

1 HOLLY O. WHATLEY, State Bar No. 160259  
HWhatley@chwlaw.us

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2 JON R. di CRISTINA, State Bar No. 282278  
JdiCristina@chwlaw.us

3 COLANTUONO, HIGHSMITH & WHATLEY, PC  
790 E. Colorado Boulevard, Suite 850  
4 Pasadena, California 91101-2109  
Telephone: (213) 542-5700  
5 Facsimile: (213) 542-5710

6 Attorneys for Respondent/Defendant  
City of Oxnard

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF VENTURA, HALL OF JUSTICE**  
10

11 AARON STARR, an individual,  
12  
13 Petitioner and Plaintiff,

**CASE NO. 56-2017-00494475-CU-WM-VTA**  
*Unlimited Jurisdiction*

(Assigned to Hon. Matthew P. Guasco, Dept. 20)

13 v.

14 CITY OF OXNARD, a general law city; and  
15 DOES 1–10,  
16 Respondents and Defendants.

**RESPONDENT CITY OF OXNARD’S  
PARTIAL RETURN TO WRIT OF  
MANDATE**

Complaint Filed: March 27, 2017

Colantuono, Highsmith & Whatley, PC  
790 E. COLORADO BOULEVARD, SUITE 850  
PASADENA, CA 91101-2109

1 TO THE COURT:

2 Respondent City of Oxnard (“City”) makes the following Return to the Amended Peremptory  
3 Writ of Mandate and Prohibition the Court issued in this matter on March 25, 2021 (“Writ”). The  
4 Writ directs the City to take the following actions:

- 5 1. Cease and desist imposing the embedded Infrastructure Use Fee (“IUF”) in the rates paid  
6 by water, wastewater, and solid waste disposal ratepayers not later than 30 days after this  
7 writ is served upon you (“Action 1”).
- 8 2. Cease and desist transfers of IUFs from the water, wastewater, and solid waste disposal  
9 utility operating budgets to your General Fund, Street Maintenance Fund, or any other  
10 fund controlled by you not later than 30 days after this writ is served upon you  
11 (“Action 2”).
- 12 3. Reimburse the water, wastewater, and solid waste disposal utility operating budgets the  
13 sum of all IUF transfers made to the General Fund and Street Maintenance Funds for  
14 fiscal years 2014–2015 (beginning March 27, 2014), 2015–2016, 2016–2017, 2017–  
15 2018, 2018–2019, 2019–2020, and 2020–2021, pursuant to further orders of the Court  
16 (“Action 3”).

17 The Court’s Second Amended Final Judgment (July 13, 2021) (“Second Amended  
18 Judgment” or “SAJ”) provided the further order described above in Action 3. It specified the City  
19 must reimburse its water, wastewater, and solid waste utility funds by transferring a total of  
20 \$36,470,697 to those utility funds from the City’s General Fund and Street Maintenance Fund on the  
21 following schedule:

- 22 • Fiscal Year 2021–2022: A total of \$12 million over four equal quarterly installments to  
23 be made on the first date of the beginning of each quarter.
- 24 • Fiscal Year 2022–2023: A total of \$12 million over four equal quarterly installments to  
25 be made on the first date of the beginning of each quarter.
- 26 • Fiscal Year 2023–2024: A total of \$12,470,697 over four equal quarterly installments to  
27 be made on the first date of the beginning of each quarter. (SAJ, ¶ 5.)

28 The City has complied with the above orders as follows.

**A. Progress Toward Completing Action I**

The City will apply an adjustment to its water, wastewater, and solid waste utility rates to accomplish two things: (i) remove any amount that would finance the IUF through rates moving forward, and (ii) refund any amount that financed the IUF through rates since January 2020. The effect will be to place ratepayers in the position as if they paid nothing toward the IUF since one year before the Court issued its Final Statement of Decision and Judgment (Jan. 14, 2021) (“Statement of Decision”) — covering rates well before the date Action 1 contemplated.

This rate adjustment requires a complicated analysis to implement it effectively. For example, many utility rates are variable (e.g., based on the volume of water consumed per pay period). This makes it difficult to predict how much would ordinarily be due from each customer, and thus how much the City should reduce rates to accomplish the refunds described above while also collecting enough revenue to support utility operations unrelated to the IUF.

However, the City has developed a plan it is on schedule to implement beginning with bills for September 2021. The plan has two components, one forward-looking and one backward-looking. Looking backward, the City will provide \$7,112,897 in credits to utility customers to account for IUF revenues collected through rates from January 2020 through August 2021. Table 1 shows how this credit will be allocated by utility and customer.

<b>Table 1: IUF Credits for January 2020 to August 2021</b>			
<b>Utility</b>	<b>Total Credit</b>	<b>Customer Accounts</b>	<b>Avg. Credit / Customer</b>
Water	\$3,208,213	42,944	\$75
Wastewater	\$2,015,000	40,168	\$50
Solid Waste	\$1,889,683	47,323	\$40
	\$7,112,897		\$165

The City will provide this as a one-time credit. In their bills for September 2021, therefore, customers will be made whole for IUF payments embedded in rates during the 20 months from January 2020 through August 2021.

The adjustment to rates looking forward is complicated by the difficulty in predicting future revenues — for example, how price elasticity of demand affects consumption and thus revenue from volumetric rates. Generally, however, the City will reduce rates based on its projections of rate revenues that would have funded the IUF for the remaining ten months of FY 2021–2022 (i.e., September 2021 through June 2022). Table 2 shows how this will result in an average 3.4 percent reduction in water rates, an average 2.7 percent reduction for wastewater, and an average 3.5 percent reduction for solid waste.

Table 2: Adjustment to Rates				
Utility	Projected IUF for Sep. 2021 – June 2022	Projected IUF per Month	Proj. Monthly Rate Rev. before Reduction	Average Rate Reduction <sup>1</sup>
Water	\$1,604,107	\$160,411	\$4,785,310	3.4%
Wastewater	\$1,007,500	\$100,750	\$3,720,303	2.7%
Solid Waste	\$944,842	\$94,484	\$2,723,061	3.5%
	\$3,556,448	\$355,645	\$11,228,674	

The City will file a supplemental return to confirm the final adopted plan summarized above, and thus when all steps have been taken to complete Action 1.

**B. The City Has Completed Actions 2 and 3**


As to Action 2, The City has not made any IUF transfers since the transfers that already occurred during FY 2020–2021, and which are included in the \$36,470,697 reimbursement the Court ordered for Action 3. The City will make no further IUF transfers based on the HF&H Report the Court discussed in its Statement of Decision.

As to Action 3, the City has already transferred \$8,000,000 from its General and Street Maintenance Funds to its water, wastewater, and solid waste utility funds: \$5,000,000 prior to the end of FY 2020–2021, and \$3,000,000 in the first quarter of FY 2021–2022. (Partial Return to Writ of Mandate (July 7, 2021).) The City is therefore ahead of the schedule the Court set.

<sup>1</sup> Average Rate Reduction = Projected IUF per Month / Projected Monthly Rate Revenue before Reduction.

1 DATED: August 24, 2021

**COLANTUONO, HIGHSMITH &  
WHATLEY, PC**



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HOLLY D. WHATLEY  
JON R. di CRISTINA  
Attorneys for Respondent/Defendant  
City of Oxnard

Colantuono, Highsmith & Whatley, PC  
790 E. COLORADO BOULEVARD, SUITE 850  
PASADENA, CA 91101-2109

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**PROOF OF SERVICE**

*Aaron Starr v. City of Oxnard*

Ventura County Superior Court Case No. 56-2017-00494475-CU-WM-VTA

Our File No. 12208.0014

I, Christina M. Rothwell, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 790 E. Colorado Boulevard, Suite 850, Pasadena, California 91101-2109. My email address is: crothwell@chwlaw.us. On August 24, 2021, I served the document(s) described as **RESPONDENT CITY OF OXNARD'S PARTIAL RETURN TO WRIT OF MANDATE** on the interested parties in this action addressed as follows:

Eric J. Benink, Esq.  
Vincent D. Slavens, Esq.  
**BENINK & SLAVENS, LLP**  
8885 Rio San Diego Drive, Suite 207  
San Diego, CA 92108  
Tel: (619) 369-5252  
Fax: (619) 369-5253  
Email: eric@beninkslavens.com  
Email: vince@beninkslavens.com

- BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed on the attached service list.
- BY OVERNIGHT DELIVERY:** I deposited such envelope in a facility regularly maintained by  FEDERAL EXPRESS with delivery fees fully provided for or delivered the envelope to a courier or driver of  FEDERAL EXPRESS authorized to receive documents at 790 E. Colorado Boulevard, Suite 850, Pasadena, California 91101-2109, with delivery fees fully provided for.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **August 24, 2021**, at Pasadena, California.



Christina M. Rothwell