Call to Order – Open Meeting

6:15 p.m. CLOSED SESSION

1. PURSUANT TO GOVERNMENT CODE SECTION 54957.6 Conference with labor negotiator: Agency negotiator: Ann Ritzma. Employee organization: Waste Water Treatment Plant Teamsters Local 856

2. PURSUANT TO GOVERNMENT CODE SECTION 54956.9(b) Conference with legal counsel – anticipated litigation. Significant exposure to litigation. One potential case.

OPEN SESSION

7:00 p.m.
Call to Order
Roll Call
Salute to the Flag led by Councilmember Digre
Commission Liaisons:
Closed Session Report:

CONSENT CALENDAR
Items on the consent calendar will be adopted by one motion unless a Councilmember or person in the audience requests, before the vote on the motion, to have an item discussed under the Consideration portion of the agenda. Time limit on comments is three minutes or less.

1. Approval of Disbursements dated 12/20/11 to 01/10/12 in the amount of $515,122.02. Regular and quick checks numbered 81967 to 81907 and 16007 to 16167; and disbursements dated 12/20/11 to 01/10/12 in the amount of $640,348.07. Regular and quick checks numbered 81971 to 81973, 81975 and 16165 to 16325 (Proposed action: approve)

2. Approval of Minutes of Regular City Council Meeting of January 9, 2012 (Proposed action: approve)

3. Amend Current Rotational Tow Program to Include a Franchise Tow Agreement (Proposed action: Approve amending the Police Department’s current rotational tow program and accept the revised rotational tow program franchise agreement)
4. An ordinance of the City of Pacifica amending section 6-1.206 of the Pacifica Municipal Code to allow dogs off-leash in the City dog park located at 1220 Linda Mar Boulevard Second Reading (Proposed action: adopt the ordinance entitled “An Ordinance of the City Council of the City of Pacifica Amending Section 6-1.206 of the Pacifica Municipal Code to Allow Dogs Off-Leash in the City Dog Park Located at 1220 Linda Mar Boulevard, Pacifica”)

SPECIAL PRESENTATION

- Chris Porter – Recology of the Coast Presentation

PUBLIC HEARING
During public hearings, an applicant or their agent and appellants have ten minutes for their opening presentation and three minutes for rebuttal before the public hearing is closed. Members of the public are limited to three minutes.

5. Public Hearing to consider two appeals, on behalf of the San Pedro Creek Watershed Coalition and Neighbors Concerned About Pacifica and on behalf of Protectors of San Pedro Creek, challenging the following actions of the Planning Commission: 1) CERTIFICATION of the Final EIR, adopting the Mitigation Monitoring Program, and adopting the CEQA findings for the Assisted Living Center of 96 units; 2) APPROVAL of the Site Development Permit (PSD-779-09), Use Permit (UP-011-09) and Sign Permit (S-108-09) for the Assisted Living Center at 721 Oddstad Blvd.; and 3) RECOMMENDATION OF APPROVAL of a General Plan Amendment (GPA-86-09) for the Assisted Living Center at 721 Oddstad Blvd. (APN 023-593-160) (Proposed action: due to a lack of quorum of the City Council, the appeals for the Assisted Living Center at 721 Oddstad Blvd. cannot be heard. Staff recommends that this item be continued to the next regularly scheduled City Council meeting on Tuesday, February 14, 2012).

6. Public Hearing for the Appeal by Cannabis Wellness Center; Patient Resource Center and Dispensary and its Owners to the Denial of a Pacifica Business License Application of December 12, 2011 (Proposed action: deny appeal of Cannabis Wellness Center; Patient Resource Center and Dispensary, and uphold denial of business license application #5643)

COUNCIL COMMUNICATIONS

The purpose of Council Communications is for Councilmembers to inform each other of items of potential interest to other Councilmembers, such as interagency meetings.

ORAL COMMUNICATIONS
This portion of the Agenda is available for the public to address the City Council on any issue that is not on the Agenda. Any person wishing to address the Council shall be recognized by the Mayor during Oral Communications, provided, however, that during the Oral Communications portion of the agenda, only items not on the agenda for that meeting may be addressed. All remarks shall be addressed to the Council as a body and not to any member thereof. Councilmembers shall not enter into debate with speakers under Oral Communications. A maximum time of three minutes will be allowed for any speaker. Pursuant to Pacifica Municipal Code Title 2, Chapter 1, Section 2-1.118 any person making impertinent, slanderous, or profane remarks or who becomes boisterous while addressing the Council shall be called to order by the presiding officer and, if such conduct continues, may, at the direction of the presiding officer, be ordered barred from further audience before the Council during the meeting.

CONSIDERATION

7. Approval to Issue the Attached Request for Proposal (RFP) for Professional Auditing Services (Proposed action: approve the issuance of the Request for Proposal (RFP))
ADJOURN TO JOINT CITY COUNCIL/REDEVELOPMENT AGENCY MEETING

ROLL CALL

CONSENT

1. Approval of Minutes of Joint City Council/Redevelopment Agency Meeting August 8, 2011 (Proposed action: approve)

CONSIDERATION

2. Dissolution of Redevelopment Agency (Proposed action: 1) adopt the resolution of the City Council of the City of Pacifica determining that the City shall serve as Successor Agency to the Pacifica Redevelopment Agency and electing not to retain housing assets and functions of the Redevelopment Agency; 2) adopt resolution of the Redevelopment Agency Board adopting an Amended Enforceable Obligation Payment Schedule)

ADJOURN

NOTICE: If you challenge a city’s zoning, planning or other decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. Judicial review of any city administrative decision may be had only if a petition is filed with the court not later than the 90th day following the date upon which the decision becomes final. Judicial review of environmental determinations may be subject to a shorter time period for litigation, in certain cases 30 days following the date of final decision.

The City of Pacifica will provide assistance for disabled citizens upon at least 24 hours advance notice to the City Manager’s Office (650) 738-7301, or send request via email to: o’connellk@ci.pacific.ca.us. If you need sign language assistance or written material printed in a larger font or taped, advance notice is necessary. All meeting rooms are accessible to the disabled.

The Pacifica Municipal Code is available online at the City’s website (www.cityofpacificca.org/municode):

HOW TO OBTAIN CITY COUNCIL AGENDAS

Posted agendas:
Agendas are posted the Friday prior to the City Council meeting date, at the entrance to City Hall, 170 Santa Maria Avenue

View on the Internet:
Follow the link to Council agenda, at www.cityofpacificca.org

E-mail subscription:
Send a request to Kathy O’Connell, at o’connellk@ci.pacific.ca.us

City Clerk’s Office/City Manager’s Office
City Hall, 170 Santa Maria Avenue, 2nd Floor

Council meetings:
Agendas are available at the City Council meeting

HOW TO OBTAIN CITY COUNCIL AGENDA PACKET MATERIALS

City Clerk’s Office or the Library:
A copy of the complete agenda packet is available for public review on the Friday prior to the City Council meeting, at the Pacifica Library, 104 Hilton Way or the Sanchez Library, 1111 Terra Nova Blvd., Pacifica

View staff reports on the Internet:
Follow the link to Council agenda, www.cityofpacificca.org

Council meetings:
A complete agenda packet is available for review at the City Council meeting.
HOW TO REACH YOUR LEGISLATORS

- Governor Jerry Brown, State Capitol Building, Sacramento CA 95814 (916) 445-2841
- State Senator Leland Yee, 400 So. El Camino Real, Ste. 630, San Mateo, CA 94402 (650) 340-8840
- Assemblymember Jerry Hill, 1528 So. El Camino Real, Ste 302, San Mateo CA 94402 (650) 341-4319
- Congresswoman Jackie Speier, 400 So. El Camino Real, Ste 750 San Mateo CA 94402 (650) 342-0300
- Senator Barbara Boxer, 1700 Montgomery Street, Ste 240, San Francisco CA 94111 (415) 403-0100
- Senator Dianne Feinstein, #1 Post Street, Ste 2450, San Francisco CA 94104 (415) 393-0710
- President Barack Obama, 1600 Pennsylvania Ave. NW, Washington DC 20500 (202) 456-1111

CITY COUNCIL

- Mayor Peter DeJarnatt, 759 Edgemar, Pacifica, CA 94044 (650-355-5777)
- Mayor pro Tem Len Stone, 1005 Terra Nova Blvd. #1 Pacifica, CA 94044 (650-355-5700)
- Councilmember Jim Vreeland, 1561 Grand Ave., Pacifica, CA 94044 (650-738-9470)
- Councilmember Sue Digre, 780 Edgemar, Pacifica, CA 94044 (650-355-4606)
- Councilmember Mary Ann Nihart, 146 Hilton, Pacifica, CA 94044 (650-359-7624)
SUBJECT:

Amend current Rotational Tow Program to include a Franchise Tow Agreement.

ORIGINATED BY:

Police Department

DISCUSSION:

California Vehicle Code section 12110 (b) allows a public entity to require a fee in connection with the award of a franchise for towing vehicles on behalf of the public entity. The fee in these cases may not exceed the amount necessary to reimburse the public entity for its actual and reasonable costs incurred in connection with the towing program.

Staff conducted research in Franchise Tow Agreements and found there are several agencies throughout the State of California who have similar programs.

FISCAL IMPACT:

It is estimated that on average the Pacifica Police Department tows approximately 500 vehicles annually. The Franchisee would be required to pay $50.00 per non-consensual tow. It is estimated that the Franchise Tow Agreement will generate approximately $25,000 in revenue for the City of Pacifica.

ATTACHMENTS:

Proposed Rotational Tow Program Franchise Agreement.

COUNCIL ACTION REQUESTED:

It is recommended that the City Council approve a motion to amend the Police Department's current Rotational Tow Program and to accept the revised Rotational Tow Program Franchise Agreement.
CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT
January 23, 2012

AGENDA ITEM NO. 4

SUBJECT:
Adoption of an Ordinance entitled “An Ordinance of the City Council of the City of Pacifica Amending Section 6-1.206 of the Pacifica Municipal Code to Allow Dogs Off-Leash in the City Dog Park Located at 1220 Linda Mar Boulevard, Pacifica” Second Reading

ORIGINATED BY:
City Clerk’s Office

DISCUSSION:
The ordinance was introduced at the January 9, 2012 City Council meeting and is in order for adoption.

FISCAL IMPACTS:
None

ATTACHMENTS:
Ordinance

COUNCIL ACTION REQUESTED:
Move that the City Council of the City of Pacifica ADOPT the ordinance entitled “An Ordinance of the City Council of the City of Pacifica Amending Section 6-1.206 of the Pacifica Municipal Code to Allow Dogs Off-Leash in the City Dog Park Located at 1220 Linda Mar Boulevard, Pacifica”
ORDINANCE NO.________

AN ORDINANCE OF THE CITY OF PACIFICA, CALIFORNIA,
AMENDING SECTION 6-1.206 OF THE PACIFICA MUNICIPAL CODE
TO ALLOW DOGS OFF-LEASH IN THE CITY DOG PARK
LOCATED AT 1220 LINDA MAR BOULEVARD, PACIFICA

WHEREAS, the Pacifica Municipal Code Section 6-1.206 subdivision (a) prohibits any owner or possessor of any animal to cause or permit it to be upon any public street, sidewalk, park, school ground, public property or upon any unenclosed premises in the City unless the animal is under the control of the owner by being saddled, harnessed, haltered, or leashed by a substantial chain, lead rope, or leash, which must be continuously held by some competent person capable of controlling such animal;

WHEREAS, the Pacifica Municipal Code Section 6-1.206 subdivision (f) makes an exception from that requirement to allow animals to be off-leash when they are on the beach between Paloma Avenue and the northern boundary of the City of Pacifica during the hours the beach is open to the public;

WHEREAS, the City of Pacifica ("City") City Council has conducted environmental review and approved the development of a fenced dog park to be located in the East field at Sanchez Center, at 1220 Linda Mar Boulevard, Pacifica;

WHEREAS, the City Council desires to allow dogs to be off-leash within the fenced area of the dog park by amending Pacifica Municipal Code Section 6-1.206;

WHEREAS, the City Council wishes to authorize the Parks and Recreation Director to promulgate rules and regulations regarding the use of the dog park;

WHEREAS, the City Council considered amending the Pacifica Municipal Code to address these matters at a duly noticed public hearing at the regular meeting on January 9, 2012;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFICA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Incorporation of Recitals. The City Council hereby finds and declares that the above referenced recitals are true and correct and material to the adoption of this Ordinance.

Section 2. Amendment. Subdivision (f) of Section 6-1.206 of the Pacifica Municipal Code is hereby amended in its entirety to read as follows:

f. Notwithstanding the requirements of subdivision (a), dogs shall be allowed to be without a saddle, harness, halter or leash in the following locations: (1) on the beach between Paloma Avenue and the northern boundary of the City of Pacific, and (2) within the fenced boundaries of the City dog park located at 1220 Linda Mar Boulevard. The Director of the Parks, Beaches and Recreation Department may promulgate rules and regulations in writing for the use of the dog park and it shall be unlawful for any person to violate such rules and regulations. The off-leash activity allowed by this section shall
only apply under all of the following circumstances: (1) such off-leash activity occurs during a time of the day that said beach or dog park is open to the public, (2) the dog to be off-leash is under the immediate voice control of some competent person capable of controlling such animal, and (3) the rules and regulations promulgated by the Director are complied with in full.

1. For the purposes of this subsection, the term "beach" shall mean that land lying between the line of ordinary tide in the Pacific Ocean, extending inward, to whichever comes first: a legal fence, a distinctive berm or cliff, or an officially erected sign specifically designating the boundaries of the beach.

Section 3. Publication. The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published once in The Pacifica Tribune, a newspaper of general circulation, published and circulated in the City of Pacifica, California.

Section 4. Severability. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been deleted.

Section 5. Effective Date. This ordinance shall take effect on the 31st day after adoption.

PASSED AND ADOPTED this ________________ day of ___________________, 2012,
by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

______________________________________
MAYOR

ATTEST:

______________________________________
City Clerk

APPROVED AS TO FORM:

______________________________________
City Attorney
CITY OF PACIFICA

MEMORANDUM

DATE: January 23, 2012

TO: City Council

FROM: George White
Planning Director

SUBJECT: Public Hearing to consider two appeals, on behalf of the San Pedro Creek Watershed Coalition and Neighbors Concerned About Pacifica and on behalf of Protectors of San Pedro Creek, challenging the following actions of the Planning Commission: 1) CERTIFICATION of the Final EIR, adopting the Mitigation Monitoring Program, and adopting the CEQA findings for the Assisted Living Center of 96 units; 2) APPROVAL of the Site Development Permit (PSD-779-09), Use Permit (UP-011-09) and Sign Permit (S-108-09); and 3) RECOMMENDATION OF APPROVAL of a General Plan Amendment (GPA-86-09) for 721 Oddstad Blvd. (APN 023-593-160).

Due to a lack of quorum of the City Council, the appeals for the Assisted Living Center at 721 Oddstad Blvd. cannot be heard. Staff recommends that this item be continued to the next regularly scheduled City Council meeting on Tuesday, February 14, 2012.
CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT
January 23, 2012

Agenda Item No. 6

SUBJECT:
City Council hearing for the appeal by Cannabis Wellness Center, Patient Resource Center and Dispensary and its owners to the denial of a Pacifica Business License Application of December 12, 2011.

ORIGINATED BY:
City Manager

DISCUSSION:
The City of Pacifica received an application for a business license for the “Cannabis Wellness Center”, a California State Licensed Mutual Benefit Corporation, on December 12, 2011. The application was routed to the Finance Department and the Planning Department for review as part of the administration process for considering a City business licenses. Upon review of the application and, in consultation with the City Attorney’s office, the application was denied per Section 9-4.103 of the Pacifica Municipal Code.

Section 9-4.103 of the Pacifica Municipal Code provides as follows:
“No buildings or structures shall be erected, reconstructed or structurally altered in any manner, nor shall any building or land be used for any purpose other than as permitted by, and in conformance with, the provisions of this chapter and all other laws and maps referred to in this chapter.”

This section makes clear that the City’s Zoning Code is drafted in a permissive fashion; therefore any use not enumerated in the Code is presumptively prohibited. In this instance, the use of land for a cannabis dispensary is not expressly enumerated in the Pacifica Zoning Code, either as a permitted or conditional use. Therefore, such use is impermissible. (See City of Corona v. Naulls (2008) 166 Cal. App. 4th 418, 432-433.) That also has been the City’s consistent interpretation and practice.

A letter was sent on December 20, 2011, notifying the applicant of the denial of the business license per Section 9-4.103 of the Pacifica Municipal Code and the appeal process. On December 23, 2011, the applicant requested an appeal hearing and the City Clerk noticed a public hearing for January 23, 2012.

FISCAL IMPACT:
None

ATTACHMENTS:
- Application for Business License
- Denial Letter – December 20, 2011
COUNCIL ACTION REQUESTED:

Deny appeal of Cannabis Wellness Center, Patient Resource Center and Dispensary, and uphold denial of business license application #5653.
December 20, 2011

Archie Judan
11 Lone Mountain Ct.
Pacifica, CA 94044

Re: Denial of Business License for Cannabis Wellness Center; Patient Resource Center and Dispensary

Dear Mr. Judan,

The City of Pacifica ("City") received your application for a business license for "Cannabis Wellness Center", a California State Licensed Mutual Benefit Corporation, which you submitted on December 12, 2011. As the City Director of Finance, I am charged with administration of the City's business licenses. I have reviewed your application and, in consultation with the City Attorney's office, have denied the application. This letter serves a formal notice to you that the application for a business license has been denied.

Section 9-4.103 of the Pacifica Municipal Code provides as follows:

"No buildings or structures shall be erected, reconstructed or structurally altered in any manner, nor shall any building or land be used for any purpose other than as permitted by, and in conformance with, the provisions of this chapter and all other laws and maps referred to in this chapter."

This section makes clear that the City's Zoning Code is drafted in a permissive fashion; therefore any use not enumerated in the Code is presumptively prohibited. In this instance, the use of land for a cannabis dispensary is not expressly enumerated in the Pacifica Zoning Code, either as a permitted or conditional use. Therefore, such use is impermissible. (See City of Corona v. Naulls (2008) 166 Cal. App. 4th 418, 432-433.) That also has been the City's consistent interpretation and practice.
Section 3-1.107 of the Pacifica Municipal Code provides an opportunity for an appeal of a business license denial. It provides:

"Any person aggrieved by any decision of the Collector with respect to the issuance or refusal to issue the license required by the provisions of this article may appeal to the Council by filing a notice with the City Clerk. Appeals shall be determined according to the procedures set forth in Chapter 4 of Title 1 of this Code."

If you determine that you would like to appeal City staff’s determination to deny your business license application, please submit a letter of appeal to me within seven (7) days after the date of this letter as required by Pacifica Municipal Code Section 1-4.02. Upon receipt of the request for an appeal, the Council will schedule the matter for a hearing. You will be notified of the hearing by the City Clerk. The Council will have the authority to determine all questions raised on appeal.

If you have any questions about this matter, feel free to contact me by phone at (650) 738-7300 or by email at ritzmaa@ci.pacific.ca.us.

Respectfully,

[Signature]

Ann E. Ritzma
Administrative Services Director (Finance, Human Resources and IT)
City of Pacifica

Cc: Finance Department
    City Manager
    City Attorney
December 23, 2011

Anne E. Ritzma
Administrative Services Director, Finance Department
170 Santa Maria Avenue
Pacifica, Ca 94044

Re (Appeal): Denial of Business License for Cannabis Wellness Center; Patient Resource Center & Dispensary

Dear Ann Ritzma,

Our organization truly understands your current position on this particular issue. It is apparent that Pacifica's Zoning Code does not mention about the proper installation of a medical marijuana dispensary in any way, therefore, without mention is "presumptively prohibited". We are more than willing to work alongside with the City of Pacifica to come to a compromise of how to approach this issue fairly. The Cannabis Wellness Center is a non-profit organization aimed to provide a safe and compassionate environment for patients to obtain information, referrals and access to the best quality of medicinal marijuana that is currently available, which are set forth under California state laws and patient rights. We are dedicated to provide education and awareness of cannabis medicine, as well as, continue to bring a robust selection of attainable resources to our patient, member groups.

The Cannabis Wellness Center operates as “Collective”, according to the Attorney General's guidelines: “A collective should be an organization that merely facilitates the collaborative efforts of patients and caregiver members— including the allocation of costs and revenues. As such, a collective is not a statutory entity, but as a practical matter it might have to organize as
some form of business to carry out its activities. The collective should not purchase marijuana from, or sell to, non-members; instead, it should only provide means for facilitating or coordinating transactions between members." The 2010 U.S. Census categories for those age 18 to 55 estimate 5 million registered, medical marijuana patients in the U.S., which continues to grow in a dramatic rate.

Our organization has currently identified two collectives that have or currently operate within Pacifica City limits that provide access of medicinal marijuana to patients. One currently offers a website where patients can register, submit orders and then provide a door-to-door delivery service. The Cannabis Wellness Center, will offer health and human services to aid patients in managing their current illness and improve their current well-being. The organization is managed by an Advisory Board that consists of mostly Pacifica patients, healthcare administrators and nurses. Aside from the dispensing activities, The Cannabis Wellness Center’s supplementary function is to market and promote commercial, retail products and services complimentary to a patient’s medical treatment that are legally sold to consumers, thus serving as a brick and mortar storefront for public access. Under Article 10/11/12, Sec. 9-4.1001, of the Pacifica Zoning/Planning Handout, the additional business services indicated above as a retail store and shop, social halls, clubs, theatres and nightclubs are approved by the City of Pacifica within the proper zoning limits. Our intention is for the City of Pacifica to issue The Cannabis Wellness Center the appropriate permits to conduct the suggested activities at 2021 Palmetto Ave., CA 94044 and allow us the opportunity to contribute back to our local communities.

Thank you,

[Signature]

Archie Judan, Advisor
The Cannabis Wellness Center
SUBJECT: Approval to issue the attached Request for Proposal (RFP) for professional auditing services

ORIGINATED BY: Administrative Services Director

DISCUSSION: It is common practice for local government agencies to periodically put their contract for annual audit services out to bid. Moss, Levy & Hartzheim, LLP Certified Public Accountants have served the City’s audit needs for the last five fiscal years since 2006. For fiscal year 2011 the City’s annual cost of audit services was $42,000, which included CAFR financial statement preparation. Rebidding will effectively survey the market to assure that the City’s audit service costs remain competitive with the market, and staff believes this is the appropriate time to go out to bid.

FISCAL IMPACT: Not applicable--audit services are included in the budget.

ATTACHMENTS: Request for Proposal (RFP)

COUNCIL ACTION REQUESTED: City Council to approve the issuance of the attached RFP.
DATE: January 30, 2012

TO: INTERESTED AUDITING FIRMS

FROM: Sandra McClellan, Assistant Finance Director

SUBJECT: Professional Auditing Services

The City of Pacifica is soliciting proposals from qualified firms of certified public accountants to audit the City of Pacifica’s financial statements, and the financial statements of other separate entities whose financial activities are handled by the City of Pacifica, for the fiscal year ending June 30, 2012, with the option of auditing these financial statements for the subsequent fiscal years.

All questions and correspondence should be directed to Sandra McClellan in writing at the address listed below, or by calling (650) 738-7396.

Sandra McClellan
Assistant Finance Director
City of Pacifica

170 Santa Maria Ave, Pacifica, CA 94044
CITY OF PACIFICA

REQUEST FOR PROPOSALS
FOR
PROFESSIONAL AUDIT SERVICES

January 30, 2012

The City of Pacifica, California (City) is soliciting proposals from qualified certified public accounting firms to conduct the annual independent audit of the City's financial transactions and to express an opinion on the fairness of the presentation of the City's financial statements. The scope of the general audit should encompass the requirements of the Single Audit Act Amendments of 1996 and Office of Management and Budget Circular A-133, component unit audits of the Pacifica Redevelopment Agency (RDA), the Child Development Program Financial Statements with Supplementary Information Report, Measure A, MTC Article 3 requirements, and continuing disclosures if needed. These audits are to be performed in accordance with generally accepted auditing standards. The selected audit firm will serve the City Council as auditor for certain other projects as determined by the City. The contract period for this engagement will be for three (3) years, beginning with the fiscal year ending June 30, 2012.

There is no expressed or implied obligation for the City to reimburse responding firms for any expenses incurred in preparing proposals in response to this request.

Information necessary to submit a responsive proposal is contained in this document.

SUBMIT PROPOSAL IN SEALED ENVELOPE TO:

City of Pacifica
Attention: Kathy O'Connell, City Clerk
170 Santa Maria Ave
Pacifica, CA 94044

PROPOSALS WILL NOT BE ACCEPTED AFTER FEBRUARY 17, 2012 - NOON
I. GENERAL INFORMATION

A. City Address and Sumbitmital Information

City of Pacifica
City Clerk – Kathy O’Connell
170 Santa Maria Ave
Pacifica, CA 94044

Any questions concerning this Request for Proposals (RFP) should be directed to:

Sandra McClellan, Assistant Finance Director, (650) 738-7396, or
Ann Ritzma, Administrative Services Director, (650) 738-7402
City of Pacifica
Finance Department
170 Santa Maria Ave
Pacifica, CA 94044

Proposals must be submitted no later than February 17, 2012. Proposals must be received by this deadline. Postmarks are not acceptable. The original plus five (5) copies must be delivered to:

Kathy O’Connell, City Clerk
City of Pacifica
170 Santa Maria Ave
Pacifica, CA 94044

B. Evaluation and Notification of Selected Audit Firm

The criteria for evaluation of proposals are described in this RFP. The City reserves the right to select the firm, which, in the City's opinion, will provide the most responsive and responsible services. The City also reserves the right to retain all proposals submitted and to use any ideas in a proposal, regardless of whether that proposal is selected. The City is not bound to award the contract based solely on the lowest bid submitted.

It is anticipated evaluations will be completed and the successful firm recommended to the City Council by March 26, 2012.

Award will be contingent upon completion of a satisfactory contractual arrangement between the selected firm and the City. If satisfactory contract terms cannot be agreed upon, another firm will be contacted. Unsuccessful candidates will be notified following successful completion of contract negotiations and approval of contract by the City Council.
C. Contract Period and Terms

It is the intent of the City to retain the audit firm for a period of three (3) years. The City reserves the right to negotiate additional contract terms at that time.

D. Anticipated Proposal and Audit Engagement Schedule

January 30, 2012  Requests for Proposals mailed.
February 17, 2012  Deadline for RFP submission.
March 5, 2012  Final decision of selected auditor.
March 26, 2012  Contract awarded by the City Council.
April 2, 2012  Mail notification to unsuccessful firms.
May/June, 2012  Tentative commencement of interim field work.
Month of October, 2012  Schedule of Auditors work.
November 26, 2012  Receipt of all required opinions and reports.
December 7, 2012  Receipt of management report.

II. DESCRIPTION OF THE CITY AND RECORDS TO BE AUDITED

1. General Description

The City of Pacifica is a General Law City, incorporated in 1957, with a Council-Manager form of government. The City of Pacifica is located fifteen miles south of San Francisco in San Mateo County with an estimated population of 39,000 and an area of approximately 12.6 square miles. The City has approximately 160 employees on a permanent full-time basis. The City’s total operating budget for fiscal year 2011-2012 is $52 million. There are approximately 20 operating funds, plus account groups for general fixed assets and general long-term debt. The City has one enterprise fund—a wastewater sewer facility, internal service funds that encompass self-funded insurance and the motor pool facility, and one trust and agency fund.
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<td>City Council</td>
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<td>Parks, Beaches &amp; Recreation Department</td>
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<td>Non-Departmental (includes transfers)</td>
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<td>Capital Project Funds</td>
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<td>Street Construction Fund</td>
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<td>Highway 1 Improvement Fund</td>
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<td>Aircraft Noise Project Fund</td>
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<td>General Capital Improvement Fund</td>
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<td>Sewer Facility Fund</td>
<td>3,960,000</td>
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<tr>
<td>Manor Drive Improvement Fund</td>
<td>554,860</td>
</tr>
<tr>
<td>Parks/Playfields Improvement Fund</td>
<td>194,020</td>
</tr>
<tr>
<td>PB&amp;R - R. Davies Trust</td>
<td>75,250</td>
</tr>
<tr>
<td><strong>TOTAL CAPITAL PROJECT FUNDS:</strong></td>
<td><strong>9,306,011</strong></td>
</tr>
<tr>
<td>Other Operating Funds</td>
<td></td>
</tr>
<tr>
<td>Fire Assessment Fund</td>
<td>0</td>
</tr>
<tr>
<td>Supplemental Law Enforcement Fund</td>
<td>0</td>
</tr>
<tr>
<td>Gas Tax Maintenance Fund</td>
<td>1,466,859</td>
</tr>
<tr>
<td>NPDES Stormwater Fund</td>
<td>123,693</td>
</tr>
<tr>
<td>Planned Local Drainage Fund</td>
<td>139,225</td>
</tr>
<tr>
<td>WWTP Operations &amp; Maintenance Fund</td>
<td>14,456,601</td>
</tr>
<tr>
<td>Redevelopment Agency</td>
<td>216,211</td>
</tr>
<tr>
<td>Housing Authority</td>
<td>0</td>
</tr>
<tr>
<td><strong>TOTAL OTHER OPERATING FUNDS:</strong></td>
<td><strong>16,402,589</strong></td>
</tr>
<tr>
<td><strong>TOTAL ALL FUNDS:</strong></td>
<td><strong>52,010,758</strong></td>
</tr>
</tbody>
</table>

The City is governed by a five-member City Council elected to serve overlapping terms of four years. The Mayor and Mayor Pro-Tem are elected by the Council from their own ranks to serve one-year terms. The City Manager and City Attorney are hired directly by the City Council. The City Council members also serve as the governing board members of the Pacifica Redevelopment Agency. The City Manager is the administrative and executive head of the City and the City's Redevelopment Agency.

2. Separate Entities

In addition to its function as the governing body of the City, the Pacifica City Council acts as the governing body for the Pacifica Redevelopment Agency. The financial activities of this entity is included in the scope of the audit, including...
redevelopment agency requirements under the Health and Safety Code, and reporting provisions of various financing covenants.

3. **Funds and Account Groups**

The accounts of the City are organized on the basis of funds and account groups. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, fund equity, revenues, and expenditures or expenses, as appropriate. Government resources are allocated to and accounted for in individual funds based upon the purposes for which they are to be spent and the means by which spending activities are controlled.

4. **Audit Report Available**

A copy of the fiscal year 2011 CAFR is available at the City’s website: www.ci.pacifica.ca.us for use as a guide to the scope.

III. **NATURE OF SERVICES REQUIRED**

1. **Audit Opinion**

The purpose of the audit is to express an opinion as to the fair presentation of the general-purpose financial statements of the City and the financial position of those funds covered in the scope of this audit in accordance with generally accepted accounting principles (GAAP) and applicable laws and regulations.

2. **Governmental Accounting Standards Board (GASB) Pronouncements**

In addition to expressing an opinion on the City’s compliance with current governmental GAAP, the audit firm shall also be required to provide assistance in the implementation of applicable GASB pronouncements. The proposal should describe the firm’s expertise in assisting the City and the separate entities in the compliance of all GASB pronouncements, including GASB 34 and GASB 45.


All working papers and reports must be retained, at the auditor’s expense, for a minimum of three (3) years, unless the firm is notified in writing by the City of the need to extend the retention period. The firm shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers relating to matters of continuing accounting significance.

4. **Single Audit**

Under the Single Audit Act Amendments of 1996, proposers must meet the minimum requirements for financial and compliance audits as prescribed by Office of
Management and Budget Circular A-133. In compliance with Circular 133, the independent auditor shall determine if a single audit is necessary, and if so, shall determine:

a. That the financial statements of the City present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles.

b. That the City has internal accounting and other control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations.

c. The City has complied with laws and regulations that may have a material effect on its financial statements and on each major Federal financial assistance program.

5. Interim Reports

The auditor shall meet with the finance management staff to discuss the status of the audit, proposals for cost overruns, potential management comments, potential audit adjustments, and estimated completion date.

6. Management Comments

By October 31 of each fiscal year of the engagement, the audit firm will issue a management report advising the City of any material weakness in accounting controls, improvements or identification of weaknesses in internal controls, recommendations for financial management improvements, or improvements in the effectiveness of the City's utilization of financial resources if any such findings are observed. A letter indicating no material weaknesses, or areas for improvement, will be required if no findings exist.

7. Exit Conferences

Exit conferences are required for each year of the audit engagement. Conferences will be held with the Finance Management staff. Periodic status reports on the progress of each annual audit will be presented to the City Manager or his representative if requested.

8. GFOA/CSMFO Reviews

The City intends to submit its CAFR each year to the Government Finance Officers Association's (GFOA) Certificate of Achievement for Excellence in Financial Reporting awards program and the California Society of Municipal Finance Officers' (CSMFO) Certificate of Award for Outstanding Financial Reporting program. The auditor selected shall be expected to prepare and review the City's CAFR to ensure compliance with the requirements of each award program.
9. **Special Reports and Audits**

The selected firm shall also serve as auditor for certain additional projects and studies as deemed necessary by the City. The contractor shall supply services for audits and other special reports that may be requested by the City Council or the City's Finance Department. Separate engagement letters, including the fees, will be negotiated for special requests.

**IV. MANDATORY QUALIFICATIONS OF THE AUDITOR**

All respondents must provide the following information. The proposer should disclose the office that will be providing resources for the audit and respond to these qualifications as they relate specifically to that office.

1. Affirmation that the proposer is properly licensed for public practice as a certified public accountant in the State of California.

2. Affirmation the proposer meets the independence requirements of the *Standards for Audit of Governmental Organizations, Programs, Activities and Functions*, as published by the U.S. General Accounting Office and the proposer is independent of all of the component units of the City as defined by those same standards.

3. Affirmation the respondent and any employees proposed to be assigned to this audit do not have a record of substandard audit work, nor have any outstanding claim of substandard work or unsatisfactory performance pending with the State Board of Accountancy.

4. Affirmation that the office has successfully completed two or more engagements of similar-sized local agencies as the City of Pacifica within the last two years. List two local agencies whose single audits were performed by the proposer.

5. Statement of independence of the proposer to each entity to be audited and identification of any work performed for those entities within the past five years.

6. Proposals shall include a statement by the firm as to its plans and commitments relative to providing a continuity and experience of personnel. The City reserves the right to request replacement of any members of the firm’s auditing team prior to and during the course of the audit if circumstances warrant, and similarly, the City requests that it be notified, in advance, of any changes made by the auditing firm concerning the make-up of the auditing team after work has begun.

**V. ASSISTANCE AVAILABLE TO PROPOSERS AND ADDITIONAL INFORMATION**

1. The City of Pacifica has been audited by the firm of Moss, Levy and Hartzheim, LLP for the last five fiscal years ending June 30, 2011.
2. The finance department and responsible management personnel will be available during the audit to assist the firm by providing information, documentation and explanations.

3. The City will provide the auditor with reasonable workspace, desks and chairs. The auditor will also be provided with access to a telephone line and photocopying machine.

4. Financial system documentation will be available for review.

VI. REQUIRED REPORTS

At the end of each annual audit, the audit firm shall issue the following separate reports:

A. Comprehensive Annual Financial Report (CAFR) - City of Pacifica

B. Management and Internal Control Report

C. Gann Appropriations Limit Compliance Letter and Calculation Review Report

D. RDA Audit and Compliance Opinions

E. Audited Financials and Opinion on these Financials of the City’s Child Development Program

F. Child Development Program Audit

G. Single Audit Act Opinions

H. San Mateo County Measure A Compliance Report

I. MTC Article 3 Audit/Compliance Report

J. Continuing Disclosures -- RDA and City

K. Street Report

L. State Controllers Report

VII. SELECTION CRITERIA

The following criteria shall be used to qualify all RFP’s submitted as being eligible for consideration:
A. **Experience**

The auditor's recent experience in governmental auditing of cities with full municipal services in the State of California. The firm's expertise for the GASB 34 and GASB 45 compliance.

B. **Audit Approach**

The proposal should include a description of, and explanation of, the audit methodology employed by the firm. It should also indicate the firm's method and procedures for dealing with any errors and irregularities encountered during the audit.

C. **Creativity/Expanded Services**

Demonstrated accounting experience in being able to apply computerized audit techniques to a client's existing computerized system for the purpose of internal evaluation.

D. **Personnel Policies**

Auditor's experience in complying with applicable Federal, State, and City regulations, relating to non-discrimination and affirmative action programs for equal employment opportunity.

E. **References**

The firm's general experience and reputation in the local government auditing and accounting field.

F. **Fees**

VIII. **FORMAT OF RESPONSE**

In order to have a uniform review process and to obtain the maximum degree of comparability, it is required that proposals be organized in the manner specified.

A. **Title Page**

Show the RFP subject, firm name, local address, telephone number, name of the contact person, and the date of the submittal.

B. **Proposal Data Sheet**

In addition to your formal response, all firms must enclose a data sheet. Refer to the attached example and complete the enclosed form.
C. **Transmittal Letter**

Summarize the following:

1. The proposer's understanding of the work to be performed, positive commitment to perform the work within the time period proposed, and a statement why the firm believes itself to be best qualified to perform the engagement.

2. The names of persons authorized to represent the respondent and the title, address, and telephone number of the authorized personnel.

3. State the name of the person(s) who are authorized to sign for and obligate the firm contractually.

D. **Proposal Criteria**

Explain fully your firm’s ability to deal with the following subject matter giving special attention to specifics throughout this scope of work.

1. Experience

2. Creativity/Expanded Services

3. Competence/Education

4. Personnel Policies

5. References

6. Fees – Costs are broken out by entity and activity and invoices are addressed to the entity for which audit services were rendered.

E. **Time Line**

Submit a work plan to accomplish the scope of the audit. The work plan should include time estimates for each significant segment of the work and the level of staff to be assigned. Where possible, individuals should be named and their titles provided. As the proposals are to be responsive to the requirement for a single audit, the audit work plan should cover what audit work will be accomplished to allow the auditor to render:

1. An unqualified opinion on the financial statements.

2. A report on the study and evaluation of internal control systems.
3. Reporting on the organization's control system to assure compliance and whether the organization has complied with laws and regulations that may have an effect on the City.

F. Additional Data

Please provide any additional data not specifically requested in the foregoing sections that the proposer feels is essential to the proposal.

IX. IMPORTANT DATES

RFP Submission Deadline  
February 17, 2012 - Noon

Contract awarded by the City Council  
March 26, 2012

X. RIGHT TO REJECT

The City reserves the right to reject any and all proposals submitted and to request additional information from all proposers. Contract award will be made to the independent auditor who, based on evaluation of all responses, applying all criteria and oral interviews, and reference checks, is determined to be the best qualified to perform the audit and successful negotiation of the audit engagement contract. If the City cannot successfully negotiate an audit engagement letter acceptable to both parties, the City reserves the right to award the contract to any firm determined to be qualified to conduct the audit.
RFP PROPOSAL DATA SHEET

Firm Name: ________________________________________________________________

Contact Person: ___________________________________________________________

Phone No.: ________________________________________________________________

QUALIFICATION STATEMENT

[Example] ABC Audit Firm is an international firm with 100 offices in the world including a San Francisco office with a staff of 100 professionals and partners.

________________________________________________________________________

________________________________________________________________________

PAST GOVERNMENTAL CLIENTS/CONTACT PERSON

<table>
<thead>
<tr>
<th>Client</th>
<th>Most Recent Audit (FYE)</th>
<th>Contact</th>
<th>Phone No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

AUDITING PERSONNEL PROVIDED (ATTACH RESUMES)

1. ________________________________________________________________

2. ________________________________________________________________

3. ________________________________________________________________

4. ________________________________________________________________

5. ________________________________________________________________
SCOPES (REFER TO SECTION VIII-D)


HOURLY RATES OF AUDITING PERSONNEL FOR ADDITIONAL SERVICES

<table>
<thead>
<tr>
<th>Name/Function</th>
<th>Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td></td>
</tr>
<tr>
<td>Audit Services</td>
<td>Anticipated Hours Expended</td>
</tr>
<tr>
<td>----------------------------------------------------------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>General Audit – City of Pacifica</td>
<td></td>
</tr>
<tr>
<td>CAFR Preparation – City of Pacifica</td>
<td></td>
</tr>
<tr>
<td>Management and Internal Control Report</td>
<td></td>
</tr>
<tr>
<td>Appropriations Limit Compliance Letter</td>
<td></td>
</tr>
<tr>
<td>RDA Audit and Compliance Opinions</td>
<td></td>
</tr>
<tr>
<td>City’s Child Development Program Audit</td>
<td></td>
</tr>
<tr>
<td>Single Audit Act Opinion</td>
<td></td>
</tr>
<tr>
<td>Measure A Compliance Report</td>
<td></td>
</tr>
<tr>
<td>MTC Article 3 Audit/Compliance Report</td>
<td></td>
</tr>
<tr>
<td>Continuing Disclosures – RDA</td>
<td></td>
</tr>
<tr>
<td>Continuing Disclosures – City of Pacifica</td>
<td></td>
</tr>
<tr>
<td>Street Report</td>
<td></td>
</tr>
<tr>
<td>State Controllers Report</td>
<td></td>
</tr>
<tr>
<td>Total: $</td>
<td></td>
</tr>
</tbody>
</table>

These prices will not be considered a firm fixed contract. The City proposes to fix future contract price by comparison to the San Francisco/Oakland Consumer Price Index or similar indexes. Award will be contingent upon completion of a negotiated contract and award by the City Council.

Please state briefly any qualifications you may have regarding your proposed fees (e.g., out of pocket expenses, fee increases, extraordinary services, etc.).

Please state the firm’s normal billing practice, as it will be applied to this engagement.

Please list other areas of service your firm provides, which are applicable to municipalities.
BILLING SEQUENCE

OTHER SERVICES OFFERED

1.

2.

3.

__________________________________________
Signature of Individual Submitting Proposal on Behalf of Firm
ATTACHMENT A
Consulting Services Agreement

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT FOR CONSULTANT SERVICES ("Agreement") is made and effective as of the __ day of __________, ______ by and between the City of Pacifica, a municipal corporation ("City"), and ______________________ [a sole proprietorship, partnership, limited liability partnership, corporation, limited liability corporation] ("Consultant") at __________________, California, with reference to the following facts:

A. City has determined that it is necessary and appropriate to engage a ______________________ [consultant / design professional] to carry out the services described herein; and

B. Consultant has represented itself as being fully qualified and available to perform the consultant services necessary to complete the work in a timely manner; and

C. City desires to contract with Consultant and Consultant is willing to perform the consultant services, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. SERVICES.

1.1 Basic Services. City hereby retains Consultant to perform the services described and set forth in the attached Exhibit A ("Basic Services"), which is incorporated by this reference as though set forth in full. Consultant hereby agrees to perform said services within the designated time frames and accepts this retention. Consultant shall complete the Basic Services according to a schedule of performance which is also set forth in Exhibit A.

1.2 Additional Services. In addition to the Basic Services, City may elect to have Consultant perform additional services that are beyond the current scope of the project, but within the expertise of Consultant ("Additional Services"). Such Additional Services shall be mutually agreed to in advance and specified in a writing, which shall also specify the basis for the Consultant’s fee for such additional services. Basic Services and Additional Services are referenced collectively as “Services.”

2. PERFORMANCE.

2.1 Standard of Performance. Consultant shall faithfully, competently and diligently perform the obligations and responsibilities required by this Agreement, applying prevailing standards of professionalism and good workmanship utilized
by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

2.2 **Labor and Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, tools, transportation and services necessary for the successful completion of the Services. Consultant shall give its attention and supervision to the fulfillment of the provisions of this Agreement by its employees and subcontractors and shall be responsible for the timely performance of the Services required by this Agreement.

2.3 **Time of Performance.** The Services of Consultant are to commence upon receipt of a written notice to proceed from City, but in no event prior to receiving a fully executed agreement from City and obtaining and delivering the required insurance coverage and satisfactory evidence thereof to City.

2.4 **Review of Service.** Consultant shall furnish City with reasonable opportunities from time to time to ascertain whether the Services of Consultant are being performed in accordance with this Agreement. All work done and materials furnished shall be subject to final review and approval by City; Consultant is not providing final approval or review, which is solely City’s function and role. City review and approval of such work and Services shall not, however, relieve Consultant of any of its obligations under this Agreement.

2.5 **Contract Administration.**

2.5.1 **City.** The City Manager or his/her designee shall represent the City in all matters relating to the administration of this Agreement. The City Manager or his/her designee shall have the authority to act on the City’s behalf to review and approve all products submitted by Consultant and may execute all necessary documents to authorize Consultant to perform Additional Services as provided for herein.

2.5.2 **Consultant.** Consultant shall assign ______________ to have overall responsibility for the progress and execution of this Agreement for Consultant.

3. **TERM.** This Agreement shall be effective as of the date first above written and shall continue until all Services to be provided by Consultant are completed, but in no event later than the _____ day of ______________, ______, unless terminated earlier as provided for herein.

4. **COMPENSATION.**

4.1 **Basic Services.** For Basic Services, City shall pay Consultant compensation in accordance with the payment rates and schedule as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, as full compensation for all labor, materials, equipment, tools, transportation, and services. Payment by City under this Agreement shall not be deemed a waiver of
unsatisfactory work, even if such defects were known to City at the time of payment.

4.2 **Additional Services.** Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing in the method provided for herein. Consultant will submit fee estimates for such additional services upon request of City.

4.3 **Invoices.** Each and every payment by City shall be subject to City’s receipt of an invoice outlining the items for which payment is requested. Payment to Consultant as to any undisputed fees shall be made, after verification of Consultant’s performance, within thirty (30) days of receipt of invoice. If City disputes any of Consultant’s fees, it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of such disputed fees.

4.4 **Inspection.** Consultant shall furnish City with every reasonable opportunity for City to ascertain that the services of Consultant are being performed in accordance with the requirements and intentions of this Agreement. All work done and all materials furnished, if any, shall be subject to the project manager’s inspection and approval. The inspection of such work shall not relieve Consultant of any of its obligations to fulfill the Agreement as prescribed.

4.5 **Withholding.** City reserves the right to withheld future payment to Consultant if any aspect of the Consultant’s work is found to be substantially inadequate. City shall notify Consultant in writing of deficiencies believed to be substantially inadequate within thirty (30) days after receipt of product.

4.6 **Taxes/Insurance/Licenses.** Consultant shall be solely responsible for the payment of any federal, state, or local income tax, social security tax, workers’ compensation insurance, state disability insurance, and any other taxes, assessments and premiums or insurance contributions which Consultant is responsible for paying under federal, state or local law by reason of or in connection with the Services to be performed by Consultant. At all times during the term of this Agreement, Consultant shall have in full force and effect all licenses necessary for the performance of Services hereunder, including without limitation, business licensing from City, all at the sole cost of Consultant.

4.7 **No Overtime or Premium Pay.** Consultant shall receive no premium or enhanced pay for work normally understood as overtime, i.e., hours that exceed forty (40) hours per work week, or work performed during non-standard business hours, such as in the evenings or on weekends. Consultant shall not receive a premium or enhanced pay for work performed on a recognized holiday. Consultant shall not receive paid time off for days not worked, whether it is in the form of sick leave, administrative leave, or for any other form of absence.

4.8 **Litigation Support.** Consultant agrees to testify at City’s request if litigation is brought against City in connection with Consultant’s work product. Unless the
action is brought by Consultant or is based upon Consultant's negligence, City will compensate Consultant for the preparation and the testimony at Consultant's standard hourly rates, if requested by City and not part of the litigation brought by City against Consultant.

5. RECORDS.

5.1 Financial Records. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Consultant shall also maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible.

5.2 Access to Records. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records; shall give City the right to examine and audit said books and records; shall permit City to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three years after receipt of final payment.

5.3 Original Records. Upon completion of, or in the event of termination or suspension of this Agreement, all completed and incomplete original agreements, data, documents, designs, drawings, exhibits, maps, models, computer files, reports, studies, surveys, notes, and other work, materials or documents prepared or used to prepare Consultant's work product in the course of providing the Services pursuant to this Agreement ("Consultant Work Product") shall become the sole property of City. City may duplicate, disclose, disseminate, use, reuse or otherwise dispose of Consultant Work Product in whole or in part in any manner it deems appropriate, without the permission of Consultant. With respect to computer files, Consultant shall make available to the City, at Consultant's office and upon reasonable written request by City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files. Consultant may retain copies of such Consultant Work Product as a part of its record of professional activity.

6. TERMINATION.

6.1 Termination for Convenience. City may at any time terminate this Agreement or any portion thereof for any reason by giving Consultant at least seventy-two (72) hours prior written notice of such termination. Upon receipt of said notice, Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If City suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.
6.2 **Termination for Cause.** City may terminate this Agreement with cause, effective immediately upon written notice of such termination to Consultant, based upon the occurrence of any of the following events:

- Material breach of this Agreement by Consultant;
- Cessation of Consultant to be licensed, as required;
- Failure of Consultant to substantially comply with any applicable federal, state or local law or regulation;
- Filing by or against Consultant of any petition under any law for the relief of debtors; and,
- Filing of a criminal complaint against Consultant for any crime, other than minor traffic offenses.

If this Agreement is terminated by City for cause and it is later determined that the termination was wrongful, such termination automatically shall be converted to and treated as a termination for convenience as provided for herein.

6.3 **Suspension.** City shall have the authority to suspend this Agreement and the Services contemplated herein, wholly or in part, for such period as it deems necessary due to unfavorable conditions or to the failure on the part of the Consultant to perform any provision of this Agreement.

6.4 **Payment Upon Termination.** In the event this Agreement is terminated or suspended, with or without cause, pursuant to this Section, City shall pay Consultant for the actual value of the work performed up to the time of termination or suspension, provided that the work performed is of value to City. Upon termination of the Agreement, Consultant will submit an invoice to City as provided for herein.

6.5 **Third Parties.** City shall not be obligated or liable for payment hereunder to any party other than Consultant.

7. **INSURANCE.** Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in the attached Exhibit C, which is incorporated by this reference as though set forth in full.

8. **INDEMNIFICATION.**

8.1 **Indemnification for Professional Liability.** When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys fees and costs, court costs, interest, defense costs and expert witness fees) ("Claims"), to the extent same are caused, or alleged to have been caused, in whole or in part by any act or omission, negligent or
otherwise, of Consultant, its officers, agents, employees, subcontractors or consultants or any entity or individual for whom Consultant shall bear legal liability in the performance of professional services under this Agreement. For design professionals, Consultant shall, to the fullest extent permitted by law, indemnify, protect, defend and hold harmless any Indemnified Parties from and against any and all Claims which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, or as may be provided by statute in Civil Code § 2782.8.

8.2 **Indemnification for Other Than Professional Liability.** Other than in the performance of professional services as specified in Section 8.1 and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless any Indemnified Parties from and against any Claims, where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for whom Consultant is legally liable, including but not limited to, officers, agents, employees, subcontractors or consultants of Consultant. The only exception to Consultant’s responsibility to indemnify, defend, and hold harmless the Indemnified Parties from Claims, is due to the active negligence or willful misconduct of City or its elective or appointive boards, officers, agents and employees.

8.3 **Scope of Obligation.** Consultant’s duty to indemnify, protect, defend and hold harmless as set forth herein shall include the duty to defend as set forth in California Civil Code § 2778. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for Consultant under worker’s compensation, disability or other employee benefit acts or the terms, applicability or limitations of any insurance held or provided by Consultant and shall continue to bind the parties after termination/completion of this agreement. This indemnification shall be regardless and not in any way limited by the insurance requirements of this contract. This indemnification is for the full period of time allowed by law and shall survive the termination of this agreement.

8.4 **City Liability.** The City has no liability or responsibility for any accident, loss, or damage to any work performed under this Agreement whether prior to its completion or acceptance or otherwise. No member of the City and no other officer, elected official, employee or agent of the City shall be personally liable to Consultant or otherwise in the event of any default or breach of the City, or for any amount which may become due to Consultant or any successor in interest, for any obligations directly or indirectly incurred under the terms of this agreement.

9. **RELEASE OF INFORMATION.**

9.1 **Confidentiality.** All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released except to the City, directly or indirectly, by Consultant without City's prior written
authorization. Consultant, its officers, employees, subcontractors or sub-
consultants shall not voluntarily provide declarations, letters of support, testimony
at depositions, response to interrogatories or other information concerning the
work performed under this Agreement unless requested by the City Attorney or
authorized in writing by the City Manager. Response to a subpoena or court order
shall not be considered "voluntary" provided that Consultant shall give City
prompt written notice of any such court order or subpoena.

9.2 **Notice and Cooperation.** Consultant shall promptly notify the City Manager and
City Attorney in writing if Consultant, its officers, employees, agents, or
subcontractors or consultants should be served with any summons, complaint,
subpoena, notice of deposition, request for documents, interrogatories, request for
admissions, or other discovery request, court order or subpoena from any person
or party related to this Agreement and/or Consultant's related Services. City has
no obligation to, but may exercise discretion to represent Consultant and/or be
present at any deposition, hearing, or similar proceeding. Consultant agrees to
cooperate fully with City and to provide the City an opportunity to review any
response to discovery requests provided by Consultant. However, City's right to
review any such response does not grant or imply a right of City to control, direct,
dictate or rewrite said response.

10. **RELATIONSHIP TO CITY.**

10.1 **Independent Contractor.** Consultant is and shall at all times remain as to the
City a wholly independent contractor. The personnel performing the services
under this Agreement on behalf of Consultant shall at all times be under
Consultant's exclusive direction and control. Neither City nor any of its officers,
employees or agents shall have control over the conduct of Consultant or any of
Consultant's officers, employees or agents, except as set forth in this Agreement.
Consultant shall not at any time or in any manner represent that it or any of its
officers, employees or agents are in any manner officers, employees or agents of
City. Consultant shall not incur or have the power to incur any debt, obligation or
liability whatever against City, or bind City in any manner.

10.2 **No Employee Privileges.** No City employee benefits shall be available to
Consultant in connection with the performance of this Agreement. Except for the
fees paid to Consultant as provided in the Agreement, City shall not pay salaries,
wages or other compensation to Consultant for performing services hereunder for
City. City shall not be liable for compensation or indemnification to Consultant
for injury or sickness arising out of performing services hereunder.

10.3 **Not an Agent.** Consultant, its officers, employees and agents shall not have any
power to bind or commit the City to any decision.

10.4 **Consultant Duty to City.** Consultant understands and agrees that its
responsibility to provide complete and accurate Services is owed solely to City
and that its accountability under this contract shall likewise be solely to City and not to any City applicants or any other third person or entity.

10.5 **Interest of Consultant.** Consultant represents and warrants to City that it presently has no interests, and covenants that it shall not acquire any interests, direct or indirect, financial or otherwise, which would conflict with the performance of the services to be provided by Consultant under this Agreement. Consultant further covenants that, in the performance of this Agreement, no subcontractor or employee having such an interest shall be employed by Consultant. Consultant certifies that no one who has or will have any financial interest under this Agreement is: (a) an officer or employee of City, or (b) an officer or employee of the applicant and any of its consultants.

10.6 **Undue Influence.** Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement or financial inducement. No officer or employee of City will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling City to any and all remedies at law or in equity.

10.7 **Statement of Economic Interest.** If City determines Consultant comes within the definition of Consultant under the Political Reform Act (Gov’t Code § 87100), Consultant shall complete and file and shall require any other person doing work under this Agreement to complete and file a “Statement of Economic Interest” with the City Clerk disclosing Consultant and/or other such person’s financial interests.

10.8 **Nonexclusive Agreement.** Consultant understands that this is not an exclusive Agreement and that City shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by Consultant as City desires.

11. **GENERAL PROVISIONS.**

11.1 **Incorporation of Recitals.** The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

11.2 **Further Assurances.** City and Consultant each agree to cooperate with one another, to use their best efforts, to act in good faith, and to promptly perform such acts and execute such documents or instruments as are reasonably necessary and proper to consummate the transactions contemplated by this Agreement.
11.3 **Notices.** All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if personally served or on the second day after mailing if mailed by first-class mail, registered or certified, return receipt requested, postage prepaid and properly addressed as follows:

**To City:**


**To Consultant:**


Any party may change their address for the purpose of this paragraph by giving the other party written notice of the new address in the above manner.

11.4 **Compliance with Laws.**
11.4.1 **Legal Responsibilities.** Consultant shall keep itself informed of local, state and federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. Any corrections or updates to Consultant’s services that may be come necessary as a result of a change in said laws and regulations shall be made at Consultant’s expense.

11.4.2 **Licenses.** At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses and permits required by law for the performance of services described in this Agreement. Permits and/or licenses shall be obtained and maintained by Consultant without additional compensation throughout the term of this Agreement.

11.4.3 **Labor Conditions.** City is a public entity in the state of California, and therefore, City and Consultant are subject to the provisions of the Government Code and the Labor Code of the state of California, including, but not limited to, the provisions which (a) require every employee to be insured against liability for workers compensation or to take self-insurance and (b) require every employer to adopt a written injury and illness prevention program. All provisions of law applicable to public contracts and/or this Agreement are incorporated herein by this reference and are made a part of this Agreement to the same extent as if they were fully stated in the Agreement and shall be complied with by Consultant. Consultant certifies that it will comply with such provisions before commencing performance of the Agreement and at all times in the performance of the Agreement.

11.4.4 **Labor Requirements.** Consultant shall abide by all federal and California laws and regulations regarding wages, including, without limitation, the Fair Labor Standards Act and the California Labor Code, which, in part, require Consultant to pay the general prevailing wage rates.

11.4.5 **Discrimination.** No person shall be excluded from employment in the performance of this Agreement on the grounds of race, creed, color, sex, age, marital status, sexual orientation, or place of national origin. Consultant shall comply with all local, state, and federal laws relating to equal employment opportunity rights.

11.4.6 **City Not Responsible.** The City and its officers and employees shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

11.5 **Assignment.** Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of City, which shall have the sole discretion to consent to any proposed assignment. Because of the personal nature of the Services to be rendered pursuant to this
Agreement, only Consultant shall perform the services described in this Agreement.

11.6 **Agreement Binding.** The terms, covenants, and conditions of this Agreement shall apply to, and shall bind, the heirs, successors, executors, administrators, assigns and subcontractors of both parties.

11.7 **Waiver.** No waiver of a provision of this Agreement shall constitute a waiver of any other provision, whether or not similar. No waiver shall constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

11.8 **Time is of the Essence.** Time is of the essence of this Agreement.

11.9 **Remedies Not Exclusive.** No remedy herein conferred upon or reserved to City is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

11.10 **Construction of Terms.** All parts of this Agreement shall in all cases be construed according to their plain meaning and shall not be construed in favor or against either of the parties. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, in whole or in part, the remainder of this Agreement shall remain in full force and effect and shall not be affected, impaired or invalidated thereby. In the event of any provision shall be adjudged invalid, void or unenforceable, the parties hereto agree to enter into a supplemental agreement to effectuate the intent of the parties and the purposes of this Agreement.

11.11 **Severability.** If one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision(s) shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof; and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision has not been contained herein.

11.12 **Controlling Law.** The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement, with venue proper only in the County of __________, State of California.

11.13 **Attorneys Fees.** In the event any action is brought to enforce or interpret the terms of this Agreement or for damages on account of the breach hereof, the prevailing party therein shall be entitled to recover from the other party its costs and expenses incurred in connection therewith, including without limitation, reasonable attorneys fees and the costs and expenses of litigation.
11.14 **Authorization.** All officers and individuals executing this and other documents on behalf of the respective parties hereby certify and warrant that they have the capacity and have been duly authorized to execute said documents on behalf of the entities indicated.

11.15 **News Releases/Interviews.** All Consultant and sub-consultant news releases, media interviews, testimony at hearings and public comment shall be prohibited unless expressly authorized by City.

11.16 **Entire Agreement / Amendment.** This Agreement, along with its attached exhibits, which are incorporated herein by this reference, constitutes the entire Agreement between the parties and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. This Agreement may be altered, amended or modified only by a supplemental writing executed by the parties to this Agreement and by no other means. Each party waives any future right to claim, contest, or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreement, course of conduct, waiver or estoppel.

11.17 **Counterparts.** This Agreement may be executed in counterparts, each of which shall remain in full force and effect as to each party.

IN WITNESS WHEREOF, the parties have executed this Agreement at the place and as of the date first written above.

"CITY"
City of Pacifica

"CONSULTANT"

By: ____________________________
   Stephen A. Rhodes
   City Manager

By: ____________________________
   Michelle Marchetta Kenyon
   City Attorney

APPROVED AS TO FORM:

By: ____________________________
   ____________________________
   Kathy O'Connell
   City Clerk

(Name, Title)
EXHIBIT A

TASKS TO BE PERFORMED

1. **Audit Opinion**
   The purpose of the audit is to express an opinion as to the fair presentation of the general-purpose financial statements of the City and the financial position of those funds covered in the scope of this audit in accordance with generally accepted accounting principles (GAAP) and applicable laws and regulations.

2. **Governmental Accounting Standards Board (GASB) Pronouncements**
   In addition to expressing an opinion on the City's compliance with current governmental GAAP, the audit firm shall also be required to provide assistance in the implementation of applicable GASB pronouncements. The proposal should describe the firm’s expertise in assisting the City and the separate entities in the compliance of all GASB pronouncements, including GASB 34 and GASB 45.

   All working papers and reports must be retained, at the auditor’s expense, for a minimum of three (3) years, unless the firm is notified in writing by the City of the need to extend the retention period. The firm shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers relating to matters of continuing accounting significance.

4. **Single Audit**
   Under the Single Audit Act Amendments of 1996, proposers must meet the minimum requirements for financial and compliance audits as prescribed by Office of Management and Budget Circular A-133. In compliance with Circular 133, the independent auditor shall determine if a single audit is necessary, and if so, shall determine:
   a. That the financial statements of the City present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles.
   b. That the City has internal accounting and other control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations.
   c. The City has complied with laws and regulations that may have a material effect on its financial statements and on each major Federal financial assistance program.

5. **Interim Reports**
   The auditor shall meet with the finance management staff to discuss the status of the audit, proposals for cost overruns, potential management comments, potential audit adjustments, and estimated completion date.
6. Management Comments
By October 31 of each fiscal year of the engagement, the audit firm will issue a
management report advising the City of any material weakness in accounting controls,
improvements or identification of weaknesses in internal controls, recommendations
for financial management improvements, or improvements in the effectiveness of the
City's utilization of financial resources if any such findings are observed. A letter
indicating no material weaknesses, or areas for improvement, will be required if no
findings exist.

7. Exit Conferences
Exit conferences are required for each year of the audit engagement. Conferences
will be held with the Finance Management staff. Periodic status reports on the
progress of each annual audit will be presented to the City Manager or his
representative if requested.

8. GFOA/CSMFO Reviews
The City intends to submit its CAFR each year to the Government Finance Officers
Association's (GFOA) Certificate of Achievement for Excellence in Financial
Reporting awards program and the California Society of Municipal Finance Officers'
(CSMFO) Certificate of Award for Outstanding Financial Reporting program. The
auditor shall be expected to prepare and review the City's CAFR to ensure compliance
with the requirements of each award program.

9. Special Reports and Audits
The firm shall also serve as auditor for certain additional projects and studies as
deemed necessary by the City. The contractor shall supply services for audits and
other special reports that may be requested by the City Council or the City's Finance
Department. Separate engagement letters, including the fees, will be negotiated for
special requests.

10. Required Reports
At the end of each annual audit, the firm shall issue the following separate reports:
A. Comprehensive Annual Financial Report (CAFR) - City of Pacifica
B. Management and Internal Control Report
C. Gann Appropriations Limit Compliance Letter and Calculation Review Report
D. RDA Audit and Compliance Opinions
E. Audited Financials and Opinion on these Financials of the City's Child
   Development Program
F. Child Development Program Audit
G. Single Audit Act Opinions
H. San Mateo County Measure A Compliance Report
I. MTC Article 3 Audit/Compliance Report
J. Continuing Disclosures – RDA and City
K. Street Report
L. State Controllers Report
# EXHIBIT B

## COST PROPOSAL SUBMITTAL FORMAT

### FEES

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<td>CAFR Preparation -- City of Pacifica</td>
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<td>Management and Internal Control Report</td>
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<td>Appropriations Limit Compliance Letter</td>
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<td>RDA Audit and Compliance Opinions</td>
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<td>City’s Child Development Program Audit</td>
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<td>Single Audit Act Opinion</td>
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EXHIBIT C

INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of the Work, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to City in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to City.

Consultant shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office “Commercial General Liability” policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than $1,000,000 per occurrence. Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than $1,000,000 per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant’s employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each such person.

Workers Compensation on a state-approved policy form providing statutory benefits as required by law with employer’s liability limits no less than $1,000,000 per accident or disease.

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum $25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a “pay on behalf” basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured’s liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to City for injury to employees of Consultant, subconsultants or others involved in the Work. The scope of coverage provided is subject to approval of City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than $1,000,000 per occurrence.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the consultant and “Covered Professional Services” as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than $1,000,000 per claim and in the aggregate. The policy must “pay on behalf of” the insured and must include a provision establishing the insurer’s duty to
defend. The policy retroactive date shall be on or before the effective date of this agreement.

*Insurance procured pursuant to these requirements shall be written by insurers that are admitted carriers in the state of California and with an A.M. Bests rating of A- or better and a minimum financial size VII.*

General conditions pertaining to provision of insurance coverage by Consultant. Consultant and City agree to the following with respect to insurance provided by Consultant:

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds City, its officials, employees and agents, using standard ISO endorsement No. CG 2010 with an edition prior to 1992. Consultant also agrees to require all contractors and subcontractors to do likewise.

2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant’s employees or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all contractors and subcontractors to do likewise.

3. All insurance coverage and limits provided by Contractor and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.

4. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.

6. All coverage types and limits required are subject to approval, modification and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g., elimination of contractual liability or reduction of discovery period) that may affect City’s protection without City’s prior written consent.

7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant’s general liability policy, shall be delivered to City at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by City shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at City option.
8. Certificate(s) are to reflect that the insurer will provide 30 (thirty) days notice to City of any cancellation of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will “endeavor” (as opposed to being required) to comply with the requirements of the certificate.

9. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Consultant or any subcontractor, is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self insurance available to City.

10. Consultant agrees to ensure that subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to City for review.

11. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to City. If Consultant’s existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time the City shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.

12. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increased benefit to City.

13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.

14. Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.

15. Consultant will renew the required coverage annually as long as City or its employees or agents face an exposure from operations of any type pursuant to this Agreement. This obligation applies whether or not the Agreement is canceled or terminated for any reason. Termination of this obligation is not effective until City executes a written statement to that effect.
16. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City within five days of the expiration of the coverages.

17. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this Agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials and agents.

18. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be limiting or all-inclusive.

19. These insurance requirements are intended to be separate and distinct from any other provision in this agreement and are intended by the parties here to be interpreted as such.

20. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

21. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Consultant for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.
SUBJECT:
Dissolution of Redevelopment Agency

ORIGINATED BY:
Administrative Services Director and City Manager

DISCUSSION:

On December 29, 2011, the California Supreme Court issued its much-anticipated decision in *California Redevelopment Association et al. v. Ana Matosantos et al.* The news for local governments was not good as the decision amounted to a “worst case scenario” for communities with redevelopment agencies: the Court let stand Assembly Bill 1X 26 (the bill dissolving California’s redevelopment agencies) while striking down Assembly Bill 1X 27 (the so-called “pay-to-play” bill allowing localities to save their redevelopment agencies by agreeing to annual remittance payments to assist the State and other taxing entities in 2011-12 and each year thereafter).

The Court found the dissolution of redevelopment agencies effected by AB 1X 26 to be a proper exercise of the legislative power vested in the Legislature by the State Constitution. However, the Court found the provisions of AB 1X 27 allowing communities to save their redevelopment agencies if they made the “voluntary” remittance payments under AB 1X 27 to violate Proposition 22. Furthermore, the Court found that the two bills were severable, allowing the dissolution provisions of AB 1X 26 to survive even as AB 1X 27 was struck down.

Since the Supreme Court’s decision, there has been some speculation as to whether there may yet be a legislative “fix”. There is evidence in the legislative record that at least some of the legislators who voted for the two bills would not have voted for the dissolution bill without the bill allowing for an alternative redevelopment program. Whether there are now the votes in the Legislature to repeal or significantly modify AB 1X 26 and to overcome a possible gubernatorial veto is unknown.

What is certain is that January will be an active month for local government advocates in Sacramento, as they race against the clock to avoid or ameliorate the harshest consequences of the Court’s decision. Meanwhile, local communities and their redevelopment agencies will have to move forward with the dissolution process described in AB 1X 26. Although the Supreme Court extended many of the bill’s deadlines, the revised timeline is still short. Some of the key dates to be aware of are set forth below:

Each city must decide whether it wants to serve as the successor agency responsible for winding down the dissolved redevelopment agency’s affairs. Although not required by
the statute, staff is recommending that the Council adopt a resolution confirming its intention that the City serve as the successor agency and file the resolution with the county auditor-controller by the end of January.

The factors considered in the City’s decision to remain a successor agency include:

January 30, 2012 – By this date each redevelopment agency must prepare and submit to its successor agency a preliminary draft of the initial Recognized Obligation Payment Schedule. The City of Pacifica prepared this document back in September to meet the deadline stated in the legislation, but should update the form to include all continuing obligations including debt payments, administrative costs, auditing costs and long term debt repayment to the City's General Fund. It will be important to carefully review this document to insure that it provides an accurate accounting of such obligations for the successor agency and oversight board.

February 1, 2012 – This is the new date on which, absent emergency action by the Legislature and Governor, redevelopment agencies in California will cease to exist. If the City wishes to retain the housing assets and obligations of their redevelopment agencies, which staff is not recommending, another resolution will need to be passed electing to do so prior to this date. Cities may want to make this election at the same time they adopt the resolution regarding service as a successor agency described above.

March 1, 2012 – This is the new date by which successor agencies must prepare and submit their first Recognized Obligation Payment Schedule for approval by the oversight boards.

May 1, 2012 – This is the new date by which the names of the chair and other six members of each successor agency's oversight board shall be reported to the Department of Finance. The mayor of each city with a redevelopment agency will appoint two members to the seven-member board, one representing the city and the other selected from the recognized employee organization (City Manager) representing the largest number of former redevelopment agency employees employed by the successor agency.

In addition to the deadlines, it should be noted that each City is considering the following issues:

1. Deciding Whether To Serve As A Successor Agency. Health and Safety Code Section 34177 tasks each successor agency with the responsibility for winding down the dissolved redevelopment agency’s affairs, continuing to meet the former redevelopment agency’s enforceable obligations, overseeing completion of redevelopment projects and disposing of the assets and properties of the former redevelopment agency, all as directed by the oversight board. If a city opts out of serving as the successor agency, Health and Safety Code Section 34173(d) provides that another local agency may elect to serve as the successor agency, or in the event no other local agency so elects, the Governor will appoint a successor agency to be comprised of three residents of the county. Some of the factors a city may want to consider in evaluating whether to serve as the successor include:
- **The city's interest in playing an active role in the dissolution process.** Serving as successor agency may preserve a role for the city in managing the unwinding down process of the redevelopment agency. Having this role is particularly important where a former redevelopment agency owned significant properties or was actively engaged in ongoing projects.

- **The successor agency's role with respect to the oversight board.** Although serving as successor agency may help preserve a role for the city in the dissolution process, the successor agency will be operating at the direction of the oversight board, which will have interests and priorities that may often conflict with those of the city. Cities serving as successor agencies should take on their obligations understanding these likely conflicts.

- **Compensation to the city as successor agency.** Health and Safety Code Section 34171(b) provides for an annual “administrative cost allowance” to the successor agency in an amount tied to the property tax revenues received for the former redevelopment agency but not less than $250,000 or a lesser amount if the successor agency agrees.

- **Limitations on the successor agency’s liability for actions undertaken pursuant to AB 1X 26.** Health and Safety Code Section 34173(e) limits the liability of a successor agency for duties undertaken pursuant to AB 1X 26 to the sum of the total amount of tax increment it receives on behalf of the former redevelopment agency and the value of the assets it receives from the former redevelopment agency.

2. Following dissolution of each redevelopment agency on February 1 (or later if urgency legislation is passed), the City of Pacifica will have a clear record of its obligations for the successor agency and oversight board. Staff anticipates many legal challenges to different aspects of AB 1X 27, particularly as applied to specific agencies. Each redevelopment agency and their record of obligations are part of the process.

3. **Retaining Housing Assets.** Health and Safety Code Section 34176(a) gives the community that authorized creation of a redevelopment agency the option of retaining its housing assets and functions, excluding amounts on deposit in the Low and Moderate Income Housing Fund. Pacifica’s redevelopment agency has no assets with the exception of the Low and Moderate Income Housing Fund.

4. **The Supreme Court’s decision leaves much unsettled.** Under the language of the legislation, most agreements entered into between cities and redevelopment agencies, other than written agreements executed within two years of formation of the agency or agreements obligating an agency to reimburse a city for indebtedness entered into on behalf of the agency executed prior to January 1, 2011, will purportedly be invalidated as of February 1, 2012. However, it is not clear that the Legislature has the authority to invalidate all such contracts. In the absence of special legislation to address some of the harshest consequences of the Supreme Court’s decision, many
anticipate further legal challenges to these and other provisions of AB 1X 26 on an as-applied basis.

In order to retain the most control in unwinding its redevelopment agency and preserve options for the selection of members of the succeeding board and outstanding obligations both to the agency and the City, staff is recommending that the City Council/Redevelopment Agency adopt a resolution stating it's intent to serve as the successor to the agency and approve the preliminary draft of the initial Recognized Obligation Payment Schedule for submission to the County Controller.

FISCAL IMPACT:
The dissolution of Pacifica's redevelopment agency will eliminate the redevelopment tools and incentives for development in the Rockaway Beach Project Area. The revenue that the Redevelopment Agency has received will continue to be distributed by the County to pay for the Tax 2004 Tax Allocation Bonds ($1,540,000 as of June 30, 2011), administrative costs and the annual audit. As discussed above, because of language in AB 1X 26 purporting to invalidate almost all City-Agency agreements, the prospects for repayment of funds borrowed by the Agency from the City between 1985 and 1994 which now total $6,209,971 (as of June 30, 2011) are likely to remain unsettled for some time.

ATTACHMENTS:

- Resolution of City Council Determining City Shall Serve as Successor Agency and Electing Not To Retain Redevelopment Agency's Housing Functions and Assets
- Resolution of the Redevelopment Agency Board Adopting an Amended Enforceable Obligation Payment Schedule

COUNCIL/AGENCY BOARD ACTION REQUESTED:

1. Adopt Resolution of the City Council of the City of Pacifica determining that the City shall serve as Successor Agency to the Pacifica Redevelopment Agency and electing not to retain the housing assets and functions of the Redevelopment Agency.

**2004 Tax Allocation Bonds:** During August 2004, the Redevelopment Agency of the City of Pacifica issued $1,725,000 in Rockaway Beach Redevelopment Project 2004 Tax Allocation Bonds at interest rates varying from 2.9% to 5.75%. The net proceeds of the bonds were issued to refinance redevelopment activities by repaying a portion of the loan made by the City to the Agency and to establish a reserve fund. Interest on the bonds will be payable semiannually on January 1 and July 1 each year, commencing January 1, 2005. The bonds mature on July 1, 2031.

Annual debt service requirements, to maturity, for the 2004 Tax Allocation Bonds are as follows:

<table>
<thead>
<tr>
<th>Fiscal Year Ended June 30</th>
<th>2004 Tax Allocation Bonds</th>
<th>Total</th>
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<td></td>
<td>Principal</td>
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<td>2012</td>
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<td>2032</td>
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<td>$3,436</td>
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<td>$1,540,000</td>
<td>$1,086,325</td>
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<td>Date</td>
<td>Payment</td>
<td>Interest</td>
</tr>
<tr>
<td>------------</td>
<td>-----------</td>
<td>------------</td>
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<td>Loan 07/01/2010</td>
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<td>2010 Totals</td>
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<tr>
<td>1 06/30/2014</td>
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<td>721,337.24</td>
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<td>172,181.86</td>
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<td>4 06/30/2017</td>
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<td>14 06/30/2027</td>
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<td>2027 Totals</td>
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<td>62,776.54</td>
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<tr>
<td>15 06/30/2028</td>
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<td>16 06/30/2029</td>
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<td>2029 Totals</td>
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<td>2031 Totals</td>
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<td>2032 Totals</td>
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<td>Grand Totals</td>
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CITY COUNCIL RESOLUTION NO.____-2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA
(1) DETERMINING THE CITY WILL SERVE AS THE SUCCESSOR AGENCY TO
THE REDEVELOPMENT AGENCY OF THE CITY OF PACIFICA; (2) ELECTING
NOT TO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY
PERFORMED BY THE REDEVELOPMENT AGENCY; AND (3) AUTHORIZING THE
CITY MANAGER TO PERFORM ALL ACTIONS AND DUTIES AND EXECUTE ALL
DOCUMENTS ON BEHALF OF THE CITY REQUIRED TO TRANSFER THE
REDEVELOPMENT AGENCY’S HOUSING ASSETS AND FUNCTIONS TO THE
HOUSING AUTHORITY OF THE COUNTY OF SAN MATEO

WHEREAS, the Redevelopment Agency of the City of Pacifica (“Agency”) is a
redevelopment agency organized and existing under the California Community Redevelopment
Law (Health & Safety Code § 33000 et seq.) (“CRL”) and has been authorized to transact
business and exercise the powers of a redevelopment agency pursuant to action of the City
Council of the City of Pacifica (“City Council” or “City,” as applicable); and

WHEREAS, pursuant to the CRL, the City Council approved and adopted the
Redevelopment Plan (“Redevelopment Plan”) for the Pacifica Redevelopment Project on July
14, 1986, by Ordinance No.467-86, as amended to date, and the Agency is vested with the
responsibility for implementing and carrying out the Redevelopment Plan; and

WHEREAS, the Agency is currently in the process of carrying out the goals and
objectives of the Redevelopment Plan by continuing to: eliminate blight; increase, improve and
preserve the supply of affordable housing in the community; stimulate and expand economic
growth and employment opportunities by revitalizing properties and businesses within the
Project; and alleviate deficiencies in public infrastructure; and

WHEREAS, in connection with approval and adoption of the State Budget for Fiscal
Year 2011-12, the California Legislature approved and the Governor signed (i) AB 1X 26 (Stats.
2011, chap. 5, “AB 1X 26”), which immediately, and purportedly retroactively, suspended all
otherwise legal redevelopment activities and incurrence of indebtedness, and provided for
dissolution of California’s redevelopment agencies effective October 1, 2011 (the “Dissolution
Act”); and (ii) AB 1X 27 (Stats. 2011, chap. 6, “AB 1X 27”), which allowed a local community
to avoid the consequences of the Dissolution Act and continue its redevelopment agency if the
community enacted an ordinance agreeing to comply with the alternative voluntary
redevelopment program described in Section 2 of AB 1X 27 adding Part 1.9 (commencing with
section 34192) of Division 24 of the Health and Safety Code; and

WHEREAS, the California Redevelopment Association, et al. challenged the
constitutionality of AB 1X 26 and AB 1X 27 in California Redevelopment Association et al. v.
Ana Matosantos et al., which was heard by the California Supreme Court; and

WHEREAS, in a decision filed on December 29, 2011, the Supreme Court found the
dissolution of redevelopment agencies effected by AB 1X 26 to be a proper exercise of the
legislative power vested in the Legislature by the State Constitution, while the Court found the
provisions of AB 1X 27 allowing communities to save their redevelopment agencies if they made the “voluntary” remittance payments under AB 1X 27 to violate Proposition 22; and that the two bills were severable, allowing the dissolution provisions of AB 1X 26 to survive even as it invalidated AB 1X 27; and

WHEREAS, the Supreme Court extended the timeframes set forth in AB 1X 26 for, among other things, determining whether a redevelopment agency desires to serve as a successor entity until January 13, 2012; and

WHEREAS, Health and Safety Code Section 34171(j) defines the “successor agency” as the “county, city, or city and county that authorized the creation of each redevelopment agency,” unless such entity elects not to serve as a successor agency under Section 34173(d); and

WHEREAS, Health and Safety Code Section 34177 tasks each successor agency with the responsibility, among other things, for winding down the dissolved redevelopment agency’s affairs, continuing to meet the former redevelopment agency’s enforceable obligations, overseeing completion of redevelopment projects and disposing of the assets and properties of the former redevelopment agency, all as directed by the oversight board; and

WHEREAS, if a city opts out of serving as the successor agency by passing and filing a resolution to that effect with the county auditor-controller, Health and Safety Code Section 34173(d) provides that another local agency may elect to serve as the successor agency, or in the event no other local agency so elects, the Governor will appoint a successor agency to be comprised of three residents of the county; and

WHEREAS, the City desires to act as the successor agency to the Agency; and

WHEREAS, Health and Safety Code Section 34176(a) gives the city that authorized creation of a redevelopment agency the option of retaining its housing assets and functions, excluding amounts on deposit in the Low and Moderate Income Housing Fund; and

WHEREAS, as allowed under AB 1X 26, the City does not desire to retain the Agency’s housing assets and functions and, therefore, pursuant to Health and Safety Code Section 34176(b), all Agency housing assets and functions shall be transferred to the local housing authority, the Housing Authority of the County of San Mateo; and

WHEREAS, the City is the lead agency concerning this Resolution pursuant to the California Environmental Quality Act (codified as Public Resources Code Section 21000 et seq) (“CEQA”) and the State CEQA Guidelines; and

WHEREAS, City staff has determined that this Resolution is exempt from CEQA, pursuant to CEQA Guidelines Section 15378(b)(4), because the resolution does not involve any commitment to any specific project that may result in a potentially significant environmental impact.
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFICA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The Recitals set forth above are true and correct and incorporated herein.

Section 2. In accordance with Health and Safety Code Section 34171(j), and based on the Recitals set forth above, the City Council hereby determines that the City shall serve as the successor agency to the Agency.

Section 3. In accordance with Health and Safety Code Section 34176, the City elects not to retain the housing assets and functions previously performed by the Agency, and, therefore, authorizes the City Manager to perform all duties and actions and execute any documents on behalf of the City required to transfer the Agency's housing assets and functions to the Housing Authority of the County of San Mateo.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on January 23, 2012, by the following vote of the members thereof:

AYES, Council Members:

NOES, Council Members:

ABSENT, Council Members:

ABSTAIN, Council Members:

_________________________________________________________________________

Pete DeJarnatt, Mayor

ATTEST:

_________________________________________________________________________

Kathy O’Connell, City Clerk

APPROVED AS TO FORM:

_________________________________________________________________________

Michelle Marchetta Kenyon, City Attorney
AGENCY RESOLUTION NO. _____-2012

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF PACIFICA ADOPTING AN AMENDED ENFORCEABLE OBLIGATION PAYMENT SCHEDULE PURSUANT TO SECTION 34169(g) OF THE CALIFORNIA HEALTH AND SAFETY CODE

WHEREAS, the Redevelopment Agency of the City of Pacifica ("Agency") is a redevelopment agency organized and existing under the California Community Redevelopment Law (Health & Safety Code § 33000 et seq.) ("CRL") and has been authorized to transact business and exercise the powers of a redevelopment agency pursuant to action of the City Council of the City of Pacifica ("City"); and

WHEREAS, in connection with approval and adoption of the State Budget for Fiscal Year 2011-12, the California Legislature approved and the Governor signed (i) AB 1X 26 (Stats. 2011, chap. 5, "AB 1X 26"), which immediately, and purportedly retroactively, suspended all otherwise legal redevelopment activities and incurrence of indebtedness, and provided for dissolution of California's redevelopment agencies effective October 1, 2011 (the "Dissolution Act"); and (ii) AB 1X 27 (Stats. 2011, chap. 6, "AB 1X 27"), which allowed a local community to avoid the consequences of the Dissolution Act and continue its redevelopment agency if the community enacted an ordinance agreeing to comply with the alternative voluntary redevelopment program described in Section 2 of AB 1X 27 adding Part 1.9 (commencing with section 34192) of Division 24 of the Health and Safety Code; and

WHEREAS, AB 1X 26 also required that each redevelopment agency adopt an enforceable obligation payment schedule in conformance with Section 34169(g) of the Health and Safety Code by August 28, 2011, which, among other things, was required to include a list of all of the agency enforceable obligations, and the amount of payments obligated to be made, by month, through December 2011; and

WHEREAS, the Agency adopted an Enforceable Obligation Payment Schedule by Resolution No. _____ on ____________, 2011 ("EOPS"); and

WHEREAS, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (California Redevelopment Association, et al. v. Ana Matosantos, et al., Case No. 5194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement; and

WHEREAS, in a decision filed on December 29, 2011, the Supreme Court found the dissolution of redevelopment agencies effected by AB 1X 26 to be a proper exercise of the legislative power vested in the Legislature by the State Constitution and the provisions of AB 1X 27 allowing communities to save their redevelopment agencies if they made the "voluntary" remittance payments under AB 1X 27 to violate Proposition 22, thus upholding the constitutionality of AB 1X 26 and holding AB 1X 27 unconstitutional; and
WHEREAS, the Supreme Court extended the timeframes set forth in AB 1X 26 for, among other things, preparing the preliminary draft of the initial Recognized Obligation Payment Schedule required under Health and Safety Code Section 34169(h) from September 30, 2011 to January 30, 2012; and

WHEREAS, extension of the timeframe for oversight board approval of the initial Recognized Obligation Payment Schedule to May 1, 2012, has resulted in a void in the EOPS, in that it does not cover the amount of the payments to be made for the period January 1, 2012, through the date upon which the initial Recognized Obligation Payment Schedule shall become operative; and

WHEREAS, pursuant to Health and Safety Code Section 34177, until a Recognized Obligation Payment Schedule becomes operative, Section 34177 directs the successor agency to make payments required under the EOPS; and

WHEREAS, the Agency desires to amend its adopted EOPS to cover a period long enough that a Recognized Obligation Payment Schedule will likely have become operative prior to expiration of the amended EOPS; and

WHEREAS, the Agency therefore desires to amend the EOPS to include the amount of the payments for the period January 1, 2012 through June 30, 2012, as well as to make certain other changes necessary to provide a more accurate list and description of the Agency’s existing enforceable obligations; and

NOW, THEREFORE, THE REDEVELOPMENT AGENCY OF THE CITY OF PACIFICA DOES RESOLVE AS FOLLOWS:

Section 1. The Agency hereby adopts the Amended Enforceable Obligation Payment Schedule, attached hereto as Exhibit A.

Section 2. The Agency Secretary is hereby directed to transmit a copy of the Amended Enforceable Obligation Payment Schedule to the State Department of Finance, the State Controller and the San Mateo County Auditor-Controller in accordance with Section 34169(g)(2) of the Health and Safety Code.
PASSED AND ADOPTED at a regular meeting of the Redevelopment Agency of the City of Pacific, California, held on January 23, 2012, by the following vote of the members thereof:

AYES,  Board Members:

NOES,  Board Members:

ABSENT,  Board Members:

ABSTAIN,  Board Members:

ATTEST:

__________________________________________
Pete DeJarnatt, Chair

__________________________________________
Kathy O’Connell, Agency Secretary

APPROVED AS TO FORM:

__________________________________________
Michelle Marchetta Kenyon, Agency Counsel
EXHIBIT A

AMENDED ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

[Insert]
<table>
<thead>
<tr>
<th>Project Name / Debt Obl.</th>
<th>Payee</th>
<th>Description</th>
<th>Total Outstanding Debt or Obligation as of 02/08/2011</th>
<th>Total Due During Fiscal Year 2011-12</th>
<th>Payments by month (2013)</th>
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</thead>
<tbody>
<tr>
<td>1) 2004 Tax Allocation Streets Series A</td>
<td>Bank of New York Mellon</td>
<td>Bonds Issued to finance activities</td>
<td>$2,600,315.00</td>
<td>$124,368.00</td>
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<td>2) Fiscal Agent Fee</td>
<td>Bank of New York</td>
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<td>3) Annual Audit</td>
<td>Moss, Levy and Associates</td>
<td>Annual Audit</td>
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<td>5) Administration Surcharges</td>
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<td>City Manager - rem.</td>
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<td>6) Redevelopment/Loan from General Fund</td>
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<td>Loan</td>
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**Totals - This Page**

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- $210,568.00
- $13,800.00
- $1,200.00
- $12,300.00
- $12,000.00
- $143,043.00
- $3,000.00
- $4,300.00
- $43,943.00
- $210,568.00

*This Enforceable Obligation Payment Schedule (EOPS) is valid only a Recognized Obligation Payment Schedule (ROPS) is certified and approved by the Successor Agency to the Pacifica CIC.*

**Indicates approximate or estimated figures.**
# OTHER OBLIGATION PAYMENT SCHEDULE

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<th>Project Name / Debt Obligation</th>
<th>Year</th>
<th>Description</th>
<th>Total Outstanding Debt or Obligation (1)</th>
<th>Fiscal Year 2011-12</th>
<th>Payments by month (2012)</th>
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<td>Aug</td>
<td>Jan</td>
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<td>1) Section 286/1 Payments</td>
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<td>N. Coast County Forest Park</td>
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* Amounts and timing of all payments may be revised.

(1) Total Outstanding Debt Obligation amounts were determined based upon projected tax increment revenues each year from FY 2011-12 through the last year of the TID. Payments are payable when and if such revenues are received.

(2) Total Due Date Fiscal Year represents estimated payments due for FY 2011-12 only, less an estimated tax increment revenue. The amount due in future fiscal years will increase or decrease as the result of changes in the TID Increment.