



## DEPARTMENT OF CITY PLANNING RECOMMENDATION REPORT

### CITY PLANNING COMMISSION

**Date:** February 25, 2021  
**Time:** After 8:30 a.m.  
**Place:** In conformity with the Governor's Executive Order N-29-20 (March 17, 2020) and due to concerns over COVID-19, the CPC meeting will be entirely conducted telephonically by Zoom [<https://zoom.us/>]. The meeting's telephone number and access code access number will be provided no later than 72 hours before the meeting on the meeting agenda published at: <https://planning.lacity.org/about/commissions-boards-hearings> and/or by contacting [cpc@lacity.org](mailto:cpc@lacity.org).

**Case No.:** CPC-2019-7393-CA  
**CEQA No.:** ENV-2019-7394-ND  
**Council File No.:** 15-0129  
**Plan Area:** Brentwood-Pacific Palisades; Venice; Palms-Mar Vista-Del Rey; Westchester - Playa Del Rey; San Pedro; Wilmington-Harbor City

**Applicant:** City of Los Angeles

**Public Hearing:** July 8, 2020

**PROJECT LOCATION:** The Project area includes the Coastal Zone Area located within the Brentwood-Pacific Palisades, Venice, Palms-Mar Vista-Del Rey, Westchester-Playa Del Rey, San Pedro and Wilmington-Harbor City Community Plans in the City of Los Angeles.

**PROPOSED PROJECT:** An ordinance to add a code section to the Los Angeles Municipal Code (LAMC) to implement California Government Code Section 65590-65590.1, also known as the Mello Act. The Mello Act seeks to preserve and expand the number of affordable dwelling units in the Coastal Zone in the State of California. The ordinance replaces the process and project review requirements of existing Interim Administrative Procedures (IAP) for projects that result in demolition, loss, or conversion of Residential Units and/or the development of new Residential Units in the Coastal Zone. The ordinance will also establish the Coastal Zone Affordable Housing Trust Fund to allow in lieu fees related to the Mello Act.

**REQUESTED ACTION:**

1. Pursuant to LAMC Section 12.32, **Recommend Approval** of the Mello Act Ordinance (Exhibit B).
2. Pursuant to CEQA Guidelines Section 15074(b), consideration of the whole of the administrative record, including the Negative Declaration, No. ENV-2019-7394-ND ("Negative Declaration"), and all comments received, that there is no substantial evidence that the project will have a significant effect on the environment; FIND the

Negative Declaration reflects the independent judgment and analysis of the City; and ADOPT Negative Declaration.

**RECOMMENDED ACTIONS:**

1. **Approve and Recommend** that the City Council **Find**, pursuant to CEQA Guidelines Section 15074(b), after consideration of the whole of the administrative record, including the Negative Declaration, No. ENV-2019-7394-ND (“Negative Declaration”), and all comments received, there is no substantial evidence that the project will have a significant effect on the environment; **FIND** the Negative Declaration reflects the independent judgment and analysis of the City; and **ADOPT** Negative Declaration.
2. **Approve and Recommend** that the City Council **Adopt** the Mello Act Ordinance.
3. **Adopt** the staff report as the Commission report on the subject; and
4. **Approve and Recommend** that the City Council **Adopt** the attached Findings.

VINCENT P. BERTONI, AICP  
Director of Planning



Haydee Urita-Lopez, Principal City Planner



Christine Saponara, Senior City Planner

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## PROJECT ANALYSIS

### Project Summary

#### ***Mello Act***

The Mello Act is a state law that went into effect in January, 1982, with an intention to protect existing residential units and increase the supply of affordable housing in California's Coastal Zone. The law imposed two primary duties on local governments. One, a city or county may not approve a project that removes or converts existing housing units occupied by low, moderate income households, unless provision is made for their replacement one-for-one with new affordable units, dependent on feasibility. Two, a city or county may not approve a new housing development unless it includes new inclusionary units, also dependent on feasibility.

In the year 2000, the City of Los Angeles developed Interim procedures to implement the intent of the Mello Act. The interim Administrative Procedures (IAP), mirrored closely the provisions described in the Mello Act.

The Ordinance before the Commission today is the City's proposed Permanent Mello Act Ordinance. The proposed Ordinance accomplishes the intent of the Mello Act by placing regulations on the demolition, conversion, change of use, subdivision, and new construction activities that involve existing or proposed dwelling units in Coastal Zone communities.

The proposed ordinance reorganizes the IAP while adding new, clear procedures that are more transparent for owners, tenants and developers in the Coastal Zone. By placing clear objectives and expectations in the Ordinance, the Ordinance ensures that the City will continue to offer a high level of service in protecting residential units while facilitating development changes in the Coastal Zone. The main changes include the following: (1) Clarity between Provision and Procedures; (2) Clarity of HCIDLA and DCP roles in the approval procedures; (3) Change in the number of new units which qualifies as a Project; (4) Modifications to the Location allowance for a Replacement Unit; and (5) Introduction of a new Feasibility Study methodology.

#### ***Local Legal Action***

While the State of California adopted the Mello Act in 1982, the City did not draft its own Permanent Regulations at that time. In September 1993, a lawsuit was filed concerning the City's compliance with the Mello Act *Venice Town Council et.al vs. City of Los Angeles* (Exhibit F). The lawsuit contested the approval of a project located at 615 Ocean Front Walk in Venice which would allow the conversion of three ground floor residential units of apartment buildings to commercial uses without requiring replacement of the affordable units. The City argued that the Mello Act gave the City discretion as to whether to require replacement of affordable units. The Court disagreed. The Court's decision, while not case ending, prompted the City's participation in a Settlement Agreement with the Plaintiffs.

On January 18, 2000, as part of the Settlement Agreement, City Council instructed the Planning Department and the City Attorney to develop interim procedures and an ordinance to implement Government Code Section 65590, *et seq.*, the Mello Act. At its meeting, Council approved to fund a study by the firm of Hamilton Rabinowitz & Alschuler to assist the City in developing these interim procedures (Exhibit G). The City approved Interim Administrative Procedures for Complying with the Mello Act in the Coastal Zone Portions of the City of Los Angeles (IAP) which have been implemented by the City since May of 2000.

### ***Department of City Planning Attempts at a Permanent Ordinance***

#### ***City of Los Angeles, Mello Act Ordinance (Attempt 1)***

On November 9, 2006 the Department of City Planning presented a Staff Report and Draft Mello Ordinance per Case No. CPC-2005-8252-CA (Exhibit I). On January 11, 2007, the City Planning Commission approved and recommended City Council adopt the proposed draft ordinance to add Section 12.20.2.2 and a new Section 19.14 to the Los Angeles Municipal Code establishing provisions to comply with the Mello Act. The City Planning Commission referred the item to Council's Planning and Land Use Committee (PLUM) CF 08-1151. Per PLUM's recommendation, the draft ordinance was revised and revisited in 2012, however no consensus was reached on the revisions of the draft ordinance. The Ordinance was "received and filed" by Council.

#### ***City of Los Angeles, Mello Act Ordinance (Attempt 2 – Current Proposal)***

In 2015, the City Council adopted a motion, CF 15-0129 (Exhibit K), requesting that City Planning prepare a permanent ordinance, implementing the state Mello Act. On January 28, 2016, the Department of City Planning reported to the City Council on the status of the Mello Ordinance and requested additional funding to create the Housing Monitoring Unit and a Code Amendment Unit to help assist in the preparation of a revised Mello Ordinance (Exhibit J). On April 16, 2019, Council adopted a motion to proceed with the establishment of a permanent Mello Ordinance, including a requirement for all new housing developments that are subject to Mello Act to provide affordable housing (Exhibit L). The Department of City Planning, started work on the proposed ordinance, under Case Number CPC-2019-7393-CA.

The proposed ordinance will add a section to the Los Angeles Municipal Code to comply with the Mello Act, California Code Section 65590-65590.1, a State Law that preserves residential units and protects affordable housing in the Coastal Zone. The proposed Ordinance also replaces Interim Administrative Procedures (IAP), currently in place. Additionally, the Ordinance establishes the Coastal Zone Affordable Housing Trust Fund, which is intended to collect fees associated with the Mello Act in order to produce additional affordable housing in the Coastal Zone communities.

### ***Data – City of Los Angeles Implementation of Interim Administrative Procedures (IAP)***

The Department of City Planning and Housing and Community Department (HCID) have implemented the IAP since 2000, providing valuable information to inform the proposed permanent regulations. Since 2010 a total of 709 Mello Determinations have been completed, which is an average 70 Mello cases per year, with a 90 percent approval rate.

Below is a general overview of the total number of Mello Cases over the last 10 years and the Approved Dwelling Unit Type for the last five (5) years. The first column provides data that shows that there are approximately 70 cases completed and approved per year. The City does not have significant and complete data from 2010 to 2015 so the next column will provide data for Units Approved from 2015 to the present.

**Table 1: Mello Cases 2010-Present**

	<b>Mello Cases</b>		<b>Units Approved</b>	
<b>Citywide</b>		2010- Present		2015- Present
	Completed	709	Total Units	970
	Approved	644	Market Rate	855
			Moderate	5
			Low	1
			Very Low	109
			Extremely Low	0
			Uncategorized	
			Affordable	0
<b>Brentwood - Pacific Palisades</b>		2010- Present		2015- Present
	Completed	210	Total Units	214
	Approved	198	Market Rate	210
			Moderate	0
			Low	0
			Very Low	4
			Extremely Low	0
			Uncategorized	
			Affordable	0
<b>Venice</b>		2010- Present		2015- Present
	Completed	454	Total Units	510
	Approved	406	Market Rate	422
			Moderate	4
			Low	1
			Very Low	83
			Extremely Low	0
			Uncategorized	
			Affordable	0
<b>Westchester - Playa Del Rey</b>		2010- Present		2015- Present
	Completed	20	Units Approved	
	Approved	16	Total Units	87
			Market Rate	79
			Moderate	0
			Low	0
			Very Low	8
			Extremely Low	0
			Uncategorized	
			Affordable	0

<b>Palms - Mar Vista - Del Rey</b>	2010- Present	2015- Present
	Completed 0 Approved 0	Total Units 0 Market Rate 0 Moderate 0 Low 0 Very Low 0 Extremely Low 0 Uncategorized Affordable 0
<b>San Pedro</b>	2010- Present	2015- Present
	Completed 25 Approved 24	Total Units 159 Market Rate 144 Moderate 1 Low 0 Very Low 14 Extremely Low 0 Uncategorized Affordable 0
<b>Wilmington - Harbor City</b>	2010- Present	2015- Present
	Completed 0 Approved 0	Total Units 0 Market Rate 0 Moderate 0 Low 0 Very Low 0 Extremely Low 0 Uncategorized Affordable 0

As you can see from the Table above, from 2010 to present, there have been 709 completed Mello cases Citywide, with a majority of those cases in the Venice Community Plan Area followed by Pacific Palisades and San Pedro. Most of the Affordable units are being built in Venice and San Pedro.

### ***Comparison of Existing and Proposed Policies***

As compared to the Interim Administrative Procedures, the proposed ordinance is more protective of all residential units, regardless of income level. The proposed ordinance creates new, clear procedures that are more transparent for owners, tenants and developers in the Coastal Zone. By placing clear objectives and expectations in the Ordinance, the Ordinance ensures that the City will continue to offer a high level of service in protecting residential units while facilitating development changes in the Coastal Zone.

These changes offer standardization in Mello Review across the Coastal Zone which in turn ensures a more objective review of existing dwelling units for affordability and a project's ability

to provide required affordable units. The proposed ordinance will result in a more transparent and predictable outcome to preserve affordable housing units in the Coastal Zone. The Table below summarizes the main differences between the current Interim Procedures and the proposed ordinance. A more detailed discussion will be found below in the “Key Issues” section.

<b>Policy</b>	<b>Existing IAP</b>	<b>Proposed Mello Ordinance</b>
<b>Replacement Standard</b>	One-for-one replacement is required	One-for-one <b>and</b> like-for-like replacement is required
<b>Exemptions:</b>	<ul style="list-style-type: none"> <li>(1) Owner-Occupied Single Family Dwelling unit.</li> <li>(2) Unit vacant for more than one year.</li> <li>(3) Unit in a building a governmental agency has declared a public nuisance</li> <li>(4) Units being replaced for a Coastal Related Use.</li> <li>(5) Construction of 9 or fewer new units</li> <li>(6) Depending on the existing and proposed uses, additional exemptions may be granted based on a decision-maker’s finding of infeasibility</li> </ul>	<ul style="list-style-type: none"> <li>(1) Owner-Occupied Single Family Dwelling unit.</li> <li>(2) Owner-Occupied Unit that is vacant for more than one year and non Owner-Occupied Unit that is vacant for more than five years.</li> <li>(3) Units in a building a governmental agency has declared a public nuisance</li> <li>(4) Units being replaced for a Coastal Related Use.</li> <li>(5) Depending on the existing and proposed uses, additional exemptions may be granted based on a decision-maker’s finding of infeasibility</li> </ul>
<b>Location of Replacement Unit:</b>	<ul style="list-style-type: none"> <li>(1) Replacement Units must be located anywhere in the Coastal Zone</li> <li>(2) On appeal and the appellate body’s finding that location inside the Coastal Zone is infeasible, replacement units may be located within three miles of the Coastal Zones’ boundary.</li> <li>(3) The Appellate body may require the replacement units to be located in a defined geographic area.</li> <li>(4) Replacement units must always be located in the City of Los Angeles.</li> </ul>	<ul style="list-style-type: none"> <li>(1) Replacement Units must be located onsite.</li> </ul>
<b>Affordability Standard:</b>	The Replacement Unit may be offered at any level of affordability. (i.e. a moderate income unit may replace a very low income unit.)	The Replacement Unit must be offered at the same level of affordability or lower.
<b>“Projects” requiring Inclusionary Housings:</b>	10+ units of new for-sale and rental housing projects, not including condominium conversions.	5+ units for-sale and rental housing projects, including condominium conversions.

<b>Inclusionary Requirement:</b>	New "Projects" of 10 or more units shall provide a set aside of 10% of all units for very low income households or 20% of all units for low income households.	New "Projects" of 5 or more units shall provide a set aside as follows: (1) A minimum of 8 percent of the proposed Residential Units reserved on-site for Extremely Low Income Households; or (2) A minimum 11 percent of the proposed Residential Units reserved on-site for Very Low Income Households; or (3) A minimum of 20 percent of the proposed Residential Units reserved on-site for Low Income Households; or (4) A minimum of 40 percent of the proposed Residential Units reserved on-site for Moderate Income Households.
<b>Location of Inclusionary Units:</b>	(1) Inclusionary Units must be located on-site, (2) On appeal and the appellate body's finding that location on-site is infeasible, Inclusionary Units may be located elsewhere in the Coastal Zone or within three miles of its inland boundary. (3) The appellate body may require the inclusionary units be located in a defined geographic area. (4) Inclusionary Units must always be located in the City of Los Angeles.	(1) Inclusionary Units must be located on-site, (2) Applicant may file a request for a feasibility analysis that allows the Department to modify the number of inclusionary Units and fees required, (3) The Decision Maker may require the inclusionary units be located in a defined geographic area. (4) Inclusionary Units must always be located in the City of Los Angeles.
<b>Feasibility Study:</b>	Upon Appeal, an Applicant may submit a feasibility study showing that a Replacement Unit or Inclusionary Unit is infeasible passed on economic, environmental, social and technical feasibility. Studies can be produced by any consultant or the applicant.	Projects requesting a feasibility analysis must submit a request to HCIDLA, who will hire from a list of third-party qualified consultants. The Feasibility Analysis is required to prove, with sufficient and certified evidence that it is infeasible to build a Replacement Unit or Inclusionary Unit. Some decisions are permitted to be appealed to the Area Planning Commission.
<b>Fractional Inclusionary Fees:</b>	None required	A fractional Inclusionary Residential Unit of 0.5 or more will be rounded up to the next whole unit and will be provided on-site. If a project results in a Fractional Inclusionary Residential Unit of less than 0.5, a

		<p>proportional partial unit fee will be required to be paid for that fractional unit.</p> <p>The fractional Inclusionary Residential Unit fee will be calculated by the average square-footage of all dwelling units proposed within the new development, multiplied by the following per square-foot fee for the type of proposed development:</p> <ul style="list-style-type: none"> <li>(1) Single-Family Detached: \$48.63/square-foot</li> <li>(2) Single-Family Attached: \$42.36/square-foot</li> <li>(3) Multi-Family Rental: \$73.88/square-foot.</li> <li>(4) Multi-Family Condominium: \$64.30/square-foot</li> </ul>
<p><b>Coastal Housing Trust Fund:</b></p>	<p>N/A</p>	<p>A Fund will be created to collect fees. The purpose of the Fund shall be the receipt, retention and disbursement of in-lieu fees collected by the City pursuant to the proposed ordinance. The Fund shall be used for the development of new affordable dwelling units in the Coastal Zone portions of the City.</p>

**Key Issues**

The City has been complying with the Mello Act through the application of the Interim Administrative Procedures (IAP) adopted by the City Council (CF 98-0255) in May of 2000. This document was intended to be an interim for a permanent Mello Act Policy adopted by Council. The proposed ordinance will adopt permanent local regulations, process and project review requirements in the Los Angeles Municipal Code for projects resulting in demolition, loss, or conversion of Residential Units and/or development of new Residential Units in the Coastal Zone. The following are a list of key changes from the Interim procedures and the proposed ordinance.

***Purpose of the Ordinance***

The proposed Mello Ordinance establishes the review of Coastal Zone projects in a way that preserves all residential units while protecting the availability of affordable units. The following principles have been incorporated into the Ordinance and shall guide decision making by the City’s Departments. This Ordinance shall: (1) Promote consistency with the implementation of the provisions of the Mello Act (Government Code Section 65590 and 65590.1); (2) Ensure the preservation and maintenance of existing Residential Units, both affordable and market rate, unless a residential use is no longer feasible at that location; (3) Protect units occupied by Extremely Low, Very Low, Low, or Moderate Income persons or households by ensuring the replacement of those units occur on a one-for-one basis, with an affordability level equaling like-for-like of the existing unit, or at a lower income level; and (4) Require new residential projects of

a certain size to provide Inclusionary Residential Units for Extremely Low, Very Low, Low and/or Moderate Income persons or households.

### ***Affordable Replacement Units***

Both the IAP and the proposed ordinance require that removed or converted existing affordable units be replaced one-for-one with new affordable units. However, the IAP and the proposed ordinance differ with respect to the level of affordability of the replacement unit. As specifically permitted by the Mello Act, the IAP allows replacement units to be offered at any level of affordability. For example, a new moderate income unit may replace a unit that was previously occupied by a very low income household. Since the settlement agreement provides the last household to occupy an existing affordable unit with a right of first refusal on a new unit, staff recommends that a tighter, “like for like” standard be adopted. For example, under the proposed ordinance a new very low income unit may only replace a unit that was occupied by a very low income household.

### ***Inclusionary Units***

The IAP and the and the proposed ordinance differ with respect to the “Project” definition, Condominium Conversions and the inclusionary standards.:

*Project Definition.* The IAP exempted new housing developments of nine or fewer units from making any inclusionary contribution. This number seems arbitrary and non-reflective of current trends in affordable housing. For both Density Bonus and the Transit Oriented Communities Affordable Housing Incentive Program (TOC), projects of 5 or more may request incentives for affordable housing. The success of those programs in creating affordable housing across the City indicates that a requirement for affordable units is feasible at 5 or more units. Therefore the proposed ordinance changed the definition of “Project” to include new projects of 5 or more. Similar to the IAP, the proposed ordinance requires that any replacement units a development must provide are first subtracted from the total project size before the number of required inclusionary units or in-lieu fee is calculated. Projects are permitted to request incentives, if they request and are granted entitlement through an affordable housing incentive program offered by the City.

*Condominium Conversions.* The IAP requires condominium conversions to provide replacement but no inclusionary units. Under the proposed ordinance, they would be required to provide both. In short, condominium conversions would be held to the same standard as new for-sale projects.

*Inclusionary Standards.* During the time that the IAP was created, the Coastal Commission had a precursory requirement of the Density Bonus Ordinance, requiring all projects of 10 or more to set aside either 20 percent of all units for low income households or 10 percent of all units for very low income households. The IAP reflects that requirement in it’s inclusionary standards. Since then, the Density Bonus (DB) Ordinance came into being and was adopted by the City in 2008.

The proposed ordinance reduces the project threshold to 5 or more units, consistent with the DB Ordinance and also provides a menu of options for Inclusionary Units. In the proposed ordinance, new developments of 5 or more Residential Units shall provide Inclusionary Units on-site at a rate of at least the minimum percentages described below. The minimum number of On-Site Inclusionary Units shall be calculated based upon the total number of units in the final project, which may include Affordable Replacement Units. A Project’s requirement to provide On-Site Inclusionary Units will be fulfilled through providing:

- A minimum of 8 percent of the proposed Residential Units reserved on-site for Extremely Low Income Households; or

- A minimum 11 percent of the proposed Residential Units reserved on-site for Very Low Income Households; or
- A minimum of 20 percent of the proposed Residential Units reserved on-site for Low Income Households; or
- A minimum of 40 percent of the proposed Residential Units reserved on-site for Moderate Income Households.

Offering a broader, more diverse inclusionary requirement allows for flexibility in development and opportunity for developing housing at all income levels, not just low or very low. The percentages also are comparable to those required by the Linkage Fee ordinance, which has been approved and in effect since 2018.

### ***Location of Replacement and Inclusionary Units***

The IAP requires developers wishing to locate required Inclusionary units off-site, either elsewhere in the Coastal Zone or within three miles of its inland boundary, to file an appeal. To grant the appeal, the appellate body must find that on-site provision is infeasible. Likewise, developers wishing to locate required Replacement Units within three miles of the Coastal Zone's inland boundary must also file an appeal. To grant the appeal, the appellate body must find that provision inside the Coastal Zone is infeasible.

The proposed ordinance requires developers build Inclusionary and Replacement units on-site. Applicants required to include Inclusionary units or Affordable Replacement units (in Single Family and Duplexes) are permitted to request a feasibility analysis to contest HCIDLA's determination. Applicants required to include Affordable Replacement Units in projects of 3 or more units are not permitted to request a feasibility study. This Feasibility Study would be performed by a third-party consultant from a qualified list, held by HCIDLA, and would require a more rigorous assessment of feasibility, taking into account market trends, land values, market studies and other relevant data.

### ***Feasibility Review***

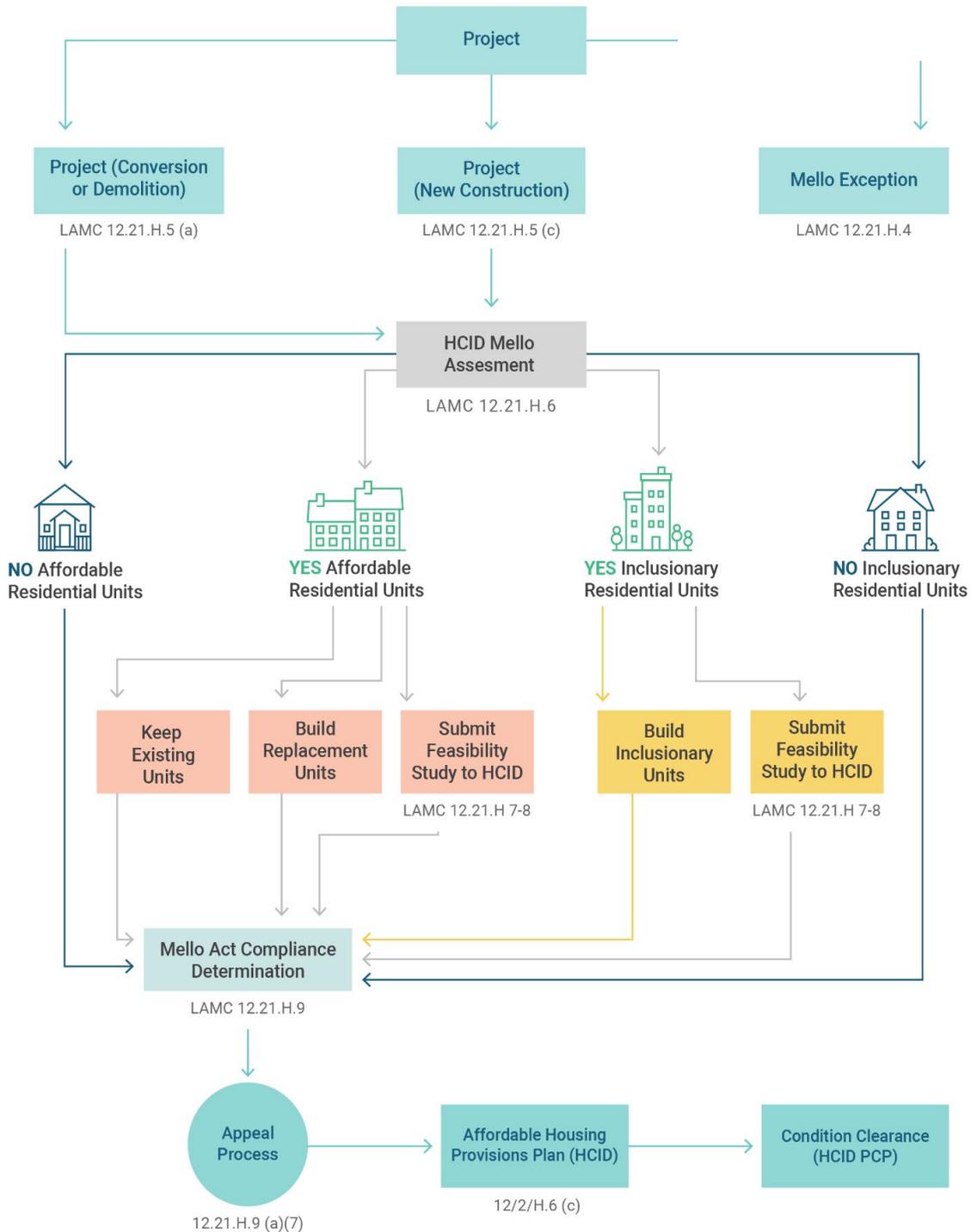
The Mello Act allows exemptions based on feasibility for required Replacement and Inclusionary units. The IAP allows applicants to file an appeal to the appellate body to determine feasibility of Replacement and Inclusionary Units. Currently in the IAP, the feasibility study could be prepared by anyone and includes any data showing economic, environmental, social and/or technical infeasibility. The proposed ordinance allows for Applicants to request a feasibility study from HCIDLA utilizing a very specific methodology and standard of review. It also requires the studies to be completed by a third-party consultant, chosen from a qualified list that shall be maintained by HCIDLA. This standardization will ensure that completed feasibility studies will cover the same criteria and include a more comprehensive review of economic data, offering Planners a more standardized and complete view of the feasibility of different projects within the Coastal Zone. This standardization will ensure equitable and fair implementation of the proposed guidelines.

### ***Standardization of the Mello Review Process***

The proposed ordinance will be consistent with Government Code Section 65590-65590.1 and Implement the provisions of the Mello Act and includes some provisions that are more protective. It will continue to ensure the preservation and maintenance of existing Residential Units, both affordable and market rate units. The proposed ordinance will result in a more transparent and predictable outcome to preserve affordable housing units in the Coastal Zone. The affordability assessment criteria and feasibility study/methodology have been standardized to ensure a more objective review of existing dwelling units for affordability and a project's ability to provide required affordable units. The interdepartmental roles are more precise, allowing for smoother implementation of the Ordinance.

The following flow chart explains the Mello Act Compliance process, as in the proposed ordinance and clearly describes the interdepartmental coordination on the final determination, detailing key steps along the way. More information on time to act and processing time will be discussed with HCIDLA as this ordinance moves through the adoption process:

### Mello Act Flow Chart



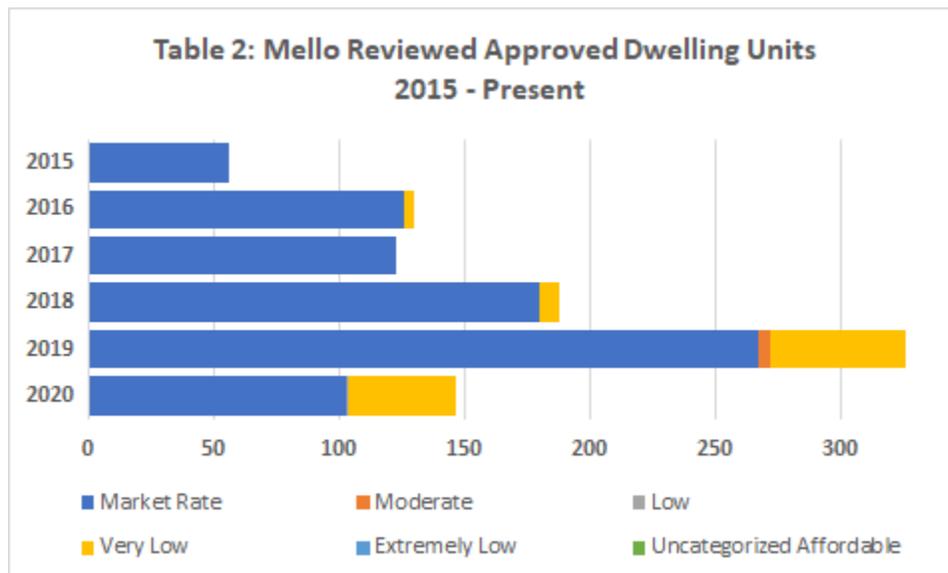
**Fractional Inclusionary Fees**

The IAP did not include any type of in-lieu fees, while the proposed ordinance requires a fractional fee. In the proposed ordinance, Inclusionary Residential Units of 0.5 or more will be rounded up to the next whole unit and will be provided on-site. However, If a project results in a Fractional Inclusionary Residential Unit of less than 0.5, a proportional partial unit fee will be required to be paid for that fractional unit. HCIDLA will be responsible for collecting such fees prior to the issuance of any permits for the development.

The fractional Inclusionary Residential Unit fee will be calculated by the average square-footage of all dwelling units proposed within the new development, multiplied by the following per square-foot fee for the type of proposed development: (1) Single-Family Detached: \$48.63/square-foot, (2) Single-Family Attached: \$42.36/square-foot, (3) Multi-Family Rental: \$73.88/square-foot, (4) Multi-Family Condominium: \$64.30/square-foot. These prices were generated from the Linkage Fee Study, produced for the adoption of the Affordable Housing Linkage Fee (AHLF) Ordinance (#185,342) on December 13, 2017. According to the Fee Study the amounts required by the proposed Ordinance represent the highest fee which could feasibly be implemented in the City, calculating housing prices and land values. The fractional fee would be paid into the Coastal Zone Affordable Housing Trust Fund and utilized to develop affordable units in the Coastal Zone.

**Creation of the Coastal Zone Affordable Housing Trust Fund**

The City of Los Angeles has been facing an escalating housing crisis for the last 40 years and retains an unfortunate distinction as one of the most unaffordable cities in the country, according to several housing studies, including a recent study from the 2019 UCLA Anderson Quarterly Forecast. Los Angeles is faced with high housing costs with limited local funding for affordable housing or an inclusionary housing policy. The proposed ordinance establishes the Coastal Zone Affordable Housing Trust Fund to collect in lieu fees for the creation of affordable housing in Coastal Areas in the City of Los Angeles. The purpose of the Mello Ordinance is to protect residential units and preserve existing affordable housing in the Coastal Zone. The City continues to face a critical time with the threat of severe federal funding cuts and limited to non-existing local resources for affordable housing. As noted in Table 2 below, the share of production for market rate housing far outweighs the need to create affordable housing units.



**Conclusion**

This proposed ordinance will adopt permanent local provisions concerning process, and project review requirements to preserve and expand the number of affordable dwelling units in the City's Coastal Zone. The proposed ordinance will provide the following: (1) Clarity between Provision and Procedures; (2) Clarity of HCIDLA and DCP roles in the approval procedures; (3) Change in the number of new units which qualifies as a Project; (4) Modifications to the Location allowance for a Replacement Unit; and (5) Introduction of a new Feasibility Study methodology.

The proposed ordinance will replace the existing Interim Administrative Procedures for projects resulting in demolition, loss, or conversion of Residential Units and/or require inclusionary affordable units. In addition, the ordinance will establish the Coastal Zone Affordable Housing Trust Fund to collect in lieu fees for the creation of affordable housing in Coastal Areas in the City of Los Angeles.

## **FINDINGS**

### **CHARTER AND GENERAL PLAN**

#### **City Charter Section 556 and 558**

Pursuant to City Charter Sections 556 and 558, as described below, the proposed ordinance is in substantial conformance with the purpose, intent and provisions of the General Plan, as well as in conformance with the public necessity, convenience, general welfare and good zoning practice. Specifically, the action addresses each of the following goals, objectives and policies of the General Plan as outlined below.

#### **General Plan Findings**

The proposed ordinance will add a section to the Los Angeles Municipal Code to comply with the Mello Act and replace the process and project review requirements of the Interim Administrative Procedures that are currently in place. The ordinance will also establish the Coastal Zone Affordable Housing Trust Fund which will collect fees that will be utilized to produce additional affordable housing in Coastal Zone communities.

#### **General Plan Framework Element**

The Framework Element for the General Plan (Framework Element) was adopted by the City of Los Angeles in December 1996 and re-adopted in August 2001. The Framework Element also sets forth a Citywide comprehensive long-range growth strategy and broadly defines Citywide policies regarding such issues as land use, housing, urban form, neighborhood design, open space, economic development, transportation, infrastructure, and public services. The Framework Element includes guiding principles that support equitable housing opportunities applicable to the entire city. The proposed ordinance is consistent with the following Framework Element policies:

GOAL 4A: An equitable distribution of housing opportunities by type and cost accessible to all residents of the City.

Policy 4.1.2: Minimize the overconcentration of very low- and low-income housing developments in City subregions by providing incentives for scattered site development citywide.

Policy 4.1.6: Create incentives and give priorities in permit processing for low-and very-low income housing developments throughout the City.

The proposed ordinance allows for equitable distribution of housing opportunities accessible to all residents in Coastal communities. It will continue to require one for one replacement of affordable housing with the same Coastal Zone community and continue to uphold inclusionary requirements for new developments.

#### **Housing Element**

The 2013-2021 Housing Element of the General Plan defines goals, objectives, and policies relating to housing production and preservation. The proposed ordinances will be in substantial conformance with the following goals, objectives and policies:

Goal 1: A City where housing production and preservation result in an adequate supply of ownership and rental housing that is safe, healthy and affordable to people of all income levels, races, ages, and suitable for their various needs.

Policy 1.1.2: Expand affordable rental housing for all income groups that need assistance.

Policy 1.1.3: Facilitate new construction and preservation of a range of different housing types that address the particular needs of the city's households.

Policy 1.1.5: Develop financial resources for new construction of affordable housing.

Policy 1.1.7: Strengthen the capacity of the development community to develop affordable housing.

Objective 1.2: Preserve quality rental and ownership housing for households of all income levels and special needs.

Policy 1.2.2: Encourage and incentivize the preservation of affordable housing, including non-subsidized affordable units, to ensure that demolitions and conversions do not result in the net loss of the City's stock of decent, safe, healthy or affordable housing.

Policy 1.2.3: Rehabilitate and/or replace substandard housing with housing that is decent, safe, healthy and affordable and of appropriate size to meet the City's current and future household needs.

Policy 1.2.4 Develop financial resources for the long-term affordability of publicly assisted rental and ownership housing.

Policy 1.2.7 Strengthen the capacity of the development community to preserve and manage affordable housing.

Objective 2.5: Promote a more equitable distribution of affordable housing opportunities throughout the City.

Policy 2.5.2: Foster the development of new affordable housing units citywide and within each Community Plan area.

Goal 3: A City where there are housing opportunities for all without discrimination.

The proposed ordinance is consistent with the goals, objectives, and policies of the City's General Plan Housing Element. The ordinance limits the loss of both affordable and market rate housing units to non residential uses in the Coastal Zone areas, which effectively preserves existing housing stock in Coastal communities. The creation of a Coastal Zone Affordable Housing Trust Fund will provide a local funding source used for a variety of uses related to the construction or preservation of affordable housing within Coastal Zone communities located in parts of the Brentwood-Pacific Palisades, Venice, Palms-Mar Vista-Del Rey, Westchester-Playa Del Rey, San Pedro and Wilmington-Harbor City Community Plan areas.

Consistent with the list of General Plan goals, objectives and policies above, the proposed ordinance is in conformance with a range of General Plan goals related to the provision of housing including affordable housing. The proposed ordinance requires projects of five or more units to provide inclusionary units. Inclusionary units must be located on-site or within a mile of the site (while remaining in the Coastal Zone), unless deemed infeasible. In addition, projects are mandated to pay a fractional in lieu fee for fractional units less than 0.5 that would contribute to the Coastal Zone Affordable Housing Trust Fund.

The City's General Plan recognizes the need for preserving and incentivizing affordable housing to allow an adequate supply of housing that is safe, healthy and affordable to people of all income levels, races, ages, and suitable for their various needs. The adoption of this ordinance will replace the existing Interim Administrative Procedures and thus ensure permanent local regulations to oversee the process and project review requirements for housing in the Coastal Zone.

The ordinance meets the purpose, intent, and provisions of the General Plan's Framework and Housing Elements by supporting increased housing opportunities particularly affordable housing in Coastal Zone neighborhoods.

### **LEGISLATIVE ACTION FINDING**

#### **Public Necessity, Convenience, General Welfare, and Good Zoning**

Los Angeles City Charter Section 558 and LAMC Section 12.32(C)(7) require that prior to adopting a land use ordinance, the City Council make findings that the ordinance conforms with public necessity, convenience, general welfare, and good zoning practice. The proposed ordinance is in conformity with the aforementioned as follows:

The proposed ordinance is in conformity with public necessity because it: (1) complies with the Mello Act (Government Code Section 65590-65590.1); (2) complies with the Housing Element of the General Plan; (3) ensures the preservation and maintenance of existing market rate and affordable residential units; (4) applies inclusionary requirements for developments of five or more units to include affordable units "on-site"; and (5) establishes an in-lieu fee option for qualified affordable replacement units and fractional inclusionary units. The proposed ordinance also serves public necessity given the City's citywide housing shortage and issues of affordability. The proposed ordinance allows for the continued preservation and construction of affordable residential units in the Coastal Zone, where there is generally a higher cost of housing than the rest of the City.

The proposed ordinance is in conformity with the convenience and general welfare because it: (1) complies with the Mello Act (Government Code Section 65590-65590.1); (2) complies with the Housing Element of the General Plan; (3) ensures the preservation and maintenance of existing market rate and affordable residential units; and (4) Standardizes the methodology for financial feasibility studies. The ordinance establishes permanent measures that ensure equitable distribution of housing opportunities in Coastal Zone areas which comply with the State Mello Act. In past instances, developers have utilized the allowance of feasibility studies to evade building required replacement of affordable units resulting in a loss of affordable housing in Coastal communities.

The proposed ordinance is in conformity with good zoning practice because it: (1) complies with the Mello Act (Government Code Section 65590-65590.1); (2) complies with the Housing Element of the General Plan; (3) ensures the preservation and maintenance of existing market rate and affordable residential units; (4) applies requirements for developments of five or more units to include affordable units "on-site"; (5) Eliminates the consideration to provide required affordable replacement units at an "off-site" location or within three miles of the development; (6) applies Change of Use from residential to non-residential use and Condominium Conversions that convert one or more existing residential units to a Condominium, cooperative, or similar form of ownership; and (7) Applies to all existing affordable units that are rent restricted. Moreover, the proposed ordinance will make no changes to existing zoning, any specific plans or any other land use regulations that affect the physical environment. All projects subject to the ordinance will be required to process separate environmental clearance, as applicable.

Good zoning practice requires the permanent local ordinance in order to ensure that there is a mix of housing available for all income levels in neighborhoods that are becoming more

unaffordable to many. The proposed ordinance substantially conforms with public necessity, convenience, general welfare, and good zoning practice

### **General Plan - Community Plans**

The proposed ordinance is consistent with the following Goals, Objectives, and Policies of the Brentwood-Pacific Palisades, Venice, Palms-Mar Vista-Del Rey, Westchester-Playa Del Rey, San Pedro and Wilmington-Harbor City Community Plans in the City of Los Angeles:

#### Venice Community Plan

The proposed ordinance is in conformance with the following Policies and Objectives of the Venice Community Plan:

Goal 1 - A safe, secure, and high quality residential environment for all community residents

Objective 1-5 - To promote the adequacy and affordability of multiple-family housing and increase its accessibility to more segments of the population.

Policy 1.4-1 - Promote greater individual choice in type, quality, price and location of housing.

Policy 1-4.2 - Ensure that new housing opportunities minimize displacement of residents.

#### Brentwood - Pacific Palisades Community Plan

The proposed ordinance is in conformance with the following Policies and Objectives of the Brentwood - Pacific Palisades Community Plan:

Goal 1 - A safe, secure, and high quality residential environment for all community residents

Objective 1-5 - To promote and insure the provision of adequate housing for all persons regardless of income, age or ethnic background.

Policy 1.5-4 - Provide the development and maintenance of rental units to insure housing for a variety of income groups.

#### San Pedro Community Plan

The proposed ordinance is in conformance with the following Policies and Objectives of the San Pedro Community Plan:

Goal LU1: Complete, livable and quality residential neighborhoods throughout San Pedro that provide a variety of housing types, densities, forms and designs and a mix of uses and services that support the needs of residents.

Policy LU1.2 - Adequate housing and services. Provide housing that accommodates households of all sizes, as well as integrates safe and convenient access to schools, parks, and other amenities and services. (P12)

Goal LU3: Multi-family residential neighborhoods with a mix of ownership and rental units that are well-designed, safe, provide amenities for residents, and exhibit the architectural characteristics and qualities that distinguish San Pedro

Policy LU3.1 Neighborhood stability. Stabilize and improve existing multi-family residential neighborhoods, allowing for growth in areas where there are sufficient public infrastructure and services and where quality of life can be maintained or improved. (P7, P8).

Policy LU3.3 Equitable housing distribution. Provide an equitable distribution of housing types for all income groups throughout San Pedro's multi-family neighborhoods and promote mixed-income developments rather than creating concentrations of below-market-rate housing. (P7, P9, P10).

#### Wilmington - Harbor City Community Plan

The proposed ordinance is in conformance with the following Policies and Objectives of the Wilmington - Harbor City - Community Plan:

Goal 1 - A safe, secure, and high quality residential environment for all community residents

Objective 1-5 - To promote and insure the provision of adequate housing for all persons regardless of income, age, or ethnic background.

Policy 1-5.1 - Promote greater individual choice in type, quality, price, and location of housing.

Objective 1-7 - To minimize housing displacement whenever possible, and, in those cases where displacement is unavoidable, to provide housing relocation assistance and services for persons displaced as a result of public or private actions.

Policy 1-7.1 - Ensure that new housing opportunities minimize displacement of the residents.

#### Westchester - Playa Del Rey Community Plan

The proposed ordinance is in conformance with the following Policies and Objectives of the Westchester Community Plan:

Goal 1 - Provide a safe, secure, and high quality residential environment for all economic, age, and ethnic segments of the Westchester - Playa Del Rey Community.

Policy 1-1.3 - Provide for adequate Multiple Family residential development.

Policy 1-4.1 - Promote greater individual choice in type, quality, price and location of housing.

Policy 1-4.2 - Promote the development of housing for persons of low to moderate income within the community.

Policy 1-4.3 - Ensure that new housing opportunities minimize displacement of residents.

Palms - Mar Vista - Del Rey Community Plan

The proposed ordinance is in conformance with the following Policies and Objectives of the Palms - Mar Vista - Del Rey Community Plan:

Goal 1 - Provide a safe, secure, and high quality residential environment for all community residents.

Policy 1-1.1 - Provide for adequate multi-family residential development.

Policy 1-1.4 - Promote neighborhood preservation, particularly in multi-family neighborhoods.

Objective 1-4 - To promote the adequacy and affordability of multiple-family housing and increase its accessibility to more segments of the population.

Policy 1-4.1 - Promote greater individual choice in type, quality, price, and location of housing.

Policy 1-4.2 - Ensure that new housing opportunities minimize displacement of residents.

**CEQA FINDINGS**

Pursuant to CEQA Guidelines Section 15074(b), after consideration of the whole of the administrative record, including the Negative Declaration, No. ENV-2019-7394-ND ("Negative Declaration"), and all comments received, there is no substantial evidence that the project will have a significant effect on the environment; FIND the Negative Declaration reflects the independent judgment and analysis of the City; and ADOPT Negative Declaration. (Exhibit C).

## **PUBLIC HEARING AND COMMUNICATIONS**

### **Public Hearing/ Information Session**

In conformity with the Governor's Executive Order N-20-20 (March 17, 2020) and due to concerns over COVID-19, the Department of City Planning conducted an Information Session and Public Hearing using Zoom [<https://zoom.us/>] webinar and telephonically. Approximately 50,000 public hearing notices were mailed to all property owners and occupants within the Coastal Zones and 500 feet surrounding each Coastal Zone Subarea. A public notice was also placed on the project's website, on the Department of City Planning website, [planning.lacity.org](http://planning.lacity.org), and a newspaper advertisement was placed in the Daily Journal on June 12, 2020. The Public Hearing was attended by approximately 130 participants. Below is a summary of the public testimony received and the total written correspondence received by City Planning Staff by the end of the public comment period:

### **Verbal and Written Communication**

During the public hearing, a total of 55 verbal comments were received. 25 comments were supportive of the Mello Ordinance released in December of 2019, one (1) comment in opposition, and 23 general comments. The majority of verbal comments suggest strengthening the Mello Act to reduce current loopholes. Other comments received regarding the ordinance supported eliminating loopholes, requiring on site replacement of affordable units, deeming all rent restricted units as affordable units and eliminating any in lieu fee option. The general comments expressed concerns over affordability issues, gentrification and displacement, short term rentals and conversion of housing to commercial uses like hotels, Accessory Dwelling Units (ADUs), and overall displacement of families. The one comment received in opposition felt that the regulations were infringing on property rights.

The Public Hearing Officer kept the public comment period open for two weeks following the virtual public hearing. Additional comments were received through Wednesday July 22, 2020. During the comment period following the Public Hearing, approximately 175 additional comments were received via email to staff. Approximately 60 of those comments received were in support of strengthening and expanding the Mello Ordinance. Many offered support for regulations to eliminate the in lieu fee option, require on-site affordable housing replacement units, and prevent any residential units be allowed as short term vacation rentals. Approximately 105 comments did not indicate their support or opposition of the ordinance but were mostly in support of eliminating the allowance of building units offsite, and insisted on requiring affordable units be built on site only. A few other comments offered specific feedback on regulations such as feasibility study, enforcement and determining affordability. There were five (5) comments received in opposition, three comments did not want any update to the existing regulations and two comments that felt the ordinance would harm property owners and impact the rights of private owners. Five (5) general comments were received regarding the lack of affordable housing in the City and the City's housing crisis.

### **Here is a high level summary of all comments received at the public hearing and via email:**

#### **General comments:**

- Less affordable housing units available will result in housing cost increases.
- Landlords should not be able to convert housing units to short term rentals.
- When we lose RSO housing, we lose it for good.
- Strengthen and expand the Mello Act
- Los Angeles is suffering from a housing crisis, and the affordable housing crisis has reached extreme and epic levels.

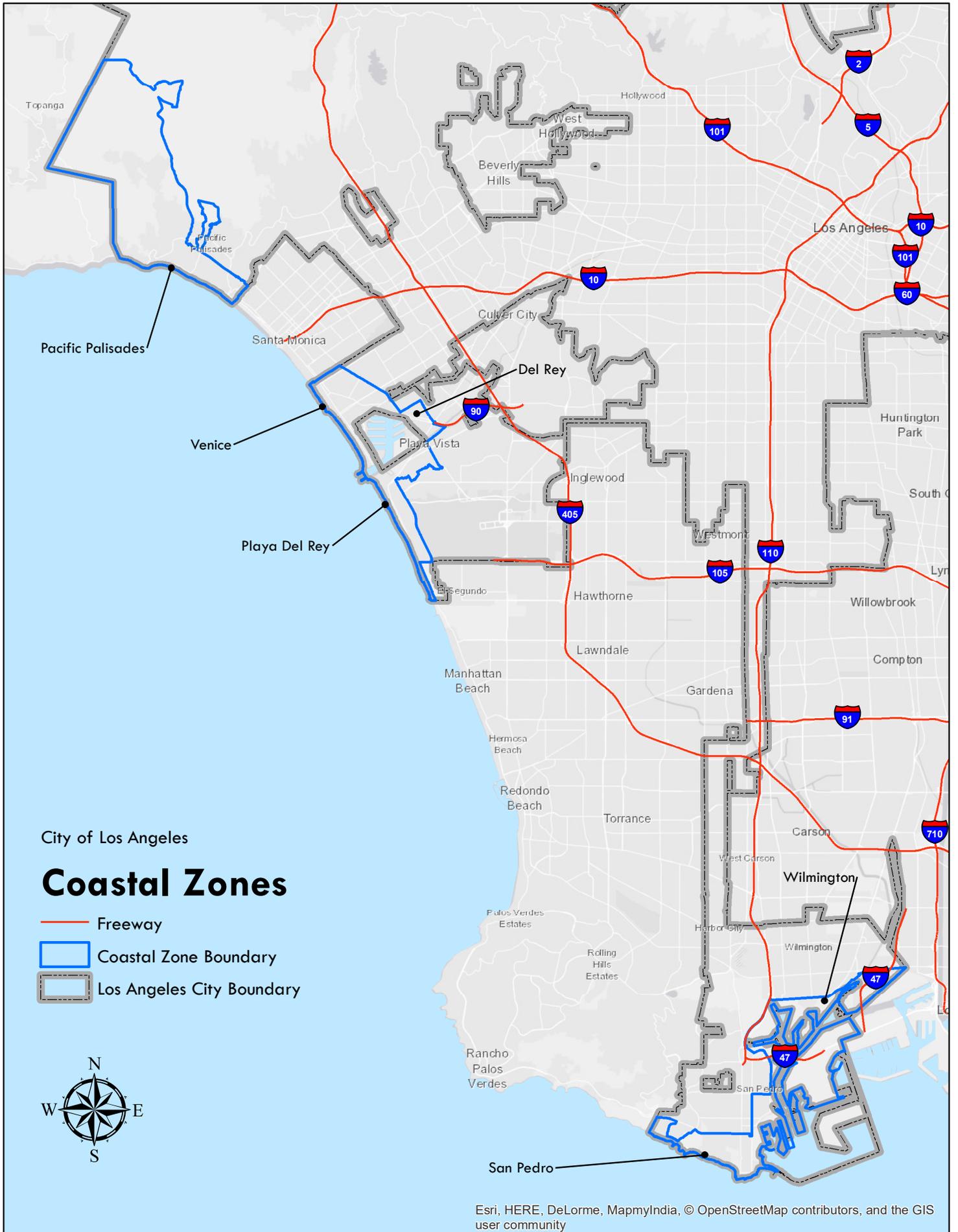
- The Los Angeles rental market is one of the least affordable in the country.
- Families are being displaced from their long-time homes and neighborhoods, contributing to homelessness especially in Coastal Areas.
- The City must do everything it can to ensure that it is protecting affordable housing opportunities.
- Mello Act supports more affordable units and maintains diverse communities in the Coastal Zone.

Comments on Mello regulations:

- Residences should not be converted for non coastal-dependent commercial use.
- Developers should not be allowed an in lieu fee option since there is no guarantee affordable units will be built.
- Developers should be required to replace units.
- Remove the carve-outs and exceptions from the Mello Ordinance.
- The ordinance should ensure a true no-net-loss for preserving existing affordable housing.
- The ordinance should assume all rent-stabilized housing as affordable.
- Developers should have the burden of proof to show that any housing they are demolishing is not affordable
- The City should independently evaluate any infeasibility claims by developers who claim they cannot replace or include affordable housing, based on consistent standards.
- Mello Ordinance is not considering Artist-in-Residence regulations and the impacts
- Original tenants should have the right of return to any affordable replacement unit.
- Under the IAP many Mello units were demolished and went unreplaced.
- Require unpermitted dwelling units to be presumed affordable to very low-income households.
- Do not allow in lieu fees for fractional inclusionary units.
- Assume that all evictions and "cash for keys" buyouts in the five years preceding the HCID analysis be presumed to have been conducted for purposes of evading compliance with the Mello Act.
- The general presumption that a unit is affordable unless proved otherwise is unfair to owners and developers of rental properties and will result in the loss of rental units.
- Feasibility studies should be allowed for the redevelopment of commercially zoned properties.
- Linking income levels to affordability in determining affordable units as opposed to actual rent is problematic
- The City should independently evaluate infeasibility claims by developers based on consistent standards.
- Some property owners fake residency to get around Mello regulations.
- There have been a lot of conversions from duplexes to single family homes.
- For new development projects, the inclusionary requirement should apply to total units, not just new units.
- There should be a timeframe in which any in lieu fees should be spent that are in the trust fund.
- Acquisitions Methodology for fractional fees should be adjusted for inflation and real cost of acquisition.
- Affordability covenants should be 55 years or the life of the project.
- Mello units should not be used for short term rentals unless the unit is a primary residence and they are renting out a room.
- ADUs should not make your property subject to Mello.
- The Mello Ordinance needs to require deeper affordability.

CPC-2019-7393-CA

EXHIBIT A – Coastal Zone Maps



City of Los Angeles

# Coastal Zones

- Freeway
- ▭ Coastal Zone Boundary
- ▭ Los Angeles City Boundary



CPC-2019-7393-CA

EXHIBIT B – Proposed Mello Act Ordinance

ORDINANCE NO. \_\_\_\_\_

SECTION 1           The Los Angeles Municipal Code is hereby amended to include Section 12.21.H which shall read as follows:

H. **Mello Act Compliance in the Coastal Zone Area.** Housing preservation and development requirements in the Coastal Zone Area designed to comply with California Government Code Section 65590 and 65590.1.

**1. Purpose.** To establish the review of Coastal Zone projects that result in the demolition, loss, or Conversion of Residential Units and/or the development of new Residential Units within the Coastal Zone. The following principles shall guide the interpretation of these regulations:

- a. Promote consistency with the implementation of the provisions of the Mello Act (Government Code Section 65590 and 65590.1).
- b. Ensure the preservation and maintenance of existing Residential Units, both affordable and market rate, unless a residential use is no longer feasible at that location.
- c. Protect units occupied by Very Low, Low, and Moderate Income persons or households by ensuring the replacement of those units occur on a one-for-one basis, with an affordability level equaling like-for-like, or lower.
- d. Require new residential projects of a certain size to provide Inclusionary Units for Very Low, Low and Moderate Income persons or households.

**2. Relationship to other State and Local Zoning Regulations.**

- a. Where other entitlements and/or regulations require the provision of affordable units to be replaced or additionally provided as a part of the project, those regulations that result in the greatest number of affordable units with the deepest affordability levels per unit shall prevail.
- b. Fees calculated, charged, or collected based on residential use, to provide for affordable units, shall comply with the provisions contained herein. Those fees charged based upon non-residential use, to provide for affordable dwellings, shall be unaffected by the provisions contained herein.
- c. In the case of conflict between this Section H and any applicable Specific Plan, certified Local Coastal Program, or other State or local

## City Planning Commission Draft: Proposed Mello Act Ordinance

regulation, the requirements that result in the greatest number of Affordable Replacement Units and Inclusionary Units, with the deepest affordability levels per unit, shall prevail.

- 3. Definitions.** The following definitions apply to LAMC Section 12.21 H and are in addition to those found in the California Public Resources Code.

**Affordable Housing Incentives Guidelines.** The guidelines adopted by the City Planning Commission on June 24, 2005, as amended, pursuant to Ordinance No. 170,764, that implement California Government Code Section 65915 in the City of Los Angeles.

**Affordable Monthly Housing Cost.** For ownership units, the definition of “affordable housing cost” contained in Health and Safety Code Section 50052.5, and as further defined in California Code of Regulations title 25 Section 6920. For rental units, the definition of “affordable rent” contained in Health and Safety Code Section 50053, and as further defined in California Code of Regulations Title 25 Section 6918.

**Affordable Replacement Unit.** A Residential Unit built or provided onsite to satisfy replacement requirements, at the same or lower affordability level.

**Affordable Unit.** A protected Residential Unit, as determined by HCIDLA and DCP, and defined as any of the following: (1) A Residential Unit that is or was subject to a recorded covenant, ordinance, or law that restricts rent to levels affordable to persons or households of Moderate, Low or Very Low income within the past five years. (2) A Residential Unit that is or was subject to any form of rent or price control through a public entity’s valid exercise of its police power within the past five years. (3) A Residential Unit that is or was occupied by a Moderate, Low or Very Low-income household within the past five years as determined by HCIDLA.

**Coastal-Dependent Non-Residential Use.** As defined in Section 30101 of the Public Resources Code, or “coastal dependent,” as defined in Section 30101.3 of the Public Resources Code, any non-residential development or use that requires a site on, or adjacent to, the sea to be able to function.

**Coastal-Related Non-Residential Use.** As defined in Section 30101 of the Public Resources Code, or “coastal related,” as defined in Section 30101.3 of the Public Resources Code, any non-residential development or use that is dependent on a Coastal-Dependent Non-Residential Use.

**Coastal Zone.** The Coastal Zone, as defined in California Public Resources Code, Division 20 (commencing with Section 30000).

**Coastal Zone Affordable Housing Trust Fund.** The reserve accounts into which Affordable Replacement Unit and fractional Inclusionary Unit fees received from Applicants are deposited, and that will only be used to provide Affordable Replacement Units and Inclusionary Units in the same Coastal Zone Community from where the fee originated. Affordable Replacement Units and fractional Inclusionary Unit fees may only be spent to create net new Residential Units through adaptive reuse and new construction.

**Coastal Zone Community.** As established by the Coastal Act of 1976, those portions of the Brentwood-Pacific Palisades, Venice, Palms-Mar Vista-Del Rey, Westchester-Playa del Rey, San Pedro, and Wilmington-Harbor City Community Plan areas that are located within the Coastal Zone. These Coastal Zone areas are aggregated into the following Communities: Pacific Palisades (a portion of the Brentwood-Pacific Palisades Coastal Zone areas); Venice (a portion of the Venice, Palms-Mar Vista-Del Rey, and Westchester-Playa del Rey Coastal Zone areas); San Pedro (a portion of the San Pedro Coastal Zone areas), and Wilmington (a portion of the Wilmington-Harbor City Coastal Zone areas).

**Conversion.** A change of one or more existing Residential Units to a condominium, cooperative, or similar form of ownership; or a change of one or more existing Residential Units to a non-residential use; or a reduction in the existing number of Residential Units, either affordable, (covenanted or determined affordable by a Mello Determination) or market rate.

**Demolition.** The removal or replacement of more than 50 percent to any existing exterior walls, foundation walls or roof framing to one or more existing Residential Units or a project defined as a Major Remodel.

**Feasible.** As defined by Section 65590 of the Government Code Section, capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

**HCIDLA Mello Act Assessment.** A letter regarding the quantity, affordability levels, location and replacement requirements for Residential Units made by the Los Angeles Housing and Community Investment Department.

**Household, Extremely Low Income.** A person or household with an income that conforms to the definition contained in California Health and Safety Code Section 50106, and as further defined in 25 California Code of Regulations 6928 and 6932.

**Household, Low Income.** A person or household with an income that conforms to the definition contained in California Health and Safety Code Section 50079.5 and as further defined in 25 California Code of Regulations 6928 and 6932.

**Household, Moderate Income.** A person or household with an income that conforms to the definition contained in California Health and Safety Code Section 50093 (b), and as further defined in 25 California Code of Regulations 6930 and 6932.

**Household, Very Low Income.** A person or household with an income that conforms to the definition contained in California Health and Safety Code Section 50105, and as further defined in 25 California Code of Regulations 6926 and 6932.

**Major Remodel.** A project that increases the existing structure by more than 50 percent of existing floor area within a residential structure.

**New Housing Development.** Development of one or more Residential Units, for rent or sale, through either construction of new units, additions to existing structures, or the adaptive reuse of existing, non-residential structures for Residential Units. The structure or structures containing these Residential Units are located on a single lot, two or more contiguous or tied lots, or conform to the definition of a Unified Development per LAMC 12.24 W 19.

**Project.** Within the Coastal Zone, any action for which a permit, authorization, or determination is required to be issued, resulting in the Conversion, Demolition, or reduction of the number of existing Residential Units; and/or the construction of new Residential Units.

**Residential Unit.** An efficiency dwelling unit, accessory dwelling unit, junior accessory dwelling unit, light housekeeping unit or joint living and work quarters as defined in Section 12.03 of the Los Angeles Municipal Code; a mobile home, as defined in Section 18008 of the California Health and Safety Code; a mobile home lot in a mobile home park as defined in Section 18214 of the California Health and Safety Code; a residential hotel (inclusive of individual rooms within a residential hotel) as defined in

## City Planning Commission Draft: Proposed Mello Act Ordinance

paragraph (1) or subdivision (b) of Section 50519 of the California Health and Safety Code.

**Residential Unit, Inclusionary.** A Residential Unit with an Affordable Monthly Housing Cost required to be provided under this Section as a condition of approval for a New Housing Development.

**Serial Development.** Development that is undertaken by the same applicant on the subject property and within a 5-year time period, for which a Mello Act compliance review was required in the past and is presently required in conjunction with a proposed project. This also includes permit requests for multiple projects that, when combined, are considered a Demolition via the definition in this section.

**Unified Development.** As defined in LAMC 12.24 W 19(c), a development of two or more Residential Units, buildings and/or structures that have functional internal linkages such as shared pedestrian walkways or vehicular connections or parking facilities, with common architectural and landscape features that constitute distinctive design elements of the development, and that appears to be a consolidated whole when viewed from adjoining streets or the public right-of-way. Such development may include two or more contiguous parcels or lots separated only by a street or alley. Detached bungalows and duplexes are considered unified developments.

4. **Mello Act Exception:** No permits shall be issued by the Department of Building and Safety for any ministerial or non-ministerial action involving the Demolition, Conversion, or New Construction of a Residential unit in the Coastal Zone until the Department of City Planning determines the action qualifies for an exception. The following shall qualify for an exception from the general provisions and procedures in this Ordinance:
  - a. **Demolition of a Structure declared as a Public Nuisance.** The Demolition of a residential structure or unit that has been declared a public nuisance pursuant to Division 13 (commencing with Section 17000) of the California Health and Safety Code or Chapter IX, Article 1, Division 89 of the Los Angeles Municipal Code is not subject to the Affordable Replacement Unit requirements of this Section H. In order to qualify for this exception, the following must be taken into consideration:
    1. A certified title report indicating that a public nuisance declaration has been recorded against the residential unit or structure and has not been terminated.



**1. Conversion or Demolition of an existing Residential Unit to a non-Residential unit.** Conversion or Demolition of any existing Residential Unit, for purposes of a non-residential unit that is not Coastal-Dependent, is prohibited, unless a residential unit is no longer feasible. Conversion of a Residential Unit to an Apartment Hotel will constitute a Conversion to a non-residential unit and is not permitted. The Department of City Planning shall determine feasibility based on the review of Substantial Evidence.

a) **Feasibility of Maintaining Existing Residential Unit.** The City presumes continued feasibility of a Residential Unit and maintaining the existing number of Residential Units. It is the Applicant's burden of proof to show otherwise, with substantial evidence. The Director of City Planning will be responsible for determining the feasibility of providing a Residential Unit by assessing the following:

- i. Proximity to other existing, viable residential uses provides strong evidence that a residential use is feasible.
- ii. Applicant-initiated zone changes, or a lapse in non-conforming rights resulting in a prohibition of residential use of the property shall not render a project infeasible. If an applicant currently has non-conforming or other rights that permit a continued residential use, the Applicant may not argue that the existing zoning renders a residential use infeasible.
- iii. Site Zoning and Land Use Designations of the, along with current non-conforming rights afforded the property shall be considered when determining feasibility. Adjacent zoning, that may be incompatible with a residential use shall also be considered.
- iv. Condition of the Unit will be assessed when determining feasibility. Units that are dilapidated or in a state of disrepair due to failure to make reasonable repairs or to adequately maintain the site shall not be considered infeasible.

- v. Ability of the Applicant to rent or sell the current premises based on the site's unique characteristics or circumstances.
- vi. Feasibility will be determined based on the characteristics and circumstances of the property, including proximity to noxious and incompatible existing uses that are likely to remain and cause an inability to rent or sell the current premises.

**2. Conversion or Demolition of an Affordable Unit.**

Conversion or Demolition of an Affordable Unit is prohibited, unless replaced with an Affordable Replacement Unit. Affordable Units are to be preserved or replaced at the same size, and made affordable to at least the same income levels as those existing households at the time the units were occupied. In addition, the following provisions apply to conversions and Demolitions:

- a) **Affordable Units located within a single-family dwelling and duplex.** Affordable Units located within a single-family dwelling or duplex on a lot containing no more than two Residential Units shall be replaced if it is feasible to do so as determined by the process set forth in subsections 8 and 9 of this Ordinance. Replacement may consist of the construction of an Affordable Replacement Unit or payment into the Coastal Zone Affordable Housing Trust Fund.
- b) **Affordable Units located in Multi Family Properties containing 3 or more units.** All Affordable Units located within the same structure, on the same property, or within a Unified Development or Serial Development, which contain three or more Residential Units, shall be replaced on a one-for-one basis with an Affordable Replacement Unit, provided that the density conforms with the existing regulations.

- b. **Affordable Replacement Unit.** Projects resulting in the development of an Affordable Replacement unit must follow the provisions set below:

1. **Level of Affordability.** An Affordable Replacement Unit will be provided at the same level of affordability, or lower, as the Affordable Unit being replaced. Affordability levels are defined in the California Government Code Sections 50053 and 50025.5.
2. **Size of an Affordable Replacement Unit.** An Affordable Replacement Unit will contain the same number of bedrooms as the Affordable Unit it is replacing.
3. **Location.** All Affordable Replacement Units shall be provided onsite where the Conversion or Demolition of the existing unit occurred.
4. **Timing.** Replacement Affordable Units will be made available for occupancy at the same time as market-rate Residential Units in the Project are available or within three years of the date upon which work commenced on the Conversion or Demolition, whichever occurs first.
5. **Tenants Rights.** HCIDLA will establish and maintain a program for tenants who will be displaced as a result of any proposed Demolition or Conversion so that such tenants can exercise a “Right of Return” to the Affordable Replacement Units that are required pursuant to the regulations set forth in this Ordinance.
6. **Right of First Return Criteria.** Replacement Units must initially be offered to displaced tenants with income levels determined to be in the Extremely Low, Very Low, Low and Moderate category. The following Right of First Return Criteria applies to the Replacement unit:
  - a) **Tenant Displacement.** Tenants must have been displaced from the demolished or converted Residential Unit that necessitated the Affordable Replacement Unit.
  - b) **Refusal of Replacement Unit.** Should displaced tenants refuse the Affordable Replacement Unit, it may be made available for rent to a new tenant.
  - c) **HCIDLA Notification.** HCIDLA will notify impacted tenants of their rights and advise them to provide

HCIDLA with income verification and updated contact information.

- c. New Housing Development.** Projects resulting in a New Housing Development of 5 or more new residential units, not including any required Affordable Replacement Units or other restricted Residential Units, will reserve a percentage of the total units as Inclusionary Residential Units to be provided on-site. The Director of City Planning shall determine the number of required Inclusionary Residential Units.
- 1. Inclusionary Residential Units.** A New Housing Development shall provide Inclusionary Units on-site at a rate of at least the minimum percentages described below. A Project's requirement to provide Inclusionary Units will be fulfilled through providing:
    - a) A minimum of 8 percent of the proposed Residential Units reserved on-site for Extremely Low Income Households; or
    - b) A minimum 11 percent of the proposed Residential Units reserved on-site for Very Low Income Households; or
    - c) A minimum of 20 percent of the proposed Residential Units reserved on-site for Low Income Households; or
    - d) A minimum of 40 percent of the proposed Residential Units reserved on-site for Moderate Income Households.
  - 2. Timing.** Inclusionary Units will be made available for occupancy at the same time as market-rate Residential Units in the same Project.
  - 3. Amount Required.** The number of required Inclusionary Residential Units is based on a percentage of the net new Residential Units proposed, not including any required Affordable Replacement Units or other restricted Residential Units also required to be provided on-site.
  - 4. Fractional Inclusionary Residential Units.** A fractional Inclusionary Residential Unit of 0.5 or more will be rounded up to the next whole unit and will be provided on-site. If a project results in a Fractional Inclusionary Residential Unit of less than 0.5, a proportional partial unit fee will be required

to be paid for that fractional unit. HCIDLA will be responsible for collecting such fees prior to the issuance of any permits for the development.

5. **Fee.** The fractional Inclusionary Residential Unit fee will be calculated by the average square-footage of all dwelling units proposed within the new development, multiplied by the following per square-foot fee for the type of proposed development:
  - (a). Single-Family Detached: \$48.63/square-foot
  - (b). Single-Family Attached: \$42.36/square-foot
  - (c). Multi-Family Rental: \$73.88/square-foot
  - (d). Multi-Family Condominium: \$64.30/square-foot
6. **Fee Adjustment.** HCIDLA will adjust these fees annually, along with changes to the Linkage Fee, starting with a base year of 2016, utilizing changes in construction costs as measured by a regularly published industry Construction Cost Index and in land costs as measured by the change in median condominium sales prices. Construction cost percentage change will be weighted at 70% and land costs will be weighted at 30%. The annually updated fees will be published in the Mello Act Implementing Guidelines.
7. **Mixed Use Development.** A proposed mixed-use development may not result in a net reduction in the total number of existing Residential Units unless a residential use is no longer feasible. A mix of uses is permitted, so long as the structure provides all required Replacement Affordable and Inclusionary Units.
8. **Serial Development.** When development is undertaken by the same applicant on the subject property and within a 5-year time period, for which a Mello Act compliance review was required in the past and is presently required in conjunction with a proposed project, the development shall be considered a Serial Development. In this case development within a five year period will be analyzed together as a single project for the purpose of Mello Act compliance review. The analysis may result in the requirement of Affordable Replacement or Inclusionary Units which were previously not required in prior project approvals but required as a result of the aggregate project.

- 9. Affordable Housing Incentives.** Affordable Replacement Units and Inclusionary Units required to be provided through Mello Act compliance review may be counted toward a project's overall provision of affordable dwellings when applying for affordable housing development incentives, pursuant to LAMC Section 12.22 A.25 or any other affordable housing development incentive program.
- 6. HCIDLA Mello Act Assessment.** Upon initiation of the Mello Act Compliance Review with the Department of City Planning, all Projects shall pay applicable fees for and request a Mello Act Assessment Letter from HCIDLA. HCIDLA will submit a completed Assessment in the form of an inter-departmental memorandum to the Department of City Planning, which shall include the following analysis:
- a. Number of existing Affordable Units.** HCIDLA has sole responsibility for determining: (1) Whether an existing Residential Unit is an Affordable Unit and (2) the level of affordability of that Residential Unit. HCIDLA will make this determination based on the information provided by the applicant at the time of application filing with the Department of City Planning.

The applicant must submit documentary evidence substantiating the following for consideration by HCIDLA :

1. Income documentation of tenants, detailing affordability level of the unit for the previous 5 years. If no documents are available, the unit will be presumed affordable to Very Low Income Households.
2. The number of existing Affordable Residential Units subject to the Rent Stabilization Ordinance (beginning with Section 151 of the Los Angeles Municipal Code), currently or within the last 5 years.
3. The issuance of notices to vacate and/or Evictions, within the five years preceding the HCIDLA Mello Act Compliance Assessment.
4. The number of persons or families of Extremely Low, Very Low, Low, or Moderate income and their receipt of Notices to Vacate or evictions from a single residential development within five years prior to the filing of an application for a

## City Planning Commission Draft: Proposed Mello Act Ordinance

Mello Act Compliance Review to convert or demolish the structure.

5. The number of Residential Units that can be shown to have been vacant for more than the 5 years preceding the filing of an application for a Mello Act Compliance Review. These units will not be considered affordable.
  6. Current Residential Units that are owner-occupied for one year or more will not be determined to be an Affordable Unit. Only one dwelling unit within an existing multi-family structure shall be determined to be owner-occupied.
- b. Feasibility Study.** Should the Project Applicant request a feasibility study to determine feasibility of providing a required Affordable Replacement Unit, the Applicant shall submit a request for a Feasibility Study to HCIDLA. The Feasibility study shall comply with the Feasibility Study Methodology found in Subsection 8 of this Ordinance.
1. An applicant claiming infeasibility is responsible for paying a fee to HCIDLA or the consultant. HCIDLA will either use this fee to hire or will require the applicant to hire the consultant, from an approved list of neutral third party consultants, to undertake a feasibility study. This feasibility study will utilize the methodology described in Subsection 8 and the thresholds and the Mello Act Implementing Guidelines, described in subsection 11 of this Ordinance. HCIDLA will review the completed study and make a determination regarding the maximum number of Replacement and Inclusionary Residential Units the project can accommodate based on the study. Applicants may not submit their own feasibility studies for consideration.
  2. The City presumes that all Replacement Units and Inclusionary Units are feasible. It is the applicant's responsibility to prove infeasibility. A Feasibility Study will only be considered when an applicant disagrees with the HCIDLA Mello Act Assessment, and only under the following two circumstances:
    - a) Replacement of Affordable Residential Units that are located in a single family dwelling or an attached duplex, located on a site containing no more than two residential units. Detached bungalows and

detached duplexes will be considered unified developments for the purposes of this Subdivision and will not be eligible for findings of infeasibility.

- b) Reduction in the number of Inclusionary Units because the Applicant claims that full compliance is not feasible, the Applicant may request a reduction in the number of required Inclusionary Units. Applicants cannot pay in lieu fees for whole units nor may they seek to construct Inclusionary Units off-site. If an applicant claims that it is not feasible to comply with the Inclusionary Unit obligations of Subsection 5c of this Ordinance, the Applicant may only request a reduction in the number of required Inclusionary Units.
3. HCIDLA will transmit to the Director of Planning a copy of the Feasibility Study, AHPP (if applicable), HCIDLA's Mello Act Compliance Assessment Memorandum as to the maximum number of required Affordable Replacement Units and/or Inclusionary Residential Units that can be feasibly provided on-site. Should there be any Replacement Residential Unit fees or fractional Inclusionary Residential unit fees, those will be included in HCIDLA's determination as well.
- c. **Affordable Housing Provisions Plan.** All Projects required by HCIDLA or Department of City Planning to provide Affordable Replacement Units will also be required to prepare an Affordable Housing Provision Plan (AHPP) by the applicant. The AHPP will be submitted to HCIDLA along with applicable fee for review and approval by HCIDLA prior to the issuance of any demolition, use of land, or building permit or certificate of occupancy.

The AHPP shall contain the following:

- 1. **Description.** A description of whether the Required Affordable Units (Replacement and Inclusionary Units) will be provided as net new units, through new construction or adaptive reuse of an existing non-residential structure.
  - a. A description of the required Affordable Units, including the number and type of bedrooms, minimum square-footage, and parking.

- b. A description of how the new development will also comply with all of the applicable sections of the approved Affordable Housing Incentive Guidelines, as amended.
- c. A description of how new development will also comply with all applicable Development Standards for required Affordable Replacement and Inclusionary Residential Units, as outlined below.

**2. Development Standards.** A description of how the applicant will comply with the following standards for required Affordable Replacement and Inclusionary Residential Units.

- a. **Comparable Unit.** Restricted residential units will be comparable in every manner to market-rate units, except in the quality of interior finish materials for walls, ceilings, floors and other interior surfaces of buildings. The restricted unit(s) will be comparable in total square footage, number of bedrooms, bedroom size, closet space and amenities. If the project proposes more than one type of unit, the restricted dwelling unit(s) will not be confined to only one type of unit within the development.
- b. **Affordable Replacement Units.** Restricted residential units will contain at least the same number of bedrooms as the existing Affordable Units they are replacing.
- c. **Inclusionary Residential Units.** The design of the restricted unit(s) should generally reflect the average number of bedrooms and bathrooms per residential unit in the development and should proportionally reflect the mix of unit types in the development.
- d. **Location of Units.** Restricted units must be interspersed among market-rate residential units within the same building. They may not be grouped together on one level or in less desirable sections of the building. In multiple building developments, restricted residential units must be reasonably dispersed among the buildings.

- e. **Equal Distribution of Amenities.** Residents of Replacement Units and Inclusionary units may not be charged for amenities that are provided at no cost to other market-rate residents including, but not limited to, access to recreational facilities, parking, internet and interior amenities. Optional services provided must be an option for all residents, and available to all under the same terms and conditions. All incentives must be offered to all new residents, not only residents of market-rate residential units.
  - 3. **Timing Requirements.** A description of the financing, construction plan, and project timetable for the provision of required Replacement and Inclusionary Units will be provided to ensure accountability and compliance with the timing requirements for the required Units.
- 7. **Feasibility Study.** Should the Project Applicant request a feasibility study to determine feasibility of providing a required Affordable Replacement Unit, the Applicant shall submit a request for a Feasibility Study to HCIDLA. The Feasibility study shall comply with the Feasibility Study Methodology found in Subsection 8 of this Ordinance.
  - a. An applicant claiming infeasibility is responsible for paying a fee to HCIDLA or the consultant prior to the commencement of the study. HCIDLA will either use this fee to hire or will require the applicant to hire a consultant, from an approved list of neutral third party consultants, to undertake a feasibility study. The consultant will be managed by HCID. This feasibility study will utilize the methodology described in Subsection 8 and the thresholds and the Mello Act Implementing Guidelines, described in subsection 11 of this Ordinance. HCIDLA will review the completed study and make a determination regarding the maximum number of Replacement and Inclusionary Residential Units the project can accommodate based on the study. Applicants may not submit their own feasibility studies for consideration.
  - b. The City presumes that all Replacement Units and Inclusionary Units are feasible. It is the applicant's responsibility to prove infeasibility. A Feasibility Study will only be considered when an applicant disagrees with the HCIDLA Mello Act Assessment, and only under the following two circumstances:

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1. Replacement of Affordable Residential Units that are located in a single family dwelling or an attached duplex, located on a site containing no more than two residential units. Detached bungalows and detached duplexes will be considered unified developments for the purposes of this Subdivision and will not be eligible for findings of infeasibility.
  2. Reduction in the number of Inclusionary Units because the Applicant claims that full compliance is not feasible, the Applicant may request a reduction in the number of required Inclusionary Units. Applicants cannot pay in lieu fees for whole units nor may they seek to construct Inclusionary Units off-site. If an applicant claims that it is not feasible to comply with the Inclusionary Unit obligations of Subsection 5c of this Ordinance, the Applicant may only request a reduction in the number of required Inclusionary Units.
- c. HCIDLA will transmit to the Director of Planning a copy of the Feasibility Study, HCIDLA's Mello Act Compliance Assessment Memorandum as to the maximum number of required Affordable Replacement Units and/or Inclusionary Residential Units that can be feasibly provided on-site. Should there be any Replacement Residential Unit fees or fractional Inclusionary Residential unit fees, those will be included in HCIDLA's determination as well.
8. **Feasibility Determination Methodology.** The following methodology will be utilized for the purposes of HCID to determine a project's feasibility of providing Affordable Replacement Units or Inclusionary Units.
- a. **Reputable Published Data.** Reputable published data sources for the following will be identified and included in the Mello Act Implementing Guidelines and may include research including construction cost, Class A apartment building operating cost, median monthly rental rate, home and condominium sale prices, and going-in cap rate.
  - b. **Assumptions regarding Affordability.** The following assumptions apply to the data utilized in the Feasibility Study.
    1. Construction costs should be no more than the per square-foot construction cost compiled and published by a reputable construction cost estimator, in accordance with the relevant building typologies, as adjusted for the Los Angeles location within the last 12 months.

2. Soft development costs, including but not limited to permits and fees, architecture and engineering, financing fees and interest carry, and developer fee, should not exceed 25 percent of the construction costs.
  3. Land cost should be the actual purchase price for the property bought within three years from the time of the feasibility study being conducted, as reflected in the purchase contract. For earlier land purchases, the land cost value should be determined by a reputable, professional land appraiser commissioned by HCIDLA, at the expense of the applicant.
- c. **Feasibility of Residential Units for Rent or Lease.** Feasibility will be determined by yield-on-cost: annual net operating income divided by total development cost. The threshold for determining feasibility will be the going-in cap rate percentage index for new apartments in the Los Angeles region, as published in the most recent issue of a regularly published reputable real estate industry report. If a project meets or exceeds the going-in cap rate, including required Affordable Units, providing the Affordable Residential Unit(s) is/are feasible.
1. Operating expenses should not be more than the expense data collected and regularly published within a reputable residential income property industry report for the Los Angeles area within the last 12 months.
  2. Rental income should not be less than rental data collected and produced by a reputable real estate data collection and analysis firm for buildings less than 5 years old, within one quarter mile of the project site, and within the last 12 months. If no comparable data is available, data for buildings with an age greater than 5 years may be utilized.
  3. Sales revenue should be not less than the sales data for buildings less than 5 years old, within one-quarter mile of the project site, and within the last 12 months. If no comparable data is available, data for buildings with an age greater than 5 years may be utilized.
- d. **Mixed Use projects.** Mixed use projects containing residential and non-residential uses will be evaluated by deducting the portions of costs and

## City Planning Commission Draft: Proposed Mello Act Ordinance

revenues for the non-residential uses so that only the residential portion of the project is considered in the feasibility analysis. .

- e. Alternative to Comparable Data.** If no appropriate and comparable data is available from an appropriate data source, HCIDLA will commission, at the applicant's expense, a survey and/or analysis to acquire and assess the necessary data.

**9. Procedures - Mello Act Compliance Determination.** Prior to the issuance of any permit or authorization for a Project, whether discretionary or non-discretionary, a Mello Act Compliance Determination will be issued by the Department of City Planning.

- a. Initiation.** An applicant shall file an application with the Department of City Planning on a form provided by the Department, and shall include all information required by the instructions on the application and the guidelines adopted by the Director of Planning. Any filing fees required under Section 19.06 A. shall be included with the application.

**b. Determination.**

- 1. Authority.** The Director of City Planning is the initial decision maker and may approve, conditionally approve, or deny the Mello Act Compliance Review.
- 2. Time to Act.** The Director will make a written determination within 75 days of the application having been deemed complete; a complete application includes having received the HCIDLA Mello Act Assessment Memorandum. This time limit may be extended by mutual consent of the Director and the Applicant.
- 3. HCIDLA Mello Act Assessment Memorandum.** The applicant shall file an application for an HCIDLA Mello Act Assessment for the Demolition or Conversion of existing Residential Units.
- 4. Standards for Review.** The Director will grant a Mello Act Compliance Review upon written findings that the project complies with the provisions of this Ordinance.
- 5. Limitations.** Granting of a Mello Act Compliance Review will not imply compliance with any other applicable provisions of

the Los Angeles Municipal Code, which require additional land use entitlement.

**6. Transmittal.** The Director will transmit by mail a copy of the written findings and decision to the applicant; property owner; all owners of properties abutting, across the street for alley from, or having a common corner with the property; all tenants and occupants of the involved property; the Department of Building and Safety; the Los Angeles Housing and Community Investment Department; the Councilmember(s) having jurisdiction over the area in which the property is located; Empower LA, The Department of Neighborhood Empowerment and other parties who have requested in writing a copy of the determination.

**7. Appeals.** Except as required below, the appeals process and procedures for Mello Act Compliance Review determinations will be as indicated in Section 11.5.7.C.6 or Section 12.36 for quasi-judicial projects requiring multiple approvals.

a) **Filing.** An Applicant or any other person aggrieved by the Director’s decision may file an appeal.

b) **Appellate Decision.**

i. **Notice of Public Hearing.** Before acting on any appeal the Area Planning Commission will set the matter for hearing, giving notice in the manner specified below:

Type of Notice	Time	Where / To Whom / Additional Requirements
Mail	21 days	<ul style="list-style-type: none"> <li>• The applicant;</li> <li>• The owner(s) of the property involved;</li> <li>• All tenants and units in the property at issue;</li> <li>• Owners and Occupants of properties within 100 feet radius of the exterior boundaries of the property involved;</li> </ul>

		<ul style="list-style-type: none"> <li>• The Councilmember(s) having jurisdiction over the specific plan area in which the property is located; and</li> <li>• Other parties who have requested notice in writing.</li> </ul>
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- ii. **Time to Act.** The Area Planning Commission will act within 75 days after the expiration of the appeal period.
- iii. **Findings.** The appeal action must contain the same findings required to be made by the Director, supported by facts in the record.
- iv. **Authority.** The Area Planning Commission may sustain, reverse, or modify, in whole or in part, the decision of the Director.

**8. Modification of Entitlement.** The terms of a final determination pursuant to this Section cannot be subsequently modified except through the refiling of a new request for a Mello Act Compliance Review determination.

**10. Relief.** No administrative, ministerial or additional discretionary action may be taken to relax, deviate, or relieve an applicant from compliance with the provisions of this Ordinance, except as otherwise stated herein.

**11. Mello Act Implementing Guidelines.** The Los Angeles Housing and Community Investment Department (HCIDLA) will develop and maintain implementing guidelines for these regulations within 6 months of the effective date of these regulations. The guidelines will be approved by the General Manager of the Los Angeles Housing and Community Investment Department and the Director of the Department of City Planning.

The guidelines will be publicly available and will include specific, impartial data sources consistent with these regulations and necessary for making feasibility determinations.

**12. Enforcement and Monitoring.** The following shall constitute methods the City will utilize in enforcing and monitoring compliance with the Mello Act

## City Planning Commission Draft: Proposed Mello Act Ordinance

Replacement Units and Inclusionary Residential Units produced as an outcome of the Mello Coastal Act.

**a. Covenant and Agreement.** Should an applicant be required to construct and maintain a Replacement Unit or Inclusionary unit, a covenant and agreement shall be recorded:

1. Covenant shall restate Affordability level and shall be observed for a minimum of 55 years from the issuance of the Certificate of Occupancy; and
2. Compliance with the City's annual housing and occupancy monitoring requirements as set forth in these regulations, Mello Act Implementing Guidelines, and the Affordable Housing Incentive Guidelines, will be recorded with the County Recorder's Office after HCIDLA approval of the Affordable Housing Provision Plan.
1. The applicant shall submit a fee payment at the time of submission of the covenant and agreement application to HCID, pursuant to Section 19.14 of the Los Angeles Municipal Code, to HCIDLA.

**b. Financial Assurances.** HCIDLA, or any successor department or agency, may require that the project proponent post a bond or make other financial assurances to assure compliance with the approved AHPP. If a bond or other financial assurance is required, such will be made prior to final approval of the AHPP.

1. It is the responsibility of the property owner to notify HCIDLA of any changes in the building that may affect compliance, such as change of ownership, management agent or on-site manager, vacancies in restricted dwelling units, or changes in compliance with the performance standards approved by HCIDLA.
2. Violations of the regulatory agreement will be levied against the building owner for non-compliance including legal proceedings. It is the responsibility of the owner to adhere to all program requirements.
3. HCIDLA will conduct annual monitoring of all Affordable Replacement Units and Inclusionary Units to ensure that they continue to be available at an Affordable Monthly

Housing Cost and occupied by Extremely Low, Very Low, Low, and Moderate Income Households. The City's monitoring procedures may include a requirement that owners of Affordable Replacement Units and Inclusionary Units submit tenant income information to the City that has been verified by third party sources, and that meets the same standards for income verification as specified in the Mello Act Implementing Guidelines described in subsection 11 of this Ordinance.

- c. Request for Injunction.** Tenants, rental applicants, purchasers, and prospective purchasers of Affordable Replacement Units may seek an injunction to enforce the affordability criteria or to raise the affordability criteria.

SECTION 2            A new Chapter 187 is added to Division 5 of the Administrative Code to read as follows:

### **Chapter 187**

#### **Coastal Zone Affordable Housing Trust Fund**

Section 5.593.        **Creation and Administration of the Fund.**

- (a) There is hereby created and established within the Treasury of the City of Los Angeles a special fund to be known as the "Coastal Zone Affordable Housing Trust Fund" (the "Fund").
- (b) The purpose of the Fund shall be the receipt, retention and disbursement of in-lieu fees collected by the City pursuant to Section 12.21.H. of the Los Angeles Municipal Code. The Fund shall be used for the development of new affordable dwelling units in the Coastal Zone portions of the City.
- (c) The Los Angeles Housing and Community Investment Department shall administer the Fund in accordance with Los Angeles Municipal Code Section 12.21.H. and established City practices for administering trust funds.
- (d) The Los Angeles Housing and Community Investment Department shall collect In-Lieu Fees required to be collected and deposited into the Fund pursuant to Los Angeles Municipal Code Section 12.21.H and remit all such fees/funds to the Treasurer for deposit into the Fund.

## City Planning Commission Draft: Proposed Mello Act Ordinance

- (e) Fees collected from projects are to be deposited in sub accounts corresponding to their location as follows: Pacific Palisades (a portion of the Brentwood-Pacific Palisades Coastal Zone areas); Venice (a portion of the Venice, Palms-Mar Vista-Del Rey, and Westchester-Playa del Rey Coastal Zone areas); San Pedro (a portion of the San Pedro Coastal Zone areas), and Wilmington (a portion of of the Wilmington-Harbor City Coastal Zone areas).
- (f) All monies from the Fund shall be expended for the purposes set forth, and subject to the provisions and limitations expressed in Los Angeles Municipal Code Section 12.21.H. Expenditures shall be authorized by the Executive Manager of the Los Angeles Housing and Community Investment Department or his/her designees.
- (g) Expenditures are limited to those projects that will result in the development of new affordable dwelling units within the same general location the fees were generated from; fees generated from the Palisades area can only be used for new Palisades area affordable units, fees generated from Venice-area projects can only be used for new Venice-area affordable units, and fees generated from San Pedro-area projects can only be used for new San Pedro-area affordable units.
- (g) The Fund shall be interest bearing. Interest and any other earnings attributable to monies in the Fund shall be credited to the Fund and devoted to the purposes of the Fund.
- (h) Monies not expended from the Fund at the close of any fiscal year shall not revert to the Reserve Fund, but shall remain in the Fund.

### SECTION 3

The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

CPC-2019-7393-CA

EXHIBIT C – CEQA ENV-2019-7394-ND



## **Mello Act Ordinance Project**

Case Number: ENV-2019-7394-ND

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**Project Location:** The Project Area consists of the Coastal Zone which includes portions of Pacific Palisades, Venice, Del Rey, Playa Del Rey, San Pedro and Wilmington in the City of Los Angeles.

**Community Plan Area:** Brentwood-Pacific Palisades; Venice; Palms-Mar Vista-Del Rey; Westchester - Playa Del Rey; San Pedro; Wilmington-Harbor City

**Council District:** 11 - Bonin, 15 - Buscaino

**Project Description:** The Mello Act Ordinance (“Project”) is an ordinance to implement California Government Code Section 65590-65590.1, also known as the Mello Act adopted by the Legislature in 1982. The Mello Act seeks to preserve and expand the number of affordable dwelling units in the Coastal Zone areas of the State of California. The City has been complying with the Mello Act through the application of the Interim Administrative Procedures (IAP) adopted by the City Council (CF 98-0255) effective April 15, 2001. The Project will adopt permanent local regulations, process and project review requirements in the Los Angeles Municipal Code that will replace the existing Interim Administrative Procedures for projects that result in demolition, loss, or conversion of Residential Units and/or the development of new Residential Units in the Coastal Zone. The Project will also include the establishment of the Coastal Zone Affordable Housing Trust Fund for the purposes of collecting in lieu fees and expending funds to create additional affordable housing units in the Coastal Zone.

No land use changes are proposed as part of this Project. The main changes between the proposed Project and how the City has implemented Mello under the IAP are procedural and administrative in nature. More specifically the Project will:

- Be consistent with and implement the provisions of the Mello Act (Government Code Section 65590-65590.1).
- Ensure the preservation and maintenance of existing Residential Units, both affordable and market rate.
- Clarify the roles between the Housing and Community Investment Department (HCIDLA) and the Department of City Planning (DCP).
- Apply to any action for which a permit, authorization, or determination is required to be issued, resulting in the Conversion, Demolition, or reduction of the number of existing Residential Units; and/or the construction of new dwelling units.

- Apply to Change of Use from residential to a non-residential use and Condominium Conversion that converts one or more existing Residential Units to a condominium, cooperative, or similar form of owner.
- Apply to all Existing Affordable Residential Units that are rent restricted.
- Modify location allowance for Existing Affordable Residential Units replacement requirements.
- Create an in-lieu fee option for qualified affordable replacement units and fractional inclusionary units.
- Apply inclusionary requirements to developments of five or more units and require units to be built “on-site”.
- Introduce new and standardize methodology for financial feasibility studies.
- Incorporate regulations for Protected units and Right of First Refusal.
- Establish the Coastal Zone Affordable Housing Trust Fund.

The Project Area includes the Coastal Zone portions of the Brentwood-Pacific Palisades, Venice, Palms-Mar Vista-Del Rey, Westchester-Playa del Rey, San Pedro, and Wilmington-Harbor City Community Plan areas. These Coastal Zone areas are aggregated into the following subareas (see Figure 1): Subarea 1 Palisades (comprised of the Pacific Palisades Coastal Zone areas); Subarea 2 Venice (comprised of the Venice, Del Rey, and Playa del Rey Coastal Zone areas); Subarea 3 Harbor (comprised of the San Pedro Coastal Zone areas and the Wilmington Coastal Zone areas). The Project, in and of itself, does not propose or approve any development or any construction.

**PREPARED BY:**

The City of Los Angeles  
Department of City Planning  
Community Planning Bureau



# INITIAL STUDY

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# INITIAL STUDY

## 1 INTRODUCTION

This Initial Study (IS) document evaluates potential environmental effects resulting from construction and operation of the proposed **Mello Act Ordinance** Project (“Project”). The proposed Project is subject to the guidelines and regulations of the California Environmental Quality Act (CEQA). Therefore, this document has been prepared in compliance with the relevant provisions of CEQA and the State CEQA Guidelines as implemented by the City of Los Angeles (City). Based on the analysis provided within this Initial Study, the City has concluded that the Project will not result in significant impacts on the environment. This Initial Study and Negative Declaration are intended as informational documents and are ultimately required to be adopted by the decision maker prior to project approval by the City.

### 1.1 PURPOSE OF AN INITIAL STUDY

The California Environmental Quality Act was enacted in 1970 with several basic purposes: (1) to inform governmental decision makers and the public about the potential significant environmental effects of proposed projects; (2) to identify ways that environmental damage can be avoided or significantly reduced; (3) to prevent significant, avoidable damage to the environment by requiring changes in projects through the use of feasible alternatives or mitigation measures; and (4) to disclose to the public the reasons behind a project’s approval even if significant environmental effects are anticipated.

The Los Angeles City Council instructed the Department of City Planning to prepare the Project. The Department of City Planning, as Lead Agency, has determined that the project is subject to CEQA, and the preparation of an Initial Study is required.

An Initial Study is a preliminary analysis conducted by the Lead Agency, in consultation with other agencies (responsible or trustee agencies, as applicable), to determine whether there is substantial evidence that a project may have a significant effect on the environment. If the Initial Study concludes that the Project, with mitigation, may have a significant effect on the environment, an Environmental Impact Report should be prepared; otherwise, the Lead Agency may adopt a Negative Declaration or a Mitigated Negative Declaration.

This Initial Study has been prepared in accordance with CEQA (Public Resources Code §21000 et seq.), the State CEQA Guidelines (Title 14, California Code of Regulations, §15000 et seq.), and the City of Los Angeles CEQA Guidelines (1981, amended 2006).

## **1.2. ORGANIZATION OF THE INITIAL STUDY**

This Initial Study is organized into four sections as follows:

### **1 INTRODUCTION**

Describes the purpose and content of the Initial Study, and provides an overview of the CEQA process.

### **2 EXECUTIVE SUMMARY**

Provides Project information, identifies key areas of environmental concern, and includes a determination whether the project may have a significant effect on the environment.

### **3 PROJECT DESCRIPTION**

Provides a description of the environmental setting and the Project, including project characteristics and a list of discretionary actions.

### **4 EVALUATION OF ENVIRONMENTAL IMPACTS**

Contains the completed Initial Study Checklist and discussion of the environmental factors that would be potentially affected by the Project.



# INITIAL STUDY

## 2 EXECUTIVE SUMMARY

<b>PROJECT TITLE</b>	<b>MELLO ACT ORDINANCE</b>
ENVIRONMENTAL CASE NO.	<b>ENV-2019-7394-ND</b>
RELATED CASES	<b>CPC-2019-7393-CA</b>

<b>PROJECT LOCATION</b>	<b>COASTAL ZONE</b>
COMMUNITY PLAN AREA	<b>BRENTWOOD-PACIFIC PALISADES; VENICE; PALMS-MAR VISTA-DEL REY; WESTCHESTER - PLAYA DEL REY; SAN PEDRO, WILMINGTON-HARBOR CITY</b>
GENERAL PLAN DESIGNATION	VARIOUS
ZONING	VARIOUS
COUNCIL DISTRICT	11 - BONIN, 15 - BUSCAINO

<b>LEAD AGENCY</b>	<b>LOS ANGELES CITY PLANNING</b>
STAFF CONTACT	SUSAN WONG
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## PROJECT DESCRIPTION

The Mello Act Ordinance (“Project”) is an ordinance to implement California Government Code Section 65590-65590.1, also known as the Mello Act adopted by the California State Legislature in 1982. The Mello Act seeks to preserve and expand the number of affordable dwelling units in the Coastal Zone areas of the State of California. The City has been complying with the Mello Act by implementing the Interim Administrative Procedures (IAP) adopted by the City Council (CF 98-0255). The Project consists of an ordinance with two actions:

- The Project will adopt permanent local regulations, process and project review requirements in the Los Angeles Municipal Code that will replace the existing Interim Administrative Procedures for projects that result in demolition, loss, or conversion of Residential Units and/or the development of new Residential Units in the Coastal Zone; and
- The Project will also establish the Coastal Zone Affordable Housing Trust Fund for the purposes of collecting in lieu fees and expending funds to create additional affordable housing units in the Coastal Zone.

No land use changes are proposed as part of this Project. The main changes between the proposed Project and how the City has implemented Mello under the IAP are procedural and administrative in nature. More specifically the Project will:

- Be consistent with and implement the provisions of the Mello Act (Government Code Section 65590-65590.1).
- Ensure the preservation and maintenance of existing Residential Units, both affordable and market rate.
- Clarify the roles between the Housing and Community Investment Department (HCIDLA) and the Department of City Planning (DCP).
- Apply to any action for which a permit, authorization, or determination is required to be issued, resulting in the Conversion, Demolition, or reduction of the number of existing Residential Units; and/or the construction of new dwelling units.
- Apply to Change of Use from residential to a non-residential use and Condominium Conversion that converts one or more existing Residential Units to a condominium, cooperative, or similar form of owner.
- Apply to all Existing Affordable Residential Units that are rent restricted.
- Modify location allowance for Existing Affordable Residential Units replacement requirements.
- Create an in-lieu fee option for qualified affordable replacement units and fractional inclusionary units.
- Apply inclusionary requirements to developments of five or more units and require units to be built “on-site”.
- Introduce new and standardize methodology for financial feasibility studies.
- Incorporate regulations for Protected units and Right of First Refusal.
- Establish the Coastal Zone Affordable Housing Trust Fund.

The Project includes the Coastal Zone portions of the Brentwood-Pacific Palisades, Venice, Palms-Mar Vista-Del Rey, Westchester-Playa del Rey, San Pedro, and Wilmington-Harbor City Community Plan areas (Project Area). These Coastal Zone areas are aggregated into the following subareas: Subarea 1 Palisades (comprised of the Pacific Palisades Coastal Zone areas); Subarea 2 Venice (comprised of the Venice, Del Rey, and Playa del Rey Coastal Zone areas); Subarea 3 Harbor (comprised of the San Pedro Coastal Zone areas and the Wilmington Coastal Zone areas). The Project, in and of itself, does not propose or approve any development or any construction.

(For additional detail, see “Section 3. PROJECT DESCRIPTION”).

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## **ENVIRONMENTAL SETTING**

The total Project Area consists of the Coastal Zone and is approximately 26 square miles, or about six percent of the total land area of the City of Los Angeles. Coastal Zone areas are aggregated into the following subareas: Subarea 1 Palisades (comprised of the Pacific Palisades Coastal Zone area); Subarea 2 Venice (comprised of the Venice, Del Rey, and Playa del Rey Coastal Zone areas); Subarea 3 Harbor (comprised of the San Pedro Coastal Zone areas and Wilmington Coastal Zone areas). The three Subareas are each located along the Pacific Ocean coastline within the City of Los Angeles boundaries although not directly adjacent to one another. Hereafter, they are collectively referred to as the Project Area or distinctively referenced by Subarea.

(For additional detail, see “Section 3. PROJECT DESCRIPTION”).

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## **OTHER PUBLIC AGENCIES WHOSE APPROVAL IS REQUIRED**

(e.g. permits, financing approval, or participation agreement)

None

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## ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Aesthetics                       | <input type="checkbox"/> Greenhouse Gas Emissions      | <input type="checkbox"/> Public Services                    |
| <input type="checkbox"/> Agriculture & Forestry Resources | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Recreation                         |
| <input type="checkbox"/> Air Quality                      | <input type="checkbox"/> Hydrology / Water Quality     | <input type="checkbox"/> Transportation                     |
| <input type="checkbox"/> Biological Resources             | <input type="checkbox"/> Land Use / Planning           | <input type="checkbox"/> Tribal Cultural Resources          |
| <input type="checkbox"/> Cultural Resources               | <input type="checkbox"/> Mineral Resources             | <input type="checkbox"/> Utilities / Service Systems        |
| <input type="checkbox"/> Energy                           | <input type="checkbox"/> Noise                         | <input type="checkbox"/> Wildfire                           |
| <input type="checkbox"/> Geology / Soils                  | <input type="checkbox"/> Population / Housing          | <input type="checkbox"/> Mandatory Findings of Significance |

## DETERMINATION

(To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions on the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

SUSAN WONG

PRINTED NAME

*Susan Wong*

SIGNATURE

CITY PLANNER

TITLE

01/25/2021

DATE

## EVALUATION OF ENVIRONMENTAL IMPACTS

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of a mitigation measure has reduced an effect from "Potentially Significant Impact" to "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analysis," as described in (5) below, may be cross referenced).
- 5) Earlier analysis must be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR, or negative declaration. Section 15063 (c)(3)(D). In this case, a brief discussion should identify the following:
  - a) Earlier Analysis Used. Identify and state where they are available for review.
  - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
  - c) Mitigation Measures. For effects that are "Less Than Significant With Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated
- 7) Supporting Information Sources: A sources list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whichever format is selected.
- 9) The explanation of each issue should identify:
  - a) The significance criteria or threshold, if any, used to evaluate each question; and
  - b) The mitigation measure identified, if any, to reduce the impact to less than significance.

# INITIAL STUDY

## 3 PROJECT DESCRIPTION

### 3.1 PROJECT SUMMARY

The Project consists of an ordinance with two actions, the first action adds a section to the Los Angeles Municipal Code to adopt permanent local regulations and procedures to conform with and implement the Mello Act (California Government Code Section 65590-65590.1). The purpose of the Mello Act is to preserve and expand affordable housing in the Coastal Zone. The Mello Act applies to demolition, conversion, change of use, subdivision, and new construction activities that involve existing or proposed dwelling units located in the Coastal Zone in the State of California. Since 2000, the City has been complying with the Mello Act by implementing the Interim Administrative Procedures (IAP). The intent of the Project is to adopt permanent procedures and regulations to implement the Mello Act in the Coastal Zone, adoption of the Project will replace the existing IAP. The Project also consists of a second action to establish the Coastal Zone Affordable Housing Trust Fund. Funds from any in lieu fees for qualified projects will be placed in the trust fund and expended for the purposes of developing and expanding affordable housing units in the Coastal Zone.

Consistent with the Mello Act, the Project will continue to ensure the preservation and maintenance of existing Residential Units, protect affordable units occupied ensuring the replacement of those units occur on a one-for-one basis, with a like-for-like affordability level, or lower and require new residential projects of a certain size to provide Inclusionary Residential Units.

The Project applies more restrictive requirements than the IAP with changes to process and regulations intended to ensure that the City continues to meet the intent of the Mello Act. The changes include but are not limited to applicability to types of units, inclusionary requirements and fractional unit provisions.

No land use changes are proposed as part of this Project. The main changes between the proposed Project and how the City has implemented Mello under the IAP are procedural and administrative in nature. More specifically the Project will:

- Be consistent with and implement the provisions of the Mello Act (Government Code Section 65590-65590.1).
- Ensure the preservation and maintenance of existing Residential Units, both affordable and market rate.

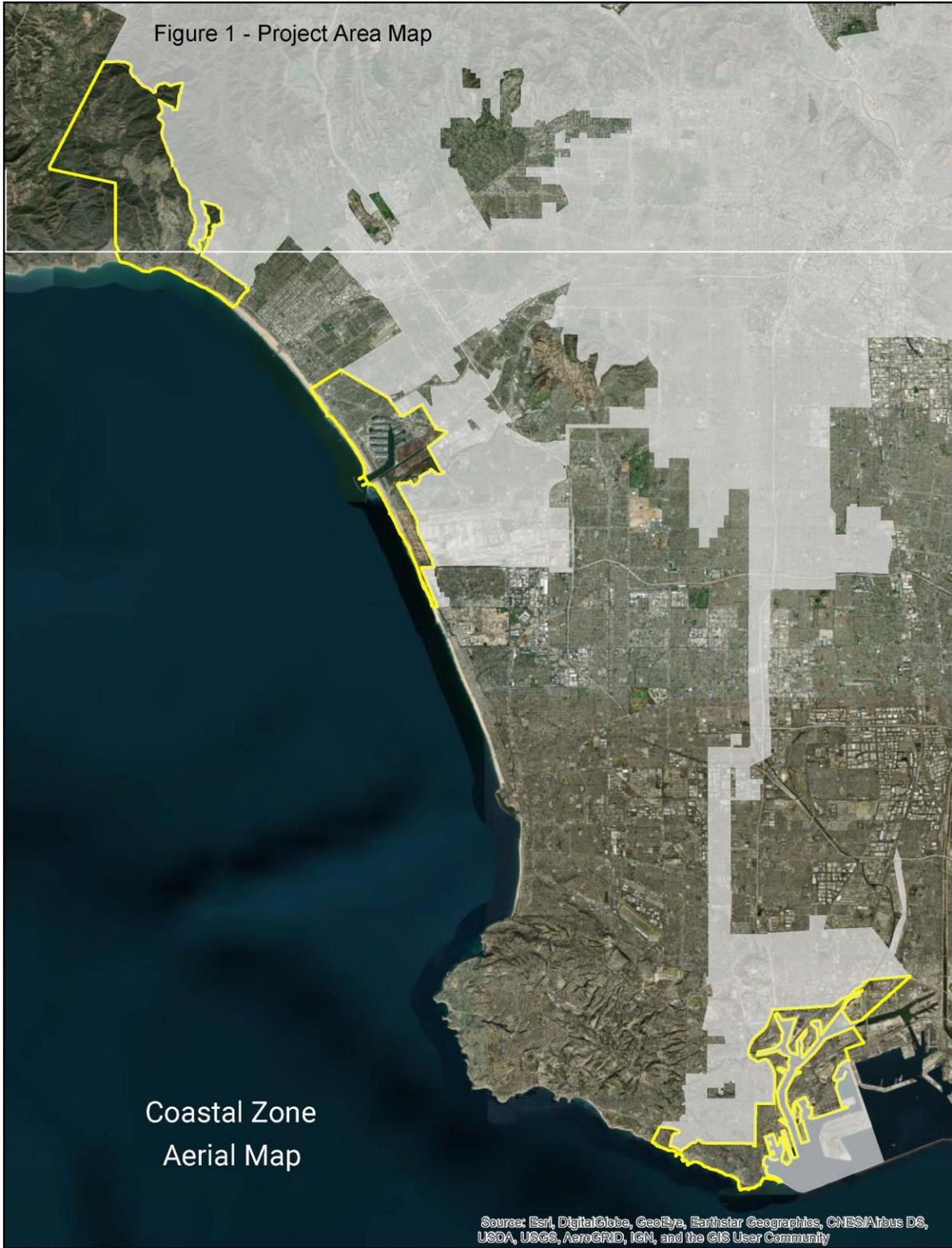
- Clarify the roles between the Housing and Community Investment Department (HCIDLA) and the Department of City Planning (DCP).
- Apply to any action for which a permit, authorization, or determination is required to be issued, resulting in the Conversion, Demolition, or reduction of the number of existing Residential Units; and/or the construction of new dwelling units.
- Apply to Change of Use from residential to a non-residential use and Condominium Conversion that converts one or more existing Residential Units to a condominium, cooperative, or similar form of owner.
- Apply to all Existing Affordable Residential Units that are rent restricted.
- Modify location allowance for Existing Affordable Residential Units replacement requirements.
- Create an in-lieu fee option for qualified affordable replacement units and fractional inclusionary units.
- Apply inclusionary requirements to developments of five or more units and require units to be built “on-site”.
- Introduce new and standardize methodology for financial feasibility studies.
- Incorporate regulations for Protected units and Right of First Refusal.
- Establish the Coastal Zone Affordable Housing Trust Fund.

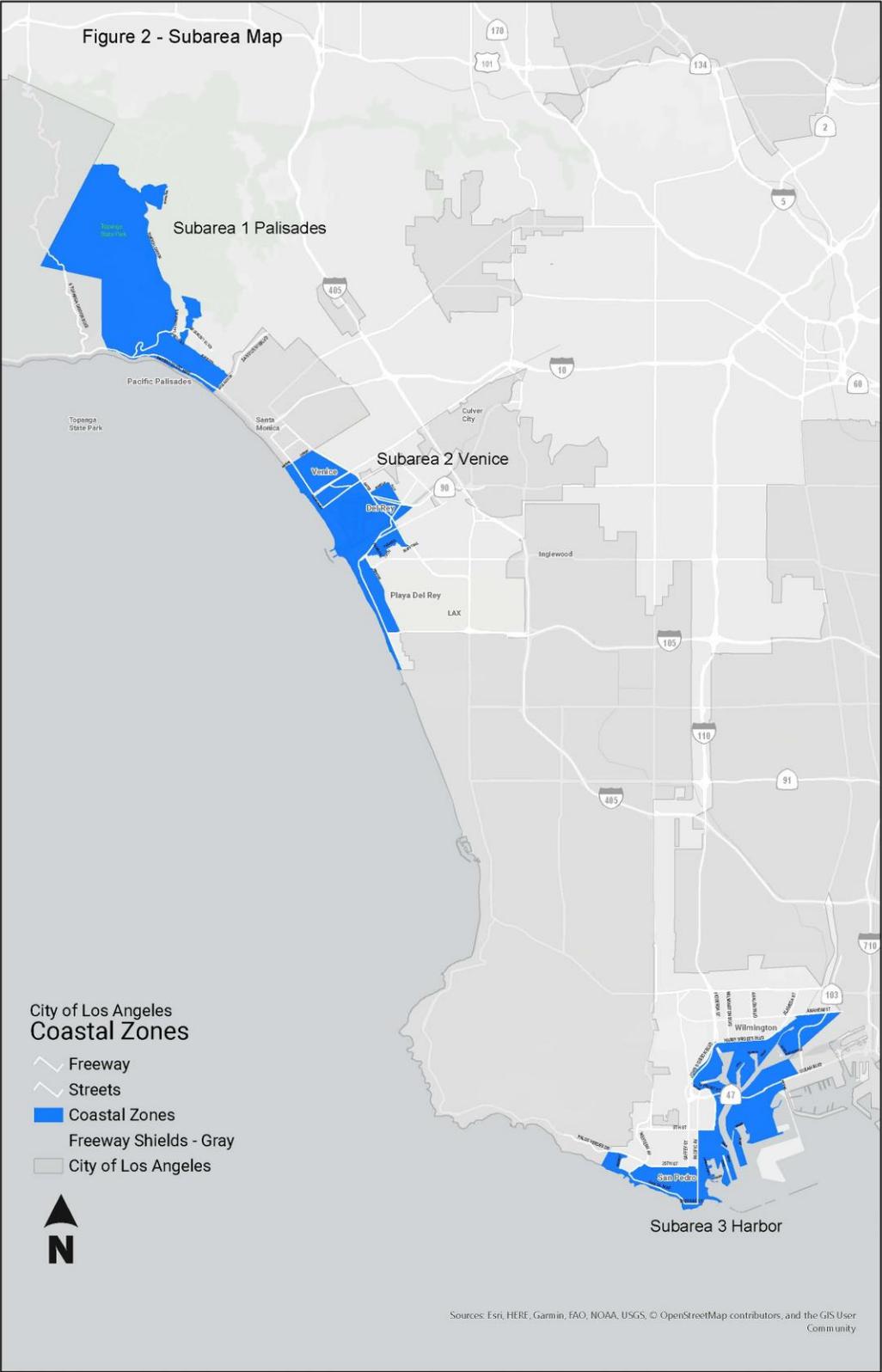
The proposed Project, by itself, does not propose or authorize new development or construction or ground disturbing activity. The proposed Project will provide more certainty and clarity for stakeholders and supports the intent of the Mello Act.

## **3.2 ENVIRONMENTAL SETTING**

### **3.2.1 Project Location**

The total Project Area consists of approximately 26 square miles, or about six percent of the total land area of the City of Los Angeles. (See Figure 1 Map of Project Area) Coastal Zone areas are aggregated into the following subareas: Subarea 1 Palisades (comprised of the Pacific Palisades Coastal Zone areas); Subarea 2 Venice (comprised of the Venice, Del Rey, and Playa del Rey Coastal Zone areas) Subarea 3 Harbor (comprised of the San Pedro Coastal Zone area and the Wilmington Coastal Zone areas). (See Figure 2 - Subarea Map) The three Subareas are located along the Pacific Ocean coastline within the City of Los Angeles although not directly adjacent to one another.





For planning purposes, the City of Los Angeles (City) is divided into 35 Community Plan Areas (CPAs). These Community Plan Areas and their Plans make up the City’s General Plan Land Use Element. Each Coastal Zone community is located within one or more CPAs as shown in Table 1: Coastal Zone Community Plan Areas.

**Table 1: Coastal Zone Community Plan Areas**

Community	Subarea	Community Plan
Pacific Palisades	Subarea 1 Palisades	Brentwood-Pacific Palisades
Venice	Subarea 2 Venice	Venice
Del Rey	Subarea 2 Venice	Palms-Mar Vista-Del Rey
Playa del Rey	Subarea 2 Venice	Westchester-Playa del Rey
San Pedro	Subarea 3 Harbor	San Pedro
Wilmington	Subarea 3 Harbor	Wilmington- Harbor City

*Subarea 1: Palisades (See Figure 3)*

The Pacific Palisades Coastal Zone Community is the northernmost Community in the Project Area comprising approximately 7,685 acres, or about 46% of the total Project Area. It is generally bounded by Topanga State Park to the north, Adelaide Drive to the south, Almoloya, Las Lomas and Temescal Canyon to the east, and Pacific Coast Highway and Topanga to the west. The Palisades Subarea or Subarea 1 is a mix of developed and undeveloped lots. The developed areas consist of a mix of housing and a limited amount of commercial. The undeveloped areas consist mostly of hillsides and the Topanga State Park. The land use zoning is primarily made up of a mix of Open Space and various Residential lots. There are also lots zoned for Agricultural, Commercial, Public Facility and Parking uses in the Subarea 1.

*Subarea 2: Venice (See Figure 4)*

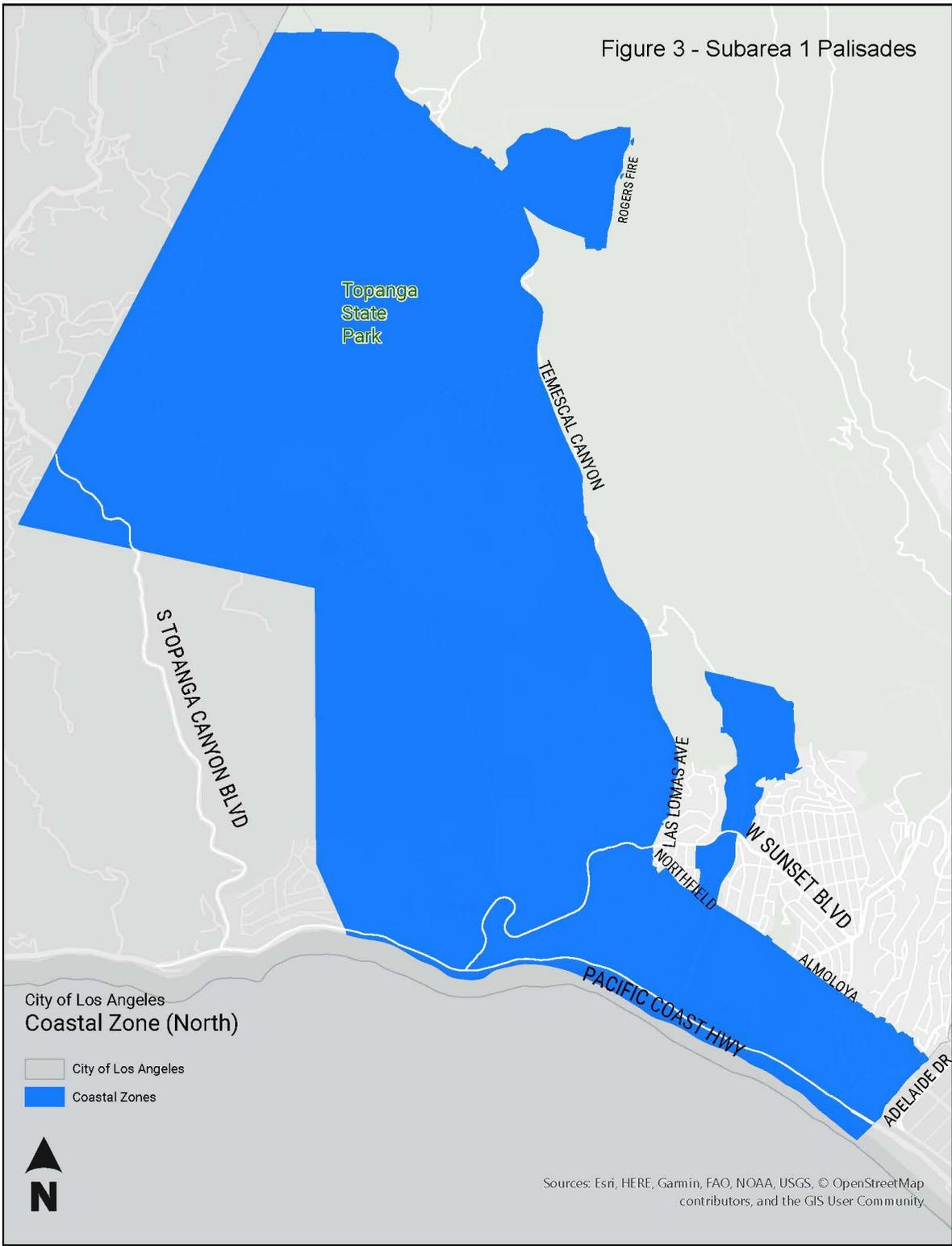
The Venice, Del Rey and Playa Del Rey Coastal Zone Area is located in the central portion of the Project Area comprising approximately 4,016 acres, or about 24% of the total Project Area. It is generally bounded by Marine and Dewey to the north, Veragua and 79th to the south, Pershing, Alla and Carter to the east, and the Pacific Ocean to the west. Subarea 2 is mostly built out with a mix of uses including Residential, Commercial, Manufacturing, Open Space uses which includes the beach front.

*Subarea 3: Harbor (See Figure 5)*

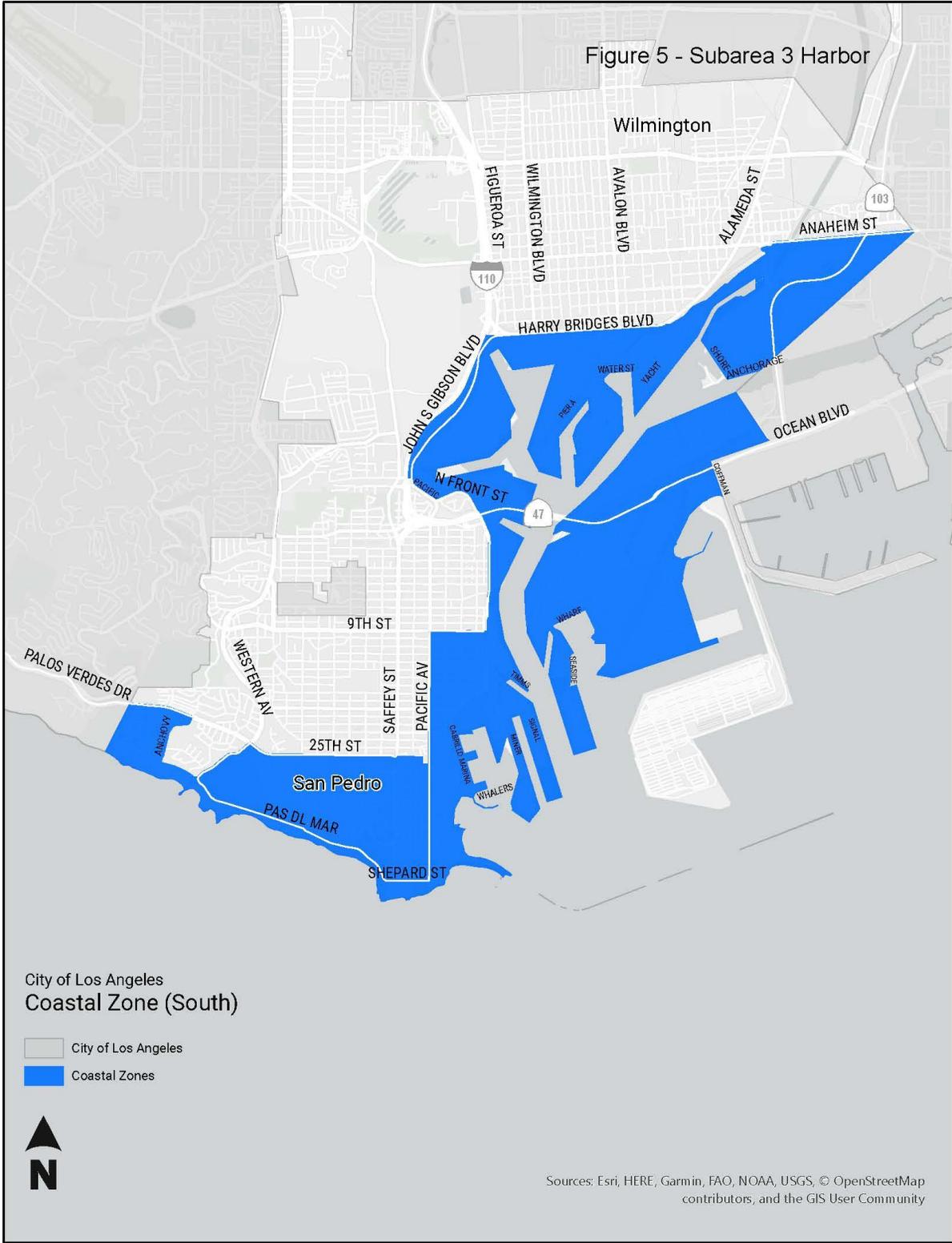
The San Pedro and Wilmington Coastal Zone Area is the southernmost part of the Project Area comprising approximately 4,959 acres, or about 30% of the total Project Area. It is generally bounded by Anaheim, Harry Bridges and 25th to the north, Paseo del Mar and Sheppard to the south, Cabrillo Marina and Coffman to the east, and Pacific and John Gibson to the west. Subarea 3 is made up largely

of Manufacturing uses including portions of the Port of Los Angeles and Port adjacent uses. Subarea 3 also contains various lots zoned for Residential uses, single-family and multi-family, Public Facility, Open Space, Agricultural and Commercial uses.

Figure 3 - Subarea 1 Palisades







### 3.2.2 Existing Conditions

The California State Mello Act was adopted in 1982 by the California State Legislature intended to protect and increase the supply of affordable housing in California's Coastal Zone. The law imposes two primary duties on local governments. First, a city or county may not approve a project that removes or converts existing housing units occupied by low or moderate-income households, unless provision is made for their one for-one replacement with new affordable units on site or within 3 miles of the Coastal Zone. Exceptions based on feasibility are provided. Second, a city or county may not approve a new housing development unless it provides the affordable units it can feasibly accommodate. In the City of Los Angeles, the Mello Act applies to portions of the Pacific Palisades, Venice, Del Rey, Playa Del Rey, San Pedro and Wilmington area.

In 2000, the City of Los Angeles approved a settlement agreement which resolved a lawsuit filed against the City in 1993 (Venice Town Council vs. City of Los Angeles BC089678). The settlement agreement created a document called the "Interim Administrative Procedures," designed to give further specificity to an interim Mello Act policy. The Interim Administrative Procedures (IAP) is the City's current mechanism for implementing the state Mello Act. The IAP involves the City's Planning Department, Housing Department and Building and Safety Department and sets forth the City's process for initial screening, application processing and enforcement and monitoring. The IAP requires the review of discretionary and non-discretionary applications that involve residential units for compliance with the Mello Act and is the interim process for review of projects. Consistent with the Mello Act, the IAP also requires that developers of residential projects within the Coastal Zone of the City both replace existing affordable housing in addition to setting aside a specified percentage of the project units for lower income residents or buyers. Moreover, the IAP requires that such set-aside units be built on the same site as the project or off-site at another property in the Coastal Zone or within 3 miles of the Coastal Zone, upon the granting of a feasibility waiver by the appropriate Area Planning Commission.

The Coastal Zone contains a wide variety of residential, commercial and industrial uses which is mostly built out but also includes large portions of undeveloped land including beaches, wetlands and hillside areas. The Project Area is within a mostly urban environment except in portions of Subarea 1 and 2 with a majority of the lots zoned for single family residential (35.40%), industrial (26.04%), and open space (25.94%), uses per the LAMC. There are also several other types of land uses permitted within the Project Area including multi-family residential (8.06%), public facilities (1.49%), parking (0.06%), commercial (1.48%) and agricultural (1.52%).

The following Table 2: Zoning in the Project Area by Subarea, includes a breakdown of the different generalized zoning categories (per the LAMC).

**Table 2: Zoning in Project Area by Subarea**

Subarea	Zoning	Percentage
1- Palisades	Agriculture	4.22%
	Commercial	0.3%
	Single-Family Residential	22.64%
	Multi-Family Residential	2.03%
	Public Facility	0.58%
	Open Space	70.21%
	Parking	0.02%
	<b>Total</b>	<b>100%</b>
2 - Venice	Agriculture	1.03%
	Commercial	9.27%
	Industrial	5.79%
	Single-Family Residential	6.86%
	Multi-Family Residential	44.67%
	Open Space	30.05%
	Public Facility	1.91%
	Parking	0.43%
<b>Total</b>	<b>100%</b>	
3- Harbor	Agriculture	0.48%
	Commercial	0.38%
	Industrial	82.04%
	Single-Family Residential	5.26%
	Multi-Family Residential	4.27%
	Open Space	4.12%
	Public Facility	3.44%
	<b>Total</b>	<b>100%</b>

According to building permit data provided by the Los Angeles Department of Building and Safety, from 2009 - 2019, there have been approximately 13,800 building permits issued in the Coastal Zone. The total square footage of new construction projects, demolitions, and additions from 2009-2019 in the Project Area is displayed by square footage in the following Tale 3: Permits Issued in Coastal Zone by Permit Type (2009-2019).

**Table 3: Permits Issued in Coastal Zone by Permit Type (2009-2019)**

	Demolitions (in square feet)	New Construction (in square feet)	Additions (in square feet)	Net New Construction and Additions (in square feet)
Project Area	-2,152,225 sf	43,185,792 sf	5,523,974 sf	48,709,766 sf

As shown in the table above, over the last ten years, there has been consistent development of new construction and additions in the Project Area. Approximately 75% of new construction projects are residential projects both single-family and multi-family. Approximately 29% are commercial developments and approximately 10% are industrial developments.

### **3.2.3 Surrounding Land Uses**

The Project Area is divided into 3 non-contiguous subareas each within the Coastal Zone boundaries. In the northernmost subarea - Subarea 1 Palisades, the Project's surroundings consist mostly of open space and undeveloped lots to the north and west of the subarea. Lots southwest of Subarea 1 is developed with commercial and residential uses. To the west of Subarea 1 is the Pacific Ocean. The area surrounding Subarea 2 is set within an urbanized environment and consistent with the mix of uses within Subarea 2 which includes a mix of industrial, commercial and residential uses to the east and south of the subarea. To the north of Subarea 2 is the City of Santa Monica and to the west of Subarea 2 is the Pacific Ocean. Subarea 2 is also located adjacent to the Ballona Wetlands and does not include Marina del Rey which is surrounded by Subarea 2. Subarea 3 Harbor is the southernmost portion of the Project Area and is set within an urban environment. To the north and to the west of Subarea 3 are lots that are built out with a mix of uses including industrial, commercial, residential, open space and public facility uses. To the east and south of Subarea 3 are industrial uses and Port related uses in addition to the Pacific Ocean.

## **3.3 DESCRIPTION OF PROJECT**

### **3.3.1 Project Overview**

The Project consists of an ordinance with two actions; the first action adds a section to Los Angeles Municipal Code to adopt permanent local regulations and procedures to apply the Mello Act Government Code Section 65590-65590.1 to the Coastal Zone in the City of Los Angeles and the second action establishes the Coastal Zone Affordable Housing Trust Fund for the purpose of collecting in lieu fees from development projects associated with Mello. The Project does not propose or approve of any development project, any construction or any ground disturbing activities. The Project would only apply to existing and new residential in the Project Area that meets the regulation requirements for replacement units or new residential units. Based on the above, the Project will not have direct impacts on the physical environment. The Project will be analyzed for its reasonably foreseeable indirect impacts.

## **3.4 REQUESTED PERMITS AND APPROVALS**

The list below includes the anticipated requests for approval of the Project. The Initial Study /Negative Declaration will analyze impacts associated with the Project and will provide environmental review sufficient for all necessary entitlements and public agency actions associated with the Project. The discretionary entitlements, reviews, permits and approvals required to implement the Project include, but are not necessarily limited to, the following:

- Pursuant to LAMC Section 12.32(C)(7), amend the LAMC to establish regulations and procedures to apply the Mello Act Govt Code Section 65590-65590.1 in the Coastal Zone in the City of Los Angeles and establish the Coastal Zone Affordable Housing Trust Fund.
- Pursuant to Section 556 and 558 of the Los Angeles City Charter to establish regulations and procedures to apply the Mello Act Govt Code Section 65590-65590.1 in the Coastal Zone in the City of Los Angeles and to establish the Coastal Zone Affordable Housing Trust Fund.

# INITIAL STUDY

## 4 ENVIRONMENTAL IMPACT ANALYSIS

### I. AESTHETICS

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Except as provided in Public Resources Code Section 21099 would the project:

- a. Have a substantial adverse effect on a scenic vista?
- b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?
- c. In non-urbanized areas, substantially degrade the existing visual character or quality of public views the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?
- d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

**a) Have a substantial adverse effect on a scenic vista?**

**Less-Than-Significant-Impact.** A scenic vista is generally defined as a public view of highly valued visual and scenic resources exhibiting a unique or unusual feature, such as mountains, hillsides, bodies of water and/or urban skylines. A scenic vista may also be a particular distant view that provides visual relief from less attractive nearby features. Designated federal and state lands, as well as local open space or recreational areas, and may also offer scenic vistas if they represent a valued aesthetic view within the surrounding landscape. Examples of local scenic views include public views of the Pacific Ocean, the Santa Monica Mountains, and the downtown Los Angeles skyline. A

significant impact would occur if a proposed project would have a substantial adverse effect on a scenic vista. An impact on a scenic vista would occur if the bulk or design of a building or development contrasts enough with a visually interesting view, so that the quality of the view is permanently affected.

Senate Bill (SB) 743 was signed into law by Governor Brown in September 2013, which made several changes to the CEQA for projects located in areas served by transit. Among other changes, SB 743 eliminates the need to evaluate aesthetic and parking impacts of a project in some circumstances. Specifically, aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered to have a significant impact on the environment.

The Project Area is located within the designated California Coastal Zone thus lots in these subareas may have scenic vistas of the Pacific Ocean and hillside lots in Subarea 1 Palisades may also have scenic vistas of the Santa Monica Mountains, Hollywood Hills or the downtown Los Angeles skyline. According to Southern California's Association of Government's (SCAG) Transit Priority Areas (TPA)- 2045 Plan<sup>1</sup> only portions of Subarea 2: Venice is located in a TPA. Subarea 1 Palisades and Subarea 3 Harbor are not identified as areas in Transit Priority Areas. However, the Project is limited to an ordinance to adopt permanent local regulations and procedures to apply the Mello Act to the Coastal Zone and establish the Coastal Zone Affordable Housing Trust Fund. The Project in and of itself does not propose or approve a development project and is not changing or expanding any land uses. The Project does not change zoning or General Plan designations, create any zoning entitlements, or introduce any new land uses that would result in an adverse effect on a scenic vista. Any future development projects that are proposed in conformance with the ordinance would be subject to further environmental analysis and it would be speculative to opine on where a project specific development would occur based on the purpose and scope of the Mello Ordinance. Furthermore, the Project will not result in changes to a structure's physical shape or size, nor will it create any physical changes to the environment. Therefore, there will be a less than significant impact related to scenic vistas.

**b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings, or other locally recognized desirable aesthetic natural feature within a state scenic highway?**

**No Impact.** A significant impact would occur if a proposed project would substantially damage scenic resources within a State Scenic Highway. The California Department of Transportation manages the State Scenic Highway Program. According to the California State Scenic Highway System Map, a portion of the northern part of the Project Area contains a small segment of the officially designated State Route 27 (SR-27) Topanga Canyon State Scenic Highway and a portion of the eligible State Route Highway

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<sup>1</sup> SCAG TPA - 2045 Plan, [http://gisdata-scam.opendata.arcgis.com/datasets/c9249b6bba0f49829b67ce104f81ef20\\_1](http://gisdata-scam.opendata.arcgis.com/datasets/c9249b6bba0f49829b67ce104f81ef20_1), accessed on August 11, 2020.

12. However, the proposed Project does not propose or approve any development project. The Project does not change zoning or General Plan designations, create any zoning entitlements, or introduce any new land uses that would result in an adverse effect on a state scenic highway. Moreover, the Project is limited to an ordinance to adopt procedures and regulations to comply with the Mello Act in the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. The Project will not result in changes to a structure's physical shape or size, nor will it create any physical changes to the environment. Any future development project within a state scenic highway would be subject to the City's Tree Ordinance and the Historic Cultural Monument (HCM) Ordinance as it relates to impacts on trees or historic buildings. Therefore, no impacts related to scenic highways would occur.

**c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?**

**Less Than Significant Impact.** A significant impact would occur if a proposed project would substantially degrade the existing visual character or quality of the project site and its surroundings. Significant impacts to the visual character of a site and its surroundings are generally based on the removal of features with aesthetic value, the introduction of contrasting urban features into a local area, and the degree to which the elements of a proposed project detract from the visual character of an area.

The Project consists of an ordinance to adopt procedures and regulations to apply the Mello Act to preserve and increase affordable housing in the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. The Project itself does not incentivize or remove levels of individual project review for projects in the Coastal Zone. Moreover, the Project does not propose or approve a development or any construction activities. The Project does not change zoning or General Plan designations, create any zoning entitlements, or introduce any new land uses that would result in an adverse effect related to visual character. Future projects that occur, following the adoption of the ordinance would still be subject to the regulations consistent with and in some cases more restrictive than the existing Interim Administrative Procedures in place today. Therefore, the Project, by itself would not alter the visual character or quality of the Project Area and its surroundings, as such a less than significant impact would occur. No further analysis is required.

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<sup>2</sup> California State Scenic Highway Map, <https://www.arcgis.com/apps/webappviewer/index.html?id=2e921695c43643b1aaf7000dfcc19983>, accessed on August 11, 2020.

**d) Create a new source of substantial light or glare which would adversely affect daytime or nighttime views in the area?**

**No Impact.** A significant impact would occur if light and glare substantially altered the character of off-site areas surrounding the site or interfered with the performance of an off-site activity. Light impacts are typically associated with the use of artificial light during the evening and night-time hours. Glare may be a daytime occurrence caused by the reflection of sunlight or artificial light from highly polished surfaces, such as window glass and reflective cladding materials, and may interfere with the safe operation of a motor vehicle on adjacent streets. Daytime glare is common in urban areas and is typically associated with mid- to high-rise buildings with exterior façades largely or entirely composed of highly reflective glass or mirror-like materials. Nighttime glare is primarily associated with bright point-source lighting that contrasts with existing low ambient light conditions.

The proposed Project is limited to an ordinance to adopt regulations and procedures to comply with the Mello Act which seeks to preserve and expand affordable housing in the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. The Project Area is mostly built out with a mix of uses and generally set within an urbanized environment with existing levels of ambient nighttime lighting, including streetlights, architectural and security lighting, indoor building illumination (light emanating from the interior of structures that passes through windows) and automobile headlights except in Subarea 1 Palisades. These uses either are currently producing some light (as in the case of existing commercial, residential, mixed-use and industrial buildings) or would generally be located in areas that are developed and well-lit and zoned for development. Further, existing allowable uses would not be expected to emit large amounts of nighttime lighting or glare as all development projects are required to comply with provisions of the LAMC in this regard. The Project Area contains a number of lots that are undeveloped in Subarea 1 Palisades. However, the Project by itself does not propose or approve of any development and is not changing or expanding any land uses. Thus, the Project is not expected to create a new source of substantial light or glare which would adversely affect daytime or nighttime views in the area. There would be no impacts and no further analysis is required.

## II. AGRICULTURE AND FORESTRY RESOURCES

*In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.*

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?**

**No Impact.** A significant impact would occur if a proposed project would convert valued farmland to non-agricultural uses. The California Department of Conservation, Division of Land Protection, lists Prime Farmland, Unique Farmland, and Farmland of Statewide Importance under the general category of “Important Farmland”. The Extent of Important Farmland Map Coverage maintained by the Division of Land Protection indicates that the Project Area has no Farmland<sup>3</sup>. The Project consists of an ordinance to adopt regulations and procedures to implement the Mello Act to preserve and expand affordable housing in the Coastal Zone and establish the Coastal Zone Affordable Housing Trust Fund. The Project does not involve or include farmland or agricultural use. The Project does not change zoning or General Plan designations, create any zoning entitlements, approve any development projects, or introduce any new land uses, and is not anticipated to result in new development that would convert any farmland to non-agricultural use. Therefore, the proposed Project would not convert any Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use, and no impact would occur.

**b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?**

**No Impact.** A significant impact would occur if a proposed project conflicted with existing agricultural zoning or agricultural parcels enrolled under the Williamson Act. The Project Area does not contain any use under a Williamson Contract. The Project does not change zoning or General Plan designations, create any zoning entitlements, approve any development projects, or introduce any new land uses, and is not anticipated to result in new development that would conflict with or change existing zoning for agricultural use or a Williamson Act Contract. As such, the Project would not conflict with existing zoning

<sup>3</sup> State of CA Department of Conservation, Division of Land Resource Protection, Farmland Mapping and Monitoring, <https://maps.conservation.ca.gov/DLRP/CIFF/>, accessed on August 11, 2020

for agricultural use or conflict with a Williamson Contract. Therefore, no impacts would occur.

**c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?**

**No Impact.** A significant impact would occur if a proposed project conflicted with existing zoning or caused rezoning of forest land or timberland or resulted in the loss of forest land or in the conversion of forest land to non-forest use. The Project Area is not zoned for forest land or timberland. Accordingly, the proposed Project would not conflict with forest land or timberland zoning or result in the loss of forest land or conversion of forest land to non-forest use. Therefore, no impact would occur.

**d) Result in the loss of forest land or conversion of forest land to non-forest use?**

**No Impact.** See response to Section II(c) above. Forest land is defined as “land that can support 10-percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits.” Timberland is defined as “land...which is available for, and capable of, growing a crop of trees of any commercial species used to produce lumber and other forest products, including Christmas trees.”<sup>4</sup> The Project Area does not consist of any forest land or timberland. Thus, any development project following the adoption of the proposed Project would not result in the loss of or conversion of forest land. Therefore, there would be no impact and no further analysis is required.

**e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?**

**No Impact.** See response to Section 2(a) through (d) above. A significant impact would occur if a proposed project caused the conversion of farmland to non-agricultural use. The Project Area does not contain Farmland identified by the State of CA Department of Conservation, Division of Land Resource Protection as Unique Farmland<sup>5</sup>. Moreover, the Project does not change zoning or General Plan designations, create any zoning entitlements, approve any development projects, or introduce any new land uses, and is not anticipated to result in new development that would involve other changes in the existing environment which could result in the conversion of farmland to non-agricultural use or the conversion of forest land to non-forest use. Therefore, no impacts would occur.

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<sup>4</sup> California Public Resources Code Section 4526

<sup>5</sup> State of CA Department of Conservation, Division of Land Resource Protection. CA Important Farmland Finder. <https://maps.conservation.ca.gov/DLRP/CIFF/>

### III. AIR QUALITY

Where available, the significance criteria established by the South Coast Air Quality Management District (SCAQMD) may be relied upon to make the following determinations.

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### a) Conflict with or obstruct implementation of the applicable air quality plan?

**Less Than Significant Impact.** The City of Los Angeles is entirely within the South Coast Air Basin (SCAB) and is subject to the Air Quality Management Plan (AQMP) prepared by the South Coast Air Quality Management District (SCAQMD). The SCAQMD is the agency primarily responsible for comprehensive air pollution control in the SCAB and reducing emissions from area and point stationary, mobile, and indirect sources. SCAQMD prepared the 2016 AQMP to meet federal and state ambient air quality standards while accommodating population growth forecasts compiled by the Southern California Association of Governments (SCAG). A significant air quality impact may occur if a project is inconsistent with the AQMP or would in some way represent a substantial hindrance to employing the policies or obtaining the goals of that plan.

The Project involves an ordinance to adopt regulations and procedures to apply the Mello Act to preserve and increase affordable housing in the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. No development or ground disturbing

activity is proposed or approved as part of the Project. Additionally, the proposed Project does not change or expand any existing land uses. Since the Project does not propose or approve construction or development in the Project Area, it is not reasonably foreseeable that the Project will cause additional impact to air quality. As such, the Project is not expected to conflict with or obstruct the implementation of the AQMP and SCAQMD rules. Therefore, impacts would be less than significant, and no further analysis is required.

**b) Result in a cumulatively considerable net increase of any criteria pollutant for which the air basin is non-attainment under an applicable federal or state ambient air quality standard?**

**No Impact.** A significant impact would occur if a proposed project would violate any air quality standard or contribute substantially to an existing or projected air quality violation. The Project Area is located in an urbanized environment surrounded by existing public facilities, residential, industrial, and commercial buildings, traffic impacts that would have been included in the AQMP. It does, however, include a largely undeveloped area in Subarea 1 Palisades, that includes the hillside areas and the Topanga State Park. Nevertheless, the proposed Project does not propose or approve any development project, does not change zoning or General Plan designations, create any zoning entitlements, or introduce any new land uses. The Project consists of an ordinance to adopt procedures and regulations to apply the Mello Act in the Coastal Zone in order to continue to preserve and expand affordable housing and to establish an affordable housing trust fund in the Coastal Zone. As such the Project is not anticipated to result in a cumulatively considerable net increase of any criteria pollutant for which the air basin is non-attainment under an applicable federal or state ambient air quality standard. Therefore, the Project by itself would result in no impact and no further analysis is required.

**c) Expose sensitive receptors to substantial pollutant concentrations?**

**Less Than Significant Impact.** A sensitive receptor is a person in the population who is particularly susceptible to health effects due to exposure to an air contaminant. The SCAQMD identifies the following as sensitive receptors: long-term health care facilities, rehabilitation centers, convalescent centers, retirement homes, residences, schools, playgrounds, childcare centers, and athletic facilities<sup>6</sup>.

As described above in section III (a) and (b), the Project does not propose or approve any development project or ground disturbing activity, nor does it change or expand any existing land uses. The Project does not incentivize or disincentivize construction of new residential, commercial, mixed use or industrial development, therefore, it is not reasonably foreseeable that the Project will expose sensitive receptors to substantial

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<sup>6</sup> South Coast Air Quality Management District, Guidance Document for Addressing Air Quality Issue in General Plans and Local Planning. <http://www.aqmd.gov/docs/default-source/planning/air-quality-guidance/complete-guidance-document.pdf> accessed on September 8, 2020.

pollutant concentrations. Thus, the Project would result in a less than significant impact and no further analysis is required.

**d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?**

**No Impact.** According to the SCAQMD, land uses and industrial operations that are associated with odor complaints include agricultural uses, wastewater treatment plants, food-processing plants, chemical plants, composting, refineries, landfills, dairies, and fiberglass molding<sup>7</sup>. Odors from these types of uses would be localized and generally confined to the immediate area surrounding a project site. A proposed project would utilize typical construction techniques, and the odors would be typical of most construction sites and temporary in nature. Since no construction activity or development project is proposed or approved as part of this Project, it would not cause an odor nuisance. Furthermore, the Project does not change zoning or General Plan designations, create any zoning entitlements, or introduce any new land uses, and is not anticipated to result in new development that would result in other emissions, such as those leading to odors that could adversely affect a substantial number of people. The Project would not result in activities that create objectionable odors. Therefore, the Project would result in no impact and no further analysis is required.

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<sup>7</sup> South Coast Air Quality Management District, Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning. <http://www.aqmd.gov/docs/default-source/planning/air-quality-guidance/complete-guidance-document.pdf> accessed on September 8, 2020.

## IV. BIOLOGICAL RESOURCES

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Would the project:

- |  |                          |                          |                                     |                                     |
|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| c. Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

**a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?**

**Less Than Significant Impact.** A project would have a significant biological impact through the loss or destruction of individuals of a species or through the degradation of sensitive habitat. Habitats are natural and/or artificial environments that support the survival of wild animals and native plants. Five habitat types have been identified by the City. These habitat types include Inland Habitats, Significant Ecological Areas (SEA), Wildlife Corridors, Ocean, and Coastal Wetlands.

The Project Area is primarily located in an urbanized setting located in the Coastal Zone with the exception of Subarea 1 which consists of undeveloped land including Topanga State Park. The Project Area or adjacent to the Project Area consists of Ocean habitat areas (San Pedro Bay and Santa Monica Bay), Coastal Wetlands (Palos Verdes Peninsula and Coastline and Ballona Wetlands) and Significant Ecological Areas (Terminal Island and Ballona Wetlands)<sup>8</sup>. It is important to note that sensitive habitat areas such as Topanga State Park and the Ballona Wetlands are largely zoned Open Space thus limiting potential development at these sites further protecting ecologically sensitive habitat, sensitive or special status species. The proposed Project does not propose to change any existing land uses or approve any new development in the habitat areas identified above or expand any new or existing allowable land uses. As such, the proposed Project would not directly or indirectly affect any special status species and would not modify any special status species habitat. The proposed Project would have no substantial adverse effect, either directly or indirectly through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CA Department of Fish and Wildlife or U.S. Fish and Wildlife Service. Therefore, the proposed Project would result in less than significant impacts related to candidate, sensitive, or special status species. No further analysis is required.

**b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?**

**No Impact.** A significant impact would occur if any riparian habitat or natural community would be lost or destroyed as a result of urban development. As previously mentioned above in section IV (a) areas where sensitive biological resources exist such as the Topanga State Park and the Ballona Wetlands are largely zoned Open Space thus limiting potential development at these sites and any potential adverse effects on riparian habitat or other sensitive natural communities in these areas. Moreover, the Project by itself, does not propose or approve any development and would not change or expand

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<sup>8</sup> LA County Sensitive Ecological Areas Program, <http://planning.lacounty.gov/site/sea/maps/>, accessed August 11, 2020

any new or existing land uses. The Project consists of an ordinance to adopt development regulations and procedures to apply the Mello Act which preserves and expands affordable housing in the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. Development that occurs pursuant to the proposed Project would require its own individual environmental review. Thus, the Project would not result in direct impacts to biological resources, including riparian habitat or other sensitive natural communities identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or United States Fish and Wildlife Service, within the Project Area or in the surrounding area, and no impacts would occur. No further analysis is required.

**c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?**

**Less Than Significant Impact.** There are two categories of wetlands, coastal/tidal wetlands and inland/non-tidal wetlands. Inland/non-tidal wetlands are most common on floodplains along rivers and streams (riparian wetlands), in isolated depressions surrounded by dry land (for example playas, basins and “potholes”), along the margins of lakes and ponds, and in other low-lying areas where the groundwater intercepts the soil surface or where precipitation sufficiently saturates the soil (vernal pools and bogs)<sup>9</sup>. A significant impact would occur if federally protected wetlands would be modified or removed by a project.

The Project Area contains the Ballona Wetlands Ecological Reserve in Subarea 2, a federally protected wetlands as defined by Section 404 of the Clean Water Act<sup>10</sup>. The Project Area surrounding the Ballona Wetlands is located in an urbanized area and is mostly developed with existing public facilities, residential, office, commercial and industrial uses. However, the proposed Project does not approve or propose any development project, nor does it modify any City regulations that would adversely affect federally protected wetlands. Therefore, the proposed Project would not have any effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means, and a less than significant impact would occur. No further analysis would be required.

**d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?**

**Less Than Significant Impact.** Wildlife corridors are land segments that connect two or more large habitat areas and provide a habitat for movement of animals between those

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<sup>9</sup> United States Environmental Protection Agency, Wetlands - <https://www.epa.gov/wetlands/what-wetland>, accessed on August 11, 2020

<sup>10</sup> U.S. Fish & Wildlife Service, National Wetlands Inventory, <https://www.fws.gov/wetlands/data/Mapper.html>, accessed on August 11, 2020

areas. A significant impact would occur if a proposed project would interfere with, or remove access to, a migratory wildlife corridor or impede use of native wildlife nursery sites.

According to the Los Angeles County Regional Planning Department, a wildlife corridor or regional wildlife linkage is located in Subarea 1 Palisades of the Project Area<sup>11</sup>. Additionally, bodies of water in which fish are present are located in areas surrounding the Project Area (e.g., the Pacific Ocean). However, as previously mentioned, the Project is limited to an ordinance to adopt regulations and procedures to apply the Mello Act to the Coastal Zone and establish the Coastal Zone Affordable Housing Trust Fund. The Project itself does not propose or approve a development project or any construction activity.

Additionally, nesting birds are protected under the Federal Migratory Bird Treaty Act (MBTA) (Title 33, United States Code, Section 703 et seq., see also Title 50, Code of Federal Regulation, Part 10) and Section 3503 of the California Department of Fish and Wildlife Code. Any future development project in the Project Area would be required to comply with the provisions of the Migratory Bird Treaty Act (MBTA). The Migratory Bird Treaty Act of 1918 implements the United States' commitment to four treaties with Canada, Japan, Mexico, and Russia for the protection of shared migratory bird resources. The MBTA governs the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests. The US Fish and Wildlife Service administers permits to take migratory birds in accordance with the MBTA. The City requires that all projects comply with the MBTA by either avoiding grading activities during the nesting season (February 15 to August 15) or conducting a site survey for nesting birds prior to commencing grading activities. Compliance with the MBTA would ensure that no significant impacts to nesting birds or sensitive biological species or habitat would occur.

As the Project does not change zoning or General Plan designations, create any zoning entitlements, approve any development projects, or introduce any new land uses, and is not anticipated to result in new development that would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of nature wildlife nursery sites, there would be a less than significant impact.

**e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?**

**Less Than Significant Impact.** A significant impact would occur if a proposed project would be inconsistent with local regulations pertaining to biological resources. The Project would not conflict with any policies or ordinances protecting biological resources, such as the City of Los Angeles Protected Tree Ordinance. The City's Protected Tree Ordinance No. 177,404 (Chapter IV Article 6 of the Los Angeles Municipal Code), defines

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<sup>11</sup> Los Angeles County Regional Planning. Regional Habitat Linkages and Wildlife Corridors. [http://planning.lacounty.gov/assets/upl/project/gp\\_2035\\_2014-FIG\\_9-2\\_Regional\\_Wildlife\\_Linkages.pdf](http://planning.lacounty.gov/assets/upl/project/gp_2035_2014-FIG_9-2_Regional_Wildlife_Linkages.pdf), accessed on August 30, 2020

protected trees as: Any of the following Southern California native tree species, which measures four inches or more in cumulative diameter, four and one-half feet above the ground level at the base of the tree:

- Oak trees including Valley Oak (*Quercus lobata*) and California Live Oak (*Quercus agrifolia*), or any other tree of the oak genus indigenous to California but excluding the Scrub Oak (*Quercus dumosa*);
- Southern California Black Walnut (*Juglans californica* var. *californica*);
- Western Sycamore (*Platanus racemosa*); and
- California Bay (*Umbellularia californica*):

The Project Area likely does contain locally protected biological resources, such as oak trees, Southern California black walnut, western sycamore, and California bay trees. However, the Project consists of an ordinance to adopt regulations and procedures to implement the Mello Act which preserves and increases affordable housing in the Coastal Zone and establish an affordable housing trust fund in the Coastal Zone. The Project by itself does not propose or approve a development project. Any future development project would be required to comply with the provisions of the Protected Tree Ordinance. Therefore, there would be no conflict with any local policies or ordinances protecting biological resources, and a less than significant impact would occur.

**f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?**

**No Impact.** The Project Area does not fall within any identified Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan. Therefore, the Project would not conflict with the provisions of any adopted conservation plan, and no impacts would occur. No further analysis is required.

## V. CULTURAL RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Cause a substantial adverse change in the significance of a historical resource pursuant to § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Disturb any human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### a) Cause a substantial adverse change in the significance of a historical resource as pursuant to State CEQA Guidelines §15064.5?

**Less Than Significant Impact.** Section 15064.5 of the State CEQA Guidelines state that a “historical resource” is defined as: (1) a resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources; (2) a resource listed in a local register of historical resources or identified as significant in an historical resource survey meeting certain state guidelines; or (3) an object, building, structure, site, area, place, record or manuscript that a lead agency determines to be significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California, provided that the lead agency's determination is supported by substantial evidence in light of the whole record; in addition, (4) the fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register or historical resources, or identified in an historical resources survey does not preclude a lead agency from determining that the resource may be an historical resource.

Under the City’s Cultural Heritage Ordinance, local buildings and sites that meet the criteria for designation can be declared HCMs by the City Council after recommendation from the Cultural Heritage Commission. Within the Project Area, there are 64 declared City HCMs (see Table 4). The City also has a Historic Preservation Overlay Zone (HPOZ) Program (commonly known as historic districts) to provide for review of proposed exterior alterations and additions to historic properties within these designated historic districts. There are 35 adopted HPOZs in various neighborhoods citywide, there is one (1) HPOZ partially or wholly located within the Project Area, Vinegar Hill is located in San Pedro in Subarea 3 Harbor.

**Table 4: Historic Cultural Monuments within the Project Area**

Historic Cultural Monument	Coastal Zone Subarea	Site Address
Case Study House #8 - The Eames House and Studio and Grounds	Subarea 1 Palisades	203 Chautauqua Boulevard
Sycamore Trees	Subarea 1 Palisades	Bienveneda Avenue
Feuchtwanger House (Villa Aurora)	Subarea 1 Palisades	520 Paseo Miramar
Bradbury House	Subarea 1 Palisades	60-102 Ocean Way
Sten / Frenke-Gould Residence	Subarea 1 Palisades	126 Mabery Road
Barsha House	Subarea 1 Palisades	302 North Mesa Road
Site of Port of Los Angeles Long Wharf	Subarea 1 Palisades	Will Rogers State Beach Lifeguard Headquarters (15100 West Pacific Coast Highway)
Venice of America Home	Subarea 1 Palisades	1223 Cabrillo Avenue
Eames House	Subarea 1 Palisades	203 North Chautauqua Boulevard
Case Study House No. 9	Subarea 1 Palisades	205 Chatauqua Boulevard
Case Study House No. 18	Subarea 1 Palisades	199 Chatauqua Boulevard
Parry Residence	Subarea 1 Palisades	14924 West Camarosa Drive
Isherwood Bachardy Residence and Studio	Subarea 1 Palisades	145 Adelaide Drive
Monday Women's Club	Subarea 2 Venice	1206 South 6th Avenue
Morris Abrams Chateau des Roses	Subarea 2 Venice	515 E. Rose Avenue, 254 S Rennie Avenue
Venice Arcades (including Columns and Capitals)	Subarea 2 Venice	67-71 Windward Avenue
Venice Canal System	Subarea 2 Venice	Roughly bounded by Grand Canal, Carroll Canal, Eastern Canal, and Sherman Canal
Venice Division Police Station	Subarea 2 Venice	685 Venice Boulevard
"Binoculars "	Subarea 2 Venice	340 Main Street
Venice of America Home	Subarea 2 Venice	1223 Cabrillo Avenue
Venice City Hall	Subarea 2 Venice	681 East Venice Boulevard
Temple Mishkon Tephilo	Subarea 2 Venice	206 Main Street

Sturdevant Bungalow	Subarea 2 Venice	721 East Amoroso Place
Dickinson and Gillespie Building	Subarea 2 Venice	200 East Culver Boulevard
Venice West Café	Subarea 2 Venice	321 South Ocean Front Walk
Playa del Rey Pillars	Subarea 2 Venice	179 & 200 East Culver Boulevard
Irvin Tabor Family Residences	Subarea 2 Venice	605-607 East Westminster Avenue
The Potter	Subarea 2 Venice	1305 Ocean Front Walk
Winn Apartments	Subarea 2 Venice	417 South Ocean Front Walk
Municipal Warehouse No. 1	Subarea 2 Venice	2500 Signal Street
Bradbury House	Subarea 2 Venice	102 Ocean Way
The Ellison	Subarea 2 Venice	15 Paloma Avenue
Venice Canal Historic District	Subarea 2 Venice	Roughly bounded by Grand Canal, Carroll Canal, Eastern Canal, and Sherman Canal
Warren Wilson Beach House (Venice Beach House)	Subarea 2 Venice	15 30th Street
Venice Branch Library	Subarea 2 Venice	610 California Avenue
1110-1116 South Abbot Kinney Boulevard	Subarea 2 Venice	1110-1116 South Abbot Kinney Boulevard
Point Fermin Light Station	Subarea 3 Harbor	807 West Paseo Del Mar
San Pedro Municipal Ferry Building	Subarea 3 Harbor	Berth 84 (Foot of 6th Street)
S.S. Lane Victory	Subarea 3 Harbor	Berth 94
LAFD Fireboat 2 (Ralph J. Scott)	Subarea 3 Harbor	Berth 85
Fort MacArthur	Subarea 3 Harbor	2400 block of Pacific Avenue (Fort MacArthur)
US Post Office - San Pedro Main	Subarea 3 Harbor	839 South Beacon Street
American Trona Corporation Building	Subarea 3 Harbor	Pacific Avenue
John Barlow and Saxton Battery	Subarea 3 Harbor	Fort MacArthur
Battery Osgood - Farley	Subarea 3 Harbor	Fort MacArthur Upper Reservation
Point Fermin Lighthouse	Subarea 3 Harbor	805 Paseo Del Mar
Fort MacArthur, Upper Reservation	Subarea 3 Harbor	3601 South Gaffey Street
Liberty Hill Monument	Subarea 3 Harbor	North side of 5th Street between Palos Verde Street and Harbor Boulevard

Casa de San Pedro	Subarea 3 Harbor	2400 block of Pacific Avenue (Fort MacArthur)
Timms Point and Landing	Subarea 3 Harbor	Sampson Way and Timms Way at Southern Pacific Slip
Kinney-Tabor House	Subarea 3 Harbor	1310 South Sixth Avenue
The Danish Castle	Subarea 3 Harbor	324-324 1/2 West 10th Street
Redmen's Hall	Subarea 3 Harbor	543 Shepard Street
Cabrillo Beach Bathhouse	Subarea 3 Harbor	3720 Stephen White Drive
Wilbur F. Wood House	Subarea 3 Harbor	4020-4026 Bluff Place
Residence	Subarea 3 Harbor	381-383 West 10th Street
Harbor View House	Subarea 3 Harbor	907-945 Beacon Street and 912-928 Palos Verdes Street
USS Los Angeles Naval Monument (John S. Gibson Jr. Park)	Subarea 3 Harbor	Harbor Boulevard
Korean Bell and Belfry of Friendship (Angel's Gate Park)	Subarea 3 Harbor	Gaffey Street and 37th Street
Morgan House (Harbor Area YWCA)	Subarea 3 Harbor	437 West 9th Street
Site of Timm's Landing (landscaped park of Fishermens Co-op)	Subarea 3 Harbor	Fish Slip (San Pedro Harbor)
Fireboat No. 2 and Firehouse No. 112 (Berth 227)	Subarea 3 Harbor	Berth 85 and 227
Municipal Ferry Building (Maritime History Museum)	Subarea 3 Harbor	Berth 84 (Foot of 6th Street)
Saint Peter's Episcopal Church (24th and San Pedro)	Subarea 3 Harbor	2330-2338 Grand Avenue (Harbor View Memorial Park)

A significant impact would occur if a proposed project would substantially alter the environmental context of or remove identified historical resources. The proposed Project consists of an ordinance to adopt regulations and procedures to apply the Mello Act for projects that result in demolition, loss, or conversion of Residential Units and/or the development of new Residential Units in the Coastal Zone and establish the Coastal Zone Affordable Housing Trust Fund. The Project, by itself, does not propose or approve any development. Future development activity within the Project Area that includes the issuance of a building, grading, demolition, sign, or change of use permit on sites with identified historic resources or on any sites with a resource not previously identified but with substantial evidence submitted to the City's Office of Historic Resources that a resource is a historical resource under the CEQA Guidelines would need to comply with any applicable ordinances and provisions of the LAMC and any applicable mitigation measures. In addition, future projects would be subject to all federal, state, and local regulations regarding the protection and preservation of historic resources. Therefore, the Project would result in a less than significant impact causing a substantial adverse change in the significance of a historical resource. No further analysis is required.

**b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to State CEQA Guidelines §15064.5?**

**Less Than Significant Impact.** A significant impact would occur if a known or unknown archaeological resource would be removed, altered, or destroyed as a result of a proposed development. Section 15064.5 of the State CEQA Guidelines defines significant archaeological resources as resources that meet the criteria for historical resources or resources that constitute unique archaeological resources.

The Project consists of an ordinance to adopt procedures and regulations to apply the Mello Act in the Coastal Zone and establish an affordable housing trust fund in the Coastal Zone. Any future development in the Project Area would continue to be subject to the numerous laws and regulations that require State and local agencies to consider the effects of a development project on potentially buried archaeological resources. If archaeological resources are discovered during excavation, grading, or construction activities, work shall cease in the area of the find until a qualified archaeologist has evaluated the find in accordance with federal, State, and local guidelines, including those set forth in California Public Resources Code Section 21083.2. Construction personnel shall not collect or move any archaeological materials and associated materials. Construction activity may continue unimpeded on other portions of the project site. The found deposits would be treated in accordance with federal, State, and local guidelines, including those set forth in California Public Resources Code Section 21083.2.

The proposed Project, by itself, does not propose or approve any development project or ground disturbing activity. As such, there is less than significant potential for archeological resources to be affected by the proposed Project. Therefore, impacts to archeological resources would be less than significant. No further analysis is required.

**c) Disturb any human remains, including those interred outside of formal cemeteries?**

**Less Than Significant Impact.** A significant impact would occur if previously interred human remains would be disturbed during excavation of the project site. Human remains could be encountered during excavation and grading activities associated with a proposed project. However, the Project does not propose or approve any development project. As such, no construction activities or ground disturbing activities are anticipated.

In the event that human remains are uncovered during ground-disturbing activities of future development projects, there are regulatory provisions to address the handling of human remains in California Health and Safety Code Section 7050.5, Public Resource Code 5097.98, and CEQA Guidelines Section 15064.5(e). In addition, if human remains are encountered unexpectedly during construction demolition and/or grading activities for future developments in the Project Area, State Health and Safety Code Section 7050.5 requires that no further disturbance shall occur until the County Coroner has made the

necessary findings as to origin and disposition pursuant to California Public Resources Code (PRC) Section 5097.98. If human remains of Native American origin are discovered during project construction, compliance with state laws, which fall within the jurisdiction of the Native American Heritage Commission (NAHC) (Public Resource Code Section 5097), relating to the disposition of Native American burials will be adhered to.

The Project is limited to an ordinance to adopt procedures and regulations to implement the Mello Act for projects that result in demolition, loss, or conversion of Residential Units and/or the development of new Residential Units in the Coastal Zone and establish an affordable housing trust fund in the Coastal Zone. Since the Project, by itself, does not involve any development as previously mentioned, no human remains would be disturbed as a result of the adoption of the Project. Therefore, a less than significant impact would occur, and no further analysis is required.

## VI. ENERGY

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?**

**No Impact.** The Project does not change zoning or General Plan designations, create any zoning entitlements, approve any development projects, or introduce any new land uses, and is not anticipated to result in new development that would result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources. As the Project does not consist of a development project, there is no construction activity and consequently no activity associated with the operation of a structure that would result in wasteful, inefficient or unnecessary consumption of energy resources. The Project will not change the existing building pattern. Future development that occurs subsequent to the adoption of the Project would remain subject to the Los Angeles Green Building Code (LAGBC - Ord. No. 181,479 and Ord. No. 181,480), which is based on the California Green Building Standards Code. The LAGBC serves as the mechanism to regulate and reduce a building's energy use, water use and overall carbon footprint. As the Project is not proposing any development, it is not reasonably foreseeable that there would be a significant direct or indirect effect to the environment due to wasteful, inefficient, or unnecessary consumption of energy resources. Therefore, the Project would result in no impacts related to energy resources. No further analysis is needed.

**b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?**

**No Impact.** A significant impact would occur if a proposed project were to conflict or obstruct a state or local plan for renewable energy or energy efficiency. As mentioned in VI (a), any future development would be subject to the City's Green Building Code which was adopted to reduce the use of natural resources, create healthier living environments, and minimize the negative impacts of development on local, regional and global

ecosystems. In addition, the California Energy Commission is the state's primary energy policy and energy planning agency responsible for assessing California's energy systems and trends as well as generating information resulting in renewable energy and energy efficiency promoting policies. There are several adopted State bills that promote renewable energy and energy efficiency for which future development projects will be required to comply including but not limited to: Senate Bill (SB) 350 Clean Energy and Pollution Reduction Act (2015), and Assembly Bill 2514 Energy Storage System Procurement Targets from Publicly Owned Utilities (2010). Some of these new policies inform and or expand the framework for local plans, programs and regulations regarding renewable energy and increased energy efficiency including, but not limited to: the City of Los Angeles' Green New Deal Plan, the Los Angeles Green Building Code; and the City's Existing Buildings Energy and Water Efficiency (EBEWE) Program. The proposed Project is limited to an ordinance to adopt regulations and procedures to comply with the Mello Act and apply those regulations to the Coastal Zone and establish an affordable housing trust fund in the Coastal Zone. No development project is proposed or approved as part of the Project. As such, the Project will not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Therefore, no impacts would occur, no further analysis is required.

## VII. GEOLOGY AND SOILS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Directly or indirectly cause substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Be located on a geologic unit that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:**

**i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.**

**ii) Strong seismic ground shaking?**

**iii) Seismic-related ground failure, including liquefaction?**

**iv) Landslides?**

**i. Less Than Significant Impact.** The California Geological Survey (CGS) designates Alquist-Priolo Earthquake Fault Zone, which are regulatory zones around active faults. These zones, which extend from 200 to 500 feet on each side of known active faults could prove hazardous and identify where special studies are required to characterize hazards to habitable structures. A significant impact may occur if a project would cause personal injury or death or result in property damage as a result of a fault rupture occurring in the Project Area and is also located in a State-designated Alquist-Priolo fault zone or where appropriate building practices are not employed. The Alquist-Priolo Earthquake Fault Zoning Act is intended to mitigate the hazard of surface fault rupture on structures for human occupancy.

According to the California Department of Conservation Special Studies Zone Map, a portion of the Project Area is located in the Alquist Priolo Earthquake Fault Zone. The southern portion of Subarea 1 - Pacific Palisades falls along the Potrero Canyon Fault Zone<sup>12</sup>. However, the proposed Project does not propose or approve a development project. Therefore, grading, excavation or other fault endangering activities associated with new development are not anticipated. The proposed Project would not expose people or structures to potential adverse effects resulting from the rupture of known earthquake faults. Thus, there would be a less than significant impact related to personal injury or death or resulting in property damage due to a fault rupture would occur. No other analysis is required.

**ii. Less Than Significant Impact.** A significant impact would occur if a proposed project would cause personal injury or death or result in property damage as a result of seismic ground shaking. The entire Southern California region is susceptible to strong ground shaking from severe earthquakes. Consequently, any development could expose people and structures to strong seismic ground shaking. The Project Area is located within seismically active Southern California and therefore, could be subject to moderate and possibly strong ground motion due to earthquakes on the Portrero Canyon Fault Line. However, the Project does not change zoning or General Plan designations, create

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<sup>12</sup> California Department of Conservation, EQ Zapp: California Earthquake Hazards Zone Application, <https://maps.conservation.ca.gov/cgs/EQZApp/app/>, accessed on August, 17, 2020

any zoning entitlements, approve any development projects, or introduce any new land uses that would result in strong seismic ground shaking or exacerbate existing environmental conditions so as to potentially cause strong seismic ground shaking.

In addition, all future development in the Project Area would be required to comply with all relevant California Building Code (CBC) and the City of Los Angeles Uniform Building Code (UBC) seismic standards, and if necessary the preparation of a site-specific geotechnical investigation that would evaluate the potential for seismic risk and identify appropriate mitigation measures. Implementation of the proposed Project does not trigger new development or construction and is not expected to induce development or otherwise alter existing development patterns. Grading, excavation, or other activities associated with increasing strong seismic ground shaking are not anticipated. Therefore, the proposed Project would result in less than significant impacts. No further analysis is required.

**iii. Less Than Significant Impact.** A significant impact may occur if a proposed project site is located within a liquefaction zone. Liquefaction is the loss of soil strength or stiffness due to a buildup of pore-water pressure during severe ground shaking. Soil liquefaction occurs when loose, saturated, granular soils lose their inherent shear strength due to excess water pressure that builds up during repeated movement from seismic activity. Factors that contribute to the potential for liquefaction include a low relative density of granular materials, a shallow groundwater table, and a long duration and high acceleration of seismic shaking.

The California Department of Conservation's Seismic Hazard Zones Map identifies liquefaction zones in the Project Area. Liquefaction zones can be found in Subarea 1 Palisades - Topanga Liquefaction Zone, in Subarea 2 Venice - Venice Liquefaction Zone and Subarea 3 Harbor - San Pedro Liquefaction Zone<sup>13</sup>. The Project is limited to an ordinance to adopt regulations to implement the Mello Act in the Coastal Zone and establish an affordable housing trust fund in the Coastal Zone. The Project does not propose or approve any development project or ground disturbing activity. Current and future construction activities would continue to be required to comply with current seismic design provisions of the California Building Code and City's Building Code, which incorporates relevant provisions related to protection against liquefaction. Compliance with regulatory measures would reduce potential impacts. As such, the proposed Project would result in a less than significant impact related to seismic-related ground failure, including liquefaction and so no further analysis is required.

**iv. Less Than Significant Impact.** Landslides are movements of large masses of rock, and/or soil. Landslide potential is generally the greatest for areas with steep and /or high slopes, low shear strength, and increased water pressure. A significant impact would occur if a proposed project would be implemented on a site that would be located in a

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<sup>13</sup> California Department of Conservation, EQ Zapp: California Earthquake Hazards Zone Application <https://maps.conservation.ca.gov/cgs/EQZApp/app/>, accessed on August 17, 2020.

hillside area with unstable geological conditions or soil types that would be susceptible to failure when saturated that would suggest potential for sliding.

According to the California Department of Conservation, the Project Area contains identified landslide zones in each of the Subareas including the Topanga Landslide Zone in the Subarea 1 Palisades, Venice Landslide Zone in Subarea 2 Venice, and the San Pedro Landslide Zone in Subarea 3 Harbor<sup>14</sup>. The Project is limited to an ordinance to adopt regulations and procedures to comply with the Mello Act in the Coastal Zone and a secondly to establish an affordable housing trust fund in the Coastal Zone. The Project does not propose or approve any development project or any ground disturbing activity that would result in a landslide.

Future developments in the Project Area would be required to comply with all applicable regulations and standards of the LAMC, which sets specific building requirements beyond the CBC. In addition, if deemed necessary by the Department of Building and Safety, project applicants would be required to prepare a site-specific geotechnical investigation that would evaluate the potential for landslide risk and identify appropriate mitigation measures. Compliance with these regulatory measures would ensure that any development project would not create substantial geologic risk due to landslides. Therefore, the Project will have a less than significant impact as it relates to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides. No further analysis is required.

#### **b) Result in substantial soil erosion or the loss of topsoil?**

**Less Than Significant Impact.** A significant impact would occur if construction activities or future uses would result in substantial soil erosion or loss of topsoil. Erosion is the movement of rock and soil from place to place and is a natural process. Common agents of erosion in the vicinity of the Project Area include wind and flowing water including the coastline. Significant erosion typically occurs on steep slopes where stormwater and high winds can carry topsoil down hillsides. Erosion can be increased greatly by earthmoving activities or where erosion control measures are not used.

The Project is limited to an ordinance to adopt regulations and procedures to implement the Mello Act in the Coastal Zone and establish the Coastal Zone Affordable Housing Trust Fund. The Project does not propose or approve any development project. Construction of future development projects that would result in ground surface disturbance during site clearance, excavation, and grading and could create the potential for soil erosion would be required to perform in accordance with the requirements of the Los Angeles Building Code and the Los Angeles Regional Water Quality Control Board (LARWQCB) through the City's Stormwater Management Division. In addition, the proposed Project would be required to develop a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP would require implementation of an erosion control plan to reduce the potential for wind or waterborne erosion during the construction process. All

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<sup>14</sup> California Department of Conservation, EQ Zapp: California Earthquake Hazards Zone Application <https://maps.conservation.ca.gov/cgs/EQZApp/app/>, accessed on August 17, 2020.

onsite grading and site preparation would comply with applicable provisions of Chapter IX, Division 70 of the LAMC, and conditions imposed by the City of Los Angeles Department of Building and Safety's Soils Report Approval Letter. Furthermore, all development of new homes would be subject to all applicable Best Management Practices (BMPs) relating to erosion and stormwater runoff and included in the City's Low Impact Development (LID) Ordinance (Ordinance No. 181,899). Therefore, a less than significant impact would occur with respect to erosion or loss of topsoil.

**c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?**

**No Impact.** A significant impact would occur if a proposed project would be implemented on a site that would be located in a hillside area with unstable geological conditions or soil types that would be susceptible to failure when saturated. As previously mentioned, according to the California Department of Conservation, Division of Mines and Geology, the Seismic Hazard Zones Map shows the Project Area is located within landslide hazard zones and is susceptible to liquefaction. The proposed Project does not propose or approve development or any ground disturbing activity and does not authorize or expand any land uses. The Project is limited to an ordinance to adopt regulations and procedures to comply with the Mello Act in the Coastal Zone and establish the Coastal Zone Affordable Housing Trust Fund. Since the Project does not approve any construction or ground disturbing activity, the Project would not expose people or structures to soil that is unstable or that would become unstable and the potential effects resulting from landslides, lateral spreading, subsidence, liquefaction, or collapse and no impacts would occur.

**d) Be located on expansive soil, as defined in Table 18.1 B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?**

**No Impact.** A significant impact would occur if a proposed project would be built on expansive soils without proper site preparation or design features to provide adequate foundations for project buildings, thus, posing a hazard to life and property. Expansive soils have relatively high clay minerals and expand with the addition of water and shrink when dried, which can cause damage to overlying structures.

Any future development in the Project Area would be required to comply with the requirements of the Uniform Building Code (UBC), LAMC, and other applicable building codes. Compliance with such requirements would reduce impacts related to expansive soils, thus impacts would be less than significant. However, since the proposed Project does not propose or approve any development project or any ground disturbing activity, the proposed Project would result in no impact.

**e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?**

**No Impact.** A project would cause a significant impact if adequate wastewater disposal is not available. The Project Area is mostly located in a developed area which includes existing public infrastructure for wastewater disposal systems. The use of septic tanks or alternative wastewater disposal systems would not be required. The proposed Project does not propose or approve development and does not adopt or expand any allowable land uses. The proposed Project is limited to an ordinance to adopt procedures and regulations to comply with the Mello Act in the Coastal Zone and establish the Coastal Zone Affordable Housing Trust Fund. Therefore, the proposed Project would result in no impacts to soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems. No further analysis is required.

**f) . Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?**

**No Impact.** Paleontological resources include fossil remains or traces of past life forms, including both vertebrate and invertebrate species, as well as plants. Paleontological resources are generally found within sedimentary rock formations. A significant impact may occur if a project destroys a unique paleontological resource site or unique geologic feature. The proposed Project is limited to an ordinance to adopt procedures and regulations to comply with the Mello Act in the Coastal Zone and establish the Coastal Zone Affordable Housing Trust Fund. The Project does not involve any development project, construction or ground disturbing activity that would directly or indirectly destroy a unique paleontological resource or site or unique geologic feature. There, the proposed Project would result in no impact and no further analysis is required.

## VIII. GREENHOUSE GAS EMISSIONS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

**Less Than Significant Impact.** Greenhouse gases (GHG) are those gaseous constituents of the atmosphere, both natural and human generated, that absorb and emit radiation at specific wavelengths within the spectrum of terrestrial radiation emitted by the earth's surface, the atmosphere itself, and by clouds. GHG has been recognized to contribute to global climate change. Predicted effects of global climate change include sea level rise, water supply changes, changes to ecosystems and habitat, and human health effects.

The Project is an ordinance to adopt regulations and procedures to comply with the Mello Act in the city's Coastal Zone and establish the Coastal Zone Affordable Housing Trust Fund. The proposed Project by itself does not expand any land uses and does not alter the existing building pattern.

In order to implement the goal of improving energy conservation and efficiency, the Los Angeles City Council has adopted multiple ordinances and updates to establish the current Los Angeles Green Building Code (LAGBC) (Ordinance No. 181,480). The LAGBC requires projects to achieve a 20 percent reduction in potable water use and wastewater generation. The City has also adopted the LA Green New Deal Plan to provide a citywide plan for achieving the City's GHG emissions targets, for both existing and future generation of GHG emissions. Through required implementation of the LAGBC and the LA Green New Deal Plan, the proposed Project would be consistent with local and statewide goals and policies aimed at reducing the generation of GHGs. Therefore, the proposed Project's generation of GHG emissions would not make a cumulatively considerable contribution to emissions and impacts would be less than significant.

**b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?**

**Less Than Significant Impact.** The California legislature passed Senate Bill (SB) 375 to connect regional transportation planning to land use decisions made at a local level. SB 375 requires the metropolitan planning organizations to prepare a Sustainable Communities Strategy (SCS) in their regional transportation plans to achieve the per capita GHG reduction targets. For the Southern California Association of Government (SCAG) region, the SCS is contained in the 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS). The 2020-2045 RTP/SCS focuses the majority of new housing and job growth in high-quality transit areas and other opportunity areas on existing main streets, in downtowns, and commercial corridors, resulting in more opportunity for transit-oriented development. In addition, SB 743, adopted September 27, 2013, encourages land use and transportation planning decisions that reduce vehicle miles traveled, which contribute to GHG emissions, as required by AB 32. As the proposed Project does not consist of a development project, there is no construction activity and consequently no activity associated with the operation of a structure. The proposed Project also is not expected to alter existing development patterns. The Project is the adoption of an ordinance to adopt permanent local regulations to comply with the Mello Act which is intended to preserve housing in the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. The Project would not interfere with SCAG's ability to implement the regional strategies outlined in the 2020-2045 RTP/SCS. The Project, therefore, would not conflict with statewide, regional and local goals and policies aimed at reducing GHG emissions and would result in a less than significant impact related to plans that target the reduction of GHG emissions.

## IX. HAZARDS AND HAZARDOUS MATERIALS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?**

**No Impact.** A significant impact would occur if a proposed project would create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. The Project would not specifically result in the transport, use, and disposal of construction related hazardous materials, as no specific development is proposed or approved. The Project consists of an ordinance to adopt regulations and procedures to comply with the Mello Act in the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. The Project does not consist of a development or any construction related activity. The Project does not propose or approve any activities that would result in the use or discharge of unregulated hazardous materials and/or substances, or create a public hazard through transport, use, or disposal. Any future development in the Project Area would be required to comply with all applicable local, state and federal regulations governing the routine transport, use or disposal of hazardous materials. With compliance to applicable standards and regulations and adherence to manufacturer’s instructions related to hazardous materials, the proposed Project would not create a significant hazard and would result in no impact.

**b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?**

**Less Than Significant Impacts.** A significant impact would occur if a proposed project created a significant hazard to the public or environment due to a reasonably foreseeable release of hazardous materials. However, the Project does not approve or propose any new development and is not expected to alter existing development or development patterns. No excavation or construction-related activities are anticipated to occur which could result in the release of hazardous materials into the environment. Therefore, the Project would not create significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. Therefore, the Project would result in less than significant impacts related to upset and accident conditions. No further analysis is required.

**c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?**

**Less Than Significant Impact.** Construction activities have the potential to result in the release, emission, handling, and disposal of hazardous materials within one-quarter mile of an existing school. There are 16 existing schools located within the Project Area (Table 5).

**Table 5: Schools within the Project Area**

School	Coastal Zone Subarea	Site Address
Marquez Charter School	Subarea 1 Palisades	16821 Marquez Ave

Palisades Charter High School	Subarea 1 Palisades	15777 Bowdoin St
Canyon Elementary School	Subarea 1 Palisades	421 Entrada Dr
Ánimo Venice Charter High School	Subarea 2 Venice	820 Broadway St
Broadway Elementary School	Subarea 2 Venice	1015 Lincoln Blvd
Broadway Elementary School Mandarin Language Immersion Program	Subarea 2 Venice	1015 Lincoln Blvd
Broadway Elementary School Spanish Language Immersion Program	Subarea 2 Venice	1015 Lincoln Blvd
Westminster Avenue Elementary School (Math & Technology/Environmental Studies Magnet)	Subarea 2 Venice	1010 Abbot Kinney Blvd
Westside Global Awareness Magnet	Subarea 2 Venice	104 Anchorage St
15th Street Elementary School	Subarea 3 Harbor	1527 S Mesa St
Alliance: Alice M. Baxter College-Ready High School	Subarea 3 Harbor	461 W 9th St
Angel's Gate Continuation High School	Subarea 3 Harbor	3607 S Gaffey St
Point Fermin Elementary School (Marine Sciences Magnet)	Subarea 3 Harbor	3333 Kerckhoff Ave
San Pedro Senior High (Marine Science, Math Science, & Technology Magnet)	Subarea 3 Harbor	1001 W 15th St
San Pedro Senior High (Police Academy Magnet)	Subarea 3 Harbor	1001 W 15th St
White Point Elementary School	Subarea 3 Harbor	1410 Silvius Ave

The Project does not approve or propose any new development. As discussed in Section IX (a) above, any future development project may include the use of those hazardous materials that are typically necessary for construction of new developments (e.g., paints, building materials, cleaners, fuel for construction equipment, etc.) where construction activities would involve routine transport, use and disposal of construction-related hazardous materials. Conformance with all applicable local, state and federal regulations governing such activities would result in a less than significant impact related to hazardous emissions, acutely hazardous materials, substances, or waste impacting schools. However, since there is no development project and no related construction activity the proposed Project would result in less than significant impacts related to schools. No further analysis is required.

**d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?**

**No Impact.** A significant impact would occur if the project site is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and would create a significant hazard to the public or the environment. The California Department of Toxic Substances Control (DTSC) maintains a database (EnviroStor) that provides access to detailed information on hazardous waste permitted sites and corrective action facilities, as well as existing site cleanup information. EnviroStor also provides information on investigation, cleanup, permitting, and/or corrective actions that are planned, being conducted, or have been completed under DTSC’s oversight.

A review of the EnviroStor website showed that there were 50 Cleanup Sites located in the Project Area, 4 in Subarea 1, 12 in Subarea 2 and 34 in Subarea 3.

**Table 6: Clean Up Sites within the Project Area<sup>15</sup>**

Location	Coastal Zone Subarea	Clean Up Type/ Status
Pacific Palisades Village 1045 Swarthmore Avenue	Subarea 1 Palisades	Voluntary Clean Up/Active
Former Mobil Gas Station 15281 Sunset Blvd.	Subarea 1 Palisades	Voluntary Clean Up/Active
Texas/Mobil Service Station 16605 Sunset Blvd.	Subarea 1 Palisades	Voluntary Clean Up/Active
Sunset Cleaners 16605 Sunset Blvd.	Subarea 1 Palisades	Voluntary Clean Up/Active
Edision/Venice MGP Parce A 340 Main Street & 321 Hampton Drive	Subarea 2 Venice	State Response/Certified
Pioneer French Bakery 354 Third Avenue	Subarea 2 Venice	Evaluation/Refer to Local Agency
Combined Properties Inc. 201 Lincoln Blvd.	Subarea 2 Venice	Voluntary Clean Up/Certified
Guaranteed Muffler 609 Lincoln Blvd.	Subarea 2 Venice	Evaluation/Refer to Local Agency
Animo Venice Charter High School 841 California Avenue	Subarea 2 Venice	School Investigation/No further action
El Segundo Batter Site	Subarea 2 Venice	Military Evaluation/Inactive
Playa del Rey FCS #1	Subarea 2 Venice	Military Evaluation/Inactive
Gus Storage Reservoir	Subarea 2 Venice	Military Evaluation/Inactive
Marina One Hour Cleaner 4019 Lincoln Blvd.	Subarea 2 Venice	Voluntary Clean Up/Refer RWQCB
Commercial Complex 3237 Carter Avenue	Subarea 2 Venice	Voluntary Clean Up/Refer to Local Agency
Jefferson at Marina del Rey 3217 -3221 & 3237 Carter	Subarea 2 Venice	Voluntary Clean Up/Certified O&M Land Use Restrictions

<sup>15</sup> Department of Toxic Controlled Substances, Hazardous Waste and Substances Site List – Site Cleanup (Cortese List). [https://www.envirostor.dtsc.ca.gov/public/map/?global\\_id=60002866](https://www.envirostor.dtsc.ca.gov/public/map/?global_id=60002866) accessed on September 1, 2020

Nike TY 70	Subarea 2 Venice	Military Evaluation/Inactive
Fort Macarthur Lower & Middle Res 2901 Arthur MacArthur	Subarea 3 Harbor	State Response/Inactive
LA District Office and Yard	Subarea 3 Harbor	Military Evaluation/Inactive
Pacific View Investments 1415-1460 West 25th Street	Subarea 3 Harbor	Evaluation/ Refer
Fort Macarthur Upper Reservation 28th Street Gaffey Street and 31st Street	Subarea 3 Harbor	Military Evaluation/No Further Action
South Region High School #15 3200 South Alameda	Subarea 3 Harbor	School Clean Up/ Certified O&M Land Use Restriction
Los Angeles Air Force Base (Fort MCA) MacArthur Douglas Street	Subarea 3 Harbor	Military Evaluation/Refer
Fort MacArthur Lower Reservoir	Subarea 3 Harbor	Military Evaluation/Inactive
Naval Dir Finder	Subarea 3 Harbor	Military Evaluation/Inactive
Naval Landing	Subarea 3 Harbor	Military Evaluation/Inactive
San Pedro Boat Works Port of Los Angeles BERTHS 44-45	Subarea 3 Harbor	State Response/Active
GATX Annex Terminal 208 East 22nd Street	Subarea 3 Harbor	State Response/Certified O&M Land Use Restrictions
Western Pipe & Steel	Subarea 3 Harbor	Military Evaluation/Inactive
Wilmington Supply CSC	Subarea 3 Harbor	Military Evaluation/ Inactive
AMTB Batteries	Subarea 3 Harbor	Military Evaluation/Inactive
Res NT La Harbor	Subarea 3 Harbor	Military Evaluation/Inactive
Bethlehem Ship Building Corp	Subarea 3 Harbor	Military Evaluation/Inactive
Southwest Marine Terminal Island Facility - 985 Seaside	Subarea 3 Harbor	State Response/Active
Camp Ross	Subarea 3 Harbor	Military Evaluation/Inactive
Catalina Terminal	Subarea 3 Harbor	Military Evaluation/Inactive
DW Russell Co. 412 Harry Bridges	Subarea 3 Harbor	Evaluation/Refer to Local Agency
California Yacht Club	Subarea 3 Harbor	Military Evaluation/Inactive
Gibson Environmental 401 Canal Street	Subarea 3 Harbor	Hazardous Waste/Undergoing Closure
Koppers Los Angeles 210 South Avalon	Subarea 3 Harbor	Voluntary Clean Up/No Further Action
Roehl Disposal Services 131 N. Marine	Subarea 3 Harbor	Hazardous Waste/Closed
Avalon Triangle 101 N. Broad Street	Subarea 3 Harbor	Voluntary Clean Up/Active
CALTRANS Terminal Island 420 Henry Ford	Subarea 3 Harbor	State Response/No Further Action

Wilmington Disposal Center	Subarea 3 Harbor	Military Evaluation/Inactive
Hugo Neu Proler Company 901 New Dock Avenue	Subarea 3 Harbor	Corrective Action/Active
Port of Long Beach Parcel 1 New Dock Street and Henry Ford	Subarea 3 Harbor	Evaluation/Inactive
Roosevelt Naval Base	Subarea 3 Harbor	Military Evaluation/Inactive
Long Beach Naval Complex Off Ocean Blvd and Navel Way	Subarea 3 Harbor	State Response/Active Land Use Restrictions
EPTC Long Beach	Subarea 3 Harbor	Hazardous Waste/Closed with Land Use Restrictions
Long Beach Generation Station 2685 Seaside Blvd.	Subarea 3 Harbor	Corrective Action/Active
Pier S Area 4 Port of Long Beach	Subarea 3 Harbor	Voluntary Clean Up/Inactive

The Project would not produce any impact causing a significant hazards risk to the public. The Project does not propose or approve development or ground disturbing activity and would not authorize or expand any new or allowable land uses.

Although the proposed Project contains Clean Up sites it would not create a significant hazard to the public or the environment since no development or ground disturbing activity is associated with the Project thus no impact would occur. Any future development that occurs in the Project Area would be required to comply with existing regulations related to hazardous materials. Therefore, with no proposed or approved development project and compliance of state and local laws and regulations for future projects, the Project by itself would result in no impacts related to hazardous materials sites. No further analysis is required.

**e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?**

**Less Than Significant Impact.** The Project Site is located within one mile of the Los Angeles International Airport (LAX) and the Santa Monica Municipal Airport. The Project consists of an ordinance to adopt regulations and procedures to comply with and apply the Mello Act in the Coastal Zone and to establish an affordable housing trust fund in the Coastal Zone. The proposed Project does not change zoning or General Plan designations, create any zoning entitlements, approve any development projects, or introduce any new land uses, or foreseeably result in new development that would result in a safety hazard or excessive noise for people in the Project Area. Therefore, it is not anticipated that the proposed Project would result in a safety hazard for people residing or working in the Project Area who are within an airport land use plan, where such a plan has been adopted or are within two miles of a public airport, and a less than significant impact would occur.

**f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**

**No impact.** Emergency services in the City are provided by the City of Los Angeles Fire Department (LAFD) and the City of Los Angeles Police Department (LAPD). Emergency incidents of a larger natural or manmade disaster require coordinated efforts between the LAFD, LAPD and the City's Emergency Operation Center (EOC). The EOC is the focal point for coordination of the City's emergency planning, training, response and recovery efforts. EOC processes follow the U.S. Department of Interior National All-Hazards approach to major disasters such as fires, floods, earthquakes, acts of terrorism and large-scale events in the City that require involvement by multiple city departments.

The City of Los Angeles, General Plan Safety Element identifies the following streets as designated disaster routes serving the Project Area: Subarea 1 Palisades - Sunset Blvd, Subarea 2 Venice - Venice Blvd., Lincoln Blvd., Sepulveda and Manchester, Subarea 3 Harbor - Pacific, Western, 25th, Alameda, 9th, Paseo del Mar, Harbor and Figueroa<sup>16</sup> The Project would not require the closure of any public or private streets and would not impede emergency vehicle access to the Project Area or surrounding area. The Project itself does not propose or approve any development project, expand any land uses or alter any development patterns. Emergency access to and from the Project Area would be provided in accordance with requirements of the Los Angeles Fire Department (LAFD). Therefore, it is not anticipated that the Project would impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan, and no impact would occur.

**g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?**

**Less Than Significant Impact.** The Project Area is located within an urbanized area with a mix of uses including single-family, multi-family residential, commercial, open space and manufacturing uses. The Selected Wildfire Hazard Areas are located mostly in the hilly areas of the City. Within the Project Area, Exhibit D Selected Wildfire Hazard Areas Map of the General Plan Safety Element identifies parts of Subarea 1 Palisades containing areas with Mountain Fire Districts or Fire Buffer Zones<sup>17</sup>. However, as previously stated, the Project does not propose or approve any development or expand any allowable land uses. The Project consists of an ordinance to adopt regulations and procedures to comply with the Mello Act in the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. Thus, the Project is not anticipated to increase risk or expose people or structures to a significant risk of loss, injury or death involving

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<sup>16</sup> City of Los Angeles, General Plan Safety Element, Exhibit H Critical Facilities and Lifeline Systems. [https://planning.lacity.org/odocument/31b07c9a-7eea-4694-9899-f00265b2dc0d/Safety\\_Element.pdf](https://planning.lacity.org/odocument/31b07c9a-7eea-4694-9899-f00265b2dc0d/Safety_Element.pdf), accessed on September 1, 2020

<sup>17</sup> City of Los Angeles, General Plan, Safety Element Exhibit D WildFire Hazard Areas. [https://planning.lacity.org/odocument/31b07c9a-7eea-4694-9899-f00265b2dc0d/Safety\\_Element.pdf](https://planning.lacity.org/odocument/31b07c9a-7eea-4694-9899-f00265b2dc0d/Safety_Element.pdf), accessed on September 1, 2020

wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

Prior to the issuance of any building permits for any future development pursuant to the Project, developments would be reviewed by the Los Angeles Fire Department to ensure any new development is designed and constructed to conform with all applicable Los Angeles Fire Code regulations protecting it from wildfires. This would include the addition of automatic sprinklers, smoke detectors and a fire alarm system for new development projects located in high fire severity zones. Therefore, the Project would result in less than significant impacts related to wildland fires. No further analysis is required.

## X. HYDROLOGY AND WATER QUALITY

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i. Result in substantial erosion or siltation on- or off-site;				
ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;				
iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or				
iv. Impede or redirect flood flows?				
d. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?**

**Less Than Significant Impact.** A significant impact would occur if a development discharges water that does not meet the quality standards of agencies which regulate surface water quality and water discharge into storm water drainage systems, or does not comply with all applicable regulations as governed by the Los Angeles Regional Water Quality Control Board (LARWQCB) or the State Water Resources Control Board (SWRCB). The LARWQCB issued Waste Discharge Requirements for Municipal Stormwater and Urban Runoff Discharges (NPDES Permit No. CAS004001), which requires new development and redevelopment projects to incorporate stormwater mitigation measures. Depending on the type of project, either a SUSMP or a Site-Specific Mitigation Plan is required to reduce the quantity and improve the quality of rainfall runoff that leaves a project site.

The Project does not propose or approve a development or expand any land uses and does not produce any point source discharge (discharge of polluted water from a single point such as sewage outflow pipe). Stormwater runoff from any future development has the potential to introduce small amounts of pollutants such as pesticides, fertilizers and ordinary household cleaners into the stormwater system. Future developments would be required to comply with the National Pollutant Discharge Elimination System standards and the City's Stormwater Urban Runoff Pollution Control regulations (Ordinance No. 172,176 and No.173,494) to ensure pollutant loads from the project site are minimized for downstream receiving waters. Developments would be required during construction activities and operation of projects to integrate low impact development practices and standards for stormwater pollution mitigation, and maximize open, green and previous space on all projects consistent with the City's landscape ordinance and other related requirements in the City's Development Best Management Practices (BMPs) Handbook. In addition, projects, would also be required to comply with the City of Los Angeles Low Impact Development (LID) (Ordinance No. 181,899) which is a stormwater management strategy and requirements of the City's Standard Urban Stormwater Mitigation Plan (SUSMP) to address stormwater pollution from new development projects. Conformance with these regulations would be required during the City's building plan review and approval process and ensure a less than significant impact to violations of any water quality standards, waste discharge requirements or degradation of surface or ground water quality. As such, the Project would result in a less than significant impact related to water quality and water discharge. No further analysis is required.

**b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?**

**No Impact.** A significant impact would occur if a proposed project would substantially deplete groundwater or interfere with groundwater recharge. Potable water would be supplied by the Los Angeles Department of Water and Power (LADWP), which draws its water supplies from distant sources for which it conducts its own assessment and mitigation of potential environmental impacts. The proposed Project consists of an

ordinance to adopt regulations and procedures to comply with the Mello Act in the Coastal Zone and adopt the Coastal Zone Affordable Housing Trust Fund. The Project does not propose or approve any development project, expand any land uses or change any development patterns. Therefore, it is anticipated that the Project would not require direct additions or withdrawals of groundwater. There would be no impact on groundwater supplies or groundwater recharge, no further analysis is required.

**c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:**

- i. Result in substantial erosion or siltation on- or off-site;**
- ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;**
- iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or**
- iv. Impede or redirect flood flows?**

**Less Than Significant Impact.** A significant impact would occur if a proposed project would substantially alter the drainage pattern of an existing stream or river so that erosion or siltation would result. In general, the Project Area is mostly built out with single-family, multi-family, commercial and industrial uses with the exception of Subarea 1, where there are large areas of undeveloped parcels. There are natural waterways and streams located throughout the Project Area in each Subarea<sup>18</sup>.

The proposed Project does not propose or approve development, nor does it intensify or change any land uses. Significant alterations to existing drainage patterns within the Project Area and surrounding area would not occur as a result of the Project. As discussed in Section X(a) above, development that occurs in the Project Area would be required to comply with all federal, state and local regulations regarding stormwater runoff, including the City's LID Ordinance and the City's UWWMP Best Management Practices (BMPs). Compliance with these regulatory measures would reduce the amount of surface water runoff in the Project Area after a storm event. In addition, compliance with construction related BMPs and/or the Storm Water Pollution Prevention Plan (SWPPP) would control and minimize erosion and siltation on or off-site. Moreover, the Project does not construct any structures that would impede flood flows within a 100 year or 500-year flood plain. Therefore, it is not anticipated that the proposed Project would result in impacts related to stormwater drainage patterns that would cause flooding, contribute to excess polluted runoff, on- or off-site erosion or siltation impeding or redirecting of flood flows, as such, there would be a less than significant impact. No further analysis is needed.

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<sup>18</sup> City of Los Angeles, Navigate LA. <https://navigatea.lacity.org/navigatea/>, accessed on August 19, 2020.

**d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?**

**Less Than Significant Impact.** A significant impact would occur if a proposed project would be located within an area susceptible to inundation by seiche, tsunami, or inundation. A seiche is an oscillation of a body of water in an enclosed or semi-enclosed basin, such as a reservoir, harbor, or lake. The Project Area is not located in an area where it would be susceptible to a seiche. A tsunami is a great sea wave produced by a significant undersea disturbance. The Project Area is in the Coastal Zone which is located adjacent to the Pacific Ocean and could be susceptible to a tsunami or possible inundation in the event of a natural disaster. According to the Safety Element of the City of Los Angeles General Plan, Exhibit F 100-Year & 500-Year Flood Plains Map, all three Subareas within the Project Area are located within a 100-year or 500-year flood plain. Additionally, the General Plan Safety Element, Exhibit G identifies portions of the Project Area as areas susceptible to inundation and tsunamis; Subarea 1 Palisades - inundation, Subarea 2 - Venice - inundation and tsunami and Subarea 3 San Pedro Harbor - tsunami<sup>19</sup>. However, the Project does not propose or approve a development project or ground disturbing activity. The Project is limited to an ordinance to adopt regulations and procedures to comply with the Mello Act in the Coastal Zone and to establish a Coastal Zone Affordable Housing Trust Fund. Therefore, it is not anticipated that the Project by itself would release pollutants due to project inundation in flood hazard, tsunami or seiche zones, and a less than significant impact would occur.

**e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?**

**No Impact.** A significant water quality impact may occur if a project is not consistent with water quality control plans or sustainable groundwater management plans. The Project does not propose or approve any development and is not intensifying any existing allowable land uses, thus, existing conditions are not expected to significantly change or cause a conflict with or obstruct the implementation of a water quality control plan or sustainable groundwater management plan. Any future development would continue to be subject to all applicable state or local water quality control plans or sustainable groundwater management plans. Therefore, the proposed Project would result in no impacts related to implementation of a water quality control plan or sustainable groundwater management plan. No further analysis is needed.

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<sup>19</sup> City of Los Angeles, General Plan Safety Element, Exhibit G, Inundation & Tsunami Hazard Areas, [https://planning.lacity.org/odocument/31b07c9a-7eea-4694-9899-f00265b2dc0d/Safety\\_Element.pdf](https://planning.lacity.org/odocument/31b07c9a-7eea-4694-9899-f00265b2dc0d/Safety_Element.pdf), accessed on August 19, 2020.

## XI. LAND USE AND PLANNING

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### a) Physically divide an established community?

**No Impact.** A significant impact would occur if a proposed project would be sufficiently large or configured in such a way so as to create a physical barrier within an established community. A physical division of an established community is caused by an impediment to through travel or a physical barrier, such as a new freeway with limited access between neighborhoods on either side of the freeway, or major street closures. The Project would not involve any street vacation or closures or result in development of new thoroughfares or highways which would divide established communities. The Project consists of an ordinance to adopt regulations and procedures to comply with the Mello Act in the Coastal Zone and to adopt an affordable housing trust fund in the Coastal Zone. The Project does not propose or approve any development project or expand or intensify any land uses. Therefore, no impact would occur as it relates to the physical division of an established community. No further analysis is required.

### b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

**No Impact.** A significant impact may occur if a project is inconsistent with the General Plan or zoning designations currently applicable to the project site, and would cause adverse environmental effects, which the General Plan and zoning are designed to avoid or mitigate.

In the City of Los Angeles, the General Plan Framework Element serves as the City's strategy for long-term growth and sets the citywide context to help guide the update of the Community Plans (Land Use Element) and citywide elements (e.g., Housing Element, Conservation Element, Air Quality Element, Safety Element, etc.). The City's Land Use Element consists of the 35 Community Plans, which include goals and land use policies to guide the physical development of specific areas throughout the City.

The Project would not cause a significant environmental impact due to a conflict with any land use plan, policy or regulation. The Project Area consists of the City's Coastal Zone which is located in portions of the Venice Community Plan, Brentwood-Palisades Community Plan, Mar Vista Del Rey Community Plan, San Pedro Community Plan and Wilmington Community Plan. As previously mentioned, the Project consists of an ordinance to adopt regulations and procedures to comply with the Mello Act in the Coastal Zone and adopt the Coastal Zone Affordable Housing Trust Fund. The Project would support the vision and purpose of the adopted General Plan Framework and land use plans in a manner that is complementary to the goals and policies of the City as it relates to housing.

The General Plan Framework identifies the following goals in relation housing Citywide.

- *An adequate supply of housing accessible to persons of all income levels*
- *A City of residential neighborhoods that maintains a sense of community by conserving and improving existing housing stock*
- *Housing opportunities accessible to all City residents without discrimination, including groups with special needs*
- *Preservation of the City's stable single-family residential neighborhoods.*
- *Multi-family neighborhoods that enhance the quality of life for the City's existing and future residents.*
- *An equitable distribution of housing opportunities by type and cost accessible to all residents of the City.*

#### *Housing Element Policy*

- *Discourage development, demolition and conversion that contribute to the loss of affordable housing and encourage one for one replacement (based on bedroom count) of demolished affordable units.*
- *Actively promote the financing of affordable housing.*
- *Support public and private programs to maximize home ownership opportunities (including homeowner counseling/training) through provision of private and public programs such as subsidized interest loans, reduced down payments and loan counseling and packaging.*

The Project does not conflict with and is consistent with the stated goals related to housing in the City's General Plan Framework Element and the City's Housing Element. Therefore, no impact would occur, and no further analysis is necessary.

## XII. MINERAL RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

**No Impact.** A significant impact would occur if a proposed project would result in the loss of availability of known mineral resources of regional value or locally important mineral resource recovery site. According to the City's General Plan Conservation Element, the Project Area has no lots classified by the City as containing significant mineral deposits nor is it designated for mineral extraction land use<sup>20</sup>. In addition, the Project itself does not propose or approve development or expand any land uses. Therefore, the Project would not result in the loss of availability of any known mineral resource that would be of value to the region, and no impact would occur.

### b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

**No Impact.** A significant impact would occur if a proposed project would result in the loss of availability of known mineral resources of regional value or locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan. As discussed in XII (a), there are no portions of the Project Area that are designated as a mineral resource as delineated in the City's General Plan Conservation Element. Therefore, the Project would result in no impact related to the loss of availability of a locally important mineral resource recovery site as delineated on a local general plan, specific plan or other land use plan.

<sup>20</sup> City of Los Angeles General Plan, Conservation Element, Exhibit A Mineral Resources. [https://planning.lacity.org/odocument/28af7e21-ffdd-4f26-84e6-dfa967b2a1ee/Conservation\\_Element.pdf](https://planning.lacity.org/odocument/28af7e21-ffdd-4f26-84e6-dfa967b2a1ee/Conservation_Element.pdf), accessed on August 20, 2020.

### XIII. NOISE

Would the project result in:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?**

**Less Than Significant Impact.** The City of Los Angeles has established policies and regulations concerning the generation and control of noise that could adversely affect its citizens and noise-sensitive land uses. The Citywide noise regulations are included in the LAMC, Chapter XI, Section 111.03 which sets forth presumed day/night ambient noise levels based on zones. Presumed ambient noise levels for residential zones are 50 dB(A) during the day and 40 dB(A) during the night and 60 dB(A) during the day and 55 dB(A) during the night for commercial uses. Section 112.05 of the LAMC establishes that between the hours of 7 a.m. and 10 p.m. a maximum noise level for construction equipment is 75 dB(A) at a distance of 50 feet when operated within 500 feet of a residential zone. Construction activity could result in temporary increases in ambient noise levels in the project area on an intermittent basis. Noise levels could fluctuate depending on the construction phase, equipment type and duration of use, distance between the noise source and receptor, and presence or absence of noise attenuation barriers.

The Project consists of an ordinance to adopt regulations and procedures to apply the Mello Act in the Coastal Zone and establish the Coastal Zone Affordable Housing Trust Fund. The Project by itself does not propose or approve development, construction or any ground disturbing activity and does not change or expand any allowable land uses. Any future development in the Project Area would need to comply with the Citywide Noise Regulations. Thus, it is not anticipated that a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies would be expected. A less than significant impact would occur, and no further analysis is needed.

**b) Generation of, excessive groundborne vibration or groundborne noise levels?**

**No Impact.** A significant impact may occur if a project were to generate excessive vibration during construction or operation. Construction activities can generate varying degrees of vibration, depending on the construction procedures and the type of construction equipment used. The operation of construction equipment generates vibrations that spread through the ground and diminish with distance from the source. Unless heavy construction activities are conducted extremely close (within a few feet) to the neighboring structures, vibrations from construction activities rarely reach the levels that damage structures.

The Project is limited to an ordinance to adopt procedures and regulations to apply the Mello Act to the Coastal Zone and establish the Coastal Zone Affordable Housing Trust Fund. The Project does not propose or approve any development project, operational use of any equipment, and does not directly result in construction activities. Therefore, the Project is not expected to generate excessive groundborne vibration or groundborne noise levels. Consequently, the Project would result in no impacts and no further analysis is required.

**c) For a project located within the vicinity of a private airstrip or an airport land use plan, or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?**

**No Impact.** A significant impact would occur if the proposed project would expose people residing or working in the project area to excessive noise levels from a public airport or public use airport. The Project Area is located within two miles of a public airport or public use airport, the Los Angeles International Airport and the Santa Monica Municipal Airport. However, the Project is limited to an ordinance to adopt procedures and regulations to apply the Mello Act in the Coastal Zone and to establish an affordable housing trust fund in the Coastal Zone. The Project does not propose or approve any development or any ground disturbing activity which would expose people residing or working in the Project Area to excessive noise levels located within the vicinity of a public or private airport. As such, the Project would have no impact and no further analysis is required.

## XIV. POPULATION AND HOUSING

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?**

**Less Than Significant Impact.** A significant impact would occur if a proposed project would induce substantial population growth by locating new development such as homes, businesses or infrastructure, with the effect of substantially inducing unplanned growth that would otherwise not have occurred as rapidly or in as great a magnitude. The Project would not induce substantial population growth in an area directly or indirectly. The increase in residential population resulting from the Project would not be considered substantial in consideration of anticipated growth for the Coastal Zone and is within the Southern California Association of Governments' (SCAG) 2020 population projections for the City in their 2016-2040 Regional Transportation Plan. The Project is limited to an ordinance to adopt regulations and procedures to apply the Mello Act in the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. The Project does not propose or approve any development including new homes or businesses nor does it change or expand any land uses. Therefore, it is not anticipated that the Project will induce substantial unplanned growth in the Project Area. Additionally, the Project does not propose to change or add roads or other infrastructure that would induce such growth. Therefore, a less than significant impact related to population growth would occur.

**b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?**

**Less Than Significant Impacts.** A significant impact would occur if a proposed project would displace a substantial quantity of existing residences or a substantial number of people or housing units necessitating construction of replacement housing elsewhere. The Project would not result in displacement of substantial numbers of existing housing or people necessitating the construction replacement housing elsewhere. The Project is limited to an ordinance to adopt procedures and regulations to apply the Mello Act in the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. The Project does not propose or approve any development, it would not displace substantial numbers of existing housing or people necessitating construction of replacement housing elsewhere. In fact, the Project regulations require replacement of housing units at a one for one replacement ratio in the Project Area. Compliance with this regulation would minimize displacement impacts to less than significant. No further analysis is required.

## XV. PUBLIC SERVICES

*Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:*

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### a) Fire protection?

**Less Than Significant Impact.** The Los Angeles Fire Department (LAFD) is responsible for providing fire prevention, protection and emergency medical services to the Project Area. A significant impact would occur if the LAFD requires the addition of a new fire station or the expansion, consolidation, or relocation of an existing facility to maintain services. Table 7, LAFD Fire Station Serving the Project Area provides the LAFD Fire Stations servicing the Project Area.

Table 7: Fire Stations within the Project Area<sup>21</sup>

Fire Stations	Coastal Zone Subarea	Site Address
Fire Station 23	Subarea 1 Palisades	17281 Sunset Boulevard
Fire Station 19	Subarea 1 Palisades	12229 West Sunset Boulevard
Fire Station 69	Subarea 1 Palisades	15045 Sunset Boulevard
Fire Station 63	Subarea 2 Venice	1930 Shell Avenue
Fire Station 67	Subarea 2 Venice	5451 Playa Vista Drive

<sup>21</sup> Los Angeles Fire Department Fire Stations. <https://www.lafd.org/fire-stations/station-results>, accessed on August 21, 2020

Fire Station 51	Subarea 2 Venice	10435 Sepulveda Boulevard
Fire Station 101	Subarea 3 Harbor	1414 25th Street
Fire Station 48	Subarea 3 Harbor	1601 South Grand Avenue
Fire Station 112	Subarea 3 Harbor	444 South Harbor Boulevard, Berth 86
Fire Station 40	Subarea 3 Harbor	330 Ferry Street
Fire Station 49	Subarea 3 Harbor	400 Yacht Street, Berth 194

The proposed Project is limited to an ordinance to adopt regulations and procedures to apply the Mello Act in the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. Since the proposed Project does not propose or approve any development, it would neither create capacity or service level problems nor result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities in order to maintain acceptable service ratios, response times or other performance objectives for fire protection. Therefore, the Project would result in a less than significant impact related to fire protection. No further analysis is required.

#### b) Police protection?

**Less Than Significant Impact.** The Los Angeles Police Department (LAPD) is responsible for providing police protection services to the Project Area. A significant impact would occur if the LAPD could not adequately serve a proposed project, necessitating a need for a new or physically altered station, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other service objectives.

Table 8, Police Stations Serving the Project Area, provides the LAPD Stations within close proximity to the Project Area.

**Table 8: Police Stations within the Project Area<sup>22</sup>**

Police Stations	Coastal Zone Subarea	Site Address
WEST LOS ANGELES Community Police Station	Subarea 1 Palisades	1663 BUTLER AVE.
PACIFIC Community Police Station	Subarea 2 Venice	12312 CULVER BLVD.
HARBOR Community Police Station	Subarea 3 Harbor	2175 JOHN S. GIBSON BLVD.

<sup>22</sup> Los Angeles Police Department. [http://lapd-assets.lapdonline.org/assets/pdf/Citywide\\_09.pdf](http://lapd-assets.lapdonline.org/assets/pdf/Citywide_09.pdf) accessed on August 24, 2020

As previously stated, the Project consists of an ordinance to adopt procedures and regulations to apply the Mello Act in the Coastal Zone and to establish an affordable housing trust fund in the Coastal Zone. The Project does not propose or approve development in the Project Area. The Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police protection. It is not anticipated that more police services would be required in the Project Area as a result of the Project, therefore there would be a less than significant result related to Police Services.

**c) Schools?**

**Less than significant impact.** The Project Area is located within the boundaries of the Los Angeles Unified School District (LAUSD). A significant impact would occur if a proposed project would include substantial employment or population growth, which could generate a demand for school facilities that would exceed the capacity of the school district. The Project is an ordinance that adopts procedures and regulations to apply the Mello Act in the Coastal Zone and establish the Coastal Zone Affordable Housing Trust Fund. Table 9 Schools Serving the Project Area provides the schools located within the Project Area.

**Table 9: Schools within the Project Area**

School	Coastal Zone Subarea	Site Address
Marquez Charter School	Subarea 1 Palisades	16821 Marquez Ave
Palisades Charter High School	Subarea 1 Palisades	15777 Bowdoin St
Canyon Elementary School	Subarea 1 Palisades	421 Entrada Dr
Ánimo Venice Charter High School	Subarea 2 Venice	820 Broadway St
Broadway Elementary School	Subarea 2 Venice	1015 Lincoln Blvd
Broadway Elementary School Mandarin Language Immersion Program	Subarea 2 Venice	1015 Lincoln Blvd
Broadway Elementary School Spanish Language Immersion Program	Subarea 2 Venice	1015 Lincoln Blvd
Westminster Avenue Elementary School (Math & Technology/Environmental Studies Magnet)	Subarea 2 Venice	1010 Abbot Kinney Blvd
Westside Global Awareness Magnet	Subarea 2 Venice	104 Anchorage St
15th Street Elementary School	Subarea 3 Harbor	1527 S Mesa St
Alliance: Alice M. Baxter College-Ready High School	Subarea 3 Harbor	461 W 9th St
Angel's Gate Continuation High School	Subarea 3 Harbor	3607 S Gaffey St

Point Fermin Elementary School (Marine Sciences Magnet)	Subarea 3 Harbor	3333 Kerckhoff Ave
San Pedro Senior High (Marine Science, Math Science, & Technology Magnet)	Subarea 3 Harbor	1001 W 15th St
San Pedro Senior High (Police Academy Magnet)	Subarea 3 Harbor	1001 W 15th St
White Point Elementary School	Subarea 3 Harbor	1410 Silvius Ave

The Project would not introduce any new population into the area to require the construction of new or physically altered school facilities since the Project does not propose or approve any development project. Any future development as a result of the Project would be subject to California Government Code Section 65995, which would allow LAUSD to collect impact fees from developers of new residential and commercial space. Conformance to California Government Code Section 65995 is deemed to provide full and complete mitigation of impacts to school facilities. Therefore, the Project would result in a less than significant impact to public schools.

**d) Parks?**

**Less than significant impact.** The City of Los Angeles Department of Recreation and Parks (RAP) is responsible for the provision, maintenance, and operation of public recreational and park facilities and services in the City. The RAP operates and maintains over 16,000 acres of parkland and 444 park sites. A significant impact would occur if a proposed project would exceed the capacity or capability of the local park system to serve the proposed project resulting in the need for new or physically altered park, the construction of which could cause substantial adverse impacts. Table 10, Parks Serving the Project Area provides the parks located within the Project Area.

**Table 10: Parks within the Project Area**

Parks	Coastal Zone Subarea	Site Address
Portrero Canyon Park	Subarea 1 Palisades	15200 - 15499 De Pauw St
Santa Ynez Canyon Park	Subarea 1 Palisades	17399 Vereda De La Montura
Temescal Gateway Park	Subarea 1 Palisades	15601 Sunset Blvd.
Asilomar View Park	Subarea 1 Palisades	15900 Asilomar Blvd
Palisades Park	Subarea 1 Palisades	1450 Ocean
Titmouse Park	Subarea 2 Venice	415 Culver Blvd
Triangle Park	Subarea 2 Venice	Oxford Ave & Marr St
Del Rey Lagoon Park	Subarea 2 Venice	6660 Esplanade Place
Glen-Alla Park	Subarea 2 Venice	4601 Alla Rd

Canal Park	Subarea 2 Venice	200 Linnie Canal,
Venice of America Centennial Park	Subarea 2 Venice	501 S Venice Blvd
Marco Triangle	Subarea 2 Venice	Venice, CA 90291
Marco Place Parkway	Subarea 2 Venice	Between Marco Court and Superba Court
Crescent Place Triangle	Subarea 2 Venice	1646 Crescent Place
Trask Triangle Park	Subarea 2 Venice	Trask St (Earldom Ave)
Amoroso Triangle	Subarea 2 Venice	
Nowita Triangle	Subarea 2 Venice	
Via Dolce Park	Subarea 2 Venice	3503 Via Dolce
Vista Del Mar Park	Subarea 2 Venice	Century Bl & Vista Del Mar,
Venice Beach Recreation Center	Subarea 2 Venice	1800 Ocean Front Walk
Venice Beach Skate Park	Subarea 2 Venice	1800 Ocean Front Walk
Joan Milke Flores Park	Subarea 3 Harbor	3601 Gaffey
Lookout Point Park	Subarea 3 Harbor	3515 S. Gaffey
Point Fermin Park	Subarea 3 Harbor	807 W. Paseo Del Mar
San Pedro Plaza Park	Subarea 3 Harbor	7000 S. Beacon
John S. Gibson Jr. Park	Subarea 3 Harbor	550 S. Harbor
Harbor View Memorial Park	Subarea 3 Harbor	2411 S Grand Ave
Cabrillo Beach Bath House	Subarea 3 Harbor	3800 Stephen M. White Drive

The Project is an ordinance to adopt regulations and procedures to apply the Mello Act to the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. The Project does not propose or approve any development and does not directly or indirectly increase population in the Project Area. Therefore, it is not anticipated that the Project would create unplanned capacity or service level problems or result in substantial physical impacts associated with the provision or new or altered parks facilities. Accordingly, the Project would result in a less than significant impact on park facilities.

**e) Other public facilities?**

**Less than significant Impact.** A significant impact would occur if a proposed project would result in substantial employment or population growth that could generate a

demand for other public facilities, such as libraries, which exceed the capacity available to serve the project area, necessitating new or physically altered public facilities, the construction of which would cause significant environmental impacts. The Los Angeles Public Library (LAPL) provides library services within the City of Los Angeles. The LAPL provides services at the Central Library, 8 Regional Branch Libraries and 72 Community Branch Libraries and 4 Bookmobiles.

The Project Area is served by the following library facilities, as listed in Table 12 Libraries Serving the Project Area.

**Table 11: Libraries within the Project Area**

Libraries	Coastal Zone Subarea	Site Address
Palisades Branch Library	Subarea 1 Palisades	861 Alma Real Drive
Venice Abbot Kinney Memorial Branch Library	Subarea 2 Venice	501 S. Venice
San Pedro Regional Library	Subarea 3 Harbor	931 Gaffey Street

As previously mentioned, the Project consists of an ordinance to adopt procedures and regulations to apply the Mello Act in the Coastal Zone and to establish an affordable housing trust fund in the Coastal Zone. The Project does not propose or approve any development and would not cause a substantial increase in population. The Project would not create substantial capacity or service level problems that would require the provision of new or expanded public facilities in order to maintain an acceptable level of service for libraries and other public facilities. As such, there would be no increase in demand for library services and resources and no need for additional library resources or facilities to be constructed. Therefore, the Project would result in a less than significant impact to libraries and other public facilities. No further analysis is required.

## XVI. RECREATION

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facilities would occur or be accelerated?**

**Less Than Significant Impact.** A significant impact would occur if a project resulted in substantial population growth that would generate a demand for recreation and park services such that substantial physical deterioration of the park facilities would occur or be accelerated. The Department of Recreation and Parks operates and maintains over 16,000 acres of parkland and 444 park sites<sup>23</sup>. Additionally, the Project Area is located near many regional parks and State Parks including Topanga State Park and Yvonne Brathwaite Burke Park. The Project is an ordinance to adopt regulations and procedures to apply the Mello Act in the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. The Project, by itself, does not propose or approve any development that would directly or indirectly increase population in the Project Area that would increase the use of existing and regional parks or other recreational facilities such that substantial physical deterioration of the facilities would occur or be accelerated. As such, the Project would create a less than significant impact on park and recreation facilities. No further analysis is required.

<sup>23</sup> Los Angeles Recreation and Parks. <https://www.laparks.org/departments/who-we-are> accessed on September 1, 2020.

**b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?**

**Less Than Significant Impact.** A significant impact would occur if a project resulted in substantial population growth that would generate a demand for recreation and park services requiring the construction of new or physically altered park facilities within the project area. The Department of Recreation and Parks operates and maintains hundreds of athletic fields, 422 playgrounds, 321 tennis courts, 184 recreation centers, 72 fitness areas, 62 swimming pools and aquatic centers, 30 senior centers, 26 skate parks, 13 golf courses, and 12 museums located throughout the City<sup>24</sup>. The Project is limited to an ordinance to adopt regulations and procedures to apply the Mello Act to the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. The Project, by itself, does not propose or approve any development which would require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment. Therefore, a less than significant impact on park and recreation facilities would occur. No further analysis is required.

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<sup>24</sup> Los Angeles Recreation and Parks. <https://www.laparks.org/department/who-we-are> accessed on September 1, 2020.

## XVII. TRANSPORTATION

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

**No Impact.** A significant impact may occur if a project would conflict with a program, plan, ordinance, or policy designed to maintain adequate effectiveness of an overall circulation system, including transit, roadway, bicycle and pedestrian facilities. The City of Los Angeles has adopted programs, plans ordinances and policies that establish the transportation planning framework for all travel modes. The overall goals of these policies are to achieve a safe, accessible and sustainable transportation system for all users. The Circulation Element of the City's General Plan, the Mobility Plan 2035, offers a comprehensive vision and set of policies and programs for the City and aims to provide streets that are safe and convenient for all users. Furthermore, the Department of Transportation's Vision Zero Los Angeles aims to reduce transportation fatalities to zero by using extensive crash data analysis to identify priority corridors and intersections and applying safety countermeasures.

The Project consists of an ordinance to adopt regulations and procedures to apply the Mello Act in the Coastal Zone and establish an affordable housing trust fund in the Coastal Zone. The Project does not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities. Additionally, the Project does not increase population or provide land use incentives that would increase the density, FAR or height of development in the Project Area. The Project does not propose or approve any development and is not expected to

generate significant traffic impacts, which would conflict with an applicable plan, ordinance or policy, related to traffic. Therefore, the Project would result in no impacts related to the circulation system. No further analysis is required.

**b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?**

**Less Than Significant Impact.** A significant impact may occur if a project's vehicle miles traveled substantially increase compared to existing counts. The Project would not conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b) which states that land use projects that indicate VMT exceeding an applicable threshold of significance may indicate a significant impact. Pursuant to CEQA Guidelines section 15064.3(b)(1), Projects that decrease VMT in a proposed project area compared to existing conditions should be presumed to have a less than significant transportation impact. CEQA Guidelines section 15064.3, subdivision (b), also states that transportation projects that reduce, or have no impact on, VMT should be presumed to cause a less than significant transportation impact. The Project is an ordinance to adopt regulations and procedures to apply the Mello Act to the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. No Vehicle Miles Traveled (VMT) would be generated from the Project that would otherwise occur from any new development since no development project is approved or proposed as part of the Project. Therefore, the Project would result in less than significant impacts related to any applicable congestion management plan. No further analysis is required.

**c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?**

**No Impact.** A significant impact would occur if a proposed project includes new roadway design or introduces a new land use or project features into an area with specific transportation requirements, characteristics, or project access or other features designed in such a way as to create hazardous conditions. No hazardous design features or incompatible land uses would be introduced with the Project that would create significant hazards to the surrounding roadways. The Project is an ordinance to adopt procedures and regulations to apply the Mello Act to the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. The Project does not propose or approve any development project nor does it change or expand any land uses, thus no increase in hazards due to geometric design features or incompatible uses would occur to local vehicular circulation routes and patterns, or impede public access or travel on any public rights of way. The Project would result in no impacts related to traffic hazards. No further analysis is required.

**d) Result in inadequate emergency access?**

**No Impact.** A significant impact may occur if a project design does not provide emergency access meeting the requirements of the Fire Department or threatens the ability of emergency vehicles to access and serve a project site or adjacent uses. As

previously identified in Section IX(f) per the City's General Plan Safety Element (Exhibit H, Critical Facilities & Lifeline Systems, 1996), the nearest emergency/disaster routes serving the Project Area is: Subarea 1 Palisades - Sunset Blvd, Subarea 2 Venice - Venice Blvd., Lincoln Blvd., Sepulveda and Manchester, Subarea 3 San Pedro - Harbor - Pacific, Western, 25th, Alameda, 9th, Paseo del Mar, Harbor and Figueroa. The Project would not require the closure of any public or private streets and would not impede emergency vehicle access to the Project Area or surrounding area. The Project is an ordinance to adopt regulations and procedures to apply the Mello Act to the Coastal Zone and to establish an affordable housing trust fund in the Coastal Zone. The Project does not propose or approve any development or change or expand any land uses. As such, the Project would not require the closure of any public or private streets, would not impede emergency vehicle access, would not impede access to the City's designated disaster routes, and would not impair the City's emergency response plan. Therefore, the Project would result in no impact with respect to inadequate access to emergency routes.

## XVIII. TRIBAL CULTURAL RESOURCES

*Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:*

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1 (k)?**

**Less Than Significant Impact.** Assembly Bill 52 (AB 52) established a formal consultation process for California Native American Tribes to identify potential significant impacts to Tribal Cultural Resources, as defined in Public Resources Code §21074, as part of CEQA. As specified in AB 52, lead agencies must provide notice inviting consultation to California Native American tribes that are traditionally and culturally affiliated with the geographic area of a proposed project if the Tribe has submitted a request in writing to be notified of proposed projects. The Tribe must respond in writing within 30 days of the City's AB 52 notice. The Native American Heritage Commission (NAHC) provided a list of Native American groups and individuals who might have

knowledge of the religious and/or cultural significance of resources that may be in and near the Project Area. Tribal cultural resources include sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American Tribe that are eligible for inclusion in the California Register or included in a local register of historical resources. AB52 also gives lead agencies the discretion to determine supported by substantial evidence, whether a resource qualifies as a TCR.

On October 21, 2020, AB52 Tribal Consultation Notice letters were mailed to the following nine (9) California Native American Tribes via certified mail and subsequently emailed on October 22, 2020. The notice described the Project and requested any information regarding resources that may exist on or near the Project Area.

- Fernandeno Tataviam Band of Mission Indians
- Gabrieleno Band of Mission Indians - Kizh Nation
- Gabrielino Tongva Indians of California Tribal Council
- Gabrielino/Tongva Nation
- Gabrielino/Tongva San Gabriel Band of Mission Indians
- Gabrielino-Tongva Tribe
- San Fernando Band of Mission Indians
- Soboba BAnd of Luiseno Indians
- Torres Martinez Desert Cahuilla Indians

Two Tribes, the Fernandeno Tataviam Band of Mission Indians and Gabrieleno Band of Mission Indians – Kizh Nation responded to the notification requesting to initiate tribal consultation. Tribal Consultation with the Fernandeno Tatviam Band of Mission Indians Tribe was initiated on November 2, 2020. After providing background and discussing the proposed Project, the Tribe agreed that the proposed Project would not have an impact on tribal cultural resources and agreed to conclude AB52 Consultation. While communicating with the Gabrieleno Band of Mission Indians – Kizh Nation to set up an initial Tribal Consultation meeting, the Tribe decided not to move forward with consultation after learning the Project is limited to an ordinance and no development, construction or ground disturbing activity is involved with the proposed Project. To date, no other additional information and materials related to tribal cultural resources have been submitted.

The Project consists of an ordinance to adopt procedures and regulations to apply the Mello Act in the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. As previously mentioned, the Project does not consist of any development project, includes no ground disturbing activity or any other related construction activity. Any future development projects requiring a Negative Declaration, Mitigated Negative Declaration or an Environmental Impact Report will need to comply with AB 52 and conduct the necessary research and prepare the necessary reports to determine if the individual development project would cause a substantial adverse change in the significance of a tribal cultural resource. Therefore, it is not anticipated that the Project would result in impacts related to potential substantial adverse changes in the cultural significance of a tribal cultural resource as defined in Public Resources Code section 21074 that is listed

or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources tribal cultural resources. No further analysis is required.

**b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?**

**Less Than Significant Impact.** See response to Section XVIII (a) above. Further, as mentioned in the previous section, any future development projects requiring a Negative Declaration, Mitigated Negative Declaration or an Environmental Impact Report will need to comply with AB52 and conduct the necessary research and/or prepare the necessary reports to determine if the individual development project would cause a substantial adverse change in the significance of a tribal cultural resources. As previously stated, the Project does not include a development project or any ground disturbing activity or any other related construction activity. Therefore, the Project would not cause a substantial adverse change in the significance of a tribal cultural resource resulting in less than significant impacts. No further analysis is required.

## XIX. UTILITIES AND SERVICE SYSTEMS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?**

**No Impact.** A significant impact would occur if a proposed project would exceed water consumption or wastewater generation to such a degree that the capacity of facilities currently serving the project site would be exceeded.

The Project does not propose or approve development or ground disturbing activity. The Project itself is not intensifying any of the existing allowable land uses, thus, existing conditions are not expected to significantly change related to public facilities. Future development projects would be reviewed on a case-by-case basis and depending on the scope of the development project would be subject to its own environmental review. Therefore, the proposed Project would not increase the demand for water and the generation of wastewater, consequently increasing the demand of treatment facilities compared to existing conditions such that physical expansion of the treatment facilities or construction of a new treatment facility may be required. Additionally, the Project by itself would not increase consumption of electrical power and natural gas such that existing supply facilities may need to be expanded or relocated. Similarly, telecommunications facilities would not need to be expanded or relocated as the Project itself does not propose or approve development. As such, the Project does not propose nor will it require construction of new water, wastewater treatment, storm water drainage facilities, electric power, natural gas, or telecommunication facilities or expansion of existing facilities. Thus, because the Project does not intensify or change any land uses and does not propose or approve any development or alter existing development or development patterns. No impact would occur.

**b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?**

**Less Than Significant Impact.** A significant impact would occur if a proposed project would increase water consumption or wastewater generation to such a degree that the capacity of facilities currently serving the project site would be exceeded. The Los Angeles Department of Water and Power (LADWP) is the water purveyor for the City and conducts water planning based on forecast population growth. As the Project Area is located within an urban environment, any future development within the Project Area would likely be connected to the City's water line and serviced by LADWP. Prior to any construction activities for future development projects, the project applicant would be required to coordinate with the City of Los Angeles Bureau of Sanitation (BOS) to determine the exact wastewater conveyance requirements of the project, and any upgrades to the wastewater lines in the vicinity of the project site that are needed to adequately serve the project would be undertaken as part of the project.

The Project is an ordinance to adopt procedures and regulations to apply the Mello Act to the Coastal Zone and to establish an affordable housing trust fund in the Coastal Zone. The Project does not intensify or change any land uses and does not alter existing development or development patterns. No development project is proposed or approved as part of the Project. Thus, the Project would be consistent with the anticipated Citywide growth, and the Project demand for water is not anticipated to require new water supply entitlements and/or require the expansion of existing or construction of new water treatment facilities beyond those already considered in the LADWP 2015 Urban Water Management Plan (UWMP). Therefore, it is not reasonably foreseeable that there would be insufficient water supplies available to serve the Project Area and future development in the Project Area during the normal, dry, and multiple dry years. Less than significant impacts would occur, no further analysis is needed.

**c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?**

**No Impact.** See response to Section XIX (b) above. As previously mentioned, LADWP conducts water planning based on population growth forecasts. The Project is not anticipated to impact population growth in the City since the Project, by itself does not propose or approve any development project. As such, the Project will not change demand for water or wastewater treatment. The Project is limited to an ordinance to adopt procedures and regulations to apply the Mello Act in the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. The Project does not intensify or change any land uses and does not alter existing development or development patterns. Therefore, no impact will occur as it relates to adequate capacity to serve the Project's projected demand for wastewater treatment and the provider's existing commitment.

**d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?**

**Less Than Significant Impact.** The Los Angeles Bureau of Sanitation (LABOS) and private waste management companies are responsible for the collection, disposal, and recycling of solid waste within the City, including the Project Area. Construction waste materials are expected to be typical construction debris, including wood, paper, glass, plastic, metals, cardboard and green wastes. However, the Project will not produce a significant amount of solid waste since the Project by itself does not propose or approve any development. Waste generated by future individual development projects would be assessed on a case-by-case basis through the environmental review process. Pursuant to the California Green Building Code, individual project applicants would be required to recycle/divert 65 percent of the construction waste (CALGreen Sections 4.408 and 5.408). Since the Project does not involve a development and does not intensify or change any land uses and does not alter existing development or development patterns, impacts are expected to be less than significant. Therefore, the Project is expected to have a less than significant impact related to the generation of solid waste in excess of State or local standards, exceed the capacity of local infrastructure or impair the attainment of solid waste reduction goals. No further analysis is necessary.

**e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?**

**Less Than Significant Impact.** A significant impact may occur if a project would generate solid waste that was not disposed of in accordance with applicable regulations. The Project does not intensify or change any land uses and does not alter existing development or development patterns. The Project, by itself, does not propose or approve any development that would generate solid waste. Current and future individual development projects are required and would continue to be required to comply with all federal, state, and local statutes and regulations related to solid waste. All applicable

regulations would ensure that the impact to reduction statutes and regulations related to solid waste is less than significant.

## XX. WILDFIRE

*If located in or near state responsibility areas or lands classified as very high fire hazard severity zones:*

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### **a) Substantially impair an adopted emergency response plan or emergency evacuation plan?**

**No Impact.** The City of Los Angeles' General Plan Safety Element addresses public protection from unreasonable risks associated with natural disasters (e.g., fires, floods, earthquakes) and sets forth guidance for emergency response. Specifically, the Safety Element includes Exhibit H, Critical Facilities and Lifeline Systems, which identifies emergency evacuation routes, along with the location of selected emergency facilities.

According to the Safety Element, the Project Area is located along the following designated disaster routes: Subarea 1 Palisades - Sunset Blvd, Subarea 2 Venice - Venice Blvd., Lincoln Blvd., Sepulveda and Manchester, Subarea 3 San Pedro - Harbor - Pacific, Western, 25th, Alameda, 9th, Paseo del Mar, Harbor and Figueroa. However, the Project does not intensify or change any land uses and does not alter existing development or development patterns. The Project also does not propose or approve development, nor does it modify any existing regulations regarding permanent street

closures, uses, intensities, or densities of development which may directly or indirectly impair an adopted emergency response plan or emergency evacuation plan.

Further, future development that would occur in the Project Area would be required during construction to comply with construction management plans that would be implemented to ensure adequate circulation and emergency access. As such, the Project would not impair an adopted emergency response plan or emergency evacuation plan, no impacts would occur, and no further analysis is needed.

**b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?**

**Less Than Significant Impact.** A portion of the Project Area is located within a High Fire Hazard Severity Zone. Subarea 1 Palisades is identified by the City's Safety General Plan Element Exhibit D, Selected Wildfire Hazard Areas, as an area designated as a wildfire hazard area<sup>25</sup>. The Project Area is mostly within an urbanized area with the exception of Subarea 1 Palisades which has large sections of undeveloped land. However, the Project does not propose or approve a development project and does not intensify or change any land uses nor does it alter existing development or development patterns, including in Wildfire Hazard Areas. Therefore, impacts would be less than significant relative to slope, prevailing winds and other factors that could exacerbate wildfire risks and expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire, no further analysis is needed.

**c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?**

**No Impact.** The Project does not propose or approve development or any construction and does not change or expand any land uses. The Project is limited to an ordinance to adopt procedures and regulations to apply the Mello Act to the Coastal Zone and establish the Coastal Zone Affordable Housing Trust Fund. Given the Project's scope, no impacts would occur that would require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment. Thus, the Project would result in no impact and no further analysis is needed.

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<sup>25</sup> City of Los Angeles, Safety Element, Exhibit D Wildfire Hazard Area Map, [https://planning.lacity.org/odocument/31b07c9a-7eea-4694-9899-f00265b2dc0d/Safety\\_Element.pdf](https://planning.lacity.org/odocument/31b07c9a-7eea-4694-9899-f00265b2dc0d/Safety_Element.pdf), accessed on August 25, 2020.

**d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?**

**Less Than Significant Impact.** As discussed in Section IX (g) and Section XX (b) above, a portion of the Project Area - Subarea 1 Palisades is located within a City-designated Wildfire Hazard Area. However, the Project does not propose or approve development and does not change or expand any land uses and does not alter existing development or development patterns. Therefore, it is anticipated that the Project will result in a less than significant impact as it relates to exposure of people or structures to significant risks including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes, no further analysis is needed.

## XXI. MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?**

**Less Than Significant Impact.** Based on the analysis in this Initial Study, the Project would not have the potential to degrade the quality of the environment, substantially reduce the habitat of fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or reduce the number or restrict the range of a rare or endangered plant or animal. Compliance

with existing regulations would reduce impacts to less than significant levels. No further analysis is required.

**b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?**

**No Impact.** The Project is an ordinance to adopt procedures and regulations to apply the Mello Act in the Coastal Zone and to establish the Coastal Zone Affordable Housing Trust Fund. Consistent with the Mello Act and the existing Interim Administrative Procedures, the ordinance proposes permanent regulations to preserve and increase the supply of affordable housing in the Coastal Zone by requiring replacement housing, limiting the replacement of housing with other types of uses that are non-Coastal related and adopting an inclusionary requirement. The Project does not propose or approve any development projects, does not change or expand any land uses and does not alter any existing development or development patterns. As such, the Project would not potentially result in any significant impacts and would not have the potential to contribute to cumulative impacts. The Project is not anticipated to result in substantial new development and as such will not contribute to cumulative impacts or have cumulatively considerable impacts.

**c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?**

**No impact.** As identified throughout the analysis, the Project would not have an environmental effect that would cause substantial adverse effects on human beings directly or indirectly. No other impacts have been identified that would result in adverse effects. No impacts would occur, no further analysis is needed.

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**EXHIBIT D – MELLO ACT GOVERNMENT CODE SECTION**

**GOVERNMENT CODE - GOV**

**TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]**

*( Heading of Title 7 amended by Stats. 1974, Ch. 1536. )*

**DIVISION 1. PLANNING AND ZONING [65000 - 66301]**

*( Heading of Division 1 added by Stats. 1974, Ch. 1536. )*

**CHAPTER 3. Local Planning [65100 - 65763]**

*( Chapter 3 repealed and added by Stats. 1965, Ch. 1880. )*

**ARTICLE 10.7. Low- and Moderate-Income Housing Within the Coastal Zone [65590 - 65590.1]**

*( Heading of Article 10.7 added by Stats. 1982, Ch. 43, Sec. 2. )*

**65590.**

(a) In addition to the requirements of Article 10.6 (commencing with Section 65580), the provisions and requirements of this section shall apply within the coastal zone as defined and delineated in Division 20 (commencing with Section 30000) of the Public Resources Code. Each respective local government shall comply with the requirements of this section in that portion of its jurisdiction which is located within the coastal zone.

(b) The conversion or demolition of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, shall not be authorized unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income. Replacement dwelling units shall be located within the same city or county as the dwelling units proposed to be converted or demolished. The replacement dwelling units shall be located on the site of the converted or demolished structure or elsewhere within the coastal zone if feasible, or, if location on the site or elsewhere within the coastal zone is not feasible, they shall be located within three miles of the coastal zone. The replacement dwelling units shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition of the residential dwelling unit. In the event that an existing residential dwelling unit is occupied by more than one person or family, the provisions of this subdivision shall apply if at least one such person or family, excluding any dependents thereof, is of low or moderate income.

For purposes of this subdivision, a residential dwelling unit shall be deemed occupied by a person or family of low or moderate income if the person or family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit and if the eviction was for the purpose of avoiding the requirements of this subdivision. If a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of an application to convert or demolish that structure, the evictions shall be presumed to have been for the purpose of avoiding the requirements of this subdivision and the applicant for the conversion or demolition shall bear the burden of proving that the evictions were not for the purpose of avoiding the requirements of this subdivision.

The requirements of this subdivision for replacement dwelling units shall not apply to the following types of conversion or demolition unless the local government determines that replacement of all or any portion of the converted or demolished dwelling units is feasible, in which event replacement dwelling units shall be required:

(1) The conversion or demolition of a residential structure which contains less than three dwelling units, or, in the event that a proposed conversion or demolition involves more than one residential structure, the conversion or demolition of 10 or fewer dwelling units.

(2) The conversion or demolition of a residential structure for purposes of a nonresidential use which is either "coastal dependent," as defined in Section 30101 of the Public Resources Code, or "coastal related," as defined in Section 30101.3 of the Public Resources Code. However, the coastal-dependent or coastal-related use shall be consistent with the provisions of the land use plan portion of the local government's local coastal program which has been certified as provided in Section 30512 of the Public Resources Code. Examples of coastal-dependent or coastal-related uses include, but are not limited to, visitor-serving commercial or recreational facilities, coastal-dependent industry, or boating or harbor facilities.

(3) The conversion or demolition of a residential structure located within the jurisdiction of a local government which has within the area encompassing the coastal zone, and three miles inland therefrom, less than 50 acres, in aggregate, of land which is vacant, privately owned and available for residential use.

(4) The conversion or demolition of a residential structure located within the jurisdiction of a local government which has established a procedure under which an applicant for conversion or demolition will pay an in-lieu fee into a program, the various provisions of which, in aggregate, will result in the replacement of the number of dwelling units which would otherwise have been required by this subdivision. As otherwise required by this subdivision, the replacement units shall, (i) be located within the coastal zone if feasible, or, if location within the coastal zone is not feasible, shall be located within three miles of the coastal zone, and (ii) shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition.

The requirements of this subdivision for replacement dwelling units shall not apply to the demolition of any residential structure which has been declared to be a public nuisance under the provisions of Division 13 (commencing with Section 17000) of the Health and Safety Code, or any local ordinance enacted pursuant to those provisions.

For purposes of this subdivision, no building, which conforms to the standards which were applicable at the time the building was constructed and which does not constitute a substandard building, as provided in Section 17920.3 of the Health and Safety Code, shall be deemed to be a public nuisance solely because the building does not conform to one or more of the current provisions of the Uniform Building Code as adopted within the jurisdiction for new construction.

(c) The conversion or demolition of any residential structure for purposes of a nonresidential use which is not "coastal dependent", as defined in Section 30101 of the Public Resources Code, shall not be authorized unless the local government has first determined that a residential use is no longer feasible in that location. If a local government makes this determination and authorizes the conversion or demolition of the residential structure, it shall require replacement of any dwelling units occupied by persons and families of low or moderate income pursuant to the applicable provisions of subdivision (b).

(d) New housing developments constructed within the coastal zone shall, where feasible, provide housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code. Where it is not feasible to provide these housing units in a proposed new housing development, the local government shall require the developer to provide such housing, if feasible to do so, at another location within the same city or county, either within the coastal zone or within three miles thereof. In order to assist in providing new housing units, each local government shall offer density bonuses or other incentives, including, but not limited to,

modification of zoning and subdivision requirements, accelerated processing of required applications, and the waiver of appropriate fees.

(e) Any determination of the “feasibility” of an action required to be taken by this section shall be reviewable pursuant to the provisions of Section 1094.5 of the Code of Civil Procedure.

(f) The housing provisions of any local coastal program prepared and certified pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code prior to January 1, 1982, shall be deemed to satisfy all of the requirements of this section. Any change or alteration in those housing provisions made on or after January 1, 1982, shall be subject to all of the requirements of this section.

(g) As used in this section:

(1) “Conversion” means a change of a residential dwelling, including a mobilehome, as defined in Section 18008 of the Health and Safety Code, or a mobilehome lot in a mobilehome park, as defined in Section 18214 of the Health and Safety Code, or a residential hotel as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, to a condominium, cooperative, or similar form of ownership; or a change of a residential dwelling, including a mobilehome, or a mobilehome lot in a mobilehome park, or a residential hotel to a nonresidential use.

(2) “Demolition” means the demolition of a residential dwelling, including a mobilehome, as defined in Section 18008 of the Health and Safety Code, or a mobilehome lot in a mobilehome park, as defined in Section 18214 of the Health and Safety Code, or a residential hotel, as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, which has not been declared to be a public nuisance under Division 13 (commencing with Section 17000) of the Health and Safety Code or any local ordinance enacted pursuant to those provisions.

(3) “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

(h) With respect to the requirements of Sections 65583 and 65584, compliance with the requirements of this section is not intended and shall not be construed as any of the following:

(1) A statutory interpretation or determination of the local government actions which may be necessary to comply with the requirements of those sections; except that compliance with this section shall be deemed to satisfy the requirements of paragraph (2) of subdivision (c) of Section 65583 for that portion of a local government’s jurisdiction which is located within the coastal zone.

(2) A limitation on the program components which may be included in a housing element, or a requirement that a housing element be amended in order to incorporate within it any specific provision of this section or related policies. Any revision of a housing element pursuant to Section 65588 shall, however, take into account any low- or moderate-income housing which has been provided or required pursuant to this section.

(3) Except as otherwise specifically required by this section, a requirement that a local government adopt individual ordinances or programs in order to implement the requirements of this section.

(i) No provision of this section shall be construed as increasing or decreasing the authority of a local government to enact ordinances or to take any other action to ensure the continued affordability of housing.

(j) Local governments may impose fees upon persons subject to the provisions of this section to offset administrative costs incurred in order to comply with the requirements of this section.

(k) This section establishes minimum requirements for housing within the coastal zone for persons and families of low or moderate income. It is not intended and shall not be construed as a limitation or constraint on the authority or ability of a local government, as may otherwise be provided by law, to require or provide low- or moderate-income housing within the coastal zone which is in addition to the requirements of this section.

*(Amended by Stats. 1982, Ch. 1246, Sec. 1.)*

**65590.1.**

Any local government which receives an application as provided in Section 30600.1 of the Public Resources Code to apply the requirements of Section 65590 to a proposed development shall apply these requirements within 90 days from the date on which it has received that application and accepted it as complete. In the event that the local government has granted final discretionary approval to the proposed development, or has determined that no such approval was required, prior to receiving the application, it shall, nonetheless, apply the requirements and is hereby authorized to conduct proceedings as may be necessary or convenient for the sole purpose of doing so.

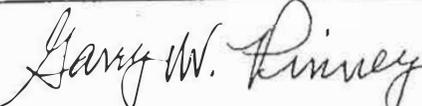
*(Added by Stats. 1982, Ch. 43, Sec. 3.5. Effective February 17, 1982.)*

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EXHIBIT E – Interim Administrative procedures

Alan Bell, C P Assoc  
Code Studies, Room 1540  
Stop 395

**INTERIM ADMINISTRATIVE PROCEDURES  
FOR COMPLYING WITH THE MELLO ACT  
  
IN THE COASTAL ZONE PORTIONS  
OF THE CITY OF LOS ANGELES**

APPROVED BY:	SIGNATURE:	DATE:
ANDREW A. ADELMAN General Manager Department of Building and Safety		5/17/00
CON HOWE Director Department of City Planning		5/16/00
GARRY W. PINNEY General Manager Department of Housing		5/16/00

ALL CITY STAFF AND EMPLOYEES  
SHALL FOLLOW THESE PROCEDURES PURSUANT TO CITY COUNCIL  
RESOLUTION AND DEPARTMENTAL ORDERS

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#### ATTACHMENTS

1. DEFINITIONS
2. MELLO ACT COMPLIANCE REVIEW WORKSHEET FOR PROPOSED DEMOLITIONS AND CONVERSIONS (Please refer to the Mello Procedures Memo dated October 28, 2003)
3. LOS ANGELES CITY PLANNING DEPARTMENT MODERATE-INCOME HOUSING PURCHASE FEASIBILITY ANALYSIS (~~FORM CP-6391~~)  
(Contact the Mello Coordinator for information.)
4. AFFORDABLE HOUSING INCENTIVES GUIDELINES

## 1.0 INTRODUCTION

On January 19, 2000, the City Council adopted an action program with respect to implementation of California Government Code Sections 65590 and 65590.1, commonly called the Mello Act, within the City of Los Angeles. The Mello Act is a statewide law which seeks to preserve housing for persons and families with low or moderate incomes in California's Coastal Zone. The Mello Act also requires developers of New Housing Developments, if feasible, to provide Residential Units affordable to low or moderate income persons or families.

### 1.1 COUNCIL'S ACTION PROGRAM

Council's action program is summarized below:

- Part One. The Council re-adopted its existing policy (as previously contained in C.F. No. 81-6299), and directed the Departments of Building and Safety, City Planning and Housing to develop consistent and more effective Interim Administrative Procedures to implement this policy. Council was particularly concerned that every Discretionary and Non-Discretionary Application in the Coastal Zone that requires Mello Act compliance review receive the proper review. Council's policy generally requires the one-for-one replacement of demolished or converted housing units occupied by persons or families of low or moderate income within three years. In addition, Council's policy concerning New Housing Developments is based on the Coastal Commission Guidelines.
- Part Two. Council directed the Department of City Planning to develop a Mello Act Interim Ordinance, which will include an in-lieu fee payment option. Council also authorized the Department to execute a consultant contract with Hamilton, Rabinovitz and Alschuler (HR&A) to produce the studies and factual analysis necessary to support development of the Interim Ordinance and in-lieu fee payment program. The Interim Administrative Procedures developed in Part One will be tested and updated, and submitted to Council, along with the Interim Ordinance, in a timely manner.
- Part Three. Council directed the Department of City Planning to develop a permanent Mello Act implementation ordinance. The Council also committed to hiring a qualified consultant to prepare the studies and factual analysis necessary to support development of the permanent ordinance. The Interim Administrative Procedures will again be updated, and resubmitted to Council along with the permanent Mello Act ordinance.

## **1.2 INTERIM ADMINISTRATIVE PROCEDURES**

It is the policy of the Council of the City of Los Angeles that the Departments of Building and Safety, City Planning (including the Zoning Administration Division) and Housing shall administer, enforce and monitor the provisions of the Mello Act in accordance with these Interim Administrative Procedures.

### **1.2.1 EFFECTIVE DATE AND PERIOD**

These Interim Administrative Procedures are effective immediately, and shall remain in effect until modified in accordance with the Interim Ordinance.

### **1.2.2 PENDING PERMIT AND APPROVAL APPLICATIONS**

Pending Discretionary and Non-Discretionary Applications are subject to the requirements of the Mello Act.

### **1.2.3 RELATIONSHIP OF PROCEDURES TO EXISTING REGULATIONS**

Every Discretionary and Non-Discretionary Application for a Demolition, Conversion or New Housing Development in the Coastal Zone shall be reviewed pursuant to these Interim Administrative Procedures, regardless if the Application is regulated by any geographically specific plan or Local Coastal Program. This requirement also applies to any Discretionary or Non-Discretionary Application exempted from the requirement to obtain a coastal development permit.

In the case of conflict between these Interim Administrative Procedures, any geographically specific plan, Local Coastal Program, or any other regulation, the requirement which results in the provision of the largest number of Affordable Replacement Units or Inclusionary Residential Units shall apply. These Interim Administrative Procedures shall not, however, abrogate any existing development agreement executed between a property owner and the City of Los Angeles prior to May 17, 2000.

### **1.2.4 CONSTITUTIONAL AND STATE LAW COMPLIANCE**

Nothing in these Interim Administrative Procedures shall require the City to violate any state law or to violate the rights of any person under the federal or state constitution or state law.

### 1.3. OVERVIEW OF THE MELLO ACT

The Mello Act was adopted by the State Legislature in 1982. The Act sets forth requirements concerning the demolition, conversion and construction of housing within California's Coastal Zone. Each local jurisdiction shall enforce three basic rules:

- Rule 1. Existing residential structures shall be maintained, unless the local jurisdiction finds that residential uses are no longer feasible.** A local jurisdiction may not approve the Demolition or Conversion of residential structures for purposes of a non-Coastal-Dependent, non-residential use, unless it first finds that a residential use is no longer feasible at that location.
- Rule 2. Converted or demolished Residential Units occupied by Very Low, Low or Moderate Income persons or families shall be replaced.** Converted or demolished Residential Units occupied by Very Low, Low or Moderate Income persons or families shall be replaced on a one-for-one basis.
- Rule 3. New Housing Developments shall provide Inclusionary Residential Units.** If feasible, New Housing Developments shall provide Inclusionary Residential Units affordable to Very Low, Low or Moderate Income persons or families.

These rules are subject to numerous exceptions and additional required feasibility determinations which complicate the administration of the Mello Act.

## 2.0 INITIAL SCREENING AND ROUTING

The Department of Building and Safety is responsible for the initial screening and routing of Non-Discretionary Applications. The Department of City Planning is responsible for the initial screening and routing of Discretionary Applications.

Public Counter staff at these Departments are hereby directed to develop the appropriate forms and procedures necessary to screen, route and track all Discretionary and Non-Discretionary Applications pursuant to steps one through six below.

### 2.1. STEP ONE. IDENTIFY COMMUNITY PLAN AREA.

Staff shall determine if a filed and deemed complete Discretionary or Non-Discretionary Application is located in the following Community Plan Areas: Brentwood-Pacific Palisades, Venice, Del Rey, Westchester-Playa Del Rey, San Pedro or Wilmington-Harbor City. If the Application is in one of these Community Plan Areas, go to step two.

## 2.2 STEP TWO. DETERMINE COASTAL ZONE LOCATION.

Staff shall consult the appropriate City of Los Angeles Coastal Zone Subarea Map to determine if the Application is located in the Coastal Zone. If the Application is in the Coastal Zone, go to step three.

## 2.3 STEP THREE. IDENTIFY CONVERSIONS, DEMOLITIONS AND NEW HOUSING DEVELOPMENTS.

Staff shall identify Discretionary or Non-Discretionary Applications that involve one or more Residential Units. Staff shall then determine if any of these Applications conform to the definition of a Demolition, Conversion or New Housing Development as contained in Attachment 1. If Demolitions, Conversions or New Housing Developments are identified, go to step four.

## 2.4 STEP FOUR. IDENTIFY CATEGORICAL EXEMPTIONS.

Staff shall identify which Demolitions, Conversions or New Housing Developments are Categorically Exempt from further Mello Act compliance review pursuant to Parts 2.4.1, 2.4.2, and 2.4.3 below. If Applications are identified as Categorically Exempt, go to step five. If Applications are identified as non-Categorically Exempt, go to step six.

### 2.4.1 PUBLIC NUISANCES

Residential structures declared a public nuisance pursuant to the following state and local codes are not subject to the Mello Act's replacement requirements:

- Division 13 (commencing with Section 17000) of the California Health and Safety Code; or
- Chapter IX, Article 1, Division 89 of the Los Angeles Municipal Code.

In order to claim a Categorical Exemption from the Mello Act's replacement requirements, an Applicant shall submit a certified title report indicating that a public nuisance declaration has been recorded against the residential structure and has not been terminated. In reviewing certified title reports, staff shall take the following Mello Act provision into account:

"For purposes of this subdivision, no building, which conforms to the standards which were applicable at the time the building was constructed and which does not constitute a substandard building, as provided in Section 17920.3 of the Health and Safety Code, shall be deemed to be a public nuisance solely because the building

does not conform to one or more of the current provisions of the Uniform Building Code as adopted within the jurisdiction for new construction."

#### **2.4.2 SMALL NEW HOUSING DEVELOPMENTS**

Based on the Coastal Commission Guidelines, Council has found that it is generally infeasible for small New Housing Developments (developments which consist of nine or fewer Residential Units) to provide Inclusionary Residential Units. Such New Housing Developments are Categorically Exempt from further Mello Act compliance review.

Council has instructed the Department of City Planning to direct HR&A to analyze the feasibility of requiring these New Housing Developments to provide Inclusionary Residential Units, or to pay an in-lieu fee. Based on HR&A's study, Council may adopt a different feasibility presumption concerning these New Housing Developments for the Interim Ordinance.

#### **2.4.3 OWNER-OCCUPIED SINGLE-FAMILY HOMES**

Applicants who propose to demolish the existing one-family dwelling in which they currently reside, and replace it with another one-family dwelling in which they plan to reside, are Categorically Exempt from further Mello Act compliance review.

### **2.5. STEP FIVE. SEND NOTICE OF CATEGORICALLY EXEMPT APPLICATIONS.**

Notice of determinations that an Application is Categorically Exempt pursuant to Part 2.4 above shall be sent, within five working days of the date the determination is made, to the Applicant and to:

Richard A. Rothschild  
Western Center on Law and Poverty, Inc.  
3701 Wilshire Boulevard, Suite 208  
Los Angeles, CA 90010-2809

Notice of determinations that an Application is Categorically Exempt pursuant to Part 2.4.1, Public Nuisances, shall also be sent to all building occupants.

Determinations that a proposed Demolition, Conversion or New Housing Development is Categorically Exempt pursuant to Part 2.4 are appealable pursuant to the procedures set forth in Part 8.0.

## **2.6 STEP SIX. ROUTE NON-CATEGORICALLY EXEMPT APPLICATIONS TO THE DEPARTMENT OF CITY PLANNING, ZONING ADMINISTRATION DIVISION (DCP/ZAD) FOR FURTHER MELLO ACT COMPLIANCE REVIEW AND PROCESSING.**

Public Counter staff at the Departments of Building and Safety and City Planning shall route non-Categorically Exempt Conversions, Demolitions and New Housing Developments to the Department of City Planning, Zoning Administration Division (DCP/ZAD) for follow-up Mello Act compliance review, coordination and processing.

The Department of Building and Safety shall not issue any permits or other approvals until it has received clearance from the DCP/ZAD that the Applicant has satisfied all conditions set forth in the Mello Act and these Interim Administrative Procedures.

## **3.0 DEMOLITIONS AND NEW HOUSING DEVELOPMENTS ON THE SAME SITE**

If an Applicant proposes to demolish Affordable Existing Residential Units, and build a New Housing Development on the same site, the Mello Act's replacement and inclusionary requirements are both triggered.

While with few exceptions all demolished Affordable Existing Residential Units must be replaced (as further discussed in Part 4.0 below), the inclusionary requirements only apply to the number of new Residential Units that exceeds the number of Affordable Replacement Units. For example, if an Applicant is required to provide 20 Affordable Replacement Units, and plans to build a total of 50 new Residential Units, the inclusionary requirements only apply to the 30 excess Residential Units.

DCP/ZAD staff shall determine the total number of required Affordable Replacement Units pursuant to Part 4.0, and the number of required Inclusionary Residential Units pursuant to Part 5.0. If the number of excess Residential Units is nine or fewer, no Inclusionary Residential Units are required pursuant to Part 2.4.2.

## **4.0 DEMOLITIONS AND CONVERSIONS**

Assigned DCP/ZAD staff shall complete a Mello Act compliance review for each proposed Demolition and Conversion using the attached Mello Act Compliance Review Worksheet

(Attachment 2). This requirement applies to both Discretionary and Non-Discretionary Applications. Applicants are not permitted to complete this Worksheet.

The purpose of completing a Mello Act compliance review is to:

- Identify Applications to demolish or convert residential structures for purposes of a non-Coastal-Dependent, non-residential use. These Applications shall be denied unless the Applicant proves with substantial evidence that a residential use is not feasible at that location; and
- Identify the total number of Affordable Existing Residential Units that are proposed for Demolition or Conversion; and
- Determine the total number of required Affordable Replacement Units.

Each question on the Mello Act Compliance Review Worksheet is reproduced and further discussed below. Staff shall provide a written explanation for each answer recorded on the Worksheet, and attach all supporting documentation to the file. The results of each Mello Act compliance review shall be issued as a determination pursuant to Part 6.0.

#### **4.1 QUESTION #1. WILL RESIDENTIAL STRUCTURES BE DEMOLISHED OR CONVERTED FOR PURPOSES OF A NON-RESIDENTIAL USE ?**

The Mello Act states that the Demolition or Conversion of residential structures for purposes of a non-Coastal-Dependent, non-residential use is prohibited, unless the local jurisdiction first finds that a residential use is no longer feasible at that location. This prohibition applies to all residential structures, regardless of the following factors:

- The income of current or past occupants;
- The form of ownership (whether the Residential Units are for-sale units or rentals); and
- Rents charged, for-sale prices, or appraised value.

If the answer to question #1 is "yes," and existing residential structures are proposed for Demolition or Conversion for purposes of a non-residential use, then staff shall go to question #2 to determine if the proposed use is Coastal-Dependent.

If the answer to question #1 is "no," staff shall skip to question #4 to determine if any of the Residential Units proposed for Demolition or Conversion are occupied by Very Low,

Low or Moderate Income Households. These Residential Units are termed, "Affordable Existing Residential Units."

#### **4.2 QUESTION #2. IS THE PROPOSED NON-RESIDENTIAL USE COASTAL-DEPENDENT?**

Coastal-Dependent uses are uses which requires a site on, or adjacent to, the sea in order to function at all. Examples of Coastal-Dependent uses include fisheries and boating and harbor facilities.

If the answer to question #2 is "yes," and the proposed non-residential uses are Coastal-Dependent, staff shall skip to question #4. The Demolition or Conversion may be approved, but only upon the condition the Applicant provides all required Affordable Replacement Units identified through the Mello Act compliance review process.

If the answer to question #2 is "no," and the proposed non-residential uses are not Coastal-Dependent, staff shall go to question #3.

#### **4.3 QUESTION #3. IS A RESIDENTIAL USE FEASIBLE AT THIS LOCATION?**

Because the site contains a residential structure, the City presumes that a residential use is feasible. The Applicant may challenge the City's presumption by presenting substantial evidence to the contrary directly to DCP/ZAD staff (for Non-Discretionary Applications); and to the decision-maker (for Discretionary Applications).

The following shall be considered in reviewing an Applicant's challenge of the City's presumption:

- The Applicant has the burden of proof. Proximity to other existing, viable residential uses is strong evidence that a residential use is feasible.
- An Applicant may not claim infeasibility merely because the site is zoned commercial. Commercial zones in the City of Los Angeles generally permit residential uses. However, in some cases a "Q" or "D" limitation may be imposed on a particular property which prohibits residential uses.
- If the existing, underlying zoning or any other applicable regulation prohibits all residential uses, then the Applicant may cite those facts if the Applicant is challenging the City's presumption. If an Applicant has non-conforming or other rights which permit a continued residential use, then the Applicant may not contend that the existing zoning renders a residential use infeasible.

- An Applicant may not initiate and obtain approval for a zone change which prohibits residential uses and subsequently claim infeasibility based on that zone change.
- An Applicant may not claim infeasibility merely because the site is zoned industrial if a Zoning Administrator had previously approved joint living and work quarters for that site. A Zoning Administrator's grant runs with the land.
- An Applicant may not claim financial infeasibility unless it can clearly document an inability to rent or sell the current premises based on the site's unique characteristics or circumstances. Unique characteristics or circumstances include proximity to noxious and incompatible existing uses that are likely to remain, and that render a continued residential use infeasible. If challenging the City's presumption, an Applicant may not cite mere proximity to commercial or industrial uses.
- An Applicant may claim infeasibility due to the site's unique geologic or other topographical features which render it unsafe for human habitation. Applicants must provide supporting documentation.
- An Applicant may not claim infeasibility because the current premises are dilapidated or are in a state of disrepair due to the Applicant's failure to make reasonable repairs or to adequately maintain the site. The City may require the Applicant to correct substandard conditions before it will further consider an Applicant's challenge of the City's presumption.

If the Applicant has proved with substantial evidence that a residential use is infeasible, staff shall record a "no" answer to question #3, and go to question #4.

If the Applicant has not proved with substantial evidence that a residential use is infeasible, staff shall record a "yes" answer to question #3. This stops the Mello Act Compliance Review process. The Discretionary or Non-Discretionary Application shall be denied. A determination shall be issued pursuant to Part 6.0.

#### **4.4 QUESTION #4. ARE ANY AFFORDABLE EXISTING RESIDENTIAL UNITS PROPOSED FOR DEMOLITION OR CONVERSION?**

To answer question #4, staff shall refer the Applicant to the Los Angeles Housing Department (LAHD). LAHD has sole responsibility for determining whether any existing Residential Units are Affordable Existing Residential Units. If LAHD identifies Affordable Existing Residential Units, DCP/ZAD staff shall record the total number of identified units in the "yes" box, and go to question #5.

If LAHD does not identify any Affordable Existing Residential Units, DCP/ZAD staff shall record a "zero" in the "no" box. This stops the Mello Act Compliance Review process: The Applicant is not required to provide any Affordable Replacement Units. A determination pursuant to Part 6.0 shall be issued.

**LAHD shall identify Affordable Existing Residential Units by completing steps one through six below for each referred Residential Unit. The Applicant is liable and responsible for all postage and other costs necessary to complete the occupant income determination process. LAHD has the authority to specify the processes Applicants must follow in order for the occupant income determination process to be successfully completed.**

#### 4.4.1 STEP ONE. SEND GENERAL NOTICE TO ALL BUILDING OCCUPANTS.

When LAHD receives a referral from DCP/ZAD of a proposed Demolition or Conversion, LAHD shall send a general notice to all current building occupants which contains the following:

- A description of the proposed Demolition or Conversion;
- An explanation of the purpose of the Mello Act and the City's Mello Act compliance review process;
- A description of the rights that building occupants determined to have a Very Low, Low or Moderate Income shall have, including a right of first refusal on an Affordable Replacement Unit;
- A referral to a specified source of further assistance, to be selected by Western Center on Law and Poverty, Inc. Until further notice from Western Center on Law and Poverty, Inc., the general notice shall contain the following referral:

Richard A. Rothschild  
Western Center on Law and Poverty, Inc.  
3701 Wilshire Boulevard, Suite 208  
Los Angeles, CA 90010-2809

- A City telephone number to call for additional information.

#### 4.4.2 STEP TWO. IDENTIFY LONG-TERM VACANT RESIDENTIAL UNITS.

A Residential Unit shall not be classified as an Affordable Existing Residential Unit if it has been unoccupied for more than 365 consecutive days prior to the Application's filing.

The Applicant has the burden of proving long-term vacancy. If the Applicant has established long-term vacancy, then LAHD shall not classify the Residential Unit as an Affordable Existing Residential Unit.

#### 4.4.3 STEP THREE. DETERMINE OCCUPANT INCOME BASED ON MONTHLY HOUSING COST OR ACTUAL INCOME DATA.

LAHD may determine occupant income using Monthly Housing Cost as a substitute for actual income, or by collecting and verifying actual income. Pursuant to the definition set forth in Attachment 1, an existing Residential Unit is classified as an Affordable Existing Residential Unit if at least one person or family occupying the unit (excluding dependents) is of Very Low, Low or Moderate Income.

If current Monthly Housing Cost data indicates that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If not, LAHD shall collect prior Monthly Housing Cost data for at least the previous three years. If the average Monthly Housing Cost over this period indicates that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If three years of Monthly Housing Cost data is not available or readily obtainable, then LAHD shall determine occupant income through the direct collection and verification of actual income data.

If occupant income is based on Monthly Housing Cost, LAHD shall go to step four. If occupant income is based on actual income, LAHD shall:

- Go to step five if the person or family DOES NOT have a Very Low, Low or Moderate Income; or
- Go to step six if the person or family DOES have a Very Low, Low or Moderate Income.

#### 4.4.4. STEP FOUR. VERIFY ACCURACY OF OCCUPANT INCOME BASED ON MONTHLY HOUSING COST DATA.

LAHD shall provide occupants and Applicants with the opportunity to verify the accuracy of occupant income determinations based on Monthly Housing Cost.

LAHD shall provide persons and families presumed not to have a Very Low, Low or Moderate income with the opportunity to submit data verifying actual income. Likewise, LAHD shall provide Applicants with a roster of occupants presumed to have a Very Low, Low or Moderate Income, who may then submit data verifying actual income. LAHD is

responsible for verifying the accuracy of any submitted income data. LAHD shall use actual income data to correct any incorrect occupant income determinations based on Monthly Housing Cost.

Based on this review, LAHD shall:

- Go to step five if the person or family DOES NOT have a Very Low, Low or Moderate Income; or
- Go to step six if the person or family DOES have a Very Low, Low or Moderate Income.

4.4.5 STEP FIVE. IDENTIFY AND DETERMINE IF ANY EVICTIONS WERE FOR THE PURPOSE OF EVADING THE MELLO ACT.

LAHD shall conduct an investigation to carry out the following Mello Act provisions concerning evictions:

"For purposes of this subdivision, a residential dwelling unit shall be deemed occupied by a person or family of low or moderate income if the person or family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit and if the eviction was for the purpose of avoiding the requirements of this subdivision. If a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of an application to convert or demolish the structure, the evictions shall be presumed to have been for the purpose of avoiding the requirements of this subdivision and the applicant for the conversion or demolition shall bear the burden of proving that the evictions were not for the purpose of avoiding the requirements of this subdivision."

LAHD shall identify those Residential Units presumed to have a Very Low, Low or Moderate Income based on its investigation. After completing step five, LAHD shall go to step six.

4.4.6 STEP SIX. LAHD SHALL INFORM THE DEPARTMENT OF CITY PLANNING, ZONING ADMINISTRATION DIVISION (DCP/ZAD) OF THE RESULTS OF ITS OCCUPANT INCOME DETERMINATION PROCESS.

LAHD shall prepare a report for DCP/ZAD staff which contains the following information for each referred Demolition and Conversion:

One-Family Dwellings

- Total number of Residential Units
- Total number of Affordable Existing Residential Units

Two-Family Dwellings

- Total number of Residential Units
- Total number of Affordable Existing Residential Units

Triplexes and Other Structures that Contain Three or More Residential Units

- Total number of Residential Units
- Total number of Affordable Existing Residential Units

Summary

- Total number of Residential Units
- Total number of Affordable Existing Residential Units

LAHD shall also provide the following information for each identified Affordable Existing Residential Unit:

- Address
- Names of occupants
- Number of bedrooms

The Mello Act generally requires the one-for-one replacement of demolished or converted Affordable Existing Residential Units within three years of the date that work commenced on the Demolition or Conversion. There are two limited exceptions to this general rule. The purpose of answering Worksheet questions #5 through #8 is to determine whether the Applicant is exempt from replacing any of the Affordable Existing Residential Units identified by LAHD.

**4.5 QUESTION #5. IS THE APPLICATION FOR COASTAL-DEPENDENT OR COASTAL-RELATED NON-RESIDENTIAL USES? ARE THESE NON-RESIDENTIAL USES CONSISTENT WITH THE LAND USE PLAN OF A CERTIFIED LOCAL COASTAL PROGRAM?**

If the answer to both questions is "yes," the Application fits into the first exception category. Staff shall skip to question #8. If the answer to either question is "no," the Application does not fit into the first exception category. Staff shall go to question #6.

As of the effective date of these Interim Administrative Procedures, the California Coastal Commission has not certified any LCPs in the City of Los Angeles. Consequently, no Applications currently fit into the first exception category. Until this situation changes, staff shall automatically record a "no" answer to question #5, and go to question #6.

#### **4.6 QUESTION #6. ARE 11 OR MORE RESIDENTIAL UNITS PROPOSED FOR DEMOLITION OR CONVERSION?**

If the total number of Residential Units proposed for Demolition or Conversion is ten or fewer, staff shall record a "no" answer to question #6. Staff shall go to question #7.

If the Applicant is proposing to demolish or convert 11 or more Residential Units, staff shall record a "yes" answer to question #6. All of the Affordable Existing Residential Units recorded in the answer to question #4 must be replaced. The second exception category applies to a maximum of ten Residential Units.

#### **4.7 QUESTION #7. ARE ANY AFFORDABLE EXISTING RESIDENTIAL UNITS IN ONE-FAMILY OR TWO-FAMILY DWELLINGS?**

If the answer to question #7 is "yes," staff shall go to question #8. If the answer to question #7 is "no," and all of the Affordable Existing Residential Units are in triplexes and other structures that contain three or more Residential Units, then all of the Affordable Existing Residential Units recorded in the answer to question #4 must be replaced. The second exception category does not apply to triplexes or other structures that contain three or more Residential Units.

#### **4.8 QUESTION #8. IS IT INFEASIBLE FOR THE APPLICANT TO REPLACE ANY OF THE AFFORDABLE EXISTING RESIDENTIAL UNITS IDENTIFIED BY ANSWERS TO QUESTIONS #5 AND #7?**

The purpose of answering question#8 is to determine if it is feasible for the Applicant to provide Affordable Replacement Units if the proposed Demolition or Conversion fits into the first exception category (consistency with a certified LCP, question #5); or the second exception category (ten or fewer Residential Units consisting of one-family and/or two-

family dwellings, question #7). If the proposed Demolition or Conversion does not fit into an exception category, then all of the Affordable Existing Residential Units recorded in the answer to question #4 must be replaced.

To answer question #8, DCP/ZAD staff shall instruct the Applicant to complete Form CP-6391, Los Angeles City Planning Department Moderate-Income Housing Purchase Feasibility Analysis (Attachment 3). DCP/ZAD staff shall review the submitted data, taking into consideration the typical public subsidies and other affordable housing incentives available by-right, to determine whether it's feasible for the Applicant to replace some or all of the Affordable Existing Residential Units identified by answers to questions #5 and #7.

If the answer to question #8 is "yes," how many Affordable Replacement Units is it infeasible for the Applicant to provide? Record this number in the "yes" box for question #8. Then subtract this number from the number recorded in the answer to question #4. Record the result on the line following question #8. This is the total number of required Affordable Replacement Units.

If the answer to question #8 is "no," then it's feasible for the Applicant to replace all of the Affordable Existing Residential Units recorded in the answer to question #4. Record a "zero" in the "no" box for question #8. Then record the number recorded in the "yes" box for question #4 on the line following question #8. This is the total number of required Affordable Replacement Units.

This concludes the Mello Act Compliance Review process for proposed Demolitions and Conversions in the Coastal Zone. A determination shall be issued pursuant to Part 6.0.

## 5.0 NEW HOUSING DEVELOPMENTS

Based on the Coastal Commission Guidelines, the Council has found that it is generally feasible for New Housing Developments consisting of ten or more Residential Units to provide Inclusionary Residential Units. Applicants shall implement one of the following two required inclusionary options:

- Inclusionary Requirement Option #1. Reserve at least 20 percent of all Residential Units for Inclusionary Residential Units for Very Low or Low Income Households; or
- Inclusionary Requirement Option #2. Reserve at least ten percent of all Residential Units for Inclusionary Residential Units for Very Low Income Households.

The provision of Inclusionary Residential Units for seniors or disabled persons who do not have a Very Low or Low Income does not fulfill the inclusionary requirements for New Housing Developments.

## 6.0 DETERMINATIONS

A determination shall be issued for each non-Categorically Exempt Demolition, Conversion, and New Housing Development.

For Discretionary Applications, the decision-maker shall issue the determination as written conditions attached to the determination made with respect to the underlying case. All completed forms, correspondence received and sent, and other supporting documentation shall be attached to the file created for the underlying case.

For Non-Discretionary Applications, DCP/ZAD staff shall issue the determination as a Director's Determination. Staff shall also prepare a file, and attach all completed forms, correspondence received and sent, and other supporting documentation.

A copy of each determination shall be simultaneously transmitted to the Applicant, the Department of Building and Safety, LAHD, all building occupants, and:

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### 6.1 DEMOLITIONS AND CONVERSIONS

Each determination shall include the following:

- Results of the Mello Act compliance review process completed in Part 4.0;
- Total number of Affordable Existing Residential Units identified by LAHD;
- Total number of required Affordable Replacement Units recorded on the Mello Act Compliance Review Worksheet;
- A requirement that the Applicant comply with the requirements set forth in Parts 7.2, 7.4, and 7.5;
- A statement that the Application is not approved until LAHD has approved the Affordable Housing Provision Plan prepared pursuant to Part 7.4; and

- Information for Appellants pursuant to Part 8.0.

## **6.2 NEW HOUSING DEVELOPMENTS**

Each determination shall include the following:

- A requirement that the Applicant comply with one of the Inclusionary Requirement Options set forth in Part 5.0;
- Total number of Inclusionary Residential Units required under both Options #1 and #2;
- A requirement that the Applicant comply with the requirements set forth in Parts 7.3, 7.4, and 7.5; and
- A statement that the Application is not approved until LAHD has approved the Affordable Housing Provision Plan pursuant to Part 7.4; and
- Information for Appellants pursuant to Part 8.0.

## **7.0 GENERAL PROVISIONS**

The following general provisions apply to Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units as set forth in a determination issued pursuant to Part 6.0.

### **7.1 AFFORDABLE HOUSING INCENTIVES**

Applicants may be entitled to some or all of the incentives set forth in Section 12.22 A 25 of the Los Angeles Municipal Code, including a Density Bonus.

### **7.2 AFFORDABLE REPLACEMENT UNITS**

#### **7.2.1 INCOME TARGETING**

Affordable Replacement Units may be provided at any level of affordability. For example, an Affordable Existing Residential Unit occupied by a Very Low Income Household may be replaced with an Affordable Replacement Unit affordable to a Moderate Income Household. The Council may change this policy when the Interim Ordinance is adopted and require "like for like" replacement (e.g., an Affordable Existing Residential Unit occupied by a Very Low Income Household shall be replaced with an Affordable Replacement Unit affordable to a Very Low Income Household.)

## 7.2.2 LOCATION

Affordable Replacement Units shall be located on-site, or elsewhere within the Coastal Zone. Applicants claiming it is infeasible for them to comply with this requirement may request permission to provide the required units within three miles of the Coastal Zone by submitting an appeal pursuant to Part 8.0. Applicants should consult the Department of City Planning's three mile radius Coastal Zone maps to identify potential sites located outside the Coastal Zone.

## 7.2.3 TIMING REQUIREMENT

Required Affordable Replacement Units shall be provided within three years of the date that work commenced on the Demolition or Conversion. The Department of Building and Safety shall determine the date that "work commenced" on the Demolition or Conversion.

## 7.2.4 PERFORMANCE STANDARDS

If Affordable Replacement Units are included as part of mixed-income New Housing Developments, then Applicants shall comply with the following portions of the Performance Standards set forth in the Affordable Housing Incentives Guidelines (Attachment 4):

- Project design (Section 4A, page 7); and
- Equal distribution of amenities (Section 4B, page 8).

All other Applicants shall comply with the project design and amenities requirements promulgated by LAHD.

## 7.3 INCLUSIONARY RESIDENTIAL UNITS

### 7.3.1 LOCATION

Inclusionary Residential Units shall be located on-site. Applicants claiming it is infeasible for them to comply with this requirement may request permission to provide the required units elsewhere within the Coastal Zone, or within three miles of the Coastal Zone, by submitting an appeal pursuant to Part 8.0. Applicants should consult the Department of City Planning's three mile radius Coastal Zone maps to identify potential sites located outside the Coastal Zone.

Based on the Coastal Commission Guidelines, the Council has found that it is generally more feasible for New Housing Developments that consist of 21 or more Residential Units to provide units on-site than it is for New Housing Developments that consist of 10-20 units to provide units on-site.

### 7.3.2 TIMING REQUIREMENT

If Inclusionary Residential Units are approved for off-site provision, they shall be provided within three years of the date that LAHD approved the Affordable Housing Provision Plan pursuant to Part 7.4 below. A New Housing Development's Inclusionary Residential Units and market-rate Residential Units shall be made available at the same time.

### 7.3.3 PERFORMANCE STANDARDS

Applicants shall comply with the following portions of the Performance Standards set forth in the Affordable Housing Incentives Guidelines (Attachment 4):

- Project design (Section 4A, page 7); and
- Equal distribution of amenities (Section 4B, page 8).

## 7.4 AFFORDABLE HOUSING PROVISION PLAN

Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units shall prepare an Affordable Housing Provision Plan that specifies how the Applicant shall carry out the conditions contained in the determinations issued pursuant to Part 6.0, and the requirements set forth in Parts 7.2 and 7.3 above, and Part 7.5 below.

Applicants shall submit their Affordable Housing Provision Plan to LAHD for review and approval. Applications only receive final approval after LAHD has approved the Affordable Housing Provision Plan.

The Affordable Housing Provision Plan shall include the following elements:

### 7.4.1 METHODS TO PROVIDE REQUIRED AFFORDABLE UNITS

Applicants may propose to provide required Affordable Replacement Units or Inclusionary Residential Units through one or any combination of the following methods:

- New construction; or
- Adaptive reuse (conversion of existing non-residential structures).

### 7.4.2 OPERATIONAL DETAILS

Applicants shall supply the following operational details:

- Address where Affordable Replacement Units or Inclusionary Residential Units will be provided, if the determination permits these Units to be provided off-site;
- General description of the Affordable Replacement Units or Inclusionary Residential Units to be provided, including the number and type of habitable rooms; square footage; and parking.
- Affordable housing incentives and subsidies that will be utilized;
- Methods for complying with the Performance Standards set forth in Parts 7.2.4 and 7.3.3, including a dispersal plan if Affordable Replacement Units or Inclusionary Residential Units shall be provided on-site. Affordable Replacement Units or Inclusionary Residential Units may not be segregated from market-rate units, but shall be reasonably dispersed throughout the building; and
- Financing; construction plan; and project timetable for complying with the timing requirements set forth in Part 7.2.3 for Affordable Replacement Units, and Part 7.3.2 for Inclusionary Residential Units.

## **7.5 ENFORCEMENT AND MONITORING**

### **7.5.1 AFFORDABILITY COVENANTS**

Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units shall record a covenant with the Los Angeles County Recorder guaranteeing that applicable affordability criteria shall be observed for at least 30 years from the issuance of the Certificate of Occupancy. The Council may include a requirement for 55-year affordability covenants in the Interim Ordinance.

Tenants, rental applicants, purchasers and prospective purchasers of the Affordable Replacement Units or the Inclusionary Residential Units shall have the right to seek an injunction to enforce the affordability criteria, or to raise the affordability criteria as a defense or counterclaim to a claim for rent or possession directly against the owner, manager, and/or their successors in interest, of those units.

### **7.5.2 FINANCIAL ASSURANCES**

The LAHD may require the Applicant to post a bond or make other financial assurances to assure compliance with the final approved Affordable Housing Provision Plan.

### **7.5.3 MONITORING REQUIREMENTS**

All Applicants shall comply with the monitoring requirements set forth in Section IVC of the Affordable Housing Incentives Guidelines (page 10 of Attachment 4).

## **8.0 APPEALS**

Determinations may be appealed. The determination shall identify deadlines, filing fees, the appellate body, and other necessary procedures and requirements for considering the appeal.

Appellants have the burden of proof and shall present substantial evidence to support their appeal. A copy of the results of each appeal shall be simultaneously transmitted to the Applicant; the Department of Building and Safety, LAHD, all building occupants, and:

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### **8.1 DISCRETIONARY APPLICATIONS**

The appeals procedures and appellate body shall be those connected to the underlying case.

### **8.2 NON-DISCRETIONARY APPLICATIONS**

Appellants may appeal a Director's Determination using the forms and following the procedures promulgated by the DCP/ZAD. Until July 1, 2000, the appellate body shall be the Board of Zoning Appeals. After July 1, 2000, the appellate body shall be the Area Planning Commission.

### **8.3 DEPARTMENT OF BUILDING AND SAFETY ACTIONS**

Appellants may appeal Department of Building and Safety decisions and determinations to the Board of Building and Safety Commissioners pursuant to Los Angeles Municipal Code Section 98.0403.1.

**ATTACHMENT 1****DEFINITIONS**

The following words, whenever used in these Interim Administrative Procedures, shall be construed as defined in this Attachment. Words and phrases not defined shall be construed as defined in Sections 12.03 and 91.0200, *et sec*, of the Los Angeles Municipal Code as defined therein.

**"Affordable Housing Incentives Guidelines"** means the guidelines adopted by the City Planning Commission on December 14, 1995, as amended, pursuant to Ordinance No. 170,764, which implement California Government Code Section 65915 in the City of Los Angeles.

**"Affordable Replacement Unit"** means a Residential Unit built or provided that has the same number of bedrooms as the Affordable Existing Residential Unit that has been demolished or converted, with an Affordable Monthly Housing Cost.

**"Affordable Monthly Housing Cost"** refers, for ownership units, to the current definition contained in Health and Safety Code Section 50052.5, as further defined in 25 California Code of Regulations Section 6920. For rental units, "Affordable Monthly Housing Cost" refers to the current definition contained in Health and Safety Code Section 50053, as further defined in 25 California Code of Regulations Section 6918.

**"Affordable Existing Residential Unit"** means an existing Residential Unit proposed for Demolition or Conversion that is occupied by a Very Low, Low or Moderate Income Household, as determined by the Housing Department General Manager, following the occupant income determination process set forth in the Interim Administrative Procedures.

In the event that an existing Residential Unit is occupied by more than one person or family, and if at least one such person or family (excluding any dependents) is of Very Low, Low or Moderate Income, then the existing Residential Unit is defined as an Affordable Existing Residential Unit.

**"Appellant"** means the Applicant, current occupant, former occupant evicted within the last year, or other aggrieved person who files an appeal pursuant to the Interim Administrative Procedures.

**"Applicant"** means the person, partnership, corporation, governmental organization, or other entity submitting a Discretionary Application and/or a Non-Discretionary Application to the City of Los Angeles.

**"Application, Discretionary"** means the original application for, or submission of a subsequent non-minor modification to, one or more of the following entitlements:

approval-in-concept, coastal development permit, conditional use permit, condominium conversion, development agreement, plan approval, specific plan exception, subdivision or tract map, variance, zone change or any other action that first requires the discretionary approval of the Director of Planning, the City Planning Commission, the Zoning Administrator, the Advisory Agency, or an Area Planning Commission.

**"Application, Non-Discretionary"** means an application for a building permit, demolition permit, or change of use permit that requires the ministerial approval of the Department of Building and Safety.

**"Categorical Exemption"** means an Application that the City has determined is categorically exempt from providing either Affordable Replacement Units or Inclusionary Residential Units, consistent with the Mello Act and these Interim Administrative Procedures.

**"Coastal Commission Guidelines"** means the California Coastal Commission Interpretive Guidelines on Construction of New Housing adopted by the California Coastal Commission on May 5, 1981.

**"Coastal-Dependent Non-Residential Use"** means any non-residential development or use which requires a site on, or adjacent to, the sea to be able to function at all.

**"Coastal Development Permit"** means a permit for any development within the Coastal Zone that is required pursuant to Subdivision (a) of Section 30600 of the California Coastal Act.

**"Coastal-Related Nonresidential Use"** means any nonresidential development or use that is dependent on a Coastal-Dependent Non-Residential Use.

**"Coastal Zone"** means the Coastal Zone, as defined in California Public Resources Code, Division 20 (commencing with Section 30000), including, but not limited to, the Coastal Zone portions of Venice, San Pedro, Pacific Palisades, Playa Vista, Wilmington, Fort MacArthur/White Point, Palms/Marina Freeway Area, and Del Ray Lagoon, as depicted on the City of Los Angeles Coastal Zone Maps, as prepared and maintained by the Department of City Planning. In the case of any discrepancy, the Public Resources Code shall control.

**"Conversion"** means a change of one or more existing Residential Units to a condominium, cooperative, or similar form of ownership; a change of one or more existing Residential Units to a non-residential use; or a reduction in the existing number of Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

**"Demolition"** means the demolition of one or more existing Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

**"Density Bonus"** means a minimum density increase of 25 percent over the otherwise maximum allowable residential density granted pursuant to California Government Code Section 65915.

**"Director's Determination"** means a determination of the Director of Planning of the Department of City Planning, or his or her designee.

**"Feasible"** means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

**"Household, Low Income"** means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50079.5, as further defined in 25 California Code of Regulations 6928 and 6932.

**"Household, Moderate Income"** means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50093 (b), as further defined in 25 California Code of Regulations 6930 and 6932.

**"Household, Very Low Income"** means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50105, as further defined in 25 California Code of Regulations 6926 and 6932.

**"Housing Department General Manager"** means the General Manager or his or her designee, of the Los Angeles Department of Housing or successor agency.

**"Inclusionary Residential Unit"** means a Residential Unit with an Affordable Monthly Housing Cost.

**"Interim Administrative Procedures"** means the interim administrative procedures developed by the Departments of Building and Safety, City Planning and Housing pursuant to instruction of the City Council on January 19, 2000.

**"Interim Ordinance"** means the Interim Ordinance that on January 19, 2000, the City Council directed the Department of City Planning to prepare and submit to the City Planning Commission for approval, and that shall be based on the results of the Interim Study.

**"Interim Study"** means the study that consultants shall complete to assist the City in implementing the Mello Act; updating the Interim Administrative Procedures; and preparing the Interim Ordinance.

**"Local Coastal Program"** means the Land Use Plan and Local Implementation Plan that a local government has adopted to implement the provisions and policies of the California Coastal Act, and that has been certified by the California Coastal Commission pursuant to Public Resources Code Section 30512.

**"Monthly Housing Cost"** means the monthly rent or mortgage for a Residential Unit, as determined by the Housing Department General Manager.

**"New Housing Development"** means the development of one or more Residential Units for rent or for sale, through either construction of new structures, additions to existing structures, or the adaptive reuse of existing, non-residential structures. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

**"Public Nuisance"** means a residential structure that has been declared a public nuisance pursuant to Division 13 (commencing with Section 17000) of the California Health and Safety Code; or Chapter IX, Article 1, Division 89 of the Los Angeles Municipal Code.

**"Residential Unit"** means a dwelling unit, efficiency dwelling unit, or joint living and work quarters as defined in Section 12.03 of the Los Angeles Municipal Code (LAMC); a mobilehome, as defined in Section 18008 of the California Health and Safety Code; a mobilehome lot in a mobilehome park as defined in Section 18214 of the California Health and Safety Code; or a residential hotel as defined in paragraph (1) of subdivision (b) of Section 50519 of the California Health and Safety Code.

**"Unified Development"** means a development of two or more buildings which have functional linkages such as pedestrian or vehicular connections, with common architectural and landscape features which constitute distinctive design elements of the development, and that appears to be a consolidated whole when viewed from adjoining streets. Unified Developments may include two or more contiguous parcels or lots of record separated only by a street or alley.

**ATTACHMENT 2**

MELLO ACT COMPLIANCE REVIEW WORKSHEET  
FOR PROPOSED DEMOLITIONS AND CONVERSIONS

**ATTACHMENT 3**

LOS ANGELES CITY PLANNING DEPARTMENT MODERATE-INCOME  
HOUSING PURCHASE FEASIBILITY ANALYSIS (FORM CP-6391)

**ATTACHMENT 4**

**AFFORDABLE HOUSING INCENTIVES GUIDELINES**

# **AFFORDABLE HOUSING INCENTIVES GUIDELINES**

Implementing the Affordable Housing  
Incentives Program Ordinance No. 170,764

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## AFFORDABLE HOUSING INCENTIVES GUIDELINES

### I. SCOPE AND PURPOSE

The City of Los Angeles has established an Affordable Housing Incentives Program to encourage the production of housing for qualified lower income residents, including elderly and disabled persons. The program is based on a series of amendments to the Municipal Code. The Affordable Housing Incentives Guidelines, established by resolution of the City Planning Commission, facilitate the use of incentives established by law.

The Municipal Code now encourages broader application for the density bonus provisions of State law by creating incentives that eliminate discretionary review for qualifying developments, relax land use controls, defer payment of fees, and expedite application processing. These incentives, as explained in this document, are grouped into two main options.

The eligibility of a development to benefit from the incentives is determined on a case-by-case basis through application of performance standards. These guidelines set forth in detail the incentives for which developments may qualify and the standards by which they will be evaluated. The guidelines may be modified by resolution of the Planning Commission if needed.

The options permit a developer to receive incentives on the basis of public benefit offered. For example, a limited number of incentives such as reduced parking, deferred fees, and expedited processing are available if restricted affordable dwelling units are provided adjacent to public mass transit.

A development might, however, qualify for a density increase of up to 25%, in addition to the aforementioned incentives, if it meets criteria for tenant "set-asides" established by State law as follows:

- \* 10% of dwelling units for "very low" income households (earning no more than 50% of the County median income and paying no more in rent than the amount established by the Los Angeles Housing Department (LAHD) for households earning up to 50% of the median income),  
OR
- \* 20% of dwelling units for "lower" income households (earning no more than 80% of the County median income and paying no more in rent than the amount established by LAHD for households earning up to 60% of the median income),  
OR
- \* 5% of dwelling units for disabled persons whose household income does not exceed Supplemental Security Income (SSI) levels.

Affordable Housing Incentives Program Applications are available at the Public Counter of the City Planning, Building and Safety Departments and at the Department of Housing. Completed applications must be submitted to the Department of Building and Safety for review and approval. Full compliance with each component is required to receive a density bonus or parking reduction without a density bonus.

## II. DEFINITIONS

The following program definitions apply:

**Affordable Accessible Unit** - a dwelling unit or guest room that is adapted to be used by persons who are physically disabled, based on the criteria of Title 24 of the California Code of Regulations or any amendment thereto, where the household income of the residents does not exceed Social Security Supplementary Income (SSI) levels, and where the rent is restricted to no more than approximately 30% of the resident's SSI level according to a rent schedule prepared by the City's Housing Department.

**Affordable Housing Incentives Guidelines** - the guidelines approved by the City Planning Commission by which applications for affordable housing projects are evaluated for compliance with the goals and policies of the City's Affordable Housing Program.

**Affordable Housing Units** - dwelling units or guest rooms for which rental or mortgage payments do not exceed the limits stated in Section 65915 of the California Government Code. Dwelling Units or guest rooms designated for lower income households, as defined in Section 50079.5 of the California Health and Safety Code, shall have rents not exceeding 30 percent of 60 percent of the area median income as set forth on the rent schedule prepared by the City's Housing Department or its successor agency. In order for a development project to qualify as a project containing affordable housing units, the owner shall record a document with the Los Angeles County Recorder guaranteeing that these affordability criteria will be observed for at least 30 years from the issuance of the Certificate of Occupancy.

**Area Median Income** - the estimate of median income in the Los Angeles-Long Beach Primary Metropolitan Statistical Area that is determined periodically by the United States Department of Housing and Urban Development (HUD) or any successor agency, adjusted for household size and which is published periodically.

**Density Bonus** - a density increase of at least 25% over the otherwise maximum allowable residential density pursuant to California Government Code Section 65915. The density bonus shall apply to housing developments consisting of five or more dwelling units.

**Income, Lower and Very Low** - annual income of a household that does not exceed the area median for either income category as specified in California Health and Safety Code Sections 50079.5 and 50105, as determined by the City's Housing Department.

**Mass Transit Station** - a transit stop for a fixed rail system, or a major bus center. A station is one that is currently in use or whose location is proposed and for which a full funding contract has been signed by all funding partners, or one for which a resolution to fund a preferred alignment has been adopted by the Los Angeles County Metropolitan Authority or its successor agency.

**Major Bus Route** - a bus route with peak-hour headways of 15 minutes or less.

**Restricted Affordable Unit** - an affordable housing unit in a development rented to a household with very low or lower income residents, and/or very low income senior citizens. In order for a development to qualify as a development containing affordable housing units, the owner shall record a document with the Los Angeles County Recorder guaranteeing that the relevant affordability criteria will be observed for at least 30 years from the issuance of the Certificate of Occupancy.

**Senior Citizens** - individuals who are at least 62 years of age, except that for density bonus projects of at least 150 dwelling units, a threshold of 55 years of age may be used, provided all applicable city, state, and federal regulations are met.

**Single Room Occupancy Hotel** - an apartment building, hotel, or other structure containing six or more guest rooms, and which may also contain dwelling units, in which 30% or more of the dwelling units or guest rooms do not contain a private bath and toilet facilities within the dwelling unit or guest room.

### III. DESCRIPTION OF THE AFFORDABLE HOUSING INCENTIVES

The following options provide alternatives and incentives by which affordable housing dwelling units may be constructed.

#### A. Incentives Option 1

This is a minimum "by right" density bonus option provided by State law (Government Code, Section 65915) granted to a residential project which provides the set-aside dwelling units listed on Page 2, Section I of these guidelines, or in which at least 50% of the dwelling units are reserved for senior citizen tenancy. In exchange, the project shall receive the following:

##### a. A 25% density bonus\*

A maximum density increase of 25% over the otherwise allowable residential density pursuant to California Government Code Section 65915. The density bonus applies to new or existing housing developments consisting of five or more dwelling units.

When calculating the number of dwelling units allowed in a project, the density figure will be rounded upwards from fractions of one-half ( $\frac{1}{2}$ ) and more from that permitted by the applicable zone, to allow one additional dwelling unit.

\*In cases where dwelling units will be targeted for senior citizens at market rate, the applicant may receive the 25% density bonus, but only through a conditional use permit. Any density bonus of 26% and above requires a conditional use permit.

##### b. Reduced parking requirements for the restricted dwelling units\*\*

Parking requirements for each restricted affordable dwelling unit is as follows:

- 1.00 parking space per dwelling unit irrespective of the number of habitable rooms  
for a project located within 1,500 feet of a mass transit station or major bus routes
- 1.00 parking space per dwelling unit  
for restricted affordable dwelling units with 1 and 2 habitable rooms
- 1.50 parking space per dwelling unit  
for restricted affordable dwelling units with 3 or more habitable rooms
- 0.50 parking space per dwelling unit or guest room  
for dwelling units restricted to senior citizens and/or disabled
- 0.25 parking space per dwelling unit  
for single-room occupancy hotels, with a minimum of 5 parking stalls per facility.

"The parking reduction is "by right", subject to conformance with the applicable conditions stipulated in the Affordable Housing Incentives Program Application. Any request for a parking reduction in excess of that permitted in the Affordable Housing Incentives Application shall be processed separately for discretionary action through the Department of City Planning.

c. Waiver of guest parking provision for restricted dwelling units

The requirement to provide guest parking is waived for only restricted dwelling units. Market rate dwelling units shall comply with the parking requirements as specified in the Zoning Code.

d. Deferred payment of selected permits and fees

The application and environmental fees (Department of City Planning) may be deferred up to the time of the issuance of any Certificate of Occupancy. However, fees must be paid for services performed regardless of project outcome.

e. Expedited processing of building plans and permits

Projects providing affordable housing will receive expedited processing as currently available.

## B. Incentives Option 2

All the incentives listed above under Option 1, except the density bonus (incentive (a)) are also available to developers for projects that offer fewer affordable dwelling units than the amount listed on Page 1, Section I of these guidelines. Those projects are not entitled to the 25% density bonus available in Option 1.

### AFFORDABLE HOUSING INCENTIVES PROGRAM Options Summary

Under Incentives Option 1, if a project of 5 or more dwelling units provides:

10% "very low" income,  
or  
20% "lower" income,  
or  
5% affordable accessible dwelling units



the applicant shall receive the following:

- a. 25% Density Bonus
- b. reduced parking for restricted dwelling units
- c. waiver of guest parking provisions for restricted units
- d. deferred payment of fees and permits
- e. expedited processing of plans and permits

Under Incentives Option 2, if a project provides dwelling units for:

low income seniors,  
or  
low income disabled persons,  
or  
other low income households with incomes at 80% or less of County median with rents set at 60% of median



the applicant shall receive the following:

- b. reduced parking for restricted dwelling units
- c. waiver of guest parking provisions for restricted dwelling units
- d. deferred payment of fees and permits
- e. expedited processing of plans and permits

#### IV. PERFORMANCE STANDARDS FOR OPTIONS 1 AND 2

The Performance Standards listed and described below are requirements of all projects with restricted dwelling units for which OPTION 1 or 2 is sought. The Performance Standards are included into three main categories:

- A. Project Design (Location of Restricted Units, Noise, Wall, Lighting)
- B. Equal Distribution of Amenities
- C. Eligibility, Affordability and Monitoring Requirements

##### A. Project Design

- Design of Restricted Affordable Units in Mixed-Income Projects:

Restricted dwelling units shall be comparable in every manner, except in the quality of interior "finish" materials (e.g., floor and wall coverings), to market-rate dwelling units, including total square footage, bedrooms size, closet space, amenities, number of bathrooms, etc. The design of restricted dwelling units should generally reflect the average number of bedrooms per dwelling unit in the development.

Restricted dwelling units shall not be confined to one type of dwelling unit within a development.

- Location of Restricted Units Within Mixed-Income Projects:

Restricted dwelling units must be interspersed among market-rate dwelling units within the same building. They may not be grouped together on one level or in one or more "less desirable" corners or areas of the building. In multiple building developments, restricted dwelling units must be reasonably dispersed among the buildings.

- Noise

Common recreational uses, such as swimming pools and barbecue areas, shall not be located immediately adjacent to neighboring residential uses.

Any building within 500 feet of a railroad, major highway or freeway, airport or aircraft pathway shall be constructed so as to provide a Sound Transmission Class of 50 or greater as defined in the Uniform Building Code.

- Wall

A decorative masonry wall 6 feet in height shall be constructed along any common property line between the subject property and any adjoining property containing a single-family use.

- Lighting

Lighting shall be located so as not to shine onto any adjacent residential property.

## B. Equal Distribution of Amenities

Residents of restricted dwelling units may not be charged for amenities that are provided at no cost to other residents including, but not limited to, access to recreational facilities, parking, cable TV, and interior amenities such as dishwashers and microwave ovens.

Optional services provided must be optional for all residents, and available to all under the same terms and conditions.

All incentives (e.g. one month free rent specials) must be offered to all new residents, not only residents of market rate dwelling units.

## C. Affordability, Eligibility and Monitoring Requirements

### Affordability Requirements:

1. All restricted dwelling units shall comply with the affordability restrictions on household income as established by the Los Angeles Housing Department ("LAHD") in conformance with the U.S. Department of Housing and Urban Development.
2. The affordability restrictions for income and rent are subject to change periodically. The owner can contact LAHD to receive the periodic changes in the affordability restrictions.
3. For the purpose of a density bonus incentive, State law requires that households with incomes between 60% and 80% of the median income be assigned rents that do not exceed 60% of the median rent.
4. For developers seeking a parking reduction without a density bonus, dwelling units must be restricted to low income households (80% of median) with rent levels set at the rates for households with incomes at 60% of median.
5. The project shall reserve and maintain the number of dwelling units designated as restricted dwelling units for a period of not less than 30 years from the issuance of any Certificate of Occupancy.

Below is the Affordable Housing Incentives Program maximum rent schedule by bedroom size.

## MAXIMUM RENTS EFFECTIVE MAY 5, 1995

No. of Bedrooms	Affordable Accessible SSI Levels	Very Low Income up to 50% Median	Lower Income up to 60% Median
SRO	\$181	\$332	\$398
0	\$181	\$372	\$427
1	\$181	\$426	\$488
2	\$330	\$479	\$549
3	\$330	\$579	\$659
4	\$330	\$660	\$756

These rents are the upper limits that may be charged to "lower", "very low" income and Disabled households. The actual rents charged to households of restricted dwelling units may be lower to reflect actual market conditions.

Eligibility of Seniors and Disabled Persons:

Each dwelling unit so designated shall be occupied by at least one person who is disabled or 62 years of age or older. Disabled persons are those persons having a physical or mental impairment which seriously restricts that person from operating a motor vehicle, is expected to be of long-term and indefinite duration, which substantially impedes his or her ability to live independently, and is of a nature that such ability could be improved by more suitable housing conditions.

Below are the Affordable Housing Incentives Program Household Income eligibility criteria.

## HOUSEHOLD INCOME TABLE EFFECTIVE MAY 5, 1995

Household Size	Affordable Accessible SSI Levels	Very Low Income* 50% Median	Lower Income* 80% Median
1	\$ 7,236	\$17,950	\$28,150
2	\$13,200	\$20,500	\$32,150
3	\$13,200	\$23,100	\$36,200
4	\$13,200	\$25,650	\$40,200
5	\$13,200	\$27,700	\$43,400
6	\$13,200	\$29,750	\$46,650
7	\$13,200	\$31,800	\$49,850
8	\$13,200	\$33,850	\$53,050

\*Above limits are adjusted for Los Angeles and based on the 1995 HUD-Determined County Median Family Income of \$45,200.

Monitoring Requirements:

All projects shall comply with the annual monitoring requirements established by the Los Angeles Housing Department (LAHD) by means of a covenant and agreement.

It is the responsibility of the owner to notify LAHD of any changes in the building that may affect compliance, such as change of ownership, management agent or on-site manager, vacancies in restricted dwelling units, or changes in compliance with the performance standards approved by the Department of Building and Safety.

The following are LAHD requirements (a complete list is found in the LAHD covenant):

1. LAHD must complete initial reviews of new tenants eligibility for restricted dwelling units prior to occupancy.
2. LAHD must annually review tenants eligibility for restricted dwelling units.
3. LAHD must receive an annual review letter from the owner about the number of restricted dwelling units, household income and size, rent levels, dwelling unit size and verification of vacancies. LAHD may at any time audit the building occupancy to monitor restricted dwelling units.
4. LAHD may make annual site visits to ensure that the restricted dwelling units are maintained in decent, safe and sanitary condition and that they are provided with the same level of services, including security and maintenance, as are applied to the other dwelling units in the development.

Violations of the regulatory agreement will be levied against the building owner for non-compliance including legal proceedings. It is the responsibility of the owner to adhere to all program requirements.

## VI. PROCEDURE FOR OBTAINING A BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY

In addition to the standard requirements of the Building and Safety Department, the following clearances must be obtained to ensure compliance with the Affordable Housing Program Ordinance:

Prior to the issuance of a building permit, the following clearances must be obtained:

- Housing Department pre-qualification of application for conformity to Options 1 or 2 of the Affordable Housing Incentives Program Ordinance. Applications must include location and floor plans of the restricted affordable units. (Applications may be obtained at the public counters of the Building and Safety and Planning Departments as well as at the Housing Department.)
- Planning Department approval of complete development plans, including landscaping and irrigation plans.
- Proof of recordation of Agreement Containing Covenants Affecting Real Property for the project satisfactory to Housing Department. This Agreement shall reflect the information provided in the Affordable Housing Incentives Program Application, including the Performance Standards.

Prior to the issuance of any Certificate of Occupancy, the following clearances must be obtained:

- Final clearance from the Housing Department that all conditions of Agreement Containing Covenants Affecting Real Property have been met.
- Planning Department clearance for payment of deferred fees.

Addresses:

**Building & Safety Department**  
201 N. Figueroa Street, 4<sup>th</sup> Fl.  
Los Angeles, CA 90012  
Telephone (213) 888 LA-4-BUILD

**Los Angeles Housing Dept.**  
111 N. Hope Street  
Los Angeles, CA 90012  
Telephone (800) 994-4444

**City Planning Department**  
201 N. Figueroa Street, 3<sup>rd</sup> Floor  
Los Angeles, CA 90012  
Telephone (213) 977-6083

## BY-RIGHT\* APPLICATION PROCESS FOR DENSITY BONUS PROJECTS

\*Projects applying for a maximum of 25% density bonus. Projects applying for greater density bonus shall file a Conditional Use permit application. Applicants may obtain an Instructions for Filling a Conditional Use Permit application form at the Planning Counter RM-460-S.

### I. PROJECTS CONTAINING AFFORDABLE UNITS EXCLUSIVELY:

#### A. APPLICANT MUST COMPLETE AN APPLICATION AT THE BUILDING & SAFETY COUNTER

Building & Safety staff will verify compliance with all applicable zoning regulations including uses, yards, density, height, parking, etc.

#### B. PROJECTS USING PARKING REDUCTION INCENTIVE BASED ON PROXIMITY TO TRANSIT

Applicant has to submit a site plan drawn to scale, showing the proximity of the development site to the transit route or transit station to the satisfaction of Building & Safety staff who will verify if project qualifies using MTA's selected bus lines list, transit system map, or any other document deemed applicable.

#### C. APPLICANT NEEDS TO OBTAIN CLEARANCE FROM LOS ANGELES HOUSING DEPARTMENT FOR:

1. Qualifying restricted units
2. Obtaining proof of recordation of Agreement Containing Covenants Affecting Real Property for issuance of building permit.

### II. PROJECTS CONTAINING A MIX OF MARKET RATE AND AFFORDABLE UNITS

#### A. APPLICANT MUST COMPLETE AN APPLICATION AT THE BUILDING & SAFETY COUNTER

Building & Safety staff will verify compliance with all applicable zoning regulations including uses, yards, density, height, parking, etc.

#### B. PROJECTS USING PARKING REDUCTION INCENTIVE BASED ON PROXIMITY TO TRANSIT

Applicant has to submit a site plan drawn to scale, showing the proximity of the development site to the transit route or transit station to the satisfaction of Building & Safety staff or City Planning Counter staff who will verify if project qualifies using MTA's selected bus lines list, transit system map, or any other document deemed applicable.

#### C. APPLICANT NEEDS TO OBTAIN CLEARANCE FROM LOS ANGELES HOUSING DEPARTMENT FOR:

1. Qualifying restricted units
2. Obtaining proof of recordation of Agreement Containing Covenants Affecting Real Property for issuance of building permit.

#### D. PRIOR TO FINAL PLAN CHECK, APPLICANT HAS TO OBTAIN CLEARANCE FROM PLANNING DEPARTMENT TO VERIFY THAT PERFORMANCE STANDARDS ARE SATISFIED:

Applicant shall submit final set of floor plans to Plan Approval Unit staff who will evaluate the project for compliance with development standards spelled out in the Guidelines especially design and allocation of amenities.

## MTA LINES OPERATING ON A FREQUENCY OF 15 MINUTES OR BETTER

Line No.	Line Name	Frequency	
		Peaks	Midday
1	Hollywood Bl-Fairfax Av	7	10
2	Sunset Bl-Beverly Dr	5	12
3	Sunset Bl-Beverly Dr Branch of Line 2	5	10
4	Santa Monica Bl	7	9
10	Melrose Av-Virgil Av-Temple St	14	24
11	Melrose-Vermont-Temple Branch of 10	14	24
14	Beverly Bl-West Adams Bl	8	12
16	West Third St	3	10
18	West Sixth St-Whittier Bl	4	10
20	Wilshire Bl-Santa Monica	12	27
21	Wilshire Bl-UCLA Branch of Line 20	12	27
22	Wilshire Bl-Century City-Brentwood Br of Line 20	12	27
26	Seventh St-Virgil Av-Franklin Av	8	24
27	W. Olympic Bl-Burton Way Br. of Line 28	12	24
28	W. Olympic Bl	12	24
30	W. Pico Bl-E. First St-Floral Dr	5	10
31	W. Pico Bl-E. First St Branch of Line 30	4	8
33	Venice Bl	8	10
37	W. Adams Bl-Branch of Line 14	7	12
38	W. Jefferson Bl-City Terrace	12	20
40	Hawthorne-Downtown Los Angeles	6	10
42	LA-Westchester-LAX-Branch of Line 40	6	10
45	Broadway-Mercury Av	6	10
46	Broadway-Griffin Av-Branch of Line 45	6	10
48	Maple Av-S. Main St-Branch of Line 10	9	24
51	San Pedro St-Avalon Bl-Branch of Line 51	4	12
53	Central Av	8	15
55	LA-Compton Av-Imperial Sta.	4	16
60	Long Beach Bl-Santa Fe Av	3	8
65	Washington Bl-Indiana St-Gage Av	15	45
66	East Olympic Bl-West 8th St	3	10
67	East Olympic Bl-Branch of Line 66	3	0
68	West Washington Bl-Chavez Av	9	12
70	LA-El Monte via Garvey Av	8	14
71	City Terrace-Sybil Brand-Branch of Line 38	15	21
76	LA-El Monte via Valley Bl	12	15
78	LA-Alhambra-South Arcadia	14	34
79	LA-Arcadia-Branch of Line 78	14	34
81	Figueroa St	7	15
83	Pasadena Av-York Bl-Branch of Line 28	8	15
84	Cypress Av-Eagle Rock Bl-Branch of Line 28	15	32
85	Verdugo Rd-Glendale Col-Branch of Line 28	15	32
92	LA-Glendale-Burbank-San Fernando via Glendale Bl	11	20
93	LA-Glendale-Burbank-San Fernando via Allessandro-Branch of Line 92	11	20
94	Los Angeles-San Fernando	8	17
96	LA-Riverside Dr	15	30

## MTA LINES OPERATING ON A FREQUENCY OF 15 MINUTES OR BETTER

Line No.	Line Name	Frequency	
		Peaks	Midday
105	Vernon Av-La Cienega Bl	9	15
108	Slauson Av	10	20
110	Gage Av-Centinela Av-Fox Hills Mall	12	30
111	LAX-Florence Av-Leffingwell Rd	10	15
112	Florence Av-Otis St-Branch of Line 111	10	15
115	Manchester Av-Firestone Bl	7	15
117	Century Bl	15	20
120	Imperial Hwy	12	20
121	Imperial Hwy	12	20
125	Rosecrans Av	15	30
152	Fallbrook Av-Roscoe Bl-Vineland Av-Burbank	12	30
161	Westlake-Canoga Park	15	60
163	Sherman Wy-Hollywood	15	20
164	Victory Bl-Branch of Line 165	15	30
165	Vanowen St	15	30
175	Fountain Av-Talmadge St-Hyperion Av	15	60
180	Hollywood-Glendale-Pasadena via N. Lake	8	12
181	Hollywood-Glendale-Pasadena-PCC	8	12
200	Alvarado St-Echo Park Av	9	10
204	Vermont Av	4	5
206	Normandie Av	10	17
207	Western Av	5	17
210	Vine St-Crenshaw Bl	10	16
212	La Brea Av	8	20
217	Fairfax Av-Hollywood-Branch of Line 1	7	10
230	Laurel Canyon Bl	15	30
232	Long Beach-LAX	12	30
233	Van Nuys Bl-Branch of Line 561	10	12
234	Sepulveda Bl-Brand Bl-Sayre St	15	20
243	Desota Av-Ventura Bl-Winnetka Av	15	50
251	Soto St-Daly St-Seville Av-103rd Station	12	24
252	Soto St-California Av-Huntington Dr-Branch of Line 251	12	24
260	Artesia Sta-Pasadena-Altadena via Atlantic Bl	10	20
304	Santa Monica Bl Limited-Branch of Line 4	4	7
320	Wilshire Bl Limited-Branch of Line 20	5	9
322	Wilshire Bl-Century City-Brentwood Limited Br of Line 20	15	43
328	W. Olympic Bl Limited-Branch of Line 28	8	0
333	Venice Bl Limited-Branch of Line 33	9	0
345	Broadway Limited-Branch of Line 45	8	12
354	Vermont Av Limited-Branch of Line 204	7	15
357	Western Av Limited-Branch of Line 207	10	0
378	LA-Alhambra-So Arcadia Ltd-Branch of Line 78	13	0
379	LA-Arcadia Limited-Branch of Line 79	13	0
401	LA-Pasadena-No. Allen Express	12	30
402	LA-Pasadena Park-n-Ride-Branch of Line 401	15	0
420	LA-Van Nuys-Panorama City Express	6	10

## MTA LINES OPERATING ON A FREQUENCY OF 15 MINUTES OR BETTER

Line No.	Line Name	Frequency	
		Peaks	Midday
424	LA-Ventura BI Express	9	10
425	LA-Ventura BI Exp. Limited-Branch of Line 424	6	0
426	San Fernando Valley-Wilshire Express	15	0
434	LA-Santa Monica-Malibu Express	10	30
442	LA-Hawthorne Exp.-Branch of Line 40	14	0
470	LA-Whittier-La Habra-Brea Mall Express	12	30
471	LA-Whittier-Puente Hills Mall Exp-Branch of Line 470	12	30
483	LA-Altadena via Fair Oaks Express	11	20
484	LA-El Monte-La Puente-Pomona Express	12	30
485	LA-Altadena via Lake Ave Exp-Branch of Line 483	11	20
487	LA-San Gabriel-Sierra Madre Express	8	20
489	LA-Hastings Ranch Express	8	0
490	LA-El Monte-Covina-Brea Express	15	30
497	LA-Pomona Park-n-Ride Express	9	0
522	LACC-Ventura BI-Reseda BI	12	20
561	Green Line-LAX-Van Nuys BI Ltd. Exp.	15	30
620	Boyle Heights Shuttle	0	12
801	Metro Blue Line	6	12
802	Metro Red Line	5	8
803	Metro Green Line	7	12

CPC-2019-7393-CA

EXHIBIT F – Historical Document - Settlement Agreement

**SETTLEMENT AGREEMENT**

**BETWEEN THE CITY OF LOS ANGELES AND  
THE VENICE TOWN COUNCIL, INC., THE BARTON HILL NEIGHBORHOOD  
ORGANIZATION, AND CAROL BERMAN**

**CONCERNING IMPLEMENTATION OF THE MELLO ACT  
IN THE COASTAL ZONE PORTIONS OF THE CITY OF LOS ANGELES**

**December 5, 2000**

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**EXHIBITS**

- A. Interim Administrative Procedures
- B. Scope of Work for Interim Study
- C. Affordable Housing Incentives Guidelines
- D. Draft Coastal Zone Maps:
  - Northwest Brentwood Subarea
  - Northeast Brentwood Subarea
  - Southwest Brentwood Subarea
  - Southeast Brentwood Subarea
  - Venice Subarea
  - Westchester Subarea
  - Northwest San Pedro Subarea
  - Northeast San Pedro Subarea
  - Southwest San Pedro Subarea
  - Southeast San Pedro Subarea
- E. Draft Map: Areas Within Three Miles of the Coastal Zone

**I. FINAL SETTLEMENT AGREEMENT AND RELEASE**

This Final Settlement Agreement and Release (Agreement) is entered into this \_\_\_\_ day of November, 2000, between the City of Los Angeles (City) and the Venice Town Council, etc. (Plaintiffs). The City and the Plaintiffs are collectively referred to in this Agreement as the "Parties" and sometimes individually referred to as "Each Party."

**II. RECITALS****A. PARTIES**

Plaintiffs/Petitioners are the Venice Town Council, Inc., the Barton Hill Neighborhood Organization, referred to in the Complaint as the Barton-Hill Neighborhood Association, and Carol Berman. Defendant/Respondent is the City of Los Angeles.

**B. PROCEDURAL BACKGROUND AND INTENT OF THE PARTIES**

In September, 1993, Plaintiffs filed a Petition for Writ of Mandate and Complaint for Injunction and Declaratory Relief. On October 22, 1993, the City demurred and moved to strike. The trial court granted the City's motion to strike and sustained the City's demurrers with leave to amend.

The Court also granted the City's motion to strike and sustained its demurrers with leave to amend to the Plaintiffs' First Amended Complaint and Petition for Writ. On November 18, 1994, the trial court granted the City's demurrers to the Second Amended Complaint and Petition for Writ of Mandate.

On February 24, 1995, the Plaintiffs appealed the decision sustaining the City's demurrers. The court in Venice Town Council, v. City of Los Angeles, et al., 47 Cal. App.4th 1547, 55 Cal.Rptr.2d 465 (July 31, 1996), held that while the Act did not require the City to adopt procedures to implement the Act, the complaint stated a cause of action and the demurrers should be overruled. A significant dispute existed as to whether Defendant complied with its affordable housing obligation under the Mello Act, Government Code Section 65590 et seq. This Agreement is entered into with the intention of resolving all issues pending prior to or on the Date of Execution of this Agreement among the parties regarding the Defendant's practices under the Mello Act. However, the Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or April 19, 2001, whichever occurs first, with regard to the following three policy areas: (1) Categorical Exemption for Small New Housing Developments (See Section V A 3); (2) Affordability Covenants (See Section V C); and Income Targeting Standards (See Section V F).

### III. DEFINITIONS

“**Administrative Fees**” are the fees the City charges Applicants to recover the City’s costs of administering the Mello Act and City Policies and City Procedures.

“**Affordable Housing Incentives Guidelines**” means the guidelines adopted by the City Planning Commission on December 14, 1995, as amended, pursuant to Ordinance No. 170,764, which implement California Government Code Section 65915 in the City of Los Angeles.

“**Affordable Replacement Unit**” means a Residential Unit built or provided that has the same number of bedrooms as the Affordable Existing Residential Unit that has been demolished or converted, with an Affordable Monthly Housing Cost.

“**Affordable Monthly Housing Cost**” refers, for ownership units, to the current definition contained in Health and Safety Code Section 50052.5, as further defined in 25 California Code of Regulations Section 6920. For rental units, “Affordable Monthly Housing Cost” refers to the current definition contained in Health and Safety Code Section 50053, as further defined in 25 California Code of Regulations Section 6918.

“**Affordable Existing Residential Unit**” means an existing Residential Unit proposed for Conversion or Demolition that is occupied by a Very Low, Low or Moderate Income Household, as determined by the Housing Department General Manager, following the occupant income determination process set forth in Section VI C 4 of this Agreement.

In the event that an existing Residential Unit is occupied by more than one person or family, and if at least one such person or family (excluding any dependents) is of Very Low; Low or Moderate Income, then the existing Residential Unit is defined as an Affordable Existing Residential Unit.

“**Agreement**” means this Agreement and all exhibits to the Agreement.

“**Appellant**” means the Applicant, current occupant, former occupant evicted within the last year, or other aggrieved person who files an appeal.

“**Applicant**” means the person, partnership, corporation, governmental organization, or other entity submitting a Discretionary Application and/or a Non-Discretionary Application to the City of Los Angeles.

“**Application, Discretionary**” means the original application for, or submission of a subsequent non-minor modification to, one or more of the following entitlements: approval-in-concept, coastal development permit, conditional use permit, condominium conversion, development agreement, plan approval, specific plan exception, subdivision or tract map, variance, zone change or any other action that first requires the discretionary

approval of the Director of Planning, the City Planning Commission, the Zoning Administrator, the Advisory Agency, or an Area Planning Commission.

**“Application, Non-Discretionary”** means an application for a building permit, demolition permit, or change of use permit that requires the ministerial approval of the Department of Building and Safety,

**“Categorical Exemption”** means an Application that the City has determined is categorically exempt from providing either Affordable Replacement Units or Inclusionary Residential Units, consistent with the Mello Act, City Policies, and the terms of this Agreement.

**“City”** means the City of Los Angeles and its officers, agents and employees.

**“City Policies”** means all interim and permanent policies, ordinances, and resolutions the City adopts to implement the Mello Act and the terms of this Agreement.

**“City Procedures”** means all interim and permanent administrative procedures the City adopts or issues to implement City Policies, the Mello Act, and the terms of this Agreement.

**“Coastal Commission Guidelines”** means the California Coastal Commission Interpretive Guidelines on Construction of New Housing adopted by the California Coastal Commission on May 5, 1981.

**“Coastal-Dependent Non-Residential Use”** means any non-residential development or use which requires a site on, or adjacent to, the sea to be able to function at all.

**“Coastal Development Permit”** means a permit for any development within the Coastal Zone that is required pursuant to Subdivision (a) of Section 30600 of the California Coastal Act.

**“Coastal-Related Nonresidential Use”** means any nonresidential development or use that is dependent on a Coastal-Dependent Non-Residential Use.

**“Coastal Zone”** means the Coastal Zone, as defined in California Public Resources Code, Division 20 (commencing with Section 30000), including, but not limited to, the Coastal Zone portions of Venice, San Pedro, Pacific Palisades, Playa Vista, Wilmington, Fort MacArthur/White Point, Palms/Marina Freeway Area, and Del Ray Lagoon, as depicted on the City of Los Angeles Coastal Zone Maps, as prepared and maintained by the Department of City Planning. In the case of any discrepancy, the Public Resources Code shall control.

**“Coastal Zone Affordable Housing Trust Fund”** is the reserve account kept separate from the General Fund into which In-Lieu Fees received from Applicants shall be

deposited, and which shall only be used to provide Affordable Replacement Units or Inclusionary Residential Units pursuant to the Mello Act, City Policies and City Procedures.

**“Complaint”** means the Second Amended Complaint for Injunctive and Declaratory Relief and Petition for Writ of Mandate in this action.

**“Conversion”** means a change of one or more existing Residential Units to a condominium, cooperative, or similar form of ownership; or a change of one or more existing Residential Units to a non-residential use; or a reduction in the existing number of Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

**“Date of Execution”** means the date this Agreement is completely executed by all parties.

**“Defendant”** refers to the City of Los Angeles and its officers, agents and employees.

**“Demolition”** means the demolition of one or more existing Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

**“Director’s Determination”** means a determination issued by the Director of Planning of the Department of City Planning, or his or her designee.

**“Density Bonus”** means a minimum density increase of 25 percent over the otherwise maximum allowable residential density granted pursuant to California Government Code Section 65915.

**“Feasible”** means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

**“Household, Low Income”** means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50079.5, as further defined in 25 California Code of Regulations 6928 and 6932.

**“Household, Moderate Income”** means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50093 (b), as further defined in 25 California Code of Regulations 6930 and 6932.

**“Household, Very Low Income”** means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50105, as further defined in 25 California Code of Regulations 6926 and 6932.

**“Housing Department General Manager”** means the General Manager or his or her designee, of the Los Angeles Department of Housing or successor agency.

**“Inclusionary Residential Unit”** means a Residential Unit with an Affordable Monthly Housing Cost.

**“In-Lieu Fees”** means fees charged to an Applicant in-lieu of the Applicant providing Affordable Replacement Units or Inclusionary Residential Units, and that are deposited into the Coastal Zone Affordable Housing Trust Fund.

**“Interim Administrative Procedures”** means the Interim Administrative Procedures developed by the Departments of Building and Safety, City Planning and Housing pursuant to instruction of the City Council on January 19, 2000, and included as Exhibit A.

**“Interim Ordinance”** means the Interim Ordinance that on January 19, 2000, the City Council directed the Department of City Planning to prepare and submit to the City Planning Commission for approval, and that shall be based on the results of the Interim Study.

**“Interim Study”** means the study that consultants shall complete to assist the City in implementing the Mello Act; complying with the terms of this Agreement; updating the Interim Administrative Procedures; and preparing the Interim Ordinance.

**“Local Coastal Program”** means the Land Use Plan and Local Implementation Plan that a local government has adopted to implement the provisions and policies of the California Coastal Act, and that has been certified by the California Coastal Commission pursuant to Public Resources Code Section 30512.

**“Longer-Term Study”** means the study that consultants shall complete to assist the City in developing permanent City Policies and City Procedures.

**“Mello Act”** means California Government Code Sections 65590 and 65590.1

**“Monthly Housing Cost”** means the monthly rent or mortgage for a Residential Unit, as determined by the Housing Department General Manager.

**“New Housing Development”** means the development of one or more Residential Units for rent or for sale, through either construction of new structures, additions to existing structures, or the adaptive reuse of existing, non-residential structures. The structure or

structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

**“Permanent Ordinance”** means the ordinance that the Department of City Planning shall prepare and submit to the City Planning Commission for approval, and that shall be based on the results of the Longer-Term Study.

**“Plaintiffs”** means the Venice Town Council, Inc., the Barton Hill Neighborhood Organization, referred to in the Complaint as the Barton-Hill Neighborhood Association, Carol Berman, and their attorneys, agents and successors in interest.

**“Public Nuisance”** means a residential structure that has been declared a public nuisance pursuant to Division 13 (commencing with Section 17000) of the California Health and Safety Code; or any provision of the Los Angeles Municipal Code adopted pursuant to Division 13 of the California Health and Safety Code.

**“Residential Unit”** means a dwelling unit, efficiency dwelling unit, or joint living and work quarters as defined in Section 12.03 of the Los Angeles Municipal Code (LAMC); a mobilehome, as defined in Section 18008 of the California Health and Safety Code; a mobilehome lot in a mobilehome park as defined in Section 18214 of the California Health and Safety Code; or a residential hotel as defined in paragraph (1) of subdivision (b) of Section 50519 of the California Health and Safety Code.

**“Unified Development”** means a development of two or more buildings which have functional linkages such as pedestrian or vehicular connections, with common architectural and landscape features which constitute distinctive design elements of the development, and that appears to be a consolidated whole when viewed from adjoining streets. Unified Developments may include two or more contiguous parcels or lots of record separated only by a street or alley.

#### **IV. GENERAL PROVISIONS**

##### **A. COVERAGE**

This Agreement shall cover all property within the Coastal Zone portions of the City.

##### **B. PRINCIPLES**

1. The City shall adopt City Policies and City Procedures requiring all City departments, staff, offices, agencies and employees to comply with the Mello Act and this Agreement.
2. All City Policies and City Procedures, and all other ordinances, programs, plans, and policies in the Coastal Zone, shall be consistent with the Mello Act and this Agreement. All future zoning, land use, development and planning regulations,

ordinances, resolutions and policies adopted by the City shall be consistent with the Mello Act and this Agreement. City Policies and City Procedures pursuant to this Agreement may be modified based on any future amendments to the Mello Act.

3. In the case of conflict between this Agreement, City Policies, City Procedures, any geographically specific plan, Local Coastal Program, or any other regulation, the requirement which results in the provision of the largest number of Affordable Replacement Units or Inclusionary Residential Units shall apply. This Agreement and City Policies and City Procedures shall not, however, abrogate any existing development agreement executed between a property owner and the City prior to the Date of Execution of this Agreement.
4. Nothing in this Agreement, or any City Policies or City Procedures, shall require the City to violate any state law or to violate the rights of any person under the federal or state constitution or state law.
5. Discretionary and Non-Discretionary Applications pending as of the date of execution of this Agreement are subject to the requirements of the Mello Act.

#### V. CITY POLICIES

The City shall develop City Policies, which shall apply equally to Affordable Replacement Units or Inclusionary Residential Units that the Applicant provides directly, or that the City subsidizes with In-Lieu Fees. City Policies shall include the following provisions:

##### A. CATEGORICAL EXEMPTIONS

City Policies shall include the following Categorical Exemptions:

##### 1. Owner-Occupied One-Family Dwellings

Applicants who propose to demolish the existing one-family dwelling in which they currently reside, and replace it with another one-family dwelling in which they plan to reside, are Categorically Exempt.

##### 2. Residential Structures Declared a Public Nuisance

The Demolition of residential structures declared a public nuisance pursuant to the following state and local codes are Categorically Exempt:

- 2.1 Division 13 (commencing with Section 17000) of the California Health and Safety Code; or
- 2.2 Any provision of the Los Angeles Municipal Code adopted pursuant to Division 13 of the California Health and Safety Code.

### 3. **Small New Housing Developments**

Small New Housing Developments consisting of nine or fewer Residential Units are Categorically Exempt until the Interim Ordinance is adopted and becomes effective.

The Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or April 19, 2001, whichever occurs first, with regard to any City Policy or action that Categorically Exempts small New Housing Developments consisting of nine or fewer Residential Units.

#### **B. DEMOLITIONS AND NEW HOUSING DEVELOPMENTS ON THE SAME SITE**

City Policies shall provide that if Affordable Existing Residential Units are proposed for Demolition, and a New Housing Development is proposed on the same site, then the requirements set forth in City Policies concerning Affordable Replacement Units and Inclusionary Residential Units are both triggered.

City Policies shall specify that the requirements concerning Inclusionary Residential Units shall only apply to the number of new Residential Units which exceeds the total number of required Affordable Replacement Units. For example, if the City's Mello Act compliance review determines that 20 Affordable Replacement Units must be provided, and the proposed New Housing Development consists of 50 new Residential Units, then the requirements concerning Inclusionary Residential Units shall only apply to the 30 excess Residential Units. If the number of excess Residential Units is Categorically Exempt pursuant to City Policies, no Inclusionary Residential Units are required.

#### **C. AFFORDABILITY COVENANTS**

City Policies shall require, at a minimum, that affordability covenants shall guarantee that Affordable Replacement Units and Inclusionary Residential Units shall remain available at an Affordable Monthly Housing Cost for not fewer than 30 years from the date the City issues the Certificate of Occupancy. Based on the results of the Interim Study, the City shall consider including a provision in the Interim Ordinance which increases this requirement from 30 years to 55 years.

The plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or April 19, 2001, whichever occurs first, with regard to any City Policy or action that does not require that affordability covenants for Affordable Replacement Units and Inclusionary Residential Units remain available at an Affordable Monthly Housing Cost for not fewer than 55 years from the date the City issues the Certificate of Occupancy.

**D. METHODS TO PROVIDE REQUIRED AFFORDABLE UNITS**

City Policies shall permit the provision of required Affordable Replacement Units or Inclusionary Residential Units through one or any combination of the following methods:

1. New construction;
2. Adaptive reuse (conversion of existing non-residential structures to Residential Units); and
3. Other methods permitted by the Mello Act and approved by the City Council by ordinance or resolution.

City Policies shall specify that Affordable Replacement Units or Inclusionary Residential Units may be either ownership units or rental units. City Policies shall not express a preference for one over the other type of unit.

**E. AFFORDABLE HOUSING INCENTIVES**

City Policies shall apply the incentives set forth in the Affordable Housing Incentives Guidelines, including a Density Bonus, to the provision of Affordable Replacement Units or Inclusionary Residential Units.

**F. AFFORDABLE REPLACEMENT UNITS****1. Income Targeting Standards**

City Policies shall specify standards concerning the Affordable Monthly Housing Cost required of Affordable Replacement Units. Until the Interim Ordinance is adopted and becomes effective, Affordable Replacement Units may be provided at any Affordable Monthly Housing Cost. The Interim Study shall evaluate the following candidate standards, which the City is considering for inclusion in the Interim Ordinance:

- 1.1 Deep Targeting Standard: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income Household.
- 1.2 Deep Targeting Standard, Based on Feasibility: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income Household, unless the Applicant demonstrates that deep targeting is infeasible.
- 1.3 Intermediate Targeting Standard: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income or Low Income Household.

- 1.4 No Targeting Standard: A Residential Unit occupied by a Very Low Income Household may be replaced by a unit affordable to a Very Low, Low, or Moderate Income Household.

The scope of work for the Interim Study is included as Exhibit B.

The Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or April 19, 2001, whichever occurs first, with regard to any City Policy or action that does not require deep targeting as specified in Section V F 1.1 above.

2. Location

City Policies shall include standards for the required location of Affordable Replacement Units, in compliance with the Mello Act.

Until the Interim Ordinance is adopted and effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 2.1 Affordable Replacement Units shall be located on-site, or elsewhere within the Coastal Zone.
- 2.2 Applicants claiming it is infeasible to comply with this requirement may request permission to provide the required units within three miles of the Coastal Zone by submitting an appeal pursuant to City Procedures.

The Interim Study shall evaluate, at a minimum, the following candidate standards which the City is considering for inclusion in the Interim Ordinance:

- 2.3 On the same site as the Conversion or Demolition;
- 2.4 Anywhere within the Coastal Zone;
- 2.5 Anywhere within three miles of the site, but within the Coastal Zone; and
- 2.6 Anywhere within three miles of the Coastal Zone.

3. Timing Requirement

City Policies shall require that Affordable Replacement Units be provided within three years of the date that work commenced on the Conversion or Demolition.

#### 4. **Performance Standards**

If Affordable Replacement Units are included as part of mixed-income New Housing Developments, City Policies shall require compliance with the following portions of the performance standards set forth in the Affordable Housing Incentives Guidelines (Exhibit C):

- 4.1 Project design (Section 4A, page 7); and
- 4.2 Equal distribution of amenities (Section 4B, page 8).

For all other Affordable Replacement Units, City Policies shall require compliance with the project design and amenities requirements promulgated by the Housing Department General Manager.

### G. **INCLUSIONARY RESIDENTIAL UNITS**

#### 1. **Standards**

City Policies shall include standards for the provision of Inclusionary Residential Units in New Housing Developments. These standards shall be based on the City's factual findings of feasibility. Until the Permanent Ordinance is adopted and becomes effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 1.1 Inclusionary Requirement Option #1. Reserve at least 20 percent of all Residential Units for Inclusionary Residential Units for Very Low or Low Income Households;  
or
- 1.2 Inclusionary Requirement Option #2. Reserve at least 10 percent of all Residential Units for Inclusionary Residential Units for Very Low Income Households.

City Policies shall specify that the provision of Inclusionary Residential Units for seniors or disabled persons who do not have a Very Low Income or Low Income shall not comply with these standards.

#### 2. **Location**

City Policies shall include standards concerning the required location of Inclusionary Residential Units, in compliance with the Mello Act.

Until the Interim Ordinance is adopted and effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 2.1 Inclusionary Residential Units shall be located on-site.

- 2.2 Applicants claiming it is infeasible to comply with this requirement may request permission to provide the required units elsewhere within the Coastal Zone, or within three miles of the Coastal Zone, by submitting an appeal pursuant to City Procedures.

The Interim Study shall evaluate, at a minimum, the following candidate standards which the City shall consider for inclusion in the Interim Ordinance:

- 2.3. On the same site as the New Housing Development;
- 2.4. Anywhere within the Coastal Zone;
- 2.5. Anywhere within three miles of the site, but within the Coastal Zone; and
- 2.6. Anywhere within three miles of the Coastal Zone.

3. **Timing Requirements**

If City Policies permit Inclusionary Residential Units for off-site provision, then City Policies shall require that these units be provided within three years of the date that the Housing Department General Manager approves the Affordable Housing Provision Plan. City Policies shall require that a New Housing Development's required Inclusionary Residential Units and market-rate Residential Units be made available at the same time.

4. **Performance Standards**

City Policies shall require compliance with the following portions of the Performance Standards set forth in the Affordable Housing Incentives Guidelines (Exhibit C):

- 7.5.1 Project design (Section 4A, page 7); and
- 7.5.2 Equal distribution of amenities (Section 4B, page 8).

**H. IN-LIEU FEES**

City Policies shall include provisions concerning payment of In-Lieu Fees by Applicants otherwise required to provide Affordable Replacement Units or Inclusionary Residential Units. The City shall deposit In-Lieu Fees into the Coastal Zone Affordable Housing Trust Fund. Administrative Fees shall be handled separately from In-Lieu Fees.

1. **Interim Ordinance**

Interim In-Lieu Fees shall be deposited into an escrow account to be used solely for the purpose of providing Affordable Replacement Units and Inclusionary Residential Units. After the Permanent Ordinance is adopted and becomes effective, any amounts remaining

in the escrow account shall be deposited into the Coastal Zone Affordable Housing Trust Fund.

1.1 Interim Study

The Interim Ordinance's In-Lieu Fee dollar amounts shall be based on the results of the Interim Study. The scope of work for the Interim Study is included as Exhibit B.

1.2 Affordable Replacement Units

The In-Lieu Fee payment schedule for Demolitions and Conversions shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of Affordable Replacement Units which would otherwise be required by the Mello Act and this Agreement.

1.3 Inclusionary Residential Units

The In-Lieu Fee payment schedule for New Housing Developments shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of Inclusionary Residential Units which would otherwise be required by Inclusionary Requirement Option #1 (See Section V G 1.1); or Inclusionary Requirement Option # 2 (See Section V G 1.2).

2. Permanent Ordinance

2.1 Longer-Term Study

The Permanent Ordinance's In-Lieu Fee dollar amounts shall be based on the results of the Longer-Term Study.

2.2. Affordable Replacement Units

The In-Lieu Fee payment schedule for Demolitions and Conversions shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of Affordable Replacement Units which would otherwise be required by the Mello Act and this Agreement.

2.3 Inclusionary Residential Units

The City may adopt one or a combination of the following policy options:

- 2.3.1 If the City determines that some or all Inclusionary Residential Units are feasible either on-site or off-site, the City shall permit the Applicant to pay In-Lieu Fees sufficient to provide, in aggregate, the same number and type of Inclusionary Residential Units which would otherwise be required by City Policies, the Mello Act and this Agreement.

- 2.3.2 If the City determines that some or all Inclusionary Residential Units are infeasible both on-site or off-site, but that payment of some amount of In-Lieu Fees is feasible, the City may charge such In-Lieu Fees.

3. **Simultaneous Application of Rental Housing Production Fees and In-Lieu Fees**

City Policies shall include the following provision: If In-Lieu Fees, Los Angeles Rental Housing Production Fees, or any similar affordable housing fees all apply to an Application, the greatest of these fees shall apply. Any fees collected shall first be deposited in the Coastal Zone Affordable Housing Trust Fund to provide Affordable Replacement Units or Inclusionary Residential Units. Then, to the extent that there are fees above and beyond those required pursuant to City Policies, those additional fees shall be deposited into the Rental Housing Production Fund.

4. **Timing of Payments**

City Policies shall require that In-Lieu Fees shall be paid in full as follows:

- 4.1 New Housing Developments: prior to issuance of the building permit;
- 4.2 Demolitions: prior to issuance of the demolition permit; and
- 4.3 Conversions: prior to recordation of the tract or parcel map, issuance of the building permit, or issuance of the change of use permit, as applicable.

Alternatively, the City may allow the Applicant to post a bond by the dates specified in Sections V H 4.1, 4.2, and 4.3 above, guaranteeing payment of all In-Lieu Fees in full within one year. The City may provide for a short-term deferral of any In-Lieu Fees if necessary to facilitate the development of any Affordable Replacement Units or Inclusionary Residential Units being built as part of a New Housing Development.

**I. DEMOLITION OR CONVERSION OF EXISTING RESIDENTIAL STRUCTURES FOR PURPOSES OF A NON-COASTAL-DEPENDENT, NON-RESIDENTIAL USE**

City Policies shall include a City presumption that a continued residential use is feasible. City Policies shall specify that the City shall deny these Applications unless the Applicant proves with substantial evidence that a residential use is not feasible on the site of the residential structure or structures proposed for Demolition or Conversion.

**VI. CITY PROCEDURES**

The City shall develop and implement City Procedures binding on City departments and City staff for processing Applications pursuant to the Mello Act and City Policies. The City may revise and amend City Procedures if the City Council determines that doing so advances the

goals of the Mello Act, is beneficial or appropriate for administrative efficiency, and is in compliance with State law.

Attached to this Agreement are Interim Administrative Procedures (Exhibit A). These procedures shall remain in effect until the Interim Ordinance is adopted and effective.

#### A. OBJECTIVES

City Procedures shall accomplish the following objectives:

1. Each Application in the Coastal Zone that conforms to the definition of a Demolition, Conversion or New Housing Development shall be identified.
2. Each residential structure proposed for Demolition or Conversion for purposes of a non-Coastal-Dependent, non-residential use shall be identified.
3. Each Application in the Coastal Zone identified as being subject to the Mello Act shall receive the proper Mello Act compliance review and determination based on that review, pursuant to City Policies and City Procedures, regardless if the Application is regulated by any geographically specific plan or Local Coastal Program. This requirement shall also apply to any Application exempted from the requirement to obtain a coastal development permit.
4. Each determination which requires findings shall be supported by such written findings, which in turn shall be supported by evidence in the file which contains the determination.

#### B. INITIAL SCREENING AND ROUTING

The City shall develop and implement a procedure to identify each Application subject to the Mello Act. The procedure shall consist of the following steps:

1. **Step one. Determine Coastal Zone location.**

The City shall determine which Applications are located in the Coastal Zone. If an Application is located in the Coastal Zone, the City shall go to step two.

2. **Step two. Identify Conversions, Demolitions and New Housing Developments.**

The City shall identify Applications that involve one or more Residential Units, and determine if any of these Applications conform to the definition of a Demolition, Conversion or New Housing Development. If Demolitions, Conversions or New Housing Developments are identified, the City shall go to step three below.

3. **Step three. Identify Categorically Exempt Applications.**

The City shall identify Applications which are determined to be Categorically Exempt from providing either Affordable Replacement Units or Inclusionary Residential Units as set forth in City Policies and the Mello Act. If the City identifies Applications as Categorically Exempt, the City shall go to step four. If the City identifies Applications as not being Categorically Exempt, the City shall review these Applications for compliance with the Mello Act as set forth in City Procedures.

4. **Step four. Send notice of Categorically Exempt Applications.**

The City shall simultaneously send notice of determinations that an Application is Categorically Exempt pursuant to step three above, within five working days of the date the determination is made, to the Applicant and to other parties specified in City Procedures. In addition, the City shall simultaneously send notice to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective. Notice of determinations that an Application is Categorically Exempt because the residential structure has been declared a public nuisance shall also be simultaneously sent to all building occupants.

Determinations that a proposed Demolition, Conversion or New Housing Development is Categorically Exempt are appealable pursuant to City Procedures.

**C. DEMOLITIONS AND CONVERSIONS**

For each Discretionary and Non-Discretionary Application determined not to be Categorically Exempt, the City shall complete a Mello Act compliance review to determine the total number of Affordable Replacement Units the Applicant is required to provide pursuant to the Mello Act and City Policies.

The compliance review shall be structured to answer the questions and follow the procedures and steps listed below. The City shall prepare and use a worksheet to complete each Mello Act compliance review. The City shall attach supporting documentation to each completed worksheet.

1. **Question #1. Will residential structures be demolished or converted for purposes of a non-residential use?**

If the answer to question #1 is "yes," and existing residential structures are proposed for Demolition or Conversion for purposes of a non-residential use, then the City shall go to question #2 to determine if the proposed use is Coastal-Dependent.

If the answer to question #1 is “no,” the City shall skip to question #4 to determine if any of the Residential Units proposed for Demolition or Conversion are Affordable Existing Residential Units.

2. **Question #2. Is the proposed non-residential use Coastal-Dependent?**

If the answer to question #2 is “yes,” the City shall skip to question #4. If the answer to question #2 is “no,” the City shall go to question #3.

3. **Question #3. Is a residential use feasible at this location?**

The City shall presume that a continued residential use is feasible. Applicants may challenge the City’s presumption by presenting substantial evidence to the contrary. The City shall consider the following in reviewing an Applicant’s challenge to the City’s presumption:

- 3.1 The Applicant has the burden of proof. Proximity to other existing, viable residential uses is strong evidence that a residential use is feasible.
- 3.2 An Applicant may not claim infeasibility merely because the site is zoned commercial. Commercial zones in the City of Los Angeles generally permit residential uses. However, in some cases a “Q” or “D” limitation may be imposed on a particular property which prohibits residential uses.
- 3.3 If the existing, underlying zoning or any other applicable regulation prohibits all residential uses, then the Applicant may cite those facts if the Applicant is challenging the City’s presumption. If an Applicant has non-conforming or other rights which permit a continued residential use, then the Applicant may not contend that the existing zoning renders a residential use infeasible.
- 3.4 An Applicant may not initiate and obtain approval for a zone change which prohibits residential uses and subsequently claim infeasibility based on that zone change.
- 3.5 An Applicant may not claim infeasibility merely because the site is zoned industrial if a Zoning Administrator had previously approved joint living and work quarters for that site. A Zoning Administrator’s grant runs with the land.
- 3.6 An Applicant may not claim financial infeasibility unless it can clearly document an inability to rent or sell the current premises based on the site’s unique characteristics or circumstances. Unique characteristics or circumstances include proximity to noxious and incompatible existing uses that are likely to remain, and that render a continued residential use infeasible. If challenging the City’s presumption, an Applicant may not cite mere proximity to commercial or industrial uses.

- 3.7 An Applicant may claim infeasibility due to the site's unique geologic or other topographical features which render it unsafe for human habitation. Applicants must provide supporting documentation.
- 3.8 An Applicant may not claim infeasibility because the current premises are dilapidated or are in a state of disrepair due to the Applicant's failure to make reasonable repairs or to adequately maintain the site. The City may require the Applicant to correct substandard conditions before it will further consider an Applicant's challenge of the City's presumption.

The City may require that an independent analysis of the alleged risks of other uses or hazards be performed by an expert acceptable to the City, at the Applicant's expense.

If the Applicant has proved with substantial evidence that a residential use is infeasible, the City shall record a "no" answer to question #3, and go to question #4.

If the Applicant has not proved with substantial evidence that a residential use is infeasible, the City shall record a "yes" answer to question #3. The City shall stop the Mello Act compliance review process and deny the Discretionary or Non-Discretionary Application to demolish or convert a residential structure for purposes of a non-Coastal-Dependent, non-residential use, regardless of the income of current or past occupants; the form of ownership; or rents charged, for-sale prices, or appraised value.

4. **Question #4. Are any Affordable Existing Residential Units Proposed for Demolition or Conversion?**

City Procedures shall identify occupants in structures proposed for Demolition or Conversion who may have a Very Low, Low or Moderate Income. City Procedures shall follow the steps below:

- 4.1 Step one. Send general notice to all occupants of structures proposed for Demolition or Conversion. This notice shall contain the following: (a) a description of the proposed Demolition or Conversion; (b) an explanation of the purpose of the Mello Act and the City's Mello Act compliance review process; (c) a description of the rights that building occupants determined to have a Very Low, Low or Moderate Income shall have, including a right of first refusal on an Affordable Replacement Unit; (d) a referral to a specified source of further assistance, to be selected by Western Center on Law and Poverty, Inc.; and (e) a City telephone number to call for additional information.
- 4.2 Step two. Identify long-term vacant residential units. A Residential Unit shall not be classified as an Affordable Existing Residential Unit if it has been unoccupied for more than 365 consecutive days prior to the Application's filing. The Applicant has the burden of proving long-term vacancy. If the Applicant has established long-term vacancy, then the City shall not classify the Residential Unit as an Affordable Existing Residential Unit.

- 4.3 Step three. Determine occupant income based on Monthly Housing Cost or actual income data. The City may determine occupant income using Monthly Housing Cost as a substitute for actual income, or by collecting and verifying actual income. If current Monthly Housing Cost data indicate that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If not, the City shall collect prior Monthly Housing Cost data for at least the previous three years. If the average Monthly Housing Cost over this period indicates that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If three years of Monthly Housing Cost data is not available or readily obtainable, then the City shall determine occupant income through the direct collection and verification of actual income data.

If occupant income is based on Monthly Housing Cost, the City shall go to step four. If occupant income is based on actual income, the City shall: (a) go to step five if the person or family does not have a Very Low, Low or Moderate Income; or (b) go to step six if the person or family does have a Very Low, Low or Moderate Income.

- 4.4 Step four. Verify accuracy of occupant income based on Monthly Housing Cost data. The City shall provide occupants and Applicants with the opportunity to verify the accuracy of occupant income determinations based on Monthly Housing Cost. The City shall provide persons and families presumed not to have a Very Low, Low or Moderate income with the opportunity to submit data verifying actual income. Likewise, the City shall provide Applicants with a roster of occupants presumed to have a Very Low, Low or Moderate Income, who may then submit data verifying actual income.

The City is responsible for verifying the accuracy of any submitted income data. The City shall use actual income data to correct any incorrect occupant income determinations based on Monthly Housing Cost. Based on this review, the City shall (a) go to step five if the person or family does not have a Very Low, Low or Moderate Income; or (b) go to step six if the person or family does have a Very Low, Low or Moderate Income.

- 4.5 Step five. Identify and determine if any evictions were for the purpose of evading the Mello Act. The City shall conduct an investigation to carry out the following provision set forth in Government Code Section 65590 (b): For purposes of this subdivision, a residential dwelling unit shall be deemed occupied by a person or family of low or moderate income if the person or family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit, and if the eviction was for the purpose of avoiding the requirements of this subdivision. If a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of an application to convert or demolish the structure, the

evictions shall be presumed to have been for the purpose of avoiding the requirements of this subdivision and the applicant for the conversion or demolition shall bear the burden of proving that the evictions were not for the purpose of avoiding the requirements of this subdivision. The City shall identify those Residential Units presumed to have a Very Low, Low or Moderate Income based on its investigation. After completing step five, the City shall go to step six.

- 4.6 Step six. The City shall prepare a report summarizing the results of the occupant income determination process for occupants of structures proposed for Demolition or Conversion. This report shall contain the following information for each structure:
- 4.6.1 One-family dwellings: total number of Residential Units and total number of Affordable Existing Residential Units.
  - 4.6.2 Two-family dwellings: Total number of Residential Units and total number of Affordable Existing Residential Units.
  - 4.6.3 Triplexes and other structures that contain three or more Residential Units: total number of Residential Units and total number of Affordable Existing Residential Units.
  - 4.6.4 Summary: total number of Residential Units and total number of Affordable Existing Residential Units.

The report shall also provide the following information for each identified Affordable Existing Residential Unit:

- 4.6.5 Address;
  - 4.6.6 Names of occupants; and
  - 4.6.7 Number of bedrooms.
5. **Question #5. Is the Application for Coastal-Dependent or Coastal-Related Non-Residential uses? Are these non-residential uses consistent with the land use plan of a certified Local Coastal Program?**

If the answer to both questions is "yes," the City shall skip to question #8. If the answer to either question is "no," the City shall go to question #6.

6. **Question #6. Are eleven or more Residential Units proposed for Demolition or Conversion?**

If the total number of Residential Units proposed for Demolition or Conversion is ten or fewer, the City shall record a "no" answer to question #6 and go to question #7. If the

Applicant is proposing to demolish or convert eleven or more Residential Units, the City shall record a "yes" answer to question #6, and require that all of the Affordable Existing Residential Units identified by the answer to question #4 be replaced as a condition of Application approval.

7. **Question #7. Are any Affordable Existing Residential Units in one-family or two-family dwellings?**

If the answer to question #7 is "yes," the City shall go to question #8. If the answer to question #7 is "no," and all of the Affordable Existing Residential Units identified by the answer to question #4 are in triplexes and other structures that contain three or more Residential Units, the City shall require that all of these units be replaced as a condition of Application approval.

8. **Question #8. Is it infeasible for the Applicant to replace any of the Affordable Existing Residential Units identified by answers to questions #5 and #7?**

If the answer to question #8 is "yes," the City shall determine the number of Affordable Replacement Units it is infeasible for the Applicant to provide, and record this number on the worksheet. The City shall then subtract this number from the number of Affordable Existing Residential Units identified by the answer to question #4. This is the total number of required Affordable Replacement Units. The City shall require the Applicant to provide this number of Affordable Replacement Units as a condition of Application approval.

If the answer to question #8 is "no," then it's feasible for the Applicant to replace all Affordable Existing Residential Units identified by the answer to question #4. This is the total number of required Affordable Replacement Units. The City shall require the Applicant to provide this number of Affordable Replacement Units as a condition of Application approval.

City Policies and City Procedures with regard to question #8 shall include the City's consideration of typical public subsidies, and other affordable housing incentives available by-right. Until the Interim Ordinance is adopted and becomes effective, the City shall answer question #8 pursuant to the provisions set forth in the Interim Administrative Procedures (Exhibit A). Thereafter the City shall answer question #8 by following the provisions set forth in those City Policies and City Procedures in effect after the Interim Ordinance is adopted and becomes effective. After May 28, 2001, the City shall not use Attachment 3 to Exhibit A (Form CP-6391) to answer question #8.

**D. NEW HOUSING DEVELOPMENTS**

City Procedures shall implement the standards concerning the provision of Inclusionary Residential Units in New Housing Developments set forth in City Policies.

**E. IN-LIEU FEES**

City Procedures shall implement the provisions concerning In-Lieu Fees set forth in City Policies.

**F. DETERMINATIONS**

City Procedures shall specify that a determination shall be issued for each Demolition, Conversion, and New Housing Development determined not to be Categorically Exempt.

For Discretionary Applications, the City shall issue the determination as written conditions attached to the determination made with respect to the underlying case. All completed forms, correspondence received and sent, and other supporting documentation shall be attached to the file the City creates for the underlying case.

For Non-Discretionary Applications, the City shall issue the determination as a Director's Determination. The City shall prepare a file, and attach all completed forms, correspondence received and sent, and other supporting documentation.

The City shall simultaneously transmit a copy of each determination to the Applicant, all building occupants, and any other parties specified in City Procedures. In addition, the City shall simultaneously transmit a copy of each determination to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective.

**1. Demolitions and Conversions**

Each determination shall include the following:

- 1.1 Results of the Mello Act compliance review process completed pursuant to City Procedures;
- 1.2 Total number of identified Affordable Existing Residential Units;
- 1.3 Total number of required Affordable Replacement Units;
- 1.4 A requirement that the Applicant comply with the requirements set forth in City Policies and City Procedures;
- 1.5 A statement that the City shall not approve the Application until the City has approved the Affordable Housing Provision Plan prepared pursuant to City Procedures; and
- 1.6 Information for Appellants pursuant to City Procedures.

## 2. **New Housing Developments**

Each determination that includes a requirement that the Applicant provide Inclusionary Residential Units shall include the following:

- 2.1 A requirement that the Applicant comply with the requirements concerning Inclusionary Residential Units set forth in City Policies.
- 2.2 Total number of required Inclusionary Residential Units.
- 2.3 A requirement that the Applicant comply with the requirements set forth in City Policies and City Procedures.
- 2.4 A statement that the City shall not approve the Application until the City has approved the Affordable Housing Provision Plan pursuant to City Procedures.
- 2.5 Information for Appellants pursuant to City Procedures.

## G. **AFFORDABLE HOUSING PROVISION PLAN**

City Procedures shall require Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units to prepare and submit for the City's review and approval an Affordable Housing Provision Plan which specifies how the Applicant shall comply with City Policies. The City's approval of the Affordable Housing Provision Plan shall be a condition of Application approval.

The City shall require the Affordable Housing Provision Plan to include the following elements:

### 1. **Methods to Provide Required Affordable Units**

The Affordable Housing Provision Plan shall specify the methods by which Applicants shall provide required Affordable Replacement Units or Inclusionary Residential Units, as permitted by City Policies.

### 2. **Operational Details**

The Affordable Housing Provision Plan shall contain the following operational details:

- 2.1 Address where Affordable Replacement Units or Inclusionary Residential Units will be provided, if the determination permits these units to be provided off-site.
- 2.2 General description of the Affordable Replacement Units or Inclusionary Residential Units to be provided, including the number and type of habitable rooms; square footage; and parking.

- 2.3 Affordable housing incentives and subsidies that will be utilized.
- 2.4 Methods for complying with the Performance Standards set forth in City Policies, including a dispersal plan if Affordable Replacement Units or Inclusionary Residential Units shall be provided on-site. Affordable Replacement Units or Inclusionary Residential Units may not be segregated from market-rate units, but shall be reasonably dispersed throughout the building; and
- 2.5 Financing; construction plan; and project timetable for complying with the timing requirements set forth in City Policies for Affordable Replacement Units and Inclusionary Residential Units.

#### **H. APPEALS**

The City shall permit determinations to be appealed. City Procedures shall include the following requirements and provisions:

##### **1. General Information**

Each determination issued pursuant to City Procedures shall identify deadlines, filing fees, the appellate body, and other necessary procedures and requirements for considering the appeal.

##### **2. Burden of Proof and Findings**

Appellants shall have the burden of proof. Applicants shall present substantial evidence to support their appeal supported by specific facts. In granting an appeal, the appellate body shall find that the appeal is consistent with the Mello Act.

##### **3. Notice**

The City shall simultaneously transmit a copy of the results of each appeal to the Applicant, all building occupants and any other parties specified in City Procedures.

In addition, the City shall simultaneously transmit a copy of the results of each appeal to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective.

##### **4. Discretionary Applications**

The appeals procedures and appellate body shall be those connected to the underlying case.

5. **Non-Discretionary Applications**

Appellants may appeal a Director's Determination using the forms and following the City Procedures promulgated by the City. The appellate body shall be the Area Planning Commission.

6. **Department of Building and Safety Actions**

Appellants may appeal Department of Building and Safety decisions and determinations to the Board of Building and Safety Commissioners pursuant to Los Angeles Municipal Code Section 98.0403.1.

**I. MONITORING AND ENFORCEMENT**

The City shall monitor and enforce compliance with all conditions set forth in determinations.

1. **Approval of Applications**

The City shall not issue any permits or other approvals for any Applications determined not to be Categorically Exempt until the Applicant has satisfied all conditions set forth in the determination and City Policies and City Procedures.

2. **Monitoring**

- 2.1 If the determination requires the provision of Affordable Replacement Units or Inclusionary Residential Units, the City shall require the Applicant to comply with the monitoring requirements set forth in Section IV C of the Affordable Housing Incentives Guidelines (page 10 of Exhibit C).
- 2.2 The City may require Applicants to submit periodic progress reports which describe the progress the Applicant is making in implementing the approved Affordable Housing Provision Plan.
- 2.3 The City shall conduct annual monitoring of all Affordable Replacement Units and Inclusionary Residential Units to insure that they continue to be available at an Affordable Monthly Housing Cost and occupied by Very Low, Low and Moderate Income Households. The City's monitoring procedures may include a requirement that owners of Affordable Replacement Units and Inclusionary Residential Units submit tenant income information to the City that has been verified by third party sources, and that meets the same standards for income verification as the requirements set out in the City's HOME and Community Development Block Grant (CDBG) programs.

3. **Affordability Covenants**

- 3.1 The City shall require Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units pursuant to an approved Affordable Housing Provision Plan to record a covenant with the Los Angeles County Recorder guaranteeing that these units shall remain available at an Affordable Monthly Housing Cost for not fewer than the number of years specified in City Policies, from the date the City issues the Certificate of Occupancy. The covenants recorded with the County Recorder's office shall run with the land and be enforceable by the City.
- 3.2 Tenants, rental applicants, purchasers and prospective purchasers of the Affordable Replacement Units or Inclusionary Residential Units shall have the right to seek an injunction to enforce the affordability criteria, or to raise the affordability criteria as a defense or counterclaim to a claim for rent or possession directly against the owner, manager, and/or their successors in interest, of those units.

4. **Financial Assurances**

The City may require Applicants to post a bond or make other financial assurances to assure compliance with the final approved Affordable Housing Provision Plan.

5. **Certificates of Occupancy**

The City shall not issue final certificates of occupancy for any of the buildings in a New Housing Development or Conversion until all of the conditions set forth in the determination have been satisfied in full, and all required affordability covenants have been recorded.

6. **Right of First Refusal**

The City shall require Applicants to provide notice to the City when an Affordable Replacement Unit becomes available for occupancy. The City shall then require the Applicant to provide notice to the occupants of the Affordable Existing Residential Unit that was demolished or converted. The notice shall explain that if the occupants have a qualifying income, they shall have a right of first refusal on the Affordable Replacement Unit.

**VII. FOLLOW-UP ACTIONS**

**A. MAPPING**

1. **Coastal Zone Maps**

The City shall prepare maps which identify those lots and properties that are located in the Coastal Zone portions of the City of Los Angeles. A draft of these maps is attached as Exhibit D.

2. **Three Mile Radius Maps**

The City shall prepare maps which depict those areas of the City of Los Angeles that are located within a three mile radius of the inland boundary of the Coastal Zone. A draft of these maps is attached as Exhibit E.

**B. LEGISLATIVE ACTIONS**

The City Council has agreed that it shall take the following legislative actions:

1. **Motions**

The City Council shall adopt the following motions:

- 1.1 A motion which rescinds the Board of Zoning Appeals policy set out in the July 24, 1990 memo regarding presumptions on appeals; and
- 1.2 A motion which supersedes the March 20, 1984 report from the Planning and Environment Committee adopted by the City Council (File No. 81-6299).

2. **Ordinances**

2.1 **Mello Act Implementation Ordinances**

The City Council shall adopt Interim and Permanent Ordinances to implement the Mello Act and the provisions of this Agreement; and to establish Administrative Fees which shall be charged to Applicants to recover the City's costs in administering the Mello Act, City Policies, City Procedures, and the provisions of this Agreement.

2.2 **Coastal Zone Affordable Housing Trust Fund Ordinance**

The City Council shall adopt an ordinance which establishes the Coastal Zone Affordable Housing Trust Fund.

2.3 **Simultaneous Application of Rental Housing Production Fees and In-Lieu Fees**

The City Council shall adopt an ordinance amending Los Angeles Municipal Code Section 12.95.2(K) providing for the simultaneous application of Rental Housing Production Fees and In-Lieu Fees, as specified in Section VI G 4 of this Agreement.

2.4 **Rent Stabilization Ordinance and Condominium Conversion Provisions**

The City shall evaluate its Rent Stabilization Ordinance (RSO) and condominium conversion provisions to determine if any amendments are needed to make them consistent with City

Policies and City Procedures. If so, the City shall prepare the necessary amendments and submit them to the City Council for review and possible action.

### **C. CONSULTANT CONTRACTS**

The City shall enter into one or more consulting contracts to complete studies to assist it in implementing the provisions of this Agreement and the Mello Act; and to develop City Policies and City Procedures. These studies shall be made available to the Plaintiffs and the public within five working days of the City's receipt of these studies from the consultants. Consultants shall be available for reasonable consultations with the Plaintiffs and the Plaintiffs' attorneys during and following any study.

#### **1. Interim Study**

The City shall enter into a contract with the consulting firm of Hamilton, Rabinovitz & Alschuler (HR&A) to complete the Interim Study. The scope of work for this contract is included as Exhibit B.

#### **2. Longer-Term Study**

The City shall enter into a contract with a qualified consultant to complete the Longer-Term Study. Among other provisions, the contract scope of work shall require the consultant to:

- 2.1 To take into consideration the public subsidies and other incentives the City typically utilizes to encourage affordable housing in evaluating proposed City Policies regarding the feasibility of Affordable Replacement Units and Inclusionary Residential Units, as required by the Mello Act; and
- 2.2 Determine the amount of In-Lieu Fees sufficient to provide, in aggregate, the same number and type of Inclusionary Residential Units otherwise required by City Policies, the Mello Act and this Agreement.

### **D. ANNUAL REPORT**

The City shall prepare and annually release to the public a report which contains, at a minimum, the following information for the preceding year:

1. The number of new Residential Units for which the City issued building permits in the Coastal Zone;
2. The number of Inclusionary Residential Units that the City required to be provided either within the Coastal Zone, or within three miles of the Coastal Zone;

3. The number and location of new Inclusionary Residential Units for which construction was completed, either within the Coastal Zone or within three miles of the Coastal Zone;
4. The number and location of Affordable Existing Residential Units approved for Demolition or Conversion;
5. The number of Affordable Replacement Units that the City required to be provided either within the Coastal Zone, or within three miles of the Coastal Zone; and
6. The number and location of Affordable Replacement Units for which construction was completed either within the Coastal Zone, or within three miles of the Coastal Zone.

Information concerning Affordable Existing Residential Units, Affordable Replacement Units, and Inclusionary Residential Units shall be organized by the following sub-categories:

7. Very Low Income Households;
8. Low Income Households; and
9. Moderate Income Households.

#### **E. WORK PROGRAM**

Upon the date this Agreement is executed, the City shall initiate a work program to implement the terms of this Agreement. The City shall submit to the plaintiffs quarterly progress reports which describe the reasonable further progress the City is making. The City shall complete the following work program tasks by the dates referenced below, with the understanding, however, that there may be minor and reasonable delays in completing these tasks by these dates:

<b>Task</b>	<b>Date</b>
1. Prepare and release Interim Administrative Procedures (Exhibit A).	The Interim Administrative Procedures were released on May 17, 2000.
2. Execute consultant contract with HR&A to complete Interim Study (VII C 1).	The consultant contract was executed on July 7, 2000.
3. City Council rescinds Board of Zoning Appeals policy. (VII B 1.1).	Within 60 days of Date of Execution of thjs Agreement.

4.	City Council rescinds March 20, 1984 report from the Planning and Environment Committee. (VII B 1.2).	Within 60 days of Date of Execution of this Agreement.
5.	Prepare and submit to the plaintiffs the first required quarterly progress report.	Ten days after execution of the agreement. Thereafter quarterly progress reports shall be submitted no less than 10 working days after the end of the quarter.
6.	Prepare and release Coastal Zone maps (VII A 1).	Maps are included in Exhibit D. Maps may be later revised based on data received from the California Coastal Commission.
7.	Prepare and release Three Mile Radius maps (VII A 2).	Maps are in Exhibit D. Maps may be later revised based on data received from the California Coastal Commission.
8.	Complete Interim Study (Exhibit B).	January 5, 2000.
9.	Prepare and submit Interim Ordinance to City Planning Commission (VII B 2.1).	February 16, 2001.
10.	Prepare and submit ordinance establishing the Coastal Zone Affordable Housing Trust Fund to City Council (VII B 2.2).	February 16, 2001.
11.	Prepare and submit to the City Council an ordinance concerning the simultaneous application of Rental Housing Production and In-Lieu Fees. (VII B 2.3).	April 18, 2001.
12.	Review Rent Stabilization Ordinance and condominium conversion provisions, and prepare any necessary amendments. Submit ordinance (s) to City Council. (VII B 2.4).	April 18, 2001, if the City determines any amendments are necessary.
13.	Revise and release Interim Administrative Procedures. Complete related administrative forms and documents (Exhibit A).	Within 30 working days of effective date of Interim Ordinance.
14.	Select consultant to complete Longer-Term Study (VII C 2).	July 2, 2001.

15.	Prepare and release the first annual report (VII D) covering the period from the Date of Execution through and including June 30, 2001. Thereafter, the annual report shall be prepared covering the period from July 1 through June 30 of the following year.	September 17, 2001. Thereafter the annual report shall be prepared and released within 60 working days of June 30.
16.	Execute contract with selected consultant to complete Longer-Term Study (VII C 2).	November 1, 2001.
17.	Complete Longer-Term Study (VII C 2).	November 1, 2001.
18.	Prepare and submit Permanent Ordinance to City Planning Commission (VII B 2.1).	February 10, 2003.
19.	Prepare and release Permanent Administrative Procedures. Revise related administrative forms and documents (Exhibit A).	Within 30 working days of effective date of Permanent Ordinance.

### VIII. AGREEMENT

NOW THEREFORE, the Parties agree as follows:

#### A. **DISMISSAL OF ACTION WITH PREJUDICE**

Within 28 business days after the City executes this Agreement, the Plaintiffs agree to file with the Court a Request for Dismissal of the Action with prejudice.

#### B. **PAYMENT OF PLAINTIFFS' ATTORNEYS' FEES, COSTS AND EXPENSES**

Within 28 business days after the parties execute this Agreement, the City shall deliver a check in the amount of \$325,000 made payable to Western Center on Law and Poverty, Inc., as payment for all claims by Plaintiffs in this action for attorneys' fees, costs and expenses. Western Center on Law and Poverty, Inc., shall assume responsibility for distributing this payment to the different attorneys and law firms that represented Plaintiffs in this Action.

#### C. **GENERAL RELEASES**

##### 1. Claims Defined

For purposes of this Agreement, the term "Claims" shall be defined as any actions, claims, demands, suits, liens, debts, dues, damages, judgments, bonds, executions, and liabilities of whatever kind, nature or description whatsoever, known or unknown, suspected or unsuspected, arising out of, or in any way related to the City's implementation of the Mello Act prior to the Date of Execution of this Agreement.

2. **Releases**

Except as otherwise set forth in this Agreement, the Parties hereby fully, finally, and forever release and discharge each other of and from all manner of Claims.

3. **Waiver of Civil Code Section 1542**

The Parties acknowledge that if they hereafter discover facts in addition to or different from those which they may now know or believe to be true with respect to the subject matter of this Agreement, it is nevertheless their intention to fully and forever settle and release any and all Claims. In furtherance of this intention, the Parties, acknowledge that they are familiar with section 1542 of the California Civil Code which provides:

"A general release does not extend to [Claims] which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

The Parties hereby waive and relinquish any rights and benefits they may have under section 1542, and represent that section 1542 has been fully explained to them by their attorneys.

**D. FURTHER ASSURANCES**

The Parties agree to execute, acknowledge and deliver any and all additional papers, documents and other assurances and shall perform any and all acts and things reasonably necessary in connection with the performance of the obligations under this agreement and to carry out the intent of the Parties.

**E. OWNERSHIP OF CLAIMS**

The Parties hereby warrant that they are the owners of, and the Party legally entitled to settle and release, every Claim referred to in this agreement.

**F. INDEPENDENT ADVICE AND INVESTIGATIONS**

Each Party represents and warrants that it has received independent legal advice from its attorneys with respect to the execution of this Agreement and that it has read this Agreement and understands its contents. Each Party represents and warrants that it has made such investigation of the facts pertaining to the settlement set forth in this Agreement and of all matters pertaining thereto as it is independently deemed necessary and appropriate. Each Party further represents and warrants that it has relied solely upon facts obtained from its own investigations and upon the advice of its own attorneys and legal representatives in executing this Agreement and that it has not relied upon any statement or representation of any other Party or their attorneys or representatives.

**G. MISTAKE**

In entering into this Agreement, each Party assumes the risk of any mistake. If any Party should subsequently discover that any fact relied upon by it in entering into this Agreement was untrue or that its understanding of the facts or the law was incorrect, that Party shall not be entitled to relief in connection herewith and including without limitation on the generality of the foregoing, no Party shall have any right or claim to set aside or rescind this Agreement. This Agreement is intended to be and is final and binding between the Parties to the agreement regardless of any claims of mistake of fact or law.

**H. GOVERNING LAW**

This Agreement shall be governed by and construed under the laws of the State of California.

**I. ENTIRE AGREEMENT**

This Agreement constitutes the entire understanding of the Parties with respect to its subject matter. All prior and contemporaneous conversations, negotiations, possible or alleged agreements, covenants, releases, representations and warranties in respect of the subject matter of this Agreement are integrated herein and superseded by this Agreement.

**J. SEVERABILITY**

In the event any part of this Agreement should be found invalid, unenforceable, or nonbinding, the remaining portion will remain in force and fully binding.

**K. AGREEMENT NEGOTIATED**

The text of this Agreement is the product of negotiation among the Parties and their counsel and is not to be construed as having been prepared by one party or the other.

**L. HEIRS, SUCCESSORS AND ASSIGNS**

This Agreement shall bind and inure to the benefit of the Parties and their heirs, successors and assigns.

**M. EXECUTION IN COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.

**N. MODIFICATIONS**

1. **Time Limit Extensions**

Any time limit contained in this Agreement may be extended by the mutual agreement of the parties in writing, which agreement will reasonably be given.

2. **City Procedures**

The parties may agree to modify the City Procedures contained in this Agreement; however, any such modification must be in writing and signed by the parties' respective counsel.

**O. ENFORCEMENT OF AGREEMENT**

If any party allegedly breaches this Agreement, then the party alleging the breach shall notify the breaching party in writing. The notice shall set forth, with reasonable particularity, the alleged breach. The party alleged to have breached this Agreement shall meet with the party giving notice and attempt to resolve the alleged breach within 30 days of the mailing of the notice of alleged breach. If the parties cannot resolve the alleged breach, either party may seek judicial relief by filing a new action in Los Angeles Superior Court to enforce the terms of this Agreement. The aggrieved party may seek judicial relief prior to the expiration of 30 days if necessary to prevent the expiration of any rights, claims, or causes of action or to prevent irreparable harm. The following individuals or entities shall be entitled to enforce this Agreement as assignees of the Plaintiffs specified in Section VIII P:

Venice Community Housing Corporation;  
Dan Tokaji; and  
Linda Lucks.

**P. NOTICES**

Any notices, reports or other documents required to be provided pursuant to this Agreement shall be sent by first class mail to the parties at the following addresses, or any subsequent address or person provided by a party:

1. **Plaintiffs**

Richard A. Rothschild  
Western Center on Law and Poverty  
3701 Wilshire Boulevard, Suite 208  
Los Angeles, CA 90010

Robert Jacobs  
Law Office of Robert Jacobs  
12240 Venice Boulevard, Suite 25A  
Los Angeles, CA 90066

Franklin P. Eberhard, Deputy Director  
 Department of City Planning  
 221 North Figueroa Street, 16<sup>th</sup> Floor  
 Los Angeles, CA 90012

**Q. NOTICE REQUIRED**

In addition to any notices otherwise required by this Agreement, Defendants shall provide Notice to Plaintiffs until two years after the Permanent Ordinance is adopted as follows:

1. Notice shall be given no less than 24 days prior to:
  - 1.1 Any proposed change in any City Policies or City Procedures regarding the Mello Act;
  - 1.2 Any proposal to adopt or amend any ordinances or resolutions implementing the Mello Act, including any ordinances proposed as a result of any of the consultant studies referenced in this Agreement;
  - 1.3 Any submission of any local coastal plan or any land use portion of a Local Coastal Program to the Coastal Commission for approval, pursuant to Public Resources Code Section 30512.
2. Notice shall be given within 15 days of any changes to the maps defining or describing the Coastal Zone, or the description of such boundaries.
3. Notice shall be given within five days of receipt of any studies, including interim reports (deliverables), commissioned by the City in conjunction with the Mello Act.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth below.

Date: 12-20-00

VENICE TOWN COUNCIL, INC.

By Stathis Maphersen  
 Its President

Date:

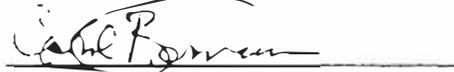
CITY OF LOS ANGELES

By \_\_\_\_\_

Its \_\_\_\_\_

Date: 12/20/00

CAROL BERMAN



Date:

BARTON HILL NEIGHBORHOOD ORGANIZATION

By \_\_\_\_\_

Its \_\_\_\_\_

APPROVED AS TO FORM:

Date:

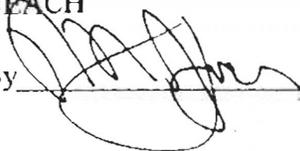
CITY OF LOS ANGELES  
JAMES K. HAHN, City Attorney

By \_\_\_\_\_

Its \_\_\_\_\_

Date:

WESTERN CENTER ON LAW AND POVERTY, INC.  
LAW OFFICES OF ROBERT JACOBS  
LEGAL AID FOUNDATION OF LONG BEACH

By  \_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

Date:

CITY OF LOS ANGELES

By \_\_\_\_\_

Its \_\_\_\_\_

Date:

CAROL BERMAN

\_\_\_\_\_

Date:

*12/16/00*

BARTON HILL NEIGHBORHOOD ORGANIZATION

By *[Signature]*  
Its *Community Organizer*

APPROVED AS TO FORM:

Date:

CITY OF LOS ANGELES  
JAMES K. HAHN, City Attorney

By \_\_\_\_\_

Its \_\_\_\_\_

Date:

WESTERN CENTER ON LAW AND POVERTY, INC.  
LAW OFFICES OF ROBERT JACOBS  
LEGAL AID FOUNDATION OF LONG BEACH-

By *[Signature]*

Date: 1/3/01

CITY OF LOS ANGELES

By Claudia Cullin

Its Attorney of record

Date:

CAROL BERMAN

\_\_\_\_\_

Date:

BARTON HILL NEIGHBORHOOD ORGANIZATION

By \_\_\_\_\_

Its \_\_\_\_\_

APPROVED AS TO FORM:

Date: 1/3/01

CITY OF LOS ANGELES

JAMES K. HAHN, City Attorney

By Claudia Cullin

Its Assistant City Attorney

Date:

WESTERN CENTER ON LAW AND POVERTY, INC.

LAW OFFICES OF ROBERT JACOBS

LEGAL AID FOUNDATION OF LONG BEACH

By \_\_\_\_\_

CPC-2019-7393-CA

EXHIBIT G – Historical Document - Transfer of Funds

J. MICHAEL CAREY  
City Clerk

CITY OF LOS ANGELES

CALIFORNIA



RICHARD J. RIORDAN  
MAYOR

Office of the  
CITY CLERK  
Council and Public Services  
Room 615, City Hall  
Los Angeles, CA 90012  
Council File Information - (213) 485-5703  
General Information - (213) 485-5705

When making inquiries  
relative to this matter  
refer to File No.

00-0963

PLACE IN FILES

JUN 13 2000

DEPUTY

June 9, 2000

Councilmember Feuer  
Councilmember Goldberg  
City Administrative Officer  
Chief Legislative Analyst  
City Attorney  
Planning Department  
Planning Commission

RE: TRANSFER OF FUNDS FOR AN INTERIM STUDY TO ASSIST THE CITY IN  
DEVELOPING INTERIM PROCEDURES FOR ENFORCEMENT OF THE MELLOW ACT

At the meeting of the Council held May 24, 2000, the following  
action was taken:

Attached report adopted.....	_____
Attached motion (Feuer - Goldberg) adopted.....	_____ X _____
Attached resolution adopted( ).....	_____
Ordinance adopted.....	_____
Motion adopted to approve attached report.....	_____
Motion adopted to approve attached communication.....	_____
To the Mayor FORTHWITH.....	_____
Ordinance Number.....	_____
Publication date.....	_____
Effective date.....	_____
Mayor vetoed.....	_____
Mayor concurred.....	_____ 05/31/00 _____
Mayor failed to act - deemed approved.....	_____
Findings adopted.....	_____

City Clerk  
vdw

steno\000963



TO CLERK FOR PLACEMENT ON NEXT  
 REGULAR COUNCIL AGENDA TO BE POSTED

#58  
 MAY 17 2000

37

MOTION

Pursuant to the Council's decision in closed session on September 16, 1998, and its decision in open session on January 18, 2000, the Planning Department and the City Attorney are to develop interim procedures and an ordinance to implement Government Code Section 65590, *et seq.*, the Mello Act. At its January 18, 2000, meeting, the Council decided to fund a study by the firm of Hamilton, Rabinovitz & Alschuler to assist the City in developing these interim procedures. The scope of work is now ready and the Department of City Planning needs the funds to contract for this work.

90

SUBJECT TO THE APPROVAL OF THE MAYOR:  
 I THEREFORE MOVE that \$50,000 be transferred from the Reserve Fund to the Unappropriated Balance and appropriated from there to Department 68, Fund 100, Account 3040 to pay for an interim study by the firm of Hamilton, Rabinovitz & Alschuler to assist the City in developing interim procedures for enforcement of Government Code Section 65590, *et seq.*, the Mello Act.

Introduced by

*Michael Finner*

Seconded by

*Jessie Goldberg*

MOTION  
ADOPTED

MAY 24 2000

LOS ANGELES CITY COUNCIL

*RV*

Mayor's **RECEIVED**  
 '00 MAY 26 P1:08  
 DEPUTY MAYOR

**RECEIVED**  
 CITY CLERK'S OFFICE  
 City Clerk's Time Stamp  
 00 MAY 26 PM 12:59  
 BY CITY CLERK  
 DEPUTY

**SUBJECT TO MAYOR'S APPROVAL**

COUNCIL FILE NO. 00-0963

COUNCIL DISTRICT NO. \_\_\_\_\_

COUNCIL APPROVAL DATE May 24, 2000

RE: TRANSFER OF FUNDS FOR AN INTERIM STUDY TO ASSIST THE CITY IN DEVELOPING INTERIM PROCEDURES FOR ENFORCEMENT OF THE MELLOW ACT

**JUN 05 2000**

LAST DAY FOR MAYOR TO ACT \_\_\_\_\_  
 (10 Day Charter requirement as per Charter Section 354)

**DO NOT WRITE BELOW THIS LINE - FOR MAYOR OFFICE USE ONLY**

APPROVED  
 \_\_\_\_\_

\*DISAPPROVED  
 \_\_\_\_\_

\*Transmit objections in writing pursuant to Charter Section 354

**MAY 31 2000**

DATE OF MAYOR APPROVAL OR DISAPPROVAL \_\_\_\_\_ BY CITY CLERK



MAYOR  
 steno\000963

**RECEIVED**  
 CITY CLERK'S OFFICE  
 00 JUN -1 PM 3:02

0524\_8.txt

COUNCIL VOTE

24-May-00 12:18:18 PM, #8

Items For Which Public Hearing Have Not Been Held - Items 11-32  
Voting on Item(s): 17,19-22,24-25,27a-32  
Roll Call

BERNSON	Yes
CHICK	Yes
FEUER	Absent
GALANTER	Absent
GOLDBERG	Yes
HERNANDEZ	Yes
HOLDEN	Yes
MISCIKOWSKI	Yes
PACHECO	Yes
PADILLA	Yes
RIDLEY-THOMAS	Yes
*SVORINICH	Yes
WACHS	Yes
WALTERS	Yes
FERRARO	Absent
Present: 12, Yes: 12 No: 0	

□

CITY COUNCIL  
SUGGESTED NOTIFICATION OF COUNCIL ACTION

Council File No. \_\_\_\_\_

- Petitioner/Communicant \_\_\_\_\_
- Councilperson(s) FELNER-GOLDBERG

- City Administrative Officer
- Chief Legislative Analyst
- City Attorney (with/without file)
- Building and Safety
- Fire Commission
- General Services
- Police Commission
- Public Works (Board)
- Planning Department
- Water and Power Department
- PLANNING
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

- Treasurer
- Controller
- Information Services Dept.
- City Clerk Tax and Permit
- Fire Department
- Personnel Department
- Police Department
- Public Works - Engineering
- Transportation
- Mayor (with/without file)
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

COMMISSION

CPC-2019-7393-CA

EXHIBIT H – Ordinance 173389

**ORDINANCE NO. 173815**

An ordinance adding Chapter 128 of Division 5 to the Los Angeles Administrative Code to establish the Coastal Zone Affordable Housing Trust Fund.

THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:

Section 1. A new Chapter 128 is added to the Los Angeles Administrative Code to read:

**CHAPTER 128**

**COASTAL ZONE AFFORDABLE HOUSING TRUST FUND**

**Sec. 5.528. Coastal Zone Affordable Housing Trust Fund.**

**A. Creation and Administration of Fund.** This ordinance creates within the Treasury of the City of Los Angeles a special fund known as the Coastal Zone Affordable Housing Trust Fund, referred to in this chapter as the Fund. The Los Angeles Housing Department shall administer, have overall management of and expend funds from the Fund in accordance with the provisions of this ordinance. The Los Angeles Housing Department shall also administer the Fund in accordance with established City practice and in conformity with Government Code Section 66000, *et seq.* All interest or other earnings from money received into the Fund shall be credited to the Fund and devoted to the purposes listed in this chapter.

**B. Purpose.** The Fund shall be used for the deposit of money paid to the City of Los Angeles pursuant to the Mello Act Ordinance and any other money appropriated or given to this Fund for affordable housing in the Coastal Zone.

**C. Expenditures.** Except as set forth below, funds collected pursuant to the Mello Act Ordinance and any other monies placed in this Fund shall be expended only for the purpose of developing affordable housing in the Coastal Zone.

The Los Angeles Housing Department is authorized to make expenditures from this in accordance with the Mello Act Ordinance. Administration of the Fund and expenditures from the Fund shall also be in compliance with the requirements in Government Code Section 66000, *et seq.*, including the following:

1. The City Departments shall deposit all monies received pursuant to the Mello Act Ordinance in the Fund and avoid any commingling of the monies with other City revenues and funds, except for temporary investments, and expend those monies solely for the purpose for which the in lieu fee was collected. Any interest income earned by monies in the Fund shall also be deposited in that Fund and shall be expended only for the purpose for which the in lieu fee was originally collected.
2. The Los Angeles Housing Department shall, within 180 days after the last day of each fiscal year, make available to the public all the information required by Government Code Section 66006 (a).
3. The City Council shall review the information made available to the public pursuant to Paragraph 2 within the time required by Section 66006, and give notice of that meeting as required by that Section.
4. When required to do so by Government Code Section 66001 (e) and (f), the City Council shall authorize refunds of fees paid to the Fund.

Funds shall be used for the purposes set forth in Subsection B. Should any project become infeasible for any reason determined by the City Council or there are project savings, the City Council may reprogram the applicable funds so long as the funds are used for the purposes set forth above.

Regulations to administer these funds shall be promulgated by the Los Angeles Housing Department.

**D. Reporting.** The Los Angeles Housing Department shall report annually to the City Council and Mayor identifying and describing in detail receipts and expenditures of the Fund. The Los Angeles Housing Department shall submit each annual report within 60 days after the close of the fiscal year covered in the report.

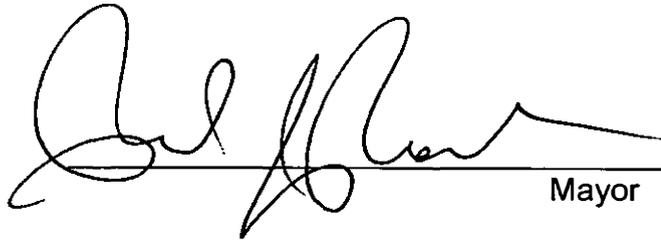
**Sec. 2.** The City Clerk shall certify to the passage of this ordinance and have it published in a daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, at its meeting of FEB 28 2001.

J. MICHAEL CAREY, City Clerk

By Maria Kokenis Deputy

Approved MAR 09 2001

  
Mayor

Approved as to Form and Legality

2/23/01  
James K. Hahn, City Attorney

By Claudia Culling  
CLAUDIA CULLING  
Assistant City Attorney

File No. CF 98-0255

CPC-2019-7393-CA

EXHIBIT I – Historical Document – Case Continuation

CPC-2019-7393-CA

Exhibit I

RECORD REQUESTED <i>@ F 98-0255</i>		DATE <i>6-12-01</i>
INDIVIDUAL REQUESTING <i>Tony Ramos</i>		EXT. <i>3-6206</i>
DEPARTMENT/BUREAU <i>Controller's / F &amp; A</i>	LOCATION <i>Room 1212</i> <i>Controller's Office</i>	
SIGNATURE <i>[Signature]</i>	EXPECTED RETURN DATE	
Date Traced	Remarks	Extended to:

Form 163 (T)

J. MICHAEL CAREY  
City Clerk

FRANK T. MARTINEZ  
Executive Officer

When making inquiries  
relative to this matter  
refer to File No.

98-0255

CD 6

March 13, 2001

Honorable Richard Riordan, Mayor  
Office of Administrative and  
Research Services  
Attn: City Attorney Analyst  
Liability Claims/Budget Group  
Room 1260, CHE  
Controller, Room 1200  
Accounting Division, F&A  
Disbursement Division

Treasurer  
Planning Department  
Building and Safety Department  
Housing Department  
Councilmember Svorinich  
City Attorney,  
cc: Christa Binder

RE: MATTERS REGARDING SETTLEMENT AGREEMENT IN THE CASE OF VENICE TOWN COUNCIL, ET AL. VS. CITY OF LOS ANGELES (BC089678)

At the meeting of the Council held February 28, 2001, the following action was taken:

Attached report adopted.....	_____	X
Attached motion adopted( ).....	_____	
Attached resolution adopted.....	_____	X
Ordinance adopted.....	_____	X
Motion adopted to approve attached report.....	_____	
Motion adopted to approve attached communication.....	_____	
To the Mayor FORTHWITH:.....	_____	
Ordinance Number.....	_____	173815
Publication date.....	_____	3-15-01
Effective date.....	_____	4-15-01
Mayor vetoed.....	_____	
Mayor approved.....	_____	3-09-01
Negative Declaration adopted.....	_____	
Categorically exempt.....	_____	
Generally exempt.....	_____	

*J. Michael Carey*  
City Clerk  
dng  
*[Handwritten signature]*

CITY OF LOS ANGELES

CALIFORNIA



RICHARD J. RIORDAN  
MAYOR

Office of the  
CITY CLERK  
Council and Public Services  
Room 615, City Hall  
Los Angeles, CA 90012  
Council File Information - (213) 485-5703  
General Information - (213) 485-5705  
Fax: (213) 847-0636  
Fax: (213) 485-8944

HELEN GINSBURG  
Chief, Council and Public Services Division

PLACE IN FILES

MAR 15 2001

DEPUTY

*[Handwritten signature]*

Mayor's Time Stamp

RECEIVED

'01 MAR -2 P3:07

DEPUTY MAYOR

TIME LIMIT FILES  
ORDINANCES

City Clerk's Time Stamp

ADUNA POSTED

CITY CLERK'S OFFICE

01 MAR -2 PM 3:02

COUNCIL FILE NUMBER 98-0255

COUNCIL DISTRICT 6

COUNCIL APPROVAL DATE February 28, 2001

LAST DAY FOR MAYOR TO ACT

MAR 2 2001

ORDINANCE TYPE:  Ord of Intent  Zoning  Personnel  General

Improvement  LAMC  LAAC  CU or Var Appeals - CPC No \_\_\_\_\_

SUBJECT MATTER: ORDINANCE ADDING CHAPTER 128 OF DIVISION 5 TO THE LOS ANGELES ADMINISTRATIVE CODE TO ESTABLISH THE COASTAL ZONE AFFORDABLE HOUSING TRUST FUND AS PART OF THE SETTLEMENT AGREEMENT IN THE CASE OF VENICE TOWN COUNCIL, ET AL., V. CITY OF LOS ANGELES (BCO89678)

	APPROVED	DISAPPROVED
PLANNING COMMISSION	_____	_____
DIRECTOR OF PLANNING	_____	_____
CITY ATTORNEY	<u>X</u>	_____
OFFICE OF ADMINISTRATIVE AND RESEARCH SERVICES	_____	_____
OTHER: _____	_____	_____

MAR 09 2001

DATE OF MAYOR APPROVAL, DEEMED APPROVED OR \*VETO: \_\_\_\_\_  
\*VETOED ORDINANCES MUST BE ACCOMPANIED WITH OBJECTIONS IN WRITING PURSUANT TO CHARTER SEC. 250(b) (c)

(CITY CLERK USE ONLY PLEASE DO NOT WRITE BELOW THIS LINE)

DATE RECEIVED FROM MAYOR MAR 09 2001 ORDINANCE NO. 173815

DATE PUBLISHED MAR 15 2001 DATE POSTED \_\_\_\_\_ EFFECTIVE DATE APR 15 2001

ORD OF INTENT: HEARING DATE \_\_\_\_\_ ASSESSMENT CONFIRMATION \_\_\_\_\_

ORDINANCE FOR DISTRIBUTION: Yes [] No []

TO THE COUNCIL OF THE  
CITY OF LOS ANGELES

FILE NO. 98-0255

Your **PLANNING AND LAND USE MANAGEMENT** Committee

reports as follows:

	<u>Yes</u>	<u>No</u>
Public Comments	<u>XX</u>	<u>—</u>

PLANNING AND LAND USE MANAGEMENT COMMITTEE REPORT, RESOLUTION, and ORDINANCE relative to matters regarding settlement agreement in the case of Venice Town Council, et al, vs. City of Los Angeles (BC089678).

Recommendations for Council action:

1. ADOPT accompanying RESOLUTION relative to a settlement agreement in the case of Venice Town Council, et al, vs. City of Los Angeles (BC089678).
2. PRESENT and ADOPT accompanying ORDINANCE adding Chapter 128 of Division 5 to the Los Angeles Administrative Code to establish the Coastal Zone Affordable Housing Trust Fund as part of the settlement agreement.

Fiscal Impact Statements: None submitted by the City Attorney. Neither the Office of Administrative and Research Services nor the Chief Legislative Analyst has completed a financial analysis of this report.

Summary:

At its meeting held February 20, 2001, the Planning and Land Use Management Committee considered a communication dated January 16, 2001 from the City Attorney (attached to Council File) and Resolution relative to a settlement agreement in the case of Venice Town Council, et al, vs. City of Los Angeles (BC089678) and ordinance establishing a Coastal Zone Affordable Housing Trust Fund. At that time, the Committee recommended that Council adopt the accompanying Resolution and approve the accompanying Ordinance establishing the Coastal Zone Affordable Housing Trust Fund, pursuant to the terms of the settlement agreement.

Respectfully submitted,

PLANNING AND LAND USE MANAGEMENT COMMITTEE

**REPT., RESOL + ORD.**

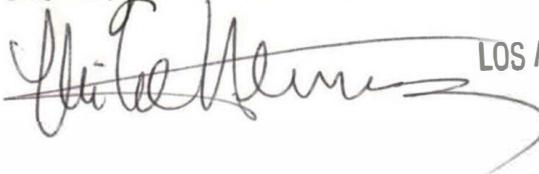
**ADOPTED**

FEB 28 2001

LOS ANGELES CITY COUNCIL

JAW:ys  
2/23/01

#980255

*Cindy Mischowski*  


2

J. MICHAEL CAREY  
City Clerk

When making inquiries  
relative to this matter  
refer to File No.

CITY OF LOS ANGELES

CALIFORNIA



RICHARD J. RIORDAN  
MAYOR

Office of the  
**CITY CLERK**  
Council and Public Services  
Room 615, City Hall  
Los Angeles, CA 90012  
Council File Information - (213) 485-5703  
General Information - (213) 485-5705

98-0255  
CD 6

January 18, 2001

PLANNING & LAND USE MANAGEMENT COMMITTEE

In accordance with Council Rules, communication from the City Attorney relative to Resolution and draft ordinance for adoption in compliance with the Settlement Agreement in the case of Venice Town Council, was referred on January 18, 2001, to the PLANNING & LAND USE MANAGEMENT COMMITTEE.

*J. Michael Carey*

City Clerk  
amm

*AG HB*  
*2-20-01*



**JAMES K. HAHN**  
CITY ATTORNEY

**Office of the City Attorney**  
**Los Angeles, California**

WRITER'S DIRECT DIAL: (213) 847-0562  
FAX: (213) 485-8899  
TTY:

**REPORT NO. R 01-0034**  
**JAN 16, 2001**

REPORT RE:

**RESOLUTION AND DRAFT ORDINANCE FOR ADOPTION IN COMPLIANCE WITH THE SETTLEMENT AGREEMENT IN THE CASE OF VENICE TOWN COUNCIL**

The Honorable City Council  
of the City of Los Angeles  
Room 615, City Hall  
200 North Main Street  
Los Angeles, California 90012

(Council File No. 98-0255 - not transmitted)

RECEIVED  
CITY CLERK'S OFFICE  
01 JAN 17 AM 7:45  
BY CITY CLERK

Honorable Members:

On November 21, 2000, the City Council authorized settlement in the case of *Venice Town Council, et al., vs. City of Los Angeles*, Case No. BC 089678. On December 13, 2001, a settlement agreement was finally executed pursuant to the Council's authorization.

As a part of that settlement, the City Council agreed to act within 60 days of the execution of the settlement to rescind the purported policy set out in the July 24, 1990, memo from the President of the then-existing Board of Zoning Appeals regarding presumptions on appeals of Mello Act cases; and to supersede the Planning and Environment Committee March 20, 1984, report adopted by the City Council (File No. 81-6299).

Attached is a resolution which would meet those two requirements of the settlement agreement. The last day to act within the time limit is February 9, 2001. This Office recommends that you take this action as soon as possible.

In the settlement agreement, the City Council also agreed to adopt an ordinance establishing a Coastal Zone Affordable Housing Trust Fund. Attached is a copy of a draft ordinance to establish that trust fund.

PLAN & LAND USE MGT.

AN EQUAL EMPLOYMENT OPPORTUNITY — AFFIRMATIVE ACTION EMPLOYER

1800 CITY HALL EAST • 200 N. MAIN STREET • LOS ANGELES, CA 90012-4131 • (213) 485-6370

JAN 17 2001



The Honorable City Council  
of the City of Los Angeles  
Page 2

An attorney from this office will be available when the Council considers this matter to answer any questions you may have.

Very truly yours,

JAMES K. HAHN, City Attorney

  
CLAUDIA CULLING  
Assistant City Attorney

CC:rp  
Transmittal

(61731)

## RESOLUTION

**WHEREAS**, on December 13, 2001, the settlement agreement in the case of *Venice Town Council, et al., vs. City of Los Angeles* was finally executed pursuant to authorization given by the City Council on November 21, 2000;

**WHEREAS**, as a part of that settlement, the City Council agreed to act within 60 days of the execution of the settlement to rescind the purported policy set out in the July 24, 1990, memo from the President of the then-existing Board of Zoning Appeals regarding presumptions on appeals of Mello Act cases; and to supersede the Planning and Environment Committee March 20, 1984, report adopted by the City Council (File No. 81-6299).

**NOW, THEREFORE, BE IT RESOLVED**, that the purported policy set out in the July 24, 1990, memo from the President of the then-existing Board of Zoning Appeals regarding presumptions on appeals of Mello Act cases is hereby rescinded; and

**BE IT FURTHER RESOLVED** that the Planning and Environment Committee March 20, 1984, report adopted by the City Council (in Council File No. 81-6299) is hereby superseded by the settlement agreement in this case, which then may be replaced by ordinance.

---

INTRODUCED BY

---

SECONDED BY

I CERTIFY THAT THE FOREGOING  
RESOLUTION WAS ADOPTED BY THE  
COUNCIL OF THE CITY OF LOS ANGELES  
AT ITS MEETING OF FEB 28 2001  
BY A MAJORITY OF ALL ITS MEMBERS.



J. MICHAEL CAREY,  
CITY CLERK

BY Betty Sander  
DEPUTY

J. MICHAEL CAREY  
City Clerk

FRANK T. MARTINEZ  
Executive Officer

When making inquiries  
relative to this matter  
refer to File No.

98-0255

CITY OF LOS ANGELES  
CALIFORNIA



RICHARD J. RIORDAN  
MAYOR

Office of the  
CITY CLERK  
Council and Public Services  
Room 615, City Hall  
Los Angeles, CA 90012  
Council File Information - (213) 485-5703  
General Information - (213) 485-5705  
Fax: (213) 847-0636  
Fax: (213) 485-8944

HELEN GINSBURG  
Chief, Council and Public Services Division

December 7, 2000

DEPUTY  
DEC 13 2000  
PLACE IN FILES

Honorable Richard Riordan, Mayor  
Office of Administrative and  
Research Services  
Attn: City Attorney Analyst  
Liability Claims/Budget Group  
Room 1260, CHE

Treasurer  
Planning Department  
Building and Safety Department  
Housing Department  
Councilmember Svorinich  
Councilmember Miscikowski

City Attorney,  
cc: Christa Binder  
Controller, Room 1200,  
Accounting Division, F&A  
Disbursement Division

RE: SETTLEMENT IN CASE ENTITLED VENICE TOWN COUNCIL V. CITY OF LOS ANGELES,  
SUPERIOR COURT CASE NO. BC 089678 IN THE AMOUNT OF \$325,000

At the meeting of the Council held November 21, 2000, the following  
action was taken:

Attached report adopted.....	_____
Attached motion (Svorinich - Miscikowski)	
adopted in open session.....	_____ X _____
Attached resolution adopted.....	_____
Ordinance adopted.....	_____
Motion adopted to approve attached report.....	_____
Mayor concurred.....	_____ 12-05-00 _____
Findings adopted.....	_____
Generally exempt.....	_____

*J. Michael Carey*

City Clerk  
crm  
steno\



Mayor's Time Stamp

RECEIVED  
 '00 NOV 27 AM 10:28  
 DEPUTY MAYOR

RECEIVED  
 City Clerk's Time Stamp

00 NOV 27 AM 10:17  
 BY \_\_\_\_\_  
 CITY CLERK  
 DEPUTY

**SUBJECT TO MAYOR'S APPROVAL**

COUNCIL FILE NO. 98-0255

COUNCIL DISTRICT NO. \_\_\_\_\_

COUNCIL APPROVAL DATE NOVEMBER 21, 2000

RE: SETTLEMENT IN CASE ENTITLED VENICE TOWN COUNCIL V. CITY OF LOS ANGELES,  
 SUPERIOR COURT CASE NO. BC 089678 IN THE AMOUNT OF \$325,000

LAST DAY FOR MAYOR TO ACT DEC 07 2000  
 (10 Day Charter requirement as per Charter Section 341)

**DO NOT WRITE BELOW THIS LINE - FOR MAYOR OFFICE USE ONLY**

APPROVED

✓

\*DISAPPROVED

\*Transmit objections in writing pursuant to Charter Section 341

DATE OF MAYOR APPROVAL OR DISAPPROVAL

DEC 05 2000

MAYOR

steno\980255

*[Handwritten Signature]*

DEC 06 2000  
 BY \_\_\_\_\_  
 CITY CLERK  
 RECEIVED  
 CITY CLERK'S OFFICE  
 00 DEC -6 AM 11:52  
*Settlement*

MOTION

I HEREBY MOVE that Council adopt the following recommendations of the City Attorney in order to effect settlement in the case entitled Venice Town Council v. City of Los Angeles, Superior Court Case No. BC 089678 (challenge to City's implementation of the Mello Act in the Coastal Zone), **SUBJECT TO THE APPROVAL OF THE MAYOR:**

1. AUTHORIZE the City Attorney to expend \$325,000 in settlement of the case entitled Venice Town Council v. City of Los Angeles, Superior Court Case No. BC 089678 from the Liability Claims Account No. 9770, Fund 100, Department 59.
2. AUTHORIZE the City Attorney to draw a demand on Liability Claims Account No. 9770, Fund 100, Department 59, in the amount of \$325,000 payable to Western Center on Law and Poverty, Inc.
3. AUTHORIZE the City Attorney to sign the settlement agreement on behalf of the City.

**MOTION**  
**ADOPTED**  
**IN OPEN SESSION**  
NOV 21 2000

PRESENTED BY: \_\_\_\_\_  
RUDY SVORINICH  
Councilmember 15th District

LOS ANGELES CITY COUNCIL

SECONDED BY: \_\_\_\_\_  
CINDY MISCIKOSKI  
Councilmember 11th District

## COUNCIL VOTE

21-Nov-00 10:37:47 AM, #4

ITEM NO. (39)

Voting on Item(s): 39

Roll Call

BERNSON	Yes
CHICK	Yes
FEUER	Yes
GALANTER	Absent
GOLDBERG	Yes
HERNANDEZ	Yes
HOLDEN	Yes
MISCIKOWSKI	Yes
PACHECO	Yes
PADILLA	Yes
RIDLEY-THOMAS	Yes
SVORINICH	Yes
WACHS	Absent
WALTERS	Absent
*FERRARO	Yes

Present: 12, Yes: 12 No: 0

ORDINANCE NO. 173815

An ordinance adding Chapter 128 of Division 5 to the Los Angeles Administrative Code to establish the Coastal Zone Affordable Housing Trust Fund.

THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:

Section 1. A new Chapter 128 is added to the Los Angeles Administrative Code to read:

**CHAPTER 128**

**COASTAL ZONE AFFORDABLE HOUSING TRUST FUND**

**Sec. 5.528. Coastal Zone Affordable Housing Trust Fund.**

**A. Creation and Administration of Fund.** This ordinance creates within the Treasury of the City of Los Angeles a special fund known as the Coastal Zone Affordable Housing Trust Fund, referred to in this chapter as the Fund. The Los Angeles Housing Department shall administer, have overall management of and expend funds from the Fund in accordance with the provisions of this ordinance. The Los Angeles Housing Department shall also administer the Fund in accordance with established City practice and in conformity with Government Code Section 66000, *et seq.* All interest or other earnings from money received into the Fund shall be credited to the Fund and devoted to the purposes listed in this chapter.

**B. Purpose.** The Fund shall be used for the deposit of money paid to the City of Los Angeles pursuant to the Mello Act Ordinance and any other money appropriated or given to this Fund for affordable housing in the Coastal Zone.

**C. Expenditures.** Except as set forth below, funds collected pursuant to the Mello Act Ordinance and any other monies placed in this Fund shall be expended only for the purpose of developing affordable housing in the Coastal Zone.

The Los Angeles Housing Department is authorized to make expenditures from this in accordance with the Mello Act Ordinance. Administration of the Fund and expenditures from the Fund shall also be in compliance with the requirements in Government Code Section 66000, *et seq.*, including the following:

1. The City Departments shall deposit all monies received pursuant to the Mello Act Ordinance in the Fund and avoid any commingling of the monies with other City revenues and funds, except for temporary investments, and expend those monies solely for the purpose for which the in lieu fee was collected. Any interest income earned by monies in the Fund shall also be deposited in that Fund and shall be expended only for the purpose for which the in lieu fee was originally collected.
2. The Los Angeles Housing Department shall, within 180 days after the last day of each fiscal year, make available to the public all the information required by Government Code Section 66006 (a).
3. The City Council shall review the information made available to the public pursuant to Paragraph 2 within the time required by Section 66006, and give notice of that meeting as required by that Section.
4. When required to do so by Government Code Section 66001 (e) and (f), the City Council shall authorize refunds of fees paid to the Fund.

Funds shall be used for the purposes set forth in Subsection B. Should any project become infeasible for any reason determined by the City Council or there are project savings, the City Council may reprogram the applicable funds so long as the funds are used for the purposes set forth above.

Regulations to administer these funds shall be promulgated by the Los Angeles Housing Department.

**D. Reporting.** The Los Angeles Housing Department shall report annually to the City Council and Mayor identifying and describing in detail receipts and expenditures of the Fund. The Los Angeles Housing Department shall submit each annual report within 60 days after the close of the fiscal year covered in the report.

**Sec. 2.** The City Clerk shall certify to the passage of this ordinance and have it published in a daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, at its meeting of FEB 28 2001.

J. MICHAEL CAREY, City Clerk

By *Maria Kooksevic*  
Deputy

Approved MAR 09 2001

*Antonio Villaraigosa*  
Mayor

Approved as to Form and Legality

2/23/01  
James K. Hahn, City Attorney

By *Claudia Culling*  
CLAUDIA CULLING  
Assistant City Attorney

File No. CF 98-0255



JAMES K. HAHN  
CITY ATTORNEY

Office of the City Attorney  
Los Angeles, California

WRITER'S DIRECT DIAL: (213) 847-0562  
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TTY:

39

REPORT NO. R00-0561  
NOVEMBER 15, 2000

sm

SETTLEMENT OF  
VENICE TOWN COUNCIL V. CITY OF LOS ANGELES  
LOS ANGELES SUPERIOR COURT CASE NO. BC 089678

Honorable City Council  
of the City of Los Angeles  
Room 615, City Hall  
200 North Main Street  
Los Angeles, California 90012

RECEIVED  
CITY OF LOS ANGELES  
00 NOV 15 PM 2:12  
BY \_\_\_\_\_  
CITY CLERK

Re: Council File No. 98-0255 - not transmitted

Honorable Members:

On September 23, 1993, Venice Town Council, *et al*, sued the City alleging a violation of the Mello Act (Government Code § 65590, et seq.). That Act requires, among other things, replacement of demolished and converted low and moderate income housing and provision of affordable units when new housing is developed in the Coastal Zone.

As you may recall, the City successfully demurred to the complaint on the grounds that the complaint did not allege that the City violated any mandatory duty and that the Act did not require the City to adopt procedures. The petitioners appealed, and the Court of Appeal reversed as to the first ground, holding that the plaintiffs sufficiently alleged duties under the Act, which the City was obligated to perform. The Court of Appeals, however, agreed that the Act did not require the City to adopt procedures to implement the Act. The matter was remanded to the trial court to determine if the City actually violated the Act by not performing required duties.

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1800 CITY HALL EAST • 200 N. MAIN STREET • LOS ANGELES, CA 90012-4131 • (213) 485-6370

Honorable City Council  
of the City of Los Angeles  
Page 2

On January 15, 1998, this office received a settlement offer in this case, which we forwarded to you for your consideration. On September 16, 1998, you instructed us to prepare a counter-offer and submit it to the plaintiffs. The plaintiffs' response prompted us to report back to you on August 27, 1999, at which time you gave us further instructions. During that time, the relevant City departments (Housing, Planning and Building and Safety) adopted interim procedures, agreed to by the plaintiffs. These are attached for your reference. As a result of your instructions, we continued to work with City staff and negotiated with the plaintiffs and came back to you with a recommendation. You agreed we should make the plaintiffs an offer to settle based on our recommendation, which included an offer of \$225,000 in attorneys fees and costs. The plaintiffs refused to settle on those terms and continued to seek \$476,146.88. The settlement judge before whom we were appearing recommended we seek mediation. We agreed and this mediation resulted in an agreement that we recommend to you settlement of costs and attorneys fees in this case in the amount of \$325,000. The plaintiffs have agreed to accept this amount and dismiss the lawsuit based on the settlement agreement attached to this report.

If you wish to settle on these terms, we recommend that you adopt the attached motion appropriating the necessary funds and authorize us to sign the attached agreement on behalf of the City.

We will present our concerns and recommendations when you consider this matter and will be available to answer any questions you may have.

Very truly yours,

JAMES K. HAHN, City Attorney

By

*Claudia Culling*  
CLAUDIA CULLING  
Assistant City Attorney

CC:rp

(60120)

#2

PLANNING AND LAND USE MANAGEMENT COMMITTEE  
Report/Communication for Signature

Council File Number 98-0255  
Committee Meeting Date 2-20-01  
Council Date 2-28-01

COMMITTEE MEMBERS	YES	NO	ABSENT
<del>COUNCILMEMBER BERNSON, Chair</del>			✓
COUNCILMEMBER MISCIKOWSKI	✓		
COUNCILMEMBER HERNANDEZ	✓		

Remarks Venice Town Council et al vs  
City of L.A.

John A. White, Legislative Assistant ♦♦♦♦ Telephone 485-5707

COUNCIL VOTE

28-Feb-01 10:32:41 AM, #5

ITEM NO. (8)

Voting on Item(s): 8 <sup>1</sup>2

Roll Call

BERNSON	Absent
CHICK	Yes
FEUER	Yes
*GALANTER	Yes
HERNANDEZ	Yes
HOLDEN	Yes
MISCIKOWSKI	Yes
PACHECO	Yes
PADILLA	Yes
RIDLEY-THOMAS	Yes
SVORINICH	Yes
WACHS	Yes
WALTERS	Yes
FERRARO	Absent
	Absent

Present: 12, Yes: 12 No: 0

## ORDINANCE NO. \_\_\_\_\_

An ordinance adding Chapter 128 of Division 5 to the Los Angeles Administrative Code to establish the Coastal Zone Affordable Housing Trust Fund.

THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:

Section 1. A new Chapter 128 is added to the Los Angeles Administrative Code to read:

**CHAPTER 128**

**COASTAL ZONE AFFORDABLE HOUSING TRUST FUND**

**Sec. 5.528. Coastal Zone Affordable Housing Trust Fund.**

**A. Creation and Administration of Fund.** This ordinance creates within the Treasury of the City of Los Angeles a special fund known as the Coastal Zone Affordable Housing Trust Fund, referred to in this chapter as the Fund. The Los Angeles Housing Department shall administer, have overall management of and expend funds from the Fund in accordance with the provisions of this ordinance. The Los Angeles Housing Department shall also administer the Fund in accordance with established City practice and in conformity with Government Code Section 66000, *et seq.* All interest or other earnings from money received into the Fund shall be credited to the Fund and devoted to the purposes listed in this chapter.

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The Los Angeles Housing Department is authorized to make expenditures from this in accordance with the Mello Act Ordinance. Administration of the Fund and expenditures from the Fund shall also be in compliance with the requirements in Government Code Section 66000, *et seq.*, including the following:

1. The City Departments shall deposit all monies received pursuant to the Mello Act Ordinance in the Fund and avoid any commingling of the monies with other City revenues and funds, except for temporary investments, and expend those monies solely for the purpose for which the in lieu fee was collected. Any interest income earned by monies in the Fund shall also be deposited in that Fund and shall be expended only for the purpose for which the in lieu fee was originally collected.
2. The Los Angeles Housing Department shall, within 180 days after the last day of each fiscal year, make available to the public all the information required by Government Code Section 66006 (a).
3. The City Council shall review the information made available to the public pursuant to Paragraph 2 within the time required by Section 66006, and give notice of that meeting as required by that Section.
4. When required to do so by Government Code Section 66001 (e) and (f), the City Council shall authorize refunds of fees paid to the Fund.

Funds shall be used for the purposes set forth in Subsection B. Should any project become infeasible for any reason determined by the City Council or there are project savings, the City Council may reprogram the applicable funds so long as the funds are used for the purposes set forth above.

Regulations to administer these funds shall be promulgated by the Los Angeles Housing Department.

**D. Reporting.** The Los Angeles Housing Department shall report annually to the City Council and Mayor identifying and describing in detail receipts and expenditures of the Fund. The Los Angeles Housing Department shall submit each annual report within 60 days after the close of the fiscal year covered in the report.

**Sec. 2.** The City Clerk shall certify to the passage of this ordinance and have it published in a daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, at its meeting of \_\_\_\_\_.

J. MICHAEL CAREY, City Clerk

By \_\_\_\_\_  
Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality

2/23/01  
James K. Hahn, City Attorney

By Claudia Culling  
CLAUDIA CULLING  
Assistant City Attorney

File No. CF 98-0255

**SETTLEMENT AGREEMENT**

**BETWEEN THE CITY OF LOS ANGELES AND  
THE VENICE TOWN COUNCIL, INC., THE BARTON HILL NEIGHBORHOOD  
ORGANIZATION, AND CAROL BERMAN**

**CONCERNING IMPLEMENTATION OF THE MELLO ACT  
IN THE COASTAL ZONE PORTIONS OF THE CITY OF LOS ANGELES**

**November 14, 2000**

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**EXHIBITS**

- A. Interim Administrative Procedures
- B. Scope of Work for Interim Study
- C. Affordable Housing Incentives Guidelines
- D. Draft Coastal Zone Maps:
  - Northwest Brentwood Subarea
  - Northeast Brentwood Subarea
  - Southwest Brentwood Subarea
  - Southeast Brentwood Subarea
  - Venice Subarea
  - Westchester Subarea
  - Northwest San Pedro Subarea
  - Northeast San Pedro Subarea
  - Southwest San Pedro Subarea
  - Southeast San Pedro Subarea
- E. Draft Map: Areas Within Three Miles of the Coastal Zone

**I. FINAL SETTLEMENT AGREEMENT AND RELEASE**

This Final Settlement Agreement and Release (Agreement) is entered into this \_\_\_\_ day of November, 2000, between the City of Los Angeles (City) and the Venice Town Council, etc. (Plaintiffs). The City and the Plaintiffs are collectively referred to in this Agreement as the "Parties" and sometimes individually referred to as "Each Party."

**II. RECITALS****A. PARTIES**

Plaintiffs/Petitioners are the Venice Town Council, Inc., the Barton Hill Neighborhood Organization, referred to in the Complaint as the Barton-Hill Neighborhood Association, and Carol Berman. Defendant/Respondent is the City of Los Angeles.

**B. PROCEDURAL BACKGROUND AND INTENT OF THE PARTIES**

In September, 1993, Plaintiffs filed a Petition for Writ of Mandate and Complaint for Injunction and Declaratory Relief. On October 22, 1993, the City demurred and moved to strike. The trial court granted the City's motion to strike and sustained the City's demurrers with leave to amend.

The Court also granted the City's motion to strike and sustained its demurrers with leave to amend to the Plaintiffs' First Amended Complaint and Petition for Writ. On November 18, 1994, the trial court granted the City's demurrers to the Second Amended Complaint and Petition for Writ of Mandate.

On February 24, 1995, the Plaintiffs appealed the decision sustaining the City's demurrers. The court in Venice Town Council, v. City of Los Angeles, et al., 47 Cal. App.4th 1547, 55 Cal.Rptr.2d 465 (July 31, 1996), held that while the Act did not require the City to adopt procedures to implement the Act, the complaint stated a cause of action and the demurrers should be overruled. A significant dispute existed as to whether Defendant complied with its affordable housing obligation under the Mello Act, Government Code Section 65590 et seq. This Agreement is entered into with the intention of resolving all issues pending prior to or on the Date of Execution of this Agreement among the parties regarding the Defendant's practices under the Mello Act. However, the Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or April 19, 2001, whichever occurs first, with regard to the following three policy areas: (1) Categorical Exemption for Small New Housing Developments (See Section V A 3); (2) Affordability Covenants (See Section V C); and Income Targeting Standards (See Section V F).

### III. DEFINITIONS

**“Administrative Fees”** are the fees the City charges Applicants to recover the City’s costs of administering the Mello Act and City Policies and City Procedures.

**“Affordable Housing Incentives Guidelines”** means the guidelines adopted by the City Planning Commission on December 14, 1995, as amended, pursuant to Ordinance No. 170,764, which implement California Government Code Section 65915 in the City of Los Angeles.

**“Affordable Replacement Unit”** means a Residential Unit built or provided that has the same number of bedrooms as the Affordable Existing Residential Unit that has been demolished or converted, with an Affordable Monthly Housing Cost.

**“Affordable Monthly Housing Cost”** refers, for ownership units, to the current definition contained in Health and Safety Code Section 50052.5, as further defined in 25 California Code of Regulations Section 6920. For rental units, “Affordable Monthly Housing Cost” refers to the current definition contained in Health and Safety Code Section 50053, as further defined in 25 California Code of Regulations Section 6918.

**“Affordable Existing Residential Unit”** means an existing Residential Unit proposed for Conversion or Demolition that is occupied by a Very Low, Low or Moderate Income Household, as determined by the Housing Department General Manager, following the occupant income determination process set forth in Section VI C 4 of this Agreement.

In the event that an existing Residential Unit is occupied by more than one person or family, and if at least one such person or family (excluding any dependents) is of Very Low, Low or Moderate Income, then the existing Residential Unit is defined as an Affordable Existing Residential Unit.

**“Agreement”** means this Agreement and all exhibits to the Agreement.

**“Appellant”** means the Applicant, current occupant, former occupant evicted within the last year, or other aggrieved person who files an appeal.

**“Applicant”** means the person, partnership, corporation, governmental organization, or other entity submitting a Discretionary Application and/or a Non-Discretionary Application to the City of Los Angeles.

**“Application, Discretionary”** means the original application for, or submission of a subsequent non-minor modification to, one or more of the following entitlements: approval-in-concept, coastal development permit, conditional use permit, condominium conversion, development agreement, plan approval, specific plan exception, subdivision or tract map, variance, zone change or any other action that first requires the discretionary

approval of the Director of Planning, the City Planning Commission, the Zoning Administrator, the Advisory Agency, or an Area Planning Commission.

**“Application, Non-Discretionary”** means an application for a building permit, demolition permit, or change of use permit that requires the ministerial approval of the Department of Building and Safety.

**“Categorical Exemption”** means an Application that the City has determined is categorically exempt from providing either Affordable Replacement Units or Inclusionary Residential Units, consistent with the Mello Act, City Policies, and the terms of this Agreement.

**“City”** means the City of Los Angeles and its officers, agents and employees.

**“City Policies”** means all interim and permanent policies, ordinances, and resolutions the City adopts to implement the Mello Act and the terms of this Agreement.

**“City Procedures”** means all interim and permanent administrative procedures the City adopts or issues to implement City Policies, the Mello Act, and the terms of this Agreement.

**“Coastal Commission Guidelines”** means the California Coastal Commission Interpretive Guidelines on Construction of New Housing adopted by the California Coastal Commission on May 5, 1981.

**“Coastal-Dependent Non-Residential Use”** means any non-residential development or use which requires a site on, or adjacent to, the sea to be able to function at all.

**“Coastal Development Permit”** means a permit for any development within the Coastal Zone that is required pursuant to Subdivision (a) of Section 30600 of the California Coastal Act.

**“Coastal-Related Nonresidential Use”** means any nonresidential development or use that is dependent on a Coastal-Dependent Non-Residential Use.

**“Coastal Zone”** means the Coastal Zone, as defined in California Public Resources Code, Division 20 (commencing with Section 30000), including, but not limited to, the Coastal Zone portions of Venice, San Pedro, Pacific Palisades, Playa Vista, Wilmington, Fort MacArthur/White Point, Palms/Marina Freeway Area, and Del Ray Lagoon, as depicted on the City of Los Angeles Coastal Zone Maps, as prepared and maintained by the Department of City Planning. In the case of any discrepancy, the Public Resources Code shall control.

**“Coastal Zone Affordable Housing Trust Fund”** is the reserve account kept separate from the General Fund into which In-Lieu Fees received from Applicants shall be

deposited, and which shall only be used to provide Affordable Replacement Units or Inclusionary Residential Units pursuant to the Mello Act, City Policies and City Procedures.

**“Complaint”** means the Second Amended Complaint for Injunctive and Declaratory Relief and Petition for Writ of Mandate in this action.

**“Conversion”** means a change of one or more existing Residential Units to a condominium, cooperative, or similar form of ownership; or a change of one or more existing Residential Units to a non-residential use; or a reduction in the existing number of Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

**“Date of Execution”** means the date this Agreement is completely executed by all parties.

**“Defendant”** refers to the City of Los Angeles and its officers, agents and employees.

**“Demolition”** means the demolition of one or more existing Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

**“Director’s Determination”** means a determination issued by the Director of Planning of the Department of City Planning, or his or her designee.

**“Density Bonus”** means a minimum density increase of 25 percent over the otherwise maximum allowable residential density granted pursuant to California Government Code Section 65915.

**“Feasible”** means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

**“Household, Low Income”** means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50079.5, as further defined in 25 California Code of Regulations 6928 and 6932.

**“Household, Moderate Income”** means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50093 (b), as further defined in 25 California Code of Regulations 6930 and 6932.

**“Household, Very Low Income”** means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50105, as further defined in 25 California Code of Regulations 6926 and 6932.

**“Housing Department General Manager”** means the General Manager or his or her designee, of the Los Angeles Department of Housing or successor agency.

**“Inclusionary Residential Unit”** means a Residential Unit with an Affordable Monthly Housing Cost.

**“In-Lieu Fees”** means fees charged to an Applicant in-lieu of the Applicant providing Affordable Replacement Units or Inclusionary Residential Units, and that are deposited into the Coastal Zone Affordable Housing Trust Fund.

**“Interim Administrative Procedures”** means the Interim Administrative Procedures developed by the Departments of Building and Safety, City Planning and Housing pursuant to instruction of the City Council on January 19, 2000, and included as Exhibit A.

**“Interim Ordinance”** means the Interim Ordinance that on January 19, 2000, the City Council directed the Department of City Planning to prepare and submit to the City Planning Commission for approval, and that shall be based on the results of the Interim Study.

**“Interim Study”** means the study that consultants shall complete to assist the City in implementing the Mello Act; complying with the terms of this Agreement; updating the Interim Administrative Procedures; and preparing the Interim Ordinance.

**“Local Coastal Program”** means the Land Use Plan and Local Implementation Plan that a local government has adopted to implement the provisions and policies of the California Coastal Act, and that has been certified by the California Coastal Commission pursuant to Public Resources Code Section 30512.

**“Longer-Term Study”** means the study that consultants shall complete to assist the City in developing permanent City Policies and City Procedures.

**“Mello Act”** means California Government Code Sections 65590 and 65590.1

**“Monthly Housing Cost”** means the monthly rent or mortgage for a Residential Unit, as determined by the Housing Department General Manager.

**“New Housing Development”** means the development of one or more Residential Units for rent or for sale, through either construction of new structures, additions to existing structures, or the adaptive reuse of existing, non-residential structures. The structure or

structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

**“Permanent Ordinance”** means the ordinance that the Department of City Planning shall prepare and submit to the City Planning Commission for approval, and that shall be based on the results of the Longer-Term Study.

**“Plaintiffs”** means the Venice Town Council, Inc., the Barton Hill Neighborhood Organization, referred to in the Complaint as the Barton-Hill Neighborhood Association, Carol Berman, and their attorneys, agents and successors in interest.

**“Public Nuisance”** means a residential structure that has been declared a public nuisance pursuant to Division 13 (commencing with Section 17000) of the California Health and Safety Code; or any provision of the Los Angeles Municipal Code adopted pursuant to Division 13 of the California Health and Safety Code.

**“Residential Unit”** means a dwelling unit, efficiency dwelling unit, or joint living and work quarters as defined in Section 12.03 of the Los Angeles Municipal Code (LAMC); a mobilehome, as defined in Section 18008 of the California Health and Safety Code; a mobilehome lot in a mobilehome park as defined in Section 18214 of the California Health and Safety Code; or a residential hotel as defined in paragraph (1) of subdivision (b) of Section 50519 of the California Health and Safety Code.

**“Unified Development”** means a development of two or more buildings which have functional linkages such as pedestrian or vehicular connections, with common architectural and landscape features which constitute distinctive design elements of the development, and that appears to be a consolidated whole when viewed from adjoining streets. Unified Developments may include two or more contiguous parcels or lots of record separated only by a street or alley.

#### **IV. GENERAL PROVISIONS**

##### **A. COVERAGE**

This Agreement shall cover all property within the Coastal Zone portions of the City.

##### **B. PRINCIPLES**

1. The City shall adopt City Policies and City Procedures requiring all City departments, staff, offices, agencies and employees to comply with the Mello Act and this Agreement.
2. All City Policies and City Procedures, and all other ordinances, programs, plans, and policies in the Coastal Zone, shall be consistent with the Mello Act and this Agreement. All future zoning, land use, development and planning regulations,

ordinances, resolutions and policies adopted by the City shall be consistent with the Mello Act and this Agreement. City Policies and City Procedures pursuant to this Agreement may be modified based on any future amendments to the Mello Act.

3. In the case of conflict between this Agreement, City Policies, City Procedures, any geographically specific plan, Local Coastal Program, or any other regulation, the requirement which results in the provision of the largest number of Affordable Replacement Units or Inclusionary Residential Units shall apply. This Agreement and City Policies and City Procedures shall not, however, abrogate any existing development agreement executed between a property owner and the City prior to the Date of Execution of this Agreement.
4. Nothing in this Agreement, or any City Policies or City Procedures, shall require the City to violate any state law or to violate the rights of any person under the federal or state constitution or state law.
5. Discretionary and Non-Discretionary Applications pending as of the date of execution of this Agreement are subject to the requirements of the Mello Act.

#### **V. CITY POLICIES**

The City shall develop City Policies, which shall apply equally to Affordable Replacement Units or Inclusionary Residential Units that the Applicant provides directly, or that the City subsidizes with In-Lieu Fees. City Policies shall include the following provisions:

#### **A. CATEGORICAL EXEMPTIONS**

City Policies shall include the following Categorical Exemptions:

##### **1. Owner-Occupied One-Family Dwellings**

Applicants who propose to demolish the existing one-family dwelling in which they currently reside, and replace it with another one-family dwelling in which they plan to reside, are Categorically Exempt.

##### **2. Residential Structures Declared a Public Nuisance**

The Demolition of residential structures declared a public nuisance pursuant to the following state and local codes are Categorically Exempt:

- 2.1 Division 13 (commencing with Section 17000) of the California Health and Safety Code; or
- 2.2 Any provision of the Los Angeles Municipal Code adopted pursuant to Division 13 of the California Health and Safety Code.

### 3. Small New Housing Developments

Small New Housing Developments consisting of nine or fewer Residential Units are Categorically Exempt until the Interim Ordinance is adopted and becomes effective.

The Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or April 19, 2001, whichever occurs first, with regard to any City Policy or action that Categorically Exempts small New Housing Developments consisting of nine or fewer Residential Units.

#### **B. DEMOLITIONS AND NEW HOUSING DEVELOPMENTS ON THE SAME SITE**

City Policies shall provide that if Affordable Existing Residential Units are proposed for Demolition, and a New Housing Development is proposed on the same site, then the requirements set forth in City Policies concerning Affordable Replacement Units and Inclusionary Residential Units are both triggered.

City Policies shall specify that the requirements concerning Inclusionary Residential Units shall only apply to the number of new Residential Units which exceeds the total number of required Affordable Replacement Units. For example, if the City's Mello Act compliance review determines that 20 Affordable Replacement Units must be provided, and the proposed New Housing Development consists of 50 new Residential Units, then the requirements concerning Inclusionary Residential Units shall only apply to the 30 excess Residential Units. If the number of excess Residential Units is Categorically Exempt pursuant to City Policies, no Inclusionary Residential Units are required.

#### **C. AFFORDABILITY COVENANTS**

City Policies shall require, at a minimum, that affordability covenants shall guarantee that Affordable Replacement Units and Inclusionary Residential Units shall remain available at an Affordable Monthly Housing Cost for not fewer than 30 years from the date the City issues the Certificate of Occupancy. Based on the results of the Interim Study, the City shall consider including a provision in the Interim Ordinance which increases this requirement from 30 years to 55 years.

The plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or April 19, 2001, whichever occurs first, with regard to any City Policy or action that does not require that affordability covenants for Affordable Replacement Units and Inclusionary Residential Units remain available at an Affordable Monthly Housing Cost for not fewer than 55 years from the date the City issues the Certificate of Occupancy.

**D. METHODS TO PROVIDE REQUIRED AFFORDABLE UNITS**

City Policies shall permit the provision of required Affordable Replacement Units or Inclusionary Residential Units through one or any combination of the following methods:

1. New construction;
2. Adaptive reuse (conversion of existing non-residential structures to Residential Units); and
3. Other methods permitted by the Mello Act and approved by the City Council by ordinance or resolution.

City Policies shall specify that Affordable Replacement Units or Inclusionary Residential Units may be either ownership units or rental units. City Policies shall not express a preference for one over the other type of unit.

**E. AFFORDABLE HOUSING INCENTIVES**

City Policies shall apply the incentives set forth in the Affordable Housing Incentives Guidelines, including a Density Bonus, to the provision of Affordable Replacement Units or Inclusionary Residential Units.

**F. AFFORDABLE REPLACEMENT UNITS****1. Income Targeting Standards**

City Policies shall specify standards concerning the Affordable Monthly Housing Cost required of Affordable Replacement Units. Until the Interim Ordinance is adopted and becomes effective, Affordable Replacement Units may be provided at any Affordable Monthly Housing Cost. The Interim Study shall evaluate the following candidate standards, which the City is considering for inclusion in the Interim Ordinance:

- 1.1 Deep Targeting Standard: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income Household.
- 1.2 Deep Targeting Standard, Based on Feasibility: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income Household, unless the Applicant demonstrates that deep targeting is infeasible.
- 1.3 Intermediate Targeting Standard: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income or Low Income Household.

- 1.4 No Targeting Standard: A Residential Unit occupied by a Very Low Income Household may be replaced by a unit affordable to a Very Low, Low, or Moderate Income Household.

The scope of work for the Interim Study is included as Exhibit B.

The Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or April 19, 2001, whichever occurs first, with regard to any City Policy or action that does not require deep targeting as specified in Section V F 1.1 above.

## 2. Location

City Policies shall include standards for the required location of Affordable Replacement Units, in compliance with the Mello Act.

Until the Interim Ordinance is adopted and effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 2.1 Affordable Replacement Units shall be located on-site, or elsewhere within the Coastal Zone.
- 2.2 Applicants claiming it is infeasible to comply with this requirement may request permission to provide the required units within three miles of the Coastal Zone by submitting an appeal pursuant to City Procedures.

The Interim Study shall evaluate, at a minimum, the following candidate standards which the City is considering for inclusion in the Interim Ordinance:

- 2.3 On the same site as the Conversion or Demolition;
- 2.4 Anywhere within the Coastal Zone;
- 2.5 Anywhere within three miles of the site, but within the Coastal Zone; and
- 2.6 Anywhere within three miles of the Coastal Zone.

## 3. Timing Requirement

City Policies shall require that Affordable Replacement Units be provided within three years of the date that work commenced on the Conversion or Demolition.

#### 4. **Performance Standards**

If Affordable Replacement Units are included as part of mixed-income New Housing Developments, City Policies shall require compliance with the following portions of the performance standards set forth in the Affordable Housing Incentives Guidelines (Exhibit C):

- 4.1 Project design (Section 4A, page 7); and
- 4.2 Equal distribution of amenities (Section 4B, page 8).

For all other Affordable Replacement Units, City Policies shall require compliance with the project design and amenities requirements promulgated by the Housing Department General Manager.

### **G. INCLUSIONARY RESIDENTIAL UNITS**

#### 1. **Standards**

City Policies shall include standards for the provision of Inclusionary Residential Units in New Housing Developments. These standards shall be based on the City's factual findings of feasibility. Until the Permanent Ordinance is adopted and becomes effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 1.1 Inclusionary Requirement Option #1. Reserve at least 20 percent of all Residential Units for Inclusionary Residential Units for Very Low or Low Income Households; or
- 1.2 Inclusionary Requirement Option #2. Reserve at least 10 percent of all Residential Units for Inclusionary Residential Units for Very Low Income Households.

City Policies shall specify that the provision of Inclusionary Residential Units for seniors or disabled persons who do not have a Very Low Income or Low Income shall not comply with these standards.

#### 2. **Location**

City Policies shall include standards concerning the required location of Inclusionary Residential Units, in compliance with the Mello Act.

Until the Interim Ordinance is adopted and effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 2.1 Inclusionary Residential Units shall be located on-site.

- 2.2 Applicants claiming it is infeasible to comply with this requirement may request permission to provide the required units elsewhere within the Coastal Zone, or within three miles of the Coastal Zone, by submitting an appeal pursuant to City Procedures.

The Interim Study shall evaluate, at a minimum, the following candidate standards which the City shall consider for inclusion in the Interim Ordinance:

- 2.3. On the same site as the New Housing Development;
- 2.4 Anywhere within the Coastal Zone;
- 2.5 Anywhere within three miles of the site, but within the Coastal Zone; and
- 2.6 Anywhere within three miles of the Coastal Zone.

### 3. **Timing Requirements**

If City Policies permit Inclusionary Residential Units for off-site provision, then City Policies shall require that these units be provided within three years of the date that the Housing Department General Manager approves the Affordable Housing Provision Plan. City Policies shall require that a New Housing Development's required Inclusionary Residential Units and market-rate Residential Units be made available at the same time.

### 4. **Performance Standards**

City Policies shall require compliance with the following portions of the Performance Standards set forth in the Affordable Housing Incentives Guidelines (Exhibit C):

- 7.5.1 Project design (Section 4A, page 7); and
- 7.5.2 Equal distribution of amenities (Section 4B, page 8).

## **H. IN-LIEU FEES**

City Policies shall include provisions concerning payment of In-Lieu Fees by Applicants otherwise required to provide Affordable Replacement Units or Inclusionary Residential Units. The City shall deposit In-Lieu Fees into the Coastal Zone Affordable Housing Trust Fund. Administrative Fees shall be handled separately from In-Lieu Fees.

### 1. **Interim Ordinance**

Interim In-Lieu Fees shall be deposited into an escrow account to be used solely for the purpose of providing Affordable Replacement Units and Inclusionary Residential Units. After the Permanent Ordinance is adopted and becomes effective, any amounts remaining

in the escrow account shall be deposited into the Coastal Zone Affordable Housing Trust Fund.

1.1 Interim Study

The Interim Ordinance's In-Lieu Fee dollar amounts shall be based on the results of the Interim Study. The scope of work for the Interim Study is included as Exhibit B.

1.2 Affordable Replacement Units

The In-Lieu Fee payment schedule for Demolitions and Conversions shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of Affordable Replacement Units which would otherwise be required by the Mello Act and this Agreement.

1.3 Inclusionary Residential Units

The In-Lieu Fee payment schedule for New Housing Developments shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of Inclusionary Residential Units which would otherwise be required by Inclusionary Requirement Option #1 (See Section V G 1.1); or Inclusionary Requirement Option # 2 (See Section V G 1.2).

2. Permanent Ordinance

2.1 Longer-Term Study

The Permanent Ordinance's In-Lieu Fee dollar amounts shall be based on the results of the Longer-Term Study.

2.2. Affordable Replacement Units

The In-Lieu Fee payment schedule for Demolitions and Conversions shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of Affordable Replacement Units which would otherwise be required by the Mello Act and this Agreement.

2.3 Inclusionary Residential Units

The City may adopt one or a combination of the following policy options:

2.3.1 If the City determines that some or all Inclusionary Residential Units are feasible either on-site or off-site, the City shall permit the Applicant to pay In-Lieu Fees sufficient to provide, in aggregate, the same number and type of Inclusionary Residential Units which would otherwise be required by City Policies, the Mello Act and this Agreement.

- 2.3.2 If the City determines that some or all Inclusionary Residential Units are infeasible both on-site or off-site, but that payment of some amount of In-Lieu Fees is feasible, the City may charge such In-Lieu Fees.

3. **Simultaneous Application of Rental Housing Production Fees and In-Lieu Fees**

City Policies shall include the following provision: If In-Lieu Fees, Los Angeles Rental Housing Production Fees, or any similar affordable housing fees all apply to an Application, the greatest of these fees shall apply. Any fees collected shall first be deposited in the Coastal Zone Affordable Housing Trust Fund to provide Affordable Replacement Units or Inclusionary Residential Units. Then, to the extent that there are fees above and beyond those required pursuant to City Policies, those additional fees shall be deposited into the Rental Housing Production Fund.

4. **Timing of Payments**

City Policies shall require that In-Lieu Fees shall be paid in full as follows:

- 4.1 New Housing Developments: prior to issuance of the building permit;
- 4.2 Demolitions: prior to issuance of the demolition permit; and
- 4.3 Conversions: prior to recordation of the tract or parcel map, issuance of the building permit, or issuance of the change of use permit, as applicable.

Alternatively, the City may allow the Applicant to post a bond by the dates specified in Sections V H 4.1, 4.2, and 4.3 above, guaranteeing payment of all In-Lieu Fees in full within one year. The City may provide for a short-term deferral of any In-Lieu Fees if necessary to facilitate the development of any Affordable Replacement Units or Inclusionary Residential Units being built as part of a New Housing Development.

**I. DEMOLITION OR CONVERSION OF EXISTING RESIDENTIAL STRUCTURES FOR PURPOSES OF A NON-COASTAL-DEPENDENT, NON-RESIDENTIAL USE**

City Policies shall include a City presumption that a continued residential use is feasible. City Policies shall specify that the City shall deny these Applications unless the Applicant proves with substantial evidence that a residential use is not feasible on the site of the residential structure or structures proposed for Demolition or Conversion.

**VI. CITY PROCEDURES**

The City shall develop and implement City Procedures binding on City departments and City staff for processing Applications pursuant to the Mello Act and City Policies. The City may revise and amend City Procedures if the City Council determines that doing so advances the

goals of the Mello Act, is beneficial or appropriate for administrative efficiency, and is in compliance with State law.

Attached to this Agreement are Interim Administrative Procedures (Exhibit A). These procedures shall remain in effect until the Interim Ordinance is adopted and effective.

#### **A. OBJECTIVES**

City Procedures shall accomplish the following objectives:

1. Each Application in the Coastal Zone that conforms to the definition of a Demolition, Conversion or New Housing Development shall be identified.
2. Each residential structure proposed for Demolition or Conversion for purposes of a non-Coastal-Dependent, non-residential use shall be identified.
3. Each Application in the Coastal Zone identified as being subject to the Mello Act shall receive the proper Mello Act compliance review and determination based on that review, pursuant to City Policies and City Procedures, regardless if the Application is regulated by any geographically specific plan or Local Coastal Program. This requirement shall also apply to any Application exempted from the requirement to obtain a coastal development permit.
4. Each determination which requires findings shall be supported by such written findings, which in turn shall be supported by evidence in the file which contains the determination.

#### **B. INITIAL SCREENING AND ROUTING**

The City shall develop and implement a procedure to identify each Application subject to the Mello Act. The procedure shall consist of the following steps:

1. **Step one. Determine Coastal Zone location.**

The City shall determine which Applications are located in the Coastal Zone. If an Application is located in the Coastal Zone, the City shall go to step two.

2. **Step two. Identify Conversions, Demolitions and New Housing Developments.**

The City shall identify Applications that involve one or more Residential Units, and determine if any of these Applications conform to the definition of a Demolition, Conversion or New Housing Development. If Demolitions, Conversions or New Housing Developments are identified, the City shall go to step three below.

3. **Step three. Identify Categorically Exempt Applications.**

The City shall identify Applications which are determined to be Categorically Exempt from providing either Affordable Replacement Units or Inclusionary Residential Units as set forth in City Policies and the Mello Act. If the City identifies Applications as Categorically Exempt, the City shall go to step four. If the City identifies Applications as not being Categorically Exempt, the City shall review these Applications for compliance with the Mello Act as set forth in City Procedures.

4. **Step four. Send notice of Categorically Exempt Applications.**

The City shall simultaneously send notice of determinations that an Application is Categorically Exempt pursuant to step three above, within five working days of the date the determination is made, to the Applicant and to other parties specified in City Procedures. In addition, the City shall simultaneously send notice to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective. Notice of determinations that an Application is Categorically Exempt because the residential structure has been declared a public nuisance shall also be simultaneously sent to all building occupants.

Determinations that a proposed Demolition, Conversion or New Housing Development is Categorically Exempt are appealable pursuant to City Procedures.

**C. DEMOLITIONS AND CONVERSIONS**

For each Discretionary and Non-Discretionary Application determined not to be Categorically Exempt, the City shall complete a Mello Act compliance review to determine the total number of Affordable Replacement Units the Applicant is required to provide pursuant to the Mello Act and City Policies.

The compliance review shall be structured to answer the questions and follow the procedures and steps listed below. The City shall prepare and use a worksheet to complete each Mello Act compliance review. The City shall attach supporting documentation to each completed worksheet.

1. **Question #1. Will residential structures be demolished or converted for purposes of a non-residential use?**

If the answer to question #1 is “yes,” and existing residential structures are proposed for Demolition or Conversion for purposes of a non-residential use, then the City shall go to question #2 to determine if the proposed use is Coastal-Dependent.

If the answer to question #1 is “no,” the City shall skip to question #4 to determine if any of the Residential Units proposed for Demolition or Conversion are Affordable Existing Residential Units.

2. **Question #2. Is the proposed non-residential use Coastal-Dependent?**

If the answer to question #2 is “yes,” the City shall skip to question #4. If the answer to question #2 is “no,” the City shall go to question #3.

3. **Question #3. Is a residential use feasible at this location?**

The City shall presume that a continued residential use is feasible. Applicants may challenge the City’s presumption by presenting substantial evidence to the contrary. The City shall consider the following in reviewing an Applicant’s challenge to the City’s presumption:

- 3.1 The Applicant has the burden of proof. Proximity to other existing, viable residential uses is strong evidence that a residential use is feasible.
- 3.2 An Applicant may not claim infeasibility merely because the site is zoned commercial. Commercial zones in the City of Los Angeles generally permit residential uses. However, in some cases a “Q” or “D” limitation may be imposed on a particular property which prohibits residential uses.
- 3.3 If the existing, underlying zoning or any other applicable regulation prohibits all residential uses, then the Applicant may cite those facts if the Applicant is challenging the City’s presumption. If an Applicant has non-conforming or other rights which permit a continued residential use, then the Applicant may not contend that the existing zoning renders a residential use infeasible.
- 3.4 An Applicant may not initiate and obtain approval for a zone change which prohibits residential uses and subsequently claim infeasibility based on that zone change.
- 3.5 An Applicant may not claim infeasibility merely because the site is zoned industrial if a Zoning Administrator had previously approved joint living and work quarters for that site. A Zoning Administrator’s grant runs with the land.
- 3.6 An Applicant may not claim financial infeasibility unless it can clearly document an inability to rent or sell the current premises based on the site’s unique characteristics or circumstances. Unique characteristics or circumstances include proximity to noxious and incompatible existing uses that are likely to remain, and that render a continued residential use infeasible. If challenging the City’s presumption, an Applicant may not cite mere proximity to commercial or industrial uses.

- 3.7 An Applicant may claim infeasibility due to the site's unique geologic or other topographical features which render it unsafe for human habitation. Applicants must provide supporting documentation.
- 3.8 An Applicant may not claim infeasibility because the current premises are dilapidated or are in a state of disrepair due to the Applicant's failure to make reasonable repairs or to adequately maintain the site. The City may require the Applicant to correct substandard conditions before it will further consider an Applicant's challenge of the City's presumption.

The City may require that an independent analysis of the alleged risks of other uses or hazards be performed by an expert acceptable to the City, at the Applicant's expense.

If the Applicant has proved with substantial evidence that a residential use is infeasible, the City shall record a "no" answer to question #3, and go to question #4.

If the Applicant has not proved with substantial evidence that a residential use is infeasible, the City shall record a "yes" answer to question #3. The City shall stop the Mello Act compliance review process and deny the Discretionary or Non-Discretionary Application to demolish or convert a residential structure for purposes of a non-Coastal-Dependent, non-residential use, regardless of the income of current or past occupants; the form of ownership; or rents charged, for-sale prices, or appraised value.

4. **Question #4. Are any Affordable Existing Residential Units Proposed for Demolition or Conversion?**

City Procedures shall identify occupants in structures proposed for Demolition or Conversion who may have a Very Low, Low or Moderate Income. City Procedures shall follow the steps below:

- 4.1 **Step one. Send general notice to all occupants of structures proposed for Demolition or Conversion.** This notice shall contain the following: (a) a description of the proposed Demolition or Conversion; (b) an explanation of the purpose of the Mello Act and the City's Mello Act compliance review process; (c) a description of the rights that building occupants determined to have a Very Low, Low or Moderate Income shall have, including a right of first refusal on an Affordable Replacement Unit; (d) a referral to a specified source of further assistance, to be selected by Western Center on Law and Poverty, Inc.; and (e) a City telephone number to call for additional information.
- 4.2 **Step two. Identify long-term vacant residential units.** A Residential Unit shall not be classified as an Affordable Existing Residential Unit if it has been unoccupied for more than 365 consecutive days prior to the Application's filing. The Applicant has the burden of proving long-term vacancy. If the Applicant has established long-term vacancy, then the City shall not classify the Residential Unit as an Affordable Existing Residential Unit.

- 4.3 Step three. Determine occupant income based on Monthly Housing Cost or actual income data. The City may determine occupant income using Monthly Housing Cost as a substitute for actual income, or by collecting and verifying actual income. If current Monthly Housing Cost data indicate that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If not, the City shall collect prior Monthly Housing Cost data for at least the previous three years. If the average Monthly Housing Cost over this period indicates that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If three years of Monthly Housing Cost data is not available or readily obtainable, then the City shall determine occupant income through the direct collection and verification of actual income data.

If occupant income is based on Monthly Housing Cost, the City shall go to step four. If occupant income is based on actual income, the City shall: (a) go to step five if the person or family does not have a Very Low, Low or Moderate Income; or (b) go to step six if the person or family does have a Very Low, Low or Moderate Income.

- 4.4 Step four. Verify accuracy of occupant income based on Monthly Housing Cost data. The City shall provide occupants and Applicants with the opportunity to verify the accuracy of occupant income determinations based on Monthly Housing Cost. The City shall provide persons and families presumed not to have a Very Low, Low or Moderate income with the opportunity to submit data verifying actual income. Likewise, the City shall provide Applicants with a roster of occupants presumed to have a Very Low, Low or Moderate Income, who may then submit data verifying actual income.

The City is responsible for verifying the accuracy of any submitted income data. The City shall use actual income data to correct any incorrect occupant income determinations based on Monthly Housing Cost. Based on this review, the City shall (a) go to step five if the person or family does not have a Very Low, Low or Moderate Income; or (b) go to step six if the person or family does have a Very Low, Low or Moderate Income.

- 4.5 Step five. Identify and determine if any evictions were for the purpose of evading the Mello Act. The City shall conduct an investigation to carry out the following provision set forth in Government Code Section 65590 (b): For purposes of this subdivision, a residential dwelling unit shall be deemed occupied by a person or family of low or moderate income if the person or family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit, and if the eviction was for the purpose of avoiding the requirements of this subdivision. If a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of an application to convert or demolish the structure, the

evictions shall be presumed to have been for the purpose of avoiding the requirements of this subdivision and the applicant for the conversion or demolition shall bear the burden of proving that the evictions were not for the purpose of avoiding the requirements of this subdivision. The City shall identify those Residential Units presumed to have a Very Low, Low or Moderate Income based on its investigation. After completing step five, the City shall go to step six.

- 4.6 Step six. The City shall prepare a report summarizing the results of the occupant income determination process for occupants of structures proposed for Demolition or Conversion. This report shall contain the following information for each structure:
- 4.6.1 One-family dwellings: total number of Residential Units and total number of Affordable Existing Residential Units.
  - 4.6.2 Two-family dwellings: Total number of Residential Units and total number of Affordable Existing Residential Units.
  - 4.6.3 Triplexes and other structures that contain three or more Residential Units: total number of Residential Units and total number of Affordable Existing Residential Units.
  - 4.6.4 Summary: total number of Residential Units and total number of Affordable Existing Residential Units.

The report shall also provide the following information for each identified Affordable Existing Residential Unit:

- 4.6.5 Address;
  - 4.6.6 Names of occupants; and
  - 4.6.7 Number of bedrooms.
5. **Question #5. Is the Application for Coastal-Dependent or Coastal-Related Non-Residential uses? Are these non-residential uses consistent with the land use plan of a certified Local Coastal Program?**

If the answer to both questions is “yes,” the City shall skip to question #8. If the answer to either question is “no,” the City shall go to question #6.

6. **Question #6. Are eleven or more Residential Units proposed for Demolition or Conversion?**

If the total number of Residential Units proposed for Demolition or Conversion is ten or fewer, the City shall record a “no” answer to question #6 and go to question #7. If the

Applicant is proposing to demolish or convert eleven or more Residential Units, the City shall record a “yes” answer to question #6, and require that all of the Affordable Existing Residential Units identified by the answer to question #4 be replaced as a condition of Application approval.

7. **Question #7. Are any Affordable Existing Residential Units in one-family or two-family dwellings?**

If the answer to question #7 is “yes,” the City shall go to question #8. If the answer to question #7 is “no,” and all of the Affordable Existing Residential Units identified by the answer to question #4 are in triplexes and other structures that contain three or more Residential Units, the City shall require that all of these units be replaced as a condition of Application approval.

8. **Question #8. Is it infeasible for the Applicant to replace any of the Affordable Existing Residential Units identified by answers to questions #5 and #7?**

If the answer to question #8 is “yes,” the City shall determine the number of Affordable Replacement Units it is infeasible for the Applicant to provide, and record this number on the worksheet. The City shall then subtract this number from the number of Affordable Existing Residential Units identified by the answer to question #4. This is the total number of required Affordable Replacement Units. The City shall require the Applicant to provide this number of Affordable Replacement Units as a condition of Application approval.

If the answer to question #8 is “no,” then it’s feasible for the Applicant to replace all Affordable Existing Residential Units identified by the answer to question #4. This is the total number of required Affordable Replacement Units. The City shall require the Applicant to provide this number of Affordable Replacement Units as a condition of Application approval.

City Policies and City Procedures with regard to question #8 shall include the City’s consideration of typical public subsidies, and other affordable housing incentives available by-right. Until the Interim Ordinance is adopted and becomes effective, the City shall answer question #8 pursuant to the provisions set forth in the Interim Administrative Procedures (Exhibit A). Thereafter the City shall answer question #8 by following the provisions set forth in those City Policies and City Procedures in effect after the Interim Ordinance is adopted and becomes effective. After May 28, 2001, the City shall not use Attachment 3 to Exhibit A (Form CP-6391) to answer question #8.

**D. NEW HOUSING DEVELOPMENTS**

City Procedures shall implement the standards concerning the provision of Inclusionary Residential Units in New Housing Developments set forth in City Policies.

**E. IN-LIEU FEES**

City Procedures shall implement the provisions concerning In-Lieu Fees set forth in City Policies.

**F. DETERMINATIONS**

City Procedures shall specify that a determination shall be issued for each Demolition, Conversion, and New Housing Development determined not to be Categorically Exempt.

For Discretionary Applications, the City shall issue the determination as written conditions attached to the determination made with respect to the underlying case. All completed forms, correspondence received and sent, and other supporting documentation shall be attached to the file the City creates for the underlying case.

For Non-Discretionary Applications, the City shall issue the determination as a Director's Determination. The City shall prepare a file, and attach all completed forms, correspondence received and sent, and other supporting documentation.

The City shall simultaneously transmit a copy of each determination to the Applicant, all building occupants, and any other parties specified in City Procedures. In addition, the City shall simultaneously transmit a copy of each determination to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective.

**1. Demolitions and Conversions**

Each determination shall include the following:

- 1.1 Results of the Mello Act compliance review process completed pursuant to City Procedures;
- 1.2 Total number of identified Affordable Existing Residential Units;
- 1.3 Total number of required Affordable Replacement Units;
- 1.4 A requirement that the Applicant comply with the requirements set forth in City Policies and City Procedures;
- 1.5 A statement that the City shall not approve the Application until the City has approved the Affordable Housing Provision Plan prepared pursuant to City Procedures; and
- 1.6 Information for Appellants pursuant to City Procedures.

## 2. **New Housing Developments**

Each determination that includes a requirement that the Applicant provide Inclusionary Residential Units shall include the following:

- 2.1 A requirement that the Applicant comply with the requirements concerning Inclusionary Residential Units set forth in City Policies.
- 2.2 Total number of required Inclusionary Residential Units.
- 2.3 A requirement that the Applicant comply with the requirements set forth in City Policies and City Procedures.
- 2.4 A statement that the City shall not approve the Application until the City has approved the Affordable Housing Provision Plan pursuant to City Procedures.
- 2.5 Information for Appellants pursuant to City Procedures.

## **G. AFFORDABLE HOUSING PROVISION PLAN**

City Procedures shall require Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units to prepare and submit for the City's review and approval an Affordable Housing Provision Plan which specifies how the Applicant shall comply with City Policies. The City's approval of the Affordable Housing Provision Plan shall be a condition of Application approval.

The City shall require the Affordable Housing Provision Plan to include the following elements:

### 1. **Methods to Provide Required Affordable Units**

The Affordable Housing Provision Plan shall specify the methods by which Applicants shall provide required Affordable Replacement Units or Inclusionary Residential Units, as permitted by City Policies.

### 2. **Operational Details**

The Affordable Housing Provision Plan shall contain the following operational details:

- 2.1 Address where Affordable Replacement Units or Inclusionary Residential Units will be provided, if the determination permits these units to be provided off-site.
- 2.2 General description of the Affordable Replacement Units or Inclusionary Residential Units to be provided, including the number and type of habitable rooms; square footage; and parking.

- 2.3 Affordable housing incentives and subsidies that will be utilized.
- 2.4 Methods for complying with the Performance Standards set forth in City Policies, including a dispersal plan if Affordable Replacement Units or Inclusionary Residential Units shall be provided on-site. Affordable Replacement Units or Inclusionary Residential Units may not be segregated from market-rate units, but shall be reasonably dispersed throughout the building; and
- 2.5 Financing; construction plan; and project timetable for complying with the timing requirements set forth in City Policies for Affordable Replacement Units and Inclusionary Residential Units.

#### **H. APPEALS**

The City shall permit determinations to be appealed. City Procedures shall include the following requirements and provisions:

##### **1. General Information**

Each determination issued pursuant to City Procedures shall identify deadlines, filing fees, the appellate body, and other necessary procedures and requirements for considering the appeal.

##### **2. Burden of Proof and Findings**

Appellants shall have the burden of proof. Applicants shall present substantial evidence to support their appeal supported by specific facts. In granting an appeal, the appellate body shall find that the appeal is consistent with the Mello Act.

##### **3. Notice**

The City shall simultaneously transmit a copy of the results of each appeal to the Applicant, all building occupants and any other parties specified in City Procedures.

In addition, the City shall simultaneously transmit a copy of the results of each appeal to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective.

##### **4. Discretionary Applications**

The appeals procedures and appellate body shall be those connected to the underlying case.

5. **Non-Discretionary Applications**

Appellants may appeal a Director's Determination using the forms and following the City Procedures promulgated by the City. The appellate body shall be the Area Planning Commission.

6. **Department of Building and Safety Actions**

Appellants may appeal Department of Building and Safety decisions and determinations to the Board of Building and Safety Commissioners pursuant to Los Angeles Municipal Code Section 98.0403.1.

**I. MONITORING AND ENFORCEMENT**

The City shall monitor and enforce compliance with all conditions set forth in determinations.

1. **Approval of Applications**

The City shall not issue any permits or other approvals for any Applications determined not to be Categorically Exempt until the Applicant has satisfied all conditions set forth in the determination and City Policies and City Procedures.

2. **Monitoring**

- 2.1 If the determination requires the provision of Affordable Replacement Units or Inclusionary Residential Units, the City shall require the Applicant to comply with the monitoring requirements set forth in Section IV C of the Affordable Housing Incentives Guidelines (page 10 of Exhibit C).
- 2.2 The City may require Applicants to submit periodic progress reports which describe the progress the Applicant is making in implementing the approved Affordable Housing Provision Plan.
- 2.3 The City shall conduct annual monitoring of all Affordable Replacement Units and Inclusionary Residential Units to insure that they continue to be available at an Affordable Monthly Housing Cost and occupied by Very Low, Low and Moderate Income Households. The City's monitoring procedures may include a requirement that owners of Affordable Replacement Units and Inclusionary Residential Units submit tenant income information to the City that has been verified by third party sources, and that meets the same standards for income verification as the requirements set out in the City's HOME and Community Development Block Grant (CDBG) programs.

### 3. **Affordability Covenants**

- 3.1 The City shall require Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units pursuant to an approved Affordable Housing Provision Plan to record a covenant with the Los Angeles County Recorder guaranteeing that these units shall remain available at an Affordable Monthly Housing Cost for not fewer than the number of years specified in City Policies, from the date the City issues the Certificate of Occupancy. The covenants recorded with the County Recorder's office shall run with the land and be enforceable by the City.
- 3.2 Tenants, rental applicants, purchasers and prospective purchasers of the Affordable Replacement Units or Inclusionary Residential Units shall have the right to seek an injunction to enforce the affordability criteria, or to raise the affordability criteria as a defense or counterclaim to a claim for rent or possession directly against the owner, manager, and/or their successors in interest, of those units.

### 4. **Financial Assurances**

The City may require Applicants to post a bond or make other financial assurances to assure compliance with the final approved Affordable Housing Provision Plan.

### 5. **Certificates of Occupancy**

The City shall not issue final certificates of occupancy for any of the buildings in a New Housing Development or Conversion until all of the conditions set forth in the determination have been satisfied in full, and all required affordability covenants have been recorded.

### 6. **Right of First Refusal**

The City shall require Applicants to provide notice to the City when an Affordable Replacement Unit becomes available for occupancy. The City shall then require the Applicant to provide notice to the occupants of the Affordable Existing Residential Unit that was demolished or converted. The notice shall explain that if the occupants have a qualifying income, they shall have a right of first refusal on the Affordable Replacement Unit.

## VII. **FOLLOW-UP ACTIONS**

### A. **MAPPING**

#### 1. **Coastal Zone Maps**

The City shall prepare maps which identify those lots and properties that are located in the Coastal Zone portions of the City of Los Angeles. A draft of these maps is attached as Exhibit D.

2. **Three Mile Radius Maps**

The City shall prepare maps which depict those areas of the City of Los Angeles that are located within a three mile radius of the inland boundary of the Coastal Zone. A draft of these maps is attached as Exhibit E.

**B. LEGISLATIVE ACTIONS**

The City Council has agreed that it shall take the following legislative actions:

1. **Motions**

The City Council shall adopt the following motions:

- 1.1 A motion which rescinds the Board of Zoning Appeals policy set out in the July 24, 1990 memo regarding presumptions on appeals; and
- 1.2 A motion which supersedes the March 20, 1984 report from the Planning and Environment Committee adopted by the City Council (File No. 81-6299).

2. **Ordinances**

2.1 **Mello Act Implementation Ordinances**

The City Council shall adopt Interim and Permanent Ordinances to implement the Mello Act and the provisions of this Agreement; and to establish Administrative Fees which shall be charged to Applicants to recover the City's costs in administering the Mello Act, City Policies, City Procedures, and the provisions of this Agreement.

2.2 **Coastal Zone Affordable Housing Trust Fund Ordinance**

The City Council shall adopt an ordinance which establishes the Coastal Zone Affordable Housing Trust Fund.

2.3 **Simultaneous Application of Rental Housing Production Fees and In-Lieu Fees**

The City Council shall adopt an ordinance amending Los Angeles Municipal Code Section 12.95.2(K) providing for the simultaneous application of Rental Housing Production Fees and In-Lieu Fees, as specified in Section VI G 4 of this Agreement.

2.4 **Rent Stabilization Ordinance and Condominium Conversion Provisions**

The City shall evaluate its Rent Stabilization Ordinance (RSO) and condominium conversion provisions to determine if any amendments are needed to make them consistent with City

Policies and City Procedures. If so, the City shall prepare the necessary amendments and submit them to the City Council for review and possible action.

### **C. CONSULTANT CONTRACTS**

The City shall enter into one or more consulting contracts to complete studies to assist it in implementing the provisions of this Agreement and the Mello Act; and to develop City Policies and City Procedures. These studies shall be made available to the Plaintiffs and the public within five working days of the City's receipt of these studies from the consultants. Consultants shall be available for reasonable consultations with the Plaintiffs and the Plaintiffs' attorneys during and following any study.

#### **1. Interim Study**

The City shall enter into a contract with the consulting firm of Hamilton, Rabinovitz & Alschuler (HR&A) to complete the Interim Study. The scope of work for this contract is included as Exhibit B.

#### **2. Longer-Term Study**

The City shall enter into a contract with a qualified consultant to complete the Longer-Term Study. Among other provisions, the contract scope of work shall require the consultant to:

- 2.1 To take into consideration the public subsidies and other incentives the City typically utilizes to encourage affordable housing in evaluating proposed City Policies regarding the feasibility of Affordable Replacement Units and Inclusionary Residential Units, as required by the Mello Act; and
- 2.2 Determine the amount of In-Lieu Fees sufficient to provide, in aggregate, the same number and type of Inclusionary Residential Units otherwise required by City Policies, the Mello Act and this Agreement.

### **D. ANNUAL REPORT**

The City shall prepare and annually release to the public a report which contains, at a minimum, the following information for the preceding year:

1. The number of new Residential Units for which the City issued building permits in the Coastal Zone;
2. The number of Inclusionary Residential Units that the City required to be provided either within the Coastal Zone, or within three miles of the Coastal Zone;

3. The number and location of new Inclusionary Residential Units for which construction was completed, either within the Coastal Zone or within three miles of the Coastal Zone;
4. The number and location of Affordable Existing Residential Units approved for Demolition or Conversion;
5. The number of Affordable Replacement Units that the City required to be provided either within the Coastal Zone, or within three miles of the Coastal Zone; and
6. The number and location of Affordable Replacement Units for which construction was completed either within the Coastal Zone, or within three miles of the Coastal Zone.

Information concerning Affordable Existing Residential Units, Affordable Replacement Units, and Inclusionary Residential Units shall be organized by the following sub-categories:

7. Very Low Income Households;
8. Low Income Households; and
9. Moderate Income Households.

#### **E. WORK PROGRAM**

Upon the date this Agreement is executed, the City shall initiate a work program to implement the terms of this Agreement. The City shall submit to the plaintiffs quarterly progress reports which describe the reasonable further progress the City is making. The City shall complete the following work program tasks by the dates referenced below, with the understanding, however, that there may be minor and reasonable delays in completing these tasks by these dates:

<b>Task</b>	<b>Date</b>
1. Prepare and release Interim Administrative Procedures (Exhibit A).	The Interim Administrative Procedures were released on May 17, 2000.
2. Execute consultant contract with HR&A to complete Interim Study (VII C 1).	The consultant contract was executed on July 7, 2000.
3. City Council rescinds Board of Zoning Appeals policy. (VII B 1.1).	Within 60 days of Date of Execution of this Agreement.

4.	City Council rescinds March 20, 1984 report from the Planning and Environment Committee. (VII B 1.2).	Within 60 days of Date of Execution of this Agreement.
5.	Prepare and submit to the plaintiffs the first required quarterly progress report.	Ten days after execution of the agreement. Thereafter quarterly progress reports shall be submitted no less than 10 working days after the end of the quarter.
6.	Prepare and release Coastal Zone maps (VII A 1).	Maps are included in Exhibit D. Maps may be later revised based on data received from the California Coastal Commission.
7.	Prepare and release Three Mile Radius maps (VII A 2).	Maps are in Exhibit D. Maps may be later revised based on data received from the California Coastal Commission.
8.	Complete Interim Study (Exhibit B).	January 5, 2000.
9.	Prepare and submit Interim Ordinance to City Planning Commission (VII B 2.1).	February 16, 2001.
10.	Prepare and submit ordinance establishing the Coastal Zone Affordable Housing Trust Fund to City Council (VII B 2.2).	February 16, 2001.
11.	Prepare and submit to the City Council an ordinance concerning the simultaneous application of Rental Housing Production and In-Lieu Fees. (VII B 2.3).	April 18, 2001.
12.	Review Rent Stabilization Ordinance and condominium conversion provisions, and prepare any necessary amendments. Submit ordinance (s) to City Council. (VII B 2.4).	April 18, 2001, if the City determines any amendments are necessary.
13.	Revise and release Interim Administrative Procedures. Complete related administrative forms and documents (Exhibit A).	Within 30 working days of effective date of Interim Ordinance.
14.	Select consultant to complete Longer-Term Study (VII C 2).	July 2, 2001.

15.	Prepare and release the first annual report (VII D) covering the period from the Date of Execution through and including June 30, 2001. Thereafter, the annual report shall be prepared covering the period from July 1 through June 30 of the following year.	September 17, 2001. Thereafter the annual report shall be prepared and released within 60 working days of June 30.
16.	Execute contract with selected consultant to complete Longer-Term Study (VII C 2).	November 1, 2001.
17.	Complete Longer-Term Study (VII C 2).	November 1, 2001.
18.	Prepare and submit Permanent Ordinance to City Planning Commission (VII B 2.1).	February 10, 2003.
19.	Prepare and release Permanent Administrative Procedures. Revise related administrative forms and documents (Exhibit A).	Within 30 working days of effective date of Permanent Ordinance.

### **VIII. AGREEMENT**

NOW THEREFORE, the Parties agree as follows:

#### **A. DISMISSAL OF ACTION WITH PREJUDICE**

Within 28 business days after the City executes this Agreement, the Plaintiffs agree to file with the Court a Request for Dismissal of the Action with prejudice.

#### **B. PAYMENT OF PLAINTIFFS' ATTORNEYS' FEES, COSTS AND EXPENSES**

Within 28 business days after the parties execute this Agreement, the City shall deliver a check in the amount of \$325,000 made payable to Western Center on Law and Poverty, Inc., as payment for all claims by Plaintiffs in this action for attorneys' fees, costs and expenses. Western Center on Law and Poverty, Inc., shall assume responsibility for distributing this payment to the different attorneys and law firms that represented Plaintiffs in this Action.

#### **C. GENERAL RELEASES**

##### **1. Claims Defined**

For purposes of this Agreement, the term "Claims" shall be defined as any actions, claims, demands, suits, liens, debts, dues, damages, judgments, bonds, executions, and liabilities of whatever kind, nature or description whatsoever, known or unknown, suspected or unsuspected, arising out of, or in any way related to the City's implementation of the Mello Act prior to the Date of Execution of this Agreement.

2. **Releases**

Except as otherwise set forth in this Agreement, the Parties hereby fully, finally, and forever release and discharge each other of and from all manner of Claims.

3. **Waiver of Civil Code Section 1542**

The Parties acknowledge that if they hereafter discover facts in addition to or different from those which they may now know or believe to be true with respect to the subject matter of this Agreement, it is nevertheless their intention to fully and forever settle and release any and all Claims. In furtherance of this intention, the Parties, acknowledge that they are familiar with section 1542 of the California Civil Code which provides:

"A general release does not extend to [Claims] which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

The Parties hereby waive and relinquish any rights and benefits they may have under section 1542, and represent that section 1542 has been fully explained to them by their attorneys.

**D. FURTHER ASSURANCES**

The Parties agree to execute, acknowledge and deliver any and all additional papers, documents and other assurances and shall perform any and all acts and things reasonably necessary in connection with the performance of the obligations under this agreement and to carry out the intent of the Parties.

**E. OWNERSHIP OF CLAIMS**

The Parties hereby warrant that they are the owners of, and the Party legally entitled to settle and release, every Claim referred to in this agreement.

**F. INDEPENDENT ADVICE AND INVESTIGATIONS**

Each Party represents and warrants that it has received independent legal advice from its attorneys with respect to the execution of this Agreement and that it has read this Agreement and understands its contents. Each Party represents and warrants that it has made such investigation of the facts pertaining to the settlement set forth in this Agreement and of all matters pertaining thereto as it is independently deemed necessary and appropriate. Each Party further represents and warrants that it has relied solely upon facts obtained from its own investigations and upon the advice of its own attorneys and legal representatives in executing this Agreement and that it has not relied upon any statement or representation of any other Party or their attorneys or representatives.

**G. MISTAKE**

In entering into this Agreement, each Party assumes the risk of any mistake. If any Party should subsequently discover that any fact relied upon by it in entering into this Agreement was untrue or that its understanding of the facts or the law was incorrect, that Party shall not be entitled to relief in connection herewith and including without limitation on the generality of the foregoing, no Party shall have any right or claim to set aside or rescind this Agreement. This Agreement is intended to be and is final and binding between the Parties to the agreement regardless of any claims of mistake of fact or law.

**H. GOVERNING LAW**

This Agreement shall be governed by and construed under the laws of the State of California.

**I. ENTIRE AGREEMENT**

This Agreement constitutes the entire understanding of the Parties with respect to its subject matter. All prior and contemporaneous conversations, negotiations, possible or alleged agreements, covenants, releases, representations and warranties in respect of the subject matter of this Agreement are integrated herein and superseded by this Agreement.

**J. SEVERABILITY**

In the event any part of this Agreement should be found invalid, unenforceable, or nonbinding, the remaining portion will remain in force and fully binding.

**K. AGREEMENT NEGOTIATED**

The text of this Agreement is the product of negotiation among the Parties and their counsel and is not to be construed as having been prepared by one party or the other.

**L. HEIRS, SUCCESSORS AND ASSIGNS**

This Agreement shall bind and inure to the benefit of the Parties and their heirs, successors and assigns.

**M. EXECUTION IN COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.

**N. MODIFICATIONS**

1. **Time Limit Extensions**

Any time limit contained in this Agreement may be extended by the mutual agreement of the parties in writing, which agreement will reasonably be given.

2. **City Procedures**

The parties may agree to modify the City Procedures contained in this Agreement; however, any such modification must be in writing and signed by the parties' respective counsel.

**O. ENFORCEMENT OF AGREEMENT**

If any party allegedly breaches this Agreement, then the party alleging the breach shall notify the breaching party in writing. The notice shall set forth, with reasonable particularity, the alleged breach. The party alleged to have breached this Agreement shall meet with the party giving notice and attempt to resolve the alleged breach within 30 days of the mailing of the notice of alleged breach. If the parties cannot resolve the alleged breach, either party may seek judicial relief by filing a new action in Los Angeles Superior Court to enforce the terms of this Agreement. The aggrieved party may seek judicial relief prior to the expiration of 30 days if necessary to prevent the expiration of any rights, claims, or causes of action or to prevent irreparable harm. The following individuals or entities shall be entitled to enforce this Agreement as assignees of the Plaintiffs specified in Section VIII P:

Venice Community Housing Corporation;  
Dan Tokaji; and  
Linda Lucks.

**P. NOTICES**

Any notices, reports or other documents required to be provided pursuant to this Agreement shall be sent by first class mail to the parties at the following addresses, or any subsequent address or person provided by a party:

1. **Plaintiffs**

Richard A. Rothschild  
Western Center on Law and Poverty  
3701 Wilshire Boulevard, Suite 208  
Los Angeles, CA 90010

Robert Jacobs  
Law Office of Robert Jacobs  
12240 Venice Boulevard, Suite 25A  
Los Angeles, CA 90066

2. City of Los Angeles

Franklin P. Eberhard, Deputy Director  
Department of City Planning  
221 North Figueroa Street, 16<sup>th</sup> Floor  
Los Angeles, CA 90012

**Q. NOTICE REQUIRED**

In addition to any notices otherwise required by this Agreement, Defendants shall provide Notice to Plaintiffs until two years after the Permanent Ordinance is adopted as follows:

1. Notice shall be given no less than 24 days prior to:
  - 1.1 Any proposed change in any City Policies or City Procedures regarding the Mello Act;
  - 1.2 Any proposal to adopt or amend any ordinances or resolutions implementing the Mello Act, including any ordinances proposed as a result of any of the consultant studies referenced in this Agreement;
  - 1.3 Any submission of any local coastal plan or any land use portion of a Local Coastal Program to the Coastal Commission for approval, pursuant to Public Resources Code Section 30512.
2. Notice shall be given within 15 days of any changes to the maps defining or describing the Coastal Zone, or the description of such boundaries.
3. Notice shall be given within five days of receipt of any studies, including interim reports (deliverables), commissioned by the City in conjunction with the Mello Act.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth below.

Date:

VENICE TOWN COUNCIL, INC.

By \_\_\_\_\_

Its \_\_\_\_\_

Date: CITY OF LOS ANGELES

By \_\_\_\_\_

Its \_\_\_\_\_

Date: CAROL BERMAN

\_\_\_\_\_

Date: BARTON HILL NEIGHBORHOOD ORGANIZATION

By \_\_\_\_\_

Its \_\_\_\_\_

APPROVED AS TO FORM:

Date: CITY OF LOS ANGELES  
JAMES K. HAHN, City Attorney

By \_\_\_\_\_

Its \_\_\_\_\_

Date: WESTERN CENTER ON LAW AND POVERTY, INC.  
LAW OFFICES OF ROBERT JACOBS  
LEGAL AID FOUNDATION OF LONG BEACH

By \_\_\_\_\_

J. MICHAEL CAREY  
City Clerk

CITY OF LOS ANGELES  
CALIFORNIA



Office of the  
CITY CLERK  
Council and Public Services  
Room 615, City Hall  
Los Angeles, CA 90012  
Council File Information - (213) 485-5703  
General Information - (213) 485-5705

When making inquiries  
relative to this matter  
refer to File No.

98-0255

RICHARD J. RIORDAN  
MAYOR

October 5, 2000

PLACE IN FILES

OCT 06 2000

DEPUTY

Honorable Richard Riordan, Mayor  
Office of Administrative and Research Services  
Attn: City Attorney Analyst  
Liability Claims/Budget Group  
Room 1260, CHE

Council Member Galanter  
Council Member Miscikowski

City Attorney,  
cc: Christa Binder  
Controller, Room 1200,  
Accounting Division, F&A  
Disbursement Division  
Treasurer

RE: SETTLEMENT OF CASE ENTITLED VENICE TOWN COUNCIL V. CITY OF LOS ANGELES

At the meeting of the Council held September 26, 2000, the following  
action was taken:

- Attached report adopted..... \_\_\_\_\_
- Attached motion (Galanter - Miscikowski) adopted  
in open session...   X
- Attached resolution adopted..... \_\_\_\_\_
- To the Mayor for concurrence..... \_\_\_\_\_
- To the Mayor FORTHWITH..... \_\_\_\_\_
- Mayor concurred..... 10-2-00
- Findings adopted..... \_\_\_\_\_
- Generally exempt..... \_\_\_\_\_

City Clerk  
vp  
steno\980255

Mayor's Time Stamp

RECEIVED  
'00 SEP 29 P4:36  
DEPUTY MAYOR

City Clerk's Time Stamp

RECEIVED  
CITY CLERK'S OFFICE  
00 SEP 29 PM 4:06  
BY CITY CLERK  
DEPUTY

SUBJECT TO MAYOR'S APPROVAL

COUNCIL FILE NO. 98-0255

COUNCIL DISTRICT NO. \_\_\_\_\_

COUNCIL APPROVAL DATE SEPTEMBER 26, 2000

RE: SETTLEMENT IN THE CASE ENTITLED VENICE TOWN COUNCIL V. CITY OF LOS ANGELES, LOS ANGELES SUPERIOR COURT CASE NO. BC 089678

OCT 10 2000

LAST DAY FOR MAYOR TO ACT \_\_\_\_\_  
(10 Day Charter requirement as per Charter Section 341)

RECEIVED  
CITY CLERK'S OFFICE  
00 OCT -4 PM 11:23  
BY CITY CLERK  
DEPUTY

DO NOT WRITE BELOW THIS LINE - FOR MAYOR OFFICE USE ONLY

APPROVED

✓

\*DISAPPROVED

\*Transmit objections in writing pursuant to Charter Section 341

DATE OF MAYOR APPROVAL OR DISAPPROVAL OCT 02 2000

OCT 04 2000 *Settlement*

MAYOR  
steno\980255

*[Handwritten Signature]*

MOTION

I HEREBY MOVE that Council ADOPT the following recommendations of the City Attorney in order to effect settlement in the case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 (alleged violation of Mello Act, Government Code Section 65590, et seq.), **SUBJECT TO THE APPROVAL OF THE MAYOR:**

1. APPROVE the settlement agreement as recommended by the City Attorney relative to the case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 (alleged violation of Mello Act, Government Code Section 65590, et seq.).
2. AUTHORIZE the City Attorney to expend \$225,000, in payment of attorney fees and costs, relative to settlement in the above case from Liability Claims Account No. 9770, Fund 100, Department 59 and AUTHORIZE the City Attorney to draw the necessary demands thereon.

*MOTION*  
**ADOPTED**  
*IN OPEN SESSION*  
 SEP 26 2000

Los Angeles City Council

PRESENTED BY \_\_\_\_\_  
 RUTH GALANTER  
 Councilmember, 6th District

SECONDED BY \_\_\_\_\_  
 CINDY MISCIKOWSKI  
 Councilmember, 11th District

CF 98-0255  
 September 26, 2000

980255.mot

CF 98-0255

September 26, 2000

MEMORANDUM TO FILE

The City Council held a Closed Session on Tuesday, September 26, 2000 pursuant to authority provided in California Government Code Section 54956.9(a) to confer with its legal counsel with respect to the case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 (alleged violation of Mello Act, Government Code Section 65590, et seq.).

The purpose of this memorandum is to note for the record that following discussion of the above matter in Closed Session, the City Council adopted the Motion (Galanter - Miscikowski) in Open Session.



KONRAD CARTER  
Council Clerk

Attachment

980255.mem

## COUNCIL VOTE

26-Sep-00 1:12:30 PM, #16

ITEM NO. (34)

Voting on Item(s): 34

Roll Call

BERNSON	Yes
CHICK	Yes
FEUER	Absent
*GALANTER	Yes
GOLDBERG	Absent
HERNANDEZ	Yes
HOLDEN	Yes
MISCIKOWSKI	Yes
PACHECO	Yes
PADILLA	Yes
RIDLEY-THOMAS	Yes
SVORINICH	Absent
WACHS	Absent
WALTERS	Yes
FERRARO	Absent

Present: 10, Yes: 10 No: 0

LOS ANGELES CITY COUNCIL, SUPPLEMENTAL AGENDA  
TUESDAY, SEPTEMBER 26, 2000  
COUNCIL CHAMBER, ROOM 300, CITY HALL - 10 AM

**ITEM FOR WHICH PUBLIC HEARING HAS NOT BEEN HELD - ITEM 33**  
(10 Votes Required for Consideration)

ITEM NO. (33)

99-0002 - RESOLUTION (HOLDEN - GOLDBERG - ET AL.) relative to SB 1101  
S58 (Murray) regarding the collective bargaining rights of Metropolitan  
Transit Authority (MTA) employees who become employees of a  
transportation zone established by the MTA.

Recommendation for Council action, SUBJECT TO THE CONCURRENCE OF  
THE MAYOR:

RESOLVE to urge the Governor to sign SB 1101 (Murray) which  
clarifies and preserves the collective bargaining rights of MTA  
employees who become employees of a transportation zone established  
by the MTA.

**CLOSED SESSION - ITEM 34**

ITEM NO. (34) **MEETING HELD - MOTION ADOPTED IN OPEN SESSION**

98-0255 - The City Council shall recess to Closed Session, pursuant to  
Government Code Section 54956.9 (a), to confer with its legal  
counsel relative to a settlement discussion in the case entitled  
Venice Town Council v. City of Los Angeles, Los Angeles Superior  
Court Case No. BC 089678 (alleged violation of Mello Act,  
Government Code Section 65590, et seq.).

(Continued from Council meeting of September 22, 2000)

5. REQUEST the Mayor to include in the 2001-02 proposed City budget, a line item for full year funding for the Domestic Violence Project Coordinator position.

ITEM NO. (29)

98-1839 - RESOLUTION (FEUER - MISCIKOWSKI) relative to extending provisions of Ordinance No. 172814 for the Wilshire Boulevard of Westwood.

Recommendation for Council action:

RESOLVE to extend the provisions of Ordinance No. 172814 for the Wilshire Boulevard area of Westwood, for an additional one hundred and eighty (180) days.

#### ITEMS CALLED SPECIAL

#### PUBLIC TESTIMONY ON NON-AGENDA ITEMS

#### MOTIONS FOR POSTING AND REFERRAL

#### COUNCILMEMBERS' REQUESTS FOR EXCUSE FROM ATTENDANCE AT COUNCIL MEETINGS

#### CLOSED SESSION - ITEM 30

ITEM NO. (30) MEETING NOT HELD - CONTINUED TO SEPTEMBER 26, 2000

98-0255 - The City Council shall recess to Closed Session, pursuant to Government Code Section 54956.9 (a), to confer with its legal counsel relative to a settlement discussion in the case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 (alleged violation of Mello Act, Government Code Section 65590, et seq.).



*JKH*

**JAMES K. HAHN**  
CITY ATTORNEY

**Office of the City Attorney**  
**Los Angeles, California**

WRITER'S DIRECT DIAL: (213) 847-0562  
FAX: (213) 485-8899  
TTY:

REPORT NO. R00-0464  
**SEPTEMBER 8, 2000**

**SETTLEMENT DISCUSSION ON**  
**VENICE TOWN COUNCIL V. CITY OF LOS ANGELES**  
**LOS ANGELES SUPERIOR COURT CASE NO. BC 089678**

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Honorable City Council  
of the City of Los Angeles  
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Los Angeles, California 90012

Re: Council File No. 98-0255 - not transmitted

Honorable Members:

On September 23, 1993, Venice Town Council, *et al*, sued the City alleging a violation of the Mello Act (Government Code § 65590, et seq.). That Act requires, among other things, replacement of demolished and converted low and moderate income housing and provision of affordable units when new housing is developed in the Coastal Zone.

As you may recall, the City successfully demurred to the complaint on the grounds that the complaint did not allege that the City violated any mandatory duty and that the Act did not require the City to adopt procedures. The petitioners appealed, and the Court of Appeal reversed as to the first ground, holding that the plaintiffs sufficiently alleged duties under the Act, which the City was obligated to perform. The Court of Appeals, however, agreed that the Act did not require the City to adopt procedures to implement the Act. The matter was remanded to the trial court to determine if the City actually violated the Act by not performing required duties.

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Honorable City Council  
of the City of Los Angeles  
Page 2

On January 15, 1998, this office received a settlement offer in this case, which we forwarded to you for your consideration. On September 16, 1998, you instructed us to prepare a counter-offer and submit it to the plaintiffs. The plaintiffs' response prompted us to report back to you on August 27, 1999, at which time you gave us further instructions. As a result, we have worked with City staff and negotiated with the plaintiffs and now come to you with the results of that work and negotiation. During this time, the relevant City departments (Housing, Planning and Building and Safety) adopted interim procedures, agreed to by the plaintiffs. These are attached for your reference. Also attached is a draft of a settlement agreement negotiated between the plaintiffs and representatives of these same departments. With the exception of attorneys fees and costs, the plaintiffs and the departments have agreed to all issues in the agreement.

However, there are a number of issues in this agreement to which we wish to draw your attention. In addition, we wish to discuss the subject of attorneys fees and costs with you. In this latter regard, we hired a professional legal auditor who audited the charges submitted by the plaintiffs. Based on that report, we indicated to the plaintiffs an amount we would recommend to you. The plaintiffs indicated that amount was not acceptable. We expect that the plaintiffs' representatives may wish to make public comments to you on various issues, including attorneys fees. After taking public testimony, you may wish to discuss all of these matters with our office in *closed* session pursuant to California Government Code § 54956.9(a).

We will present our concerns and recommendations when you consider this matter and will be available to answer any questions you may have.

Very truly yours,

JAMES K. HAHN, City Attorney

By

*Claudia Culling*  
CLAUDIA CULLING  
Assistant City Attorney

**INTERIM ADMINISTRATIVE PROCEDURES  
FOR COMPLYING WITH THE MELLO ACT**

**IN THE COASTAL ZONE PORTIONS  
OF THE CITY OF LOS ANGELES**

APPROVED BY:	SIGNATURE:	DATE:
<b>ANDREW A. ADELMAN</b> General Manager Department of Building and Safety		5/17/00
<b>CON HOWE</b> Director Department of City Planning		5/16/00
<b>GARRY W. PINNEY</b> General Manager Department of Housing		5/16/00

**ALL CITY STAFF AND EMPLOYEES  
SHALL FOLLOW THESE PROCEDURES PURSUANT TO CITY COUNCIL  
RESOLUTION AND DEPARTMENTAL ORDERS**

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### **ATTACHMENTS**

1. DEFINITIONS
2. MELLO ACT COMPLIANCE REVIEW WORKSHEET FOR PROPOSED DEMOLITIONS AND CONVERSIONS
3. LOS ANGELES CITY PLANNING DEPARTMENT MODERATE-INCOME HOUSING PURCHASE FEASIBILITY ANALYSIS (FORM CP-6391)
4. AFFORDABLE HOUSING INCENTIVES GUIDELINES

## 1.0 INTRODUCTION

On January 19, 2000, the City Council adopted an action program with respect to implementation of California Government Code Sections 65590 and 65590.1, commonly called the Mello Act, within the City of Los Angeles. The Mello Act is a statewide law which seeks to preserve housing for persons and families with low or moderate incomes in California's Coastal Zone. The Mello Act also requires developers of New Housing Developments, if feasible, to provide Residential Units affordable to low or moderate income persons or families.

### 1.1 COUNCIL'S ACTION PROGRAM

Council's action program is summarized below:

- Part One. The Council re-adopted its existing policy (as previously contained in C.F. No. 81-6299), and directed the Departments of Building and Safety, City Planning and Housing to develop consistent and more effective Interim Administrative Procedures to implement this policy. Council was particularly concerned that every Discretionary and Non-Discretionary Application in the Coastal Zone that requires Mello Act compliance review receive the proper review. Council's policy generally requires the one-for-one replacement of demolished or converted housing units occupied by persons or families of low or moderate income within three years. In addition, Council's policy concerning New Housing Developments is based on the Coastal Commission Guidelines.
- Part Two. Council directed the Department of City Planning to develop a Mello Act Interim Ordinance, which will include an in-lieu fee payment option. Council also authorized the Department to execute a consultant contract with Hamilton, Rabinovitz and Alschuler (HR&A) to produce the studies and factual analysis necessary to support development of the Interim Ordinance and in-lieu fee payment program. The Interim Administrative Procedures developed in Part One will be tested and updated, and submitted to Council, along with the Interim Ordinance, in a timely manner.
- Part Three. Council directed the Department of City Planning to develop a permanent Mello Act implementation ordinance. The Council also committed to hiring a qualified consultant to prepare the studies and factual analysis necessary to support development of the permanent ordinance. The Interim Administrative Procedures will again be updated, and resubmitted to Council along with the permanent Mello Act ordinance.

## **1.2 INTERIM ADMINISTRATIVE PROCEDURES**

It is the policy of the Council of the City of Los Angeles that the Departments of Building and Safety, City Planning (including the Zoning Administration Division) and Housing shall administer, enforce and monitor the provisions of the Mello Act in accordance with these Interim Administrative Procedures.

### **1.2.1 EFFECTIVE DATE AND PERIOD**

These Interim Administrative Procedures are effective immediately, and shall remain in effect until modified in accordance with the Interim Ordinance.

### **1.2.2 PENDING PERMIT AND APPROVAL APPLICATIONS**

Pending Discretionary and Non-Discretionary Applications are subject to the requirements of the Mello Act.

### **1.2.3 RELATIONSHIP OF PROCEDURES TO EXISTING REGULATIONS**

Every Discretionary and Non-Discretionary Application for a Demolition, Conversion or New Housing Development in the Coastal Zone shall be reviewed pursuant to these Interim Administrative Procedures, regardless if the Application is regulated by any geographically specific plan or Local Coastal Program. This requirement also applies to any Discretionary or Non-Discretionary Application exempted from the requirement to obtain a coastal development permit.

In the case of conflict between these Interim Administrative Procedures, any geographically specific plan, Local Coastal Program, or any other regulation, the requirement which results in the provision of the largest number of Affordable Replacement Units or Inclusionary Residential Units shall apply. These Interim Administrative Procedures shall not, however, abrogate any existing development agreement executed between a property owner and the City of Los Angeles prior to May 17, 2000.

### **1.2.4 CONSTITUTIONAL AND STATE LAW COMPLIANCE**

Nothing in these Interim Administrative Procedures shall require the City to violate any state law or to violate the rights of any person under the federal or state constitution or state law.

### **1.3. OVERVIEW OF THE MELLO ACT**

The Mello Act was adopted by the State Legislature in 1982. The Act sets forth requirements concerning the demolition, conversion and construction of housing within California's Coastal Zone. Each local jurisdiction shall enforce three basic rules:

- Rule 1.** Existing residential structures shall be maintained, unless the local jurisdiction finds that residential uses are no longer feasible. A local jurisdiction may not approve the Demolition or Conversion of residential structures for purposes of a non-Coastal-Dependent, non-residential use, unless it first finds that a residential use is no longer feasible at that location.
- Rule 2.** Converted or demolished Residential Units occupied by Very Low, Low or Moderate Income persons or families shall be replaced. Converted or demolished Residential Units occupied by Very Low, Low or Moderate Income persons or families shall be replaced on a one-for-one basis.
- Rule 3.** New Housing Developments shall provide Inclusionary Residential Units. If feasible, New Housing Developments shall provide Inclusionary Residential Units affordable to Very Low, Low or Moderate Income persons or families.

These rules are subject to numerous exceptions and additional required feasibility determinations which complicate the administration of the Mello Act.

## **2.0 INITIAL SCREENING AND ROUTING**

The Department of Building and Safety is responsible for the initial screening and routing of Non-Discretionary Applications. The Department of City Planning is responsible for the initial screening and routing of Discretionary Applications.

Public Counter staff at these Departments are hereby directed to develop the appropriate forms and procedures necessary to screen, route and track all Discretionary and Non-Discretionary Applications pursuant to steps one through six below.

### **2.1. STEP ONE. IDENTIFY COMMUNITY PLAN AREA.**

Staff shall determine if a filed and deemed complete Discretionary or Non-Discretionary Application is located in the following Community Plan Areas: Brentwood-Pacific Palisades, Venice, Del Rey, Westchester-Playa Del Rey, San Pedro or Wilmington-Harbor City. If the Application is in one of these Community Plan Areas, go to step two.

## **2.2 STEP TWO. DETERMINE COASTAL ZONE LOCATION.**

Staff shall consult the appropriate City of Los Angeles Coastal Zone Subarea Map to determine if the Application is located in the Coastal Zone. If the Application is in the Coastal Zone, go to step three.

## **2.3 STEP THREE. IDENTIFY CONVERSIONS, DEMOLITIONS AND NEW HOUSING DEVELOPMENTS.**

Staff shall identify Discretionary or Non-Discretionary Applications that involve one or more Residential Units. Staff shall then determine if any of these Applications conform to the definition of a Demolition, Conversion or New Housing Development as contained in Attachment 1. If Demolitions, Conversions or New Housing Developments are identified, go to step four.

## **2.4 STEP FOUR. IDENTIFY CATEGORICAL EXEMPTIONS.**

Staff shall identify which Demolitions, Conversions or New Housing Developments are Categorically Exempt from further Mello Act compliance review pursuant to Parts 2.4.1, 2.4.2, and 2.4.3 below. If Applications are identified as Categorically Exempt, go to step five. If Applications are identified as non-Categorically Exempt, go to step six.

### **2.4.1 PUBLIC NUISANCES**

Residential structures declared a public nuisance pursuant to the following state and local codes are not subject to the Mello Act's replacement requirements:

- Division 13 (commencing with Section 17000) of the California Health and Safety Code; or
- Chapter IX, Article 1, Division 89 of the Los Angeles Municipal Code.

In order to claim a Categorical Exemption from the Mello Act's replacement requirements, an Applicant shall submit a certified title report indicating that a public nuisance declaration has been recorded against the residential structure and has not been terminated. In reviewing certified title reports, staff shall take the following Mello Act provision into account:

"For purposes of this subdivision, no building, which conforms to the standards which were applicable at the time the building was constructed and which does not constitute a substandard building, as provided in Section 17920.3 of the Health and Safety Code, shall be deemed to be a public nuisance solely because the building

does not conform to one or more of the current provisions of the Uniform Building Code as adopted within the jurisdiction for new construction."

#### **2.4.2 SMALL NEW HOUSING DEVELOPMENTS**

Based on the Coastal Commission Guidelines, Council has found that it is generally infeasible for small New Housing Developments (developments which consist of nine or fewer Residential Units) to provide Inclusionary Residential Units. Such New Housing Developments are Categorically Exempt from further Mello Act compliance review.

Council has instructed the Department of City Planning to direct HR&A to analyze the feasibility of requiring these New Housing Developments to provide Inclusionary Residential Units, or to pay an in-lieu fee. Based on HR&A's study, Council may adopt a different feasibility presumption concerning these New Housing Developments for the Interim Ordinance.

#### **2.4.3 OWNER-OCCUPIED SINGLE-FAMILY HOMES**

Applicants who propose to demolish the existing one-family dwelling in which they currently reside, and replace it with another one-family dwelling in which they plan to reside, are Categorically Exempt from further Mello Act compliance review.

### **2.5. STEP FIVE. SEND NOTICE OF CATEGORICALLY EXEMPT APPLICATIONS.**

Notice of determinations that an Application is Categorically Exempt pursuant to Part 2.4 above shall be sent, within five working days of the date the determination is made, to the Applicant and to:

Richard A. Rothschild  
Western Center on Law and Poverty, Inc.  
3701 Wilshire Boulevard, Suite 208  
Los Angeles, CA 90010-2809

Notice of determinations that an Application is Categorically Exempt pursuant to Part 2.4.1, Public Nuisances, shall also be sent to all building occupants.

Determinations that a proposed Demolition, Conversion or New Housing Development is Categorically Exempt pursuant to Part 2.4 are appealable pursuant to the procedures set forth in Part 8.0.

## **2.6 STEP SIX. ROUTE NON-CATEGORICALLY EXEMPT APPLICATIONS TO THE DEPARTMENT OF CITY PLANNING, ZONING ADMINISTRATION DIVISION (DCP/ZAD) FOR FURTHER MELLO ACT COMPLIANCE REVIEW AND PROCESSING.**

Public Counter staff at the Departments of Building and Safety and City Planning shall route non-Categorically Exempt Conversions, Demolitions and New Housing Developments to the Department of City Planning, Zoning Administration Division (DCP/ZAD) for follow-up Mello Act compliance review, coordination and processing.

The Department of Building and Safety shall not issue any permits or other approvals until it has received clearance from the DCP/ZAD that the Applicant has satisfied all conditions set forth in the Mello Act and these Interim Administrative Procedures.

## **3.0 DEMOLITIONS AND NEW HOUSING DEVELOPMENTS ON THE SAME SITE**

If an Applicant proposes to demolish Affordable Existing Residential Units, and build a New Housing Development on the same site, the Mello Act's replacement and inclusionary requirements are both triggered.

While with few exceptions all demolished Affordable Existing Residential Units must be replaced (as further discussed in Part 4.0 below), the inclusionary requirements only apply to the number of new Residential Units that exceeds the number of Affordable Replacement Units. For example, if an Applicant is required to provide 20 Affordable Replacement Units, and plans to build a total of 50 new Residential Units, the inclusionary requirements only apply to the 30 excess Residential Units.

DCP/ZAD staff shall determine the total number of required Affordable Replacement Units pursuant to Part 4.0, and the number of required Inclusionary Residential Units pursuant to Part 5.0. If the number of excess Residential Units is nine or fewer, no Inclusionary Residential Units are required pursuant to Part 2.4.2.

## **4.0 DEMOLITIONS AND CONVERSIONS**

Assigned DCP/ZAD staff shall complete a Mello Act compliance review for each proposed Demolition and Conversion using the attached Mello Act Compliance Review Worksheet

(Attachment 2). This requirement applies to both Discretionary and Non-Discretionary Applications. Applicants are not permitted to complete this Worksheet.

The purpose of completing a Mello Act compliance review is to:

- Identify Applications to demolish or convert residential structures for purposes of a non-Coastal-Dependent, non-residential use. These Applications shall be denied unless the Applicant proves with substantial evidence that a residential use is not feasible at that location; and
- Identify the total number of Affordable Existing Residential Units that are proposed for Demolition or Conversion; and
- Determine the total number of required Affordable Replacement Units.

Each question on the Mello Act Compliance Review Worksheet is reproduced and further discussed below. Staff shall provide a written explanation for each answer recorded on the Worksheet, and attach all supporting documentation to the file. The results of each Mello Act compliance review shall be issued as a determination pursuant to Part 6.0.

#### **4.1 QUESTION #1. WILL RESIDENTIAL STRUCTURES BE DEMOLISHED OR CONVERTED FOR PURPOSES OF A NON-RESIDENTIAL USE ?**

The Mello Act states that the Demolition or Conversion of residential structures for purposes of a non-Coastal-Dependent, non-residential use is prohibited, unless the local jurisdiction first finds that a residential use is no longer feasible at that location. This prohibition applies to all residential structures, regardless of the following factors:

- The income of current or past occupants;
- The form of ownership (whether the Residential Units are for-sale units or rentals); and
- Rents charged, for-sale prices, or appraised value.

If the answer to question #1 is "yes," and existing residential structures are proposed for Demolition or Conversion for purposes of a non-residential use, then staff shall go to question #2 to determine if the proposed use is Coastal-Dependent.

If the answer to question #1 is "no," staff shall skip to question #4 to determine if any of the Residential Units proposed for Demolition or Conversion are occupied by Very Low,

Low or Moderate Income Households. These Residential Units are termed, "Affordable Existing Residential Units."

#### **4.2 QUESTION #2. IS THE PROPOSED NON-RESIDENTIAL USE COASTAL-DEPENDENT?**

Coastal-Dependent uses are uses which requires a site on, or adjacent to, the sea in order to function at all. Examples of Coastal-Dependent uses include fisheries and boating and harbor facilities.

If the answer to question #2 is "yes," and the proposed non-residential uses are Coastal-Dependent, staff shall skip to question#4. The Demolition or Conversion may be approved, but only upon the condition the Applicant provides all required Affordable Replacement Units identified through the Mello Act compliance review process.

If the answer to question #2 is "no," and the proposed non-residential uses are not Coastal-Dependent, staff shall go to question #3.

#### **4.3 QUESTION #3. IS A RESIDENTIAL USE FEASIBLE AT THIS LOCATION?**

Because the site contains a residential structure, the City presumes that a residential use is feasible. The Applicant may challenge the City's presumption by presenting substantial evidence to the contrary directly to DCP/ZAD staff (for Non-Discretionary Applications); and to the decision-maker (for Discretionary Applications).

The following shall be considered in reviewing an Applicant's challenge of the City's presumption:

- The Applicant has the burden of proof. Proximity to other existing, viable residential uses is strong evidence that a residential use is feasible.
- An Applicant may not claim infeasibility merely because the site is zoned commercial. Commercial zones in the City of Los Angeles generally permit residential uses. However, in some cases a "Q" or "D" limitation may be imposed on a particular property which prohibits residential uses.
- If the existing, underlying zoning or any other applicable regulation prohibits all residential uses, then the Applicant may cite those facts if the Applicant is challenging the City's presumption. If an Applicant has non-conforming or other rights which permit a continued residential use, then the Applicant may not contend that the existing zoning renders a residential use infeasible.

- An Applicant may not initiate and obtain approval for a zone change which prohibits residential uses and subsequently claim infeasibility based on that zone change.
- An Applicant may not claim infeasibility merely because the site is zoned industrial if a Zoning Administrator had previously approved joint living and work quarters for that site. A Zoning Administrator's grant runs with the land.
- An Applicant may not claim financial infeasibility unless it can clearly document an inability to rent or sell the current premises based on the site's unique characteristics or circumstances. Unique characteristics or circumstances include proximity to noxious and incompatible existing uses that are likely to remain, and that render a continued residential use infeasible. If challenging the City's presumption, an Applicant may not cite mere proximity to commercial or industrial uses.
- An Applicant may claim infeasibility due to the site's unique geologic or other topographical features which render it unsafe for human habitation. Applicants must provide supporting documentation.
- An Applicant may not claim infeasibility because the current premises are dilapidated or are in a state of disrepair due to the Applicant's failure to make reasonable repairs or to adequately maintain the site. The City may require the Applicant to correct substandard conditions before it will further consider an Applicant's challenge of the City's presumption.

If the Applicant has proved with substantial evidence that a residential use is infeasible, staff shall record a "no" answer to question #3, and go to question #4.

If the Applicant has not proved with substantial evidence that a residential use is infeasible, staff shall record a "yes" answer to question #3. This stops the Mello Act Compliance Review process. The Discretionary or Non-Discretionary Application shall be denied. A determination shall be issued pursuant to Part 6.0.

#### **4.4 QUESTION #4. ARE ANY AFFORDABLE EXISTING RESIDENTIAL UNITS PROPOSED FOR DEMOLITION OR CONVERSION?**

To answer question #4, staff shall refer the Applicant to the Los Angeles Housing Department (LAHD). LAHD has sole responsibility for determining whether any existing Residential Units are Affordable Existing Residential Units. If LAHD identifies Affordable Existing Residential Units, DCP/ZAD staff shall record the total number of identified units in the "yes" box, and go to question #5.

If LAHD does not identify any Affordable Existing Residential Units, DCP/ZAD staff shall record a "zero" in the "no" box. This stops the Mello Act Compliance Review process. The Applicant is not required to provide any Affordable Replacement Units. A determination pursuant to Part 6.0 shall be issued.

**LAHD shall identify Affordable Existing Residential Units by completing steps one through six below for each referred Residential Unit. The Applicant is liable and responsible for all postage and other costs necessary to complete the occupant income determination process. LAHD has the authority to specify the processes Applicants must follow in order for the occupant income determination process to be successfully completed.**

#### 4.4.1 STEP ONE. SEND GENERAL NOTICE TO ALL BUILDING OCCUPANTS.

When LAHD receives a referral from DCP/ZAD of a proposed Demolition or Conversion, LAHD shall send a general notice to all current building occupants which contains the following:

- A description of the proposed Demolition or Conversion;
- An explanation of the purpose of the Mello Act and the City's Mello Act compliance review process;
- A description of the rights that building occupants determined to have a Very Low, Low or Moderate Income shall have, including a right of first refusal on an Affordable Replacement Unit;
- A referral to a specified source of further assistance, to be selected by Western Center on Law and Poverty, Inc. Until further notice from Western Center on Law and Poverty, Inc., the general notice shall contain the following referral:

Richard A. Rothschild  
Western Center on Law and Poverty, Inc.  
3701 Wilshire Boulevard, Suite 208  
Los Angeles, CA 90010-2809

- A City telephone number to call for additional information.

#### 4.4.2 STEP TWO. IDENTIFY LONG-TERM VACANT RESIDENTIAL UNITS.

A Residential Unit shall not be classified as an Affordable Existing Residential Unit if it has been unoccupied for more than 365 consecutive days prior to the Application's filing.

The Applicant has the burden of proving long-term vacancy. If the Applicant has established long-term vacancy, then LAHD shall not classify the Residential Unit as an Affordable Existing Residential Unit.

#### 4.4.3 STEP THREE. DETERMINE OCCUPANT INCOME BASED ON MONTHLY HOUSING COST OR ACTUAL INCOME DATA.

LAHD may determine occupant income using Monthly Housing Cost as a substitute for actual income, or by collecting and verifying actual income. Pursuant to the definition set forth in Attachment 1, an existing Residential Unit is classified as an Affordable Existing Residential Unit if at least one person or family occupying the unit (excluding dependents) is of Very Low, Low or Moderate Income.

If current Monthly Housing Cost data indicates that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If not, LAHD shall collect prior Monthly Housing Cost data for at least the previous three years. If the average Monthly Housing Cost over this period indicates that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If three years of Monthly Housing Cost data is not available or readily obtainable, then LAHD shall determine occupant income through the direct collection and verification of actual income data.

If occupant income is based on Monthly Housing Cost, LAHD shall go to step four. If occupant income is based on actual income, LAHD shall:

- Go to step five if the person or family DOES NOT have a Very Low, Low or Moderate Income; or
- Go to step six if the person or family DOES have a Very Low, Low or Moderate Income.

#### 4.4.4. STEP FOUR. VERIFY ACCURACY OF OCCUPANT INCOME BASED ON MONTHLY HOUSING COST DATA.

LAHD shall provide occupants and Applicants with the opportunity to verify the accuracy of occupant income determinations based on Monthly Housing Cost.

LAHD shall provide persons and families presumed not to have a Very Low, Low or Moderate income with the opportunity to submit data verifying actual income. Likewise, LAHD shall provide Applicants with a roster of occupants presumed to have a Very Low, Low or Moderate Income, who may then submit data verifying actual income. LAHD is

responsible for verifying the accuracy of any submitted income data. LAHD shall use actual income data to correct any incorrect occupant income determinations based on Monthly Housing Cost.

Based on this review, LAHD shall:

- Go to step five if the person or family DOES NOT have a Very Low, Low or Moderate Income; or
- Go to step six if the person or family DOES have a Very Low, Low or Moderate Income.

**4.4.5 STEP FIVE. IDENTIFY AND DETERMINE IF ANY EVICTIONS WERE FOR THE PURPOSE OF EVADING THE MELLO ACT.**

LAHD shall conduct an investigation to carry out the following Mello Act provisions concerning evictions:

"For purposes of this subdivision, a residential dwelling unit shall be deemed occupied by a person or family of low or moderate income if the person or family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit and if the eviction was for the purpose of avoiding the requirements of this subdivision. If a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of an application to convert or demolish the structure, the evictions shall be presumed to have been for the purpose of avoiding the requirements of this subdivision and the applicant for the conversion or demolition shall bear the burden of proving that the evictions were not for the purpose of avoiding the requirements of this subdivision."

LAHD shall identify those Residential Units presumed to have a Very Low, Low or Moderate Income based on its investigation. After completing step five, LAHD shall go to step six.

**4.4.6 STEP SIX. LAHD SHALL INFORM THE DEPARTMENT OF CITY PLANNING, ZONING ADMINISTRATION DIVISION (DCP/ZAD) OF THE RESULTS OF ITS OCCUPANT INCOME DETERMINATION PROCESS.**

LAHD shall prepare a report for DCP/ZAD staff which contains the following information for each referred Demolition and Conversion:

One-Family Dwellings

- Total number of Residential Units
- Total number of Affordable Existing Residential Units

Two-Family Dwellings

- Total number of Residential Units
- Total number of Affordable Existing Residential Units

Triplexes and Other Structures that Contain Three or More Residential Units

- Total number of Residential Units
- Total number of Affordable Existing Residential Units

Summary

- Total number of Residential Units
- Total number of Affordable Existing Residential Units

LAHD shall also provide the following information for each identified Affordable Existing Residential Unit:

- Address
- Names of occupants
- Number of bedrooms

The Mello Act generally requires the one-for-one replacement of demolished or converted Affordable Existing Residential Units within three years of the date that work commenced on the Demolition or Conversion. There are two limited exceptions to this general rule. The purpose of answering Worksheet questions #5 through #8 is to determine whether the Applicant is exempt from replacing any of the Affordable Existing Residential Units identified by LAHD.

**4.5 QUESTION #5. IS THE APPLICATION FOR COASTAL-DEPENDENT OR COASTAL-RELATED NON-RESIDENTIAL USES? ARE THESE NON-RESIDENTIAL USES CONSISTENT WITH THE LAND USE PLAN OF A CERTIFIED LOCAL COASTAL PROGRAM?**

If the answer to both questions is "yes," the Application fits into the first exception category. Staff shall skip to question #8. If the answer to either question is "no," the Application does not fit into the first exception category. Staff shall go to question #6.

As of the effective date of these Interim Administrative Procedures, the California Coastal Commission has not certified any LCPs in the City of Los Angeles. Consequently, no Applications currently fit into the first exception category. Until this situation changes, staff shall automatically record a "no" answer to question #5, and go to question #6.

#### **4.6 QUESTION #6. ARE 11 OR MORE RESIDENTIAL UNITS PROPOSED FOR DEMOLITION OR CONVERSION?**

If the total number of Residential Units proposed for Demolition or Conversion is ten or fewer, staff shall record a "no" answer to question #6. Staff shall go to question #7.

If the Applicant is proposing to demolish or convert 11 or more Residential Units, staff shall record a "yes" answer to question #6. All of the Affordable Existing Residential Units recorded in the answer to question #4 must be replaced. The second exception category applies to a maximum of ten Residential Units.

#### **4.7 QUESTION #7. ARE ANY AFFORDABLE EXISTING RESIDENTIAL UNITS IN ONE-FAMILY OR TWO-FAMILY DWELLINGS?**

If the answer to question #7 is "yes," staff shall go to question #8. If the answer to question #7 is "no," and all of the Affordable Existing Residential Units are in triplexes and other structures that contain three or more Residential Units, then all of the Affordable Existing Residential Units recorded in the answer to question #4 must be replaced. The second exception category does not apply to triplexes or other structures that contain three or more Residential Units.

#### **4.8 QUESTION #8. IS IT INFEASIBLE FOR THE APPLICANT TO REPLACE ANY OF THE AFFORDABLE EXISTING RESIDENTIAL UNITS IDENTIFIED BY ANSWERS TO QUESTIONS #5 AND #7?**

The purpose of answering question #8 is to determine if it is feasible for the Applicant to provide Affordable Replacement Units if the proposed Demolition or Conversion fits into the first exception category (consistency with a certified LCP, question #5); or the second exception category (ten or fewer Residential Units consisting of one-family and/or two-

family dwellings, question #7). If the proposed Demolition or Conversion does not fit into an exception category, then all of the Affordable Existing Residential Units recorded in the answer to question #4 must be replaced.

To answer question #8, DCP/ZAD staff shall instruct the Applicant to complete Form CP-6391, Los Angeles City Planning Department Moderate-Income Housing Purchase Feasibility Analysis (Attachment 3). DCP/ZAD staff shall review the submitted data, taking into consideration the typical public subsidies and other affordable housing incentives available by-right, to determine whether it's feasible for the Applicant to replace some or all of the Affordable Existing Residential Units identified by answers to questions #5 and #7.

If the answer to question #8 is "yes," how many Affordable Replacement Units is it infeasible for the Applicant to provide? Record this number in the "yes" box for question #8. Then subtract this number from the number recorded in the answer to question #4. Record the result on the line following question #8. This is the total number of required Affordable Replacement Units.

If the answer to question #8 is "no," then it's feasible for the Applicant to replace all of the Affordable Existing Residential Units recorded in the answer to question #4. Record a "zero" in the "no" box for question #8. Then record the number recorded in the "yes" box for question #4 on the line following question #8. This is the total number of required Affordable Replacement Units.

This concludes the Mello Act Compliance Review process for proposed Demolitions and Conversions in the Coastal Zone. A determination shall be issued pursuant to Part 6.0.

## 5.0 NEW HOUSING DEVELOPMENTS

Based on the Coastal Commission Guidelines, the Council has found that it is generally feasible for New Housing Developments consisting of ten or more Residential Units to provide Inclusionary Residential Units. Applicants shall implement one of the following two required inclusionary options:

- Inclusionary Requirement Option #1. Reserve at least 20 percent of all Residential Units for Inclusionary Residential Units for Very Low or Low Income Households; or
- Inclusionary Requirement Option #2. Reserve at least ten percent of all Residential Units for Inclusionary Residential Units for Very Low Income Households.

The provision of Inclusionary Residential Units for seniors or disabled persons who do not have a Very Low or Low Income does not fulfill the inclusionary requirements for New Housing Developments.

## 6.0 DETERMINATIONS

A determination shall be issued for each non-Categorically Exempt Demolition, Conversion, and New Housing Development.

For Discretionary Applications, the decision-maker shall issue the determination as written conditions attached to the determination made with respect to the underlying case. All completed forms, correspondence received and sent, and other supporting documentation shall be attached to the file created for the underlying case.

For Non-Discretionary Applications, DCP/ZAD staff shall issue the determination as a Director's Determination. Staff shall also prepare a file, and attach all completed forms, correspondence received and sent, and other supporting documentation.

A copy of each determination shall be simultaneously transmitted to the Applicant, the Department of Building and Safety, LAHD, all building occupants, and:

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## 6.1 DEMOLITIONS AND CONVERSIONS

Each determination shall include the following:

- Results of the Mello Act compliance review process completed in Part 4.0;
- Total number of Affordable Existing Residential Units identified by LAHD;
- Total number of required Affordable Replacement Units recorded on the Mello Act Compliance Review Worksheet;
- A requirement that the Applicant comply with the requirements set forth in Parts 7.2, 7.4, and 7.5;
- A statement that the Application is not approved until LAHD has approved the Affordable Housing Provision Plan prepared pursuant to Part 7.4; and

- Information for Appellants pursuant to Part 8.0.

## **6.2 NEW HOUSING DEVELOPMENTS**

Each determination shall include the following:

- A requirement that the Applicant comply with one of the Inclusionary Requirement Options set forth in Part 5.0;
- Total number of Inclusionary Residential Units required under both Options #1 and #2;
- A requirement that the Applicant comply with the requirements set forth in Parts 7.3, 7.4, and 7.5; and
- A statement that the Application is not approved until LAHD has approved the Affordable Housing Provision Plan pursuant to Part 7.4; and
- Information for Appellants pursuant to Part 8.0.

## **7.0 GENERAL PROVISIONS**

The following general provisions apply to Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units as set forth in a determination issued pursuant to Part 6.0.

### **7.1 AFFORDABLE HOUSING INCENTIVES**

Applicants may be entitled to some or all of the incentives set forth in Section 12.22 A 25 of the Los Angeles Municipal Code, including a Density Bonus.

### **7.2 AFFORDABLE REPLACEMENT UNITS**

#### **7.2.1 INCOME TARGETING**

Affordable Replacement Units may be provided at any level of affordability. For example, an Affordable Existing Residential Unit occupied by a Very Low Income Household may be replaced with an Affordable Replacement Unit affordable to a Moderate Income Household. The Council may change this policy when the Interim Ordinance is adopted and require "like for like" replacement (e.g., an Affordable Existing Residential Unit occupied by a Very Low Income Household shall be replaced with an Affordable Replacement Unit affordable to a Very Low Income Household.)

## **7.2.2 LOCATION**

Affordable Replacement Units shall be located on-site, or elsewhere within the Coastal Zone. Applicants claiming it is infeasible for them to comply with this requirement may request permission to provide the required units within three miles of the Coastal Zone by submitting an appeal pursuant to Part 8.0. Applicants should consult the Department of City Planning's three mile radius Coastal Zone maps to identify potential sites located outside the Coastal Zone.

## **7.2.3 TIMING REQUIREMENT**

Required Affordable Replacement Units shall be provided within three years of the date that work commenced on the Demolition or Conversion. The Department of Building and Safety shall determine the date that "work commenced" on the Demolition or Conversion.

## **7.2.4 PERFORMANCE STANDARDS**

If Affordable Replacement Units are included as part of mixed-income New Housing Developments, then Applicants shall comply with the following portions of the Performance Standards set forth in the Affordable Housing Incentives Guidelines (Attachment 4):

- Project design (Section 4A, page 7); and
- Equal distribution of amenities (Section 4B, page 8).

All other Applicants shall comply with the project design and amenities requirements promulgated by LAHD.

## **7.3 INCLUSIONARY RESIDENTIAL UNITS**

### **7.3.1 LOCATION**

Inclusionary Residential Units shall be located on-site. Applicants claiming it is infeasible for them to comply with this requirement may request permission to provide the required units elsewhere within the Coastal Zone, or within three miles of the Coastal Zone, by submitting an appeal pursuant to Part 8.0. Applicants should consult the Department of City Planning's three mile radius Coastal Zone maps to identify potential sites located outside the Coastal Zone.

Based on the Coastal Commission Guidelines, the Council has found that it is generally more feasible for New Housing Developments that consist of 21 or more Residential Units to provide units on-site than it is for New Housing Developments that consist of 10-20 units to provide units on-site.

### **7.3.2 TIMING REQUIREMENT**

If Inclusionary Residential Units are approved for off-site provision, they shall be provided within three years of the date that LAHD approved the Affordable Housing Provision Plan pursuant to Part 7.4 below. A New Housing Development's Inclusionary Residential Units and market-rate Residential Units shall be made available at the same time.

### **7.3.3 PERFORMANCE STANDARDS**

Applicants shall comply with the following portions of the Performance Standards set forth in the Affordable Housing Incentives Guidelines (Attachment 4):

- Project design (Section 4A, page 7); and
- Equal distribution of amenities (Section 4B, page 8).

## **7.4 AFFORDABLE HOUSING PROVISION PLAN**

Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units shall prepare an Affordable Housing Provision Plan that specifies how the Applicant shall carry out the conditions contained in the determinations issued pursuant to Part 6.0, and the requirements set forth in Parts 7.2 and 7.3 above, and Part 7.5 below.

Applicants shall submit their Affordable Housing Provision Plan to LAHD for review and approval. Applications only receive final approval after LAHD has approved the Affordable Housing Provision Plan.

The Affordable Housing Provision Plan shall include the following elements:

### **7.4.1 METHODS TO PROVIDE REQUIRED AFFORDABLE UNITS**

Applicants may propose to provide required Affordable Replacement Units or Inclusionary Residential Units through one or any combination of the following methods:

- New construction; or
- Adaptive reuse (conversion of existing non-residential structures).

### **7.4.2 OPERATIONAL DETAILS**

Applicants shall supply the following operational details:

- Address where Affordable Replacement Units or Inclusionary Residential Units will be provided, if the determination permits these Units to be provided off-site.
- General description of the Affordable Replacement Units or Inclusionary Residential Units to be provided, including the number and type of habitable rooms; square footage; and parking.
- Affordable housing incentives and subsidies that will be utilized;
- Methods for complying with the Performance Standards set forth in Parts 7.2.4 and 7.3.3, including a dispersal plan if Affordable Replacement Units or Inclusionary Residential Units shall be provided on-site. Affordable Replacement Units or Inclusionary Residential Units may not be segregated from market-rate units, but shall be reasonably dispersed throughout the building; and
- Financing; construction plan; and project timetable for complying with the timing requirements set forth in Part 7.2.3 for Affordable Replacement Units, and Part 7.3.2 for Inclusionary Residential Units.

## **7.5 ENFORCEMENT AND MONITORING**

### **7.5.1 AFFORDABILITY COVENANTS**

Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units shall record a covenant with the Los Angeles County Recorder guaranteeing that applicable affordability criteria shall be observed for at least 30 years from the issuance of the Certificate of Occupancy. The Council may include a requirement for 55-year affordability covenants in the Interim Ordinance.

Tenants, rental applicants, purchasers and prospective purchasers of the Affordable Replacement Units or the Inclusionary Residential Units shall have the right to seek an injunction to enforce the affordability criteria, or to raise the affordability criteria as a defense or counterclaim to a claim for rent or possession directly against the owner, manager, and/or their successors in interest, of those units.

### **7.5.2 FINANCIAL ASSURANCES**

The LAHD may require the Applicant to post a bond or make other financial assurances to assure compliance with the final approved Affordable Housing Provision Plan.

### **7.5.3 MONITORING REQUIREMENTS**

All Applicants shall comply with the monitoring requirements set forth in Section IVC of the Affordable Housing Incentives Guidelines (page 10 of Attachment 4).

## **8.0 APPEALS**

Determinations may be appealed. The determination shall identify deadlines, filing fees, the appellate body, and other necessary procedures and requirements for considering the appeal.

Appellants have the burden of proof and shall present substantial evidence to support their appeal. A copy of the results of each appeal shall be simultaneously transmitted to the Applicant, the Department of Building and Safety, LAHD, all building occupants, and:

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### **8.1 DISCRETIONARY APPLICATIONS**

The appeals procedures and appellate body shall be those connected to the underlying case.

### **8.2 NON-DISCRETIONARY APPLICATIONS**

Appellants may appeal a Director's Determination using the forms and following the procedures promulgated by the DCP/ZAD. Until July 1, 2000, the appellate body shall be the Board of Zoning Appeals. After July 1, 2000, the appellate body shall be the Area Planning Commission.

### **8.3 DEPARTMENT OF BUILDING AND SAFETY ACTIONS**

Appellants may appeal Department of Building and Safety decisions and determinations to the Board of Building and Safety Commissioners pursuant to Los Angeles Municipal Code Section 98.0403.1.

**ATTACHMENT 1****DEFINITIONS**

The following words, whenever used in these Interim Administrative Procedures, shall be construed as defined in this Attachment. Words and phrases not defined shall be construed as defined in Sections 12.03 and 91.0200, *et sec*, of the Los Angeles Municipal Code as defined therein.

**"Affordable Housing Incentives Guidelines"** means the guidelines adopted by the City Planning Commission on December 14, 1995, as amended, pursuant to Ordinance No. 170,764, which implement California Government Code Section 65915 in the City of Los Angeles.

**"Affordable Replacement Unit"** means a Residential Unit built or provided that has the same number of bedrooms as the Affordable Existing Residential Unit that has been demolished or converted, with an Affordable Monthly Housing Cost.

**"Affordable Monthly Housing Cost"** refers, for ownership units, to the current definition contained in Health and Safety Code Section 50052.5, as further defined in 25 California Code of Regulations Section 6920. For rental units, "Affordable Monthly Housing Cost" refers to the current definition contained in Health and Safety Code Section 50053, as further defined in 25 California Code of Regulations Section 6918.

**"Affordable Existing Residential Unit"** means an existing Residential Unit proposed for Demolition or Conversion that is occupied by a Very Low, Low or Moderate Income Household, as determined by the Housing Department General Manager, following the occupant income determination process set forth in the Interim Administrative Procedures.

In the event that an existing Residential Unit is occupied by more than one person or family, and if at least one such person or family (excluding any dependents) is of Very Low, Low or Moderate Income, then the existing Residential Unit is defined as an Affordable Existing Residential Unit.

**"Appellant"** means the Applicant, current occupant, former occupant evicted within the last year, or other aggrieved person who files an appeal pursuant to the Interim Administrative Procedures.

**"Applicant"** means the person, partnership, corporation, governmental organization, or other entity submitting a Discretionary Application and/or a Non-Discretionary Application to the City of Los Angeles.

**"Application, Discretionary"** means the original application for, or submission of a subsequent non-minor modification to, one or more of the following entitlements:

approval-in-concept, coastal development permit, conditional use permit, condominium conversion, development agreement, plan approval, specific plan exception, subdivision or tract map, variance, zone change or any other action that first requires the discretionary approval of the Director of Planning, the City Planning Commission, the Zoning Administrator, the Advisory Agency, or an Area Planning Commission.

**"Application, Non-Discretionary"** means an application for a building permit, demolition permit, or change of use permit that requires the ministerial approval of the Department of Building and Safety.

**"Categorical Exemption"** means an Application that the City has determined is categorically exempt from providing either Affordable Replacement Units or Inclusionary Residential Units, consistent with the Mello Act and these Interim Administrative Procedures.

**"Coastal Commission Guidelines"** means the California Coastal Commission Interpretive Guidelines on Construction of New Housing adopted by the California Coastal Commission on May 5, 1981.

**"Coastal-Dependent Non-Residential Use"** means any non-residential development or use which requires a site on, or adjacent to, the sea to be able to function at all.

**"Coastal Development Permit"** means a permit for any development within the Coastal Zone that is required pursuant to Subdivision (a) of Section 30600 of the California Coastal Act.

**"Coastal-Related Nonresidential Use"** means any nonresidential development or use that is dependent on a Coastal-Dependent Non-Residential Use.

**"Coastal Zone"** means the Coastal Zone, as defined in California Public Resources Code, Division 20 (commencing with Section 30000), including, but not limited to, the Coastal Zone portions of Venice, San Pedro, Pacific Palisades, Playa Vista, Wilmington, Fort MacArthur/White Point, Palms/Marina Freeway Area, and Del Ray Lagoon, as depicted on the City of Los Angeles Coastal Zone Maps, as prepared and maintained by the Department of City Planning. In the case of any discrepancy, the Public Resources Code shall control.

**"Conversion"** means a change of one or more existing Residential Units to a condominium, cooperative, or similar form of ownership; a change of one or more existing Residential Units to a non-residential use; or a reduction in the existing number of Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

**"Demolition"** means the demolition of one or more existing Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

**"Density Bonus"** means a minimum density increase of 25 percent over the otherwise maximum allowable residential density granted pursuant to California Government Code Section 65915.

**"Director's Determination"** means a determination of the Director of Planning of the Department of City Planning, or his or her designee.

**"Feasible"** means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

**"Household, Low Income"** means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50079.5, as further defined in 25 California Code of Regulations 6928 and 6932.

**"Household, Moderate Income"** means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50093 (b), as further defined in 25 California Code of Regulations 6930 and 6932.

**"Household, Very Low Income"** means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50105, as further defined in 25 California Code of Regulations 6926 and 6932.

**"Housing Department General Manager"** means the General Manager or his or her designee, of the Los Angeles Department of Housing or successor agency.

**"Inclusionary Residential Unit"** means a Residential Unit with an Affordable Monthly Housing Cost.

**"Interim Administrative Procedures"** means the interim administrative procedures developed by the Departments of Building and Safety, City Planning and Housing pursuant to instruction of the City Council on January 19, 2000.

**"Interim Ordinance"** means the Interim Ordinance that on January 19, 2000, the City Council directed the Department of City Planning to prepare and submit to the City Planning Commission for approval, and that shall be based on the results of the Interim Study.

**"Interim Study"** means the study that consultants shall complete to assist the City in implementing the Mello Act; updating the Interim Administrative Procedures; and preparing the Interim Ordinance.

**"Local Coastal Program"** means the Land Use Plan and Local Implementation Plan that a local government has adopted to implement the provisions and policies of the California Coastal Act, and that has been certified by the California Coastal Commission pursuant to Public Resources Code Section 30512.

**"Monthly Housing Cost"** means the monthly rent or mortgage for a Residential Unit, as determined by the Housing Department General Manager.

**"New Housing Development"** means the development of one or more Residential Units for rent or for sale, through either construction of new structures, additions to existing structures, or the adaptive reuse of existing, non-residential structures. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

**"Public Nuisance"** means a residential structure that has been declared a public nuisance pursuant to Division 13 (commencing with Section 17000) of the California Health and Safety Code; or Chapter IX, Article 1, Division 89 of the Los Angeles Municipal Code.

**"Residential Unit"** means a dwelling unit, efficiency dwelling unit, or joint living and work quarters as defined in Section 12.03 of the Los Angeles Municipal Code (LAMC); a mobilehome, as defined in Section 18008 of the California Health and Safety Code; a mobilehome lot in a mobilehome park as defined in Section 18214 of the California Health and Safety Code; or a residential hotel as defined in paragraph (1) of subdivision (b) of Section 50519 of the California Health and Safety Code.

**"Unified Development"** means a development of two or more buildings which have functional linkages such as pedestrian or vehicular connections, with common architectural and landscape features which constitute distinctive design elements of the development, and that appears to be a consolidated whole when viewed from adjoining streets. Unified Developments may include two or more contiguous parcels or lots of record separated only by a street or alley.

**ATTACHMENT 2**

**MELLO ACT COMPLIANCE REVIEW WORKSHEET  
FOR PROPOSED DEMOLITIONS AND CONVERSIONS**

FOR LOS ANGELES CITY PLANNING DEPARTMENT STAFF USE ONLY

## Proposed Demolitions and Conversions in the Coastal Zone

**MELLO ACT COMPLIANCE REVIEW WORKSHEET**

Type of Application:		Application Number:	
Address:			
Project Description:			
QUESTION	YES	NO	
1. Will residential structures be demolished or converted for purposes of a non-residential use? If "yes," go to question #2. If "no," skip to question #4.			
2. Is the proposed non-residential use Coastal-Dependent? If "yes," skip to question #4. If "no," go to question #3 .			
3. Is a residential use feasible at this location? If "no," go to question #4. If "yes," stop. The Application to demolish or convert residential structures for purposes of a non-residential use is denied.			
4. Are any Affordable Existing Residential Units proposed for Demolition or Conversion? (Refer the Applicant to the Los Angeles Housing Department.) If "yes," record the number of identified Affordable Existing Residential Units in the "yes" box, and go to question#5. If "no," record a "zero" in the "no" box and stop. The provision of Affordable Replacement Units is not required.			
5. Is the Application for Coastal-Dependent or Coastal-Related non-residential uses? Are these non-residential uses consistent with the Land Use Plan of a certified Local Coastal Program? If the answer to both questions is "yes," skip to question #8. If the answer to either question is "no," go to question #6.			
6. Are 11 or more Residential Units proposed for Demolition or Conversion? If "no," go to question #7. If "yes," all Affordable Existing Residential Units recorded in question #4 must be replaced.			
7. Are any Affordable Existing Residential Units in one-family or two-family dwellings? If "yes," go to question #8. If "no," all Affordable Existing Residential Units recorded in question #4 must be replaced.			
8. Is it infeasible for the Applicant to replace any of the Affordable Existing Residential Units identified by answers to questions #5 and #7? If "yes," how many? Record this number in the "yes" box and subtract it from the number recorded in question #4. Record the result below. This is the total number of required Affordable Replacement Units. If "no," it's feasible for the Applicant to replace all Affordable Existing Residential Units proposed for Demolition or Conversion. Record a "zero" in the "no" box. Record the number recorded in question #4 below. This is the total number of required Affordable Replacement Units.			
Total Number of Required Affordable Replacement Units:			
Completed By:			
Date:			

**INSTRUCTIONS:** City Planning Department staff must answer each question with a written explanation. Attach supporting documentation to the file. City Planning Department staff must use the Interim Administrative Procedures to complete this Worksheet.

**ATTACHMENT 3**

**LOS ANGELES CITY PLANNING DEPARTMENT MODERATE-INCOME  
HOUSING PURCHASE FEASIBILITY ANALYSIS (FORM CP-6391)**

Tentative Tract No. \_\_\_\_\_  
 Coastal Development Permit No. \_\_\_\_\_

**LOS ANGELES CITY PLANNING DEPARTMENT  
 MODERATE-INCOME HOUSING PURCHASE FEASIBILITY ANALYSIS  
 (FOR MELLO FINDINGS)**

BASIC INFORMATION:

Number of Units:	_____	Square footage of garage:	_____
Square footage in each unit:	_____	Cost per square foot:	_____
Number of bedrooms in each unit:	_____	Other:	_____
Cost per square foot:	_____	Cost per square foot:	_____

A. ESTIMATED COST\*

- 1. Land \_\_\_\_\_
- 2. Improvement (e.g., grading, sewer, water, street lights, etc.) \_\_\_\_\_
- 3. Architectural/Engineering \_\_\_\_\_
- 4. Permit and Fees \_\_\_\_\_
- 5. Interest and cost of loans \_\_\_\_\_
- 6a. Construction Cost (total square feet x \$/square feet) \_\_\_\_\_
- 7. Remodeling, refurbishing, etc. (for condominium conversion) \_\_\_\_\_
- 8. Other (specify) \_\_\_\_\_

Total for \_\_\_ market \$ \_\_\_\_\_ A  
 Rate Units 1

B. LOANS\*

- 1st \_\_\_\_\_
- 2nd \_\_\_\_\_
- Construction \_\_\_\_\_
- Other (specify) \_\_\_\_\_
- B Total: \$ \_\_\_\_\_

C. Investment

Cost(A) - Loans(B) = \_\_\_\_\_  
 - \_\_\_\_\_ = \$ \_\_\_\_\_ C

6b. Construction cost with at least one moderate-cost unit of 1,000 square feet \$ \_\_\_\_\_

Total for \_\_\_ market \$ \_\_\_\_\_ A  
 Rate Units + 1 moderate unit 2

\* Proof and justification to be provided by the applicant (see page 3 for directions).

Tentative Tract No. \_\_\_\_\_  
 Coastal Development Permit No. \_\_\_\_\_

D. DURATION OF PROJECT IN MONTHS: \_\_\_\_\_ D

E. SALES PROJECTIONS:

All units at  
MARKET RATES\*  
Units x price  
 \_\_\_\_\_ x \_\_\_\_\_ = \$ \_\_\_\_\_  
 less sales cost = \$ \_\_\_\_\_  
 (specify %) \_\_\_\_\_ %  
 net sales proceeds = \$ \_\_\_\_\_  
 E<sup>1</sup>

Assume at least one unit  
 (of 1,000 square feet) at  
LOW/MODERATE PRICE\*\*  
 unit low/moderate price = \$ \_\_\_\_\_  
 others: units x price = \$ \_\_\_\_\_  
 less sales costs = \$ \_\_\_\_\_  
 (specify %) \_\_\_\_\_ %  
 net sales proceeds = \$ \_\_\_\_\_  
 E<sub>2</sub>

F. PROFIT/LOSS

MARKET RATES

Profit/Loss = Sales Projection - cost  
 = E<sub>1</sub> - A<sub>1</sub>  
 = \$ \_\_\_\_\_ F<sub>1</sub>

LOW/MODERATE

Profit/Loss = Sales Projection - cost  
 = E<sub>2</sub> - A<sub>2</sub>  
 = \$ \_\_\_\_\_ F<sub>2</sub>

G. RETURN ON INVESTMENT

Percent = F<sub>1</sub> x 100 = \_\_\_\_\_ %  
 Return \_\_\_\_\_  
 Annual Percent Return =  
 = F<sub>1</sub> x 100 x 12  
 \_\_\_\_\_ D  
 = \_\_\_\_\_ %

Percent = F<sub>2</sub> x 100 = \_\_\_\_\_ %  
 Return \_\_\_\_\_  
 Annual Percent Return =  
 = F<sub>2</sub> x 100 x 12  
 \_\_\_\_\_ D  
 = \_\_\_\_\_ %

Prepared by: \_\_\_\_\_  
 Representative of \_\_\_\_\_

Date Prepared \_\_\_\_\_  
 Telephone No. \_\_\_\_\_

\*\* MODERATE-INCOME SALES PRICES: BASED ON 1988 MEDIAN-FAMILY INCOME

1 bedroom	\$ 85,200	3 bedroom	\$116,494
2 bedroom	\$101,175	4 bedroom	\$129,850

Tentative Tract No. \_\_\_\_\_  
Coastal Development Permit No. \_\_\_\_\_

SUPPLEMENTAL DOCUMENTS TO BE PROVIDED BY THE APPLICANT

A. Estimated Cost

1. Land: provide legal proof of land cost.
2. Improvement: provide itemization of cost for each category of improvement.
3. Architectural/Engineering: Provide itemization of cost and proof.
4. Permit & Fees: provide itemization of cost.
5. Interest and cost of loans: provide itemization of cost and legal proof.
6. Construction Cost: provide itemization of cost for dwelling units and garage.
7. Remodeling, refurbishing, etc.: provide itemization of cost and proof.  
(for condominium conversion)
8. Other, (specify): provide itemization of cost and proof.

B. Loans

Provide proof of the amount(s) in dollars, the percentage rate and length of loan(s).

- E. Provide at least three comparables (Sale cost of comparable dwelling units at market rate) within half a mile radius from the project area.

Note: If the above-mentioned documents are not provided by the applicant at the time of the filing, the application is deemed incomplete.

**ATTACHMENT 4**

**AFFORDABLE HOUSING INCENTIVES GUIDELINES**

## Table of Contents

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# **AFFORDABLE HOUSING INCENTIVES GUIDELINES**

Implementing the Affordable Housing  
Incentives Program Ordinance No. 170,764

## AFFORDABLE HOUSING INCENTIVES GUIDELINES

### I. SCOPE AND PURPOSE

The City of Los Angeles has established an Affordable Housing Incentives Program to encourage the production of housing for qualified lower income residents, including elderly and disabled persons. The program is based on a series of amendments to the Municipal Code. The Affordable Housing Incentives Guidelines, established by resolution of the City Planning Commission, facilitate the use of incentives established by law.

The Municipal Code now encourages broader application for the density bonus provisions of State law by creating incentives that eliminate discretionary review for qualifying developments, relax land use controls, defer payment of fees, and expedite application processing. These incentives, as explained in this document, are grouped into two main options.

The eligibility of a development to benefit from the incentives is determined on a case-by-case basis through application of performance standards. These guidelines set forth in detail the incentives for which developments may qualify and the standards by which they will be evaluated. The guidelines may be modified by resolution of the Planning Commission if needed.

The options permit a developer to receive incentives on the basis of public benefit offered. For example, a limited number of incentives such as reduced parking, deferred fees, and expedited processing are available if restricted affordable dwelling units are provided adjacent to public mass transit.

A development might, however, qualify for a density increase of up to 25%, in addition to the aforementioned incentives, if it meets criteria for tenant "set-asides" established by State law as follows:

- \* 10% of dwelling units for "very low" income households (earning no more than 50% of the County median income and paying no more in rent than the amount established by the Los Angeles Housing Department (LAHD) for households earning up to 50% of the median income),  
OR
- \* 20% of dwelling units for "lower" income households (earning no more than 80% of the County median income and paying no more in rent than the amount established by LAHD for households earning up to 60% of the median income),  
OR
- \* 5% of dwelling units for disabled persons whose household income does not exceed Supplemental Security Income (SSI) levels.

Affordable Housing Incentives Program Applications are available at the Public Counter of the City Planning, Building and Safety Departments and at the Department of Housing. Completed applications must be submitted to the Department of Building and Safety for review and approval. Full compliance with each component is required to receive a density bonus or parking reduction without a density bonus.

## II. DEFINITIONS

The following program definitions apply:

**Affordable Accessible Unit** - a dwelling unit or guest room that is adapted to be used by persons who are physically disabled, based on the criteria of Title 24 of the California Code of Regulations or any amendment thereto, where the household income of the residents does not exceed Social Security Supplementary Income (SSI) levels, and where the rent is restricted to no more than approximately 30% of the resident's SSI level according to a rent schedule prepared by the City's Housing Department.

**Affordable Housing Incentives Guidelines** - the guidelines approved by the City Planning Commission by which applications for affordable housing projects are evaluated for compliance with the goals and policies of the City's Affordable Housing Program.

**Affordable Housing Units** - dwelling units or guest rooms for which rental or mortgage payments do not exceed the limits stated in Section 65915 of the California Government Code. Dwelling Units or guest rooms designated for lower income households, as defined in Section 50079.5 of the California Health and Safety Code, shall have rents not exceeding 30 percent of 60 percent of the area median income as set forth on the rent schedule prepared by the City's Housing Department or its successor agency. In order for a development project to qualify as a project containing affordable housing units, the owner shall record a document with the Los Angeles County Recorder guaranteeing that these affordability criteria will be observed for at least 30 years from the issuance of the Certificate of Occupancy.

**Area Median Income** - the estimate of median income in the Los Angeles-Long Beach Primary Metropolitan Statistical Area that is determined periodically by the United States Department of Housing and Urban Development (HUD) or any successor agency, adjusted for household size and which is published periodically.

**Density Bonus** - a density increase of at least 25% over the otherwise maximum allowable residential density pursuant to California Government Code Section 65915. The density bonus shall apply to housing developments consisting of five or more dwelling units.

**Income, Lower and Very Low** - annual income of a household that does not exceed the area median for either income category as specified in California Health and Safety Code Sections 50079.5 and 50105, as determined by the City's Housing Department.

**Mass Transit Station** - a transit stop for a fixed rail system, or a major bus center. A station is one that is currently in use or whose location is proposed and for which a full funding contract has been signed by all funding partners, or one for which a resolution to fund a preferred alignment has been adopted by the Los Angeles County Metropolitan Authority or its successor agency.

**Major Bus Route** - a bus route with peak-hour headways of 15 minutes or less.

**Restricted Affordable Unit** - an affordable housing unit in a development rented to a household with very low or lower income residents, and/or very low income senior citizens. In order for a development to qualify as a development containing affordable housing units, the owner shall record a document with the Los Angeles County Recorder guaranteeing that the relevant affordability criteria will be observed for at least 30 years from the issuance of the Certificate of Occupancy.

**Senior Citizens** - individuals who are at least 62 years of age, except that for density bonus projects of at least 150 dwelling units, a threshold of 55 years of age may be used, provided all applicable city, state, and federal regulations are met.

**Single Room Occupancy Hotel** - an apartment building, hotel, or other structure containing six or more guest rooms, and which may also contain dwelling units, in which 30% or more of the dwelling units or guest rooms do not contain a private bath and toilet facilities within the dwelling unit or guest room.

### III. DESCRIPTION OF THE AFFORDABLE HOUSING INCENTIVES

The following options provide alternatives and incentives by which affordable housing dwelling units may be constructed.

#### A. Incentives Option 1

This is a minimum "by right" density bonus option provided by State law (Government Code, Section 65915) granted to a residential project which provides the set-aside dwelling units listed on Page 2, Section I of these guidelines, or in which at least 50% of the dwelling units are reserved for senior citizen tenancy. In exchange, the project shall receive the following:

##### a. A 25% density bonus\*

A maximum density increase of 25% over the otherwise allowable residential density pursuant to California Government Code Section 65915. The density bonus applies to new or existing housing developments consisting of five or more dwelling units.

When calculating the number of dwelling units allowed in a project, the density figure will be rounded upwards from fractions of one-half ( $\frac{1}{2}$ ) and more from that permitted by the applicable zone, to allow one additional dwelling unit.

\*In cases where dwelling units will be targeted for senior citizens at market rate, the applicant may receive the 25% density bonus, but only through a conditional use permit. Any density bonus of 26% and above requires a conditional use permit.

##### b. Reduced parking requirements for the restricted dwelling units\*\*

Parking requirements for each restricted affordable dwelling unit is as follows:

- 1.00 parking space per dwelling unit irrespective of the number of habitable rooms  
for a project located within 1,500 feet of a mass transit station or major bus routes
- 1.00 parking space per dwelling unit  
for restricted affordable dwelling units with 1 and 2 habitable rooms
- 1.50 parking space per dwelling unit  
for restricted affordable dwelling units with 3 or more habitable rooms
- 0.50 parking space per dwelling unit or guest room  
for dwelling units restricted to senior citizens and/or disabled
- 0.25 parking space per dwelling unit  
for single-room occupancy hotels, with a minimum of 5 parking stalls per facility.

\*The parking reduction is "by right", subject to conformance with the applicable conditions stipulated in the Affordable Housing Incentives Program Application. Any request for a parking reduction in excess of that permitted in the Affordable Housing Incentives Application shall be processed separately for discretionary action through the Department of City Planning.

c. Waiver of guest parking provision for restricted dwelling units

The requirement to provide guest parking is waived for only restricted dwelling units. Market rate dwelling units shall comply with the parking requirements as specified in the Zoning Code.

d. Deferred payment of selected permits and fees

The application and environmental fees (Department of City Planning) may be deferred up to the time of the issuance of any Certificate of Occupancy. However, fees must be paid for services performed regardless of project outcome.

e. Expedited processing of building plans and permits

Projects providing affordable housing will receive expedited processing as currently available.

## B. Incentives Option 2

All the incentives listed above under Option 1, except the density bonus (incentive (a)) are also available to developers for projects that offer fewer affordable dwelling units than the amount listed on Page 1, Section I of these guidelines. Those projects are not entitled to the 25% density bonus available in Option 1.

**AFFORDABLE HOUSING INCENTIVES PROGRAM**  
**Options Summary**

Under Incentives Option 1, if a project of 5 or more dwelling units provides:

<p>10% "very low" income,</p> <p style="text-align: center;">or</p> <p>20% "lower" income,</p> <p style="text-align: center;">or</p> <p>5% affordable accessible dwelling units</p>	→
---	---

the applicant shall receive the following:

- |   |
|---|
| <ul style="list-style-type: none"> <li>a. 25% Density Bonus</li> <li>b. reduced parking for restricted dwelling units</li> <li>c. waiver of guest parking provisions for restricted units</li> <li>d. deferred payment of fees and permits</li> <li>e. expedited processing of plans and permits</li> </ul> |
|---|

Under Incentives Option 2, if a project provides dwelling units for:

<p>low income seniors,</p> <p style="text-align: center;">or</p> <p>low income disabled persons,</p> <p style="text-align: center;">or</p> <p>other low income households with incomes at 80% or less of County median with rents set at 60% of median</p>	→
--	---

the applicant shall receive the following:

- |  |
|--|
| <ul style="list-style-type: none"> <li>b. reduced parking for restricted dwelling units</li> <li>c. waiver of guest parking provisions for restricted dwelling units</li> <li>d. deferred payment of fees and permits</li> <li>e. expedited processing of plans and permits</li> </ul> |
|--|

#### IV. PERFORMANCE STANDARDS FOR OPTIONS 1 AND 2

The Performance Standards listed and described below are requirements of all projects with restricted dwelling units for which OPTION 1 or 2 is sought. The Performance Standards are included into three main categories:

- A. Project Design (Location of Restricted Units, Noise, Wall, Lighting)
- B. Equal Distribution of Amenities
- C. Eligibility, Affordability and Monitoring Requirements

##### A. Project Design

- Design of Restricted Affordable Units in Mixed-Income Projects:

Restricted dwelling units shall be comparable in every manner, except in the quality of interior "finish" materials (e.g., floor and wall coverings), to market-rate dwelling units, including total square footage, bedrooms size, closet space, amenities, number of bathrooms, etc. The design of restricted dwelling units should generally reflect the average number of bedrooms per dwelling unit in the development.

Restricted dwelling units shall not be confined to one type of dwelling unit within a development.

- Location of Restricted Units Within Mixed-Income Projects:

Restricted dwelling units must be interspersed among market-rate dwelling units within the same building. They may not be grouped together on one level or in one or more "less desirable" corners or areas of the building. In multiple building developments, restricted dwelling units must be reasonably dispersed among the buildings.

- Noise

Common recreational uses, such as swimming pools and barbecue areas, shall not be located immediately adjacent to neighboring residential uses.

Any building within 500 feet of a railroad, major highway or freeway, airport or aircraft pathway shall be constructed so as to provide a Sound Transmission Class of 50 or greater as defined in the Uniform Building Code.

- Wall

A decorative masonry wall 6 feet in height shall be constructed along any common property line between the subject property and any adjoining property containing a single-family use.

• Lighting

Lighting shall be located so as not to shine onto any adjacent residential property.

## B. Equal Distribution of Amenities

Residents of restricted dwelling units may not be charged for amenities that are provided at no cost to other residents including, but not limited to, access to recreational facilities, parking, cable TV, and interior amenities such as dishwashers and microwave ovens.

Optional services provided must be optional for all residents, and available to all under the same terms and conditions.

All incentives (e.g. one month free rent specials) must be offered to all new residents, not only residents of market rate dwelling units.

## C. Affordability, Eligibility and Monitoring Requirements

### Affordability Requirements:

1. All restricted dwelling units shall comply with the affordability restrictions on household income as established by the Los Angeles Housing Department ("LAHD") in conformance with the U.S. Department of Housing and Urban Development.
2. The affordability restrictions for income and rent are subject to change periodically. The owner can contact LAHD to receive the periodic changes in the affordability restrictions.
3. For the purpose of a density bonus incentive, State law requires that households with incomes between 60% and 80% of the median income be assigned rents that do not exceed 60% of the median rent.
4. For developers seeking a parking reduction without a density bonus, dwelling units must be restricted to low income households (80% of median) with rent levels set at the rates for households with incomes at 60% of median.
5. The project shall reserve and maintain the number of dwelling units designated as restricted dwelling units for a period of not less than 30 years from the issuance of any Certificate of Occupancy.

Below is the Affordable Housing Incentives Program maximum rent schedule by bedroom size.

**MAXIMUM RENTS EFFECTIVE MAY 5, 1995**

No. of Bedrooms	Affordable Accessible SSI Levels	Very Low Income up to 50% Median	Lower Income up to 60% Median
SRO	\$181	\$332	\$398
0	\$181	\$372	\$427
1	\$181	\$426	\$488
2	\$330	\$479	\$549
3	\$330	\$579	\$659
4	\$330	\$660	\$756

These rents are the upper limits that may be charged to "lower", "very low" income and Disabled households. The actual rents charged to households of restricted dwelling units may be lower to reflect actual market conditions.

Eligibility of Seniors and Disabled Persons:

Each dwelling unit so designated shall be occupied by at least one person who is disabled or 62 years of age or older. Disabled persons are those persons having a physical or mental impairment which seriously restricts that person from operating a motor vehicle, is expected to be of long-term and indefinite duration, which substantially impedes his or her ability to live independently, and is of a nature that such ability could be improved by more suitable housing conditions.

Below are the Affordable Housing Incentives Program Household Income eligibility criteria.

**HOUSEHOLD INCOME TABLE EFFECTIVE MAY 5, 1995**

Household Size	Affordable Accessible SSI Levels	Very Low Income* 50% Median	Lower Income* 80% Median
1	\$ 7,236	\$17,950	\$28,150
2	\$13,200	\$20,500	\$32,150
3	\$13,200	\$23,100	\$36,200
4	\$13,200	\$25,650	\$40,200
5	\$13,200	\$27,700	\$43,400
6	\$13,200	\$29,750	\$46,650
7	\$13,200	\$31,800	\$49,850
8	\$13,200	\$33,850	\$53,050

\*Above limits are adjusted for Los Angeles and based on the 1995 HUD-determined County Median Family Income of \$45,200.

Monitoring Requirements:

All projects shall comply with the annual monitoring requirements established by the Los Angeles Housing Department (LAHD) by means of a covenant and agreement.

It is the responsibility of the owner to notify LAHD of any changes in the building that may affect compliance, such as change of ownership, management agent or on-site manager, vacancies in restricted dwelling units, or changes in compliance with the performance standards approved by the Department of Building and Safety.

The following are LAHD requirements (a complete list is found in the LAHD covenant):

1. LAHD must complete initial reviews of new tenants eligibility for restricted dwelling units prior to occupancy.
2. LAHD must annually review tenants eligibility for restricted dwelling units.
3. LAHD must receive an annual review letter from the owner about the number of restricted dwelling units, household income and size, rent levels, dwelling unit size and verification of vacancies. LAHD may at any time audit the building occupancy to monitor restricted dwelling units.
4. LAHD may make annual site visits to ensure that the restricted dwelling units are maintained in decent, safe and sanitary condition and that they are provided with the same level of services, including security and maintenance, as are applied to the other dwelling units in the development.

Violations of the regulatory agreement will be levied against the building owner for non-compliance including legal proceedings. It is the responsibility of the owner to adhere to all program requirements.

## VI. PROCEDURE FOR OBTAINING A BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY

In addition to the standard requirements of the Building and Safety Department, the following clearances must be obtained to ensure compliance with the Affordable Housing Program Ordinance:

Prior to the issuance of a building permit, the following clearances must be obtained:

- Housing Department pre-qualification of application for conformity to Options 1 or 2 of the Affordable Housing Incentives Program Ordinance. Applications must include location and floor plans of the restricted affordable units. (Applications may be obtained at the public counters of the Building and Safety and Planning Departments as well as at the Housing Department.)
- Planning Department approval of complete development plans, including landscaping and irrigation plans.
- Proof of recordation of Agreement Containing Covenants Affecting Real Property for the project satisfactory to Housing Department. This Agreement shall reflect the information provided in the Affordable Housing Incentives Program Application, including the Performance Standards.

Prior to the issuance of any Certificate of Occupancy, the following clearances must be obtained:

- Final clearance from the Housing Department that all conditions of Agreement Containing Covenants Affecting Real Property have been met.
- Planning Department clearance for payment of deferred fees.

### Addresses:

**Building & Safety Department**  
201 N. Figueroa Street, 4<sup>th</sup> Fl.  
Los Angeles, CA 90012  
Telephone (213) 888 LA-4-BUILD

**Los Angeles Housing Dept.** t  
111 N. Hope Street  
Los Angeles, CA 90012  
Telephone (800) 994-4444

**City Planning Department**  
201 N. Figueroa Street, 3<sup>rd</sup> Floor  
Los Angeles, CA 90012  
Telephone (213) 977-6083

Telephone (213) 977-6083

## BY-RIGHT\* APPLICATION PROCESS FOR DENSITY BONUS PROJECTS

\*Projects (applying for) a maximum of 25% density bonus. Projects applying for greater density bonus shall file a Conditional Use permit application. Applicants may obtain an Instructions for Filling a Conditional Use Permit application form at the Planning Counter RM-460-S.

### I. PROJECTS CONTAINING AFFORDABLE UNITS EXCLUSIVELY:

#### A. APPLICANT MUST COMPLETE AN APPLICATION AT THE BUILDING & SAFETY COUNTER

Building & Safety staff will verify compliance with all applicable zoning regulations including uses, yards, density, height, parking, etc.

#### B. PROJECTS USING PARKING REDUCTION INCENTIVE BASED ON PROXIMITY TO TRANSIT

Applicant has to submit a site plan drawn to scale, showing the proximity of the development site to the transit route or transit station to the satisfaction of Building & Safety staff who will verify if project qualifies using MTA's selected bus lines list, transit system map, or any other document deemed applicable.

#### C. APPLICANT NEEDS TO OBTAIN CLEARANCE FROM LOS ANGELES HOUSING DEPARTMENT FOR:

1. Qualifying restricted units
2. Obtaining proof of recordation of Agreement Containing Covenants Affecting Real Property for issuance of building permit.

### II. PROJECTS CONTAINING A MIX OF MARKET RATE AND AFFORDABLE UNITS

#### A. APPLICANT MUST COMPLETE AN APPLICATION AT THE BUILDING & SAFETY COUNTER

Building & Safety staff will verify compliance with all applicable zoning regulations including uses, yards, density, height, parking, etc.

#### B. PROJECTS USING PARKING REDUCTION INCENTIVE BASED ON PROXIMITY TO TRANSIT

Applicant has to submit a site plan drawn to scale, showing the proximity of the development site to the transit route or transit station to the satisfaction of Building & Safety staff or City Planning Counter staff who will verify if project qualifies using MTA's selected bus lines list, transit system map, or any other document deemed applicable.

#### C. APPLICANT NEEDS TO OBTAIN CLEARANCE FROM LOS ANGELES HOUSING DEPARTMENT FOR:

1. Qualifying restricted units
2. Obtaining proof of recordation of Agreement Containing Covenants Affecting Real Property for issuance of building permit.

#### D. PRIOR TO FINAL PLAN CHECK, APPLICANT HAS TO OBTAIN CLEARANCE FROM PLANNING DEPARTMENT TO VERIFY THAT PERFORMANCE STANDARDS ARE SATISFIED:

Applicant shall submit final set of floor plans to Plan Approval Unit staff who will evaluate the project for compliance with development standards spelled out in the Guidelines especially design and allocation of amenities.

## MTA LINES OPERATING ON A FREQUENCY OF 15 MINUTES OR BETTER

Line No.	Line Name	Frequency	
		Peaks	Midday
1	Hollywood BI-Fairfax Av	7	10
2	Sunset BI-Beverly Dr	5	12
3	Sunset BI-Beverly Dr Branch of Line 2	5	10
4	Santa Monica BI	7	9
10	Melrose Av-Virgil Av-Temple St	14	24
11	Melrose-Vermont-Temple Branch of 10	14	24
14	Beverly BI-West Adams BI	8	12
16	West Third St	3	10
18	West Sixth St-Whittier BI	4	10
20	Wilshire BI-Santa Monica	12	27
21	Wilshire BI-UCLA Branch of Line 20	12	27
22	Wilshire BI-Century City-Brentwood Br of Line 20	12	27
26	Seventh St-Virgil Av-Franklin Av	8	24
27	W. Olympic BI-Burton Way Br. of Line 28	12	24
28	W. Olympic BI	12	24
30	W. Pico BI-E. First St-Floral Dr	5	10
31	W. Pico BI-E. First St Branch of Line 30	4	8
33	Venice BI	8	10
37	W. Adams BI-Branch of Line 14	7	12
38	W. Jefferson BI-City Terrace	12	20
40	Hawthorne-Downtown Los Angeles	6	10
42	LA-Westchester-LAX-Branch of Line 40	6	10
45	Broadway-Mercury Av	6	10
46	Broadway-Griffin Av-Branch of Line 45	6	10
48	Maple Av-S. Main St-Branch of Line 10	9	24
51	San Pedro St-Avalon BI-Branch of Line 51	4	12
53	Central Av	8	15
55	LA-Compton Av-Imperial Sta.	4	16
60	Long Beach BI-Santa Fe Av	3	8
65	Washington BI-Indiana St-Gage Av	15	45
66	East Olympic BI-West 8th St	3	10
67	East Olympic BI-Branch of Line 66	3	0
68	West Washington BI-Chavez Av	9	12
70	LA-El Monte via Garvey Av	8	14
71	City Terrace-Sybil Brand-Branch of Line 38	15	21
76	LA-El Monte via Valley BI	12	15
78	LA-Alhambra-South Arcadia	14	34
79	LA-Arcadia-Branch of Line 78	14	34
81	Figueroa St	7	15
83	Pasadena Av-York BI-Branch of Line 28	8	15
84	Cypress Av-Eagle Rock BI-Branch of Line 28	15	32
85	Verdugo Rd-Glendale Col-Branch of Line 28	15	32
92	LA-Glendale-Burbank-San Fernando via Glendale BI	11	20
93	LA-Glendale-Burbank-San Fernando via Allesandro-Branch of Line 92	11	20
94	Los Angeles-San Fernando	8	17
96	LA-Riverside Dr	15	30

## MTA LINES OPERATING ON A FREQUENCY OF 15 MINUTES OR BETTER

Line No.	Line Name	Frequency	
		Peaks	Midday
105	Vernon Av-La Cienega Bl	9	15
108	Slauson Av	10	20
110	Gage Av-Centinel Av-Fox Hills Mall	12	30
111	LAX-Florence Av-Leffingwell Rd	10	15
112	Florence Av-Otis St-Branch of Line 111	10	15
115	Manchester Av-Firestone Bl	7	15
117	Century Bl	15	20
120	Imperial Hwy	12	20
121	Imperial Hwy	12	20
125	Rosecrans Av	15	30
152	Fallbrook Av-Roscoe Bl-Vineland Av-Burbank	12	30
161	Westlake-Canoga Park	15	60
163	Sherman Wy-Hollywood	15	20
164	Victory Bl-Branch of Line 165	15	30
165	Vanowen St	15	30
175	Fountain Av-Talmadge St-Hyperion Av	15	60
180	Hollywood-Glendale-Pasadena via N. Lake	8	12
181	Hollywood-Glendale-Pasadena-PCC	8	12
200	Alvarado St-Echo Park Av	9	10
204	Vermont Av	4	5
206	Normandie Av	10	17
207	Western Av	5	17
210	Vine St-Crenshaw Bl	10	16
212	La Brea Av	8	20
217	Fairfax Av-Hollywood-Branch of Line 1	7	10
230	Laurel Canyon Bl	15	30
232	Long Beach-LAX	12	30
233	Van Nuys Bl-Branch of Line 561	10	12
234	Sepulveda Bl-Brand Bl-Sayre St	15	20
243	Desota Av-Ventura Bl-Winnetka Av	15	50
251	Soto St-Daly St-Seville Av-103rd Station	12	24
252	Soto St-California Av-Huntington Dr-Branch of Line 251	12	24
260	Artesia Sta-Pasadena-Altadena via Atlantic Bl	10	20
304	Santa Monica Bl Limited-Branch of Line 4	4	7
320	Wilshire Bl Limited-Branch of Line 20	5	9
322	Wilshire Bl-Century City-Brentwood Limited Br of Line 20	15	43
328	W. Olympic Bl Limited-Branch of Line 28	8	0
333	Venice Bl Limited-Branch of Line 33	9	0
345	Broadway Limited-Branch of Line 45	8	12
354	Vermont Av Limited-Branch of Line 204	7	15
357	Western Av Limited-Branch of Line 207	10	0
378	LA-Alhambra-So Arcadia Ltd-Branch of Line 78	13	0
379	LA-Arcadia Limited-Branch of Line 79	13	0
401	LA-Pasadena-No. Allen Express	12	30
402	LA-Pasadena Park-n-Ride-Branch of Line 401	15	0
420	LA-Van Nuys-Panorama City Express	6	10

## MTA LINES OPERATING ON A FREQUENCY OF 15 MINUTES OR BETTER

Line No.	Line Name	Frequency	
		Peaks	Midday
424	LA-Ventura BI Express	9	10
425	LA-Ventura BI Exp. Limited-Branch of Line 424	6	0
426	San Fernando Valley-Wilshire Express	15	0
434	LA-Santa Monica-Malibu Express	10	30
442	LA-Hawthorne Exp.-Branch of Line 40	14	0
470	LA-Whittier-La Habra-Brea Mall Express	12	30
471	LA-Whittier-Puente Hills Mall Exp-Branch of Line 470	12	30
483	LA-Altadena via Fair Oaks Express	11	20
484	LA-El Monte-La Puente-Pomona Express	12	30
485	LA-Altadena via Lake Ave Exp-Branch of Line 483	11	20
487	LA-San Gabriel-Sierra Madre Express	8	20
489	LA-Hastings Ranch Express	8	0
490	LA-El Monte-Covina-Brea Express	15	30
497	LA-Pomona Park-n-Ride Express	9	0
522	LACC-Ventura BI-Reseda BI	12	20
561	Green Line-LAX-Van Nuys BI Ltd. Exp.	15	30
620	Boyle Heights Shuttle	0	12
801	Metro Blue Line	6	12
802	Metro Red Line	5	8
803	Metro Green Line	7	12

**SETTLEMENT AGREEMENT**

**BETWEEN THE CITY OF LOS ANGELES AND  
THE VENICE TOWN COUNCIL, INC., THE BARTON HILL NEIGHBORHOOD  
ORGANIZATION, AND CAROL BERMAN**

**CONCERNING IMPLEMENTATION OF THE MELLO ACT  
IN THE COASTAL ZONE PORTIONS OF THE CITY OF LOS ANGELES**

**August 29, 2000**

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**EXHIBITS**

- A. Interim Administrative Procedures
- B. Scope of Work for Interim Study
- C. Affordable Housing Incentives Guidelines
- D. Draft Coastal Zone Maps:
  - Northwest Brentwood Subarea
  - Northeast Brentwood Subarea
  - Southwest Brentwood Subarea
  - Southeast Brentwood Subarea
  - Venice Subarea
  - Westchester Subarea
  - Northwest San Pedro Subarea
  - Northeast San Pedro Subarea
  - Southwest San Pedro Subarea
  - Southeast San Pedro Subarea
- E. Draft Map: Areas Within Three Miles of the Coastal Zone

## **I. FINAL SETTLEMENT AGREEMENT AND RELEASE**

This Final Settlement Agreement and Release (Agreement) is entered into this \_\_\_\_\_ day of September, 2000, between the City of Los Angeles (City) and the Venice Town Council, etc. (Plaintiffs). The City and the Plaintiffs are collectively referred to in this Agreement as the "Parties" and sometimes individually referred to as "Each Party."

## **II. RECITALS**

### **A. PARTIES**

Plaintiffs/Petitioners ("Plaintiffs") are the Venice Town Council, Inc., the Barton Hill Neighborhood Organization, referred to in the Complaint as the Barton-Hill Neighborhood Association, and Carol Berman. Defendant/Respondent (Defendant) is the City of Los Angeles.

### **B. PROCEDURAL BACKGROUND AND INTENT OF THE PARTIES**

In September, 1993, Plaintiffs filed a Petition for Writ of Mandate and Complaint for Injunction and Declaratory Relief. On October 22, 1993, the City demurred and moved to strike. The trial court granted the City's motion to strike and sustained the City's demurrers with leave to amend.

The Court also granted the City's motion to strike and sustained its demurrers with leave to amend to the Plaintiffs' First Amended Complaint and Petition for Writ. On November 18, 1994, the trial court granted the City's demurrers to the Second Amended Complaint and Petition for Writ of Mandate.

On February 24, 1995, the Plaintiffs appealed the decision sustaining the City's demurrers. The court in Venice Town Council, v. City of Los Angeles, et al., 47 Cal. App.4th 1547, 55 Cal.Rptr.2d 465 (July 31, 1996), held that the complaint stated a cause of action and the demurrers should be overruled. A significant dispute existed as to whether Defendant complied with its affordable housing obligation under the Mello Act, Government Code Section 65590 et seq. This Agreement is entered into with the intention of resolving all issues pending prior to or on the Date of Execution of this Agreement among the parties regarding the Defendant's practices under the Mello Act. However, the Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or January 31, 2001 whichever occurs first, with regard to the following three policy areas: (1) Categorical Exemption for Small New Housing Developments (See Section V A 3); (2) Affordability Covenants (See Section V C); and Income Targeting Standards (See Section V F).

### III. DEFINITIONS

**“Administrative Fees”** are the fees the City charges Applicants to recover the City's costs of administering the Mello Act and City Policies and City Procedures.

**“Affordable Housing Incentives Guidelines”** means the guidelines adopted by the City Planning Commission on December 14, 1995, as amended, pursuant to Ordinance No. 170,764, which implement California Government Code Section 65915 in the City of Los Angeles.

**“Affordable Replacement Unit”** means a Residential Unit built or provided that has the same number of bedrooms as the Affordable Existing Residential Unit that has been demolished or converted, with an Affordable Monthly Housing Cost.

**“Affordable Monthly Housing Cost”** refers, for ownership units, to the current definition contained in Health and Safety Code Section 50052.5, as further defined in 25 California Code of Regulations Section 6920. For rental units, “Affordable Monthly Housing Cost” refers to the current definition contained in Health and Safety Code Section 50053, as further defined in 25 California Code of Regulations Section 6918.

**“Affordable Existing Residential Unit”** means an existing Residential Unit proposed for Conversion or Demolition that is occupied by a Very Low, Low or Moderate Income Household, as determined by the Housing Department General Manager, following the occupant income determination process set forth in Section VI C 4 of this Agreement.

In the event that an existing Residential Unit is occupied by more than one person or family, and if at least one such person or family (excluding any dependents) is of Very Low, Low or Moderate Income, then the existing Residential Unit is defined as an Affordable Existing Residential Unit.

**“Agreement”** means this Agreement and all exhibits to the Agreement.

**“Appellant”** means the Applicant, current occupant, former occupant evicted within the last year, or other aggrieved person who files an appeal.

**“Applicant”** means the person, partnership, corporation, governmental organization, or other entity submitting a Discretionary Application and/or a Non-Discretionary Application to the City of Los Angeles.

**“Application, Discretionary”** means the original application for, or submission of a subsequent non-minor modification to, one or more of the following entitlements: approval-in-concept, coastal development permit, conditional use

permit, condominium conversion, development agreement, plan approval, specific plan exception, subdivision or tract map, variance, zone change or any other action that first requires the discretionary approval of the Director of Planning, the City Planning Commission, the Zoning Administrator, the Advisory Agency, or an Area Planning Commission.

**“Application, Non-Discretionary”** means an application for a building permit, demolition permit, or change of use permit that requires the ministerial approval of the Department of Building and Safety.

**“Categorical Exemption”** means an Application that the City has determined is categorically exempt from providing either Affordable Replacement Units or Inclusionary Residential Units, consistent with the Mello Act, City Policies, and the terms of this Agreement.

**“City”** means the City of Los Angeles and its officers, agents and employees.

**“City Policies”** means all interim and permanent policies, ordinances, and resolutions the City adopts to implement the Mello Act and the terms of this Agreement.

**“City Procedures”** means all interim and permanent administrative procedures the City adopts or issues to implement City Policies, the Mello Act, and the terms of this Agreement.

**“Coastal Commission Guidelines”** means the California Coastal Commission Interpretive Guidelines on Construction of New Housing adopted by the California Coastal Commission on May 5, 1981.

**“Coastal-Dependent Non-Residential Use”** means any non-residential development or use which requires a site on, or adjacent to, the sea to be able to function at all.

**“Coastal Development Permit”** means a permit for any development within the Coastal Zone that is required pursuant to Subdivision (a) of Section 30600 of the California Coastal Act.

**“Coastal-Related Nonresidential Use”** means any nonresidential development or use that is dependent on a Coastal-Dependent Non-Residential Use.

**“Coastal Zone”** means the Coastal Zone, as defined in California Public Resources Code, Division 20 (commencing with Section 30000), including, but not limited to, the Coastal Zone portions of Venice, San Pedro, Pacific Palisades, Playa

Vista, Wilmington, Fort MacArthur/White Point, Palms/Marina Freeway Area, and Del Ray Lagoon, as depicted on the City of Los Angeles Coastal Zone Maps, as prepared and maintained by the Department of City Planning. In the case of any discrepancy, the Public Resources Code shall control.

**“Coastal Zone Affordable Housing Trust Fund”** is the reserve account kept separate from the General Fund into which In-Lieu Fees received from Applicants shall be deposited, and which shall only be used to provide Affordable Replacement Units or Inclusionary Residential Units pursuant to the Mello Act, City Policies and City Procedures.

**“Complaint”** means the Second Amended Complaint for Injunctive and Declaratory Relief and Petition for Writ of Mandate in this action.

**“Conversion”** means a change of one or more existing Residential Units to a condominium, cooperative, or similar form of ownership; or a change of one or more existing Residential Units to a non-residential use; or a reduction in the existing number of Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

**“Date of Execution”** means the date this Agreement is completely executed by all parties.

**“Defendant”** refers to the City of Los Angeles and its officers, agents and employees.

**“Demolition”** means the demolition of one or more existing Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

**“Director’s Determination”** means a determination issued by the Director of Planning of the Department of City Planning, or his or her designee.

**“Density Bonus”** means a minimum density increase of 25 percent over the otherwise maximum allowable residential density granted pursuant to California Government Code Section 65915.

**“Feasible”** means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

**“Household, Low Income”** means a person or family with an income that conforms to the current definition contained in California Health and Safety Code

Section 50079.5, as further defined in 25 California Code of Regulations 6928 and 6932.

**“Household, Moderate Income”** means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50093 (b), as further defined in 25 California Code of Regulations 6930 and 6932.

**“Household, Very Low Income”** means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50105, as further defined in 25 California Code of Regulations 6926 and 6932.

**“Housing Department General Manager”** means the General Manager or his or her designee, of the Los Angeles Department of Housing or successor agency.

**“Inclusionary Residential Unit”** means a Residential Unit with an Affordable Monthly Housing Cost.

**“In-Lieu Fees”** means fees charged to an Applicant in-lieu of the Applicant providing Affordable Replacement Units or Inclusionary Residential Units, and that are deposited into the Coastal Zone Affordable Housing Trust Fund.

**“Interim Administrative Procedures”** means the Interim Administrative Procedures developed by the Departments of Building and Safety, City Planning and Housing pursuant to instruction of the City Council on January 19, 2000, and included as Exhibit A.

**“Interim Ordinance”** means the Interim Ordinance that on January 19, 2000, the City Council directed the Department of City Planning to prepare and submit to the City Planning Commission for approval, and that shall be based on the results of the Interim Study.

**“Interim Study”** means the study that consultants shall complete to assist the City in implementing the Mello Act; complying with the terms of this Agreement; updating the Interim Administrative Procedures; and preparing the Interim Ordinance.

**“Local Coastal Program”** means the Land Use Plan and Local Implementation Plan that a local government has adopted to implement the provisions and policies of the California Coastal Act, and that has been certified by the California Coastal Commission pursuant to Public Resources Code Section 30512.

**“Longer-Term Study”** means the study that consultants shall complete to assist the City in developing permanent City Policies and City Procedures.

**“Mello Act”** means California Government Code Sections 65590 and 65590.1

**“Monthly Housing Cost”** means the monthly rent or mortgage for a Residential Unit, as determined by the Housing Department General Manager.

**“New Housing Development”** means the development of one or more Residential Units for rent or for sale, through either construction of new structures, additions to existing structures, or the adaptive reuse of existing, non-residential structures. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

**“Permanent Ordinance”** means the ordinance that the Department of City Planning shall prepare and submit to the City Planning Commission for approval, and that shall be based on the results of the Longer-Term Study.

**“Plaintiffs”** means the Venice Town Council, Inc., the Barton Hill Neighborhood Organization, referred to in the Complaint as the Barton-Hill Neighborhood Association, Carol Berman, and their attorneys, agents and successors in interest.

**“Public Nuisance”** means a residential structure that has been declared a public nuisance pursuant to Division 13 (commencing with Section 17000) of the California Health and Safety Code; or any provision of the Los Angeles Municipal Code adopted pursuant to Division 13 of the California Health and Safety Code.

**“Residential Unit”** means a dwelling unit, efficiency dwelling unit, or joint living and work quarters as defined in Section 12.03 of the Los Angeles Municipal Code (LAMC); a mobilehome, as defined in Section 18008 of the California Health and Safety Code; a mobilehome lot in a mobilehome park as defined in Section 18214 of the California Health and Safety Code; or a residential hotel as defined in paragraph (1) of subdivision (b) of Section 50519 of the California Health and Safety Code.

**“Unified Development”** means a development of two or more buildings which have functional linkages such as pedestrian or vehicular connections, with common architectural and landscape features which constitute distinctive design elements of the development, and that appears to be a consolidated whole when viewed from adjoining streets. Unified Developments may include two or more contiguous parcels or lots of record separated only by a street or alley.

**IV. GENERAL PROVISIONS****A. COVERAGE**

This Agreement shall cover all property within the Coastal Zone portions of the City.

**B. PRINCIPLES**

1. The City shall adopt City Policies and City Procedures requiring all City departments, staff, offices, agencies and employees to comply with the Mello Act and this Agreement.
2. All City Policies and City Procedures, and all other ordinances, programs, plans, and policies in the Coastal Zone, shall be consistent with the Mello Act and this Agreement. All future zoning, land use, development and planning regulations, ordinances, resolutions and policies adopted by the City shall be consistent with the Mello Act and this Agreement. City Policies and City Procedures pursuant to this Agreement may be modified based on any future amendments to the Mello Act.
3. In the case of conflict between this Agreement, City Policies, City Procedures, any geographically specific plan, Local Coastal Program, or any other regulation, the requirement which results in the provision of the largest number of Affordable Replacement Units or Inclusionary Residential Units shall apply. This Agreement and City Policies and City Procedures shall not, however, abrogate any existing development agreement executed between a property owner and the City prior to May 30, 2000.
4. Nothing in this Agreement, or any City Policies or City Procedures, shall require the City to violate any state law or to violate the rights of any person under the federal or state constitution or state law.
5. Discretionary and Non-Discretionary Applications pending as of the date of execution of this Agreement are subject to the requirements of the Mello Act.

**V. CITY POLICIES**

The City shall develop City Policies, which shall apply equally to Affordable Replacement Units or Inclusionary Residential Units that the Applicant provides directly, or that the City subsidizes with In-Lieu Fees. City Policies shall include the following provisions:

**A. CATEGORICAL EXEMPTIONS**

City Policies shall include the following Categorical Exemptions:

1. **Owner-Occupied One-Family Dwellings**

Applicants who propose to demolish the existing one-family dwelling in which they currently reside, and replace it with another one-family dwelling in which they plan to reside, are Categorically Exempt.

2. **Residential Structures Declared a Public Nuisance**

The Demolition of residential structures declared a public nuisance pursuant to the following state and local codes are Categorically Exempt:

- 2.1 Division 13 (commencing with Section 17000) of the California Health and Safety Code; or
- 2.2 Any provision of the Los Angeles Municipal Code adopted pursuant to Division 13 of the California Health and Safety Code.

3. **Small New Housing Developments**

Small New Housing Developments consisting of nine or fewer Residential Units are Categorically Exempt until the Interim Ordinance is adopted and becomes effective.

The Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or January 31, 2001, whichever occurs first, with regard to any City Policy or action that Categorically Exempts small New Housing Developments consisting of nine or fewer Residential Units.

**B. DEMOLITIONS AND NEW HOUSING DEVELOPMENTS ON THE SAME SITE**

City Policies shall provide that if Affordable Existing Residential Units are proposed for Demolition, and a New Housing Development is proposed on the same site, then the requirements set forth in City Policies concerning Affordable Replacement Units and Inclusionary Residential Units are both triggered.

City Policies shall specify that the requirements concerning Inclusionary Residential Units shall only apply to the number of new Residential Units which exceeds the total number of required Affordable Replacement Units. For example, if the City's Mello Act compliance review determines that 20 Affordable Replacement Units must be provided, and the proposed New Housing Development consists of 50 new Residential Units, then the requirements concerning Inclusionary Residential Units shall only apply to the 30 excess Residential Units. If the number of excess Residential Units is Categorically Exempt pursuant to City Policies, no Inclusionary Residential Units are required.

**C. AFFORDABILITY COVENANTS**

City Policies shall require, at a minimum, that affordability covenants shall guarantee that Affordable Replacement Units and Inclusionary Residential Units shall remain available at an Affordable Monthly Housing Cost for not fewer than 30 years from the date the City issues the Certificate of Occupancy. Based on the results of the Interim Study, the City shall consider including a provision in the Interim Ordinance which increases this requirement from 30 years to 55 years.

The plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or January 31, 2001, whichever occurs first, with regard to any City Policy or action that does not require that affordability covenants for Affordable Replacement Units and Inclusionary Residential Units remain available at an Affordable Monthly Housing Cost for not fewer than 55 years from the date the City issues the Certificate of Occupancy.

**D. METHODS TO PROVIDE REQUIRED AFFORDABLE UNITS**

City Policies shall permit the provision of required Affordable Replacement Units or Inclusionary Residential Units through one or any combination of the following methods:

1. New construction;
2. Adaptive reuse (conversion of existing non-residential structures to Residential Units); and
3. Other methods permitted by the Mello Act and approved by the City Council by ordinance or resolution.

City Policies shall specify that Affordable Replacement Units or Inclusionary Residential Units may be either ownership units or rental units. City Policies shall not express a preference for one over the other type of unit.

**E. AFFORDABLE HOUSING INCENTIVES**

City Policies shall apply the incentives set forth in the Affordable Housing Incentives Guidelines, including a Density Bonus, to the provision of Affordable Replacement Units or Inclusionary Residential Units.

**F. AFFORDABLE REPLACEMENT UNITS****1. Income Targeting Standards**

City Policies shall specify standards concerning the Affordable Monthly Housing Cost required of Affordable Replacement Units. Until the Interim Ordinance is adopted and becomes effective, Affordable Replacement Units may be provided at any Affordable Monthly Housing Cost. The Interim Study shall evaluate the following candidate standards, which the City is considering for inclusion in the Interim Ordinance:

- 1.1 Deep Targeting Standard: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income Household.
- 1.2 Deep Targeting Standard, Based on Feasibility: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income Household, unless the Applicant demonstrates that deep targeting is infeasible.
- 1.3 Intermediate Targeting Standard: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income or Low Income Household.
- 1.4 No Targeting Standard: A Residential Unit occupied by a Very Low Income Household may be replaced by a unit affordable to a Very Low, Low, or Moderate Income Household.

The scope of work for the Interim Study is included as Exhibit B.

The Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or January 31, 2001, whichever occurs first, with regard to any City Policy or action that does not require deep targeting as specified in Section V F 1.1 above.

**2. Location**

City Policies shall include standards for the required location of Affordable Replacement Units, in compliance with the Mello Act.

Until the Interim Ordinance is adopted and effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 2.1 Affordable Replacement Units shall be located on-site, or elsewhere within the Coastal Zone.

- 2.2 Applicants claiming it is infeasible to comply with this requirement may request permission to provide the required units within three miles of the Coastal Zone by submitting an appeal pursuant to City Procedures.

The Interim Study shall evaluate, at a minimum, the following candidate standards which the City is considering for inclusion in the Interim Ordinance:

- 2.3 On the same site as the Conversion or Demolition;
- 2.4 Anywhere within the Coastal Zone;
- 2.5 Anywhere within three miles of the site, but within the Coastal Zone; and
- 2.6 Anywhere within three miles of the Coastal Zone.

3. **Timing Requirement**

City Policies shall require that Affordable Replacement Units be provided within three years of the date that work commenced on the Conversion or Demolition.

4. **Performance Standards**

If Affordable Replacement Units are included as part of mixed-income New Housing Developments, City Policies shall require compliance with the following portions of the performance standards set forth in the Affordable Housing Incentives Guidelines (Exhibit C):

- 4.1 Project design (Section 4A, page 7); and
- 4.2 Equal distribution of amenities (Section 4B, page 8).

For all other Affordable Replacement Units, City Policies shall require compliance with the project design and amenities requirements promulgated by the Housing Department General Manager.

## **G. INCLUSIONARY RESIDENTIAL UNITS**

1. **Standards**

City Policies shall include standards for the provision of Inclusionary Residential Units in New Housing Developments. These standards shall be based on the City's factual findings of feasibility. Until the Permanent Ordinance is adopted and becomes effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 1.1 Inclusionary Requirement Option #1. Reserve at least 20 percent of all Residential Units for Inclusionary Residential Units for Very Low or Low Income Households; or
- 1.2 Inclusionary Requirement Option #2. Reserve at least 10 percent of all Residential Units for Inclusionary Residential Units for Very Low Income Households.

City Policies shall specify that the provision of Inclusionary Residential Units for seniors or disabled persons who do not have a Very Low Income or Low Income shall not comply with these standards.

## 2. Location

City Policies shall include standards concerning the required location of Inclusionary Residential Units, in compliance with the Mello Act.

Until the Interim Ordinance is adopted and effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 2.1 Inclusionary Residential Units shall be located on-site.
- 2.2 Applicants claiming it is infeasible to comply with this requirement may request permission to provide the required units elsewhere within the Coastal Zone, or within three miles of the Coastal Zone, by submitting an appeal pursuant to City Procedures.

The Interim Study shall evaluate, at a minimum, the following candidate standards which the City shall consider for inclusion in the Interim Ordinance:

- 2.3 On the same site as the New Housing Development:
- 2.4 Anywhere within the Coastal Zone;
- 2.5 Anywhere within three miles of the site, but within the Coastal Zone; and
- 2.6 Anywhere within three miles of the Coastal Zone.

## 3. Timing Requirements

If City Policies permit Inclusionary Residential Units for off-site provision, then City Policies shall require that these units be provided within three years of the date that the Housing Department General Manager approves the Affordable Housing Provision Plan. City Policies shall require that a New Housing Development's

required Inclusionary Residential Units and market-rate Residential Units be made available at the same time.

#### 4. Performance Standards

City Policies shall require compliance with the following portions of the Performance Standards set forth in the Affordable Housing Incentives Guidelines (Exhibit C):

7.5.1 Project design (Section 4A, page 7); and

7.5.2 Equal distribution of amenities (Section 4B, page 8).

#### H. IN-LIEU FEES

City Policies shall include provisions concerning payment of In-Lieu Fees by Applicants otherwise required to provide Affordable Replacement Units or Inclusionary Residential Units. The City shall deposit In-Lieu Fees into the Coastal Zone Affordable Housing Trust Fund. Administrative Fees shall be handled separately from In-Lieu Fees.

##### 1. Interim Ordinance

Interim In-Lieu Fees shall be deposited into an escrow account to be used solely for the purpose of providing Affordable Replacement Units and Inclusionary Residential Units. After the Permanent Ordinance is adopted and becomes effective, any amounts remaining in the escrow account shall be deposited into the Coastal Zone Affordable Housing Trust Fund.

###### 1.1 Interim Study

The Interim Ordinance's In-Lieu Fee dollar amounts shall be based on the results of the Interim Study. The scope of work for the Interim Study is included as Exhibit B.

###### 1.2 Affordable Replacement Units

The In-Lieu Fee payment schedule for Demolitions and Conversions shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of Affordable Replacement Units which would otherwise be required by the Mello Act and this Agreement.

###### 1.3 Inclusionary Residential Units

The In-Lieu Fee payment schedule for New Housing Developments shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of

Inclusionary Residential Units which would otherwise be required by Inclusionary Requirement Option #1 (See Section V G 1.1); or Inclusionary Requirement Option # 2 (See Section V G 1.2).

2. **Permanent Ordinance**

2.1 **Longer-Term Study**

The Permanent Ordinance's In-Lieu Fee dollar amounts shall be based on the results of the Longer-Term Study.

2.2. **Affordable Replacement Units**

The In-Lieu Fee payment schedule for Demolitions and Conversions shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of Affordable Replacement Units which would otherwise be required by the Mello Act and this Agreement.

2.3 **Inclusionary Residential Units**

The City may adopt one or a combination of the following policy options:

2.3.1 If the City determines that some or all Inclusionary Residential Units are feasible either on-site or off-site, the City shall permit the Applicant to pay In-Lieu Fees sufficient to provide, in aggregate, the same number and type of Inclusionary Residential Units which would otherwise be required by City Policies, the Mello Act and this Agreement.

2.3.2 If the City determines that some or all Inclusionary Residential Units are infeasible both on-site or off-site, but that payment of some amount of In-Lieu Fees is feasible, the City may charge such In-Lieu Fees.

3. **Simultaneous Application of Rental Housing Production Fees and In-Lieu Fees**

City Policies shall include the following provision: If In-Lieu Fees, Los Angeles Rental Housing Production Fees, or any similar affordable housing fees all apply to an Application, the greatest of these fees shall apply. Any fees collected shall first be deposited in the Coastal Zone Affordable Housing Trust Fund to provide Affordable Replacement Units or Inclusionary Residential Units. Then, to the extent that there are fees above and beyond those required pursuant to City Policies, those additional fees shall be deposited into the Rental Housing Production Fund.

#### 4. Timing of Payments

City Policies shall require that In-Lieu Fees shall be paid in full as follows:

- 4.1 New Housing Developments: prior to issuance of the building permit;
- 4.2 Demolitions: prior to issuance of the demolition permit; and
- 4.3 Conversions: prior to recordation of the tract or parcel map, issuance of the building permit, or issuance of the change of use permit, as applicable.

Alternatively, the City may allow the Applicant to post a bond by the dates specified in Sections V H 4.1, 4.2, and 4.3 above, guaranteeing payment of all In-Lieu Fees in full within one year. The City may provide for a short-term deferral of any In-Lieu Fees if necessary to facilitate the development of any Affordable Replacement Units or Inclusionary Residential Units being built as part of a New Housing Development.

#### I. **DEMOLITION OR CONVERSION OF EXISTING RESIDENTIAL STRUCTURES FOR PURPOSES OF A NON-COASTAL-DEPENDENT, NON-RESIDENTIAL USE**

City Policies shall include a City presumption that a continued residential use is feasible. City Policies shall specify that the City shall deny these Applications unless the Applicant proves with substantial evidence that a residential use is not feasible on the site of the residential structure or structures proposed for Demolition or Conversion.

#### VI. CITY PROCEDURES

The City shall develop and implement City Procedures binding on City departments and City staff for processing Applications pursuant to the Mello Act and City Policies. The City may revise and amend City Procedures if the City Council determines that doing so advances the goals of the Mello Act, is beneficial or appropriate for administrative efficiency, and is in compliance with State law.

Attached to this Agreement are Interim Administrative Procedures (Exhibit A). These procedures shall remain in effect until the Interim Ordinance is adopted and effective.

## A. OBJECTIVES

City Procedures shall accomplish the following objectives:

1. Each Application in the Coastal Zone that conforms to the definition of a Demolition, Conversion or New Housing Development shall be identified.
2. Each residential structure proposed for Demolition or Conversion for purposes of a non-Coastal-Dependent, non-residential use shall be identified.
3. Each Application in the Coastal Zone identified as being subject to the Mello Act shall receive the proper Mello Act compliance review and determination based on that review, pursuant to City Policies and City Procedures, regardless if the Application is regulated by any geographically specific plan or Local Coastal Program. This requirement shall also apply to any Application exempted from the requirement to obtain a coastal development permit.
4. Each determination which requires findings shall be supported by such written findings, which in turn shall be supported by evidence in the file which contains the determination.

## B. INITIAL SCREENING AND ROUTING

The City shall develop and implement a procedure to identify each Application subject to the Mello Act. The procedure shall consist of the following steps:

1. **Step one. Determine Coastal Zone location.**

The City shall determine which Applications are located in the Coastal Zone. If an Application is located in the Coastal Zone, the City shall go to step two.

2. **Step two. Identify Conversions, Demolitions and New Housing Developments.**

The City shall identify Applications that involve one or more Residential Units, and determine if any of these Applications conform to the definition of a Demolition, Conversion or New Housing Development. If Demolitions, Conversions or New Housing Developments are identified, the City shall go to step three below.

3. **Step three. Identify Categorically Exempt Applications.**

The City shall identify Applications which are determined to be Categorically Exempt from providing either Affordable Replacement Units or Inclusionary Residential Units

as set forth in City Policies and the Mello Act. If the City identifies Applications as Categorically Exempt, the City shall go to step four. If the City identifies Applications as not being Categorically Exempt, the City shall review these Applications for compliance with the Mello Act as set forth in City Procedures.

4. **Step four. Send notice of Categorically Exempt Applications.**

The City shall simultaneously send notice of determinations that an Application is Categorically Exempt pursuant to step three above, within five working days of the date the determination is made, to the Applicant and to other parties specified in City Procedures. In addition, the City shall simultaneously send notice to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective. Notice of determinations that an Application is Categorically Exempt because the residential structure has been declared a public nuisance shall also be simultaneously sent to all building occupants.

Determinations that a proposed Demolition, Conversion or New Housing Development is Categorically Exempt are appealable pursuant to City Procedures.

**C. DEMOLITIONS AND CONVERSIONS**

For each Discretionary and Non-Discretionary Application determined not to be Categorically Exempt, the City shall complete a Mello Act compliance review to determine the total number of Affordable Replacement Units the Applicant is required to provide pursuant to the Mello Act and City Policies.

The compliance review shall be structured to answer the questions and follow the procedures and steps listed below. The City shall prepare and use a worksheet to complete each Mello Act compliance review. The City shall attach supporting documentation to each completed worksheet.

1. **Question #1. Will residential structures be demolished or converted for purposes of a non-residential use?**

If the answer to question #1 is "yes," and existing residential structures are proposed for Demolition or Conversion for purposes of a non-residential use, then the City shall go to question #2 to determine if the proposed use is Coastal-Dependent.

If the answer to question #1 is "no," the City shall skip to question #4 to determine if any of the Residential Units proposed for Demolition or Conversion are Affordable Existing Residential Units.

2. **Question #2. Is the proposed non-residential use Coastal-Dependent?**

If the answer to question #2 is "yes," the City shall skip to question #4. If the answer to question #2 is "no," the City shall go to question #3.

3. **Question #3. Is a residential use feasible at this location?**

The City shall presume that a continued residential use is feasible. Applicants may challenge the City's presumption by presenting substantial evidence to the contrary. The City shall consider the following in reviewing an Applicant's challenge to the City's presumption:

- 3.1 The Applicant has the burden of proof. Proximity to other existing, viable residential uses is strong evidence that a residential use is feasible.
- 3.2 An Applicant may not claim infeasibility merely because the site is zoned commercial. Commercial zones in the City of Los Angeles generally permit residential uses. However, in some cases a "Q" or "D" limitation may be imposed on a particular property which prohibits residential uses.
- 3.3 If the existing, underlying zoning or any other applicable regulation prohibits all residential uses, then the Applicant may cite those facts if the Applicant is challenging the City's presumption. If an Applicant has non-conforming or other rights which permit a continued residential use, then the Applicant may not contend that the existing zoning renders a residential use infeasible.
- 3.4 An Applicant may not initiate and obtain approval for a zone change which prohibits residential uses and subsequently claim infeasibility based on that zone change.
- 3.5 An Applicant may not claim infeasibility merely because the site is zoned industrial if a Zoning Administrator had previously approved joint living and work quarters for that site. A Zoning Administrator's grant runs with the land.
- 3.6 An Applicant may not claim financial infeasibility unless it can clearly document an inability to rent or sell the current premises based on the site's unique characteristics or circumstances. Unique characteristics or circumstances include proximity to noxious and incompatible existing uses that are likely to remain, and that render a continued residential use infeasible. If challenging the City's presumption, an Applicant may not cite mere proximity to commercial or industrial uses.
- 3.7 An Applicant may claim infeasibility due to the site's unique geologic or other topographical features which render it unsafe for human habitation. Applicants must provide supporting documentation.

- 3.8 An Applicant may not claim infeasibility because the current premises are dilapidated or are in a state of disrepair due to the Applicant's failure to make reasonable repairs or to adequately maintain the site. The City may require the Applicant to correct substandard conditions before it will further consider an Applicant's challenge of the City's presumption.

The City may require that an independent analysis of the alleged risks of other uses or hazards be performed by an expert acceptable to the City, at the Applicant's expense.

If the Applicant has proved with substantial evidence that a residential use is infeasible, the City shall record a "no" answer to question #3, and go to question #4.

If the Applicant has not proved with substantial evidence that a residential use is infeasible, the City shall record a "yes" answer to question #3. The City shall stop the Mello Act compliance review process and deny the Discretionary or Non-Discretionary Application to demolish or convert a residential structure for purposes of a non-Coastal-Dependent, non-residential use, regardless of the income of current or past occupants; the form of ownership; or rents charged, for-sale prices, or appraised value.

4. **Question #4. Are any Affordable Existing Residential Units Proposed for Demolition or Conversion?**

City Procedures shall identify occupants in structures proposed for Demolition or Conversion who may have a Very Low, Low or Moderate Income. City Procedures shall follow the steps below:

- 4.1 Step one. Send general notice to all occupants of structures proposed for Demolition or Conversion. This notice shall contain the following: (a) a description of the proposed Demolition or Conversion; (b) an explanation of the purpose of the Mello Act and the City's Mello Act compliance review process; (c) a description of the rights that building occupants determined to have a Very Low, Low or Moderate Income shall have, including a right of first refusal on an Affordable Replacement Unit; (d) a referral to a specified source of further assistance, to be selected by Western Center on Law and Poverty, Inc.; and (e) a City telephone number to call for additional information.
- 4.2 Step two. Identify long-term vacant residential units. A Residential Unit shall not be classified as an Affordable Existing Residential Unit if it has been unoccupied for more than 365 consecutive days prior to the Application's filing. The Applicant has the burden of proving long-term vacancy. If the Applicant has established long-term vacancy, then the City shall not classify the Residential Unit as an Affordable Existing Residential Unit.

4.3 Step three. Determine occupant income based on Monthly Housing Cost or actual income data. The City may determine occupant income using Monthly Housing Cost as a substitute for actual income, or by collecting and verifying actual income. If current Monthly Housing Cost data indicate that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If not, the City shall collect prior Monthly Housing Cost data for at least the previous three years. If the average Monthly Housing Cost over this period indicates that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If three years of Monthly Housing Cost data is not available or readily obtainable, then the City shall determine occupant income through the direct collection and verification of actual income data.

If occupant income is based on Monthly Housing Cost, the City shall go to step four. If occupant income is based on actual income, the City shall: (a) go to step five if the person or family does not have a Very Low, Low or Moderate Income; or (b) go to step six if the person or family does have a Very Low, Low or Moderate Income.

4.4 Step four. Verify accuracy of occupant income based on Monthly Housing Cost data. The City shall provide occupants and Applicants with the opportunity to verify the accuracy of occupant income determinations based on Monthly Housing Cost. The City shall provide persons and families presumed not to have a Very Low, Low or Moderate income with the opportunity to submit data verifying actual income. Likewise, the City shall provide Applicants with a roster of occupants presumed to have a Very Low, Low or Moderate Income, who may then submit data verifying actual income.

The City is responsible for verifying the accuracy of any submitted income data. The City shall use actual income data to correct any incorrect occupant income determinations based on Monthly Housing Cost. Based on this review, the City shall (a) go to step five if the person or family does not have a Very Low, Low or Moderate Income; or (b) go to step six if the person or family does have a Very Low, Low or Moderate Income.

4.5 Step five. Identify and determine if any evictions were for the purpose of evading the Mello Act. The City shall conduct an investigation to carry out the following provision set forth in Government Code Section 65590 (b): For purposes of this subdivision, a residential dwelling unit shall be deemed occupied by a person or family of low or moderate income if the person or family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit, and if the eviction was for the

purpose of avoiding the requirements of this subdivision. If a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of an application to convert or demolish the structure, the evictions shall be presumed to have been for the purpose of avoiding the requirements of this subdivision and the applicant for the conversion or demolition shall bear the burden of proving that the evictions were not for the purpose of avoiding the requirements of this subdivision. The City shall identify those Residential Units presumed to have a Very Low, Low or Moderate Income based on its investigation. After completing step five, the City shall go to step six.

4.6 Step six. The City shall prepare a report summarizing the results of the occupant income determination process for occupants of structures proposed for Demolition or Conversion. This report shall contain the following information for each structure:

4.6.1 One-family dwellings: total number of Residential Units and total number of Affordable Existing Residential Units.

4.6.2 Two-family dwellings: Total number of Residential Units and total number of Affordable Existing Residential Units.

4.6.3 Triplexes and other structures that contain three or more Residential Units: total number of Residential Units and total number of Affordable Existing Residential Units.

4.6.4 Summary: total number of Residential Units and total number of Affordable Existing Residential Units.

The report shall also provide the following information for each identified Affordable Existing Residential Unit:

4.6.5 Address;

4.6.6 Names of occupants; and

4.6.7 Number of bedrooms.

5. **Question #5. Is the Application for Coastal-Dependent or Coastal-Related Non-Residential uses? Are these non-residential uses consistent with the land use plan of a certified Local Coastal Program?**

If the answer to both questions is "yes," the City shall skip to question #8. If the answer to either question is "no," the City shall go to question #6.

6. **Question #6. Are eleven or more Residential Units proposed for Demolition or Conversion?**

If the total number of Residential Units proposed for Demolition or Conversion is ten or fewer, the City shall record a "no" answer to question #6 and go to question #7. If the Applicant is proposing to demolish or convert eleven or more Residential Units, the City shall record a "yes" answer to question #6, and require that all of the Affordable Existing Residential Units identified by the answer to question #4 be replaced as a condition of Application approval.

7. **Question #7. Are any Affordable Existing Residential Units in one-family or two-family dwellings?**

If the answer to question #7 is "yes," the City shall go to question #8. If the answer to question #7 is "no," and all of the Affordable Existing Residential Units identified by the answer to question #4 are in triplexes and other structures that contain three or more Residential Units, the City shall require that all of these units be replaced as a condition of Application approval.

8. **Question #8. Is it infeasible for the Applicant to replace any of the Affordable Existing Residential Units identified by answers to questions #5 and #7?**

If the answer to question #8 is "yes," the City shall determine the number of Affordable Replacement Units it is infeasible for the Applicant to provide, and record this number on the worksheet. The City shall then subtract this number from the number of Affordable Existing Residential Units identified by the answer to question #4. This is the total number of required Affordable Replacement Units. The City shall require the Applicant to provide this number of Affordable Replacement Units as a condition of Application approval.

If the answer to question #8 is "no," then it's feasible for the Applicant to replace all Affordable Existing Residential Units identified by the answer to question #4. This is the total number of required Affordable Replacement Units. The City shall require the Applicant to provide this number of Affordable Replacement Units as a condition of Application approval.

City Policies and City Procedures with regard to question #8 shall include the City's consideration of typical public subsidies, and other affordable housing incentives available by-right. Until the Interim Ordinance is adopted and becomes effective, the City shall answer question #8 pursuant to the provisions set forth in the Interim Administrative Procedures (Exhibit A). Thereafter the City shall answer question #8 by following the provisions set forth in those City Policies and City Procedures in effect after the Interim Ordinance is adopted and becomes effective. After January 31, 2001 the City shall not use Attachment 3 to Exhibit A (Form CP-6391) to answer question #8.

#### **D. NEW HOUSING DEVELOPMENTS**

City Procedures shall implement the standards concerning the provision of Inclusionary Residential Units in New Housing Developments set forth in City Policies.

#### **E. IN-LIEU FEES**

City Procedures shall implement the provisions concerning In-Lieu Fees set forth in City Policies.

#### **F. DETERMINATIONS**

City Procedures shall specify that a determination shall be issued for each Demolition, Conversion, and New Housing Development determined not to be Categorically Exempt.

For Discretionary Applications, the City shall issue the determination as written conditions attached to the determination made with respect to the underlying case. All completed forms, correspondence received and sent, and other supporting documentation shall be attached to the file the City creates for the underlying case.

For Non-Discretionary Applications, the City shall issue the determination as a Director's Determination. The City shall prepare a file, and attach all completed forms, correspondence received and sent, and other supporting documentation.

The City shall simultaneously transmit a copy of each determination to the Applicant, all building occupants, and any other parties specified in City Procedures. In addition, the City shall simultaneously transmit a copy of each determination to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective.

**1. Demolitions and Conversions**

Each determination shall include the following:

- 1.1 Results of the Mello Act compliance review process completed pursuant to City Procedures;
- 1.2 Total number of identified Affordable Existing Residential Units;
- 1.3 Total number of required Affordable Replacement Units;
- 1.4 A requirement that the Applicant comply with the requirements set forth in City Policies and City Procedures;
- 1.5 A statement that the City shall not approve the Application until the City has approved the Affordable Housing Provision Plan prepared pursuant to City Procedures; and
- 1.6 Information for Appellants pursuant to City Procedures.

**2. New Housing Developments**

Each determination that includes a requirement that the Applicant provide Inclusionary Residential Units shall include the following:

- 2.1 A requirement that the Applicant comply with the requirements concerning Inclusionary Residential Units set forth in City Policies.
- 2.2 Total number of required Inclusionary Residential Units.
- 2.3 A requirement that the Applicant comply with the requirements set forth in City Policies and City Procedures.
- 2.4 A statement that the City shall not approve the Application until the City has approved the Affordable Housing Provision Plan pursuant to City Procedures.
- 2.5 Information for Appellants pursuant to City Procedures.

**G. AFFORDABLE HOUSING PROVISION PLAN**

City Procedures shall require Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units to prepare and submit for the City's review and approval an Affordable Housing Provision Plan which specifies

how the Applicant shall comply with City Policies. The City's approval of the Affordable Housing Provision Plan shall be a condition of Application approval.

The City shall require the Affordable Housing Provision Plan to include the following elements:

1. **Methods to Provide Required Affordable Units**

The Affordable Housing Provision Plan shall specify the methods by which Applicants shall provide required Affordable Replacement Units or Inclusionary Residential Units, as permitted by City Policies.

2. **Operational Details**

The Affordable Housing Provision Plan shall contain the following operational details:

- 2.1 Address where Affordable Replacement Units or Inclusionary Residential Units will be provided, if the determination permits these units to be provided off-site.
- 2.2 General description of the Affordable Replacement Units or Inclusionary Residential Units to be provided, including the number and type of habitable rooms; square footage; and parking.
- 2.3 Affordable housing incentives and subsidies that will be utilized.
- 2.4 Methods for complying with the Performance Standards set forth in City Policies, including a dispersal plan if Affordable Replacement Units or Inclusionary Residential Units shall be provided on-site. Affordable Replacement Units or Inclusionary Residential Units may not be segregated from market-rate units, but shall be reasonably dispersed throughout the building; and
- 2.5 Financing; construction plan; and project timetable for complying with the timing requirements set forth in City Policies for Affordable Replacement Units and Inclusionary Residential Units.

**H. APPEALS**

The City shall permit determinations to be appealed. City Procedures shall include the following requirements and provisions:

1. **General Information**

Each determination issued pursuant to City Procedures shall identify deadlines, filing fees, the appellate body, and other necessary procedures and requirements for considering the appeal.

2. **Burden of Proof and Findings**

Appellants shall have the burden of proof. Applicants shall present substantial evidence to support their appeal supported by specific facts. In granting an appeal, the appellate body shall find that the appeal is consistent with the Mello Act.

3. **Notice**

The City shall simultaneously transmit a copy of the results of each appeal to the Applicant, all building occupants and any other parties specified in City Procedures. In addition, the City shall simultaneously transmit a copy of the results of each appeal to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective.

4. **Discretionary Applications**

The appeals procedures and appellate body shall be those connected to the underlying case.

5. **Non-Discretionary Applications**

Appellants may appeal a Director's Determination using the forms and following the City Procedures promulgated by the City. Until July 1, 2000, the appellate body shall be the Board of Zoning Appeals. After July 1, 2000, the appellate body shall be the Area Planning Commission.

6. **Department of Building and Safety Actions**

Appellants may appeal Department of Building and Safety decisions and determinations to the Board of Building and Safety Commissioners pursuant to Los Angeles Municipal Code Section 98.0403.1.

**I. MONITORING AND ENFORCEMENT**

The City shall monitor and enforce compliance with all conditions set forth in determinations.

1. **Approval of Applications**

The City shall not issue any permits or other approvals for any Applications determined not to be Categorically Exempt until the Applicant has satisfied all conditions set forth in the determination and City Policies and City Procedures.

2. **Monitoring**

2.1 If the determination requires the provision of Affordable Replacement Units or Inclusionary Residential Units, the City shall require the Applicant to comply with the monitoring requirements set forth in Section IV C of the Affordable Housing Incentives Guidelines (page 10 of Exhibit C).

2.2 The City may require Applicants to submit periodic progress reports which describe the progress the Applicant is making in implementing the approved Affordable Housing Provision Plan.

2.3 The City shall conduct annual monitoring of all Affordable Replacement Units and Inclusionary Residential Units to insure that they continue to be available at an Affordable Monthly Housing Cost and occupied by Very Low, Low and Moderate Income Households. The City's monitoring procedures may include a requirement that owners of Affordable Replacement Units and Inclusionary Residential Units submit tenant income information to the City that has been verified by third party sources, and that meets the same standards for income verification as the requirements set out in the City's HOME and Community Development Block Grant (CDBG) programs.

3. **Affordability Covenants**

3.1 The City shall require Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units pursuant to an approved Affordable Housing Provision Plan to record a covenant with the Los Angeles County Recorder guaranteeing that these units shall remain available at an Affordable Monthly Housing Cost for not fewer than the number of years specified in City Policies, from the date the City issues the Certificate of Occupancy. The covenants recorded with the County Recorder's office shall run with the land and be enforceable by the City.

3.2 Tenants, rental applicants, purchasers and prospective purchasers of the Affordable Replacement Units or Inclusionary Residential Units shall have the right to seek an injunction to enforce the affordability criteria, or to raise the affordability criteria as a defense or counterclaim to a claim for rent or possession directly against the owner, manager, and/or their successors in interest, of those units.

4. **Financial Assurances**

The City may require Applicants to post a bond or make other financial assurances to assure compliance with the final approved Affordable Housing Provision Plan.

5. **Certificates of Occupancy**

The City shall not issue final certificates of occupancy for any of the buildings in a New Housing Development or Conversion until all of the conditions set forth in the determination have been satisfied in full, and all required affordability covenants have been recorded.

6. **Right of First Refusal**

The City shall require Applicants to provide notice to the City when an Affordable Replacement Unit becomes available for occupancy. The City shall then require the Applicant to provide notice to the occupants of the Affordable Existing Residential Unit that was demolished or converted. The notice shall explain that if the occupants have a qualifying income, they shall have a right of first refusal on the Affordable Replacement Unit.

**VII. FOLLOW-UP ACTIONS**

**A. MAPPING**

1. **Coastal Zone Maps**

The City shall prepare maps which identify those lots and properties that are located in the Coastal Zone portions of the City of Los Angeles. A draft of these maps is attached as Exhibit D.

2. **Three Mile Radius Maps**

The City shall prepare maps which depict those areas of the City of Los Angeles that are located within a three mile radius of the inland boundary of the Coastal Zone. A draft of these maps is attached as Exhibit E.

**B. LEGISLATIVE ACTIONS**

The City Council has agreed that it shall take the following legislative actions:

1. **Motions**

The City Council shall adopt the following motions:

- 1.1 A motion which rescinds the Board of Zoning Appeals policy set out in the July 24, 1990 memo regarding presumptions on appeals; and
- 1.2 A motion which supersedes the March 20, 1984 report from the Planning and Environment Committee adopted by the City Council (File No. 81-6299).

## 2. **Ordinances**

### 2.1 Mello Act Implementation Ordinances

The City Council shall adopt Interim and Permanent Ordinances to implement the Mello Act and the provisions of this Agreement; and to establish Administrative Fees which shall be charged to Applicants to recover the City's costs in administering the Mello Act, City Policies, City Procedures, and the provisions of this Agreement.

### 2.2 Coastal Zone Affordable Housing Trust Fund Ordinance

The City Council shall adopt an ordinance which establishes the Coastal Zone Affordable Housing Trust Fund.

### 2.3 Simultaneous Application of Rental Housing Production Fees and In-Lieu Fees

The City Council shall adopt an ordinance amending Los Angeles Municipal Code Section 12.95.2(K) providing for the simultaneous application of Rental Housing Production Fees and In-Lieu Fees, as specified in Section VI G 4 of this Agreement.

### 2.4 Rent Stabilization Ordinance and Condominium Conversion Provisions

The City shall evaluate its Rent Stabilization Ordinance (RSO) and condominium conversion provisions to determine if any amendments are needed to make them consistent with City Policies and City Procedures. If so, the City shall prepare the necessary amendments and submit them to the City Council for review and possible action.

## **C. CONSULTANT CONTRACTS**

The City shall enter into one or more consulting contracts to complete studies to assist it in implementing the provisions of this Agreement and the Mello Act; and to develop City Policies and City Procedures. These studies shall be made available to the Plaintiffs and the public within five working days of the City's receipt of these studies from the consultants. Consultants shall be available for reasonable consultations with the Plaintiffs and the Plaintiffs' attorneys during and following any study.

1. **Interim Study**

The City shall enter into a contract with the consulting firm of Hamilton, Rabinovitz & Alschuler (HR&A) to complete the Interim Study. The scope of work for this contract is included as Exhibit B.

2. **Longer-Term Study**

The City shall enter into a contract with a qualified consultant to complete the Longer-Term Study. Among other provisions, the contract scope of work shall require the consultant to:

- 2.1 To take into consideration the public subsidies and other incentives the City typically utilizes to encourage affordable housing in evaluating proposed City Policies regarding the feasibility of Affordable Replacement Units and Inclusionary Residential Units, as required by the Mello Act; and
- 2.2 Determine the amount of In-Lieu Fees sufficient to provide, in aggregate, the same number and type of Inclusionary Residential Units otherwise required by City Policies, the Mello Act and this Agreement.

**D. ANNUAL REPORT**

The City shall prepare and annually release to the public a report which contains, at a minimum, the following information for the preceding year:

1. The number of new Residential Units for which the City issued building permits in the Coastal Zone;
2. The number of Inclusionary Residential Units that the City required to be provided either within the Coastal Zone, or within three miles of the Coastal Zone;
3. The number and location of new Inclusionary Residential Units for which construction was completed, either within the Coastal Zone or within three miles of the Coastal Zone;
4. The number and location of Affordable Existing Residential Units approved for Demolition or Conversion;
5. The number of Affordable Replacement Units that the City required to be provided either within the Coastal Zone, or within three miles of the Coastal Zone; and

6. The number and location of Affordable Replacement Units for which construction was completed either within the Coastal Zone, or within three miles of the Coastal Zone.

Information concerning Affordable Existing Residential Units, Affordable Replacement Units, and Inclusionary Residential Units shall be organized by the following sub-categories:

7. Very Low Income Households;
8. Low Income Households; and
9. Moderate Income Households.

#### **E. WORK PROGRAM**

Upon the date this Agreement is executed, the City shall initiate a work program to implement the terms of this Agreement. The City shall submit to the plaintiffs quarterly progress reports which describe the reasonable further progress the City is making. The City shall complete the following work program tasks by the dates referenced below, with the understanding, however, that there may be minor and reasonable delays in completing these tasks by these dates:

<b>Task</b>	<b>Date</b>
1. Prepare and release Interim Administrative Procedures (Exhibit A).	The Interim Administrative Procedures were released on May 17, 2000.
2. Execute consultant contract with HR&A to complete Interim Study (VII C 1).	The consultant contract was executed on July 7, 2000.
3. City Council rescinds Board of Zoning Appeals policy. (VII B 1.1).	Within 60 days of Date of Execution of this Agreement.
4. City Council rescinds March 20, 1984 report from the Planning and Environment Committee. (VII B 1.2).	Within 60 days of Date of Execution of this Agreement.
5. Prepare and release final Coastal Zone maps (VII A 1).	October 5, 2000.
6. Prepare and release final Three Mile Radius maps (VII A 2).	October 5, 2000.

7.	Prepare and submit to the plaintiffs the first required quarterly progress report covering the period from the Date of Execution through and including September 30, 2000.	October 16, 2000. Thereafter quarterly progress reports shall be submitted no less than 10 working days after the end of the quarter.
8.	Complete Interim Study (Exhibit B).	October 1, 2000.
9.	Prepare and submit Interim Ordinance to City Planning Commission (VII B 2.1).	December 2, 2000.
10.	Prepare and submit ordinance establishing the Coastal Zone Affordable Housing Trust Fund to City Council (VII B 2.2).	December 2, 2000.
11.	Prepare and submit to the City Council an ordinance concerning the simultaneous application of Rental Housing Production and In-Lieu Fees. (VII B 2.3).	February 2, 2001.
12.	Review Rent Stabilization Ordinance and condominium conversion provisions, and prepare any necessary amendments. Submit ordinance (s) to City Council. (VII B 2.4).	February 2, 2001, if the City determines any amendments are necessary.
13.	Revise and release Interim Administrative Procedures. Complete related administrative forms and documents (Exhibit A).	Within 30 working days of effective date of Interim Ordinance.
14.	Select consultant to complete Longer-Term Study (VII C 2).	June 1, 2001.
15.	Prepare and release the first annual report (VII D) covering the period from the Date of Execution through and including June 30, 2001. Thereafter, the annual report shall be prepared covering the period from July 1 through June 30 of the following year.	September 17, 2001. Thereafter the annual report shall be prepared and released within 60 working days of June 30.
16.	Execute contract with selected consultant to complete Longer-Term Study (VII C 2).	October 1, 2001.

17. Complete Longer-Term Study (VII C 2).	October 1, 2002.
18. Prepare and submit Permanent Ordinance to City Planning Commission (VII B 2.1).	January 10, 2003.
19. Prepare and release Permanent Administrative Procedures. Revise related administrative forms and documents (Exhibit A).	Within 30 working days of effective date of Permanent Ordinance.

### **VIII. AGREEMENT**

NOW THEREFORE, the Parties agree as follows:

#### **A. DISMISSAL OF ACTION WITH PREJUDICE**

Within 28 business days after the City executes this Agreement, the Plaintiffs agree to file with the Court a Request for Dismissal of the Action with prejudice.

#### **B. PAYMENT OF PLAINTIFFS' ATTORNEYS' FEES, COSTS AND EXPENSES**

Within 28 business days after the parties execute this Agreement, the City shall deliver a check in the amount of \$\_\_\_\_\_ [to be inserted later] made payable to Western Center on Law and Poverty, Inc., as payment for all claims by Plaintiffs in this action for attorneys' fees, costs and expenses. Western Center on Law and Poverty, Inc., shall assume responsibility for distributing this payment to the different attorneys and law firms that represented Plaintiffs in this Action.

#### **C. GENERAL RELEASES**

##### **1. Claims Defined**

For purposes of this Agreement, the term "Claims" shall be defined as any actions, claims, demands, suits, liens, debts, dues, damages, judgments, bonds, executions, and liabilities of whatever kind, nature or description whatsoever, known or unknown, suspected or unsuspected, arising out of, or in any way related to the City's implementation of the Mello Act prior to the Date of Execution of this Agreement.

2. **Releases**

Except as otherwise set forth in this Agreement, the Parties hereby fully, finally, and forever release and discharge each other of and from all manner of Claims.

3. **Waiver of Civil Code Section 1542**

The Parties acknowledge that if they hereafter discover facts in addition to or different from those which they may now know or believe to be true with respect to the subject matter of this Agreement, it is nevertheless their intention to fully and forever settle and release any and all Claims. In furtherance of this intention, the Parties, acknowledge that they are familiar with section 1542 of the California Civil Code which provides:

"A general release does not extend to [Claims] which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

The Parties hereby waive and relinquish any rights and benefits they may have under section 1542, and represent that section 1542 has been fully explained to them by their attorneys.

**D. FURTHER ASSURANCES**

The Parties agree to execute, acknowledge and deliver any and all additional papers, documents and other assurances and shall perform any and all acts and things reasonably necessary in connection with the performance of the obligations under this agreement and to carry out the intent of the Parties.

**E. OWNERSHIP OF CLAIMS**

The Parties hereby warrant that they are the owners of, and the Party legally entitled to settle and release, every Claim referred to in this agreement.

**F. INDEPENDENT ADVICE AND INVESTIGATIONS**

Each Party represents and warrants that it has received independent legal advice from its attorneys with respect to the execution of this Agreement and that it has read this Agreement and understands its contents. Each Party represents and warrants that it has made such investigation of the facts pertaining to the settlement set forth in this Agreement and of all matters pertaining thereto as it is independently deemed necessary and appropriate. Each Party further represents and warrants that it has relied solely upon facts obtained from its own investigations and upon the advice of its own attorneys and legal representatives in executing this

Agreement and that it has not relied upon any statement or representation of any other Party or their attorneys or representatives.

**G. MISTAKE**

In entering into this Agreement, each Party assumes the risk of any mistake. If any Party should subsequently discover that any fact relied upon by it in entering into this Agreement was untrue or that its understanding of the facts or the law was incorrect, that Party shall not be entitled to relief in connection herewith and including without limitation on the generality of the foregoing, no Party shall have any right or claim to set aside or rescind this Agreement. This Agreement is intended to be and is final and binding between the Parties to the agreement regardless of any claims of mistake of fact or law.

**H. GOVERNING LAW**

This Agreement shall be governed by and construed under the laws of the State of California.

**I. ENTIRE AGREEMENT**

This Agreement constitutes the entire understanding of the Parties with respect to its subject matter. All prior and contemporaneous conversations, negotiations, possible or alleged agreements, covenants, releases, representations and warranties in respect of the subject matter of this Agreement are integrated herein and superseded by this Agreement.

**J. SEVERABILITY**

In the event any part of this Agreement should be found invalid, unenforceable, or nonbinding, the remaining portion will remain in force and fully binding.

**K. AGREEMENT NEGOTIATED**

The text of this Agreement is the product of negotiation among the Parties and their counsel and is not to be construed as having been prepared by one party or the other.

**L. HEIRS, SUCCESSORS AND ASSIGNS**

This Agreement shall bind and inure to the benefit of the Parties and their heirs, successors and assigns.

**M. EXECUTION IN COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.

**N. MODIFICATIONS****1. Time Limit Extensions**

Any time limit contained in this Agreement may be extended by the mutual agreement of the parties in writing, which agreement will reasonably be given.

**2. City Procedures**

In addition to the authority for modification set forth in Part VI, the parties may also agree to modify the City Procedures contained in this Agreement; however, any such modification must be in writing and signed by the parties' respective counsel.

**O. ENFORCEMENT OF AGREEMENT**

If any party allegedly breaches this Agreement, then the party alleging the breach shall notify the breaching party in writing. The notice shall set forth, with reasonable particularity, the alleged breach. The party alleged to have breached this Agreement shall meet with the party giving notice and attempt to resolve the alleged breach within 30 days of the mailing of the notice of alleged breach. If the parties cannot resolve the alleged breach, either party may seek judicial relief by filing a new action in Los Angeles Superior Court to enforce the terms of this Agreement. The aggrieved party may seek judicial relief prior to the expiration of 30 days if necessary to prevent the expiration of any rights, claims, or causes of action or to prevent irreparable harm. The following individuals or entities shall be entitled to enforce this Agreement as assignees of the Plaintiffs specified in Section VIII P:

Venice Community Housing Corporation;  
Dan Tokaji; and  
Linda Lucks.

**P. NOTICES**

Any notices, reports or other documents required to be provided pursuant to this Agreement shall be sent by first class mail to the parties at the following addresses, or any subsequent address or person provided by a party:

1. Plaintiffs

Richard A. Rothschild  
Western Center on Law and Poverty  
3701 Wilshire Boulevard, Suite 208  
Los Angeles, CA 90010

Robert Jacobs  
Law Office of Robert Jacobs  
12240 Venice Boulevard, Suite 25A  
Los Angeles, CA 90066

2. City of Los Angeles

Franklin P. Eberhard, Deputy Director  
Department of City Planning  
221 North Figueroa Street, 16<sup>th</sup> Floor  
Los Angeles, CA 90012

**Q. NOTICE REQUIRED**

In addition to any notices otherwise required by this Agreement, Defendants shall provide Notice to Plaintiffs until two years after the Permanent Ordinance is adopted as follows:

1. Notice shall be given no less than 24 days prior to:
  - 1.1 Any proposed change in any City Policies or City Procedures regarding the Mello Act;
  - 1.2 Any proposal to adopt or amend any ordinances or resolutions implementing the Mello Act, including any ordinances proposed as a result of any of the consultant studies referenced in this Agreement;
  - 1.3 Any submission of any local coastal plan or any land use portion of a Local Coastal Program to the Coastal Commission for approval, pursuant to Public Resources Code Section 30512.
2. Notice shall be given within 15 days of any changes to the maps defining or describing the Coastal Zone, or the description of such boundaries.
3. Notice shall be given within five days of receipt of any studies, including interim reports (deliverables), commissioned by the City in conjunction with the Mello Act.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth below.

Date: CITY OF LOS ANGELES  
By \_\_\_\_\_  
Its \_\_\_\_\_

Date: VENICE TOWN COUNCIL, INC.  
By \_\_\_\_\_  
Its \_\_\_\_\_

Date: CAROL BERMAN  
\_\_\_\_\_

Date: BARTON HILL NEIGHBORHOOD ORGANIZATION  
By \_\_\_\_\_  
Its \_\_\_\_\_

APPROVED AS TO FORM:

Date: CITY OF LOS ANGELES  
JAMES K. HAHN, City Attorney  
By \_\_\_\_\_  
Its \_\_\_\_\_

Date:

WESTERN CENTER ON LAW AND  
POVERTY, INC.  
LAW OFFICES OF ROBERT JACOBS  
LEGAL AID FOUNDATION OF LONG  
BEACH

By \_\_\_\_\_

**Los Angeles Office**

3701 Wilshire Boulevard  
Suite 208  
Los Angeles, CA 90010-2809  
Telephone: (213) 487-7211  
Fax: (213) 487-0242

Deborah J. Cantrell  
*Executive Director*

Richard A. Rothschild  
*Director of Litigation*

Robert D. Newman  
*Attorney at Law*

Clare Pastore  
*Attorney at Law*

Yolanda C. Vera  
*Attorney at Law*

Emma Leheny  
*Skadden Fellow*

Paula Gaber  
*Liman Fellow*

**Sacramento Office**

1225 Eighth Street, Suite 415  
Sacramento, CA 95814-4879  
Telephone: (916) 442-0753  
Fax: (916) 442-7966

Casey McKeever  
*Directing Attorney*

Christine Minnehan  
*Legislative Advocate*

Holly J. Mitchell  
*Legislative Advocate*

**Oakland Office**

449 Fifteenth Street, Suite 301  
Oakland, CA 94612-2038  
Telephone: (510) 891-9794  
extension: 125  
Fax: (510) 891-9727

Dara L. Schur  
*Attorney at Law*

<http://www.wclp.org/>

August 28, 2000

**Via Facsimile and U.S. Mail**

Claudia Culling  
Deputy City Attorney  
1800 City Hall East  
200 North Main Street  
Los Angeles, California 90012-4130

Re: The Venice Town Council, Inc., et al. v. City of Los Angeles  
Case No. BC 089678

Dear Ms. Culling:

After protracted negotiations, the parties have reached agreement on every issue in this case with the exception of attorneys' fees, costs and out-of-pocket expenses. You recently informed us that you would recommend that the City Council make a counter offer to us that is less than half of our settlement offer concerning fees, costs and expenses. As will be discussed more below, we cannot accept your counter offer. Nevertheless, in a good faith effort to resolve this case, we are willing to deduct nearly \$50,000 from our earlier proposal. If the City Council is willing to accept our revised proposal, then we have a deal. Alternatively, we would be willing to enter into an agreement with the City Council which resolves every issue in this case except for fees, costs and expenses. The parties would also agree to continue their negotiations over fees, etc. (perhaps using a mediator or the assistance of our settlement judge) and, failing such agreement after a reasonable period of time, submit the matter to the court for resolution.

**Summary of Fee Negotiations to Date**

To recap the fee negotiations, plaintiffs, by letter dated May 26, 2000, offered to settle for \$465,586.44 in fees and \$10,560.44 in reimbursement for out-of-pocket expenses. The fee figure was based on the number of hours documented by each attorney and law clerk times a reasonable hourly rate. In addition, we subtracted hours that we did not believe should be billed to the City, and then took a voluntary 5% across-the-board reduction to account for any other arguably unproductive time.

Your letter of July 28 reports that the City retained an auditor to review our fee request. Based on the auditor's analysis, you stated that you will recommend to

Claudia Culling  
August 28, 2000  
Page 2

the City Council a \$225,000 settlement. In a later telephone conversation with plaintiffs' counsel Bob Newman, you said that you had no intention of negotiating, but would present the \$225,000 figure to the Council. You said you would permit plaintiffs an opportunity to respond.

### **Why the City Should Continue to Negotiate**

We hope that you will reconsider your refusal to negotiate. The Western Center on Law and Poverty, which will receive the major portion of any fee award, is a non-profit legal services program that receives no federal funding and is thus dependent in large part on court awarded attorneys' fees in successful cases like this one. The work of the Center benefits poor people throughout the City. We have litigated along side the City, as we did in *City of Los Angeles v. County of Los Angeles*, which resulted in reforms preventing the County from arbitrarily terminating people from General Relief, often at City expense. We have worked directly for the City, as we did a few years ago when we studied the effects on poor communities of redlining by financial institutions. Similarly, co-counsel Robert Jacobs has devoted most of his private practice to representing poor people, often in *pro bono* cases, work that is beneficial to the residents of this City.

Even in this case, where we were adversaries, the work that counsel did will benefit the City. The settlement agreement will ensure that for the first time when developers propose to tear down low income housing in the Coastal Zone there will be a decent opportunity to save that housing, or at least to insure that replacement housing will be built. In addition, there is a much greater chance as a result of this suit that new housing in the Coastal Zone will include affordable housing. In the midst of an ongoing housing crisis, this can only benefit the City.

While none of this means that the City should accept our fee request regardless of its merits, it does militate against presenting plaintiffs with a "take it or leave it" offer of less than 50 cents on the dollar. The parties should negotiate in good faith based on the merits of the fee request. With that hope in mind, we will respond as best we can to your letter and make a counter-offer.

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August 28, 2000  
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### Responses to Concerns Raised Concerning Fee Request

Unfortunately, you have not shared with us the auditor's report, making a rebuttal rather difficult. The best we can do is respond to the general concerns raised in your letter.

Preliminarily, the fact that a document is labeled an "auditor's" report does not confer added legitimacy to the contents of the report. Unlike in the accounting field where auditors are licensed and have to conform to certain standards, here an "auditor" is simply a person hired by a defendant to critique a plaintiff's fee request. The auditor may or may not know anything about the case, and may nor may not know much about the governing substantive law or attorneys' fees case law. The only certainty is that unless the auditor recommends major reductions in the fee request, he or she is unlikely to find future work in this field. In cases my colleagues and I have litigated, judges have never put great stock in "auditors'" reports generated by defendants.

This auditor's report, as summarized by you, should fare no better. First, you question the extent to which plaintiffs were prevailing parties. Contrary to your characterization, the Court of Appeal completely reversed the judgment against plaintiffs. *Venice Town Council v. City of Los Angeles*, 47 Cal.App.4th 1547 (1996). Far from being satisfied with the language of the opinion, the City unsuccessfully petitioned for rehearing in the Court of Appeal and later review in the California Supreme Court.

While the Court of Appeal opinion did state that a court could not order the City to enact a particular ordinance or program (*id.* at 1561), it does not follow that plaintiffs failed to achieve prevailing party status. "The critical fact is the impact of the action, not the manner of its resolution. A prevailing party should not be penalized for seeking an out of court settlement, thus helping to lessen docket congestion." *Folsom v. Butte County Assn. of Governments*, 32 Cal.3d 668, 685, 186 Cal.Rptr. 589 (1982) (citation and internal quotation marks omitted) (awarding fees to plaintiffs who achieved favorable settlement). While there may have been limits to what a court would have ordered, we were confident of obtaining some declaratory and injunctive relief requiring the City to comply with the Mello Act. If the City did not then implement appropriate procedures, and the Act continued to be ignored, we would have continued to litigate until achieving compliance. By settling the suit instead, the parties achieved the same result. This does not disqualify plaintiffs from a fee award.

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August 28, 2000  
Page 4

Your suggestion that we achieved our goals merely through “successful constituent lobbying of elected officials” is simply wrong. As our time records show, only a handful of the many hundreds of hours in the settlement phase could were spent contacting Council members. The remaining hours were devoted to hammering out draft after draft of settlement documents, meeting with you and City staff (there were at least 18 face-to-face meetings) and all the other tasks needed to resolve this lawsuit. Plaintiffs are entitled to fees.

As for the appropriate amount, you contend first that “various charges would be unrecoverable even if brought before the court as they are insufficiently documented or not recoverable as appropriate categories. . . .” The “insufficiently documented” claim is incorrect. Plaintiffs have documented their hours to a *greater* degree than required by California law. *See, e.g., Best v. California Apprenticeship Council*, 193 Cal.App.3d 1448, 1470 (1987) (“an award under [42 U.S.C.] section 1988 does not require contemporaneously recorded time sheets, although they are preferred.”) (emphasis in original); *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1810 (1996) (where counsel did not keep time records “they should be able to produce estimates based on the functions performed that will allow the court to properly calculate the lodestar amount.”); *Martino v. Denevi*, 182 Cal.App.3d 553, 559 (1986) (“an attorney need not submit contemporaneous time records in order to recover attorney fees . . . .”).

In this case, the hours are all documented by detailed descriptions of the date work was done and the services performed, based on contemporaneous time records. You suggested in a conversation with Mr. Newman that some of the conversations recorded do not indicate the subject matter, but these are a rather small minority of the entries, and since most of them took place in the midst of settlement negotiations it is not difficult to ascertain “the functions performed . . . .” *Martino*, 182 Cal.App.3d at 559. We cannot respond to your other claim concerning “appropriate categories” because you have not explained it.

Next, you contend that the billing rates are not prevailing rates for the size of plaintiffs’ counsel’s firms. Declarations I have gathered in recent cases indicate that the rates we seek are consistent with rates charged by private firms of varying sizes. The top rate we seek is \$375 per hour for John Huerta, who started practice in 1970, and was, at the time of his participation in the suit, the former number two attorney int the Justice Department’s Civil Rights Division and a well respected civil rights litigator. A 1974 or 1975 graduate—four or five years *less experienced* than Mr. Huerta—would be billed at \$450 per hour at Feder & Mills, a *two-person* bankruptcy

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August 28, 2000  
Page 5

firm; \$500-\$600 per hour at Trope & Trope, a 25-lawyer firm; and \$450 per hour at O'Neill, Lysaght & Sun (17 lawyers). A 1971 graduate is billed at \$495 per hour at Ross, Sacks & Glazier, a ten-attorney probate litigation firm.

Moreover, as the Council can see from the Mello Act procedures it previously approved and the settlement agreement before it now, the *quality* of the work performed is easily equivalent to the work done by large private law firms. The rates we seek are reasonable.

Finally, you question compensating travel time for Dara Schur. In Davis v. City and County of San Francisco, 976 F.2d 1536, 1543 (1992), the court affirmed an award that included full compensation for travel time where "counsel have submitted evidence establishing that local attorneys customarily bill their clients for travel time . . . ." Declarations I have gathered in recent cases indicate that the prevailing custom in Los Angeles is to bill fully for time necessarily spent traveling on a case.

You state that Ms. Schur's participation was "for the convenience of the plaintiffs, but not necessary for the litigation . . ." Once Mr. Huerta left the Western Center, there were very few attorneys we could call upon with the expertise of Ms. Schur in the intricacies of low income housing, inclusionary requirements and other land use issues. That expertise was critical to forging a settlement that would actually lead to affordable housing opportunities. We tried to associate in local counsel with that kind of expertise—Carlyle Hall—and he agreed to participate in the suit. Unfortunately, *the City* refused to permit Mr. Hall to do so on the ground that he was representing the Airport Commission in an unrelated matter, so we were forced to turn to Ms. Schur. The City is not in a position now to complain about paying for Ms. Schur's travel time.

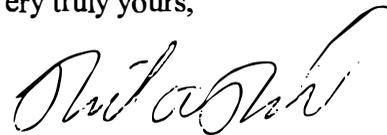
#### **Plaintiffs' Counter-Offer**

Nonetheless, as travel time is not an issue that has been decided yet in California state courts, for purposes of settlement we will reduce our claim by \$25,000, one half of your estimate of how much was billed for travel time. That would bring our claim to \$440,000.

Claudia Culling  
August 28, 2000  
Page 6

In addition, as we cannot rule out the possibility that the auditor might have found legitimate, or at least arguable reasons for a reduction, we are willing to reduce our claim by another 5%. We are willing to settle for \$418,000 in fees and \$10,560.44 in out-of-pocket expenses.

Very truly yours,



Richard A. Rothschild  
Attorney for Plaintiffs

cc: Robert Jacobs  
Dara Schur  
Robert Newman  
Deborah Cantrell

PRINT-VIEW RECORD(S) ▼

Previous Record

Next Record

*Record 2 of 3***DOCID**

98-0255

**STATUS**

c

**CHNGDATE**

1/26/00

**TITLE**

VENICE TOWN COUNCIL

**AUTHOR**

City Atty R98-0036

**SUBJECT**

Req Ccl consider settlement offer for Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678

**DATEREC**

2/6/98

**DEPT**

City Atty

**ACTIONS**

2-6-98 - For Ccl - File to B&amp;F Comt Clk

9-16-98 - MEMORANDUM TO FILE - The City Council held a Closed Session on Wednesday, 9-16-98, pursuant to authority provided in California Government Code Section 54956.9(a) to confer with its legal counsel with respect to litigation case entitled Venice Town Council, vs City of Los Angeles, LASC Case No BC 089678 [alleged violation of the Mello Act, Government Code 65590, et seq; considered by B&F Comt on 3-10-98].

The purpose of this memorandum is to note for the record that action was taken by the City Council in Closed Session on the above date, and instructions given to the City Attorney relative to the subject lawsuit.

6-1-99 - For Ccl - City Atty R99-0149 - Req Ccl consider rept re: Venice Town Council v. City of Los Angeles La Superior Court Case No. BC 089678.

6-1-99 - File to Minute Clk - Attn: K. Carter

7-27-99 - Closed Session - Withdrawn from Ccl agenda - Referred to the City Atty

7-28-99 - File to City Atty

12-9-99 - File & City Atty R99-0409 rept received re: Settlement discussion on Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 - to Cal Clk

1-5-00 - MEMORANDUM TO FILE - The City Council held a Closed Session on Wednesday, January 5, 2000, pursuant to authority provided in California Government Code Section 54956.9(a) to confer with its legal counsel relative to settlement discussion in the case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Cast No. BC 089678.

The purpose of this memorandum is to note for the record that the City Council discussed this matter on the above date in Closed Session. The entire matter was continued to 1-19-00, to be considered in Open Session

1-19-00 - File in files

1-19-00 - MEMORANDUM TO FILE - The City Council recessed to Closed Session on Wednesday, January 19, 2000, pursuant to authority provided in California Government Code Section 54956.9(a) to confer with its legal counsel relative to settlement discussion in the case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Cast No. BC 089678.

The purpose of this memorandum is to note for the record that the City Council discussed this matter on the above date in Closed Session. Action was taken in Closed Session

1-26-00 - File in files

Simple Search

Advanced Search

PRINT-VIEW RECORD(S) ▼

Previous Record

Next Record

98-0255

January 19, 2000

PLACE IN FILE

JAN 26 2000

DEPUTY *gc*MEMORANDUM TO FILE

The City Council recessed to Closed Session on Wednesday, January 19, 2000, pursuant to authority provided in California Government Code Section 54956.9(a) to confer with its legal counsel relative to settlement discussion in the case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Cast No. BC 089678.

The purpose of this memorandum is to note for the record that the City Council discussed this matter on the above date in Closed Session. Action was taken in Closed Session.

*Maria Kostrencich*  
MARIA KOSTRENCICH  
Council Clerk

980255.mem

dated December 3, 1999.

2. PRESENT and ADOPT accompanying ORDINANCE OF INTENTION setting the date of MARCH 15, 2000 as the hearing date for maintenance of the following lighting districts, in accordance with Proposition 218, Articles XIIIIC and XIIIID of the California Constitution and Government Code Sections 50078.6, 54954.6 and 54960.1:
  - a. Noeline Avenue and Ventura Boulevard Lighting District
  - b. Osborne Place and Foothill Boulevard Lighting District
  - c. Platt Avenue and Saticoy Street Lighting District

(Board of Public Works Hearing Date: March 6, 2000)

**ITEM NO. (17) - COUNCIL RECESSED TO CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a) - ACTION TAKEN IN CLOSED SESSION**

98-0255 - CONTINUED CONSIDERATION OF PLANNING DEPARTMENT RECOMMENDATIONS  
CD 6 relative to case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 (alleged violation of Mello Act, Government Code 65590, et seq.).

(City Council may recess to Closed Session pursuant to Government Code Section 54956.9(a) to discuss the above matter)

(Continued from Council meeting of January 5, 2000)

**ITEM NO. (18) - CONTINUED TO FEBRUARY 9, 2000**

00-0005 - RESOLUTION accepting the inclusion of property at 1810 West 12th  
S1 Street into the Rent Escrow Account Program [REAP], (Case No. 2847  
CD 1 - waterproofing, plumbing/gas violations, with the effective date of August 9, 1999), as recommended by the REAP Committee on December 14, 1999, based upon the evidence provided during the Formal Conference, pursuant to Ordinance No. 164205; and ADOPT the Findings contained in the Los Angeles Housing Department's Report of November 19, 1999. Assessor I.D. No. 5137-027-006  
Registration No. 0339341

**ITEM NO. (19) - ADOPTED**

00-0005 - RESOLUTION accepting the inclusion of property at 4478 1/2 West  
S2 Rose Hills Drive into the Rent Escrow Account Program [REAP],  
CD 1 (Case No. 2857 - waterproofing, plumbing/gas, heating, electrical, cleanliness, floors/stairways, unapproved use and smoke detectors violations, with the effective date of May 13, 1999), as recommended by the REAP Committee on December 14, 1999, based upon the evidence provided during the Formal Conference, pursuant to Ordinance No. 164205; and ADOPT the Findings contained in the Los Angeles Housing Department's Report of November 19, 1999.

98-0255

January 5, 2000

PLACE IN FILES

JAN 21 2000

DEPUTY

MEMORANDUM TO FILE

The City Council held a Closed Session on Wednesday, January 5, 2000, pursuant to authority provided in California Government Code Section 54956.9(a) to confer with its legal counsel relative to settlement discussion in the case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Cast No. BC 089678.

The purpose of this memorandum is to note for the record that the City Council discussed this matter on the above date in Closed Session. The entire matter was continued to January 19, 2000, to be considered in Open Session.

  
MARIA KOSTRENCICH  
Council Clerk

98-0255.mem

*2 not signed*

*98-0255*

CITY OF LOS ANGELES SPEAKER BOARD

Date 1/19/00

Council File No., Agenda Item, or Case No. 17

I wish to speak before the Council  
Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? ( ) For proposal  
( ) Against proposal  
Name: Don Jacobo  General comments

Business or Organization Affiliation: Counsel for Plaintiffs

Address: 1240 Venice #25A LA CA 90066  
Street City State Zip

Business phone: 310 296 6600 Representing: Plaintiffs

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW:

Client Name: \_\_\_\_\_ Phone #: \_\_\_\_\_

Client Address: \_\_\_\_\_  
Street City State Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

CITY OF LOS ANGELES SPEAKER CARD

Date

1/19/00

Council File No., Agenda Item, or Case No.

17

I wish to speak before the

City Council

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? ( ) For proposal

( ) Against proposal

Name:

Dara Schor

(x) General comments

Business or Organization Affiliation:

Western Center on Law & Poverty

Address:

3701 Wilshire Blvd

Los Angeles

CA

90009-9000

Street

City

State

Zip

Business phone:

213 487 7211 x21

Representing:

Plaintiffs in Venice Town Council v LA

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW:

Client Name:

Phone #:

Client Address:

Street

City

State

Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

**NOTICE OF LOBBYING REGISTRATION**

If you are receiving compensation to make this appearance, the City's municipal lobbying ordinance (L.A.M.C. Section 48.01 et seq., as amended) may require you to register and report your lobbying activity. For more information about the City's lobbying law, contact the City Ethics Commission at (213) 237-0310, by fax at (213) 485-1093 or at 201 N. Los Angeles St., L.A. Mall, Suite 2, Los Angeles, CA 90012.

Information about lobbying the City of Los Angeles may also be found on the Internet by accessing the Ethics Commission site on the City of Los Angeles "home page" located at <http://www.ci.la.ca.us>

JAN 19 2000

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

Council Item No. 17

**PLEASE PRINT**

*PERSONS SEATED AT CENTER TABLE  
TO ANSWER QUESTIONS AND  
PROVIDE INFORMATION TO COUNCIL MEMBERS*

	NAME	TITLE	ORGANIZATION
1.	Alan Bell	PLANNING ASSOC	L.A. CITY PLANNING
2.	Frank Eberhard	Deputy Director of Planning	L.A. City Planning
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			

**CLOSED SESSION - ITEM 32****ITEM NO. (32) - MEETING HELD - NO ACTION TAKEN**

99-2277 - The City Council shall recess to Closed Session, pursuant to Government Code Section 54956.9 (a), to confer with its legal counsel relative to the communication from the City Attorney with respect to discussion in case entitled Hernandez v. Gates, et. al., United States District Court Case No. CV 99-11696-TJH (alleged violation of civil rights).

(Budget and Finance Committee considered this matter on December 7, 1999)

**CONTINUED CLOSED SESSIONS - ITEMS 33-34****ITEM NO. (33) - MEETING HELD - CONTINUED TO JANUARY 19, 2000**

98-0255 - The City Council will recess to Closed Session, pursuant to Government Code Section 54956.9(a), to confer with its legal counsel relative to settlement discussion in case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Case No. BC 089678.

(Continued from Council meeting of December 14, 1999)

**ITEM NO. (34) - MEETING NOT HELD - CONTINUED TO FEBRUARY 2, 2000**

99-1792 - The City Council shall recess to Closed Session pursuant to Government Code Sections 54956.9(a) and 54956.9(b) to confer with its legal counsel relative to litigation in case entitled Korean-American Grocers Association, et al. v. City of Los Angeles, United States District Court Case No. 99-08560 (challenge to City's Ordinance restricting alcohol advertising on on-site and off-site signs) and implications of Lindsay v. Tacoma Pierce County, United States Court of Appeal 98-35416 (health-based Ordinance restricting tobacco outdoor advertising held preempted by federal law).

(Continued from Council meeting of December 15, 1999)

**CLOSED SESSIONS - ITEMS 38-39****ITEM NO. (38) MEETING NOT HELD - CONTINUED TO JANUARY 5, 2000**

98-0255 - The City Council will recess to Closed Session, pursuant to Government Code Section 54956.9(a), to confer with its legal counsel relative to settlement discussion in case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Case No. BC 089678.

**ITEM NO. (39)**

The City Council shall recess to Closed Session, pursuant to Government Code Section 54956.9(a), to confer with its legal counsel relative to the following cases:

- 99-2269 - A. Anthony L. Ogden, et al., v. City of Los Angeles, Los Angeles Superior Court Case BC 180347 (automobile accident at the intersection of 2nd and San Pedro Streets on April 30, 1997 involving a Los Angeles Police Officer).
- 99-2255 - B. Leslie De La Cruz v. City of Los Angeles, Los Angeles Superior Court Case EC 025581 (hit and run accident on October 16, 1997 in the intersection of Lankershim Boulevard and Arminta Street in a marked crosswalk, by a vehicle operated by a Los Angeles Police Officer).
- 99-0591 - C. John A. Francois v. City of Los Angeles, Los Angeles Superior Court Case BC 186536 (police officer alleging race harassment and discrimination in employment, and retaliation for activity protected under state and federal civil rights laws).

**ADJOURNING MOTIONS****COUNCIL ADJOURNMENT**

---

EXHAUSTION OF ADMINISTRATIVE REMEDIES - If you challenge a City action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at or prior to, the public hearing. Any written correspondence delivered to the City Clerk before the City Council's final action on a matter will become a part of the administrative record.

COUNCIL RULE NO. 53 - If an Agenda item or other item has been duly placed before the Council at a Council meeting and the Council has failed by sufficient votes to approve or reject the item, or the Council has not by its vote placed the item beyond its jurisdiction at the meeting, or by operation of law, or by passage of time the Council has not lost the power to act thereon, the item is continued to the next regular meeting unless the Council affirmatively votes to continue the item beyond such next meeting. Each Council Agenda shall indicate that if the Council has not lost jurisdiction over an item voted upon at the meeting, or caused it to be continued beyond the next regular meeting or placed in the archives, the item is continued to the next regular meeting for the purpose of permitting reconsideration of the vote. Any item so continued to the next regular meeting shall be considered at said meeting. The Clerk shall provide the Council with, and post a notice of, a list of such items.

98-0255



JAMES K. HAHN  
CITY ATTORNEY

Office of the City Attorney  
Los Angeles, California

WRITER'S DIRECT DIAL: (213)847-0562  
FAX: (213) 485-8899  
TTY: 38

REPORT NO. R99-0409

DEC 09 1999

~~CONFIDENTIAL REPORT~~ <sup>ke</sup>

SETTLEMENT DISCUSSION ON  
VENICE TOWN COUNCIL V. CITY OF LOS ANGELES  
LOS ANGELES SUPERIOR COURT CASE NO. BC 089678

Honorable City Council  
of the City of Los Angeles  
Room 615, City Hall  
200 North Main Street  
Los Angeles, California 90012

Re: Council File No. 98-0255 - not transmitted

BY CITY CLERK  
99 DEC -9 PM 12:36  
RECEIVED  
CITY CLERK'S OFFICE

Honorable Members:

On September 23, 1993, Venice Town Council, *et al*, sued the City alleging a violation of the Mello Act (Government Code § 65590, *et seq.*). That Act requires, among other things, replacement of demolished and converted low and moderate income housing and provision of affordable units when new housing is developed in the Coastal Zone.

As you may recall, the City successfully demurred to the complaint on the ground that the complaint did not allege that the City violated any mandatory duty. The petitioners appealed, and the Court of Appeal reversed, holding that the plaintiffs sufficiently alleged duties under the Act which the City was obligated to perform. The matter was remanded to the trial court to determine if the City actually violated the Act by not performing those duties.

AN EQUAL EMPLOYMENT OPPORTUNITY — AFFIRMATIVE ACTION EMPLOYER

1800 CITY HALL EAST • 200 N. MAIN STREET • LOS ANGELES, CA 90012-4131 • (213) 485-6370

Honorable City Council  
of the City of Los Angeles  
Page 2

On January 15, 1998, this office received a settlement offer in this case which we forwarded to you for your consideration. On September 16, 1998, you instructed us to prepare a counter-offer and submit it to the plaintiffs. The plaintiffs' response prompted us to report back to you on August 27, 1999, at which time you gave us further instructions. As a result, we have worked with City staff and negotiated with the plaintiffs and come to you with the results of that work and negotiation. We seek your guidance as to how you wish to proceed. You may wish to discuss this matter in *closed* session pursuant to California Government Code § 54956.9(a).

We will be available to answer any questions you may have with regard to this matter.

Very truly yours,

JAMES K. HAHN, City Attorney

By   
CLAUDIA CULLING  
Deputy City Attorney

J. MICHAEL CAREY  
City Clerk

# CITY OF LOS ANGELES

CALIFORNIA



RICHARD J. RIORDAN  
MAYOR

Office of the  
**CITY CLERK**  
Council and Public Services  
Room 615, City Hall  
Los Angeles, CA 90012  
Council File Information - (213) 485-5703  
General Information - (213) 485-5705

CITY ATTORNEY  
LAND USE/ENVIRONMENTAL  
RECEIVED

AUG - 2 1999

AUG 2 - 1999

When making inquiries  
relative to this matter  
refer to File No.

98-0255

City Attorney (w/file)

At the meeting of the Council held July 27, 1999, a motion was adopted that the Closed Session relative to settlement discussion in the case entitled, Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 [alleged violation of the Mello Roos Act, Government Code 65590, et seq.] BE WITHDRAWN from Council agenda and REFERRED BACK TO City Attorney for further consideration.



J. MICHAEL CAREY  
City Clerk

When making inquiries  
relative to this matter  
refer to File No.

CITY OF LOS ANGELES

CALIFORNIA



RICHARD J. RIORDAN  
MAYOR

Office of the  
CITY CLERK  
Council and Public Services  
Room 615, City Hall  
Los Angeles, CA 90012  
Council File Information - (213) 485-5703  
General Information - (213) 485-5705

AUG 2 - 1999

98-0255

City Attorney (w/file)

At the meeting of the Council held July 27, 1999, a motion was adopted that the Closed Session relative to settlement discussion in the case entitled, Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 [alleged violation of the Mello Roos Act, Government Code 65590, et seq.] BE WITHDRAWN from Council agenda and REFERRED BACK TO City Attorney for further consideration.



**CLOSED SESSION - ITEM 30****ITEM NO. (30) WITHDRAWN FROM COUNCIL AGENDA - REFERRED TO THE CITY ATTORNEY**

98-0255 - The City Council will recess to Closed Session, pursuant to Government Code Section 54956.9(a), to confer with its legal counsel relative to settlement discussion in the case Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 [alleged violation of the Mello Roos Act, Government Code 65590, et seq.]

**CONTINUED CLOSED SESSION - ITEM 31****ITEM NO. (31) RECEIVED AND FILED, INASMUCH AS THIS MATTER HAS BEEN ACTED ON BY COUNCIL PREVIOUSLY**

The City Council shall recess to Closed Session, pursuant to Government Code Section 54957.6, to consider recommendations of the Executive Employee Relations Committee concerning further bargaining instructions to the City Administrative Officer, and other issues involving employee wages and benefits with respect to the following:

Special Memorandum of Understanding regarding City employee parking and commute options.

(Continued from Council meeting of April 27, 1999)

**ADJOURNING MOTIONS****COUNCIL ADJOURNMENT**

---

EXHAUSTION OF ADMINISTRATIVE REMEDIES - If you challenge a City action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at or prior to, the public hearing. Any written correspondence delivered to the City Clerk before the City Council's final action on a matter will become a part of the administrative record.

COUNCIL RULE NO. 53 - If an Agenda item or other item has been duly placed before the Council at a Council meeting and the Council has failed by sufficient votes to approve or reject the item, or the Council has not by its vote placed the item beyond its jurisdiction at the meeting, or by operation of law, or by passage of time the Council has not lost the power to act thereon, the item is continued to the next regular meeting unless the Council affirmatively votes to continue the item beyond such next meeting. Each Council Agenda shall indicate that if the Council has not lost jurisdiction over an item voted upon at the meeting, or caused it to be continued beyond the next regular meeting or placed in the archives, the item is continued to the next regular meeting for the purpose of permitting reconsideration of the vote. Any item so continued to the next regular meeting shall be considered at said meeting. The Clerk shall provide the Council with,

## ITEM NO. (27)

99-0993 - MOTION (MISCIKOWSKI - HERNANDEZ) relative to a personal services contract with Michael A. Jimenez to provide services to the Eleventh Council District.

## Recommendations for Council action:

1. APPROVE the personal services contract with Michael A. Jimenez to provide services to the Eleventh Council District from May 10, 1999 to June 30, 1999, in an amount not to exceed \$1,800 from funds available in the Council Office Budget.
2. AUTHORIZE the Councilmember of the Eleventh Council District to execute said contract on behalf of the City.
3. INSTRUCT the City Clerk to encumber the necessary funds against the Contractual Services Account of the Council Fund for the Fiscal Year 1998-99.

## ITEM NO. (28)

98-1627 - FINAL MAP OF TRACT NO. 52495 lying southwesterly of Fenton Avenue and southeasterly of Astoria Street  
(Approve Subdivision Improvement Agreement and Contract with attached security documents)  
(ADOPT Bond No. C-98139)  
(Quimby Fee: \$73,334.00)  
(Expiration Date: May 29, 2001)  
Applicants: Kaufman & Broad of Southern California, Inc.  
Pace Engineering, Inc.

## ITEMS CALLED SPECIAL

## PUBLIC TESTIMONY ON NON-AGENDA ITEMS

## MOTIONS FOR POSTING AND REFERRAL

## COUNCILMEMBERS' REQUESTS FOR EXCUSE FROM ATTENDANCE AT COUNCIL MEETINGS

## CLOSED SESSION - ITEM 29

## ITEM NO. (29) MEETING NOT HELD - CONTINUED TO JULY 27, 1999

98-0255 - The City Council will recess to Closed Session, pursuant to Government Code Section 54956.9(a), to confer with its legal counsel relative to settlement discussion in the case Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 [alleged violation of the Mello Act, Government Code 65590, et seq.]

For Wednesday, June 9, 1999 - Konrad

CLOSED SESSION - ITEM

ITEM NO. ()

98-0255 - The City Council will recess to Closed Session, pursuant to Government Code Section 54956.9(a), to confer with its legal counsel relative to settlement discussion in the case Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 [alleged violation of the Mello Act, Government Code 65590, et seq.]

98-0255.age

JUL 27 1999 - Mtg Not Held - Withdrawn from Council Agenda - Referred to the City Atty

CF 98-1760

September 16, 1998

PLACE IN FILES  
OCT 15 1998  
MEMORANDUM TO FILE

The City Council held a Closed Session on Wednesday, September 16, 1998, pursuant to authority provided in California Government Code Section 54956.9(a) to confer with its legal counsel with respect to litigation case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 [alleged violation of the Mello Act, Government Code 65590, et seq; considered by the Budget and Finance Committee on March 10, 1998].

The purpose of this memorandum is to note for the record that action was taken by City Council in Closed Session on the above date, and instructions given to the City Attorney relative to the subject lawsuit.

  
MARIA KOS TRENCICH  
Legislative Assistant I/Assistant Minute Clerk

PLEASE SCHEDULE THE FOLLOWING ITEM FOR CLOSED SESSION ON  
WEDNESDAY, SEPTEMBER 16, 1998, per B&F Comte:

Tks,

mk

CLOSED SESSION

ITEM NO. () -

98-0225 - The City Council shall recess to Closed Session, pursuant to Government Code Section 54956.9(a), to confer with its legal counsel relative to litigation case entitled, Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678, [Alleged violation of the Mello Act, Government Code 65590, et seq; considered by Budget and Finance Committee on March 10, 1998].



**JAMES K. HAHN**  
CITY ATTORNEY

**Office of the City Attorney**  
**Los Angeles, California**

CRIMINAL BRANCH  
(213) 485-5452

CIVIL BRANCH  
(213) 485-6370

WRITER'S DIRECT DIAL

(213) 485-6420  
NUMBER

FAX: (213) 485-8899

REPORT NO. R98 0036

FEB 05 1998

REPORT RE:

SETTLEMENT OFFER

VENICE TOWN COUNCIL V. CITY OF LOS ANGELES  
LOS ANGELES SUPERIOR COURT CASE NO. BC 089678

Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

Honorable Members:

On September 23, 1993, Venice Town Council, *et al*, sued the City alleging a violation of the Mello Act (Government Code § 65590, et seq.). That Act requires, among other things, replacement of demolished and converted low and moderate income housing and provision of affordable units when new housing is developed in the Coastal Zone.

The City successfully demurred to the complaint on the ground that the complaint did not allege that the City violated any mandatory duty. The petitioners appealed, and the Court of Appeal reversed, holding that the plaintiffs sufficiently alleged duties under the Act which the City was obligated to perform. The matter was remanded to the trial court to determine if the City actually violated the Act by not performing those duties.

On January 15, 1998, this office received the attached settlement offer in this case. We are forwarding that offer to you for your consideration. You may wish to discuss this matter in *closed* session pursuant to California Government Code § 54956.9(a).



RECEIVED  
CITY CLERK'S OFFICE

98 FEB -6 AM 9:09

BY \_\_\_\_\_  
CITY CLERK  
DEPUTY

Honorable City Council  
of the City of Los Angeles  
Page 2

We will be available to answer any questions you may have with regard to this matter.

Very truly yours,

JAMES K. HAHN, City Attorney

By *Claudia Culling*  
CLAUDIA CULLING  
Deputy City Attorney

CC:rp  
Attachment

(56717)

CPC-2019-7393-CA

EXHIBIT J – Department Request to Initiate Mello  
Ordinance

DEPARTMENT OF  
CITY PLANNING  
CITY PLANNING COMMISSION

DAVID H. J. AMBROZ  
PRESIDENT

RENEE DAKE WILSON  
VICE-PRESIDENT

ROBERT L. AHN  
CAROLINE CHOE  
RICHARD KATZ  
JOHN W. MACK  
SAMANTHA MILLMAN  
VERONICA PADILLA  
DANA M. PERLMAN

JAMES K. WILLIAMS  
COMMISSION EXECUTIVE ASSISTANT II  
(213) 978-1300

CITY OF LOS ANGELES  
CALIFORNIA



ERIC GARCETTI  
MAYOR

EXECUTIVE OFFICES  
200 N. SPRING STREET, ROOM 525  
LOS ANGELES, CA 90012-4801

MICHAEL J. LOGRANDE  
DIRECTOR  
(213) 978-1271

LISA M. WEBBER, AICP  
DEPUTY DIRECTOR  
(213) 978-1274

JAN ZATORSKI  
DEPUTY DIRECTOR  
(213) 978-1273

FAX: (213) 978-1275

INFORMATION  
<http://planning.lacity.org>

January 28, 2016

The Honorable Planning and Land Use Committee of the City Council, City of Los Angeles  
c/o City Clerk, Room 395  
200 North Spring Street,  
Los Angeles, California 90012

**CF 15-0129**  
**CPC 2005-8252-CA**

**Previous related Council Files: CF 12-0600-S62, CF 11-2146, CF 08-1151, CF 05-1425, CF 02-0198, CF 98-0255.**

Honorable Members,

You requested the Department report to you on preparing a permanent ordinance and on various current matters regarding implementation of the Mello Act within the Coastal area in the City of Los Angeles.

The primary reasons there is a call for such an ordinance are the increased pace of development of modest sized residential projects, community's desire to protect the existing affordable housing stock, and to provide greater affordable housing opportunities in the coastal areas.

The Mello Act is a state law, which went into effect in January 1982, intended to protect and increase the supply of affordable housing in California's Coastal Zone. The law imposes two primary duties on local governments. First, a city or county may not approve a project that removes or converts existing housing units occupied by low or moderate-income households, unless provision is made for their one-for-one replacement with new affordable units. Exceptions based on feasibility are provided. Second, a city or county may not approve a new housing development unless it provides the affordable units it can feasibly accommodate. The exceptions and rules based on "feasibility" complicate the local enforcement and administration of the Mello Act.

In the City of Los Angeles, the Mello Act applies to the Pacific Palisades, Venice-Playa Del Rey and San Pedro-Harbor areas that collectively have a population of around 100,000 persons. A settlement agreement that went into effect in January 2001 resolved a lawsuit filed against the City in 1993. The settlement agreement created a document called the "Interim Administrative Procedures," designed to give further specificity to an interim Mello Act policy that the Council had actually adopted many years before in July 1982.

CF 15-0129  
CPC 2005-8252-CA

Page 2 of 2

The Interim Administrative Procedures are the City's current mechanism for implementing the state Mello Act. Those procedures require that developers of residential projects within the coastal zone areas of the City both replace existing affordable housing at the project site and, in addition, set aside a specified percentage of the project's units for lower income residents or buyers. The procedures also require that such set-aside units be built on the same site as the project or off-site at another property in the coastal zone, upon the granting of a feasibility waiver by the West Los Angeles Area Planning Commission.

The Interim Administrative Procedures were adopted by City Council in May 2000. At various times since then, the Department of City Planning has brought forward a draft permanent Mello Act Ordinance for adoption. The most recent time that this occurred was in 2008. At that time, the Planning Department prepared a staff report regarding the enactment of such an ordinance, along with a draft ordinance were sent from the City Planning Commission with a recommendation for approval to the City Council. In 2011, the draft ordinance was revisited but consensus could not be reached on revisions to the draft ordinance.

The settlement requires the City to hire a consultant to study the kinds of residential development projects typically proposed in the Coastal Zone and their capacity to provide affordable housing. Since any affordable housing requirement is an added cost of development, the consultant will determine how much of a contribution can be imposed without making the project financially infeasible. If the required contribution were set so high that it causes developers to stop building in the Coastal Zone, then the housing that remains would become even more unaffordable than it already is. An effective affordable housing policy, on the other hand, would address the real estate market's failure to provide housing for low and moderate-income families without causing it to shut down. An adopted Mello Ordinance would, at long last, provide the City with permanent Mello Act regulations.

The Planning Department and the Housing and Community Investment Department (HCID) have been monitoring implementation of the Interim Administrative Procedures. The Planning Department, as part of the ongoing geographic reorganization, has created a unit to manage and process all applications in the coastal area. The Department adjusted the processing of Mello applications within the Venice Specific Plan in January 2015 and in August 2015 the same unit was assigned to review and process all new Coastal Development Permit and Mello applications. Starting the first quarter of 2016, a manager is assigned for only the Coastal areas of the City. Planning Department and HCID will continue to monitor implementation of the Interim Administrative Procedures. The Department is requesting funding in the Budget process for a Housing Monitoring Unit and a Code Amendment Unit. These units would assist in the preparation of an ordinance and provide on going monitoring of the Mello Act.

The Interim Administrative Procedures allow applicants to submit a financial feasibility analysis report under certain circumstances. The Planning Department has generated a list of economic consultants and is searching for resources to provide for expert review of financial feasibility analysis reports.

If you have any questions regarding this matter, please contact Senior City Planner Simon Pastucha at (213) 978-0628. He or another member of this Department will be available when you consider this matter to answer any questions you may have.

Sincerely,



Michael LoGrande  
Director  
Department of City Planning

CPC-2019-7393-CA

EXHIBIT K – Motion (2/3/15) to re-initiate Mello Ordinance

MOTION

PLANNING & LAND USE MANAGEMENT

The Los Angeles rental market is the least affordable in the country, according to a study from UCLA's Zimmer Center for Real Estate published last fall. In the Coastal Zone, access to affordable housing is even more limited than in the City as a whole. As land prices along the coast continue to skyrocket, generations who have worked and lived near the coast can no longer afford to live there. In order to address the particular affordability issues facing the Coastal areas throughout California, the state legislature approved the Mello Act, a statewide law enacted in the 1970s that seeks to preserve, replace, and develop housing for persons and families with low or moderate incomes in California's Coastal Zone.

In 2000, the City Council adopted the *Interim Administrative Procedures For Complying with the Mello Act*. City Council was particularly concerned that every application for a project that triggered the Mello Act, whether discretionary or non-discretionary, receive the proper review. As such, the *Interim Administrative Procedures* spelled out the review process, initial decision maker, forms, supporting documentation, appeal process, and appellate body for Mello Act compliance review. The Departments of Building and Safety, City Planning, and Housing and Community Investment were obligated to administer, enforce, and monitor the provisions of the Mello Act in accordance with these procedures until a permanent ordinance was adopted.

With the increased pace of development in our coastal areas, and in particular within the Venice Coastal Zone, the pressure on affordable housing is as high as it has ever been. The City must do everything it can to ensure that we are protecting affordable housing opportunities.

**I THEREFORE MOVE** that the Council direct the Planning Department and Housing and Community Investment Department in consultation with the City Attorney to prepare a permanent ordinance to implement the Mello Act, including a requirement for all new housing developments that are subject to the Mello Act to provide affordable housing.

**I FURTHER MOVE** that the City Council direct the Planning Department and Housing and Community Investment Department to report back within 90 days on the Departments' implementation of the *Interim Administrative Procedures*, for both discretionary and non-discretionary applications. The report should include any applications, forms, financial feasibility analyses, other documentation, determination letters, and appeal procedures currently in place and an analysis of the status of implementation of the *Interim Administrative Procedures*.

**I FURTHER MOVE** that the Planning Department report back on the status of hiring a third party to review the financial feasibility analysis when analyzing whether or not the affordable units should be provided on-site or off-site, as part of a financial feasibility analysis.

PRESENTED BY:



MIKE BONIN  
Councilmember, 11<sup>th</sup> District

SECONDED BY:



FEB 3 2015



ORIGINAL

CPC-2019-7393-CA

EXHIBIT L – Motion (4/16/19) to re-initiate Mello  
Ordinance

**MOTION**      **PLANNING & LAND USE MANAGEMENT**

Los Angeles and California are suffering from a housing crisis, and the *affordable* housing crisis has reached extreme and epic levels. The Los Angeles rental market is one of the least affordable in the country. Existing affordable housing is under assault. Families are being displaced from their long-time homes and neighborhoods, contributing to homelessness.

This problem is particularly acute in coastal areas, where the cost of land and rents have skyrocketed. Protecting, preserving and creating affordable housing in the Coastal Zone is the mandate of the Mello Act, approved by the state legislature in 1982.

In 2000, the City Council adopted "Interim Administrative Procedures For Complying with the Mello Act." The City Council was particularly concerned that every application for a project that triggered the Mello Act, whether discretionary or non-discretionary, receive the proper review. As such, the Interim Administrative Procedures spelled out the review process, initial decision maker, appeal process, and appellate body for Mello Act compliance review. The Departments of Building and Safety, City Planning, and Housing and Community Investment were involved with the administration of the provisions of the Mello Act, in accordance with these procedures until a permanent ordinance was adopted. Nearly 20 years later, City Council has yet to enact a permanent ordinance.

With the increased pace of development in our coastal areas, and in particular within the Venice Coastal Zone, the pressure on affordable housing is as high as it has ever been. The need for tough and enforceable affordable housing rules in the Coastal Zone are as necessary as ever. The City must do everything it can to ensure that it is protecting affordable housing opportunities. In 2015, with the cooperation of Council District 11 and affordable housing activists, city department began work on revising and strengthening regulations as they worked on a draft permanent ordinance. It is time to approve such an ordinance.

The permanent Mello ordinance for the City of Los Angeles should be tougher and more comprehensive than the interim guidelines, doing even more to protect, preserve and promote affordable housing in the Coastal Zone. A permanent ordinance should use the Interim Administrative Procedures as a starting point and a baseline, and go further, strengthening the current process, closing loopholes that may exist, and maximizing affordable housing preservation and creation in the Coastal Zone. A permanent ordinance should require all new housing developments that are subject to the Mello Act to provide affordable housing.

I THEREFORE MOVE that the Council direct the Planning Department and Housing and Community Investment Department, in consultation with the City Attorney, to prepare and present a permanent ordinance to implement the Mello Act, including a requirement for all new housing developments that are subject to the Mello Act to provide affordable housing.

PRESENTED BY:   
MIKE BONIN  
Councilmember, 11<sup>th</sup> District

SECONDED BY: 

APR 16 2019



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