid process because the Request for Proposals (RFP) process provides a more efficient, effective, and convenient method for hiring a sewer maintenance contractor that would provide the higher



level of service required pursuant to Solana Beach Municipal Code section 3.08.140(G).

3. That the City Council awards the contract to Affordable Pipeline Services, Inc. in the amount not to exceed \$431,170 in Fiscal Year (FY) 2017/18 for the Sewer and Storm Drain Maintenance and Video Inspection.
4. That the City Council authorizes the City Manager to execute the contract on behalf of the City.
5. That the City Council authorizes the City Manager to extend the agreement for up to four additional one year terms, at the City's option, at an amount not to exceed the amount identified and budgeted for each subsequent year.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Solana Beach, California, held on the 28th day of June, 2017 by the following vote.

AYES: Councilmembers –  
NOES: Councilmembers –  
ABSENT: Councilmembers –  
ABSTAIN: Councilmembers –

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk



# STAFF REPORT

## CITY OF SOLANA BEACH/SOLANA BEACH SUCCESSOR AGENCY/PUBLIC FINANCING AUTHORITY

**TO:** Honorable Mayor/Chair and City Councilmembers/Directors  
**FROM:** Gregory Wade, City Manager/Executive Director  
**MEETING DATE:** June 28, 2017  
**ORIGINATING DEPT:** Finance  
**SUBJECT:** **Approval of Debt Management Policy**

---

### **BACKGROUND:**

In September 2016, the Governor signed SB 1029 (California Debt and Investment Advisory Commission: Accountability Reports) into law. The intent of this bill was to facilitate improved financial transparency and accessibility to information about public debt.

SB 1029 requires state and local agencies to adopt comprehensive debt management policies, reflecting local, state, and federal laws and regulations. It was recommended that public agency debt management policies reflect recommendations set forth by the Government Finance Officers Association (GFOA), a professional organization of over 18,000 public officials united to enhance and promote the professional management of governmental financial resources. Additionally, the legislation requires all state and local debt issuance be published in a single, transparent online database that allows the citizens of California to analyze, interpret, and understand how debt authorized by the public is utilized to finance facilities and services at the state and local level.

The City of Solana Beach (City) recently engaged the services of Kenneth Dieker of Del Rio Advisors, LLC (Municipal Advisor) to assist Staff in the refunding process for its 2006 Tax Allocation Bonds and 2007 Subordinate Sewer Revenue Bonds which requires that the City adopt a Debt Management Policy.

The item is before City Council to request approval of a Debt Management Policy (Attachment 1).

### **DISCUSSION:**

The City has had long standing practices and procedures that are followed whenever the issuance of debt is considered. Up until now, these practices have been implemented without a formal local debt policy.

COUNCIL ACTION:

---

---

Pursuant to Government Code Section 8855, a Report of Proposed Debt Issuance must be filed with the California Debt and Investment Advisory Commission ("CDIAC") before the sale of any bond issue. Usually, Bond Counsel makes these filings on behalf of the City.

SB 1029 was signed into law on September 12, 2016. Among other things, SB 1029 imposes a new requirement that each Report of Proposed Debt Issuance must include a certification by the issuer that it has adopted a local debt policy and that the contemplated bond issue is consistent with such adopted policy. SB 1029 provides that the local debt policy must include the following:

1. Purpose for which the debt proceeds may be used;
2. Types of debt that may be issued;
3. Relationship of the debt to, and integration with, the issuer's capital improvement program or budget, if applicable;
4. Policy goals related to the issuer's planning goals and objectives; and
5. Internal control procedures that the issuer has implemented, or will implement, to ensure that the proceeds of the proposed debt issuance will be directed to the intended use.

The City does not currently have a Debt Management Policy. Adopting a Debt Management Policy will bring the City into compliance with SB 1029.

**CEQA COMPLIANCE STATEMENT:**

Not a project as defined by CEQA

**FISCAL IMPACT:**

N/A

**WORK PLAN:**

N/A

**OPTIONS:**

- Approve Staff recommendation.
- Approve Staff recommendation with alternative amendments / modifications.
- Deny Staff recommendation.

**DEPARTMENT RECOMMENDATION:**

Staff recommends that the City Council adopt:

1. Resolution 2017-107 approving the City of Solana Beach's Debt Management Policy.
2. Resolution SA-019 approving the Successor Agency's Debt Management Policy.
3. Resolution PFA-004 approving the Solana Beach Public Financing Authority's Debt Management Policy.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation



\_\_\_\_\_  
Gregory Wade, City Manager

Attachments:

1. Debt Management Policy
2. Resolution 2017-107
3. Resolution SA-019
4. Resolution PFA-004

**THE CITY OF SOLANA BEACH  
THE SOLANA BEACH PUBLIC FINANCING AUTHORITY  
SUCCESSOR AGENCY TO THE SOLANA BEACH REDEVELOPMENT AGENCY  
DEBT MANAGEMENT POLICY**

This Debt Management Policy (the “Debt Policy”) of the City of Solana Beach, the Solana Beach Public Financing Authority and the Successor Agency to the Solana Beach Redevelopment Agency was approved by the respective governing body on June 28, 2017. The Debt Policy may be amended by the governing body as it deems appropriate from time to time in the prudent management of the debt.

The Debt Policy has been developed to provide guidance in the issuance and management of debt and is intended to comply with Government Code Section 8855(i), effective on January 1, 2017.

**1. Purpose**

This Debt Policy shall govern all debt undertaken by the City of Solana Beach, the Solana Beach Public Financing Authority and the Successor Agency to the Solana Beach Redevelopment Agency (individually the “OBLIGOR”). The OBLIGOR hereby recognizes that a fiscally prudent debt policy is required to:

- Maintain a sound financial position.
- Ensure flexibility to respond to changes in future service priorities, revenue levels, and operating expenses.
- Protect credit-worthiness.
- Ensure that all debt is structured to protect both current and future taxpayers, ratepayers and constituents.
- Ensure that the debt is consistent with the planning goals and objectives, approved capital improvement program and adopted budget, as applicable.

**2. Policies**

**A. Purposes For Which Debt May Be Issued**

- (i) Long-Term Debt. Long-term debt may be issued to finance or refinance the construction, acquisition, and rehabilitation of capital improvements and facilities, equipment and land to be owned and/or operated by the OBLIGOR.
  - (a) Long-term debt financings are appropriate when the following conditions exist:
    - When the project to be financed is necessary to provide basic services.
    - When the project to be financed will provide benefit to constituents over multiple years.

- When total debt does not constitute an unreasonable burden to the taxpayers, ratepayers or constituents.
  - When the debt is used to refinance outstanding debt in order to produce debt service savings or to realize the benefits of a debt restructuring.
- (b) Long-term debt financings will not generally be considered appropriate for current operating expenses and routine maintenance expenses.
- (c) The OBLIGOR may use long-term debt financings subject to the following conditions:
- The project to be financed has been or will be approved by the governing body.
  - The weighted average maturity of the debt (or the portion of the debt allocated to the project) will not exceed the average useful life of the project to be financed by more than 20%, unless specific conditions exist that would mitigate the extension of time to repay the debt and it would not cause the OBLIGOR to violate any covenants to maintain the tax-exempt status of such debt, if applicable.
  - The OBLIGOR estimates that sufficient income or revenues will be available to service the debt through its maturity.
  - The OBLIGOR determines that the issuance of the debt will comply with the applicable requirements of local, state and federal law.
- (ii) Short-term debt. Short-term borrowing may be issued to provide financing for operational cash flow in order to maintain a steady and even cash flow balance. Short-term debt may also be used to finance short-lived assets or capital projects such as lease-purchase financing for equipment.
- (iii) Financings on Behalf of Other Entities. The OBLIGOR may also find it beneficial to issue debt on behalf of other governmental agencies or private third parties to further the public purposes of the OBLIGOR. In such cases, the OBLIGOR shall take reasonable steps to confirm the financial feasibility of the project to be financed and the financial solvency of any borrower and that the issuance of such debt is consistent with the policies set forth herein.

## **B. Types of Debt**

In order to maximize the financial options available to benefit the public, it is the policy of the OBLIGOR to allow for the consideration of issuing all generally accepted types of debt, including, but not exclusive to the following:

- General Obligation (GO) Bonds: General Obligation Bonds are suitable for use in the construction or acquisition of improvements to real property that

benefit the public at large. Examples of projects include libraries, parks, and public safety facilities. All GO bonds shall be authorized by the requisite number of voters in order to pass.

- Revenue Bonds: Revenue Bonds are limited-liability obligations tied to a specific enterprise or special fund revenue stream where the projects financed clearly benefit or relate to the enterprise or are otherwise permissible uses of the special revenue. An example of projects that would be financed by a Revenue Bond would be water or wastewater improvements, which would be paid back with money raised from rates and charges from water and/or wastewater users. Generally, no voter approval is required to issue this type of obligation, but in some cases the OBLIGOR must comply with proposition 218 regarding rate adjustments.
- Lease-Backed Debt/Certificates of Participation (COP): Issuance of Lease-backed debt is a commonly used form of debt that allows a City to finance projects where the debt service is secured via a lease or installment agreement and where the payments are budgeted in the annual budget appropriation by the City from the general fund. Lease-Backed debt does not constitute indebtedness under the state or the City's constitutional debt limit and does not require voter approval.
- Lease Revenue Bonds: Issuance of Lease Revenue Bonds is a commonly used form of debt that allows the OBLIGOR to finance projects where the debt service is secured via a lease agreement and where the payments are budgeted in the annual budget appropriations. Lease Revenue Bonds do not constitute indebtedness under any constitutional debt limit and do not require voter approval.
- Special Assessment/Special District Debt: The OBLIGOR will consider duly filed petitions and other requests from interested parties for the use of debt financing secured by property based assessments or special taxes in order to provide for necessary infrastructure for new development or in connection with any duly authorized annexation or other process that extends the service area of the OBLIGOR, but only under strict guidelines adopted by the governing body, which may include, without limitation, minimum value-to-lien ratios and maximum tax burdens. Examples of this type of debt are Assessment Districts (AD) and Community Facilities Districts (CFD, more commonly known as Mello-Roos Districts). To protect bondholders as well as the reputation and credit rating of the OBLIGOR, the OBLIGOR will also comply with all State guidelines regarding the issuance and administration of special tax or special assessment debt. Under no circumstances shall any special tax or special assessment be determined or changed with reference to the value of the property subject to any tax or assessment.
- Bond or Grant Anticipation Notes: Bond or Grant Anticipation Notes are short-term debt obligations that are issued to generate funds for upcoming projects or to delay a bond issue with the expectation that the Bond or Grant Anticipation Notes will be payable from the proceeds from the sale of the bonds or from grant proceeds. Bond or Grant Anticipation Notes may be issued to preserve the long-term financing options of the OBLIGOR in the interest of its taxpayers, ratepayers and constituents and to manage the capital project financing needs of the OBLIGOR during periods of instability in the financial markets.

- Clean Water State Revolving Funds (“SRF”), Infrastructure Bank (“I-Bank”) or United States Department of Agriculture (“USDA”) loans: The SRF loan program was established by the federal Clean Water Act to finance the protection and improvement of water quality. The I-Bank was established to provide low cost borrowing to applicants. The USDA offers a loan program for disadvantaged communities. The OBLIGOR may apply to the State, the I-Bank or USDA for the financing of capital project needs. SRF, I-Bank and USDA loans should be compared to other types of borrowings due to their relatively low transaction cost.
- Tax Allocation Bonds: Tax Allocation Bonds are special obligations that are secured by the allocation of tax increment revenues that are generated by increased property taxes in the designated redevelopment area. Tax Allocation Bonds are not debt of the City. Due to changes in the law affecting California Redevelopment agencies with the passage of ABX1 26 (as amended, the Dissolution Act) as codified in the California Health and Safety Code, the Community Redevelopment Agency of the City of Solana Beach (RDA) was dissolved as of February 1, 2012, and its operations substantially eliminated but for the continuation of certain enforceable RDA obligations to be administered by the Successor Agency to the Solana Beach Community Redevelopment Agency (Successor Agency). The Successor Agency may issue Tax Allocation Bonds to refinance outstanding obligations of the RDA, subject to limitations included in the Dissolution Act.
- Direct Placements and Equipment Leases: Direct Placements and Equipment Leases are non-public, negotiated transactions with commercial banks, commercial equipment leasing companies and institutional or accredited investors. Direct Placements and Equipment Leases should be compared to other types of borrowings due to their relatively low transaction cost. The OBLIGOR may from time to time find that other forms of debt would be beneficial to further its public purposes and may approve such debt without an amendment of this Debt Policy.

Debt shall be issued at fixed interest rates unless the OBLIGOR makes a specific determination that a variable interest rate issue will benefit the OBLIGOR. Debt other than Direct Placements and Equipment Leases shall be issued at negotiated or competitive sale, as determined to be beneficial by the OBLIGOR under the facts and circumstances of each transaction.

### **C. Relationship of Debt to, and Integration With Capital Improvement Program and Budget**

The OBLIGOR intends to issue debt for the purposes stated in this Debt Policy and to implement policy decisions incorporated in the capital budget and capital improvement plan.

The OBLIGOR shall strive to fund the upkeep and maintenance of its infrastructure and facilities due to normal wear and tear through the expenditure of available operating revenues. The OBLIGOR shall seek to avoid the use of debt to fund infrastructure and facilities improvements that are the result of normal wear and tear, unless a specific revenue source has been identified for this purpose.

The OBLIGOR shall integrate its debt issuances with the goals of its capital improvement program by timing the issuance of debt to ensure that projects are available when needed in furtherance of the public purposes.



The OBLIGOR shall seek to issue debt in a timely manner to avoid having to make unplanned expenditures for capital improvements or equipment from its general fund.

#### **D. Policy Goals Related to Planning Goals and Objectives**

The OBLIGOR is committed to financial planning, maintaining appropriate reserves levels and employing prudent practices in governance, management and budget administration. The OBLIGOR intends to issue debt for the purposes stated in this Debt Policy and to implement policy decisions incorporated in the approved annual budget.

It is a policy goal of the OBLIGOR to protect taxpayers, ratepayers and constituents by utilizing conservative financing methods and techniques and to obtain the highest practical credit ratings and the lowest practical borrowing costs.

The OBLIGOR will comply with applicable local, state and federal law as it pertains to the maximum term of debt and the procedures for levying and imposing any related taxes, assessments, rates and charges.

When refinancing debt, it shall be the policy goal of the OBLIGOR to realize, whenever possible, and subject to any overriding non-financial policy considerations, a minimum net present value debt service savings equal to or greater than 3% of the refunded principal amount.

#### **E. Internal Control Procedures**

When issuing debt, in addition to complying with the terms of this Debt Policy, the OBLIGOR shall comply with any other applicable policies regarding initial bond disclosure, continuing disclosure, post-issuance compliance, and investment of bond proceeds.

The OBLIGOR will periodically review the requirements of and will remain in compliance with the following:

- any continuing disclosure undertakings under SEC Rule 15c2-12,
- any federal tax compliance requirements, including without limitation arbitrage and rebate compliance, related to any prior bond issues, and
- the investment policies of the OBLIGOR as they relate to the investment of bond proceeds.

The OBLIGOR shall be attentive in using bond proceeds in accordance with the stated purpose at the time that such debt was issued. Whenever practical, proceeds of debt will be held by a third-party corporate bank trustee, and the OBLIGOR will submit written requisitions for such proceeds. The OBLIGOR will submit a requisition only after obtaining the signature of the City Manager or Finance Manager / Treasurer.

In those cases where it is not practical for the proceeds of debt to be held by a third-party corporate bank trustee, the Finance Manager / Treasurer shall retain the records of all expenditures of the proceeds through the final payment date for the debt and for any additional period required under applicable federal tax regulations.

Without limitation on the foregoing, the OBLIGOR shall adopt and administer

detailed federal tax compliance policies, conforming to then-current federal tax laws and regulations, and specific to each transaction in which interest payments made by the OBLIGOR are excluded from gross income for federal income tax purposes. Said adoption shall be evidenced by the adoption of one or more resolutions authorizing and approving the transaction and the documents to be executed and delivered by the OBLIGOR in the transaction.

**F. Waivers of Debt Policy**

- There will be circumstances from time to time when strict adherence to a provision of this Debt Policy is not possible or not in the best interest of the OBLIGOR.
- If the OBLIGOR Staff has determined that a waiver of one or more provisions of this Debt Policy should be considered. Staff will prepare an analysis for the governing body describing the rationale and the impact of the waiver on the proposed debt issuance.
- Provisions of this Debt Policy may be waived by the approval of the governing body.
- The failure of a debt financing to comply with one or more provisions of this Debt Policy shall in no way affect the validity of any debt issued by the OBLIGOR in accordance with applicable laws.

## RESOLUTION 2017-107

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, APPROVING THE CITY OF SOLANA BEACH DEBT MANAGEMENT POLICY

**WHEREAS**, the City of Solana Beach (City) has issued bonds or other financing obligations (Local Debt) subject to the filing of reports with the California Debt and Investment Advisory Commission (CDIAC) pursuant to Section 8855 of the California Government Code (Section 8855); and

**WHEREAS**, Senate Bill No. 1029 (SB 1029), effective January 1, 2017, amended Section 8855 to augment the information that must be provided by municipal issuers of Local Debt to CDIAC; and

**WHEREAS**, prior to SB 1029, Section 8855 has required municipal issuers of Local Debt to file a Report of Proposed Debt Issuance at least 30 days prior to the sale of any Local Debt issue; and

**WHEREAS**, SB 1029 amends the requirements of the Report of Proposed Debt Issuance to require that this report include a certification by the municipal issuer that it has adopted local debt policies concerning the use of Local Debt and that the contemplated Local Debt issuance is consistent with those local debt policies; and

**WHEREAS**, the City may also, in the future, issue Local Debt for which a Report of Proposed Debt Issuance, including the aforementioned certification, will need to be filed with CDIAC; and

**WHEREAS**, to facilitate issuance of Local Debt in the future and the ability of the City to make the requisite local debt policies certification required in connection therewith by subdivision (i) of Section 8855, as amended by SB 1029, the City desires to adopt the Debt Management Policy (Policy), as set forth in Exhibit A hereto;

**NOW, THEREFORE**, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the above recitations are true and correct.
2. That the City Council approves the Policy, as set forth in Exhibit A, is hereby approved and adopted and shall be made applicable to all Local Debt issued by or on behalf of the City.
3. That the City Council authorizes and directs the City Manager, the Finance Manager/Treasurer and all other officers of the City both jointly and severally, to do any and all things to effectuate the purposes of this Resolution and to implement the Policy, and any such actions previously taken by such officers are hereby ratified and confirmed.

4. This Resolution shall take effect immediately upon adoption

**PASSED AND ADOPTED** this 28th day of June, 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –  
NOES: Councilmembers –  
ABSTAIN: Councilmembers –  
ABSENT: Councilmembers –

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk

# EXHIBIT A

## THE CITY OF SOLANA BEACH THE SOLANA BEACH PUBLIC FINANCING AUTHORITY SUCCESSOR AGENCY TO THE SOLANA BEACH REDEVELOPMENT AGENCY DEBT MANAGEMENT POLICY

This Debt Management Policy (the “Debt Policy”) of the City of Solana Beach, the Solana Beach Public Financing Authority and the Successor Agency to the Solana Beach Redevelopment Agency was approved by the respective governing body on June 28, 2017. The Debt Policy may be amended by the governing body as it deems appropriate from time to time in the prudent management of the debt.

The Debt Policy has been developed to provide guidance in the issuance and management of debt and is intended to comply with Government Code Section 8855(i), effective on January 1, 2017.

### 1. Purpose

This Debt Policy shall govern all debt undertaken by the City of Solana Beach, the Solana Beach Public Financing Authority and the Successor Agency to the Solana Beach Redevelopment Agency (individually the “OBLIGOR”). The OBLIGOR hereby recognizes that a fiscally prudent debt policy is required to:

- Maintain a sound financial position.
- Ensure flexibility to respond to changes in future service priorities, revenue levels, and operating expenses.
- Protect credit-worthiness.
- Ensure that all debt is structured to protect both current and future taxpayers, ratepayers and constituents.
- Ensure that the debt is consistent with the planning goals and objectives, approved capital improvement program and adopted budget, as applicable.

### 2. Policies

#### A. Purposes For Which Debt May Be Issued

- (i) Long-Term Debt. Long-term debt may be issued to finance or refinance the construction, acquisition, and rehabilitation of capital improvements and facilities, equipment and land to be owned and/or operated by the OBLIGOR.
  - (a) Long-term debt financings are appropriate when the following conditions exist:
    - When the project to be financed is necessary to provide basic services.
    - When the project to be financed will provide benefit to constituents over multiple years.

- When total debt does not constitute an unreasonable burden to the taxpayers, ratepayers or constituents.
  - When the debt is used to refinance outstanding debt in order to produce debt service savings or to realize the benefits of a debt restructuring.
- (b) Long-term debt financings will not generally be considered appropriate for current operating expenses and routine maintenance expenses.
- (c) The OBLIGOR may use long-term debt financings subject to the following conditions:
- The project to be financed has been or will be approved by the governing body.
  - The weighted average maturity of the debt (or the portion of the debt allocated to the project) will not exceed the average useful life of the project to be financed by more than 20%, unless specific conditions exist that would mitigate the extension of time to repay the debt and it would not cause the OBLIGOR to violate any covenants to maintain the tax-exempt status of such debt, if applicable.
  - The OBLIGOR estimates that sufficient income or revenues will be available to service the debt through its maturity.
  - The OBLIGOR determines that the issuance of the debt will comply with the applicable requirements of local, state and federal law.
- (ii) Short-term debt. Short-term borrowing may be issued to provide financing for operational cash flow in order to maintain a steady and even cash flow balance. Short-term debt may also be used to finance short-lived assets or capital projects such as lease-purchase financing for equipment.
- (iii) Financings on Behalf of Other Entities. The OBLIGOR may also find it beneficial to issue debt on behalf of other governmental agencies or private third parties to further the public purposes of the OBLIGOR. In such cases, the OBLIGOR shall take reasonable steps to confirm the financial feasibility of the project to be financed and the financial solvency of any borrower and that the issuance of such debt is consistent with the policies set forth herein.

## **B. Types of Debt**

In order to maximize the financial options available to benefit the public, it is the policy of the OBLIGOR to allow for the consideration of issuing all generally accepted types of debt, including, but not exclusive to the following:

- General Obligation (GO) Bonds: General Obligation Bonds are suitable for use in the construction or acquisition of improvements to real property that benefit the public at large. Examples of projects include libraries, parks, and

public safety facilities. All GO bonds shall be authorized by the requisite number of voters in order to pass.

- Revenue Bonds: Revenue Bonds are limited-liability obligations tied to a specific enterprise or special fund revenue stream where the projects financed clearly benefit or relate to the enterprise or are otherwise permissible uses of the special revenue. An example of projects that would be financed by a Revenue Bond would be water or wastewater improvements, which would be paid back with money raised from rates and charges from water and/or wastewater users. Generally, no voter approval is required to issue this type of obligation, but in some cases the OBLIGOR must comply with proposition 218 regarding rate adjustments.
- Lease-Backed Debt/Certificates of Participation (COP): Issuance of Lease-backed debt is a commonly used form of debt that allows a City to finance projects where the debt service is secured via a lease or installment agreement and where the payments are budgeted in the annual budget appropriation by the City from the general fund. Lease-Backed debt does not constitute indebtedness under the state or the City's constitutional debt limit and does not require voter approval.
- Lease Revenue Bonds: Issuance of Lease Revenue Bonds is a commonly used form of debt that allows the OBLIGOR to finance projects where the debt service is secured via a lease agreement and where the payments are budgeted in the annual budget appropriations. Lease Revenue Bonds do not constitute indebtedness under any constitutional debt limit and do not require voter approval.
- Special Assessment/Special District Debt: The OBLIGOR will consider duly filed petitions and other requests from interested parties for the use of debt financing secured by property based assessments or special taxes in order to provide for necessary infrastructure for new development or in connection with any duly authorized annexation or other process that extends the service area of the OBLIGOR, but only under strict guidelines adopted by the governing body, which may include, without limitation, minimum value-to-lien ratios and maximum tax burdens. Examples of this type of debt are Assessment Districts (AD) and Community Facilities Districts (CFD, more commonly known as Mello-Roos Districts). To protect bondholders as well as the reputation and credit rating of the OBLIGOR, the OBLIGOR will also comply with all State guidelines regarding the issuance and administration of special tax or special assessment debt. Under no circumstances shall any special tax or special assessment be determined or changed with reference to the value of the property subject to any tax or assessment.
- Bond or Grant Anticipation Notes: Bond or Grant Anticipation Notes are short-term debt obligations that are issued to generate funds for upcoming projects or to delay a bond issue with the expectation that the Bond or Grant Anticipation Notes will be payable from the proceeds from the sale of the bonds or from grant proceeds. Bond or Grant Anticipation Notes may be issued to preserve the long-term financing options of the OBLIGOR in the interest of its taxpayers, ratepayers and constituents and to manage the capital project financing needs of the OBLIGOR during periods of instability in the financial markets.

- Clean Water State Revolving Funds ("SRF"), Infrastructure Bank ("I-Bank") or United States Department of Agriculture ("USDA") loans: The SRF loan program was established by the federal Clean Water Act to finance the protection and improvement of water quality. The I-Bank was established to provide low cost borrowing to applicants. The USDA offers a loan program for disadvantages communities. The OBLIGOR may apply to the State, the I-Bank or USDA for the financing of capital project needs. SRF, I-Bank and USDA loans should be compared to other types of borrowings due to their relatively low transaction cost.
- Tax Allocation Bonds: Tax Allocation Bonds are special obligations that are secured by the allocation of tax increment revenues that are generated by increased property taxes in the designated redevelopment area. Tax Allocation Bonds are not debt of the City. Due to changes in the law affecting California Redevelopment agencies with the passage of ABX1 26 (as amended, the Dissolution Act) as codified in the California Health and Safety Code, the Community Redevelopment Agency of the City of Solana Beach (RDA) was dissolved as of February 1, 2012, and its operations substantially eliminated but for the continuation of certain enforceable RDA obligations to be administered by the Successor Agency to the Solana Beach Community Redevelopment Agency (Successor Agency). The Successor Agency may issue Tax Allocation Bonds to refinance outstanding obligations of the RDA, subject to limitations included in the Dissolution Act.
- Direct Placements and Equipment Leases: Direct Placements and Equipment Leases are non-public, negotiated transactions with commercial banks, commercial equipment leasing companies and institutional or accredited investors. Direct Placements and Equipment Leases should be compared to other types of borrowings due to their relatively low transaction cost. The OBLIGOR may from time to time find that other forms of debt would be beneficial to further its public purposes and may approve such debt without an amendment of this Debt Policy.

Debt shall be issued at fixed interest rates unless the OBLIGOR makes a specific determination that a variable interest rate issue will benefit the OBLIGOR. Debt other than Direct Placements and Equipment Leases shall be issued at negotiated or competitive sale, as determined to be beneficial by the OBLIGOR under the facts and circumstances of each transaction.

### **C. Relationship of Debt to, and Integration With Capital Improvement Program and Budget**

The OBLIGOR intends to issue debt for the purposes stated in this Debt Policy and to implement policy decisions incorporated in the capital budget and capital improvement plan.

The OBLIGOR shall strive to fund the upkeep and maintenance of its infrastructure and facilities due to normal wear and tear through the expenditure of available operating revenues. The OBLIGOR shall seek to avoid the use of debt to fund infrastructure and facilities improvements that are the result of normal wear and tear, unless a specific revenue source has been identified for this purpose.

The OBLIGOR shall integrate its debt issuances with the goals of its capital improvement program by timing the issuance of debt to ensure that projects are available when needed in furtherance of the public purposes.



The OBLIGOR shall seek to issue debt in a timely manner to avoid having to make unplanned expenditures for capital improvements or equipment from its general fund.

#### **D. Policy Goals Related to Planning Goals and Objectives**

The OBLIGOR is committed to financial planning, maintaining appropriate reserves levels and employing prudent practices in governance, management and budget administration. The OBLIGOR intends to issue debt for the purposes stated in this Debt Policy and to implement policy decisions incorporated in the approved annual budget.

It is a policy goal of the OBLIGOR to protect taxpayers, ratepayers and constituents by utilizing conservative financing methods and techniques and to obtain the highest practical credit ratings and the lowest practical borrowing costs.

The OBLIGOR will comply with applicable local, state and federal law as it pertains to the maximum term of debt and the procedures for levying and imposing any related taxes, assessments, rates and charges.

When refinancing debt, it shall be the policy goal of the OBLIGOR to realize, whenever possible, and subject to any overriding non-financial policy considerations, a minimum net present value debt service savings equal to or greater than 3% of the refunded principal amount.

#### **E. Internal Control Procedures**

When issuing debt, in addition to complying with the terms of this Debt Policy, the OBLIGOR shall comply with any other applicable policies regarding initial bond disclosure, continuing disclosure, post-issuance compliance, and investment of bond proceeds.

The OBLIGOR will periodically review the requirements of and will remain in compliance with the following:

- any continuing disclosure undertakings under SEC Rule 15c2-12,
- any federal tax compliance requirements, including without limitation arbitrage and rebate compliance, related to any prior bond issues, and
- the investment policies of the OBLIGOR as they relate to the investment of bond proceeds.

The OBLIGOR shall be attentive in using bond proceeds in accordance with the stated purpose at the time that such debt was issued. Whenever practical, proceeds of debt will be held by a third-party corporate bank trustee, and the OBLIGOR will submit written requisitions for such proceeds. The OBLIGOR will submit a requisition only after obtaining the signature of the City Manager or Finance Manager / Treasurer.

In those cases where it is not practical for the proceeds of debt to be held by a third-party corporate bank trustee, the Finance Manager / Treasurer shall retain the records of all expenditures of the proceeds through the final payment date for the debt and for any additional period required under applicable federal tax regulations.

Without limitation on the foregoing, the OBLIGOR shall adopt and administer

detailed federal tax compliance policies, conforming to then-current federal tax laws and regulations, and specific to each transaction in which interest payments made by the OBLIGOR are excluded from gross income for federal income tax purposes. Said adoption shall be evidenced by the adoption of one or more resolutions authorizing and approving the transaction and the documents to be executed and delivered by the OBLIGOR in the transaction.

**F. Waivers of Debt Policy**

- There will be circumstances from time to time when strict adherence to a provision of this Debt Policy is not possible or not in the best interest of the OBLIGOR.
- If the OBLIGOR Staff has determined that a waiver of one or more provisions of this Debt Policy should be considered. Staff will prepare an analysis for the governing body describing the rationale and the impact of the waiver on the proposed debt issuance.
- Provisions of this Debt Policy may be waived by the approval of the governing body.
- The failure of a debt financing to comply with one or more provisions of this Debt Policy shall in no way affect the validity of any debt issued by the OBLIGOR in accordance with applicable laws.

## RESOLUTION SA-019

### A RESOLUTION OF THE SUCCESSOR AGENCY OF THE SOLANA BEACH REDEVELOPMENT AGENCY APPROVING THE SOLANA BEACH SUCCESSOR AGENCY DEBT MANAGEMENT POLICY

**WHEREAS**, the Solana Beach Successor Agency (SA) has issued bonds or other financing obligations (Local Debt) subject to the filing of reports with the California Debt and Investment Advisory Commission (CDIAC) pursuant to Section 8855 of the California Government Code (Section 8855); and

**WHEREAS**, Senate Bill No. 1029 (SB 1029), effective January 1, 2017, amended Section 8855 to augment the information that must be provided by municipal issuers of Local Debt to CDIAC; and

**WHEREAS**, prior to SB 1029, Section 8855 has required municipal issuers of Local Debt to file a Report of Proposed Debt Issuance at least 30 days prior to the sale of any Local Debt issue; and

**WHEREAS**, SB 1029 amends the requirements of the Report of Proposed Debt Issuance to require that this report include a certification by the municipal issuer that it has adopted local debt policies concerning the use of Local Debt and that the contemplated Local Debt issuance is consistent with those local debt policies; and

**WHEREAS**, the SA may also, in the future, issue Local Debt for which a Report of Proposed Debt Issuance, including the aforementioned certification, will need to be filed with CDIAC; and

**WHEREAS**, to facilitate issuance of Local Debt in the future and the ability of the SA to make the requisite local debt policies certification required in connection therewith by subdivision (i) of Section 8855, as amended by SB 1029, the SA desires to adopt the Debt Management Policy (Policy), as set forth in Exhibit A hereto;

**NOW, THEREFORE**, the Successor Agency for the Solana Beach Redevelopment Agency does resolve as follows:

1. That the above recitations are true and correct.
2. That the Successor Agency approves the Policy, as set forth in Exhibit A, is hereby approved and adopted and shall be made applicable to all Local Debt issued by or on behalf of the SA.
3. That the Successor Agency authorizes and directs the Executive Director, the Finance Manager/Treasurer and all other officers of the Successor Agency, both jointly and severally, to do any and all things to effectuate the purposes of this Resolution and to implement the Policy, and any such

actions previously taken by such officers are hereby ratified and confirmed.

4. This Resolution shall take effect immediately upon adoption

**PASSED, APPROVED, AND ADOPTED** by the Solana Beach Redevelopment Agency Successor Agency at its meeting held on the 28<sup>th</sup> day of June 2017, by the following vote:

AYES: Board of Directors –  
NOES: Board of Directors –  
ABSENT: Board of Directors -  
ABSTAIN: Board of Directors -

\_\_\_\_\_  
MIKE NICHOLS, Chairperson

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, Agency Counsel

\_\_\_\_\_  
ANGELA IVEY, Secretary

# EXHIBIT A

## THE CITY OF SOLANA BEACH THE SOLANA BEACH PUBLIC FINANCING AUTHORITY SUCCESSOR AGENCY TO THE SOLANA BEACH REDEVELOPMENT AGENCY DEBT MANAGEMENT POLICY

This Debt Management Policy (the "Debt Policy") of the City of Solana Beach, the Solana Beach Public Financing Authority and the Successor Agency to the Solana Beach Redevelopment Agency was approved by the respective governing body on June 28, 2017. The Debt Policy may be amended by the governing body as it deems appropriate from time to time in the prudent management of the debt.

The Debt Policy has been developed to provide guidance in the issuance and management of debt and is intended to comply with Government Code Section 8855(i), effective on January 1, 2017.

### 1. Purpose

This Debt Policy shall govern all debt undertaken by the City of Solana Beach, the Solana Beach Public Financing Authority and the Successor Agency to the Solana Beach Redevelopment Agency (individually the "OBLIGOR"). The OBLIGOR hereby recognizes that a fiscally prudent debt policy is required to:

- Maintain a sound financial position.
- Ensure flexibility to respond to changes in future service priorities, revenue levels, and operating expenses.
- Protect credit-worthiness.
- Ensure that all debt is structured to protect both current and future taxpayers, ratepayers and constituents.
- Ensure that the debt is consistent with the planning goals and objectives, approved capital improvement program and adopted budget, as applicable.

### 2. Policies

#### A. Purposes For Which Debt May Be Issued

- (i) Long-Term Debt. Long-term debt may be issued to finance or refinance the construction, acquisition, and rehabilitation of capital improvements and facilities, equipment and land to be owned and/or operated by the OBLIGOR.
  - (a) Long-term debt financings are appropriate when the following conditions exist:
    - When the project to be financed is necessary to provide basic services.
    - When the project to be financed will provide benefit to constituents over multiple years.

- When total debt does not constitute an unreasonable burden to the taxpayers, ratepayers or constituents.
  - When the debt is used to refinance outstanding debt in order to produce debt service savings or to realize the benefits of a debt restructuring.
- (b) Long-term debt financings will not generally be considered appropriate for current operating expenses and routine maintenance expenses.
- (c) The OBLIGOR may use long-term debt financings subject to the following conditions:
- The project to be financed has been or will be approved by the governing body.
  - The weighted average maturity of the debt (or the portion of the debt allocated to the project) will not exceed the average useful life of the project to be financed by more than 20%, unless specific conditions exist that would mitigate the extension of time to repay the debt and it would not cause the OBLIGOR to violate any covenants to maintain the tax-exempt status of such debt, if applicable.
  - The OBLIGOR estimates that sufficient income or revenues will be available to service the debt through its maturity.
  - The OBLIGOR determines that the issuance of the debt will comply with the applicable requirements of local, state and federal law.
- (ii) Short-term debt. Short-term borrowing may be issued to provide financing for operational cash flow in order to maintain a steady and even cash flow balance. Short-term debt may also be used to finance short-lived assets or capital projects such as lease-purchase financing for equipment.
- (iii) Financings on Behalf of Other Entities. The OBLIGOR may also find it beneficial to issue debt on behalf of other governmental agencies or private third parties to further the public purposes of the OBLIGOR. In such cases, the OBLIGOR shall take reasonable steps to confirm the financial feasibility of the project to be financed and the financial solvency of any borrower and that the issuance of such debt is consistent with the policies set forth herein.

## **B. Types of Debt**

In order to maximize the financial options available to benefit the public, it is the policy of the OBLIGOR to allow for the consideration of issuing all generally accepted types of debt, including, but not exclusive to the following:

- General Obligation (GO) Bonds: General Obligation Bonds are suitable for use in the construction or acquisition of improvements to real property that benefit the public at large. Examples of projects include libraries, parks, and

public safety facilities. All GO bonds shall be authorized by the requisite number of voters in order to pass.

- Revenue Bonds: Revenue Bonds are limited-liability obligations tied to a specific enterprise or special fund revenue stream where the projects financed clearly benefit or relate to the enterprise or are otherwise permissible uses of the special revenue. An example of projects that would be financed by a Revenue Bond would be water or wastewater improvements, which would be paid back with money raised from rates and charges from water and/or wastewater users. Generally, no voter approval is required to issue this type of obligation, but in some cases the OBLIGOR must comply with proposition 218 regarding rate adjustments.
- Lease-Backed Debt/Certificates of Participation (COP): Issuance of Lease-backed debt is a commonly used form of debt that allows a City to finance projects where the debt service is secured via a lease or installment agreement and where the payments are budgeted in the annual budget appropriation by the City from the general fund. Lease-Backed debt does not constitute indebtedness under the state or the City's constitutional debt limit and does not require voter approval.
- Lease Revenue Bonds: Issuance of Lease Revenue Bonds is a commonly used form of debt that allows the OBLIGOR to finance projects where the debt service is secured via a lease agreement and where the payments are budgeted in the annual budget appropriations. Lease Revenue Bonds do not constitute indebtedness under any constitutional debt limit and do not require voter approval.
- Special Assessment/Special District Debt: The OBLIGOR will consider duly filed petitions and other requests from interested parties for the use of debt financing secured by property based assessments or special taxes in order to provide for necessary infrastructure for new development or in connection with any duly authorized annexation or other process that extends the service area of the OBLIGOR, but only under strict guidelines adopted by the governing body, which may include, without limitation, minimum value-to-lien ratios and maximum tax burdens. Examples of this type of debt are Assessment Districts (AD) and Community Facilities Districts (CFD, more commonly known as Mello-Roos Districts). To protect bondholders as well as the reputation and credit rating of the OBLIGOR, the OBLIGOR will also comply with all State guidelines regarding the issuance and administration of special tax or special assessment debt. Under no circumstances shall any special tax or special assessment be determined or changed with reference to the value of the property subject to any tax or assessment.
- Bond or Grant Anticipation Notes: Bond or Grant Anticipation Notes are short-term debt obligations that are issued to generate funds for upcoming projects or to delay a bond issue with the expectation that the Bond or Grant Anticipation Notes will be payable from the proceeds from the sale of the bonds or from grant proceeds. Bond or Grant Anticipation Notes may be issued to preserve the long-term financing options of the OBLIGOR in the interest of its taxpayers, ratepayers and constituents and to manage the capital project financing needs of the OBLIGOR during periods of instability in the financial markets.

- Clean Water State Revolving Funds (“SRF”), Infrastructure Bank (“I-Bank”) or United States Department of Agriculture (“USDA”) loans: The SRF loan program was established by the federal Clean Water Act to finance the protection and improvement of water quality. The I-Bank was established to provide low cost borrowing to applicants. The USDA offers a loan program for disadvantages communities. The OBLIGOR may apply to the State, the I-Bank or USDA for the financing of capital project needs. SRF, I-Bank and USDA loans should be compared to other types of borrowings due to their relatively low transaction cost.
- Tax Allocation Bonds: Tax Allocation Bonds are special obligations that are secured by the allocation of tax increment revenues that are generated by increased property taxes in the designated redevelopment area. Tax Allocation Bonds are not debt of the City. Due to changes in the law affecting California Redevelopment agencies with the passage of ABX1 26 (as amended, the Dissolution Act) as codified in the California Health and Safety Code, the Community Redevelopment Agency of the City of Solana Beach (RDA) was dissolved as of February 1, 2012, and its operations substantially eliminated but for the continuation of certain enforceable RDA obligations to be administered by the Successor Agency to the Solana Beach Community Redevelopment Agency (Successor Agency). The Successor Agency may issue Tax Allocation Bonds to refinance outstanding obligations of the RDA, subject to limitations included in the Dissolution Act.
- Direct Placements and Equipment Leases: Direct Placements and Equipment Leases are non-public, negotiated transactions with commercial banks, commercial equipment leasing companies and institutional or accredited investors. Direct Placements and Equipment Leases should be compared to other types of borrowings due to their relatively low transaction cost. The OBLIGOR may from time to time find that other forms of debt would be beneficial to further its public purposes and may approve such debt without an amendment of this Debt Policy.

Debt shall be issued at fixed interest rates unless the OBLIGOR makes a specific determination that a variable interest rate issue will benefit the OBLIGOR. Debt other than Direct Placements and Equipment Leases shall be issued at negotiated or competitive sale, as determined to be beneficial by the OBLIGOR under the facts and circumstances of each transaction.

**C. Relationship of Debt to, and Integration With Capital Improvement Program and Budget**

The OBLIGOR intends to issue debt for the purposes stated in this Debt Policy and to implement policy decisions incorporated in the capital budget and capital improvement plan.

The OBLIGOR shall strive to fund the upkeep and maintenance of its infrastructure and facilities due to normal wear and tear through the expenditure of available operating revenues. The OBLIGOR shall seek to avoid the use of debt to fund infrastructure and facilities improvements that are the result of normal wear and tear, unless a specific revenue source has been identified for this purpose.

The OBLIGOR shall integrate its debt issuances with the goals of its capital improvement program by timing the issuance of debt to ensure that projects are available when needed in furtherance of the public purposes.



The OBLIGOR shall seek to issue debt in a timely manner to avoid having to make unplanned expenditures for capital improvements or equipment from its general fund.

#### **D. Policy Goals Related to Planning Goals and Objectives**

The OBLIGOR is committed to financial planning, maintaining appropriate reserves levels and employing prudent practices in governance, management and budget administration. The OBLIGOR intends to issue debt for the purposes stated in this Debt Policy and to implement policy decisions incorporated in the approved annual budget.

It is a policy goal of the OBLIGOR to protect taxpayers, ratepayers and constituents by utilizing conservative financing methods and techniques and to obtain the highest practical credit ratings and the lowest practical borrowing costs.

The OBLIGOR will comply with applicable local, state and federal law as it pertains to the maximum term of debt and the procedures for levying and imposing any related taxes, assessments, rates and charges.

When refinancing debt, it shall be the policy goal of the OBLIGOR to realize, whenever possible, and subject to any overriding non-financial policy considerations, a minimum net present value debt service savings equal to or greater than 3% of the refunded principal amount.

#### **E. Internal Control Procedures**

When issuing debt, in addition to complying with the terms of this Debt Policy, the OBLIGOR shall comply with any other applicable policies regarding initial bond disclosure, continuing disclosure, post-issuance compliance, and investment of bond proceeds.

The OBLIGOR will periodically review the requirements of and will remain in compliance with the following:

- any continuing disclosure undertakings under SEC Rule 15c2-12,
- any federal tax compliance requirements, including without limitation arbitrage and rebate compliance, related to any prior bond issues, and
- the investment policies of the OBLIGOR as they relate to the investment of bond proceeds.

The OBLIGOR shall be attentive in using bond proceeds in accordance with the stated purpose at the time that such debt was issued. Whenever practical, proceeds of debt will be held by a third-party corporate bank trustee, and the OBLIGOR will submit written requisitions for such proceeds. The OBLIGOR will submit a requisition only after obtaining the signature of the City Manager or Finance Manager / Treasurer.

In those cases where it is not practical for the proceeds of debt to be held by a third-party corporate bank trustee, the Finance Manager / Treasurer shall retain the records of all expenditures of the proceeds through the final payment date for the debt and for any additional period required under applicable federal tax regulations.

Without limitation on the foregoing, the OBLIGOR shall adopt and administer

detailed federal tax compliance policies, conforming to then-current federal tax laws and regulations, and specific to each transaction in which interest payments made by the OBLIGOR are excluded from gross income for federal income tax purposes. Said adoption shall be evidenced by the adoption of one or more resolutions authorizing and approving the transaction and the documents to be executed and delivered by the OBLIGOR in the transaction.

**F. Waivers of Debt Policy**

- There will be circumstances from time to time when strict adherence to a provision of this Debt Policy is not possible or not in the best interest of the OBLIGOR.
- If the OBLIGOR Staff has determined that a waiver of one or more provisions of this Debt Policy should be considered. Staff will prepare an analysis for the governing body describing the rationale and the impact of the waiver on the proposed debt issuance.
- Provisions of this Debt Policy may be waived by the approval of the governing body.
- The failure of a debt financing to comply with one or more provisions of this Debt Policy shall in no way affect the validity of any debt issued by the OBLIGOR in accordance with applicable laws.

## RESOLUTION PFA-004

### A RESOLUTION OF THE SOLANA BEACH PUBLIC FINANCING AUTHORITY APPROVING THE PUBLID FINANCING AUTHORITY DEBT MANAGEMENT POLICY

**WHEREAS**, the Solana Beach Public Financing Authority (Authority) has issued bonds or other financing obligations (Local Debt) subject to the filing of reports with the California Debt and Investment Advisory Commission (CDIAC) pursuant to Section 8855 of the California Government Code (Section 8855); and

**WHEREAS**, Senate Bill No. 1029 (SB 1029), effective January 1, 2017, amended Section 8855 to augment the information that must be provided by municipal issuers of Local Debt to CDIAC; and

**WHEREAS**, prior to SB 1029, Section 8855 has required municipal issuers of Local Debt to file a Report of Proposed Debt Issuance at least 30 days prior to the sale of any Local Debt issue; and

**WHEREAS**, SB 1029 amends the requirements of the Report of Proposed Debt Issuance to require that this report include a certification by the municipal issuer that it has adopted local debt policies concerning the use of Local Debt and that the contemplated Local Debt issuance is consistent with those local debt policies; and

**WHEREAS**, the Authority may also, in the future, issue Local Debt for which a Report of Proposed Debt Issuance, including the aforementioned certification, will need to be filed with CDIAC; and

**WHEREAS**, to facilitate issuance of Local Debt in the future and the ability of the Authority to make the requisite local debt policies certification required in connection therewith by subdivision (i) of Section 8855, as amended by SB 1029, the Authority desires to adopt the Debt Management Policy (Policy), as set forth in Exhibit A hereto;

**NOW, THEREFORE**, the Solana Beach Public Financing Authority does resolve as follows:

1. That the above recitations are true and correct.
2. That the Authority approves the Policy, as set forth in Exhibit A, is hereby approved and adopted and shall be made applicable to all Local Debt issued by or on behalf of the Authority.
3. That the Authority authorizes and directs the Executive Director, the Finance Manager/Treasurer and all other officers of the Authority, both jointly and severally, to do any and all things to effectuate the purposes of this Resolution and to implement the Policy, and any such actions previously taken by such officers are hereby ratified and confirmed.

4. This Resolution shall take effect immediately upon adoption

**PASSED, APPROVED, AND ADOPTED** by the Solana Beach Public Financing Authority at its meeting held on the 28<sup>th</sup> day of June 2017, by the following vote:

AYES: Board of Directors –  
NOES: Board of Directors –  
ABSENT: Board of Directors -  
ABSTAIN: Board of Directors -

\_\_\_\_\_  
MIKE NICHOLS, Chairperson

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, Agency Counsel

\_\_\_\_\_  
ANGELA IVEY, Secretary

# EXHIBIT A

## THE CITY OF SOLANA BEACH THE SOLANA BEACH PUBLIC FINANCING AUTHORITY SUCCESSOR AGENCY TO THE SOLANA BEACH REDEVELOPMENT AGENCY DEBT MANAGEMENT POLICY

This Debt Management Policy (the “Debt Policy”) of the City of Solana Beach, the Solana Beach Public Financing Authority and the Successor Agency to the Solana Beach Redevelopment Agency was approved by the respective governing body on June 28, 2017. The Debt Policy may be amended by the governing body as it deems appropriate from time to time in the prudent management of the debt.

The Debt Policy has been developed to provide guidance in the issuance and management of debt and is intended to comply with Government Code Section 8855(i), effective on January 1, 2017.

### 1. Purpose

This Debt Policy shall govern all debt undertaken by the City of Solana Beach, the Solana Beach Public Financing Authority and the Successor Agency to the Solana Beach Redevelopment Agency (individually the “OBLIGOR”). The OBLIGOR hereby recognizes that a fiscally prudent debt policy is required to:

- Maintain a sound financial position.
- Ensure flexibility to respond to changes in future service priorities, revenue levels, and operating expenses.
- Protect credit-worthiness.
- Ensure that all debt is structured to protect both current and future taxpayers, ratepayers and constituents.
- Ensure that the debt is consistent with the planning goals and objectives, approved capital improvement program and adopted budget, as applicable.

### 2. Policies

#### A. Purposes For Which Debt May Be Issued

- (i) Long-Term Debt. Long-term debt may be issued to finance or refinance the construction, acquisition, and rehabilitation of capital improvements and facilities, equipment and land to be owned and/or operated by the OBLIGOR.
  - (a) Long-term debt financings are appropriate when the following conditions exist:
    - When the project to be financed is necessary to provide basic services.
    - When the project to be financed will provide benefit to constituents over multiple years.

- When total debt does not constitute an unreasonable burden to the taxpayers, ratepayers or constituents.
  - When the debt is used to refinance outstanding debt in order to produce debt service savings or to realize the benefits of a debt restructuring.
- (b) Long-term debt financings will not generally be considered appropriate for current operating expenses and routine maintenance expenses.
- (c) The OBLIGOR may use long-term debt financings subject to the following conditions:
- The project to be financed has been or will be approved by the governing body.
  - The weighted average maturity of the debt (or the portion of the debt allocated to the project) will not exceed the average useful life of the project to be financed by more than 20%, unless specific conditions exist that would mitigate the extension of time to repay the debt and it would not cause the OBLIGOR to violate any covenants to maintain the tax-exempt status of such debt, if applicable.
  - The OBLIGOR estimates that sufficient income or revenues will be available to service the debt through its maturity.
  - The OBLIGOR determines that the issuance of the debt will comply with the applicable requirements of local, state and federal law.
- (ii) Short-term debt. Short-term borrowing may be issued to provide financing for operational cash flow in order to maintain a steady and even cash flow balance. Short-term debt may also be used to finance short-lived assets or capital projects such as lease-purchase financing for equipment.
- (iii) Financings on Behalf of Other Entities. The OBLIGOR may also find it beneficial to issue debt on behalf of other governmental agencies or private third parties to further the public purposes of the OBLIGOR. In such cases, the OBLIGOR shall take reasonable steps to confirm the financial feasibility of the project to be financed and the financial solvency of any borrower and that the issuance of such debt is consistent with the policies set forth herein.

## **B. Types of Debt**

In order to maximize the financial options available to benefit the public, it is the policy of the OBLIGOR to allow for the consideration of issuing all generally accepted types of debt, including, but not exclusive to the following:

- General Obligation (GO) Bonds: General Obligation Bonds are suitable for use in the construction or acquisition of improvements to real property that benefit the public at large. Examples of projects include libraries, parks, and

public safety facilities. All GO bonds shall be authorized by the requisite number of voters in order to pass.

- Revenue Bonds: Revenue Bonds are limited-liability obligations tied to a specific enterprise or special fund revenue stream where the projects financed clearly benefit or relate to the enterprise or are otherwise permissible uses of the special revenue. An example of projects that would be financed by a Revenue Bond would be water or wastewater improvements, which would be paid back with money raised from rates and charges from water and/or wastewater users. Generally, no voter approval is required to issue this type of obligation, but in some cases the OBLIGOR must comply with proposition 218 regarding rate adjustments.
- Lease-Backed Debt/Certificates of Participation (COP): Issuance of Lease-backed debt is a commonly used form of debt that allows a City to finance projects where the debt service is secured via a lease or installment agreement and where the payments are budgeted in the annual budget appropriation by the City from the general fund. Lease-Backed debt does not constitute indebtedness under the state or the City's constitutional debt limit and does not require voter approval.
- Lease Revenue Bonds: Issuance of Lease Revenue Bonds is a commonly used form of debt that allows the OBLIGOR to finance projects where the debt service is secured via a lease agreement and where the payments are budgeted in the annual budget appropriations. Lease Revenue Bonds do not constitute indebtedness under any constitutional debt limit and do not require voter approval.
- Special Assessment/Special District Debt: The OBLIGOR will consider duly filed petitions and other requests from interested parties for the use of debt financing secured by property based assessments or special taxes in order to provide for necessary infrastructure for new development or in connection with any duly authorized annexation or other process that extends the service area of the OBLIGOR, but only under strict guidelines adopted by the governing body, which may include, without limitation, minimum value-to-lien ratios and maximum tax burdens. Examples of this type of debt are Assessment Districts (AD) and Community Facilities Districts (CFD, more commonly known as Mello-Roos Districts). To protect bondholders as well as the reputation and credit rating of the OBLIGOR, the OBLIGOR will also comply with all State guidelines regarding the issuance and administration of special tax or special assessment debt. Under no circumstances shall any special tax or special assessment be determined or changed with reference to the value of the property subject to any tax or assessment.
- Bond or Grant Anticipation Notes: Bond or Grant Anticipation Notes are short-term debt obligations that are issued to generate funds for upcoming projects or to delay a bond issue with the expectation that the Bond or Grant Anticipation Notes will be payable from the proceeds from the sale of the bonds or from grant proceeds. Bond or Grant Anticipation Notes may be issued to preserve the long-term financing options of the OBLIGOR in the interest of its taxpayers, ratepayers and constituents and to manage the capital project financing needs of the OBLIGOR during periods of instability in the financial markets.

- Clean Water State Revolving Funds ("SRF"), Infrastructure Bank ("I-Bank") or United States Department of Agriculture ("USDA") loans: The SRF loan program was established by the federal Clean Water Act to finance the protection and improvement of water quality. The I-Bank was established to provide low cost borrowing to applicants. The USDA offers a loan program for disadvantages communities. The OBLIGOR may apply to the State, the I-Bank or USDA for the financing of capital project needs. SRF, I-Bank and USDA loans should be compared to other types of borrowings due to their relatively low transaction cost.
- Tax Allocation Bonds: Tax Allocation Bonds are special obligations that are secured by the allocation of tax increment revenues that are generated by increased property taxes in the designated redevelopment area. Tax Allocation Bonds are not debt of the City. Due to changes in the law affecting California Redevelopment agencies with the passage of ABX1 26 (as amended, the Dissolution Act) as codified in the California Health and Safety Code, the Community Redevelopment Agency of the City of Solana Beach (RDA) was dissolved as of February 1, 2012, and its operations substantially eliminated but for the continuation of certain enforceable RDA obligations to be administered by the Successor Agency to the Solana Beach Community Redevelopment Agency (Successor Agency). The Successor Agency may issue Tax Allocation Bonds to refinance outstanding obligations of the RDA, subject to limitations included in the Dissolution Act.
- Direct Placements and Equipment Leases: Direct Placements and Equipment Leases are non-public, negotiated transactions with commercial banks, commercial equipment leasing companies and institutional or accredited investors. Direct Placements and Equipment Leases should be compared to other types of borrowings due to their relatively low transaction cost. The OBLIGOR may from time to time find that other forms of debt would be beneficial to further its public purposes and may approve such debt without an amendment of this Debt Policy.

Debt shall be issued at fixed interest rates unless the OBLIGOR makes a specific determination that a variable interest rate issue will benefit the OBLIGOR. Debt other than Direct Placements and Equipment Leases shall be issued at negotiated or competitive sale, as determined to be beneficial by the OBLIGOR under the facts and circumstances of each transaction.

### **C. Relationship of Debt to, and Integration With Capital Improvement Program and Budget**

The OBLIGOR intends to issue debt for the purposes stated in this Debt Policy and to implement policy decisions incorporated in the capital budget and capital improvement plan.

The OBLIGOR shall strive to fund the upkeep and maintenance of its infrastructure and facilities due to normal wear and tear through the expenditure of available operating revenues. The OBLIGOR shall seek to avoid the use of debt to fund infrastructure and facilities improvements that are the result of normal wear and tear, unless a specific revenue source has been identified for this purpose.

The OBLIGOR shall integrate its debt issuances with the goals of its capital improvement program by timing the issuance of debt to ensure that projects are available when needed in furtherance of the public purposes.



The OBLIGOR shall seek to issue debt in a timely manner to avoid having to make unplanned expenditures for capital improvements or equipment from its general fund.

#### **D. Policy Goals Related to Planning Goals and Objectives**

The OBLIGOR is committed to financial planning, maintaining appropriate reserves levels and employing prudent practices in governance, management and budget administration. The OBLIGOR intends to issue debt for the purposes stated in this Debt Policy and to implement policy decisions incorporated in the approved annual budget.

It is a policy goal of the OBLIGOR to protect taxpayers, ratepayers and constituents by utilizing conservative financing methods and techniques and to obtain the highest practical credit ratings and the lowest practical borrowing costs.

The OBLIGOR will comply with applicable local, state and federal law as it pertains to the maximum term of debt and the procedures for levying and imposing any related taxes, assessments, rates and charges.

When refinancing debt, it shall be the policy goal of the OBLIGOR to realize, whenever possible, and subject to any overriding non-financial policy considerations, a minimum net present value debt service savings equal to or greater than 3% of the refunded principal amount.

#### **E. Internal Control Procedures**

When issuing debt, in addition to complying with the terms of this Debt Policy, the OBLIGOR shall comply with any other applicable policies regarding initial bond disclosure, continuing disclosure, post-issuance compliance, and investment of bond proceeds.

The OBLIGOR will periodically review the requirements of and will remain in compliance with the following:

- any continuing disclosure undertakings under SEC Rule 15c2-12,
- any federal tax compliance requirements, including without limitation arbitrage and rebate compliance, related to any prior bond issues, and
- the investment policies of the OBLIGOR as they relate to the investment of bond proceeds.

The OBLIGOR shall be attentive in using bond proceeds in accordance with the stated purpose at the time that such debt was issued. Whenever practical, proceeds of debt will be held by a third-party corporate bank trustee, and the OBLIGOR will submit written requisitions for such proceeds. The OBLIGOR will submit a requisition only after obtaining the signature of the City Manager or Finance Manager / Treasurer.

In those cases where it is not practical for the proceeds of debt to be held by a third-party corporate bank trustee, the Finance Manager / Treasurer shall retain the records of all expenditures of the proceeds through the final payment date for the debt and for any additional period required under applicable federal tax regulations.

Without limitation on the foregoing, the OBLIGOR shall adopt and administer

detailed federal tax compliance policies, conforming to then-current federal tax laws and regulations, and specific to each transaction in which interest payments made by the OBLIGOR are excluded from gross income for federal income tax purposes. Said adoption shall be evidenced by the adoption of one or more resolutions authorizing and approving the transaction and the documents to be executed and delivered by the OBLIGOR in the transaction.

**F. Waivers of Debt Policy**

- There will be circumstances from time to time when strict adherence to a provision of this Debt Policy is not possible or not in the best interest of the OBLIGOR.
- If the OBLIGOR Staff has determined that a waiver of one or more provisions of this Debt Policy should be considered. Staff will prepare an analysis for the governing body describing the rationale and the impact of the waiver on the proposed debt issuance.
- Provisions of this Debt Policy may be waived by the approval of the governing body.
- The failure of a debt financing to comply with one or more provisions of this Debt Policy shall in no way affect the validity of any debt issued by the OBLIGOR in accordance with applicable laws.



# STAFF REPORT CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Gregory Wade, City Manager  
**MEETING DATE:** June 28, 2017  
**ORIGINATING DEPT:** City Manager's Office  
**SUBJECT:** **City of Solana Beach's Commitment to the Paris Climate Agreement**

---

## **BACKGROUND:**

The City of Solana Beach (City) has long been at the forefront of environmental sustainability practices and actions. Back in 2007, the City Council authorized the City to sign onto the U.S. Mayors Climate Protection Agreement committing to 12 steps for environmental sustainability. Since then, the City has implemented various progressive and innovative programs that have significantly reduced greenhouse gas (GHG) emissions at the local level.

On November 18, 2015, the City signed onto the Compact of Mayors (Compact), which was launched at the 2014 United Nations Climate Summit. The Compact is a global coalition of mayors and city officials committing to reduce local GHG emissions, enhance resilience to climate change and track their progress publicly. It is an agreement by city networks to fight climate change to be consistent with and complimentary to national efforts.

This action was completed at the request of then City Councilmember Peter Zahn, who went to Paris for the 2015 United Nations Climate Change Conference where the landmark Paris Climate Agreement (Agreement) was signed by 148 of the 197 parties to the Convention. Subsequently, to date, 195 of the 197 countries have signed the Agreement. The Agreement's goal was to bring all nations into a common cause to undertake ambitious efforts to combat climate change and adapt to its effects. The Agreement's central aim is to strengthen the global response to the threat of climate change by keeping a global temperature rise this century well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius. This agreement succeeded where past attempts failed because it allowed each country to set its own emission reduction targets and adopt its own strategies for reaching them. In addition, nations – inspired by the actions of local and regional governments, along with businesses – came to recognize that fighting climate change brings significant economic and public health benefits.

On June 1, 2017, President Trump announced that the United States would withdraw from the Agreement. Since then, over 1,200 governors, mayors, businesses, investors and

CITY COUNCIL ACTION: \_\_\_\_\_  
\_\_\_\_\_

colleges and universities from across the United States (U.S.) declared their intent to continue to ensure the U.S. remains a global leader in reducing carbon emissions.

This item is before City Council to officially confirm its commitment to the Paris Climate Agreement.

**DISCUSSION:**

The City is currently in the latter stages of development of its first Climate Action Plan (CAP). The draft CAP has set reduction targets for greenhouse gas (GHG) emissions that align with the ambitious goals of the State of California (State). These ambitious goals are necessary in order to meet the global 2 degree Celsius target of the Agreement.

The City has always been a leader in environmental issues and because the City was already a member of the Compact, Staff was contacted by "We Are Still In" ([www.wearestillin.com](http://www.wearestillin.com)) coalition to sign an Open Letter to the international community and parties to the Agreement. Mayor Nichols agreed to sign the Open Letter to demonstrate the City's commitment to carbon reduction and the City became one of the original signees to the letter. Signatories include leaders from 125 cities, 9 states, 902 businesses and investors and 183 colleges and universities representing 120 million Americans and contribute \$6.2 trillion to the U.S. economy. The signatories state that the Agreement is a blueprint for job creation, stability and global prosperity and that accelerating the United States' clean energy transition is an opportunity – not a liability – to create jobs, spur innovation, promote trade and ensure American competitiveness.

Since then, another organization of mayors, the U.S. Climate Mayors, has committed to adopt, honor and uphold the Agreement goals. 313 U.S. Mayors representing 62 million Americans pledged to intensify efforts to meet each of their cities' current climate goals, push for new action to meet the 1.5 degree Celsius target and work together to create a 21<sup>st</sup> century clean energy economy.

This Staff Report is meant to confirm the City of Solana Beach's commitment to the "We Are Still In" coalition as well as to consider becoming a signatory to the U.S. Climate Mayors commitment to uphold the goals of the Agreement.

**CEQA COMPLIANCE STATEMENT:**

Not a project as defined by CEQA.

**FISCAL IMPACT:**

There will be no fiscal impact as a result of this action. The City is already working on completing a Climate Action Plan, which has draft emission reduction targets that align with the goals of the Agreement.

**WORK PLAN:**

Environmental Sustainability – Policy Development - Item 1. Community-Wide Greenhouse Gas Emission (GHG) Reductions

**OPTIONS:**

- Approve Staff recommendation
- Approve Staff recommendation with amendments
- Deny Staff recommendation and provide direction

**DEPARTMENT RECOMMENDATION:**

Staff recommends that the City Council reaffirm the City's commitment to the goals of the Paris Climate Agreement by confirming the decision to sign on to the "We Are Still In" Open Letter and consider signing on to the U.S. Climate Mayors commitment.

**CITY MANAGER RECOMMENDATION:**

Approve Department Recommendation



\_\_\_\_\_  
Gregory Wade, City Manager

Attachment 1 – Solana Beach Letter to the "We Are Still In" Campaign



---

## CITY OF SOLANA BEACH

635 SOUTH HIGHWAY 101 • SOLANA BEACH, CA 92075 • (858) 720-2400 • Fax (858) 720-2455

---

[www.cityofsolanabeach.org](http://www.cityofsolanabeach.org)

June 28, 2017

### **SUBJECT: CITY OF SOLANA BEACH'S COMMITMENT TO THE PARIS CLIMATE AGREEMENT**

To Whom It May Concern:

The City of Solana Beach (City) is submitting the following letter to confirm its commitment to support climate action to meet the Paris Climate Agreement (Paris Agreement). The City has been a progressive leader in environmental sustainability actions at the local level and has developed and implemented programs and policies to reduce carbon emissions. The City is currently developing a Climate Action Plan that includes aggressive emission reduction targets that mirror the State of California's targets.

The City became a member of the U.S. Compact of Mayors (Compact) prior to the 2015 United Nations Climate Change Conference in Paris where the landmark Paris Agreement was signed. By becoming a member of the Compact, the City demonstrated its commitment to the Paris Agreement's central aim to strengthen the global response to the threat of climate change by keeping a global temperature rise this century well below the 2 degree Celsius above pre-industrial levels.

The Trump administration's announcement to withdraw from the Paris Agreement undermines a key pillar in the fight against climate change and damages the world's ability to avoid the most dangerous and costly effects of climate change. Importantly, it is also out of step with what is happening in the United States.

The City, along with over 1,200 governors, mayors, businesses, investors, and colleges and universities from across the United States, believe that the Paris Agreement is a blueprint for job creation, stability and global prosperity and that accelerating the United States' clean energy transition is an opportunity – not a liability – to create jobs, spur innovation, promote trade and ensure American competitiveness.

In the absence of leadership from Washington, states, cities, colleges and universities, businesses and investors, representing a sizeable percentage of the U.S. economy will pursue ambitious climate goals, working together to take forceful action and to ensure that the U.S. remains a global leader in reducing emissions.

It is imperative that the world know that in the U.S., the actors that will provide the leadership necessary to meet our Paris commitment are found in city halls, state capitals, colleges and universities, investors and businesses. Together, we will remain actively engaged with the international community as part of the global effort to hold warming to well below 2°C and to accelerate the transition to a clean energy economy that will benefit our security, prosperity, and health.

On behalf of the City Council of the City of Solana Beach, we respectfully submit this letter confirming our commitment to support climate action to meet the Paris Climate Agreement

Sincerely,

Mike Nichols  
Mayor  
City of Solana Beach



# STAFF REPORT CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Gregory Wade, City Manager  
**MEETING DATE:** June 28, 2017  
**ORIGINATING DEPT:** Engineering Department  
**SUBJECT:** **Public Hearing: Introduce (1<sup>st</sup> Reading) Ordinance 479 – Authorizing a Transportation Impact Fee Program and Consideration of Resolution No. 2017-018 – Establishing the Transportation Impact Fee**

---

## **BACKGROUND:**

In September 2013, the California state legislature adopted SB 743, which requires the development of transportation metrics to assess project development impacts other than Level of Service (LOS), which is typically based upon vehicle delays at roadway segments and intersections during peak travel periods. LOS has been the standard transportation metric used in circulation elements, including the City's previous Circulation Element, to assess such impacts.

On November 19, 2014, the City Council certified the Environmental Impact Report and adopted updates to the Circulation and Land Use Elements of the General Plan. As a part of the update, a new policy was added to develop and maintain a transportation impact fee (TIF) program. The purpose of the TIF is to fund construction of transportation facilities in response to the anticipated cumulative impacts associated with future development and redevelopment projects based on the number of additional trips (across all modes of transportation) that future developments are projected to generate within the City. The TIF will be used to fund construction of specifically identified transportation facilities, or portions thereof, in accordance with the Circulation Element of the City's General Plan. Costs funded by the TIF may include program administration, project administration and management, design and engineering, regulatory compliance, and construction.

On April 27, 2016, the City Council approved a Professional Services Agreement with Chen Ryan Associates, Inc. (CRA) for the development of a TIF program. For this

COUNCIL ACTION:

---

---



effort, CRA has been assisted by EFS Engineering (EFS) to develop the fee program and conduct a nexus study between the transportation improvement costs and the transportation related impacts of future development.

The result of these efforts have been summarized in a draft report (Attachment 1) dated June 2017, prepared by EFS in association with CRA. This item is before the City Council to consider the TIF program methodology developed by CRA and EFS and to establish the TIF amount.

## **DISCUSSION:**

Since the kickoff meeting in May 2016, Staff has been working with CRA to perform data collection, a fee rate analysis and a nexus study. In developing the methodology for the TIF program, numerous factors were considered. The first step was to determine the cost to buildout the mobility network. The improvements proposed by the City's recently adopted Circulation Element as well as the list of projects identified in the Comprehensive Active Transportation Strategies (CATS) program that was approved by the City Council in June 2015 was the starting point for the analysis. The CATS program laid the foundation for bicycle and pedestrian improvements within the City by focusing on enhancing the safety and comfort of existing and future bicycle and pedestrian facilities and increasing connectivity to key attracting land uses such as schools, commercial/retail districts and recreational resources.

With less than 1% of land undeveloped within the City, future development will occur primarily through infill development and redevelopment. Therefore, it is important to determine the best method for calculating the impacts future development in the City will have on the transportation network. The CATS program analyzed the existing network to understand the cycling and pedestrian demands and deficiencies in the City. Once the deficiencies were identified, a list of improvements to the active transportation network was developed. The CATS program identified a list of projects that could be implemented in the short-term (defined as being implemented within 1 to 10 years following adoption of the CATS program) and another list of projects that could be implemented in the long-term (implemented 10+ years following adoption of the CATS program). These lists formed the basis for determining the cost needed to fully implement the City's transportation network (Attachment 2).

## **Program Cost Estimate**

One of the fundamental concepts of the TIF program is that new development within the City will generate the need for construction or improvement of certain transportation facilities. These facilities have been identified by the City's Circulation Element which was approved in 2014. Attachment 2 is the list of projects proposed to be funded by the TIF program including the estimated cost of each project. The list includes information regarding the location, length and type of improvements, and estimated cost of each project. This list details projects throughout the City that total \$31,403,750. These projects are almost entirely active transportation related (pedestrian and bicycle

improvements) since the automotive vehicle network is primarily built-out. This list includes several Class 1 multi-modal facilities some of which are duplicative facilities. While having duplicative multi-modal facilities can be beneficial from a place-making or aesthetic perspective, the transportation related benefits (i.e., quality, capacity, safety and connectivity) are negligible. Examples of these facilities are the Class IV cycle track facilities identified along Lomas Santa Fe Drive and along Stevens Avenue. The estimated cost of these duplicative multi-modal facilities is \$11,850,000. This Nexus Study has been prepared to fund a total program cost of \$19,553,750, which represents the cost of planned transportation improvements attributable to, and necessitated by, future development in the City. TIF funds will be used for the specific improvements, identified in this Nexus Study, that are needed to accommodate future growth in the City. Non-TIF fund sources such as grant funding, City's general fund, TransNet and gas tax funds may be used to defray the cost of improvements needed to address existing deficiencies, as well as certain proposed multi-modal projects identified as duplicative. In order to supplement the TIF and be able to fund some or all of the duplicative projects, Staff will pursue grant funding opportunities from the San Diego Association of Governments (SANDAG) Caltrans and other sources, similar as to what was done to fund the improvements currently taking place along Stevens Avenue.

## **Program Fee Methodology**

As the fee rate scenarios were being developed, several options were explored. When deciding which scenarios to include in the TIF program, it is important to remember that the TIF is a zero-sum program. Once an overall program cost has been identified, any changes to the proposed fee rate for the various land uses will affect the proposed fee rate for all of the other land uses. For instance, since the overall program cost is fixed, if the proposed fee rate for single-family homes is eliminated, the fee for all other land uses would be increased to make up the difference, unless an alternative funding source is identified.

In order to fund the list of projects identified in Attachment 2, the TIF program was developed based on the concept that new development within the City will generate the need for construction of these facilities. Therefore, the existing residents, property owners or business owners would be exempt from funding any of the proposed facilities. For example, existing home owners in Solana Beach would not be required to pay the TIF if they go through any kind of remodeling, expansion, or improvements to their homes; conversely, a vacant single-family lot would have to pay the TIF for one unit when a building permit is issued.

The TIF is developed based on typical person trip generation rates and forecasted growth consistent with the General Plan's assumptions for the estimated change in land use from 2017 to the ultimate build-out condition of the City. Trip generation rates are the cornerstone of most transportation modeling efforts. Trip generation rates define the average volume of trips generated for the various land use categories. Due to the multi-modal nature of the proposed transportation infrastructure, person trips, as opposed to vehicular trips, were used for purposes of analyzing the City's transportation system and

development of the Circulation Element. Consistent with this concept, the TIF rates have been developed for the various land use categories based on relative Travel Demand Units (TDU's). TDU's provide a transportation-related equivalency measure that considers person trip generation rates and average trip length. For the forecasted growth and only implementing the fees to new development, the total TDU for the City is estimated at 147,252.59. The resulting unit fee is \$132.79 per TDU (total program cost of \$19,553,750 divided by total TDU of 147,252.50 = \$132.79). Table 1 below summarizes the proposed TIF rates for the generalized land use categories in the City

**Table 1 – Summary of Proposed TIF Rates**

| FEE RATE CATEGORY                     | TDU FACTOR <sup>(1)</sup>    |                     | PROPOSED FEE RATE               |
|---------------------------------------|------------------------------|---------------------|---------------------------------|
|                                       | Person Trip Rate             | Average Trip Length |                                 |
| Residential – Single-Family           | 12.20 per unit               | 9.7 miles           | \$15,714 per unit               |
| Residential – Condo & Multi-Family    | 8.70 per unit                | 9.7 miles           | \$11,206 per unit               |
| Residential – Accessory Dwelling Unit | 3.05 per unit                | 9.7 miles           | \$3,929 per unit <sup>(2)</sup> |
| Retail, Commercial & Shopping         | 19.78 per KSF                | 6.5 miles           | \$17,073 per KSF                |
| Office & Employment Center            | 6.71 per KSF <sup>(3)</sup>  | 11.8 miles          | \$10,514 per KSF                |
| Industrial                            | 1.97 per KSF <sup>(3)</sup>  | 11.8 miles          | \$3,087 per KSF                 |
| Lodging & Resort                      | 7.72 per KSF <sup>(3)</sup>  | 10.7 miles          | \$10,969 per KSF                |
| Educational & Institutional           | 11.05 per KSF <sup>(3)</sup> | 6.3 miles           | \$9,243 per KSF                 |
| Other                                 | --                           | --                  | \$132.79 per TDU                |

KSF = 1,000 square feet

<sup>(1)</sup> Person trip rates and average trip lengths derived from data provided by CRA

<sup>(2)</sup> Fee based on 25% of single-family residential rate

<sup>(3)</sup> Person trip rate based on estimated floor area ratio (FAR) of 1.0

An element of the TransNet Ordinance requires the region's 18 cities and the County of San Diego to collect a fee from the private sector for each new housing unit constructed in their jurisdiction. The Regional Transportation Congestion Improvement Program (RTCIP) has been in effect since July 1, 2008. SANDAG adjusts the minimum fee amount on July 1 of each year, based on analysis of construction cost indices. But the fee increase is no less than 2 percent. The purpose of the adjustment is to ensure that the RTCIP retains its purchasing power to improve the regional arterial system. The RTCIP fees have been set by SANDAG as a minimum and each agency may set the fees based on their own needs assessments. The City's RTCIP fee was established in 2008 and has not been increased since. Currently, the City collects a fee of \$2,842 for multi-family units and \$3,552 for single-family units. In an effort to focus on the City's infrastructure needs associated with the new development, the City's TIF is independent of the RTCIP. In other words, if the TIF is adopted, a new single-family residential

property would pay both the TIF and the RTCIP fee. It is important to note that the TIF only applies to projects that would create transportation-related impacts through development or redevelopment process.

Having TIF funds available can help the City leverage other funding sources, including state and federal grants. Grant programs often require a high level of difficult-to-find matching funds. Having a TIF program demonstrates a committed plan of action for transportation system improvements and TIF revenue can provide a ready source of matching funds. Both of these factors can provide a competitive edge when applying for grants.

## **Exemptions**

The nexus study is based on transportation impacts of any project generating new person trips. The following new developments are recommended to be exempt for the application of the provisions of this chapter:

- A. City-owned facilities and buildings.
- B. Redevelopment of single-family homes that do not result in additional generation of person trips.

The City Council may also choose to exempt other projects such as vacant or newly created single-family lots. It should be noted that if other projects are excluded from the collection of the TIF, other non-TIF funded sources such as grant funding, general fund, TransNet and gas tax funds may be used supplement the program. It is also important to recognize that all other impacts of any proposed project will have to be mitigated on a project by project basis.

## **Annual Reporting**

Provisions set forth in the Mitigation Fee Act require that each agency imposing an impact fee make specific information available to the public annually within 180 days of the last day of the fiscal year. This information includes the following:

- A brief description of the type of fee in each account or fund;
- The amount of the fee;
- The beginning and ending balance of the account or fund;
- The amount of the fees collected and the interest earned;
- An identification of each public improvement on which fees were expended and the amount of each expenditure;

- An identification of the approximate date in which the construction of the public improvement will commence;
- A description of any inter-fund transfer or loan and the public improvement on which the transferred funds will be expended; and
- The amount of the funds made and any allocations of unexpended fees that are not refunded.

With the adoption of this program, the City would continue to monitor development activity, the need for infrastructure improvements, the adequacy of the TIF program implementation, the fee revenues and other available funding. Formal annual review of the adopted TIF program should occur, at which time adjustments can be made, if necessary.

## **Annual Cost Index**

The City Council may review transportation impact fees from time to time. For any annual period during which the City Council does not review the TIF, fee amounts shall be adjusted once by the City Engineer or Public Works Director based on the annual percentage increase in the "Los Angeles Construction Cost Index" (LACCI), as compiled and reported by Engineering News Record. It is recommended that the TIF rates be indexed annually in order to keep up with future increases in the cost of construction.

## **CEQA COMPLIANCE STATEMENT:**

The City Council certified the Environmental Impact Report of the General Plan Update, which includes the Transportation Impact Fee program, at the November 19, 2014 City Council meeting. In addition, the fees collected through the TIF will be used on capital projects for transportation infrastructure necessary to maintain adequate multi-modal transportation service in the City. The City has determined that the act of adopting the proposed TIF program and establishing the proposed TIF rates is statutorily exempt from the requirements of CEQA under §15273(a)(4) of the CEQA Guidelines.

## **FISCAL IMPACT:**

Actions taken as part of this Staff Report do not have any fiscal impact. Once the TIF is adopted, funding for future roadway improvement projects will be collected as properties throughout the City are developed or redeveloped to a higher density or intensification of land use.

## **WORK PLAN:**

This project is identified as part of Item A.1 (General Plan and Housing Element Update) in the Land Use & Planning section of the Community Character Priorities section of the Adopted 2017/18 Work Plan.

**OPTIONS:**

- Approve Staff recommendation.
- Approve Staff recommendation with modifications.
- Provide direction.


**DEPARTMENT RECOMMENDATION:**

Staff recommends the City Council:

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Introduce Ordinance No. 479 establishing the Transportation Impact Fee.
3. Adopt Resolution No. 2017-018:
  - a. Accepting the Transportation Impact Fee Program Nexus Study, dated June 2017.
  - b. Establishing the TIF and determining that the TIF shall be paid based upon the use of land set forth in the fee rate table included in the Transportation Impact Fee Program Nexus Study, dated June 2017.
  - c. Establishing that the TIF shall become effective upon the effective date of Ordinance No. 479.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation.



---

Gregory Wade, City Manager

Attachments:

1. TIF Nexus Study
2. List of TIF funded projects
3. Ordinance No. 479
4. Resolution No. 2017-018

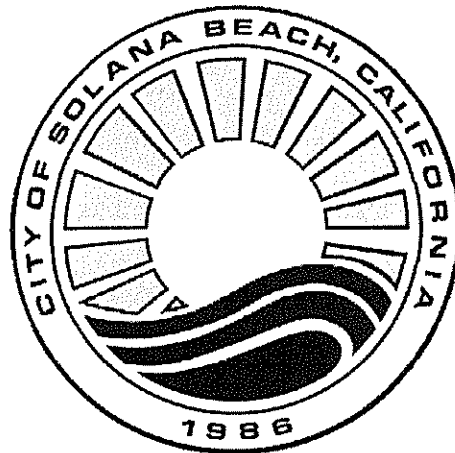
**DRAFT**

**City of Solana Beach  
Transportation Impact Fee Program  
NEXUS STUDY**

---

Prepared for

*Solana Beach*  
CALIFORNIA



Prepared by

**EFS ENGINEERING, INC.**

In association with

**CHEN + RYAN**

**June 2017**

# Table of Contents

---

|   |    |
|---|----|
| Introduction.....                         | 1  |
| Overview.....                             | 1  |
| Transportation Impact Fees.....           | 1  |
| California Environmental Quality Act..... | 3  |
| Exemption from CEQA Requirements.....     | 4  |
| Statutory Framework.....                  | 4  |
| Fee Development Process.....              | 5  |
| Development Forecast.....                 | 6  |
| Projected Development.....                | 6  |
| Fee Methodology.....                      | 7  |
| Travel Demand Units.....                  | 7  |
| Projected Travel Demand Units.....        | 8  |
| Program Facilities.....                   | 9  |
| Planned Transportation Improvements.....  | 9  |
| Funding Requirements.....                 | 13 |
| Total Program Costs.....                  | 13 |
| Unit Fee Rate.....                        | 13 |
| Proposed Fee Rates.....                   | 13 |
| Other Funding Sources.....                | 14 |
| Annual Cost-Indexing.....                 | 15 |
| Program Implementation.....               | 16 |
| Statement of Findings.....                | 16 |
| Capital Improvement Program.....          | 17 |
| Annual Reporting.....                     | 17 |
| Special Considerations.....               | 18 |
| General Plan Amendments.....              | 18 |
| Impacts Outside the City.....             | 18 |
| Inter-Agency Coordination.....            | 18 |
| SANDAG RTCIP Fee.....                     | 19 |

## **List of Tables**

- Table 1:** Projected Change in Land Use (2017 to Ultimate Build-out)  
**Table 2:** Travel Demand Unit Factors  
**Table 3:** Projected TDU's Attributable to Future Development  
**Table 4:** Planned Transportation Improvements  
**Table 5:** Summary of Proposed TIF Rates

## **List of Figures**

- Figure 1:** City of Solana Beach  
**Figure 2:** Planned Transportation Improvements





# Introduction

---

## Overview

The City of Solana Beach (City) *General Plan EIR* (adopted November 2014), and supporting technical studies, state that future projects will have potentially significant cumulative impacts to all modes of transportation facilities through the generation of additional trips. To that end, the City has identified the need for additional multi-modal transportation facilities to mitigate the impacts of projected future growth and redevelopment within the incorporated city limits (see **Figure 1**). The City has retained Chen Ryan Associates to develop a transportation impact fee (TIF) program to fund the estimated cost of the identified transportation facilities. Chen Ryan Associates has retained EFS Engineering, Inc. to assist with preparation of a nexus study to support the imposition of the TIF.

The purpose of this Nexus Study is to summarize the TIF applicable to all new development and/or redevelopment, and to demonstrate the required nexus between the reasonable cost of transportation facilities and the amount of the fees. This Nexus Study proposes a TIF to be collected on all new development and/or redevelopment to the extent that such redevelopment results in additional generation of trips. The primary purpose of the TIF is twofold: (1) to fund the construction of identified facilities needed to reduce, or mitigate, the projected cumulative transportation impacts resulting from such development; and (2) to allocate the costs of these facilities equitably among future developing properties.

---

## Transportation Impact Fees

An impact fee is a commonly used and well-accepted means of mitigating the impacts created by future growth. Public agencies regularly impose impact fees on new development to fund a variety of public facilities, including roads, sewer and water facilities, libraries, parks, and schools. Recent surveys of local and regional agencies in California indicate that most agencies impose some form of TIF.

Transportation infrastructure needs can be characterized as existing deficiencies or projected (future) deficiencies. Existing transportation deficiencies are the responsibility of existing developed land uses and government agencies. The rationale supporting development of the TIF program is that future development in the incorporated area is required by law to mitigate their cumulative impacts on the City's transportation system.





Without a TIF program, future development would cause a continued decrease in transportation efficiency and overall system capacity. A TIF program is a suitable mechanism for identifying needed transportation facilities to mitigate these cumulative traffic impacts, and allocating the associated costs in an equitable fashion.

---

## California Environmental Quality Act

The *California Environmental Quality Act* (CEQA), embodied in California Public Resources Code §§21000 et seq., requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible. To that end, local agencies generally require that a project's impacts, and corresponding mitigation measures, be identified as part of the required environmental review process.

Prior to the Court of Appeals decision in *Communities for a Better Environment v. California Resources Agency* (103 Cal. App. 4<sup>th</sup> 98, 2002), there was some uncertainty as to how to measure the significance of cumulative impacts. Projects with very small incremental impacts, as measured against this combined impacts of other projects, could, consistent with the *CEQA Guidelines* (CEQA Guidelines), embodied in California Code of Regulations, Title 14, Division 6, Chapter 3, §§15000 et seq., be determined to have cumulatively insignificant impacts because the project's contribution was "de minimis." The Court of Appeals in *Communities for a Better Environment* found the "de minimis" provisions in the CEQA Guidelines inconsistent with the cumulative impact analysis required by CEQA, and invalidated the provision.

The change in law resulting from the invalidation of the "de minimis" provisions in the CEQA Guidelines caused over 300 private development projects in San Diego County to be stalled due to the lack of affordable mitigation for cumulative traffic impacts. Many small to mid-size projects could not afford the expensive traffic analyses and physical road improvements needed to identify and mitigate their cumulative impacts.

The CEQA Guidelines recognize the use of a fee payment as a way of mitigating cumulative impacts. A project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measure designed to alleviate the cumulative impact (see CEQA Guidelines, §15130(a)(3)).

The City's *General Plan EIR*, and supporting technical studies, state that future projects will have potentially significant cumulative impacts to all modes of transportation facilities through the generation of additional trips. The *General Plan EIR* further states that all future development allowed under the plan will be required to mitigate for its fair share of such impacts through payment of a trip-based impact fee program consistent with Circulation Element Policy C-5.1

The facilities identified in this Nexus Study provide increased multi-modal capacity to mitigate the cumulative traffic impacts of future development. No facilities will actually be constructed until necessary environmental review has been conducted. Further studies, including environmental review, may show superior alternative projects that also meet the increased capacity need.

### Exemption from CEQA Requirements

The fees collected through the TIF will be used on capital projects for transportation infrastructure necessary to maintain adequate multi-modal transportation service in the City. The City has determined that the act of adopting the proposed TIF program and establishing the proposed TIF rates is statutorily exempt from the requirements of CEQA under §15273(a)(4) of the CEQA Guidelines.

---

## Statutory Framework

Development and implementation of impact fees must conform to the statutory requirements of the *Mitigation Fee Act* (embodied in California Government Code §§66000 et seq.). Prior to establishing, increasing or imposing an impact fee, the *Mitigation Fee Act* requires the local agency to make the following findings:

- ◆ Identify the purpose of the fee (§66001(a)(1)).
- ◆ Identify the use for the fee and the facilities to be built (§66001(a)(2)).
- ◆ Determine a reasonable relationship between the fee's use and the type of development project on which the fee is imposed (§66001(a)(3)).
- ◆ Determine a reasonable relationship between the need for the public facility and the type of development project (§66001(a)(4)).
- ◆ Determine a reasonable relationship between the amount of the fee and the cost of the facility attributable to development (§66001(b)).

For purposes of the City’s TIF program, a statement of requisite findings is presented in the “Program Implementation” section of this Nexus Study.

---

## Fee Development Process

The remainder of this report summarizes the process by which the TIF program was developed, as presented in the following sections:

- ◆ Development Forecast
- ◆ Fee Methodology
- ◆ Program Facilities
- ◆ Funding Requirements
- ◆ Program Implementation

# Development Forecast

---

## Projected Development

One of the fundamental concepts of the TIF program is that new development within the City will generate the need for construction or improvement of certain transportation facilities. As such, an evaluation of projected growth within the City is an essential component to the development of the TIF program. Information relative to future growth potential in the City serves several functions, including:

- ◆ Facilitates the identification of transportation infrastructure necessary to serve future City development, and
- ◆ Provides a fundamental basis for apportioning the costs of necessary transportation infrastructure to future City development.

Growth forecasts were completed in support of the City’s *General Plan Update* (adopted November 2014) and *Comprehensive Active Transportation System (CATS)* program (adopted June 2015). **Table 1** provides a summary of the estimated change in land use from Year 2017 to ultimate build-out land use conditions in the City.

**Table 1: Projected Change in Land Use  
(2017 to Ultimate Build-out)**

| LAND USE CATEGORY           | NET CHANGE <sup>(1)</sup> |
|-----------------------------|---------------------------|
| Residential – Single Family | +28.00 units              |
| Residential – Multi-Family  | +423.00 units             |
| Residential – Mobile Home   | -3.00 units               |
| Streetfront Commercial      | -5.10 acres               |
| Other Commercial            | -0.80 acres               |
| Mixed Use                   | +29.60 acres              |
| Low-Rise Office             | -2.80 acres               |
| Industrial Park             | -5.00 acres               |
| Low-Rise Hotel or Motel     | +2.90 acres               |
| Other Health Care           | -1.40 acres               |

SOURCE: Derived from data provided by Chen Ryan Associates.

<sup>(1)</sup> Estimate based on build-out of land uses at maximum density.



# Fee Methodology

## Travel Demand Units

Trip generation rates are the cornerstone of most transportation modeling efforts. Trip generation rates define the average volume of trips generated for the various land use categories. Due to the multi-modal nature of the proposed transportation infrastructure, person trips, as opposed to vehicular trips, were used for purposes of analyzing the City’s transportation system and development of the Circulation Element. Consistent with this concept, TIF rates have been developed for the various land use categories based on relative Travel Demand Units (TDU’s). TDU’s provide a transportation-related equivalency measure that considers person trip generation rates and average trip length, as shown in the following equation:

$$\text{TDU's} = (\text{Units or Acreage}) \times \text{TDU Factor}$$

TDU Factors are summarized in **Table 2** for the land uses contained in **Table 1**, and based on the following equation:

$$\text{TDU Factor} = (\text{Person Trip Rate}) \times (\text{Average Trip Length})$$

**Table 2: TDU Factors**

| LAND USE CATEGORY           | PERSON TRIP RATE <sup>(1)</sup> | AVERAGE TRIP LENGTH <sup>(1)</sup> | TDU FACTOR        |
|-----------------------------|---------------------------------|------------------------------------|-------------------|
| Residential – Single Family | 12.20 per unit                  | 9.7 miles                          | 118.34 per unit   |
| Residential – Multi-Family  | 8.70 per unit                   | 9.7 miles                          | 84.39 per unit    |
| Residential – Mobile Home   | 6.60 per unit                   | 9.7 miles                          | 64.02 per unit    |
| Streetfront Commercial      | 1,278.50 per acre               | 6.5 miles                          | 8,310.25 per acre |
| Other Commercial            | 118.80 per acre                 | 6.5 miles                          | 772.20 per acre   |
| Mixed Use                   | 861.60 per acre                 | 6.5 miles                          | 5,600.40 per acre |
| Low-Rise Office             | 292.20 per acre                 | 11.8 miles                         | 3,447.96 per acre |
| Industrial Park             | 176.20 per acre                 | 11.8 miles                         | 2,079.16 per acre |
| Low-Rise Hotel or Motel     | 336.10 per acre                 | 10.7 miles                         | 3,596.27 per acre |
| Other Health Care           | 481.30 per acre                 | 7.0 miles                          | 3,369.10 per acre |

SOURCE: Derived from data provided by Chen Ryan Associates.

<sup>(1)</sup> Based on data contained in *Summary of Travel Trends: 2009 National Household Travel Survey* (prepared by U.S. Department of Transportation, Federal Highway Administration).



**Projected Travel Demand Units**

The total cost of the TIF program will be funded by fees (based on TDU's) associated with future development in the City. **Table 3** provides a summary of projected TDU's attributable to future growth in the City.

**Table 3: Projected TDU's Attributable to Future Development**

| LAND USE CATEGORY           | NET CHANGE <sup>(1)</sup> | TDU FACTOR <sup>(2)</sup> | TOTAL TDU's        |
|-----------------------------|---------------------------|---------------------------|--------------------|
| Residential – Single Family | +28.00 units              | 118.34 per unit           | +3,313.52          |
| Residential – Multi-Family  | +423.00 units             | 84.39 per unit            | +35,696.97         |
| Residential – Mobile Home   | -3.00 units               | 64.02 per unit            | -192.06            |
| Streetfront Commercial      | -5.10 acres               | 8,310.25 per acre         | -42,382.28         |
| Other Commercial            | -0.80 acres               | 772.20 per acre           | -617.76            |
| Mixed Use                   | +29.60 acres              | 5,600.40 per acre         | +165,771.84        |
| Low-Rise Office             | -2.80 acres               | 3,447.96 per acre         | -9,654.29          |
| Industrial Park             | -5.00 acres               | 2,079.16 per acre         | -10,395.80         |
| Low-Rise Hotel or Motel     | +2.90 acres               | 3,596.27 per acre         | +10,429.18         |
| Other Health Care           | -1.40 acres               | 3,369.10 per acre         | -4,716.74          |
| <b>GROWTH (TDU's)</b>       |                           |                           | <b>+147,252.59</b> |

SOURCE: Derived from data provided by Chen Ryan Associates.

<sup>(1)</sup> See **Table 1**.

<sup>(2)</sup> See **Table 2**.

By using person trip rates and average trip length in the calculation of TDU's, the fee methodology effectively considers person miles of travel (PMT) for the various land uses. This approach correlates with vehicle miles of travel (VMT), commonly used in vehicular-based impact fee programs.

It is important to note that the TIF only applies to projects that would create transportation-related impacts through the development or redevelopment process. As such, improvements, remodels, expansion, and demolition and reconstruction of existing residential homes are exempt from TIF to the extent that such projects do not create additional impacts.





# Program Facilities

---

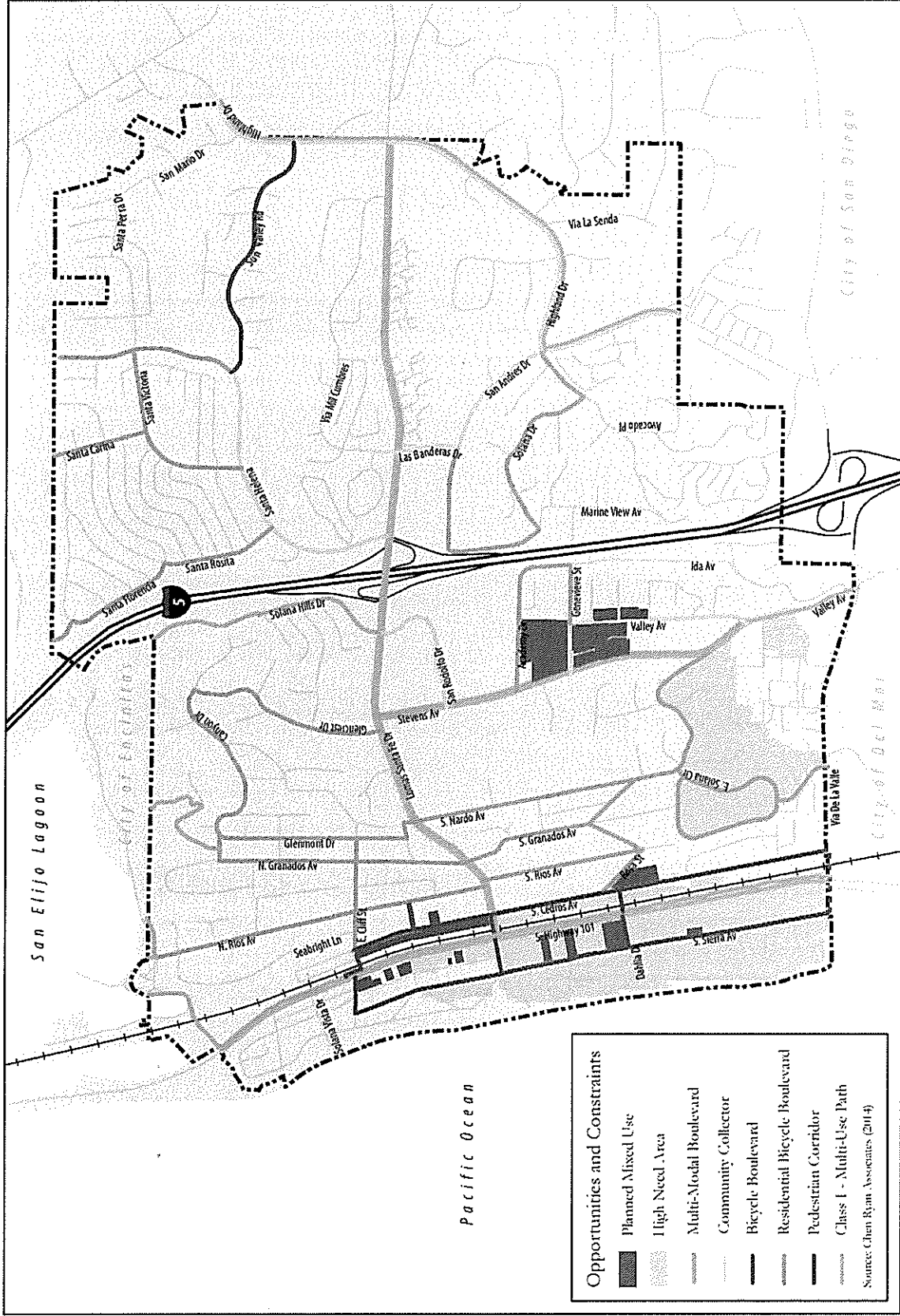
## Planned Transportation Improvements

The City's *General Plan EIR*, and supporting technical studies, state that future projects will have potentially significant cumulative impacts to all modes of transportation facilities through the generation of additional trips. The *General Plan EIR* further states that all future development allowed under the plan will be required to mitigate for its fair share of such impacts through payment of a trip-based impact fee program consistent with Circulation Element Policy C-5.1.

**Table 4** summarizes the planned transportation improvements that are required to complete the City's Circulation Element. The total cost of these improvements is estimated at \$31,403,750. These transportation improvements, conceptually depicted in **Figure 2**, are based on a mitigation monitoring program established in the City's *General Plan EIR*, and further refined in the *Comprehensive Active Transportation System* program.

The City's Circulation Element contains several Class 1 Multi-Use Paths that run parallel to other high quality multi-modal facilities (e.g., Class IV Cycle Tracks). Examples of this can be seen on Lomas Santa Fe Drive and Stevens Avenue. While having duplicative multi-modal facilities can be beneficial from a place making perspective, the transportation related benefits (i.e., quality, capacity, safety and connectivity) are negligible. The same multi-modal level of service for these corridors, outlined in the *Circulation Element Preferred Plan Technical Analysis Report* (prepared by Chen Ryan Associates, dated May 28, 2014), can be achieved without the addition of these duplicative multi-use paths.

The estimated cost of these duplicative multi-modal facilities, each of which is denoted with an asterisk in **Table 4**, is \$11,850,000. This Nexus Study has been prepared to fund a total program cost of \$19,553,750, which represents the cost of planned transportation improvements attributable to, and necessitated by, future development in the City.



Planned Transportation Improvements

Figure 2



**Table 4: Planned Transportation Improvements**

| SEGMENT              | SEGMENT LIMITS    |                   | IMPROVEMENT TYPE |                                   | LENGTH<br>(miles) | ESTIMATED<br>COST <sup>(1)</sup> |
|----------------------|-------------------|-------------------|------------------|-----------------------------------|-------------------|----------------------------------|
|                      | FROM              | TO                | PEDESTRIAN       | BICYCLE                           |                   |                                  |
| Plaza Street         | Sierra Ave        | Highway 101       | --               | Bicycle Route                     | 0.08              | \$400                            |
| Lomas Santa Fe Drive | Highway 101       | Stevens Ave       | Multi-Use Path * | Cycle Track /<br>Multi-Use Path * | 0.63              | \$2,520,000                      |
| Stevens Avenue       | Lomas Santa Fe Dr | Valley Ave        | Multi-Use Path * | Cycle Track /<br>Multi-Use Path * | 0.94              | \$3,760,000                      |
| Valley Avenue        | Stevens Ave       | Via De la Valle   | --               | Cycle Track                       | 0.28              | \$280,000                        |
| Lomas Santa Fe Drive | Stevens Ave       | Las Banderas Dr   | Multi-Use Path * | Cycle Track /<br>Multi-Use Path * | 0.65              | \$2,600,000                      |
| North Cedros Avenue  | Cliff Street      | Lomas Santa Fe Dr | Traffic Calming  | Commercial<br>Bicycle Boulevard   | 0.34              | \$442,000                        |
| N. Rios Avenue       | Cliff Street      | Lomas Santa Fe Dr | Traffic Calming  | Residential Bicycle<br>Boulevard  | 0.32              | \$320,000                        |
| San Andres Drive     | Las Banderas Dr   | Highland Dr       | --               | Bicycle Lane                      | 0.32              | \$208,000                        |
| San Andres Drive     | Highland Dr       | City Boundary     | Multi-Use Path   | Multi-Use Path                    | 0.34              | \$1,020,000                      |
| South Cedros Avenue  | Lomas Santa Fe Dr | Cofair Ave        | --               | Commercial<br>Bicycle Boulevard   | 0.48              | \$624,000                        |
| South Cedros Avenue  | Cofair Ave        | Via De La Valle   | Traffic Calming  | Commercial<br>Bicycle Boulevard   | 0.33              | \$429,000                        |
| Cliff Street         | Pacific Ave       | Highway 101       | --               | Bicycle Route                     | 0.09              | \$450                            |
| Cliff Street         | Cedros Ave        | Glenmont Dr       | Traffic Calming  | Residential Bicycle<br>Boulevard  | 0.27              | \$270,000                        |
| Glenmont Drive       | E. Cliff Street   | El Viento Street  |                  |                                   | 0.12              | \$120,000                        |
| El Viento Street     | Glenmont Dr       | N. Nardo Ave      |                  |                                   | 0.04              | \$40,000                         |
| Nardo Avenue         | El Viento Street  | Lomas Santa Fe Dr |                  |                                   | 0.02              | \$20,000                         |
| Sierra Avenue        | Cliff Street      | Border Ave        | Traffic Calming  | Commercial<br>Bicycle Boulevard   | 1.16              | \$1,508,000                      |
| Santa Helena         | City Boundary     | Sun Valley Road   | --               | Bicycle Lane                      | 0.43              | \$279,500                        |
| Academy Drive        | Stevens Ave       | Ida Ave           | Traffic Calming  | Residential Bicycle<br>Boulevard  | 0.27              | \$270,000                        |
| Ida Avenue           | Academy Dr        | Genevieve Street  |                  |                                   | 0.28              | \$280,000                        |
| Genevieve Street     | Valley Ave        | Ida Ave           |                  | Residential Bicycle<br>Boulevard  | 0.14              | \$140,000                        |
| Genevieve Street     | Stevens Ave       | Valley Ave        |                  | Bicycle Route                     | 0.12              | \$600                            |
| Valley Avenue        | Genevieve Street  | Stevens Ave       |                  | Bicycle Route                     | 0.43              | \$2,150                          |
| Via Mil Cumbres      | Cerro Largo Dr    | Lomas Santa Fe Dr | Traffic Calming  | --                                | 0.13              | \$39,000                         |
| Las Banderas Drive   | Lomas Santa Fe Dr | San Andres Dr     |                  | Bicycle Route                     | 0.15              | \$750                            |
| San Andres Drive     | Marine View Ave   | San Andres Dr     |                  | Residential Bicycle<br>Boulevard  | 0.24              | \$240,000                        |
| Marine View Avenue   | San Andres Dr     | Solana Dr         |                  | 0.23                              | \$230,000         |                                  |
| Lomas Santa Fe Drive | Las Banderas Dr   | Highland Dr       | Multi-Use Path * | Cycle Track /<br>Multi-Use Path * | 0.75              | \$3,000,000                      |
| Glenmont Drive       | Lomas Santa Fe Dr | Canyon Dr         | Traffic Calming  | Residential Bicycle<br>Boulevard  | 0.33              | \$330,000                        |
| Canyon Drive         | Glenmont Dr       | Glencrest Dr      |                  |                                   | 0.44              | \$440,000                        |
| Glencrest Drive      | Canyon Dr         | Lomas Santa Fe Dr |                  |                                   | 0.48              | \$480,000                        |



**Table 4: Planned Transportation Improvements (continued)**

| SEGMENT                          | SEGMENT LIMITS                    |                        | IMPROVEMENT TYPE |                                | LENGTH<br>(miles) | ESTIMATED<br>COST <sup>(1)</sup> |
|----------------------------------|-----------------------------------|------------------------|------------------|--------------------------------|-------------------|----------------------------------|
|                                  | FROM                              | TO                     | PEDESTRIAN       | BICYCLE                        |                   |                                  |
| Santa Helena                     | Sun Valley Rd                     | Lomas Santa Fe Dr      | Traffic Calming  | Bike Lane                      | 0.69              | \$448,500                        |
| Santa Victoria                   | Santa Helena (N)                  | Santa Helena (S)       |                  | Residential Bicycle Boulevard  | 0.47              | \$470,000                        |
| San Patricio Drive               | Santa Victoria                    | Santa Rufina Dr        |                  |                                | 0.22              | \$220,000                        |
| Dell Street                      | Glencrest Dr                      | Solana Hills Dr        | Traffic Calming  | Residential Bicycle Boulevard  | 0.32              | \$320,000                        |
| Solana Hills Drive               | Dell St                           | Lomas Santa Fe Dr      |                  | Multi-Use Path                 | 0.24              | \$720,000                        |
| San Rodolfo Drive                | Stevens Ave                       | Lomas Santa Fe Dr      |                  | Residential Bicycle Boulevard  | 0.34              | \$340,000                        |
| North Granados Avenue            | E. Cliff St                       | Lomas Santa Fe Dr      | Traffic Calming  | Residential Bicycle Boulevard  | 0.27              | \$270,000                        |
| South Granados Avenue            | Lomas Santa Fe Dr                 | Lirio St               |                  |                                | 0.31              | \$310,000                        |
| Lirio Street                     | S. Granados Ave                   | S. Nardo Ave           |                  |                                | 0.15              | \$150,000                        |
| Highland Drive                   | City Boundary                     | Sun Valley Rd          | Multi-Use Path   | Bicycle Route / Multi-Use Path | 0.23              | \$691,150                        |
| Highland Drive                   | Sun Valley Rd                     | San Andres Dr          |                  | Bicycle Lane / Multi-Use Path  | 0.98              | \$3,577,000                      |
| Nardo Avenue                     | Lomas Santa Fe Dr                 | Stevens Ave            | Traffic Calming  | Residential Bicycle Boulevard  | 1.03              | \$1,030,000                      |
| North Rios Avenue                | Northern terminus                 | E. Cliff St            | --               | Bicycle Route                  | 0.5               | \$2,500                          |
| South Rios Avenue                | Lomas Santa Fe Dr                 | Rosa St                | --               | Bicycle Route                  | 0.4               | \$2,000                          |
| Off Street Multi-Use Path        | S. Highway 101 northern extent    | Northern City boundary | Multi-Use Path * | Multi-Use Path *               | 0.25              | \$750,000                        |
| Off Street Multi-Use Path        | N. Rios Ave northern terminus     | Northern City boundary | Multi-Use Path * | Multi-Use Path *               | 0.11              | \$330,000                        |
| Off Street Multi-Use Path        | Holmwood Way                      | Northern City boundary | Multi-Use Path * | Multi-Use Path *               | 0.35              | \$1,050,000                      |
| Off Street Multi-Use Path        | Solana Hills Dr northern terminus | Northern City boundary | Multi-Use Path * | Multi-Use Path *               | 0.27              | \$810,000                        |
| North Granados Avenue            | Holmwood Way                      | E. Cliff St            | --               | Bicycle Route                  | 0.33              | \$1,650                          |
| Holmwood Way                     | N. Granados                       | Glenmont Dr            | --               | Bicycle Route                  | 0.06              | \$300                            |
| Dahlia Drive                     | S. Sierra Ave                     | S. Highway 101         | --               | Bicycle Route                  | 0.8               | \$4,000                          |
| Rosa Street                      | S. Cedros Ave                     | S. Granados Ave        | --               | Bicycle Route                  | 0.28              | \$1,400                          |
| Solana Circle                    | W. Solana Circle                  | Via De La Valle        | --               | Bicycle Route                  | 0.15              | \$750                            |
| East & West Solana Circle        | Solana Circle                     | Solana Circle (loop)   | --               | Bicycle Route                  | 0.69              | \$3,450                          |
| Santa Florencia/<br>Santa Rosita | Northern City boundary            | Santa Helena           | --               | Bicycle Route                  | 0.62              | \$3,100                          |
| Santa Clarita                    | Northern City boundary            | Santa Victoria         | --               | Bicycle Route                  | 0.23              | \$1,150                          |
| Solana Drive                     | Marine View Ave                   | Highland Dr            | --               | Bicycle Route                  | 0.44              | \$2,200                          |
| Highland Drive                   | Solana Dr                         | San Andres Dr          | --               | Bicycle Route                  | 0.15              | \$750                            |

SOURCE: Chen Ryan Associates.

<sup>(1)</sup> All costs in April 2017 dollars.

<sup>(2)</sup> Net cost of improvements attributable to growth.

|  |                       |
|--|-----------------------|
| <b>TOTAL COST OF PLANNED IMPROVEMENTS</b>                          | <b>\$31,403,750</b>   |
| <b>LESS COST OF DUPLICATIVE FACILITIES (denoted with asterisk)</b> | <b>(\$11,850,000)</b> |
| <b>TIF PROGRAM COST <sup>(2)</sup></b>                             | <b>\$19,553,750</b>   |



# Funding Requirements

---

## Total Program Costs

As presented in **Table 4**, the total cost of transportation facilities attributable to future growth is \$19,553,750. This amount, representing the estimated cost of planned multi-modal transportation facilities necessary to mitigate the cumulative impacts on the City's transportation system resulting from future development, is the total TIF Program Cost.

---

## Unit Fee Rate

The Unit Fee Rate for the TIF program has been calculated as follows:

|  |
|--|
| $\text{Unit Fee Rate (\$/TDU)} = \text{TIF Program Cost} / \text{Total Projected TDU's}$ |
|--|

With a TIF Program Cost of \$19,553,750 (see **Table 4**) and Total Projected TDU's of 147,252.59 (see **Table 3**), the resulting Unit Fee Rate is \$132.79 per TDU.

---

## Proposed Fee Rates

**Table 5** summarizes the TDU Factors and resultant TIF rates for the generalized fee rate categories in the proposed TIF program.

**Table 5: Summary of Proposed TIF Rates**

| FEE RATE CATEGORY                     | TDU FACTOR <sup>(1)</sup>    |                     | PROPOSED FEE RATE               |
|---------------------------------------|------------------------------|---------------------|---------------------------------|
|                                       | Person Trip Rate             | Average Trip Length |                                 |
| Residential – Single Family           | 12.20 per unit               | 9.7 miles           | \$15,714 per unit               |
| Residential – Condo & Multi-Family    | 8.70 per unit                | 9.7 miles           | \$11,206 per unit               |
| Residential – Accessory Dwelling Unit | 3.05 per unit                | 9.7 miles           | \$3,929 per unit <sup>(2)</sup> |
| Retail, Commercial & Shopping         | 19.78 per KSF                | 6.5 miles           | \$17,073 per KSF                |
| Office & Employment Center            | 6.71 per KSF <sup>(3)</sup>  | 11.8 miles          | \$10,514 per KSF                |
| Industrial                            | 1.97 per KSF <sup>(3)</sup>  | 11.8 miles          | \$3,087 per KSF                 |
| Lodging & Resort                      | 7.72 per KSF <sup>(3)</sup>  | 10.7 miles          | \$10,969 per KSF                |
| Educational & Institutional           | 11.05 per KSF <sup>(3)</sup> | 6.3 miles           | \$9,243 per KSF                 |
| Other                                 | --                           | --                  | \$132.79 per TDU                |

KSF = 1,000 square feet

<sup>(1)</sup> Person trip rates and average trip lengths derived from data provided by Chen Ryan Associates.

<sup>(2)</sup> Fee based on 25% of single family residential rate.

<sup>(3)</sup> Person trip rate based on estimated floor area ration (FAR) of 1.0.



As previously mentioned, the TIF only applies to projects that would create transportation-related impacts through the development or redevelopment process. Improvements, remodels, expansion, and demolition and reconstruction of existing residential homes are exempt from TIF to the extent that such projects do not create additional impacts.

---

## Other Funding Sources

The TIF is intended to fund identified Circulation Element facilities, or portions thereof, needed to mitigate the cumulative transportation impacts attributable to future development in the City. Direct impact mitigation measures and other revenue sources will be required to fund existing transportation system deficiencies and other improvements not attributable by future growth. Sources of additional revenue may include:

- ◆ General and special taxes (including property taxes, TransNet, Gas Tax, HUTA, and other sales/use taxes)
- ◆ State and federal grant monies
- ◆ General fund revenue

TIF funds will be used for the specific improvements, identified in this Nexus Study, that are needed to accommodate future growth in the City. Non-TIF funds may be used to defray the cost of improvements needed to address existing deficiencies, as well as certain proposed multi-modal projects identified as duplicative. Having TIF funds available can help the City leverage other funding sources, including state and federal grants. Grant programs often require a high level of difficult-to-find matching funds. Having a TIF program demonstrates a committed plan of action for transportation system improvements and TIF revenue can provide a ready source of matching funds. Both of these factors can provide a competitive edge when applying for grants.

The TIF rates calculated in this Nexus Study and summarized in **Table 5** do not include any other funding sources that may offset the total cost of transportation facilities attributable to future growth. Further evaluation of the availability, magnitude and reliability of other funding sources would be necessary in order to consider such sources for potential offset.

---

## Annual Cost-Indexing

The TIF program costs and fee rates contained in this Nexus Study are reflected in April 2017 dollars. It is recommended that the TIF rates be indexed annually in order to keep up with future increases in the cost of construction. Indexing the TIF rates annually to the published April-to-April change in the “Los Angeles Construction Cost Index” (LACCI), as compiled and reported by *Engineering News Record*, is reasonable and appropriate for cost escalation purposes. The current (base year) LACCI value is 11,642.47 (April 2017).



# Program Implementation

---

## Statement of Findings

The following information is provided to assist the City with satisfaction of the requisite statutory findings contained in §66001 of the *Mitigation Fee Act* with regard to the TIF program:

*Purpose of the Fee.* The purpose of the TIF is to fund construction of transportation facilities in response to the anticipated cumulative impacts associated with future development and redevelopment within the City.

*Use of the Fee.* The TIF will be used to fund construction of specifically identified transportation facilities, or portions thereof, in accordance with the Circulation Element of the City's General Plan. Costs funded may include program administration, project administration and management, design and engineering, regulatory compliance, and construction.

*Reasonable Use (Benefit).* Future development and redevelopment will have significant cumulative impacts on the City's transportation system. These impacts would be difficult to mitigate on a project-by-project basis. The TIF will be used to fund additional transportation infrastructure to accommodate future development and redevelopment, facilitating greater multi-modal circulation within the City, as a means of mitigating overall cumulative impacts.

*Reasonable Need (Burden).* Future development and redevelopment will place additional burdens on the City's transportation system. The cost apportionment methodology, based on TDU's, uses person trip intensity and trip length to allocate the cost of improvements to the various types of development. The costs and corresponding fee allocations account for differing impacts based on land use type, demonstrating a reasonable relationship between the type of development and the need for the improvements.

*Reasonable Apportionment.* The reasonable relationship between the TIF for a specific development and the cost attributable to the development is based on the estimated person trips and miles of travel the development will add to the City's transportation system. The TIF allocates the cost of specifically identified transportation facilities, or portions thereof, to development based on land use, and corresponding TDU's, in relation to the development's proportionate share of the total TDU's for all development.





---

## Capital Improvement Program

The following facility information is provided to assist the City with satisfaction of the Capital Improvement Program requirements set forth in §66002 of the *Mitigation Fee Act*:

*Approximate location.* The approximate location of each identified transportation facility is conceptually depicted and described in **Figure 2** and **Table 4**.

*Size.* The size and/or characteristics of each identified transportation facility are provided in **Table 4**.

*Time of Availability.* The identified transportation facilities will be constructed based on availability of funding, and as necessary to address the cumulative impacts of future development in the City.

*Estimated Cost.* The estimated cost of the identified transportation facilities (in April 2017 dollars) is provided in **Table 4**.

---

## Annual Reporting

Provisions set forth in §66001(c) and §66006(b)(1)) of the *Mitigation Fee Act* require that each agency imposing an impact fee make specific information available to the public annually within 180 days of the last day of the fiscal year. This information includes the following:

- ◆ A brief description of the type of fee in each account of fund;
- ◆ The amount of the fee;
- ◆ The beginning and ending balance of the account or fund;
- ◆ The amount of the fees collected and the interest earned;
- ◆ An identification of each public improvement on which fees were expended and the amount of each expenditure;
- ◆ An identification of the approximate date in which the construction of the public improvement will commence;
- ◆ A description of any inter-fund transfer or loan and the public improvement on which the transferred funds will be expended; and
- ◆ The amount of the funds made and any allocations of unexpended fees that are not refunded.

It is recommended that the City continue to monitor development activity, the need for infrastructure improvements, and the adequacy of



the fee revenues and other available funding. Formal annual review of the adopted TIF program should occur, at which time adjustments can be made, if necessary.

---

## Special Considerations

### General Plan Amendments

Contribution to the TIF will mitigate a project's cumulative transportation impacts on identified Circulation Element facilities within the City. Projects that propose increased densities beyond that included in the TIF program (e.g., rezones, General Plan Amendments, or Specific Plans) will require supplemental analysis of their cumulative impacts. In such cases, the developer will be required to provide additional studies and documentation necessary to demonstrate CEQA compliance. If approved, General Plan, Specific Plan and rezone projects that result in increased densities will need to be accounted for when the TIF program undergoes further comprehensive update. In addition, changes to the adopted Circulation Element could warrant an update to the TIF program. The TIF program is not designed to be static and should undergo regular review and be updated to reflect changed conditions at appropriate intervals.

### Impacts Outside the City

The TIF program does not cover transportation impacts on facilities located outside of the City. City staff will evaluate projects on an individual basis. If during the development review process, it is determined that a project will have direct or indirect impacts outside of the City, the applicant will be required to provide separate mitigation, as well as pay into the TIF program.

### Inter-Agency Coordination

Collection of TIF funds and construction of identified TIF facilities may involve varying degrees of inter-agency coordination. For example, Caltrans has jurisdiction over state routes, adjacent areas of which may be improved as part of the City's TIF program. The financial aspects and timing of construction activities for such projects will require attention and coordination.

### **SANDAG RTCIP Fee**

The TransNet sales tax extension (Proposition A), approved by voters on November 2, 2004, requires local jurisdictions to collect a \$2,000 *Regional Transportation Congestion Improvement Program* (RTCIP) fee (subject to annual cost-indexing provisions as set forth in the TransNet Ordinance) for each new residential dwelling unit to fund the Regional Arterial System (RAS) as defined in the San Diego Association of Governments (SANDAG) most recently adopted *Regional Transportation Plan* (RTP). Collection of the RTCIP fee (currently \$2,404.14) is separate and independent of the TIF program, as the TIF program does not currently contain any RAS identified facilities.

## Planned Transportation Improvements

| SEGMENT              | SEGMENT LIMITS    |                   | IMPROVEMENT TYPE |                                   | LENGTH<br>(miles) | ESTIMATED<br>COST <sup>(1)</sup> |
|----------------------|-------------------|-------------------|------------------|-----------------------------------|-------------------|----------------------------------|
|                      | FROM              | TO                | PEDESTRIAN       | BICYCLE                           |                   |                                  |
| Plaza Street         | Sierra Ave        | Highway 101       | --               | Bicycle Route                     | 0.08              | \$400                            |
| Lomas Santa Fe Drive | Highway 101       | Stevens Ave       | Multi-Use Path * | Cycle Track /<br>Multi-Use Path * | 0.63              | \$2,520,000                      |
| Stevens Avenue       | Lomas Santa Fe Dr | Valley Ave        | Multi-Use Path * | Cycle Track /<br>Multi-Use Path * | 0.94              | \$3,760,000                      |
| Valley Avenue        | Stevens Ave       | Via De la Valle   | --               | Cycle Track                       | 0.28              | \$280,000                        |
| Lomas Santa Fe Drive | Stevens Ave       | Las Banderas Dr   | Multi-Use Path * | Cycle Track /<br>Multi-Use Path * | 0.65              | \$2,600,000                      |
| North Cedros Avenue  | Cliff Street      | Lomas Santa Fe Dr | Traffic Calming  | Commercial<br>Bicycle Boulevard   | 0.34              | \$442,000                        |
| N. Rios Avenue       | Cliff Street      | Lomas Santa Fe Dr | Traffic Calming  | Residential Bicycle<br>Boulevard  | 0.32              | \$320,000                        |
| San Andres Drive     | Las Banderas Dr   | Highland Dr       | --               | Bicycle Lane                      | 0.32              | \$208,000                        |
| San Andres Drive     | Highland Dr       | City Boundary     | Multi-Use Path   | Multi-Use Path                    | 0.34              | \$1,020,000                      |
| South Cedros Avenue  | Lomas Santa Fe Dr | Cofair Ave        | --               | Commercial<br>Bicycle Boulevard   | 0.48              | \$624,000                        |
| South Cedros Avenue  | Cofair Ave        | Via De La Valle   | Traffic Calming  | Commercial<br>Bicycle Boulevard   | 0.33              | \$429,000                        |
| Cliff Street         | Pacific Ave       | Highway 101       | --               | Bicycle Route                     | 0.09              | \$450                            |
| Cliff Street         | Cedros Ave        | Glenmont Dr       | Traffic Calming  | Residential Bicycle<br>Boulevard  | 0.27              | \$270,000                        |
| Glenmont Drive       | E. Cliff Street   | El Viento Street  |                  |                                   | 0.12              | \$120,000                        |
| El Viento Street     | Glenmont Dr       | N. Nardo Ave      |                  |                                   | 0.04              | \$40,000                         |
| Nardo Avenue         | El Viento Street  | Lomas Santa Fe Dr |                  |                                   | 0.02              | \$20,000                         |
| Sierra Avenue        | Cliff Street      | Border Ave        | Traffic Calming  | Commercial<br>Bicycle Boulevard   | 1.16              | \$1,508,000                      |
| Santa Helena         | City Boundary     | Sun Valley Road   | --               | Bicycle Lane                      | 0.43              | \$279,500                        |
| Academy Drive        | Stevens Ave       | Ida Ave           | Traffic Calming  | Residential Bicycle<br>Boulevard  | 0.27              | \$270,000                        |
| Ida Avenue           | Academy Dr        | Genevieve Street  |                  |                                   | 0.28              | \$280,000                        |
| Genevieve Street     | Valley Ave        | Ida Ave           |                  | Residential Bicycle<br>Boulevard  | 0.14              | \$140,000                        |
| Genevieve Street     | Stevens Ave       | Valley Ave        |                  | Bicycle Route                     | 0.12              | \$600                            |
| Valley Avenue        | Genevieve Street  | Stevens Ave       |                  | Bicycle Route                     | 0.43              | \$2,150                          |
| Via Mil Cumbres      | Cerro Largo Dr    | Lomas Santa Fe Dr | Traffic Calming  | --                                | 0.13              | \$39,000                         |
| Las Banderas Drive   | Lomas Santa Fe Dr | San Andres Dr     |                  | Bicycle Route                     | 0.15              | \$750                            |
| San Andres Drive     | Marine View Ave   | San Andres Dr     |                  | Residential Bicycle<br>Boulevard  | 0.24              | \$240,000                        |
| Marine View Avenue   | San Andres Dr     | Solana Dr         |                  |                                   | 0.23              | \$230,000                        |
| Lomas Santa Fe Drive | Las Banderas Dr   | Highland Dr       | Multi-Use Path * | Cycle Track /<br>Multi-Use Path * | 0.75              | \$3,000,000                      |
| Glenmont Drive       | Lomas Santa Fe Dr | Canyon Dr         | Traffic Calming  | Residential Bicycle<br>Boulevard  | 0.33              | \$330,000                        |
| Canyon Drive         | Glenmont Dr       | Glencrest Dr      |                  |                                   | 0.44              | \$440,000                        |
| Glencrest Drive      | Canyon Dr         | Lomas Santa Fe Dr |                  |                                   | 0.48              | \$480,000                        |

## Planned Transportation Improvements (continued)

| SEGMENT                          | SEGMENT LIMITS                    |                        | IMPROVEMENT TYPE |                                | LENGTH<br>(miles) | ESTIMATED<br>COST <sup>(1)</sup> |
|----------------------------------|-----------------------------------|------------------------|------------------|--------------------------------|-------------------|----------------------------------|
|                                  | FROM                              | TO                     | PEDESTRIAN       | BICYCLE                        |                   |                                  |
| Santa Helena                     | Sun Valley Rd                     | Lomas Santa Fe Dr      | Traffic Calming  | Bike Lane                      | 0.69              | \$448,500                        |
| Santa Victoria                   | Santa Helena (N)                  | Santa Helena (S)       |                  | Residential Bicycle Boulevard  | 0.47              | \$470,000                        |
| San Patricio Drive               | Santa Victoria                    | Santa Rufina Dr        |                  |                                | 0.22              | \$220,000                        |
| Dell Street                      | Glencrest Dr                      | Solana Hills Dr        | Traffic Calming  | Residential Bicycle Boulevard  | 0.32              | \$320,000                        |
| Solana Hills Drive               | Dell St                           | Lomas Santa Fe Dr      |                  | Multi-Use Path                 | 0.24              | \$720,000                        |
| San Rodolfo Drive                | Stevens Ave                       | Lomas Santa Fe Dr      |                  | Residential Bicycle Boulevard  | 0.34              | \$340,000                        |
| North Granados Avenue            | E. Cliff St                       | Lomas Santa Fe Dr      | Traffic Calming  | Residential Bicycle Boulevard  | 0.27              | \$270,000                        |
| South Granados Avenue            | Lomas Santa Fe Dr                 | Lirio St               |                  |                                | 0.31              | \$310,000                        |
| Lirio Street                     | S. Granados Ave                   | S. Nardo Ave           |                  |                                | 0.15              | \$150,000                        |
| Highland Drive                   | City Boundary                     | Sun Valley Rd          | Multi-Use Path   | Bicycle Route / Multi-Use Path | 0.23              | \$691,150                        |
| Highland Drive                   | Sun Valley Rd                     | San Andres Dr          |                  | Bicycle Lane / Multi-Use Path  | 0.98              | \$3,577,000                      |
| Nardo Avenue                     | Lomas Santa Fe Dr                 | Stevens Ave            | Traffic Calming  | Residential Bicycle Boulevard  | 1.03              | \$1,030,000                      |
| North Rios Avenue                | Northern terminus                 | E. Cliff St            | --               | Bicycle Route                  | 0.5               | \$2,500                          |
| South Rios Avenue                | Lomas Santa Fe Dr                 | Rosa St                | --               | Bicycle Route                  | 0.4               | \$2,000                          |
| Off Street Multi-Use Path        | S. Highway 101 northern extent    | Northern City boundary | Multi-Use Path * | Multi-Use Path *               | 0.25              | \$750,000                        |
| Off Street Multi-Use Path        | N. Rios Ave northern terminus     | Northern City boundary | Multi-Use Path * | Multi-Use Path *               | 0.11              | \$330,000                        |
| Off Street Multi-Use Path        | Holmwood Way                      | Northern City boundary | Multi-Use Path * | Multi-Use Path *               | 0.35              | \$1,050,000                      |
| Off Street Multi-Use Path        | Solana Hills Dr northern terminus | Northern City boundary | Multi-Use Path * | Multi-Use Path *               | 0.27              | \$810,000                        |
| North Granados Avenue            | Holmwood Way                      | E. Cliff St            | --               | Bicycle Route                  | 0.33              | \$1,650                          |
| Holmwood Way                     | N. Granados                       | Glenmont Dr            | --               | Bicycle Route                  | 0.06              | \$300                            |
| Dahlia Drive                     | S. Sierra Ave                     | S. Highway 101         | --               | Bicycle Route                  | 0.8               | \$4,000                          |
| Rosa Street                      | S. Cedros Ave                     | S. Granados Ave        | --               | Bicycle Route                  | 0.28              | \$1,400                          |
| Solana Circle                    | W. Solana Circle                  | Via De La Valle        | --               | Bicycle Route                  | 0.15              | \$750                            |
| East & West Solana Circle        | Solana Circle                     | Solana Circle (loop)   | --               | Bicycle Route                  | 0.69              | \$3,450                          |
| Santa Florencia/<br>Santa Rosita | Northern City boundary            | Santa Helena           | --               | Bicycle Route                  | 0.62              | \$3,100                          |
| Santa Clarita                    | Northern City boundary            | Santa Victoria         | --               | Bicycle Route                  | 0.23              | \$1,150                          |
| Solana Drive                     | Marine View Ave                   | Highland Dr            | --               | Bicycle Route                  | 0.44              | \$2,200                          |
| Highland Drive                   | Solana Dr                         | San Andres Dr          | --               | Bicycle Route                  | 0.15              | \$750                            |

SOURCE: Chen Ryan Associates.

<sup>(1)</sup> All costs in April 2017 dollars.

<sup>(2)</sup> Net cost of improvements attributable to growth.

|  |                       |
|--|-----------------------|
| <b>TOTAL COST OF PLANNED IMPROVEMENTS</b>                          | <b>\$31,403,750</b>   |
| <b>LESS COST OF DUPLICATIVE FACILITIES (denoted with asterisk)</b> | <b>(\$11,850,000)</b> |
| <b>TIF PROGRAM COST <sup>(2)</sup></b>                             | <b>\$19,553,750</b>   |

**ORDINANCE NO. 479**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA ADDING CHAPTER 15.50 TO IMPOSE A TRANSPORTATION IMPACT FEE PURSUANT TO THE CALIFORNIA MITIGATION FEE ACT**

**WHEREAS**, the City of Solana Beach has identified the need for additional multi-modal transportation facilities to adequately serve projected future growth and redevelopment within the incorporated city limits; and

**WHEREAS**, an impact fee is a commonly used and well-accepted means of mitigating the impacts created by future growth. Public agencies regularly impose impact fees on new development to fund a variety of public facilities, including roads, sewer and water facilities, libraries, parks, and schools; and

**WHEREAS**, recent surveys of local and regional agencies in California indicate that most agencies impose some form of transportation impact fee; and

**WHEREAS**, the California Mitigation Fee Act authorizes local agencies to impose impact fees upon making certain findings; and

**WHEREAS**, on November 19, 2014, the City Council certified the Environmental Impact Report and adopted updates to the Circulation and Land Use Elements of the General Plan. As a part of the update, a new policy was added to develop and maintain a transportation impact fee ("TIF") program; and

**WHEREAS**, the purpose of the TIF is to fund construction of transportation facilities in response to the anticipated cumulative impacts associated with future development and redevelopment projects based on the number of additional trips (across all modes of transportation) future developments are projected to generate within the City.

**NOW, THEREFORE**, the City Council of the City of Solana Beach hereby ordains as follows:

Section 1. All of the above statements are true.

Section 2. Chapter 15.50 is hereby added to the Solana Beach Municipal Code ("SBMC") to provide as follows:

15.50.010 - Title.

This chapter shall be known as the Transportation Impact Fee ("TIF") Ordinance and may be cited as such.

15.50.020 - Authority.

This chapter is enacted pursuant to the Mitigation Fee Act, California Government Code Section 66000 et seq.

15.50.030 - Intent and purpose.

The purpose of this chapter is to make provision for assessing and collecting transportation impact fees as a condition of project approval of a subdivision map or prior to issuance of a development permit, including a building permit, in order to fund the construction of identified facilities needed to reduce or mitigate the projected cumulative transportation impacts resulting from such development and in order to allocate the costs of these facilities equitably among future developing properties. Application of this fee will include, but is not limited to, development for residential, commercial and industrial land uses.

This TIF does not replace normal subdivision map exactions or other measures required to mitigate site specific impacts of a development project including, but not limited to, mitigation imposed pursuant to the California Environmental Quality Act and imposed as conditions of approval upon a development project as part of the development review process; regulatory and processing fees; transportation uniform mitigation fees; fees required pursuant to a development agreement; funds collected pursuant to a reimbursement agreement that exceed the developer's share of public improvement costs; or assessment district proceedings, benefit assessments, or taxes.

The fees collected pursuant to this chapter are to fund identified transportation facilities, or portions thereof, that will to mitigate the cumulative transportation impacts attributable to future development in the City. TIF funds will be used for the specific improvements, as identified in the TIF Report, which are needed to accommodate future growth in the City.

15.50.040 - Findings.

The City Council of the City of Solana Beach, consistent with California Government Code Sections 66000 et seq., of the Mitigation Fee Act, finds that:

A. **Purpose of the Fee.** The purpose of the TIF is to fund construction of transportation facilities in response to the anticipated cumulative impacts associated with future development and redevelopment within the City.

B. **Use of the Fee.** The TIF will be used to fund construction of specifically identified transportation facilities, or portions thereof, in accordance with the Circulation Element of the City's General Plan. Costs funded may include program administration, project administration and management, design and engineering, regulatory compliance, and construction.

C. **Reasonable Use (Benefit).** Future development and redevelopment will have significant cumulative impacts on the City's transportation system. These impacts would be difficult to mitigate on a project-by-project basis. The TIF will be used to fund additional transportation infrastructure to accommodate future development and redevelopment, facilitating greater multi-modal circulation within the City, as a means of mitigating overall cumulative impacts.

D. **Reasonable Need (Burden).** Future development and redevelopment will place additional burdens on the City's transportation system. The cost apportionment methodology, based on TDU's, uses person trip intensity and trip length to allocate the cost of improvements to the various types of development. The costs and corresponding fee allocations account for differing impacts based on land use type, demonstrating a reasonable relationship between the type of development and the need for the improvements.

E. **Reasonable Apportionment.** The reasonable relationship between the TIF for a specific development and the cost attributable to the development is based on the estimated person trips and miles of travel the development will add to the City's transportation system. The TIF allocates the cost of specifically identified transportation facilities, or portions thereof, to development based on land use, and corresponding TDU's, in relation to the development's proportionate share of the total TDU's for all development.

#### 15.50.050 - Definitions.

The definitions set forth in this section shall govern the application and interpretation of this chapter:

"Applicant" means developer or person seeking a development permit.

"Building permit" means a permit required and issued by the City of Solana Beach.

"City" means the City of Solana Beach.

"City of Solana Beach transportation impact fee program" or "TIF report" is the fee study entitled "City of Solana Beach Transportation Impact-Fee Nexus Study," dated June 2017, approved and adopted by the City Council on June 28, 2017. This study may be changed or periodically updated by action of the City Council pursuant to Section 15.50.080 of this chapter. The City of Solana Beach transportation impact fee program is maintained for public review in the engineering department of the City of Solana Beach.

"Construction" means design, performance of estimates, environmental assessments and studies, determination of fees, acquisition of right-of-way, administration of construction contracts, and actual construction.

"Developer" means the owner or developer of a development seeking a development permit.

"Development permit" means any permit or approval from the City of Solana Beach including, but not limited to, a general plan amendment, zoning or rezoning of property, a conditional use permit, a development review permit, a coastal development permit, a variance permit, a structural development permit, subdivision map, parcel map, building permit, or any another permit for construction, reconstruction, or development.



"Development project" or "development" means any activity described in Section 66000 et seq., of the California Government Code.

"New development" means any development requiring a development permit excepting the rehabilitation and/or reconstruction of any legal residential structure and/or the replacement of a previously existing residential unit.

"Redevelopment" means any development project that results in additional generation of trips.

"TIF" means transportation impact fee.

"Transportation facilities" means the transportation facilities, or portions thereof, identified in the City of Solana Beach Transportation Impact Fee Program, or future city approved alternatives that substantially fulfill the transportation needs identified and represented by a listed facility.

"Transportation facility project" means that project or portion of project, which involves the specified improvements in the City of Solana Beach Transportation Impact Fee Program.

#### 15.50.060 - Application of chapter.

This chapter establishes the requirements for the TIF for all new development and redevelopment within the City of Solana Beach. This chapter shall apply to all new development and redevelopment except as exempted by state or federal law, or as specifically exempted in this chapter. In cases where a development is specifically exempt by law from this chapter, but that development has cumulative transportation impacts required to be mitigated by the California Environmental Quality Act (CEQA), the City can accept TIF payment to mitigate cumulative impacts.

The TIF is limited to providing funding in the amounts and for those improvements specified in the city of Solana Beach transportation impact fee program. Nothing in this chapter shall restrict the ability of the City to require dedication of land, payment of fees or construction of improvements for needs other than, or in addition to, the improvements specified in the City of Solana Beach transportation impact fee program.

The requirement of this chapter shall apply to projects for which building permits are issued on or after the effective date of this ordinance.

#### 15.50.070 - Transportation impact fee requirement.

A. Prior to the issuance of any building permit for new development or redevelopment in the City of Solana Beach, a transportation impact fee shall be paid based upon the use of land set forth in the fee rate table included in the TIF Report.

B. The fee shall be paid before the issuance of building permits for each development project within the City of Solana Beach. No building permit shall be issued within the City of Solana Beach unless and until the TIF has been paid in full. In the case of discretionary permits that will not involve a building permit, but which will involve new development, payment of the fee shall be recommended as a condition of permitting to the decision-making body that would approve such permit.

#### 15.50.080 - Annual adjustment of fees.

The TIF may be adjusted annually starting July 1, 2018, and on each July 1st thereafter, based on the following factors:

A. The cost of construction based on the Los Angeles Construction Cost Index.

B. Changes in the type, size, location or cost of the transportation facilities, if any, to be financed by the TIF, changes in land use designations in the City's general plan, and upon other sound engineering, financing, and planning information.

C. Adjustments to the TIF resulting from review of the factors above may be made by resolution amending the fee schedule and subject to compliance with the Mitigation Fee Act.

D. Adjustments to the fees resulting from the annual review may be made by resolution amending the Fee Rate Tables contained in the TIF Report and subject to the notice and public meeting requirements of Government Code Section 66016.

#### 15.50.090 - Use of fee.

A. The revenue raised by payment of the TIF shall be placed in a separate and special account or fund in a manner to avoid any commingling with other revenues and funds of the City of Solana Beach; and, such revenues, along with any interest earnings on the account or fund, shall be used solely to:

1. Pay for the city's future construction of transportation facilities described in the City of Solana Beach transportation impact fee program, or to reimburse the city for those described or listed facilities constructed by the City with funds advanced by the City from other resources; or

2. Reimburse developers who have been required or permitted by Section 15.50.110 to install such listed facilities which are oversized with supplemental size, length, or capacity, relative to demand generated by the subject project; or

3. Pay costs required for the administration of this chapter, including, but not limited to costs incurred in conducting hearings required by state law.

B. The TIF fund, including accrued interest, shall be subject to the all of the applicable provisions of Government Code Section 66000 et seq., including but not limited to the requirements for accounting, reporting and expenditure of the fund for the improvements specified in the City of Solana Beach transportation impact fee program.

#### 15.50.100 - Transportation facilities to be financed by the fee.

A. The transportation facilities and programs to be financed by the fee established by this chapter are identified in the City of Solana Beach transportation impact fee program.

B. The City Council may modify or amend the City of Solana Beach transportation impact fee program in order to maintain compliance with the circulation element of the City's general plan.

#### 15.50.110 - Developer construction of transportation facilities.

Whenever a developer of a development project would be required, as a condition of approval of a development permit, to construct or finance the construction of a portion of a transportation facility identified in the City of Solana Beach

transportation impact fee program, the City Council may impose an additional requirement that the developer install the improvements with supplemental size, length or capacity in order to ensure efficient and timely construction of the transportation facilities network. If such a requirement is imposed, the City Council shall, in its discretion, enter into a reimbursement agreement with the developer. The reimbursement agreement can be for either in the form of a cash payment or a credit against the fee otherwise levied by this chapter on the development project, or some combination thereof. The determination of the form is at the sole discretion of the City.

The reimbursement amount shall not include the portion of the improvement needed to provide services or mitigate the need for the facility or the burdens created by the development.

A developer shall not receive cash reimbursement from the appropriate TIF fund until all developers who have previously executed reimbursement agreements payable from the same fund have been fully reimbursed or until such agreements have expired. The maximum term of any reimbursement agreement shall be twenty-five years.

#### 15.50.120 - Exemptions.

The following new development shall be exempt for the application of the provisions of this chapter:

- A. City-owned facilities and buildings.
- B. Redevelopment of single-family homes that do not result in additional generation of trips.

#### 15.50.130 - Refund of fees.

If a building permit or development permit expires, is cancelled, or is voided and if any fees paid pursuant to this chapter have not been expended and no construction has taken place pursuant to such building permit or development permit, the Director of Community Development shall, upon written request, refund the fee and any interest earned on the fee, less any administrative costs, to the applicant of record.

Section 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Chapter, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

**EFFECTIVE DATE:** This Ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the City Clerk of the City of Solana Beach shall cause this Ordinance to be published pursuant to the provisions of Government Code Section 36933.

**INTRODUCED AND FIRST READ** at a regular meeting of the City Council of the City of Solana Beach, California, on the 28th day of June, 2017; and

**THEREAFTER ADOPTED** at a regular meeting of the City Council of the City of Solana Beach, California, on the 12th day of July, 2017, by the following vote:

AYES: Councilmembers –  
NOES: Councilmembers –  
ABSTAIN: Councilmembers –  
ABSENT: Councilmembers –

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk

**RESOLUTION NO. 2017-018**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, ACCEPTING THE TRANSPORTATION IMPACT FEE PROGRAM NEXUS STUDY AND SETTING THE TRANSPORTATION IMPACT FEE**

**WHEREAS**, the City of Solana Beach has identified the need for additional multi-modal transportation facilities to adequately serve projected future growth and redevelopment within the incorporated city limits; and

**WHEREAS**, an impact fee is a commonly used and well-accepted means of mitigating the impacts created by future growth. Public agencies regularly impose impact fees on new development to fund a variety of public facilities, including roads, sewer and water facilities, libraries, parks, and schools; and

**WHEREAS**, recent surveys of local and regional agencies in California indicate that most agencies impose some form of transportation impact fee; and

**WHEREAS**, the California Mitigation Fee Act authorizes local agencies to impose impact fees upon making certain findings; and

**WHEREAS**, on November 19, 2014, the City Council certified the Environmental Impact Report and adopted updates to the Circulation and Land Use Elements of the General Plan. As a part of the update, a new policy was added to develop and maintain a transportation impact fee ("TIF") program; and

**WHEREAS**, the purpose of the TIF is to fund construction of transportation facilities in response to the anticipated cumulative impacts associated with future development and redevelopment projects based on the number of additional trips (across all modes of transportation) future developments are projected to generate within the City; and

**WHEREAS**, the City Council has introduced Ordinance No. 479 to authorize the TIF program.

**NOW THEREFORE BE IT RESOLVED** by the City Council of Solana Beach that:

1. That the foregoing recitations are true and correct.
2. That the City Council of the City of Solana Beach does hereby accept the Transportation Impact Fee Program Nexus Study, dated June 2017.
3. That the City Council establishes the TIF and determines that the TIF shall be paid based upon the use of land set forth in the Summary of TIF Rates table

included in the Transportation Impact Fee Program Nexus Study, dated June 2017 (see Exhibit A for table).

4. That the City Council establishes that the TIF shall become effective upon the effective date of Ordinance No. 479.

**PASSED AND ADOPTED** this 28th day of June, 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following:

AYES: Councilmembers –  
NOES: Councilmembers –  
ABSENT: Councilmembers –  
ABSTAIN: Councilmembers –

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk

## EXHIBIT A

### Summary of Transportation Impact Fee Rates

| FEE RATE CATEGORY                     | TDU FACTOR <sup>(1)</sup>    |                     | PROPOSED FEE RATE               |
|---------------------------------------|------------------------------|---------------------|---------------------------------|
|                                       | Person Trip Rate             | Average Trip Length |                                 |
| Residential – Single-Family           | 12.20 per unit               | 9.7 miles           | \$15,714 per unit               |
| Residential – Condo & Multi-Family    | 8.70 per unit                | 9.7 miles           | \$11,206 per unit               |
| Residential – Accessory Dwelling Unit | 3.05 per unit                | 9.7 miles           | \$3,929 per unit <sup>(2)</sup> |
| Retail, Commercial & Shopping         | 19.78 per KSF                | 6.5 miles           | \$17,073 per KSF                |
| Office & Employment Center            | 6.71 per KSF <sup>(3)</sup>  | 11.8 miles          | \$10,514 per KSF                |
| Industrial                            | 1.97 per KSF <sup>(3)</sup>  | 11.8 miles          | \$3,087 per KSF                 |
| Lodging & Resort                      | 7.72 per KSF <sup>(3)</sup>  | 10.7 miles          | \$10,969 per KSF                |
| Educational & Institutional           | 11.05 per KSF <sup>(3)</sup> | 6.3 miles           | \$9,243 per KSF                 |
| Other                                 | --                           | --                  | \$132.79 per TDU                |

KSF = 1,000 square feet

<sup>(1)</sup> Person trip rates and average trip lengths derived from data provided by CRA

<sup>(2)</sup> Fee based on 25% of single-family residential rate

<sup>(3)</sup> Person trip rate based on estimated floor area ratio (FAR) of 1.0



# STAFF REPORT CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Gregory Wade, City Manager  
**MEETING DATE:** June 28, 2017  
**ORIGINATING DEPT:** Engineering Department  
**SUBJECT:** **Public Hearing: Streetlight Assessment for Fiscal Year 2017/18 and Adoption of a Resolution Renewing the Solana Beach Lighting District and Confirming the Engineer's Report**

---

## **BACKGROUND:**

In 1987, the City Council approved formation of the Solana Beach Lighting District ("District") under the provisions of the Landscape and Lighting Act of 1972, Division 15, Part 2, of the California Streets and Highways Code. The District was formed for the purpose of levying and collecting funds for the installation, operation and maintenance of street lighting facilities within the City.

On May 24, 2017, Council passed Resolution No. 2017-078 approving the Preliminary Engineer's Report for proceedings for the annual levy of assessments within a special lighting district and Resolution No. 2017-079 declaring intention to provide for an annual levy and collection of assessments, and setting June 28, 2017 as the date of the Public Hearing.

This item is presented to Council to conduct the Public Hearing and approve a resolution accepting the Final Engineer's Report and establishing the annual levy for Fiscal Year (FY) 2017/18 assessments for the District.

## **DISCUSSION:**

The Solana Beach Lighting District is the successor agency to portions of San Diego County Lighting Maintenance District Nos. 1 and 3 (LMD1 and LMD3). Ballots issued in 1982 and 1984 to levy assessments for LMD1 and LMD3 were approved to have a maximum charge of \$25.00 per benefit unit. This maximum benefit unit charge will not

CITY COUNCIL ACTION:

---

---



apply to Zone B of the Solana Beach Lighting District as it was formed after Solana Beach was incorporated.

Notice of this public hearing was published in the Union-Tribune on June 2, 2017 as required by Streets and Highways Code and is the only public hearing to receive public input required by law.

The assessment information is to be submitted to the County by August 10<sup>th</sup> of each year.

The current benefit fee for Zone A is \$8.80 per single family unit per year and \$1.62 per single family unit per year in Zone B. Zone B consists of the portion of the City adjacent to San Elijo Lagoon and a segment of the City between San Andres Drive and I-5. This zone is the City's "dark sky" area designated in the General Plan as neighborhoods that seek to preserve their traditional semi-rural character, a major component of which is very low levels of nighttime illumination. Zone A consists of all other properties in the City except those in Zone B.

Attachment 1 is the Final Engineer's Report for FY 2017/18. The basis of spreading the cost of constructing, operating, maintaining and servicing improvements to the benefiting parcels is based on vehicular trip generation rates. Vehicular trips are directly proportional to the concentration and activity associated with each parcel of land. Derivation of Street Lighting Benefit Units, as shown in the Engineer's Report, is based on the most current trip generation rates published by the San Diego Association of Governments. The improvements include those designated in the District boundaries and shown in the Street Light Master Plan.

#### **Fiscal Year 2017/18 Benefit Fees**

The total annual amount to be assessed for street lighting is \$76,798. There is no proposed increase to the annual assessment charged to each property but the total amount collected has increased slightly (a total of \$27) due to land use changes from residential to mixed-use in Zone A.

#### **CEQA COMPLIANCE STATEMENT:**

Not a project as defined by CEQA.

#### **FISCAL IMPACT:**

The District is financed by a benefit assessment and by using the District's share of 1 percent of property tax revenues in FY 2017/18. The annual amount to be generated from the benefit assessment is proposed to be \$8.80 per benefit unit in Zone A and \$1.62 in Zone B.

#### **WORK PLAN:**

N/A

**OPTIONS:**

- Confirm Engineer's Report and annual levy of assessments, and ordering the transmission of charges to the County Auditor for collection.
- Do not confirm Engineer's Report and annual levy of assessments, and ordering the transmission of charges to the County Auditor for collection.

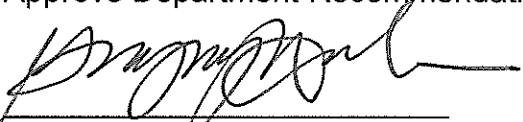
**DEPARTMENT RECOMMENDATION:**

Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the public hearing, Report Council disclosures, Receive public testimony, Close the public hearing.
2. Adopt Resolution 2017-100 confirming the diagram and assessment; providing for the levy of the annual assessment in a special maintenance district; confirming the Engineer's Report; and ordering the transmission of charges to the County Auditor for collection.
3. Adopt Resolution 2017-101 ordering the levy and collection of annual assessments for FY 2017/18.

**CITY MANAGER'S RECOMMENDATION:**

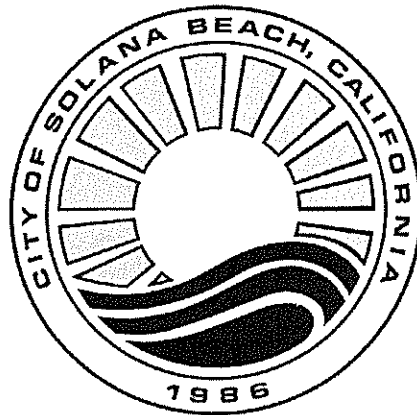
Approve Department Recommendation.

  
\_\_\_\_\_  
Gregory Wade, City Manager

Attachments:

1. FY 2017/18 Engineer's Report
2. Resolution 2017-100
3. Resolution 2017-101

**CITY OF SOLANA BEACH  
LIGHTING MAINTENANCE DISTRICT  
ENGINEER'S REPORT  
FISCAL YEAR 2017/2018**



**Prepared by:  
Dan Goldberg  
Principal Civil Engineer  
R.C.E. 57292**

**TABLE OF CONTENTS**

**INTRODUCTION ..... 3**

**GENERAL DESCRIPTION OF THE DISTRICT.....3**

**DESIGNATION OF ZONES.....4**

**DISTRICT IMPROVEMENT.....4**

**METHOD OF APPORTIONMENT ..... 6**

**DISTRICT FINANCING ..... 6**

**ASSESSMENT ROLL ..... 7**

**CALCULATION OF ASSESSMENT FEES ..... 8**

**EXHIBIT 1 – STREET LIGHT ZONE MAP ..... 9**

**EXHIBIT 2 – DERIVATION OF STREET LIGHT BENEFIT UNITS..... 10**

**EXHIBIT 3 – BUDGET 2015-2016..... 12**

## **Introduction**

The City of Solana Beach ("City") Lighting Maintenance District ("District") was formed in order to provide funding for operation, maintenance and servicing of all lights within the City, owned both by City of Solana Beach and San Diego Gas and Electric as shown on the City's Street Light Master Plan. The City Council, pursuant to the provisions of the "Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Street and Highway Code of California" (Act), desires to levy and collect annual assessment against lots and parcels within the District beginning in the fiscal year beginning July 1, 2017 and ending June 30, 2018. The collected assessments would pay for the operation, maintenance and servicing of the public lighting improvements within the City. The proposed assessments are based on the City's estimate for the cost for fiscal year 2017/2018 to maintain the District that provides a special benefit to properties assessed within the District. The assessment rates set for Fiscal Year 2017/2018, as set forth in this Engineer's Report ("Report"), do not exceed the maximum rates established at the time the District was formed, therefore, the City and the District are not required to go through property owner ballot procedure in order to establish the 2017/2018 assessment rates. This report describes the District boundaries and the proposed operation, maintenance and services to be assessed to the property owners located within the District. For this Report, each lot or parcel to be assessed refers to an individual property and is assigned its own Assessment Parcel Number ("APN") by the San Diego County ("County") Assessor's Office as shown on the latest equalization roll of the assessor. Following the conclusion of the Public Hearing, the City Council will confirm the Report as submitted or amended and may order the collection of the assessments for Fiscal Year 2017/2018.

## **General Description of the District**

The boundaries of the District are defined as being contiguous with the boundaries of the City of Solana Beach. The properties within the District include single family residential, multi-family residential, timeshare, multiuse, commercial and industrial parcels.

Section 22573, Landscape and Lighting Act of 1972 ("1972 Act"), requires assessments to be levied according to benefit rather than according to assessed value. This section of the 1972 Act states:

*"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements."*

The 1972 Act also provides for the classification of various areas within an assessment district into different zones where, "*...by reason of variations in the nature, location, and extent of the improvements, the various areas will receive differing degrees of benefit from the improvements. A zone shall consist of all territory, which will receive substantially the same degree of benefit from the improvements. An assessment district may consist of contiguous or non-contiguous areas.*"

Properties owned by public agencies, such as a city, county, state, or the federal government, are not assessable without the approval of the particular agency. For this reason, they are traditionally not assessed.

### **Designation of Zones**

The District consists of two zones in the City of Solana Beach; Zone "A" and Zone "B". Properties within Zone "A", which represent the majority of the population, are benefiting from the streetlights on six significant circulation element streets as well as streetlights on their local streets. Properties within Zone "B", also known as "Dark Sky Zone", do not have streetlights on their local streets. These properties benefit only from streetlights on circulation elements and do not benefit from streetlights on local streets. Maps showing the boundaries of the District and the zones are on file in the office of the City Engineer and are attached herein as Exhibit 1.

### **District Improvements**

The public lighting improvements to be maintained and serviced include but are not limited to the following:

- Maintenance, repair and replacement of public light poles and fixtures, including changing light bulbs, painting, photoelectric cell repair or replacement, repairing damages caused by automobile accidents and vandalism, and repairing normal deterioration caused by time and weather.
- Electrical conduit repair and replacement due to damage by vandalism, and normal deterioration.
- Service-call maintenance repair and replacement including painting, replacing worn out electrical components and repairing damage due to accidents, vandalism, and normal deterioration.
- Payment of the electrical bill for the existing street lighting system.
- Responding to constituent and business inquiries and complaints regarding the public lighting.

## **Maintenance**

The City provides services and furnishes materials for the ordinary and usual maintenance, operation and servicing of public lighting improvements facilities and appurtenant facilities. This includes inspecting lights during daylight as well as evening hours for condition assessment and performing repair, removal or replacement of all or part of any of the street lighting found to be inoperable in order to provide for the, health welfare and safety of the residents in the district.

## **Servicing**

The City workforces along with assistance from private contractors provide all labor, materials, equipment and utilities necessary to maintain and operate the public lighting improvements or appurtenant facilities in order to provide adequate illumination.

## **City's Streetlight System**

The City's streetlight system consists of streetlights which are owned by the San Diego Gas and Electric (SDG&E) and streetlights that are owned by the City of Solana Beach. A listing (printout) showing the type, size, location and ownership of the specific streetlights in the City is on file in the Office of the City Engineer. There are currently 801 streetlights in the District of which 149 are located on circulation element streets such as Highway 101, Lomas Santa Fe Drive, Via De La Valle, Cedros Avenue, San Andres Drive, Highland Avenue and Stevens Avenue. The remaining 652 streetlights are located on local streets. Approximately 274 streetlights are owned and maintained by SDG&E and the rest are owned and maintained by the City of Solana Beach. The City pays SDG&E for the use of their streetlights. For the purpose of this report, all lights have been analyzed regardless of ownership. Additionally, there are 247 bollard lights and 16 pedestrian pole lights on the Coastal Rail Trail that are included in the District.

## **Streetlight Retrofit**

In April 2012, the City entered into a contract with Chevron Energy Solution (Chevron ES) for a series of energy efficient projects which included retrofitting all City-owned streetlights to the latest LED technology. This project replaced the approximately two-thirds of the street lights throughout the City that are owned and operated by the City. The remaining one-third of the streetlights were not retrofitted because they are owned and operated by SDG&E. Because of this partial ownership arrangement, a few streetlights in some neighborhoods remained unchanged.

## **Capital Improvement Projects**

In September 2012, the City awarded a contract to Clark Telecom and Electric Inc. (CTE) to replace several aging streetlight poles throughout the City. As part of this contract and in order to enhance the lighting at La Colonia Park, the City converted two existing street light poles along Stevens Avenue from single mast arm/fixture to double mast arms/fixtures. This contractor did not install new fixtures to the new, mast arms since the Chevron ES contract installed LED fixtures at these locations. This CIP lighting project also added 14 new pole lights along the perimeter of the soccer field in La Colonia Park. All new lights were equipped with LED fixtures.

In June 2012, the City awarded another CIP contract to Dick Miller, Inc. (DMI) for a traffic calming and streetscape project along the west side of Highway 101 between Cliff Street and Dahlia Drive. Under this contract, 18 existing streetlights were replaced and 23 new streetlights were added. All lights are equipped with LED fixtures. Additionally, 13 new pedestrian pole lights were added to the new, widened sidewalks in the Highway 101 corridor.

## **Method of Apportionment**

The 1972 Act require that a parcel's assessment may not exceed the reasonable cost for the proportional benefit conferred to that parcel. To establish the benefit to the individual lots or parcels within the district, an Equivalent Benefit Unit ("EBU") system based on land use is used along with special consideration based on City's "Dark Sky Zone". Each parcel of land in the District was determined by the Engineering Department to have a specific land use. Each land use type was assigned a land use factor determined by trip generation rates developed by San Diego Association of Government (SANDAG). If a land use was not included in the SANDAG's study, the Engineering Department made a determination as to its probable trip generation compared to that of a single family residential and assigned a land use factor accordingly. Single family residential units were assigned a land use factor of 1.0 regardless of its size. The theory is that all single family residential units, regardless of parcel size, generate approximately the same number of trips and therefore receive the same benefit from the use of streets and their appurtenances such as streetlights. Under this method, vacant lots are assigned an EBU of "0". Exhibit 2 provides the EBU determination for all land uses within the City.

## **District Financing**

The District will be financed by assessing a benefit assessment and by using the District's share of 1.0 percent ad valorem tax revenues. The amount to be generated



from the benefit assessment is \$8.80 per benefit unit in Zone "A" and \$1.62 per benefit unit in Zone "B". As mentioned above, the total amount of revenue to be generated by assessment was calculated from a methodology which identifies two benefit zones within the District. This methodology assumes that circulation element streetlights provide City-wide benefit and therefore properties located in Zone "B", the Dark Sky Zone properties, are assessed for this portion of the District's expenses only. Properties located within Zone "A" are assessed for expenses associated with the streetlights located on the circulation element streets as well as those on local streets. Both the circulation element streetlight benefit and local streetlight benefit are allotted in proportion to the Average Daily Traffic (ADT) generated by properties within the District to establish equivalent benefit charge per property. A listing (printout) of the estimated assessment for each parcel in the District is on file in the Office of the City Engineer. These are estimates only because the County Assessor's information will not be available until August 2017. The City does not assess governmental agencies owning properties within the District. See Exhibit 3 for the proposed District budget.

### **Assessment Roll**

Parcel identification, for each lot or parcel within the District shall be the parcel as shown on the County Assessor's map for the year in which this Report is prepared.

A listing of parcels assessed within the District, along with the proposed assessment amounts, has been submitted to the City Clerk, under a separate cover, and by reference is made part of this Report. Said listing of parcels to be assessed shall be submitted to the County Auditor/Controller and included on the property tax roll for each parcel in Fiscal Year 2017/2018. If any parcel submitted for collection is identified by the County Auditor/Controller to be an invalid parcel number for the current fiscal year, a corrected parcel number and/or new parcel numbers will be identified and resubmitted to the County Auditor/Controller. The assessment amount to be levied and collected for the resubmitted parcel or parcels shall be based on the method of apportionment and assessment rate approved in this Report. Therefore, if a single parcel has changed to multiple parcels, the assessment amount applied to each of the new parcels shall be recalculated and applied according to the approved method of apportionment and assessment rate rather than a proportionate share of the original assessment.

## **Calculation of Assessment Fees**

Following is a calculation of assessment fees for the Solana Beach Lighting District. There are two zones in this lighting district; Zone "A" and Zone "B".

|   |     |
|---|-----|
| Total streetlights on six circulation element streets | 149 |
| Total streetlights on local streets                   | 652 |
| Total Streetlights                                    | 801 |

|  |     |
|--|-----|
| Bollard lights on Coastal Rail Trail         | 247 |
| Pedestrian pole lights on Coastal Rail Trail | 16  |

|                                 |      |
|---------------------------------|------|
| Total Benefit Units in Zone "A" | 8640 |
| Total Benefit Units in Zone "B" | 473  |

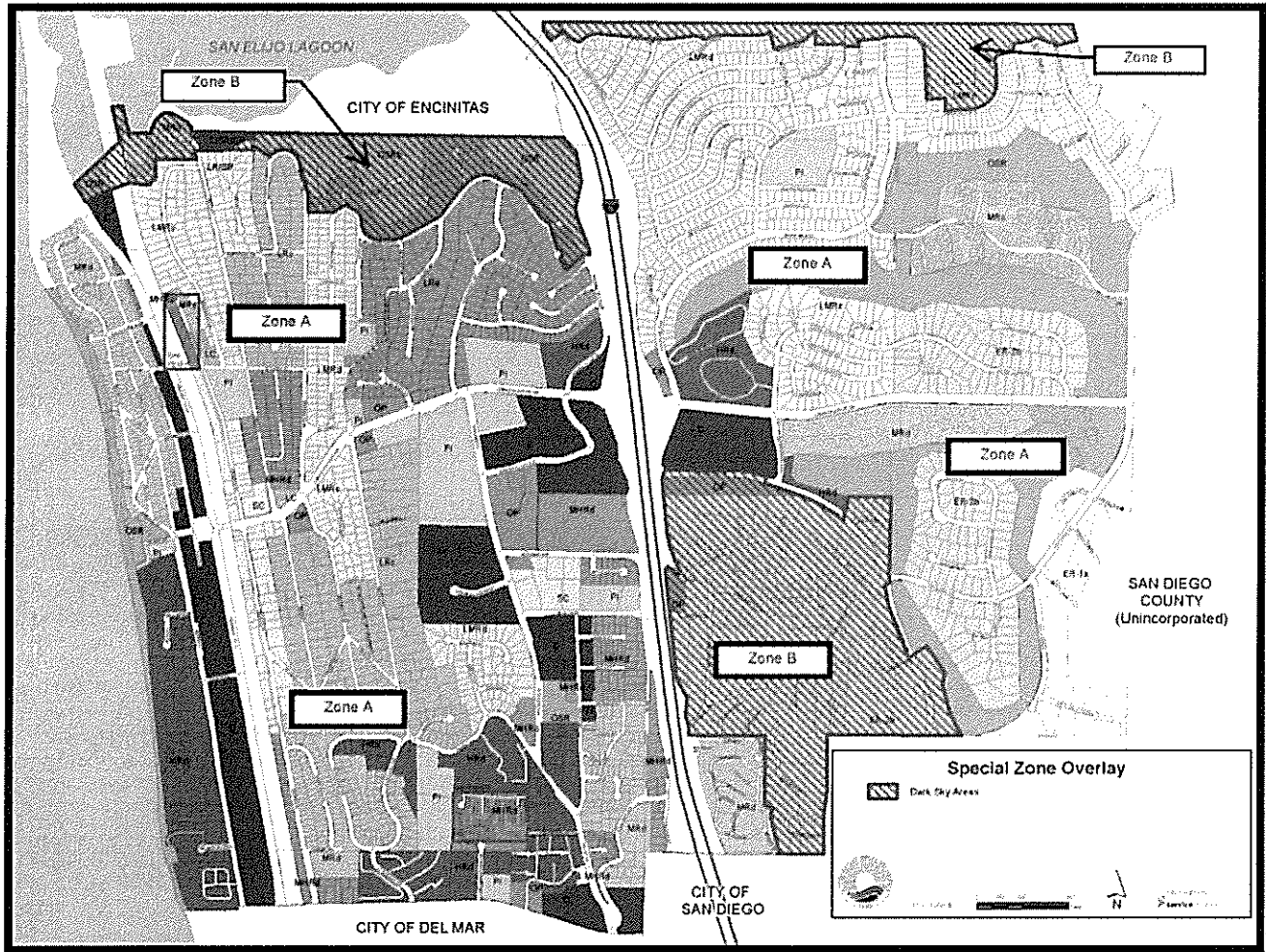
|   |        |
|---|--------|
| Assessment per Benefit Unit in Zone "A" | \$8.80 |
| Assessment per Benefit Unit in Zone "B" | \$1.62 |

|                               |          |
|-------------------------------|----------|
| Total Assessment for Zone "A" | \$76,032 |
| Total Assessment for Zone "B" | \$766    |

**Total Assessment for the District** **\$76,798**

# EXHIBIT 1

## STREET LIGHT ZONE MAP



## EXHIBIT 2

### DERIVATION OF STREET LIGHT BENEFIT UNITS

Traffic generation rates are derived from a report issued by the San Diego Association of Governments (SANDAG) dated April 2002. The information in the report is based on the San Diego Traffic Generators manual. Land uses are defined by the County Assessor. Using traffic generated by single family dwellings as 10 per dwelling unit (d.u.) or 40 per acre, the derivation of Benefit Units from land use is as follows:

| <u>LAND USE</u>  | <u>BENEFIT UNITS</u> | <u>HOW DERIVED</u>   |
|--|----------------------|--|
| Vacant Land  | 0.0                  | Generates little or no traffic.<br>Assigned a value of 0.0 |
| Residential  | 1.0/d.u.             | <u>10 trips/d.u.</u><br>10 trips/d.u.                      |
| Time Shares  | .02/Time Share       | <u>0.2 trips/time share</u><br>10 trips/d.u.               |
| Mobilehome/Trailer Parks                                     | 0.5/Space            | <u>5 trips/d.u. or space</u><br>10 trips/d.u.              |
| 1-3 Story Misc. Stores                                       | 10.0/Acre            | <u>400 trips/acre</u><br>40 trips/acre                     |
| 4+ Story Offices/Stores                                      | 15.0/Acre            | <u>600 trips/acre</u><br>40 trips/acre                     |
| Regional Shopping Center<br>Medical, Dental, Animal Hospital | 12.5/Acre            | <u>500 trips/acre</u><br>40 trips/acre                     |
| Community Shopping Center                                    | 17.5/Acre            | <u>700 trips/acre</u><br>40 trips/acre                     |
| Neighborhood Shopping Center                                 | 30.0/Acre            | <u>1200 trips/acre</u><br>40 trips/acre                    |

|  |           |  |
|--|-----------|--|
| Hotel, Motel   | 5.0/Acre  | <u>200 trips/acre</u><br>40 trips/acre |
| Convalescent Hospital, Rest Home                                       | 1.0/Acre  | <u>40 trips/acre</u><br>40 trips/acre  |
| Office Condominiums  | 0.5/Condo | <u>20 trips/condo</u><br>10 trips/d.u. |
| Parking lot, Garage, Used Cars,<br>Auto Sales/Service, Service Station | 7.5/Acre  | <u>300 trips/acre</u><br>40 trips/acre |
| Bowling Alley  | 7.5/Acre  | <u>300 trips/acre</u><br>40 trips/acre |

**EXHIBIT 3**

**STREET LIGHTING DISTRICT**

**PROPOSED BUDGET**

**FISCAL YEAR 2017-18**

|                     | <b>Amended Budget<br/>2016-17</b> | <b>Proposed Budget<br/>2017-18</b> |
|---------------------|-----------------------------------|------------------------------------|
| <b>COSTS</b>        |                                   |                                    |
| Energy              | 75,025                            | 82,000                             |
| Maintenance         | 39,400                            | 39,070                             |
| Administration      | 133,197                           | 134,630                            |
| Capital Outlay      |                                   |                                    |
| Debt Service        | 70,400                            | 70,400                             |
| Contingency Reserve | 1,927,082                         | 1,760,300                          |
| <b>TOTAL COSTS</b>  | <b>2,245,104</b>                  | <b>2,086,400</b>                   |

|                        |                  |                  |
|------------------------|------------------|------------------|
| <b>FUNDING</b>         |                  |                  |
| Property Taxes         | 450,500          | 459,500          |
| Benefit Fees           | 82,500           | 76,800           |
| Interest               | 21,000           | 15,000           |
| Intergovernmental      | 3,200            | 3,200            |
| Fund Balance           | 1,687,904        | 1,531,900        |
| <b>TOTAL RESOURCES</b> | <b>2,245,104</b> | <b>2,086,400</b> |

## RESOLUTION 2017-100

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, APPROVING THE FISCAL YEAR 2017/18 ENGINEER'S REPORT REGARDING THE SOLANA BEACH LIGHTING DISTRICT

**WHEREAS**, the City Council, pursuant to the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code of California, beginning with Section 22500 (the "Act"), did, by previous Resolution, order the Assessment Engineer, to prepare and file the Fiscal Year (FY) 2017/18 Engineer's Report for the Solana Beach Lighting District (District); and

**WHEREAS**, the Assessment Engineer has prepared and filed with the City Clerk of the City of Solana Beach, California, and the City Clerk has presented to the City Council such report entitled Engineer's Report FY 2017/18 ("Report") as required by the Act; and

**WHEREAS**, the City Council has carefully examined and reviewed the Report as presented, considered all oral and written comments presented with respect to the District and Report at a noticed Public Hearing and has discussed any necessary or desired modifications to the Report, and is satisfied that the levy for each parcel has been calculated in accordance with the special benefits received from the operation, maintenance and services performed, as set forth in the Report.

**NOW, THEREFORE**, the City Council of the City of Solana Beach, California does resolve as follows:

1. The above recitals are true and correct.
2. The Report as presented or as modified, contains the following:
  - a. Description of Improvements.
  - b. Diagram of the District.
  - c. Method of Apportionment that details the method of calculating each parcel's proportional special benefits and annual assessment.
  - d. The FY 2017/18 Assessment based upon the Method of Apportionment determined that all costs and expenses of the work and incidental expenses have been apportioned and distributed to the benefiting parcels in accordance with the special benefits received.
  - e. The FY 2017/18 Annual Budget Costs and Expenses and the resulting FY 2017/18 assessment levy per benefit unit for the fiscal year.

- f. The District Roll containing the levy for each Assessor's Parcel Number within the District for FY 2017/18.
3. The City Clerk is hereby directed to enter on the minutes of the City Council any and all modifications to the Report determined and approved by the City Council, and all such changes and/or modifications by reference are to be incorporated into the Report.
4. The City Council is satisfied with the Report as presented or modified, each and all of the budget items and documents as set forth therein, and is satisfied that the FY 2017/18 annual assessments and spread in accordance with the special benefits received from the improvements pursuant to the provisions of the California Constitution Article XIID.
5. The Report is hereby approved as submitted or modified and ordered to be filed in the Office of the City Clerk as a permanent record and to remain open to public inspection.
6. The City Clerk shall certify to the passage and adoption of this resolution, and the minutes of this meeting shall so reflect the presentation and approval of the Report as submitted or modified.

**PASSED AND ADOPTED** this 28th day of June, 2017, at a regularly scheduled meeting of the by the City council of the City of Solana Beach by the following vote:

AYES: Councilmembers -  
NOES: Councilmembers -  
ABSENT: Councilmembers -  
ABSTAIN: Councilmembers -

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk



**RESOLUTION NO. 2017-101**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
SOLANA BEACH, CALIFORNIA ORDERING THE LEVY  
AND COLLECTION OF ANNUAL ASSESSMENTS  
REGARDING THE SOLANA BEACH LIGHTING DISTRICT  
FOR FISCAL YEAR 2017/18**

**WHEREAS**, the City Council has, by previous resolutions, initiated proceedings to form and declared its intention to levy and collect annual assessments against parcels of land within the Solana Beach Lighting District ("District"), for the Fiscal Year commencing July 1, 2017 and ending June 30, 2018 pursuant to the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code of California, beginning with Section 22500 (Act) to pay the costs and expenses of operating, maintaining and servicing the improvements and appurtenant facilities related thereto; and

**WHEREAS**, the Assessment Engineer has prepared and filed with the City Clerk, and the City Clerk has presented to the City Council, the Engineer's Report entitled City of Solana Beach Lighting District Engineer's Report Fiscal Year (FY) 2017/18 ("Report") in connection with the proposed levy and collection of special benefit assessment upon eligible parcels of land within the District, and the City Council did by previous resolution approve such Report; and

**WHEREAS**, the City Council desires to levy and collect assessments against parcels of land within the District for the Fiscal Year commencing July 1, 2017 and ending June 30, 2018, to pay the costs and expenses of operating, maintaining and servicing the improvements and appurtenant facilities related thereto; and

**WHEREAS**, the City Council, following notice duly given, has held a full and fair Public Hearing on June 28, 2017, regarding the levy and collection of assessments as described in the Report prepared in connection therewith, and considered all oral and written statements, protests and communications made or filed by interested persons regarding these matters, pursuant to the Act and in accordance with the provisions of the California Constitution Article XIID.

**NOW, THEREFORE**, the City Council of the City of Solana Beach, California does resolve as follows:

1. The above recitals are true and correct.
2. Following notice duly given, the City Council has held a full and fair public hearing regarding the levy and collection of the assessments, the Report prepared in connection therewith, and considered all oral and written statements, protests and communications made or filed by interested persons regarding these matters.

3. The City Council desires to levy and collect assessments against parcels of land within the District for the fiscal year commencing July 1, 2017 and ending June 30, 2018, to pay the costs and expenses of operating, maintaining and servicing the landscaping, public lighting improvements and appurtenant facilities located within public places in the District.
4. The City Council has carefully reviewed and examined the Report in connection with the District, and the levy and collection of assessments. Based upon its review the Report, a copy of which has been presented to the City Council and which has been filed with the City Clerk, hereby finds that the City Council determines that:
  - a. The territory of land within the District will receive special benefits from the operation, maintenance and servicing of the landscaping, lighting, drainage and appurtenant facilities and improvements related thereto.
  - b. The District includes all of the lands so benefited.
  - c. The amount to be assessed upon the lands within the District, in accordance with the proposed budget for the fiscal year commencing July 1, 2017 and ending June 30, 2018, is apportioned by a formula and method which fairly distributes the net amount among all eligible parcels in proportion to the special benefits, to be received by each parcel from the improvements and services, and is satisfied that the assessments are levied, without regard to property valuation.
5. The Report and FY 2017/18 assessments, as presented to the City Council and on file in the office of the City Clerk, are hereby confirmed as filed.
6. The City Council hereby orders the proposed improvements to be made; the improvements are briefly described as the operation, administration, maintenance and servicing of all public landscaping, lighting improvements and appurtenant facilities and expenses associated with the District, and that will be maintained by the City of Solana Beach or their designee and all such maintenance, operation and servicing of the landscaping, lighting and all appurtenant facilities shall be performed pursuant to the Act. A more complete description of the improvements is detailed in the Report and by reference this document is made part of this resolution.
7. The San Diego County Auditor shall place on the County Assessment Roll, opposite each parcel of land, the amount of levy so apportioned by the method of apportionment formula, outlined in the Report and such levies shall be collected at the same time and in the same manner as County taxes are collected pursuant to Chapter 4, Article 2, Section 22646 of the Act. After collection by the

County, the net amount of the assessments, after deduction of any compensation due the County for collection, shall be paid to the City Treasurer.

8. The City Treasurer, shall deposit all money from the assessments collected by the County for the District into a fund for the Solana Beach Lighting District, and such money shall be expended to pay the costs and expenses of operating, maintaining and servicing the improvements and appurtenant facilities related thereto described above.
9. The adoption of this resolution constitutes the authorization of the District levy for the Fiscal Year commencing July 1, 2017 and ending June 30, 2018.
10. The City Clerk or Clerk's designee is hereby authorized and directed to file the levy with the San Diego County Auditor subsequent to the adoption of this resolution.

**PASSED AND ADOPTED** this 28th day of June, 2017, at a regularly scheduled meeting of the by the City Council of the City of Solana Beach by the following vote:

AYES: Councilmembers -  
NOES: Councilmembers -  
ABSENT: Councilmembers -  
ABSTAIN: Councilmembers -

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk



# STAFF REPORT

## CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Gregory Wade, City Manager  
**MEETING DATE:** June 28, 2017  
**ORIGINATING DEPT:** Engineering Department  
**SUBJECT:** **Public Hearing: Solana Beach Coastal Rail Trail Maintenance District Resolutions to Provide For the Annual Levy and Collection of Assessments.**

---

### **BACKGROUND:**

In 2006, the City Council adopted a resolution forming the Solana Beach Coastal Rail Trail Maintenance District ("District") under the provisions of the Landscape and Lighting Act of 1972, Division 15, Part 2, of the California Streets and Highways Code. The District was formed for the purpose of levying and collecting funds for the operations, maintenance, and servicing of landscaping, lighting and all appurtenant facilities related to the District.

On May 24, 2017, the City Council adopted Resolutions 2017-075, 2017-076 and 2017-077 initiating the proceedings for the annual levy of assessments for the Coastal Rail Trail Maintenance District; approving the preliminary Engineer's Report for the Fiscal Year (FY) 2017/18 annual levy of assessments for the District; declaring the City's intent to provide for the annual levy and collection of assessments for the District; and setting a time and place for the public hearing, respectively.

This item is presented to the City Council to conduct the Public Hearing and consider resolutions accepting the final Engineer's Report, providing for the annual levy and collecting the FY 2017/18 assessments for the District.

### **DISCUSSION:**

The District's major costs are for the maintenance and operation of the Coastal Rail Trail (CRT). The maintenance items include: landscaping, irrigation and hardscape maintenance, including tree trimming and graffiti removal. The costs also include the utility charges for water.

CITY COUNCIL ACTION:

---

---

**AGENDA ITEM B.3.**

The District budget includes funds for capital replacement costs for possible replacement of the following items: landscape, irrigation, pedestrian/bike path and hardscape items. The capital replacement costs also include an operating reserve of 10% of the direct operating and maintenance costs.

The District's assessment methodology uses an Equivalent Benefit Unit ("EBU") System. The EBU method of apportioning benefit is typically viewed as the most appropriate and equitable assessment methodology for districts formed under the 1972 Act. The EBU for the proposed District establishes the single family detached residential unit as the basic unit, representing 1.0 EBU. The following summarizes the EBU application by land use:

| <u>Land Use</u>                  | <u>EBU</u>             |
|----------------------------------|------------------------|
| Single Family Residential        | 1.0 per parcel         |
| Residential Condominium          | 1.0 per dwelling unit  |
| Multi-Family Residential         | 0.75 per dwelling unit |
| Planned Residential Development  | 1.0 per proposed unit  |
| Commercial/Industrial            | 1.0 per parcel         |
| Vacant Single Family Residential | 1.0 per parcel         |
| Vacant Multi-Family Residential  | 0.75 per parcel        |
| Vacant Commercial/Industrial     | 1.0 per parcel         |

The methodology also identifies parcels that are exempt from the proposed District. They may include, but are not limited to, parcels identified as public streets, roadways, dedicated public easements, open space, and rights-of-way. These properties, as well as other publicly owned properties such as schools, the fire station and community centers, are considered to receive little or no benefit from the improvements of the proposed District.

In addition to assigning each property an EBU by land type, the assessment methodology utilizes three zones based on the location of parcels in proximity to the CRT. Properties located the closest to the CRT will receive a greater special benefit than those properties that are located the farthest away from the CRT. A factor is applied to each of the zones according to their locations. The three zones are as follows:

Zone 1:

This zone includes all properties generally located within a few blocks of the CRT. The properties are located east of Acacia Avenue and Sierra Avenue and west of Rios Avenue. Parcels in this zone are assessed the EBU amounts based on land use and are then multiplied by a factor of three.

Zone 2:

This zone includes all properties that are generally located west of Acacia Avenue and those properties located east of Rios Avenue and west of Interstate 5. Parcels in this zone are assessed the EBU amounts based on land use and are then multiplied by a factor of two.

Zone 3:

This zone includes properties located east of Interstate 5. Parcels in this zone are assessed the EBU amounts based on land use and are then multiplied by a factor of 0.5.

The following shows the maximum assessment rates proposed to be levied in the FY 2017/18 by land use:

| Land Use Description             | Per                  | Base Rate<br>Zone 1 | Base Rate<br>Zone 2 | Base Rate<br>Zone 3 |
|----------------------------------|----------------------|---------------------|---------------------|---------------------|
| Single Family Residential        | Lot or Parcel        | \$21.90             | \$14.60             | \$3.65              |
| Residential Condominium          | Dwelling Unit        | \$21.90             | \$14.60             | \$3.65              |
| Multi-Family Residential         | Dwelling Unit        | \$16.42             | \$10.95             | \$2.74              |
| Planned Residential Development  | Lot or Dwelling Unit | \$21.90             | \$14.60             | \$3.65              |
| Commercial/Industrial            | Parcel               | \$21.90             | \$14.60             | \$3.65              |
| Vacant Single Family Residential | Parcel               | \$21.90             | \$14.60             | \$3.65              |
| Vacant Multi-Family Residential  | Parcel               | \$16.42             | \$10.95             | \$2.74              |
| Vacant Commercial/Industrial     | Parcel               | \$21.90             | \$14.60             | \$3.65              |
| Timeshare Units                  | 1 week of ownership  | \$ 0.00             | \$ 0.00             | \$0.00              |
| Exempt Parcels                   | Parcel               | \$ 0.00             | \$ 0.00             | \$0.00              |
| Public Owned Parcels             | Parcel               | \$ 0.00             | \$ 0.00             | \$0.00              |

The 1972 Act requires the City Council to annually adopt a resolution directing the preparation and filing of an Annual Report and a Resolution of Intention to renew the annual assessments for the District. The resolutions declare the City Council's intention to levy and collect assessments and set the date of the public hearing at which the assessments will be levied. The law requires the assessment information to be submitted to the County by August 10th of each year.

## Fiscal Year 2017/18 Benefit Fees

Attachment 1 is the proposed Engineer's Report for FY 2017/18 (Report). The Report contains an overview of the District, a description of the services and improvements to be maintained, the proposed FY 2017/18 Budget, and the method of apportionment.

The Report identifies and allocates costs and assessments of the District based on provisions of the Landscaping and Lighting Act of 1972 (1972 Act) and the Streets and Highways Code of California. Per the 1972 Act, the Maximum Assessment may be increased using the lesser of the increase in the San Diego Consumer Price Index for All Urban Consumers (CPI-U) or the maximum of the first year levy beginning in Fiscal Year 2007/2008, known as the Assessment Range Formula (2.0%). The Maximum Assessment adjusted annually by this formula is not considered an increased assessment because it is consistent with the formula approved by the vote in January 2006.

The CPI-U was 1.97% for 2016 and assessments for FY 2017/18 are proposed to increase by 1.97% per Table 1 of the Report. The City has notified the property owners about levying and collecting the assessment in the Coastal Rail Trail Maintenance District by publishing a notice of this public hearing in the San Diego Union-Tribune on June 2, 2017.

### CEQA COMPLIANCE STATEMENT:

Not a project as defined by CEQA.

### FISCAL IMPACT:

The District began assessing a benefit charge in FY 2006/07. The proposed annual amount of the Equivalent Benefit Unit for FY 2017/18 is \$7.30. The amount proposed for FY 2017/18 represents an annual increase of \$0.14 per EBU from last year's assessment which is consistent with the approval of the District by the vote of the property owners in January 2006.

### WORK PLAN:

Renewal of the District is consistent with the Fiscal Sustainability section of the City's Work Plan.

### OPTIONS:

- Approve Staff recommendation.
- Do not renew the CRT Maintenance District and fund the cost for maintenance of the CRT through the General Fund.


**DEPARTMENT RECOMMENDATION:**

Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the public hearing, Report Council disclosures, Receive public testimony, Close the public hearing.
2. Adopt Resolution 2017-098, amending and/or approving the Engineer's Report regarding the Coastal Rail Trail Maintenance District.
3. Adopt Resolution 2017-099, ordering the levy and collection of the annual assessments regarding the Coastal Rail Trail Maintenance District for Fiscal Year 2017/18.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation.

  
\_\_\_\_\_  
Gregory Wade, City Manager

Attachments:

1. Engineer's Report
2. Resolution 2017-098
3. Resolution 2017-099





**CITY OF SOLANA BEACH  
COASTAL RAIL TRAIL MAINTENANCE DISTRICT  
ENGINEER'S REPORT  
FISCAL YEAR 2017/2018**

**MAY 5, 2017**



**KOPPEL & GRUBER**  
PUBLIC FINANCE

334 VIA VERA CRUZ, SUITE 256  
SAN MARCOS  
CALIFORNIA 92078

T 760-510-0290

# TABLE OF CONTENTS

---

|              |  |    |
|--------------|--|----|
| SECTION I.   | OVERVIEW .....                               | 2  |
| SECTION II.  | PLANS AND SPECIFICATION.....                 | 4  |
| SECTION III. | PROPOSED FISCAL YEAR 2017/2018 BUDGET .....  | 6  |
| A.           | ESTIMATED FISCAL YEAR 2017/2018 BUDGET ..... | 6  |
| B.           | DESCRIPTION OF BUDGET ITEMS.....             | 8  |
| SECTION IV.  | METHOD OF APPORTIONMENT .....                | 9  |
| A.           | GENERAL .....                                | 9  |
| B.           | GENERAL BENEFIT ANALYSIS .....               | 9  |
| C.           | SPECIAL BENEFIT ANALYSIS .....               | 10 |
| D.           | ASSESSMENT METHODOLOGY .....                 | 11 |
| E.           | RATES .....                                  | 13 |
| F.           | ASSESSMENT RANGE FORMULA.....                | 14 |
| SECTION V.   | ASSESSMENT ROLL.....                         | 15 |
| SECTION VI.  | ASSESEMENT DIAGRAM.....                      | 16 |

## SECTION I. OVERVIEW

---

### A. INTRODUCTION AND BACKGROUND

The Coastal Rail Trail (the “CRT”) is a project sponsored by the cities of Oceanside, Carlsbad, Encinitas, Solana Beach and San Diego for a multi-use pathway (bicycle facilities and pedestrian) that will ultimately extend from the San Luis Rey River in Oceanside to the Santa Fe Depot in San Diego. Each of the sponsoring cities has agreed to construct and maintain the portion of the trail that is located within their jurisdiction. The City of Solana Beach (the “City”) began construction on their portion of the CRT (“City CRT”) in August 2003 by obtaining outside grants and the City CRT was substantially completed in November of 2004.

The City CRT encompasses approximately 1.7 miles extending from the north boundary of the City at the San Elijo Lagoon and the City of Encinitas to the south boundary of the City at Via de la Valle. The Class I bicycle trail proceeds south through the City, crossing Lomas Santa Fe Road and continuing to Via de la Valle in the City of Del Mar.

The City of Solana Beach Coastal Rail Trail Maintenance District (“District”) was formed in January 2006 in order to provide funding for the maintenance of certain public improvements including but not limited to the operation, maintenance and servicing of landscaping and public lighting improvements along the City CRT. This report constitutes the Fiscal Year 2017/2018 Engineer’s Report for the District.

The City Council pursuant to the provisions of the *Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code of California, beginning with Section 22500* (“Act”) and in compliance with the substantive and procedural requirements of the *California State Constitution Article XIII C and XIII D* (“Proposition 218”) and the *Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following)* (the “Implementation Act”) desires to levy and collect annual assessments against lots and parcels within the District beginning in the fiscal year commencing July 1, 2017 and ending June 30, 2018 to pay for the operation, maintenance and servicing of landscaping and public lighting improvements along the City CRT. The proposed assessments are based on the City’s estimate of the costs for Fiscal Year 2017/2018 to maintain the City CRT improvements that provide a special benefit to properties assessed within the District. The assessment rates set for Fiscal Year 2017/2018 as set forth in this Engineer’s Report, do not exceed the maximum rates established at the time the District was formed, therefore, the City and the District are not required to go through a property owner ballot procedure in order to establish the 2017/2018 assessment rates.

## **B. CONTENTS OF ENGINEER'S REPORT**

This Report describes the District boundaries and the proposed improvements to be assessed to the property owners located within the District. The Report is made up of the following sections.

**SECTION I. OVERVIEW** – Provides a general introduction into the Report and provides background on the District and the assessment.

**SECTION II. PLANS AND SPECIFICATIONS** – Contains a general description of the improvements that are maintained and serviced by the District.

**SECTION III. PROPOSED FISCAL YEAR 2017/2018 BUDGET** – Identifies the cost of the maintenance and services to be provided by the District including incidental costs and expenses.

**SECTION IV. METHOD OF APPORTIONMENT** – Describes the basis in which costs have been apportioned to lots or parcels within the District, in proportion to the special benefit received by each lot or parcel.

**SECTION V. ASSESSMENT ROLL** – The assessment roll identifies the maximum assessment to be levied to each lot or parcel within the District.

**SECTION VI. ASSESSMENT DIAGRAM** – Displays a diagram of the District showing the boundaries of the District.

For this Report, each lot or parcel to be assessed, refers to an individual property assigned its own Assessment Parcel Number (“APN”) by the San Diego County (“County”) Assessor’s Office as shown on the last equalized roll of the assessor.

Following the conclusion of the Public Hearing, the City Council will confirm the Report as submitted or amended and may order the collection of assessments for Fiscal Year 2017/2018.

## **SECTION II. PLANS AND SPECIFICATION**

---

### **A. GENERAL DESCRIPTION OF THE DISTRICT**

The boundaries of the District are defined as being contiguous with the boundaries of the City of Solana Beach. Solana Beach is located approximately thirty miles north of the City of San Diego in the north coastal area of the County. The City is bordered by the Pacific Ocean to the west, the City of Encinitas to the north, the City of Del Mar to the south and the unincorporated village of Rancho Santa Fe to the east.

The properties within the District include single-family residential, multi-family residential, timeshare, commercial, and industrial parcels. Each parcel has been categorized into three zones based upon their general proximity to the City CRT. Please refer to Section IV D of the Report for a further explanation on the zones included within the District.

### **B. DESCRIPTION OF SERVICES AND IMPROVEMENTS TO BE MAINTAINED**

The District provides a funding mechanism for the ongoing maintenance, operation and servicing of landscaping and public lighting improvements that were installed as part of the construction of the City CRT. These improvements may include, but are not limited to, all materials, equipment, utilities, labor, and appurtenant facilities related to those improvements.

The improvements constructed as part of the project that are to be maintained and serviced by the District relate to landscaping and public lighting improvements, and are generally described as follows:

- Concrete and decomposed granite trails including landscaping, irrigation, drainage, grading, lighting, and hardscape features.
- Concrete paths, trees, plantings, lighting, irrigation, conduit, infrastructure, earthwork, trash receptacles, fencing, node structures (bus shelters, art amenities, garden nodes), drinking fountains, signage, and observation deck.
- Open space and irrigated and planted slopes located along the Trail.
- Public lighting facilities within and adjacent to the City CRT.

Maintenance services will be provided by City personnel and/or private contractors. The proposed improvements to be maintained and services are generally described as follows:

## **LANDSCAPING AND APPURTENANT IMPROVEMENTS**

The landscaping improvements and services to be maintained by the District include but are not limited to landscaping, planting, ground cover, shrubbery, turf, trees, irrigation and drainage systems, hardscape, fixtures, sidewalks, fencing and other appurtenant items located along and adjacent to the City CRT.

## **PUBLIC LIGHTING AND APPURTENANT IMPROVEMENTS**

The public lighting improvements to be maintained and serviced include but are not limited to the following, which provide public lighting directly or indirectly to the City CRT or to other public areas associated with or necessary for use of the trail:

- Maintenance, repair and replacement of public light poles and fixtures, including changing light bulbs, painting, photoelectric cell repair or replacement, and repairing damage caused by automobile accidents, vandalism, time, and weather.
- Electrical conduit repair and replacement due to damage by vandalism, time and weather.
- Service-call maintenance, repair and replacement including painting, replacing worn out electrical components and repairing damage due to accidents, vandalism, and weather.
- Payment of the electrical bill for the existing street lighting system.
- Responding to constituent and business inquiries and complaints regarding the public lighting.

Maintenance means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of landscaping and public lighting improvements facilities and appurtenant facilities. This includes repair, removal or replacement of all or part of any of the landscaping and street lighting improvements, or appurtenant facilities; providing for the life, growth, health and beauty of landscaping improvements and for the operation of the lighting improvements.

Servicing means the furnishing of all labor, materials, equipment and utilities necessary to maintain the landscaping improvements and to maintain and operate the public lighting improvements or appurtenant facilities in order to provide adequate illumination.

## **SECTION III. PROPOSED FISCAL YEAR BUDGET**

---

### **A. ESTIMATED FISCAL YEAR 2017/2018 BUDGET**

A summary of the proposed District fiscal year 2017/2018 budget is summarized, by category, in Table 1 shown on the following page:

Table 1

**CITY OF SOLANA BEACH  
COASTAL RAIL TRAIL MAINTENANCE DISTRICT  
2017/18 BUDGET**

|  | TOTAL<br>BUDGET    | GENERAL<br>BENEFIT<br>PORTION <sup>1</sup> | PROPOSED FY<br>2017/18<br>ASSESSMENT |
|--|--------------------|--|--------------------------------------|
| <b>OPERATING AND MAINTENANCE COSTS</b>   |                    |  |                                      |
| <b>Operating and Maintenance</b>   |                    |  |                                      |
| Landscape, Irrigation & Hardscape Maintenance Thru an<br>Outside Contract (Includes Tree Trimming) | \$43,460.00        | \$2,727.60                                 | \$40,732.40                          |
| Utilities (Water)  | \$20,400.00        | \$0.00                                     | \$20,400.00                          |
| Utilities (Electricity)  | \$29,000.00        | \$29,000.00                                | \$0.00                               |
| Trail Maintenance (DG & Concrete Paths)  | \$1,400.00         | \$0.00                                     | \$1,400.00                           |
| Graffiti Abatement   | \$200.00           | \$0.00                                     | \$200.00                             |
| <b>Total Operating and Maintenance Costs</b>   | <b>\$94,460.00</b> | <b>\$31,727.60</b>                         | <b>\$62,732.40</b>                   |
| <b>CAPITAL REPLACEMENT AND RESERVES</b>  |                    |  |                                      |
| <b>Capital Replacement</b>   |                    |  |                                      |
| Landscape & Irrigation Replacement   | \$3,547.00         | \$213.00                                   | \$3,334.00                           |
| Pedestrian/Bicycle Path Replacement  | \$2,500.00         | \$150.00                                   | \$2,350.00                           |
| Hardscape Features Replacement (water fountain, art<br>work, bus shelter)                          | \$2,500.00         | \$150.00                                   | \$2,350.00                           |
| <b>Reserves</b>  |                    |  |                                      |
| Fiscal Year 2016/2017 Reserve Collection   | \$0.00             | \$0.00                                     | \$0.00                               |
| <b>Total Capital Replacement and Reserves</b>  | <b>\$8,547.00</b>  | <b>\$513.00</b>                            | <b>\$8,034.00</b>                    |
| <b>ADMINISTRATION COSTS</b>  |                    |  |                                      |
| <b>District Administration Costs</b>   |                    |  |                                      |
| County SB 2557 Costs   |                    |  | \$300.00                             |
| County Electronic Data Processing Costs  |                    |  | \$615.10                             |
| City Administration/Consultant Costs   |                    |  | \$4,803.90                           |
| <b>Total Administration Costs</b>  |                    |  | <b>\$5,719.00</b>                    |
| <b>AMOUNT TO LEVY</b>  |                    |  |                                      |
| <b>TOTAL ASSESSMENT AMOUNT</b>   |                    |  | <b>\$76,485.40</b>                   |
| Total Parcels in the District  |                    |  | 13,102                               |
| Total Parcels Levied   |                    |  | 5,641                                |
| Total Equivalent Benefit Units   |                    |  | 10,477.63                            |
| <b>Proposed Levy Per Equivalent Benefit Unit</b>   |                    |  | <b>\$7.30</b>                        |
| Inflation Percentage Applied to Proposed Levy Per EBU  |                    |  | 1.97%                                |

| <b>OPERATING RESERVES</b>               |                    |
|---|--------------------|
| Beginning Balance as of 7/1/16          | \$56,822.00        |
| FY 2016/2017 Collection                 | \$75,019.00        |
| Expenditures                            | (\$57,780.00)      |
| Projected Ending Balance as of 6/30/17  | \$74,061.00        |
| <b>Maximum Cash Flow Reserve Amount</b> | <b>\$38,242.70</b> |

1. While the cost of the electricity is not 100% general benefit, the City is paying for the entire cost through other available funds and none of the cost is being allocated to the parcels located within the District.



**B. DESCRIPTION OF BUDGET ITEMS**

The following is a brief description of the major budget categories that includes the detailed costs of maintenance and services for the District included in the table above.

**OPERATING AND MAINTENANCE COSTS** – This includes the costs of maintaining and servicing the landscaping and lighting improvements. This may include, but is not limited to, the costs for labor, utilities, equipment, supplies, repairs, replacements and upgrades that are required to properly maintain the items that provide a direct benefit to properties located within the District.

**CAPITAL REPLACEMENT AND RESERVES** – These items provide a funding source to pay for items that wear out over time, other unanticipated items not directly budgeted for and for the replacement of the landscaping, pathways and hardscape features located along and adjacent to the City CRT.

**ADMINISTRATION COSTS** – This includes the indirect costs not included above that are necessary to pay for administrative costs related to the District, including the levy and submittal of the assessments to the County to be placed on the Fiscal Year 2017/2018 County equalized tax roll, responding to property owner inquiries relating to the assessments and services, and any other related administrative costs.

## **SECTION IV. METHOD OF APPORTIONMENT**

---

### **A. GENERAL**

The 1972 Act permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements, which include the construction, maintenance, and servicing of landscaping and public lights and appurtenant facilities.

Streets and Highways Code Section 22573 requires that maintenance assessments be levied according to benefit rather than the assessed value.

*“The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements.”*

In addition, Article XIID and the Implementation Act require that a parcel’s assessment may not exceed the reasonable cost for the proportional special benefit conferred to that parcel. A special benefit is a particular and distinct benefit over and above general benefits conferred on property located within the assessment district. Article XIID and the Implementation Act further provides that only special benefits are assessable and the City must separate the general benefits from the special benefits. They also require that publicly owned properties which specifically benefit from the improvements be assessed.

### **B. GENERAL BENEFIT ANALYSIS**

The improvements described in Section II B of this Report are for the special benefit, enhancement and use of properties within the District. However, the City CRT is being constructed as a portion of a much larger regional trail that will extend from the City of Oceanside to the north to the City of San Diego to the south. Residents and property owners located in each of the cities along the trail will receive a special benefit from the construction and maintenance of the trail within their city. Residents from each of these cities will have an opportunity to use the entire trail upon completion including the portion in Solana Beach which creates a general benefit.

Additionally, included among the different property types in the City are timeshare units. Though individuals may purchase and “own” their timeshare unit, their ownership rights are limited and temporary (typically one week per year.) Owners of timeshare units have an opportunity to use the CRT while vacationing in the City. Due to the limited ownership time-frame of timeshare owners, their special benefit is limited and thus considered as part of the general benefit similar to the general benefit to the public at large.

The general benefit portion of the assessment has been determined by looking at each participating city’s trail length as a factor or the entire trail. The City of Solana Beach’s portion of the CRT is 1.7 miles compared to the entire proposed trail length of 44.0 miles. Comparing the length of the City CRT to the total length of the CRT results in a general

benefit of 3.86%. For rounding purposes and adding an additional factor for timeshare unit owners the general benefit will be considered 6.0% overall to the public at large. The budget has been allocated to parcels based on their special benefit share. In addition, the City is paying 100% of the electricity costs, totaling \$29,000, for the District through funds available from other sources resulting in over 30% of the costs paid directly by the City.

### **C. SPECIAL BENEFIT ANALYSIS**

Each of the proposed improvements and the associated costs and assessments within the District has been reviewed, identified and allocated based on special benefit pursuant to the provisions of Article XIIID, the Implementation Act, and the Streets and Highways Code Section 22573.

Proper maintenance and operation of the City CRT landscaping, hardscape, open space and public lighting provides special benefit to adjacent properties by providing community character, security, safety and vitality. Additionally, one of the purposes of the trail is to facilitate alternative transportation opportunities in order to reduce air pollution and vehicular traffic congestion which provide special benefit to the properties within the District.

#### **TRAIL AND LANDSCAPING SPECIAL BENEFIT**

Landscaping and appurtenant facilities, if well maintained, provide beautification, shade and enhancement of the desirability of the surroundings, and therefore increase property values. Specifically, they provide a sense of ownership and a common theme in the community providing aesthetic appeal, recreational and health opportunities and increased desirability of properties.

#### **PUBLIC LIGHTING SPECIAL BENEFIT**

The operation, maintenance and servicing of public lighting along and adjacent to the City CRT provide safety and security to properties along City CRT specifically as follows:

- Improved security, deterrence of crime and aid to police and fire protection.
- Reduced vandalism and damage to the improvements and property.
- Increased business activity to the coastal community during nighttime hours.

## **D. ASSESSMENT METHODOLOGY**

To establish the special benefit to the individual lots or parcels within the District, an Equivalent Benefit Unit system based on land use is used along with a Zone Factor based on geographic proximity to the City CRT.

### **EQUIVALENT BENEFIT UNITS**

Each parcel of land is assigned an Equivalent Benefit Unit in proportion to the estimated special benefit the parcel receives relative to other parcels within the District. The single family detached (“SFD”) residential property has been selected as the basic unit for calculating assessments; therefore, a SFD residential parcel equals one Equivalent Benefit Unit (“EBU”).

The EBU method of apportioning benefit is typically seen as the most appropriate and equitable assessment methodology for districts formed under the 1972 Act, as the benefit to each parcel from the improvements are apportioned as a function of land use type, size and development. A methodology has been developed to relate all other land uses to the SFD residential as described below.

### **EBU APPLICATION BY LAND USE:**

**SINGLE-FAMILY RESIDENTIAL** — This land use is defined as a fully subdivided residential parcel in which a tract map has been approved and recorded. This land use is assessed 1.0 EBU per lot or parcel. This is the base value that all other land use types are compared and weighted against (i.e. Equivalent Benefit Unit or EBU).

**RESIDENTIAL CONDOMINIUM** — This land use is defined as a fully subdivided residential parcel that has more than one residential unit developed on the property with individual unit ownership. This land use is assessed 1.0 EBU per dwelling unit.

**MULTI-FAMILY RESIDENTIAL** — This land use is defined as a fully subdivided residential parcel that has more than one residential unit developed on the property not available for individual unit ownership. This land use is assessed 0.75 EBU per dwelling unit.

**PLANNED-RESIDENTIAL DEVELOPMENT** — This land use is defined as any property not fully subdivided with a specific number of proposed residential lots or dwelling units to be developed on the parcel. This land use type is assessed at 1.0 EBU per planned (proposed) residential lot or dwelling unit.

**COMMERCIAL/INDUSTRIAL** — This land use is defined as property developed for either commercial or industrial use. This land use type is assessed at 1.0 EBU per parcel.

**VACANT SINGLE-FAMILY RESIDENTIAL** — This land use is defined as property currently zoned for single-family detached residential development, but a tentative or final tract map has not been submitted and/or approved. This land use is assessed at 1.0 EBU per parcel.

**VACANT MULTI-FAMILY RESIDENTIAL** — This land use is defined as property currently zoned for multi-family residential development, but a tentative or final tract map has not been submitted and/or approved. This land use is assessed at 0.75 EBU per parcel.

**VACANT COMMERCIAL/INDUSTRIAL** — This land use is defined as property currently zoned for either commercial or industrial use. This land use is assessed at 1.0 EBU per parcel.

**EXEMPT PARCELS** — This land use identifies properties that are not assessed and are assigned 0.0 EBU. This land use classification may include, but is not limited, to lots or parcels identified as public streets and other roadways (typically not assigned an APN by the County); dedicated public easements, open space areas and right-of-ways including greenbelts and parkways; utility right-of-ways; common areas, sliver parcels and bifurcated lots or any other property that can not be developed; park properties and other publicly owned properties that are part of the District improvements or that have little or no improvement value. These types of parcels are considered to receive little or no benefit from the improvements and are therefore exempted from assessment.

**PUBLIC OWNED PARCELS** — This land use identifies properties that are not assessed and are assigned 0.0 EBU. This land use classification includes other typically non-assessed parcels that are not considered exempt parcels and may include, but is not limited, to lots or parcels identified as schools, government owned buildings, fire and police stations, and administration offices. These types of properties are considered to receive little special benefit from the improvements and any benefit that they may receive is considered to be part of the City's general benefit contribution to the District.

#### **ZONE FACTOR**

The District was divided into three zones based on the proximity of parcels in location to the City CRT. Properties located the closest to the trail will receive a greater special benefit as compared to those parcels the farthest away. In order to calculate this into the assessment a factor is applied to each parcel according to the following Zone location.

**ZONE 1 PROPERTIES** – This Zone is defined as properties located adjacent to or within a few blocks of the City CRT improvements. This includes all properties that are generally located east of Acacia and Sierra Avenue and west of Rios Avenue. Parcels located in this zone use the EBU amounts derived above based on land use and then multiplied by a proximity factor of three (3).

**ZONE 2 PROPERTIES** – This Zone is defined as properties located close to the improvements but not adjacent to the City CRT or properties defined as Zone 1 Properties. This includes all properties that are generally located west of Acacia Avenue and also those properties located east of Rios Avenue and west of Interstate-5. Parcels located in this zone use the EBU amounts derived above based on land use and then multiplied by a proximity factor of two (2).

**ZONE 3 PROPERTIES** – This Zone is defined as properties located the furthest away from the City CRT improvements. This includes all properties that are located east of Interstate-5. Parcels located in this zone use the EBU amounts derived above based on land use and then multiplied by a proximity factor of 0.5.

The following table summarizes the EBU and Zone Factors based on land use.

Table 2

**CITY OF SOLANA BEACH  
COASTAL RAIL TRAIL MAINTENANCE DISTRICT  
EQUIVALENT BENEFIT UNITS AND ZONE FACTOR BY LAND USE**

| Land Use Description             | Equivalent Benefit Units (EBUs) | Per             | Zone 1 Multiplier | Zone 2 Multiplier | Zone 3 Multiplier | No. of EBUs for Property in Zone 1 | No. of EBUs for Property in Zone 2 | No. of EBUs for Property in Zone 3 |
|----------------------------------|---------------------------------|-----------------|-------------------|-------------------|-------------------|------------------------------------|------------------------------------|------------------------------------|
| Single Family Residential        | 1.00                            | Lot or Parcel   | 3.00              | 2.00              | 0.50              | 3.00                               | 2.00                               | 0.50                               |
| Residential Condominium          | 1.00                            | Dwelling Unit   | 3.00              | 2.00              | 0.50              | 3.00                               | 2.00                               | 0.50                               |
| Multi-Family Residential         | 0.75                            | Dwelling Unit   | 3.00              | 2.00              | 0.50              | 2.25                               | 1.50                               | 0.38                               |
|                                  |                                 | Lot or Dwelling |                   |                   |                   |                                    |                                    |                                    |
| Planned Residential Development  | 1.00                            | Unit            | 3.00              | 2.00              | 0.50              | 3.00                               | 2.00                               | 0.50                               |
| Commercial/Industrial            | 1.00                            | Parcel          | 3.00              | 2.00              | 0.50              | 3.00                               | 2.00                               | 0.50                               |
| Vacant Single Family Residential | 1.00                            | Parcel          | 3.00              | 2.00              | 0.50              | 3.00                               | 2.00                               | 0.50                               |
| Vacant Multi-Family Residential  | 0.75                            | Parcel          | 3.00              | 2.00              | 0.50              | 2.25                               | 1.50                               | 0.38                               |
| Vacant Commercial/Industrial     | 1.00                            | Parcel          | 3.00              | 2.00              | 0.50              | 3.00                               | 2.00                               | 0.50                               |
|                                  |                                 | 1 week of       |                   |                   |                   |                                    |                                    |                                    |
| Timeshare Units                  | 0.00                            | ownership       | 3.00              | 2.00              | 0.50              | 0.00                               | 0.00                               | 0.00                               |
| Exempt Parcels                   | 0.00                            | Parcel          | 3.00              | 2.00              | 0.50              | 0.00                               | 0.00                               | 0.00                               |
| Public Owned Parcels             | 0.00                            | Parcel          | 3.00              | 2.00              | 0.50              | 0.00                               | 0.00                               | 0.00                               |

In order to determine the maximum annual assessment rate for each type of land use described above, the following formula is applied:

$$\text{Applicable EBU} * \text{Applicable Zone Factor} * \text{Maximum Assessment Rate per 1.0 EBU} = \text{Assessment Rate per Unit/Parcel.}$$

**E. RATES**

Table 3 below shows the maximum assessments rates proposed to be levied in fiscal year 2017/2018 by land use. Because the San Diego Consumer Price Index for All Urban Consumers (“CPI-U”) was 1.97% for 2016, the maximum assessments were increased by 1.97% as allowed for in the assessment range formula discussed below.

**Table 3**

**CITY OF SOLANA BEACH  
COASTAL RAIL TRAIL MAINTENANCE DISTRICT  
EQUIVELANT BENEFIT UNITS AND ZONE FACTOR BY LAND USE**

| Land Use Description             | Per           | Base Rate for Zone 1 | Base Rate for Zone 2 | Base Rate for Zone 3 |
|----------------------------------|---------------|----------------------|----------------------|----------------------|
| Single Family Residential        | Lot or Parcel | \$21.90              | \$14.60              | \$3.65               |
| Residential Condominium          | Dwelling Unit | \$21.90              | \$14.60              | \$3.65               |
| Multi-Family Residential         | Dwelling Unit | \$16.42              | \$10.95              | \$2.74               |
|                                  | Lot or        |                      |                      |                      |
| Planned Residential Development  | Dwelling Unit | \$21.90              | \$14.60              | \$3.65               |
| Commercial/Industrial            | Parcel        | \$21.90              | \$14.60              | \$3.65               |
| Vacant Single Family Residential | Parcel        | \$21.90              | \$14.60              | \$3.65               |
| Vacant Multi-Family Residential  | Parcel        | \$16.42              | \$10.95              | \$2.74               |
| Vacant Commercial/Industrial     | Parcel        | \$21.90              | \$14.60              | \$3.65               |
|                                  | 1 week of     |                      |                      |                      |
| Timeshare Units                  | ownership     | \$0.00               | \$0.00               | \$0.00               |
| Exempt Parcels                   | Parcel        | \$0.00               | \$0.00               | \$0.00               |
| Public Owned Parcels             | Parcel        | \$0.00               | \$0.00               | \$0.00               |

**F. ASSESSMENT RANGE FORMULA**

The purpose of establishing an Assessment Range Formula is to provide for reasonable inflationary increases to the annual assessments without requiring the District to go through an expensive balloting process required by law in order to get a small increase. On July 1, 2007 and each year thereafter, the Maximum Assessment Rate shall be increased by the lesser of Local CPI-U in the San Diego County area or 2.0%. The CPI-U used shall be as determined annually by the Bureau of Labor Statistics beginning with the CPI-U rate increase for 2006.

Beginning in the Fiscal Year 2007/2008 the Maximum Assessment may be increased using the lesser of the increase in the CPI-U from first year levy (the Assessment Range Formula) or 2.0%. This Assessment Rate Formula would be applied every fiscal year thereafter and a new Maximum Assessment will be established to include the allowable increase.

The Maximum Assessment adjusted annually by this formula is not considered an increased assessment. Although the Maximum Assessment will increase each year, the actual assessment will only reflect the necessary budgeted amounts and may remain unchanged. Increases in the budget or an increase in the rate in one year from the prior year will not require a new 218 balloting unless the rate is greater than the Maximum Assessment adjusted to reflect an increase in the CPI-U.

## **SECTION V. ASSESSMENT ROLL**

---

Parcel identification, for each lot or parcel within the District shall be the parcel as shown on the County Assessor's map for the year in which this Report is prepared.

A listing of parcels assessed within the District, along with the proposed assessment amounts, has been submitted to the City Clerk, under a separate cover, and by reference is made part of this Report. Said listing of parcels to be assessed shall be submitted to the County Auditor/Controller and included on the property tax roll for each parcel in Fiscal Year 2017/2018. If any parcel submitted for collection is identified by the County Auditor/Controller to be an invalid parcel number for the current fiscal year, a corrected parcel number and/or new parcel numbers will be identified and resubmitted to the County Auditor/Controller. The assessment amount to be levied and collected for the resubmitted parcel or parcels shall be based on the method of apportionment and assessment rate approved in this Report. Therefore, if a single parcel has changed to multiple parcels, the assessment amount applied to each of the new parcels shall be recalculated and applied according to the approved method of apportionment and assessment rate rather than a proportionate share of the original assessment.



## **SECTION VI. ASSESSMENT DIAGRAM**

---

The parcels within the District consist of all lots, parcels and subdivisions of land located in the City. A boundary map of the area is attached.

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF SOLANA BEACH  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005.

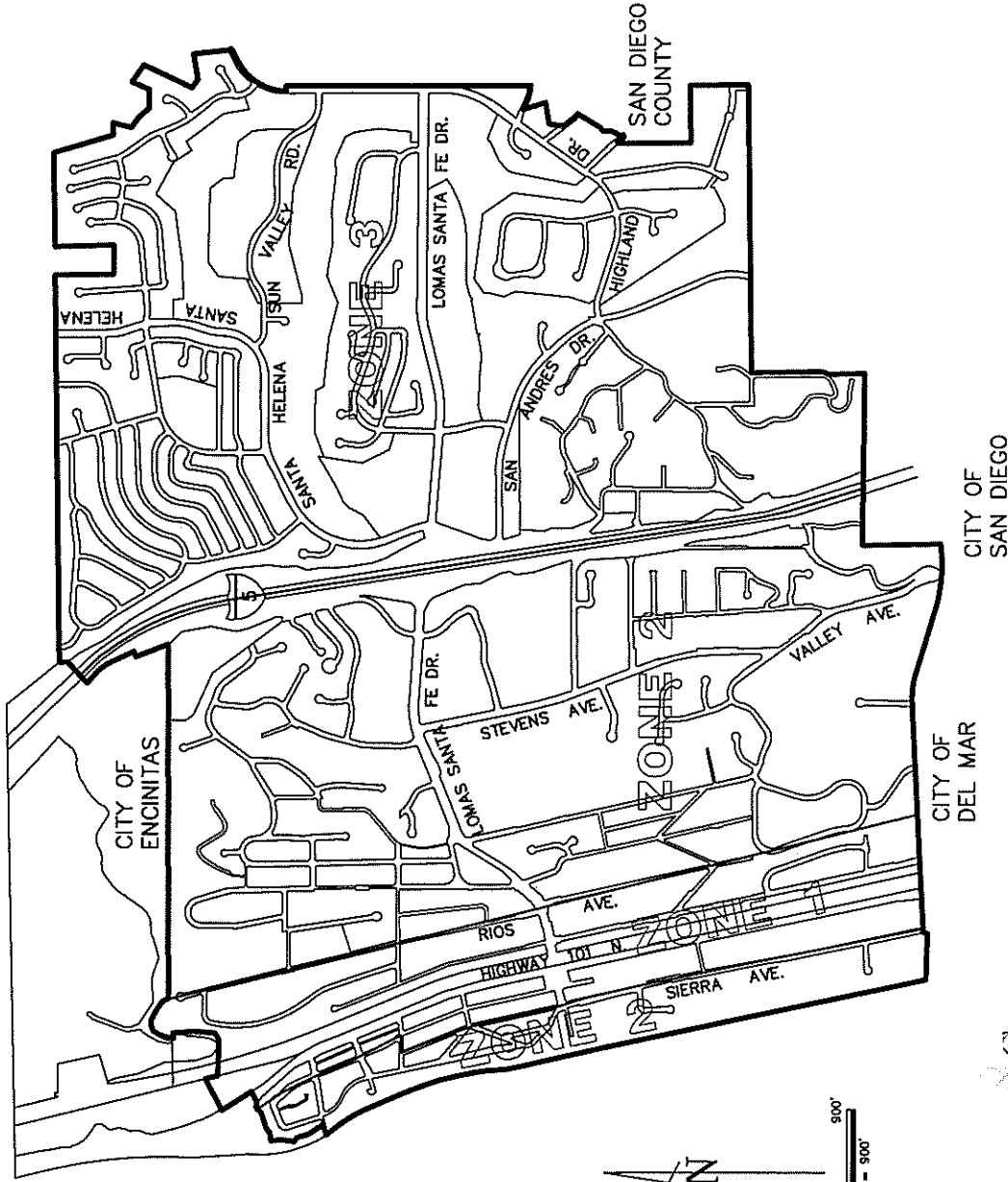
I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES  
OF THE COASTAL RAIL TRAIL MAINTENANCE DISTRICT, CITY OF SOLANA  
BEACH, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, WAS APPROVED BY  
THE CITY COUNCIL OF THE CITY OF SOLANA BEACH AT A REGULAR MEETING  
HEREBY HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_  
2005, BY ITS RESOLUTION NO. \_\_\_\_\_

CITY CLERK  
CITY OF SOLANA BEACH

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005, AT THE  
HOURS OF \_\_\_\_\_ M. IN BOOK \_\_\_\_\_ OF MAPS OF  
ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE \_\_\_\_\_  
AND AS INSTRUMENT NO. \_\_\_\_\_ IN THE OFFICE OF THE  
COUNTY RECORDER IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.

COUNTY RECORDER  
COUNTY OF SAN DIEGO  
STATE OF CALIFORNIA

NOTE: FOR PARTICULARS OF THE LINES AND DIMENSIONS OF ASSESSOR'S  
PARCELS, REFERENCE IS MADE TO THE MAPS OF THE SAN DIEGO COUNTY  
ASSESSOR OF SAN DIEGO COUNTY RECORDS, WHICH MAPS SHALL GOVERN  
FOR ALL DETAILS RELATING THERETO.



900' 450' 0' 900'  
SCALE: 1" = 900'

**KOPPEL GRUBER**  
PUBLIC PLANNING & CONSULTANTS

SSA Yvonne Cruz  
Sulla 256  
San Marcos, California 92078  
Phone (760) 510-0290 Fax (760) 510-0298

PROPOSED BOUNDARY MAP OF  
COASTAL RAIL TRAIL MAINTENANCE DISTRICT

CITY OF SOLANA BEACH  
COUNTY OF SAN DIEGO  
STATE OF CALIFORNIA

# CITY OF SOLANA BEACH

## CITY OF SOLANA BEACH COASTAL RAIL TRAIL MAINTENANCE DISTRICT

### Engineer's Report Fiscal Year 2017/2018

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

Report Submitted By:

By: \_\_\_\_\_  
Scott Koppel  
Koppel & Gruber Public Finance

By: \_\_\_\_\_  
Mohammad Sammak

## RESOLUTION 2017-098

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, APPROVING THE FISCAL YEAR 2017/18 ENGINEER'S REPORT REGARDING THE COASTAL RAIL TRAIL MAINTENANCE DISTRICT

**WHEREAS**, the City Council, pursuant to the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code of California, beginning with Section 22500 (the "Act"), did by previous Resolution order the Assessment Engineer, Koppel & Gruber Public Finance, to prepare and file the Fiscal Year (FY) 2017/2018 Engineer's Report for the City of Solana Beach Coastal Rail Trail Maintenance District (District); and

**WHEREAS**, the Assessment Engineer has prepared and filed with the City Clerk of the City of Solana Beach, California and the City Clerk has presented to the City Council such report entitled City of Solana Beach Coastal Rail Trail Maintenance District Engineer's Report FY 2017/18 ("Report") as required by the Act; and

**WHEREAS**, the City Council has carefully examined and reviewed the Report as presented, considered all oral and written comments presented with respect to the District and Report at a noticed Public Hearing and has discussed any necessary or desired modifications to the Report, and is satisfied that the levy for each parcel has been calculated in accordance with the special benefits received from the operation, maintenance and services performed, as set forth in the Report.

**NOW, THEREFORE**, the City Council of the City of Solana Beach, California does resolve as follows:

1. The above recitals are true and correct.
2. The Report as presented or as modified, contains the following:
  - a. Description of Improvements.
  - b. Diagram of the District.
  - c. Method of Apportionment that details the method of calculating each parcel's proportional special benefits and annual assessment.

- d. The FY 2017/18 Assessment based upon the Method of Apportionment as approved by the property owners pursuant to the provision of the California Constitution Article XIID Section 4.
  - e. An Assessment Range Formula for calculating annual inflationary adjustments to the initial "Maximum Assessment" (Adjusted Maximum Levy per benefit unit), also approved by the property owners.
  - f. The FY 2017/18 Annual Budget (Costs and Expenses) and the resulting FY 2017/18 Assessment (levy per benefit unit) for the fiscal year.
  - g. The District Roll containing the levy for each Assessor's Parcel Number within the District for FY 2017/18.
3. The City Clerk is hereby directed to enter on the minutes of the City Council any and all modifications to the Report determined and approved by the City Council, and all such changes and/or modifications by reference are to be incorporated into the Report.
  4. The City Council is satisfied with the Report as presented or modified, each and all of the budget items and documents as set forth therein, and is satisfied that the FY 2017/18 annual assessments contained therein are consistent with the assessments approved by the property owners and spread in accordance with the special benefits received from the improvements pursuant to the provisions of the California Constitution Article XIID.
  5. The Report is hereby approved as submitted or modified and ordered to be filed in the Office of the City Clerk as a permanent record and to remain open to public inspection.

6. The City Clerk shall certify to the passage and adoption of this resolution, and the minutes of this meeting shall so reflect the presentation and approval of the Report as submitted or modified.

**PASSED AND ADOPTED** this 28th day of June, 2017, at a regularly scheduled meeting of the by the City council of the City of Solana Beach by the following vote:

AYES: Councilmembers -  
NOES: Councilmembers -  
ABSENT: Councilmembers -  
ABSTAIN: Councilmembers -

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk

## RESOLUTION 2017-099

### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, ORDERING THE LEVY AND COLLECTION OF ANNUAL ASSESSMENTS REGARDING THE COASTAL RAIL TRAIL MAINTENANCE DISTRICT FOR FISCAL YEAR 2017/18

**WHEREAS**, the City Council has, by previous resolutions, initiated proceedings to form and declare its intention to levy and collect annual assessments against parcels of land within the City of Solana Beach Coastal Rail Trail Maintenance District ("District"), for the Fiscal Year (FY) commencing July 1, 2017 and ending June 30, 2018 pursuant to the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code of California, beginning with Section 22500 (Act) to pay the costs and expenses of operating, maintaining and servicing the improvements and appurtenant facilities related thereto; and

**WHEREAS**, Koppel & Gruber Public Finance, the Assessment Engineer selected by the City Council, has prepared and filed with the City Clerk, and the City Clerk has presented to the City Council the Engineer's Report entitled City of Solana Beach Coastal Rail Trail Maintenance District Engineer's Report FY 2017/18 ("Report") in connection with the proposed levy and collection of special benefit assessment upon eligible parcels of land within the District, and the City Council did by previous resolution approve such Report; and

**WHEREAS**, the City Council desires to levy and collect assessments against parcels of land within the District for the Fiscal Year commencing July 1, 2017 and ending June 30, 2018, to pay the costs and expenses of operating, maintaining and servicing the improvements and appurtenant facilities related thereto; and

**WHEREAS**, the City Council, following notice duly given, has held a full and fair Public Hearing on June 28, 2017, regarding the levy and collection of assessments as described in the Report prepared in connection therewith, and considered all oral and written statements, protests and communications made or filed by interested persons regarding these matters, pursuant to the Act and in accordance with the provisions of the California Constitution Article XIID.

**NOW, THEREFORE**, the City Council of the City of Solana Beach, California does resolve as follows:

1. The above recitals are true and correct.
2. Following notice duly given, the City Council has held a full and fair public hearing regarding the levy and collection of the assessments, the Report prepared in connection therewith, and considered all oral and written statements,

protests and communications made or filed by interested persons regarding these matters.

3. The City Council desires to levy and collect assessments against parcels of land within the District for the fiscal year commencing July 1, 2017 and ending June 30, 2018, to pay the costs and expenses of operating, maintaining and servicing the landscaping, public lighting improvements and appurtenant facilities located within public places in the District.
4. The City Council has carefully reviewed and examined the Report in connection with the District, and the levy and collection of assessments. Based upon its review of the Report, a copy of which has been presented to the City Council and which has been filed with the City Clerk, hereby finds that the City Council determines that:
  - a. The territory of land within the District will receive special benefits from the operation, maintenance and servicing of the landscaping, lighting, drainage and appurtenant facilities and improvements related thereto.
  - b. The District includes all of the lands so benefited; and
  - c. The amount to be assessed upon the lands within the District, in accordance with the proposed budget for the fiscal year commencing July 1, 2017 and ending June 30, 2018, is apportioned by a formula and method which fairly distributes the net amount among all eligible parcels in proportion to the special benefits, to be received by each parcel from the improvements and services, and is satisfied that the assessments are levied, without regard to property valuation.
5. The Report and FY 2017/18 assessments, as presented to the City Council and on file in the office of the City Clerk, are hereby confirmed as filed.
6. The City Council hereby orders the proposed improvements to be made; the improvements are briefly described as the operation, administration, maintenance and servicing of all public landscaping, lighting improvements and appurtenant facilities and expenses associated with the District, and that will be maintained by the City of Solana Beach or their designee and all such maintenance, operation and servicing of the landscaping, lighting and all appurtenant facilities shall be performed pursuant to the Act. A more complete description of the improvements is detailed in the Report and by reference this document is made part of this resolution.
7. The San Diego County Auditor shall place on the County Assessment Roll, opposite each parcel of land, the amount of levy so apportioned by the method of



apportionment formula, outlined in the Report and such levies shall be collected at the same time and in the same manner as County taxes are collected pursuant to Chapter 4, Article 2, Section 22646 of the Act. After collection by the County, the net amount of the assessments, after deduction of any compensation due the County for collection, shall be paid to the City Treasurer.

8. The City Treasurer shall deposit all money from the assessments collected by the County for the District into a fund for the Coastal Rail Trail Maintenance District, and such money shall be expended to pay the costs and expenses of operating, maintaining and servicing the improvements and appurtenant facilities related thereto described above.
9. The adoption of this resolution constitutes the authorization of the District levy for the Fiscal Year commencing July 1, 2017 and ending June 30, 2018.
10. The City Clerk or Clerk's designee is hereby authorized and directed to file the levy with the San Diego County Auditor subsequent to the adoption of this resolution.

**PASSED AND ADOPTED** this 28th day of June, 2017, at a regularly scheduled meeting of the by the City Council of the City of Solana Beach by the following vote:

AYES: Councilmembers -  
NOES: Councilmembers -  
ABSENT: Councilmembers -  
ABSTAIN: Councilmembers -

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk



# STAFF REPORT CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Gregory Wade, City Manager  
**MEETING DATE:** June 28, 2017  
**ORIGINATING DEPT:** City Manager's Department  
**SUBJECT:** Public Hearing to Consider Adoption of the Fiscal Year (FY) 2017-18 Commercial Solid Waste Rate Increases for EDCO Waste and Recycling Services

---

## **BACKGROUND:**

The City originally entered into a Franchise Agreement (Agreement) with EDCO Waste and Recycling Services (EDCO) for commercial solid waste and recycling collection services effective August 1, 1993. The City amended the Agreement on February 8, 2002 extending the term to February 28, 2009. Under provisions of the Agreement, extensions were subsequently granted. The last significant amendments to the Agreement occurred in March 2005 and included an automatic one-year extension clause.

Under the terms of the Agreement, EDCO may request a rate review annually to adjust the amount charged for providing services. The Agreement contains specific language regarding the rate review methodology. Rates may only be increased due to tipping (landfill disposal) fee or cost of living (CPI) increases on the base rate. City Staff analyze the rate review requests and brings them before the City Council for consideration.

This item is before the City Council as a public hearing to conduct a "protest hearing" to receive input regarding the proposed commercial solid waste and recycling rate increases for FY 2017-18.

## **DISCUSSION:**

The purpose of the Agreement is to ensure the provision of solid waste and recycling collection services, minimize liability and risk, and provide for cost effective collection service in an environmentally sound fashion. Throughout the contract duration, EDCO

CITY COUNCIL ACTION:

---

---

has demonstrated its commitment to these principals and desires to continue providing service to the City of Solana Beach.

Some provisions of the agreements are outlined below:

- The availability of disposal sites, either landfills or transfer stations, is of critical importance to coastal cities. EDCO has agreed that if the transfer station or disposal location changes in the future, they will absorb any increase in transportation costs to the new location. This is a significant benefit to the City of Solana Beach since there is no assurance of space or availability at current disposal locations.
- EDCO provides City facility and special event solid waste and recycling services at no cost.
- EDCO pays the City a 7.5% Franchise Fee to, among other things, help offset any damage done to City streets or infrastructure as a result in doing business in Solana Beach.
- EDCO performs free “waste audits” for commercial accounts that consist of analyzing the specific waste stream on a case-by-case basis to help the customer maximize the efficiency of their programs. This often times results in a reduction of waste service, increase in recycling service and a savings on disposal costs to the business.
- EDCO also contributes approximately \$25,000 to the City for litter abatement, street sweeping and storm water pollution reduction activities as part of the Franchise Agreement.
- EDCO assists the City with legislative compliance such as Assembly Bill (AB) 939 (The Integrated Waste Management Act), AB 341(Mandatory Commercial Recycling) and AB1826 (Mandatory Commercial Organics Recycling).

### Rate Methodology

The Agreement contains specific language regarding the rate review methodology. The Agreement states that rates may only be increased due to tipping (landfill disposal) fee or cost of living increases on the base rate. The methodology for calculating rate increases is based on these two components.

The tipping fee is considered separately from the base rate. Tipping fee increases or decreases are intended to be ‘pass through’ expenses. The rates are adjusted up or down based on the haulers increased or decreased costs resulting from adjustments to the tipping fee.

The second component of the equation is the base rate. The base rate, subject to any Consumer Price Index (CPI) adjustment, is the monthly rate minus landfill and franchise fees. The methodology provides for annual adjustments based on the increase or

decrease in the CPI for the previous 12-month period (December to December) for all urban consumers in the Los Angeles, Riverside, and Anaheim area. The maximum CPI adjustment is 4% annually.

Commercial customers pay varying rates depending on the level of service required. The most common commercial service is a three-yard container serviced one time per week. Currently, the cost for this service is \$101.04 per month. Based upon the 1.97% increase in CPI and 3.91% rise in tipping fees, the rate for this standard service would increase from \$101.04 to \$104.05 per month. It should be noted that commercial solid rate fees have not been increased since July 1, 2013. For a complete list of rates for all service levels, please see Attachment 2.

The rate calculation methodology provides a consistent means to formulate annual rate adjustments utilizing actual cost trends for the tipping fee and CPI. Given that the tipping fee portion of the rate is calculated by RSWA and the CPI determines the remainder of the rate, future rate adjustments are a by-product of the rate methodology. Staff will administratively review future rate adjustments to ensure appropriate application of the rate methodology.

#### Franchise Fee

The Agreement provides for annual increases to the franchise fee, capped at 7.5%. The franchise fee is currently 7.5% of the adjusted gross revenues; therefore, no increase will occur. Franchise fees typically offset costs associated with use of City streets and administration of the contract.

#### Prop 218

Article III D, section 6(a) of the California Constitution, commonly known as Proposition 218, requires that the City conduct a protest hearing in order to increase solid waste service charges. A public notification letter (Attachment 3) for this public hearing was sent out to all property and business owners in the City describing the rate adjustment request and how to protest if desired, as required by law. If, at or prior to the public hearing, the City receives or is presented with written protests against the proposed increases to the rates for the trash collection fees by a majority of owners of the parcels within the City upon which the City imposes its trash collection fees, the City will not impose the proposed rate increases.

#### **CEQA COMPLIANCE STATEMENT:**

Not a project as defined by CEQA.

#### **FISCAL IMPACT:**

The franchise fee of 7.5% will result in a slight increase in the City's solid waste revenue fund from the minor increase in commercial solid waste and recycling rates. In addition, there will be a slight increase in the costs paid to the City for litter abatement, street sweeping and storm water reduction activities.

**WORK PLAN:**

This item is not identified in the Work Plan.

**OPTIONS:**

- Approve the FY 2017-18 commercial solid waste and recycling rate increases identified in Attachment 2.
- Reject the commercial solid waste rate increase for FY 2017-18.

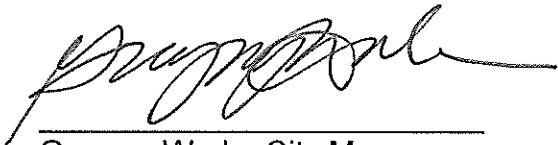
**DEPARTMENT RECOMMENDATION:**

Staff recommends the City Council:

1. Conduct the Public Hearing: Open the Public Hearing; Report Council Disclosures; Report written protests received; Receive Public Testimony; Close the Public Hearing.
2. Following the Public Hearing, if the City does not receive written protests against the proposed increases to the rates for the trash collection fees by a majority of owners of the parcels within the City, adopt Resolution No. 2017-104 approving EDCO's rate review request increasing commercial solid waste and recycling rates for FY 2017-18 in accordance with the Franchise Agreement.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation



Gregory Wade, City Manager

Attachments:

1. Resolution No. 2017-104
2. EDCO Rate Review Application
3. Proposition 218 Notification Letter for Public Hearing (mailed to commercial property and business owners)

RESOLUTION NO. 2017 - 104

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, APPROVING A RATE INCREASE FOR EDCO WASTE AND RECYCLING SERVICES FOR COMMERCIAL SOLID WASTE AND RECYCLING COLLECTION**

**WHEREAS**, the City Council entered into a Franchise Agreement (Agreement) with EDCO Waste and Recycling Services (EDCO) for commercial solid waste and recycling collection services, effective August 1, 1993; and

**WHEREAS**, on February 8, 2002, the City executed a new Agreement extending the term to February 28, 2009; and

**WHEREAS**, on March 9, 2005, the City amended the Agreement to include an automatic one-year contract extension clause so that the term of the Agreement shall be at a minimum four years; and

**WHEREAS**, EDCO has provided highly responsive commercial solid waste and recycling services to the City; and

**WHEREAS**, the Agreement allows for EDCO to submit rate review applications annually to modify commercial solid waste and recycling collection rates; and

**WHEREAS**, the City complied with Proposition 218 noticing and voting requirements under Article III D, section 6(a) of the California Constitution; and

**WHEREAS**, the City conducted a public "protest hearing" at the June 28, 2017 City Council meeting to confirm the proposed commercial solid waste and recycling rates.

**NOW, THEREFORE**, the City Council of the City of Solana Beach, California, does resolves as follows:

1. That the foregoing recitations are true and correct.

//

//

//

//

//

//

2. That the City Council approves EDCO's rate review application, increasing commercial solid waste and recycling rates as shown in Exhibits A, B, C and D.

**PASSED AND ADOPTED** this 28<sup>th</sup> day of June, 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –

NOES: Councilmembers –

ABSENT: Councilmembers –

ABSTAIN: Councilmembers –

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk

**EXHIBIT "A"**

**TRASH COLLECTION FEE  
COMMERCIAL BIN RATES**

| <b>Bin Size<sup>1</sup></b> | <b>Service Frequency</b> | <b>Existing Trash Rate per Month</b> | <b>FY 2017/2018 Proposed Trash Rate per Month<sup>2</sup></b> |
|-----------------------------|--------------------------|--------------------------------------|---|
| 2 Cubic Yard Bin            | 1X Week                  | \$67.56                              | \$69.55   |
|                             | 2X Week                  | \$117.27                             | \$120.76  |
|                             | 3X Week                  | \$166.70                             | \$171.67  |
|                             | 4X Week                  | \$214.54                             | \$220.94  |
|                             | 5X Week                  | \$265.48                             | \$273.42  |
|                             | 6X Week                  | \$315.06                             | \$324.50  |
| 3 Cubic Yard Bin            | 1X Week                  | \$101.04                             | \$104.05  |
|                             | 2X Week                  | \$175.25                             | \$180.48  |
|                             | 3X Week                  | \$251.67                             | \$259.21  |
|                             | 4X Week                  | \$323.59                             | \$333.29  |
|                             | 5X Week                  | \$397.66                             | \$409.55  |
|                             | 6X Week                  | \$471.58                             | \$485.72  |
| 4 Cubic Yard Bin            | 1X Week                  | \$134.34                             | \$138.34  |
|                             | 2X Week                  | \$233.32                             | \$240.29  |
|                             | 3X Week                  | \$332.28                             | \$342.23  |
|                             | 4X Week                  | \$431.21                             | \$443.95  |
|                             | 5X Week                  | \$529.81                             | \$545.70  |
|                             | 6X Week                  | \$628.35                             | \$647.20  |
| 5 Cubic Yard Bin            | 1X Week                  | \$167.55                             | \$172.54  |
|                             | 2X Week                  | \$291.31                             | \$300.03  |
|                             | 3X Week                  | \$415.02                             | \$427.45  |
|                             | 4X Week                  | \$608.64                             | \$626.45  |
|                             | 5X Week                  | \$662.03                             | \$681.89  |
|                             | 6X Week                  | \$786.58                             | \$810.18  |

1. For multiple bins, multiply the monthly bin rate by the number of bins.
2. Includes a Proposition 218 noticing compliance fee of \$1.09 but does not include additional charges for NPDES.



**EXHIBIT “B”**

**TRASH COLLECTION FEE-  
COMMERCIAL ROLL-OFF RATES**

| <b>Fee Type</b>            | <b>Existing Roll-Off Rates</b>                   | <b>FY 2013/2014 Proposed Roll-Off Rates<sup>1</sup></b> |
|----------------------------|--|---|
| Roll-Off Boxes<br>Standard | \$241.52 per load plus<br>tip fee of \$49.22/ton | \$246.26 per load plus<br>tip fee of \$51.44/ton        |

1. Includes a Proposition 218 noticing compliance fee of \$1.09 but does not include additional charges for NPDES.

**EXHIBIT “C”**

**TRASH COLLECTION FEE  
COMMERCIAL RECYCLING RATES –MIXED OFFICE PAPER**

| <b>Bin Size<sup>1</sup></b> | <b>Service Frequency</b> | <b>Existing Recycling Rate per Month</b> | <b>FY 2017/2018 Proposed Recycling Rate per Month<sup>2</sup></b> |
|-----------------------------|--------------------------|--|---|
| 2 Cubic Yard Bin            | 1X Week                  | \$40.91                                  | \$41.69   |
|                             | 2X Week                  | \$74.91                                  | \$76.36   |
|                             | 3X Week                  | \$108.43                                 | \$110.54  |
|                             | 4X Week                  | \$141.99                                 | \$144.76  |
|                             | 5X Week                  | \$175.52                                 | \$178.95  |
| 3 Cubic Yard Bin            | 1X Week                  | \$49.43                                  | \$50.38   |
|                             | 2X Week                  | \$89.68                                  | \$91.42   |
|                             | 3X Week                  | \$129.91                                 | \$132.45  |
|                             | 4X Week                  | \$170.12                                 | \$173.45  |
|                             | 5X Week                  | \$210.37                                 | \$214.49  |
| 4 Cubic Yard Bin            | 1X Week                  | \$54.80                                  | \$55.86   |
|                             | 2X Week                  | \$101.74                                 | \$103.72  |
|                             | 3X Week                  | \$148.69                                 | \$151.60  |
|                             | 4X Week                  | \$195.64                                 | \$199.47  |
|                             | 5X Week                  | \$242.59                                 | \$247.35  |
| 5 Cubic Yard Bin            | 1X Week                  | \$61.51                                  | \$62.70   |
|                             | 2X Week                  | \$115.16                                 | \$117.41  |
|                             | 3X Week                  | \$168.81                                 | \$172.11  |
|                             | 4X Week                  | \$222.46                                 | \$226.82  |
|                             | 5X Week                  | \$276.11                                 | \$281.53  |

1. For multiple commercial cans, multiply the monthly can rate by the number of cans.
2. Includes a Proposition 218 noticing compliance fee of \$1.09 but does not include additional charges for NPDES.

**EXHIBIT “D”**

TRASH COLLECTION FEE  
COMMERCIAL RECYCLING RATES – CARDBOARD

| <b>Bin Size<sup>1</sup></b> | <b>Service Frequency</b> | <b>Existing Recycling Rate per Month</b> | <b>FY 2017/2018 Proposed Recycling Rate per Month<sup>2</sup></b> |
|-----------------------------|--------------------------|--|---|
| Cubic Yard Bin              | 1X Week                  | \$28.46                                  | \$29.00   |
| Cubic Yard Bin              | 1X Week                  | \$42.66                                  | \$43.48   |
| Cubic Yard Bin              | 1X Week                  | \$56.86                                  | \$57.96   |
| Cubic Yard Bin              | 1X Week                  | \$71.29                                  | \$72.67   |

1. For multiple commercial cans, multiply the monthly can rate by the number of cans.
2. Includes a Proposition 218 noticing compliance fee of \$1.09 but does not include additional charges for NPDES.

# EDCO

WASTE & RECYCLING SERVICES

February 27, 2017

Mr. Danny King  
Assistant City Manager  
City of Solana Beach  
635 S. Highway 101  
Solana Beach, CA 92075

RE: Solid Waste and Recycling Collection Service Rate Adjustment

Dear Danny:

The solid waste services Franchise Agreement between the City of Solana Beach and EDCO allows annual rate adjustments. EDCO has not adjusted rates since July 1, 2013. Section 8.3 of the Franchise Agreement includes the details of the rate adjustment procedures. As outlined, rates may be increased due to changes in landfill tipping fees and increases in the Los Angeles-Riverside- Orange County Consumer Price Index (CPI). EDCO is requesting an allowable rate adjustment based on changes in the CPI and the Regional Solid Waste Association (RSWA) disposal fee. The effective date of this rate adjustment is July 1, 2017.

The City of Solana Beach is a member of the Regional Solid Waste Association (RSWA) that regulates waste disposal tipping fees for its member agencies. Tipping fees were last adjusted in the 2013 Solana Beach rate change. At that time, the tip fee for Solana Beach was \$45.79 per ton. Effective July 1, 2017 the tip fee for Solana Beach will increase to \$47.58 per ton, representing a 3.91% increase in the tip fee component of the rate calculation.

The CPI for Los Angeles- Riverside-Orange County increased 1.969% for the period from December 2015 to December 2016. A copy of the applicable CPI is attached for your reference.

Also attached with this letter are rate schedules listing current and proposed rates for commercial waste and recycling collection services. We request that the City Council docket this item at an April or May Council meeting so we can properly notify affected parties.

Please call me or Jeff Ritchie at 760-744-5615 ext. 140 with any questions about this subject.

Sincerely,



Elmer Heap  
Division Manager

*"We'll Take Care of It"*

224 S. Las Posas Road • San Marcos, California 92078

(760) 744-2700 • Fax: (760) 752-8339 • www.edcodisposal.com • Printed on Recycled Paper

ATTACHMENT 2

Consumer Price Index - All Urban Consumers  
Original Data Value

Series Id: CUURA421SA0, CUUSA421SA0  
 Not Seasonally Adjusted  
 Area: Los Angeles-Riverside-Orange County, CA  
 Item: All items  
 Base Period: 1982-84=100  
 Years: 2006 to 2016

| Year | Jan     | Feb     | Mar     | Apr     | May     | Jun     | Jul     | Aug     | Sep     | Oct     | Nov     | Dec     | Annual  | HALF1   | HALF2   |
|------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 2006 | 206.0   | 207.5   | 208.5   | 210.5   | 212.4   | 211.1   | 211.4   | 211.9   | 212.9   | 211.4   | 211.1   | 210.6   | 210.4   | 209.3   | 211.6   |
| 2007 | 212.584 | 214.760 | 216.500 | 217.845 | 218.596 | 217.273 | 217.454 | 217.330 | 217.697 | 218.696 | 219.943 | 219.373 | 217.338 | 216.260 | 218.416 |
| 2008 | 220.918 | 221.431 | 223.606 | 224.625 | 226.651 | 229.033 | 229.886 | 228.484 | 227.449 | 226.159 | 222.229 | 219.620 | 225.008 | 224.377 | 225.638 |
| 2009 | 220.719 | 221.439 | 221.376 | 221.693 | 222.522 | 223.906 | 224.010 | 224.507 | 225.226 | 225.264 | 224.317 | 223.643 | 223.219 | 221.943 | 224.495 |
| 2010 | 224.610 | 224.620 | 225.483 | 225.916 | 226.438 | 225.877 | 225.991 | 226.373 | 226.048 | 226.794 | 225.941 | 226.639 | 225.894 | 225.491 | 226.298 |
| 2011 | 228.652 | 229.729 | 232.241 | 233.319 | 233.367 | 232.328 | 231.303 | 231.833 | 233.022 | 233.049 | 232.731 | 231.567 | 231.928 | 231.606 | 232.251 |
| 2012 | 233.441 | 234.537 | 236.941 | 236.866 | 237.032 | 236.025 | 235.776 | 237.222 | 238.104 | 240.111 | 237.675 | 236.042 | 236.648 | 235.807 | 237.488 |
| 2013 | 238.015 | 239.753 | 239.995 | 239.043 | 239.346 | 239.223 | 238.920 | 239.219 | 239.611 | 239.940 | 238.677 | 238.742 | 239.207 | 239.229 | 239.185 |
| 2014 | 239.857 | 241.059 | 242.491 | 242.437 | 243.362 | 243.528 | 243.727 | 243.556 | 243.623 | 243.341 | 241.753 | 240.475 | 242.434 | 242.122 | 242.746 |
| 2015 | 239.724 | 241.297 | 243.738 | 243.569 | 246.093 | 245.459 | 247.066 | 246.328 | 245.431 | 245.812 | 245.711 | 245.367 | 244.632 | 243.313 | 245.951 |
| 2016 | 247.155 | 247.113 | 247.873 | 248.368 | 249.554 | 249.789 | 249.784 | 249.700 | 250.145 | 251.098 | 250.185 | 250.189 | 249.246 | 248.309 | 250.184 |

YOY 4.832  
% 1.969%

City of Solana Beach  
Commercial Rate Increase Effective July 1, 2017

| Service Level                     | Current Rate | Less                |                    | Disposal Component | Prob 218 Notice Fee | Adjusted Rate | CPI @ 1.969% | Disposal Fee Increase |         | Incremental Franchise Fee @ 7.50% |      | Total Rate Increase | 7/1/2017 New Rate | % Change |
|-----------------------------------|--------------|---------------------|--------------------|--------------------|---------------------|---------------|--------------|-----------------------|---------|-----------------------------------|------|---------------------|-------------------|----------|
|                                   |              | 7.50% Franchise Fee | Disposal Component |                    |                     |               |              | 3.91%                 | 7.50%   |                                   |      |                     |                   |          |
| Commercial Bins                   |              |                     |                    |                    |                     |               |              |                       |         |                                   |      |                     |                   |          |
| 2-Yard                            |              |                     |                    |                    |                     |               |              |                       |         |                                   |      |                     |                   |          |
| 1 x week                          | \$67.56      | (\$5.07)            | (\$32.78)          | (\$1.09)           | \$28.62             | \$0.56        | \$1.28       | \$0.15                | \$1.99  | \$69.55                           | 2.9% |                     |                   |          |
| 2 x week                          | \$117.27     | (\$8.80)            | (\$57.28)          | (\$1.09)           | \$50.10             | \$0.99        | \$2.24       | \$0.26                | \$3.49  | \$120.76                          | 3.0% |                     |                   |          |
| 3 x week                          | \$166.70     | (\$12.50)           | (\$81.86)          | (\$1.09)           | \$71.25             | \$1.40        | \$3.20       | \$0.37                | \$4.97  | \$171.67                          | 3.0% |                     |                   |          |
| 4 x week                          | \$214.54     | (\$16.09)           | (\$104.53)         | (\$1.09)           | \$92.83             | \$1.83        | \$4.09       | \$0.48                | \$6.40  | \$220.94                          | 3.0% |                     |                   |          |
| 5 x week                          | \$265.48     | (\$19.91)           | (\$130.50)         | (\$1.09)           | \$113.98            | \$2.24        | \$5.10       | \$0.60                | \$7.94  | \$273.42                          | 3.0% |                     |                   |          |
| 6 x week                          | \$315.06     | (\$23.63)           | (\$154.99)         | (\$1.09)           | \$135.35            | \$2.67        | \$6.06       | \$0.71                | \$9.44  | \$324.50                          | 3.0% |                     |                   |          |
| 3 - Yard                          |              |                     |                    |                    |                     |               |              |                       |         |                                   |      |                     |                   |          |
| 1 x week                          | \$101.04     | (\$7.58)            | (\$49.32)          | (\$1.09)           | \$43.05             | \$0.85        | \$1.93       | \$0.23                | \$3.01  | \$104.05                          | 3.0% |                     |                   |          |
| 2 x week                          | \$175.25     | (\$13.14)           | (\$85.97)          | (\$1.09)           | \$75.05             | \$1.48        | \$3.36       | \$0.39                | \$5.23  | \$180.48                          | 3.0% |                     |                   |          |
| 3 x week                          | \$251.67     | (\$18.88)           | (\$123.69)         | (\$1.09)           | \$108.01            | \$2.13        | \$4.84       | \$0.57                | \$7.54  | \$259.21                          | 3.0% |                     |                   |          |
| 4 x week                          | \$323.59     | (\$24.27)           | (\$159.21)         | (\$1.09)           | \$139.02            | \$2.74        | \$6.23       | \$0.73                | \$9.70  | \$333.29                          | 3.0% |                     |                   |          |
| 5 x week                          | \$397.66     | (\$29.82)           | (\$194.99)         | (\$1.09)           | \$171.76            | \$3.38        | \$7.62       | \$0.89                | \$11.89 | \$409.55                          | 3.0% |                     |                   |          |
| 6 x week                          | \$471.58     | (\$35.37)           | (\$232.78)         | (\$1.09)           | \$202.34            | \$3.98        | \$9.10       | \$1.06                | \$14.14 | \$485.72                          | 3.0% |                     |                   |          |
| 4 - Yard                          |              |                     |                    |                    |                     |               |              |                       |         |                                   |      |                     |                   |          |
| 1 x week                          | \$134.34     | (\$10.08)           | (\$65.77)          | (\$1.09)           | \$57.40             | \$1.13        | \$2.57       | \$0.30                | \$4.00  | \$138.34                          | 3.0% |                     |                   |          |
| 2 x week                          | \$233.32     | (\$17.50)           | (\$114.63)         | (\$1.09)           | \$100.10            | \$1.97        | \$4.48       | \$0.52                | \$6.97  | \$240.29                          | 3.0% |                     |                   |          |
| 3 x week                          | \$332.28     | (\$24.92)           | (\$163.49)         | (\$1.09)           | \$142.78            | \$2.81        | \$6.39       | \$0.75                | \$9.95  | \$342.23                          | 3.0% |                     |                   |          |
| 4 x week                          | \$431.21     | (\$32.34)           | (\$203.33)         | (\$1.09)           | \$194.45            | \$3.83        | \$7.95       | \$0.96                | \$12.74 | \$443.95                          | 3.0% |                     |                   |          |
| 5 x week                          | \$529.81     | (\$39.74)           | (\$261.03)         | (\$1.09)           | \$227.95            | \$4.49        | \$10.21      | \$1.19                | \$15.89 | \$545.70                          | 3.0% |                     |                   |          |
| 6 x week                          | \$628.35     | (\$47.13)           | (\$309.65)         | (\$1.09)           | \$270.48            | \$5.33        | \$12.11      | \$1.41                | \$18.85 | \$647.20                          | 3.0% |                     |                   |          |
| 5 - Yard                          |              |                     |                    |                    |                     |               |              |                       |         |                                   |      |                     |                   |          |
| 1 x week                          | \$167.55     | (\$12.57)           | (\$82.17)          | (\$1.09)           | \$71.72             | \$1.41        | \$3.21       | \$0.37                | \$4.99  | \$172.54                          | 3.0% |                     |                   |          |
| 2 x week                          | \$291.31     | (\$21.85)           | (\$143.52)         | (\$1.09)           | \$124.85            | \$2.46        | \$5.61       | \$0.65                | \$8.72  | \$300.03                          | 3.0% |                     |                   |          |
| 3 x week                          | \$415.02     | (\$31.13)           | (\$204.34)         | (\$1.09)           | \$178.46            | \$3.51        | \$7.99       | \$0.93                | \$12.43 | \$427.45                          | 3.0% |                     |                   |          |
| 4 x week                          | \$608.64     | (\$45.65)           | (\$278.80)         | (\$1.09)           | \$283.10            | \$5.57        | \$10.90      | \$1.34                | \$17.81 | \$626.45                          | 2.9% |                     |                   |          |
| 5 x week                          | \$662.03     | (\$49.65)           | (\$326.30)         | (\$1.09)           | \$284.99            | \$5.61        | \$12.76      | \$1.49                | \$19.86 | \$681.89                          | 3.0% |                     |                   |          |
| 6 x week                          | \$786.38     | (\$58.99)           | (\$387.78)         | (\$1.09)           | \$338.72            | \$6.67        | \$15.16      | \$1.77                | \$23.60 | \$810.18                          | 3.0% |                     |                   |          |
| Roll-Off Haul Fee                 |              |                     |                    |                    |                     |               |              |                       |         |                                   |      |                     |                   |          |
|                                   | 241.52       | (\$18.11)           |                    |                    |                     |               |              |                       |         |                                   |      |                     |                   |          |
| Plus \$51.44 Per ton Disposal fee |              |                     |                    |                    |                     |               |              |                       |         |                                   |      |                     |                   |          |
|                                   |              |                     |                    |                    | -1.09               | \$222.32      | \$4.38       |                       |         |                                   |      |                     |                   |          |
|                                   |              |                     |                    |                    |                     |               |              | \$0.36                | \$4.74  | \$246.26                          | 2.0% |                     |                   |          |

City of Solana Beach  
Commercial Recycling Service Rates - July 1, 2017

| Service Level                         | Current Rate | Prop 218 | Adjusted Rate | CPI @ 1.969% | 7/1/2017 New Rate | % Change |
|---------------------------------------|--------------|----------|---------------|--------------|-------------------|----------|
| <b>Commercial Mixed Office Paper</b>  |              |          |               |              |                   |          |
| <b>2 - Yards</b>                      |              |          |               |              |                   |          |
| 1 x week                              | \$40.91      | (\$1.09) | \$39.82       | \$0.78       | \$41.69           | 1.9%     |
| 2 x week                              | \$74.91      | (\$1.09) | \$73.82       | \$1.45       | \$76.36           | 1.9%     |
| 3 x week                              | \$108.43     | (\$1.09) | \$107.34      | \$2.11       | \$110.54          | 1.9%     |
| 4 x week                              | \$141.99     | (\$1.09) | \$140.90      | \$2.77       | \$144.76          | 2.0%     |
| 5 x week                              | \$175.52     | (\$1.09) | \$174.43      | \$3.43       | \$178.95          | 2.0%     |
| <b>3 - Yards</b>                      |              |          |               |              |                   |          |
| 1 x week                              | \$49.43      | (\$1.09) | \$48.34       | \$0.95       | \$50.38           | 1.9%     |
| 2 x week                              | \$89.68      | (\$1.09) | \$88.59       | \$1.74       | \$91.42           | 1.9%     |
| 3 x week                              | \$129.91     | (\$1.09) | \$128.82      | \$2.54       | \$132.45          | 2.0%     |
| 4 x week                              | \$170.12     | (\$1.09) | \$169.03      | \$3.33       | \$173.45          | 2.0%     |
| 5 x week                              | \$210.37     | (\$1.09) | \$209.28      | \$4.12       | \$214.49          | 2.0%     |
| <b>4 - Yards</b>                      |              |          |               |              |                   |          |
| 1 x week                              | \$54.80      | (\$1.09) | \$53.71       | \$1.06       | \$55.86           | 1.9%     |
| 2 x week                              | \$101.74     | (\$1.09) | \$100.65      | \$1.98       | \$103.72          | 1.9%     |
| 3 x week                              | \$148.69     | (\$1.09) | \$147.60      | \$2.91       | \$151.60          | 2.0%     |
| 4 x week                              | \$195.64     | (\$1.09) | \$194.55      | \$3.83       | \$199.47          | 2.0%     |
| 5 x week                              | \$242.59     | (\$1.09) | \$241.50      | \$4.76       | \$247.35          | 2.0%     |
| <b>5 - Yards</b>                      |              |          |               |              |                   |          |
| 1 x week                              | \$61.51      | (\$1.09) | \$60.42       | \$1.19       | \$62.70           | 1.9%     |
| 2 x week                              | \$115.16     | (\$1.09) | \$114.07      | \$2.25       | \$117.41          | 2.0%     |
| 3 x week                              | \$168.81     | (\$1.09) | \$167.72      | \$3.30       | \$172.11          | 2.0%     |
| 4 x week                              | \$222.46     | (\$1.09) | \$221.37      | \$4.36       | \$226.82          | 2.0%     |
| 5 x week                              | \$276.11     | (\$1.09) | \$275.02      | \$5.42       | \$281.53          | 2.0%     |
| <b>Commercial Cardboard Recycling</b> |              |          |               |              |                   |          |
| <b>2 - Yards</b>                      |              |          |               |              |                   |          |
| 1 x week                              | \$28.46      | (\$1.09) | \$27.37       | \$0.54       | \$29.00           | 1.9%     |
| <b>3 - Yards</b>                      |              |          |               |              |                   |          |
| 1 x week                              | \$42.66      | (\$1.09) | \$41.57       | \$0.82       | \$43.48           | 1.9%     |
| <b>4 - Yards</b>                      |              |          |               |              |                   |          |
| 1 x week                              | \$56.86      | (\$1.09) | \$55.77       | \$1.10       | \$57.96           | 1.9%     |
| <b>5 - Yards</b>                      |              |          |               |              |                   |          |
| 1 x week                              | \$71.29      | (\$1.09) | \$70.20       | \$1.38       | \$72.67           | 1.9%     |

Consumer Price Index - All Urban Consumers  
Original Data Value

Series Id: CUURA421SA0, CUUSA421SA0  
 Not Seasonally Adjusted  
 Area: Los Angeles-Riverside-Orange County, CA  
 Item: All items  
 Base Period: 1982-84=100  
 Years: 2006 to 2016

| Year | Jan     | Feb     | Mar     | Apr     | May     | Jun     | Jul     | Aug     | Sep     | Oct     | Nov     | Dec     | Annual  | HALF1   | HALF2   |
|------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 2006 | 206.0   | 207.5   | 208.5   | 210.5   | 212.4   | 211.1   | 211.4   | 211.9   | 212.9   | 211.4   | 211.1   | 210.6   | 210.4   | 209.3   | 211.6   |
| 2007 | 212.584 | 214.760 | 216.500 | 217.845 | 218.596 | 217.273 | 217.454 | 217.330 | 217.697 | 218.696 | 219.943 | 219.373 | 217.338 | 216.260 | 218.416 |
| 2008 | 220.918 | 221.431 | 223.606 | 224.625 | 226.651 | 229.033 | 229.886 | 228.484 | 227.449 | 226.159 | 222.229 | 219.620 | 225.008 | 224.377 | 225.638 |
| 2009 | 220.719 | 221.439 | 221.376 | 221.693 | 222.522 | 223.906 | 224.010 | 224.507 | 225.226 | 225.264 | 224.317 | 223.643 | 223.219 | 221.943 | 224.495 |
| 2010 | 224.610 | 224.620 | 225.483 | 225.916 | 226.438 | 225.877 | 225.991 | 226.373 | 226.048 | 226.794 | 225.941 | 226.639 | 225.894 | 225.491 | 226.298 |
| 2011 | 228.652 | 229.729 | 232.241 | 233.319 | 233.367 | 232.328 | 231.303 | 231.833 | 233.022 | 233.049 | 232.731 | 231.567 | 231.928 | 231.606 | 232.251 |
| 2012 | 233.441 | 234.537 | 236.941 | 236.866 | 237.032 | 236.025 | 235.776 | 237.222 | 238.104 | 240.111 | 237.675 | 236.042 | 236.648 | 235.807 | 237.488 |
| 2013 | 238.015 | 239.753 | 239.995 | 239.043 | 239.346 | 239.223 | 238.920 | 239.219 | 239.611 | 239.940 | 238.677 | 238.742 | 239.207 | 239.229 | 239.185 |
| 2014 | 239.857 | 241.059 | 242.491 | 242.437 | 243.362 | 243.528 | 243.727 | 243.556 | 243.623 | 243.341 | 241.753 | 240.475 | 242.434 | 242.122 | 242.746 |
| 2015 | 239.724 | 241.297 | 243.738 | 243.569 | 246.093 | 245.459 | 247.066 | 246.328 | 245.431 | 245.812 | 245.711 | 245.357 | 244.632 | 243.313 | 245.951 |
| 2016 | 247.155 | 247.113 | 247.873 | 248.368 | 249.554 | 249.789 | 249.784 | 249.700 | 250.145 | 251.098 | 250.185 | 250.189 | 249.246 | 248.309 | 250.184 |

YOY 4.832  
% 1.969%





# Memo

**To:** Tom Nixon, General Manager, RSWA  
**From:** Jeff Ritchie, Vice President, EDCO  
**Date:** February 11, 2014  
**Re:** RSWA Tip Fee Calculation for FY 2014/ 2015

---

As specified in the disposal contract between our organizations, the following formula is used to calculate the RSWA tip fee for the upcoming fiscal year. Please refer to the attached spreadsheet for tonnage and CPI data used in the calculation.

The Los Angeles- Riverside- Orange County CPI for All Urban Consumers increased 1.14% from December 2012 to December 2013. Pursuant to Section 4.1 (a) of the agreement, the minimum CPI increase allowable is 1.5%.

- $2/3$  (or .6667) of the current tip fee increases 1.5% or  $.6667 \times 1.50\% = 1.0\%$
- $1/3$  (or .3333) of the current tip fee changes based on the difference between the CPI (1.5%) and the increase in waste tonnage from the previous calendar year. Total solid waste generated by RSWA member cities increased 2,886.68 tons, or 1.26% compared to 2012. Per the formula,  $1/3$  of the rate decreases based on the difference between the CPI (1.5%) and the increase in waste tonnage-1.26%. The difference is .24% on  $1/3$  of the rate.  $.3333 \times .24\% = 0.08\%$
- The net allowable rate adjustment calculation is 1.08%.

## 1. Del Mar, Encinitas, Solana Beach & Vista Tip Fee Calculation.

Current fee: \$45.79 per ton. This rate is increased 1.08%.

Net fee change is \$0.49 per ton. The new tip fee for the cities affected is \$46.28 per ton effective July 1, 2014.

## 2. National City and Poway

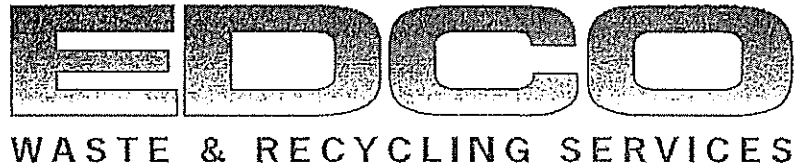
Current Fee: \$41.28 per ton. This rate is increased 1.08%.

Net fee change is \$0.45 per ton. The new tip fee for the cities listed is \$41.73 effective July 1, 2014.

### 3. Volume Rebate Calculation

The current annual volume rebate (\$232,510) is multiplied by the CPI of 1.5%. The resulting calculation generates a new volume rebate of \$235,997.65. 1/3 of the new rebate is then multiplied by the percentage increase in waste tonnage if any increase occurred. 2013 waste tonnage increased 1.26%.  $\$235,997.65 \times .3333 = \$78,658.02$   $\times 1.26\% = \$991.09$ . The total combined rebate effective July 1, 2014 is \$236,988.74.

Please call me with any questions about these calculations.



## Memo

To: James Eggart, General Manager- RSWA  
From: Jeff Ritchie, COO- EDCO  
Date: February 2, 2017  
Re: RSWA Tip Fee Calculation for FY 2016/2017

---

As specified in the disposal contract between our organizations, the following formula is used to calculate the RSWA tip fee for the upcoming fiscal year beginning July 1, 2017. Please refer to the attached spreadsheet for 2016 tonnage data and the Consumer Price Index used in the calculation.

The LA-Riverside-Orange County CPI for all Urban Consumers increased 1.97% from December 2015 to December 2016.

- $2/3$  (or .6667) of the current tip fee increases by the change in the CPI of 1.97%.  $2/3 \times 1.97\% = 1.31\%$
- $1/3$  (or .3333) of the current tip fee changes by the difference between the CPI increase (1.97%) and the percentage increase in solid waste tonnage generated by RSWA cities from the previous calendar year. In 2016, RSWA tonnage increased 3.16% when compared to 2015.
- $1/3$  of the rate increases by the difference between the CPI (1.97%) and the percentage increase in tonnage (3.16%) or negative 1.19%.  $1/3$  of 1.19% = negative 0.3966%. The combined effect of the CPI and the increased tonnage calculation results in an allowable increase of 0.9134% applied to entire rate.

1. Del Mar, Encinitas, Solana Beach and Vista Tip Fee Calculation.

The current tip fee of \$47.15 per ton is increased 0.9134% resulting in an increase of \$0.43 per ton. The new tip fee for these four cities on July 1, 2017 is \$47.58 per ton.

2. National City & Poway

The current tip fee in these two cities of \$42.51 is increased 0.9134% resulting in an increase of \$0.3882 or \$0.39 per ton. The new tip fee for these cities on July 1, 2017 is \$42.90 per ton.

3. Volume Rebate Calculation

The current annual volume rebate of \$247,883.95 is multiplied by the CPI increase of 1.97% which generates an additional \$4,883.31 in rebate revenue. The adjusted volume rebate is \$252,767.26. 1/3 of this amount (\$84,255.75) is increased by the percentage change of tonnage generated in 2016, (3.16%). This calculation generates another \$2,662.48 in volume rebates. The total volume rebate to be paid to RSWA beginning July 1, 2017 is \$255,429.74.

Please review these calculations at your earliest convenience so we may proceed with rate changes in all RSWA cities.



**CITY OF SOLANA BEACH  
PUBLIC NOTICE OF PROPOSED INCREASE IN  
RATES FOR TRASH SERVICE CHARGES**

**NOTICE OF PUBLIC HEARING**

**If you are the Owner of this property but have a tenant who is responsible for the trash and recyclable collection bill related to this property, please forward this notice to the tenant.**

**TO:**

**Property Type:  
COMMERCIAL  
Service Address:  
APN:**

**NOTICE IS HEREBY GIVEN** pursuant to Article XIID of the California Constitution (“Proposition 218”) that the City of Solana Beach (“City”) proposes to consider and adopt increases to rates for trash and recyclable collection service charges (collectively referred to as “trash collection fees”) applicable to the Assessor Parcel Number (“APN”) shown above for which you are shown as the property owner of record based on the County of San Diego 2016/2017 Secured Roll or a trash collection rate payer. The proposed rate increases are described below.

**TRASH COLLECTION FEE  
COMMERCIAL BIN RATES**

| <b>Bin Size<sup>1</sup></b> | <b>Service Frequency</b> | <b>Existing Trash Rate per Month</b> | <b>FY 2017/2018 Proposed Trash Rate per Month<sup>2</sup></b> |
|-----------------------------|--------------------------|--------------------------------------|---|
| 2 Cubic Yard Bin            | 1X Week                  | \$67.56                              | \$69.55   |
|                             | 2X Week                  | \$117.27                             | \$120.76  |
|                             | 3X Week                  | \$166.70                             | \$171.67  |
|                             | 4X Week                  | \$214.54                             | \$220.94  |
|                             | 5X Week                  | \$265.48                             | \$273.42  |
|                             | 6X Week                  | \$315.06                             | \$324.50  |
| 3 Cubic Yard Bin            | 1X Week                  | \$101.04                             | \$104.05  |
|                             | 2X Week                  | \$175.25                             | \$180.48  |
|                             | 3X Week                  | \$251.67                             | \$259.21  |
|                             | 4X Week                  | \$323.59                             | \$333.29  |
|                             | 5X Week                  | \$397.66                             | \$409.55  |
|                             | 6X Week                  | \$471.58                             | \$485.72  |
| 4 Cubic Yard Bin            | 1X Week                  | \$134.34                             | \$138.34  |
|                             | 2X Week                  | \$233.32                             | \$240.29  |
|                             | 3X Week                  | \$332.28                             | \$342.23  |
|                             | 4X Week                  | \$431.21                             | \$443.95  |
|                             | 5X Week                  | \$529.81                             | \$545.70  |
|                             | 6X Week                  | \$628.35                             | \$647.20  |
| 5 Cubic Yard Bin            | 1X Week                  | \$167.55                             | \$172.54  |
|                             | 2X Week                  | \$291.31                             | \$300.03  |
|                             | 3X Week                  | \$415.02                             | \$427.45  |
|                             | 4X Week                  | \$608.64                             | \$626.45  |
|                             | 5X Week                  | \$662.03                             | \$681.89  |
|                             | 6X Week                  | \$786.58                             | \$810.18  |

1. For multiple bins, multiply the monthly bin rate by the number of bins.
2. Includes a Proposition 218 noticing compliance fee of \$1.09 but does not include additional charges for National Pollution Discharge Elimination System (“NPDES”).

**TRASH COLLECTION FEE  
COMMERCIAL ROLL-OFF RATES**

| <b>Fee Type</b>         | <b>Existing Roll-Off Rates</b>                | <b>FY 2017/2018 Proposed Roll-Off Rates<sup>1</sup></b> |
|-------------------------|---|---|
| Roll-Off Boxes Standard | \$241.52 per load plus tip fee of \$51.44/ton | \$246.26 per load plus tip fee of \$51.44/ton           |
|                         |   |   |

1. Includes a Proposition 218 noticing compliance fee of \$1.09 but does not include additional charges for NPDES.

**TRASH COLLECTION FEE  
COMMERCIAL RECYCLING RATES – MIXED OFFICE PAPER**

| <b>Bin Size<sup>1</sup></b> | <b>Service Frequency</b> | <b>Existing Recycling Rate per Month</b> | <b>FY 2017/2018 Proposed Recycling Rate per Month<sup>2</sup></b> |
|-----------------------------|--------------------------|--|---|
| 2 Cubic Yard Bin            | 1X Week                  | \$40.91                                  | \$41.69   |
|                             | 2X Week                  | \$74.91                                  | \$76.36   |
|                             | 3X Week                  | \$108.43                                 | \$110.54  |
|                             | 4X Week                  | \$141.99                                 | \$144.76  |
|                             | 5X Week                  | \$175.52                                 | \$178.95  |
| 3 Cubic Yard Bin            | 1X Week                  | \$49.43                                  | \$50.38   |
|                             | 2X Week                  | \$89.68                                  | \$91.42   |
|                             | 3X Week                  | \$129.91                                 | \$132.45  |
|                             | 4X Week                  | \$170.12                                 | \$173.45  |
|                             | 5X Week                  | \$210.37                                 | \$214.49  |
| 4 Cubic Yard Bin            | 1X Week                  | \$54.80                                  | \$55.86   |
|                             | 2X Week                  | \$101.74                                 | \$103.72  |
|                             | 3X Week                  | \$148.69                                 | \$151.60  |
|                             | 4X Week                  | \$195.64                                 | \$199.47  |
|                             | 5X Week                  | \$242.59                                 | \$247.35  |
| 5 Cubic Yard Bin            | 1X Week                  | \$61.51                                  | \$62.70   |
|                             | 2X Week                  | \$115.16                                 | \$117.41  |
|                             | 3X Week                  | \$168.81                                 | \$172.11  |
|                             | 4X Week                  | \$222.46                                 | \$226.82  |
|                             | 5X Week                  | \$276.11                                 | \$281.53  |
|                             |                          |  |   |

1. For multiple commercial cans, multiply the monthly can rate by the number of cans.  
2. Includes a Proposition 218 noticing compliance fee of \$1.09 but does not include additional charges for NPDES.

TRASH COLLECTION FEE  
COMMERCIAL RECYCLING RATES – CARDBOARD

| <b>Bin Size<sup>1</sup></b> | <b>Service Frequency</b> | <b>Existing Recycling Rate per Month</b> | <b>FY 2017/2018 Proposed Recycling Rate per Month<sup>2</sup></b> |
|-----------------------------|--------------------------|--|---|
| 2 Cubic Yard Bin            | 1X Week                  | \$28.46                                  | \$29.00   |
| 3 Cubic Yard Bin            | 1X Week                  | \$42.66                                  | \$43.48   |
| 4 Cubic Yard Bin            | 1X Week                  | \$56.86                                  | \$57.96   |
| 5 Cubic Yard Bin            | 1X Week                  | \$71.29                                  | \$72.67   |

1. For multiple commercial cans, multiply the monthly can rate by the number of cans.
2. Includes a Proposition 218 noticing compliance fee of \$1.09 but does not include additional charges for NPDES.

The City has exclusive franchise agreements with EDCO to provide commercial trash and recyclable collection services. Revenues derived from the trash and recyclable collection service charges billed by EDCO are used solely for the purpose of providing commercial trash collection services, including recyclable materials collection, and billing and account management. In accordance with the City's franchise agreement with EDCO, trash and recyclable collection service charges provided to properties within the City are allowed to change based on changes in the Consumer Price Index ("CPI") and landfill disposal fees. Additionally, the franchise agreement with EDCO allows for EDCO to request a rate review once per year. Based on the adjusted CPI calculated from December 2015 to December 2016, the proposed rate increase covers the fiscal year **July 1, 2017 through June 30, 2018**, and if adopted by the City Council will be in effect beginning July 1, 2017.

For further details and questions regarding trash fees you may call Dan King, Management Analyst for the City at (858) 720-2477. If you have questions about the process for increasing trash and recyclable collection rates please call the City's Proposition 218 consultant at (760) 510-0290 for further information.

**NOTICE IS FURTHER GIVEN** that on June 14, 2017, at 6:00 p.m., or as soon thereafter as may be heard, at 635 South Highway 101, Solana Beach, California 92075, in the City Council Chambers, the City Council will conduct a public hearing on the proposed rate increases to the trash fees,

At the time of the public hearing, the City Council will hear and consider all protests and objections concerning these matters and will consider and may adopt the increased rates. If, at or prior to the public hearing, the City receives or is presented with written protests against the proposed increases to the rates for the trash collection fees by a majority of owners of the parcels within the City upon which the City imposes its trash collection fees, the City will not impose the proposed rate increases.



# STAFF REPORT CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Gregory Wade, City Manager  
**MEETING DATE:** June 28, 2017  
**ORIGINATING DEPT:** City Manager's Department  
**SUBJECT:** **Consideration of Resolution 2017-112 Authorizing Execution of an Agreement for General and Specialized Law Enforcement and Traffic Services Between the City of Solana Beach and the County of San Diego**

---

## **BACKGROUND:**

The City of Solana Beach (the "City") has contracted its law enforcement services with San Diego County Sheriff's Department since incorporation. Nine other cities in the County also contract for law enforcement services through the County Sheriff's Department. The contract is a joint agreement, taking advantage of common needs and economies of scale that result in a lower cost for law enforcement than having a municipal police department or individually contracting with the County.

The existing five-year contract was approved by the City Council on February 13, 2013, and covered the period from July 1, 2012 through June 30, 2017. Negotiations toward a new five-year contract have been underway for the past several months. This item is before City Council to consider the adoption of a new five-year contract.

## **DISCUSSION:**

In late 2016, a subcommittee of the contract cities was formed to negotiate this new contract. The subcommittee has been negotiating with the Sheriff's Department over the past several months on an agreement to replace the previous five-year agreement which will expire on June 30, 2017. The subcommittee maintained certain aspects of the current contract as well as additional areas to be addressed, including the ability for cities to add or delete positions and receive the full cost credit when a position is eliminated.

The proposed agreement continues the current level of staffing and services unless specifically altered by an individual city and offers cities the flexibility of changing

CITY COUNCIL ACTION:

---

---



positions during the term of the agreement, as a city's needs dictate. The proposed contract is also for five years from July 1, 2017 through June 30, 2022.

A key component of this contract is the inclusion of all costs including overhead, liability and retirement within a fixed or capped increase for each year. In the current contract, retirement costs were exempt from the cap which created some uncertainty and a fluctuation in total costs from year to year, which ranged from a low increase in year 1 (2013) of 2.3% to a high in year 2 (2014) of 6.8%. Recently, the San Diego County Employees Retirement Association (SDCERA) took a similar step as CalPERS and voted to lower its discount rate from 7.5% to 7.0%. Additionally, the most recent SDCERA Actuarial Valuation Review resulted in revisions to its actuarial assumptions, particularly in the area of projected life expectancy of retired annuitants. Together, this resulted in an increase in SDCERA pension costs of 19.7%. The proposed contract smooths these costs over the five-year term of the contract and builds them into the fixed cost increases. Similarly, liability costs are also factored into the annual fixed cost increases and are proportionally distributed among all cities at a total cost of \$650,000 per year for years 1 through 3 of the contract (which was the annual cost in the current contract) and increase to \$1 million per year for years 4 and 5.

Including all operational, liability and retirement costs, the five-year increases will be capped at 6% in both Fiscal Years 2017-18 and 2018-19, 5.5% in Fiscal Year 2019-20, 5% in Fiscal Year 2020-21 and 4.5% in Fiscal Year 2021-22. Total costs for the City's contract with the County Sheriff would be as follows:

|           | <u>FY 17-18</u> | <u>FY 18-19</u> | <u>FY 19-20</u> | <u>FY 20-21</u> | <u>FY 21-22</u> | <u>TOTAL</u> |
|-----------|-----------------|-----------------|-----------------|-----------------|-----------------|--------------|
| Increase: | 6.00%           | 6.00%           | 5.50%           | 5.00%           | 4.50%           |              |
| Cost:     | \$3,942,370     | \$4,178,913     | \$4,408,753     | \$4,629,190     | \$4,837,504     | \$21,996,730 |

It should also be noted that the contract contains a reopener clause during year 3 wherein either party may request a meeting to discuss liability costs. Any changes to the contract at that time, however, would be subject to the consent of both parties.

At their meeting on June, 20, 2017, the County Board of Supervisors approved the contract as attached to this Staff Report and authorized the Clerk of the Board to accept and execute the Agreement for Specialized Law and Traffic Enforcement with the participating cities.

While the cost of the new five-year agreement is significant, contracting with the County for law enforcement services is more beneficial and cost effective than having a City Police Department. The City receives additional services from the County, such as the ASTREA Helicopter, Crime Analysis, Crime Lab, Criminal Intelligence, Internal Affairs, Domestic Violence, Swat Team, SADLE Team, Narcotics Enforcement, Investigative Unit, and backup coverage from the deputies working in the nine other contract cities and in the County unincorporated areas. If Solana Beach were to have its own Police

Department, the startup costs alone would be very high, and the annual expenses would be much higher, mainly due to personnel costs, including retirement, medical, and liability insurance. Most importantly, there is no guarantee that spending the additional money to have a City Police Department would bring an increased service level to the residents of Solana Beach. Given the additional costs, in fact, the level of service might very well decrease.

**CEQA COMPLIANCE STATEMENT:**

Contracting for Law Enforcement Services is not a project as defined by CEQA.

**FISCAL IMPACT:**

The Sheriff's contract for Solana Beach in Fiscal Years 2017-18 and 2018-19 would be \$3,942,370 and \$4,178,913, respectively. These costs have been included in the City's adopted FY 2017-18/2018-19 Budget. In years 3 through 5, the contract costs would increase 5.50% to \$4,408,753 in FY 2019-20, 5.00% to \$4,629,190 in FY 2020-21, and 4.50% to \$4,837,504 in FY 2021-22. Total costs over the five-year contract term are estimated at \$21,996,730.

**WORK PLAN:** N/A

**OPTIONS:**

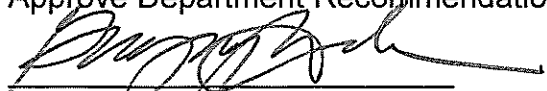
- Approve Staff recommendation.
- Deny Staff recommendation and provide direction.

**DEPARTMENT RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution 2017-112 authorizing the City Manager to execute the Agreement for General and Specialized Law Enforcement and Traffic Services between the City of Solana Beach and the County of San Diego for a five-year term beginning July 1, 2017 through June 30, 2022.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation

  
\_\_\_\_\_  
Gregory Wade, City Manager

Attachments:

1. Resolution 2017-112
2. Agreement for General and Specialized Law Enforcement and Traffic Services between the City of Solana Beach and the County of San Diego

## RESOLUTION 2017-112

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, APPROVING THE AGREEMENT FOR GENERAL AND SPECIALIZED LAW ENFORCEMENT AND TRAFFIC SERVICES FOR JULY 1, 2017 THROUGH JUNE 30, 2022

**WHEREAS**, the City Council desires to continue to utilize the San Diego County Sheriff's Department for law enforcement services in the City of Solana Beach; and

**WHEREAS**, the previous agreement for law enforcement and traffic services expires on June 30, 2017; and

**WHEREAS**, the agreement for general and specialized law enforcement and traffic services covers the period from July 1, 2017 through June 30, 2022; and

**WHEREAS**, the contract for services is reviewed on a yearly basis to update current needs and costs; and

**WHEREAS**, the renewal of services is done by revising and adopting a Contract Law Enforcement Program Joint Operating and Financial Plan, and this plan is referred to as Attachment B.

**NOW, THEREFORE**, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the above recitations are true and correct.
2. That the Mayor and City Council desire to approve the Agreement for General and Specialized Law Enforcement and Traffic Services for July 1, 2017 through June 30, 2022.
3. That the City Manager is authorized to execute the Agreement for General and Specialized Law Enforcement and Traffic Services for July 1, 2017 through June 30, 2022.
4. That the Mayor and City Council desire to approve the Attachment B for law enforcement contract services provided to the City of Solana Beach for Fiscal Year 2017-18.
5. That the City Manager is authorized to execute Attachment B annually on behalf of the City.

**PASSED AND ADOPTED** this 28<sup>th</sup> day of June, 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –  
NOES: Councilmembers –  
ABSTAIN: Councilmembers –  
ABSENT: Councilmembers –

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk

**AGREEMENT BETWEEN THE CITY OF SOLANA BEACH,  
THE COUNTY OF SAN DIEGO, AND  
THE SAN DIEGO COUNTY SHERIFF**

**FOR GENERAL AND SPECIALIZED LAW ENFORCEMENT  
AND TRAFFIC SERVICES**

This Agreement is between the City of Solana Beach, a municipal corporation, hereinafter referred to as "CITY" and the County of San Diego, a political subdivision of the State of California, hereinafter referred to as "COUNTY", for services to be provided by the San Diego County Sheriff, hereinafter referred to as "SHERIFF".

**RECITALS**

**WHEREAS**, COUNTY through SHERIFF provides public safety services throughout the County of San Diego and is equipped and will do so to the extent and in the manner hereinafter provided; and

**WHEREAS**, CITY is a municipal corporation of the State of California within the County of San Diego and desires to obtain general and specialized law enforcement and traffic services; and

**WHEREAS**, Sections 51300-51308, 51350, 55632, and sections 54980 et seq. of the California Government Code authorize COUNTY and CITY to contract for performance of Sheriff services within the CITY; and

**WHEREAS**, COUNTY through SHERIFF currently provides general and specialized law enforcement and traffic services to CITY pursuant to a contract dated June \_\_, 2017; and

**WHEREAS**, CITY and COUNTY through SHERIFF desire to enter into a new agreement with provisions concerning the nature and extent of general and specialized law enforcement and traffic services to be provided to CITY and establishing the compensation to be paid therefore; and

**WHEREAS**, COUNTY acknowledges that CITY requires standards of performances that demonstrate professional excellence both in the execution of duties and in the interpersonal relations with CITY employees and all persons utilizing the services of CITY; and

**WHEREAS**, the Board of Supervisors on June 20, 2017 authorized the Clerk of the Board to accept and execute this Agreement for General and Specialized Law and Traffic Enforcement Services; and

**WHEREAS**, the City Council for the City of Solana Beach on June 28, 2017, authorized the City Manager to accept and execute this Agreement for General and Specialized Law and Traffic Enforcement Services; and

**NOW THEREFORE**, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, COUNTY and CITY jointly intend that CITY will fund and COUNTY will provide a level of general and specialized law enforcement and traffic services, as set forth in this Agreement.

## **AGREEMENT**

### **I. PURPOSE AND INTENT**

The purpose of this Agreement is to satisfy the requirements of California Government Code §§51300-51308, 51350 and 54980, *et seq.* This Agreement is effective for its term beginning as set forth in Section III.A, regardless of its approval date by the parties and supersedes and replaces the February 13, 2013 contract between COUNTY and CITY for the period of July 1, 2012 through June 30, 2017, including all supplements, insofar as that contract relates to provisions of general and specialized law enforcement and traffic services to CITY.

### **II. SCOPE OF SERVICES**

COUNTY through SHERIFF shall provide general and specialized law enforcement and traffic services to CITY as follows:

#### **A. Method of Service Delivery**

SHERIFF will maintain a Law Enforcement Services Bureau, which will be responsible for performance of COUNTY's obligations under this Agreement. General and specialized law enforcement and traffic services will be staffed as described in Section IV, Standards of Services. These services shall be provided from SHERIFF's existing stations and other such facilities as COUNTY or the CITY may hereafter acquire.

#### **B. Law Enforcement Services**

COUNTY through SHERIFF will provide general and specialized law enforcement and traffic services ("Law Enforcement Services") to CITY as outlined in Attachment B. Law Enforcement Services consist of enforcement of the California Penal Code, the California Vehicle Code, and pertinent regulatory ordinances as adopted by the City Council of CITY, as well as direct supervision of law enforcement personnel assigned to provide Law Enforcement Services to CITY; all to the extent necessary and appropriate to meet the Standards of Services

described in Section IV. Staffing for Law Enforcement Services shall be provided in Section IV.D of this Agreement.

**C. Ancillary Services**

Services of the SHERIFF'S units related to the following services will be provided to CITY as an integral part of the law enforcement services described above and are included in the cost of such services: crime prevention, juvenile intervention, financial crimes, homicide, domestic violence, communication, information technology support, and clerical support. SHERIFF will consult with CITY when new programs are proposed that would increase costs to CITY, and implement them only after discussion with CITY.

**D. Regional Services**

The following regional services are provided to CITY as needed as an adjunct to the Law Enforcement Services described above at no additional cost: Special Weapons & Tactics (SWAT); Aerial Support to Regional Enforcement Agencies (ASTREA); Bomb/Arson; Search and Rescue; Fire/Rescue helicopter; Crime Lab; and Property and Evidence.

**E. Search and Rescue Responsibility**

The COUNTY and the CITY agree that some rescues are the responsibility of and will be performed by the SHERIFF while other rescues are the responsibility of and will be performed by the CITY's public safety services. In many instances, rescues will be conducted in a joint operation involving both the SHERIFF and the CITY's emergency response personnel.

**F. Reserve Program**

The SHERIFF, in partnership with the CITY, will take active steps to recruit individuals to participate in the Reserve Program.

**G. Additional Services**

**1. General**

COUNTY through SHERIFF may provide supplemental Law Enforcement Services or additional related equipment and supplies as requested by CITY. Additional Services

not covered under Law Enforcement Services may include, but are not limited to, added patrol or traffic services required for special events such as street fairs, concerts, movie productions and other third party promotions as well as auditing of red light camera programs.

2. **Requests**

Requests for Additional Services shall be made to SHERIFF by CITY through the SHERIFF'S Station Commander or his or her designee and shall be made in writing or, if made in person or by telephone, shall be confirmed in writing by the requestor within forty-eight (48) hours of the request. CITY shall provide SHERIFF with as much advance notice as possible regarding requests for Additional Services.

3. **Provision of Additional Services**

SHERIFF shall advise CITY promptly and shall confirm in writing if SHERIFF is unable to provide some or all of any requested Additional Services. If SHERIFF is able to provide some or all of the requested Additional Services, SHERIFF shall promptly advise CITY in writing of the estimated costs of the services. Unless CITY disapproves in writing of an estimate provided by SHERIFF, SHERIFF shall provide such Additional Services to CITY and shall be reimbursed for the actual cost of providing the Additional Services subject to Section V.B.2 COUNTY shall delegate the authority to SHERIFF to approve additional services consistent with the intent of this provision.

4. **Identification**

COUNTY and CITY acknowledge and agree that it is impractical to specify in this Agreement each and every category of Additional Services that might be desired by CITY, and that the parties will reasonably cooperate in identifying and addressing such potential Additional Services within the scope of Law Enforcement Services.

H. **Emergencies**

1. **General**



Notwithstanding any other provisions of this Agreement, in the event of an emergency occurring within CITY, SHERIFF shall take any and all actions reasonably necessary or appropriate to respond to the emergency, to include appropriate referrals to, and coordination with, other law enforcement agencies.

2. **Temporary Duties**

SHERIFF's personnel assigned to perform services for CITY under this contract ("SHERIFF's contract city personnel") may be required to perform temporary duty outside the scope of this Agreement. For the purpose of this Agreement, "temporary duty" shall include, but not be limited to assignments necessitated by a public safety emergency or other exigent circumstances such as might be required under "mutual aid" agreements.

3. **Redeployment of Staff**

During the period of any public safety emergency or exigent circumstance such as responding to mutual aid requests, SHERIFF's contract city personnel may be temporarily redeployed for emergency response. If reasonable and practical, SHERIFF shall notify the City Manager for the CITY and discuss the redeployment prior to reassignment. If the public safety emergency or exigent circumstance such as requests for mutual aid demand immediate redeployment, SHERIFF need not notify the City Manager in advance, but shall do so as soon as practical. In the event of a major disaster for which the SHERIFF is reimbursed by FEMA for salary and benefit cost, the SHERIFF shall reimburse CITY (less administrative fee) from which the staff was redeployed.

III. **TERM OF AGREEMENT**

A. **Term**

The term of this agreement shall commence at midnight July 1, 2017, and shall continue in effect through and terminate at midnight of June 30, 2022, subject to the termination provisions in Section III. B. below.

**B. Termination**

Notwithstanding any other section or provisions of this Agreement, either party hereto may terminate this Agreement by giving a one-year advance written notice of intention to terminate.

**IV. STANDARDS OF SERVICE**

**A. Anticipated Service Outcome**

The anticipated outcome of law enforcement services provided by COUNTY through SHERIFF to CITY under this Agreement is the provision of efficient and effective police protection and the performance of all duties as required by law or contract. These duties include patrol, traffic, general and specialized investigations, crime prevention, crime analysis, criminal intelligence, narcotics enforcement, emergency services, licensing, crime lab and communications.

**B. Performance Standards**

COUNTY through SHERIFF shall provide CITY with qualified personnel to meet the following performance standards and scope of service:

**1. General**

All SHERIFF personnel who provide general and specialized law enforcement and patrol services to CITY pursuant to this Agreement shall have met the minimum qualifications designated for their specific classification, including a background investigation.

**2. Patrol Services**

COUNTY through SHERIFF shall provide general law enforcement services via the various options listed in Attachment A of this Agreement. To the extent such staff is

provided within CITY, their services, together with all normal ancillary services related thereto, shall primarily provide enforcement of the California Penal Code, the California Vehicle Code, and pertinent regulatory ordinances as adopted by the City Council of CITY.

3. **Traffic Services**

COUNTY through SHERIFF shall provide traffic services via the various options listed in Attachment A. To the extent that such staff is provided within CITY, their services, together with all normal ancillary services related thereto, shall primarily provide enforcement of the California Vehicle Code and pertinent traffic regulatory ordinances as adopted by the City Council of CITY, accident investigations, analysis of traffic related problems of CITY, and cooperate with various CITY departments to obtain solutions to the traffic problems of CITY.

4. **Special Purpose Officers**

COUNTY through SHERIFF shall provide problem solving services via the various Special Purpose Officer options listed in Attachment A of this Agreement. To the extent such staff is provided within CITY, their services, together with all normal ancillary services related thereto, shall primarily be to identify and resolve problems of both a criminal and non-criminal nature for a designated geographic area through investigation, patrol support, coordination of departmental resources and cooperation with various CITY departments.

5. **School Resource Officers**

COUNTY through SHERIFF shall provide school resource services via the various Special Purpose Officer options listed in Attachment A of this Agreement. To the extent such staff is provided within CITY, their services, together with all normal ancillary services related thereto, shall primarily provide enforcement and follow up investigation on school property for violations of the Penal Code of the State of

California, the California Vehicle Code, and the California Education Code and cooperate with school administration, faculty, students, and parents to obtain solutions to problems of the school district.

6. **Community Service Officers**

COUNTY through SHERIFF shall provide community services via the Community Service Officer options listed in Attachment A of this Agreement. To the extent such staff is provided within CITY, their services, together with all normal ancillary services related thereto, shall primarily provide response/information to citizen inquiries, completion of minor reports, fingerprinting, traffic direction, parking enforcement, vehicle abatement, crime prevention education and enforcement of pertinent regulatory ordinances as adopted by the City Council of CITY.

7. **Detectives**

COUNTY through SHERIFF shall provide follow-up criminal investigative services via the Detective option listed in Attachment A of this Agreement. To the extent such staff is provided within CITY, their services, together with all normal ancillary services related thereto, shall primarily be to investigate crime reports submitted by Patrol Officers, Community Service Officers, Special Purpose Officers or other personnel. Detectives are responsible for classifying and closing cases, identifying suspects, gathering evidence, making arrests, submitting cases for prosecution and supporting said prosecution with needed supplemental investigation.

8. **Retired-Rehired Deputies**

COUNTY through SHERIFF shall, to the extent such personnel are available, make available Retired Deputies according to the options listed on Attachment A of this Agreement. Such Retired-Rehired Deputies are eligible for short-term assignments or assignments requiring specialized skills or knowledge on a temporary basis to CITY. Such Retired-Rehired Deputies are not available for routine Patrol, Traffic, Detective,

or Special Purpose Officer services and are limited by State Law and Retirement System policy to working a maximum of 960 hours per fiscal year.

C. **Assignment of Personnel**

1. **Sheriff's Responsibility**

The management, direction, supervision and discipline of SHERIFF personnel, the standard of performance, and all other matters incident to the performance of services, shall be performed by and be the responsibility of COUNTY through SHERIFF in SHERIFF's sole but reasonable judgement and in accordance with the provisions of applicable labor agreements. SHERIFF shall be the appointing authority for all personnel provided to CITY and shall have complete discretion as to the assignment of all individual SHERIFF'S personnel under this Agreement.

2. **Transfers and Selection of Station Commanders**

SHERIFF will consult with CITY prior to reassignment of the station commander serving CITY and CITY will be afforded the opportunity to interview potential candidates prior to one being selected as the Station Commander of the station serving CITY. SHERIFF will solicit input from CITY when completing Station Commander's performance review. CITY and SHERIFF acknowledge that the length of assignment of the Station Commander serving CITY cannot be precisely defined; however SHERIFF will endeavor to maintain the Station Commander serving the CITY in that assignment for twenty four (24) months.

3. **Other Staff Assignments**

If CITY has specific concerns regarding the actions of any officer, agent or employee who performs Law Enforcement Services, CITY may address those concerns with the Station Commander serving CITY.

4. **Liability for Payment of Wages**

CITY shall have no liability for any direct payment of salary, wages, indemnity, or other compensation or benefit to persons engaged in COUNTY's performance of this Agreement.

**D. Staffing for Basic Services**

COUNTY through SHERIFF shall staff CITY as described in Attachment B in order to provide Law Enforcement Services. SHERIFF shall ensure that adequate numbers of qualified SHERIFF personnel are provided to CITY at all times during the term of this Agreement to meet the Law Enforcement Services, Scope of Services and Standards of Service commitments set forth herein, at no less than the staffing and classification levels established in the most current Attachment B. SHERIFF shall use best efforts to fill CITY funded position vacancies within a reasonable period of time.

**E. Changes in Staffing**

CITY shall provide COUNTY through SHERIFF thirty days advance notice when requesting changes in staffing. If CITY and SHERIFF agree that changes to the staffing level for Law Enforcement Services are needed and/or agree that staff additions or deletions in CITY are necessary in order to provide adequate levels of Law Enforcement Services in the succeeding contract year, CITY and COUNTY through SHERIFF shall execute and sign an amendment to Attachment B. COUNTY shall delegate the authority to SHERIFF to sign amendments to Attachment B consistent with the intent of this provision after review and approval by County Counsel. The level of service shall not be changed without the mutual consent of the SHERIFF and CITY.

**F. Vehicles, Equipment, and Supplies**

COUNTY shall provide all supplies, equipment and materials required for performance of the required law enforcement services; except that the CITY shall, at its own expense, supply any special stationery, supplies, notices, or forms which are to be issued in the name of the CITY. COUNTY agrees to provide the standard equipment for CITY vehicles per Attachment E. All

marked vehicles (black and white) will generally be replaced at 100,000 miles. Vans and sedans will generally be replaced at 100,000 miles. Motorcycles will be replaced as needed at COUNTY's discretion.

The name of the city and city seal will be included on the doors of patrol cars if requested by the CITY. The CITY shall provide their CITY decal in the size requested by the SHERIFF.

Subject to written approval of the SHERIFF or his designee, the CITY may purchase equipment deemed necessary to facilitate program implementation or operation. If the COUNTY does not accept ownership of the equipment, the purchase price and all ongoing costs will be the responsibility of the CITY. If the COUNTY accepts in writing, such equipment becomes the property of the COUNTY, and the CITY shall be credited the total cost for the equipment. Total cost shall mean a value agreed upon between COUNTY and CITY at the time the transfer is made.

**G. Asset Ownership**

**1. Vehicles**

Vehicle ownership will be retained by the entity (CITY or COUNTY) that purchase the vehicle and is currently carrying ownership via the vehicle registration.

**2. Office Equipment**

Office equipment (desks, chairs, computers, etc.) ownership will be retained by the entity (CITY or COUNTY) that purchased the equipment and is currently carrying ownership on the entity's inventory.

**3. Safety Equipment**

Safety equipment (firearms, uniforms, leather gear, etc.) ownership will be retained by the COUNTY.

**4. Facilities**

CITY shall retain ownership of facilities that CITY constructed for the purpose of use as a Sheriff's station. SHERIFF's payment to CITY is a lease payment only.

**H. Memberships**

1. For each year that this Agreement is in effect, CITY agrees to maintain its membership in the Automated Regional Justice Information System Joint Powers Agency (ARJIS).
2. For each year that this Agreement is in effect, CITY agrees to maintain its membership in the Regional Communications System (RCS).
3. For each year that this Agreement is in effect, CITY agrees to maintain its participation in the California Identification System Remote Access Network (CAL-ID).

**I. Contract Administration**

**1. County Representative**

COUNTY designates SHERIFF or his designee to represent COUNTY in all matters pertaining to the administration of the Agreement.

**2. City Representatives**

CITY designates its City Manager or designee to represent CITY in all matters pertaining to the administration of the Agreement.

**3. Meetings between City and Sheriff**

SHERIFF or his designee shall be available to confer with the City Manager or designee whenever feasible, practical and not in conflict with mandated duties and responsibilities. SHERIFF and/or Undersheriff and the Assistant Sheriff will meet with the City Managers as a group twice each year to discuss the law enforcement contract. CITY and COUNTY shall provide full cooperation and assistance of its officers, agents, and employees to each other in the performance of this contract.

**4. Implementation of New Programs**

The COUNTY will discuss the implementation of any new programs with the CITIES. The County will provide the justification and value to CITY for the program and estimates of the cost impact. Such programs, if resulting in additional costs to CITY will only be implemented after discussion with the CITY.



**5. Labor Negotiations**

The CITY will be requested to provide the SHERIFF with comments and recommendations during labor negotiations. The SHERIFF will review and pass on the CITY's comments to the COUNTY's labor negotiators.

**6. CLETAC**

CITY, along with other cities within San Diego County entering into contracts for law enforcement services similar to this Agreement ("CITIES") shall maintain a Contract Law Enforcement Technical Advisory Committee (CLETAC). The Law Enforcement Services Bureau Assistant Sheriff, Law Enforcement Commanders and Sheriff's Contracts Manager shall meet with the committee on at least a semi-annual basis to review contract administration including contract interpretation, costs, and liability. Additional meetings can be scheduled at the request of either party.

**J. Audit and Inspection of Records**

COUNTY agrees that records generated under this agreement shall be made available to CITY to audit and examine. CITY agrees that any such audit will be arranged by contacting COUNTY Board of Supervisors or designated representative in writing at least ten working days prior to the commencement of the audit and shall be conducted during normal working hours. CITY through its City Manager shall have access to reports and other documents pertaining to this Agreement including statistical reports on crime rates, traffic incidents and calls for service within CITY.

**K. Reporting Requirements**

CITY will receive monthly reports that provide information with respect to staffing, crime statistics, traffic statistics, programs, patrol activities and Information Led Policing strategies.

**V. COST OF SERVICES/CONSIDERATION**

**A. General**

As full consideration for the satisfactory performance and completion by COUNTY through SHERIFF of the Law Enforcement Services set forth in this Agreement, CITY shall pay COUNTY for the services agreed to on the basis of invoices and submittals as set forth hereunder.

**B. Personnel Costs**

**1. Law Enforcement Services**

The cost of a Law Enforcement Services position includes amounts that compensate COUNTY for all absences due to compensatory time off, bereavement, family, injury, military, and sick leave, holidays, jury duty, leave without pay, related training, and vacation but does not provide coverage or include costs required to maintain coverage for Law Enforcement Services during such absences. If, however, there is an individual absence of more than 30 calendar days, CITY is not required to compensate the COUNTY from the 31<sup>st</sup> day until the position is staffed. In the event of a vacancy, CITY is not required to compensate the COUNTY from the 1<sup>st</sup> day of a vacancy until the position is filled.

**2. Additional Services**

CITY shall compensate COUNTY for additional Services requested and approved by CITY in accordance with Section II.G, based upon the actual costs incurred by SHERIFF to provide those services.

**C. Full Cost Center with Direct Space**

**1. Cost Center Development**

A Cost Center model including each station showing the direct, station support, space and overhead costs for both the CITY and COUNTY shall be developed.

**2. Direct Costs**

CITY shall pay for direct staff and equipment, which includes:

- a) Deputies

- b) Detectives
- c) Sergeants
- d) Community Service Officers
- e) Vehicles
- f) Handheld Radios

**3. Station Support Costs & Space**

Station Support costs shall include:

- a) Lieutenants
- b) Captains
- c) Administrative Secretary I & II
- d) Office Assistants
- e) Property & Evidence Specialists
- f) Sr. Office Assistants
- g) Departmental Aid
- h) Crime Prevention
- i) Crime Analyst
- j) Supplies
- k) Space

All Station Support costs shall be allocated between the COUNTY and the CITY (or CITIES) occupying the station based on their number of deputies, detectives, sergeants and community services officers in that station. All deputy, detective and sergeant positions shall be allocated the same amount of Station Support Costs and community service offices will be allocated one half the amount of Station Support Costs allocated to a deputy, detective or sergeant.

**4. Overhead Costs**

Overhead costs shall consist of:

- a) Communications Center
- b) Reserves
- c) Traffic Coordinator
- d) Juvenile Intervention
- e) Family Protection
- f) Financial Crimes
- g) Domestic Violence Unit
- h) Homicide
- i) Crime Analysis Administration
- j) Supplies
- k) Administrative Support
- l) Financial Services
- m) Personnel
- n) Data Services
- o) County Counsel
- p) County Support Costs

All CITY overhead costs shall be allocated to all the CITIES based on their number of deputies, detectives, sergeants and community services officers. All deputy, detective and sergeant position will be allocated the same overhead amount and community service officers will be allocated one half the amount of overhead allocated to a deputy, detective, or sergeant. CITY costs shall be listed in Attachment C.

**5. Overhead Allocation Date**

The staffing of each city on May 1<sup>st</sup> (June 1<sup>st</sup> in agreement year one) and any requested adjustments shall be used to allocate overhead, station support and space calculation for the contract year starting the following July 1<sup>st</sup>.

**6. Staff Added After May 1<sup>st</sup>**

For staff added after May 1<sup>st</sup> (June 1<sup>st</sup> in agreement year one) the CITY will only pay the direct cost (Salary, benefits, retirement, vehicle costs and the one time equipment charge) until July 1<sup>st</sup> of the following year (e.g. 14 months or 13 months in agreement year one) when they will be included in the new overhead and Station Support Costs and Space Calculation.

7. **Deleted Positions After May 1<sup>st</sup>**

If a CITY deletes a position after May 1<sup>st</sup> (June 1<sup>st</sup> in agreement year one), they will not have to pay the direct cost but that position will still be included in overhead, Station Support Costs and Space Calculation until the following July 1<sup>st</sup>.

**D. Costs**

1. **Fixed Cost Increase**

Cost increases for each city will be 6% in years one and two of this agreement, 5.5% in year three of this agreement, 5.0% in year four of this agreement and 4.5% in year five of this agreement. The cities will pay the applicable contract year's percentage increase regardless of the actual cost increase or decrease.

2. **Application of Fixed Cost**

Only staff included in the previous year's overhead calculation and adjustments made prior to May 1<sup>st</sup> (June 1<sup>st</sup> for agreement year one) will be used to determine the base for the percentage cost increase. Adjustments for any changes in the future contract year will be made after applying the fixed percentage increase.

3. **Exceptions to the Fixed Cost**

Notwithstanding any other provision of this Agreement, the CITY's cost may increase above the fixed cost percentage if the following situation occurs:

- a) If any city elects to discontinue its participation in the Contract Law Enforcement Program or deletes positions, all city overhead shall be reallocated among the remaining CITIES at the beginning of the next

contract year as provided for in the compensation plan Section V.C.4 above.

**E. Liability**

**1. Agreement Years One, Two, and Three**

The CITIES will pay a total of \$650,000. This amount shall be allocated to each CITY using the formula for overhead in V.C.4.

**2. Agreement Years Four and Five**

The CITIES will pay a total of one million dollars. This amount shall be allocated to each CITY using the formula for Overhead in V.C.4.

**3. Reopener**

During year three, of this agreement, either party may request a meeting to discuss liability costs. All changes require the consent of both parties.

**F. Rate of Compensation**

**1. First Year**

For the first year of this Agreement, CITY will compensate COUNTY for provision of the Law Enforcement Services in an amount equal to the fiscal year base amount set forth in Attachment B effective 07/01/17. Included in this amount will be a liability cost agreed to by COUNTY and CITY. In addition to the charges for Law Enforcement Services, CITY will compensate COUNTY for Additional Services as set forth in Section V.B.2, above.

**2. Subsequent Years**

**a. Cost Detail**

By April 1<sup>st</sup> of each year, SHERIFF shall provide CITY with service costs as defined in Attachment A. The cost for services provided by SHERIFF shall be based upon the actual cost of such services as identified in Attachment A. The salaries and benefits shall be based upon the most current payroll and adjusted for

any known increases approved by the COUNTY's Board of Supervisors. Included in this amount will be an annual liability cost agreed to by COUNTY and CITY. All other costs will be based on actual costs per the COUNTY auditor's previous fiscal year accounting records.

**b. Level of Service**

By May 1<sup>st</sup> of each year, CITY shall determine the level of Law Enforcement Services as defined in Section IV.B required within CITY for the upcoming fiscal year (July 1 through June 30). At a minimum, such service shall include the availability of one continuous twenty-four hour per day patrol unit and one continuously available eight and one-half hour, seven days a week, traffic unit.

**c. Joint Operating and Financial Plan**

By July 1<sup>st</sup> of each year, COUNTY and CITY shall prepare a written Joint Operating and Financial Plan specifying the level of service for the upcoming fiscal year and the total cost of such services as determined in accordance with Section V.C and V.D, above. This plan, when approved by CITY and the COUNTY through the SHERIFF shall be effective July 1<sup>st</sup> and shall be made a part of this Agreement as Attachment B.

**d. Mandated Costs**

CITY shall pay all costs which are mandatory as of the effective date of this agreement for any city police force to pay pursuant to state or federal statute or case law, if such costs are not included in the agreed-to costs enumerated in the Joint Operating and Financial Plan. Further, CITY shall pay any mandatory costs that shall become operational during the term of this Agreement.

**G. Mid-Year Adjustments to Basic Services**

With thirty (30) days advance notice, either party may propose amendments or modifications to this Agreement. Such changes, including any increase or decrease in the level of service,

which are mutually agreed upon by and between COUNTY and CITY shall be effective when incorporated in a revised Joint Operating and Financial Plan that is attached to this Agreement as Attachment B and approved by both the COUNTY through the SHERIFF and CITY. When CITY opts to increase or reduce service levels thus impacting the base staff count, SHERIFF will reallocate costs in accordance to Section V.C and V.D, above.

**H. Method of Payment, Proportional Payment, Credits**

**1. Monthly Invoices**

COUNTY shall invoice CITY monthly for services received (1/12 of annual costs). CITY, within 30 days from the date of the invoice, shall pay to the County Treasurer, through the SHERIFF at 9621 Ridgehaven Court, San Diego, CA 92123, for costs of the services agreed upon as reflected in the Joint Operating and Financial Plan (Attachment B).

**2. Billing for Additional Services**

In the event that Additional Services have been agreed to by the parties and provided by SHERIFF to CITY, such services shall be billed in addition to those listed above. CITY agrees to pay the allowable cost of such services so requested. CITY shall not be obligated to pay for any regional services listed in Section II.D above. However, in the event that all non-contract cities are charged by COUNTY for any regional service, the COUNTY may reopen negotiations with CITY and, upon agreement of the parties, a charge for such regional service may take effect at any time during the term of this Agreement.

**3. Credits**

**a. Vacancies and Absences**

In the event that a credit is due CITY for vacancies or for absences extending beyond 30 calendar days, SHERIFF will deduct the amount of the credit from the total amount billed. This credit will not be "pooled"



among all of the CITIES but will be credited to CITY only, for not having received the contractual service.

b. **Towing Fees**

CITY shall be given credit for towing fees collected under California Vehicle Code section 22850.5.

I. **Booking Fees/Jail Access Fee**

Effective 7/1/07, in lieu of charging CITY booking fees, COUNTY will receive an annual appropriation from the state. COUNTY may charge a "jail access fee" for certain low-level offenses (municipal code violations and misdemeanor violations except driving under the influence, domestic violence offenses, and enforcement of protective orders), for each booking in excess of CITY's three year average of such bookings (recalculated annually). In the event that the state reduces its annual appropriation, COUNTY may reinstate booking fee in accordance with Government Code sections 29550-29552.

J. **Distribution of Fines and Forfeitures**

All personnel provided by SHERIFF in the performance of the services of this agreement for CITY shall be COUNTY officers and employees, but shall be deemed officers and employees of CITY for the sole purpose of distributing fines and forfeitures pursuant to Penal Code section 1463.

K. **Forfeited Property and Assets**

Any property retrieved in CITY by SHERIFF'S personnel such as unclaimed stolen goods or revenue generated by the sale of such property by COUNTY shall be made available to CITY net of allowable expenses, at first option to retain for CITY purposes. Assets seized through the Asset Forfeiture process by SHERIFF's personnel within CITY as a result of self-initiated activities or calls for service shall be shared with CITY according to current Federal Asset Seizure guidelines.

L. **Grant Availability**

SHERIFF will advise CITY of availability of grant funding to maximize efforts to obtain funds for such things as anti-terrorism activities, programs, and training.

**M. Availability of Funding**

All terms and conditions of this Agreement are subject to the continued appropriations and availability of funds for either party for the performance of the services stated herein.

**VI. DEFENSE AND INDEMNIFICATION**

**A. Indemnification Related to Workers' Compensation and Employment Issues**

COUNTY shall fully indemnify and hold harmless CITY, its officers, employees and agents, from any claims, losses, fines, expenses (including attorney's fees and court costs or arbitration costs), costs, damages, or liabilities arising from or related to (1) any workers' compensation claim or demand or other workers compensation proceeding arising from or related to, or claimed to arise from or relate to, employment which is brought by an employee of COUNTY or any contract labor provider retained by COUNTY, or (2) any claim, demand, suit or other proceeding arising from or related to, or claimed to arise from or relate to, the status or employment (including without limitation compensation, demotion, promotion, discipline, termination, hiring, work assignment, transfer, disability, leave or other such matters) which is brought by an employee of COUNTY or any contract labor provider retained by COUNTY. CITY shall fully indemnify and hold harmless COUNTY, its officers, employees and agents, from any claims, losses, fines, expenses (including attorney's fees and court costs or arbitration costs), costs, damages, or liabilities arising from or related to (1) any workers' compensation claim or demand or other workers compensation proceeding arising from or related to, or claimed to arise from or relate to, employment which is brought by an employee of CITY or any contract labor provider retained by CITY, or (2) any claim, demand, suit, or other proceeding arising from or related to, or claimed to arise from or relate to, the status of employment (including without limitation compensation, demotion, promotion, discipline,

termination, hiring, work assignment, transfer, disability, leave or other such matters) which is brought by an employee of CITY or any contract labor provider retained by CITY.

**B. Defense And Indemnity; Acts And Omissions**

**1. Claims, Actions or Proceedings Arising From Acts or Omissions of COUNTY**

COUNTY hereby agrees to defend and indemnify the CITY, its agents, officers and employees, from any claim, action or proceeding against CITY, arising out of the acts or omissions of COUNTY in the performance of this Agreement. At its sole discretion, CITY may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve COUNTY of any obligation imposed by this Agreement. CITY shall notify COUNTY promptly of any claim, action or proceeding and cooperate fully in the defense.

**2. Claims, Actions or Proceedings Arising From Acts or Omission of CITY**

CITY hereby agrees to defend and indemnify the COUNTY, its agents, officers and employees, from any claim, action or proceeding against COUNTY, arising out of the acts or omissions of CITY in the performance of this Agreement. At its sole discretion, COUNTY may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve CITY of any obligation imposed by this Agreement. COUNTY shall notify CITY promptly of any claim, action or proceeding and cooperate fully in the defense.

**3. Claims, Actions or Proceedings Arising From Concurrent Acts or Omissions**

COUNTY hereby agrees to defend itself, and CITY hereby agrees to defend itself, from any claim, action or proceeding arising out of the concurrent acts or omissions of COUNTY and CITY. In such cases, COUNTY and CITY agree to retain their own legal counsel, bear their own defense costs, and waive their right to seek reimbursement of such costs, except as provided in paragraph 5 below (referring to joint defense agreements and reimbursement and/or reallocation).

4. **Limited COUNTY Defense And Indemnification Of CITY; Claims Investigation**

a. **Limited COUNTY Defense And Indemnification Of City**

The COUNTY shall indemnify, defend and hold the CITY harmless where asserted CITY liability is based solely on one or more of the following three circumstances:

- (1) The CITY's contractual relationship with COUNTY under this Agreement;
- (2) The incident giving rise to the claim or suit is alleged to have occurred within the boundaries of CITY and there is no "dangerous condition" allegation against the CITY;
- (3) The conduct alleged to be that of the CITY is, in fact, COUNTY conduct.

b. **Procedure For Determination Of Duty To Defend And Indemnify**

If the COUNTY and/or CITY receive a claim or claims containing a description of circumstances, and/or are served with a complaint containing allegations, that the actions and/or omissions of the COUNTY and CITY in the performance of this Agreement contributed to the injuries and/or damages alleged in the complaint, the COUNTY shall look beyond the mere description of circumstances or allegations to determine whether CITY acts, omissions or dangerous conditions of CITY property may have contributed to the injuries and/or damages alleged in the complaint, notwithstanding the allegations. The COUNTY, consistent with its long standing practice, shall review the information in any COUNTY claims file, including investigative materials of the factual circumstances underlying the complaint's allegations and/or available law enforcement agency incident reports. If the COUNTY review determines that there are no facts supporting any viable theory of liability alleged in the complaint against the CITY, the COUNTY shall defend and indemnify the CITY pursuant to the provisions in paragraph 4.a above. However, if a result of the COUNTY review, there appears to be a reasonable

basis for concluding that CITY acts, omissions or dangerous conditions of CITY property may have contributed to the injuries and/or damages alleged in the complaint, COUNTY shall, as soon as practicable contact the appropriate CITY representative to discuss COUNTY's findings. If, after the discussion with CITY representative, the COUNTY is convinced that CITY was not involved, the COUNTY shall defend and indemnify the CITY pursuant to the provisions in paragraph A, above. However, if there continues to appear to be a reasonable basis for concluding that CITY acts, omissions or dangerous conditions of CITY property may have contributed to the plaintiff's injuries and/or damages alleged in the complaint, the COUNTY will notify CITY that the COUNTY, pursuant to the provisions of this Agreement, is not obligated to defend and indemnify CITY under paragraph 4(a), above. When the COUNTY defends a claim or suit pursuant to paragraph 4(a), above, the CITY shall cooperate with COUNTY in the defense of the action of claim.

5. **Joint Defense**

Notwithstanding paragraph 4 above, in cases where COUNTY and CITY agree in writing to a joint defense, COUNTY and CITY may appoint joint defense counsel to defend the claim, action or proceeding arising out of the concurrent acts or omissions of CITY and COUNTY. Joint defense counsel shall be selected by mutual agreement of COUNTY and CITY. COUNTY and CITY agree to share the costs of such joint defense and any agreed settlement in equal amounts, except as follows: COUNTY and CITY further agree that neither party may bind the other to a settlement agreement without the written consent of both COUNTY and CITY. Where a trial verdict or arbitration award, in a joint defense case, allocates or determines the comparative fault of the parties, COUNTY and CITY may seek reimbursement and/or reallocation of defense costs, judgements and awards, consistent with such comparative fault.

**VII. GENERAL PROVISIONS**

**A. Independent Contractor Status**

In the performance of services under this Agreement, COUNTY and their respective officers, agents and/or employees shall be deemed independent contractors and not officers, agents or employees of CITY. All such personnel provided by COUNTY under this Agreement are under the direct and exclusive supervision, daily direction, and control of COUNTY and COUNTY assumes full responsibility for the actions of such personnel in the performance of services hereunder.

CITY and COUNTY acknowledge and agree that CITY does not control the manner and means of performing the work of COUNTY's officers, agents, or employees who perform Law Enforcement Services, and that CITY does not have the right or authority to hire, discipline or terminate such officers, agents, or employees. COUNTY has no authority of any kind to bind CITY, and CITY has no authority to bind COUNTY and/or SHERIFF in any respect whatsoever, nor shall COUNTY or SHERIFF act or attempt to act, or represent itself directly or by implication as an agent of CITY, or in any manner assume or create or attempt to assume or create any obligation on behalf of or in the name of CITY. CITY shall not act or attempt to act, or represent itself directly or by implication as an agent of COUNTY, or in any manner assume or create or attempt to assume or create any obligation on behalf of or in the name of COUNTY.

**B. Notices**

Any notice, request, demand or other communication required or permitted hereunder shall be in writing and may be personally delivered or given as of the date of mailing by depositing such notice in the United States mail, first-class postage prepaid and addressed as follows; or to such other place as each party may designate by subsequent written notice to each other:

To COUNTY and SHERIFF:

County of San Diego  
Chairperson  
San Diego County  
Board of Supervisors  
1600 Pacific Highway  
San Diego, CA 92101

AND

Sheriff  
Contracts Manager  
PO Box 439062  
9621 Ridgehaven Ct  
San Diego, CA 92123

To: CITY

City Manager  
City of Solana Beach  
635 South Highway 101  
Solana Beach, CA 92075

A notice shall be effective on the date of personal delivery if personally delivered before 5:00 p.m. on a business day or otherwise on the first business day following personal delivery; or two (2) business days following the date the notice is postmarked, if mailed; or on the first business day following delivery to the applicable overnight courier, if sent by overnight courier for next business day delivery and otherwise when actually received.

**C. Time of the Essence**

Time is of the essence of this Agreement. Unless specifically stated to the contrary, all references to days herein shall be deemed to refer to business days, not to include COUNTY holidays.

**D. Amendments**

With the exception of the modification or amendment of Exhibits as noted in Sections IV.E , V.C and V.D, above, this Agreement may be modified or amended only by a written document signed by all parties, and no oral understanding or agreement shall be binding on the parties. No party shall assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other parties.

**E. Entire Agreement**

This Agreement, including all Exhibits hereto, constitute the complete and exclusive statement of agreement between COUNTY and CITY with respect to the subject matter hereof. As such, all prior written and oral understandings are superseded in total by this Agreement.

**F. Construction**

Each party has held the opportunity to participate in the review of this Agreement and this Agreement will be deemed to have been made and shall be construed, interpreted, governed and enforced pursuant to and in accordance with the laws of the State of California. The headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand, or limit the terms of the Agreement and shall not be construed against any one party. Each of the Exhibits attached to this Agreement is hereby incorporated into this Agreement by this reference.

**G. No Third Party Beneficiaries**

This Agreement is intended solely for the benefit of the COUNTY and the CITY. Any benefit to any third party is incidental and does not confer on any third party to this Agreement any rights whatsoever regarding the performance of this Agreement. Any attempt to enforce provisions of this Agreement by third parties is specifically prohibited.

**H. Waiver**

A waiver by COUNTY of a breach of any of the covenants to be performed by CITY, or a waiver by CITY of a breach of any of the covenants to be performed by COUNTY, shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions, or conditions of this Agreement. In addition, the failure of either party to insist upon strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by COUNTY or CITY of either performance or payment shall not be considered a waiver of the other party's preceding breach of this Agreement.

**I. Authority to Enter Agreement**



COUNTY and CITY each has all requisite power and authority to conduct its respective business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

**J. Cooperation**

COUNTY through SHERIFF and CITY will cooperate in good faith to implement this Agreement.

**K. Counterparts**

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**L. Severability**

This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed upon by the parties, to be in conflict with any law or regulation, then the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of this Agreement to either party is lost, then the Agreement may be terminated at the option of the affected party, with the notice as required in this Agreement. In all other cases, the remainder of this Agreement shall be severable and shall continue in full force and effect.

**M. Representation**

CITY's City Manager, or his or her designee, shall represent CITY in all discussions pertaining to this Agreement. With the exception of the procedures set forth in sections II.E, IV.E, and V.D, concerning services and payment, the SHERIFF, or his or her designee, shall represent COUNTY in all discussions pertaining to this Agreement.

**N. Job Actions**

In the event of a work slowdown, strike, or any other form of job action by those individuals assigned to perform CITY Law Enforcement Services, COUNTY through SHERIFF agrees to

provide only that minimal level of service agreed to by CITY and COUNTY, and CITY shall have no responsibility for the cost of SHERIFF's Law Enforcement Services personnel who withhold Law Enforcement Services to CITY under those circumstances.

**O. Dispute Resolution Concerning Services and Payment**

In the event of any dispute concerning services and payment arising from this Agreement, the Assistant Sheriff of the Law Enforcement Services Bureau, or his or her designee, and CITY's City Manager, or his or her designee, will meet and confer within ten (10) business days after receiving notice of the dispute in an attempt to resolve the dispute. In the event no agreement can be reached, SHERIFF, or his or her designee, and the CITY's City Manager, or his or her designee, shall meet to discuss resolution of said dispute.

**P. Obligation**

This AGREEMENT shall be binding upon the successors of the members of the City Council, the Mayor and the City Manager of CITY, and the members of the COUNTY Board of Supervisors and the SHERIFF.

IN WITNESS WHEREOF, the CITY, by resolution duly adopted by its City Council on June 28, 2017, has approved the execution of this contract by its City Manager, and the COUNTY, by order of its Board of Supervisors June 20, 2017 has approved the execution of this contract on the June 20, 2017.

CITY OF SOLANA BEACH

COUNTY OF SAN DIEGO

\_\_\_\_\_  
Gregory Wade, City Manager

\_\_\_\_\_  
Clerk of the Board of Supervisors

Approved by City Council

Approved by Board of Supervisors

Action \_\_\_\_\_

Action \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Approved as to form and legality

Approved as to form and legality

By: \_\_\_\_\_  
City Attorney

By: \_\_\_\_\_  
County Council

Date \_\_\_\_\_

Date \_\_\_\_\_

EXHIBITS TO THIS AGREEMENT:

- Exhibit A
- Exhibit B
- Exhibit C
- Exhibit D
- Exhibit E

**ATTACHMENT A**

**CONTRACT LAW ENFORCEMENT PROGRAM**

**SERVICE COSTS  
FY 2017/2018**

| SERVICE CATEGORY                  | SALARY &<br>BENEFITS<br>(Prorate<br>if partial year) | START UP<br>COSTS<br>(Full) | RADIO<br>REPLACEMENT<br>(Prorate<br>if partial year) |
|-----------------------------------|--|-----------------------------|--|
| <b>STAFF:</b>                     |  |                             |  |
| Deputy Patrol                     | \$176,417.39   | \$18,504.00                 | \$506.03   |
| Deputy Traffic                    | \$176,417.39   | \$18,504.00                 | \$506.03   |
| Deputy Motor                      | \$188,725.58   | \$18,504.00                 | \$506.03   |
| Deputy SPO                        | \$176,417.39   | \$18,504.00                 | \$506.03   |
| Detective                         | \$184,622.85   | \$18,504.00                 | \$506.03   |
| CSO                               | \$77,254.92  | \$11,115.00                 | \$506.03   |
| Sergeant                          | \$228,142.65   | \$18,504.00                 | \$506.03   |
| Lieutenants                       | \$241,248.58   | \$18,504.00                 | \$506.03   |
| Captains                          | \$280,804.60   | \$18,504.00                 | \$506.03   |
| Admin Sec II                      | \$83,862.96  | \$5,083.00                  | \$0.00   |
| Admin Sec I                       | \$71,220.34  | \$5,083.00                  | \$0.00   |
| Office Assistant                  | \$67,017.44  | \$5,083.00                  | \$0.00   |
| Office Support Specialist         | \$80,822.88  | \$5,083.00                  | \$0.00   |
| Sr. Office Assistant              | \$79,088.72  | \$5,083.00                  | \$0.00   |
| Sheriff's Prop & Evid Spec I      | \$69,628.22  | \$5,083.00                  | \$0.00   |
| Dept. Aide                        | \$47,228.30  | \$5,083.00                  | \$0.00   |
| Crime & Intelligence Analyst      | \$127,599.62   | \$5,083.00                  | \$0.00   |
| 960 Rehire (per hour)             | \$40.00  |                             |  |
| <b>AUTO:</b>                      |  |                             |  |
|                                   | Cost per auto<br>(Prorate<br>if partial year)        |                             |  |
| Patrol Sedan B/W                  | \$25,523.31  |                             |  |
| Patrol 4x4 B/W                    | \$30,744.11  |                             |  |
| Traffic Sedan B/W                 | \$25,523.31  |                             |  |
| Motorcycle                        | \$12,117.66  |                             |  |
| Management Sedan                  | \$11,418.67  |                             |  |
| Detective Sedan & Det. Supervisor | \$8,601.45   |                             |  |
| SPO - Sedan 4 Dr                  | \$8,601.45   |                             |  |
| SPO - Van                         | \$13,066.57  |                             |  |
| SPO - B&W                         | \$25,523.31  |                             |  |
| CSO - Sedan 4 Dr                  | \$8,601.45   |                             |  |
| CSO - Van                         | \$8,005.00   |                             |  |

**ATTACHMENT B**

**City of Solana Beach**

Effective 7/1/17 through 6/30/18  
June 2017

| SERVICE CATEGORY   | Staff         | # of Staff          | Unit   | Total                         | Notes |
|--------------------|---------------|---------------------|--------|-------------------------------|-------|
|                    | Cost          |                     | Factor | Net Cost                      |       |
| Deputy Patrol      | \$ 176,417.39 | 7.090               |        | 1,250,799.28                  |       |
| Deputy Traffic     | \$ 176,417.39 | 2.310               |        | 407,524.17                    |       |
| Deputy Motor       | \$ 188,725.58 | 1.000               |        | 188,725.58                    |       |
| Deputy SPO         | \$ 176,417.39 | 2.200               |        | 388,118.26                    |       |
| Detective          | \$ 184,622.85 | 1.000               |        | 184,622.85                    |       |
| CSO                | \$ 77,254.92  | 0.500               |        | 38,627.46                     |       |
| Sergeant Patrol    | \$ 228,142.66 | 0.625               |        | 142,516.35                    |       |
| Sergeant Traffic   | \$ 228,142.66 | 0.236               |        | 53,939.45                     |       |
| Sergeant Relief    | \$ 228,142.66 | 0.167               |        | 38,069.59                     |       |
| Sergeant Dedicated | \$ 228,142.66 | -                   |        | -                             |       |
| Detective Sgt      | \$ 228,142.66 | 0.111               |        | 25,349.18                     |       |
| Station Staff      |               |                     |        | 220,398.14                    |       |
| Subtotal           |               |                     |        | <u>2,938,690.30</u>           |       |
| Ancillary Support  |               |                     |        | 481,318.60                    |       |
| Supply             |               |                     |        | 66,238.66                     |       |
| Vehicles           |               |                     |        | 227,787.67                    |       |
| Space              |               |                     |        | 53,162.54                     |       |
| Management Support |               |                     |        | 148,904.82                    |       |
| Liability          |               |                     |        | 26,267.83                     |       |
|                    |               |                     |        | <u>1,003,680.12</u>           |       |
| Adjustments:       |               |                     |        | -                             |       |
|                    |               | <b>TOTAL AMOUNT</b> |        | <u><u>\$ 3,942,370.42</u></u> |       |

ATTACHMENT C

OVERHEAD COST DETAIL SHEET

|                       | DEPUTY SHERIFF & SERGEANT  | COMMUNITY SERVICE OFFICER  |
|-----------------------|----------------------------|----------------------------|
| Station Support Staff | Direct Charge Now          | Direct Charge Now          |
| Ancillary Support     |                            |                            |
| Communications Ctr    | \$ 15,199.34               | \$ 7,599.67                |
| Reserves              | \$ -                       | \$ -                       |
| Crime Prevention      | \$ 1,808.50                | \$ 904.25                  |
| Crime Analysis        | \$ 475.02                  | \$ 237.51                  |
| Traffic Coordinator   | \$ 435.81                  | \$ 217.91                  |
| Juvenile Intervention | \$ 2,654.71                | \$ 1,327.36                |
| Family Protection     | \$ 3,737.30                | \$ 1,868.65                |
| Financial Crimes      | \$ 2,725.31                | \$ 1,362.66                |
| Domestic Violence     | \$ 1,268.61                | \$ 634.31                  |
| Homicide              | \$ 3,806.66                | \$ 1,903.33                |
| Total                 | <u>\$ 32,111.26</u>        | <u>\$ 16,055.65</u>        |
| Supplies              |                            |                            |
| Station               | Direct Charge Now          | Direct Charge Now          |
| Support Other         | \$ 1,932.23                | \$ 966.12                  |
| Total                 | <u>\$ 1,932.23</u>         | <u>\$ 966.12</u>           |
| Space Cost            |                            |                            |
| Space                 | Direct Charge Now          | Direct Charge Now          |
| Total                 | <u>\$ -</u>                | <u>\$ -</u>                |
| Management Support    |                            |                            |
| Admin                 | \$ 1,423.28                | \$ 711.64                  |
| Fiscal                | \$ 1,561.40                | \$ 780.70                  |
| Personnel             | \$ 2,591.77                | \$ 1,295.89                |
| Data Services         | \$ 1,375.19                | \$ 687.60                  |
| Other                 | \$ 1,857.31                | \$ 928.66                  |
| Total                 | <u>\$ 8,808.95</u>         | <u>\$ 4,404.49</u>         |
| Grand Total           | <u><u>\$ 42,852.44</u></u> | <u><u>\$ 21,426.26</u></u> |

Note:

Deputy, Detective, CSO, Sergeant, Station Staff, Station Supplies, Space & Vehicles are calculated directly per station.

ATTACHMENT D

LIABILITY FUND HISTORY

|                           | AMOUNT            |
|---------------------------|-------------------|
| Beginning Balance         | 1,643,947.51      |
| FY 2009/2010              | 307,764.05        |
| FY 2010/2011              | (1,298,299.47)    |
| FY 2011/2012              | 209,033.65        |
| FY 2012/2013              | 258,994.88        |
| FY 2013/2014              | 15,350.61         |
| FY 2014/2015              | 60,289.48         |
| FY 2015/2016              | (635,636.98)      |
| FY 2016/2017 (2 Quarters) | (178,801.17)      |
| Total                     | <u>382,642.56</u> |

# ATTACHMENT E

## STANDARDIZED EQUIPMENT LIST

### PATROL STATIONS

VHF Mobile radio

| Vehicle Type              | Mobile Radio | Handtalk Radio | VHF Mobile Radio | MCT's (1) | VRM Modems | AVL (2) | Light Siren | Plastic Rear Seat | Radar | Push Bar | Gunlock | Winch | Screen |
|---------------------------|--------------|----------------|------------------|-----------|------------|---------|-------------|-------------------|-------|----------|---------|-------|--------|
| Patrol Sedan              | x            | x              |                  | x         | x          | x       | x           | x                 |       | x        | x       |       | x      |
| Patrol 4X4 (Expedition)   | x            | x              | x                | x         | x          | x       | x           |                   |       | x        | x       | x     | x      |
| Patrol 4X4 (Pick Up)      | x            | x              |                  | x         | x          | x       | x           |                   |       | x        | x       | x     | x      |
| Traffic Sedan             | x            | x              |                  | x         | x          | x       | x           | x                 | x     | x        | x       |       | x      |
| Traffic Motorcycle        | x            | x              |                  |           |            |         |             |                   | x     |          |         |       |        |
| Detective (4-Door)        | x            | x              |                  |           |            |         |             |                   |       |          |         |       |        |
| Detective (2-Door)        | x            | x              |                  |           |            |         |             |                   |       |          |         |       |        |
| Detective (Black & white) | x            | x              |                  | x         | x          | x       | x           |                   |       | x        | x       |       | x      |
| Detective (Van)           | x            | x              |                  |           |            |         |             |                   |       |          |         |       |        |
| CSO (Van)                 | x            | x              |                  | x         | x          |         | x (3)       |                   |       |          |         |       |        |
| Supervisory Sedan         | x            | x              |                  | No*       |            |         |             |                   |       |          |         |       | x      |

(1) Mobile Computer Terminals - purchased by Communication Center.  
 (2) Auto Vehicle Locator  
 (3) Amber warning light in rear deck.



## Staff Equivalent for Coverage and Relief

Work seven days a week with relief for weekends and time off

|                              | Hours per day Coverage | Hours per shift | days per week | Staff required |
|------------------------------|------------------------|-----------------|---------------|----------------|
| 7 day with Relief (old unit) | 8.5                    | 8.5             | 7.0           | 1.78           |
| New Unit                     | 10.5                   | 10.5            | 7.0           | 2.19           |
| New Unit                     | 12.5                   | 12.5            | 7.0           | 2.61           |
| New Unit                     | 25.0                   | 12.5            | 7.0           | 5.22           |
| New Unit                     | 25.5                   | 8.5             | 7.0           | 5.33           |

Work full shifts a week with relief for time off

|                              | Hours per day Coverage | Hours per shift | days per week | Staff required |
|------------------------------|------------------------|-----------------|---------------|----------------|
| 5 day with Relief (Old Unit) | 8.5                    | 8.5             | 5.0           | 1.27           |
| New Unit                     | 10.5                   | 10.5            | 4.0           | 1.27           |
| New Unit                     | 12.5                   | 12.5            | 3.4           | 1.27           |

Work full shifts a week with no relief for time off

|                                 | Hours per day Coverage | Hours per shift | days per week | Staff required |
|---------------------------------|------------------------|-----------------|---------------|----------------|
| 5 day without Relief (Old Unit) | 8.5                    | 8.5             | 5.0           | 1.00           |
| New Unit                        | 10.5                   | 10.5            | 4.0           | 1.00           |
| New Unit                        | 12.5                   | 12.5            | 3.4           | 1.00           |

Note: add partial totals and round totals up. For example, if you need coverage for 2 positions 5 days a week with relief you would need 1.27 staff x 2 or 2.54 and would need 3 staff.

### Assumptions

|       | Hours per year | Hours per week |
|-------|----------------|----------------|
| Work  | 1,743          | 33.52          |
| Off   | 467            | 8.98           |
| Total | <u>2,210</u>   | <u>42.50</u>   |



# STAFF REPORT CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Gregory Wade, City Manager  
**MEETING DATE:** June 28, 2017  
**ORIGINATING DEPT:** City Manager/Finance  
**SUBJECT:** Refunding Of Solana Beach Public Financing Authority,  
Subordinate Wastewater Revenue Bonds, Series 2006

---

## **BACKGROUND:**

In January 2007, the Solana Beach Public Financing Authority (Authority) issued Subordinate Wastewater Revenue Bonds (the "2006 Bonds") in the amount of \$9,825,000 to finance capital improvements to the Sewer System.

At the May 10, 2017 Council meeting, Staff provided information to the City Council regarding refunding the Wastewater Bonds and engaged the services of Kenneth Dieker of Del Rio Advisors, LLC (Municipal Advisor) to assist Staff in the refunding process. Mr. Dieker was the municipal advisor on the issuance of the 2006 Bonds as well as other debt issuances done by the City.

This Staff Report is before Council to seek authorization for the issuance and sale of 2017 Wastewater Revenue Refunding Bonds ("2017 Bonds").

## **DISCUSSION:**

The proposed 2017 Bonds will be structured to refund in full the existing 2006 Bonds currently outstanding in the amount of \$7.78 million. It is anticipated that the 2017 Bonds will be issued in an estimated amount of \$6.5 million. The 2017 Bonds issue size is smaller than the \$7.78 million outstanding debt on the existing Wastewater Bonds because the 2006 Bonds have a reserve fund that would be used to make the final payment on the 2006 Bonds. Those dollars will now be used to downsize the amount of 2017 Bonds to be issued and no new reserve fund will be required for the 2017 Bonds. The final maturity of the existing 2006 Bonds is March 1, 2037 and the final maturity of the 2017 Bonds is estimated to be shortened to March 1, 2036.

COUNCIL ACTION:

---

---

The Municipal Advisor has looked at selling the refunding bonds as both a public offering and a direct placement. A public offering involves preparing an official statement (the primary marketing document to investors), obtaining an underlying rating and selling the bonds to both retail and institutional buyers in an open public sale. A direct placement involves marketing the bonds to a group of direct lenders, primarily commercial banks, which operate in the municipal finance arena. While the costs to issue a direct placement are lower, the interest rates are generally higher. When you factor in all the costs and weigh that with the interest rates, sometimes a public offering works better and sometimes it does not. Under current market conditions, a public offering for the 2017 Wastewater Bonds makes for better economics given the very strong S&P AA underlying rating and the market demand for enterprise credits, such as the City's wastewater bonds. When everything is factored, the Municipal Advisor has recommended a public offering as the sale type for the 2017 Wastewater Bonds.

The largest time lag to getting this transaction to market is the preparation of the official statement. Conveniently, the San Elijo JPA is currently in the process of preparing a public bond sale and most of the data provided to the JPA for that official statement can be used for the preparation of the official statement for the 2017 Bonds.

The following is a tentative schedule proposed for the refunding:

| <u>Date</u> | <u>Party(ies)</u>      | <u>Action</u>                                   |
|-------------|------------------------|---|
| May 10      | City/Authority Meeting | Briefing on Refunding                           |
| May-June    | Financing Team         | Prepares Draft Documents and Official Statement |
| June 28     | City/Authority Meeting | Approve Transaction                             |
| June / July | Financing Team         | Rating Agency Presentation                      |
| July        | Financing Team         | Rating Released                                 |
| July        | Financing Team         | Official Statement Printed                      |
| August      | Financing Team         | Bonds Sold                                      |
| Aug 16      | Financing Team         | Close the Transaction                           |

Based on market conditions as of June 2017, the refunding is estimated to result in total savings of \$1,705,752 and net present value (NPV) savings of approximately \$1,212,932, or 15.59% of the amount of outstanding 2006 Bonds.

The table below highlights the current estimated savings for the 2017 Bonds:

| <b>Summary of Savings Results for 2017 Wastewater Bonds*</b> |             |
|--|-------------|
| Net Present Value Savings (\$)                               | \$1,212,932 |
| Net Present Value Savings (% of Par Value Refunded)          | 15.59%      |
| Avg. Annual Savings  | \$89,776    |
| Total Debt Service Savings                                   | \$1,705,752 |

*\*Projected savings are based on interest rates from June 2017. The results are subject to change based on market conditions at the time of the sale.*

The NPV savings as a percentage of the outstanding 2006 Bonds (taking into account all issuance costs and any cash contribution from the 2006 Bonds to the refunding) far

exceeds the 3.00-5.00% recommended minimum threshold for moving forward on a refunding. The primary goal of the refunding is to generate as much savings as possible for the City's ratepayers. The issuance of the 2017 Bonds will not move forward unless a minimum savings threshold of 3.00% can be achieved.

The Solana Beach Public Financing Authority issued the 2006 Bonds subordinate to a Loan Agreement with the San Elijo JPA (SEJPA) that was ultimately refunded in 2011 (the "2011 Loan Agreement"). The SEJPA is currently in the market to sell additional bonds and the City will finalize a 2017 Loan Agreement for the repayment of those bonds. The City will be issuing the 2017 Bonds on parity (equal right to the net revenues of the system) with the both the SEJPA 2011 Loan Agreement and the proposed SEJPA 2017 Loan Agreement.

**CEQA COMPLIANCE STATEMENT:**

Not a project as defined by CEQA.

**FISCAL IMPACT:**

As illustrated above, total savings are estimated to be \$1,705,752 or \$89,776 per year. The NPV benefit is \$1,212,932 or 15.59% of the outstanding 2006 Bonds, well in excess of minimum industry standards. The annual savings would directly benefit the City's ratepayers by lowering debt service each year. The final level of savings will depend upon market conditions at the time the 2017 Bonds are sold.

The 2017 Bonds will not be an obligation of the City's General Fund, but rather the City's Wastewater Enterprise Fund. Debt Service on the 2017 Bonds will be supported based on the following flow of funds of the City's Wastewater System:

|         |                                  |
|---------|----------------------------------|
| Plus:   | Gross Revenues                   |
| Less:   | Operations and Maintenance Costs |
| Equals: | Net Revenue                      |

The Net Revenue will be used to pay the SEJPA's 2011 and 2017 Loan Agreements and the City's 2017 Bonds. The assembled financing team would work on a contingent fee basis, meaning nothing would be due unless the transaction closes. However, as part of the financing process, the Authority will be seeking a rating from S&P. The cost of the rating is non-contingent and will be due whether or not the refunding closes. This expense is not expected to occur until later in the financing process and is estimated to cost between \$15,000 and \$20,000.

**WORK PLAN:**

N/A

**OPTIONS:**

- Approve Staff recommendation.
- Approve Staff recommendation with alternative amendments / modifications.
- Deny Staff recommendation

**DEPARTMENT RECOMMENDATION:**

Staff recommends that the City Council approve Resolution No. 2017-105 (Attachment 6) authorizing the issuance and sale of Wastewater Revenue Refunding Bonds and approving certain other actions in connections therewith.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation.



Gregory Wade, City Manager

Attachments:

1. Indenture of Trust
2. Irrevocable Refunding Instructions
3. Bond Purchase Agreement
4. Preliminary Official Statement
5. Continue Disclosure Certificate
6. Resolution No. 2017-105

---

**INDENTURE**

between the

**CITY OF SOLANA BEACH**

and

**MUFG UNION BANK, N.A., as Trustee**

Dated August 1, 2017

Relating to  
\$[PAR AMOUNT]  
City of Solana Beach  
2017 Wastewater Revenue Refunding Bonds

---

**TABLE OF CONTENTS**

|   | <b><u>Page</u></b> |
|---|--------------------|
| ARTICLE I DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICABILITY.....                      | 2                  |
| Section 1.01. Definitions .....   | 2                  |
| Section 1.02. Equal Security.....   | 12                 |
| Section 1.03. Acts of Owners .....  | 13                 |
| Section 1.04. Notices, etc., to City and Trustee.....   | 13                 |
| Section 1.05. Notices to Owners; Waiver.....  | 13                 |
| Section 1.06. Form and Content of Documents Delivered to Trustee.....                         | 13                 |
| Section 1.07. Effect of Headings and Table of Contents.....                                   | 14                 |
| Section 1.08. Successors and Assigns .....  | 14                 |
| Section 1.09. Benefits of the Indenture .....   | 14                 |
| Section 1.10. Payments/Actions Otherwise Scheduled on Non-Business Days.....                  | 14                 |
| Section 1.11. No Personal Liability For Debt Service.....                                     | 15                 |
| Section 1.12. Separability Clause .....   | 15                 |
| Section 1.13. Governing Law .....   | 15                 |
| Section 1.14. Execution in Several Counterparts .....   | 15                 |
| ARTICLE II THE BONDS .....  | 15                 |
| Section 2.01. The Bonds.....  | 15                 |
| Section 2.02. Execution, Authentication, Delivery, and Dating.....                            | 17                 |
| Section 2.03. Registration, Transfer, and Exchange.....                                       | 18                 |
| Section 2.04. Mutilated, Destroyed, Stolen or Lost Bonds .....                                | 19                 |
| Section 2.05. Payment of Interest on the Bonds; Interest Rights Preserved.....                | 19                 |
| Section 2.06. Persons Deemed Owners of the Bonds.....   | 20                 |
| Section 2.07. Cancellation .....  | 20                 |
| Section 2.08. Book-Entry Provisions.....  | 20                 |
| Section 2.09. Validity of Bonds.....  | 21                 |
| ARTICLE III APPLICATION OF PROCEEDS OF BONDS AND OTHER FUNDS;<br>ESTABLISHMENT OF FUNDS ..... | 22                 |
| Section 3.01. Application of Bond Proceeds .....  | 22                 |
| Section 3.02. Establishment and Application of Costs of Issuance Fund .....                   | 22                 |
| ARTICLE IV REDEMPTION OF BONDS.....   | 22                 |

|  |                                     |
|--|-------------------------------------|
| Section 4.01. Notice to Trustee.....   | 22                                  |
| Section 4.02. Selection by Trustee of Bonds to be Redeemed .....   | 22                                  |
| Section 4.03. Notice of Redemption.....  | 23                                  |
| Section 4.04. Deposit of Redemption Price; Payment of Amounts to Reserve<br>Facility Providers.....              | 24                                  |
| Section 4.05. Bonds Payable on Redemption Date; Effect of Redemption.....  | 24                                  |
| Section 4.06. Bonds Redeemed in Part.....  | 24                                  |
| ARTICLE V DEFEASANCE.....  | 24                                  |
| Section 5.01. Discharge of Indenture .....   | 24                                  |
| Section 5.02. Discharge of Liability on Bonds.....   | 25                                  |
| Section 5.03. Deposit of Money or Securities with Trustee .....  | 26                                  |
| Section 5.04. Payment of Bonds After Discharge of Indenture .....  | 26                                  |
| ARTICLE VI NET REVENUES.....   | <b>Error! Bookmark not defined.</b> |
| Section 6.01. Liability of City Limited to Net Revenues .....  | 27                                  |
| Section 6.02. Pledge of Net Revenues.....  | 27                                  |
| Section 6.03. Gross Revenue Fund.....  | 27                                  |
| Section 6.04. Payments to Trustee.....   | 27                                  |
| Section 6.05. Allocation of Moneys .....   | 27                                  |
| Section 6.06. Application of Interest Fund.....  | 28                                  |
| Section 6.07. Application of Principal Fund .....  | 28                                  |
| Section 6.08. Funding and Application of Reserve Fund.....   | 29                                  |
| Section 6.09. Rebate Fund .....  | 31                                  |
| Section 6.10. Investments of Money in Accounts and Funds.....  | 31                                  |
| Section 6.11. Funds and Accounts.....  | 32                                  |
| Section 6.12. Money Held for Particular Bonds.....   | 32                                  |
| ARTICLE VII FINANCIAL COVENANTS OF THE CITY .....  | 33                                  |
| Section 7.01. Compliance with Law; Preservation of Rights .....  | 33                                  |
| Section 7.02. Against Additional Prior Lien Obligations and Other Encumbrances;<br>Subordinate Obligations ..... | 33                                  |
| Section 7.03. Against Sale or Other Disposition of Property .....  | 33                                  |
| Section 7.04. Operation and Maintenance of the City System .....   | 33                                  |
| Section 7.05. Payment of Claims.....   | 34                                  |
| Section 7.06. Compliance with Contracts.....   | 34                                  |



|  |    |
|--|----|
| Section 7.07. Insurance; Application of Net Proceeds .....   | 34 |
| Section 7.08. Payment of Taxes and Compliance with Governmental Regulations .....                          | 35 |
| Section 7.09. Amount of Rates and Charges .....  | 35 |
| Section 7.10. Rate Stabilization Fund.....   | 36 |
| Section 7.11. Parity Debt.....   | 36 |
| Section 7.12. Eminent Domain Proceeds .....  | 37 |
| ARTICLE VIII GENERAL COVENANTS OF THE CITY .....   | 38 |
| Section 8.01. Power to Issue Bonds and Make Pledge.....  | 38 |
| Section 8.02. Punctual Payment and Performance .....   | 38 |
| Section 8.03. Extension of Time for Payment of Bonds .....   | 38 |
| Section 8.04. Preservation of Rights of Owners.....  | 38 |
| Section 8.05. Federal Income Tax Covenants .....   | 38 |
| Section 8.06. Further Assurances .....   | 38 |
| Section 8.07. Continuing Disclosure .....  | 39 |
| ARTICLE IX EVENTS OF DEFAULT AND REMEDIES OF OWNERS .....  | 39 |
| Section 9.01. Events of Default .....  | 39 |
| Section 9.02. Institution of Legal Proceedings by Trustee .....  | 39 |
| Section 9.03. Non-Waiver .....   | 39 |
| Section 9.04. Actions by Trustee as Attorney-in-Fact.....  | 40 |
| Section 9.05. Remedies Not Exclusive.....  | 40 |
| Section 9.06. Limitation on Owners' Right to Sue.....  | 40 |
| ARTICLE X THE TRUSTEE .....  | 41 |
| Section 10.01. Appointment of the Trustee .....  | 41 |
| Section 10.02. Certain Duties and Responsibilities.....  | 41 |
| Section 10.03. Notice of Defaults.....   | 42 |
| Section 10.04. Certain Rights of Trustee; Liability of Trustee.....  | 42 |
| Section 10.05. Trustee Not Responsible for Recitals, Validity of Bonds, or<br>Application of Proceeds..... | 43 |
| Section 10.06. Trustee May Hold Bonds.....   | 44 |
| Section 10.07. Compensation and Indemnification of Trustee.....  | 44 |
| Section 10.08. Corporate Trustee Required; Eligibility .....   | 45 |
| Section 10.09. Removal and Resignation; Appointment of Successor .....                                     | 45 |
| Section 10.10. Acceptance of Appointment by Successor .....  | 46 |

|  |    |
|--|----|
| Section 10.11. Merger or Consolidation.....                                      | 46 |
| Section 10.12. Preservation and Inspection of Documents .....                    | 47 |
| Section 10.13. Accounting Records and Reports .....                              | 47 |
| ARTICLE XI AMENDMENT OF THE INDENTURE .....                                      | 47 |
| Section 11.01. Supplemental Indentures without Consent of Owners .....           | 47 |
| Section 11.02. Supplemental Indentures with Consent of Owners [or Insurer] ..... | 48 |
| Section 11.03. Notice of Amendment.....  | 49 |
| Section 11.04. Execution of Supplemental Indentures .....                        | 49 |
| Section 11.05. Effect of Supplemental Indentures .....                           | 49 |
| Section 11.06. Endorsement of Bonds; Preparation of New Bonds .....              | 49 |
| Section 11.07. Amendment of Particular Bonds .....                               | 50 |
| ARTICLE XII [MUNICIPAL BOND INSURANCE].....                                      | 50 |
| EXHIBIT A - FORM OF BONDS  |    |
| EXHIBIT B - FORM OF REQUISITION TO PAY COSTS OF ISSUANCE                         |    |

## INDENTURE

THIS INDENTURE, dated August 1, 2017 (the “Indenture”), between MUFG UNION BANK, N.A., a national banking association duly organized and existing under and by virtue of the laws of the United States of America, as trustee (the “Trustee”) and the CITY OF SOLANA BEACH (the “City”), a municipal corporation and general law city duly created and existing pursuant to the laws of the State of California;

### WITNESSETH:

WHEREAS, the Solana Beach Public Financing Authority issued its Subordinate Wastewater Revenue Bonds, Series 2006 (the “Prior Bonds”), to finance improvements to the City’s wastewater system;

WHEREAS, debt service on the Prior Bonds is funded by payments made by the City pursuant to an installment sale agreement dated as of December 1, 2006 (the “Installment Sale Agreement”), between the City and the Solana Beach Public Financing Authority, which payments are secured by a pledge of the revenues of the City’s wastewater system;

WHEREAS, the City is authorized pursuant to Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (commencing with Section 53570) to issue bonds to refund outstanding revenue obligations of the City, such as its obligations under the Installment Sale Agreement;

WHEREAS, the City Council of the City has determined that it is necessary and desirable to issue its 2017 Wastewater Revenue Refunding Bonds (the “Bonds”) in order to prepay its obligations under the Installment Sale Agreement and thereby refund the Prior Bonds;

WHEREAS, in order to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and secured and to secure the payment of the principal thereof, premium, if any, and interest thereon, the City has authorized the execution and delivery of this Indenture;

WHEREAS, all acts and proceedings required by law necessary to constitute this Indenture a valid and binding agreement of the parties hereto for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of this Indenture have been in all respects duly authorized;

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that, in order to secure the payment of the principal of, premium, if any, and the interest on all Bonds at any time issued and outstanding under this Indenture, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the owners thereof, and for other valuable considerations, the receipt whereof is hereby acknowledged, the City does hereby covenant and agree with the Trustee, for the benefit of the respective owners from time to time of the Bonds, as follows:

**ARTICLE I**  
**DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICABILITY**

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined in this section shall for all purposes hereof and of any Supplemental Indenture and of any certificate, opinion, request or other document herein or therein mentioned have the meanings herein specified:

**Accountant's Report** means a report signed by an Independent Certified Public Accountant.

**2011 Agreement** means the Third Amended and Restated Loan Agreement, dated as of December 1, 2011, among the Authority, MUFG Union Bank, N.A., and the City.

**2017 Agreement** means the Series 2017 Loan Agreement between the City and the Authority.

**Authority** means the San Elijo Joint Powers Authority.

**Authorized Denomination** means \$5,000 and any integral multiple thereof.

**Average Annual Debt Service** means the total of Debt Service for each specified annual period during which the Bonds or Parity Debt to which reference is made are Outstanding divided by the number of such annual periods that such Bonds or Parity Debt is Outstanding.

**Beneficial Owner** means any person who has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds, including persons holding Bonds through nominees or depositories.

**Bond Fund** means the fund by that name established pursuant to Section 6.04 (Payments to Trustee).

**Bond Year** means the one-year period ending on each March 1, except that the first Bond Year begins on the Closing Date and ends on March 1, 2018.

**Bonds** means all bonds of the City authorized by and at any time Outstanding pursuant hereto and executed, issued and delivered in accordance with Article II (The Bonds).

**Business Day** means any day on which the Trustee is open for business at its Corporate Trust Office.

**Certificate, Statement, Request, Requisition, or Order** of the City mean, respectively, a written certificate, statement, request, requisition, or order signed in the name of the City by the Mayor, City Manager, or by any other officer of the City duly authorized by the City Manager for that purpose.

**City** means the City of Solana Beach, a municipal corporation and general law city duly created and existing pursuant to the laws of the State of California.

**City System** means the system owned and operated by the City for the purpose of wastewater collection, treatment, reclamation, recycling and disposal.

**Closing Date** means the date of delivery of the Bonds to the initial purchaser thereof.

**Code** means the Internal Revenue Code of 1986, as amended, and the regulations issued thereunder.

**Continuing Disclosure Agreement** means that certain Continuing Disclosure Agreement, dated the date of issuance of the Bonds, executed and delivered by the City, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

**Corporate Trust Office** means the corporate trust office of the Trustee located at 350 California Street, 11th Floor, San Francisco, California 94104, Attention: Corporate Trust Services, Fax: 415-272-2492, E-mail: AccountAdministration-CorporateTrust@unionbank.com and CashControlGroup-LosAngeles@unionbank.com, except that, with respect to presentation of Bonds for payment or for registration of transfer and exchange or surrender and cancellation, such term shall mean the office or agency of the Trustee at which, at any particular time, its corporate trust agency business shall be conducted or such other office or offices as the Trustee shall designate from time to time.

**Costs of Issuance** means all items of expense directly or indirectly payable by or reimbursable to the City and related to the original authorization, issuance, sale, and delivery of the Bonds, including but not limited to advertising and printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of the Trustee, legal fees and charges, fees and disbursements of consultants and professionals, financial advisor fees and expenses, title insurance premiums, rating agency fees, municipal bond insurance premiums, fees and charges for preparation, execution, transportation, and safekeeping of Bonds, and any other cost, charge, or fee in connection with the original delivery of Bonds.

**Costs of Issuance Fund** means the fund by that name established pursuant to Section 3.02 (Establishment and Application of Costs of Issuance Fund).

**Coverage Report** means a debt service coverage report signed by an Independent Certified Public Accountant, an Independent Engineer, or an Independent Financial Consultant and filed with the City pursuant to Section 7.11 (Parity Debt).

**Debt Service** means, during any period of computation, the amount of principal and interest becoming due and payable on all Bonds and Parity Debt for such period, determined by totaling the following amounts:

- (1) the interest accruing during such period on all outstanding Bonds, assuming that all outstanding Serial Bonds are retired as scheduled and that all outstanding Term Bonds are redeemed or paid from sinking fund payments as scheduled (except to the extent that such interest is to be paid from the proceeds of sale of any bonds),
- (2) the principal amount of all outstanding Serial Bonds maturing during such period,

(3) the principal amount of all outstanding Term Bonds required to be redeemed or paid during such period (together with the redemption premiums, if any, thereon),

(4) the aggregate amount of principal of and interest on all outstanding Parity Debt, if any, coming due and payable by its terms in such period; provided that, with respect to any Parity Debt that bears interest at an adjustable rate, for periods when the actual interest rate cannot yet be determined, the rate shall be assumed to be equal to the greater of:

(i) the actual rate on the date of calculation or, if such Parity Debt is not yet outstanding, the initial rate (if then established and binding), and

(ii) if the Parity Debt has been outstanding for at least twelve (12) months, the average rate over the twelve (12) months immediately preceding the date of calculation.

**Defeasance Securities** means non-callable, direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America[, or other securities authorized under State law and approved by the Insurer].

**Engineer's Report** means a report signed by an Independent Engineer.

**Event of Default** means any of the events described in Section 9.01 (Events of Default) hereof as an "Event of Default."

**Fiscal Year** means the twelve-month period terminating on June 30 of each year, or any other annual accounting period hereafter selected and designated by the City as its Fiscal Year in accordance with applicable law.

**Generally Accepted Accounting Principles** means the uniform accounting and reporting procedures set forth in publications of the Financial Accounting Standards Board or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

**Gross Revenue Fund** means the Gross Revenue Fund established pursuant to Section 6.03 (Gross Revenue Fund).

**Gross Revenues** means all gross income and revenue received by the City for the collection, treatment, reclamation, recycling and disposal of wastewater, including, without limiting the generality of the foregoing, (a) all income, rents, rates, fees, charges or other moneys derived from the services, facilities and commodities sold, furnished or supplied through the facilities of the City System and the Wastewater Enterprise Facilities, and (b) the earnings on and income derived from the investment of such income, rents, rates, fees, charges or other moneys, and (c) transfers to the City's Sanitation Fund from (but exclusive of any transfers to) any rate stabilization reserve accounts; provided that the term "Gross Revenues" does not include customers' deposits or any other deposits subject to refund until such deposits have become the property of the City.

**Indenture** means this Indenture, dated August 1, 2017, between the City and the Trustee, as originally executed and as it may from time to time be amended or supplemented by all Supplemental Indentures executed pursuant to the provisions hereof.

**Independent Certified Public Accountant** means any certified public accountant or firm of such accountants duly licensed and entitled to practice and practicing as such under the laws of the State or a comparable successor, appointed and paid by the City, and who, or each of whom:

- (1) is in fact independent according to the Statement of Auditing Standards No. 1 and not under the domination of the City;
- (2) does not have a substantial financial interest, direct or indirect, in the operations of the City; and
- (3) is not connected with the City as a member, officer or employee of the City, but who may be regularly retained to audit the accounting records of and make reports thereon to the City.

**Independent Engineer** means a registered engineer or firm of registered engineers generally recognized to be well-qualified in engineering matters relating to utility systems, appointed and paid by the City, and who:

- (1) is in fact independent and not under the domination of the City or any member thereof;
- (2) does not have a substantial financial interest, direct or indirect, in the operations of the City; and
- (3) is not connected with the City as an officer or employee of the City or any member thereof, but who may be regularly retained to make reports to the City.

**Independent Financial Consultant** means a financial consultant qualified in the field of municipal finance, appointed and paid by the City, and who:

- (1) is in fact independent and not under the domination of the City or any member thereof;
- (2) does not have a substantial financial interest, direct or indirect, in the operations of the City; and
- (3) is not connected with the City as an officer or employee of the City or any member thereof, but who may be regularly retained to make reports to the City.

**Information Service** means the Municipal Securities Rulemaking Board (the “MSRB”) through its Electronic Municipal Market Access (“EMMA”) website, or, in accordance with then-current guidelines of the Securities and Exchange Commission, such other addresses and or such other services providing information with respect to called bonds, or no such services, as the City may designate in a Certificate of the City delivered to the Trustee.

**Insurance Consultant** means an individual or firm, employed by the City, including the Risk Manager of the City, that has actuarial-experienced personnel in the field of risk management.

**[Insurance Policy]** means either the insurance policy issued by the Insurer guaranteeing the scheduled payment of principal of and interest on the Bonds.]

**[Insurer]** means [INSURER].]

**Interest Fund** means the Interest Fund established pursuant to Section 6.05 (Allocation of Moneys).

**Interest Payment Date** means March 1 and September 1 of each year, commencing September 1, 2017.

**[Late Payment Rate]** means, with respect to the Reserve Policy, \_\_\_\_.]

**Mandatory Sinking Account Payment** means, with respect to Bonds of any maturity, the amount required by this Indenture to be deposited by the City in a Sinking Account for the payment of Term Bonds of such maturity.

**Maximum Annual Debt Service** means the greatest amount of Debt Service with respect to the Bonds or Parity Debt to which reference is made coming due in any specified annual period including the annual period in which the calculation is made or any subsequent such annual period.

**Moody's** means Moody's Investors Service, Inc., and its successors and assigns, except that if Moody's no longer maintains a rating on the Bonds, any other nationally recognized bond rating agency then maintaining a rating on the Bonds, but only so long as a nationally recognized rating agency then maintains a rating on the Bonds.

**Net Proceeds** means, when used with respect to any condemnation award or with respect to any insurance proceeds, the amount of such condemnation award or such insurance proceeds remaining after payment of all expenses (including attorneys' fees) incurred in the collection of such award or such proceeds.

**Net Revenues** means Gross Revenues less Operation and Maintenance Expenses.

**Operation and Maintenance Expenses** means: (a) all expenses and costs of management, operation, maintenance and repair incurred by the City for the collection of wastewater, as well as the cost of maintaining the City System, and all incidental costs, fees and expenses properly chargeable to the City System (but excluding debt service or other similar payments on Parity Debt or other obligations and depreciation and obsolescence charges or reserves therefor and amortization of intangibles and inter-fund transfers or other bookkeeping entries of a similar nature); and (b) all expenses and costs of management, operation, maintenance and repair billed by the Authority to the City for the treatment of wastewater at the Wastewater Enterprise Facilities, as well as the cost of maintaining the Wastewater Enterprise Facilities and all incidental costs, fees and expenses properly chargeable to the Wastewater Enterprise Facilities, which expenses and costs are billed to the City. "Operation and Maintenance Expenses" does not include the installments of principal and interest components of the 2011 Loan Agreement or the 2017 Loan Agreement or the expenses and costs of management, operation, maintenance and repair of the Water Reclamation Facilities.



**Opinion of Counsel** means a written opinion of counsel experienced in the field of law relating to municipal bonds, appointed and paid by the City.

**Outstanding**, when used as of any particular time with reference to Bonds, means all Bonds except

- (1) Bonds theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation;
- (2) Bonds paid or deemed to have been paid within the meaning of Section 5.01(A) (Discharge of Indenture -- Payment of Bonds); and
- (3) Bonds in lieu of or in substitution for which other Bonds shall have been executed, issued and delivered by the City pursuant hereto.

**Owner** means any person who shall be the registered owner of any Outstanding Bond.

**Parity Debt** means indebtedness or other obligations (including leases, loan agreements, and installment sale agreements) heretofore or hereafter issued or incurred by the City that are secured by a pledge of and lien on Net Revenues equally and ratably with the debt service payments on the Bonds. The 2011 Loan Agreement and the 2017 Loan Agreement are Parity Debt.

**Permitted Investments** means any of the following to the extent permitted by the laws of the State (the Trustee is entitled to rely on any Written Request of the City directing investments as a certification to the Trustee that such investments are so permitted):

- (1) Direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury, and CATS and TIGRS) or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.
- (2) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself):

U.S. Export-Import Bank (Eximbank)

Direct obligations or fully guaranteed certificates of beneficial ownership

Farmers Home Administration (FmHA)

Certificates of beneficial ownership

Federal Financing Bank

Federal Housing Administration (FHA)

Debentures

General Services Administration

Participation Certificates

Government National Mortgage Association (GNMA or “Ginnie Mae”)  
GNMA - guaranteed mortgage-backed bonds  
GNMA - guaranteed pass-through obligations (participation certificates)

U.S. Maritime Administration  
Guaranteed Title XI financing

U.S. Department of Housing and Urban Development (HUD)  
Project Notes  
Local Authority Bonds  
New Communities Debentures – U.S. government guaranteed debentures  
U.S. Public Housing Notes and Bonds – U.S. government guaranteed  
public housing notes and bonds

- (3) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities are only permitted if they have been stripped by the agency itself):

Federal Home Loan Bank System  
Senior debt obligations

Federal Home Loan Mortgage Corporation (FHLMC or “Freddie Mac”)  
Participation Certificates  
Senior debt obligations

Federal National Mortgage Association (FNMA or “Fannie Mae”)  
Mortgage-backed securities and senior debt obligations

Resolution Funding Corp. (REFCORP)  
obligations

Farm Credit System  
Consolidated systemwide bonds and notes.

- (4) Money market funds, including funds of the Trustee or any affiliate, registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by Standard & Poor’s of AAAM-G; AAAM; or AA-m and if rated by Moody’s rated Aaa, Aa1 or Aa2 but excluding funds with a floating net asset value.
- (5) Certificates of deposit secured at all times by collateral described in (1) and/or (2) above. Such certificates must be issued by commercial banks, savings associations or mutual savings banks. The collateral must be held by a third party and the Trustee, on behalf of Owners, must have a perfected first security interest in the collateral.
- (6) Certificates of deposit, savings accounts, deposit accounts or money market deposits, including deposits in the Trustee or any affiliate, that are fully insured by the Federal Deposit Insurance Corporation, including BIF and SAIF, or secured at all times by collateral described in (1) and/or (2) above..

- (7) [Investment Agreements, including guaranteed investment contracts, forward purchase agreements, and reserve fund put agreements acceptable to the Insurer.]
- (8) Commercial paper rated, at the time of purchase, “Prime-1” by Moody’s and “A 1” or better by Standard & Poor’s.
- (9) Bonds or notes issued by any state or municipality that are rated by Moody’s and Standard & Poor’s in one of the two highest Rating Categories assigned by such agencies.
- (10) Federal funds or bankers acceptances with a maximum term of one year of any bank that has an unsecured, uninsured and unguaranteed obligation rating of “Prime-1” or “A3” or better by Moody’s and “A-1” or “A” or better by Standard & Poor’s.
- (11) Repurchase agreements that provide for the transfer of securities from a dealer bank or securities firm (seller/borrower) to the Trustee (buyer/lender), and the transfer of cash from the Trustee to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the Trustee in exchange for the securities at a specified date. [Repurchase Agreements (“repos”) with a term that exceeds 30 days must be acceptable to the Insurer.] Repos with a term of 30 days or less must satisfy the following criteria:

Repos must be between the Trustee and a dealer bank or securities firm

Primary dealers on the Federal Reserve reporting dealer list that are rated A or better by Standard & Poor’s and Moody’s, or

Banks rated “A” or above by Standard & Poor’s and Moody’s.

The written repo contract must include the following:

Securities that are acceptable for transfer are:

Direct U.S. governments

Federal agencies backed by the full faith and credit of the

U.S. government (and FNMA & FHLMC)

The term of the repo may be up to 30 days

The collateral must be delivered to the Trustee (if Trustee is not supplying the collateral) or third party acting as agent for the Trustee before/simultaneous with payment (perfection by possession of certificated securities).

Valuation of Collateral

The securities must be valued weekly, marked-to-market at current market price plus accrued interest. The value of collateral must be equal to 104% of the amount of cash transferred by the Trustee to the dealer bank or security firm under the repo plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred by Trustee, then additional cash and/or acceptable securities must be transferred. If,

however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%.

Legal opinion that must be delivered to the City:

Repo meets guidelines under state law for legal investment of public funds.

- (12) Pre-refunded municipal bonds rated “Aaa” by Moody’s and “AAA” by Standard & Poor’s. If, however, the issue is only rated by Standard & Poor’s (i.e., there is no Moody’s rating), then the pre-refunded bonds must have been pre-refunded with cash, direct U.S. or U.S. guaranteed obligations, or AAA rated pre-refunded municipals to satisfy this condition.
- (13) The Local Agency Investment Fund referred to in Section 16429.1 of the California Government Code.
- (14) Shares in a California common law trust established pursuant to Title 1, Division 7, Chapter 5 of the Government Code of the State of California that invests exclusively in investments permitted by Section 53601 of Title 5, Division 2, Chapter 4 of the California Government Code, as it may be amended (California Asset Management Program).

**Person** means a corporation, firm, association, partnership, trust, or other legal entity or group of entities, including a governmental entity or any agency or political subdivision thereof.

**Principal Fund** means the Principal Fund established pursuant to Section 6.05 (Allocation of Moneys).

**Principal Payment Date** means March 1 of each year, commencing March 1, 2018.

**Prior Bonds** means the Solana Beach Public Financing Authority Subordinate Wastewater Revenue Bonds, Series 2006.

**Prior Indenture** means the Indenture of Trust dated as of December 1, 2006, by and between the Solana Beach Public Financing Authority and the Prior Trustee, relating to the Prior Bonds.

**Prior Trustee** means Union Bank of California, N.A., as trustee under the Prior Indenture..

**Rate Stabilization Fund** means the Rate Stabilization Fund established pursuant to Section 7.10 (Rate Stabilization Fund).

**Rating Agencies** means Standard & Poor’s and Moody’s or, in the event that Standard & Poor’s or Moody’s no longer maintains a rating on the Bonds, any other nationally recognized bond rating agency then maintaining a rating on the Bonds, but, in each instance, only so long as Standard & Poor’s, Moody’s or other nationally recognized rating agency then maintains a rating on the Bonds.

**Rating Category** means (i) with respect to any long-term rating category, all ratings designated by a particular letter or combination of letters, without regard to any numerical modifier, plus or minus sign or other modifier and (ii) with respect to any short-term or commercial paper rating category, all ratings designated by a particular letter or combination of letters and taking into account any numerical modifier, but not any plus or minus sign or other modifier.

**Redemption Price** means, with respect to any Bond (or portion thereof) the principal amount of such Bond (or portion) plus the applicable premium, if any, payable upon redemption thereof pursuant to the provisions of such Bond and this Indenture.

**Refunding Instructions** means the instructions from the City to the Prior Trustee to effect redemption of the Prior Bonds.

**Regular Record Date** means the fifteenth day of the month immediately preceding an Interest Payment Date, whether or not such day is a Business Day.

**Required Reserve** means, as of any date of calculation, the least of (i) Maximum Annual Debt Service in any Bond Year on all Bonds Outstanding, (ii) 125% of Average Annual Debt Service in any Bond Year on all Bonds Outstanding, and (iii) 10% of the original principal amount of the Bonds.

**Reserve Facility** means any letter of credit, insurance policy, surety bond or other credit source deposited with the Trustee pursuant to Section 6.08 (Funding and Application of Reserve Fund).

**Reserve Fund** means the Reserve Fund established pursuant to Section 6.08 (Funding and Application of Reserve Fund) hereof.

[**Reserve Policy** means either the municipal bond debt service reserve insurance policy issued by the Insurer with respect to the Bonds.]

[**Reserve Policy Costs** means repayment of draws under a Reserve Policy and payment of expenses and accrued interest thereon at the Late Payment Rate.]

**Responsible Officer of the Trustee** means any Vice President, Assistant Vice President or Trust Officer of the Trustee having regular responsibility for corporate trust matters related to this Indenture.

**Securities Depositories** means The Depository Trust Company, 711 Stewart Avenue, Garden City, New York 11530, Fax (516) 227-4039 or 4190; or such other addresses and/or such other securities depositories as the City may designate.

**Serial Bonds** means Bonds for which no scheduled mandatory redemptions are provided.

**Sinking Accounts** means the accounts in the Principal Fund so designated and established pursuant to Section 6.07 (Application of Principal Fund) for the payment of Term Bonds.

**Special Record Date** for the payment of any defaulted interest on the Bonds means a date fixed by the Trustee pursuant to Section 2.05 (Payment of Interest on the Bonds; Interest Rights Preserved).

**Standard & Poor's** means S&P Global Ratings, a business unit of Standard & Poor's Financial Services LLC, and its successors and assigns, except that if Standard & Poor's no longer maintains a rating on the Bonds, any other nationally recognized bond rating agency, but only so long as a nationally recognized rating agency then maintains a rating on the Bonds.

**State** means the State of California.

**Supplemental Indenture** means any indenture then in full force and effect that has been duly executed and delivered by the City and the Trustee amendatory hereof or supplemental hereto; but only if and to the extent that such Supplemental Indenture is specifically authorized hereunder.

**Tax Certificate** means the Tax Certificate delivered by the City at the time of the issuance and delivery of the Bonds, as the same may be amended or supplemented in accordance with its terms.

**Term Bonds** means Bonds that are subject to scheduled mandatory redemptions on or before their respective maturities calculated to retire such bonds on or before their specified maturity dates.

**Trustee** means MUFJ Union Bank, N.A., or any other association or corporation that may at any time be substituted in its place as provided in Section 10.09 (Removal and Resignation; Appointment of Successor).

**Wastewater Enterprise Facilities** means any and all facilities of any kind or purpose of or used by the Authority (excluding the Authority's Water Reclamation Facilities) used for the treatment and disposal of wastewater and any/or substance contained in or carried by wastewater, including without limitation sewage treatment plants, intercepting and collecting sewers, outfall sewers, force mains, pumping stations, ejector stations, pipes, valves, machinery, safety and systems for the protection, monitoring, command, control and operation thereof, and all other appurtenances necessary, useful or convenient for the foregoing, and any necessary lands, rights of way and other real or personal property useful in connection therewith.

**Water Reclamation Facilities** means the Authority's recycled water production and distribution facilities to the extent such facilities are used or useful in the Authority's tertiary treatment, sale and delivery of recycled water.

Section 1.02. Equal Security. In consideration of the acceptance of the Bonds by the Owners thereof, the Indenture shall be deemed to be and shall constitute a contract between the City and the Owners from time to time of all Bonds authorized, executed, issued and delivered hereunder and then Outstanding to secure the full and final payment of the interest on and principal of and redemption premiums, if any, on all Bonds which may from time to time be authorized, executed, issued and delivered hereunder, subject to the agreements, conditions, covenants and provisions contained herein; and all agreements and covenants set forth herein to be performed by or on behalf of the City shall be for the equal and proportionate benefit, protection and security of all Owners of the Bonds without distinction, preference or priority as to security or otherwise of any Bonds over

any other Bonds by reason of the number or date thereof or the time of authorization, sale, execution, issuance or delivery thereof or for any cause whatsoever, except as expressly provided herein or therein.

Section 1.03. Acts of Owners. Any request, consent or other instrument required or permitted by this Indenture to be signed and executed by Owners may be in any number of concurrent instruments of substantially similar tenor and shall be signed or executed by such Owners in person or by an agent or agents duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent, or of the holding by any person of Bonds transferable by delivery, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee and of the City if made in the manner provided in this Section.

The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such request, consent, or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution duly sworn to before such notary public or other officer.

Any request, consent, or other instrument or writing of the Owner of any Bond shall bind every future Owner of the same Bond and the Owner of every Bond delivered in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the City in accordance therewith or reliance thereon.

Section 1.04. Notices, etc., to City and Trustee. Any notice to or demand upon the Trustee may be served or presented, and such demand may be made, at the Corporate Trust Office. Any notice to or demand upon the City shall be deemed to have been sufficiently given or served for all purposes by being deposited, first-class mail postage prepaid, in a post office letter box, addressed to the City at 635 South Highway 101, Solana Beach, CA 92075, Attention: City Manager (or such other address as may have been filed in writing by the City with the Trustee).

Section 1.05. Notices to Owners; Waiver. In any case where notice to Owners is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Owners shall affect the sufficiency of such notice with respect to other Owners.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by the person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Owners shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 1.06. Form and Content of Documents Delivered to Trustee. Every certificate or opinion provided for in this Indenture with respect to compliance by or on behalf of the City with any provision hereof shall include (1) a statement that the person making or giving such certificate or opinion has read such provision and the definitions herein relating thereto, (2) a brief statement as to the nature and scope of the examination or investigation upon which the certificate or opinion is

based; (3) a statement that, in the opinion of such person, he has made or caused to be made such examination or investigation as is necessary to enable him to express an informed opinion with respect to the subject matter referred to in the instrument to which his signature is affixed; and (4) a statement as to whether, in the opinion of such person, such provision has been complied with.

Any such certificate or opinion made or given by an officer of the City may be based, insofar as it relates to legal or accounting matters, upon a certificate or opinion of or representation by counsel, an accountant, or an independent consultant, unless such officer knows, or in the exercise of reasonable care should have known, that the certificate, opinion or representation with respect to the matters upon which such certificate or statement may be based, as aforesaid, is erroneous. Any such certificate or opinion made or given by counsel, an accountant, or an independent consultant may be based, insofar as it relates to factual matters (with respect to which information is in the possession of the City) upon a certificate or opinion of or representation by an officer of the City, unless such counsel, accountant, or independent consultant knows, or in the exercise of reasonable care should have known, that the certificate or opinion or representation with respect to the matters upon which such person's certificate or opinion or representation may be based, as aforesaid, is erroneous. The same officer of the City, or the same counsel, or accountant or independent consultant, as the case may be, need not certify to all of the matters required to be certified under any provision of this Indenture, but different officers, counsel, accountants, or independent consultants may certify to different matters, respectively.

Section 1.07. Effect of Headings and Table of Contents. The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction, or effect of this Indenture.

Section 1.08. Successors and Assigns. Whenever herein either the City or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all agreements and covenants required hereby to be performed by or on behalf of the City or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof, whether so expressed or not.

Section 1.09. Benefits of the Indenture. Nothing contained herein, expressed or implied, is intended to give to any person other than the City, the Trustee and the Owners any right, remedy or claim under or by reason of this Indenture or any covenant, condition or provision herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the City, the Trustee, and the Owners of the Bonds.

Section 1.10. Payments/Actions Otherwise Scheduled on Non-Business Days. Except as specifically set forth in a Supplemental Indenture, any payments or transfers that would otherwise become due on any day that is not a Business Day shall become due or shall be made on the next succeeding Business Day. When any other action is provided for herein to be done on a day named or within a specified time period and the day named or the last day of the specified period falls on a day other than a Business Day, such action may be performed on the next succeeding Business Day with the same effect as though performed on the appointed day or within the specified period.



Section 1.11. No Personal Liability For Debt Service. No City Council member, governing board member, officer, or employee of the City shall be individually or personally liable for the payment of the interest on or principal of or redemption premiums, if any, on the Bonds by reason of their issuance, but nothing herein contained shall relieve any such member, officer or employee from the performance of any official duty provided by the Refunding Law or any other applicable provisions of law or hereby.

Section 1.12. Separability Clause. If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the City or the Trustee shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof or of the Bonds, and the Owners shall retain all the benefit, protection and security afforded to them under the Refunding Law or any other applicable provisions of law. The City and the Trustee hereby declare that they would have executed and delivered the Indenture and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof and would have authorized the issuance of the Bonds pursuant hereto irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

Section 1.13. Governing Law. This Indenture shall be governed by, and construed and interpreted in accordance with, the laws of the State.

Section 1.14. Execution in Several Counterparts. This Indenture may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the City and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

**ARTICLE II  
THE BONDS**

Section 2.01. The Bonds.

(A) Authorization; Title. The City hereby creates an issue of bonds and designates them the “City of Solana Beach 2017 Wastewater Revenue Refunding Bonds.” At any time after the execution and delivery of this Indenture, the City may execute and the Trustee shall authenticate and deliver the Bonds in the aggregate principal amount of \$[PAR AMOUNT] upon the Order of the City.

(B) Form of Bonds. The form of the Bonds shall be substantially as set forth in Exhibit A with such insertions, omissions, substitutions, and variations as may be determined by the officers executing the same, as evidenced by their execution thereof, to reflect the applicable terms of the Bonds established by this Article.

(C) Book-Entry Form; Denominations. The Bonds shall be issued in fully registered form, in Authorized Denominations and shall be initially registered in the name of “Cede & Co.,” as nominee of The Depository Trust Company. The Bonds shall be evidenced by one Bond maturing on each of the maturity dates of the Bonds in a denomination corresponding to the total

principal amount represented by the Bonds payable on such date. Registered ownership of the Bonds, or any portion thereof, may not thereafter be transferred except as set forth in Section 2.08 (Book-Entry Provisions). The Bonds shall bear such distinguishing numbers and letters as may be specified by the Trustee.

(D) Date; Interest Accrual; Maturity Dates; Interest Rates. The Bonds shall be dated their date of delivery, shall mature in the following amounts on the following dates, and shall bear interest from their date at the following rates per annum:

| <b>Maturity Date<br/>(March 1)</b> | <b>Principal Amount</b> | <b>Interest Rate</b> |
|------------------------------------|-------------------------|----------------------|
|------------------------------------|-------------------------|----------------------|

Interest on the Bonds shall be calculated on the basis of a 360 day year comprising twelve 30 day months.

(E) Principal and Interest Payments. The principal or Redemption Price of the Bonds shall be payable to the Owner thereof upon surrender thereof in lawful money of the United States of America at the Corporate Trust Office or, as provided in Section 2.08(E) (Book-Entry Provisions - Payments to Depository), by wire transfer on each principal and mandatory redemption payment date to “Cede & Co.” or its registered assign, as sole registered Owner. Interest on the Bonds is payable on September 1, 2017, and thereafter semiannually on March 1 and September 1 of each year by check mailed on the Interest Payment Date or, as provided in Section 2.08(E) (Book-Entry Provisions - Payments to Depository) and upon the written request received by the Trustee at least five (5) days before the applicable Record Date of any Owner of \$1,000,000 or more in aggregate principal amount of Bonds who has provided the Trustee with wire transfer instructions, by wire transfer on each Interest Payment Date to the Owner thereof at the close of business on the Regular Record Date. Any such written request shall remain in effect until rescinded in writing by the Owner. Any Owner that requests payment by wire transfer shall pay the associated wire charges. The Regular Record Date for the Bonds shall be the fifteenth (15th) day of the calendar month immediately preceding the relevant Interest Payment Date.

(F) Cessation of Interest Accrual. Interest on any Bond shall cease to accrue (i) on the maturity date thereof, provided that there has been irrevocably deposited with the Trustee an amount sufficient to pay the principal amount thereof, plus interest accrued thereon to such date; or (ii) on the redemption date thereof, provided there has been irrevocably deposited with the Trustee an amount sufficient to pay the redemption price thereof, plus interest accrued thereon to such date. The Owner of such Bond shall not be entitled to any other payment, and such Bond shall no longer be Outstanding and entitled to the benefits of this Indenture, except for the payment of the purchase price, principal amount or redemption price, of such Bond, as appropriate, from moneys held by the Trustee for such payment.

(G) Redemption of the Bonds.

(1) Casualty Loss or Governmental Taking. The Bonds are subject to redemption prior to maturity as a whole on any date or in part (in such maturities as may be specified by the City and at random within a maturity) on any Interest Payment Date, from funds received by the City due to a casualty loss or governmental taking of the City System or portions thereof by eminent domain proceedings, under the circumstances and upon the conditions and terms prescribed herein, at a redemption price equal to the sum of the principal amount thereof plus accrued interest thereon to the date fixed for redemption, without premium.

(2) Optional Redemption. The Bonds are also subject to redemption prior to their respective stated maturities at the option of the City, from moneys deposited by the City from any source of available funds, as a whole or in part (in such maturities as may be specified by the City and at random within a maturity) on any date on or after March 1, 20\_\_\_, at a redemption price equal to the principal amount of Bonds called for redemption, together with accrued interest to the date fixed for redemption, without premium.

(3) Mandatory Sinking Account Redemption. 20\_\_\_ Term Bonds. The Term Bonds maturing on March 1, 20\_\_\_, are subject to redemption prior to their stated maturity, in part, at random from amounts deposited into the 20\_\_\_ Sinking Account in the following amounts and on the following dates, at the principal amount thereof on the date fixed for redemption, without premium, but which amounts will be proportionately reduced by the principal amount of all Term Bonds optionally redeemed:

| <b>Mandatory Redemption Dates</b> | <b>Principal Amount</b> |
|-----------------------------------|-------------------------|
| <b>(March 1)</b>                  |                         |

\*

\_\_\_\_\_  
\*Maturity

(4) General. Procedural requirements for redemption of Bonds are set forth in Article IV (Redemption of Bonds).Execution, Authentication, Delivery, and Dating. The Bonds shall be executed in the name and on behalf of the City by the Mayor and countersigned by the City Clerk. The signature of any of these officers on the Bonds may be facsimile or manual. The Bonds shall then be delivered to the Trustee for authentication by it.

If any of the officers who has signed or attested any of the Bonds ceases to be such officer or officers of the City before the Bonds so signed or attested have been authenticated, or delivered by the Trustee, or issued by the City, such Bonds may nevertheless be authenticated, delivered, and issued and, upon such authentication, delivery, and issue, are as binding upon the City as though those who signed and attested the same had continued to be such officers of the City. Any Bond may be signed and attested on behalf of the City by such persons as at the actual date of execution such Bond is the proper officers of the City although at the nominal date of such Bond any such person was not such officer of the City.

No Bond is valid or obligatory for any purpose or entitled to the benefits of this Indenture unless there appears on such Bond a certificate of authentication substantially in the form provided for herein, manually executed by the Trustee. Such certificate of authentication when manually executed by the Trustee is conclusive evidence, and the only evidence, that such Bond has been duly executed, authenticated, and delivered hereunder.

Section 2.03. Registration, Transfer, and Exchange. The Trustee will keep or cause to be kept a register (herein sometimes referred to as the "Bond Register") in which, subject to such reasonable regulations as it may prescribe, the Trustee shall provide for the registration and transfer of Bonds. The Bond Register shall at all times be open to inspection during normal business hours by the City with reasonable notice.

Upon surrender of a Bond for transfer at the Corporate Trust Office, the City shall execute and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Bonds of the same tenor and maturity and for an equivalent aggregate principal amount.

Bonds may be exchanged for an equivalent aggregate principal amount of Bonds of other authorized denominations of the same tenor and maturity, upon surrender of the Bonds for exchange at the Corporate Trust Office. Upon surrender of Bonds for exchange, the City shall execute and the Trustee shall authenticate and deliver the Bonds that the Owner making the exchange is entitled to receive.

All Bonds surrendered upon any exchange or transfer provided for in this Indenture shall be promptly cancelled by the Trustee and thereafter disposed of as provided for in Section 2.07 (Cancellation).

All Bonds issued upon any transfer or exchange of Bonds are the valid obligations of the City, evidencing the same debt, and entitled to the same security and benefits under this Indenture, as the Bonds surrendered upon such transfer or exchange.

Every Bond presented or surrendered for transfer or exchange must be accompanied by a written instrument of transfer, in a form approved by the Trustee, that is duly executed by the Owner or by his attorney duly authorized in writing.

No service charge shall be made for any transfer or exchange of Bonds, but the Trustee shall require the Owner requesting such transfer or exchange to pay any tax or other governmental charge required to be paid with respect to such transfer or exchange. The cost of printing Bonds and any

services rendered or expenses incurred by the Trustee in connection with any transfer or exchange shall be paid by the City.

The Trustee shall not be required to transfer or exchange (i) Bonds during the period established by the Trustee for the selection of Bonds for redemption or (ii) any Bond that has been selected for redemption in whole or in part, except the unredeemed portion of such Bond selected for redemption in part, from and after the day that such Bond has been selected for redemption in whole or in part.

Section 2.04. Mutilated, Destroyed, Stolen or Lost Bonds. If (i) any mutilated Bond is surrendered to the Trustee, or the City and the Trustee receive evidence to their satisfaction of the destruction, loss, or theft of any Bond, and (ii) there is delivered to the City and the Trustee such security or indemnity as may be required by them to save each of them harmless, then the City shall execute, and upon its request the Trustee shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost, or stolen Bond, a new Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding.

Upon the issuance of any new Bond under this Section, the City may require payment of a sum sufficient to pay the cost of preparing such Bond, any tax or other governmental charge that may be imposed in relation thereto, and any other expenses connected therewith.

Every new Bond issued pursuant to this Section in lieu of any destroyed, lost, or stolen Bond constitutes an original additional contractual obligation of the City, whether or not the destroyed, lost, or stolen Bond is at any time enforceable by anyone, and shall be entitled to all the security and benefits of this Indenture equally and ratably with all other Outstanding Bonds secured by this Indenture. Neither the City nor the Trustee is required to treat both the new Bond and the Bond it replaces as being Outstanding for the purpose of determining the principal amount of Bonds that may be issued hereunder, but both the new Bond and the Bond it replaces shall be treated as one and the same.

Section 2.05. Payment of Interest on the Bonds; Interest Rights Preserved. Interest represented by any Bond that is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Owner thereof as of the close of business on the Regular Record Date for such interest specified in the provisions of this Indenture.

Any interest represented by any Bond that is payable but is not punctually paid or duly provided for on any Interest Payment Date forthwith ceases to be payable to the Owner on the relevant Regular Record Date. Such defaulted interest shall be paid to the Person in whose name the Bond is registered at the close of business on a Special Record Date for the payment of such defaulted interest to be fixed by the Trustee. In the name of the City and at the expense of the City, the Trustee shall cause notice of the payment of such defaulted interest and the Special Record Date to be mailed, first-class postage prepaid, to each Owner of a Bond at his address as it appears in the Bond Register not fewer than ten (10) days prior to such Special Record Date.

Subject to the foregoing provisions of this Section, each Bond delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Bond carries all the rights to interest accrued and unpaid, and to accrue, that were carried by such other Bond. Each such Bond bears

interest from such date that neither loss nor gain in interest results from such transfer, exchange, or substitution.

Section 2.06. Persons Deemed Owners of the Bonds. The City and the Trustee shall be entitled to treat the person in whose name any Bond is registered as the owner thereof for all purposes of the Indenture and any applicable laws, notwithstanding any notice to the contrary received by the Trustee or the City. The ownership of Bonds shall be proved by the Bond Register. The Trustee may establish a record date as of which to measure consent of the Owners in order to determine whether the requisite consents are received.

Section 2.07. Cancellation. All Bonds surrendered for payment, redemption, transfer, or exchange, if surrendered to the Trustee, shall be promptly cancelled by the Trustee and, if surrendered to any person other than the Trustee, shall be delivered to the Trustee and, if not already cancelled, shall be promptly cancelled by the Trustee.

The City shall deliver to the Trustee for cancellation any Bonds acquired in any manner by the City, and the Trustee shall promptly cancel such Bonds.

No Bond shall be executed in lieu of or in exchange for any Bond cancelled as provided in this Section, except as expressly provided by this Indenture. The Trustee shall destroy all cancelled Bonds and send the City a certificate of destruction.

Section 2.08. Book-Entry Provisions. Notwithstanding any provision of this Indenture to the contrary, the following provisions shall apply:

(A) Limitations on Transfer. Registered ownership of Bonds, or any portions thereof, may not be transferred except:

(1) To any successor of The Depository Trust Company or its nominee, or to any substitute depository designated pursuant to clause (2) of this subsection (“substitute depository”); provided that any successor of The Depository Trust Company or substitute depository shall be qualified under any applicable laws to provide the service proposed to be provided by it;

(2) To any substitute depository not objected to by the Trustee, upon (a) the resignation of The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository, or (b) a determination by the City that The Depository Trust Company or its successor (or any substitute depository or its successor) is no longer able to carry out its functions as depository; provided that any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it; or

(3) To any person as provided below, upon (a) the resignation of The Depository Trust Company or its successor (or substitute depository or its successor) from its functions as depository if no substitute depository that is not objected to by the Trustee can be obtained, or (b) a determination by the City that it is in the best interests of the City to remove The Depository Trust Company or its successor (or any substitute depository or its successor) from its function as depository.

(B) Execution and Delivery of New Bonds. In the case of any transfer pursuant to clause (1) or clause (2) of subsection 2.08(A) (Book-Entry Provisions -- Limitations on Transfer) hereof, upon receipt of all Outstanding Bonds by the Trustee, together with a Certificate of the City to the Trustee, a single new Bond for each maturity of Bonds in the aggregate principal amount of the Bonds of such maturity then Outstanding shall be executed and delivered, registered in the name of such successor or such substitute depository, or their nominees, as the case may be, all as specified in such Certificate of the City. In the case of any transfer pursuant to clause (3) of subsection 2.08(A) (Book-Entry Provisions -- Limitations on Transfer) hereof, upon receipt of all Outstanding Bonds by the Trustee together with a Certificate of the City to the Trustee, new Bonds shall be executed and delivered in such denominations and registered in the names of such persons as are requested in such Certificate of the City, subject to the limitations of Section 2.03 (Registration, Transfer, and Exchange) hereof; provided that the Trustee shall not be required to deliver such new Bonds within a period less than sixty (60) days from the date of receipt of such a Certificate of the City.

(C) Notation of Reduction of Principal. In the case of partial redemption, cancellation or a refunding of any Bonds evidencing all or a portion of the principal maturing in a particular year, The Depository Trust Company shall make an appropriate notation on the Bonds indicating the date and amounts of such reduction in principal, in form acceptable to the Trustee.

(D) No Responsibility to Persons Other Than Owners. The City and the Trustee shall be entitled to treat the person in whose name any book-entry only Bond is registered as the Owner thereof for all purposes of the Indenture and any applicable laws, notwithstanding any notice to the contrary received by the Trustee or the City; and the City and the Trustee shall have no responsibility for transmitting payments to, communication with, notifying, or otherwise dealing with any beneficial owners of such Bonds. Neither the City nor the Trustee will have any responsibility or obligations, legal or otherwise, to the beneficial owners or to any other party including The Depository Trust Company or its successor (or substitute depository or its successor), except for the Owner of any Bond.

(E) Payments to Depository. So long as all Outstanding Bonds are registered in the name of "Cede & Co." or its registered assign, the City and the Trustee shall cooperate with "Cede & Co.", as sole registered Owner of the Bonds, and its registered assigns in effecting payment of the principal of and redemption premium, if any, and interest on the Bonds by arranging for payment in such manner that funds for such payments are properly identified and are made immediately available on the date they are due.

Section 2.09. Validity of Bonds. The recitals in the Bonds that they are delivered pursuant to the constitution and statutes of the State shall be conclusive evidence of their validity and of compliance with provisions of law in their issuance and delivery.

**ARTICLE III**  
**APPLICATION OF PROCEEDS OF BONDS AND OTHER FUNDS; ESTABLISHMENT**  
**OF FUNDS**

Section 3.01. Application of Bond Proceeds. Upon receipt of that portion of the purchase price of the Bonds that is delivered to the Trustee (\$\_\_\_\_\_), the Trustee shall deposit or transfer that amount as follows:

- (a) transfer to the Prior Trustee \$\_\_\_\_\_ for the redemption of the Prior Bonds;
- (b) [deposit into the Reserve Fund \$\_\_\_\_\_.]
- (c) deposit into the Costs of Issuance Fund \$\_\_\_\_\_.

The Trustee may establish a temporary account in its records to facilitate such transfers.

Section 3.02. Establishment and Application of Costs of Issuance Fund. The Trustee shall establish, maintain, and hold a special fund designated as the "Costs of Issuance Fund." The amounts in the Costs of Issuance Fund shall be held by the Trustee in trust and applied to the payment of the costs of issuance of the Bonds, upon a Requisition filed with the Trustee, in the form attached hereto as Exhibit B. Any amounts remaining in the Costs of Issuance Fund five (5) months following the Closing Date shall be paid to the City.

**ARTICLE IV**  
**REDEMPTION OF BONDS**

Section 4.01. Notice to Trustee. In the case of any redemption at the election of the City of Outstanding Bonds, the City shall, at least forty-five (45) days prior to the date fixed for redemption (unless a shorter notice shall be satisfactory to the Trustee) notify the Trustee of such redemption date, of the principal amount of Bonds to be redeemed, and, if less than all the maturities are to be redeemed, the maturities that are to be redeemed.

Section 4.02. Selection by Trustee of Bonds to be Redeemed. If the Bonds are no longer in book-entry only form, if less than all the Outstanding Bonds of any maturity are to be redeemed, not more than sixty (60) days prior to the redemption date the Trustee shall select the particular Bonds of such maturity to be redeemed (in whole or in part) from the Outstanding Bonds of such maturity that have not previously been called for redemption, in minimum denominations of \$5,000, at random in any manner that the Trustee in its sole discretion shall deem appropriate and fair. For purposes of selection, each \$5,000 portion of a Bond shall be deemed to be a separate Bond.

The Trustee shall promptly notify the City in writing of the Bonds so selected for redemption and, in the case of a Bond selected for partial redemption, the principal amount represented thereby to be redeemed.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Bonds shall relate, in the case of any Bond redeemed or to be redeemed



only in part, to the portion of the principal represented by such Bond that has been or is to be redeemed.

Section 4.03. Notice of Redemption.

(A) Mailed Notice. Notice of redemption shall be mailed (first class postage prepaid) by the Trustee, not fewer than thirty (30) nor more than sixty (60) days prior to the redemption date, to (i) the respective Owners of any Bonds designated for redemption at their addresses appearing on the Bond Register, (ii) the Securities Depositories (if the Bonds are not then in book entry form), and (iii) the Information Service. Notice of redemption to the Securities Depositories shall be given by registered or overnight mail.

(B) Content of Notice. Each notice of redemption shall state the date of such notice, the date of issue of the Bonds, the redemption date, the amount of any redemption premium, the place or places of redemption (including the name and appropriate address or addresses of the Trustee), the CUSIP number (if any) of the maturity or maturities, and, if less than all of any such maturity, the distinctive certificate numbers of the Bonds of such maturity to be redeemed and, in the case of Bonds to be redeemed in part only, the respective portions of the principal amount represented thereby to be redeemed. Each such notice shall also state that on said date there will become due and payable on each of said Bonds the principal amount thereof or specified portion of the principal amount thereof in the case of a Bond to be redeemed in part only, together with premium (if any) and interest thereon accrued to the date fixed for redemption, and that from and after such redemption date interest thereon shall cease to accrue, and shall require that such Bonds be then surrendered at the address or addresses of the Trustee specified in the redemption notice. Neither the City nor the Trustee shall have any responsibility for any defect in the CUSIP number that appears on any Bond or in any redemption notice with respect thereto, and any such redemption notice may contain a statement to the effect that CUSIP numbers have been assigned by an independent service for convenience of reference and that neither the City nor the Trustee shall be liable for any inaccuracy in such numbers.

(C) Defects in Notice or Procedure. Failure by the Trustee to give notice to the Information Service or any of the Securities Depositories or failure of any Owner to receive notice or any defect in any such notice shall not affect the sufficiency of the proceedings for redemption. Failure by the Trustee to mail notice to any one or more of the respective Owners of any Bonds designated for redemption shall not affect the sufficiency of the proceedings for redemption with respect to the Owner or Owners to whom such notice was mailed.

(D) Conditional Notice of Redemption; Rescission of Redemption. The City may, at its option, specify in any notice of optional redemption that redemption is conditional upon the availability of money sufficient to pay the Redemption Price of all the Bonds that are to be redeemed on the date fixed for redemption. The City may, at its option, prior to the date fixed for optional redemption in any notice of redemption, rescind and cancel such notice of optional redemption by written notice to the Trustee on or prior to the date fixed for redemption. Any notice of redemption will be cancelled and annulled if for any reason funds are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation will not constitute a default under this Indenture. Neither the City nor the Trustee will have any

liability to the Owners or any other party as a result of the City's failure to redeem Bonds as a result of insufficient money.

Section 4.04. Deposit of Redemption Price; Payment of Amounts to Reserve Facility Providers. Prior to any date for redemption of Bonds, the City shall deposit with the Trustee an amount of money sufficient to pay the Redemption Price of all the Bonds that are to be redeemed on that date. Such money shall be held in trust for the benefit of the persons entitled to such Redemption Price. Prior to any date for optional redemption of Bonds, the City shall have paid in full all amounts due to each issuer of a Reserve Facility.

Section 4.05. Bonds Payable on Redemption Date; Effect of Redemption. Notice of redemption having been duly given as aforesaid and moneys for payment of the Redemption Price of the Bonds so to be redeemed being held by the Trustee, on the redemption date designated in such notice (i) the Bonds so to be redeemed shall become due and payable at the Redemption Price specified in such notice, (ii) interest on such Bonds shall cease to accrue, (iii) such Bonds shall cease to be entitled to any benefit or security under this Indenture, and (iv) the Owners of such Bonds shall have no rights in respect thereof except to receive payment of said Redemption Price. Upon surrender of any such Bond for redemption in accordance with said notice, such Bond shall be paid by Trustee at the Redemption Price. Installments of interest due on or prior to the Redemption Date shall be payable to the Owners of the Bonds on the relevant Record Dates according to the terms of such Bonds and the provisions of Section 2.05 (Payment of Interest on the Bonds; Interest Rights Preserved).

Section 4.06. Bonds Redeemed in Part. Upon surrender of any Bond redeemed in part only, the City shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the City, a new Bond or Bonds of authorized denominations, and of the same maturity, equal in aggregate principal amount to the unredeemed portion of the Bond surrendered.

## **ARTICLE V DEFEASANCE**

Section 5.01. Discharge of Indenture.

(A) Payment of Bonds. Any Bond may be paid in any of the following ways:

(1) by paying or causing to be paid the principal of and interest on the Bond, as and when the same become due and payable;

(2) by depositing with the Trustee, an escrow agent or other fiduciary, in trust, at or before maturity, money or securities in the necessary amount (as provided in Section 5.03 (Deposit of Money or Securities with Trustee)) to pay or redeem the Bond; or

(3) by delivering the Bond to the Trustee for cancellation.

(B) Consequence of Payment of All Bonds. If all Bonds that are Outstanding have been paid and the City has also paid or caused to be paid all other sums payable hereunder, then and in that case, at the election of the City, evidenced by a Statement of the City filed with the Trustee signifying the intention of the City to discharge all such obligations and this Indenture, and

notwithstanding that any Bonds shall not have been surrendered for payment, this Indenture, the pledge of assets made hereunder, all covenants and agreements and other obligations of the City under this Indenture, and the rights and interests created hereby (except as to any surviving rights of transfer or exchange of Bonds as provided in Section 2.03 (Registration, Transfer, and Exchange) and rights to payment from moneys deposited with the Trustee as provided in Section 5.02 (Discharge of Liability on Bonds)) shall cease, terminate, become void, and be completely discharged and satisfied. Notwithstanding the satisfaction and discharge of this Indenture, the obligations to the Trustee under Section 10.07 (Compensation and Indemnification of Trustee), the provisions of Section 10.09 (Removal and Resignation; Appointment of Successor), and the covenants of the City to preserve the exclusion of interest represented by the Bonds from gross income for federal income tax purposes contained in Section 8.05 (Federal Income Tax Covenants) shall survive.

(C) Delivery of Excess Funds. In such event, upon Request of the City, the Trustee shall cause an accounting for such period or periods as may be requested by the City to be prepared and filed with the City and shall execute and deliver to the City all such instruments as may be necessary or desirable to evidence such discharge and satisfaction, and the Trustee shall pay over, transfer, assign, or deliver to the City all moneys or securities or other property held by it pursuant to this Indenture that, as evidenced by a verification report (upon which the Trustee may conclusively rely) from an Independent Certified Public Accountant, are not required for the payment or redemption of Bonds not theretofore surrendered for such payment or redemption; subject to the provisions of Section 8.05 (Federal Income Tax Covenants) and the Tax Certificate with respect to moneys in the Rebate Fund.

(D) Notice of Defeasance. If moneys or Permitted Investments are deposited with and held by the Trustee as provided above, the Trustee shall within thirty (30) days after such money or Permitted Investments shall have been deposited with it mail a notice, first class postage prepaid, to the Owners at the addresses listed on the registration books kept by the Trustee pursuant to Section 2.03 (Registration, Transfer, and Exchange) hereof, (a) setting forth the maturity date or date fixed for redemption, as the case may be, of the Bonds, (b) giving a description of the Permitted Investments, if any, so held by it, and (c) stating that this Indenture has been discharged in accordance with the provisions of this Section.

Section 5.02. Discharge of Liability on Bonds. Upon the deposit with the Trustee, escrow agent, or other fiduciary, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 5.03 (Deposit of Money or Securities with Trustee)) to pay or redeem any Outstanding Bond (whether upon or prior to its maturity or the redemption date of such Bond), provided that, if such Bond is to be redeemed prior to maturity, notice of such redemption shall have been given as in Article IV (Redemption of Bonds) provided or provision satisfactory to the Trustee shall have been made for the giving of such notice, then all liability of the City in respect of such Bond shall cease, terminate, and be completely discharged, except that thereafter (i) the Owner thereof shall be entitled to payment of the principal of and interest on such Bond and premium, if any, thereon by the City, and the City shall remain liable for such payment, but only out of such money or securities deposited with the Trustee as aforesaid for their payment, subject, however, to the provisions of Section 5.04 (Payment of Bonds After Discharge of Indenture) and (ii) the Owner thereof shall retain its rights of transfer or exchange of Bonds as provided in Section 2.03 (Registration, Transfer, and Exchange).

The City may at any time surrender to the Trustee for cancellation by it any Bonds previously executed and delivered, which the City may have acquired in any manner whatsoever, and such Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

Section 5.03. Deposit of Money or Securities with Trustee. Whenever in this Indenture it is provided or permitted that there be deposited with or held in trust by the Trustee money or securities in the necessary amount to pay or redeem any Bonds, the money or securities so to be deposited or held may include money or securities held by the Trustee in the funds and accounts established pursuant to this Indenture and shall be:

(A) Cash. Lawful money of the United States of America in an amount equal to all unpaid principal of and interest on such Bonds to maturity, except that, in the case of Bonds that are to be redeemed prior to maturity and in respect of which notice of such redemption shall have been given as in Article V (Redemption of Bonds) provided or provision satisfactory to the Trustee shall have been made for the giving of such notice, the amount to be deposited or held shall be all unpaid principal of and interest on the Bonds to the redemption date and any redemption premium thereon; or

(B) Defeasance Securities. Defeasance Securities the principal of and interest on which when due will, together with the money (if any) deposited with or held by the Trustee at the same time, in the opinion of an Independent Certified Public Accountant delivered to the Trustee (upon which opinion the Trustee may conclusively rely), provide money sufficient to pay the principal of and all unpaid interest to maturity, or to the redemption date, as the case may be, on (and any redemption premium on) the Bonds to be paid or redeemed, as such principal or Redemption Price and interest become due, provided that, in the case of Bonds that are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article V (Redemption of Bonds) provided or provision satisfactory to the Trustee shall have been made for the giving of such notice; provided, in each case, that the Trustee shall have been irrevocably instructed (by the terms of this Indenture or by Request of the City) to apply such money to the payment of such principal or Redemption Price of and interest on such Bonds.

Section 5.04. Payment of Bonds After Discharge of Indenture. Any moneys held by the Trustee in trust for the payment of the principal of or interest or redemption premium on any Bonds and remaining unclaimed for two years after the principal of all of the Bonds has become due and payable (whether at maturity or upon call for redemption as provided in this Indenture), if such moneys were so held at such date, or two years after the date of deposit of such moneys if deposited after said date when all of the Bonds became due and payable, shall, upon Request of the City, be repaid to the City free from the trusts created by this Indenture, and all liability of the Trustee with respect to such moneys shall thereupon cease; provided, however, that, before the repayment of such moneys to the City as aforesaid, the Trustee shall (solely at the request and cost of the City) first mail to the Owners of any Bonds remaining unpaid at the addresses shown on the Bond Register a notice, in such form as may be deemed appropriate by the Trustee, with respect to the Bonds so payable and not presented and with respect to the provisions relating to the repayment to the City of the moneys held for the payment thereof. All moneys held by or on behalf of the Trustee for the payment of principal of or premium or interest on Bonds, whether at redemption or maturity, shall be held uninvested in trust for the account of the Owners thereof and the Trustee shall not be required to

pay Owners any interest on, or be liable to the Owners or any other person for any interest earned on, moneys so held.

## **ARTICLE VI NET REVENUES**

Section 6.01. Liability of City Limited to Net Revenues. Notwithstanding anything to the contrary contained herein, the City shall not be required to advance any money derived from any source other than the Net Revenues as provided herein for the payment of the interest on or principal of or redemption premiums, if any, on the Bonds or for the performance of any agreements or covenants herein contained. The City may, however, advance funds for any such purpose so long as such funds are derived from a source legally available for such purpose without incurring any indebtedness.

Section 6.02. Pledge of Net Revenues. The City hereby irrevocably pledges all Net Revenues to the payment of the Bonds as provided herein; provided that out of the Net Revenues there may be apportioned such sums for such purposes as are expressly permitted herein. The City further pledges to the payment of the Bonds any other amounts (including proceeds of the sale of such Bonds) held in any fund or account established pursuant to this Indenture for the City System, other than amounts on deposit in the Rebate Fund. These pledges shall constitute liens on the Net Revenues and (subject to the application of amounts on deposit therein for the payment of Operation and Maintenance Expenses and as otherwise permitted herein) the Gross Revenue Fund and the other funds and accounts created hereunder for the payment of the Bonds, Operation and Maintenance Expenses, and all Parity Debt in accordance with the terms hereof.

Section 6.03. Gross Revenue Fund. In order to carry out and effectuate the pledges and liens on the Net Revenues contained herein, the City agrees and covenants that all Gross Revenues shall be deposited when and as received in the "Gross Revenue Fund," which fund the City agrees and covenants to maintain so long as the Bonds remain unpaid. The City shall, from the moneys in the Gross Revenue Fund, pay all Operation and Maintenance Expenses as they become due and payable.

Section 6.04. Payments to Trustee. Not later than fifteen (15) days before each Interest Payment Date, the City shall pay to the Trustee from the Gross Revenue Fund such amount as is required by the Trustee to make the transfers and deposits required in such month by Section 6.05 (Allocation of Moneys) with respect to the Bonds. Each transfer by the City to the Trustee hereunder shall be in lawful money of the United States of America and paid to the Trustee at the Corporate Trust Office. The Trustee shall forthwith deposit the amounts received from the City relating to the Bonds in a trust fund designated as the "Bond Fund" which fund the Trustee shall designate and maintain, so long as any Bonds remain unpaid. All moneys at any time held in the Bond Fund shall be held in trust for the benefit of the Owners and any Parity Debt and shall be disbursed, allocated, and applied solely for the uses and purposes set forth in Section 6.05 (Allocation of Moneys).

Section 6.05. Allocation of Moneys. The Trustee shall set aside the moneys in the Bond Fund in the following respective funds or accounts (each of which the Trustee shall establish, maintain and hold in trust for the benefit of the Owners) in the following amounts, in the following order of

priority, the requirements of each such fund (including the making up of any deficiencies in any such fund resulting from lack of moneys sufficient to make any earlier required deposit) at the time of deposit to be satisfied before any deposit is made to any fund subsequent in priority:

(1) Interest Fund. On or before each Interest Payment Date, the Trustee shall set aside in the Interest Fund an amount equal to the aggregate amount of interest becoming due and payable on the Outstanding Bonds on such Interest Payment Date. No deposit need be made into the Interest Fund if the amount contained therein is at least equal to the interest due and payable on such Interest Payment Date upon all of the Bonds then Outstanding.

(2) Principal Fund; Sinking Accounts. On or before each Principal Payment Date, the Trustee shall deposit in the Principal Fund an amount equal to (a) the aggregate amount of principal becoming due and payable with respect to the Outstanding Serial Bonds, and (b) the aggregate principal amount of Bonds to be redeemed on such date from the respective Sinking Accounts for the Term Bonds.

(3) Surplus Amounts. Any moneys remaining in a Bond Fund after the foregoing transfers described in (1) and (2) above shall be deposited, in order of priority, (i) into the Reserve Fund to the extent that the amount therein is less than the Required Reserve, and (ii) into the Rebate Fund, if so directed by the City. Amounts not required to be so deposited shall be transferred to the City, except that any amounts representing delinquent payments shall remain on deposit in the Bond Fund. The City may use and apply any moneys when received by it for any purpose with respect to the City System, including the redemption of the Bonds upon the terms and conditions set forth herein and the purchase of Bonds as and when and at such prices as it may determine.

Section 6.06. Application of Interest Fund. All money in an Interest Fund shall be used and withdrawn by the Trustee solely for the purpose of paying interest on the Bonds as it shall become due and payable (including accrued interest on any such Bonds purchased or redeemed prior to maturity).

Section 6.07. Application of Principal Fund.

(A) Use of Amounts in a Principal Fund. All amounts in the Principal Fund shall be used and withdrawn by the Trustee solely for the purposes of paying the principal of the Bonds when due and payable, except that all amounts in the Sinking Account shall be used and withdrawn by the Trustee solely to purchase or redeem or pay such Bonds at maturity, as provided herein.

(B) Sinking Accounts. The Trustee shall establish and maintain within the Principal Fund a separate account for the related Term Bonds of each maturity, designated as the “\_\_\_\_\_ Sinking Account,” inserting therein the maturity designation of such Bonds. On any date upon which Term Bonds are subject to mandatory redemption, the Trustee shall transfer the amount of the principal then redeemable from the Principal Fund to the applicable Sinking Account. With respect to each Sinking Account, on each mandatory redemption date established for such Sinking Account, the Trustee shall apply the amount required on that date to the redemption (or payment at maturity, as the case may be) of Term Bonds of such maturity for which such Sinking Account was established, upon the notice and in the manner provided herein; provided that, at any

time prior to giving such notice of such redemption, the Trustee shall, upon receipt of a Request of the City, apply moneys in such Sinking Account to the purchase (in whole or in part) of Term Bonds of such maturity at public or private sale, as and when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Fund) as is directed by the City, except that the purchase price (excluding accrued interest) shall not exceed the principal amount represented thereby. If, during the twelve-month period immediately preceding said mandatory redemption date, the Trustee has purchased Term Bonds of such maturity with moneys in such Sinking Account, or, during said period and prior to giving said notice of redemption, the City has deposited Term Bonds of such maturity with the Trustee, such Term Bonds so purchased or deposited or redeemed shall be applied, to the extent of the full principal amount represented thereby, to reduce the amount required for deposit on the mandatory redemption date in the Sinking Account.

Any amounts remaining in a Sinking Account when all of the Term Bonds for which such account was established are no longer Outstanding shall be withdrawn by the Trustee and transferred to the City to be used for any lawful purpose.

All Bonds purchased from a Sinking Account or deposited by the City with the Trustee in a twelve-month period ending September 1, shall be allocated first to the next succeeding mandatory redemption for such maturity of Term Bonds, then as a credit against such future mandatory redemptions for such maturity of Term Bonds as may be specified in a Request of the City.

Section 6.08. Funding and Application of Reserve Fund.

(A) Funding of the Reserve Fund. The Trustee shall establish and maintain a separate fund designated as the "Reserve Fund." [The Required Reserve for the Bonds will initially be satisfied by the delivery of a Reserve Policy.]

(B) Substitution of Cash. The City may at any time substitute cash for all or part of the amount available to be paid to the Trustee under any Reserve Facility delivered pursuant to this Section to satisfy the Required Reserve.

(C) Replenishment of Reserve Fund. The City shall deposit as soon as possible in each month in the Reserve Fund, except as otherwise provided in this Section, upon the occurrence of any deficiency therein, one-twelfth (1/12th) of the aggregate amount of each unreplenished prior withdrawal from that Reserve Fund and one-fourth (1/4) of the aggregate amount of any deficiency due to any required valuations of the investments in that Reserve Fund until the total of the cash balance in the Reserve Fund and the amount available under any Reserve Facility is at least equal to the Required Reserve.

(D) Other Reserve Facility. In lieu of making the Required Reserve replenishment deposits in compliance with subsection (C) of this Section, or in replacement of moneys then on deposit in a Reserve Fund (which shall be transferred by the Trustee to the City), the City may also deliver to the Trustee an insurance policy, surety bond, or other Reserve Facility securing an amount, together with moneys or Permitted Investments on deposit in the Reserve Fund, no less than the Required Reserve issued by an insurance company whose unsecured debt obligations (or for which obligations secured by such insurance company's insurance policies or surety bonds) are rated at the

time of issuance in one of the two highest Rating Categories of each nationally recognized bond rating agency that then maintains a rating on the Bonds and, if rated by A.M. Best & Company, must also be rated in the highest rating category by A.M. Best & Company. Such Reserve Facility shall have a term of no less than the maturity of the Bonds in connection with which such Reserve Facility was obtained. [In addition, the Reserve Facility must be acceptable to the Insurer.] If such Reserve Facility for any reason lapses or expires, the City shall immediately make the required deposits to the Reserve Fund.

(E) Use of Amounts in Reserve Fund.

(1) Payment of Debt Service Deficiencies. All amounts in the Reserve Fund (including all amounts that may be obtained from Reserve Facilities on deposit in the Reserve Fund) shall be used and withdrawn by the Trustee, as hereinafter provided, solely for the purpose of paying debt service on the Bonds in the event of any deficiency in the Interest Fund or Principal Fund, or (together with any other moneys available therefor) for the payment or redemption of all Bonds then Outstanding, or for the payment of the final principal and interest payment with respect to the Bonds secured by the Reserve Fund (provided that following such payment the amounts in the Reserve Fund (including the amounts that may be obtained from Reserve Facilities on deposit therein) will equal the Required Reserve. The Trustee shall first draw on the portion of the Reserve Fund held in cash or Permitted Investments and then, on a pro rata basis with respect to amounts held in the form of Reserve Facilities (calculated by reference to the maximum amounts of such Reserve Facilities), draw on or collect under each Reserve Facility issued with respect to the Reserve Fund, in a timely manner and pursuant to the terms of such Reserve Facility to the extent necessary in order to obtain sufficient funds on or prior to the date such funds are needed to pay the principal of and interest on the Bonds when due.

(2) Repayment of Amounts Recovered as Preferences in Bankruptcy. If the Trustee has notice that any payment of principal or interest represented by a Bond has been recovered from an Owner pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Trustee, pursuant to and provided that the terms of the Reserve Facility, if any, securing that Bond so provide, shall so notify the issuer thereof and draw on or collect under such Reserve Facility to the lesser of the extent required or the maximum amount of such Reserve Facility in order to pay to such Owner the principal and interest so recovered. If and to the extent that the Required Reserve is satisfied by a deposit of cash or Permitted Investments and one or more Reserve Facilities (or any combination thereof), the Trustee shall first draw on the portion of the Reserve Fund held in cash or Permitted Investments and then make drawings on or collect under such Reserve Facilities on a pro rata basis (calculated by reference to the maximum amounts of such Reserve Facilities).

(3) Reimbursement to Reserve Facility Providers. If the Trustee draws on or collects under a Reserve Facility, the Trustee shall use amounts deposited in the Reserve Fund by the City following such draw or collection first to make the payments required by the terms of the Reserve Facility or related reimbursement or loan agreement so that the Reserve Facility shall, absent the delivery to the Trustee of a substitute Reserve Facility [acceptable to the Insurer] that satisfies the requirements of this Section or the deposit in the



Reserve Fund of an amount sufficient to increase the balance in the Reserve Fund to the Required Reserve, be reinstated in the amount of such draw or collection within one year of the date of the draw or collection. After such reinstatement, the Trustee shall use amounts deposited in the Reserve Fund by the City for the replenishment of the portion of the Reserve Fund held in cash or Permitted Investments.

(F) Transfer of Excess Amounts. Any amounts in a Reserve Fund in excess of the Required Reserve (as calculated by the City) shall be transferred by the Trustee to the City on the last Business Day of March and September of each year; provided that such amounts shall be transferred only from the portion of the Reserve Fund held in the form of cash or Permitted Investments and further provided that the City is not then in default hereunder.

Section 6.09. Rebate Fund. If directed by the City, the Trustee shall establish and maintain a fund designated as the "Rebate Fund" separate from any other fund held by the Trustee. The Trustee shall deposit moneys into and disburse moneys from the Rebate Fund pursuant to written instructions from the City. The Trustee shall be deemed conclusively to have complied with the provisions of this Section and the Tax Certificate if it follows the instructions of the City, including to supply all necessary information in the manner specified in the Tax Certificate. In the absence of written instructions from the City, the Trustee shall not be required to take any action with respect to the Rebate Fund or the Tax Certificate and shall have no liability or responsibility to enforce compliance by the City with the terms of the Tax Certificate.

Section 6.10. Investments of Money in Accounts and Funds.

(A) Investment in Permitted Investments. All moneys in any of the funds and accounts held by the Trustee and established pursuant to this Indenture shall be invested solely as directed by the City, solely in Permitted Investments. All Permitted Investments shall, as directed by the City in writing, be acquired subject to the limitations set forth in Section 8.05 (Federal Income Tax Covenants), the limitations as to maturities hereinafter in this Section set forth and such additional limitations or requirements consistent with the foregoing as may be established by Request of the City and not inconsistent with the duties of the Trustee under this Indenture. If and to the extent the Trustee does not receive investment instructions from the City with respect to the moneys in the funds and accounts held by the Trustee pursuant to this Indenture, such moneys shall be invested in Permitted Investments described in clause (4) (Money Market Funds) of the definition thereof; provided, however, that any such investment shall be made by the Trustee only if, prior to the date on which such investment is to be made, the Trustee shall have received a written direction from the City specifying a specific money market fund and, if no such written direction from the City is so received, the Trustee shall hold such moneys uninvested.

(B) Maturity of Investments. Moneys in the Reserve Fund shall be invested in Permitted Investments maturing within five years of the date of such investment, but in no event later than the final maturity of the Bonds secured thereby, or, in the case of Investment Agreements, available by the terms thereof for withdrawal at the times and for the purposes required for the application of funds in the Reserve Fund. Moneys in the remaining funds and accounts shall be invested in Permitted Investments maturing or available on demand not later than the date on which it is estimated that such moneys will be required by the Trustee.

(C) Deposit of Earnings. All interest, profits, and other income received from the investment of moneys in any fund or account held by the Trustee hereunder, other than the Costs of Issuance Fund and the Rebate Fund, shall be transferred to the Bond Fund when received. All interest, profits, and other income received from the investment of moneys in the Costs of Issuance Fund or the Rebate Fund shall be deposited in such fund, except as otherwise directed by the City. Notwithstanding anything to the contrary contained in this paragraph, an amount of interest received with respect to any Permitted Investment equal to the amount of accrued interest, if any, paid as part of the purchase price of such Permitted Investment shall be credited to the fund or account from which such accrued interest was paid.

(D) Valuation. All Permitted Investments credited to the Reserve Fund shall be valued as of each Interest Payment Date at their fair market value determined to the extent practical by any quotation service selected by the Trustee in its discretion, including such pricing services as may be available to the Trustee within the Trustee's regular accounting system.

(E) Accounting; Acquisition and Disposition. The Trustee may commingle any of the funds or accounts established pursuant to this Indenture into a separate fund or funds for investment purposes only, provided that all funds or accounts held by the Trustee hereunder shall be accounted for separately as required by this Indenture. The Trustee and its affiliates may act as sponsor, advisor, depository, principal, or agent in the making or disposing of any investment and, with the prior written consent of the City, may impose its customary charge therefor. The City acknowledges that, to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grants the City the right to receive brokerage confirmations or security transactions as they occur, the City specifically waives receipt of such confirmations to the extent permitted by law. The City further understands that trade confirmations for securities transactions effected by the Trustee will be available upon request and at no additional cost and other trade confirmations may be obtained from the applicable broker. The Trustee shall furnish the City periodic cash transaction statements that include detail for all investment transactions effected by the Trustee and brokers selected by the City. Upon the City's election, such statements will be delivered via the Trustee's Online Trust and Custody service and paper statements will be provided only upon request. The Trustee may sell at the best price reasonably obtainable, or present for redemption, any Permitted Investments so purchased whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal, or disbursement from the fund or account to which such Permitted Investment is credited, and the Trustee shall not be liable or responsible for any loss resulting from such investment.

Section 6.11. Funds and Accounts. Any fund required by this Indenture to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee, either as a fund or an account, and may, for the purposes of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account; but all such records with respect to all such funds shall at all times be maintained in accordance with customary standards of the corporate trust industry, to the extent practicable, and with due regard for the protection of the security of the Bonds and the rights of every Owner thereof.

Section 6.12. Money Held for Particular Bonds. The money held by the Trustee for the payment of the interest, principal, or Redemption Price due on any date with respect to particular Bonds (or portions of Bonds in the case of Bonds redeemed in part only) shall, on and after such date

and pending such payment, be set aside on its books and held uninvested in trust by it for the Owners of the Bonds entitled thereto, subject, however, to the provisions of Section 5.04 (Payment of Bonds After Discharge of Indenture).

**ARTICLE VII  
FINANCIAL COVENANTS OF THE CITY**

Section 7.01. Compliance with Law; Preservation of Rights. The City will faithfully comply with, keep, observe, and perform all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States of America or of the State of California, or by any officer, board, or commission having jurisdiction or control, as a condition of the continued enjoyment of each and every franchise, right, or privilege now owned or hereafter acquired by them, including their right to exist and carry on its businesses, to the end that such franchises, rights, and privileges shall be maintained and preserved and shall not become abandoned, forfeited, or in any manner impaired.

Section 7.02. Against Additional Prior Lien Obligations and Other Encumbrances; Subordinate Obligations.

(A) Additional Prior Lien Obligations. The City hereby covenants and agrees that it shall not incur any obligations that are secured by a pledge and lien on the Net Revenues that is senior to the pledge and lien on the Net Revenues contained herein.

(B) Other Encumbrances. The City will not make any pledge of or place any lien on the Gross Revenues except as provided herein.

(C) Subordinate Obligations. The City may at any time, or from time to time, issue evidences of indebtedness for any lawful purpose that are payable from and secured by a pledge of and lien on any moneys transferred to other funds of the City (as provided in Section 6.05(3) (Allocation of Moneys – Surplus Amounts)), provided that such pledge and lien shall be subordinate in all respects to the pledges of and liens on the Net Revenues provided herein.

Section 7.03. Against Sale or Other Disposition of Property. The City will not sell, lease, or otherwise dispose of the City System or any part thereof essential to the proper operation of the City System or to the maintenance of the Gross Revenues. The City will not enter into any agreement or lease that impairs the operation of the City System or any part thereof necessary to secure adequate Net Revenues for the payment of the Bonds or that would otherwise impair the rights of the City with respect to the Gross Revenues or the operation of the City System. Any real or personal property that has become nonoperative or that is not needed for the efficient and proper operation of the City System, or any material or equipment that has become worn out, may be sold by the City. The City shall deposit the proceeds of such sale in the Gross Revenue Fund.

Section 7.04. Operation and Maintenance of the City System. The City will maintain and preserve the City System in good repair and working order at all times and will operate the City System in an efficient and economical manner and will pay all Operation and Maintenance Expenses of the City System as they become due and payable.

Section 7.05. Payment of Claims. The City will pay and discharge any and all lawful claims for labor, materials or supplies that, if unpaid, might become a lien on the Net Revenues or any part thereof or on any funds in the hands of the City prior or superior to the lien of the Bonds or that might impair the security of the Bonds.

Section 7.06. Compliance with Contracts. The City will comply with, keep, observe and perform all agreements, conditions, covenants, and terms (express or implied) required to be performed by it contained in all contracts for the use of the City System and all other contracts affecting or involving the City System to the extent that the City is a party thereto.

Section 7.07. Insurance; Application of Net Proceeds.

(A) Casualty Insurance. The City will procure and maintain or cause to be procured and maintained insurance on the City System with responsible insurers in such amounts and against such risks (including accident to or destruction of the City System) as are usually covered in connection with utility systems similar to the City System so long as such insurance is available from reputable insurance companies. In the event of any damage to or destruction of the City System caused by the perils covered by such insurance, the Net Proceeds thereof shall be applied to the reconstruction, repair, or replacement of the damaged or destroyed portion of the City System. The City shall begin such reconstruction, repair, or replacement promptly after such damage or destruction shall occur; shall continue and properly complete such reconstruction, repair, or replacement as expeditiously as possible; and shall pay out of such Net Proceeds all costs and expenses in connection with such reconstruction, repair, or replacement so that the same shall be completed and the City System shall be free and clear of all claims and liens. If such Net Proceeds exceed the costs of such reconstruction, repair, or replacement, then the excess Net Proceeds shall be applied in part to the redemption of the Bonds issued for the City System as provided in Article II (The Bonds) and in part to such other fund or account as may be appropriate and used for the retirement of Parity Debt in the same proportion that the aggregate unpaid principal balance of the Bonds to be redeemed then bears to the aggregate unpaid principal amount of such Parity Debt. If such Net Proceeds are sufficient to enable the City to retire the entire obligation evidenced hereby prior to the final maturity of the Bonds as well as the entire obligations evidenced by the Parity Debt then remaining unpaid prior to their final respective due dates, the City may elect not to reconstruct, repair, or replace the damaged or destroyed portion of the City System, and thereupon such Net Proceeds shall be applied to the prepayment of Bonds as provided in Article II (The Bonds) and to the retirement of such Parity Debt.

(B) Other Insurance. The City will procure and maintain such other insurance that it deems advisable or necessary to protect its interests, which insurance shall afford protection in such amounts and against such risks as are usually covered in connection with utility systems similar to the City System.

(C) Self-Insurance. Any insurance required to be maintained pursuant to paragraph (A) above and any insurance maintained pursuant to paragraph (B) above may be maintained under a self-insurance or pooled risk program so long as such self-insurance or pooled risk program is maintained in the amounts and manner usually maintained in connection with utility systems similar to the City System.

(D) Notice of Cancellation. All policies of insurance required to be maintained herein shall provide that the City shall be given thirty (30) days' written notice of any intended cancellation thereof or reduction of coverage provided thereby.

Section 7.08. Payment of Taxes and Compliance with Governmental Regulations. The City will pay and discharge all taxes, assessments, and other governmental charges that may hereafter be lawfully imposed upon the City System or any part thereof or upon the Gross Revenues when the same shall become due. The City will duly observe and conform with all valid regulations and requirements of any governmental authority relative to the operation of the City System or any part thereof, but the City shall not be required to comply with any regulations or requirements so long as the validity or application thereof shall be contested in good faith.

Section 7.09. Amount of Rates and Charges.

(A) Rate Covenant. The City covenants that it will fix, prescribe, and collect rates and charges for the City System and the Wastewater Enterprise Facilities that are reasonably fair and nondiscriminatory and that the City expects will be at least sufficient to yield during each Fiscal Year (a) Net Revenues that equal at least 1.3 times Debt Service on the Bonds and all Parity Debt for such Fiscal Year, (b) any amounts necessary to replenish the Reserve Fund for the Bonds and any similar reserve fund established with respect to any Parity Debt to their required amounts, and (c) any amounts necessary to pay all amounts owed to any issuer of a Reserve Facility for the Bonds and any similar credit instrument obtained with respect to any Parity Debt. The City may make adjustments from time to time in such rates and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates and charges then in effect unless the Net Revenues from such reduced rates and charges will at all times be sufficient to meet the requirements of this section.

(B) Annual Testing. On or before March 1 each year, the City shall calculate Net Revenues for the preceding Fiscal Year. If Net Revenues for that Fiscal Year did not yield at least the coverage amount described in subsection (A) above, the City shall employ an Independent Financial Consultant to make recommendations as to a revision of the rates, fees and charges or the methods of operation that will result in producing Net Revenues sufficient to provide the coverage amount. The City shall file a copy of the recommendations of the consultant with the Trustee.

If the City complies in all material respects with the reasonable recommendations of the consultant in respect to rates, fees, charges and methods of operation or collection, subject to the applicable requirements or restrictions imposed by law and to the determination of the City Council that the recommendations are in the best interests of the City, the City will be deemed to have complied with the covenants contained in this Section 7.09 notwithstanding that Net Revenues were less than the amount required under this Section 7.09 for such Fiscal Year; provided, however, that such rates, fees, charges and methods of operation or collection, excluding amounts transferred from the Rate Stabilization Fund, shall have produced Net Revenues equal to at least 100% of (a) the Debt Service on the Bonds and Parity Debt for such Fiscal Year, (b) any amounts necessary to replenish the Reserve Fund for the Bonds and any similar reserve fund established with respect to any Parity Debt to their required amounts, and (c) any amounts necessary to pay all amounts owed to any issuer of a Reserve Facility for the Bonds and any similar credit instrument obtained with respect to any Parity Debt. The foregoing sentence shall not be construed as in any way excusing the City from

taking any action or performing any duty required under this Indenture or be construed as constituting a waiver of any other Event of Default.

Section 7.10. Rate Stabilization Fund.

(A) Establishment of Rate Stabilization Fund. The City may, but is not required to, establish a fund designated as the “Rate Stabilization Fund.” From time to time, the City may deposit in the Rate Stabilization Fund any available funds, including such Net Revenues as the City shall determine are not needed to pay debt service on the Bonds or Parity Debt. Deposits for each Fiscal Year may be made until (but not after) the date that is one hundred twenty (120) days after the end of such Fiscal Year. The City may withdraw amounts from the Rate Stabilization Fund only for inclusion in Gross Revenues, such withdrawals to be made until (but not after) the date that is one hundred twenty (120) days after the end of such Fiscal Year. All interest or other earnings upon deposits in the Rate Stabilization Fund shall be withdrawn therefrom and accounted for as Gross Revenues. Notwithstanding the foregoing, no deposit of Gross Revenues to the Rate Stabilization Fund may be made if such Gross Revenues were included in the Engineer’s Report or Accountant’s Report submitted pursuant to Section 7.12 (Eminent Domain Proceeds) hereof.

Section 7.11. Parity Debt. The City may at any time issue Parity Debt; provided the City satisfies (1) the debt service feasibility and (2) the reserve funding requirements described below:

(A) Debt Service Feasibility. The debt service feasibility requirements for new money financings are as described below under (1) Project Financings, and the debt service feasibility requirements for refundings are as described below under (2) Refundings.

(1) Project Financings. The debt service feasibility requirements for the financing of the acquisition or construction of additional facilities for the City System are satisfied if the Net Revenues (excluding any amounts derived from the Rate Stabilization Fund) for either the most recent Fiscal Year or any more recent 12-month period selected by the City ending not more than 60 days prior to the adoption (the “adoption date”) by the City Council of the resolution authorizing the execution of such Parity Debt (the “measurement period”), as shown by the books of the City, shall have produced a sum equal to at least 1.3 times Maximum Annual Debt Service on all Outstanding Bonds and all Outstanding Parity Debt and the Parity Debt to be executed or issued. In calculating debt service coverage for this purpose, Net Revenues for the measurement period may be increased by:

(a) an allowance for revenues from any additions to or improvements or extensions of the City System and the Wastewater Enterprise Facilities to be made with the proceeds of such additional obligations, and also for net revenues from any such additions, improvements or extensions that have been made from moneys from any source but which, during all or any part of such Fiscal Year, were not in service, all in an amount equal to 75% of the estimated additional average annual revenues to be derived from such additions, improvements and extensions for the first 36-month period following closing of the proposed Parity Debt, all as shown by a Coverage Report from an Independent Engineer; and

(b) an allowance for earnings arising from any increase in the charges made for service from the City System and the Wastewater

Enterprise Facilities that has become effective prior to the incurring of such additional obligations but that, during all or any part of such Fiscal Year, was not in effect, in an amount equal to 100% of the amount by which revenues would have been increased if such increase in charges had been in effect during the whole of such Fiscal Year and any period prior to the incurring of such additional obligations, as shown by the Coverage Report from an Independent Engineer;

(2) Refundings. If any such Parity Debt is executed or issued for the purpose of discharging or defeasing Outstanding Bonds or Parity Debt then unpaid and outstanding, the debt service feasibility requirements will be satisfied if, upon such execution or issuance, either (a) the City meets the requirements of subsection (A)(1) above or (b) a Coverage Report is filed with the City to the effect that Debt Service for each future Fiscal Year following such discharge or defeasance shall be less than or equal to the Debt Service for that Fiscal Year if such discharge or defeasance did not occur.

(B) Reserve Funding. The reserve funding requirement hereunder will be satisfied if the City establishes and funds a separate reserve for such Parity Debt in accordance with the reserve funding requirements (if any) of such Parity Debt.

Section 7.12. Eminent Domain Proceeds. If all or any part of the City System shall be taken by eminent domain proceedings, the Net Proceeds thereof shall be applied as follows:

(A) Additions to City System. If (1) the City obtains and files with the Trustee an Engineer's Report or Accountant's Report showing (i) the estimated loss of annual Net Revenues, if any, suffered or to be suffered by the City by reason of such eminent domain proceedings, (ii) a general description of the additions, betterments, extensions, or improvements to the City System proposed to be acquired and constructed by the City from such Net Proceeds, and (iii) an estimate of the additional annual Net Revenues to be derived from such additions, betterments, extensions, or improvements, and (2) the City, on the basis of such Engineer's Report or Accountant's Report filed with the Trustee, determines that the estimated additional annual Net Revenues will sufficiently offset the estimated loss of annual Net Revenues resulting from such eminent domain proceedings so that the ability of the City to meet its obligations hereunder will not be substantially impaired (which determination shall be final and conclusive) then the City shall promptly proceed with the acquisition and construction of such additions, betterments, extensions, or improvements substantially in accordance with such Engineer's Report or Accountant's Report and such Net Proceeds shall be applied for the payment of the costs of such acquisition and construction, and any balance of such Net Proceeds not required by the City for such purpose shall be deposited in the Gross Revenue Fund.

(B) Application to Other Purposes. If (1) the City obtains and files with the Trustee an Engineer's Report or Accountant's Report containing an estimate of annual Net Revenues after the taking by eminent domain and (2) the City, on the basis of such Engineer's Report or Accountant's Report, determines that Net Revenues will equal at least one hundred twenty per cent (120%) of Debt Service for each Fiscal Year in which Parity Debt is are Outstanding, then the City may use such Net Proceeds for any lawful purpose.

(C) Redemption of Bonds. If the conditions of neither of the foregoing subsections are met, then such Net Proceeds shall be applied in part to the redemption of the Bonds as provided in Article II (The Bonds) and in part to such other fund or account as may be appropriate and used for the retirement of Parity Debt in the same proportion as the aggregate unpaid principal of the Bonds then bears to the aggregate unpaid principal amount of such Parity Debt.

## **ARTICLE VIII GENERAL COVENANTS OF THE CITY**

Section 8.01. Power to Issue Bonds and Make Pledge. The City is duly authorized pursuant to law to enter into the Indenture, authorize the issuance of the Bonds, and pledge the Net Revenues under this Indenture in the manner and to the extent provided in this Indenture. The Bonds and the provisions of this Indenture are and will be the valid and binding limited obligations of the City in accordance with their terms.

Section 8.02. Punctual Payment and Performance. The City will punctually pay out of the Net Revenues the interest on and the principal of and redemption premiums, if any, to become due on every Bond issued hereunder in strict conformity with the terms hereof and of the Bonds, and will faithfully observe and perform all the agreements and covenants to be observed or performed by the City contained herein and in the Bonds.

Section 8.03. Extension of Time for Payment of Bonds. The City will not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any of the claims for interest by the purchase or funding of such Bonds or claims for interest or by any other arrangement. If the maturity of any of the Bonds or the time of payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default hereunder, to the benefits of this Indenture, unless the principal represented by all of the Bonds and of all claims for interest represented thereby that shall not have been so extended have been paid in full. Nothing in this Section shall be deemed to limit the right of the City to cause the delivery of Bonds for the purpose of refunding any Outstanding Bonds, and such delivery shall not be deemed to constitute an extension of maturity of Bonds.

Section 8.04. Preservation of Rights of Owners. The City shall at all times, to the extent permitted by law, defend, preserve, and protect the pledges of Net Revenues and other assets and all the rights of the Owners under this Indenture against all claims and demands of all persons whomsoever.

Section 8.05. Federal Income Tax Covenants. The City shall at all times do and perform all acts and things permitted by law and this Indenture that are necessary and desirable in order to assure that interest paid on the Bonds will be excluded from gross income for federal income tax purposes and shall take no action that would result in such interest not being so excluded. Without limiting the generality of the foregoing, the City agrees to comply with the provisions of the Tax Certificate. This covenant shall survive the defeasance or payment in full of the Bonds.

Section 8.06. Further Assurances. Whenever and so often as reasonably requested to do so by the Trustee or any Owner, the City will promptly execute and deliver or cause to be executed and delivered all such other and further assurances, documents or instruments, and promptly do or



cause to be done all such other and further things as may be necessary or reasonably required in order to further and more fully vest in the Owners all rights, interests, powers, benefits, privileges and advantages conferred or intended to be conferred upon them hereby.

Section 8.07. Continuing Disclosure. The City hereby covenants that it will comply with and carry out all the provisions of the Continuing Disclosure Agreement.

## **ARTICLE IX EVENTS OF DEFAULT AND REMEDIES OF OWNERS**

Section 9.01. Events of Default. The following events shall be Events of Default:

(A) Payment Default. Default in the due and punctual payment of the interest on any Bond or the principal of or redemption premium, if any, on any Bond when and as the same shall become due and payable, whether at maturity as therein expressed or by proceedings for redemption when and as the same shall become due and payable;

(B) Breach of Covenant. Default by the City in the observance or performance of any covenant, condition, agreement, or provision in this Indenture on its part to be observed or performed, for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, has been given to the City by the Trustee;

(C) Bankruptcy. A declaration of bankruptcy by the City.

Section 9.02. Institution of Legal Proceedings by Trustee. If one or more of the Events of Default shall happen and be continuing, the Trustee may, and upon the written request of the Owners of a majority in principal amount of the Bonds then Outstanding and upon being indemnified to its satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of the Owners of the Bonds under this Indenture by a suit in equity or action at law, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Trustee shall deem most effectual in support of any of its rights and duties hereunder. The Trustee may exercise its rights under this Indenture to collect its fees and expenses without the consent of the Owners of any Bonds.

Section 9.03. Non-Waiver. Nothing in this Article or in any other provision hereof or in the Bonds shall affect or impair the obligation of the City, which is absolute and unconditional, to pay the interest on and principal of and redemption premiums, if any, on the Bonds to the respective Owners of the Bonds at the respective dates of maturity or upon prior redemption as provided herein from the Net Revenues as provided herein pledged for such payment, or shall affect or impair the right of such Owners, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied herein and in the Bonds.

A waiver of any default or breach of duty or contract by any Owner shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by any Owner to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract

or an acquiescence therein, and every right or remedy conferred upon the Owners by the Refunding Law or by this Article may be enforced and exercised from time to time and as often as shall be deemed expedient by the Owners.

If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned, the City and the Owners shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

Section 9.04. Actions by Trustee as Attorney-in-Fact. Any action, proceeding or suit that any Owner has the right to bring to enforce any right or remedy hereunder may be brought by the Trustee for the equal benefit and protection of all Owners, whether or not the Trustee is an Owner, and the Trustee is hereby appointed (and the successive Owners, by taking and holding the Bonds issued hereunder, shall be conclusively deemed to have so appointed it) the true and lawful attorney-in-fact of the Owners for the purpose of bringing any such action, proceeding or suit and for the purpose of doing and performing any and all acts and things for and on behalf of the Owners as a class or classes as may be advisable or necessary in the opinion of the Trustee as such attorney-in-fact.

Section 9.05. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Owners is intended to be exclusive of any other remedy, and each such remedy is cumulative and is in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by the Refunding Law or any other law.

Section 9.06. Limitation on Owners' Right to Sue. No Owner of any Bond issued hereunder shall have the right to institute any suit, action or proceeding at law or equity, for any remedy under or upon this Indenture, unless (a) such Owner shall have previously given to the Trustee written notice of the occurrence of an Event of Default as defined in Section 9.01 (Events of Default) hereunder; (b) the Owners of at least a majority in aggregate principal amount of all the Bonds then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name; (c) the Owners shall have tendered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of security or indemnity, and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of Bonds of any remedy hereunder; its being understood and intended that no one or more Owners of Bonds shall have any right in any manner whatever by his or their action to enforce any right under this Indenture, except in the manner herein provided, and that all proceedings at law or in equity to enforce any provision of the Indenture shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners of the Outstanding Bonds.

## ARTICLE X THE TRUSTEE

Section 10.01. Appointment of the Trustee. MUFG Union Bank, N.A., is hereby appointed as Trustee under this Indenture and hereby accepts the trust imposed upon it as Trustee hereunder and to perform all the functions and duties of the Trustee hereunder, subject to the terms and conditions set forth in this Indenture.

### Section 10.02. Certain Duties and Responsibilities.

(A) When No Default is Continuing. Prior to an Event of Default, and after the curing or waiver of all Events of Default that may have occurred, the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants shall be read into this Indenture against the Trustee.

(B) During Continuance of Default. During the existence of any Event of Default (that has not been cured or waived), the Trustee shall exercise such of the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a reasonable person would exercise or use under the circumstances in the conduct of such person's own affairs.

(C) Immunities of Trustee. No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(1) this Subsection shall not be construed to limit the effect of Subsection A of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of not less than a majority (or any lesser amount that may direct the Trustee under this Indenture) in aggregate principal amount of the Bonds at the time Outstanding relating to the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture; and

(4) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance or exercise of any of its duties hereunder, or in the exercise of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(D) Immunities Applicable to All Provisions of Indenture. Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article X (The Trustee).

Section 10.03. Notice of Defaults. Within forty five (45) days after the occurrence of any default hereunder of which the Trustee has actual knowledge or is deemed to have knowledge, the Trustee shall transmit by mail to all Owners of Bonds as their names and addresses appear on the Bond Register notice of such default hereunder known to the Trustee, unless such default shall have been cured or waived; provided, however, that, except in the case of a default in the payment of the principal of or premium, if any, or interest on any Bond or in the payment of any sinking fund installment, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee, or a trust committee of directors and/or Responsible Officers of the Trustee in good faith determine that the withholding of such notice is in the interests of the Owners; and provided further that in the case of any default of the character specified in Section 9.01(B) (Events of Default -- Breach of Covenant) no such notice to Owners shall be given until at least thirty (30) days after the occurrence thereof. For purposes of this Section, the term "default" means any event that is, or after notice or lapse of time or both would become, an Event of Default.

Section 10.04. Certain Rights of Trustee; Liability of Trustee. Except as otherwise provided in Section 10.02 (Certain Duties and Responsibilities):

(A) Reliance on Documents Believed Genuine. The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, requisition, consent, order, bond, note, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(B) Documentation of City's Directions. Any request or direction of the City mentioned herein shall be sufficiently evidenced by a Certificate, Statement, Request, Requisition, or Order of the City;

(C) Reliance on City Statement. Whenever in the administration of the trusts imposed upon it by this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering, or omitting any action hereunder, the Trustee (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon a Statement of the City, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable;

(D) Reliance on Advice of Counsel. The Trustee may consult with counsel, including, without limitation, counsel of or to the City, and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered, or omitted by the Trustee hereunder in good faith and in reliance thereon;

(E) Security for Costs. The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Owners pursuant to the provisions of this Indenture, including, without limitation, the provisions of Article IX (Events of Default and Remedies of Owners) hereof, unless such Owners shall have offered to the Trustee reasonable security or indemnity satisfactory to it against the costs, expenses and liabilities that may be incurred therein or thereby.

(F) Investigation of Factual Matters. The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, coupon or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the City, personally or by agent or attorney.

(G) Performance of Duties by Agents. The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder, but the Trustee shall be answerable for the negligence or misconduct of any such attorney-in-fact, agent, or receiver selected by it; provided that the Trustee shall not be answerable for the negligence or misconduct of any attorney-in-law or certified public accountant selected by it with due care.

(H) Knowledge of Event of Default. The Trustee shall not be deemed to have knowledge of, and shall not be required to take any action with respect to, any Event of Default other than an Event of Default described in Section 9.01(a) (Events of Default – Payment Default) unless a Responsible Officer of the Trustee shall have actual knowledge of such event.

(I) No Responsibility for Disclosure Material. The Trustee shall have no responsibility with respect to any information, statement, or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds.

(J) Extension of Immunities. The immunities extended to the Trustee also extend to its directors, officers, employees and agents.

(K) No Duty. The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty.

(L) Reliance on Documents. In the absence of bad faith on its part the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of the Indenture.

Section 10.05. Trustee Not Responsible for Recitals, Validity of Bonds, or Application of Proceeds.

(A) Trustee Makes No Representations. The recitals of facts herein and in the Bonds contained (other than the Certificate of Authentication on the Bonds) shall be taken as statements of the City, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Bonds, as to the sufficiency of the Gross Revenues or the priority of the lien of this Indenture thereon, or as to the financial or technical feasibility of any project and shall not incur any

responsibility in respect of any such matter, other than in connection with the duties or obligations expressly assigned to or imposed upon it herein or in the Bonds.

(B) Trustee Not Responsible for City's Use of Certain Moneys and Other Actions.

The Trustee shall not be responsible for:

- (1) the application or handling by the City of any moneys transferred to or pursuant to any Requisition or Request of the City in accordance with the terms and conditions hereof;
- (2) the application and handling by the City of any fund or account designated to be held by the City hereunder;
- (3) any error or omission by the City in making any computation or giving any instruction pursuant to the Tax Certificate and the Trustee may rely conclusively on any computations or instructions furnished to it by the City in connection with the requirements of the Tax Certificate; or
- (4) the construction, operation, or maintenance of any project or facilities by the City.

Section 10.06. Trustee May Hold Bonds. The Trustee and its directors, officers, employees or agents may in good faith buy, sell, own, hold and deal in any of the Bonds and may join in any action that any Owner of a Bond may be entitled to take, with like effect as if the Trustee was not the Trustee under this Indenture. The Trustee may in good faith hold any other form of indebtedness of the City; own, accept or negotiate any drafts, bills of exchange, acceptances or obligations of the City and make disbursements for the City; and enter into any commercial or business arrangement therewith, without limitation.

Section 10.07. Compensation and Indemnification of Trustee. The City agrees, subject to the provisions of Section 6.01 (Liability of City Limited to Net Revenues):

(A) Compensation. to pay to the Trustee from time to time reasonable compensation for all services rendered by it hereunder;

(B) Reimbursement. except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements, and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel (including internal counsel)), except any such expense, disbursement, or advance as be attributable to the Trustee's negligence or willful misconduct; and

(C) Indemnification. to indemnify the Trustee for, and to hold it harmless against, any loss, liability, or expense incurred without negligence or willful misconduct on its part, arising out of or in connection with the acceptance or administration of the trusts created hereby, including the costs and expenses (including attorneys' fees) of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

The rights of the Trustee and the obligations of the City under this Section shall survive the discharge of the Bonds and this Indenture.

Section 10.08. Corporate Trustee Required; Eligibility. There shall at all times be a Trustee hereunder, which shall be a national banking association, federally chartered savings association or institution, trust company, or bank having the powers of a trust company authorized to do business in the State, having a combined capital and surplus of at least fifty million dollars (\$50,000,000), and subject to supervision or examination by federal or state authority. If such national banking association, federally chartered savings association or institution, bank, or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority, then for the purpose of this Section the combined capital and surplus of such federally chartered savings association or institution, bank, or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, the Trustee shall resign immediately in the manner and with the effect specified in this Article.

Section 10.09. Removal and Resignation; Appointment of Successor.

(A) Effectiveness of Resignation or Removal. No removal or resignation of the Trustee and appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Section 10.10 (Acceptance of Appointment by Successor).

(B) Trustee's Right to Resign. The Trustee may resign at any time by giving written notice of such resignation to the City and the City and by giving the Owners notice of such resignation by mail at the addresses shown on the Bond Register. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within thirty (30) days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee.

(C) City's Right to Remove Trustee. The City may remove the Trustee at any time, unless an Event of Default shall have occurred and then be continuing, by giving written notice of such removal to the Trustee.

(D) Mandatory Removal of Trustee. The City shall remove the Trustee if at any time,

(1) requested to do so by an instrument or concurrent instruments in writing signed by the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding (or their attorneys duly authorized in writing),

(2) the Trustee shall cease to be eligible in accordance with Section 10.08 (Corporate Trustee Required; Eligibility) and shall fail to resign after written request therefor by the City, or

(3) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public

officer shall take control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation, or liquidation,

in each case by giving written notice of such removal to the Trustee and the City.

(E) Appointment of Successor. If the Trustee shall resign, be removed, or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, the City shall promptly appoint a successor Trustee by an instrument in writing. If no successor Trustee shall have been so appointed by the City and accepted appointment in the manner hereinafter provided within thirty (30) days after such resignation, removal, or incapability or the occurrence of such vacancy, the Owners may, by an instrument or instruments signed by the Owners of a majority in principal amount of the Bonds, appoint a successor Trustee, or any Owner (on behalf of himself and all other Owners) may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee.

(F) Performance of Duties by Treasurer. If, by reason of the judgment of any court, the Trustee or any successor Trustee is rendered unable to perform its duties hereunder, and if no successor Trustee be then appointed, all such duties and all of the rights and powers of the Trustee hereunder shall be assumed by and vest in the Treasurer, or designee, of the City in trust for the benefit of the Owners.

(G) Notice of Removal or Resignation. The City shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee by mailing written notice of such event by first-class mail, postage prepaid, to the Owners as their names and addresses appear in the Bond Register. Each notice shall include the name of the successor Trustee and the address of its corporate trust office. If the City fails to mail such notice within fifteen (15) days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the City.

Section 10.10. Acceptance of Appointment by Successor. Any successor Trustee appointed under this Indenture shall execute and deliver to the City, to the City and to its predecessor Trustee an instrument accepting such appointment, and thereupon such successor Trustee, without any further act, deed, or conveyance, shall become vested with all the moneys, rights, powers, trusts, and duties of the predecessor Trustee; but, at the Request of the City or the request of the successor Trustee, the predecessor Trustee shall, upon payment of its charges, execute and deliver an instrument conveying and transferring to the successor Trustee all the right, title, and interest of such predecessor Trustee in and to any property held by it under this Indenture and shall duly assign, transfer, and deliver to the successor Trustee all property and money held by the predecessor Trustee hereunder. Upon request of any successor Trustee, the City shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, properties, rights, powers, trusts, and duties.

Section 10.11. Merger or Consolidation. Any company or entity into which the Trustee may be merged or converted or with which it may be consolidated or any company or entity resulting from any merger, conversion, or consolidation to which it shall be a party or any company or entity to which the Trustee may sell or transfer all or substantially all of its corporate trust



business, provided such company or entity shall be eligible under Section 10.08 (Corporate Trustee Required; Eligibility), shall be the successor to such Trustee without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding. The successor Trustee shall mail written notice of such change of organization and the new name (if any) of the successor Trustee to the City and the City by first-class mail, postage prepaid, within three (3) Business Days of its effectiveness. In case any Bonds shall have been executed, but not delivered, by the Trustee then in office, any successor by merger, conversion, or consolidation to such executing Trustee may adopt such execution and deliver the Bonds so executed with the same effect as if such successor Trustee had itself executed such Bonds.

Section 10.12. Preservation and Inspection of Documents. So long as any of the Bonds are Outstanding, subject to the Trustee's record retention policy, all documents received by the Trustee under the provisions of this Indenture shall be retained in its possession and shall be subject at all reasonable times to the inspection of the City, the City and any Owner, and their agents and representatives duly authorized in writing, at reasonable times and under reasonable conditions.

Section 10.13. Accounting Records and Reports. The Trustee will keep or cause to be kept proper books of record and accounts prepared in accordance with corporate trust industry standards, in which complete and accurate entries shall be made of all transactions relating to the receipts, disbursements, allocation and application of the moneys held in the funds and accounts established hereunder. The Trustee shall also maintain adequate records as to the amount available to be drawn under each Reserve Facility and as to the amounts paid and owing to each issuer of a Reserve Facility. Such books shall be available for inspection by the City, the City, and the issuers of any Reserve Facilities at reasonable hours and under reasonable conditions.

## ARTICLE XI AMENDMENT OF THE INDENTURE

Section 11.01. Supplemental Indentures without Consent of Owners. This Indenture and the rights and obligations of the City, of the Trustee, and of the Owners of the Bonds may be modified or amended from time to time and at any time by a Supplemental Indenture, which the City and the Trustee may enter into without the consent of any Owners but only to the extent permitted by law, and only if the Trustee receives an opinion of Bond Counsel to the effect that the provisions of such Supplemental Indenture do not materially adversely affect the interests of the Owners of the Bonds, and only for any one or more of the following purposes:

(A) Additional Security: to add to the covenants and agreements of the City contained in this Indenture other covenants and agreements thereafter to be observed, to pledge or assign additional security for the Bonds (or any portion thereof), or to surrender any right or power herein reserved to or conferred upon the City;

(B) Curative Provisions: to make such provisions for the purpose of curing any ambiguity, inconsistency, or omission, or of curing or correcting any defective provision, contained in this Indenture, or in regard to matters or questions arising under this Indenture, or to make any other revisions or additions to this Indenture as the City may deem necessary or desirable, and that shall not materially and adversely affect the interests of the Owners of the Bonds;

(C) Trust Indenture Act Qualification: to modify, amend, or supplement this Indenture in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, and to add such other terms, conditions, and provisions as may be permitted by said act or similar federal statute, and that shall not materially and adversely affect the interests of the Owners of the Bonds;

(D) Redemption Notification: to modify or supplement the procedures for giving notice of redemption of Bonds in order to comply with regulations promulgated by the United States Securities and Exchange Commission;

(E) Reserve Facilities: to make modifications or adjustments necessary, appropriate, or desirable to accommodate Reserve Facilities delivered in connection with the Bonds;

(F) Book-Entry Modifications: to amend, modify, or eliminate the book-entry registration system for the Bonds;

(G) Preservation of Tax-Exemption: to make such provisions as are necessary or appropriate to ensure the exclusion of interest on the Bonds from gross income for purposes of federal income taxation; and

(H) No Material Effect: for any other purpose that does not materially and adversely affect the interests of the Owners of the Bonds.

#### Section 11.02. Supplemental Indentures with Consent of Owners [or Insurer].

(A) Consent of Owners. This Indenture and the rights and obligations of the City, the Owners of the Bonds, and the Trustee may be modified or amended from time to time and at any time by a Supplemental Indenture, which the City and the Trustee may enter into when the written consent of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding shall have been filed with the Trustee; provided that, if such modification or amendment will, by its terms, not take effect so long as any Bonds of any particular maturity of the Bonds remain Outstanding, the consent of the Owners of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Bonds Outstanding under this Section.

(B) [Consent of Insurer. This Indenture and the rights and obligations of the City and of the Owners of the Bonds and of the Trustee may also be modified or amended at any time by a Supplemental Indenture entered into by the City and the Trustee, which shall become binding when the written consent of the Insurer shall have been filed with the Trustee, provided that at such time the payment of all the principal of and interest on all Outstanding Bonds shall be insured by the Insurer.]

(C) Limitations on Amendments. No such modification or amendment shall (1) extend the fixed maturity of any Bond, or reduce the principal amount thereof, or extend the time of payment or reduce the amount of any mandatory redemption payment provided for any Bond, or reduce the rate of interest thereon, or extend the time of payment of interest thereon, or reduce any premium payable upon the redemption thereof, without the consent of the Owner of each Bond so affected, or (2) reduce the aforesaid percentage of principal of Bonds the consent of the Owners of

which is required to effect any such modification or amendment, or permit the creation of any lien on the Net Revenues and other assets pledged under this Indenture prior to or on a parity with the lien created by this Indenture, or deprive the Owners of the Bonds of the lien created by this Indenture on such assets (in each case, except as expressly provided in this Indenture), without the consent of the Owners of all of the Bonds then Outstanding.

(D) Form of Consent. It shall not be necessary for the consent of the Owners to approve the particular form of any Supplemental Indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Section 11.03. Notice of Amendment. Promptly after the execution and delivery by the Trustee and the City of any Supplemental Indenture pursuant to this Section, the Trustee shall mail a notice, setting forth in general terms the substance of such Supplemental Indenture, or attaching a copy thereof, to the Owners of the Bonds at the addresses shown on the Bond Register. Any failure to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such Supplemental Indenture.

Section 11.04. Execution of Supplemental Indentures. In executing, or accepting the additional trusts created by, any Supplemental Indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and, subject to Section 10.02 (Certain Duties and Responsibilities), shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such Supplemental Indenture is authorized or permitted by this Indenture. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture that affects the Trustee's own rights, duties, or immunities under this Indenture or otherwise.

Section 11.05. Effect of Supplemental Indentures. From and after the time any Supplemental Indenture becomes effective pursuant to this Article, this Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, and obligations under this Indenture of the City, the Trustee, and all Owners of Bonds Outstanding shall thereafter be determined, exercised, and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any such Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 11.06. Endorsement of Bonds; Preparation of New Bonds. Bonds delivered after any Supplemental Indenture becomes effective pursuant to this Article may, and if the Trustee so determines shall, bear a notation by endorsement or otherwise in form approved by the City and the Trustee as to any modification or amendment provided for in such Supplemental Indenture, and, in that case, upon demand of the Owner of any Bond Outstanding at the time of such execution and presentation of his Bond for such purpose at the Corporate Trust Office or at such additional offices as the Trustee may select and designate for that purpose, a suitable notation shall be made on such Bond. If the Supplemental Indenture shall so provide, new Bonds so modified as to conform, in the opinion of the City and the Trustee, to any modification or amendment contained in such Supplemental Indenture, shall be prepared and executed by the Trustee and, upon demand of the Owners of any Bonds then Outstanding and upon surrender for cancellation of such Bonds, shall be exchanged at the Corporate Trust Office, without cost to any Owner, for Bonds then Outstanding in equal aggregate principal amounts of the same tenor and maturity.

Section 11.07. Amendment of Particular Bonds. The provisions of this Article shall not prevent any Owner from accepting any amendment as to the particular Bonds held by him, provided that due notation thereof is made on such Bonds.

**ARTICLE XII**  
**[MUNICIPAL BOND INSURANCE]**

*[Signature page follows]*

IN WITNESS WHEREOF, the CITY OF SOLANA BEACH has caused this Indenture to be signed in its name by its duly authorized officer and MUFG UNION BANK, N.A., in token of its acceptance of the trusts created hereunder, has caused this Indenture to be signed by one of the officers thereunder duly authorized.

CITY OF SOLANA BEACH

By: \_\_\_\_\_  
Gregory Wade, City Manager

ATTEST:

\_\_\_\_\_  
Angela Ivey, City Clerk

MUFG UNION BANK, N.A.

By: \_\_\_\_\_  
Authorized Officer

**EXHIBIT A**

**FORM OF BOND**

**CITY OF SOLANA BEACH  
2017 WASTEWATER REVENUE REFUNDING BONDS**

R-\_\_\_\_\_ \$ \_\_\_\_\_

| <b>MATURITY DATE</b> | <b>INTEREST RATE<br/>PER ANNUM</b> | <b>ORIGINAL<br/>ISSUE DATE</b> | <b>CUSIP:</b> |
|----------------------|------------------------------------|--------------------------------|---------------|
| _____ 1, 20__        | _____ %                            | [closing date]                 |               |

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM: \_\_\_\_\_ DOLLARS

The CITY OF SOLANA BEACH, a municipal corporation and general law city duly organized and validly existing under and pursuant to the laws of the State of California (the "City"), for value received hereby, promises to pay (but only out of the Net Revenues hereinafter referred to) to the registered owner identified above or registered assigns, on the maturity date specified above (subject to any right of prior redemption hereinafter provided for) the principal sum specified above, together with interest on such principal sum from their original issue date specified above until the principal hereof shall have been paid at the interest rate per annum specified above, payable on September 1, 2017, and semiannually thereafter on each March 1 and September 1. Interest due on or before the maturity or prior redemption of this Bond is payable by check mailed by first class mail to the registered owner hereof or, upon the written request of any owner of \$1,000,000 or more in aggregate principal amount of bonds (in accordance with the terms of the Indenture described below), by wire transfer. The principal hereof is payable in lawful money of the United States of America at the corporate trust office of MUFG Union Bank, N.A., as trustee (the "Trustee"). Notwithstanding the foregoing, so long as this Bond is registered in the name of Cede & Co., principal of and redemption premium, if any, and interest on this Bond is payable by wire transfer to the registered owner.

This Bond is one of a duly authorized issue of bonds of the City designated as its "2017 Water Revenue Refunding Bonds" (the "Bonds") in the aggregate principal amount of \$\_\_\_\_\_, all of like tenor and date (except for such variations, if any, as may be required to designate varying numbers, maturities and interest rates), and is issued under and pursuant to the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (commencing with Section 53570), and all laws amendatory thereof or supplemental thereto (the "Refunding Law") and under and pursuant to the provisions of an indenture dated August 1, 2017 (the "Indenture"), between the City and the Trustee (copies of which are on file at the corporate trust office of the Trustee).

The Bonds are issued to provide funds to refinance the cost of wastewater conveyance, treatment and disposal facilities for the City. The Bonds are limited obligations of the City and are payable, as to interest thereon and principal thereof, solely from certain proceeds of the Bonds held in certain funds and accounts pursuant to the Indenture and the revenues derived from the operation of the City's wastewater system, net of the operation and maintenance expenses of the wastewater system, as described in the Indenture (the "Net Revenues"). The City is not obligated to pay interest on and principal of the Bonds except from the Net Revenues. All Bonds are equally and ratably secured in accordance with the terms and conditions of the Indenture by a pledge of and charge and lien upon the Net Revenues. The Net Revenues constitute a trust fund for the security and payment of the interest on and principal of the Bonds as provided in the Indenture. Under certain circumstances set forth in the Indenture, the City may issue other obligations that are secured by the Net Revenues on parity with the Bonds.

The Bonds do not constitute a debt or liability of the City, the State of California, or of any political subdivision thereof within the meaning of any constitutional or statutory provision. The full faith and credit of the City are not pledged for the payment of the interest on or principal of the Bonds. No tax shall ever be levied or collected to pay the interest on or principal of the Bonds. The Bonds are not secured by a legal or equitable pledge of or charge or lien upon any property of the City or any of its income or receipts except the Net Revenues.

Reference is hereby made to the Refunding Law and to the Indenture and any and all amendments thereof and supplements thereto for a description of the terms on which the Bonds are issued, the provisions with regard to the nature and extent of the Net Revenues, the rights of the registered owners of the Bonds, security for payment of the Bonds, remedies upon default and limitations thereon, and amendment of the Indenture (with or without consent of the registered owners of the Bonds). All the terms of the Indenture are hereby incorporated herein and constitute a contract between the City and the registered owner of this Bond. The registered owner of this Bond, by acceptance hereof, agrees and consents to all the provisions of the Indenture.

*[Please note: final redemption provisions will be inserted after the bond sale]*

Notice of redemption of this Bond shall be given by first class mail not less than thirty (30) days nor more than sixty (60) days before the redemption date to the registered owner hereof, subject to and in accordance with provisions of the Indenture with respect thereto. If notice of redemption has been duly given as aforesaid and money for the payment of the above-described redemption price is held by the Trustee, then this Bond shall, on the redemption date designated in such notice, become due and payable at the above-described redemption price; and from and after the date so designated, interest on this Bond shall cease to accrue and the registered owner of this Bond shall have no rights with respect hereto except to receive payment of the redemption price hereof.

If an event of default, as defined in the Indenture, shall occur, the principal of all Bonds may be declared due and payable upon the conditions, in the manner and with the effect provided in the Indenture, except that the Indenture provides that in certain events such declaration and its consequences may be rescinded under the circumstances as provided therein.

This Bond is transferable by the registered owner hereof in person or by his duly authorized attorney upon payment of the charges provided in the Indenture and upon surrender of this Bond

together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or his duly authorized attorney, and thereupon a new fully registered Bond or Bonds in the same aggregate principal amount in authorized denominations will be issued to the transferee in exchange therefor. The City and the Trustee may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of the interest hereon and principal hereof and for all other purposes, whether or not this Bond is overdue, and neither the City nor the Trustee shall be affected by any notice or knowledge to the contrary; and payment of the interest on and principal of this Bond shall be made only to such registered owner, which payments are valid and effectual to satisfy and discharge liability on this Bond to the extent of the sum or sums so paid.

This Bond is not be entitled to any benefit, protection or security under the Indenture or become valid or obligatory for any purpose until the certificate of authentication attached hereto has been executed and dated by the Trustee.

Unless this Bond is presented by an authorized representative of The Depository Trust Company to the Trustee for registration of transfer, exchange or payment, and any Bond issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

The rights and obligations of the City and of the registered owners of the Bonds may be modified or amended at any time in the manner, to the extent, and upon terms provided in the Indenture, which provide, in certain circumstances, for modifications and amendments without the consent of or notice to the registered owners of the Bonds.

It is hereby certified that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law and that the amount of this Bond, together with all other indebtedness of the City, does not exceed any limit prescribed by the Constitution or laws of the State of California and is not in excess of the amount of Bonds permitted to be issued under the Indenture.



IN WITNESS WHEREOF, the City of Solana Beach has caused this Bond to be executed in its name and on its behalf by the Mayor of the City and countersigned by the City Clerk, and has caused this Bond to be dated as of the original issue date specified above.

CITY OF SOLANA BEACH

By: \_\_\_\_\_  
Mayor

Countersigned:

\_\_\_\_\_  
City Clerk

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within mentioned Indenture which has been authenticated on [closing date].

**MUFG Union Bank, N.A.,**  
as Trustee

By: \_\_\_\_\_  
Authorized Officer

ASSIGNMENT

For value received the undersigned do(es) hereby sell, assign and transfer unto \_\_\_\_\_ the within Bond and do(es) hereby irrevocably constitute and appoint \_\_\_\_\_ attorney, to transfer the same on the bond register of the Trustee, with full power of substitution in the premises.

Dated: \_\_\_\_\_

NOTE: The signature(s) to this Assignment must correspond with the name(s) on the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature(s) Guaranteed by:

NOTE: Signature(s) must be guaranteed by an eligible guarantor institution (being banks, stock brokers, savings and loan associations, and credit unions with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17A(d)15.

Social Security Number, Tax Identification Number, or other identifying number of Assignee: \_\_\_\_\_

## LEGAL OPINION

The following is a true copy of the opinion rendered by Kronick, Moskovitz, Tiedemann & Girard, a Professional Corporation, in connection with the issuance of, and dated as of the date of the original delivery of, the Bonds described therein. A signed copy is on file in my office.

---

City Clerk

**KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD**  
**A Professional Corporation**  
**400 Capitol Mall, 27th Floor**  
**Sacramento, CA 95814-4417**

City Councilmembers  
City of Solana Beach  
635 South Highway 101  
Solana Beach, CA 92075

Re: City of Solana Beach  
2017 Wastewater Revenue Refunding Bonds  
(Final Opinion of Bond Counsel)

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance by the City of Solana Beach (the "City") of \$[PAR AMOUNT] aggregate principal amount of its 2017 Wastewater Revenue Refunding Bonds (the "Bonds"). The Bonds are authorized to be issued pursuant to the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (commencing with Section 53570) and all laws of the State of California supplemental thereto and pursuant to the provisions of the Indenture dated August 1, 2017 (the "Indenture"), between the City and MUFJ Union Bank, N.A., as trustee (the "Trustee"). Capitalized terms not otherwise defined herein shall have the meanings set forth in the Indenture.

We have examined the law and such certified proceedings and other documents as we deem necessary to render this opinion. As to questions of fact material to our opinion, we have relied upon the representations of the City contained in the Indenture and the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The City has been duly organized and is validly existing as a municipal corporation of the State of California with full power and authority to enter into the Indenture; to perform the other agreements on its part contained in the Indenture; and to issue the Bonds.

2. The Indenture has been duly executed and delivered by the City and is a valid and binding obligation of the City. The aggregate principal amount of Bonds issued under the Indenture does not exceed any limitation imposed by law or by the Indenture.

3. The Indenture creates a valid pledge, to secure the payment of the principal of and interest on the Bonds, of the Net Revenues, as such term is defined in the Indenture, and all other amounts held in any fund or account (other than the Rebate Fund) established pursuant to the Indenture, to the extent set forth in the Indenture and subject to the provisions of the Indenture that permit the City to apply the Net Revenues and other amounts for the purposes and on the terms and conditions set forth in the Indenture.

4. The Bonds have been duly authorized, executed and delivered by the City and are valid and binding limited obligations of the City, payable solely from the Net Revenues and other funds provided therefor in the Indenture.

5. The Bonds do not constitute a debt of the City or of the State of California or of any political subdivision thereof within the meaning of any constitutional or statutory debt limitation or restriction and do not constitute an obligation for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation.

6. Interest on the Bonds is excludable from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, such interest is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on certain corporations. The opinion set forth in the preceding sentence is subject to the condition that the City comply with all requirements of the Internal Revenue Code of 1986 that must be satisfied subsequent to the issuance of the Bonds in order that interest on the Bonds be, and continue to be, excludable from gross income for federal income tax purposes. The City has covenanted to comply with all such requirements. Failure to comply with certain of such requirements may cause interest on the Bonds to be included in gross income for federal income tax purposes retroactively to the date of issuance of the Bonds. We express no opinion regarding other federal tax consequences, arising with respect to the accrual or receipt of interest on, or the ownership or disposition of the Bonds.

7. Interest on the Bonds is exempt from State of California personal income taxes.

The opinions set forth above are further qualified as follows:

a. The rights of the holders of the Bonds and the enforceability of the Bonds and the Indenture are subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium, and other similar laws affecting creditors' rights generally, the application of general principles of equity, including without limitation concepts of materiality, reasonableness, good faith, and fair dealing, the possible unavailability of specific performance or injunctive relief,

regardless of whether considered in a proceeding in equity or at law, and the limitations on legal remedies imposed on actions against public agencies in the State of California.

b. We express no opinion as to the enforceability under certain circumstances of contractual provisions respecting various summary remedies without notice or opportunity for hearing or correction, especially if their operation would work a substantial forfeiture or impose a substantial penalty upon the burdened party.

c. We express no opinion as to the effect or availability of any specific remedy provided for in the Indenture under particular circumstances, except that we believe such remedies are, in general, sufficient for the practical realization of the rights intended thereby.

d. We express no opinion as to the enforceability of any indemnification, contribution, choice of law, choice of forum, or waiver provisions contained in the Indenture.

e. We undertake no responsibility for the accuracy, completeness, or fairness of any offering materials relating to the Bonds and express no opinion herein with respect thereto.

f. The opinions expressed herein are based on an analysis of existing laws, regulations, rulings, and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine or to inform any person whether any such actions are taken or omitted or events do occur. We disclaim any obligation to update this opinion for events occurring after the date hereof.

Very truly yours,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
A Professional Corporation

**[STATEMENT OF INSURANCE]**

**EXHIBIT B**

**CITY OF SOLANA BEACH**

**REQUISITION TO THE TRUSTEE  
TO DISBURSE FUNDS FROM COSTS OF ISSUANCE FUND**

REQUISITION NO. \_\_\_\_\_

The City of Solana Beach (the "City") hereby requests MUFG Union Bank, N.A., as trustee (the "Trustee"), under the Indenture dated August 1, 2017, between the City and the Trustee, to pay from the Costs of Issuance Fund established under Section 3.02 of the Indenture, the amounts set forth in the attached invoices (but no more than the amounts set forth on Attachment 1 hereto) to the parties as set forth on Attachment 1.

The City hereby certifies that obligations in the amounts stated in Attachment 1 have been incurred by the City and are presently due and payable and that each item is a proper charge against the Costs of Issuance Fund and has not been previously paid from that fund.

Attached hereto are invoices for each payment requested.

All payments shall be made by check or wire transfer in accordance with the payment instructions set forth in the attached invoices; and the Trustee has no responsibility to authenticate or verify the invoices or the payment instructions or the authority under which they were provided.

Dated: \_\_\_\_\_

**CITY OF SOLANA BEACH**

By: \_\_\_\_\_  
Authorized Officer

ATTACHMENT 1

*[Please see attached invoices for delivery and/or wire instructions]*

| ITEM | PAYEE<br>NAME AND ADDRESS | AMOUNT | PURPOSE |
|------|---------------------------|--------|---------|
| 1.   |                           |        |         |
| 2.   |                           |        |         |
| 3.   |                           |        |         |
| 4.   |                           |        |         |
| 5.   |                           |        |         |
| 6.   |                           |        |         |
| 7.   |                           |        |         |
| 8.   |                           |        |         |
| 9.   |                           |        |         |
| 10.  |                           |        |         |
|      | <b>TOTAL</b>              | \$     |         |

## IRREVOCABLE REFUNDING INSTRUCTIONS

### Solana Beach Public Financing Authority Subordinate Wastewater Revenue Bonds, Series 2006

These IRREVOCABLE REFUNDING INSTRUCTIONS (these “Instructions”), dated [CLOSING DATE], 2017, given by the Solana Beach Public Financing Authority (the “Financing Authority”) and the City of Solana Beach (the “City”) to MUFG Union Bank, N.A. (successor to Union Bank of California, N.A.), as trustee (the “Prior Trustee”) under the indenture of trust dated December 1, 2006 (the “Prior Indenture”), between the Financing Authority and the Prior Trustee, for the obligations described below;

#### WITNESSETH:

**WHEREAS**, the Financing Authority issued its Subordinate Wastewater Revenue Bonds, Series 2006 (the “Prior Bonds”), to finance improvements to the wastewater system owned and operated by the City;

**WHEREAS**, debt service on the Prior Bonds is funded by payments made by the City pursuant to an installment sale agreement, dated as of December 1, 2006 (the “Installment Sale Agreement”), between the City and the Financing Authority, which payments are secured by a pledge of the revenues of the City’s wastewater system;

**WHEREAS**, the City Council of the City has determined that it is necessary and desirable to issue its 2017 Wastewater Revenue Refunding Bonds (the “Bonds”) pursuant to the Indenture dated August 1, 2017, between the City and MUFG Union Bank, N.A., as trustee (the “Trustee”), in order to prepay its obligations under the Installment Sale Agreement and thereby refund the Prior Bonds;

**WHEREAS**, the City has opted to prepay the installment payments under the Installment Sale Agreement and has requested the Financing Authority to redeem the Prior Bonds on [August 23], 2017;

**WHEREAS**, the Financing Authority and the City are providing these Instructions to the Prior Trustee for the purpose of providing the terms and conditions relating to the deposit and application of moneys to provide for the redemption of the outstanding Prior Bonds;

**NOW, THEREFORE**, the Financing Authority and the City hereby irrevocably instruct the Prior Trustee as follows:

**Section 1. Deposit of Funds into the Redemption Fund.** The Financing Authority directs the Prior Trustee to accept from the Trustee the sum of \$\_\_\_\_\_ from the proceeds of the Bonds and to deposit that sum into the Redemption Fund established under the Prior Indenture. The Financing Authority directs the Prior Trustee to transfer the amount on deposit in the Reserve Fund created under the Prior Indenture, \$\_\_\_\_\_, into the Redemption Fund. The Financing Authority directs the Prior Trustee to hold such amounts in the Redemption Service Fund uninvested.



**Section 2. Notice of Redemption.** The Financing Authority directs the Prior Trustee, in accordance with the terms and conditions of the Trust Indenture, to provided notice of redemption for the Prior Bonds , in the time and manner specified in the Prior Indenture and substantially in the form shown in Exhibit A.

**Section 3. Application of Funds.** The Financing Authority hereby irrevocably instructs the Prior Trustee to use the amounts in the Redemption Fund to pay the redemption price of the outstanding Prior Bonds on [August 23], 2017.

**Section 4. Deficiency in the Funds.** If at any time the Prior Trustee has actual knowledge that the amounts described above will not be sufficient to pay the redemption price of the outstanding Prior Bonds, the Prior Trustee shall notify the Financing Authority and the City of such fact and the City shall immediately cure such deficiency from any source of legally available funds.

**Section 5. Transfer of Remaining Funds.** On [September 1], 2017, following the payment of the redemption price of the outstanding Prior Bonds, and provided that no payments remain due and owing to the Prior Trustee, the Prior Trustee shall transfer any amounts remaining to the City.

**Section 6. Terms of the Prior Indenture.** All of the terms of the Prior Indenture relating to the making of payments of principal of and interest and redemption premium, if any, on the Prior Bonds are incorporated in these Instructions as if set forth in full herein. To the extent the terms of the Prior Indenture are inconsistent herewith, the terms thereof shall control.

**Section 7 Amendment.** These Instructions are irrevocable by the Financing Authority and the City. These Instructions may be amended or supplemented by the Financing Authority and the City, but only if the Financing Authority and the City file with the Prior Trustee (a) an opinion of bond counsel engaged by the City stating that such amendment or supplement will not, of itself, adversely affect the exclusion from gross income of interest on the Prior Bonds or the Bonds under federal income tax law, and (b) a certification of an independent accountant or independent financial adviser engaged by the City stating that such amendment or supplement will not affect the sufficiency of funds held hereunder to make the payments required by Section 1.

**Section 8. Compensation and Reimbursement of Expenses of Prior Trustee.** The City agrees to pay to the Prior Trustee reasonable compensation for all services rendered by it hereunder and to reimburse the Prior Trustee for all out-of-pocket costs and expenses incurred by the Prior Trustee.

**Section 9. Governing Law.** These Instructions shall be construed in accordance with and are governed by the Constitution and laws of the State of California.

**Section 10. Execution in Several Counterparts.** These Instructions may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Financing Authority, the City and the Prior Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

*[signature page follows]*

**IN WITNESS WHEREOF**, the parties hereto have executed these Instructions by their officers thereunto duly authorized as of the day and year first written above.

**SOLANA BEACH PUBLIC FINANCING  
AUTHORITY**

By: \_\_\_\_\_

**CITY OF SOLANA BEACH**

By: \_\_\_\_\_

Accepted and Agreed to:

**MUFG UNION BANK, N.A., as Prior  
Trustee**

By: \_\_\_\_\_  
Authorized Officer

**EXHIBIT A**

**NOTICE OF REDEMPTION**

**Solana Beach Public Financing Authority  
Subordinate Wastewater Revenue Bonds, Series 2006  
Maturing March 1, 2018, through March 1, 2037  
(Issued January 18, 2007)**

| <b>Maturity</b> | <b>Principal Amount</b> | <b>Interest Rate</b> | <b>CUSIP<sup>1</sup></b> |
|-----------------|-------------------------|----------------------|--------------------------|
| 3/1/2018        | \$ 255,000              | 4.000%               | 83409T AL3               |
| 3/1/2019        | 265,000                 | 4.000                | 83409T AM1               |
| 3/1/2020        | 275,000                 | 4.100                | 83409T AN9               |
| 3/1/2021        | 285,000                 | 4.125                | 83409T AP4               |
| 3/1/2022        | 300,000                 | 4.250                | 83409T AQ2               |
| 3/1/2023        | 310,000                 | 4.250                | 83409T AR0               |
| 3/1/2024        | 325,000                 | 4.250                | 83409T AS8               |
| 3/1/2025        | 340,000                 | 4.375                | 83409T AT6               |
| 3/1/2026        | 355,000                 | 4.375                | 83409T AU3               |
| 3/1/2031        | 2,015,000               | 4.490                | 83409T AV1               |
| 3/1/2037        | 3,055,000               | 4.510                | 83409T AU3               |

NOTICE IS HEREBY GIVEN pursuant to the Indenture of Trust (the "Indenture") dated December 1, 2006, between the Solana Beach Public Financing Authority (the "Financing Authority"), and MUFG Union Bank, N.A. (formerly Union Bank of California, N.A.), as trustee (the "Trustee"), which provided for the issuance of the above-captioned bonds (the "Bonds"), that the Bonds will be redeemed on [August 23], 2017 (the "Redemption Date"), at a redemption price equal to 100% of the principal amount thereof, plus interest accrued to the Redemption Date, without premium (the "Redemption Price").

Payment of the Redemption Price will become due and payable on the Redemption Date upon presentation and surrender of the Bonds to the Corporate Trust Office(s) listed below:

MUFG Union Bank, N.A.  
Corporate Trust Department  
120 South San Pedro Street, Suite 410  
Los Angeles, CA 90012

Interest on the Bonds will cease to accrue on and after the Redemption Date.

**IMPORTANT NOTICE**

Under the provisions of the Jobs and Growth Tax Relief Reconciliation Act of 2003, 28% will be withheld if tax identification number is not properly certified.

DATED: (date of notice generation)

**MUFG UNION BANK, N.A.**, as trustee

<sup>1</sup> The Financing Authority and the Trustee are not responsible for the use of the CUSIP number(s) selected, nor is any representation made as to their correctness indicated in this notice or as printed on any Bond. They are included solely for the convenience of the owners.

§ \_\_\_\_\_  
**CITY OF SOLANA BEACH**  
**2017 WASTEWATER REVENUE REFUNDING BONDS**

August \_\_, 2017

**BOND PURCHASE CONTRACT**

City of Solana Beach  
635 S. HWY 101  
Solana Beach, CA 92075

Ladies and Gentlemen:

Hilltop Securities Inc. (the “**Underwriter**”), offers to enter into this Bond Purchase Contract (this “**Purchase Contract**”) with the City of Solana Beach (the “**City**”) with regard to the Series 2017 Bonds described below, which Purchase Contract, upon the acceptance hereof by the City, will be binding upon the City and the Underwriter. This offer is made subject to the written acceptance of this Purchase Contract by the City and the delivery of such acceptance to the Underwriter at or prior to 11:59 p.m., Pacific time, on the date hereof, and, if it is not so accepted, such offer may be withdrawn by the Underwriter upon written notice to the City by the Underwriter at any time before its acceptance.

The City acknowledges and agrees that: (i) the purchase and sale of the Series 2017 Bonds (as defined below) pursuant to this Purchase Contract is an arm’s-length commercial transaction between the City and the Underwriter; (ii) in connection with such transaction, the Underwriter is acting solely as a principal and not as an agent or a fiduciary of the City; (iii) the Underwriter has not assumed a fiduciary responsibility in favor of the City with respect to: (A) the offering of the Series 2017 Bonds or the process leading thereto (whether or not the Underwriter, or any affiliate of the Underwriter, has advised or is currently advising the City on other matters), or (B) any other obligation to the City except the obligations expressly set forth in this Purchase Contract; and (iv) the City has consulted with its respective legal and financial advisors to the extent it deemed appropriate in connection with the offering of the Series 2017 Bonds.

1. Upon the terms and conditions and upon the basis of the representations, warranties, and agreements hereinafter set forth, the Underwriter hereby agrees to purchase from the City for reoffering to the public, and the City hereby agrees to sell to the Underwriter for such purpose, all (but not less than all) of the \$\_\_\_\_\_ aggregate principal amount of the City’s Wastewater Revenue Refunding Bonds, Series 2017 (the “**Series 2017 Bonds**”). The purchase price of the Series 2017 Bonds shall be \$[\_\_\_\_\_] (representing the par amount of the Series 2017 Bonds, plus/less net original issue premium/discount of \$[\_\_\_\_\_] , less an Underwriter’s discount of \$[\_\_\_\_\_]). The Preliminary Official Statement with respect to the Series 2017 Bonds, dated July [\_\_\_], 2017 (the “**Preliminary Official Statement**”), as amended to conform to the terms of this Purchase Contract, and dated the date hereof, and with such

changes and amendments as are mutually agreed to by the City and the Underwriter, including the cover page, the appendices, and all information incorporated therein by reference, is herein collectively referred to as the “**Official Statement.**” The City represents that it has deemed the Preliminary Official Statement to be final as of its date, except for either revision or addition of the offering price(s), yield(s) to maturity, selling compensation, aggregate denominational amount and maturity value, denominational amount and maturity value per maturity, delivery date, rating(s), and other terms of the Series 2017 Bonds that depend upon the foregoing as provided in and pursuant to Rule 15c2-12 of the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the “**Rule**”).

2. The Series 2017 Bonds shall mature on the dates and in the amounts, and will bear interest at the rates, set forth in Exhibit A hereto and as further described in the Official Statement and shall be issued under and pursuant to the Indenture, dated as of August 1, 2017 (the “**Indenture**”), between the City and MUFG Union Bank, N.A. (the “**Trustee**”). Capitalized terms used herein without definition shall have the meanings given to such terms in the Indenture.

3. The Underwriter shall make a bona fide public offering of all the Series 2017 Bonds at not in excess of the respective initial public offering prices to be set forth on the cover page of the Official Statement. The Underwriter reserves the right to change such initial offering prices as the Underwriter shall deem necessary in connection with the marketing of the Series 2017 Bonds and to offer and sell the Series 2017 Bonds to certain dealers (including dealers depositing such bonds into investment trusts) and others at prices lower than the initial offering prices set forth on the cover page of the Official Statement. The Underwriter also reserves the right to (i) over allot or effect transactions that stabilize or maintain the market prices of the Series 2017 Bonds at levels above those which might otherwise prevail in the open market and (ii) discontinue such stabilizing, if commenced, at any time. “Public offering” shall include an offering to a representative number of institutional investors or registered investment companies, regardless of the number of such investors to which the Series 2017 Bonds are sold.

4. The City hereby authorizes the use by the Underwriter of (i) the Indenture, (ii) the Continuing Disclosure Certificate, dated August [ ], 2017 (the “**Continuing Disclosure Certificate**”), by and between the City and [ ], as dissemination agent (the “**Dissemination Agent**”), and (iii) the Official Statement, and any supplements or amendments thereto, and the information contained in each of such documents, in connection with the public offering and sale of the Series 2017 Bonds.

The City will deliver to the Underwriter, within seven (7) business days after the date of this Purchase Contract and in sufficient time to accompany any confirmation requesting payment from any customers of the Underwriter, copies of the Official Statement in final form (including all documents incorporated by reference therein) and any amendment or supplement thereto in such quantities as the Underwriter may reasonably request in order to comply with the obligations of the Underwriter pursuant to the Rule and the rules of the Municipal Securities Rulemaking Board (the “**MSRB**”). As soon as practicable following receipt thereof from the City, the Underwriter shall deliver the Official Statement to the MSRB.

5. At 8:00 a.m., Pacific Standard Time, on August [\_\_\_], 2017, or at such other time or on such other business day as shall have been mutually agreed upon by the City and the Underwriter (the “**Closing Date**”), the City will cause the Trustee to authenticate and deliver to the Underwriter at the office of The Depository Trust Company (“**DTC**”) in New York, New York, or at such other place as the City and the Underwriter may mutually agree upon, the Series 2017 Bonds in fully-registered book-entry form, duly executed and registered in the name of Cede & Co., as nominee of DTC. Subject to the terms and conditions hereof, the Underwriter will accept such delivery and pay the purchase price of the Series 2017 Bonds by wire transfer payable in immediately available funds to or upon the order of the City at such place in Los Angeles, California, or New York, New York, as shall have been mutually agreed upon by the City and the Underwriter. Such delivery of and payment for the Series 2017 Bonds is referred to herein as the “**Closing**.” The Series 2017 Bonds shall be made available for inspection by DTC at least one business day before the Closing.

6. The City represents, warrants, and covenants to the Underwriter that:

(A) The City is a municipal corporation of the State of California (the “**State**”) duly organized and validly existing under and by virtue of the Constitution and laws of the State.

(B) The City has the legal right and power to issue and deliver the Series 2017 Bonds and to execute and deliver, and to perform its obligations under, the Indenture, the Continuing Disclosure Certificate and this Purchase Contract (collectively, the “**City’s Documents**”). The City has duly authorized the issuance and delivery of the Series 2017 Bonds and the execution and delivery of, and performance of its obligations under, the City’s Documents and, as of the date hereof, such authorizations are in full force and effect and have not been amended, modified, or rescinded. When executed and delivered by the respective parties thereto, the City’s Documents will constitute legal, valid, and binding obligations of the City in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws and the application of equitable principles relating to or affecting creditors’ rights generally. The City has complied, and will at the Closing be in compliance in all material respects, with its obligations under the City’s Documents.

(C) The Series 2017 Bonds are special limited obligations of the City and are payable as to principal, premium (if any), and interest with respect thereto, from a pledge of System Revenues (as defined under the Indenture), derived from revenues of the City’s wastewater system, and which payments have been duly and validly authorized pursuant to applicable law.

(D) The Series 2017 Bonds will be issued in accordance with the Indenture and will conform in all material respects to the descriptions thereof contained in the Official Statement. The Indenture creates a valid pledge of, first lien upon, and security interest in, the pledged System Revenues.

(E) The information in the Official Statement (excluding any information with respect to DTC, the book-entry only system and the Trustee) is true and correct in all

material respects, and the information in the Official Statement does not contain any misstatement of any material fact and does not omit any statement necessary to make the statements, in the light of the circumstances in which such statements were made, not misleading.

(F) To assist the Underwriter in complying with the Rule, the City will undertake, pursuant to the Continuing Disclosure Certificate, to provide annual reports and notices of certain events. A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the Official Statement.

(G) The City covenants with the Underwriter that for twenty-five days after the Closing Date (the “**Delivery Period**”), if any event occurs that might or would cause the Official Statement, as then supplemented or amended, to contain an untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the City shall notify the Underwriter thereof, and if in the reasonable opinion of the Underwriter such event requires the preparation and publication of a supplement or amendment to the Official Statement, the City will cooperate with the Underwriter in the preparation of an amendment or supplement to the Official Statement, at the expense of the City, in a form and in a manner approved by the Underwriter.

(H) The City will advise the Underwriter promptly of any proposal to amend or supplement the Official Statement and will not effect or consent to any such amendment or supplement without the consent of the Underwriter, which consent shall not be unreasonably withheld. The City will advise the Underwriter promptly of the institution of any proceedings known to it by any governmental agency prohibiting or otherwise affecting the use of the Official Statement in connection with the offering, sale, or distribution of the Series 2017 Bonds.

(I) If the Official Statement is supplemented or amended, the Official Statement, as so supplemented or amended, as of the date of such supplement or amendment, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(J) The City is not in breach of or in default, in any material respect, under any applicable constitutional provision, law, or administrative rule or regulation of the State or the United States, or any applicable judgment, decree, consent, or other agreement to which the City is a party, and no event has occurred and is continuing that, with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any of the foregoing.

(K) The authorization, execution, and delivery by the City of the City’s Documents, and compliance by the City with the provisions thereof, do not and will not conflict with or constitute a breach of or default by the City, in any material respect, under any applicable constitutional provision, law, or administrative rule or regulation of

the State or the United States, or any applicable judgment, decree, consent, or other agreement to which it is bound or by which its properties may be affected.

(L) No authorization, consent, or approval of, or filing or registration with, any Governmental Authority (as defined below) or court is, or under existing requirements of law will be, necessary for the valid execution and delivery of, or performance by the City of its obligations under, the City's Documents, other than any authorization, consent, approval, filing, or registration as may be required under the Blue Sky or securities laws of any state in connection with the offering, sale, or issuance of the Series 2017 Bonds (as to which no representation is made by the City). All authorizations, consents, or approvals of, or filings or registrations with, any Governmental Authority or court necessary for the valid issuance of, and performance by the City of its obligations under, the Series 2017 Bonds will have been duly obtained or made prior to the issuance of the Series 2017 Bonds (and disclosed to the Underwriter). As used herein, the term "**Governmental Authority**" refers to any legislative body or governmental official, department, commission, board, bureau, agency, instrumentality, body, or public benefit corporation.

(M) The City shall furnish such information, execute such instruments, and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order (i) to qualify the Series 2017 Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate and (ii) to determine the eligibility of the Series 2017 Bonds for investment under the laws of such states and other jurisdictions, and shall use its best efforts to continue such qualifications in effect so long as required for the distribution of the Series 2017 Bonds; provided, however, that the City shall not be required to execute a general consent to service of process or qualify to do business in connection with any such qualification or determination in any jurisdiction; provided, further, that the Underwriter shall bear all costs in connection with the City's action pursuant to the foregoing.

(N) There is no action, suit, proceeding, inquiry, or investigation, at law or in equity, before or by any court, regulatory agency, or public board or body, pending and notice of which has been served on the City or, to the best knowledge of the City, threatened (i) in any way questioning the existence of the City or the titles of the officers of the City to their respective offices; (ii) affecting, contesting, or seeking to prohibit, restrain, or enjoin the issuance of the Series 2017 Bonds or the execution or delivery of any of the City's Documents, or the payment or collection of any amounts pledged or to be pledged to pay the principal of and interest on the Series 2017 Bonds, or in any way contesting or affecting the validity of the Series 2017 Bonds or the City's Documents or the consummation of the transactions contemplated thereby or any proceeding of the City taken with respect to any of the foregoing, or contesting the exclusion of the interest on the Series 2017 Bonds from taxation or contesting the powers of the City and its authority to pledge the System Revenues; (iii) that may result in any material adverse change relating to the City that will materially adversely affect the City's ability to apply the System Revenues to pay the Series 2017 Bonds when due; or (iv) contesting the



completeness or accuracy of the Preliminary Official Statement or the Official Statement or any supplement or amendment thereto or asserting that the Preliminary Official Statement or the Official Statement contained any untrue statement of a material fact or omitted to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(O) Other than in the ordinary course of its business or as contemplated by the Official Statement, between the date of this Purchase Contract and the Closing Date the City will not, without the prior written consent of the Underwriter, offer or issue any certificates, bonds, notes, or other obligations for borrowed money or incur any material liabilities, direct or contingent, payable from or secured by a pledge of the System Revenues.

(P) The financial statements of, and other financial information regarding, the City contained in the Official Statement fairly present the financial position and results of the operations of the City as of the dates and for the periods therein set forth, and, to the best of the City's knowledge, (i) the audited financial statements have been prepared in accordance with generally accepted accounting principles consistently applied, (ii) the unaudited financial statements have been prepared on a basis substantially consistent with the audited financial statements included in the Official Statement and reflect all adjustments necessary to that effect, and (iii) the other financial information has been determined on a basis substantially consistent with that of the City's audited financial statements included in the Official Statement.

(Q) Any certificate signed by any official or other representative of the City and delivered to the Underwriter pursuant to this Purchase Contract shall be deemed a representation and warranty by the City to the Underwriter as to the truth of the statements therein made.

(R) The Underwriter has provided to the City prior disclosures under Rule G-17 of the MSRB, which have been received by the City.

7. The Underwriter has entered into this Purchase Contract in reliance upon the representations, warranties, and covenants of the City contained herein and in the City's Documents to which the City is a party, and the performance by the City of its respective obligations hereunder, both as of the date hereof and as of the Closing Date. The Underwriter's obligations under this Purchase Contract are and shall be subject to the following further conditions:

(A) The representations and warranties of the City contained herein shall be true, complete, and correct in all material respects on the date hereof and at and as of the Closing, as if made at and as of the Closing, and the statements made in all certificates and other documents delivered to the Underwriter at the Closing pursuant hereto shall be true, complete, and correct in all material respects at the Closing; the City shall be in compliance with each of the agreements made by it in this Purchase Contract (unless such agreements are waived by the Underwriter); there shall not have occurred an adverse change in the financial position, results of operations, or financial condition of the City

that materially adversely affects the ability of the City to make payments of principal of and interest on the Series 2017 Bonds when due or to otherwise perform any of its obligations under the City's Documents.

(B) At the time of the Closing, the City's Documents shall be in full force and effect, and shall not have been amended, modified, or supplemented (except as may be agreed to in writing by the Underwriter); all actions that, in the opinion of Kronick, Moskovitz, Tiedemann & Girard, Sacramento, California, Bond Counsel ("**Bond Counsel**"), shall be necessary in connection with the transactions contemplated hereby shall have been duly taken and shall be in full force and effect; and the City shall perform or shall have performed its obligations required under or specified in the City's Documents to be performed at or prior to the Closing.

(C) At the time of the Closing, the Official Statement (as amended and supplemented) shall be true and correct in all material respects, and shall not omit any statement or information necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(D) Except as disclosed in the Official Statement or in a schedule delivered to the Underwriter at the Closing, no decision, ruling, or finding shall have been entered by any court or Governmental Authority since the date of this Purchase Contract (and not reversed on appeal or otherwise set aside) that has any of the effects described in Section 8(F) hereof.

(E) (i) No default by the City shall have occurred and be continuing in the payment of the principal of or premium, if any, or interest on any bond, note, or other evidence of indebtedness issued by the City and (ii) no bankruptcy, insolvency, or other similar proceeding in respect of the City shall be pending or, to the knowledge of the City, contemplated.

(F) The Underwriter may terminate this Purchase Contract by written notification to the City if at any time after the date hereof and prior to the Closing:

(i) legislation shall have been enacted by the United States or the State or shall have been reported out of committee or be pending in committee, or a decision shall have been rendered by a court of the United States or the Tax Court of the United States, or a ruling shall have been made or a regulation, proposed regulation, or a temporary regulation shall have been published in the Federal Register or any other release or announcement shall have been made by the Treasury Department of the United States or the Internal Revenue Service, with respect to Federal or State taxation upon revenues or other income or payments of the general character to be derived by the City or upon interest received on obligations of the general character of the Series 2017 Bonds, which, in the reasonable opinion of the Underwriter (after consultation with, and receipt of advice from, the City), materially adversely affects the market for the Series 2017 Bonds; or

(ii) the United States shall have become engaged in hostilities that have resulted in a declaration of war or a national emergency or the President of the United States of America shall have committed the armed forces of the United States of America to combat so as to adversely affect the financial markets in the United States of America and that, in the reasonable opinion of the Underwriter (after consultation with, and receipt of advice from, the City), materially adversely affects the market for the Series 2017 Bonds; or

(iii) there shall have occurred a general suspension of trading on the New York Stock Exchange, or a general banking moratorium shall have been declared by Federal, California, or New York authorities having jurisdiction and being in force; or

(iv) there shall have occurred an adverse change in the financial position, results of operations, or financial condition of the City that, in the reasonable opinion of the Underwriter (after consultation with, and receipt of advice from, the City), materially adversely affects the market for the Series 2017 Bonds; or

(v) any legislation, ordinance, rule, or regulation shall be introduced in, or be enacted by, any governmental body, department, or agency of the State, or a decision by any court of competent jurisdiction within the State or any court of the United States shall be rendered that, in the reasonable opinion of the Underwriter, materially adversely affects the market price of the Series 2017 Bonds; or

(vi) legislation shall be enacted by the Congress of the United States, or a decision by a court of the United States shall be rendered, or a stop order, ruling, regulation, or official statement by, or on behalf of, the Securities and Exchange Commission or any other governmental agency having jurisdiction of the subject matter shall be issued or made to the effect that the issuance, offering, or sale of obligations of the general character of the Series 2017 Bonds, or the issuance, offering, or sale of the Series 2017 Bonds, including all underlying obligations, as contemplated hereby or by the Official Statement, is in violation or would be in violation of, or that obligations of the general character of the Series 2017 Bonds, or the Series 2017 Bonds, are not exempt from registration under, any provision of the federal securities laws, including the Securities Act of 1933, as amended and as then in effect, or that the Indenture needs to be qualified under the Indenture Act of 1939, as amended and as then in effect; or

(vii) additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by any Governmental Authority or by any national securities exchange, which restrictions materially adversely affect the ability of underwriters to trade obligations of the general character of the Series 2017 Bonds; or

(viii) any rating of the Series 2017 Bonds shall have been downgraded, suspended, or withdrawn by a national rating service, which, in the Underwriter's reasonable opinion, materially adversely affects the marketability or market price of the Series 2017 Bonds; or

(ix) the commencement of any action, suit, or proceeding described in Section 6(N) that, in the judgment of the Underwriter, materially adversely affects the market price of the Series 2017 Bonds; or

(x) any event occurring, or information becoming known, that, in the reasonable judgment of the Underwriter, makes any statement or information contained in the Official Statement, as of its date, untrue in any material adverse respect, or has the effect that the Official Statement, as of its date, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(G) At or prior to the Closing, the Underwriter shall receive the following documents:

(1) the opinion of Bond Counsel, dated the Closing Date, in substantially the form included in the Official Statement as [Appendix D], addressed to the City (and accompanied by reliance letters to the Underwriter, the City, and the Trustee);

(2) a supplemental opinion of Bond Counsel, in form and substance satisfactory to the Underwriter, dated the Closing Date, addressed to the City and the Underwriter, to the effect that:

(i) the Purchase Contract has been duly authorized, executed, and delivered by the City and, assuming due authorization, execution, and delivery by the Underwriter, such document constitutes the legal, valid, and binding agreement of the City enforceable in accordance with its terms, subject to laws relating to bankruptcy, insolvency, or other laws affecting the enforcement of creditors' rights generally and the application of equitable principles if equitable remedies are sought;

(ii) the Series 2017 Bonds are not subject to registration requirements of the Securities Act of 1933, as amended, and the Indenture is exempt from qualification pursuant to the Indenture Act of 1939, as amended; and

(iii) the statements contained in the Official Statement under the captions "INTRODUCTION," "THE SERIES 2017 BONDS," "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2017 BONDS," "[TAX MATTERS – Tax Exemption of Interest on the Series 2017 Bonds]," "[APPENDIX B – CERTAIN DEFINITIONS AND SUMMARY OF PRINCIPAL LEGAL DOCUMENTS]," "[APPENDIX D – FORM OF BOND

COUNSEL OPINION],” and “[APPENDIX E – FORM OF DISCLOSURE AGREEMENT],” insofar as such statements purport to summarize certain provisions of the Indenture, the Continuing Disclosure Certificate, the Series 2017 Bonds, and the opinion of Bond Counsel concerning certain federal tax matters relating to the Series 2017 Bonds, are accurate in all material respects;

(3) an opinion of the City Attorney, in form and substance satisfactory to the Underwriter, dated the Closing Date, addressed to the City and the Underwriter, to the effect that:

(i) the City is a municipal corporation and general law city duly organized and validly existing under and by virtue of the laws of the State;

(ii) the resolutions of the City approving and authorizing the execution and delivery of the City’s Documents and the Official Statement (collectively, the “**City Resolutions**”) were duly adopted at meetings of the City Council of the City that were called and held pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout, and the City Resolutions are in full force and effect and have not been modified, amended, or rescinded as of the Closing Date;

(iii) the City has full legal power and lawful authority to enter into the City’s Documents;

(iv) the City’s Documents have been duly authorized, executed, and delivered by the City and, assuming due authorization, execution, and delivery by the other parties thereto, such documents constitute the legal, valid, and binding agreements of the City enforceable in accordance with their terms, subject to laws relating to bankruptcy, insolvency, or other laws affecting the enforcement of creditors’ rights generally and the application of equitable principles if equitable remedies are sought;

(v) no authorization, approval, consent, or other order of the State or any other Governmental Authority or agency within the State having jurisdiction over the City, the absence of which would materially adversely affect the due performance by the City of its obligations under the City’s Documents, is required for the valid authorization, execution, and delivery by the City of the City’s Documents provided, however, that we express no opinion as to any approvals, obligations or consents as may be required under any state or federal blue sky or securities laws;

(vi) to the best knowledge of such counsel, the execution and delivery by the City of the City’s Documents, and compliance by the City with the provisions thereof, under the circumstances contemplated thereby, do not and will not in any material respect conflict with or constitute a breach of or default under any law, administrative regulation, court decree, resolution, or agreement to which the City is subject to or by which it is bound; and

(vii) except as otherwise disclosed in the Official Statement, to the best knowledge of such counsel after reasonable investigation, there is no action, suit, proceeding, inquiry, or investigation, at law or in equity, before or by any court, regulatory agency, or public board or body, pending and notice of which has been served on the City or, to the best knowledge of such counsel, threatened (a) in any way questioning the existence of the City or the titles of the officers of the City to their respective offices; (b) affecting, contesting, or seeking to prohibit, restrain, or enjoin the issuance of the Series 2017 Bonds or the execution or delivery of any of the City's Documents, or the payment or collection of any amounts pledged or to be pledged to pay the principal of and interest on the Series 2017 Bonds, or in any way contesting or affecting the validity of the Series 2017 Bonds or the City's Documents or the consummation of the transactions contemplated thereby or any proceeding of the City taken with respect to any of the foregoing, or contesting the exclusion of the interest on the Series 2017 Bonds from taxation or contesting the powers of the City and its authority to pledge the System Revenues; (c) that may result in any material adverse change relating to the City that will materially adversely affect the City's ability to pay the principal of and interest on the Series 2017 Bonds when due; or (d) contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement or any supplement or amendment thereto or asserting that the Preliminary Official Statement or the Official Statement contained any untrue statement of a material fact or omitted to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(4) a letter from Quint & Thimmig LLP, disclosure counsel to the City ("**Disclosure Counsel**"), dated the Closing Date, addressed to the Underwriter and the City, to the effect that, based upon its participation in the preparation of the Official Statement as counsel to the City and without having undertaken to determine independently the fairness, accuracy, or completeness of the statements contained in the Official Statement, such counsel has no reason to believe that, as of the date of the Closing, the Official Statement (excluding therefrom (i) the expressions of opinion, the assumptions, the projections, estimates and forecasts, the charts, the financial statements or other financial, numerical, economic, demographic or statistical data, or assessed valuations contained in the Official Statement; (ii) any CUSIP numbers or information relating thereto; (iii) any information with respect to The Depository Trust Company and its book-entry system; (iv) any information contained in the appendices to the Official Statement; (v) any information incorporated by reference into the Official Statement; (vi) compliance by the City or any related entity with their respective obligations to provide notice of the events described in part (b)(5)(i)(C) of the Rule or to file annual reports described in part (b)(5)(i)(A) of the Rule; (vii) any information with respect to the underwriters or underwriting matters with respect to the Series 2017 Bonds, including but not limited to information under the caption "[MISCELLANEOUS—Underwriting]"; (viii) information under the captions "[CERTAIN LEGAL MATTERS—Absence of Litigation]" and "[TAX MATTERS—Tax Exemption of Interest on the Series 2017 Bonds]"; and (ix) any information with respect to the ratings on the Series 2017 Bonds and the rating agencies referenced therein, including but not limited to information under

the caption “[MISCELLANEOUS—Rating]”; contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(5) a certificate of the City, in form and substance satisfactory to the Underwriter, dated the Closing Date, to the effect that;

(i) the representations and warranties of the City contained in this Purchase Contract are true and correct in all material respects on and as of the Closing Date with the same effect as if made on the Closing Date; and

(ii) there has been no material adverse change in the financial condition or results of operations of the City from the date of the Official Statement to the Closing Date;

(6) a certificate, dated the date of the Preliminary Official Statement, from the City addressed to the Underwriter, in the form attached hereto as Exhibit B;

(7) an opinion of counsel to the Trustee, dated the Closing Date, addressed to the Underwriter and the City, to the effect that;

(i) the Trustee is a national banking association and is validly existing, duly qualified to do business and in good standing under the laws of each jurisdiction in which the performance of its duties under the Indenture would require such qualification and has the requisite power and authority to execute, deliver and perform its obligations under the Indenture;

(ii) the Trustee is duly eligible and qualified to act as Trustee under the Indenture;

(iii) the Trustee has all requisite power, authority, and legal right to execute and deliver the Indenture and to perform its obligations under the Indenture, and has taken all necessary corporate action to authorize the execution and delivery of and the performance of its obligations under the Indenture;

(iv) the Trustee has duly executed and delivered the Indenture. Assuming the due authorization, execution, and delivery thereof by the other parties thereto, the Indenture is the legal, valid, and binding agreement of the Trustee enforceable against the Trustee in accordance with its terms, except to the extent enforceability thereof may be subject to (A) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, and other similar laws affecting creditors’ rights and remedies heretofore or hereafter enacted, and (B) the application of equitable principles and the exercise of judicial discretion in appropriate cases;

(v) the Series 2017 Bonds have been duly authenticated by the Trustee;

(vi) the execution, delivery, and performance of the Indenture by the Trustee and the consummation of the transactions contemplated thereby do not and will not (a) to the knowledge of such counsel, conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement, or other agreement or instrument to which the Trustee is a party or by which the Trustee is bound or to which any of the property or assets of the Trustee or any of its subsidiaries is subject, (b) result in any violation of the provisions of the charter, articles of association, by-laws, or applicable resolutions of the Trustee, or (c) to the knowledge of such counsel, result in any violation of any statute or any order, rule, or regulation of any court or government agency or body having jurisdiction over the Trustee or any of its properties or assets; and

(vii) to the knowledge of such counsel, there are no actions, proceedings, or investigations pending or threatened against the Trustee before any court, administrative agency or tribunal (a) asserting the invalidity of the Indenture, (b) seeking to prevent the consummation of any of the transactions contemplated thereby, or (c) that might materially and adversely affect the performance by the Trustee of its obligations under, or the validity or enforceability of the Indenture;

(8) a certificate, dated the Closing Date, signed by a duly authorized officer of the Trustee, to the effect that:

(i) the Trustee is a national banking association organized and existing under and by virtue of the laws of the United States of America, having the necessary power to enter into, accept, and administer the trusts created under the Indenture and to authenticate the Series 2017 Bonds;

(ii) the Indenture has been duly authorized, executed, and delivered by a duly authorized officer of the Trustee, and the execution, delivery, and performance of the Indenture have been duly authorized by all necessary action of the Trustee;

(iii) the Indenture constitutes the legal, valid, and binding obligation of the Trustee enforceable in accordance with its terms, except as enforcement thereof may be limited by bankruptcy, insolvency, or other laws affecting the enforcement of creditors' rights generally and by the application of equitable principles, if equitable remedies are sought;

(iv) the Series 2017 Bonds have been duly authenticated by a duly authorized officer of the Trustee;

(v) no consent, approval, authorization, or other action by any governmental or regulatory authority having jurisdiction over the Trustee that has not been obtained is or will be required for the execution and delivery of the



Indenture or the performance by the Trustee of its duties and obligations under the Indenture;

(vi) the execution and delivery by the Trustee of the Indenture and compliance with the terms thereof will not conflict with, or result in a violation or breach of, or constitute a default under, any loan agreement, indenture, bond, note, resolution, or any other agreement or instrument to which the Trustee is a party or by which it is bound, or any law or any rule, regulation, order, or decree of any court or governmental agency or body having jurisdiction over the Trustee or any of its activities or properties (except that no representation, warranty, or agreement need be made with respect to any federal or State securities or blue sky laws or regulations);

(vii) the Trustee's action in executing and delivering the Indenture will not contravene the articles or bylaws of the Trustee and is in full compliance with, and does not conflict with, any applicable law or governmental regulation currently in effect, and such action does not conflict with or violate any contract to which the Trustee is a party or any administrative or judicial decision by which the Trustee is bound; and

(viii) there is no action, suit, proceeding, or investigation, at law or in equity, before or by any court or governmental agency, public board, or body that has been served on the Trustee, or to the best knowledge of the Trustee, threatened against the Trustee which in the reasonable judgment of the Trustee would affect the existence of the Trustee or in any way contesting or affecting the validity or enforceability of the Indenture or contesting the powers of the Trustee or its authority to enter into and perform its obligations thereunder;

(9) certified copies of the City Resolutions and incumbency resolution of the Trustee;

(10) copies of the City's Documents and the Official Statement, duly executed and delivered by the respective parties thereto;

(11) a tax certificate of the City, in form satisfactory to Bond Counsel, signed by an appropriate officer of the City;

(12) evidence that the underlying rating on the Series 2017 Bonds of "[ ]" by [ ] are in full force and effect on the Closing Date;

(13) copies of the statements with respect to the sale of the Series 2017 Bonds required to be delivered to the California Debt and Investment Advisory Commission pursuant to Sections 8855 and 53583 of the California Government Code;

(14) evidence that the federal tax information form 8038-G has been prepared by Bond Counsel for filing; and

(15) such additional legal opinions, certificates, proceedings, instruments, and other documents as the Underwriter or Bond Counsel may reasonably request to evidence compliance by the City with legal requirements, the accuracy, as of the time of Closing, of the City's representations herein contained, and the due performance or satisfaction by the City at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the City.

If the City shall be unable to satisfy the conditions to the Underwriter's obligations contained in this Purchase Contract or if the Underwriter's obligations shall be terminated for any reason permitted by this Purchase Contract, this Purchase Contract shall terminate and neither the City nor the Underwriter shall have any further obligation hereunder.

8. The performance by the City of its obligations is conditioned upon (i) the performance by the Underwriter of its obligations hereunder and (ii) receipt by the City and the Underwriter of opinions and certificates being delivered at the Closing by persons and entities other than the City.

9. Except as indicated in this Section 9 and in Section 6(M), no expenses and costs of the City incident to the performance of the City's obligations in connection with the authorization, issuance, and sale of the Series 2017 Bonds to the Underwriter, such as the costs of preparation (including word processing, printing, and reproduction), distribution and delivery of the Preliminary Official Statement, the Official Statement, and this Purchase Contract, in reasonable quantities, fees of rating agencies, fees and expenses of any financial advisor to the City, and fees and expenses of Bond Counsel or Disclosure Counsel for the City, shall be paid by the Underwriter. Except as indicated above, all out-of-pocket expenses of the Underwriter, including the California Debt and Investment Advisory Commission fee, CUSIP Bureau and/or DTC fees, traveling, the cost of preparation of any Blue Sky and legal investment memoranda and all Blue Sky filing fees, and other expenses and the fees and expenses of the Underwriter, including Underwriter's Counsel, shall be paid by the Underwriter.

10. Any notice or other communication to be given under this Purchase Contract may be given by delivering the same in writing to the City of Solana Beach, 635 S. HWY 101 Solana Beach, CA 92075 Attention: [Greg Wade], or to such other person as the Treasurer may designate in writing and any notice or other communication to be given to the Underwriter under this Purchase Contract may be given by delivering the same in writing to Hilltop Securities Inc., 2533 South Coast Hwy 101, Suite 250, Cardiff, California 92007, Attention: Mike Cavanaugh. The approval of the Underwriter when required hereunder or the determination of their satisfaction as to any document referred to herein shall be in writing signed by the Underwriter and delivered to the City.

11. For all purposes of this Purchase Contract, a default shall not be deemed to be continuing if it has been cured, waived, or otherwise remedied. This Purchase Contract shall be governed by and construed in accordance with the laws of the State applicable to contracts made and performed within the State.

12. This Purchase Contract may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

13. This Purchase Contract when accepted by the City in writing shall constitute the entire agreement between the City and the Underwriter and is made solely for the benefit of the City and the Underwriter (including the successors or assigns of the Underwriter). No other person shall acquire or have any right hereunder or by virtue hereof.

HILLTOP SECURITIES INC.

By: \_\_\_\_\_  
Kelly Wine  
Director

The foregoing is hereby agreed to and accepted as of the date first above written:

CITY OF SOLANA BEACH

By: \_\_\_\_\_  
Name: [Greg Wade]  
Title: City Manager

Time of Execution: \_\_\_\_\_

EXHIBIT A

\$[\_\_\_\_\_] ]  
City of Solana Beach  
Wastewater Revenue Refunding Bonds, Series 2017

| <u>Maturity Date</u><br><u>(March 1)</u> | <u>Principal</u><br><u>Amount</u> | <u>Interest</u><br><u>Rate</u> | <u>Yield</u> |
|--|-----------------------------------|--------------------------------|--------------|
|--|-----------------------------------|--------------------------------|--------------|

\* Yield to first call date of [\_\_\_\_\_] at par.

**EXHIBIT B**  
**FORM OF**  
**S.E.C. RULE 15c2-12 CERTIFICATE**  
**§[\_\_\_\_\_]\***  
**CITY OF SOLANA BEACH**  
**WASTEWATER REVENUE REFUNDING BONDS, SERIES 2017**

**RULE 15c2-12 CERTIFICATE**

The undersigned hereby certifies and represents to Hilltop Securities Inc. (the “Underwriter”) that he is the duly appointed and acting City Manager of the City of Solana Beach (the “City”), and, as such, is authorized to execute and deliver this Certificate and further hereby certifies and reconfirms on behalf of the City to the Underwriter as follows:

(1) This Certificate is delivered to enable the Underwriter to comply with Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the “Rule”) in connection with the offering and sale of the City’s above-captioned bonds (the “Series 2017 Bonds”).

(2) In connection with the offering and sale of the Series 2017 Bonds, there has been prepared a Preliminary Official Statement, dated July [\_\_\_\_], 2017, setting forth information concerning the City and the Series 2017 Bonds (the “Preliminary Official Statement”).

(3) As used herein, “Permitted Omissions” shall mean the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the Series 2017 Bonds depending on such matters, all with respect to the Series 2017 Bonds.

(4) The Preliminary Official Statement is and has been, except for the Permitted Omissions, deemed final within the meaning of the Rule, and the information therein is accurate and complete except for the Permitted Omissions.

---

\* Preliminary, subject to change.

(5) If, at any time prior to the execution of the final contract of purchase, any event occurs as a result of which the Preliminary Official Statement might include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the City shall upon receipt of actual knowledge or notice of any such event promptly notify the Underwriter thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_th day of \_\_\_\_, 2017.

CITY OF SOLANA BEACH

By: \_\_\_\_\_  
Greg Wade, City Manager

**PRELIMINARY OFFICIAL STATEMENT DATED JULY 25, 2017**

**NEW ISSUE—FULL BOOK-ENTRY**

**RATING:**  
S&P: " "   
(See "RATING" herein)

In the opinion of Kronick, Moskovitz, Tiedemann & Girard, A Professional Corporation, Sacramento, California ("Bond Counsel"), based upon an analysis of existing statutes, regulations, rulings, and court decisions and assuming, among other things, the accuracy of certain representations and compliance with certain covenants, interest on the Bonds is excludable from gross income for federal income tax purposes and is exempt from State of California personal income taxes. In the opinion of Bond Counsel, interest on the Bonds is not an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations; however, such interest is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on certain corporations. Bond Counsel expresses no opinion regarding any other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on, the Bonds. See "TAX MATTERS" herein.



\$ \_\_\_\_\_ \*  
**CITY OF SOLANA BEACH**  
(San Diego County, California)  
**2017 Wastewater Revenue Refunding Bonds**

**Dated: As of Date of Delivery**

**Due: March 1, as shown below**

The \$ \_\_\_\_\_ \* City of Solana Beach (San Diego County, California) 2017 Wastewater Revenue Refunding Bonds (the "Bonds") are being issued by the City of Solana Beach, California (the "City"), in fully registered form without coupons and, when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"). Payments of the principal of and interest on the Bonds will be made by MUFG Union Bank, N.A., as trustee for the Bonds (the "Trustee"), to DTC, which is obligated in turn to remit such principal and interest to DTC participants for subsequent disbursement to the beneficial owners of the Bonds. The Bonds are being issued pursuant to an Indenture of Trust, dated as of August 1, 2017 (the "Indenture"), by and between the City and the Trustee. Interest on the Bonds will be payable semi-annually on each March 1 and September 1, commencing on March 1, 2018.

The Bonds are being issued to provide funds to (i) refund, on a current basis, the outstanding Solana Beach Public Financing Authority Subordinate Wastewater Revenue Bonds, Series 2006 (the "2006 Bonds"), which were issued to finance the improvement, betterment, renovation and expansion of certain facilities within the City's municipal wastewater enterprise (the "Wastewater System"), and (ii) pay the costs of issuing the Bonds.

The Bonds are payable from the net revenues (the "Net Revenues") of the Wastewater System, derived primarily from charges and revenues received by the City from the operation of the Wastewater System, less the costs of the operation and maintenance of the Wastewater System. The Net Revenues are pledged, as a first and prior lien thereon, to pay the principal of and interest on the Bonds on a parity, as to payment and security, with certain existing obligations secured by Net Revenues, as described herein, and any parity obligations issued or incurred by the City in accordance with the Indenture, as described herein (the "Parity Obligations"). The City has covenanted to set rates and charges for the service and facilities of the Wastewater System sufficient to provide Net Revenues in each year equal to at least 1.30 times the aggregate annual amount of principal of and interest due on the Bonds and all Parity Obligations. *A reserve fund will not be funded for the Bonds.*

The Bonds are subject to redemption prior to maturity. See "THE BONDS—Redemption" herein.

NEITHER THE BONDS NOR THE OBLIGATION TO PAY PRINCIPAL OF OR INTEREST THEREON CONSTITUTES A DEBT OR A LIABILITY OF THE CITY, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL LIMITATION ON INDEBTEDNESS, OR A PLEDGE OF THE FULL FAITH AND CREDIT OF THE CITY. THE BONDS ARE SECURED SOLELY BY THE PLEDGE OF NET REVENUES AND CERTAIN FUNDS HELD UNDER THE INDENTURE. THE BONDS ARE NOT SECURED BY A PLEDGE OF THE TAXING POWER OF THE CITY.

**MATURITIES, PRINCIPAL AMOUNTS, INTEREST RATES AND PRICES OR YIELDS\***

\$ \_\_\_\_\_ Serial Bonds

CUSIP<sup>†</sup> Prefix: \_\_\_\_\_

| Maturity<br>March 1 | Principal<br>Amount | Interest<br>Rate | Yield | CUSIP <sup>†</sup><br>Suffix |
|---------------------|---------------------|------------------|-------|------------------------------|
|                     |                     |                  |       |                              |

\$ \_\_\_\_\_ % Term Bonds Maturing March 1, \_\_\_\_\_; Price: \_\_\_\_\_, to Yield \_\_\_\_\_%—CUSIP<sup>†</sup>: \_\_\_\_\_

THIS COVER PAGE CONTAINS CERTAIN INFORMATION FOR QUICK REFERENCE ONLY. IT IS NOT A SUMMARY OF THIS ISSUE OF BONDS. INVESTORS MUST READ THE ENTIRE OFFICIAL STATEMENT TO OBTAIN INFORMATION ESSENTIAL TO THE MAKING OF AN INFORMED INVESTMENT DECISION WITH RESPECT TO THE PURCHASE OF THE BONDS.

*The Bonds are offered when, as and if issued and received by the Underwriter and subject to the approval as to their legality by Kronick Moskovitz Tiedemann & Girard, A Professional Corporation, Sacramento, California, as Bond Counsel. Certain legal matters will also be passed upon for the City by Quint & Thimmig LLP, Larkspur, California, as Disclosure Counsel, and by McDongah, Love, Boehner, Foley, Lyon & Canlas, La Mesa, California, the City Attorney. It is anticipated that the Bonds will be delivered in definitive form through the facilities of DTC on or about August 23, 2017.*

**HilltopSecurities**

Dated: August \_\_, 2017

\*Preliminary, subject to change.

† Copyright 2017, American Bankers Association. CUSIP<sup>®</sup> is a registered trademark of the American Bankers Association. CUSIP data herein is provided by CUSIP Global Services, operated by S&P Capital IQ. This data is not intended to create a database and does not serve in any way as a substitute for CUSIP Global Services. CUSIP numbers have been assigned by an independent company not affiliated with the Authority and are included solely for the convenience of the registered owners of the Bonds. Neither the City nor the Underwriter is responsible for the selection or uses of these CUSIP numbers and no representation is made as to their correctness on the Bonds or as included herein. The CUSIP number for a specific maturity is subject to being changed after the delivery of the Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of certain maturities of the Bonds.

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell, or a solicitation of an offer to buy, nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.





## GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

*For purposes of compliance with Rule 15c2-12 of the United States Securities and Exchange Commission, as amended ("Rule 15c2-12"), this Preliminary Official Statement constitutes an "official statement" of the District with respect to the Bonds that has been deemed "final" by the District as of its date except for the omission of no more than the information permitted by Rule 15c2-12.*

**Use of Official Statement.** This Official Statement is submitted in connection with the sale of the Bonds referred to herein and may not be reproduced or used, in whole or in part, for any other purpose. This Official Statement is not to be construed as a contract with the purchasers of the Bonds.

**Estimates and Forecasts.** When used in this Official Statement and in any continuing disclosure by the City, in any press release and in any oral statement made with the approval of an authorized officer of the City, the words or phrases "will likely result," "are expected to," "will continue," "is anticipated," "estimate," "project," "forecast," "expect," "intend" and similar expressions identify "forward looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward-looking statements. Any forecast is subject to such uncertainties. Inevitably, some assumptions used to develop the forecasts will not be realized and unanticipated events and circumstances may occur. Therefore, there are likely to be differences between forecasts and actual results, and those differences may be material. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, give rise to any implication that there has been no change in the affairs of the City since the date hereof.

**Limit of Offering.** No dealer, broker, salesperson or other person has been authorized by the City or the Underwriter to give any information or to make any representations other than those contained herein and, if given or made, such other information or representation must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the Bonds by a person in any jurisdiction in which it is unlawful for such person to make such an offer, solicitation or sale.

**Limited Scope of Information.** The City has obtained certain information set forth herein from sources which are believed to be reliable, but such information is neither guaranteed as to accuracy or completeness, nor to be construed as a representation of such by the City. The information and expressions of opinions herein are subject to change without notice and neither delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the City since the date hereof. All summaries of or references to the documents referred to in this Official Statement are made subject to the provisions of such documents and do not purport to be complete statements of any or all of such provisions. All capitalized terms used herein, unless noted otherwise, shall have the meanings prescribed in the Indenture.

**Underwriter.** The Underwriter has provided the following sentence for inclusion in this Official Statement. The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibility to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVER-ALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE BONDS AT SUCH LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANYTIME.

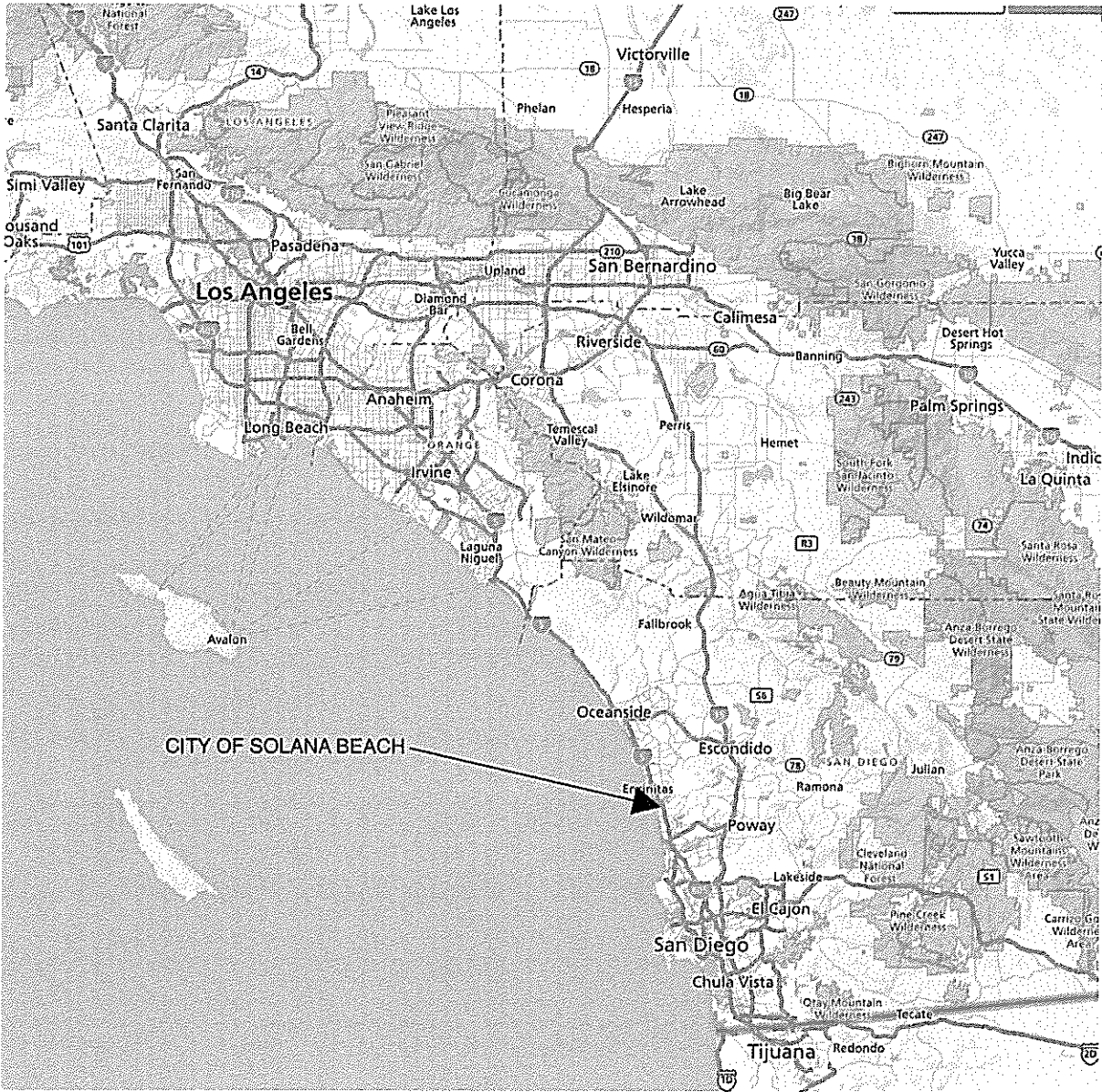
THE BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON AN EXCEPTION FROM THE REGISTRATION REQUIREMENTS CONTAINED IN SUCH ACT. THE BONDS HAVE NOT BEEN REGISTERED OR QUALIFIED UNDER THE SECURITIES LAWS OF ANY STATE.

**Website.** The City maintains a website. Unless specifically indicated otherwise, the information presented on such website is not incorporated by reference as part of this Official Statement and should not be relied upon in making investment decisions with respect to the Bonds.

## TABLE OF CONTENTS

|  |    |  |    |
|--|----|--|----|
| INTRODUCTION.....  | 1  | Customer Base .....                                | 25 |
| General .....  | 1  | WASTEWATER SYSTEM FINANCIAL INFORMATION .....      | 26 |
| The City .....   | 1  | Budgetary Process .....                            | 26 |
| The Wastewater System .....  | 1  | Financial Statements .....                         | 27 |
| Purpose of the Bonds.....  | 2  | Wastewater System Accounting .....                 | 27 |
| Authority for Issuance.....  | 2  | Wastewater System Financial Information .....      | 28 |
| Pledge of Net Revenues .....   | 2  | Outstanding Debt.....                              | 30 |
| Rate Covenant.....   | 3  | Historical Revenues, Expenditures and Debt Service |    |
| Additional Obligations.....  | 3  | Coverage.....                                      | 31 |
| Payment.....   | 3  | Projection of Revenues, Expenditures and Debt      |    |
| Redemption .....   | 3  | Service Coverage.....                              | 31 |
| Form of Bonds.....   | 3  | Risk Management.....                               | 32 |
| Book-Entry System .....  | 4  | Retirement Programs .....                          | 33 |
| Risks of Investment.....   | 4  | California Public Employees' Retirement System     |    |
| Continuing Disclosure.....   | 4  | (CalPERS).....                                     | 33 |
| Forward-Looking Statements.....  | 4  | Postemployment Benefits Other Than Pension         |    |
| Other Matters.....   | 5  | Benefits.....                                      | 33 |
| Other Information .....  | 5  | INVESTMENT OF CITY FUNDS .....                     | 33 |
| ESTIMATED SOURCES AND USES OF FUNDS .....  | 6  | CONSTITUTIONAL LIMITATIONS ON APPROPRIATIONS       |    |
| THE REFUNDING PLAN.....  | 6  | AND FEES .....                                     | 34 |
| DEBT SERVICE REQUIREMENTS.....   | 8  | Article XIII A .....                               | 34 |
| THE BONDS .....  | 8  | Article XIII B.....                                | 34 |
| Authority for Issuance.....  | 8  | Proposition 218 .....                              | 35 |
| General Provisions .....   | 8  | Effect of Proposition 218 on the City; Possible    |    |
| Redemption .....   | 9  | Limitations on Enforcement Remedies.....           | 37 |
| Book-Entry Only System.....  | 11 | Proposition 26 .....                               | 37 |
| SECURITY FOR THE BONDS.....  | 11 | Future Initiatives.....                            | 38 |
| Pledge of Net Revenues .....   | 11 | RISK FACTORS RELATING TO THE BONDS .....           | 39 |
| Receipt, Deposit and Application of Gross Revenues   |    | General .....                                      | 39 |
| and Net Revenues .....   | 12 | Limited Obligations.....                           | 39 |
| Application of Interest Fund .....   | 14 | Seismic Considerations .....                       | 39 |
| Application of Principal Fund .....  | 14 | Environmental Regulation.....                      | 39 |
| Rate Covenant .....  | 14 | Maintenance and Operation Costs.....               | 40 |
| Limitations on Future Obligations Secured by Net   |    | Demand and Usage; Drought.....                     | 40 |
| Revenues .....   | 15 | Limited Recourse on Default .....                  | 40 |
| Rate Stabilization Fund .....  | 17 | Limitations on Remedies.....                       | 40 |
| THE CITY.....  | 17 | Initiatives.....                                   | 40 |
| General.....   | 17 | Bankruptcy .....                                   | 41 |
| Governance and Management .....  | 17 | Rate Process .....                                 | 41 |
| City Staff .....   | 18 | Insurance .....                                    | 41 |
| THE WASTEWATER SYSTEM.....   | 18 | Tax Exemption .....                                | 41 |
| General.....   | 18 | Parity Debt .....                                  | 41 |
| Service Area .....   | 18 | Secondary Market .....                             | 42 |
| Wastewater Collection System .....   | 18 | TAX MATTERS.....                                   | 42 |
| Authority Wastewater Facility .....  | 19 | CERTAIN LEGAL MATTERS .....                        | 43 |
| Historical Wastewater Flow .....   | 21 | LITIGATION.....                                    | 43 |
| Capital Improvement Program.....   | 21 | RATING.....  | 43 |
| Billing and Collection Procedures.....   | 22 | CONTINUING DISCLOSURE .....                        | 43 |
| Wastewater Rates, Fees and Charges.....  | 23 | UNDERWRITING .....                                 | 44 |
| Wastewater Rate Increases.....   | 24 | MISCELLANEOUS.....                                 | 44 |
| Comparative Monthly Wastewater Bills .....   | 25 |  |    |
| APPENDIX A:      SUMMARY OF THE INDENTURE  |    |  |    |
| APPENDIX B:      AUDITED FINANCIAL STATEMENTS OF THE CITY FOR THE FISCAL YEAR                |    |  |    |
|  |    |  |    |
|  |    |  |    |
| APPENDIX C:      FORM OF CONTINUING DISCLOSURE CERTIFICATE                                   |    |  |    |
| APPENDIX D:      GENERAL INFORMATION REGARDING THE CITY OF SOLANA BEACH AND SAN DIEGO COUNTY |    |  |    |
| APPENDIX E:      FORM OF OPINION OF BOND COUNSEL   |    |  |    |
| APPENDIX F:      BOOK-ENTRY ONLY SYSTEM  |    |  |    |

# CITY OF SOLANA BEACH LOCATION MAP



**CITY OF SOLANA BEACH**

635 South Highway 101  
Solana Beach, CA 92075  
(858) 720-2400 (Main)  
(858) 792-6513 (Fax)  
<http://www.ci.solana-beach.ca.us>

**City Council**

Mike Nichols, *Mayor*  
Ginger Marshall, *Deputy Mayor*  
David A. Zito, *Councilmember*  
Jewel Edson, *Councilmember*  
Judy Hegenauer, *Councilmember*

**City Staff and Officials**

Gregory Wade, *City Manager*  
Marie Marron Berkuti, *Finance Manager/Treasurer*  
Mohammed Sammak, *Public Works Director/City Engineer*  
Angela Ivey, *City Clerk*  
Johanna Canlas, Esq., *City Attorney*

**Special Services**

Del Rio Advisors, LLC  
Modesto, California  
*Municipal Advisor*

Kronick Moskovitz Tiedemann & Girard  
Sacramento, California  
*Bond Counsel*

Quint & Thimmig LLP  
Larkspur, California  
*Disclosure Counsel*

MUFG Union Bank, N.A.  
Los Angeles, California  
*Trustee*

## OFFICIAL STATEMENT

\$ \_\_\_\_\_ \*

**CITY OF SOLANA BEACH**  
**(San Diego County, California)**  
**2017 Wastewater Revenue Refunding Bonds**

### INTRODUCTION

#### General

This Official Statement, which includes the cover page and the appendices hereto, provides information in connection with the sale of the 2017 Wastewater Revenue Refunding Bonds (the “Bonds”), issued by the City of Solana Beach, California (the “City”), in the aggregate principal amount of \$ \_\_\_\_\_.\*

This Introduction is not a summary of this Official Statement. It is only a brief description of and guide to, and is qualified by, more complete and detailed information contained in the entire Official Statement, including the cover page and the appendices hereto, and the documents summarized or described herein. A full review should be made of the entire Official Statement. The offering of the Bonds to potential investors is made only by means of the entire Official Statement.

Capitalized terms used, but not otherwise defined herein, shall have the meanings assigned thereto as set forth in APPENDIX A—SUMMARY OF THE INDENTURE—Certain Definitions.

#### The City

The City is a coastal city in San Diego County (the “County”), California, located twenty-one miles north of the City of San Diego’s downtown district. The City was incorporated on July 1, 1986, is a general law city and it is operated by a Council/Manager form of government, as further described herein. The City is a small beach community. The Pacific Ocean is to the west; the community of Cardiff-by-the-Sea to the north, and the City of Del Mar to the south. The unincorporated village of Rancho Santa Fe is located on the east side. The City is home to approximately 13,500 residents. According to the United States Census Bureau, the City has a total area of 3.6 square miles. See “THE CITY” and APPENDIX D—GENERAL INFORMATION REGARDING THE CITY OF SOLANA BEACH AND SAN DIEGO COUNTY.

#### The Wastewater System

In compliance with the Federal Clean Water Act requirements, the City maintains a sanitary sewer system. The City is the successor to the Solana Beach Sanitation District (the “District”), a former County sanitation district originally formed following an election held on November 12, 1946. On the same day that the City was incorporated (July 1, 1986), pursuant to an election approving a plan of reorganization, and as approved by resolution of the County Board of Supervisors, the District became a

---

\* Preliminary, subject to change.

subsidiary entity of the City. On September 14, 1989, the Board of Directors of the District passed a resolution requesting that the City undertake all actions necessary to dissolve or merge the District into the City. Following acceptance of District's plan of reorganization on September 19, 1989, and a hearing before the Local Agency Formation Commission, the merger was completed on July 1, 1990. The City Council, as the governing board of the City, governs all matters relating to the City Sanitation Enterprise Fund and the City's wastewater collection, treatment, reclamation, recycling and disposal system (the "Wastewater System"). The operating functions of line maintenance is provided by a private sewer maintenance company under contract.

The Wastewater System as of June 30, 2017 included 37 miles of sanitary sewers, four pump stations and an estimated total of 7,450 Equivalent Dwelling Units of service connections within the City, with each "Equivalent Dwelling Unit" or "EDU" being a unit of the wastewater generated by a single family residential account.

The service area of the Wastewater System generally slopes westerly to the Pacific Ocean, allowing most of the wastewater to be collected and transported by gravity along the coastal plain, where the topography is relatively flat; however, pumping stations are required. The system comprises approximately 196,470 linear feet of collection and trunk sewer lines. Wastewater collected by the system is conveyed to the City's pumping station on the south shore of the San Elijo Lagoon. The wastewater is then pumped to the wastewater treatment facility (the "Authority Wastewater Facility") operated by the San Elijo Joint Powers Authority (the "Authority") through a 5,500-foot-long, 12-inch diameter force main. The remaining wastewater is conveyed to Encinitas' Olivenhain Pump Station (which the Authority operates), and then pumped to the Authority Wastewater Facility for treatment.

See "THE WASTEWATER SYSTEM" herein.

### **Purpose of the Bonds**

The Bonds are being issued to provide funds to (i) refund, on a current basis, the outstanding Solana Beach Public Financing Authority Subordinate Wastewater Revenue Bonds, Series 2006 (the "2006 Bonds"), which were issued to finance the improvement, betterment, renovation and expansion of certain facilities within the Wastewater System, and (ii) pay the costs of issuing the Bonds. See "THE REFUNDING PLAN" herein.

### **Authority for Issuance**

The Bonds are authorized pursuant to the provisions of section 53570 *et seq.* of the California Government Code, a resolution adopted by the City Council of the City on June 28, 2017 (the "Resolution"), and an Indenture of Trust (the "Indenture"), dated as of August 1, 2017, by and between the City and MUFG Union Bank, N.A., as trustee (the "Trustee").

### **Pledge of Net Revenues**

The Bonds are payable from the net revenues (the "Net Revenues") of the Wastewater System, derived primarily from charges and revenues received by the City from the operation of the Wastewater System, less the costs of the operation and maintenance of the Wastewater System.

The Net Revenues are pledged, as a first and prior lien thereon, to pay the principal of and interest on the Bonds on a parity, as to payment and security, with that certain Third Amended and Restated Loan Agreement, dated as of December 1, 2011, by and between the Authority and the City (the "2011 Loan Agreement"), that certain Loan Agreement, dated as of June 1, 2017, by and between the Authority and the City (the "2017 Loan Agreement"), and with any Parity Debt issued or incurred by the City in accordance with the Indenture, as described herein (the "Parity Debt"). The 2011 Loan Agreement secures, in part, the Authority's 2011 Refunding Revenue Bonds (San Elijo Water Reclamation Facility) (the "2011 Authority Bonds"). The 2017 Loan Agreement secures, in part, the Authority's 2017 Revenue Bonds (Clean Water Projects) (the "2017 Authority Bonds"). The 2011 Authority Bonds and the 2017 Authority Bonds were issued to finance and refinance improvements and additions to the Authority Wastewater Facility.

See "SECURITY FOR THE BONDS—Pledge of Net Revenues."

#### **Rate Covenant**

The City has covenanted to set rates and charges for the service and facilities of the Wastewater System sufficient to provide Net Revenues in each year equal to at least 1.30 times the aggregate annual amount of principal of and interest due on the Bonds and all Parity Debt. See "SECURITY FOR THE BONDS—Rate Covenant."

#### **Additional Obligations**

Additional obligations and bonds issued or incurred on a parity with, or subordinate to, the Bonds may be issued pursuant to the Indenture provided that certain conditions are met. See "SECURITY FOR THE BONDS—Limitations on Future Obligations Secured by Net Revenues."

#### **Payment**

Principal of the Bonds will be payable in each of the years and in the amounts set forth on the cover page hereof at the office of the Trustee. Interest on the Bonds will be paid by check or draft of the Trustee mailed by first class mail to the person entitled thereto. See "THE BONDS—General." Initially, principal of and interest on the Bonds will be payable when due by wire of the Trustee to The Depository Trust Company ("DTC"), which will in turn remit such interest and principal to DTC Participants (as defined herein), which will in turn remit such interest and principal to Beneficial Owners (as defined herein) of the Bonds. See "THE BONDS—Book-Entry Only System."

#### **Redemption**

The Bonds are subject to redemption prior to their stated maturity dates, as provided herein. See "THE BONDS—Redemption."

#### **Form of Bonds**

The Bonds will be dated as of their date of delivery and will be issued in fully registered form, without coupons, in the minimum denominations of \$5,000 or any integral multiple thereof. Any Bond may, in accordance with its terms, be transferred or exchanged, pursuant to the provisions of the Indenture. See "THE BONDS—General."



## **Book-Entry System**

The Bonds will be registered in the name of Cede & Co., as nominee of DTC. DTC will act as securities depository for the Bonds. Ownership interests in the Bonds may be purchased in denominations of \$5,000 or any integral multiple thereof, in book-entry form only. Upon receipt of payments of principal and interest on the Bonds, DTC will in turn remit such principal and interest to the participants in DTC for subsequent disbursement to the beneficial owners of the Bonds. See “THE BONDS—Book-Entry Only System” below and APPENDIX F—BOOK-ENTRY ONLY SYSTEM.

## **Risks of Investment**

The Bonds are repayable only from certain money available to the City from the Wastewater System. For a discussion of some of the risks associated with the purchase of the Bonds, see “RISKS RELATING TO THE BONDS” herein.

NEITHER THE BONDS NOR THE OBLIGATION TO PAY PRINCIPAL OF OR INTEREST THEREON CONSTITUTES A DEBT OF THE CITY, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL LIMITATION ON INDEBTEDNESS, OR A PLEDGE OF THE FULL FAITH AND CREDIT OF THE CITY. THE BONDS ARE SECURED SOLELY BY THE PLEDGE OF NET REVENUES AND CERTAIN FUNDS HELD UNDER THE INDENTURE.

## **Continuing Disclosure**

The City has covenanted, for the benefit of the owners and beneficial owners of the Bonds, to provide certain financial information and operating data relating to the Wastewater System by not later than nine months following the end of each Fiscal Year (currently June 30), and to provide notices of the occurrence of certain enumerated events. See “CONTINUING DISCLOSURE” herein and APPENDIX C—FORM OF CONTINUING DISCLOSURE CERTIFICATE.

## **Forward-Looking Statements**

This Official Statement, and particularly the information contained under the headings entitled “THE REFUNDING PLAN,” “ESTIMATED SOURCES AND USES OF FUNDS,” “SECURITY FOR THE BONDS,” “THE WASTEWATER SYSTEM” AND APPENDIX D—GENERAL INFORMATION REGARDING THE CITY OF SOLANA BEACH AND SAN DIEGO COUNTY, contains statements relating to future results that are “forward-looking statements” as defined in the Private Securities Litigation Reform Act of 2000. When used in this Official Statement, the words “estimate,” “forecast,” “intend,” “expect” and similar expressions identify forward-looking statements. Such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward-looking statements. Any forecast is subject to such uncertainties. Inevitably, some assumptions used to develop the forecasts will not be realized and unanticipated events and circumstances may occur. Therefore, there are likely to be differences between forecasts and actual results, and those differences may be material. The City is not obligated to issue any updates or revisions to the forward-looking statements if or when its expectations, or events, conditions or circumstances on which such statements are based occur. See “RISK FACTORS RELATING TO THE BONDS.”

## **Other Matters**

There follows in this Official Statement brief descriptions of the Bonds, the security for the Bonds, the Indenture, the City, the Wastewater System, and certain other information relevant to the issuance of the Bonds. The descriptions and summaries of documents herein do not purport to be comprehensive or definitive, and reference is made to each such document for the complete details of all its respective terms and conditions. All statements herein with respect to such documents are qualified in their entirety by reference to each such document for the complete details of all of their respective terms and conditions. All statements herein with respect to certain rights and remedies are qualified by reference to laws and principles of equity relating to or affecting creditors' rights generally. Copies of the Indenture are available for inspection during business hours at the corporate trust office of the Trustee.

The information and expressions of opinion herein speak only as of the date of this Official Statement and are subject to change without notice. Neither delivery of this Official Statement nor any sale made hereunder nor any future use of this Official Statement shall, under any circumstances, create any implication that there has been no change in the affairs of the City since the date hereof.

All financial and other information presented in this Official Statement has been provided by the City from its records, except for information expressly attributed to other sources. The presentation of information, including the table of receipts from taxes and other revenues, is intended to show recent historic information and is not intended to indicate future or continuing trends in the financial or other affairs of the City. No representation is made that past experience, as it might be shown by such financial and other information, will necessarily continue or be repeated in the future.

## **Other Information**

Copies of the Indenture are available from the City upon written request to the City, 635 South Highway 101, Solana Beach, CA 92075, Attention: Finance Manager/Treasurer. The City may impose a charge for copying, mailing and handling expenses related to any request for documents.

## ESTIMATED SOURCES AND USES OF FUNDS

The estimated sources and uses of funds are as follows:

|                                  |              |
|----------------------------------|--------------|
| <u>Sources:</u>                  |              |
| Principal Amount of Bonds        | \$ _____ *   |
| Plus: Net Original Issue Premium |              |
| Plus: Released 2006 Funds        | _____        |
| <b>TOTAL SOURCES</b>             | <b>_____</b> |
| <br>                             |              |
| <u>Uses:</u>                     |              |
| Refunding of the 2006 Bonds (1)  |              |
| Costs of Issuance (2)            | _____        |
| <b>TOTAL USES</b>                | <b>_____</b> |

(1) Amount required to refund the 2006 Bonds. See "THE REFUNDING PLAN."

(2) Costs of Issuance include the Underwriter's discount, legal fees, printing costs, rating agency fees and other miscellaneous expenses.

### THE REFUNDING PLAN

Proceeds of the Bonds will be used to (i) refund, on a current basis, the 2006 Bonds and (ii) pay the costs of issuing the Bonds.

A portion of the proceeds of the Bonds will be deposited in the redemption fund held by MUFG Union Bank, N.A., as trustee for the 2006 Bonds, under the indenture relating to the 2006 Bonds (the "2006 Redemption Fund") and will be held therein uninvested. The moneys deposited in the 2006 Redemption Fund will be applied to redeem all 2006 Bonds in full on \_\_\_\_\_, 2017, at a redemption price equal to 100% of the par amount thereof.

The 2006 Bonds to be refunded are shown in the following table:

| Maturity Date | Amount Refunded | Interest Rate | Call Date  | Call Price | CUSIP <sup>†</sup> Number |
|---------------|-----------------|---------------|------------|------------|---------------------------|
| 3/1/18        | \$ 255,000      | 4.000%        | ___/___/17 | 100.000    | 83409T AL3                |
| 3/1/19        | 265,000         | 4.000         | ___/___/17 | 100.000    | 83409T AM1                |
| 3/1/20        | 275,000         | 4.100         | ___/___/17 | 100.000    | 83409T AN9                |
| 3/1/21        | 285,000         | 4.125         | ___/___/17 | 100.000    | 83409T AP4                |
| 3/1/22        | 300,000         | 4.250         | ___/___/17 | 100.000    | 83409T AQ2                |
| 3/1/23        | 310,000         | 4.250         | ___/___/17 | 100.000    | 83409T AR0                |
| 3/1/24        | 325,000         | 4.250         | ___/___/17 | 100.000    | 83409T AS8                |
| 3/1/25        | 340,000         | 4.375         | ___/___/17 | 100.000    | 83409T AT6                |
| 3/1/26        | 355,000         | 4.375         | ___/___/17 | 100.000    | 83409T AU3                |
| 3/1/31        | 2,015,000       | 4.375         | ___/___/17 | 100.000    | 83409T AV1                |
| 3/1/37        | 3,055,000       | 4.375         | ___/___/17 | 100.000    | 83409T AW9                |

*The moneys in the 2006 Redemption Fund will be held in trust solely for the 2006 Bonds and will not be available to pay principal of or interest on the Bonds or any obligations other than the 2006 Bonds.*

---

<sup>†</sup> Copyright 2017, American Bankers Association. CUSIP® is a registered trademark of the American Bankers Association. CUSIP data herein is provided by CUSIP Global Services, operated by S&P Capital IQ. This data is not intended to create a database and does not serve in any way as a substitute for CUSIP Global Services. CUSIP numbers have been assigned by an independent company not affiliated with the City or the Underwriter and are included solely for the convenience of the registered owners of the Bonds.

## DEBT SERVICE REQUIREMENTS

Annual debt service on the Bonds (assuming no redemptions of the Bonds) is presented below.

| <u>Maturity</u><br><u>(March 1)</u> | <u>Principal</u> | <u>Interest</u> | <u>Total</u> |
|-------------------------------------|------------------|-----------------|--------------|
| 2018                                |                  |                 |              |
| 2019                                |                  |                 |              |
| 2020                                |                  |                 |              |
| 2021                                |                  |                 |              |
| 2022                                |                  |                 |              |
| 2023                                |                  |                 |              |
| 2024                                |                  |                 |              |
| 2025                                |                  |                 |              |
| 2026                                |                  |                 |              |
| 2027                                |                  |                 |              |
| 2028                                |                  |                 |              |
| 2029                                |                  |                 |              |
| 2030                                |                  |                 |              |
| 2031                                |                  |                 |              |
| 2032                                |                  |                 |              |
| 2033                                |                  |                 |              |
| 2034                                |                  |                 |              |
| 2035                                |                  |                 |              |
| 2036                                |                  |                 |              |
| 2037                                |                  |                 |              |
| <b>TOTALS</b>                       | _____            | _____           | _____        |

## THE BONDS

### Authority for Issuance

The Bonds are authorized pursuant to the provisions of section 53570 *et seq.* of the California Government Code, a resolution adopted by the City Council of the City on June 28, 2017, and the Indenture.

### General Provisions

The Bonds will be dated as of their date of delivery and issued in fully registered form without coupons in denominations of \$5,000 or any integral multiple thereof. The Bonds will mature in the amounts and on the dates, and bear interest at the rates per annum, set forth on the cover page of this Official Statement.

*Repayment of the Bonds.* Interest on the Bonds will be payable on March 1 and September 1 in each year, beginning September 1, 2017 (each an "Interest Payment Date"), to the person whose name appears on the Bond Registration Books as the Owner thereof as of the Record Date immediately preceding each such Interest Payment Date, such interest to be paid by check or draft of the Trustee mailed by first class mail to the Owner or, at the option of any Owner of at least \$1,000,000 aggregate principal amount of the Bonds with respect to which written instructions have been filed with the Trustee prior to the Record

Date, by wire transfer, at the address of such Owner as it appears on the Bond Register. In the event there exists a default in payment of interest due on such Interest Payment Date, such interest will be payable on a payment date established by the Trustee to the persons in whose names the Bonds are registered at the close of business on a special record date for the payment of such defaulted interest established by notice mailed by the Trustee to the registered Owners of the Bonds not less than 15 days preceding such special record date. Principal of any Bond will be paid upon presentation and surrender thereof at the Principal Corporate Trust Office of the Trustee in Los Angeles, California. Both the principal of and interest on the Bonds will be payable in lawful money of the United States of America.

The Bonds will bear interest based on a 360-day year comprised of twelve 30-day months from the Interest Payment Date next preceding the date of authentication thereof, unless said date of authentication is an Interest Payment Date, in which event such interest is payable from such date of authentication, and unless said date of authentication is prior to February 15, 2018, in which event such interest is payable from their date of delivery; provided, however, that if, as of the date of authentication of any Bond, interest thereon is in default, such Bond will bear interest from the date to which interest has previously been paid or made available for payment thereon in full.

*DTC as Registered Owner.* The Bonds will initially be issued in book-entry only form, registered in the name of Cede & Co., as nominee of DTC. Purchasers of the Bonds will not receive certificates representing their interests therein, which will be held at DTC. See “THE BONDS—Book-Entry Only System.”

## **Redemption**

*Casualty Loss or Governmental Taking.* The Bonds are subject to redemption prior to maturity as a whole on any date or in part (in such maturities as may be specified by the City and at random within a maturity) on any Interest Payment Date, from funds received by the City due to a casualty loss or governmental taking of the Wastewater System or portions thereof by eminent domain proceedings, under the circumstances and upon the conditions and terms prescribed in the Indenture, at a redemption price equal to the sum of the principal amount thereof plus accrued interest thereon to the date fixed for redemption, without premium.

*Optional Redemption.* The Bonds are also subject to redemption prior to their respective stated maturities at the option of the City, from monies deposited by the City from any source of available funds, as a whole or in part (in such maturities as may be specified by the City and at random within a maturity) on any date on or after March 1, 20\_\_\_, at a redemption price equal to the principal amount of Bonds called for redemption, together with accrued interest to the date fixed for redemption, without premium.

In the case of any redemption at the election of the City of Outstanding Bonds, the City will, at least forty-five (45) days prior to the date fixed for redemption (unless a shorter notice shall be satisfactory to the Trustee) notify the Trustee of such redemption date, of the principal amount of Bonds to be redeemed, and, if less than all the maturities are to be redeemed, the maturities that are to be redeemed.

*Sinking Fund Redemption.* The Term Bonds maturing on March 1, 20\_\_\_, are subject to redemption prior to their stated maturity, in part, at random, from amounts deposited into the Sinking Account in the following amounts and on the following dates, at the principal amount thereof on the date fixed for redemption, without premium, but which amounts will be proportionately reduced by the principal amount of all such Term Bonds optionally redeemed

| Mandatory<br>Redemption Date<br>(March 1) | Principal Amount<br>to be Redeemed |
|---|------------------------------------|
|---|------------------------------------|

†Maturity

*Notice of Redemption.* Notice of redemption shall be mailed (first class postage prepaid) by the Trustee, not fewer than thirty (30) nor more than sixty (60) days prior to the redemption date, to (i) the respective Owners of any Bonds designated for redemption at their addresses appearing on the Bond Register, (ii) the Securities Depositories (if the Bonds are not then in book entry form), and (iii) the Information Service. Notice of redemption to the Securities Depositories shall be given by registered or overnight mail.

Each notice of redemption will state the date of such notice, the date of issue of the Bonds, the redemption date, the amount of any redemption premium, the place or places of redemption (including the name and appropriate address or addresses of the Trustee), the CUSIP number (if any) of the maturity or maturities, and, if less than all of any such maturity, the distinctive certificate numbers of the Bonds of such maturity to be redeemed and, in the case of Bonds to be redeemed in part only, the respective portions of the principal amount represented thereby to be redeemed. Each such notice shall also state that on said date there will become due and payable on each of said Bonds the principal amount thereof or specified portion of the principal amount thereof in the case of a Bond to be redeemed in part only, together with premium (if any) and interest thereon accrued to the date fixed for redemption, and that from and after such redemption date interest thereon shall cease to accrue, and shall require that such Bonds be then surrendered at the address or addresses of the Trustee specified in the redemption notice. Neither the City nor the Trustee will have any responsibility for any defect in the CUSIP number that appears on any Bond or in any redemption notice with respect thereto, and any such redemption notice may contain a statement to the effect that CUSIP numbers have been assigned by an independent service for convenience of reference and that neither the City nor the Trustee will be liable for any inaccuracy in such numbers.

Failure by the Trustee to give notice to the Information Service or any of the Securities Depositories or failure of any Owner to receive notice or any defect in any such notice will not affect the sufficiency of the proceedings for redemption. Failure by the Trustee to mail notice to any one or more of the respective Owners of any Bonds designated for redemption will not affect the sufficiency of the proceedings for redemption with respect to the Owner or Owners to whom such notice was mailed.

*Conditional Notice of Redemption; Recession of Redemption.* The City may, at its option, specify in any notice of optional redemption that redemption is conditional upon the availability of money sufficient to pay the Redemption Price of all the Bonds that are to be redeemed on the date fixed for redemption. The City may, at its option, prior to the date fixed for optional redemption in any notice of redemption, rescind and cancel such notice of optional redemption by written notice to the Trustee on or prior to the date fixed for redemption. Any notice of redemption will be cancelled and annulled if for any reason funds are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation will not constitute a default under the Indenture. Neither the City nor

the Trustee will have any liability to the Owners or any other party as a result of the City's failure to redeem Bonds as a result of insufficient money.

### **Book-Entry Only System**

The Bonds will be registered in the name of Cede & Co., as registered owner and nominee of DTC. DTC will act as securities depository for the Bonds so purchased. Individual purchases will be made in book-entry form. One fully registered Bond certificate will be issued for each series and maturity of the Bonds having the same interest rate, in the aggregate principal amount of such maturity and will be deposited with DTC. Purchasers will not receive a certificate representing their beneficial ownership interest in Bonds. So long as Cede & Co. is the registered owner of the Bonds, as nominee of DTC, references herein to the Bondowners or registered owners shall mean Cede & Co. as aforesaid, and shall not mean the "Beneficial Owners" of the Bonds. In this Official Statement, the term "Beneficial Owner" shall mean the person for whom a DTC Participant acquires an interest in the Bonds. See APPENDIX F—BOOK-ENTRY ONLY SYSTEM.

So long as Cede & Co. is the registered owner of the Bonds, principal of and interest on the Bonds are payable by wire transfer of same day funds by the Trustee to Cede & Co., as nominee for DTC. DTC is obligated, in turn, to remit such amounts to the DTC Participants for subsequent disbursement to the Beneficial Owners. See APPENDIX F—BOOK-ENTRY ONLY SYSTEM.

## **SECURITY FOR THE BONDS**

*The general fund of the City is not liable and neither the credit nor taxing power of the City is pledged for the payment of the principal of and interest on the Bonds. The Owners of the Bonds may not compel the exercise of the taxing power by the City or the forfeiture of its property. The principal of and interest on the Bonds are not a debt of the City, nor a legal or equitable pledge, charge, lien or encumbrance, upon any of its property, or upon any of its income, receipts, or revenues except the Net Revenues of the Wastewater System.*

### **Pledge of Net Revenues**

The Bonds and any Parity Debt shall be secured by a first pledge of all of the Net Revenues. In addition, the Bonds shall be secured by a pledge of all of the moneys in the Bond Fund, including all amounts derived from the investment of such moneys. The City pledges to the payment of the Bonds any other amounts (including the proceeds of the sale of such Bonds) held in any fund or account established pursuant to the Indenture for the Wastewater System, other than amounts on deposit in the Rebate Fund. Such pledge shall constitute a lien on the Net Revenues and such other moneys for the payment of the principal of and interest on the Bonds and any Parity Debt in accordance with the terms hereof. The Bonds and any Parity Debt shall be equally secured by a pledge, charge and lien upon the Net Revenues, without priority for number or date thereof, shall be and are secured by an exclusive pledge, charge and lien upon the Net Revenues and such moneys, except as set forth in the Indenture. So long as any of the Bonds are Outstanding, the Net Revenues and such moneys shall not be used for any other purpose, except as set forth in the Indenture; except that out of the Net Revenues there may be apportioned such sums, for such purposes, as are expressly permitted by the Indenture.

The Indenture defines "Wastewater System" as the system owned and operated by the City for the purpose of wastewater collection, treatment, reclamation, recycling and disposal.



The Indenture defines “Net Revenues” as, with respect to any period, the amount of the Gross Revenues received during such period less the amount of Operation and Maintenance Costs becoming payable during such period.

The Indenture defines “Gross Revenues” as means all gross income and revenue received by the City for the collection, treatment, reclamation, recycling and disposal of wastewater, including, without limiting the generality of the foregoing, (a) all income, rents, rates, fees, charges or other moneys derived from the services, facilities and commodities sold, furnished or supplied through the facilities of the Wastewater System and the Authority Wastewater Facility, and (b) the earnings on and income derived from the investment of such income, rents, rates, fees, charges or other moneys, and (c) transfers to the City’s Sanitation Fund from (but exclusive of any transfers to) any rate stabilization reserve accounts; provided that the term “Gross Revenues” does not include customers’ deposits or any other deposits subject to refund until such deposits have become the property of the City.

The Indenture defines “Operation and Maintenance Costs” as (a) all expenses and costs of management, operation, maintenance and repair incurred by the City for the collection of wastewater, as well as the cost of maintaining the Wastewater System, and all incidental costs, fees and expenses properly chargeable to the Wastewater System (but excluding debt service or other similar payments on Parity Debt or other obligations and depreciation and obsolescence charges or reserves therefor and amortization of intangibles and inter-fund transfers or other bookkeeping entries of a similar nature); and (b) all expenses and costs of management, operation, maintenance and repair billed by the Authority to the City for the treatment of wastewater at the Authority Wastewater Facility, as well as the cost of maintaining the Authority Wastewater Facility and all incidental costs, fees and expenses properly chargeable to the Authority Wastewater Facility, which expenses and costs are billed to the City. “Operation and Maintenance Expenses” does not include the installments of principal and interest components of the 2011 Loan Agreement or the 2017 Loan Agreement or the expenses and costs of management, operation, maintenance and repair of the Authority Water Reclamation Facilities.

“Authority Wastewater Facility” means any and all facilities of any kind or purpose of or used by the Authority (excluding the Authority Water Reclamation Facilities) used for the treatment and disposal of wastewater and any/or substance contained in or carried by wastewater, including without limitation sewage treatment plants, intercepting and collecting sewers, outfall sewers, force mains, pumping stations, ejector stations, pipes, valves, machinery, safety and systems for the protection, monitoring, command, control and operation thereof, and all other appurtenances necessary, useful or convenient for the foregoing, and any necessary lands, rights of way and other real or personal property useful in connection therewith.

“Authority Water Reclamation Facilities” means the Authority’s recycled water production and distribution facilities to the extent such facilities are used or useful in the Authority’s tertiary treatment, sale and delivery of recycled water.

### **Receipt, Deposit and Application of Gross Revenues and Net Revenues**

*Gross Revenue Fund.* In order to carry out and effectuate the pledges and liens on the Net Revenues contained in the Indenture, the City agrees and covenants that all Gross Revenues shall be deposited when and as received in the “Gross Revenue Fund,” which fund the City agrees and covenants

to maintain so long as the Bonds remain unpaid. The City shall, from the moneys in the Gross Revenue Fund, pay all Operation and Maintenance Expenses as they become due and payable.

*Payments to Trustee.* Not later than fifteen (15) days before each Interest Payment Date, the City shall pay to the Trustee from the Gross Revenue Fund such amount as is required by the Trustee to make the transfers and deposits required with respect to the Bonds and Parity Debt. Each transfer by the City to the Trustee shall be in lawful money of the United States of America and paid to the Trustee at the Corporate Trust Office. The Trustee shall forthwith deposit the amounts received from the City relating to the Bonds in a trust fund designated as the "Bond Fund" which fund the Trustee shall designate and maintain, so long as any Bonds remain unpaid. All moneys at any time held in the Bond Fund shall be held in trust for the benefit of the Owners and any Parity Debt and shall be disbursed, allocated, and applied solely for the uses and purposes set forth below.

*Allocation of Moneys.* The Trustee shall set aside the moneys in the Bond Fund in the following respective funds or accounts (each of which the Trustee shall establish, maintain and hold in trust for the benefit of the Owners) in the following amounts, in the following order of priority, the requirements of each such fund (including the making up of any deficiencies in any such fund resulting from lack of moneys sufficient to make any earlier required deposit) at the time of deposit to be satisfied before any deposit is made to any fund subsequent in priority:

(a) **Interest Fund.** On or before each Interest Payment Date, the Trustee shall set aside in the Interest Fund an amount equal to the aggregate amount of interest becoming due and payable on the Outstanding Bonds and on any outstanding Parity Debt on such Interest Payment Date. No deposit need be made into the Interest Fund if the amount contained therein is at least equal to the interest due and payable on such Interest Payment Date upon all of the Bonds then Outstanding and on any outstanding Parity Debt.

(b) **Principal Fund; Sinking Accounts.** On or before each Principal Payment Date, the Trustee shall deposit in the Principal Fund an amount equal to (a) the aggregate amount of principal becoming due and payable with respect to the Outstanding Serial Bonds, and with respect to any outstanding Parity Debt, and (b) the aggregate principal amount of Bonds to be redeemed on such date from the respective Sinking Accounts for the Term Bonds, and with respect to terms bonds relating to any outstanding Parity Debt.

(c) **Surplus Amounts.** Any moneys remaining in a Bond Fund after the foregoing transfers described in (a) and (b) above shall be deposited in order of priority, (i) into the Reserve Fund to the extent that the amount therein is less than the Required Reserve, and (ii) into the Rebate Fund, if so directed by the City. Amounts not required to be so deposited shall be transferred to the City, except that any amounts representing delinquent payments shall remain on deposit in the Bond Fund. The City may use and apply any moneys when received by it for any purpose with respect to the Wastewater System, including the redemption of the Bonds upon the terms and conditions set forth in the Indenture and the purchase of Bonds as and when and at such prices as it may determine.

### **Application of Interest Fund**

All money in an Interest Fund shall be used and withdrawn by the Trustee solely for the purpose of paying interest on the Bonds and on any outstanding Parity Debt as it shall become due and payable (including accrued interest on any such Bonds purchased or redeemed prior to maturity).

### **Application of Principal Fund**

All amounts in the Principal Fund shall be used and withdrawn by the Trustee solely for the purposes of paying the principal of the Bonds and of any Parity Debt when due and payable, except that all amounts in the Sinking Account shall be used and withdrawn by the Trustee solely to purchase or redeem or pay such Bonds at maturity, as provided herein.

On any date upon which Term Bonds are subject to mandatory redemption, the Trustee shall transfer the amount of the principal then redeemable from the Principal Fund to the applicable Sinking Account. With respect to each Sinking Account, on each mandatory redemption date established for such Sinking Account, the Trustee shall apply the amount required on that date to the redemption (or payment at maturity, as the case may be) of Term Bonds of such maturity for which such Sinking Account was established, upon the notice and in the manner provided herein; provided that, at any time prior to giving such notice of such redemption, the Trustee shall, upon receipt of a Request of the City, apply moneys in such Sinking Account to the purchase (in whole or in part) of Term Bonds of such maturity at public or private sale, as and when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Fund) as is directed by the City, except that the purchase price (excluding accrued interest) shall not exceed the principal amount represented thereby. If, during the twelve-month period immediately preceding said mandatory redemption date, the Trustee has purchased Term Bonds of such maturity with moneys in such Sinking Account, or, during said period and prior to giving said notice of redemption, the City has deposited Term Bonds of such maturity with the Trustee, such Term Bonds so purchased or deposited or redeemed shall be applied, to the extent of the full principal amount represented thereby, to reduce the amount required for deposit on the mandatory redemption date in the Sinking Account.

Any amounts remaining in a Sinking Account when all of the Term Bonds for which such account was established are no longer Outstanding shall be withdrawn by the Trustee and transferred to the City to be used for any lawful purpose.

All Bonds purchased from a Sinking Account or deposited by the City with the Trustee in a twelve-month period ending September 1, shall be allocated first to the next succeeding mandatory redemption for such maturity of Term Bonds, then as a credit against such future mandatory redemptions for such maturity of Term Bonds as may be specified in a Request of the City.

### **Rate Covenant**

*Covenant Regarding Revenues.* The City covenants to fix, prescribe, revise and collect rates, fees and charges for the Wastewater System as a whole for the services and improvements furnished by the Wastewater System during each Fiscal Year which are at least sufficient, after making allowances for contingencies and error in the estimates, to yield Gross Revenues that are sufficient to pay the following amounts in the following order of priority:

(i) all anticipated Operation and Maintenance Costs of the Wastewater System for such Fiscal Year;

(ii) Debt Service payments on the Bonds and any Parity Debt as they become due and payable during such Fiscal Year, without preference or priority, except to the extent such Debt Service payments are payable from the proceeds of the Bonds or such Parity Debt, as applicable, or from any other source of legally available funds of the City that have been deposited with the Trustee or otherwise segregated for purposes prior to the commencement of such Fiscal Year; and

(iii) all other payments required to meet any other obligations of the City which are charges, liens, encumbrances upon, or which are otherwise payable, from the Revenues during such Fiscal Year.

*Covenant Regarding Net Revenues.* In addition, the City covenants that it will fix, prescribe, and collect rates and charges for the Wastewater System that are reasonably fair and nondiscriminatory and that the City expects will be at least sufficient to yield during each Fiscal Year Net Revenues that equal at least 1.3 times Debt Service on the Bonds and all Parity Debt for such Fiscal Year. The City may make adjustments from time to time in such rates and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates and charges then in effect unless the Net Revenues from such reduced rates and charges will at all times be sufficient to meet the above requirements.

On or before March 1 each year, the City shall calculate Net Revenues for the preceding Fiscal Year. If Net Revenues for that Fiscal Year did not yield at least the coverage amount described above, the City shall employ an Independent Financial Consultant to make recommendations as to a revision of the rates, fees and charges or the methods of operation that will result in producing Net Revenues sufficient to provide the coverage amount. The City shall file a copy of the recommendations of the Independent Financial Consultant with the Trustee. If the City complies in all material respects with the reasonable recommendations of the Independent Financial Consultant in respect to rates, fees, charges and methods of operation or collection, subject to the applicable requirements or restrictions imposed by law and to the determination of the City Council that the recommendations are in the best interests of the City, the City will be deemed to have complied with the rate covenant notwithstanding that Net Revenues were less than the amount required for such Fiscal Year; provided, however, that such rates, fees, charges and methods of operation or collection, excluding amounts transferred from the Rate Stabilization Fund, shall have produced Net Revenues equal to at least 100% of (a) the Debt Service on the Bonds and Parity Debt for such Fiscal Year, (b) any amounts necessary to replenish any reserve fund established with respect to any Parity Debt to their required amounts, and (c) any amounts necessary to pay all amounts owed to any issuer of a reserve fund credit instrument obtained with respect to any Parity Debt. The foregoing sentence shall not be construed as in any way excusing the City from taking any action or performing any duty required under the Indenture or be construed as constituting a waiver of any other Event of Default.

#### **Limitations on Future Obligations Secured by Net Revenues**

**No Additional Prior Lien Obligations or Other Encumbrances; Subordinate Obligations.** The City covenants and agrees that it shall not incur any obligations that are secured by a pledge and lien on the Net Revenues that are senior to the pledge and lien on the Net Revenues contained in the Indenture. The City will not make any pledge of or place any lien on the Gross Revenues except as provided in the Indenture. The City may at any time, or from time to time, issue evidences of

indebtedness for any lawful purpose that are payable from and secured by a pledge of and lien on any moneys transferred to other funds of the City, provided that such pledge and lien shall be subordinate in all respects to the pledges of and liens on the Net Revenues.

**Parity Debt.** The City may at any time issue Parity Debt; provided the City satisfies the debt service feasibility and the reserve funding requirements described below:

*Debt Service Feasibility.* The debt service feasibility requirements for new money financings are as described below under (1) Project Financings, and the debt service feasibility requirements for refundings are as described below under (2) Refundings.

(1) Project Financings. The debt service feasibility requirements for the financing of the acquisition or construction of additional facilities for the Wastewater System are satisfied if the Net Revenues (excluding any amounts derived from the Rate Stabilization Fund) for either the most recent Fiscal Year or any more recent 12-month period selected by the City ending not more than 60 days prior to the adoption (the "adoption date") by the City Council of the resolution authorizing the execution of such Parity Debt (the "measurement period"), as shown by the books of the City, shall have produced a sum equal to at least 1.3 times Maximum Annual Debt Service on all Outstanding Bonds and all Outstanding Parity Debt and the Parity Debt to be executed or issued. In calculating debt service coverage for this purpose, System Revenues for the measurement period may be increased by:

(a) an allowance for revenues from any additions to or improvements or extensions of the Wastewater System and the Authority Wastewater Facilities to be made with the proceeds of such additional obligations, and also for net revenues from any such additions, improvements or extensions that have been made from moneys from any source but which, during all or any part of such Fiscal Year, were not in service, all in an amount equal to 75% of the estimated additional average annual revenues to be derived from such additions, improvements and extensions for the first 36-month period following closing of the proposed Parity Debt, all as shown by a Coverage Report from an Independent Engineer; and

(b) an allowance for earnings arising from any increase in the charges made for service from the Wastewater System and the Authority Wastewater Facilities that has become effective prior to the incurring of such additional obligations but that, during all or any part of such Fiscal Year, was not in effect, in an amount equal to 100% of the amount by which revenues would have been increased if such increase in charges had been in effect during the whole of such Fiscal Year and any period prior to the incurring of such additional obligations, as shown by the Coverage Report from an Independent Engineer;

(2) Refundings. If any such Parity Debt is executed or issued for the purpose of discharging or defeasing Outstanding Bonds or Parity Debt then unpaid and outstanding, the debt service feasibility requirements will be satisfied if, upon such execution or issuance, either (a) the City meets the requirements of subsection (A)(1) above or (b) a Coverage Report is filed with the City to the effect that Debt Service for each future Fiscal Year following such discharge or defeasance shall be less than or equal to the Debt Service for that Fiscal Year if such discharge or defeasance did not occur.

## Rate Stabilization Fund

The City may, but is not required to, establish a fund designated as the “Rate Stabilization Fund.” From time to time, the City may deposit in the Rate Stabilization Fund any available funds, including such Net Revenues as the City shall determine are not needed to pay debt service on the Bonds or Parity Debt. Deposits for each Fiscal Year may be made until (but not after) the date that is one hundred twenty (120) days after the end of such Fiscal Year. The City may withdraw amounts from the Rate Stabilization Fund only for inclusion in Gross Revenues, such withdrawals to be made until (but not after) the date that is one hundred twenty (120) days after the end of such Fiscal Year. All interest or other earnings upon deposits in the Rate Stabilization Fund shall be withdrawn therefrom and accounted for as Gross Revenues.

## THE CITY

### General

The City is a coastal city in the County, located twenty-one miles north of the City of San Diego’s downtown district. The City was incorporated on July 1, 1986, is a general law city and it is operated by a Council/Manager form of government as further described below. The City is a small beach community. The Pacific Ocean is to the west; the community of Cardiff-by-the-Sea to the north, and the City of Del Mar to the south. The unincorporated village of Rancho Santa Fe is located on the east side. The City is home to approximately 13,500 residents. According to the United States Census Bureau, the City has a total area of 3.6 square miles. For more information about the City and the surrounding area See APPENDIX D—GENERAL INFORMATION REGARDING THE CITY OF SOLANA BEACH AND SAN DIEGO COUNTY.

### Governance and Management

The City is a general law city. The City is governed by five members of a city council (the “City Council”) elected at large to serve 4-year overlapping terms at elections held every two years. The Mayor is selected by the City Council to serve a one-year term. Council members select a Deputy Mayor from among their number to serve a one-year term. The current Mayor, Deputy Mayor and City Council members are set forth below:

| <u>City Council Members</u>          | <u>Expiration of Current Term</u> |
|--------------------------------------|-----------------------------------|
| Mike Nichols, <i>Mayor</i>           | December 2018                     |
| Ginger Marshall, <i>Deputy Mayor</i> | December 2018                     |
| David A. Zito, <i>Councilmember</i>  | December 2020                     |
| Jewel Edson, <i>Councilmember</i>    | December 2020                     |
| Judy Hegenauer, <i>Councilmember</i> | December 2020                     |

The City Council appoints the City Manager who is responsible for carrying out the policies and ordinances of the City Council, overseeing the day-to-day operations of the City, and for appointing the heads of the various departments. The City Council enacts ordinances and resolutions, and approves the budget and City expenditures. In addition to its legislative duties, the City Council also appoints citizens to serve on committees and commissions that operate in an advisory capacity to the City Council.

## City Staff

The City currently employs approximately 69.6 individuals, of whom 3.37 persons work fulltime in the Wastewater System. Certain employees of the City belong to a labor union or remain unrepresented. The City currently is subject to memorandum of understanding with its labor union which is presently set to expire on June 30, 2017. Negotiations with the labor union are ongoing.

## THE WASTEWATER SYSTEM

### General

In compliance with the Federal Clean Water Act requirements, the City maintains a sanitary sewer system. The City is the successor to the District, a former County sanitation district originally formed following an election held on November 12, 1946. On the same day that the City was incorporated (July 1, 1986), pursuant to an election approving a plan of reorganization, and as approved by resolution of the County Board of Supervisors, the District became a subsidiary entity of the City. On September 14, 1989, the Board of Directors of the District passed a resolution requesting that the City undertake all actions necessary to dissolve or merge the District into the City. Following acceptance of District's plan of reorganization on September 19, 1989, and a hearing before the Local Agency Formation Commission, the merger was completed on July 1, 1990. The City Council, as the governing board of the City, governs all matters relating to the City Sanitation Enterprise Fund and the Wastewater System. The operating functions of line maintenance is provided by a private sewer maintenance company under contract.

The Wastewater System as of June 30, 2017 included 37 miles of sanitary sewers, four pump stations and an estimated total of 7,450 Equivalent Dwelling Units of service connections within the City, with each "Equivalent Dwelling Unit" or "EDU" being a unit of the wastewater generated by a single family residential account.

Management of the Wastewater System consists of the City's Public Works Director who oversees the entire Wastewater System. Wastewater System staff consists of following personnel with their corresponding certifications and duties.

| <u>Job Title</u> | <u>Certification</u> | <u>Duties</u> |
|------------------|----------------------|---------------|
|------------------|----------------------|---------------|

Source: City of Solana Beach City Public Works Department.

### Service Area

The Wastewater System's service area is coterminous with the City's boundaries.

### Wastewater Collection System

The service area of the Wastewater System generally slopes westerly to the Pacific Ocean, allowing most of the wastewater to be collected and transported by gravity along the coastal plain, where the topography is relatively flat; however, pumping stations are required. The Wastewater System

comprises approximately 196,470 linear feet of collection and trunk sewer lines. Wastewater collected by the system is conveyed to the City's pumping station on the south shore of the San Elijo Lagoon. The wastewater is then pumped to the Authority Wastewater Facility through a 5,500-foot-long, 12-inch diameter force main. The remaining wastewater is conveyed to the City of Encinitas' Olivenhain Pump Station (which the Authority operates), and then pumped to the Authority Wastewater Facility (as defined herein) for treatment.

The City operates \_\_\_\_ pump stations. From the pumping stations, wastewater is then pumped to the Authority Wastewater Facility through the Wastewater System's force main (as described above). A description of each pump station is included below.

*Solana Beach Pump Station.* Located at the north end of the City in the southern edge of the San Elijo Lagoon and 200 feet east of the railroad tracks along Historic Route 101 near the coast. The Solana Beach pump station has a capacity of \_\_\_\_\_ gallons per minute. Back-up power to the Solana Beach pump station is provided by the emergency generator.

*Eden Gardens Pump Station.* Located at the intersection of Valley Avenue and Highland Drive, near the southern border of the City and adjacent to the City of Del Mar, within an area in the eastern part of the City known as "Eden Gardens," which is directly west of interstate freeway I-5 and north of the Via De La Valle intersection. The Eden Gardens pump station has a capacity of \_\_\_\_\_ gallons per minute. Back-up power to the Eden Gardens pump station is provided by an emergency generator.

*San Elijo Hills Pump Station.* Located at the end of the street known as S. Santa Helena in the northeastern part of the City, on the southern boundary of the San Elijo Lagoon, east of interstate freeway I-5, and north of Lomas Santa Fe Drive. The San Elijo Hills Pump Station has a capacity of \_\_\_\_\_ gallons per minute.

*Fletcher Cove Pump Station.* Located at Fletcher Cove Beach Park on the Pacific Ocean, at the intersection of South Sierra and Plaza. The Fletcher Cove Pump Station serves only the Fletcher Cove restroom and the lifeguard station at Fletcher Cove Beach Park. The Fletcher Cove Pump Station has a capacity of \_\_\_\_\_ gallons per minute.

[ADDITIONAL PUMP STATIONS?]

**Authority Wastewater Facility**

The Authority is a joint exercise of powers authority that owns, operates, manages and maintains a treatment plant and related wastewater facilities (the "Authority Wastewater Facility") located approximately 23 miles north of the City of San Diego in a small valley in Encinitas on the north side of San Elijo Lagoon. The San Elijo Lagoon is located on the north boundary of the City and the south boundary of the neighboring City of Encinitas.

The Authority was formed pursuant to a joint exercise of powers agreement dated June 17, 1987, as amended (the "San Elijo Joint Powers Agreement"), by and between the Cardiff Sanitation District and the District, for the operation, maintenance, construction, upgrade, and expansion of the Authority Wastewater Facility. On July 1, 1990, the City succeeded to the powers and responsibilities of the District and assumed the obligations of the District with respect to the Authority, and on October 18, 2001, the City of Encinitas succeeded to the powers and responsibilities of the Cardiff Sanitation District and



assumed the obligations of the Cardiff Sanitation District with respect to the Authority. In 2008, the City and the City of Encinitas entered into a Restatement of Agreement (the "Restatement of Agreement") between the Cardiff Sanitation District and the District establishing the Authority.

The Authority is governed by a four-member Board of Directors (the "Authority Board"), with two members representing the City and two members representing the City of Encinitas. The Authority has hired its own staff to operate and maintain the Authority Wastewater Facility as well as manage the business of the Authority. By means of the Restatement of Agreement, the City and the City of Encinitas have conveyed their ownership interests in the Authority Wastewater Facility to the Authority. In general, the Restatement of Agreement establishes the Authority's right to finance expansion of the Authority Wastewater Facility as well as to determine, by agreement of the City and the City of Encinitas, capacity rights resulting from any upgrade of the Authority Wastewater Facility.

The Authority Wastewater Facility consists of wastewater treatment and disposal facilities and water reclamation, recycling and delivery facilities serving the City and the City of Encinitas. The City and the City of Encinitas are the Authority's principal customers. Other communities served by the Authority Wastewater Facility include areas of the City of Del Mar, the Cardiff community in Encinitas and portions of Rancho Santa Fe Community Services District. The Authority Wastewater Facility handles mostly domestic wastewater and is permitted to discharge up to 2.48 million gallons per day ("MGD") of tertiary-treated wastewater to recycled water users and up to 5.25 MGD of secondary-treated wastewater to the Pacific Ocean through the San Elijo Ocean Outfall (capacity 25.5 MGD), approximately 1.5 miles offshore (the "Ocean Outfall"). The Ocean Outfall is owned jointly by the Authority (21%) and by the City of Escondido (79%). The Authority Wastewater Facility was first constructed in 1964 and then expanded in subsequent years.

The Authority Wastewater Facility also includes the eight wastewater pumping stations (operated by the Authority but owned by each respective city as part of their respective wastewater systems), serve northern San Diego County areas including: (a) Encinitas' Cardiff Sanitation Division service area, comprising 5,250 gross acres (approximately 38% of the city limits of Encinitas) along the Pacific coast and extending inland; and (b) The City's service area, comprising 2,211 gross acres (the entire city limits of Solana Beach), also along the Pacific coast; and (c) the City of Del Mar's service area, comprising approximately 1,240 gross acres (the entire city limits of Del Mar), also along the Pacific coast.

The Authority also operates a recycled water delivery system, including 20 miles of recycled water distribution pipelines, two pumping stations and three recycled water reservoirs (one underground and two aboveground, with storage capacities ranging from 750,000 to 1,000,000 gallons), to communities extending northward and southward along the I-5 corridor (including the CalTrans I-5 right-of-way). Various cities and local agencies in the area are wholesale customers of recycled water delivered by the Authority, serving areas of the City of Encinitas, the City, the City of Del Mar, the unincorporated village of Rancho Santa Fe and the La Costa area of the City of Carlsbad. Tertiary treatment components of the water reclamation facilities produce approximately 1,400 to 1,600 acre-feet of recycled water annually for local use by parks, schools, churches, golf courses, freeway and street landscaping, landscape irrigation for businesses and homeowners' associations and industrial cooling towers. Tertiary treatment capacities by technology include 2.5 MGD of sand filtration, 1.4 MGD of micro filtration and 0.5 MGD of reverse osmosis.

**Historical Wastewater Flow**

The following table shows a five year history of the volume of wastewater collected by the Wastewater System:

**Table 1  
HISTORICAL AVERAGE NUMBER OF EDUs**

| Fiscal Year | Single-Family Residential EDUs | Multi-Family Residential EDUs | Commercial Industrial EDUs | Churches EDUs | Total EDUs <sup>(1)</sup> | Total No. of Parcels Assessed With Sewer Service Charges <sup>(2)</sup> |
|-------------|--------------------------------|-------------------------------|----------------------------|---------------|---------------------------|---|
| 2011-12     |                                |                               |                            |               |                           |   |
| 2012-13     |                                |                               |                            |               |                           |   |
| 2013-14     |                                |                               |                            |               |                           |   |
| 2014-15     |                                |                               |                            |               |                           |   |
| 2015-16     |                                |                               |                            |               |                           |   |

Source: City of Solana Beach City Public Works Department.

- (1) "Total EDUs" do not include approximately 300 EDUs of wastewater collection and transportation service provided by the Wastewater System to the City of San Diego pursuant to a contract between the City and the City of San Diego with a remaining term of approximately 10 years (the "San Diego Contract").
- (2) "Total No. of Parcels Assessed with Sewer Service Charges" only includes parcels within the City and does not include any parcels being served pursuant to the San Diego Contract.

Currently, the total estimated EDUs for Fiscal Year 2016-17 are \_\_\_\_\_, which include an estimated \_\_\_\_\_ EDUs expected to be provided by the Wastewater System to the City of San Diego in Fiscal Year 2016-17. The rate study underlying the City's projections of revenue from the Wastewater System estimates the number of EDUs at \_\_\_\_\_ EDUs for the 2016-17 Fiscal Year and, given the City's current near built out condition, holds the number of EDUs constant at \_\_\_\_\_ EDUs for each of the \_\_\_\_\_ fiscal years after Fiscal Year 2016-17.

**Capital Improvement Program**

For the past five years, the City has spent approximately \$3,830,000 on the Wastewater System. The City Council appropriated \$3,800,000, \$1,022,000 of which will be spent for capital improvements in Fiscal Year 2016-17. The City's projected capital improvement plan for the Wastewater System for Fiscal Year 2016-17 through Fiscal Year 2021-22, as well as a list of expected projects is set forth below. The City intends to fund its capital improvement plan through fund equity and current revenues.

**Table 2**  
**CAPITAL IMPROVEMENT PROGRAM SUMMARY**

|            | Amount       |
|------------|--------------|
| FY 2017-18 | \$ 5,730,000 |
| FY 2018-19 | 535,000      |
| FY 2019-20 | 500,000      |
| FY 2020-21 | 500,000      |
| FY 2021-22 | 500,000      |
| Total      | 7,765,000    |

Source: City of Solana Beach City Public Works Department.

[DESCRIPTION OF CAPITAL IMPROVEMENT PROJECTS]

**Billing and Collection Procedures**

*Sewer Service Charges.* With few exceptions for a limited number of customers, billing and collection services for sewer service charges of the City are provided by the County. Sewer service charges are included with the County’s property tax billing. The County remits collected sewer service charges to the City, less delinquencies, in 13 installments throughout the fiscal year with a majority of the money remitted in January and May, after property tax payments are processed. Delinquencies are budgeted by the City based upon County delinquency estimates. The City is ultimately at risk for any reduction in revenues due to delinquencies; however, shortfalls in collections are typically offset by collections of prior period delinquencies. Public schools, churches and other public entities are billed by the respective public agencies within the City’s boundaries.

*Connection Fees.* The City collects connection charges from new customers as a precondition to issuance of a wastewater discharge permit for connection to the Wastewater System, generally when a certificate of occupancy is issued.

*Tax Levies and Delinquencies.* Property taxes are due in two installments (November 1 and February 1) of each fiscal year, and unpaid installments become delinquent as of December 10 and April 10, respectively. A 10% penalty attaches immediately to all delinquent payments. Property with respect to which taxes are delinquent becomes tax defaulted on or about June 30 of the fiscal year. Such property may thereafter be redeemed by payment of a penalty of 1.5% per month to the time of redemption, plus costs and a redemption fee. If taxes are unpaid for five years or more, the property is subject to sale by the County Treasurer/Tax Collector. The County does not remit wastewater fees and charges in lieu of payment delinquencies by property owners.

THE COUNTY DOES NOT INCLUDE THE FEES AND CHARGES FOR THE COLLECTION OF WASTEWATER IN ITS TEETER PLAN. The City is ultimately at risk for any reduction in revenues arising from delinquencies. However, shortfalls in collections are typically offset by collections of prior period delinquencies. In addition, the City maintains reserves against various contingencies, including variations in revenues.

*Secured Sewer Service Charges and Delinquencies.* The assessed valuation of the City is established by the County Assessor, except for utility property assessed by the State Board of Equalization. Taxes on non-exempt property in the City are levied against the assessed valuation of land and improvements. The

following table shows a five year history of assessed values of secured property in the City, secured service charges, and rates of delinquencies for the past five years within the City.

**Table 3**  
**CITY OF SOLANA BEACH**  
**ASSESSED VALUES, SECURED TAX CHARGES, AND DELINQUENCIES**

| Fiscal<br>Year | Assessed<br>Values | Secured Tax<br>Charges <sup>(1)</sup> | Secured Tax<br>Delinquencies | % Delinquent<br>(June 30) |
|----------------|--------------------|---------------------------------------|------------------------------|---------------------------|
| 2011-12        | \$ 3,669,455,588   | \$ 5,133,863                          | \$ 83,073                    | 1.62%                     |
| 2012-13        | 3,761,931,714      | 5,438,039                             | 65,015                       | 1.20%                     |
| 2013-14        | 3,980,087,328      | 5,586,521                             | 54,408                       | 0.97%                     |
| 2014-15        | 4,202,395,135      | 5,909,334                             | 53,042                       | 0.90%                     |
| 2015-16        | 4,429,757,720      | 6,254,795                             | 47,369                       | 0.76%                     |

Source: California Municipal Statistics, Inc.

(1) Sewer service charge.

Pursuant to a contract with the City of San Diego, the City provides wastewater collection and transportation service via the Wastewater System to the City of San Diego, for a capacity not-to-exceed \_\_\_\_\_ EDUs, pursuant to a fifty-year contract with a remaining term of approximately 10 years (the "San Diego Contract"). The City separately bills the City of San Diego for such services and does not submit billing for such services to the County for inclusion in the County's property tax billing.

#### **Wastewater Rates, Fees and Charges**

The City recovers the cost of wastewater treatment system operation, maintenance, renewal and replacement and capital expansion through a user fee system consisting of four major components and federal and State Clean Water Grants. The City establishes user fees adequate to provide for its pro-rata responsibility for the Authority's costs as well as the City's costs. Among other fee components, the City imposes two primary components of user fees: sewer service charges, based on EDUs; and sewer connection fees, to recover the depreciated original cost of the capacity required by new sewer connections and to recognize the equitable interests of existing sewer users who financed current treatment capacity.

City sewer service charges are designed to comply with the Revenue Program guidelines of the State Water Resources Control Board (the "State Board"). California recipients of State and federal grants for sewage facilities are required to adopt rates in conformity with grant guidelines, which require all customers to pay for sewer service in proportion to their demand on the wastewater treatment system from which they receive sewer service. Utility rates and charges may be reviewed as part of the City's budget process. After results of operations for the Wastewater Systems are known, the need for any rate adjustments is determined. Based on fees the City collects, sewer rates and connection fees are reviewed and adjusted as needed.

The City Council sets its sewer rates, which are not subject to review by any State or local government agency. Most rate changes are enacted based upon staff recommendations. The table below shows the sewer rates and charges for the Wastewater System.

**Table 4  
CITY OF SOLANA BEACH  
SEWER RATES AND CHARGES**

| Fiscal<br>Year | Sewer Service<br>Charge / EDU | Connection<br>Fee |
|----------------|-------------------------------|-------------------|
| 2012-13        | \$ 574.00                     | \$ 4,500.00       |
| 2013-14        | 588.35                        | 4,500.00          |
| 2014-15        | 603.06                        | 4,500.00          |
| 2015-16        | 618.14                        | 4,500.00          |
| 2016-17        | 633.59                        | 4,500.00          |

Source: City of Solana Beach, Ordinances 402, 438, 441, 452, 458, 462, SD-7.

**Wastewater Rate Increases**

*Historical Rate Increases.* The City’s most recent rate increase took effect in June of 2015. The City’s practice has been to adjust rates and service charges annually. The below sets forth historical wastewater rate increases since Fiscal Year 2012-13.

**Table 5  
HISTORIC WASTEWATER RATE INCREASES**

| Fiscal<br>Year | Rate<br>Increase | Effective<br>Date |
|----------------|------------------|-------------------|
| 2012-13        | 2.5%             |                   |
| 2013-14        | 2.5%             |                   |
| 2014-15        | 2.5%             |                   |
| 2015-16        | 2.5%             |                   |
| 2016-17        | 2.5%             |                   |

Source: City of Solana Beach City Public Works Department.

*Future Rate Increases.* While additional increases have not been considered by the City Council, annual rate increases of 2.5% have been assumed for planning purposes and have been used in the projection of debt service coverage shown in Table 13. Such increases, if approved, could be higher or lower. Rate increases are made, when necessary, to reflect the cost of City capital improvement projects debt service obligations and operating costs to manage the Wastewater System.

## Comparative Monthly Wastewater Bills

The table following shows typical comparative residential monthly wastewater bills for neighboring communities for Fiscal Year 2016-17, based on single family dwelling customers.

**Table 6**  
**AVERAGE MONTHLY RESIDENTIAL BILLS**  
**Fiscal Year 2016-17**  
**(Single Family Dwelling Monthly Charges)**

| Agency              | Typical<br>Monthly<br>Bill |
|---------------------|----------------------------|
| Del Mar             |                            |
| Encinitas           |                            |
| <b>Solana Beach</b> |                            |
| Vista               |                            |
| Escondido           |                            |
| Oceanside           |                            |
| San Marcos          |                            |

Source: City of Solana Beach City Public Works Department

## Customer Base

As of June 30, 2017, the Wastewater System served approximately [25,488] people through [5,705] active service connections. Residential connections account for approximately [92] percent of the total service connections. Commercial and industrial connections account for approximately [8] percent of the total service connections. The Wastewater System's service area is substantially built out, with a relatively stable customer base.

Gradual suburban residential-type growth in the service area has occurred in recent years. The table below shows the last 5 years' growth in connections. The City estimates that [62%] of sewer service users are residential, with the other users commercial or industrial.

**Table 7**  
**SERVICE CONNECTIONS BY CUSTOMER CLASS**  
**(Equivalent Dwelling Units - EDUs)**

| Fiscal<br>Year | Single Family<br>Residential | Commercial/<br>Industrial | Total |
|----------------|------------------------------|---------------------------|-------|
| 2011-12        | 2,734                        | 2,304                     | 5,038 |
| 2012-13        | 2,709                        | 2,304                     | 5,013 |
| 2013-14        | 2,707                        | 2,306                     | 5,013 |
| 2014-15        | 2,723                        | 2,394                     | 5,117 |
| 2015-16        | 2,736                        | 2,406                     | 5,142 |
| 2016-17        |                              |                           |       |

Source: City of Solana Beach City Public Works Department.

*Largest Wastewater Customers.* The top ten Wastewater System customers for the 2016-17 Fiscal Year are shown in the table below. Collectively, these customers represent approximately [11%] of the Wastewater System's total revenues for that period.

**Table 8**  
**TOP 10 WASTEWATER SYSTEM CUSTOMERS**  
**Fiscal Year 2016-17**

| Customer                          | Amount Billed | % of Wastewater System Charges |
|-----------------------------------|---------------|--------------------------------|
| Fenton Solana Highlands LLC       |               |                                |
| Pacifica Solana Beach Holdings LP |               |                                |
| Muller-Beachwalk LLC              |               |                                |
| ERP Operating LTD Partnership     |               |                                |
| Uschel Holdings LP                |               |                                |
| SB Corporate Center III-IV LLC    |               |                                |
| SBC Holdings LLC                  |               |                                |
| 50% SBTC Holdings LLC             |               |                                |
| SBTC Holdings LLC                 |               |                                |
| Solana Partners                   |               |                                |
| Total Top 10                      |               |                                |

Source: City of Solana Beach City Public Works Department.

## WASTEWATER SYSTEM FINANCIAL INFORMATION

### Budgetary Process

The fiscal year of the City begins on the first day of July of each year and ends on the thirtieth day of June the following year. Formal budgetary integration is employed as a management control device during the year for the general fund, special revenue funds, debt service funds, capital project funds, and proprietary funds (including the water enterprise fund).

Budgets for the general, special revenue, debt service and capital projects funds (except the General Improvement District 1-64 construction fund) are adopted on a basis consistent with generally accepted accounting principles, except for capital outlay in special revenue and capital projects funds which is budgeted on a project length basis. Budget requests are submitted by departmental managers to the City Manager for review. The City Manager and the Finance Manager meet with department heads to review the requests and establish program objectives for the coming year. The City Manager then prepares their recommendations to the City Council and the Finance Manager submits the financing plan to fund the recommended budget.

Each year the City Staff prepares a budget calendar specifying the dates by which it must receive a proposed budget and adopt a final budget. The City Council usually receives the proposed budget by the middle of May and thereafter schedules one or two public workshops to review the recommendations and obtain public comments. The Finance Manager usually submits the City Council approved budget for final public hearing and adoption by the end of June. From the effective date of the budget, the several

amounts adopted as expenditures become appropriated to the several departments offices and agencies for the objects and purposes named. All appropriations lapse for operating expenses at the end of the fiscal year to the extent that they have not been expended or lawfully encumbered. At any public meeting after the adoption of the budget, the City Council may amend or supplement the budget pursuant to a resolution (rather than an ordinance) adopted by a majority vote of the members of the City Council.

Each fiscal year the City Council employs an independent certified public accounting firm which examines the accounting records, internal controls and the financial statements. As soon as practicable after the end of each fiscal year, these financial statements and the independent accountant's report are submitted to the City Council. At the request of the department head through the City Manager, the City Council may, by resolution, transfer appropriations between subprograms and funds, but shall not change total appropriations. Any increase or decrease to the total appropriations provided for in the budget must be carried through by resolution passed by the City Council. The City Manager may authorize the transfer of funds between object categories within a subprogram of a department.

### **Financial Statements**

APPENDIX B—AUDITED FINANCIAL STATEMENTS OF THE CITY FOR THE FISCAL YEAR ENDED JUNE 30, 2016, includes the audited financial statements of the City (the "Financial Statements") for Fiscal Year 2015-16, which include financial statements for the Wastewater System, prepared by the City Department of Finance and audited by Lance, Soll & Lunghard, LLP, Brea, California (the "Auditor").

The Auditor's letter concludes that the Financial Statements present fairly, in all material respects, the financial position of the City as of June 30, 2016, and the results of its operations and the cash flows of its proprietary fund type for the Fiscal Year then ended in conformity with accounting principles generally accepted in the United States of America. The Financial Statements should be read in their entirety. The City has not requested nor did the City obtain permission from the Auditor to include the audited financial statements as an appendix to this Official Statement. Accordingly, the Auditor has not performed any post-audit review of the financial condition or operations of the City. In addition, the Auditor has not reviewed this Official Statement.

### **Wastewater System Accounting**

The Wastewater System is accounted for as an enterprise fund with a separate set of self-balancing accounts that comprise its assets, liabilities, fund equity, revenues and expenditures or expenses, as appropriate. The enterprise funds are used to account for operations (a) that are financed and operated in a manner similar to private business enterprises--where the intent of the governing body is that the costs of providing goods or services to the general public on a continuing basis are to be financed or recovered primarily through user charges, or (b) where the governing body has decided that periodic determination of revenues earned, expenses incurred or net income is appropriate for capital maintenance, public policy, management control, accountability or other purposes. Revenues are fully accrued to include unbilled services at year end.

The City uses the accrual basis of accounting for its "proprietary funds," including the City's wastewater enterprise fund. Revenues are recognized when earned and expenses are recognized when the related liabilities are incurred. All assets and liabilities for these funds are included on the balance sheet



with this measurement focus. Fund equity (i.e., net total assets) is segregated into restricted, unrestricted and net investment in capital assets.

See APPENDIX B—AUDITED FINANCIAL STATEMENTS OF THE CITY FOR THE FISCAL YEAR ENDED JUNE 30, 2016 for a more complete summary of the City’s accounting policies.

**Wastewater System Financial Information**

The following table presents a five-year summary of the revenues, expenses and net income of the Wastewater System and budgeted data for Fiscal Year 2017-18.

**Table 9  
WASTEWATER SYSTEM  
SUMMARY OF REVENUES, EXPENSES AND CHANGES IN NET POSITION**

|  | FY 2012-13                      | FY 2013-14        | FY 2014-15                      | FY 2015-16        | Unaudited<br>FY 2016-17 | Budget<br>FY 2017-18 |
|--|---------------------------------|-------------------|---------------------------------|-------------------|-------------------------|----------------------|
| <b>OPERATING REVENUES</b>                            |                                 |                   |                                 |                   |                         |                      |
| Charges for services                                 | \$ 4,708,765                    | \$ 4,775,489      | \$ 4,949,069                    | \$ 5,151,671      |                         |                      |
| Other revenues                                       | 46,470                          | 36,300            | 28,939                          | 49,090            |                         |                      |
| Total operating revenues                             | <u>4,755,235</u>                | <u>4,811,789</u>  | <u>4,978,008</u>                | <u>5,200,761</u>  |                         |                      |
| <b>OPERATING EXPENSES</b>                            |                                 |                   |                                 |                   |                         |                      |
| Cost of sales and services                           | 2,016,630                       | 1,943,279         | 2,038,919                       | 1,973,000         |                         |                      |
| Administration                                       | 349,459                         | 348,907           | 348,826                         | 428,031           |                         |                      |
| Depreciation   | 345,500                         | 352,633           | 352,645                         | 352,650           |                         |                      |
| Total Operating Expense                              | <u>2,711,589</u>                | <u>2,644,819</u>  | <u>2,740,390</u>                | <u>2,753,681</u>  |                         |                      |
| Operating income/(loss)                              | 2,043,646                       | 2,166,970         | 2,237,816                       | 2,447,080         |                         |                      |
| <b>NON-OPERATING REVENUES/(EXPENSES)</b>             |                                 |                   |                                 |                   |                         |                      |
| Interest income                                      | 78,615                          | 71,541            | 71,973                          | 115,321           |                         |                      |
| Interest expense                                     | (536,423)                       | (510,648)         | (483,257)                       | (454,872)         |                         |                      |
| Amortization of bond issuance costs                  | (70,986)                        | (7,651)           | (49,923)                        | (42,853)          |                         |                      |
| Amortization of investment premium                   | (21,890)                        | (10,945)          | (10,945)                        | (10,945)          |                         |                      |
| Share in joint venture net gain/capital contribution | <u>(115,567)</u>                | <u>318,695</u>    | <u>(1,281,842)</u>              | <u>(306,550)</u>  |                         |                      |
| Total non-operating revenue/(expense)                | (666,251)                       | (139,008)         | (1,753,994)                     | (699,899)         |                         |                      |
| <b>CHANGES IN NET POSITION</b>                       | 1,377,395                       | 2,027,962         | 483,624                         | 1,747,181         |                         |                      |
| <b>NET POSITION, beginning of year</b>               | <u>30,074,944<sup>(1)</sup></u> | <u>31,452,389</u> | <u>33,074,739<sup>(2)</sup></u> | <u>33,558,363</u> |                         |                      |
| <b>NET POSITION, end of year</b>                     | 31,452,389                      | 33,480,351        | 33,558,363                      | 35,305,544        |                         |                      |

Source: City of Solana Beach 2012-13 through 2015-16 audited financial statements and City of Solana Beach.

(1) Reflects a prior balance of \$30,264,590 adjusted for a \$(189,596) restatement.

(2) Reflects a prior balance of \$33,480,351 adjusted for a \$(405,612) restatement.

The following table presents a five-year summary of the statements of net position of the Wastewater System and budgeted data for Fiscal Year 2017-18.

**Table 10**  
**WASTEWATER SYSTEM**  
**STATEMENT OF NET POSITION**

|  | FY 2012-13        | FY 2013-14        | FY 2014-15        | FY 2015-16        | Unaudited<br>FY 2016-17 | Budget<br>FY 2017-18 |
|--|-------------------|-------------------|-------------------|-------------------|-------------------------|----------------------|
| <b>ASSETS</b>  |                   |                   |                   |                   |                         |                      |
| Current assets:                                      |                   |                   |                   |                   |                         |                      |
| Cash and investments                                 | \$ 8,785,338      | \$ 9,170,978      | \$ 10,281,652     | \$ 11,786,031     |                         |                      |
| Accounts receivable                                  | 7,605             | 18,008            | 24,245            | 268,320           |                         |                      |
| Taxes receivable                                     | -                 | -                 | -                 | 2                 |                         |                      |
| Interest receivable                                  | 2,553             | 48,387            | 5,901             | 14,754            |                         |                      |
| Prepaid costs  | 38,844            | 36,628            | 34,413            | 32,197            |                         |                      |
| Total current assets                                 | <u>8,834,340</u>  | <u>9,274,001</u>  | <u>10,346,211</u> | <u>12,101,304</u> |                         |                      |
| Noncurrent assets:                                   |                   |                   |                   |                   |                         |                      |
| Cash and investments with fiscal agent               | 2,580,447         | 2,580,485         | 2,580,536         | 594,936           |                         |                      |
| Advances to other funds                              | 2,405,857         | 2,008,165         | 1,586,247         | 1,139,045         |                         |                      |
| Investment in joint venture                          | 19,066,147        | 19,850,088        | 19,009,204        | 19,190,619        |                         |                      |
| Non-depreciable capital assets                       | 281,883           | 693,099           | 1,342,123         | 2,108,289         |                         |                      |
| Depreciable capital assets, net                      | 11,077,621        | 11,132,990        | 10,780,345        | 10,768,131        |                         |                      |
| Total noncurrent assets                              | <u>35,411,955</u> | <u>36,264,827</u> | <u>35,298,455</u> | <u>33,801,020</u> |                         |                      |
| Total Assets   | <u>44,246,295</u> | <u>45,538,828</u> | <u>45,644,666</u> | <u>45,902,324</u> |                         |                      |
| <b>DEFERRED OUTFLOWS OF RESOURCES</b>                |                   |                   |                   |                   |                         |                      |
| Deferred pension related items                       | -                 | -                 | 42,302            | 88,513            |                         |                      |
| Deferred charge on refunding                         | 549,176           | 480,529           | 411,882           | 343,235           |                         |                      |
| Total Deferred Outflows of Resources                 | <u>549,176</u>    | <u>480,529</u>    | <u>454,184</u>    | <u>431,748</u>    |                         |                      |
| Total Assets and Deferred Outflows                   | <u>44,795,471</u> | <u>46,019,357</u> | <u>46,098,850</u> | <u>46,334,072</u> |                         |                      |
| <b>LIABILITIES</b>                                   |                   |                   |                   |                   |                         |                      |
| Current liabilities:                                 |                   |                   |                   |                   |                         |                      |
| Accounts payable                                     | 32,708            | 156,839           | 633,260           | 15,496            |                         |                      |
| Accrued liabilities                                  | 12,634            | 13,196            | 12,294            | 16,710            |                         |                      |
| Interest payable                                     | 173,219           | 164,210           | 154,841           | 145,189           |                         |                      |
| Compensated absences, due within one year            | 14,977            | 13,648            | 19,410            | 17,707            |                         |                      |
| Long-term debt, due within one year                  | 856,963           | 880,634           | 906,470           | 937,808           |                         |                      |
| Total current liabilities                            | <u>1,090,501</u>  | <u>1,228,527</u>  | <u>1,726,275</u>  | <u>1,132,910</u>  |                         |                      |
| Noncurrent liabilities:                              |                   |                   |                   |                   |                         |                      |
| Net pension liability                                | -                 | -                 | 329,413           | 429,227           |                         |                      |
| Compensated absences, due in more than one year      | 13,913            | 15,657            | 5,607             | 11,608            |                         |                      |
| Long-term debt, due in more than one year            | 12,238,668        | 11,294,822        | 10,367,413        | 9,401,597         |                         |                      |
| Total noncurrent liabilities                         | <u>12,252,581</u> | <u>11,310,479</u> | <u>10,702,433</u> | <u>9,842,432</u>  |                         |                      |
| Total liabilities                                    | <u>13,343,082</u> | <u>12,539,006</u> | <u>12,428,708</u> | <u>10,975,342</u> |                         |                      |
| <b>DEFERRED INFLOWS OF RESOURCES</b>                 |                   |                   |                   |                   |                         |                      |
| Deferred pension related items                       | -                 | -                 | 111,779           | 53,186            |                         |                      |
| Total Deferred Inflows of Resources                  | <u>-</u>          | <u>-</u>          | <u>111,779</u>    | <u>53,186</u>     |                         |                      |
| <b>NET POSITION</b>                                  |                   |                   |                   |                   |                         |                      |
| Net investment in capital assets                     | 5,682,518         | 6,324,862         | 6,798,584         | 5,594,350         |                         |                      |
| Unrestricted   | 25,769,871        | 27,155,489        | 26,759,779        | 29,711,194        |                         |                      |
| Total Net Position                                   | <u>31,452,389</u> | <u>33,480,351</u> | <u>33,558,363</u> | <u>35,505,544</u> |                         |                      |
| Total Liabilities, Deferred Inflows and Net Position | <u>44,795,471</u> | <u>46,019,357</u> | <u>46,098,850</u> | <u>46,334,072</u> |                         |                      |

Source: City of Solana Beach 2012-13 through 2015-16 audited financial statements and City of Solana Beach.

**Outstanding Debt**

Other than the 2006 Bonds to be refunded, the 2011 Loan Agreement and the 2017 Loan Agreement, the City has no outstanding debt secured by Net Revenues.

The annual requirements to amortize all outstanding obligations of the City payable from Net Revenues, excluding the Bonds of this issue, are as follows:

**Table 11  
WASTEWATER SYSTEM  
DEBT SERVICE**

| Bond<br>Year<br>Ended<br>(3/1) | 2011<br>Loan<br>Agreement | 2017<br>Loan<br>Agreement | Total |
|--------------------------------|---------------------------|---------------------------|-------|
| Total                          | _____                     | _____                     | _____ |

Source: The City of Solana Beach.

## Historical Revenues, Expenditures and Debt Service Coverage

The following table presents Wastewater System revenues and expenditures for each of the five fiscal years ended June, 30, 2013, through 2017, including debt service coverage for the City's obligations payable from Net Revenues:

**Table 12**  
**WASTEWATER SYSTEM**  
**HISTORICAL REVENUES, EXPENDITURES AND DEBT SERVICE COVERAGE**

|   | FY2013 | FY2014 | FY2015 | FY2016 | FY2017    |
|---|--------|--------|--------|--------|-----------|
| Gross Revenue   |        |        |        |        | 5,439,300 |
| Less Operating and Maintenance Expenses (1)                                     |        |        |        |        | 2,528,766 |
| Net Revenues Available for Debt Service   |        |        |        |        | 2,910,534 |
| <br>  |        |        |        |        |           |
| 2011 Loan Payments  |        |        |        |        | 782,786   |
| Total Senior Debt Service   |        |        |        |        | 782,786   |
| Senior Debt Service Coverage  |        |        |        |        | 3.72x     |
| <br>  |        |        |        |        |           |
| Net Revenues Available for Debt Service after<br>Payment of Senior Debt Service |        |        |        |        | 2,127,748 |
| <br>  |        |        |        |        |           |
| 2006 Bonds  |        |        |        |        | 590,588   |
| Total Subordinate Debt Service  |        |        |        |        | 590,588   |
| Senior Debt Service Coverage  |        |        |        |        | 3.60x     |

Source: City of Solana Beach.

(1) Excludes depreciation and amortization.

## Projection of Revenues, Expenditures and Debt Service Coverage

Estimated projected operating results and debt service coverage for the City for the current and next four Fiscal Years are set forth below. Certain assumptions have been made by the City in the development of the projections, such as expected increases in revenues from new planned developments and wastewater rate increases. Many of these assumptions are reflected in the projections. While the City believes its assumptions are reasonable, there can be no assurance that the assumed conditions will in fact occur. The City's projections may be affected (favorably or unfavorably) by unforeseen future events. Therefore, the results projected below cannot be assured.

**Table 13**  
**WASTEWATER SYSTEM**  
**PROJECTION OF REVENUES, EXPENDITURES AND DEBT SERVICE COVERAGE**

|   | FY2018    | FY2019    | FY2020    | FY2021    | FY2022 |
|---|-----------|-----------|-----------|-----------|--------|
| Gross Revenues (1)                          | 5,364,608 | 5,498,378 | 5,635,492 | 5,776,034 |        |
| Less Operating and Maintenance Expenses (2) | 2,625,819 | 2,674,276 | 2,749,875 | 2,827,370 |        |
| Net Revenues Available for Debt Service     | 2,818,789 | 2,904,102 | 2,965,617 | 3,028,664 |        |
| <br>  |           |           |           |           |        |
| 2011 Loan Payments                          | 786,914   | 784,434   | 60,734    | 61,710    |        |
| 2017 Loan Payments                          | 295,580   | 452,803   | 672,803   | 671,803   |        |
| 2017 Bonds                                  | 590,788   | 590,588   | 589,998   | 588,713   |        |
| Total Debt Service                          | 1,673,281 | 1,827,825 | 1,323,525 | 1,322,226 |        |
| <br>  |           |           |           |           |        |
| Debt Service Coverage                       | 1.68x     | 1.59x     | 2.24x     | 2.29x     |        |

Source: City of Solana Beach.

(1) Revenues increase by \_\_\_% per year.

(2) Expenses increase by \_\_\_% per year. Excludes depreciation and amortization.

### Risk Management

*General Liability Insurance.* Beginning October 1, 2004, the City became fully self-insured with respect to General Liability. The City has a Self-Insured Retention (“SIR”) of \$100,000 per claim and additional coverage above its SIR with CSAC Excess Insurance Authority (“EIA”) to \$5 million per claim; there is an additional \$45 million of reinsurance above CSAC-EIA coverage bringing the total coverage to over \$50 million per claim, up to the \$25 million. The CSAC-EIA is ranked as the second largest public entity risk pool and the largest property and casualty pool in the nation.

*Workers Compensation.* Beginning October 1, 2004, the City became fully self-insured with respect to Workers’ Compensation. The City has a SIR of \$125,000 per claim and additional coverage above its SIR with CSAC EIA to \$5 million per claim; there is an additional \$45 million of reinsurance above CSAC-EIA coverage bringing the total coverage to over \$50 million per claim, up to the statutory workers’ compensation limits set by the State of California. The CSAC-EIA is ranked as the second largest public entity risk pool and the largest property and casualty pool in the nation.

The workers’ compensation and general liability claims payable of \$1,222,742 reported at June 30, 2016, includes all claims for which information prior to the issuance of the financial statements indicates that it was probable that a liability had been incurred at the date of the financial statements and the amount of the loss can be reasonably estimated. During the past three fiscal (claims) years none of the above programs of protection have had settlements or judgments that exceeded pooled or insured coverage. There have been no significant reductions in pooled or insured liability coverage in the prior year.

*Miscellaneous.* The City also maintains insurance coverage in the following specific areas: real and personal property damage, boiler and machinery, special events, cyber liability, and pollution.

## Retirement Programs

*Information set forth below regarding the City's retirement programs has been obtained from the City's most recent audited financial statements, included here as APPENDIX B—AUDITED FINANCIAL STATEMENTS OF THE CITY FOR FISCAL YEAR ENDED JUNE 30, 2016. The information regarding the City's retirement programs are believed to be reliable but are not guaranteed as to accuracy or completeness, and should not be constructed as a representation by either the City or the Underwriter.*

### California Public Employees' Retirement System (CalPERS)

The City contracts with the California Public Employees Retirement System ("CalPERS") to provide retirement and health benefits to its employees. As of June 30, 2015, the City's plan with CalPERS was \_\_\_\_\_% funded. The City's unfunded liabilities under its CalPERS plan are approximately \$9,455,905, with \_\_\_\_\_% (or approximately \$\_\_\_\_\_ ) attributable to the City's Sanitation Enterprise Fund, and the balance of such unfunded liabilities attributable to the City's General Fund.

For information concerning CalPERS, the City's CalPERS plan, descriptions of the actuarial methods and assumptions, and an explanation of the discount rate used by CalPERS please APPENDIX B—AUDITED FINANCIAL STATEMENTS OF THE CITY FOR FISCAL YEAR ENDED JUNE 30, 2016, Note 7.

The City is unable to predict what the amount of State pension liabilities will be in the future, or the amount of the contributions which the City may be required to make.

### Postemployment Benefits Other Than Pension Benefits

The City operates a single employed defined benefit healthcare plan (the "OPEB Plan") that provides healthcare benefits to eligible retirees and their dependents through the California Public Employees' Retirement System healthcare program. As of June 30, 2016, the City's OPEB Plan was not funded. The City's unfunded liabilities under its OPEB Plan are approximately \$1,732,450, with \_\_\_\_\_% (or approximately \$\_\_\_\_\_ ) attributable to the City's Sanitation Enterprise Fund, and the balance of such unfunded liabilities attributable to the City's General Fund.

See also APPENDIX B—AUDITED FINANCIAL STATEMENTS OF THE CITY FOR THE FISCAL YEAR ENDED JUNE 30, 2016, Note 8.

## INVESTMENT OF CITY FUNDS

Revenues collected by the City will be held and invested by the City in accordance with the provisions of the Indenture.

Funds held by the City, including Wastewater System moneys, are invested in accordance with the City's Statement of Investment Policy (the "Investment Policy") prepared by the City Treasurer as authorized by section 53601 of the Government Code of California. The Investment Policy is submitted to the City Council annually. The Investment Policy allows for the purchase of a variety of securities and provides for limitations as to exposure, maturity and rating which vary with each security type. The composition of the portfolio will change over time as old investments mature, or are sold, and as new

investments are made. Invested funds are managed to insure preservation of capital through high quality investments, maintenance of liquidity and then yield. Further, operating funds may not be invested in any investment with a maturity greater than five years. The City does not invest in derivatives or reverse repurchase agreements and such investments and instruments are not allowed by City policy.

## **CONSTITUTIONAL LIMITATIONS ON APPROPRIATIONS AND FEES**

Under the California Constitution, the power of initiative is reserved to the voters for the purpose of enacting statutes and constitutional amendments. In the past, the voters have exercised this power from time to time, including through the adoption of Propositions 13 and 218.

From time to time other State and local initiative measures could be adopted, affecting the ability of the City to increase revenues and to increase appropriations.

### **Article XIII A**

On June 6, 1978, California voters approved Proposition 13, which added Article XIII A to the California Constitution ("Article XIII A"). Article XIII A limits the maximum ad valorem tax on real property to 1% of full cash value thereof, except that additional ad valorem taxes may be levied to pay debt service on indebtedness approved by voters prior to July 1, 1978 and (as a result of an amendment to Article XIII A approved by California voters on June 3, 1986) on bonded indebtedness for the acquisition or improvement of real property which has been approved on or after July 1, 1978 by two-thirds of the voters voting on such indebtedness. Article XIII A defines full cash value to mean "the County Assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value," or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment." This full cash value may be increased at a rate not to exceed 2% per year to account for inflation.

Article XIII A has subsequently been amended to permit reduction of the full cash value based in the event of declining property values caused by damage, destruction, or other factors and to provide that there would be no increase in the full cash value base in the event of reconstruction of property damaged or destroyed in a disaster and in other minor or technical ways.

### **Article XIII B**

Article XIII B of the California State Constitution limits the annual appropriations of the State and of any city, county, school district, authority or other political subdivision of the State to the level of appropriations of the particular governmental entity for the prior fiscal year, as adjusted for changes in the cost of living and population. The "base year" for establishing such appropriations limit is the 1978-79 fiscal year and the limit is to be adjusted annually to reflect changes in population and consumer prices. Adjustments in the appropriations limit of an entity may also be made if (i) the financial responsibility for a service is transferred to another public entity or to a private entity, (ii) the financial sources for the provision of services is transferred from taxes to other revenues, or (iii) the voters of the entity approve a change in the limit for a period of time not to exceed four years.

Appropriations subject to Article XIII B generally include the proceeds of taxes levied by the State or other entity of local government, exclusive of certain State subventions and refunds of taxes. "Proceeds

of taxes” include, but are not limited to, all tax revenues and the proceeds to an entity of government from (i) regulatory licenses, user charges, and user fees (but only to the extent such proceeds exceed the cost of providing the service or regulation), and (ii) the investment of tax revenues. Article XIII B includes a requirement that if an entity’s revenues in any year exceed the amounts permitted to be spent, the excess would have to be returned by revising tax rates or fee schedules over the subsequent two years. Certain expenditures are excluded from the appropriations limit including payments of indebtedness existing or legally authorized as of January 1, 1979, or of bonded indebtedness thereafter approved by the voters and payments required to comply with court or federal mandates which without discretion require an expenditure for additional services or which unavoidably make the providing of existing services more costly.

### **Proposition 218**

*General.* On November 5, 1996, California voters approved Proposition 218, the so-called “Right to Vote on Taxes Act.” Proposition 218 added Articles XIII C and XIII D to the State Constitution, which affect the ability of local governments to levy and collect both existing and future taxes, assessments, and property-related fees and charges. Proposition 218, which generally became effective on November 6, 1996, changed, among other things, the procedure for the imposition of any new or increased property-related “fee” or “charge,” which is defined as “any levy other than an *ad valorem* tax, a special tax or an assessment, imposed by a [local government] upon a parcel or upon a person as an incident of property ownership, including user fees or charges for a property related service” (and referred to in this section as a “property-related fee or charge”).

Specifically, under Article XIII D, before a municipality may impose or increase any property-related fee or charge, the entity must give written notice to the record owner of each parcel of land affected by that fee or charge. The municipality must then hold a hearing upon the proposed imposition or increase at least 45 days after the written notice is mailed, and, if a majority of the property owners of the identified parcels present written protests against the proposal, the municipality may not impose or increase the property-related fee or charge.

Further, under Article XIII D, revenues derived from a property-related fee or charge may not exceed the funds required to provide the “property-related service” and the entity may not use such fee or charge for any purpose other than that for which it imposed the fee or charge. The amount of a property-related fee or charge may not exceed the proportional cost of the service attributable to the parcel, and no property-related fee or charge may be imposed for a service unless that service is actually used by, or is immediately available to, the owner of the property in question.

In addition, Article XIII C provides that “the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge. The power of initiative to affect local taxes, assessments, fees and charges shall be applicable to all local governments and neither the Legislature nor any local government charter shall impose a signature requirement higher than that applicable to statewide statutory initiatives.”

*Judicial Interpretation of Proposition 218.* After Proposition 218 was enacted in 1996, appellate court cases and an Attorney General opinion initially indicated that fees and charges levied for water and wastewater services would not be considered property-related fees and charges, and thus not subject to the requirements of Article XIII D regarding notice, hearing and protests in connection with any increase in the fees and charges being imposed. However, three recent cases have held that certain types of water



and wastewater charges could be subject to the requirements of Proposition 218 under certain circumstances.

In *Richmond v. Shasta Community Services District* (9 Cal. Rptr. 3rd 121), the California Supreme Court addressed the applicability of the notice, hearing and protest provisions of Article XIID to certain charges related to water service. In *Richmond*, the Court held that connection charges are not subject to Proposition 218. The Court also indicated in dictum that a fee for ongoing water service through an existing connection could, under certain circumstances, constitute a property-related fee and charge, with the result that a local government imposing such a fee and charge must comply with the notice, hearing and protest requirements of Article XIID.

In *Howard Jarvis Taxpayers Association v. City of Fresno* (March 23, 2005), the California Court of Appeal, Fifth District, concluded that water, sewer and trash fees are property-related fees subject to Proposition 218 and a municipality must comply with Article XIID before imposing or increasing such fees. The California Supreme Court denied the City of Fresno's petition for review of the Court of Appeal's decision on June 15, 2005.

In July 2006 the California Supreme Court, in *Bighorn-Desert View Wastewater Agency v. Verjil* (39 Cal. 4th 205), addressed the validity of a local voter initiative measure that would have (a) reduced a water agency's rates for water consumption (and other water charges), and (b) required the water agency to obtain voter approval before increasing any existing water rate, fee, or charge, or imposing any new water rate, fee, or charge. The court adopted the position indicated by its statement in *Richmond* that a public water agency's charges for ongoing water delivery are "fees and charges" within the meaning of Article XIID, and went on to hold that charges for ongoing water delivery are also "fees" within the meaning of Article XIIC's mandate that the initiative power of the electorate cannot be prohibited or limited in matters of reducing or repealing any local tax, assessment, fee or charge. Therefore, the court held, Article XIIC authorizes local voters to adopt an initiative measure that would reduce or repeal a public agency's water rates and other water charges. (However, the court ultimately ruled in favor of the water agency and held that the entire initiative measure was invalid on the grounds that the second part of the initiative measure, which would have subjected future water rate increases to prior voter approval, was not supported by Article XIIC and was therefore invalid.)

The court in *Bighorn* specifically noted that it was not holding that the initiative power is free of all limitations; the court stated that it was not determining whether the electorate's initiative power is subject to the statutory provision requiring that water service charges be set at a level that will pay for operating expenses, provide for repairs and depreciation of works, provide a reasonable surplus for improvements, extensions, and enlargements, pay the interest on any bonded debt, and provide a sinking or other fund for the payment of the principal of such debt as it may become due.

*Current Practice Regarding Rates and Charges.* The City's practice has been to provide public notice of proposed water rate increases through means that include, among others, holding informational presentations at community group meetings, mailings to residential and commercial customers of public hearings on rate increases, and press releases and media campaigns regarding rate increases, followed by public hearings conducted by the City Council. The most recent rate increase was enacted by the City in strict compliance with the procedures mandated by Proposition 218 and *Bighorn*.

*Conclusion.* It is not possible to predict how courts will further interpret Article XIIC and Article XIID in future judicial decisions, and what, if any, further implementing legislation will be enacted.

Under the *Bighorn* case, local voters could adopt an initiative measure that reduces or repeals the City's rates and charges, though it is not clear whether (and California courts have not decided whether) any such reduction or repeal by initiative would be enforceable in a situation in which such rates and charges are pledged to the repayment of bonds or other indebtedness. There can be no assurance that the courts will not further interpret, or the voters will not amend, Article XIII C and Article XIII D to limit the ability of local agencies to impose, levy, charge and collect increased fees and charges for water, or to call into question previously adopted water rate increases.

#### **Effect of Proposition 218 on the City; Possible Limitations on Enforcement Remedies.**

The general financial condition of the City may be affected by provisions of Article XIII C and Article XIII D. In particular, provisions of Article XIII C (i) require taxes for general governmental purposes to be approved by a majority vote and taxes for specific purposes, even if deposited into the General Fund, to be approved by two-thirds vote, (ii) require any general purpose tax which the City imposed, extended or increased, without voter approval, after December 31, 1994, to be approved by majority vote on November 5, 1998 and (iii) provide that all taxes, assessments, fees and charges are subject to reduction or repeal at any time through the initiative process, subject to overriding constitutional principles relating to the impairment of contracts. Provisions of Article XIII D that affect the ability of the City to fund certain services or programs that it may be required or choose to fund include (i) adding notice, hearing, protest and, in some cases, voter approval requirements to impose, increase or extend certain assessments, fees and charges and (ii) adding stricter requirements for finding individualized benefits associated with such levies.

The ability of the City to comply with its covenants under the Indenture and to generate Net Revenues sufficient to pay the principal of and interest on the Bonds may be adversely affected by actions and events outside of the control of the City and may be adversely affected by actions taken (or not taken) under Article XIII C or Article XIII D by voters, property owners, taxpayers or payers of assessments, fees and charges. Furthermore, any remedies available to the owners of the Bonds upon the occurrence of an event of default under the Indenture are in many respects dependent upon judicial actions which are often subject to discretion and delay and could prove both expensive and time consuming to obtain. In addition to the possible limitations on the ability of the City to comply with its covenants under the Indenture, the rights and obligations under the Bonds and the Indenture may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against cities in the State of California.

Based on the foregoing, in the event the City fails to comply with its covenants under the Indenture, including its covenants to generate sufficient Net Revenues, as a consequence of the application of Article XIII C and Article XIII D, or to pay principal of or interest on the Bonds, there can be no assurance that available remedies will be adequate to fully protect the interests of the holders of the Bonds.

#### **Proposition 26**

On November 2, 2010, State voters approved Proposition 26 which amended certain sections of Article XIII C. The proposition attempts to define "tax" as used within Article XIII C as "any levy, charge, or exaction of any kind imposed by a local government, *except* the following: (1) a charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit

or granting the privilege; (2) a charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product; (3) a charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof; (4) a charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property; (5) a fine, penalty, or other monetary charge imposed by the judicial branch of government or a local government, as a result of a violation of law; (6) a charge imposed as a condition of property development; and (7) assessments and property-related fees imposed in accordance with the provisions of Article XIII D.” The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on, or benefits received from, the governmental activity.

The foregoing discussion of Proposition 218 and Proposition 26 should not be considered an exhaustive or authoritative treatment of the provisions of such propositions or the possible effects of Proposition 218 and Proposition 26. Interim rulings, final decisions, legislative proposals and legislative enactments affecting Proposition 218 and Proposition 26 may impact the City’s ability to make debt service payments on the Bonds. The City does not expect to be in a position to control the consideration or disposition of these issues and cannot predict the timing or outcome of any judicial or legislative activity related to these issues.

### **Future Initiatives**

Articles XIIC, XIID and Proposition 26 were adopted as measures that qualified for the ballot pursuant to California’s initiative process. From time to time other initiatives could be proposed and adopted affecting Net Revenues or the City’s ability to increase its rates for water service. See “Proposition 218” above. The California constitution, Article XIID, Section 5(c), specifically recognizes that any assessment existing on the effective date (of Article XIID) shall be exempt from the procedures and approval process set forth in Article 4, to wit: “....(c) Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States.”

## **RISK FACTORS RELATING TO THE BONDS**

*The following section describes certain special considerations and risk factors affecting the risk of nonpayment or the security for the Bonds. The following discussion is not meant to be an exhaustive or definitive description of the risks associated with a purchase of the Bonds and does not necessarily reflect the relative importance of the various risks. Potential investors are advised to consider the following special factors regarding the Bonds, together with all other information in this Official Statement, in order to make an informed investment decision with respect to the Bonds. There can be no assurance that other risk factors are not or will not become material in the future.*

### **General**

The payment of principal of and interest on the Bonds is secured solely by a pledge of Revenues, which is secured by a pledge by the City of the Net Revenues and certain funds under the Indenture. The realization of the Net Revenues is subject to, among other things, the capabilities of management of the City, the ability of the City to provide water services to its users, and the ability of the City to establish and maintain water fees and charges sufficient to provide the required debt service coverage as well as pay for Operation and Maintenance Costs.

Among other matters, drought, general and local economic conditions and changes in law and government regulations (including initiatives and moratoriums on growth) could adversely affect the amount of Net Revenues realized by the City.

### **Limited Obligations**

The Bonds are limited obligations of the City and are not secured by a legal or equitable pledge or charge or lien upon any property of the City or any of its income or receipts, except the Net Revenues. The obligation of the City to pay debt service on the Bonds from Net Revenues does not constitute an obligation of the City to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation.

The City is obligated under the Indenture to pay debt service on the Bonds solely from Net Revenues. There is no assurance that the City can succeed in operating the Wastewater System such that the Net Revenues in the future will be sufficient for that purpose.

### **Seismic Considerations**

The City, like much of California, is subject to seismic activity that could result in interference with the delivery of water. As a result, no assurance can be given that a future seismic event will not materially adversely affect the operation of the Wastewater System. The City does not, and does not expect to, maintain earthquake insurance on the Wastewater System.

### **Environmental Regulation**

The kind and degree of water treatment effected through the Wastewater System is regulated, to a large extent, by the federal government and the State of California. Treatment standards set forth in federal and state law control the operations of the Wastewater System and mandate the use of water treatment technology. In the event that the federal government, acting through the Environmental

Protection Agency, or the State of California, acting through the Department of Health Services, or additional federal or state agencies, should impose stricter water quality standards upon the Wastewater System, the City's expenses could increase accordingly and rates and charges would have to be increased to offset those expenses. It is not possible to predict the direction federal or state regulation will take with respect to water quality standards, although it is likely that, over time, both will impose more stringent standards with attendant higher costs.

### **Maintenance and Operation Costs**

There can be no assurance that the City's expenses for the Wastewater System will be consistent with the descriptions in this Official Statement. Changes in technology, changes in quality standards, loss of large customers, increased or decreased development, increases in the cost of operation, or other expenses could require increases in rates or charges in order to comply with the City's rate covenant in the Indenture.

### **Demand and Usage; Drought**

There can be no assurance that the local demand for services provided by the Wastewater System will continue according to historical levels. In addition, drought conditions and voluntary or mandatory water conservation measures could decrease usage of the services of the Wastewater System. California is currently in the midst of one of the worst droughts in its recorded history.

Reduction in the level of demand or usage could require an increase in rates or charges in order to produce Net Revenues sufficient to comply with the City's rate covenants. Such rate increases could increase the likelihood of nonpayment.

### **Limited Recourse on Default**

Failure by the City to make debt service payments on the Bonds constitutes an event of default under the Indenture and the Trustee is permitted to pursue remedies at law or in equity to enforce the City's obligation to make such payments. Although the Trustee has the right to accelerate the total unpaid principal amount of the debt service payments on the Bonds, there is no assurance that the City would have sufficient funds to pay the accelerated amounts.

### **Limitations on Remedies**

The ability of the City to comply with its covenants under the Indenture and to generate Net Revenues sufficient to pay the principal of and interest on the Bonds, may be adversely affected by actions and events outside of the control of the City and may be adversely affected by actions taken (or not taken) by voters, property owners, taxpayers or persons obligated to pay assessments, fees and charges. Furthermore, the remedies available to the owners of the Bonds upon the occurrence of an event of default under the Indenture are in many respects dependent upon judicial actions which are often subject to discretion and delay and could prove both expensive and time consuming to obtain.

### **Initiatives**

In recent years several initiative measures have been proposed or adopted which affect the ability of local governments to increase taxes and rates. There is no assurance that the electorate or the State

legislature will not at some future time approve additional limitations which could affect the ability of the City to implement rate increases which could reduce Net Revenues and adversely affect the security for the Bonds. See CONSTITUTIONAL LIMITATIONS ON APPROPRIATIONS AND FEES—Proposition 218.”

### **Bankruptcy**

The rights and remedies provided in the Indenture may be limited by and are subject to the provisions of federal bankruptcy laws, to other laws or equitable principles that may affect the enforcement of creditors’ rights, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against public agencies in the State of California. The various opinions of counsel to be delivered with respect to the Bonds and the Indenture, including the opinion of Bond Counsel, will be similarly qualified. If the City were to file a petition under Chapter 9 of the Bankruptcy Code, the Owners of the Bonds and the City could be prohibited from taking any steps to enforce their rights under the Indenture.

### **Rate Process**

The passage of Proposition 218 by the California electorate potentially affects the City’s ability to impose future rate increases, and no assurance can be given that future rate increases will not encounter majority protest opposition under Proposition 218. See “CONSTITUTIONAL LIMITATIONS ON APPROPRIATIONS AND FEES—Proposition 218” and “—Effect of Proposition 218 and of Possible General Limitations on Enforcement Remedies.”

### **Insurance**

The Indenture obligates the City to obtain and keep in force various forms of insurance or self-insurance, subject to deductibles, for repair or replacement of a portion of the Wastewater System in the event of damage or destruction to such portion of the Wastewater System. The City expects to self-insure a portion of the risk of loss as permitted by the Indenture. No assurance can be given as to the adequacy of any such self-insurance or any additional insurance to fund necessary repair or replacement of any other portion of the Wastewater System. Significant damage to the Wastewater System could result in a lack of the ability to generate sufficient Net Revenues to repay the Bonds. The City does not, and does not expect to, maintain earthquake insurance on the Wastewater System.

### **Tax Exemption**

The Authority and the City have covenanted that they will take all actions necessary to assure the exclusion of interest with respect to the Bonds from the gross income of the Owners of the Bonds to the same extent as such interest is permitted to be excluded from gross income under the Internal Revenue in the gross income of the Owners thereof for federal tax purposes. See “TAX MATTERS.”

### **Parity Debt**

As described in “SECURITY FOR THE BONDS—Parity Debt” above, the Indenture permits the City to issue or incur Parity Debt which would be payable from Net Revenues on a parity with the payment of debt service on the Bonds. In the event of a decline in Net Revenues available to pay the debt

service on the Bonds, the existence of Parity Debt could adversely affect the City's ability to pay the debt service on the Bonds.

### **Secondary Market**

There can be no guarantee that there will be a secondary market for the Bonds or, if a secondary market exists, that any Bonds can be sold for any particular price. Occasionally, because of general market conditions or because of adverse history or economic prospects connected with a particular issue, secondary marketing practices in connection with a particular issue are suspended or terminated. Additionally, prices of issues for which a market is being made will depend upon then-prevailing circumstances. Such prices could be substantially different from the original purchase price.

### **TAX MATTERS**

In the opinion of Kronick, Moskovitz, Tiedemann & Girard, a Professional Corporation, Sacramento, California, Bond Counsel, based upon an analysis of existing statutes, regulations, ruling, and court decisions and assuming, among other things, the accuracy of certain representations and compliance with certain covenants, interest on the Bonds is excludable from gross income for federal income tax purposes and is exempt from State of California personal income taxes. In the further opinion of Bond Counsel, interest on the Bonds is not a specific item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations; however, such interest is taken into account when determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on certain corporations.

The Internal Revenue Code of 1986, as amended, (the "Code") imposes various restrictions, conditions, and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the Bonds. The City has made certain representations and has covenanted to comply with certain restrictions designed to assure that interest on the Bonds will not be included in federal gross income. Inaccuracy of these representations or failure to comply with these covenants may result in interest on the Bonds being included in federal gross income, possibly from the date of issuance of the Bonds. The opinion of Bond Counsel assumes the accuracy of these representations and compliance with these covenants. Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of issuance of the Bonds may adversely affect the tax status of interest on the Bonds.

Although Bond Counsel expects to render an opinion that interest on the Bonds is excludable from gross income for federal income tax purposes and exempt from State of California personal income taxes, the ownership or disposition of, or the accrual or receipt of interest on, the Bonds may otherwise affect a beneficial owner's federal or state tax liability. The nature and extent of these other tax consequences will depend upon the particular tax status of the beneficial owner or the beneficial owner's other items of income or deduction. Bond Counsel expresses no opinion regarding any such other tax consequences.

In addition, no assurance can be given that any future legislation, including amendments to the Code, if enacted into law, or changes in interpretation of the Code, will not cause interest on the Bonds to be subject, directly or indirectly, to federal and/or state income taxation, or otherwise prevent Beneficial Owners of the Bonds from realizing the full current benefit of the tax status of such interest. Prospective

purchasers of the Bonds should consult their own tax advisers regarding any pending or proposed federal and/or state tax legislation. Further, no assurance can be given that the introduction or enactment of any such future legislation, or any action of the Internal Revenue Service (“IRS”), including but not limited to regulation, ruling, or selection of the Bonds for audit examination, or the course or result of any IRS examination of the Bonds, or obligations that present similar tax issues, will not affect the market price or liquidity of the Bonds.

The complete text of the final opinion that Bond Counsel expects to deliver upon the issuance of the Bonds is set forth in APPENDIX E—FORM OF OPINION OF BOND COUNSEL.

### **CERTAIN LEGAL MATTERS**

Kronick, Moskovitz, Tiedemann & Girard, a Professional Corporation, Sacramento, California, Bond Counsel, will render an opinion with respect to the validity of the Bonds, the form of which opinion is set forth in APPENDIX E—FORM OF OPINION OF BOND COUNSEL. Bond Counsel has assumed no responsibility for the accuracy, completeness or fairness of the Official Statement. Certain legal matters will also be passed upon for the City by Quint & Thimmig LLP, Larkspur, California, as Disclosure Counsel. Certain legal matters will be passed upon for the City by Johanna Canlas, Esq., Fresno, California. *Payment of the fees and expenses of Bond Counsel and Disclosure Counsel is contingent upon issuance of the Bonds.*

### **LITIGATION**

To the best knowledge of the City, there is no action, suit, proceeding or investigation at law or in equity before or by any court or governmental agency or body pending or threatened against the City to restrain or enjoin the authorization, execution or delivery of the Bonds, or the pledge of the Net Revenues or the collection of the payments to be made pursuant to the Indenture, or in any way contesting or affecting validity of the Bonds, the Indenture or the agreement for the sale of the Bonds, or in any way contesting or affecting the transactions described in this Official Statement.

### **RATING**

S&P Global Ratings, a Standard & Poor’s Financial Services LLC business, has assigned the underlying rating of “\_\_\_” to the Bonds. This rating reflects only the views of S&P and an explanation of the significance of such rating may be obtained from S&P. There is no assurance that such rating will continue for any given period of time or that such ratings will not be revised downward or withdrawn entirely by S&P, if in the judgment of S&P, circumstances so warrant. Any such downward revision or withdrawal of such rating may have an adverse effect on the market price of the Bonds.

### **CONTINUING DISCLOSURE**

The City has covenanted for the benefit of owners and beneficial owners of the Bonds to provide certain financial information and operating data relating to the Wastewater System by not later than seven months following the end of the City’s fiscal year (currently ending June 30) (the “Annual Report”),



commencing with the report for the fiscal year ended June 30, 2017, and to provide notices of the occurrence of certain enumerated events, if material. The Annual Report and the notices of material events will be filed by the City with the Municipal Securities Rulemaking Board through the Electronic Municipal Access (EMMA) System. The specific nature of the information to be contained in the Annual Report or the notices of material events is summarized below under the caption APPENDIX C—FORM OF CONTINUING DISCLOSURE CERTIFICATE. These covenants have been made in order to assist the Underwriter in complying with S.E.C. Rule 15c2-12(b)(5) (the “Rule”).

The City, the Solana Beach Redevelopment Agency, the Solana Beach Public Financing Authority and the Authority failed to comply in certain respects with continuing disclosure obligations related to outstanding bonded indebtedness. The failures to comply primarily include, but are not limited to (a) failure to provide significant event notices with respect to changes in the ratings of outstanding indebtedness, primarily related to changes in the ratings of various bond insurers insuring the indebtedness; and (b) incomplete, missing or late filing of annual reports with respect to certain bond issues. The Authority filed past the filing deadline the Authority’s consolidated audited financial report for the Fiscal Year ended June 30, 2014. The Authority has engaged a consultant and implemented additional procedures to ensure timely filing of all future annual financial reports. The Solana Beach Redevelopment Agency filed past the filing deadline its reports for Fiscal Years ended June 30, 2013, and June 30, 2014. With respect to the 2006 Bonds, the Authority filed past the filing deadline its annual reports for the Fiscal Years ended June 30, 2013, and June 30, 2014. With respect to its Special Assessment Bonds, the Solana Beach Public Financing Authority filed past the filing deadline its annual reports for the Fiscal Years ended June 30, 2012, and June 30, 2013.

In order to ensure ongoing compliance by the, on behalf of itself and its related agencies, with the continuing disclosure undertakings, the City has contracted with a consultant to assist it in filing accurate, complete and timely disclosure reports on behalf of the City and its related agencies.

#### **UNDERWRITING**

The Bonds are being purchased by Hilltop Securities Inc. (the “Underwriter”). The Underwriter has agreed to purchase the Bonds at a price of \$\_\_\_\_\_ (which price is equal to the aggregate principal amount of the Bonds, plus a net original issue premium of \$\_\_\_\_\_ and less an Underwriter’s discount of \$\_\_\_\_\_). The bond purchase contract pursuant to which the Underwriter have agreed to purchase the Bonds provides that the Underwriter will purchase all of the Bonds if any are purchased, the obligation to make such purchase being subject to certain terms and conditions set forth in the bond purchase contract, including the approval of certain legal matters by counsel and certain other conditions.

#### **MISCELLANEOUS**

So far as any statements made in this Official Statement involve matters of opinion, assumptions, projections, anticipated events or estimates, whether or not expressly stated, they are set forth as such and not as representations of fact, and actual results may differ substantially from those set forth herein. Neither this Official Statement nor any statement which may have been made verbally or in writing is to be construed as a contract with the owners of the Bonds.

The summaries of certain provisions of the Bonds, statutes and other documents or agreements referred to in this Official Statement do not purport to be complete, and reference is made to each of them for a complete statement of their provisions. Copies are available for review by making requests to the City.

The Appendices are an integral part of this Official Statement and must be read together with all other parts of this Official Statement. The audited financial statements of the City, including a summary of significant accounting policies, for the fiscal year ended June 30, 2016, are contained in APPENDIX B—AUDITED FINANCIAL STATEMENTS OF THE CITY FOR FISCAL YEAR ENDED JUNE 30, 2016.

The execution of this Official Statement and its delivery have been authorized by the City Council of the City.

CITY OF SOLANA BEACH

By \_\_\_\_\_  
Finance Manager/Treasurer

**THIS PAGE INTENTIONALLY LEFT BLANK**

**APPENDIX A**  
**SUMMARY OF THE INDENTURE**

[TO COME]

**THIS PAGE INTENTIONALLY LEFT BLANK**

**APPENDIX B**

**AUDITED FINANCIAL STATEMENTS OF THE CITY  
FOR FISCAL YEAR ENDED JUNE 30, 2016**

**THIS PAGE INTENTIONALLY LEFT BLANK**

## APPENDIX C

### FORM OF THE CONTINUING DISCLOSURE CERTIFICATE

This CONTINUING DISCLOSURE CERTIFICATE (the "Disclosure Certificate") is executed and delivered by the CITY OF SOLANA BEACH (the "City") in connection with the issuance by the City of its \$\_\_\_\_\_ \* City of Solana Beach (San Diego County, California) 2017 Wastewater Refunding Revenue Bonds (the "Bonds"). The Bonds are being issued pursuant to an indenture of trust, dated as of May 1, 2016 (the "Indenture"), by and between the City and MUFJ Union Bank, N.A., as trustee. The City covenants and agrees as follows:

Section 1. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Certificate, unless otherwise defined in this Section 1, the following capitalized terms shall have the following meanings when used in this Disclosure Certificate:

"*Annual Report*" shall mean any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"*Beneficial Owner*" shall mean any person who (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

"*Dissemination Agent*" shall mean Analytics & Compliance Group, A Division of Urban Futures, Inc., or any successor Dissemination Agent designated in writing by the City and which has filed with the City a written acceptance of such designation. In the absence of such a designation, the City shall act as the Dissemination Agent.

"*EMMA*" or "*Electronic Municipal Market Access*" means the centralized on-line repository for documents to be filed with the MSRB, such as official statements and disclosure information relating to municipal bonds, notes and other securities as issued by state and local governments.

"*Listed Events*" shall mean any of the events listed in Section 5(a) or 5(b) of this Disclosure Certificate.

"*MSRB*" means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule, or any other repository of disclosure information which may be designated by the Securities and Exchange Commission as such for purposes of the Rule in the future.

"*Owner*" or "*Bond Owner*," when used with respect to any Bond, means the person in whose name the ownership of such Bond shall be registered.

"*Participating Underwriter*" shall mean the original underwriter of the Bonds, required to comply with the Rule in connection with offering of the Bonds.

"*Rule*" shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Section 2. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City for the benefit of the owners and Beneficial Owners of the Bonds and in order to assist the Participating Underwriter in complying with Securities and Exchange Commission Rule 15c2-12(b)(5).



Section 3. Provision of Annual Reports.

(a) *Delivery of Annual Report.* The City shall, or shall cause the Dissemination Agent to, not later than nine months after the end of the City's fiscal year (which currently ends on June 30), commencing with the report for the 2016-17 Fiscal Year, which is due not later than March 31, 2017, file with EMMA, in a readable PDF or other electronic format as prescribed by the MSRB, an Annual Report that is consistent with the requirements of Section 4 of this Disclosure Certificate. The Annual Report may be submitted as a single document or as separate documents comprising a package and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date.

(b) *Change of Fiscal Year.* If the City's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c), and subsequent Annual Report filings shall be made no later than nine months after the end of such new fiscal year end.

(c) *Delivery of Annual Report to Dissemination Agent.* Not later than fifteen (15) Business Days prior to the date specified in subsection (a) (or, if applicable, subsection (b)) of this Section 3 for providing the Annual Report to EMMA, the City shall provide the Annual Report to the Dissemination Agent (if other than the City). If by such date, the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent shall notify the City.

(d) *Report of Non-Compliance.* If the City is the Dissemination Agent and is unable to file an Annual Report by the date required in subsection (a) (or, if applicable, subsection (b)) of this Section 3, the City shall send a notice to EMMA substantially in the form attached hereto as Exhibit A. If the City is not the Dissemination Agent and is unable to provide an Annual Report to the Dissemination Agent by the date required in subsection (c) of this Section 3, the Dissemination Agent shall send a notice to EMMA in substantially the form attached hereto as Exhibit A.

(e) *Annual Compliance Certification.* The Dissemination Agent shall, if the Dissemination Agent is other than the City, file a report with the City certifying that the Annual Report has been filed with EMMA pursuant to Section 3 of this Disclosure Certificate, stating the date it was so provided and filed.

Section 4. Content of Annual Reports. The Annual Report shall contain or incorporate by reference the following:

(a) *Financial Statements.* Audited financial statements of the City for the preceding fiscal year, prepared in accordance generally accepted accounting principles. If the City's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) *Other Annual Information.* To the extent not included in the audited final statements of the City, the Annual Report shall also include the following financial and operating data with respect to the City for preceding fiscal year, substantially similar to that provided in the tables in the official statement for the Bonds under the heading "THE WASTEWATER SYSTEM":

[TO BE DETERMINED]

(c) *Cross References.* Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the City or related public entities, which are available to the public on EMMA. The City shall clearly identify each such other document so included by reference.

If the document included by reference is a final official statement, it must be available from EMMA.

(d) *Further Information.* In addition to any of the information expressly required to be provided under paragraph (b) of this Section 4, the City shall provide such further information, if any, as may be necessary to make the specifically required statements, in the light of the circumstances under which they are made, not misleading.

Section 5. Reporting of Listed Events.

(a) *Reportable Events.* The City shall, or shall cause the Dissemination (if not the City) to, give notice of the occurrence of any of the following events with respect to the Bonds:

- (1) Principal and interest payment delinquencies.
- (2) Unscheduled draws on debt service reserves reflecting financial difficulties.
- (3) Unscheduled draws on credit enhancements reflecting financial difficulties.
- (4) Substitution of credit or liquidity providers, or their failure to perform.
- (5) Defeasances.
- (6) Rating changes.
- (7) Tender offers.
- (8) Bankruptcy, insolvency, receivership or similar event of the obligated person.
- (9) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security.

Note: For the purposes of the event identified in subparagraph (8), the event is considered to occur when any of the following occur: the appointment of a receiver, trustee or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governmental body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

(b) *Material Reportable Events.* The City shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds, if material:

- (1) Non-payment related defaults.
- (2) Modifications to rights of security holders.
- (3) Bond calls.
- (4) The release, substitution, or sale of property securing repayment of the securities.

- (5) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms.
- (6) Appointment of a successor or additional trustee, or the change of name of a trustee.

(c) *Time to Disclose.* Whenever the City obtains knowledge of the occurrence of a Listed Event, the City shall, or shall cause the Dissemination Agent (if not the City) to, file a notice of such occurrence with EMMA, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of 10 business days after the occurrence of the Listed Event. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(5) and (b)(3) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to owners of affected Bonds under the Indenture.

Section 6. Identifying Information for Filings with EMMA. All documents provided to EMMA under this Disclosure Certificate shall be accompanied by identifying information as prescribed by the MSRB.

Section 7. Termination of Reporting Obligation. The City's obligations under this Disclosure Certificate shall terminate upon the defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the City shall give notice of such termination in the same manner as for a Listed Event under Section 5(c).

Section 8. Dissemination Agent.

(a) *Appointment of Dissemination Agent.* The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate and may discharge any such agent, with or without appointing a successor Dissemination Agent. If the Dissemination Agent is not the City, the Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the City pursuant to this Disclosure Certificate. It is understood and agreed that any information that the Dissemination Agent may be instructed to file with EMMA shall be prepared and provided to it by the City. The Dissemination Agent has undertaken no responsibility with respect to the content of any reports, notices or disclosures provided to it under this Disclosure Certificate and has no liability to any person, including any Owner, with respect to any such reports, notices or disclosures. The fact that the Dissemination Agent or any affiliate thereof may have any fiduciary or banking relationship with the City shall not be construed to mean that the Dissemination Agent has actual knowledge of any event or condition, except as may be provided by written notice from the City.

(b) *Compensation of Dissemination Agent.* The Dissemination Agent shall be paid compensation by the City for its services provided hereunder in accordance with its schedule of fees as agreed to between the Dissemination Agent and the City from time to time and all expenses, legal fees and expenses and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent shall not be deemed to be acting in any fiduciary capacity for the City, owners or Beneficial Owners, or any other party. The Dissemination Agent may rely, and shall be protected in acting or refraining from acting, upon any direction from the City or an opinion of nationally recognized bond counsel. The Dissemination Agent may at any time resign by giving written notice of such resignation to the City. The Dissemination Agent shall not be liable hereunder except for its negligence or willful misconduct.

(c) *Responsibilities of Dissemination Agent.* In addition of the filing obligations of the Dissemination Agent set forth in Sections 3(e) and 5, the Dissemination Agent shall be obligated, and hereby agrees, to provide a request to the City to compile the information required for its Annual Report at least 30 days prior to the date such information is to be provided to the Dissemination Agent pursuant to subsection (c) of Section 3. The failure to provide or receive any such request shall not affect the obligations of the City under Section 3.

Section 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate (and the Dissemination Agent shall agree to any amendment so requested by the City that does not impose any greater duties or risk of liability on the Dissemination Agent), and any provision of this Disclosure Certificate may be waived, provided that all of the following conditions are satisfied:

(a) *Change in Circumstances.* If the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a) or (b), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Bonds, or the type of business conducted.

(b) *Compliance as of Issue Date.* The undertaking, as amended or taking into account such waiver, would, in the opinion of a nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances.

(c) *Consent of Owners; Non-impairment Opinion.* The amendment or waiver either (i) is approved by the Owners in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Owners, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Owners or Beneficial Owners.

If this Disclosure Certificate is amended or any provision of this Disclosure Certificate is waived, the City shall describe such amendment or waiver in the next following Annual Report and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the City. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5(c), and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

Section 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 11. Default. In the event of a failure of the City to comply with any provision of this Disclosure Certificate, any Owner or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. The sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

Section 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriter and the owners and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Date: [Closing Date]

CITY OF SOLANA BEACH

By \_\_\_\_\_  
Authorized Officer

ACKNOWLEDGED:

ANALYTICS & COMPLIANCE GROUP, A  
Division of Urban Futures, Inc., as Dissemination  
Agent

By \_\_\_\_\_  
Authorized Officer

EXHIBIT A

NOTICE TO EMMA OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: City of Solana Beach

Name of Issue: City of Solana Beach (San Diego County, California) 2017 Wastewater Refunding Revenue Bonds

Date of Issuance: [Closing Date]

NOTICE IS HEREBY GIVEN that the Issuer has not provided an Annual Report with respect to the above-named Issue as required by the Continuing Disclosure Certificate dated [Closing Date], furnished by the Issuer in connection with the Issue. The Issuer anticipates that the Annual Report will be filed by \_\_\_\_\_.

Dated: \_\_\_\_\_

ANALYTICS & COMPLIANCE GROUP, A  
Division of Urban Futures, Inc., as Dissemination  
Agent

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

**THIS PAGE INTENTIONALLY LEFT BLANK**

## APPENDIX D

### GENERAL INFORMATION REGARDING THE CITY OF SOLANA BEACH AND SAN DIEGO COUNTY

#### Introduction

*The City.* The City of Solana Beach (the “City”) is a coastal city in San Diego County (the “County”), California. The City is a general law city and it has operated by a Council/Manager form of government. The City is a small beach community. The Pacific Ocean is to the west; the community of Cardiff-by-the-Sea to the north, and the City of Del Mar to the south. The unincorporated village of Rancho Santa Fe is located on the east side. According to the United States Census Bureau, the City has a total area of 3.6 square miles (9.3 km<sup>2</sup>). 3.5 square miles (9.1 km<sup>2</sup>) of it is land and 0.1 square miles (0.26 km<sup>2</sup>) of it (2.88%) is water.

*The County.* The County is located in the southwestern corner of the state of California. The County is California’s second-most populous county and the County is the fifth-most populous county in the United States. The County seat is the City of San Diego, the eighth-most populous city in the United States. The County is the south-westernmost county in the 48 contiguous United States.

The County has 70 miles (110 km) of coastline. Most of the County has a mild Mediterranean climate to semiarid climate, though there are mountains that receive frost and snow in the wintertime. From north to south, the County extends from the southern borders of Orange County and Riverside County to the Mexico–United States border and Baja California. From west to east, the County stretches from the Pacific Ocean to its boundary with Imperial County.

There are 16 naval and military installations of the U.S. Navy, U.S. Marine Corps, and the U.S. Coast Guard in the County. These include the Naval Base San Diego, Marine Corps Base Camp Pendleton, Marine Corps Air Station Miramar, and Naval Air Station North Island.

#### Population

The table below summarizes population of the City, the County, and the State of California (the “State”) for the last five years.

**CITY OF SOLANA BEACH, SAN DIEGO COUNTY and CALIFORNIA**  
**Population**

| <u>Year</u> | <u>City of<br/>Solana Beach</u> | <u>San Diego<br/>County</u> | <u>State of<br/>California</u> |
|-------------|---------------------------------|-----------------------------|--------------------------------|
| 2013        | 13,248                          | 3,195,215                   | 38,238,492                     |
| 2014        | 13,335                          | 3,231,651                   | 38,572,211                     |
| 2015        | 13,395                          | 3,266,192                   | 38,915,880                     |
| 2016        | 13,487                          | 3,286,717                   | 39,189,035                     |
| 2017        | 13,527                          | 3,316,192                   | 39,523,613                     |

Source: California Department of Finance, E-4 Population Estimate for Cities, Counties, and the State, 2011-2017, with 2010 Census Benchmark.



## Employment

The following table summarizes the historical numbers of workers by industry in San Diego-Carlsbad MSA (which covers the County) for the last five years:

**SAN DIEGO-CARLSBAD MSA  
(SAN DIEGO COUNTY)  
Labor Force and Industry Employment  
Annual Averages by Industry**

|   | 2012      | 2013      | 2014      | 2015      | 2016 <sup>(1)</sup> |
|---|-----------|-----------|-----------|-----------|---------------------|
| Total, All Industries                   | 1,294,400 | 1,327,500 | 1,355,900 | 1,395,900 | 1,431,600           |
| Total Farm                              | 9,800     | 9,800     | 9,400     | 9,100     | 9,000               |
| Mining, Logging, and Construction       | 57,400    | 61,300    | 64,300    | 70,200    | 76,400              |
| Construction                            | 57,000    | 61,000    | 63,900    | 69,900    | 76,100              |
| Manufacturing                           | 98,200    | 99,400    | 102,200   | 106,200   | 107,800             |
| Wholesale Trade                         | 43,500    | 43,900    | 43,700    | 44,000    | 44,800              |
| Retail Trade                            | 137,200   | 141,300   | 144,300   | 146,800   | 147,400             |
| Transportation, Warehousing & Utilities | 27,300    | 27,200    | 27,000    | 28,400    | 29,400              |
| Information                             | 24,500    | 24,300    | 24,400    | 23,800    | 23,600              |
| Financial Activities                    | 69,800    | 70,800    | 69,400    | 71,200    | 73,000              |
| Professional & Business Services        | 213,400   | 221,100   | 224,300   | 230,200   | 234,000             |
| Educational & Health Services           | 174,500   | 181,000   | 186,000   | 192,700   | 198,500             |
| Leisure & Hospitality                   | 161,700   | 168,600   | 177,000   | 183,900   | 190,700             |
| Other Services                          | 49,200    | 49,300    | 52,000    | 53,200    | 54,900              |

Source: California Employment Development Department, based on February 2016 benchmark.

Note: Does not include proprietors, self-employed, unpaid volunteers or family workers, domestic workers in households, and persons involved in labor/management trade disputes. Employment reported by place of work. Items may not add to totals due to independent rounding.

(1) Last available full year data.

The following table summarizes historical employment and unemployment for the County, the State and the United States:

**SAN DIEGO COUNTY, CALIFORNIA, and UNITED STATES**  
**Civilian Labor Force, Employment, and Unemployment**  
**(Annual Averages)**

| Year                | Area             | Labor Force | Employment  | Unemployment | Unemployment Rate <sup>(1)</sup> |
|---------------------|------------------|-------------|-------------|--------------|----------------------------------|
| 2012                | San Diego County | 1,594,900   | 1,452,500   | 142,400      | 8.9%                             |
|                     | California       | 18,554,800  | 16,630,100  | 1,924,700    | 10.4                             |
|                     | United States    | 154,975,000 | 142,469,000 | 12,506,000   | 8.1                              |
| 2013                | San Diego County | 1,590,000   | 1,470,000   | 120,000      | 7.5                              |
|                     | California       | 18,671,600  | 17,002,900  | 1,668,700    | 8.9                              |
|                     | United States    | 155,389,000 | 143,929,000 | 11,460,000   | 7.4                              |
| 2014                | San Diego County | 1,544,600   | 1,445,400   | 99,200       | 6.4                              |
|                     | California       | 18,811,400  | 17,397,100  | 1,414,300    | 7.5                              |
|                     | United States    | 155,922,000 | 146,305,000 | 9,617,000    | 6.2                              |
| 2015                | San Diego County | 1,563,800   | 1,482,500   | 81,300       | 5.2                              |
|                     | California       | 18,981,800  | 17,798,600  | 1,183,200    | 6.2                              |
|                     | United States    | 157,130,000 | 148,834,000 | 146,411,000  | 5.3                              |
| 2016 <sup>(2)</sup> | San Diego County | 1,570,400   | 1,497,000   | 73,500       | 4.7                              |
|                     | California       | 19,102,700  | 18,065,000  | 1,037,700    | 5.4                              |
|                     | United States    | 159,187,000 | 151,436,000 | 148,976,000  | 4.9                              |

Source: California Employment Development Department, Monthly Labor Force Data for Counties, Annual Average 2010-2016, and US Department of Labor.

(1) The unemployment rate is computed from unrounded data, therefore, it may differ from rates computed from rounded figures available in this table.

(2) Latest available full-year data.

## Major Employers

The following table lists the top 10 employers within the County as of June 30, 2016.

### SAN DIEGO COUNTY Top 10 Employers as of June 30, 2016

| Employer                                  | Employees | % of Total<br>County<br>Employment |
|---|-----------|------------------------------------|
| University of California, San Diego       | 30,671    | 2.05%                              |
| Sharp HealthCare                          | 17,809    | 1.19                               |
| County of San Diego                       | 17,034    | 1.14                               |
| Scripps Health                            | 14,863    | .99                                |
| City of San Diego                         | 11,347    | .76                                |
| Kaiser Permanente                         | 8,406     | .56                                |
| UC San Diego Health                       | 7,438     | .50                                |
| San Diego Community College District      | 5,902     | .39                                |
| General Atomics Aeronautical Systems Inc. | 5,480     | .37                                |
| Rady Children's Hospital - San Diego      | 5,129     | .34                                |
| Total Top 10                              | 124,079   | 8.29%                              |

Source: San Diego County 2015-16 CAFR.

## Construction Activity

The following table reflects the five-year history of building permit valuation for the City and the County:

### CITY OF SOLANA BEACH Building Permits and Valuation (Dollars in Thousands)

|                            | 2011     | 2012     | 2013   | 2014     | 2015     |
|----------------------------|----------|----------|--------|----------|----------|
| <u>Permit Valuation:</u>   |          |          |        |          |          |
| New Single-family          | \$ 4,607 | \$ 3,991 | \$ 978 | \$ 4,184 | \$ 3,228 |
| New Multi-family           | -        | -        | -      | -        | 242      |
| Res. Alterations/Additions | 7,427    | 4,338    | 5,881  | 16,171   | 7,192    |
| Total Residential          | 12,035   | 8,329    | 6,860  | 20,355   | 10,663   |
| Total Nonresidential       | 4,158    | 2,934    | 9,419  | 5,079    | 3,231    |
| Total All Building         | 16,193   | 11,264   | 16,279 | 25,434   | 13,894   |
| <u>New Dwelling Units:</u> |          |          |        |          |          |
| Single Family              | 8        | 6        | 2      | 9        | 8        |
| Multiple Family            | -        | -        | -      | -        | 2        |
| Total                      | 8        | 6        | 2      | 9        | 10       |

### SAN DIEGO COUNTY Building Permits and Valuation (Dollars in Thousands)

|                            | 2011       | 2012       | 2013       | 2014       | 2015         |
|----------------------------|------------|------------|------------|------------|--------------|
| <u>Permit Valuation:</u>   |            |            |            |            |              |
| New Single-family          | \$ 711,514 | \$ 773,429 | \$ 936,634 | \$ 860,232 | \$ 1,069,272 |
| New Multi-family           | 375,732    | 613,538    | 878,179    | 611,730    | 1,028,733    |
| Res. Alterations/Additions | 335,347    | 222,813    | 245,435    | 346,889    | 349,035      |
| Total Residential          | 1,422,595  | 1,609,781  | 2,060,249  | 1,818,853  | 2,447,041    |
| Total Nonresidential       | 961,603    | 1,235,121  | 3,485,675  | 1,920,627  | 1,862,502    |
| Total All Building         | 2,384,198  | 2,844,903  | 5,545,924  | 3,739,480  | 4,309,543    |
| <u>New Dwelling Units:</u> |            |            |            |            |              |
| Single Family              | 2,242      | 2,100      | 2,539      | 2,276      | 3,136        |
| Multiple Family            | 3,038      | 4,319      | 5,803      | 4,327      | 6,869        |
| Total                      | 5,280      | 6,419      | 8,342      | 6,603      | 10,005       |

Source: Construction Industry Research Board: "Building Permit Summary."

Note: Totals may not add due to independent rounding.

**Commercial Activity**

Taxable sales in the City and the County for the five most recent calendar years are shown below.

**SOLANA BEACH and SAN DIEGO COUNTY**  
**Taxable Sales**  
**(dollars in thousands)**

| Year                | Area             | Taxable Transactions     |                   |
|---------------------|------------------|--------------------------|-------------------|
|                     |                  | Retail and Food Services | Total All Outlets |
| 2011                | Solana Beach     | \$ 203,420               | \$ 255,481        |
|                     | San Diego County | 31,985,292               | 45,090,382        |
| 2012                | Solana Beach     | 214,518                  | 252,494           |
|                     | San Diego County | 34,153,236               | 47,947,035        |
| 2013                | Solana Beach     | 212,097                  | 242,756           |
|                     | San Diego County | 35,948,594               | 50,297,331        |
| 2014                | Solana Beach     | 211,477                  | 242,193           |
|                     | San Diego County | 37,257,495               | 52,711,639        |
| 2015 <sup>(1)</sup> | Solana Beach     | 228,380                  | 259,114           |
|                     | San Diego County | 37,989,566               | 54,185,588        |

Source: California Board of Equalization, Taxable Sales in California (Sales & Use Tax).

Note: Totals may not add up due to independent rounding.

(1) Last available full year data.

## Median Household Income

The following table summarizes the total effective buying income and the median household effective buying income for the City, the County, the State and the nation for the past five years.

### SOLANA BEACH, SAN DIEGO COUNTY, CALIFORNIA AND UNITED STATES Median Household Effective Buying Income

| Year | Area             | Total Effective Buying<br>Income (000's Omitted) | Median Household<br>Effective Buying Income |
|------|------------------|--|---|
| 2012 | Solana Beach     | \$ 600,040                                       | \$ 68,220                                   |
|      | San Diego County | 74,593,405                                       | 48,364                                      |
|      | California       | 864,088,827                                      | 47,307                                      |
|      | United States    | 6,737,867,730                                    | 41,358                                      |
| 2013 | Solana Beach     | 529,455  | 64,315                                      |
|      | San Diego County | 73,266,155                                       | 49,302                                      |
|      | California       | 858,676,636                                      | 48,340                                      |
|      | United States    | 6,982,757,379                                    | 43,715                                      |
| 2014 | Solana Beach     | 587,720  | 69,253                                      |
|      | San Diego County | 76,880,343                                       | 51,447                                      |
|      | California       | 901,189,699                                      | 50,072                                      |
|      | United States    | 7,357,153,421                                    | 45,448                                      |
| 2015 | Solana Beach     | 682,845  | 73,848                                      |
|      | San Diego County | 84,949,559                                       | 55,146                                      |
|      | California       | 981,231,666                                      | 53,589                                      |
|      | United States    | 7,757,960,399                                    | 46,738                                      |
| 2016 | Solana Beach     | 819,341  | 80,073                                      |
|      | San Diego County | 91,727,879                                       | 58,408                                      |
|      | California       | 1,036,142,723                                    | 55,681                                      |
|      | United States    | 8,132,748,136                                    | 48,043                                      |

Source: Nielsen, Inc.

**THIS PAGE INTENTIONALLY LEFT BLANK**

**APPENDIX E**  
**FORM OF BOND COUNSEL OPINION**

[TO COME]



**THIS PAGE INTENTIONALLY LEFT BLANK**

## APPENDIX F

### BOOK-ENTRY ONLY SYSTEM

*The information in this Appendix F, concerning The Depository Trust Company, New York, New York (“DTC”), and DTC’s book-entry system, has been furnished by DTC for use in official statements and the City takes no responsibility for the completeness or accuracy thereof. Neither the City nor the Underwriter can or does not give any assurances that DTC, DTC Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of principal of or interest on the Bonds, (b) certificates representing ownership interest in or other confirmation of ownership interest in the Bonds, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Bonds, or that they will so do on a timely basis, or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Appendix F. The current “Rules” applicable to DTC are on file with the Securities and Exchange Commission and the current “Procedures” of DTC to be followed in dealing with DTC Participants are on file with DTC. Information Furnished by DTC Regarding its Book-Entry Only System*

1. The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the Bonds (as used in this Appendix F, the “Securities”). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for each maturity of the Securities, in the aggregate principal amount of such issue, and will be deposited with DTC. If, however, the aggregate principal amount of any issue exceeds \$500 million, one certificate will be issued with respect to each \$500 million of principal amount, and an additional certificate will be issued with respect to any remaining principal amount of such issue.

2. DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC’s records. The ownership interest of each actual purchaser of each Security (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates

representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC's records reflect only the identity of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the Security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit the notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

6. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Securities unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the City as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and dividend payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the City or the paying agent or bond trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC nor its nominee, the paying agent or bond trustee, or the City, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the City or the paying agent or bond trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. DTC may discontinue providing its services as depository with respect to the Securities at any time by giving reasonable notice to the City or the paying agent or bond trustee. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered.

10. The City may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered to DTC.

11. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the City believes to be reliable, but the City takes no responsibility for the accuracy thereof.





## APPENDIX C

### FORM OF THE CONTINUING DISCLOSURE CERTIFICATE

This CONTINUING DISCLOSURE CERTIFICATE (the "Disclosure Certificate") is executed and delivered by the CITY OF SOLANA BEACH (the "City") in connection with the issuance by the City of its \$ \_\_\_\_\_ \* City of Solana Beach (San Diego County, California) 2017 Wastewater Refunding Revenue Bonds (the "Bonds"). The Bonds are being issued pursuant to an indenture of trust, dated as of May 1, 2016 (the "Indenture"), by and between the City and MUFG Union Bank, N.A., as trustee. The City covenants and agrees as follows:

Section 1. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Certificate, unless otherwise defined in this Section 1, the following capitalized terms shall have the following meanings when used in this Disclosure Certificate:

"*Annual Report*" shall mean any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"*Beneficial Owner*" shall mean any person who (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

"*Dissemination Agent*" shall mean Analytics & Compliance Group, A Division of Urban Futures, Inc., or any successor Dissemination Agent designated in writing by the City and which has filed with the City a written acceptance of such designation. In the absence of such a designation, the City shall act as the Dissemination Agent.

"*EMMA*" or "*Electronic Municipal Market Access*" means the centralized on-line repository for documents to be filed with the MSRB, such as official statements and disclosure information relating to municipal bonds, notes and other securities as issued by state and local governments.

"*Listed Events*" shall mean any of the events listed in Section 5(a) or 5(b) of this Disclosure Certificate.

"*MSRB*" means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule, or any other repository of disclosure information which may be designated by the Securities and Exchange Commission as such for purposes of the Rule in the future.

"*Owner*" or "*Bond Owner*," when used with respect to any Bond, means the person in whose name the ownership of such Bond shall be registered.

"*Participating Underwriter*" shall mean the original underwriter of the Bonds, required to comply with the Rule in connection with offering of the Bonds.

"*Rule*" shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Section 2. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City for the benefit of the owners and Beneficial Owners of the Bonds and in order to assist the Participating Underwriter in complying with Securities and Exchange Commission Rule 15c2-12(b)(5).

Section 3. Provision of Annual Reports.

(a) *Delivery of Annual Report.* The City shall, or shall cause the Dissemination Agent to, not later than nine months after the end of the City's fiscal year (which currently ends on June 30), commencing with the report for the 2016-17 Fiscal Year, which is due not later than March 31, 2017, file with EMMA, in a readable PDF or other electronic format as prescribed by the MSRB, an Annual Report that is consistent with the requirements of Section 4 of this Disclosure Certificate. The Annual Report may be submitted as a single document or as separate documents comprising a package and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date.

(b) *Change of Fiscal Year.* If the City's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c), and subsequent Annual Report filings shall be made no later than nine months after the end of such new fiscal year end.

(c) *Delivery of Annual Report to Dissemination Agent.* Not later than fifteen (15) Business Days prior to the date specified in subsection (a) (or, if applicable, subsection (b)) of this Section 3 for providing the Annual Report to EMMA, the City shall provide the Annual Report to the Dissemination Agent (if other than the City). If by such date, the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent shall notify the City.

(d) *Report of Non-Compliance.* If the City is the Dissemination Agent and is unable to file an Annual Report by the date required in subsection (a) (or, if applicable, subsection (b)) of this Section 3, the City shall send a notice to EMMA substantially in the form attached hereto as Exhibit A. If the City is not the Dissemination Agent and is unable to provide an Annual Report to the Dissemination Agent by the date required in subsection (c) of this Section 3, the Dissemination Agent shall send a notice to EMMA in substantially the form attached hereto as Exhibit A.

(e) *Annual Compliance Certification.* The Dissemination Agent shall, if the Dissemination Agent is other than the City, file a report with the City certifying that the Annual Report has been filed with EMMA pursuant to Section 3 of this Disclosure Certificate, stating the date it was so provided and filed.

Section 4. Content of Annual Reports. The Annual Report shall contain or incorporate by reference the following:

(a) *Financial Statements.* Audited financial statements of the City for the preceding fiscal year, prepared in accordance generally accepted accounting principles. If the City's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) *Other Annual Information.* To the extent not included in the audited final statements of the City, the Annual Report shall also include the following financial and operating data with respect to the City for preceding fiscal year, substantially similar to that provided in the tables in the official statement for the Bonds under the heading "THE WASTEWATER SYSTEM":

[TO BE DETERMINED]

(c) *Cross References.* Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the City or related public entities, which are available to the public on EMMA. The City shall clearly identify each such other document so included by reference.

If the document included by reference is a final official statement, it must be available from EMMA.

(d) *Further Information.* In addition to any of the information expressly required to be provided under paragraph (b) of this Section 4, the City shall provide such further information, if any, as may be necessary to make the specifically required statements, in the light of the circumstances under which they are made, not misleading.

Section 5. Reporting of Listed Events.

(a) *Reportable Events.* The City shall, or shall cause the Dissemination (if not the City) to, give notice of the occurrence of any of the following events with respect to the Bonds:

- (1) Principal and interest payment delinquencies.
- (2) Unscheduled draws on debt service reserves reflecting financial difficulties.
- (3) Unscheduled draws on credit enhancements reflecting financial difficulties.
- (4) Substitution of credit or liquidity providers, or their failure to perform.
- (5) Defeasances.
- (6) Rating changes.
- (7) Tender offers.
- (8) Bankruptcy, insolvency, receivership or similar event of the obligated person.
- (9) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security.

Note: For the purposes of the event identified in subparagraph (8), the event is considered to occur when any of the following occur: the appointment of a receiver, trustee or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governmental body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

(b) *Material Reportable Events.* The City shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds, if material:

- (1) Non-payment related defaults.
- (2) Modifications to rights of security holders.
- (3) Bond calls.
- (4) The release, substitution, or sale of property securing repayment of the securities.



- (5) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms.
- (6) Appointment of a successor or additional trustee, or the change of name of a trustee.

(c) *Time to Disclose.* Whenever the City obtains knowledge of the occurrence of a Listed Event, the City shall, or shall cause the Dissemination Agent (if not the City) to, file a notice of such occurrence with EMMA, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of 10 business days after the occurrence of the Listed Event. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(5) and (b)(3) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to owners of affected Bonds under the Indenture.

Section 6. Identifying Information for Filings with EMMA. All documents provided to EMMA under this Disclosure Certificate shall be accompanied by identifying information as prescribed by the MSRB.

Section 7. Termination of Reporting Obligation. The City's obligations under this Disclosure Certificate shall terminate upon the defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the City shall give notice of such termination in the same manner as for a Listed Event under Section 5(c).

Section 8. Dissemination Agent.

(a) *Appointment of Dissemination Agent.* The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate and may discharge any such agent, with or without appointing a successor Dissemination Agent. If the Dissemination Agent is not the City, the Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the City pursuant to this Disclosure Certificate. It is understood and agreed that any information that the Dissemination Agent may be instructed to file with EMMA shall be prepared and provided to it by the City. The Dissemination Agent has undertaken no responsibility with respect to the content of any reports, notices or disclosures provided to it under this Disclosure Certificate and has no liability to any person, including any Owner, with respect to any such reports, notices or disclosures. The fact that the Dissemination Agent or any affiliate thereof may have any fiduciary or banking relationship with the City shall not be construed to mean that the Dissemination Agent has actual knowledge of any event or condition, except as may be provided by written notice from the City.

(b) *Compensation of Dissemination Agent.* The Dissemination Agent shall be paid compensation by the City for its services provided hereunder in accordance with its schedule of fees as agreed to between the Dissemination Agent and the City from time to time and all expenses, legal fees and expenses and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent shall not be deemed to be acting in any fiduciary capacity for the City, owners or Beneficial Owners, or any other party. The Dissemination Agent may rely, and shall be protected in acting or refraining from acting, upon any direction from the City or an opinion of nationally recognized bond counsel. The Dissemination Agent may at any time resign by giving written notice of such resignation to the City. The Dissemination Agent shall not be liable hereunder except for its negligence or willful misconduct.

(c) *Responsibilities of Dissemination Agent.* In addition of the filing obligations of the Dissemination Agent set forth in Sections 3(e) and 5, the Dissemination Agent shall be obligated, and hereby agrees, to provide a request to the City to compile the information required for its Annual Report at least 30 days prior to the date such information is to be provided to the Dissemination Agent pursuant to subsection (c) of Section 3. The failure to provide or receive any such request shall not affect the obligations of the City under Section 3.

Section 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate (and the Dissemination Agent shall agree to any amendment so requested by the City that does not impose any greater duties or risk of liability on the Dissemination Agent), and any provision of this Disclosure Certificate may be waived, provided that all of the following conditions are satisfied:

(a) *Change in Circumstances.* If the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a) or (b), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Bonds, or the type of business conducted.

(b) *Compliance as of Issue Date.* The undertaking, as amended or taking into account such waiver, would, in the opinion of a nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances.

(c) *Consent of Owners; Non-impairment Opinion.* The amendment or waiver either (i) is approved by the Owners in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Owners, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Owners or Beneficial Owners.

If this Disclosure Certificate is amended or any provision of this Disclosure Certificate is waived, the City shall describe such amendment or waiver in the next following Annual Report and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the City. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5(c), and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

Section 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 11. Default. In the event of a failure of the City to comply with any provision of this Disclosure Certificate, any Owner or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. The sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

Section 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriter and the owners and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Date: [Closing Date]

CITY OF SOLANA BEACH

By \_\_\_\_\_  
Authorized Officer

ACKNOWLEDGED:

ANALYTICS & COMPLIANCE GROUP, A  
Division of Urban Futures, Inc., as Dissemination  
Agent

By \_\_\_\_\_  
Authorized Officer

EXHIBIT A

NOTICE TO EMMA OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: City of Solana Beach

Name of Issue: City of Solana Beach (San Diego County, California) 2017 Wastewater Refunding Revenue Bonds

Date of Issuance: [Closing Date]

NOTICE IS HEREBY GIVEN that the Issuer has not provided an Annual Report with respect to the above-named Issue as required by the Continuing Disclosure Certificate dated [Closing Date], furnished by the Issuer in connection with the Issue. The Issuer anticipates that the Annual Report will be filed by \_\_\_\_\_

Dated: \_\_\_\_\_

ANALYTICS & COMPLIANCE GROUP, A  
Division of Urban Futures, Inc., as Dissemination  
Agent

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

## RESOLUTION NO. 2017-105

### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, AUTHORIZING THE ISSUANCE AND SALE OF WASTEWATER REVENUE REFUNDING BONDS OF THE CITY AND RELATED ACTIONS

**WHEREAS**, the Solana Beach Public Financing Authority (the "Authority") issued its Subordinate Wastewater Revenue Bonds, Series 2006 (the "Prior Bonds"), to finance improvements to the wastewater system (the "Wastewater System") owned and operated by the City of Solana Beach (the "City"); and

**WHEREAS**, debt service on the Prior Bonds is funded by payments made by the City pursuant to an installment sale agreement, dated as of December 1, 2006 (the "Installment Sale Agreement"), between the City and the Authority, which payments are secured by a pledge of certain net revenues of the Wastewater System; and

**WHEREAS**, the City is authorized pursuant to Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (commencing with Section 53570) (the "Refunding Law") to issue bonds to refund outstanding revenue obligations of the City, such as its obligations under the Installment Sale Agreement; and

**WHEREAS**, the City Council of the City has determined that it is necessary and desirable to issue its 2017 Wastewater Revenue Refunding Bonds (the "Bonds"), in order to prepay its obligations under the Installment Sale Agreement and thereby refund the Prior Bonds; and

**WHEREAS**, the following documents and proposed agreements relating to the issuance and sale of the Bonds, which are incorporated herein by reference, have been presented to the City Council for its review and approval:

- a. the Indenture (the "Indenture") between the City and MUFG Union Bank, N.A., as trustee (the "Trustee"), which provides for the issuance and the terms of the Bonds;
- b. the Bond Purchase Agreement (the "Bond Purchase Agreement") between the City and Hilltop Securities, Inc., as underwriter (the "Underwriter"), whereby the Underwriter will agree to purchase the Bonds when and as issued and delivered by the City;
- c. the Irrevocable Refunding Instructions (the "Refunding Instructions") from the Authority and the City to MUFG Union Bank, N.A., as trustee for the Prior Bonds, to effect the redemption of the Prior Bonds;
- d. the Preliminary Official Statement (the "Preliminary Official Statement") describing the Bonds and the security for the Bonds; and

e. the Continuing Disclosure Certificate (the "Continuing Disclosure Certificate"), whereby the City undertakes to provide annual reports and significant events notices as required under federal securities laws.

**NOW, THEREFORE**, the City Council of the City of Solana Beach, California, does resolve as follows:

1. Recitals. The City Council hereby finds and determines that the foregoing recitals are true and correct.
2. Authorization of Issuance. The City Council hereby authorizes the issuance of the Bonds in an aggregate principal amount not to exceed \$8,000,000, under and subject to the terms of the Indenture. The Bonds are designated as the "City of Solana Beach 2017 Wastewater Revenue Refunding Bonds."
3. Authorization of Officers to Execute and Deliver Documents. The City Council hereby authorizes the Mayor, the City Manager, and the City Finance Manager/Treasurer, and their respective designees (the "Designated Officers"), and each of them individually, for and in the name of and on behalf of the City, to approve, execute (as applicable), and deliver the following agreements and documents:
  - a. the Indenture;
  - b. the Bond Purchase Agreement;
  - c. the Refunding Instructions;
  - d. the Preliminary Official Statement; and
  - e. the Continuing Disclosure Certificate,

in substantially the form presented to this meeting, which agreements and documents are hereby approved, with such changes, insertions, revisions, corrections, or amendments as shall be approved by the officer or officers executing the agreements or documents for the City. The execution of the foregoing by a Designated Officer or Officers of the City shall constitute conclusive evidence of such officer's or officers' and the City Council's approval of any such changes, insertions, revisions, corrections, or amendments to the respective forms of agreements and documents presented to this meeting. The date, principal amount of each maturity, the interest rates, interest payment dates, denominations, form, registration privileges, place or places of payment, terms of redemption, and other terms of the Bonds and provisions relating to municipal bond insurance (if any) shall be as provided in the Indenture as finally executed.

4. Approval of Sale of Bonds. The City Council hereby authorizes the sale of the Bonds to the Underwriter; provided that the underwriter's discount does not exceed 0.65% of the principal amount of the Bonds; and provided that the net present value

of the debt service savings produced by the refunding of the Prior Bonds is at least three percent (3.00%) of the par amount of the Prior Bonds. The Designated Officers, and each of them individually, on behalf of this City Council, are hereby authorized to negotiate the sale of the Bonds with the Underwriter and to execute and deliver the Bond Purchase Agreement to the Underwriter.

- 5. Distribution of Official Statement. The City Council hereby authorizes and directs the Underwriter to distribute copies of the Preliminary Official Statement to persons who may be interested in the purchase of the Bonds. The Designated Officers are authorized and directed to cause the Preliminary Official Statement to be brought into the form of a final official statement (the "Final Official Statement") and to execute the Final Official Statement, dated as of the date of the sale of the Bonds. The City Council hereby authorizes and directs the Underwriter to deliver copies of the Final Official Statement to all purchasers of the Bonds.
  
- 7. Authorization of Officers to Execute Documents. The City Council hereby authorizes and directs its officers and the officials and staff of the City, and each of them individually, to do any and all things and to execute and deliver any and all documents that they may deem necessary or advisable in order to complete the issuance, sale, and delivery of the Bonds and otherwise to carry out, give effect to, and comply with the terms and intent of this Resolution. All actions heretofore taken by such officers, officials and staff that are in conformity with the purposes and intent of this Resolution are hereby ratified, confirmed, and approved in all respects.
  
- 8. Effective Date. This resolution shall take effect immediately upon its passage.

**PASSED AND ADOPTED** on 28<sup>th</sup> day of June, 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California, by the following vote:

AYES: Councilmembers -  
 NOES: Councilmembers -  
 ABSTAIN: Councilmembers -  
 ABSENT: Councilmembers -

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVY, City Clerk



# STAFF REPORT

## CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Gregory Wade, City Manager  
**MEETING DATE:** June 28, 2017  
**ORIGINATING DEPT:** Engineering  
**SUBJECT:** Adopt (2<sup>nd</sup> Reading) Ordinance 477 – Subjecting the City of Solana Beach to the California Uniform Public Construction Cost Accounting Act and Amendments to the Solana Beach Municipal Code for the Purpose of Adopting UPCCAA

---

### **BACKGROUND:**

Under the California Public Contracting Code (“PCC”) provisions applicable to the City (and other general law cities), all public works projects (i.e., projects to improve infrastructure, buildings, and other capital assets of the City) valued over \$5,000 must be competitively bid under a specific procedure that compels the City to prepare engineering drawings and specifications, to publish the opportunity to bid on the project, and to award a construction contract to the lowest responsive and responsible bidder.

The California Uniform Public Construction Cost Accounting Act (“UPCCAA”) (PCC Section 22000 *et seq.*) was created in 1983 as an alternative bidding procedure designed to reduce costs, expedite the awards process, improve efficiencies, and simplify administration of smaller public projects.

On June 14, 2017, the City Council introduced Ordinance 477 (1<sup>st</sup> Reading) to participate in the UPCCAA so that the City can use the alternative bidding procedures for smaller projects. This item is before the City Council to adopt Ordinance 477 (Attachment 1) related to the UPCCAA.

### **DISCUSSION:**

When constructing public projects, the City must follow the PCC. Section 20163 of the PCC requires that any public project in excess of \$5,000 must be publicly bid and

COUNCIL ACTION:

---

---



awarded to the lowest responsible bidder. These procedures are intended to ensure that the City obtains good prices, that contractors have an equal playing field, and that the City's contracting process is transparent. For very small projects, few contractors will take the time to prepare a formal bid and supply a bid bond (in the amount of 10% of their bid that covers damages the City may incur if they fail to honor their bid), and those contractors who actually submit formal bids will price these administrative costs into their bids. This puts the City in the position of paying too much for simple projects. Recent examples of this include repairs to the City Hall shingle roof and minor repair and cleaning of the decorative concrete work along Highway 101 and Fletcher Cove Park.

Because the formal bidding requirements are generally designed for large projects and do not work well for smaller projects, the Legislature adopted the UPCCAA to allow participating local governments to use alternative procedures to award projects valued at up to \$175,000. However, participating local governments must take other steps to ensure accountability to the public, transparent accounting practices and fair treatment of contractors. If adopted, the following bidding procedures may be implemented as an alternative to the regular bidding process:

- a) Public projects of \$45,000 or less may be obtained by negotiated contract or by purchase order;
- b) Public projects of \$175,000 or less may be awarded by the informal bidding procedures set forth in the UPCCAA;
- c) Public projects of more than \$175,000 must be awarded by traditional formal bidding procedures.

The UPCCAA also allows a public agency to perform project work with its own workforce in an amount up to \$45,000, if the public agency follows the accounting procedures set forth in the UPCCAA. These accounting procedures basically require an agency to track labor, equipment, material and overhead costs to a specific project.

To allow the City to use the alternative bidding procedures of the UPCCAA, Staff has prepared Resolution No. 2017-092, which is required to become subject to these procedures and to the State's cost account reviewing procedures. The Resolution must be submitted to the State Controller's Office. In order to implement the alternative bidding procedures, attached is proposed Ordinance No. 477. The contracting limits in the UPCCAA are modified from time to time by the California Uniform Construction Cost Accounting Commission. The proposed ordinance provides that when these limits are modified under state law, the modified limits take effect.

The proposed ordinance increases the City's flexibility in awarding public contracts, while maintaining Council control, transparency, accountability and a level playing field for contractors. The UPCCAA accounting procedures are designed to allow agencies to

streamline bidding and award procedures in exchange for keeping strict records that allow for periodic auditing by the UPCCAA oversight commission and members of the public to make sure projects the City constructs itself (i.e., with City Staff or the City acting as a general contractor) are not valued at more than \$175,000 (or \$187,500 for projects that were estimated in good faith at the lower figure but bid just a bit higher). The State Controller has authority to terminate the City's participation in the program if the City should fail to comply with its requirements. Typically, general contractors and the unions which represent their employees monitor local government contracting to ensure these rules are followed. The City's annual audits also provide transparency and ensure that the City's contracting procedures are followed.

It should be noted that while the City may adopt the UPCCAA alternative bidding procedures, the City may choose to follow the standard public bidding requirements for any public works project that it deems the standard bidding procedures would best serve the City or the public interest.

While state law allows for the City Manager to approve contracts for up to \$175,000 under UPCCAA, City Staff proposes to continue to bring to the Council for award any and all agreements over \$25,000 for approval irrespective of what bidding procedures were used.

**CEQA COMPLIANCE STATEMENT:**

Not a project as defined by CEQA.

**FISCAL IMPACT:**

Aside from Staff time to implement this new program, there is no cost to adopt the provisions of the UPCCAA. It is anticipated that it will save the City a significant amount of Staff time, especially in reducing the need for processing formal bidding packages and associated legal services.

**WORK PLAN:**

This item is not mentioned in the Fiscal Year (FY) 2016/2017 Work Plan.

**OPTIONS:**

- Approve Staff recommendation and adopt Ordinance 477.
- Approve Staff recommendation with alternative amendments/modifications.
- Provide direction/feedback.

**DEPARTMENT RECOMMENDATION:**

Staff recommends the City Council adopt Ordinance No. 477 that details the formation of the Solana Beach Uniform Public Construction Cost Accounting Policies and Procedures.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation.



Gregory Wade, City Manager

Attachments:

1. Ordinance No. 477

## ORDINANCE NO. 477

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA ADDING CHAPTER 3.10 TO THE MUNICIPAL CODE OF THE CITY OF SOLANA BEACH TO PROVIDE INFORMAL BIDDING PROCEDURES UNDER THE UNIFORM PUBLIC CONSTRUCTION COST ACCOUNT ACT (SECTION 22000 ET SEQ. OF THE PUBLIC CONTRACT CODE)**

**WHEREAS**, under the California Public Contracting Code ("PCC") provisions applicable to the City, all public works projects valued over \$5,000 must be competitively bid under a specific procedure that compels the City to prepare engineering drawings and specifications, to publish the opportunity to bid on the project, and to award a construction contract to the lowest responsive and responsible bidder; and

**WHEREAS**, the California Uniform Public Construction Cost Accounting Act ("UPCCAA" or "Act") was created in 1983 as an alternative bidding procedure designed to reduce costs, expedite the awards process, improve efficiencies, and simplify administration of smaller public projects; and

**WHEREAS**, the Act allows for public project work in the amount of \$45,000 or less to be performed by the public agency's force account, by negotiated contract, or by purchase order per PCC Section 22032(a). Public projects in the amount of \$175,000 or less can use the informal bidding procedures set forth in the Act in PCC Section 22032(b). Public projects at a cost of more than \$175,000 shall use formal bidding procedures to let the contract pursuant to PCC Section 22032(c).

**NOW, THEREFORE**, the City Council of the City of Solana Beach hereby ordains as follows:

Section 1. All of the above statements are true.

Section 2. Chapter 3.10 is hereby added to the Solana Beach Municipal Code ("SBMC") to provide as follows:

#### **Section 3.10.10 Purpose.**

The purpose of the following sections is to establish alternative bid procedures for public works projects, as provided for by the California Uniform Public Construction Cost Accounting Act, which may be used rather than the formal bidding procedures required by the California Public Contracting Code and SBMC Chapter 3.08.

**Section 3.10.020 Informal Bid Procedures.**

Public projects, as defined by the Act and in accordance with the limits listed in Section 22032 of the Public Contract Code, may be let to contract by informal procedures as set forth in Section 22032 et seq., of the Public Contract Code.

**Section 3.10.030 Contractors List.**

The City shall comply with the requirements of Public Contract Code Section 22034 by developing and maintaining a list of qualified contractors, identified according to categories of work, according to the criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.

**Section 3.10.040 Notice Inviting Informal Bids.**

Where a public project is to be performed which is subject to the provisions of this Chapter, a notice inviting informal bids shall be circulated using one or both of the following alternatives:

1. Notices inviting informal bids may be mailed, faxed, or emailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section 3.10.030.
2. Notices inviting informal bids may be mailed to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the Public Contract Code. Additional contractors and/or construction trade journals may be notified at the discretion of the City department soliciting bids, provided, however:
  - a. If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

**Section 3.10.050 Award of Contracts.** The City Manager or his/her designee is authorized to award informal contracts for up to \$25,000 pursuant to this Chapter.

Section 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Chapter, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

**EFFECTIVE DATE:** This Ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the City Clerk of the City of Solana Beach shall cause this Ordinance to be published pursuant to the provisions of Government Code Section 36933.

**INTRODUCED AND FIRST READ** at a regular meeting of the City Council of the City of Solana Beach, California, on the 14th day of June, 2017; and

**THEREAFTER ADOPTED** at a regular meeting of the City Council of the City of Solana Beach, California, on the 28th day of June, 2017, by the following vote:

AYES: Councilmembers –  
NOES: Councilmembers –  
ABSTAIN: Councilmembers –  
ABSENT: Councilmembers –

\_\_\_\_\_  
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk