

RESOLUTION NO. 12-2022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA APPROVING THE TEMPORARY SAFE PARKING PROGRAM, THE OPERATIONS AGREEMENT WITH THE PACIFICA RESOURCE CENTER AND FUNDING FOR THE PROGRAM; AND FINDING THE APPROVAL OF THE PROGRAM EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, on March 15, 2021, the ACLU, the Legal Aid Society of San Mateo County and Disability Rights Advocates filed a class action lawsuit (Geary, et al. v. City of Pacifica, Case No. 3:21-cv-01780) against the City of Pacifica on behalf of the Plaintiffs, Sean Geary, Linda Miles, Jared Carr, Harry Bode and Stephen Sanders, challenging the City's Oversized Vehicle (OSV) Ordinance and its Vehicular Habitation Ordinance in the United States District Court for the Northern District of California; and

WHEREAS, the lawsuit alleges that the OSV Ordinance (Pacifica Municipal Code Sections 4-7.1204 and 4-7.1205) and the Vehicular Habitation Ordinance (Pacifica Municipal Code 4-7.1114) are unconstitutional and further alleges that the OSV Ordinance violates the Americans with Disabilities Act, the California Disabled Persons Act, the Rehabilitation Act of 1973 and California Government Code §11135; and

WHEREAS, through the lawsuit, Plaintiffs seek a declaration that the OSV Ordinance and the Vehicular Habitation Ordinance are unconstitutional, a preliminary and permanent injunction directing the City to cease all efforts to enforce the Ordinances, restitution for fines and penalties collected under the Ordinances, and attorney's fees; and

WHEREAS, on July 14, 2021, the Court issued a limited injunction that required the City to make available on its website, at City Hall and at Pacifica libraries a list and map of the already existing places where OSVs can safely park; and

WHEREAS, on November 8, 2021, the City Council of the City of Pacifica adopted Resolution No. 72-2021, approving execution of the Settlement Agreement for the lawsuit and approving a Memorandum of Understanding ("MOU") with Pacifica Resource Center ("PRC"), which formalized the City and PRC's agreement to work together to identify the substantive terms and details of a temporary safe parking program ("Program") and an operations agreement for the Program; and

WHEREAS, under the Program, the City would allow parking of oversized vehicles under certain conditions such as meeting certain safety standards, operable toileting facilities, and adherence by owners of the oversized vehicle to a strict code of conduct; and

WHEREAS, pursuant to the Settlement Agreement and the MOU, the City has been working with PRC to prepare the proposed Program Operations Agreement with PRC, the Code of Conduct for Regular and Provisional Permit Holders, the Code of Conduct for Short-Term Permit Holders, and the Release of Liability in furtherance of the development of the proposed Program.

WHEREAS, the City has allocated in the adopted Fiscal Year 2021-22 Budget, \$150,000 in American Rescue Plan Act (ARPA) funding for assistance to the vehicularly housed and a mobile dumping station program; and

WHEREAS, up to \$120,000 in FY2021-22 ARPA funding could be committed to the Safe Permit Parking Program; and

WHEREAS, the City's funding obligation for the Program will total up to \$360,000, payable in installments of \$120,000 by June 30, 2022; \$120,000 by June 30, 2023; and \$120,000 by June 30, 2024; and

WHEREAS, other funding necessary for the Program will be provided by San Mateo County and PRC.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pacifica hereby finds that the approval of this Resolution is exempt under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 – Existing Facilities exempts the operation, permitting, leasing, or licensing of existing public facilities involving negligible or no expansion of the use beyond that existing at the time of determination of exemption. In this case the public facility, parking areas on existing streets, will continue to be used for that purpose. Section CEQA Guidelines 15304(e) – Minor Alterations to Land exempts minor temporary uses having negligible or no permanent effects on the environment. Further, since the parking areas in the ROW are being used for the purpose they are originally intended, it could be argued that the Program and Ordinance are not a “project” that may cause a direct, or reasonably foreseeable indirect, physical change in the environment and are exempt under the “common sense” exception (14 Cal. Code Regs. § 15061(b)(3)) because it can be seen with certainty that there is no possibility that these actions to approve the Safe Parking Program and the Operations Agreement would have a significant effect on the environment.

BE IT FURTHER RESOLVED that the Council hereby approves a three-year Temporary Safe Parking Program in the City of Pacifica which provides participants living in an operational recreational vehicle, trailer or motorhome with operating toileting facilities a temporary parking space for a limited period of time while participants in the Program try to find permanent housing solutions which Program is more fully described in the staff report prepared for adoption of this Resolution and the Operations Agreement between PRC and the City.

BE IT FURTHER RESOLVED that the Council hereby approves the Operations Agreement and authorizes the City Manager to execute the Operations Agreement between the City and PRC in substantially the form attached hereto as Exhibit A, with minor revisions that may be approved by the City Manager and the City Attorney, and to execute any other necessary documents to effectuate the terms of the Operations Agreement.

BE IT FURTHER RESOLVED that the Council hereby approves funding for the City's obligations relating to the Program, as set forth in the Operations Agreement, including payments to PRC in installments of \$120,000 to PRC by June 30th of each year of the Program.

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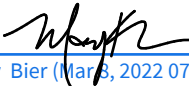
PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the 28th day of February, 2022, by the following vote:

AYES, Councilmembers: Beckmeyer, Bier, Bigstyck, O'Neill, Vaterlaus.

NOES, Councilmembers: n/a

ABSENT, Councilmembers: n/a

ABSTAIN, Councilmembers: n/a


Mary Bier (Mar 8, 2022 07:19 PST)

Mary Bier, Mayor

ATTEST:



Sarah Coffey, City Clerk

APPROVED AS TO FORM:



Michelle Marchetta Kenyon, City Attorney

"EXHIBIT A"

SAFE PARKING PROGRAM OPERATIONS AGREEMENT

AGREEMENT

This Safe Parking Program Operations Agreement ("Agreement") is made and entered into this [REDACTED] day of [REDACTED], 2021 ("Effective Date") by and between the City of Pacifica ("City"), a municipal corporation and Pacifica Resource Center, a 501(c)(3) organization ("PRC"). City and PRC shall be identified as "City," "PRC" or individually as "Party" or collectively as "Parties."

RECITALS

WHEREAS, established in 1974, PRC provides individuals throughout Pacifica with groceries, housing support, and other critical services; and

WHEREAS, PRC is the core agency in San Mateo County that provides these services to individuals in Pacifica; and

WHEREAS, PRC is the point of entry for homeless services in Pacifica and offers a number of programs and services to assist the unhoused in finding and maintaining temporary and permanent shelter and has established connections with non-governmental and governmental agencies to coordinate the various housing programs; and

WHEREAS, the City of Pacifica created via Resolution No. ____ and Ordinance No. ____, a three-year Temporary Safe Parking Program ("Program") in the City of Pacifica which provides participants living in an operational recreational vehicle, trailer or motorhome with an operating toilet (collectively "Designated Vehicle"), a temporary parking space for a limited period of time as participants in the Program try to find permanent housing solutions; and

WHEREAS, the City has determined that it requires the specialized services of PRC in order to operate the Program; and

NOW, THEREFORE, City and PRC, for the consideration hereinafter described, mutually agree as follows:

1. RECITALS

The Parties agree that the Recitals identified above are true and correct and are hereinafter incorporated as substantive terms of this Agreement.

2. TERM

Unless earlier terminated pursuant to Section below, the term of this Agreement shall commence on the Effective Date (date this Agreement is fully-executed) and terminate on [3 years and 90 days following Effective Date]_____, 2025 unless otherwise extended by the Parties in writing. (“Term”)

3. OBLIGATIONS OF PRC

In order to implement and operate the Program, PRC shall do the following:

A. PRC shall implement and operate the Program, as adopted by the City, in accordance with the provisions of Section 3 (“Services”). Services shall not include enforcement of city, state, and federal laws and ordinances.

B. PRC shall screen applicants who desire issuance of a Regular Permit, Provisional Permit, or Short-Term Permit as defined in this Agreement and issued pursuant to the Program (“Permit”). Applicant screening, at a minimum, should consist of an application form and application review process.

i. The purpose of PRC’s assessment is to ensure that applicants can meet the Program criteria, which includes, but is not limited to, the following: (1) applicants must be experiencing homelessness or be housing insecure and working with PRC toward permanent housing; (2) applicants must own or lease or utilize with permission of the vehicle owner the Designated Vehicle; (3) applicants must have a valid driver’s license, valid insurance, and current State vehicle registration; and (4) the Designated Vehicle must have working basic safety and sanitation features, including fire extinguishers, smoke detectors, carbon monoxide alarms, toilets, and waste valves. : PRC will work with the Applicants to provide proof of a valid driver’s license, valid insurance, and current State vehicle registration.

ii. PRC may issue Permits to those individuals whom PRC confirms meet the qualifications for the Program either in the form of a “Regular Permit” or a “Provisional Permit” as discussed further in Section D below.

iii. The term “Permit Holders” herein refers to those who are issued either a “Regular Permit” or a “Provisional Permit.”

C. Ensure that applicants who are registered participants in the Unhoused on the Coast program, members of the Homeless Outreach Team, or Pacifica Residents as defined below, shall have their applications processed in order of submission but before other applicants that do not meet all of the foregoing criteria. For purposes of this Agreement, the “Unhoused on the Coast” program shall mean PRC services to help unhoused families and individuals in Pacifica and along the coast through Half Moon Bay return to and maintain stable housing through outreach and engagement and housing focused case management; the “Homeless Outreach Team” shall mean LifeMoves’ homeless outreach program; and a “Pacifica Resident” shall mean a person

who can demonstrate that they have resided in a house, apartment, vehicle or other location within the geographic boundaries of the City for at least 30 days since October 1, 2020, with length of Pacifica residency a factor in prioritizing amongst Pacifica Residents at PRC's discretion.

D. PRC shall issue permits at its discretion under the Program. A Permit cannot be issued or re-issued/renewed for a period beyond termination of the Program. The design, format, layout, and wording of the Permit shall be subject to review and approval by the City. Written documentation and/or agreements provided to Permit Holders that describe the terms of the Program shall also be subject to review and approval by the City.

i. Applicants to the Program who meet all of the qualifications for the Program may be issued a "Regular Permit" upon admittance to the Program for a single term of up to 29 days. Issuance of a Regular Permit for additional 29 day terms for Regular Permit Holders who continue to meet all of the qualifications for the Program may be granted by PRC, in PRC's sole discretion, with PRC striving to issue the additional permit for a different Parking Site as defined below, than the previous Permit. Renewals or multiple issuances of the Permit do not create a tenancy. The Permit Holder must move their vehicle between renewals or re-issuances of the Permit.

ii. Applicants to the Program who do not meet all of the qualifications for the Program at the time the application is filed with the PRC and who may need additional time to comply with the Program may be issued a "Provisional Permit" upon admittance to the Program for one single term of 29 days with no renewal or re-issuance period. PRC may issue Provisional Permits, in its sole discretion, to Applicants who meet at least two of the Program criteria identified in Paragraph 3(B) above, so long as the total number of Provisional Permits issued at any point does not exceed the maximum total of six Provisional Permits.

iii. PRC, at its discretion, may issue Short-Term Permits, for oversized vehicle parking for not more than 72 hours at Parking Sites that are not assigned to Regular or Provisional Permit Holders who sign the Code of Conduct for Short-Term Permit Holders described at Section 3(H) of this Agreement.

E. PRC, in its sole discretion, may assess a Program Fee and collect the Program Fee at the time the Regular Permit or Provisional Permit is issued, as well as upon re-issuance of the Regular Permit every 29 days. The Program Fee shall be set on a sliding scale and will be paid to PRC pursuant to the following fee schedule:

- \$29 for families with income at 30% or below median income;
- \$290 for families with income between 30% and 50% of median income;

and,

- \$725 for families with income between 50% and 80% of median income.

PRC may adjust these fees as necessary, without approval of the City. PRC shall use any fees collected for the Program.

Income determination is based on current income and proof of income may include self-certification, paycheck stub, or bank statement. PRC shall advise all Permit Holders of the applicable renewal fee.

F. PRC will, at its discretion, assign Permit Holders a designated parking space selected by PRC from the spaces identified by the City in Section 4 (“Parking Sites”), or as may be amended, and shall help ensure that Permit Holders display their Permits and that Regular Permit Holders and Provisional Permit Holders move their Designated Vehicles to a new Parking Site every 29 days while they are participating in the Program.

G. Ensure that Regular Permit Holders, Provisional Permit Holders, and Short-Term Permit Holders sign and agree to be bound by the Participant Bill of Rights and Onsite Code of Conduct (“Code of Conduct”).

i. PRC’s Code of Conduct for Regular and Provisional Permit Holders is attached hereto as Exhibit “A.” PRC’s Code of Conduct for Short-Term Permit Holders is attached hereto as Exhibit “B.” PRC has discretion to prepare and amend the Code of Conduct so long as the amendments are in accordance with Section 3(G)(ii) and Section 3(G)(iii) of this Agreement and PRC notifies the City of any significant changes to the Code of Conduct.

ii. The Code of Conduct for Regular and Provisional Permit Holders shall require at a minimum that all Permit Holders do the following: (i) properly dispose of gray and black water; (ii) properly dispose of trash and recyclables; (iii) keep all personal property within the Designated Vehicle and do not place any personal property or items around the exterior of the Designated Vehicle, including but not limited to chairs, tables, tarps, BBQs; (iv) do not cook outside the Designated Vehicle or light any fires; (v) do not store hazardous materials in or around the Designated Vehicle; (vi) do not participate in illegal drug use or sales, illegal activities or violence; (vii) properly control pets; (viii) do not block any access to the sidewalk; (ix) be considerate of neighbors and not loiter, trespass, publicly use drugs or alcohol, light fires, or use open flames or other burners in the Parking Site or surrounding area; and (x) comply with all laws during participation in the Program.

iii. The Code of Conduct for Short-Term Permit Holders shall require at a minimum that all Short-Term Permit Holders do the following: (i) properly dispose of gray and black water; (ii) properly dispose of trash and recyclables; (iii) keep all personal property within the Designated Vehicle and do not place any

personal property or items around the exterior of the Designated Vehicle including but not limited to chairs, tables, tarps, BBQs; (iv) do not cook outside the Designated Vehicle or light any fires; (v) do not store hazardous materials in or around the Designated Vehicle; (vi) do not participate in illegal drug use or sales, illegal activities or violence; (vii) properly control pets; (viii) do not block any access to the sidewalk; and (ix) be considerate of neighbors and not loiter, trespass, publicly use drugs or alcohol, light fires, or use open flames or other burners in the Parking Site or surrounding area.

iv. PRC will work with the City to monitor Permit Holders' compliance with the Code of Conduct. PRC shall also retain discretion to revoke a Permit for any Permit Holder in its sole discretion.

H. PRC will provide Permit Holders with written documentation that describes the terms of the Program. For Regular Permit Holders, this information at a minimum will explain that they must park the Designated Vehicle in the appropriate Parking Site; display the Permit on the dashboard; they must move their Designated Vehicle from the designated Parking Space every 29 days and before a new permit is issued or renewed; no tenancy rights are created; and the Permit is non-transferable. For Provisional Permit Holders, this information at a minimum will explain that they must (i) park the Designated Vehicle in the appropriate Parking Site; display the Permit on the dashboard; the Permit is valid for one single term of 29 days with no renewal or re-issuance period; no tenancy rights are created; and the Permit is non-transferable. For Short-Term Permit Holders, this information at a minimum will explain that they must (i) park the Designated Vehicle in the appropriate Parking Site; display the Permit on the dashboard; the Permit is subject to the 72 hour parking limitations set forth in Pacifica Municipal Code section 5-2.01 et seq.; they must move their vehicle from the designated space between renewals or re-issuances of the Permit; no tenancy rights are created; and the Permit is non-transferable.

I. PRC will provide Permit Holders with written documentation that states the procedures for issuing written warnings for failing to comply with the Code of Conduct or grounds for termination from the Program, including the appeals process. Applicants who do not agree with a decision made by PRC staff regarding denial of an application into the Program or Permit Holders who do not agree with a decision regarding termination from the Program shall be able to appeal to the PRC. PRC's written guidelines for warnings, revocation, termination, and the appeal process is subject to review and comment by the City. PRC shall have sole discretion regarding whether to terminate or not re-issue a Permit Holder's Permit.

J. PRC shall ensure that Regular and Provisional Permit Holders and Short-Term Permit Holders sign a release of liability agreement approved by the City.

K. PRC and City shall co-host a mobile dumping station for Permit Holders twice a month. The City has identified the location for the mobile dump station at 2212 Beach Boulevard, which may be changed at the discretion of the City Manager. The mobile dumping station shall also be available to other individuals inhabiting Designated Vehicles within the City who have obtained a voucher for use of the site from PRC. PRC shall, in its discretion, distribute vouchers for the mobile dumping station and the garbage/dumpster to those non-Permit Holder individuals inhabiting Designated Vehicles in Pacifica.

L. PRC shall ensure that all Parking Sites are kept in a clean manner and that no garbage or debris is maintained at the Parking Sites through the City's service contract with a service provider, such as Recology of the Coast.

M. PRC shall provide case management services to Permit Holders to coordinate, monitor, and advocate for services for the Permit Holders to meet their particular needs and assist them to return to housing.

N. PRC shall periodically report to the City on the status of the Program at least on a semi-annual basis.

O. PRC, upon 10 business days' notice of request, shall meet and confer with the City pertaining to questions the City may have regarding the Program, including but not limited to achievement of Program outcomes, including Permit Holders progression towards returning to housing, and information regarding implementation of the Program. The City reserves the right to ask PRC to provide details of its operation plan or program design, whether formal or informal, that sets forth the specific manner that PRC intends to implement and operate the program.

4. OBLIGATIONS OF CITY

The City shall do the following:

A. Stripe 13 spaces with an average length of thirty (30) feet which will be made available as a Parking Site to Permit Holders for a period of 29 days, in the following locations determined by the City:

- (i) 4 spaces on the west side of Oceana Boulevard, west of the City of Pacifica Public Works Department Building at 151 Milagra Avenue;
- (ii) 3 spaces on Lundy Way. To accommodate these spaces, the City will widen Lundy Way sufficient to make OSV parking safe;
- (iii) 1 space on Milagra Drive, across the road from City of Pacifica Public Works Department Building at 151 Milagra Avenue.
- (iv) 1 space on the west side of Francisco Boulevard near the North Coast County Water District facility at 2400 Francisco Boulevard.
- (v) 2 spaces on the west side of Bradford Way near the Sharp Park Golf Course.
- (vi) 2 spaces on San Pedro in the dirt ROW in front of ACE Hardware.

The locations listed above may be subject to change by the City as long as thirteen spaces with an average length of thirty (30) feet are maintained by the City as part of the Program. The City will provide adequate notice to PRC of any changes to the parking spaces that are part of the Program.

When not reserved by a Permit Holder, PRC can in its discretion make the Parking Sites available for Designated Vehicles for those who sign and abide by the Code of Conduct for Short-Term Permit Holders and display the short-term parking permit granted by PRC, subject to the City's preexisting parking regulations (e.g. 72 hour parking limitations).

B. The City's Police Department shall regularly patrol the Parking Sites to ensure compliance with City parking regulations. If the City is made aware that a vehicle is illegally parked in a Parking Site, the City shall take necessary enforcement actions.

C. The City shall provide specified funding, in accordance with Section 5, for PRC's operation of the Program.

D. The City, in coordination and through contract or agreement with Recology of the Coast, shall provide dumpsters to PRC or drop off service for garbage disposal until at least [ADD DATE] at a City facility. Dumpsters and/or drop off stations will be available to Permit Holders and to other persons inhabiting recreational vehicles (RVs), mobile homes and campers, within the City who have obtained a voucher for use of the dumpsters or drop off service from PRC. The cost per bag and the dumpster is to be determined by the City with Recology.

E. The City, in coordination with PRC as a co-host, shall co-host a mobile dump station bi-monthly. The City has identified the location for the mobile dump station at 2212 Beach Boulevard, which may be changed at the discretion of the City Manager. The City will provide staffing and funding as necessary to help facilitate the mobile dump service, funded by the City.

F. Upon 10 business days' notice of request, the City shall meet and confer with PRC pertaining to questions PRC may have regarding the implementation and operation of the Program.

5. CITY FUNDING

The City's funding obligation for the Program will total \$360,000, payable in installments of \$120,000 by June 30, 2022; \$120,000 by June 30, 2023; and \$120,000 by June 30, 2024. If the Program is successful and the program operation requires additional funding, the City Council may approve additional City funding.

PRC must maintain adequate records to evidence the costs and expenses associated with the Services and shall provide those records to the City, upon request of at least 10 business days. In accordance with California Government Code § 8546.7, this Agreement shall be subject to the examination and audit of the California State Auditor, at the request of the City or as part of any audit of the City, for a period of three years after final payment.

6. INDEPENDENT CONTRACTOR

PRC and City agree that the PRC will perform the Services as an independent contractor and not as an employee or agent of the City. Persons employed or utilized by PRC in the performance of the Services will not be employees or agents of the City. PRC is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes. PRC shall have sole control over the manner and means of carrying out the Services.

7. SUBCONTRACTING

PRC may subcontract portions of the Services upon the prior written approval of the City. PRC will be solely responsible for payment of such subcontract Services. No contractual relationship will exist between any such subcontractors of the PRC and the City.

Subcontractor agrees to be bound to PRC and City in the same manner and to the same extent as PRC is bound to City under the Agreement. Subcontractor further agrees to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, with any sub-subcontractor to the extent they apply to the scope of the sub-subcontractor's work. A copy of the City indemnity and insurance provisions will be furnished to the subcontractor upon request.

8. STANDARD OF PERFORMANCE

A. PRC will perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which PRC is engaged, in the same or similar geographical area in which PRC practices its profession, and will prepare all work products required by this Agreement in accordance with such standards. PRC will comply with federal, state and local laws and regulations applicable to performance of the Services, including but not limited to, the Americans with Disabilities Act, any laws and regulations applicable to PRC, and any laws and regulations related to any copyright, patent, trademark or other intellectual property right involved in performance of the services. PRC's Failure to comply with any law(s) or regulation(s) applicable to the performance of the services hereunder shall constitute a material breach of this agreement.

B. PRC shall assign only competent personnel to perform Services pursuant to this Agreement.

9. OTHER GOVERNMENTAL REGULATIONS

To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, PRC and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

10. INDEMNITY

A. PRC shall indemnify, defend, and hold harmless the City and its officers, agents, employees, and servants against all damages, claims, liabilities, losses, and other expenses, including without limitation attorneys' fees and related costs, whether or not a lawsuit or other proceeding is filed, to the extent that they arise out of the willful misconduct of PRC and/or its employees arising out of its administering of the Program.

B. The City shall indemnify, defend, and hold harmless PRC and its officers, agents, employees, and servants against all damages, claims, liabilities, losses, and other expenses, including without limitation attorneys' fees and related costs, whether or not a lawsuit or other proceeding is filed, to the extent they arise out of the willful misconduct of the City and/or its officials or staff arising out of its obligations specified in this Agreement.

C. This Section shall not apply to any claims for losses arising from any claim that any term of the Code of Conduct was not sufficiently enforced by either PRC or the City.

D. A party seeking indemnity and defense under this section shall provide the indemnifying and defending party with prompt notice of any claim and give control of its defense and settlement to the indemnifying and defending party. The party seeking indemnity and defense shall also cooperate in all reasonable respects with the indemnifying and defending party, its insurance company, and its legal counsel in its defense of such claim. The obligation to defend and indemnify pursuant to this section shall not cover any claim in which there is a failure to give the indemnifying and defending party prompt notice, but only to the extent that such lack of notice prejudices the defense of the claim. The indemnifying and defending party may not settle any potential suit hereunder without the other party's prior written approval, which will not to be unreasonably withheld, conditioned, or delayed. If a party who owes indemnity and defense under this section fails to promptly indemnify and defend a covered claim, the other party shall have the right to defend itself, and in such case, the party owning indemnity and defense shall promptly reimburse the other party for all of its associated costs and expenses.

E. The obligations imposed by this section shall survive termination or expiration of this Agreement..

11. INSURANCE

PRC, for itself and its employees and all of PRC's, subcontractors, consultants and other agents related to the Program, shall procure, provide and maintain at all times during the performance of this Agreement, and for such additional periods as described herein, the insurance listed below with insurers licensed to do business in the State of California and with a Best's rating of no less than A:VII.

A. Commercial Automobile Liability Insurance. Commercial Automobile Liability Insurance providing bodily injury liability and property damage, to protect against all liability arising out of the use of any owned, leased, passenger or commercial automobile at a minimum amount of \$1,000,000 combined single limit and \$2,000,000 aggregate. Coverage shall apply to hired and non-owned autos.

B. Commercial General Liability Insurance. Commercial General Liability Insurance, with limits providing a minimum amount of \$1,000,000 combined single limit coverage for each occurrence, \$2,000,000 general aggregate and \$2,000,000 products/completed operations aggregate. The insurance shall cover all operations including but not limited to the following: (1) premises, operations and mobile equipment liability; (2) completed operations and products liability; (3) contractual liability insuring the obligations assumed by PRC in this Agreement; (4) broad form property damage liability; (5) personal injury liability endorsement, including death; and (6) automobile bodily injury and property damage insurance, including all owned, hired and non-owned equipment.

C. Workers Compensation Insurance. Workers Compensation insurance, occupational disease insurance and employer's liability insurance shall be required with minimum limits as required by law, covering all workplaces involved in this Agreement.

(i) Policy Terms. Concurrently with execution of this Agreement, PRC shall provide City with Certificates of Insurance evidencing that PRC has obtained or maintains the insurance required by this Section. The Certificates shall be on forms acceptable to City. PRC shall also furnish City with original endorsements with the following documentation:

(ii) Precluding cancellation or reduction in coverage before the expiration of thirty (30) days after City shall have received written notification thereof from Consultant by United States mail;

(iii) Providing that PRC's insurance shall apply separately to each insured against whom claim is made or suit is brought, and include a "separation of insureds" or "severability" clause which treats each insured separately, except with respect to the limits of the insurer's liability (cross-liability endorsement);

(iv) Excepting PRC's professional liability insurance and workers' compensation policy, naming City, its City Council, boards, commissions, committees, officers, employees and agents as additional insureds ("Additional Insureds"); and

(v) Providing that for any claims relating to PRC's Services hereunder, PRC's insurance coverage shall be primary insurance with respect to City, its City Council, boards, commissions, committees, officers, employees and agents, and that any insurance or self-insurance maintained by City for itself, its City Council, boards, commissions, committees, officers, employees and agents shall be in excess of PRC's insurance and shall not be contributory with it.

(vi) It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverages requirements and/or limits shall be available to the Additional Insured, including but not limited to any umbrella or excess insurance. Furthermore, the requirements for coverage and limits shall be the greater of: (a) the minimum coverage and limits specified in this Agreement; or (b) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured.

E. Material Breach. If PRC fails to maintain insurance coverage or provided insurance documentation which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. City, at its sole option, may terminate this Agreement and obtain damages from PRC resulting from said breach. These remedies shall be in addition to any other remedies available to City.

12. PARKING SITES AS IS

PRC may perform part of the Services at the Parking Sites which contain unknown working conditions and may contain hazardous or contaminated materials. PRC shall

be solely responsible for the health and safety of PRC's employees during the performance of the Services.

13. LICENSES & PERMITS

PRC represents and warrants to City that PRC and its employees, agents, and any subcontractors have all licenses and permits to provide the Services of this Agreement.

14. TERMINATION

A. City or PRC may terminate this Agreement for convenience by giving at least ninety (90) days written notice to the other Party specifying the termination effective date. Upon receipt of such notice, PRC may continue performance of the Services through the date of termination; or

B. PRC may terminate this Agreement upon 30 days written notice if the Council fails to approve the funding specified in Section 5.

C. If PRC materially breaches any term of this Agreement, in addition to any other remedies the City may have at law or equity, the City may immediately terminate the Agreement by 10 business day's written notice to the PRC.

D. If the City materially breaches any term of this Agreement, in addition to any other remedies PRC may have at law or equity, PRC may immediately terminate the Agreement by 10 business day's written notice to the City.

15. BINDING EFFECT AND ASSIGNMENT PROHIBITION

This Agreement is binding upon City, PRC, and their successors. Except as otherwise provided herein, neither City nor PRC may assign, sublet or transfer its interest in this Agreement or any part thereof without the prior written consent of the other, and any purported assignment without such consent will be void.

16. NOTICES

All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered or sent by mail or reputable overnight courier and shall be deemed received upon the earlier of: (1) if personally delivered, the date of delivery to the address of the person to receive such notice; and (2) if delivered by Federal Express or other overnight courier for next business day delivery, the next business day. A courtesy copy shall also be sent electronically by email. Notice of change of address shall be given by written notice in the manner described in this Section. Rejection or other refusal to accept or the inability to deliver because of a change in address of which no notice was given shall be deemed to constitute receipt of the notice

or communication sent. Unless changed in accordance herewith, the addresses for notices given pursuant to this Agreement shall be as follows:

If to CITY: City Manager
170 Santa Maria Avenue
Pacifica, CA 94404
Phone: (650) 738-7409
Email: woodhousek@ci.pacifica.ca.us

If to PRC: Anita M. Rees Executive Director
Pacifica Resource Center
1809 Palmetto Avenue
Pacifica, CA 94044
Phone: 650 738-7470 x3
Facsimile: 650 359-2053
Email: anita@pacresourcecenter.org

17. Confidential Information

A. As used in this Agreement, the following words, terms, and phrases shall have the meanings set forth below:

(1) "Confidential Information" shall mean and include any and all information (a) customer and client data (including, but not limited to, identity or demographic analyses of customers and clients), focus group reports, and marketing or advertising studies; (c) such other information of or regarding PRC that PRC actually maintains as confidential or proprietary; provided, however, that such information shall be deemed confidential only to the extent that it (i) has not been previously disclosed to the public, or (ii) is not ascertainable from public or published information or trade sources, or (iii) is not subsequently publicly disclosed (other than by a violation of this Agreement). Any Information that is marked or otherwise identified as "Confidential Information" at the time of Disclosure shall be presumed to be Confidential Information for the purposes of this Agreement.

(2) "Information" shall mean and include any data or information Disclosed (as defined in this Agreement) in the form of (a) any written information, reports, documents, books, notebooks, memoranda, charts, or graphs; (b) computer tapes, disks, CD-ROM, files, or other mechanical or electronic media; (c) oral statements, representations, or presentations; (d) audio, visual, or audio-visual materials or presentations, including audiotapes, videocassettes, laser discs, or CDs; and (e) any other documentary, written, magnetic, or other permanent or semi-permanent form.

(3) "Disclose" or "Disclosure" shall mean and include any delivery, transmittal, presentation, or representation of Information, by any Person to any other Person.

(4) "Person" shall mean and include any individual or natural person, corporation, trust, proprietorship, partnership, limited partnership, joint venture, limited liability company, limited liability partnership, or any other entity.

B. City agrees to retain and maintain in strict confidence, and to require its agents, employees, independent contractors, and advisors to retain in confidence, any and all Confidential Information of PRC. City agrees that, without the prior express written consent of PRC, City shall not, either directly or indirectly, individually or in concert with others: (1) Disclose any such Confidential Information to any other person; (2) use any such Confidential Information for the benefit of any person other than PRC; or (3) permit any Confidential Information to be Disclosed to or used by any person other than PRC.

This confidential information provision shall survive the termination of this Agreement.

18. CONFLICT OF INTEREST PROHIBITION

City and PRC will comply with the requirements of the City's Conflict of Interest Code adopted pursuant to California Government Code §87300 et seq., the Political Reform Act (California Government Code §81000 et seq.), the regulations promulgated by the Fair Political Practices Commission (Title 2, §18110 et seq. of the California Code of Regulations), California Government Code §1090 et seq., and any other ethics laws applicable to the performance of the Services and/or this Agreement. PRC may be required to file with the City Clerk a completed Form 700 before commencing performance of the Services unless the City Clerk determines that completion of a Form 700 is not required, pursuant to City's Conflict of Interest Code. Form 700 forms are available from the City Clerk.

PRC may not perform Services for any other person or entity that, pursuant to any applicable law or regulation, would result in a conflict of interest or would otherwise be prohibited with respect to PRC's obligations pursuant to this Agreement. PRC agrees to cooperate fully with City and to provide any necessary and appropriate information requested by City or any authorized representative concerning potential conflicts of interest or prohibitions concerning PRC's obligations pursuant to this Agreement.

PRC may not employ any City official, officer or employee in the performance of the Services, nor may any official, officer or employee of City have any financial interest in this Agreement that would violate California Government Code §1090 et seq. PRC

hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of City. If PRC was an employee, agent, appointee, or official of City in the previous twelve months, PRC warrants that it did not participate in any manner in the forming of this Agreement. PRC understands that, if this Agreement is made in violation of Government Code §1090 et seq., the entire Agreement is void and PRC will not be entitled to any compensation for PRC's performance of the Services, including reimbursement of expenses, and PRC will be required to reimburse City for any sums paid to PRC under this Agreement. PRC understands that, in addition to the foregoing, penalties for violating Government Code §1090 may include criminal prosecution and disqualification from holding public office in the State of California.

Any violation by PRC of the requirements of this provision will constitute a material breach of this Agreement, and the City reserves all its rights and remedies at law and equity concerning any such violations.

19. APPLICABLE LAW AND VENUE

The laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and the interpretation of this Agreement. Any action or proceeding that is initiated or undertaken to enforce or interpret any provision, performance, obligation or covenant set forth in this Agreement shall be brought in a state court in San Mateo County.

20. THIRD PARTIES

Nothing contained in this Agreement shall create a contractual relationship with, or cause of action in favor of, a third party against either the City or PRC. PRC's Services hereunder are being performed solely for the benefit of City. Notwithstanding the foregoing, City shall be an express third-party beneficiary of all contracts between PRC and any subcontractors or subconsultants for any services performed in connection with, or in furtherance of, this Agreement.

21. WAIVER

No failure on the part of either Party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder. A waiver by either City or PRC of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other further breach.

22. SEVERABILITY

If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged will remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

23. COUNTERPARTS

This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

24. AUTHORITY

Each individual executing this Agreement on behalf of one of the parties represents that he or she is duly authorized to sign and deliver the Agreement on behalf of such party and that this Agreement is binding on such party in accordance with its terms

IN WITNESS WHEREOF, the parties have caused their authorized representative to execute this Agreement on the date first written above.

CITY

PRC

By: _____

By: _____

Its: _____

Its: _____

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
Michelle Marchetta-Kenyon, City Attorney

EXHIBIT A

PACIFICA SAFE PARKING PERMIT (PSPP) Participant Bill of Rights and Onsite Code of Conduct (Regular and Provisional Permit Holders)

The goal of the Pacifica Safe Parking Permit (PSPP) program is to provide unhoused individuals and families who are living in vehicles a place to park in a safe, secure, sanitary, and welcoming environment while they work toward returning to housing. All PSPP participants are asked to observe the following guidelines and code of conduct to maintain a safe and healthy space for everyone. All participants must read and have a signed agreement on file in order to participate in PSPP.

PARTICIPANT'S BILL OF RIGHTS

- a. Participant's rights will be exercised in ways that also respect the rights of other participants. No one's rights are absolute.
- b. All participants are entitled to enjoy a safe and healthful living environment at the program site.
- c. All participants are entitled to be treated in a manner that respects their dignity and individuality.
- d. All participants with disabilities, personal and cultural differences are entitled to reasonable accommodations under fair housing laws when such accommodations are necessary because of their disability, personal and cultural identity. The program will accommodate participants' needs (expressed, implicit or implied) as long as such accommodation will not result to an essential change in the program or structure.
- e. All participants are entitled to remain in the program while it is active and not be involuntarily removed without good cause and just procedures.
- f. All participants are entitled to just and standardized procedures for determining eligibility, admissions, sanctions and discharges, and resolving grievances.
- g. All participants are entitled to reasonable privacy and confidential treatment of personal, social, financial, medical, mental and behavioral health records, and in compliance with the participant's written consent to release information.
- h. All participants are entitled to the full exercise of their civil, constitutional, and legal rights.

PARTICIPANTS CODE OF CONDUCT:

- Participants will maintain quiet hours between 10p and 8a and will turn off generators during those hours.
- Participants will be considerate of neighbors near their PSPP designated space and will not loiter, trespass, publicly use drugs or alcohol, or use open flames or other burners at their designated PSPP space or in the neighborhood and the surrounding area.

- Participants will keep personal belongings within their vehicle at their designated PSPP space so that there are no personal belongings outside of the vehicle.
- Participants will conduct their living within their vehicle parked in their designated PSPP space and will not camp, cook, or live on the street, outside their vehicle, or in the neighborhood and surrounding areas.
- Participants will maintain a clear sidewalk in front of and around their designated PSPP space.
- Participants will maintain a safe and clean environment at their designated PSPP space, in or around their vehicle, free of:
 - hazardous materials
 - illegal weapons
 - illegal drugs
 - illegal activities
 - and violence.
- Participants will maintain and use the toilet in their vehicle parked at their designated PSPP space.
- Participants will properly dispose of gray and black water in the manner identified by PRC at a location that is authorized to dispose of gray and black water.
- Participants will properly dispose of all trash and recyclables.
- Participants will properly dispose all extinguished cigarettes and cigars in the garbage, not on the ground, and will not smoke within 30 feet of neighbors' doors, windows, or fence line.
- Participants will resolve all conflicts peacefully and with the support of PRC, as needed.
- Participants will abide by all laws.
- Participants will maintain PSPP's commitment to be culturally competent, equitable, and inclusive and will not act or make remarks that are ethnically degrading, racist, sexist, or homophobic.
- Participants will ensure that all visitors will abide by PSPP's Code of Conduct at all times.
- **PARTICIPANTS WITH PETS:**
 - Will keep them on leash when outside of their vehicle and will not tie them to the outside of the vehicle.
 - Will clean-up after their animals.

By signing below, I agree to participate in the Pacifica Safe Parking Permit (PSPP) program and have read and agree to the code of conduct in this agreement. I understand that failure to comply with this agreement may result in my disenrollment or prohibition from participating in the Pacifica Safe Parking Permit (PSPP) program. My participation in the Pacifica Safe Parking Permit (PSPP) program is voluntary and may be discontinued at any time by my choice or due to failure to comply with the code of conduct outlined in this agreement.

Participant Name (print): _____

Participant Signature

Date

Core Principles

Housing First

According to the webinar *Core Principles of Housing First and Rapid Re-Housing* issued by HUD and the United States Interagency Council on Homelessness (USICH), the Housing First approach is based on the following principles:

1. Housing is safe and affordable;
2. All people can achieve housing stability in permanent housing; supports may look different;
3. Everyone is “housing ready”; and
4. Improved quality of life, health, mental health, and employment can be achieved through housing.

Harm Reduction

Harm reduction policies, procedures, and practices aim to reduce the negative consequences of behaviors that are detrimental to the participant’s health and well-being (i.e., abuse of drugs and/or alcohol, failure to be medication compliant, engaging in criminal activity, prostitution, choosing to sleep outside, etc.). In housing settings, harm reduction is intended to prevent a participant’s loss of housing and/or termination from the program based solely on his or her inability to stop engaging in harmful behaviors.

PRC incorporates a harm reduction model utilizing all interventions possible, short of termination from the program, to enable the participant to reduce or minimize their risky behaviors, while at the same time assisting them to move into and become stabilized in permanent housing. Harm reduction is not intended to prevent the termination of a participant whose actions or behavior constitute a threat to the safety of other participants and staff.

Trauma-Informed Care

Trauma-informed care requires that every part of PRC’s design and operation be approached with an understanding of trauma and the impact it has on those receiving services. Traumatic experiences can impact how clients receive services provided and the environment in which those services are delivered. PRC works to establish a safe and supportive environment, ensuring that all staff receive training on traumatic stress and its impact, as well as the relationship between trauma and mental health, substance use, and homelessness.

Cultural Competency, Racial Equity, and Inclusivity

At all levels, PRC works to provide programs that are culturally and linguistically competent, racially equitable, and gender inclusive, and address the needs of populations to be served, including, but not limited to, race and ethnicity, gender and gender identity, sexual orientation, economic class, age, family status, language spoken and understood, physical and mental disabilities, living situation, etc.

DRAFT

EXHIBIT B

PACIFICA SAFE PARKING PERMIT (PSPP) Participant Bill of Rights and Onsite Code of Conduct (Short-Term Permit Holders)

The goal of the Pacifica Safe Parking Permit (PSPP) program is to provide unhoused individuals and families who are living in vehicles a place to park in a safe, secure, sanitary, and welcoming environment while they work toward returning to housing. All PSPP participants are asked to observe the following guidelines and code of conduct to maintain a safe and healthy space for everyone. All participants must read and have a signed agreement on file in order to participate in PSPP.

PARTICIPANT'S BILL OF RIGHTS

- i. Participant's rights will be exercised in ways that also respect the rights of other participants. No one's rights are absolute.
- j. All participants are entitled to enjoy a safe and healthful living environment at the program site.
- k. All participants are entitled to be treated in a manner that respects their dignity and individuality.
- l. All participants with disabilities, personal and cultural differences are entitled to reasonable accommodations under fair housing laws when such accommodations are necessary because of their disability, personal and cultural identity. The program will accommodate participants' needs (expressed, implicit or implied) as long as such accommodation will not result to an essential change in the program or structure.
- m. All participants are entitled to remain in the program while it is active and not be involuntarily removed without good cause and just procedures.
- n. All participants are entitled to just and standardized procedures for determining eligibility, admissions, sanctions and discharges, and resolving grievances.
- o. All participants are entitled to reasonable privacy and confidential treatment of personal, social, financial, medical, mental and behavioral health records, and in compliance with the participant's written consent to release information.
- p. All participants are entitled to the full exercise of their civil, constitutional, and legal rights.

PARTICIPANTS CODE OF CONDUCT:

- Participants will maintain quiet hours between 10p and 8a and will turn off generators during those hours.
- Participants will be considerate of neighbors near their PSPP designated space and will not loiter, trespass, publicly use drugs or alcohol, or use open flames or

other burners at their designated PSPP space or in the neighborhood and the surrounding area.

- Participants will keep personal belongings within their vehicle at their designated PSPP space so that there are no personal belongings outside of the vehicle.
- Participants will conduct their living within their vehicle parked in their designated PSPP space and will not camp, cook, or live on the street, outside their vehicle, or in the neighborhood and surrounding areas.
- Participants will maintain a clear sidewalk in front of and around their designated PSPP space.
- Participants will maintain a safe and clean environment at their designated PSPP space, in or around their vehicle, free of:
 - hazardous materials
 - illegal weapons
 - illegal drugs
 - illegal activities
 - and violence
- Participants will maintain and use the toilet in their vehicle parked at their designated PSPP space.
- Participants will properly dispose of gray and black water in the manner identified by PRC at a location that is authorized to dispose of gray and black water.
- Participants will properly dispose of all trash and recyclables.
- Participants will properly dispose all extinguished cigarettes and cigars in the garbage, not on the ground, and will not smoke within 30 feet of neighbors' doors, windows, or fence line.
- Participants will resolve all conflicts peacefully and with the support of PRC, as needed.
- Participants will abide by all laws.
- Participants will maintain PSPP's commitment to be culturally competent, equitable, and inclusive and will not act or make remarks that are ethnically degrading, racist, sexist, or homophobic.
- Participants will ensure that all visitors will abide by PSPP's Code of Conduct at all times.
- **PARTICIPANTS WITH PETS:**
 - Will keep them on leash when outside of their vehicle and will not tie them to the outside of the vehicle.
 - Will clean-up after their animals.

By signing below, I acknowledge I have read and agree to the code of conduct in this agreement. I understand that failure to comply with this agreement may result in the revocation of my permit. My participation is voluntary and may be discontinued at any time by my choice or due to failure to comply with the code of conduct outlined in this agreement.

Participant Name (print): _____

Participant Signature

Date

Core Principles

Housing First

According to the webinar *Core Principles of Housing First and Rapid Re-Housing* issued by HUD and the United States Interagency Council on Homelessness (USICH), the Housing First approach is based on the following principles:

5. Housing is safe and affordable;
6. All people can achieve housing stability in permanent housing; supports may look different;
7. Everyone is “housing ready”; and
8. Improved quality of life, health, mental health, and employment can be achieved through housing.

Harm Reduction

Harm reduction policies, procedures, and practices aim to reduce the negative consequences of behaviors that are detrimental to the participant’s health and well-being (i.e., abuse of drugs and/or alcohol, failure to be medication compliant, engaging in criminal activity, prostitution, choosing to sleep outside, etc.). In housing settings, harm reduction is intended to prevent a participant’s loss of housing and/or termination from the program based solely on his or her inability to stop engaging in harmful behaviors.

PRC incorporates a harm reduction model utilizing all interventions possible, short of termination from the program, to enable the participant to reduce or minimize their risky behaviors, while at the same time assisting them to move into and become stabilized in permanent housing. Harm reduction is not intended to prevent the termination of a participant whose actions or behavior constitute a threat to the safety of other participants and staff.

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Trauma-informed care requires that every part of PRC’s design and operation be approached with an understanding of trauma and the impact it has on those receiving services. Traumatic experiences can impact how clients receive services provided and the environment in which those services are delivered. PRC works to establish a safe and supportive environment, ensuring that all staff receive training on traumatic stress and its impact, as well as the relationship between trauma and mental health, substance use, and homelessness..

Cultural Competency, Racial Equity, and Inclusivity

At all levels, PRC works to provide programs that are culturally and linguistically competent, racially equitable, and gender inclusive, and address the needs of populations to be served, including, but not limited to, race and ethnicity, gender and gender identity, sexual orientation, economic class, age, family status, language spoken and understood, physical and mental disabilities, living situation, etc.

DRAFT









For Signature: ResolutionNo12-2022-Temporary Safe Parking Program

Final Audit Report

2022-03-08

Created:	2022-03-08
By:	Sarah Coffey (scoffey@pacifica.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAApiAumID2o4wAhgX8q8nCl7OOAydU1Hg

"For Signature: ResolutionNo12-2022-Temporary Safe Parking Program" History

-  Document created by Sarah Coffey (scoffey@pacifica.gov)
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-  Document emailed to Mary Bier (mbier@pacifica.gov) for signature
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-  Agreement completed.
2022-03-08 - 4:59:55 PM GMT