CITY OF VENTURA

ADMINISTRATIVE REPORT

Date: May 16, 2016

Agenda Item No.:

Council Action Date: June 6, 2016

To: **Honorable Mayor and City Council**

From: **Mark D. Watkins, City Manager**
Shana Epstein, Ventura Water General Manager

Subject: **Water Rights Dedication and Water Resource Net Zero Fee Ordinance and Resolution**

RECOMMENDATION

It is recommended that the City Council:

a. Introduce and waive the first reading of the attached Ordinance of the Council of the City of San Buenaventura Enacting Chapter 22.180 of the San Buenaventura Municipal Code to Establish Water Rights Dedication and Water Resource Net Zero Requirements for New or Intensified Development (Attachment A).

b. Accept the May 11, 2016, Evaluation of a Water Resource Net Zero Fee Report, prepared by Water Consultancy, which establishes the cost basis for the one-time net zero fee. The proposed fee is $26,457 per acre-foot per year of additional demand (Attachment B).

c. Accept the Water Rights Dedication and Net Zero Fee Nexus Report dated May 11, 2016, which outlines the relationship and rationale for the need of the proposed Ordinance and net zero fee (Attachment C).

d. Conduct a public hearing and adopt of the proposed Resolution Establishing a Water Resource Net Zero Fee (Attachment D).

e. Direct staff to file a Notice of Exemption pursuant to the California Environmental Quality Act for the Ordinance to Establish Water Rights Dedication and Water Resource Net Zero Fee Requirements for New or Intensified Development and the Resolution Establishing a Water Resource Net Zero Fee.

f. Set the Ordinance for second reading and adoption at the City Council's meeting of June 20, 2016.

g. Authorize the Finance and Technology Department to adjust the expenditure and revenue appropriations to the proper programs and accounts for their use as provided in the report.

COUNCIL PRIORITIES

This program supports the City Council's goal of:

- Delivering Core Services

PREVIOUS COUNCIL ACTION

On April 11, 2016, the City Council received the proposed Water Resource Net Zero Policy Ordinance to establish Water Rights Dedication and Water Resource Net Zero Requirements for New or Intensified Development along with documents supporting the Ordinance.

On January 12, 2015, the City Council approved the establishment of a Water Commission to review and make advisory recommendations regarding water rates, water resource infrastructure projects in the five-year capital improvement program, the integrated water resources management plan, water supply options, the Urban Water Management Plan approval process, a water dedication and in-lieu fee requirement, and other water resource issues.

On May 18, 2015, the City Council approved the 2015 Comprehensive Water Resources Report.

On June 16, 2014, the City Council received a Proposed Water Dedication and In-Lieu Fee Ordinance and Resolution along with documents supporting the Ordinance and Resolution and a recommendation to approve the creation of an Integrated Water Resources Task Force to work with Ventura Water to prioritize water resources for development. City Council directed staff to return to the City Council with a recommendation on the formation of a task force and scope of work for the City Council's consideration.

May 5, 2014, the City Council approved the 2014 Comprehensive Water Resources Report.

March 10, 2014, the City Council received a presentation at a special workshop on the proposed Water Dedication and In-Lieu Fee Ordinance and Resolution and directed staff to re-examine the policy for out of service areas, specifically the Saticoy Area.

June 10, 2013, the City Council approved the 2013 Comprehensive Water Resources Report.

September 24, 2012, the City Council directed staff to prepare a draft water rights ordinance for new development inside or annexed into the City and to return to the City Council in

January 2013 with options for a draft water rights ordinance for development outside of the City.

SUMMARY

Ventura's continued economic prosperity and vitality is based on our ability to provide quality water and wastewater services to our homes, businesses and industries. Over the past century, Ventura residents have invested millions of dollars in our extensive water and wastewater systems and facilities. As new homes, businesses and industries join our community, it is important that the impact on our water and wastewater systems is fully understood, appropriately and fairly assessed, and designed and constructed to support a thriving community. City policy requires that all new development fund the costs associated with its impact on the water and wastewater systems.

At the heart of the matter is how to best assess new development impacts to support the stability of our water supply, while encouraging development that sustains our economy and quality of life. Specifically, this is not about addressing a drought issue, but rather how to address water supply for future development within our community.
Based on a detailed analysis of the City's water supply and demand, the 2015 Comprehensive Water Resources Report (2015 CWRR), adopted in May 2015, concluded that the City's water supplies are currently being used at or near full capacity. Therefore, to assure that new development does not adversely affect the water supply or water supply reliability of the City's existing customers or approved new developments, it is proposed that new or intensified development provide supplemental water resources to the City's water systems in an amount proportional to the new demand created by the development.

The City's Water Commission, formed in 2015, has been tasked with reviewing and making advisory recommendations regarding water management and supply options as well as review of a water rights dedication and water resource net zero fee requirement.

The Water Commission has been diligently working on a draft Water Rights Dedication and Water Resource Net Zero Fee Ordinance for the past nine months. The Water Commission unanimously approved the attached Water Rights Dedication and Net Zero Fee Ordinance at the March 22, 2016 meeting and recommended that it be presented to the City Council in April 2016.

The Ordinance to Establish Water Rights Dedication and Net Zero Fee Requirements for New or Intensified Development (Attachment A) establishes a mechanism whereby developers either dedicate adequate water supplies to support a proposed new or intensified development or pay a net zero fee so that the City can develop the necessary water supplies. In addition, if a developer is able to demonstrate historical (baseline) City water use through a City meter and/or implementation of extraordinary conservation efforts, they can receive credit for the existing water use and/or water savings, and thereby reduce the net zero fee they could be required to pay.

The Ordinance does not apply to development projects for which entitlements have been approved prior to the effective date of the Ordinance. Projects that have or are going through the entitlement process have included project conditions that would require the developer to dedicate water or pay net zero fees pursuant to the Ordinance. The Ordinance as presented is not retroactive, and therefore would not require that these entitled projects dedicate water or pay net zero fees pursuant to the Ordinance.

Additionally, in response to comments received from the public, the Ordinance exempts additions of plumbing fixtures to an existing residential dwelling unit that do not increase water meter size, which would include bathroom additions and additions of kitchen fixtures. In contrast, the addition of dwelling unit(s) to an existing residential property - adding a second unit, for example - is considered intensified development and would be subject to the Ordinance.

In the event the City Council declares a Stage 4 of the City's Water Shortage Contingency Plan, compliance with the proposed Ordinance will be deemed compliance with the discretionary entitlement "offset" requirement of Municipal Code Section 22.171.080(A)(6).

DISCUSSION

Water Supply Limitations

The relationship between Ventura's water systems and supplies is complex and continues to be impacted by changing conditions from year-to-year. Historically providing a third each of the City's water supply, our 100% local water sources from the Ventura River, Lake Casitas, and groundwater wells within the Mound, Oxnard Plain and Santa Paula Groundwater Basins are experiencing fluctuations due to seasonal, quality, and operational constraints. For example, the recent low rainfall and corresponding drought conditions has caused a shift in our supplies to approximately 10% from the Ventura River, 60% from groundwater and 30% from Lake Casitas. Each water source is limited in amount and, in certain instances, the area in which the water can be delivered. While Ventura River water rights allow this source to be delivered citywide, its quantity varies seasonally. Lake Casitas water, treated and delivered by the Casitas Municipal Water District (Casitas), is intended to be used within its service boundaries – generally the Westside, Downtown and part of Midtown.

Groundwater is sourced from the Mound, Oxnard Plain and Santa Paula Groundwater Basins and supplies most of the City's Eastside demand. Although there are some interconnections and redundancy within the 380 miles of water pipelines, the water source closest to the customer primarily serves that area. Other factors that presently restrict water production and could potentially further limit future availability from each supply source include: physical resource availability, regulation restrictions, water quality, and legal constraints.

Analysis

Because we share certain groundwater basins, maintaining our current water rights, as well as acquiring new rights to offset new development impacts, is crucial to maintaining a stable water supply and our long term sustainability. As new development is proposed, a consistent methodology is important to secure water rights and project water demands. To help develop this methodology, Ventura Water retained Water Consultancy to prepare an evaluation of a water resource net zero fee. The Evaluation of a Water Resource Net Zero Fee report details the estimated costs of obtaining water resources and bases the amount of the proposed net zero fee on the required capital costs to develop additional water supplies to serve new development (Attachment B). In addition, the attached Water Rights Dedication and Net Zero Fee Nexus Report (Attachment C) correlates the findings of the Water Consultancy report with the Water Rights Dedication and Water Resource Net Zero Fee Ordinance and the proposed fees.

Water Commission Policy

The following Net Zero Policy decisions were made by the Water Commission and form the basis of the attached Ordinance:

- Net Zero Equation: Projected Water Demand minus Historical (Baseline) Use equals Demand Offset.

- Projected Water Demand is the estimated annual quantity of water required to serve the proposed development utilizing the City's current water demand factors.

- Historical (Baseline) Use

  - ✓ Active Meter – Water supply through a City meter was serving the premises for at least 12 consecutive months within the past 10 years prior to the date of entitlement of the proposed development. The Historical (Baseline) allowance is equal to the average annual use of the meter.

  - ✓ Inactive Meter – Water supply through a City meter is available to serve the premises (a customer is signed in for service), however no water has registered from the meter serving the premise for 12 consecutive months in the past 10 years prior to the date of entitlement of the proposed development. The bi-monthly meter service charge has been paid and is being paid by the customer of record up to the date of entitlement of the proposed development. The Historical (Baseline) allowance is equal to the average annual consumption for the same meter size and same customer class at a 2:1 offset allowance.

  - ✓ No Meter – There is no Historical (Baseline) allowance when there is no existing meter to serve the premises.

- Demand Offset

  - ✓ Water Right/Credit

    - Water right/credit for property developed within the Oxnard Plain Basin is determined based on approval by the Fox Canyon Groundwater Management Agency.

    - Water right/credit for property developed within the Santa Paula Basin is determined by the Santa Paula Basin Technical Advisory Committee.

    - Water right/credit for property developed within the Mound Basin is determined based on the past ten years of approved/officially documented pumping records.

  - ✓ Extraordinary Conservation includes but is not limited to the following: gray water/reuse systems built into the proposed development or rain barrels/cisterns where the irrigation is not connected to City water supply or the installation of water efficient plumbing fixtures (i.e. faucets, shower heads, toilets), dishwashers, and high efficiency washing machines, and beyond what is required in the current building code and/or ordinances; recycled water delivery systems for outdoor irrigation/non-potable use; and off-site turf replacement. A 2:1 (two to one) offset ratio shall be used for off-site extraordinary conservation measures meaning that only 50% of calculated water savings for off-site conservation will be accounted for in the fee calculation. A 1:1 (one to one) offset allowance shall be used for on-site extraordinary conservation measures.

- Water quality should be accounted for when calculating a net zero fee. Water quality of new supply (water rights/credits from groundwater basins) dedicated to the City must meet current primary and secondary standards. If the water quality does not meet City standards then the water rights/credits amount will be reduced by the volume of blend water necessary to achieve City standards.

- A supply buffer of 20% over projected demand for normal years should be used for the purpose of determining water supply needs and capital cost estimates for building or attaining new supply sources. The 20% buffer was established in order to insure that water demands could still be met without the need for mandatory conservation in the event of future droughts or other water shortage event emergencies such as the sudden loss of one of our supply sources.

- Fee credits will not be provided for proposed developments residing within the Casitas boundary.

- The estimated capital costs for Selected Projects Scenario No. 3 in the December 22, 2015 Administrative Report to the Water Commission will be used to calculate the Net Zero Fee (All projects less Ojai Valley Sanitary District (OVSD)), which includes financing costs for building and/or attaining new water supplies that will meet the 20% supply buffer to the year 2050.

- The Net Zero Fee will be adjusted on an annual basis to account for inflationary costs by tying the fee to the Engineering News Record (ENR) Construction Index.

- The Net Zero Fee will not include an equity adjustment to account for new water supply costs that will be paid through on-going water and wastewater rates, but the Fee will be reevaluated at the same time water rates are evaluated to ensure development will not be paying disproportionally for new water supply.

Net Zero Fee Basis

Part of the work to establish a Net Zero Fee is to review and evaluate potential new supply sources.

At the December 22, 2015 Water Commission Meeting City staff presented a written and oral report regarding potential future water supplies and associated estimate capital costs and financing costs related to three scenarios for potential future supply projects.

In order to provide equity to the proposed Developments and the existing ratepayers, the following assumptions are incorporated into the calculation of costs associated with the Water Resource Net Zero Policy Fee:

- The capital cost of each Capital Improvement Project (CIP) is in 2015 dollars (present worth).

- Finance cost is 30 years @ 5% interest rate

- CIP's are financed 50% through water and wastewater rates and 50% pay as you go (January 2014 Ventura Water Cost of Service and Rate Design Study Report by Raftelis Financial Consultants, Inc.)

- The estimated capital costs for water supply projects in each scenario have been reduced by the amount of revenues estimated to be collected from the Estuary Protection Fund charge that is collected through wastewater bills as stated in the Consent Decree. This accounts for the fact that an Estuary Fee is currently being collected and will continue to be collected as part of wastewater bills for the foreseeable future in order to help finance capital costs associated with diverting wastewater from the estuary and to help fund Potable Reuse. The amount of funds being collected as part of current and future wastewater bills should not be included

in the Net Zero Fee. The amount to be collected and financed through wastewater bills is estimated at $62 million.

- The fee should be reevaluated every five years to ensure development will not be paying disproportionally for new water supply.

As summarized in Section 3 of the Evaluation of a Water Resource Net Zero Fee Report, three scenarios of water supply portfolios were developed for determination of the recommended net zero fee. Portfolio 1 would include all of the programs in the City's CIP that relate to new or restored supplies, Portfolio 2 would include Potable Reuse and Foster Park restoration only, and Portfolio 3 would include all of the new or restored supply projects except OVSD. Of the portfolios, Portfolio 2 would not include the Water Commission's water supply buffer of 20 percent to at least 2050.

Portfolio 3, which would maintain a 20% supply buffer over projected demand until at least 2050, was selected by the Water Commission as the recommended scenario and is recommended as the basis for the net zero fee. In this portfolio, Potable Reuse and Foster Park would be implemented prior to 2025 and seawater desalination would be implemented after 2025 but before 2050. Portfolio 3 is recommended because it would provide the water supply buffer consistent with the City's Water Commission policy recommendations. It should be noted that the timelines are estimates only and the City will continue to investigate and pursue other alternative supply projects and opportunities. With the recommended implementation approach, the City would maintain a 20 percent buffer until at least 2050 based on current demand projections. Accordingly, the recommended net zero fee for 2016 is $26,457 per acre-foot of new demand. The City Comparison Table (Attachment G) lists Net Zero fees in other cities in relation to this proposed fee.

The selected projects or "suite" of projects" used to calculate the net zero fee does not tie or commit the City to actually building any particular project or suite of projects. As time goes on and new information and data are acquired or as regulations change, it may be decided at a later date to exchange one project for another (i.e. State Water for Desalination). Demand side management projects such as the expansion of the City's recycled water system could also be funded by the collected fees.

It should be noted, the City has an ordinance in place requiring that when a property with a groundwater well is annexed to the City that the well and the water rights associated with it are to be transferred to the City. However, we are aware of these water rights being sold prior to annexation. In addition, a recent article by WestWater Research entitled "Western Water Right Prices Stabilize Markets Show Sign of Rebounding," August 1, 2013, noted that the value of water rights in California are expected to increase citing the recovery of the economy, dry conditions statewide and more increases in imported water costs in Southern California as contributing reasons. Recent sales of local water rights have ranged from $10,000 to $20,000 per acre-foot. Therefore, with increasing value of water rights, we can only anticipate that more rights will be sold prior to properties being annexed and the rights transferred to the City without this proposed Net Zero Policy in place.

Water Demand and Rights/Fee Calculation

The local water demand factors, established by the 2013 Comprehensive Water Resources Report, will be used to calculate the amount of water needed by each proposed new or intensified development project at the beginning of the process. For example, a proposed development of 85 residential homes with a density of 0-8 dwelling units per acre could be required to transfer 35.23 acre-feet of water to the City or pay a net zero fee of $932,080 (Attachment E).

Exemptions

Although a waiver of the net zero fee for low-income housing was requested, an acceptable alternative was not identified. Since the water enterprise fund must adhere to Proposition 218 requirements, any fee waiver must be actually paid by another source, such as the General Fund in order to avoid having any one customer class disproportionately funding another customer class.

Application of the Policy

The net zero policy will apply to any project not yet approved by the effective date of the Ordinance, which is 30 days after City Council approval. The Ordinance details the actions in the development process which trigger the dedication of water rights and/or the payment of net zero fees. The one-time net zero fee will be paid upon approval of the annexation of a parcel; when a project receives approval entitlement; or when construction or enlargement of any water service connection is approved.

Current Public Engagement

The Water Commission was tasked with the review of a water rights dedication and net zero fee requirement. The Water Commission has been diligently working on a draft Water Rights Dedication and Water Resource Net Zero Fee Ordinance and Resolution for the past eleven months.

Meeting dates and agenda items listed below related to the Water Rights and Water Resource Net Zero Fee Ordinance were presented to the Water Commission by City staff and Water Consultancy staff.

- July 28, 2015 - Overview of the City's Water Resources and Production for Past Ten Years
- July 28, 2015 - Overview of the Santa Clara River Estuary Studies
- July 28, 2015 – History of Past Net Zero Implementations in this City and a Comparison of Other Cities
- August 25, 2015 – Introduction to How an Analysis is Completed Regarding a Net Zero Fee
- September 22, 2015 – Overview of Local Groundwater Basins

- September 22, 2015 – Net Zero Policy Demand Offset
- September 22, 2015 – Overview of Capital Improvement Program
- October 27, 2015 – Proposed 2016-2022 Capital Improvement Program
- October 27, 2015 – Net Zero Policy Continued with Emphasis on the City's Water Supply and Demand
- November 24, 2015 – Planning Process Chart
- November 24, 2015 – Net Zero Policy Continued with Emphasis on the Net Zero Policy Fee Calculation
- December 22, 2015 – Final Proposed 2016-2022 Capital Improvement Program
- December 22, 2015 – Net Zero Policy Continued with Emphasis on the Net Zero Policy Fee
- January 26, 2016 – Net Zero Policy Continued with Emphasis on the Net Zero Policy Fee – Workshop
- March 22, 2016 – Water Resource Net Zero Policy Ordinance – Final Draft

Water Commission meeting notices as well as agendas and agenda materials are posted as required and are available to the public on the City's website. In addition, City staff compiled a list of interested parties and emailed meeting notices. The City received comment letters from various individuals and organizations at the March 22, 2016 Water Commission Meeting and at the April 11, 2016 City Council Meeting. Those comments concerning the draft proposed ordinance have been compiled into a matrix, along with the City's response (Attachment F).

Several presentations have been and are anticipated to be made at public meetings as follows:

April 20, 2016 – Chamber of Commerce Group
April 20, 2016– City Planning Commission
May 12, 2016 – Midtown Community Council
May 16, 2016 – Meeting with Building Industry Association (BIA) and developers
May 19, 2016 – Eastside Community Council
June 3, 2016 – Westside Community Council

Social Media Outreach has included postings on the City Website – "Water Supply" Page, information in the Ventura Water Pipeline (electronic newsletters) and postings on Ventura Water's Facebook Page.

Past Public Engagement

As detailed in the Previous Council Action section of this administrative report, in 2014 the concept of a net zero policy was presented to Council. Public engagement during the 2014 process included the following:

Community members were invited to attend two workshops to discuss the proposed ordinance and resolution.

On July 10, 2013 approximately 25 people attended the workshop. Concerns expressed at the workshop included additional clarity of the relationship between the proposed in-lieu fees and water connection fees.

On October 15, 2013 approximately 20 people attended the workshop which after a short presentation participants were asked to breakout into smaller groups to discuss key questions.

A webpage on the City's website was established to provide the public access to the relevant materials, including Frequently Asked Questions (FAQs) which was also available at the workshops. In addition, the City received several comment letters from various individuals and organizations.

In addition to the community workshops several presentations were made at public meetings as follows:

June 27, 2013 – County Saticoy Economic Development Meeting
July 11. 2013 – Ventura River Watershed Council
July 16, 2013 – Association of Water Agencies Water Issues Meeting
August 27, 2013 - County Saticoy Economic Development Meeting
Sept. 10, 2013 - Chamber of Commerce Breakfast Meeting
Feb. 10, 2014 – Chamber of Commerce Group

Social Media Outreach has included postings on the City Website – "Water Supply" Page, information in the Ventura Water Pipeline (electronic newsletters) and postings on Ventura Water's Facebook Page.

Environmental Review

The City Attorney's Office has reviewed the proposed Ordinance and Resolution for compliance with CEQA. Staff recommends that the City Council find that enactment of the Ordinance and adoption of the Resolution (Attachment D) is exempt from the California Environmental Quality Act for the reasons stated in Section 3 of the Ordinance and Section 6 of the Resolution. In summary, the proposed Ordinance and Resolution would enact a regulatory process that does not have the potential to result in significant effects on the environment, and the fees established are for the purpose of obtaining funds for capital projects necessary to maintain service within existing service areas. Furthermore, prior to individual projects and new water supplies being built, the CEQA process will explore potential environmental impacts from each project or suite of projects as appropriate.

Developments Outside City Limits

Properties outside the City limits requesting water service will be required to provide water rights or a net zero fee for the additional water demand created by their project in compliance with the proposed ordinance as part of the process when approving water service outside of the City limits. Those properties in the Saticoy Area, restricted to a ¾" meter per the Water Connections Outside the City Limits Ordinance, Section 22.110.055 of the City of San Buenaventura Municipal Code, will be evaluated on an individual basis and require City Council approval if a larger meter size is requested.

FISCAL IMPACTS

The proposed mechanism to secure water rights and/or generate funds will assist the mitigation of water demands of new development. The funds will be retained in a separate interest earning account and may be used as prescribed in the proposed Ordinance, including the purchase of water rights or allocations or projects specified in the City's Capital Improvement Program or demand reduction facilities.

The 2015 Comprehensive Water Resources Report projects the annual water demand growth by using an absorption rate of 350 units per year (absorption rate of non-residential development correlates with residential absorption rate). This equates to an annual increase in demand of approximately 160 AF. Using the proposed net zero fee of $26,457 per acre-feet, based on Portfolio 3, this equates to approximately $4.2 million collected annually and by the Year 2050 approximately $144 million will be collected. This represents approximately 58% of the estimated capital cost plus financing cost for Portfolio 3 on which the net zero fee is based. Therefore, the financial burden to secure our water supply is shared.

At this time the administrative efforts (including the determination of the Net Zero Fee) related to the Water Rights Dedication and Water Resource Net Zero Fee Ordinance has been and will continue to be absorbed by existing Ventura Water staff.
Six months after implementation, City staff will report to Council on the status of the Policy and revenues collected.

ALTERNATIVES

There are a variety of options available for the City Council to choose.

- Maintain the existing policy and continue to absorb water supply costs of new development. Although state law allows cities to require that developers cover the cost of new development, it does not require cities to cause new development to completely fund the costs of their impact. The City Council could choose to subsidize the impact of development with the General Fund or require existing rate payers to absorb costs.

- Direct staff to explore other alternatives to offset a development's water supply impact. The current proposal includes providing rights and/or the payment of net zero fees, which may be reduced through credit for historical (baseline) existing City water use and/or extraordinary water conservation efforts. Depending on the project, it may be possible to accept land or other types of exchanges equivalent to the value of the required water rights for the development. On a limited case-by-case basis, this approach may provide a variety of advantages to our system.

Prepared by Susan Rungren, Ventura Water Principal Engineer for:

Shana Epstein
Ventura Water General Manager

Reviewed as to fiscal impacts

Gilbert Garcia
Finance and Technology Director

FORWARDED TO THE CITY COUNCIL

City Manager's Office

ATTACHMENTS

A. Ordinance to Establish Water Rights Dedication and Water Resource Net Zero Fee Requirements for New or Intensified Development
B. Evaluation of a Water Resource Net Zero Fee Report , May 11, 2016
C. Water Rights Dedication and Water Resource Net Zero Fee Nexus Report, May 11, 2016
D. Resolution Establishing a Water Resource Net Zero Fee
E. Sample Water Demand Impact Calculation
F. City Response to Comments Matrix
G. City Comparison Table

ATTACHMENT A

ORDINANCE TO ESTABLISH WATER RIGHTS DEDICATION AND WATER RESOURCE NET ZERO FEE REQUIREMENTS FOR NEW OR INTENSIFIED DEVELOPMENT

ORDINANCE NO. 2016-_____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN BUENAVENTURA, CALIFORNIA, AMENDING DIVISION 22, "PUBLIC UTILITIES," OF THE SAN BUENAVENTURA MUNICIPAL CODE BY THE ADDITION OF CHAPTER 22.180, "WATER RIGHTS DEDICATION, WATER RESOURCE NET ZERO FEE, AND WATER RESOURCE NET ZERO REQUIREMENTS," TO ESTABLISH WATER RIGHTS DEDICATION AND WATER RESOURCE NET ZERO FEE REQUIREMENTS FOR NEW OR INTENSIFIED DEVELOPMENT

The Council of the City of San Buenaventura does ordain as follows:

Section 1. Findings.

A. New or intensified development places an increased demand for water upon the City's existing water supply.

B. The City's existing water consumption is currently near the City's existing water supply maximum.

C. There exists a need for additional water resources, and that need is caused by new or intensified development.

D. Consistent with Article X, Section 2 of the California Constitution, and in order to mitigate the water resource impacts of new or intensified development, it is necessary and desirable for new or intensified development to provide supplemental water resources to the City's water system in an amount proportional to the new demand created by such development, or to pay a water resource net zero fee based upon the cost of obtaining water supplies to meet the demand of such new or intensified development.

E. The City has caused to be prepared an "Evaluation of a Water Resource Net Zero Fee Report" which is on file with the City Clerk and which has been reviewed by the City Council. That evaluation establishes the estimated costs of obtaining water resources for the City and bases the amount of the water resource net zero fee upon those costs.

F. The City has prepared a detailed nexus study titled "Water Rights Dedication and Water Resource Net Zero Fee Nexus Report" which is on file with the City Clerk and which has been reviewed by the City Council. The study, by substantial evidence, satisfies the requirements of California's "Mitigation Fee Act" (Government Code Section 66000 *et. seq.*, including without limitation Section 66013) and applicable case law including *Nollan v.*

California Coastal Commission, 483 U.S. 825 (1987), and *Dolan v. City of Tigard,* 512 U.S. 374 (1994). The study explains the need for specific, identified new water supplies and facilities to meet the water demand of new or intensified development. The study demonstrates that there is a reasonable relationship between the water rights dedication requirements and the water resource net zero fee established by this Ordinance and the impacts of new or intensified development. The study establishes that the dedication required and the cost of the water resource net zero fee is reasonably related and roughly proportional to the demand for new water and the cost of providing water supplies and facilities needed to serve new or intensified development upon which the dedication requirement or fees are imposed.

G. The water resource net zero fee established in Section 22.180.040 is a "capacity charge" under Government Code Section 66013(b)(3) because:

(a) It will be used to develop additional water supply identified in the nexus study; and,

(b) Payment of the water resource net zero fee or dedication of water pursuant to this Chapter will be required prior to connecting new or intensified development to the City water system.

H. The water resource net zero fee established in Section 22.180.040 is not a commodity charge under Government Code Section 66013(b)(3) or a user charge because it is not payable as a result of the actual consumption of a particular volume of water, but rather it is payable because of the anticipated impacts that new or intensified development will have on City water resources.

Section 2. ADDITION TO CODE. Division 22, "Public Utilities," of the San Buenaventura Municipal Code is hereby amended by the addition of Chapter 22.180, "Water Rights Dedication, Water Resource Net Zero Fee, and Water Resource Net Zero Requirements" to read as follows:

"Chapter 22.180

Water Rights Dedication, Water Resource Net Zero Fee, and Water Resource Net Zero Requirements

Sections:

Sec. 22.180.010 Purpose.
Sec. 22.180.020 Definitions, Allowances, and Restrictions.
Sec. 22.180.030 Dedication of Water Rights within City Limits.
Sec. 22.180.040 Water Resource Net Zero Fee.
Sec. 22.180.050 Appeal Process.

Sec. 22.180.010 Purpose.

As property within the City develops, or as new properties are annexed for development, agricultural and other land uses are likely to be converted to new or intensified land uses. The water rights or credits associated with the property and/or wells that are now used by agriculture or other less intense uses will be needed to serve the new or intensified land uses. This Chapter provides a mechanism by which those water rights or credits will be dedicated to municipal use, or alternately, a water resource net zero fee paid in-lieu of dedicating those water rights when the available water rights either are not sufficient to meet the needs of the new or intensified land use, or the owner or developer cannot or will not dedicate the required water rights to meet the needs of the new or intensified land use. The purpose of the water resource net zero fee is to provide funds for projects to develop or acquire additional water rights or water resources to mitigate the added water demand caused by the new or intensified land development. This Chapter also includes a provision for the sharing of water rights for new or existing agriculture located on the remaining portion of any parcel of land that is being developed to assure that existing agriculture located on the parcel is not needlessly or prematurely converted due to the lack of water or that viable new agriculture proposed to be located on the remaining portion of the parcel is not prohibited or restricted due to a lack of water.

Sec. 22.180.020 Definitions, Allowances, and Restrictions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Chapter, shall have the meanings hereinafter designated.

City Manager means the Chief Executive of the City appointed by the City Council. The term City Manager shall also include the designee thereof.

Demand Offset means Water Right/Credit, Extraordinary Conservation Offset, and/or Water Resource Net Zero Fee, as defined in this Section and as determined utilizing the *Water Resource Net Zero Fee Equation*.

Extraordinary Conservation Offset includes but is not limited to the following: gray water/water-reuse systems, or measures such as rainwater cisterns and storm water capture systems, where the irrigation is not connected to City water supply, or the installation of water efficient plumbing fixtures (i.e. faucets, shower heads, toilets), dishwashers, and high efficiency washing machines, and beyond what is required in the current building code and/or ordinances; recycled water delivery systems for outdoor irrigation/non-potable use; and off-site turf replacement. The actual savings of each device will be determined by the developer's engineer utilizing accepted industry standards such as developed by the Alliance for Water Efficiency and reviewed and approved by the General Manager. A 2:1 (two to one) offset allowance shall be used for off-site extraordinary conservation measures. A 1:1 (one to one) offset allowance shall be used for on-site extraordinary conservation measures.

General Manager means the Department Head of the City's Water Utility known as Ventura Water. The term General Manager shall also include the designee thereof.

Historical (Baseline) Use for *Active Meter*, *Inactive Meter,* and *No Meter* are as follows:

Active Meter – Water supply through a City meter was serving the premises for at least 12 consecutive months within the past 10 years prior to the date of a development entitlement in accordance with Section 22.180.030A.2. hereof for the proposed development. The Historical (Baseline) Use is equal to the average annual use of the meter.

Inactive Meter – Water supply through a City meter is available to serve the premises (a customer is signed in for service), however no water has registered on the meter serving the premises for 12 consecutive months in the past 10 years prior to the date of entitlement of the proposed development. The bi-monthly meter service charge has been paid and is being paid by the customer of record up to the date of entitlement of the proposed development. The Historical (Baseline) Use is equal to the average annual consumption for the same meter size and same customer class at a 2:1 offset allowance.

No Meter – There is no Historical (Baseline) Use when there is not an existing meter to serve the premises.

Intensified Development means any development or improvement to a premises that increases the existing water demand required for the development or improvement to a premises as defined by the Water Resource Net Zero Equation. Intensified Development does not include additions of plumbing fixtures to an existing residential dwelling unit that do not increase the water meter size.

New Development means any development or improvement to a premises that is not served by City water supplies and requires City water supplies.

Projected Water Demand means the estimated annual quantity of water required to serve development approved by any permit or action in Section 22.180.030, as determined by the developer's engineer utilizing the City's current local water use demand factors and reviewed and approved by the General Manager. Intensified use shall be equal to the increase in water demand required to serve the intensified use above the water demand required to serve an existing use or use entitled prior to the effective date of this Chapter.

Water Resource Net Zero Equation: Projected Water Demand minus Historical (Baseline) Use equals Demand Offset.

Water Resource Net Zero Fee means the one-time fee amount per acre-foot of water projected to be used on a recurring annual basis for a particular development in accordance with the Water Resource Net Zero Equation, accounting for applicable allowances and restrictions as outlined in this Section and in accordance with the latest Evaluation of a Water Resource Net Zero Fee Report.[1] Water quality shall be accounted for when calculating the Water Resource Net Zero Fee. If the water quality of a new supply being dedicated to the City does not meet or exceed current primary and secondary standards, the Applicant must pay a Water Resource Net Zero Fee equal to the amount of water from another supply source that will be needed to blend with the new supply in order to meet the standards. The methodology and calculation for this adjustment will be as defined in the latest Evaluation of a Water Resource Net Zero Fee Report.

[1] At adoption Lynn Takaichi was the consultant for the Report dated March 30, 2016, revised May 11, 2016.

Water Right/Credit means: 1) any right or allocation held on or after March 7, 1996 to pump ground water pursuant to the judgment in the case of *United Water Conservation District v. City of San Buenaventura* (Ventura County Superior Court Case No. 115611), and any subsequent amendment or restatement of the judgment; or 2) any such other water rights that may be available for permanent transfer including, but not limited to, any and all applicable groundwater pumping allocations, shares, and/or credits associated with the property to be served by the City and available from a management agency, associations, shareholder group or water rights such as but not limited to: Fox Canyon Groundwater Management Agency, Santa Paula Basin Pumpers Association, Alta Mutual Water Company, and Farmer's Irrigation Company. A Water Right/Credit for property developed within the Oxnard Plain Groundwater Basin is determined based on approval by the Fox Canyon Groundwater Management Agency. A Water Right/Credit for property within the Mound Groundwater Basin is determined based on the past ten years of approved/official documented pumping records. A Water Right/Credit for property within the Santa Paula Groundwater Basin is determined by the Santa Paula Basin Technical Advisory Committee.

Sec. 22.180.030 Dedication of Water Rights within City Limits.

A. The owner or developer of any parcel of land within the City or being annexed to the City shall, without cost or expense to the City, prior to issuance of any building permit, or if no building permit is required at the times specified in this Section, dedicate all transferable and exercisable Water Rights/Credits attached to the parcel or associated groundwater well to the City upon any of the following events:

1. Approval of annexation of the parcel to the City and pre-zoning under Government Code Section 56375(a) in anticipation of new or intensified development of the property. Annexation to the City will generally result in new or intensified development because State law and Ventura County Local Agency Formation Commission policies and guidelines encourage annexation for urbanized development. The Ventura County Local Agency Formation Commission 'Guidelines for Urban

Development' provide that 'applicants for land use permits or entitlements for urban uses shall be encouraged to apply to the City to achieve their development goals' and 'prior to being developed for urban purposes or receiving municipal services, land should be annexed to the City';

2. Granting of any new or amended development entitlement by the City for any land use, other than agriculture, upon the parcel, including, but not limited to, approval of a general plan amendment, re-zoning, conditional use permit, tentative map, parcel map, tract map, lot line adjustment, planned development or coastal development permits, or any other development approval that creates a new or intensified water use;

3. Construction or enlargement of any water service connection to the premises from the City Water System.

B. The addition of water fixtures to an existing residential dwelling unit that does not increase water meter size is exempt from the requirements of this Chapter.

C. Development projects for which entitlements have been approved prior to the effective date of this Chapter are not subject to the requirements of this Chapter.

D. In the event that any Water Rights/Credits attached to the parcel or associated groundwater well have been sold or transferred to anyone other than the City on or after March 7, 1996, the owner or developer of the parcel shall, to the extent feasible, in the sole judgment of the General Manager, obtain at his or her sole expense, equivalent Water Rights/Credits and dedicate those to the City.

E. In the event that the Water Rights/Credits serve more land than the land or parcel to be annexed, developed, or to receive a City water service connection, the Water Rights/Credits to be dedicated shall be determined by proration on the basis of the historical water usage of the various lands or parcels served. If it is not feasible, in the sole judgment of the General Manager, to prorate the Water Rights/Credits on the basis of historical water usage, then the

proration shall be made on the basis of the irrigated land areas of the various lands or parcels served.

F. In the event that the Water Rights/Credits are held by an association, water company, or agency on behalf of the property owner or developer and that association, water company, or agency cannot or in the sole judgment of the General Manager, will not dedicate the required Water Rights/Credits to the City, the owner or developer of the parcel shall to the extent feasible, in the sole judgment of the General Manager, obtain at his or her sole cost or expense equivalent Water Rights/Credits and dedicate those to the City.

G. In the event that the dedicated Water Rights/Credits are not sufficient to meet the projected demand for water, including the demand for water needed to serve any remaining agriculture as provided in subsection I. below, by the parcel or in the event that there are no Water Rights/Credits attached to the parcel, or in the event that in the sole judgment of the General Manager that it is not feasible to obtain equivalent Water Rights/Credits as required by subsections D. and E. above, the owner or developer shall pay a Water Resource Net Zero Fee, as established pursuant to Section 22.180.040, to the City based upon that portion of the projected demand for water that is not met by the dedicated Water Rights/Credits.

H. In the event that the dedicated Water Rights/Credits exceed the projected demand for water by the parcel or associated groundwater well already within the City, a credit shall be issued against the various fees and charges due to the City Water Enterprise Fund under Chapter 22.110, 'Water Connections;' Section 22.110.020, 'Charges' of this Code or, at the City's option, the dedicated Water Rights/Credits required by this Chapter shall be prorated to meet the projected demand for water. The credit shall be equal to the value of the Water Rights/Credits actually dedicated, dependent upon the market for the permanent sale of Water Rights/Credits in the respective groundwater basin at the time of approval, and adjusted to account for the amount of water from

another supply source that will be needed to blend with the new dedicated supply in order to meet current water quality primary and secondary standards, minus the Water Resource Net Zero Fee that would have been required pursuant to Section 22.180.040 if there had been no dedication of Water Rights/Credits.

I. In the event that the dedicated Water Rights/Credits are needed to continue to serve agriculture temporarily remaining on any undeveloped or residual portion of the land or parcel, until the land is converted to non-agricultural use, the City may enter into an agreement with the property owner or developer for the shared use of the dedicated Water Rights/Credits until such time as the agricultural use is converted, provided the water is to be used only on such land or parcel and provided the quantity of water to be used and the type of agriculture to be served is reasonable and appropriate. The agreement shall include, but not be limited to, the amount of Water Rights/Credits available for the undeveloped property and the property owner or developer shall construct and pay for all facilities and pay for all City or third party administrative costs associated with the use as well as the cost to prepare the agreement.

J. In the event that the dedicated Water Rights/Credits are needed to supply water to a proposed non-potable water distribution system intended to supply water for irrigation purposes to public or private landscaping on the land, the City may enter into an agreement with the property owner or developer for the shared use of the dedicated Water Rights/Credits. The agreement shall include, but not be limited to, the amount of Water Rights/Credits available for the undeveloped property and the property owner or developer shall construct and pay for all facilities and pay for all City or third party administrative costs associated with the use as well as the cost to prepare the agreement.

Sec. 22.180.040 Water Resource Net Zero Fee.

A. The City Council may establish a schedule of Water Resource Net Zero Fees by Resolution based upon

the 'Evaluation of a Water Resource Net Zero Fee Report,' and which may be amended from time to time. The fees shall be imposed in accordance with this section and paid at such time as a dedication of Water Rights/Credits would be required pursuant to Section 22.180.030 hereof. The proceeds of the fees shall be retained in a separate account and administered as required by Government Code Section 66013. The fees shall be used to acquire and/or develop additional water resources or water rights for use by the City to develop new potable supplies. Those projects may include, but are not limited to, the purchase of water rights or allocations or projects specified in the City's capital improvement program to the extent not covered by any connection or other capital charges. The fee proceeds may also be used to fund the design and construction of demand side management facilities as discussed in the latest Evaluation of a Water Resource Net Zero Fee Report. The General Manager shall calculate the projected demand for water pursuant to Section 22.180.020 and implement the resulting fee. The fee will be based upon the weighted average per acre foot of the total cost of developing new water supplies and facilities needed to serve new or intensified development. The Water Resource Net Zero Fee shall be in addition to all other fees and charges required by this Chapter or by the Municipal Code.

B. The dollar amount of the fee shall be as stated in the latest Evaluation of a Water Resource Net Zero Fee Report. Specific water supply projects and project cost estimates will be revisited at intervals of no greater than every five (5) years or at the same time that water rates are revisited for adjustments, whichever occurs first, at which time the fee amount will be adjusted accordingly based on a new or updated Report. Additionally, effective on July 1 of each year, the fee amount stated in the latest Evaluation of a Water Resource Net Zero Fee Report will be adjusted to account for inflationary costs. This adjustment will be made as a percent increase or decrease using the ENR Construction Index for Los Angeles for the month of May in that year, or the most recent month for which the ENR Construction Index for Los Angeles is available, compared to the index

amount in the same respective month of the previous year.

Sec. 22.180.050 Appeal Process.

Any proposed development applicant (Applicant) who does not agree with the Water Resource Net Zero Fee calculated for their proposed development pursuant to this Chapter shall have the right to appeal as follows:

The appeal must be in writing, legible, and received by the General Manager within 15 calendar days of the determination of the Water Resource Net Zero Fee submitted to the Applicant. The written request for appeal consideration shall include:

A. A description of the reason for the appeal; and,

B. Evidence supporting the appeal; and,

C. A suggestion for resolution of the dispute, if any.

Within 15 calendar days of receipt of the written appeal, the General Manager will notify the Applicant of confirmation of receipt of the appeal and a timeline for the General Manager's written independent determination of the Water Resource Net Zero Fee.

The General Manager's determination may be appealed in writing to the City Manager within 15 calendar days of the mailing of the General Manager's determination. The appeal of the General Manager's determination shall be heard and considered by the City Manager at a time and place set by the City Manager within 30 calendar days from the City Manager's receipt of an appeal, but no public hearing is required. The City Manager shall provide to the Applicant notice of the time and place for the appeal hearing at the address listed in the appeal filed by the Applicant. The City Manager may, in his or her discretion, affirm, reverse, or modify the determination accordingly. The City Manager's decision shall be final."

Section 3. CEQA Findings.

EXEMPTION FROM CALIFORNIA ENVIRONMENTAL QUALITY ACT. The City Council exercises its independent judgment and further finds that this

Ordinance is exempt from the California Environmental Quality Act pursuant to Chapter 3 of Title 14 of the California Code of Regulations (the "State CEQA Guidelines"), specifically, Section 15061(b)(3), because the enactment of this Ordinance implements a regulatory process that will not foreseeably result in construction activities or other physical activities, either directly or indirectly, and that therefore it can be seen with certainty that the enactment of this Ordinance does not have the potential to result in significant effects on the environment; Section 15273, because the fees established are for the purpose of obtaining funds for capital projects necessary to maintain service within existing service areas; Section 15307, which exempts "actions taken by regulatory agencies…to assure the maintenance, restoration, and enhancement of a natural resource," because the action taken in adopting this Ordinance will help maintain water resources; Section 15378(b)(2), because the activity is not a project as it involves general policy and procedure making; and Section 15378(b)(4), which exempts government fiscal activities which do not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment.

PASSED and ADOPTED this ___ day of _____ 2016.

_____
Erik Nasarenko, Mayor

ATTEST:

_____
Deborah Harrington
Interim City Clerk

APPROVED AS TO FORM
GREGORY G. DIAZ, City Attorney

BY: _____ 5/16/2016
Gregory G. Diaz Date
City Attorney

ATTACHMENT B

EVALUATION OF A WATER RESOURCE NET ZERO FEE REPORT, MAY 11, 2016

Attachment “B”

Evaluation of a Water Resource Net Zero Fee Report is

Located in Attachment “D” as Exhibit “A”

ATTACHMENT C

WATER RIGHTS DEDICATION AND WATER RESOURCE NET ZERO FEE NEXUS REPORT, MAY 11, 2016

Attachment “C”

Net Zero Nexus Report is

Located in Attachment “D”

as Exhibit “B”

ATTACHMENT D

RESOLUTION ESTABLISHING A WATER RESOURCE NET ZERO FEE

RESOLUTION NO. 2016- ____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN BUENAVENTURA, CALIFORNIA, ESTABLISHING A WATER RESOURCE NET ZERO FEE IN ACCORDANCE WITH SECTION 22.180.040 OF CHAPTER 22.180 OF DIVISION 22 OF THE SAN BUENAVENTURA MUNICIPAL CODE

WHEREAS, new or intensified development places an increased demand for water upon the City's existing water supply; and

WHEREAS, the City's existing water consumption is currently near the City's existing water supply maximum; and

WHEREAS, there exists a need for additional water resources, and that need is caused by new or intensified development; and

WHEREAS, consistent with Article X, Section 2 of the California Constitution, and in order to mitigate the water resource impacts of new or intensified development, it is necessary and desirable for new or intensified development to provide supplemental water resources to the City's water system in an amount proportional to the new demand created by such development, or to pay a Water Resource Net Zero Fee based upon the cost of obtaining water supplies to meet the demand of such new or intensified development; and

WHEREAS, pursuant to Section 22.180.040 of Chapter 22.180 of Division 22 of the San Buenaventura Municipal Code ("SBMC"), the City Council is authorized to establish a Water Resource Net Zero Fee; and

WHEREAS, the City has caused to be prepared an "Evaluation of a Water Resource Net Zero Fee Report", attached hereto as Exhibit "A", which has been reviewed by the City Council and is on file with the City Clerk; and

WHEREAS, that evaluation establishes the estimated costs of obtaining water resources for the City and bases the amount of the Water Resource Net Zero Fee upon those costs; and

WHEREAS, the City has prepared a detailed nexus study titled "Water Rights Dedication and Water Resource Net Zero Fee Nexus Report", attached hereto as Exhibit "B", which has been reviewed by the City Council and is on file with the City Clerk; and

/ / /

WHEREAS, the nexus study establishes that the cost of the Water Resource Net Zero Fee is reasonably related and roughly proportional to the demand for new water and the cost of providing water supplies and facilities needed to serve new or intensified development; and

WHEREAS, pursuant to Government Code Section 66016, the City made data available regarding the cost, or estimated cost, of providing services for the Water Resource Net Zero Fee ten (10) days before the public hearing held on June 6, 2016; and

WHEREAS, on June 6, 2016, the City Council heard public testimony and considered evidence in a public hearing held and noticed in accordance with Government Code Section 66016; and

WHEREAS, based upon the evidence submitted during the public hearing, including, without limitation, reports from City staff and information from recent published water sales, the Council finds that the proposed Water Resource Net Zero Fee is based upon the amount equating to the value of one acre-foot of water; and

WHEREAS, at the recommendation of the Water Utility Department known as Ventura Water and the City Manager, the City Council believes that it is in the public interest to establish the recommended Water Resource Net Zero Fee in accordance with SBMC Section 22.180.040.

BE IT RESOLVED by the City Council of the City of San Buenaventura as follows:

SECTION 1: In compliance with City Council's policy on User Fees and Rates, the Chief Financial Officer recommends the need to establish various new fees, increase or reduce existing fees, and set certain hourly rates and equipment charges to recover at least a portion of the cost of providing services. Most Fees are rounded to whole dollar amounts for ease of application.

SECTION 2: The City Council finds that the nexus study nexus study titled "Water Rights Dedication and Water Resource Net Zero Fee Nexus Report", attached hereto as Exhibit "B", by substantial evidence, satisfies the requirements of California's "Mitigation Fee Act" (Government Code Section 66000 *et. seq.*, including without limitation Section 66013) and applicable case law including *Nollan v. California Coastal Commission,* 483 U.S. 825 (1987), and *Dolan v. City of Tigard,* 512 U.S. 374 (1994), because the study explains the need for specific, identified new water supplies and facilities to meet the water demand of new or intensified development, demonstrates that there is a reasonable relationship between the Water Resource Net Zero Fee and the impacts of new or intensified development, and establishes that the cost of the

Water Resource Net Zero Fee is reasonably related and roughly proportional to the demand for new water and the cost of providing water supplies and facilities needed to serve new or intensified development.

SECTION 3: The City Council finds that the Water Resource Net Zero Fee is a "capacity charge" under Government Code Section 66013(b)(3) because it will be used to develop additional water supply identified in the nexus study, and payment of the Water Resource Net Zero Fee or dedication of water pursuant to SBMC Chapter 22.180 will be required prior to connecting new or intensified development to the City water system.

SECTION 4: The City Council finds the proposed Water Resource Net Zero Fee is not a commodity charge under Government Code Section 66013(b)(3) or a user charge because it is not payable as a result of the actual consumption of a particular volume of water, but rather it is payable because of the anticipated impacts that new or intensified development will have on City water resources.

SECTION 5: Pursuant to SBMC Section 22.180.040, the City Council establishes the applicable Water Resource Net Zero Fee as $26,457 per acre-foot of new demand, consistent with the "Evaluation of a Water Resource Net Zero Fee Report", attached hereto as Exhibit "A". Effective on July 1 of each year, the fee amount will be adjusted to account for inflationary costs, as a percent increase or decrease using the ENR Construction Index for Los Angeles for the month of May in that year, or the most recent month for which the ENR Construction Index for Los Angeles is available, compared to the index amount in the same respective month of the previous year.

SECTION 6: The City Council exercises its independent judgment and further finds that this Resolution is exempt from the California Environmental Quality Act pursuant to Chapter 3 of Title 14 of the California Code of Regulations (the "State CEQA Guidelines"), specifically, Section 15061(b)(3), because the enactment of this Resolution implements a regulatory process that will not foreseeably result in construction activities or other physical activities, either directly or indirectly, and that therefore it can be seen with certainty that the enactment of this Resolution does not have the potential to result in significant effects on the environment; Section 15273, because the fees established are for the purpose of obtaining funds for capital projects necessary to maintain service within existing service areas; Section 15307, which exempts "actions taken by regulatory agencies…to assure the maintenance, restoration, and enhancement of a natural resource," because the action taken in adopting this Resolution will help maintain water resources; Section 15378(b)(2), because the activity is not a project as it involves general policy and procedure making; and Section 15378(b)(4), which exempts government fiscal activities which do not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment.

SECTION 7: This Resolution shall become effective sixty (60) days following its adoption, or on the date the Ordinance establishing SBMC Chapter 22.180, "Water Rights Dedication, Water Resource Net Zero Fee, and Water Resource Net Zero Requirements," becomes effective, whichever is later.

PASSED AND ADOPTED this ____ day of _____, 2016.

ATTEST:

_____
Deborah A. Harrington
Interim City Clerk

APPROVED AS TO FORM
GREGORY G. DIAZ, City Attorney

By: Miles Hogan 5/16/16
Miles P. Hogan Date
Assistant City Attorney II

Exhibit "A"

"Evaluation of a Water Resource Net Zero Fee Report"

Water Consultancy

3585 Maple Street. Suite 250
Ventura, California 93003
805-404-1467

Evaluation of a Water Resource Net Zero Fee Report

March 30, 2016

Revised May 11, 2016

Prepared for

City of San Buenaventura
501 Poli Street, Room 120
Ventura, CA 93002

WC-025

Exhibit A

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Section 1: Introduction

This evaluation summarizes the economic basis and development of a water resource net zero fee. This recommended fee would apply to new or intensified development that requires an increase in water service but does not transfer sufficient water rights to serve the proposed development.

1.1 Background and Objectives

The City of San Buenaventura (City) owns and operates a water system that serves approximately 32,000 service connections, within and outside the City boundaries. Water is supplied through 3 main sources: local groundwater from the Mound, Santa Paula, and Oxnard Plain basins, treated water purchased from Casitas Municipal Water District (Casitas) and water diverted from the Ventura River. Water service is provided to residential, commercial, industrial and irrigation customers, including fire protection users. Recycled water from the Ventura Water Reclamation Facility is also delivered to recycled water customers located along the existing distribution system alignment.

The City water system is a complex system of 16 pressure zones, 11 wells, 21 booster stations, approximately 380 miles of pipelines ranging from 4-inches to 36-inches in diameter, and a total storage capacity of approximately 52 million gallons (mg) in 32 tanks and reservoirs. The system delivers water from sea level to a maximum elevation of over 1,000 feet. The City operates three treatment facilities, including one membrane filtration treatment plant for surface water sources on the west side of the City, and two iron/manganese removal treatment plants for groundwater sources on the east side[1]. The City also maintains and operates the Ventura Water Reclamation Facility.

The City has previously prepared various water planning documents that address water demands and supplies. These documents include the 2005 General Plan documents, Amended 2010 Urban Water Management Plan, and 2011 Water Master Plan. Because these documents were prepared for specific and different purposes, the water demand and supply projections differ. The City prepared a Final 2013 Comprehensive Water Resources Report (CWRR) to compare the water demand and supply projections in the previous reports and compare the City's water demand projections with its available supplies. The City Council approved the Final Report on June 10, 2013 and directed staff to provide an annual update on the City's water supplies and demands. Relevant conclusions of the 2013 CWRR as well as the subsequent annual reports are summarized and form the basis for this evaluation.

To assure that new development does not adversely affect the water supply or water supply reliability of the City's existing customers, Ventura Water desires to implement a water rights dedication and water resource net zero fee ordinance and resolution. The objective of these actions would be to assure that adequate water supplies are available for proposed new or intensified developments without adverse impacts to the City's existing customers or approved new developments. Developers could dedicate adequate water rights to support a proposed new or intensified development, implement extraordinary onsite or offsite conservation measures, and/or pay a net zero fee so that the City could develop the necessary water

[1] City of San Buenaventura Water Master Plan, 2011.

supplies. Accordingly, this study addresses the technical basis for the water resource net zero fee.

1.2 Scope of Services

To develop the technical basis for the net zero fee, the following scope of services was developed:

1. Meet with City staff to identify policy issues associated with a net zero fee.
2. Assist City staff with presentations to the City Water Commission.
3. Describe potential additional water supplies identified in the City's capital improvement program.
4. Identify the probable cost of developing each of the identified potential water supplies.
5. Recommend a water resource net zero fee.
6. Summarize the evaluation in draft and final reports.
7. Work with City staff and legal counsel to develop a water dedication and net zero policy and fee ordinance.
8. Attend community workshops on an as-requested basis.

The assumptions, approach, and methodology are intended to be consistent with the policy guidance provided by the City's Water Commission.

Section 2: Summary of Current and Estimated Future Water Demands and Supplies

The City's water supply is currently being used at nearly full capacity. Based on a review of the previous water demand projections and a detailed evaluation of historical water demands, the Final 2013 Comprehensive Water Resources Report (CWRR) indicates that the calendar year (CY) 2012 water demand including a 6.5 percent water loss factor was 18,004 acre-feet per year (AFY). The recommended baseline water demand for existing conditions (utilizing the most recent 5-year average, CY 2008-2012) was set at 17,601 AFY. Based on the estimated water demands of approved and yet unbuilt new developments as of December 31, 2012, the Final 2013 Comprehensive Water Resources Report projected the near-term water demand to grow to 18,643 AFY by 2019.

The Final 2013 CWRR summarizes the City's current available water supplies as 5,000 AFY from Casitas, 4,200 AFY from the Ventura River (Foster Park), 4,000 AFY from the Mound Groundwater Basin, 4,100 AFY from the Oxnard Plain Groundwater Basin, 1,600 AFY from the Santa Paula Groundwater Basin, and 700 AFY of recycled water. Accordingly, the City's current water supply portfolio totals 19,600 AFY during a normal hydrologic year.

The 2015 CWRR is the latest CWRR and indicates that the CY 2015 water demand including a 6.5 percent water loss factor was 16,995 acre-feet per year (AFY). The reduction in water demand compared to previous years can be attributed to increased water rates and the City's request to customers to voluntarily reduce their water usage by at least 10% in response to the prolonged drought. The recommended baseline water demand for existing conditions (utilizing the most recent 5-year average, CY 2010-2014) was set at 17,167 AFY. Based on the estimated water demands of approved and yet unbuilt new developments as of December 31, 2014, the 2015 Comprehensive Water Resources Report projected the near-term water demand to grow to 18,295 AFY by 2022. Accordingly, the City's current water supply of 19,600 AFY during a normal hydrologic year is only 7.1 percent higher than the projected demand. Since the City's targeted supply buffer is 20% above demand, additional supplies are required.

Section 3: Potential Sources of Additional Water Supply Development

The City's proposed 2016-2022 Capital Improvement Program (CIP) identifies several programs that could increase the City's water supplies. Each water supply program generally consists of several separate CIP projects. The City's CIP planning process occurs every two years and each of the projects are prioritized for implementation. The CIP includes the following potential water supply projects:

- Potable Reuse
- Foster Park Wellfield Restoration (Foster Park)
- Reuse of Ojai Valley Sanitary District Effluent (OVSD)
- Seawater Desalination

The City currently delivers approximately 700 AFY of recycled water from the VWRF for urban landscape irrigation. Based on the March 2013 Estuary Special Studies Phase 2: Facilities Planning Study for Expanding Recycled Water Delivery, the City has several recycled water options to reduce wastewater discharges and increase water supplies, including the Mound Basin Indirect Potable Reuse (IPR) or Direct Potable Reuse (DPR). The City's CIP currently includes a Potable Reuse program. The specific projects included in this program include:

- Project ID 74059 Wastewater Plant - Advanced Treatment Potable Reuse
- Project ID 97949 Waterline - Ventura/Oxnard Emergency Water Intertie
- Project ID 74084 Brine Line Ocean Outfall
- Project ID 74058 Recycled Waterline - Purewater Pipelines
- Project ID 74070 Treatment - Advanced Treatment Plant Land Acquisition

The total estimated capital cost of this program is $127.8 million (2015) and would have an estimated annual delivery capacity of approximately 3898 AFY. The capital cost to be applied to determine the net zero fee is $65,757,014 since an estimated $62 million (2015) is being collected through the Estuary Protection Fund.

Production wells at Foster Park were destroyed in previous storm events and the Ventura River surface water diversion is not functional at this time. The CIP includes the Foster Park Wellfield Restoration Project. The increased capacity from the Foster Park/Ventura River facilities is estimated to be 2500 AFY. The estimated capital cost of these facilities is $ 23,320,000 (2015 dollars).

The feasibility of reuse of the Ojai Valley Sanitary District effluent which discharges to the Ventura River was evaluated in 2007. The feasibility study identified several uncertainties

including the market for the recycled water and associated environmental issues in the Ventura River. The City's CIP includes the OVSD program. The anticipated delivery capacity is 1120 AFY. The estimated capital cost is $ 2,440,000 (2015 dollars).

Although ocean desalination was preferred by the City's voters in November 1992 over State Water deliveries, this potential additional future water supply has not been fully developed and is not expected to be phased in until after 2025. An ocean desalination program is included in the City's CIP but will not be required until after 2030. The anticipated delivery capacity is 3000 AFY. The estimated allocated capital cost of the program is $ 80,000,000 (2015 dollars).

To accommodate uncertainties and variabilities in water supply and demand estimates, a 20 percent supply buffer over projected demands was adopted by the City's Water Commission for water supply planning purposes. The potential net zero fees of these portfolios are evaluated in the following section. Of the potential sources identified for new development in the Final 2015 Comprehensive Water Resources Report, most of the other potential additional future water supplies have uncertainties or complexities that limit their utilization as the basis for development of a water resource in-lieu fee. Currently, State Water is limited by the ability to deliver the water to the City. Although State Water can be wheeled through the Metropolitan Water District of Southern California and Calleguas Municipal Water District, it would be costly and the necessary agreements have not been negotiated. The City continues to discuss potential intertie projects with other local agencies and a Water Intertie Project is included in City's current Capital Improvement Program. In the interim, in June 2013, Council authorized the City's 10,000 acre-foot of State Water Project allocation to be sold in the State's Multi-Year Water Pool Demonstration Program (Program). The Program provides flexibility in pricing and greater return on the City's investment then the traditional pool. Concerns regarding the Saticoy County Yard Well have been raised by the Fox Canyon Groundwater Management Agency and United Water Conservation District. A Limitation and Tolling Agreement was put into effect. It was determined that the 2004 County of Ventura Saticoy Operations Yard EIR was not sufficient for the anticipated operations of the Saticoy County Yard Well and, therefore, additional environmental review is warranted for operation of the well.

Based on these considerations, 3 alternative water supply portfolios were developed for determination of the recommended net zero fee. Portfolio 1 would include all of the programs in the City's CIP that relate to new or restored supplies, Portfolio 2 would include Potable Reuse and Foster Park restoration only, and Portfolio 3 would include all of the new or restored supply projects except OVSD. Of the portfolios, Portfolio 2 would not address the recommended water supply buffer of 20 percent set by the Water Commission.

Section 4: Economic Basis for Recommended Fees

The amount of the recommended water resource net zero fee is based on the required capital cost and financing cost to develop the additional water supplies to serve new development. The anticipated capital cost and yield of the potential water supply programs are summarized in the previous section.

Capital costs are based on the estimated costs included in the City's CIP and escalated in subsequent years based on the ENR Index for Los Angeles. Financing costs are based on the financing policy recommended by the Citizen Rate Advisory Committee in 2014 and adopted by City Council. This policy recommends utilizing pay-as-you-go for 50 percent of capital costs and bond financing for the other 50 percent. This evaluation assumes that bond financing would occur at 5 percent over 30 years with semi-annual payments.

Based on these assumptions, the resulting net zero fee for the alternative portfolios is presented in the following table.

WATER CIP PROJECTS FOR 2016-2022

	Portfolio 1- All New Supply and Supply Restoration Projects		**Portfolio 2-potable Reuse and Foster Park Wellfield Restoration Only*** **		**Portfolio 3-Potable Reuse, Foster Park Wellfield Restoration and Desalination**** **	
Yield	10,518	AFY	6,398	AFY	9,398	AFY
CIP Cost**	$171,517,014	2015 $	$89,077,014	2015 $	$169,077,014	2015 $
Financing Cost (50%)*	$80,716,229	2015 $	$41,919,810	2015 $	$79,567,960	2015 $
Net Zero Cost Basis	$252,233,243	2015$	$130,996,824	2015 $	$248,664,974	2015 $
Unit Cost	$23,981	$/AFY	$20,475	$/AFY	$26,457	$/AFY

* Based on 50% of capital costs at 5.0% for 30 years with semi-annual payments.
** The CIP cost for the Potable Reuse program was reduced by $62 million which is being collected through the Estuary Protection Fund.
*** Portfolio 2 only provides an adequate water supply through 2025.
**** Portfolio 3 provides an adequate water supply to at least 2050.

The net zero fee would be applied to the amount of the projected annual demand of new or intensified development that is not mitigated by the dedication of water rights or the implementation of extraordinary onsite or offsite conservation measures.

4.1 Adjustments to Water Rights/Credits Based on Water Quality

The assessment of any water rights/credits provided to offset the net zero fee should consider the water quality of the water source that is transferred. For general minerals, it is recommended that the water rights/credits would be reduced by the volume of blend water necessary to achieve the City's water quality goal of 90 percent of the secondary MCL for total dissolved solids or any of the Division of Drinking Water's (DDW's) primary or secondary Maximum Contaminant Level (MCL) for general minerals, whichever is more stringent. For contaminants for which DDW may require treatment, it is recommended that the rights/credits would be reduced by the volume of blend water necessary to achieve 80 percent of the primary MCL for other contaminants. These recommendations are incorporated in the following formula:

$$\text{DWR Credit} = \text{DWR} - \left(\frac{\text{WQ(DWR)} \times \text{DWR}) - (\text{WQG} \times \text{DWR})}{\text{WQG-WQ(BW)}}\right.$$

Where:

DWR Credit = the annual quantity of the DWR that would be applied the projected annual demand to mitigate the net zero fee.

DWR = annual quantity of water rights/credits to be transferred.

WQ(DWR) = the water quality of the City's water supply which is used to utilize the transferred water rights/credits (i.e. City-operated groundwater well in the same basin as the water rights/credits). The water quality of a private groundwater well will not be used unless the City agrees to use the well to supply water.

WQG = the water quality goal of the blended water which could be a goal established by the City, 90 percent of the primary or secondary MCL for general minerals or 80 percent of a primary MCL for contaminants for which DDW requires treatment at 80 percent of the primary MCL.

WQ(BW) = the water quality of the blend water source.

Section 5: Recommended Water Resource Net Zero Fee

Based on the analysis presented in the preceding section, Portfolio 3- Selected Projects, which addresses projected demands and a 20% buffer, is recommended as the basis for the net zero fee. In this portfolio, Potable Reuse and Foster Park would be implemented prior to 2025 and seawater desalination would be implemented after 2025 but before 2050. Portfolio 3 is recommended because it would provide the water supply buffer consistent with the City's Water Commission policy recommendations. It should be noted that the timelines are estimates only and the City will continue to investigate and pursue other alternative supply projects and opportunities. With the recommended implementation approach, the City would maintain a 20 percent buffer until at least 2050 based on current demand projections. Accordingly, the recommended net zero fee is $26,457 per acre-foot of new demand.

The selected projects or "suite" of projects" used to calculate the net zero fee does not tie or commit the City to actually building any particular project or suite of projects. As time goes on and new information and data are acquired or as regulations change, it may be decided at a later date to swap out one project for another (i.e. State Water for Desalination). Demand side management projects such as the expansion of the City's recycled water system could also be funded by the collected fees.

Section 6: Potential Implementation Issues

To implement the recommended fee, the City must have an accurate assessment of the potential water demands of proposed new development. Although the water demand factors of new development have been dropping due to the incorporation of water conservation measures, the City should be conservative in its application of water demand factors. Accordingly, it is recommended that the City utilize the City's current local water use demand factors approved by Council on June 10, 2013, as presented in the Final 2013 Comprehensive Water Resources Report, to the recommended water resource net zero fee for appropriateness and conservatism. It is anticipated that the City's water demand factors will be reevaluated in 2023 as indicated in the past CWRR's unless additional information requires an earlier reevaluation. However, the City may want to reevaluate the demand factors in 2020 to coincide with the 2020 Urban Water Management Plan. In addition, it is recommended that the City continuously monitor its available water supplies so that new supplies are developed in a timely manner to serve potential new development.

Exhibit "B"

"Water Rights Dedication and Water Resource Net Zero Fee Nexus Report"

Trusted life source for generations

VENTURA WATER

www.venturawater.net

Memorandum

To: **Honorable City Council**
Mark D. Watkins, City Manager

From: **Shana Epstein, Ventura Water General Manager**

Date: **March 30, 2016 – Revised May 11, 2016**

Re: **Water Rights Dedication and Water Resource Net Zero Fee Nexus Report**

To assure that new development does not adversely affect the water supply or water supply reliability of the City's existing customers, Ventura Water proposes to implement a water rights dedication and water resource net zero fee ordinance and resolution. The objective of these actions would be to assure that adequate water supplies are available for proposed new or intensified developments without adverse impacts to the City's existing customers or approved new developments. Developers could dedicate adequate water rights to support a proposed new or intensified development, implement extraordinary onsite or offsite conservation measures and/or pay a net zero fee so that the City could develop the necessary water supplies.

Background

The City of San Buenaventura (City) owns and operates a water system that serves approximately 32,000 service connections, within and outside the City boundaries. Water is supplied through 3 main sources: local groundwater from the Mound, Santa Paula, and Oxnard Plain basins, treated water purchased from Casitas Municipal Water District (Casitas) and water diverted from the Ventura River and treated for potable use. Water from Casitas is primarily used by the City's customers that are within the boundaries of Casitas. Water service is provided to all residential, commercial, industrial and irrigation customers, including fire protection users.

The City water system is a complex system of 16 pressure zones, 11 wells, 21 booster stations, approximately 380 miles of pipelines ranging from 4-inches to 36-inches in diameter, and a total storage capacity of approximately 52 million gallons (mg) in 32 tanks and reservoirs. The system delivers water from sea level to a maximum elevation

of over 1,000 feet. The City operates three purification facilities, including one membrane filtration treatment plant for surface water sources on the west side of the City, and two iron/manganese removal treatment plants for groundwater sources on the east side[1].

In addition, recycled water from the City's Ventura Water Reclamation Facility is delivered to recycled water customers in close proximity to the facility located in the Ventura Harbor and along the Olivas Park Drive corridor. The City's existing Reclaimed Water Policy encourages the use of recycled water, and new development located near existing recycled water mains or within the defined recycled water focus area is required to use recycled water in lieu of potable water for irrigation and other uses as appropriate.

The City has previously prepared various water planning documents that address water demands and supplies. These documents include the 2005 General Plan, Amended 2010 Urban Water Management Plan, and 2011 Water Master Plan. Because these documents were prepared for specific and different purposes, the water demand and supply projections differ. The City prepared a Final 2013 Comprehensive Water Resources Report (CWRR) to compared the water demand and supply projections in the previous reports and compare the City's water demand projections with its available supplies. Council approved the Final 2013 CWRR and directed staff to provide an annual update on the City's projected water supply and demand. Relevant conclusions of the 2013 CWRR as well as the subsequent annual reports are summarized and form the basis for this evaluation. These documents are available at www.cityofventura.net./water/supply

Impact from New Development

New development places an increased demand for water upon the City's water supply. The City appears to have limited opportunities for developing additional water resources for new development. Of the sources identified, water from Casitas is limited to City service within the boundaries of Casitas, restoration of the Foster Park wellfield production capacity can be utilized throughout the City, and recycled water can be applied directly or indirectly to benefit new development throughout the City. Dedication of available water rights will provide the City with access to water supplies that will serve and offset the demand of new or intensified development. Water resource net zero fees will be used to develop new facilities that will enable the City to increase water production to serve and offset the demand of new or intensified development.

[1] City of San Buenaventura Water Master Plan, 2011.

Water Supply Capacity

The City's water supply is currently being used at nearly full capacity. Based on a review of the previous water demand projections and a detailed evaluation of historical water demands, the Final 2013 Comprehensive Water Resources Report (CWRR) indicates that the calendar year (CY) 2012 water demand including a 6.5 percent water loss factor was 18,004 acre-feet per year (AFY). The recommended baseline water demand for existing conditions (utilizing the most recent 5-year average, CY 2008-2012) was set at 17,601 AFY. Based on the estimated water demands of approved and yet unbuilt new developments as of December 31, 2012, the Final 2013 Comprehensive Water Resources Report projected the near-term water demand to grow to 18,643 AFY by 2019.

The Final 2013 CWRR summarizes the City's current available water supplies as 5,000 AFY from Casitas, 4,200 AFY from the Ventura River (Foster Park), 4,000 AFY from the Mound Groundwater Basin, 4,100 AFY from the Oxnard Plain Groundwater Basin, 1,600 AFY from the Santa Paula Groundwater Basin, and 700 AFY of recycled water. Accordingly, the City's current water supply portfolio totals 19,600 AFY during a normal hydrologic year.

The 2015 CWRR is the latest CWRR as of the time of this report and indicates that the CY 2015 water demand including a 6.5 percent water loss factor was 16,995 acre-feet per year (AFY). The reduction in water demand compared to previous years can be attributed to increased water rates and the City's request to customers to voluntarily reduce their water usage by at least 10% in response to the prolonged drought. The recommended baseline water demand for existing conditions (utilizing the most recent 5-year average, CY 2010-2014) was set at 17,167 AFY. Based on the estimated water demands of approved and yet unbuilt new developments as of December 31, 2014, the 2015 Comprehensive Water Resources Report projected the near-term water demand to grow to 18,295 AFY by 2022. Accordingly, the City's current water supply of 19,600 AFY during a normal hydrologic year is only 7.1 percent higher than the projected demand. Since the City's targeted supply buffer is 20%, additional supplies are required. The 20% buffer was established in order to insure that water demands could still be met without the need for mandatory conservation in the event of future droughts or other water shortage event emergencies such as the sudden loss of one of the City's supply sources.

Additional Water Resources for New Development

There exists a need for additional water resources, and that need is caused by new or intensified development. The 2015 Comprehensive Water Resources Report identifies future and potential additional future water supplies. Future water supplies include increased Casitas deliveries of 409 AFY to areas within the Casitas service area (based

on estimated growth from approved projects located within the Casitas service area as of December 31, 2014), restoration of the Foster Park wellfield production capacity by 2,500 AFY, construction and operation of Saticoy Well No. 3 to increase supply from the Santa Paula Basin and increased recycled water deliveries by 700 AFY. These future water supplies would increase the future available supplies to 24,377 AFY. Potential additional future water supplies include deliveries of imported water supplies from the State Water Project, Saticoy County Yard Well, recycled water and/or Potable Reuse from the Ventura Water Reclamation Facility (VWRF), recycled water from Ojai Valley Sanitary District (OVSD), and ocean desalination.

Of the potential additional future water supply sources of water identified for new development, several have uncertainties or complexities that limit their utilization as the basis for development of a water resource Net Zero fee.

At the December 22, 2015 Water Commission Meeting City staff presented a written and oral report regarding potential future water supplies and associated estimate capital costs and financing costs related to three scenarios for potential future supply projects. As summarized in Section 3 of the Evaluation of a Water Resource Net Zero Fee Report, three scenarios of water supply portfolios were developed for determination of the recommended net zero fee. Portfolio 1 would include all of the programs in the City's CIP that relate to new or restored supplies, Portfolio 2 would include Potable Reuse and Foster Park restoration only, and Portfolio 3 would include all of the new or restored supply projects except OVSD. Of the portfolios, Portfolio 2 would not include the Water Commission's water supply buffer of 20 percent.

Currently, State Water is limited by the ability to deliver the water to the City. Although State Water can be wheeled through the Metropolitan Water District of Southern California and Calleguas Municipal Water District, it would be costly and the necessary agreements have not been negotiated. The City continues to discuss potential intertie projects with other local agencies and a Water Intertie Project is included in City's current Capital Improvement Program (Program #97949). In the interim, in June 2013, Council authorized the City's 10,000 acre-foot of State Water Project allocation to be sold in the State's Multi-Year Water Pool Demonstration Program (Program). The Program provides flexibility in pricing and greater return on the City's investment than the traditional pool. In addition, the City Council gave authority to staff to negotiate a temporary transfer for a portion of the City's entitlement to help recuperate the City's investment in State Water.

The City in collaboration with the County of Ventura, constructed and completed the Saticoy County Yard Well and associated facilities in 2009, which would have provided additional water to the City and Saticoy area. Concerns regarding the operation of the Saticoy County Yard Well were raised by the Fox Canyon Groundwater Management Agency and United Water Conservation District. As a result, a Limitation and Tolling

Agreement was put into effect. It was determined that the 2004 County of Ventura Saticoy Operations Yard EIR was not sufficient for the anticipated operations of the Saticoy County Yard Well and, therefore, additional environmental review is warranted for operation of the well. At this time, there are no plans to operate the well due in part to water quality issues with the well.

Mitigation of New Development Water Resources Impacts

In order to mitigate the water resource impacts of new urban development, it is necessary and desirable for new or intensified urban development to provide supplemental water resources to the City's water system in an amount proportional to the new demand created by such development. This can be accomplished by dedication of water rights where available. The amount of the recommended water resource net zero fee is based on the required capital cost and financing cost to develop the additional water supplies to serve new development.

Evaluation of a Water Resource Net Zero Fee Report

The City has retained Water Consultancy, a water resource expert firm, to prepare an Evaluation of a Water Resource Net Zero Fee Report. That evaluation establishes the estimated costs of obtaining water resources and the basis for determination of the net zero fee. The amount of the recommended water resource net zero fee in the report is based on the required capital cost and financing cost to develop the additional water supplies to serve new development.

Water Land Use Demand Factors

The Final 2013 Comprehensive Water Resources Report refined water land use demand factors to be more consistent with local water use trends and water efficiency, and to provide more accurate estimates. Staff will utilize these factors to determine the impact of development on the water supply and to calculate the amount of water right and/or net zero fee required to offset new water demand. Below are the water land use demand factors to be utilized from Table 3-3 of the report:

Water Use Demand Factors

Land Use	Demand Factor *	AFY/Unit *
Residential		
Residential 0 - 8 du/acre	370 gpd/du	0.415 AFY/du
Residential 9 - 20 du/acre	250 gpd/du	0.280 AFY/du
Residential 21+ du/acre	250 gpd/du	0.280 AFY/du
Commercial/Retail/Industrial/Hotel	265 gpd/ksf	0.300 AFY/ksf

Public/Institutional		
Hospital/Assisted Living	545 gpd/bed	0.611 AFY/bed
Park/Landscape/Irrigation	2,000 gpd/acre	2.240 AFY/acre

gpd/du – gallons per day per dwelling unit
gpd/ksf – gallons per day per thousand square feet
Source: 2013 Comprehensive Water Resources Report
**Consumption factors include 6.5% water loss and 20% adjustment for planning purposes.*

Conceptual project applications will use the above land use categories. For those projects that do not define the residential density, the highest density demand factor will be used. Industrial, commercial, and retail will assume the square footage reflecting the highest and best use of the acreage. As a project is revised, further defined, density decreased or density increased, the water demand for the project will be required to be revised. See attached Exhibit A: Sample Water Demand Impact Calculation as an example of how the demand factor will be used to calculate the required water right allocation and/or net zero fee to be paid. These demand factors establish the relationship between the amount of water rights to be dedicated or the amount of any in net zero fee to be charged and the impacts of new or intensified development.

Nexus between New Development and Proposed Ordinance

There is a reasonable relationship between the water dedication requirements and net zero fees established by this Ordinance and the impacts of new development because the amount of water to be dedicated and the amount of any fees to be collected is, based upon the water use demand factors and Water Consultancy Report, directly proportional to the impacts of the new development upon which the dedication requirement or fees are imposed.

Conclusion and Recommendations

Based on the Water Consultancy Report, the recommended water resource net zero fee for 2016 is $26,457 per AFY of additional demand.

To implement the recommended fees, the City must have an accurate assessment of the potential water demands of proposed new development. Although the water demand factors of new development have been dropping due to the incorporation of water conservation measures, the City should be conservative in its application of water demand factors. Accordingly, it is recommended that the City utilize the City's current local water use demand factors approved by Council on June 10, 2013, as presented in the Final 2013 Comprehensive Water Resources Report, to the recommended water resource net zero fees for appropriateness and conservatism. It is anticipated that the

City's water demand factors will be reevaluated in 2023 unless additional information requires an earlier reevaluation. In addition, it is recommended that the City continuously monitor its available water supplies so that new supplies are developed in a timely manner to serve potential new development.

Exhibit A: Sample Water Demand Impact Calculation

To provide predictability and consistency, a Water Demand Impact Calculation is proposed to summarize a project's water demand impact and to calculate the amount of water right to be transferred to the City and/or the amount of the net zero fee to be paid.

Sample Development Project Zone 1

Water Demand Impact Calculation

Land Use Type	Units	*Water Use Demand Factor	Total Average Demand	AFY Demand
Residential (0-8) du/ac	85	370 gpd/du	21.84 gpm	35.23
	Transferable Water Right (AFY)			**35.23**
or				
	****Net Zero Fee (AFY x $26,457)**			**$932,080**

***Water Use Demand Factor** – See Table 3-3, City of Ventura Final 2013 Comprehensive Water Resources Report, June 2013.

** **Net Zero Fee**– See Evaluation of a Water Resource Net Zero Fee, Water Consultancy, March 30, 2016 –Revised May 11, 2016.

ATTACHMENT E

SAMPLE WATER DEMAND IMPACT CALCULATION

ATTACHMENT F

CITY RESPONSE TO COMMENTS MATRIX

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
Cohen, Chuck	***Letter Dated March 21, 2016***	
	1. Find C in Section 1 of the draft ordinance states, without qualification, that the "need for additional water...is caused by new and intensified urban development. This is incorrect. The City's growth rate over the past decade and a half has been approximately 1% per year, most of which occurred before the current drought. Thus, new or intesified development in the last 7 years accounts for perhaps less than 5% of the City's total draw down on existing water supplies. Similarly, future developent should only be proportionately assessed for its share of the proposed capital water investment. It should pay for its water use and the distribution system installed to bring water to its boundary. Its actualization should leave existing consumers no worse off, but should not be the cure-all for past and current deficiences.	New development does not bear the entire responsibility. First, the wastewater customers are already paying through the Estuary Protection Fund. The dollar amount for the Santa Clara River Estuary Consent Decree solution was subtracted out of the calculation. Second, developers only pay for their determined annual demand that they have not offset with other demand offsets. Third, as customer rates start paying for these projects, the new cost of service studies will update this Net Zero Fee accordingly.
	2. Finding H at page 2 of the draft ordinance states that new fee is payable because of the "anticipated impacts that new or intesified urban development will have." This speculative statement comes with no facutal support and provides for no existing use attibution.	New or intensified development requires an increase in water supply when utilizing the City's current water demand factors. This increase in water supply has an impact on the water supply and/or water reliability of the City's existing customers.

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	3. In Section 22.180.010 of the proposed ordinance, reflecting on where reference is made to annexation, there is no consideration of the existing and propsoed extended SOAR ordinances, the purpose of which is to maintain agricultural uses requiring higher water demands than urban uses and at the same time seeks to restrict new urban development.	The City does not serve agricultural customers.
	4. Your attention is called to the limits on offsets and credits for redevelopment of lands which previously received water service. It appears that an arbitrary limit of 50% defines baseline and offset credit with no supportive research or science.	Inactive Meters applies to meters without 12 consecutive months of usage in the last ten years, but have still been paying their monthly service charges. All monthly service charges for all meters pay for 25% of the overall revenue requirement for the Water Enterprise Fund and are proportional based on size to account for peak needs. Therefore; 2:1 was a policy decision by the Water Commission to give credit while recognizing the actual demand of these inactive meters had not registered significantly in the calculation of the demand baseline.
	5. The draft ordinance doesn't appear to provide for calculating the value of privately owned water rights. The City's prior conditioning of new projects to dedicate its existing water rights has been "accepted" by the development industry in order to obtain City entitlements, but has not been tested as a proper exaction without fair market value consideration.	The revised ordinance describes in more detail how market value will be determined if a developer has access to more water rights than needed to meet the demand.

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	6. The 20% contingency cost of new water and infrastructure is unsupported.	The 20% buffer was a policy decision approved by the Water Commission to insure mandatory conservation measures would not be activated unless there was a water shortage greater than 20%. The buffer insures that the City will still be able to supply customers without having to call for a Water Shortage Event, should one or more supply sources in some way be diminished or compromised.
	7. There does not appear to be exceptions for the following: affordable housing projects of less than 100%, projects in the planning process deemed complete, and projects in the planning process, while without deemed complete applications, have been working diligently with staff for, say at least 6 months or some reasonable longer time.	Yes, the ordinance does not provide for any such exceptions.
	8. There is no mention of the City connecting to the StateWater System either directly or via the City of Oxnard. It is my understanding that the City has been paying an annual standby fee of $1,000,000 to the State for the privilege of connection.	The City lists the capital costs of an inter-tie with Oxnard to receive State Water Project resources. The multi-agency discussions on an agreement to wheel this resource through others infrastructure has begun. State Water Project contractors are only obligated to move water for other contractors if there is capacity in their pipelines. They are not obligated to guarantee that a specific amount will be delivered within a given timeline.

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	9. There is no indication of a City study estimating the cost of the infrastructure needed for such connection.	The cost is included in the technical analysis. The cost is also provided in the CIP.
	10. There is no mention of a possible tie in to the newly online Oxnard tertiary treatment facility nor the cost thereof.	Oxnard's tertiary treatment facility does not provide a reasonable solution for the City to develop potable supplies.
	11. Without deeper research, we are without cost comparisons for the above metnioned potentially alternative water sources.	All the projects listed are in the City's multi-year Capital Improvement Plan (CIP). The CIP has explanations for every project and cost breakdowns. Then the report from Water Consultancy used those numbers to complete their analysis of the net zero fee.
Jensen, Don	***Letter Dated March 22, 2016***	
	My suggestion is that new development should share a proportion of the new supply cost. I would propose that new development should be asked to pay one third of the additional supply cost while the existing customers who also benefit from new supplies would pay two thirds of the new supply costs.	New development does not have the entire responsibility. First, the wastewater customers are already paying through the Estuary Protection Fund. The dollar amount for the Santa Clara River Estuary Consent Decree solution was subtracted out of the calculation. Second, developers only pay for their determined annual demand that they have not offset with other demand offsets. Third, as customer rates start paying for these projects, the new cost of service studies will update this Net Zero Fee accordingly.
Dyer, Dawn and Sheehan, Paul	***Letter Dated March 22, 2016***	

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	1. First and foremost, we are deeply concerned that the Net Zero Ordinance will significantly discourage new development in Ventura, which will make housing more expensive and less avialable, and will limit business investment in the community.	The City is concerned that without a clear policy of how to account for water for future projects and what is an acceptable water supply buffer, that development will stop because of the lack of water.
	2. We dispute the assertion that water consumption is currently near City's exiting water supply.	Based on the 2015 Comprehensive Water Resource Plan, the year 2020 under normal hydrogeologic conditions indicates a buffer supply as low as 9% (less than a 20% buffer). Furthermore, Year 2016 Drought projects supply to be less than normal demand.
	3. Current water supply used to calculate Net Zero fees was 19,600 AFY even thought the supply was increased to 21,006 AFY with the 2015 completion of the Saticoy well. Based on the higher supply number and 2015 demand figure, the City currently has a surplus of 23%	The current water supply increase assists the City in its current water shortage event (the drought). The specified water right assigned to the City as defined in the stipulated judgement and subsequent reports has always been reflected in the future five year intervals of the annual CWRR.
	4. We dispute the assertion that the NEED for new water is "caused" by new development. No new water supply has been created in the City in 30 years, despite signifcant new development over that period.	New or intensified development requires an increase in water supply when utilizing the City's current water demand factors. This increase in water demand has an impact on the water supply or water reliability of the City's existing customers. The City water supply is not stagnant and is influenced by many factors including weather, water quality requirements, supply agreements with other entities and local groundwater policies.

**Written comments taken directly verbatim*

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	5. We dispute the findings that the new fee is "proportional to the new demand created by development," and that the costs of the fee are"based on the cost of obtaining water supplies to meet the demand of new development." The Water CIP Projects used to determine the Net Zero fee include the purchase of land for construction of new facilities and the repair/restoration of existing facilities that will provide benefits to the entire city.	The cost associated with new facilities not only includes land acquisition but also includes design, permitting, and construction costs. It is more cost effective to repair or restore existing facilities to increase production rather than build new facilities for new supply. If we were to pull Foster Park restoration costs out of the suite of projects for calculating the Net Zero Fee, the $ per acre-foot of water will actually increase. By counting "restored" water as new water, the fee is made lower than it would otherwise be.
	6. Lack of "Equity Adjustment" - It is unfair, and unconstitutional, to place the entire burden for improving the City-Wide water system onto new development. The costs should be divided equitably between new and existing customers.	New development does not have the entire responsibility. First, the wastewater customers are already paying through the Estuary Protection Fund. The dollar amount for the Santa Clara River Estuary Consent Decree solution was subtracted out of the calculation. Second, developers only pay for their determined annual demand that they have not offset with other demand offsets. Third, as customer rates start paying for these projects, the new cost of service studies will update this Net Zero Fee accordingly.
	7. The 20% Buffer is excessive and unsupported.	The 20% buffer was a policy decision approved by the Water Commission to insure mandatory conservation measures would not be activated unless there was a water shortage greater than 20%.

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	8. Developers should not have to pay for buffer and financing costs, in addition to cost of creating new supply.	Since the buffer is part of the required water supply for new and existing customers in order to pay for the water supply the City's policy is to finance 50% of all capital programming, both of these are part of the costs.
	9. Why are there no water right credits for projects in the Casitas area? This penalizes infill projects in this area.	Individual customers in the Casitas area do not have "water rights." The City has a water service agreement with Casitas that may address the City's Ventura River rights. Once an individual is a Ventura Water customer, it does not matter where the City may have additional access to water to serve them if that specific supply is interrupted, the City is still obligated to provide water service.
	10. Historical Baseline Use for "Inactive Meters" is not fair or reasonable. No justification for the 2:1 credit, which penalizes projects that already have a reduction in credits from 10 year average with no use year(s).	Inactive Meters applies to meters without 12 consecutive months of usage in the last ten years, but have still been paying their monthly service charges. All monthly service charges for all meters pay for 25% of the overall revenue requirement for the Water Enterprise Fund and are proportional based on size to account for peak needs. Therefore, 2:1 was a policy decision by the Water Commission to give credit while recognizing the actual demand of these inactive meters had not registered significantly in the calculation of the demand baseline.

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	11. Extraordinary Conservation Credit - the requirements, process and analysis for this credit is unclear.	The recommendation was to not over define what water efficiency device gets what credit with an understanding that technology keeps changing and that an implementation worksheet for applicants will be necessary. Staff has already researched other water agencies' tools.
	12. Appeal process - Is 15 days long enough for applicant to file?	The appeals process was to mirror other processes within the City.
	13. CEQA - We question the assertion that the project is exempt under Section 15273 because fees are for CIP necessary to "maintain service within existing service areas." This is in contradiction to fees beign used to create new supply to offset the impacts of new development.	First, the ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations (the "State CEQA Guidelines") because it implements a regulatory process that will not foreseeably result in construction activities or other physical activities, either directly or indirectly. Accordingly, it can be seen with certainty that the enactment of the ordinance does not have the potential to result in significant effects on the environment. Second, the ordinance is further exempt under Section 15273 of the State CEQA Guidelines because, as discussed in other comment responses, without obtaining water rights or fees in order to access additional water supplies, the City would not be able to maintain reliable service within existing service areas. Moreover, portions of new supplies may be achieved through system improvements and demand side management facilities.

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	14. Given the significant up-front investment and time frames required for development approval, projecs with applications that have been "deemed complete" should be exempt form the Net Zero Policy.	For over the past three years, all applicants have been informed about this pending policy and projects that have or are going through the entitlement process have included project conditions that would require the developer to dedicate water or pay net zero fees pursuant to the Ordinance.
Cormode, Daniel	***Handout/Email Dated March 22, 2016***	
	1. It is recommended that the data contained in the Evaluation of a Water Resouce Net Zero Fee Report be verified for accuracy prior to reviewing the proposed ordinance.	The Report was prepared by an independent consultant with over 30 years of experience. Additionally, staff has reviewed the report for accuracy and the Water Commission took action on the proposed ordinance.

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	2. A review of the Evaluation of a Water Resource Net Zero Fee Report was conducted with significant errors and omissions found. A. Total estimated capital cost is underestimated. B. Development of an additioanl water supply source includes Foster Park Wellfield Restoration Project which purports to increase the capacity by 2,500 acre feet per year. (Based upon a 50 year historical average) C. The Foster Park Well Field Project is listed as new water, but looks like a restoration project.	Staff does not agree that there are significant errors or omissions in the Report nor that the estimated capital cost is underestimated. The report has been reviewed for accuracy and all cost estimates for building new water supply infrastructure are based on the best and latest available data to build the required infrastructure. Estimates were made by a State-licensed engineer with over 20 years of estimating experience. Additional water supplies from the restoration of Foster Park are being considered "new" supply because it is supply that cannot be reliably achieved without a significant capital investment to replace infrastructure that has been destroyed by flooding. Whether "new" or "restored", the additional supply will accommodate water demands for future development.
Jensen, Lynn Gray (Executive Director CoLab Ventura County)	***Letter Dated March 22, 2016***	
	1. The proposed Net Zero Ordinance will discourage all new development but will be particularly hard on infill or intesified use projects; the very concept that our community Vision encourages. Most infill projects by definition are "underutilized" in their current state and therefore would incurr the highest Demand Offset under the proposed calcuation.	Comment noted.

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	2. These costs have gone up dramatically since the first discussion of the fee and almost one-third of the total cost and design would be finance charges.	More detailed costs estimates on the City's most current Capital Improvement Plan, financing costs were included (pay as you go for 50% of capital costs and bond financing for the other 50%, bond financing at 5% over 30 years with semi-annual payments), and the Net Zero Fee is based on different water supply projects than the November 2013 fee estimate was based on.
	3. Furthermore, the "selected projects or "suite of projects" used to calculate the fee does not tie or commit the City to actually building any particular project or suite of projects".	The selected projects or suite of projects are representative of the most probable projects to develop new water supplies that will meet the City's future needs. However, the types and sizes or "capacities" of projects could change over time with advances in technology, changes in regulations, the enactment of future policies, and other factors.
	4. Finally, we feel that the fee should be analyzed on a holistic level and incorporate all existing and future water users in the city. This approach would not only be more equitable, but much more efficient. Any new infrastructure will benefit all water users.	New development does not bear the entire responsibility. First, the wastewater customers are already paying through the Estuary Protection Fund. The dollar amount for the Santa Clara River Estuary Consent Decree solution was subtracted out of the calculation. Second, developers only pay for their determined annual demand that they have not offset with other demand offsets. Third, as customer rates start paying for these projects, the new cost of service studies will update this Net Zero Fee accordingly.
Underhill, Diane	***Letter Received April 11, 2016***	

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	1. Local water sources are diminished...isn't it time to institute a temporary moratorium of new large-development water connections until which time our local water supply can recover from these prolonged drought conditions?	In September 2014, City Council directed Ventura Water staff to research a building permit and/or water connection moratorium process and its implications. The building permit moratorium would stop the issuance of permits related to increased water demand and a water connection moratorium would stop the issuance of new or upgraded water connections/meters. Pros and cons were identified for each moratorium; a con identified indicated that instituting a moratorium would provide no collection of funds to develop new water supplies. In addition, the City could face a suite of legal challenges should a moratorium be implemented. It was concluded that a moratorium would only serve as a short-term response to drought whereas public concerns were focused on long-term impacts of development on supply. Implementing the Ordinance would enable monies to be collected to invest in a reliable future water supply.
Watling, Charlie (Downtown Ventura Properties III, LLC)	**Letter Dated April 11, 2016**	

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	1. It appears that the projected water use estimates for new projects will be based on very standardized estimates that do not adequately take into account all new water conservation methods or real world results.	The projected water use estimates for new projects will be calculated based on the demand factors approved by City Council in the 2013 Comprehensive Water Resources Report. It is anticipated that the demand factor will be reevaluated every 10 years.
	2. A solution to this problem would be to include a 3-year look-back provision which would allow a retroactive modification of the fees, either up or down, based on actual usage.	The net zero fee was evaluated in 2016 and is based on the required capital cost and financing cost to develop additional water supplies to serve new development. The net zero fee will be evaluated on an annual basis to account for inflationary costs by tying the fee to the Engineering News Record (ENR) Construction Index. In addition, the net zero fee may also be reevaluated concurrently when water rates are evaluated to ensure that development will not be paying disproportionally for new water supply.

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	3. Very often the newest homes are occupied by the newest families...this policy places a disproportionate portion of the entire community's burden of helping young families squarely on the shoulder of those young families.	The young families do not bear the entire responsibility. First, the wastewater customers are already paying through the Estuary Protection Fund. The dollar amount for the Santa Clara River Estuary Consent Decree solution was subtracted out of the calculation (approximately $62M). Second, developers only pay for their determined annual demand that they have not offset with other demand offsets. Third, as customer rates start paying for these projects, the new cost of service studies will update this Net Zero Fee accordingly.
	4. For water conservation purposes, the City would be well advised to institute policies that would encourage moving people from water inefficient homes into water efficient homes.	The City and State both offer various incentive programs to help conserve water. Visit www.venturawater.net to learn more.
	5. The Inactive Meter provisions of the current proposal contain rules that would very substantially penalize property owners who reduce water usage during the development process.	Inactive Meters applies to meters without 12 consecutive months of usage in the last ten years, but have still been paying their monthly service charges. All monthly service charges for all meters pay for 25% of the overall revenue requirement for the Water Enterprise Fund and are proportional based on size to account for peak needs. Therefore, 2:1 was a policy decision by the Water Commission to give credit while recognizing the actual demand of these inactive meters had not registered significantly in the calculation of the demand baseline.

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
Prillhart, Kim L. (Planning Director, Ventura County Planning Division)	**Letter Dated April 11, 2016**	
	1. It appears that Ventura Water still proposes to treat Saticoy differently than other properties outside the City limits...developers in Saticoy will be "evaluated on an individual basis and require City Council approval if a larger meter size is requested". County Planning Division staff...explained that Ventura Water had provided no justification or analysis for why properties in Saticoy should be treated differently than all other "properties outside City limits". 1) What criteria will the City Council use to evaluate the request? 2) Will each request first be reviewed by Ventura Water Staff? 3) Has Ventura Water staff identified how much more time and money this mandatory case-by-case evaluation will add to the process, for both the developer and the City? 4) Why wouldn't the City's water demand factors be adequate for Saticoy developers if it is the City's standard for all other developers?	The Saticoy area is subject to the City's Municipal Code Section 22.110.055, Water Connections outside City limits. A water service agreement is required for projects that request meter services that are located outside the City limits. All properties outside the City limits requesting water service will be required to comply with the Water Resources Water Rights Dedication and Net Zero fee Ordinance. The process includes input from the City Planning Department, Ventura Water, the City Attorney's Office, and the Ventura Local Agency Formation Commission (LAFCO). The City application process will take approximately 30-90 days in addition to LAFCO's time requirements. Modifications to this process are not part of the Net Zero Fee Policy under consideration but may be considered in the future. All water service agreements will need to comply with the current and any future policy.
Cormode, Daniel	***Email Dated April 7, 2016***	

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	1) Water rights do not equate to having a reliable or sustainable water supply.	Water rights provide the City with authority to extract certain amounts of water from local groundwater aquifers. Although alone they do not equate, water rights are certainly a key part of a reliable and sustainable water supply for the City.
	2) The Administrative Report states "the selected projects or "suite" of projects" used to calculate the net zero fee does not tie or commit the City to actually building any particular project or suite of projects" thereby causing developers to pay a fee with no guaranteed return.	The developers have a guaranteed return of receiving water from the City's water system now and in the future. The selected projects or suite of projects are representative of the most probable projects to develop new water supplies that will meet the City's future needs. However, the types and sizes or "capacities" of projects could change over time with advances in technology, changes in regulations, the enactment of future policies, and other factors.
	3) The real estimated Unit Cost of water is $65,325 per acre-foot instead of $26,457 presented by Ventura Water.	The recommended net zero fee of $26,457 was evaluated on a technical basis by Water Consultancy. The $65,325 is incorrect because it captures the Estuary Fee that is already being collected on wastewater bills and because the net zero fee is based on 2015 present worth dollars and not future dollars per the CIP. The net zero fee amount will increase each year to reflect inflation/time value of money and will also be reevaluated every 4-5 years when water and wastewater rates are reevaluated. Also, funds collected will be retained in an interest earning account.

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	4) Total cost of Water CIP Projects is underestimated by $236,287,800.	This assertion in incorrect. The net-zero fee is calculated using 2015 present worth dollars, which will increase annually with inflation. The capital improvement program utilizes "actual" or future dollars that already take inflation into account.
	5) Ventura Water erroneously anticipates improvements resulting from the Foster Park production restoration will restore the historical production capability to produce up to 6,700 acre-feet of water per year.	Once the wellfield is restored (additional wells constructed to replace wells that were destroyed in the 2005 storms), production is estimated to increase to 6,700 acre-feet in <u>above normal hydrogeologic years</u>. 4,200 acre-feet is anticipated in "normal" hydrogeologic years and 1,298 acre-feet in multi-dry years.
	6) Most of the Foster Park Wellfield Production Restoration Construction Estimate project tasks appear to be related to either maintenance or repair of the Foster Park Wellfield facilities and not to developing new sources of water.	It is more cost effective to repair or restore existing facilities to increase production rather than build new facilities for new supply. If the City were to pull Foster Park restoration costs out of the suite of projects for calculating the Net Zero Fee, the cost per acre-foot of water would actually increase. By counting "restored" water as new water, the fee is made lower than it would be otherwise.
	7) The impact of the current drought on the future water supply is not addressed.	The Net Zero Policy is not a "drought policy". The Water Shortage Event Contingency Plan addresses drought conditions.

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	8) Project Fee Accruals are expected to be less than stated since credits for Historical Baseline, Water Rights, or Extraordinary Conservation Offsets are not included and all future water demand is computed at the highest demand factor.	Computations using "highest demand factor" would actually yield higher fee accruals (not less). If the fee accrual ends up being less than anticipated, new developments would still only pay their fair share of costs for new water supplies (which is based on $/acre-feet required for the development). If future demands are less than currently estimated, future projects such as desalination could be deferred.
	9) The sample Water Demand Impact Calculation contained in March 20, 2016 Administrative Report is incomplete.	The sample calculation has been revised.
	10) Constructing the Oxnard-Ventura Emergency Intertie from the Saticoy Water Conditioning Facility directly to the Calleguas MWD Las Posas Feeder No. 2 at Price Road instead of the City of Oxnard Facility on Rose Avenue will result in reduced wheeling costs, gravity flow and yield higher quality water.	The Intertie to wheel State Water is in the CIP. As currently scoped, it consists of connecting to Oxnard's system. As with every Capital Improvement Project that is activated, staff will be looking at alternatives during the design process, including a direct connection to Calleguas.
Wise, Denise M. (Chief Executive Officer, Housing Authority of the City of San BuenaVentura)	***Letter Dated April 11, 2016***	

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	1) Should you enact a fee for the City to develop or acquire additional water resources, we strongly urge you to consider exemptions for affordable housing developments and to set rates that are limited to mitigating the impacts from new development to comply with federal and state law.	The basis for the proposed policy is to ensure adequate future supplies for the City considering new and intensified development that increases the demands on the City water system. In order to comply with legal requirements, the City needs to apply this policy fairly and proportionately to all development. In periodically re-evaluating the Water Resource Net Zero fee, the City Council can decide whether to offset a portion of the fee for affordable housing development utilizing resources from the City's General Fund. Accordingly, the ordinance does not provide for any such exemptions as acceptable alternatives could not be identified.

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	2) The Ordinance as proposed is inconsistent with the 2014-2021 Housing Element's conclusions (i.e. "...the City represented that it "has adequate water and sewer capacity to accommodate its share of the regional housing need within the planning period"..."based on conservative water supply and demand assumptions over the next 25 years there is a reliable and high quality water supply even during dry periods").	The ordinance contains three different compliance options: dedication of Water Rights/Credits, Conservation Offsets, and/or payment of a Water Resource Net Zero Fee. Analysis of these compliance options in the ordinance is based on the most current water resources information for the City. There is no indication that implementation of and compliance with this policy is inconsistent with the Housing Element's conclusion that the City has adequate water capacity to accommodate its share of the regional housing need. In fact, this policy is consistent with the Housing Element by ensuring that water supplies are adequate, and rates and fees for City customers are proportional, as new water demands are added to the City's water system.
	3) The proposed water fee would add expense to the cost of new development in excess of the demands new development would place on the water system.	New development does not have the entire responsibility. First, the wastewater customers are already paying through the Estuary Protection Fund. The dollar amount for the Santa Clara River Estuary Consent Decree solution was subtracted out of the calculation. Second, developers only pay for their determined annual demand that they have not offset with other demand offsets. Third, as customer rates start paying for these projects, the new cost of service studies will update this Net Zero Fee accordingly.

Author	Written Comment*	City Response
	4) Additional environmental analysis is required to comply with CEQA before the Ordinance can be enacted. The Ordinance does not qualify for an exemption from all environmental review pursuant to CEQA Guidelines Section 15061(b)(3). Likewise, the exemption for funding capital projects under CEQA Guidelines Section 15273 does not apply, because the Ordinance would establish fees for the purposes of expanding its water supply service to accommodate new development rather than simply maintaining service within its existing service area.	In response to this comment, the City conducted a review of the environmental review procedures followed by other agencies when adopting similar/analogous policies. Every agency surveyed found that its respective policy was exempt from CEQA. The City maintains that the ordinance is exempt from CEQA pursuant to State CEQA Guidelines Sections 15061(b)(3) and Section 15273. The City also has determined that the proposed policy is exempt from CEQA pursuant State CEQA Guidelines Section 15307, which exempts "actions taken by regulatory agencies...to assure the maintenance, restoration, and enhancement of a natural resource," because the action taken in adopting this Ordinance will help maintain water resources, Section 15378(b)(2), because the activity is not a project as it involves general policy and procedure making, and Section 15378(b)(4), which exempts government fiscal activities which do not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment.
Cormode, Daniel	***Email Dated January 26, 2016***	

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	1) Please explain why the cost of the proposed Foster Park Well projects (Wells 12 and 13 and Wells 14-17) are so much less than Ventura Water well projects (Golf Course Well 7, Mound Wells 2 and 3, and Saticoy Well 4)	Wells at Foster Park do not require acquisition of property and wellhead enclosures that can be relatively expensive.
Merewether, Mike and Loretta	***Letter Dated April 11, 2016***	
	1) The proposed ordinance is inconsistent with the 2014-2021 Housing Element's conclusions, adopted by the City Council less than three years ago which represented that we had "adequate water and sewer capacity to accommodate its share of the regional housing need within the planning period".	See response to Wise, Denise M (April, 11) above.

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	2) We need to look at regional solutions to our water shortage and we should look seriously at hooking up to State Water, which we have been paying significant $$ into for many years.	The City has a 10,000 AFY contract portion of the Ventura County Watershed Protection District's 20,000 AFY SWP Table A Amount. At this time, the City does not have the facilities needed to deliver SWP water into its distribution system. The City's goal is to protect and to provide this water supply, while minimizing the financial impact of retaining the contract amount. Recent changes in regulations and the current market for SWP water has provided an opportunity for the City to consider a number of options, including short and/or long-term lease of its SWP supply. There is no minimum supply volume guarantee for wheeling the City's SWP water and so SWP supply is assumed to be a future emergency supply only. Also, the City does have a CIP project to start wheeling State Water to the City's system.

Author	Written Comment*	City Response
	3) The proposed ordinance is not clear as to new construction versus an array or other upgrade and maintenance needs, which brings into question a CEQA exemption.	The ordinance defines both the terms "Intensified Development" and "New Development", and thereby delineates when the policy is triggered. See Section 22.180.020 in the proposed ordinance. The ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations (the "State CEQA Guidelines") because it implements a regulatory process that will not foreseeably result in construction activities or other physical activities, either directly or indirectly. Accordingly, it can be seen with certainty that the enactment of the ordinance does not have the potential to result in significant effects on the environment. The ordinance is further exempt under Section 15273 of the State CEQA Guidelines because the fees established are for the purpose of obtaining funds for capital projects necessary to maintain service within existing service areas. In addition, portions of new supplies may be achieved through system improvements and demand side management facilities.
Cormode, Daniel	***Email Dated April 24, 2016***	

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	1) Discounting of 2016-2022 CIP Project Costs to a Present Value is considered inappropriate since funds collected will not be interest bearng. Net Zero Capital costs are based on the 2016-2022 CIP Project Cost discounted at a 2% rate for 30 years	Funds collected will be retained in an interest bearing account. The asserted discount rate of 2% for 30 years is incorrect. This was not used in the formulas for calculating the fee.
	2) Net Zero Finance Costs are based on 50% of the Discounted Capital costs and not 50% of the CIP Project cost	All Net Zero Fee Costs, including financing costs, are based on the present worth value of capital costs. Present worth costs have the same value as future costs when accounting for inflation.
	3) Net Zero Proposal Capital costs are not reduced by revenues collected from $62M Estuary Protection Fee	The $62M in fees to be collected from rate payers was in fact removed from the costs for calculating the net zero fee.
	4) The Proposed Foster Park Wellfield Restoration, CIP 97921 does little if any to provide any new source of water due to the loss of the surface intake capability and questionable ability to rehabilitate of subsurface diversion capability.	Once the wellfield is restored (additional wells constructed to replace wells that were destroyed in the 2005 storms), production is estimated to increase to 6,700 acre-feet in above normal hydrogeologic years. 4,200 acre-feet is anticipated in "normal" hydrogeologic years and 1,298 acre-feet in multi-dry years.
Cormode, Daniel	***Email Dated May 15, 2016***	
	1) True Net Zero Unit Cost is $47,948 per AF instead of $26,457 per AF as presented in the Staff presentation	This assertion is incorrect. See responses to April 24, 2016 E-Mail.
	2) Costs for Direct Potable Reuse and Desalination appear to have been transposed by City Staff	This assertion is incorrect. Estimates were made by a State-licensed engineer with over 20 years of estimating experience.

Water Resources Net Zero Ordinance Public Comment

Author	Written Comment*	City Response
	3) Net Zero Finance costs are erroneously based on 50% of the Discounted Capital costs and not 50% of the Total CIP Project cost	See response to April 24, 2016 E-Mail

ATTACHMENT G

CITY COMPARISON TABLE

City Comparison Table

City/District	Type of Policy	Year of Implementation	Offset or Credit Ratio	Offset Fees or Cost In Lieu of Retrofits	New Development Demand Methodology	Savings Estimation Methodology	2010 Census Population
Cambria Community Services District	Water demand offsets for new development	2003	1:1	Based on cost to implement programs	Based on Board approved methodology and the Cambria Community Services District's retrofit points equivalency table		6,032
City of Camarillo	Water demand offsets for new development	2015	1:1	$8,825 per one acre foot of water demand, fees paid to Water Conservation Credit Program	Determined by the City		65,201
East Bay Municipal Utility District	Water demand offsets for new developments requiring annexation by EBMUD	1993	Project specific				1,300,000
City of Goleta	Water supply charge for new development and additional service connections	1996	1:1	$45,361 per one acre foot of potable water demand	Determined by Goleta Water District		29,888
City of Indio	Supplemental water supply fee for new development	2013	1:1	$5,435 per one acre foot of water demand	Determined by the Indio Water Authority		76,036
City of Lompoc	Water demand offsets for new development	1990	1:1	In lieu fee equivalent to cost of retrofitting 8 existing homes, suspended as of 2010	General estimate of 94,627 gallons per year per new home	12,904 gallons per year per household retrofit	42,434
City of Morro Bay	Water demand offsets for new development	1985	2:1	No fee option, must perform retrofits	Water equivalency units	Estimated by planning director	10,234
City of Napa	Water demand offsets for new development and increased demand of existing connections	1991	1:1	Cost of retrofits plus staff time	Determined by the Water Department		76,915

City Comparison Table

City/District	Type of Policy	Year of Implementation	Offset or Credit Ratio	Offset Fees or Cost In Lieu of Retrofits	New Development Demand Methodology	Savings Estimation Methodology	2010 Census Population
Monterey Peninsula Water Management District	Water use credits for expanded use of existing residential and nonresidential connections	1992	1:1	Water use credits are earned through on-site efforts. In some cases a water use credit may be transferred.	For existing connections only. Uses fixture unit count values for residential and water use factors for nonresidential in MPWMD Rule 24.	MPWMD Rule 25.5 - Table 4: High Efficiency Appliance Credits	104,129
City of Santa Paula	Provide funds for water resources to mitigate additional water demand from new development	2003	1.25:1 (must offset additional 25% for potential future increases in quantity of water required)	$4,278 per unit (single family < 1 acre) $5,355 per unit (single or multi family > 1 acre) $0.31 per square foot lot (comm/ind) $11,781 per acre/feet (parkland/landscape)	Determined by City		29,321
City of St. Helena	Water demand offsets for new development	1994	1:1	Cost of retrofits plus staff time	Residential developments: set number of retrofits based on number of units being built; nonresidential developments: water demand is evaluated by the director of public works and assigned retrofits based on water use factors		5,814

City Comparison Table

City/District	Type of Policy	Year of Implementation	Offset or Credit Ratio	Offset Fees or Cost In Lieu of Retrofits	New Development Demand Methodology	Savings Estimation Methodology	2010 Census Population
County of San Luis Obispo, California **Paso Robles Groundwater Basin** **Los Osos Groundwater Basin** **Nipomo Mesa Conservation Area**	Water demand offsets for new development and expanded use of existing well users in three parts of unincorporated San Luis Obispo County.	2014/2015	Paso Robles 1:1 Los Osos 2:1 Nipomo Mesa 1:1	Paso Robles $16.18 per gallon per household per day (gphd) Los Osos No fee option Nipomo Mesa $17.76 gphd	Based on local planning assumptions.		Paso Robles ~78,004 Los Osos 14,276 Nipomo Mesa 16,714
City of Santa Monica	Water demand mitigation fee to offset the water use of new development or increased demand of existing connections	1991	1:1	$3.00/gallon per day	Fees are based on a fee schedule for single-family and multi-family development. Nonresidential development fee is determined by the city.		89,736
The Soquel Creek Water District	Water demand offsets for new development and increased demand of existing connections	2003	2:1	$55,000/acre-foot per year	Water use factors	Determined by Soquel Creek Water District	37,720