



AGENDA SUMMARY EUREKA CITY COUNCIL

TITLE: 5th and Myrtle Rights-of-Way Vacation and Surplus Property

DEPARTMENT: Development Services - Planning

PREPARED BY: Lisa Savage, Senior Planner

PRESENTED FOR: Action Information only Discussion

RECOMMENDATION

Hold a public hearing; and

Adopt a resolution finding the summary vacation of the 5th Street and Myrtle Avenue rights-of-way is exempt from CEQA, and ordering the summary vacation; and

Adopt a resolution finding the surplus of City-owned land formerly known as the 5th Street and Myrtle Avenue rights-of-way is exempt from CEQA, and declaring the land surplus property.

FISCAL IMPACT

No Fiscal Impact Included in Budget Additional Appropriation

COUNCIL GOALS/STRATEGIC VISION

- 2040 General Plan GOAL E-1: A welcoming and supportive environment for businesses to grow, thrive and continue to contribute positively to Eureka's economy.
- 2040 General Plan Policy LU-1.9: Existing Buildings and Sites. Support economic investment in and incentives for improvements to existing buildings and sites including facade improvements, new paint and signage, retrofitting, adaptive reuse, and upgraded landscaping and paving.

DISCUSSION

Figure 1: General Project Location

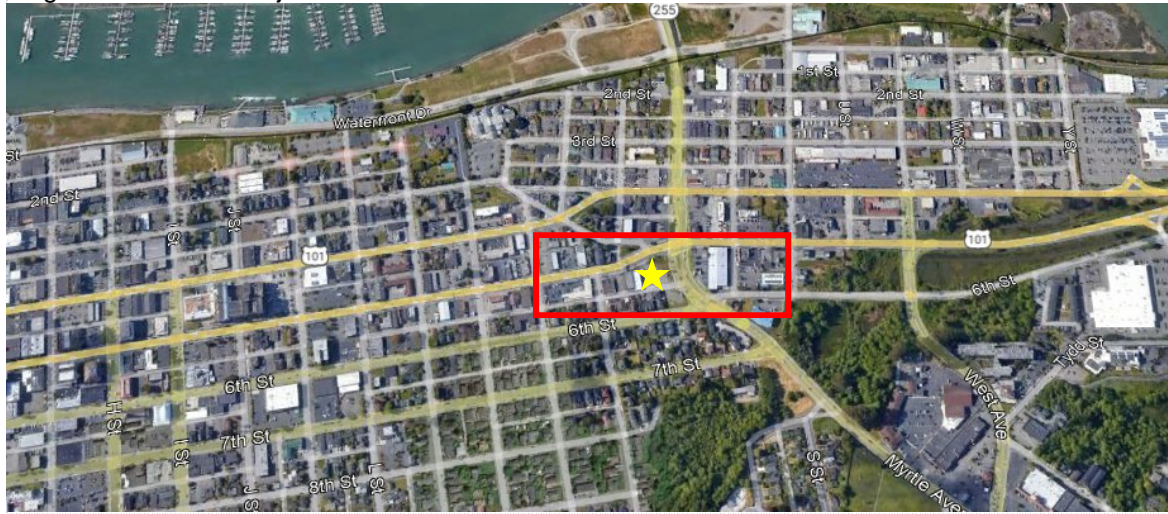


Figure 2: Street Vacation/Surplus Property Area (Aerial View)



As a result of the 5th and R Street realignment, portions of the 5th Street and Myrtle Avenue rights-of-way became unnecessary for public road use. In 2003, Caltrans relinquished and transferred portions of their 5th Street right-of-way to the City, and the City accepted the transfer via Resolution No. 2003-25. The transferred portions are shown as Segments 1, 2, and 3 on Figure 3 (below). Segment 1 is being retained by the City as a landscaped area and Segment 3 is now a portion of the new Myrtle Avenue alignment. Segment 2 and a closed portion of Myrtle Avenue are currently proposed to be relinquished. Part of the right-of-way vacated by Caltrans was purchased directly from Caltrans by Pacific Outfitters, and is shown on Figure 3 below as “Formerly Frisbee”. The portion of the right-of-way to be vacated, which totals approximately 10,225 square feet in size, is shown on Figure 4, below.

The City of Eureka intends to vacate the right-of-way and surplus the underlying City-owned land, while retaining easements for utilities (Figure 5). Pacific Outfitters has been maintaining the land since 2003 as part of their parking lot, parking lot entrance from 5th Street, and as a grassy area, and is interested in purchasing the subject property. Since a portion of the property is located in the Coastal Zone (Figure 6), if Pacific Outfitters were to purchase the property and apply for a project, such as a Lot Line Adjustment, a Coastal Development Permit may be required.

The City obtained a property appraisal in April of 2017 from Childs Appraisal Service. The Fair Market Value for the property is \$33,000. Since there is some uncertainty as to whether the City or Boss Development Corporation has the underlying fee ownership for the small triangular piece of the 5th Street right-of way, it is not included in the valuation, but is included regarding the analysis for vacation and surplus purposes.

Figure 3: Relinquishments to the City of Eureka from Caltrans

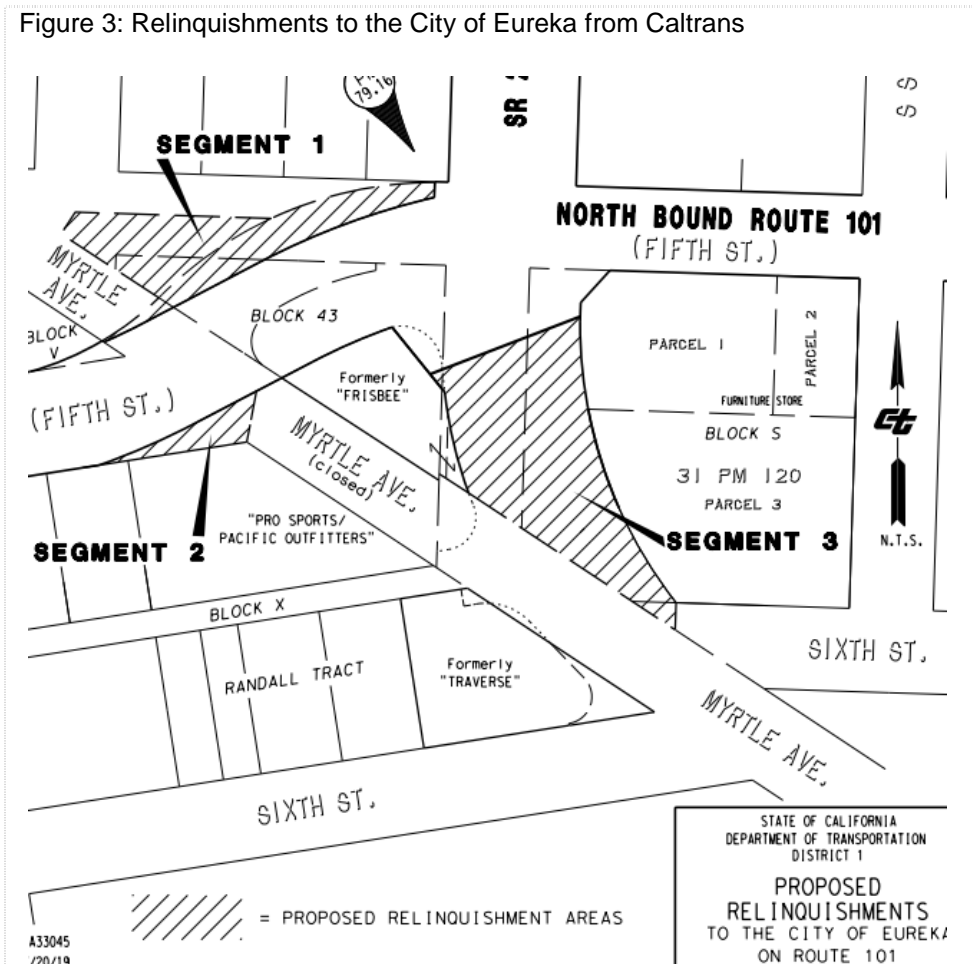


Figure 4: Street Vacation/Surplus Property Area

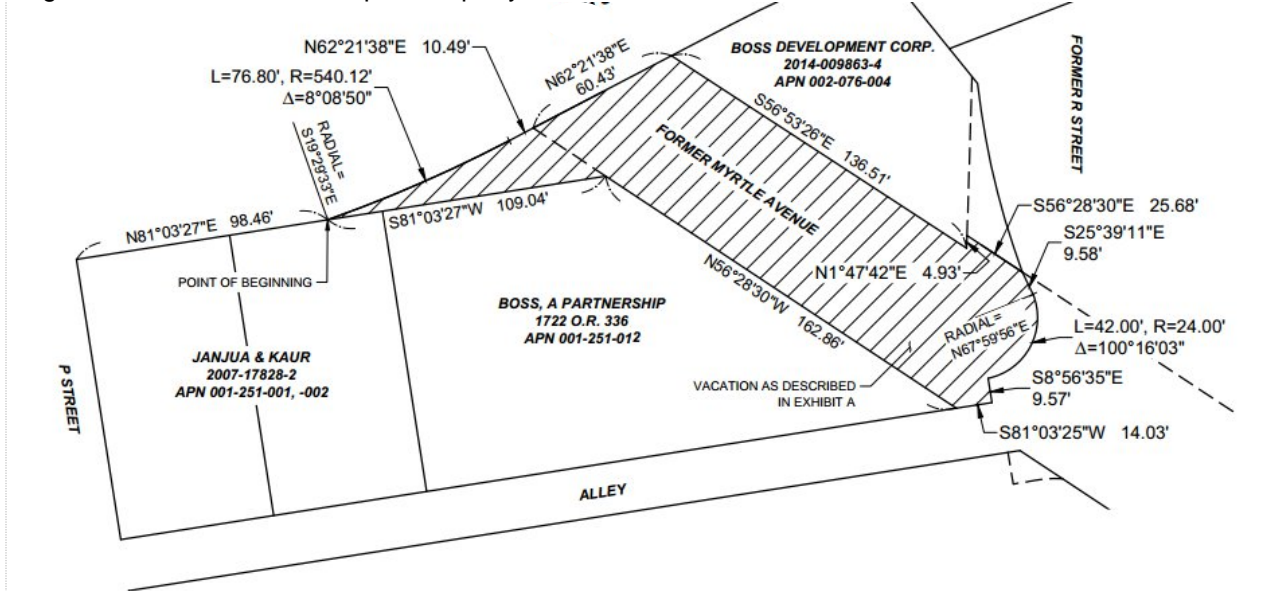


Figure 5: Easements to be retained by City

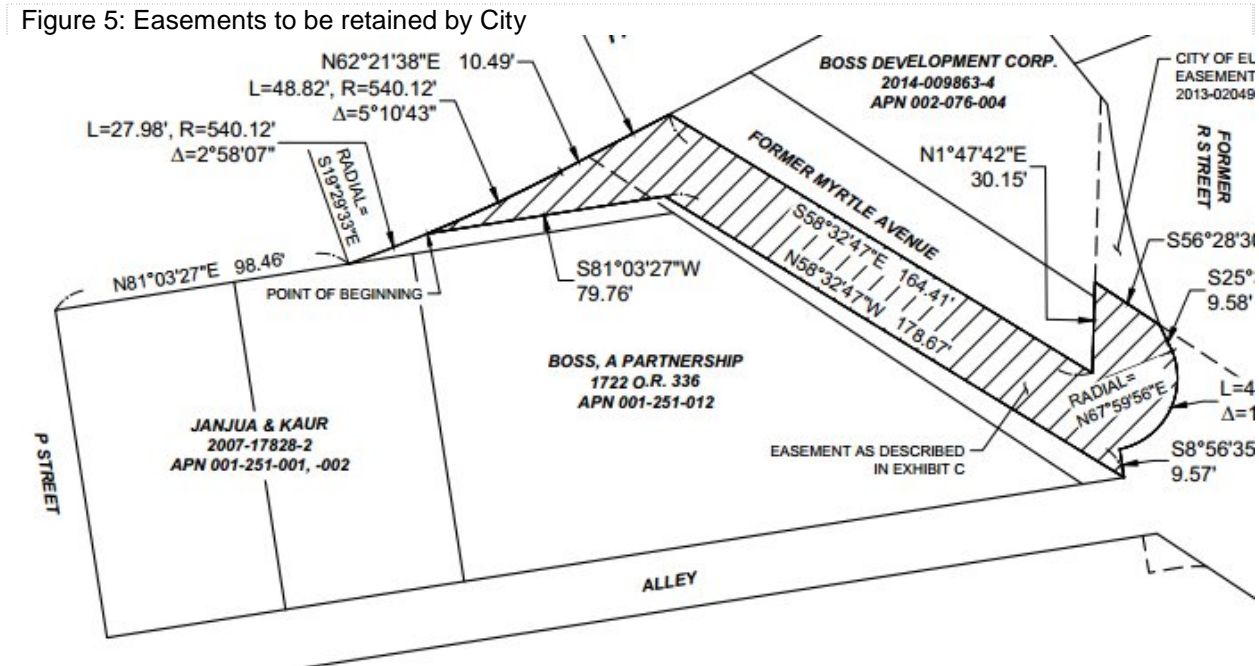
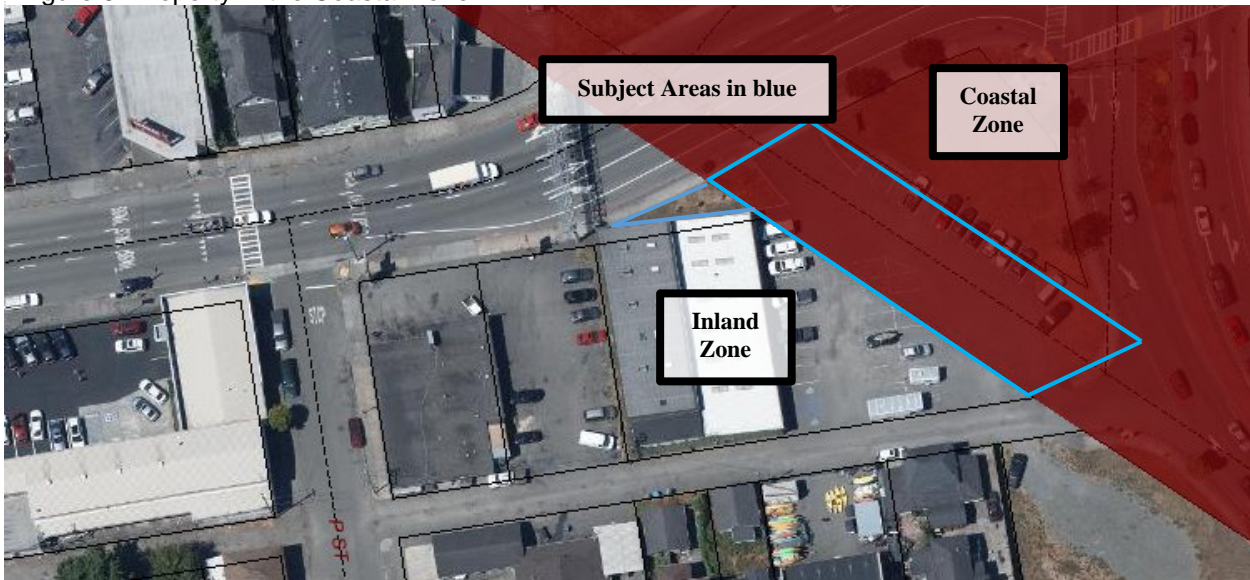


Figure 6: Property in the Coastal Zone



ANALYSIS

1. Summary Vacation

California Streets and Highways Code (SHC), §8300 et. seq., grants authority to vacate public right-of-way within City limits to the Eureka City Council through either a Summary Vacation on General Vacation process; and, California Government Code §65402 requires, prior to the City Council vacating the public right-of-way, the location, purpose and extent of the proposed vacation must be submitted to and reported upon by the Planning Commission as to conformity with the adopted General Plan. Additionally, City of Eureka Policy and Procedure 4.02, Vacation of City Street, Alley, or Easement (Attachment 1) describes the process to effectively administer the vacation procedures outlined in SHC §8300 et seq.

The term “vacation” means the complete or partial abandonment or termination of the public right to use a street, highway, or public service easement. A “street” or “highway” is defined as all or part of, or any right in, a state highway or other public highway, road, street, alley, trail, or other public right-of-way or easement.

Per California Streets and Highways Code §8330, the City is proposing to summarily vacate the City’s portion of the 5th and Myrtle rights-of-way as the property is “a street or highway that has been superseded by relocation”. The Summary Vacation is a shortened and more simple process than a General Vacation because adoption and posting of a Resolution of Intent on the site to “declare the City Council’s intention to ‘Order the Vacation’” is not required.

Pursuant to City of Eureka Policy and Procedure 4.02, the City Council may order a vacation by resolution if the Council finds from all evidence and testimony submitted, that the right of way to be abandoned is unnecessary for present or prospective public use. As described above, the subject rights-of-way have become unnecessary for public road

use as a result of the 5th and R Street realignment, and thus qualify for vacation. Necessary City water and sewer easements will be retained.

2. Surplus Property

Disposition of surplus land owned by a public agency is governed by California Government Code (CGC) §§54220-54234. When a General Plan has been adopted, and the City proposes to dispose of City-owned real property, California Government Code (CGC) §65402(a) requires the location, purpose, and extent of the property disposition be submitted to, and reported on by, the Planning Commission as to conformity with the adopted General Plan.

Additionally, according to the City of Eureka's Policy and Procedure 2.01, Sale of City-Owned Real Property (Attachment 2), the decision to declare the land surplus must be reviewed by the Planning Commission, and a determination made whether:

- a. The land is necessary for agency (City's) use;
- b. The parcels are of such size and shape to allow development of uses permitted in the zone in which it is located; and,
- c. The disposition of the property is in conformance with Government Code §65402.

If Council finds the property is not required for the City's use, it may declare the property surplus real property and establish the minimum acceptable offer.

Pursuant to the Surplus Land Act, because the property is located in the Coastal Zone, the City is required to first notice the availability of the land for open space purposes, and notice must be sent to the State Resources Agency and to any city or county park or recreation department and any regional park authority having jurisdiction within the area in which the land is situated. If no one responds to the notice within 60 days of sending, or if the City does not agree to a price and terms with an interested entity during a subsequent 90-day, good-faith negotiation period, the City has the discretion to sell or lease to an entity of the City's choosing.¹ At that point, after the requirements of the Surplus Land Act have been fulfilled, the City will be able to move forward with the sale directly to the only adjacent property owner, Boss Development Corporation (AKA Pacific Outfitters).

Agency's Use:

Pursuant to CGC §54221(c)(1), the definition of "agency's use" for the purposes of surplus land includes, but is not limited to, land which is being used, or is planned to be used pursuant to a written plan adopted by the local agency's governing board, or is disposed

¹ Because the land is comprised of former right of way, and is anticipated to be sold to the owner of the contiguous parcels, Pacific Outfitters, no notice to, or negotiation with, housing sponsors is required pursuant to §54221(f)(1)(E) of the Surplus Land Act.

of, to support [...] agency work or operations, including, but not limited to, utility sites, watershed property, land being used for conservation purposes, land for demonstration, exhibition, or educational purposes related to greenhouse gas emissions, and buffer sites near sensitive governmental uses, including, but not limited to, waste water treatment plants.

The subject land consists of portions of the 5th Street and Myrtle Avenue rights-of-way no longer required for public road use as a result of the 5th and R Street realignment project. Since the realignment project, the land has not been used by the City of Eureka or Caltrans for public purposes, and has been maintained by Pacific Outfitters as part of their parking lot, parking lot entrance from 5th Street, and grassy area. Based on the above analysis, the subject land is not needed for the City's use.

Size and Shape:

As discussed above, the closed portion of Myrtle Avenue is within the coastal zone and the subject land is in a CS (Service Commercial) zone district. The majority of this property is bounded to the north by 5th Street and to the south by an alley. To the east and west, the property is situated between two parcels owned by Boss Development (Pacific Outfitters). The property has direct access to 5th Street and Myrtle Avenue. The former Myrtle Avenue right-of-way has been maintained and used as part of the parking lot servicing Pacific Outfitters.

The small triangular piece of former 5th Street right-of way is in the inland zone, in the (DT) (Downtown) zone district, and has been maintained by Pacific Outfitters as a grassy area and entrance to their parking lot.

The parking lot portion of the subject land is approximately 9,050 square feet (sf) (0.208 acres) in size, and the triangular piece is roughly 1,175 sf. The minimum parcel size in the CS zone district is 6,000 sf, with a minimum parcel lot configuration of 60' wide by 100' long (depth), and in the DT zone district there is no minimum parcel size, length or width.

Although the land is of adequate shape and size for commercial and/or residential development, the majority of it is covered by non-buildable City sewer and water easements (Figure 5 above), rendering it unsuitable for building development. Therefore, the best use for the land is continued use as a parking lot, parking lot entrance, and grassy area.

Location, Purpose and Extent of Disposition Conforms with General Plan:

The land use designation for the subject land located in the coastal zone district is HSC (Highway Service Commercial). The HSC designation provides for retail uses which are oriented primarily to traffic on Highway 101, such as hotels, motels, service stations, and restaurants. The land use designation for the subject land located in the inland zone district is DC (Downtown Commercial). The DC designation provides for a mix of retail, restaurants, lodging, entertainment, cultural, visitor services, offices, and upper floor residential uses.

Staff has reviewed the adopted General Plan and Local Coastal Program, and finds they are silent with regard to the necessity of retaining the subject land for City public use. Therefore, Staff believes the City's action to surplus the subject land does not conflict with the adopted General Plan/Land Use Plan.

In addition, discussion with City departments determined the appropriate easements will be retained, and there is no need to retain the City's fee interest in the land. Moving forward with the surplus of the land will provide Pacific Outfitters the ability to purchase the land and continue to utilize it as a parking lot, parking lot entrance, and grassy strip, supporting a local business. Therefore, the City Council can find the location, purpose, and extent of declaring the parcels surplus is consistent with the General Plan.

Planning Commission:

Public comment at the June 12, 2023 Planning Commission meeting was opened and closed without any comments from the public.

Commissioner Benson asked if Staff could contact Pacific Outfitters to see if they would agree to continue to allow community groups to use their parking lot for community fundraisers, such as car washes, and if Pacific Outfitters would allow the City to install a sign for Cooper Gulch Park on their grassy lot on the corner of 5th and Myrtle. Pacific Outfitters readily agreed to both requests.

By a vote of 5-0, the Commission adopted two Resolutions, Resolution 2023-15 recommending the City Council vacate the 5th and Myrtle rights-of-way and Resolution 2023-14 recommending the City Council surplus the vacated 5th and Myrtle rights-of-way.

ENVIRONMENTAL ASSESSMENT

The decisions to vacate a street right-of-way and declare a property surplus are "projects" for the purposes of the California Environmental Quality Act (CEQA). The City of Eureka, as Lead Agency, has determined the proposed projects are categorically exempt from the provisions in accordance with §15305, Class 5, Minor Alterations in Land Use Limitations, and §15312, Class 12, Surplus Government Property Sales, of the CEQA Guidelines.

Class 5 consists of minor alterations in land uses in areas with an average slope of less than 20%, which do not result in any changes in land use or density. The project to vacate the right-of-way is on a property with an average slope of less than 20%, and will not change the land use or density.

Class 12 consists of sales of surplus property. To be eligible for a Class 12 exemption in the Coastal Zone, the property cannot have significant value for wildlife habitat or other environmental purposes, and one or more of the following conditions must exist:

1. The property is of such size, shape, or inaccessibility that it is incapable of independent development or use; or

2. The property to be sold would qualify for an exemption under any other class of categorical exemption in these guidelines; or
3. The use of the property and adjacent property has not changed since the time of purchase by the public agency.

The majority of the subject land is located in the Coastal Zone, but is covered by pavement and therefore does not have significant value for wildlife habitat or other environmental purposes. Also, any future project on the property to be sold is likely to qualify for one, or a combination of the following categorical exemptions from CEQA: Class 1 (§15301 Existing Facilities), or Class 32 (§15332 In-Fill Development Projects).

Therefore, based on this discussion, the rights-of-way vacation and the surplus of the land is exempt from CEQA pursuant to Guidelines §15305 and §15312, respectively.

DOCUMENTS ATTACHED

Attachment 1: City of Eureka Policy and Procedure 4.02, Vacation of City Street, Alley, or Easement

Attachment 2: City of Eureka's Policy and Procedure 2.01, Sale of City-Owned Real Property

Attachment 3: Right-of-Way Vacation and Public Utilities Easement and Access

Attachment 4: Planning Commission Resolution 2023 for SV-23-0015

Attachment 5: Planning Commission Resolution 2023 for SP-23-0014

Attachment 6: City Council Resolution 2023 for SV-23-00xx

Attachment 7: City Council Resolution 2023 for SP-23-00xx

REVIEWED AND APPROVED BY:

City Attorney
City Clerk/Information Technology
Community Services
Development Services
Finance

Fire

Human Resources

Police

Public Works