

RESOLUTION NO. OB-08-13

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE FORMER EL CAJON REDEVELOPMENT AGENCY APPROVING A HOLD HARMLESS AGREEMENT WITH THE CITY OF EL CAJON FOR THE PURPOSE OF INSTALLING ONE NEW GROUNDWATER MONITORING WELL AND OPERATING AND MAINTAINING TWO EXISTING GROUNDWATER MONITORING WELLS.

WHEREAS, on January 29, 2003, the former El Cajon Redevelopment Agency (“Agency”) entered into a Disposition and Development Agreement (“DDA”) with Priest Development Corporation (“Developer”) for the sale of 5.85 acres and the development of 103 single-family units on Agency property bounded by Wells Avenue, Ballantyne Street, and Park Avenue, Assessor’s Parcel Numbers 488-040-04 to -05 (the “Site”); and

WHEREAS, on December 16, 2003, the Agency entered into a Reimbursement and Indemnity Agreement (“Indemnity Agreement”) with Developer for the purpose of completing contamination cleanup of the Site in a manner consistent with, and in complete accord with, a plan approved by the County Department of Environmental Health (“DEH”). The DEH case for the Site is now and in the past has been referred to as 315-327 North Magnolia Avenue; and

WHEREAS, as a result of the Revised Workplan for Additional Site Assessment for 315 North Magnolia Avenue (“Workplan”) that was approved by DEH on July 3, 2012, which required installation of two groundwater monitoring wells North of the Site in the public right-of-way; and

WHEREAS, as a result of a semi-annual groundwater monitoring report dated February 27, 2013, DEH required reconstruction of Monitoring Well 11 (“MW-11”) on March 14, 2013; and

WHEREAS, as a condition of the Reimbursement and Indemnity Agreement, the Workplan and DEH directives, the Successor Agency’s consultant, SCS Engineers, is requesting to install one new groundwater monitoring well (identified as “MW-11R”) and operating and maintain two existing groundwater monitoring wells (identified as “MW-10” and “MW-11”) in the vicinity of the Site in the public right-of-way for the purpose of determining and monitoring the ongoing presence of petroleum product contamination; and

WHEREAS, Section 34171(d)(1)(e) of the California Health and Safety Code defines any legally binding and enforceable agreement or contract that is not otherwise void or violating the debt limit or public policy as an enforceable obligation; and

WHEREAS, the Oversight Board of the Successor Agency of the former El Cajon Redevelopment Agency held a meeting on June 19, 2013, at which time it considered approving a Hold Harmless Agreement (“Agreement”) in order to comply with the Indemnity Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE FORMER CITY OF EL CAJON REDEVELOPMENT AGENCY AS FOLLOWS:

A. The Oversight Board finds that:

1. The recitals above are true and correct and have been incorporated herein by reference; and
2. The proposed project is exempt from the California Environmental Quality Act (CEQA) under Section 15061 (b) (3) (General Rule) of the CEQA Guidelines because it will have no physical effect on the environment; and
3. The Reimbursement and Indemnity Agreement is an existing enforceable obligation and requires the Successor Agency to undertake the work identified in the Hold Harmless Agreement and an approved Workplan approved by the County Department of Environmental Health; and
4. The proposed Hold Harmless Agreement would be in the best interest of the taxing entities and the public because it will continue to monitor the presence of petroleum product contamination in soils and groundwater samples under enforceable obligations.


B. The Oversight Board hereby APPROVES the Hold Harmless Agreement substantially in the form as presented in **Attachment 1**, with such changes as may be approved by the Chair/Legal Counsel of the Oversight Board. The Hold Harmless Agreement is subject to approval of the Department of Finance and, upon such approval, shall be a binding obligation of the Successor Agency.

C. The Oversight Board hereby APPROVES execution of the Hold Harmless Agreement and additional necessary documents by the City Manager, or such person acting designated by the City Manager, acting in the capacity of chief executive officer of the Successor Agency.

[The remainder of this page intentionally left blank.]

PASSED AND ADOPTED by the Oversight Board of the Successor Agency of the former El Cajon Redevelopment Agency at a meeting held this 19th day of June, 2013, by the following vote to wit:

AYES: ABUSHABAN, BUXBAUM, CHADWICK, GRIFFIN, GRIFFITHS,
RANU, TURNER-EMERSON
NOES: NONE
ABSENT: NONE



Debra Turner-Emerson, Chairperson

ATTEST:



Jennifer Ficacci, Oversight Board Acting Secretary

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HOLD HARMLESS AGREEMENT
(315-327 North Magnolia Avenue)

THIS AGREEMENT is made this _____ day of _____, 2013, by and between the CITY OF EL CAJON, a California charter city and municipal corporation, hereinafter referred to as "City," and the CITY OF EL CAJON, SOLELY IN ITS CAPACITY AS THE SUCCESSOR AGENCY TO THE EL CAJON REDEVELOPMENT AGENCY ("SUCCESSOR AGENCY"), hereinafter collectively referred to as "Applicant";

WHEREAS, the Applicant previously owned the property in the vicinity of 315-327 North Magnolia Avenue, in the City of El Cajon, also known as the Park-Ballantyne Project, and the Applicant conveyed the property to a third party in 2003, but retained responsibility for the cleanup of all existing soils and groundwater contamination in accordance with the Department of Environment Health workplan approval letter issued August 26, 2002; and

WHEREAS, SCS Engineers, on behalf of Applicant, has requested permission of City to construct, install, operate and maintain one (1) new groundwater monitoring well (identified as "MW-11R"), and two (2) existing groundwater monitoring wells (identified as "MW-10" and "MW-11") in the vicinity of 315-327 North Magnolia Avenue, in the City of El Cajon, for the purpose of determining and monitoring the presence of petroleum product contamination; and

WHEREAS, as a condition to City's consenting to Applicant's construction, installation, operation and maintenance of one (1) new groundwater monitoring well (MW-11R) and two (2) existing groundwater monitoring wells (MW-10 and MW-11), in the vicinity of 315-327 North Magnolia Avenue, City will require that it be held harmless from damage to public facilities, and from personal injury and property damage that may be sustained as a result of the construction, installation, operation and maintenance of said wells; and

WHEREAS, Applicant hereby agrees to properly abandon the monitoring wells and restore the public improvements after completion of the monitoring period, which shall not exceed five (5) years, unless the agency with appropriate jurisdiction over the monitoring wells requires additional monitoring in excess of five (5) years, and City consents to extend this Agreement accordingly; and

WHEREAS, Applicant is willing to enter into such an agreement with City.

NOW, THEREFORE, in consideration for City granting consent to Applicant for the construction, installation, operation and maintenance of one (1) new groundwater monitoring well (MW-11R) and two (2) existing groundwater monitoring wells (MW-10 and MW-11), in the vicinity of 315-327 North Magnolia Avenue, for the purpose of determining and monitoring the presence of petroleum product contamination, Applicant, for itself, its successors in interest and assigns, and City, do agree as follows:

1. Applicant agrees to construct, install, operate and maintain the Wells in a safe condition. If said Wells are not so maintained, after reasonable written notice to Applicant, City may perform the work or contract for said work, and Applicant agrees to reimburse City for any

such costs reasonably incurred.

2. Applicant agrees to abandon the Wells and restore the public improvements to City's satisfaction upon completion of the monitoring period, which shall not exceed five (5) years. Should the agency with appropriate jurisdiction require Applicant to conduct further monitoring, Applicant may request that City grant an extension of time, which request shall not be unreasonably denied.

3. Applicant agrees to comply with the terms and provisions set forth in the letter from Keith L. Etechells PG, CHg, Senior Project Geologist, SCS Engineer to the Public Works Department of the City of El Cajon under date of May 7, 2013, and its referenced attachments, attached as Exhibit "A" to this Agreement, except as modified in this Agreement. Applicant acknowledges that an encroachment permit must be obtained from City prior to commencing any work in the public right-of-way.

4. Applicant agrees to provide City with a copy of any interim and final technical reports arising from this project. Applicant also agrees to submit a traffic control plan for City approval prior to installation of the Wells.

5. During the construction, installation, operation and maintenance of the Wells, Applicant agrees that it will not use, generate, store or dispose of any Hazardous Waste (as defined herein) on, under, about or within the public right-of-way in violation of any federal, state or local law or regulation. This restriction does not prohibit Applicant from using vehicles or equipment powered by petroleum hydrocarbons in the construction, installation, operation and maintenance of the Wells; however, no such equipment or vehicle shall be stored in the public right-of-way. Applicant agrees to defend and indemnify City against any and all losses, liabilities, claims and/or costs, arising from any breach of any warranty or agreement of Applicant contained in this paragraph. As used in this Agreement, "Hazardous Waste" shall mean any substance, chemical or material that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation (including but not limited to petroleum and asbestos).

6. City and its respective elected and appointed boards, officials, officers, agents, employees and volunteers (individually and collectively, "Indemnitees") shall have no liability to Applicant or any other person for, and Applicant shall indemnify, defend, protect and hold harmless Indemnitees from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements (collectively "Claims"), which Indemnitees may suffer or incur or to which Indemnitees may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, or otherwise arising from or attributable to the construction, installation, operation and maintenance of the Wells, or the restoration of public improvements.

7. Applicant shall further indemnify, defend and hold harmless Indemnitees from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, administrative proceedings, damages, fines, penalties, judgments, orders, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements, arising out

of any violation, or claim of violation of the City of El Cajon Storm Water Program (El Cajon Municipal Code, Chapter 13.10 and Chapter 16.60) (as adopted and as may be amended from time to time), that City might suffer, incur, or become subject to by reason of or arising from or attributable to the construction, installation, operation and maintenance of the Wells, or the restoration of public improvements.

8. Notwithstanding the forgoing, Applicant's duty to indemnify, protect and hold harmless shall not include the proportionate amount of any liability arising from the established negligence or willful misconduct of City and Indemnitees.

9. Applicant hereby agrees to provide a Certificate of Commercial General Liability Insurance, which complies with El Cajon City Council Policy D-3 (attached hereto as Exhibit "B" and made a part of this Contract), and which names the City of El Cajon and its elected and appointed officials, officers, employees and volunteers as additional insureds in an amount not less than two million dollars (\$2,000,000). Applicant may, in lieu of such certificate, submit acceptable documentation of self-insurance naming the City of El Cajon and its elected and appointed officials, officers, employees and volunteers as additional insureds. If there is any conflict between Exhibit "B" and this section, the terms of Exhibit "B" shall apply. Such policy shall be required to be maintained until the Wells are abandoned and public improvements are restored to the City's reasonable satisfaction. Such policy shall insure against all liability of Applicant and its authorized representatives arising from or attributable to the construction, installation, operation and maintenance of the Wells, and the restoration of public improvements.

10. Applicant hereby agrees to provide City with a 24-hour emergency telephone number. Said emergency telephone number will be available to City until the Wells have been abandoned and public improvements are restored to City's reasonable satisfaction.

11. The terms, covenants, conditions and agreements herein contained shall apply to, bind and inure to the benefit of the parties hereto and their heirs, executors, administrators, legal representatives, successors and assigns, respectively.

12. This Agreement shall be governed, interpreted, construed and regulated by the laws of the State of California.

13. The person executing this Agreement on behalf of Applicant hereby represents and warrants that all necessary approvals have been obtained to authorize the acceptance and approval of this Agreement, and that this Agreement is binding on, and enforceable against, Applicant, and each and every of its partners and/or members.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF EL CAJON,
a California charter city and
municipal corporation.

**CITY OF EL CAJON, SOLELY IN ITS
CAPACITY AS THE SUCCESSOR
AGENCY TO THE EL CAJON
REDEVELOPMENT AGENCY.**

By _____
Douglas Williford, City Manager

By _____
Douglass Williford, Executive Director

ATTEST:

ATTEST:

Kathie J. Rutledge, CMC, City Clerk

Kathie J. Rutledge, CMC, Secretary

APPROVED AS TO CONTENT:

Dennis Davies, Deputy Director
Public Works Department

APPROVED AS TO FORM:

Morgan L. Foley, City Attorney

STATE OF CALIFORNIA)
) SS:
COUNTY OF SAN DIEGO)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(SEAL)

STATE OF CALIFORNIA)
) SS:
COUNTY OF SAN DIEGO)

On _____, before me, _____, a Notary Public, personally appeared Douglas Williford, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(SEAL)

SCS ENGINEERS

May 7, 2013

SCS Project Number: 01212281.01

City Of El Cajon
Public Works Department
200 Civic Center Way
El Cajon, CA 92020-3916

Re: Request for the Preparation of a Hold Harmless Agreement Relating to Existing and Proposed Monitoring Wells located Near the Intersection of Wells Avenue and Graves Avenue, El Cajon

To whom it may concern:

This letter is our formal request for the City of El Cajon (City) to prepare a Hold Harmless Agreement (Agreement) for two existing groundwater monitoring wells (MW10 and MW11) and for one proposed groundwater monitoring well (MW11R) located near the intersection of Wells Avenue and Graves Avenue (Figure 1). The existing and proposed monitoring wells are related to the assessment (Assessment) of petroleum hydrocarbon-bearing groundwater that has been required by the County of San Diego Department of Environment Health (DEH). SCS has been contracted by the City to manage the Assessment which includes reinstallation of existing monitoring well MW11 with a deeper well (MW11R) approximately 5 feet to the east. A copy of the DEH letter requesting the reinstallation of MW11 is attached.

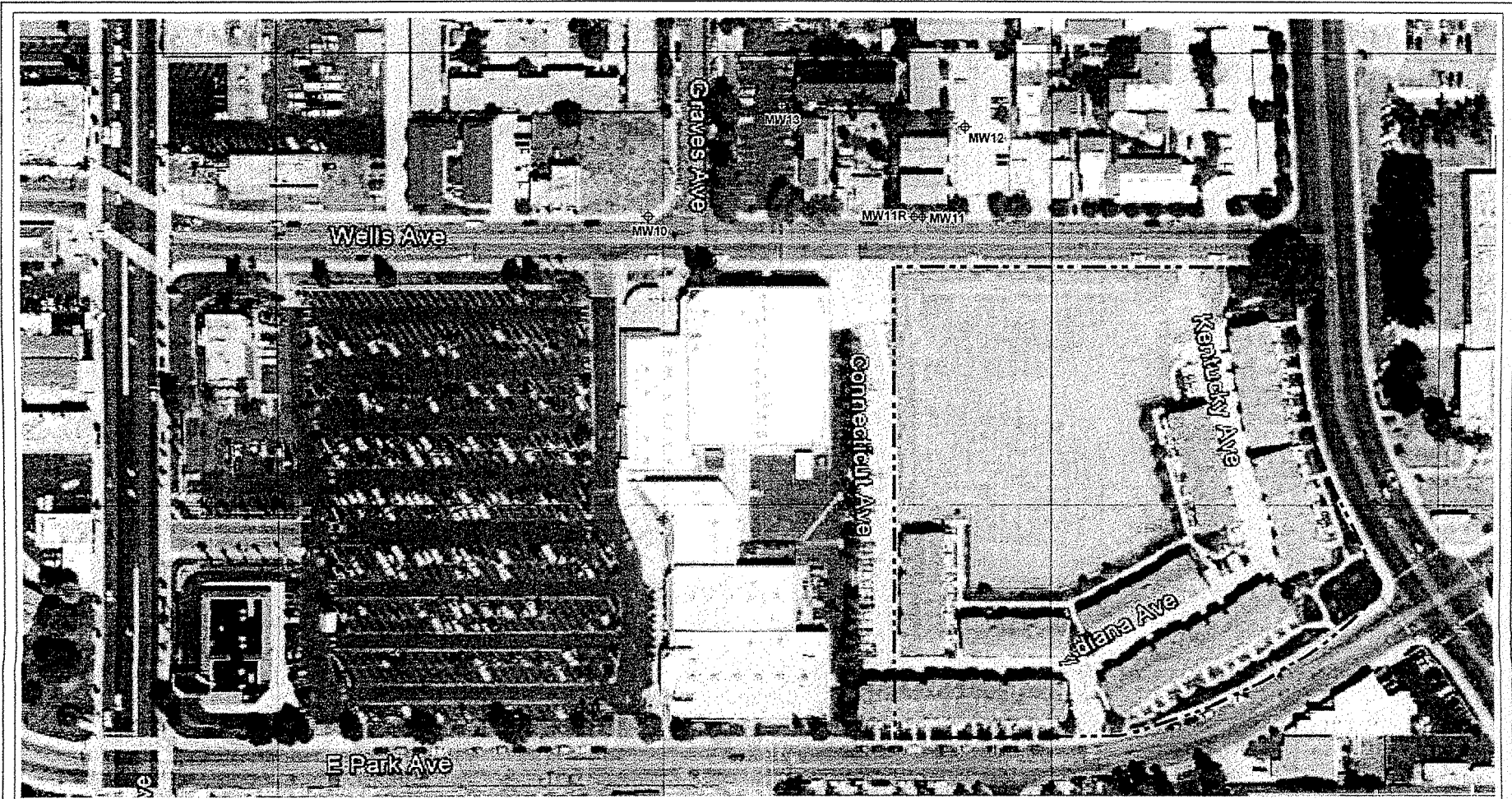
The two existing wells (MW10 and MW11) that we request to be covered under the Agreement are periodically being accessed to provide groundwater elevation measurements and groundwater samples to support the Assessment.

Respectfully,
SCS ENGINEERS



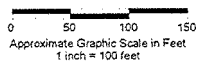
Keith L. Etchells PG, CHG
Senior Project Geologist

Attachments: Figure 1 and DEH Correspondence



EXPLANATION

-  Approximate Site boundary
-  Groundwater monitoring well location
-  Proposed well location



Reference: Google Earth Aerial Photograph
El Cajon, California - August 2010

Disclaimer: This figure is based on available data. Actual conditions may differ. All locations and dimensions are approximate.

SCS ENGINEERS
Environmental Consultants
8799 Balboa Avenue, Suite 290
San Diego, California 92123

PROPOSED GROUNDWATER MONITORING WELL LOCATIONS
El Cajon Redevelopment Agency
315 North Magnolia Avenue
El Cajon, California

Project No.:
01212281.01

Figure 1

Date Drafted:
6/28/12

**CITY OF EL CAJON
CITY COUNCIL POLICY**

SUBJECT:	Insurance Requirements		POLICY D-3
REFERENCE:	Adopted 7/26/94 Amended 11/29/05	EFFECTIVE 11/29/05	PAGE 1 of 8

PURPOSE

To provide a uniform City policy for liability insurance requirements and to establish procedures for its consistent application.

BACKGROUND

To help protect the City against liability, all individuals, contractors, agencies and organizations conducting business in association with, on behalf of, or in certain circumstances within the City of El Cajon are required to maintain adequate liability insurance coverage acceptable to the City.

Because of the differing levels of protection needed for various activities conducted within the city, the City has established policy limits and standards which directly relate to the type of activity being conducted.

POLICY

All individuals, contractors, agencies, and organizations conducting business either for the City of El Cajon (or the El Cajon Redevelopment Agency) or pursuant to an ordinance, resolution, agreement or policy requiring the maintenance of liability insurance shall provide proof of liability insurance in the following amounts and written on an occurrence basis (claims made coverage will be accepted only after verifying that occurrence coverage is not available):

1. A combined single limit policy with aggregate limits in the amount of \$2 million for all construction projects and for carnivals, subdivisions, and pollution coverage subject to section 5.c. under the heading "**INSURANCE STANDARDS**," with a maximum deductible or self-insurance retention ("SIR") of \$500,000; otherwise minimum limits in amounts as follows:

Bodily Injury:	\$ 1,000,000 each person
	\$ 1,000,000 each occurrence
	\$ 2,000,000 aggregate products and completed operations
Property Damage:	\$ 250,000 each occurrence
	\$ 500,000 aggregate

Unless staff determines that circumstances (i.e. high risk project, etc.) require the higher limit, the \$2,000,000 limit shall be decreased to \$1,000,000 with a maximum deductible or SIR of \$150,000, when:

EXHIBIT "B"

**CITY OF EL CAJON
CITY COUNCIL POLICY**

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POLICY (continued)

- a. The public improvements portion of a subdivision project is less than \$50,000; or
 - b. A construction project (in accordance with the Standard Specifications for Public Works Construction—and the Standard Special Provisions, the “Green Book”) is for less than \$50,000.
2. Except as otherwise provided in this policy, a combined single limit policy with aggregate limits in the amount of \$2 million for all others, including, but not limited to, athletic leagues, recreation groups, towing companies and public service agencies; otherwise minimum limits in amounts as follows:
- | | | | |
|------------------|----|-----------|--|
| Bodily Injury: | \$ | 500,000 | each person |
| | \$ | 1,000,000 | each occurrence |
| | \$ | 2,000,000 | aggregate including products
and completed operations |
| Property Damage: | \$ | 100,000 | each occurrence |
| | \$ | 250,000 | aggregate |
3. A combined single limit policy with aggregate limits in the amount of \$250,000 for homeowners insurance or for comprehensive general liability insurance for small business owners, in either event only where the insurance is required for work in the public right-of-way. “Small business owners” are defined as commercial businesses, or a professional or administrative office uses, where the owners of the business work on-site as their primary calling or vocation, and having no more than two (2) employees not related by blood or marriage.
 4. Selected high-risk activities that would otherwise fall under the criteria for category 2 shall be evaluated by staff on a case-by-case basis to determine whether or not the above limits are sufficient. The imposition of liability limits exceeding \$2 million for such high-risk activities is appealable to the City Council.
 5. \$1,000,000 for taxicab companies.

**CITY OF EL CAJON
CITY COUNCIL POLICY**

SUBJECT:	Insurance Requirements		POLICY D-3
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POLICY (continued)

6. \$500,000 or actual value, whichever is greater, for "valuable papers" and "in transit" insurance where City records or personal property is being transported or stored outside of City property.
7. Exceptions to the above limits may be made for non-profit, charitable, political, community and religious organizations.
8. The policy or policies of insurance may be for all operations or activities of the party purchasing the policy or policies provided, however, that the City or the Agency may require a separate policy exclusively for operations of the purchaser where the City Manager (or Executive Director), in her sole discretion, determines that a single policy would be inadequate to protect the City or Agency in the event of multiple catastrophes.

INSURANCE STANDARDS

1. ADMITTED CARRIER / BEST'S RATING B+, CLASS VII
 - a. Insurers must be "admitted" carriers pursuant to the provisions of the California Insurance Code and in accordance with all requirements of the State Insurance Commission and must be listed in the:

"OFFICIAL PUBLICATION
DEPARTMENT OF INSURANCE
STATE OF CALIFORNIA
45 Fremont Street
San Francisco, California 94105

INSURANCE ORGANIZATIONS AUTHORIZED BY THE INSURANCE
COMMISSION TO TRANSACT BUSINESS OF INSURANCE
IN THE STATE OF CALIFORNIA DURING
[the most recent year for which
the publication is available]."

or

"California Department of Insurance Company Profile."

**CITY OF EL CAJON
CITY COUNCIL POLICY**

SUBJECT:	Insurance Requirements		POLICY
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INSURANCE STANDARDS (continued)

- b. Insurers must have a Best's rating of B+, Class VII or higher (this rating includes those insurers with a minimum policyholder's surplus of \$50 to \$100 million). Exceptions to the Best's rating may be considered when an insurance carrier meets all other standards and can satisfy surplus amounts equivalent to a B+, Class VII rating.

2. NON-ADMITTED CARRIER / BEST'S RATING B+, CLASS VII

Exceptions to the "admitted" requirement may be considered when a non-admitted insurance carrier meets all other standards herein and:

- a. is listed in:

California Department of Insurance
List of Eligible Surplus Line Insurers

LISTING OF FILINGS

- b. has a Best's rating of B+, Class VII or higher (this rating includes those insurers with a minimum policyholder's surplus of \$50 to \$100 million);
- c. has ten years or more experience in the business of insurance; and
- d. if applicable, the reinsurance carrier has a qualified rating.

3. GENERAL – INSURANCE CERTIFICATES / ADDITIONAL INSURED

All insurers (including those insuring against pollution or discharges of hazardous materials) must provide certificates of insurance and endorsements evidencing coverage prior to the start of any contract. All certificates or endorsements must include:

- Name of insurance company issuing each policy.
- All insurers must provide an original endorsement naming the City of El Cajon (and/or the El Cajon Redevelopment Agency), and its (their) elected and appointed officials, officers, employees and volunteers (for purposes of this Policy, individually and collectively, the "City Insureds") as additional insureds. This inclusion as

**CITY OF EL CAJON
CITY COUNCIL POLICY**

<i>SUBJECT:</i>	Insurance Requirements		<i>POLICY</i> D-3
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INSURANCE STANDARDS (continued)

additional insureds shall not be required of Workers' Compensation or professional liability policies of insurance, and may be waived for "valuable papers" coverage with the approval of the City Attorney.

- Address of named insured.
- Description of coverage, including any special coverage required by the contract.
- Policy numbers.
- Policy periods (If claims made basis, must include retroactive date and length of time allowed as extended reporting period).
- Coverage type (occurrence form vs. claims made).
- Authorized signature and date of issuance. An original signature is required: a digital signature is acceptable so long as it complies with the requirements of Government Code §16.5.
- Unless approved by the City Manager or her designee, no certificate shall be accepted that qualifies the obligation of the carrier to provide 30 days written notice of cancellation of the policy. With the approval of the City Attorney the obligation to provide notice of cancellation may be reduced to ten (10) days, but only for termination due to the non-payment of any premium.

4. PUBLIC WORKS PROJECTS

In addition to the standards set forth above, insurance policies for public works projects must also meet the following insurance requirements set out in the most recent edition of the Green Book adopted by the City Council:

- a. All insurance certificates shall bear an endorsement or shall have attached a rider whereby it is provided that, in the event of expiration or proposed cancellation of such policy for any reason whatsoever, the City shall be notified by certified mail, return receipt requested, giving a sufficient time before the date thereof to comply with any applicable law or statute, but in no event less than thirty (30) days before expiration or cancellation is effective, the provisions of section 3 herein notwithstanding; and
- b. Compliance with Labor Code §§3700 and 3800 relating to Worker's Compensation.
- c. Requirements of the Green Book shall prevail.

**CITY OF EL CAJON
CITY COUNCIL POLICY**

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INSURANCE STANDARDS (continued)

5. PUBLIC RIGHT-OF-WAY

An applicant for permit(s) to do work within the public right-of-way may establish satisfactory proof of liability insurance in the following manner:

a. CONTRACTORS

Contractors must furnish the City with a certificate of liability insurance, which meets the requirements set forth above and any other City requirements contained in this policy.

b. HOMEOWNERS / PROPERTY OWNERS

Homeowners/Property owners requesting a permit to do work within City rights-of-way or easements immediately adjacent to their respective owned or occupied property, solely for the owner's personal benefit, shall be required to furnish the City with a copy of their homeowner's/property owner's liability insurance policy, which meets the requirements set forth above, with the minimum limits described in category 3 under the heading "**POLICY**," above. The policy must be effective during the entire period of the proposed work, plus two (2) calendar years, and must provide coverage for claims arising from the work performed, or improvements owned, by the homeowner in the right-of-way or easement. If the encroachment is ongoing, annual proof of insurance shall be required. The requirement to name the City as an additional insured, and the requirement for a policy for two (2) additional calendar years, may each be waived by the City Council or the City Manager (or her designee) in cases of extreme hardship, in their discretion.

c. POLLUTION EXCLUSION

Applications for the installation of monitoring wells for the evaluation of groundwater pollution or for the discharge of formerly polluted groundwater into the City sewer system must be accompanied by a certificate of liability insurance provided by the property owner. Such liability insurance may not contain a pollution exclusion clause and must explicitly indemnify the City against all hazards which may result from either of these activities, including a worsening of

INSURANCE STANDARDS (continued)

**CITY OF EL CAJON
CITY COUNCIL POLICY**

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pollution, either within the subsurface adjacent to the original pollution or within the City sewer system.

If the property owner is unable to provide insurance which addresses both general liability and pollution liability, the environmental company or other appropriately qualified entity contracting with the property owner for either monitoring well installation or groundwater pollution remediation, may furnish pollution liability insurance on behalf of the property owner.

Any insurance approved under this subsection c. shall be an occurrence policy, and shall otherwise comply with the provisions of this Policy.

d. PUBLIC UTILITIES

This policy as it relates to work in the public rights-of-way shall not be applicable to Cable TV, Helix Water District, Padre Dam Municipal Water District, SBC, San Diego Gas & Electric, or any other public utility.

e. TRANSPORTATION / OVERSIZE LOADS – PERMITS – See Chapter 10.24 of the El Cajon Municipal Code.

TIME LIMITS / CANCELLATION PROVISIONS

All liability insurance required pursuant to this policy shall provide coverage for a sufficient time period to protect the City from liability. The insurer is required to provide a minimum of thirty (30) days notice of cancellation of any policy. With the approval of the City Attorney (except as provided in section 4, herein) this obligation may be reduced to not less than ten (10) days written notice, but only for termination due to the non-payment of any premium. In no event shall a policy be accepted which terminates prior to the completion of the activity to be covered.

In certain circumstances, it may be impracticable to obtain continuing insurance coverage due to the duration of the activity or the cost of premature renewal. Under such circumstances, an exception to the coverage period may be made so long as the policy is renewed or replaced with an acceptable insurance carrier and there is no lapse in coverage. Maintenance of proper insurance coverage is a material term of any contract with the City and failure to maintain or

TIME LIMITS / CANCELLATION PROVISIONS (continued)

**CITY OF EL CAJON
CITY COUNCIL POLICY**

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renew coverage or to provide evidence of renewal may be treated as a material breach of contract.

ALTERNATIVE RISK MANAGEMENT PRACTICES; SELF-INSURANCE; RISK-POOLING

Alternative risk management practices, such as self-insurance, risk pooling, risk retention groups, and other such programs, will be accepted in lieu of commercial insurance policies provided that the coverage meets the requirements of this Policy. Any such alternative risk management practices must meet the financial strength and surplus requirements reflected by the Best's Ratings required of commercial insurance under this Policy.

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