



**BENICIA CITY COUNCIL
REGULAR MEETING AGENDA**

**City Council Chambers
January 18, 2011
7:00 PM**

*Times set forth for the agenda items are estimates.
Items may be heard before or after the times designated.*

I. CALL TO ORDER (7:00 PM):

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL.

B. PLEDGE OF ALLEGIANCE.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC.

A plaque stating the fundamental rights of each member of the public is posted at the entrance to this meeting room per section 4.04.030 of the City of Benicia's Open Government Ordinance.

IV. ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

A. ANNOUNCEMENTS.

1. Announcement of action taken at Closed Session, if any.

2. Openings on Boards and Commissions:

Sky Valley Open Space Committee:
Two full terms to January 31, 2015

Civil Service Commission:
One full term to January 31, 2015

Building Board of Appeals:
Three full terms to January 31, 2015

Solano Transportation Authority Pedestrian Advisory Committee:
One full term to January 31, 2014

Human Services Board:
One unexpired term to July 31, 2014

Finance, Audit and Budget Committee:
One full term to January 21, 2015

3. Mayor's Office Hours:

Mayor Patterson will maintain an open office every Monday (except holidays) in the Mayor's Office of City Hall from 6:00 p.m. to 7:00 p.m. No appointment is necessary. Other meeting times may be scheduled through the City Hall office at 746-4200.

4. Benicia Arsenal Update

B. APPOINTMENTS.

- 1. Approval of resolution amending the resolution confirming Mayor's appointments of members of the City Council to standing, ad hoc and outside agency committees to add the Mayor's appointment of Council Member Hughes as the alternate to the Soltrans Joint Powers Authority.**

C. PRESENTATIONS.

D. PROCLAMATIONS.

V. ADOPTION OF AGENDA:

VI. OPPORTUNITY FOR PUBLIC COMMENT:

This portion of the meeting is reserved for persons wishing to address the Council on any matter not on the agenda that is within the subject matter jurisdiction of the City Council. State law prohibits the City Council from responding to or acting upon matters not listed on the agenda. Each speaker has a maximum of five minutes for public comment. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. Speakers may not make personal

attacks on council members, staff or members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

A. WRITTEN COMMENT.

B. PUBLIC COMMENT.

VII. CONSENT CALENDAR (7:15 PM):

Items listed on the Consent Calendar are considered routine and will be enacted, approved or adopted by one motion unless a request for removal or explanation is received from a Council Member, staff or member of the public. Items removed from the Consent Calendar shall be considered immediately following the adoption of the Consent Calendar.

A. Approval of Minutes of the Special and Regular meetings of January 4, 2011. (City Clerk).

B. CONTRACT FOR DESIGN AND CONSTRUCTION ADMINISTRATION OF THE DOWNTOWN INTERMODAL PROJECT. (Public Works and Community Development Director)

On October 19, 2010, Council approved site plans for the Downtown Intermodal Project and directed staff to proceed with design, environmental clearance and construction of improvements. Pursuant to that direction, Staff is now asking Council to approve a contract for design and construction administration.

Recommendation: Adopt a resolution approving a contract with Kimley-Horn and Associates, Inc. for the design and construction administration phases of the Downtown Intermodal Project.

C. CONTRACT FOR DESIGN AND CONSTRUCTION ADMINISTRATION OF THE WESTERN GATEWAY INTERMODAL PROJECT. (Public Works and Community Development Director)

On October 19, 2010, Council approved site plans for the Western Gateway Intermodal Project and directed staff to proceed with design, environmental clearance and construction of improvements. Pursuant to that direction, Staff is now asking Council to approve a contract for design and construction administration.

Recommendation: Adopt a resolution approving a contract with Kimley-Horn and Associates, Inc. for the design and construction administration phases of the Western Gateway Intermodal Project.

D. FORMATION OF AN AD-HOC TASK FORCE TO RECOMMEND BIKE RACKS AND LOCATIONS. (Public Works and Community Development Director)

Pursuant to the May 4, 2010 amendment of the 2008 Valero/Good Neighbor Steering Committee (GNSC) Agreement, the City has \$30,000 to purchase and install racks to promote the use of bicycles. Following the installation of nine stainless steel horseshoe-shaped racks along First Street, HPRC has recommended those be removed and that a task force be formed to consider appropriate locations and designs for bicycle racks.

Recommendation: Adopt a resolution forming an Ad-Hoc task force with two members each from City staff, the Historic Preservation Review Commission (HPRC), Community Sustainability Commission (CSC), Parks, Recreation and Cemetery Commission (PRC) and inviting two representatives each from the Main Street Design Committee, Benicia Bicycle Club, and Chamber of Commerce, to hold up to two public meetings to formulate a recommendation to the City Council regarding bicycle rack installation.

E. APPROVAL OF A CONTRACT AMENDMENT FOR RENNE SLOAN HOLTZMAN SAKAI, LLP FOR HUMAN RESOURCES PROFESSIONAL SERVICES. (Administrative Services Director)

On May 1, 2010, the City entered into an agreement with Renne Sloan Holtzman Sakai, LLP (RSHS) for labor relations and personnel activities. The firm has been providing services relative to the recent negotiations with the City's various bargaining units. Under the proposed amendment, the firm will provide human resources support, including preparations for upcoming negotiations with one of the City's bargaining units, Benicia Public Service Employees Association (BPSEA).

Recommendation: Adopt a resolution approving a contract amendment with Renne Sloan Holtzman Sakai, LLP for labor relations and personnel services, and authorizing the City Manager to execute the contract amendment on behalf of the City.

F. DENIAL OF THE CLAIM AGAINST THE CITY BY PRISM ENGINEERING, INC. AND REFERRAL TO INSURANCE CARRIER. (City Attorney)

Claimant alleges that the City breached the contract and violated the Public Contract Code on the Benicia High School traffic signal and entrance circulation Improvement Project.

Recommendation: Deny the Claim against the City by Prism Engineering, Inc.

G. APPROVAL OF THE BENICIA HIGH SCHOOL TRAFFIC SIGNAL AND ENTRANCE CIRCULATION IMPROVEMENT PROJECT. (Public Works and Community Development Director)

The Benicia High School Traffic Signal and Entrance Circulation Improvement Project has been completed. This project has greatly enhanced safety for school children, reduced traffic congestion during student drop-off and pickup times, and created an attractive gateway for the high school along Military West. Formal acceptance of the work by the City Council is now required to close the construction contract and make final payment to the contractor.

Recommendation: Adopt a resolution accepting the Benicia High School Traffic Signal and Entrance Circulation Improvement Project as complete, approving Change Order No. 27 in the amount of \$2500.00, accepting Change Order Nos. 1-27, authorizing the City Manager to sign the Notice of Completion, and authorizing the City Clerk to file same with the Solano County Recorder.

H. REVIEW AND ACCEPTANCE OF THE INVESTMENT REPORT FOR THE QUARTER ENDED SEPTEMBER 2010. (Finance Director)

The investment portfolio is in compliance with the City's Investment Policy and California Law. Additionally, the City has adequate investments to meet its expenditure needs for the next six months. The Finance, Audit and Budget Committee have reviewed these reports and recommends acceptance.

Recommendation: Accept, by motion, the investment report for the quarter ended September 2010.

I. PURCHASE OF REPLACEMENT PUMPS AT THE LAKE HERMAN PUMP STATION. (Public Works and Community Development Director)

This pump station, located at the end of Channel Court, is a vital component of the water distribution system that moves untreated water from Lake Herman to the Water Treatment Plant and/or to Valero Refining Company. This action approves a contract for replacement of pumps at the Lake Herman Pump Station that have reached the end of useful life. Sufficient funds are available in Account No. 596-8259-9960 (water system replacement fund) to cover the cost.

Recommendation: Adopt a resolution approving a contract for pump replacement at the Lake Herman Pump Station with Flo-Line Technology, Inc. in the amount of \$31,903, and authorizing the City Manager to sign the contract on behalf of the City.

J. REPORT FROM THE ARSENAL SUBCOMMITTEE AND RECOMMENDATION FOR AWARD OF AN AGREEMENT FOR CONSULTING SERVICES FOR THE BENICIA ARSENAL PROJECT TO ENVIRONMENTAL RISK SERVICES ("ERS"). (City Attorney)

The proposed agreement with ERS Corporation has been updated to reflect the changes to the agreement discussed at the January 4, 2011.

Recommendation: Adopt the Resolution approving an agreement with ERS Corporation for consulting services for the Benicia Arsenal investigation and potential cleanup project and authorizing the City Manager to sign the contract on behalf of the City.

K. Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.

VIII. PUBLIC HEARINGS:

A public hearing should not exceed one hour in length. To maximize public participation, the council requests that speakers be concise and avoid repetition of the remarks of prior speakers. Instead, please simply state whether you agree with prior speakers.

IX. ACTION ITEMS:

X. INFORMATIONAL ITEMS (7:30 PM):

A. City Manager Reports.

1. OVERVIEW OF THE SUSTAINABLE COMMUNITIES STRATEGY, IMPLEMENTATION OF SENATE BILL 375 RELATIVE TO LAND USE, TRANSPORTATION, AND ENVIRONMENTAL PLANNING. (City Manager)

The Sustainable Communities Strategy (SCS) provides an opportunity for the City of Benicia to advance local goals as part of a coordinated regional framework. SCS connects local concerns such as housing, jobs and traffic to regional objectives and resources. It provides a means for cities and counties to address such challenges as housing costs, job access and greenhouse gas emissions in concert with the regional planning agencies: ABAG, the Metropolitan Transportation Commission (MTC), the Bay Area Air Quality Management District and the Bay Conservation and Development Commission (BCDC).

RECOMMENDATION: Receive a presentation forwarded by the Association of Bay Area Governments (ABAG) regarding the ongoing effort to develop a Sustainable Communities Strategy for the Bay Area in response to the directives of SB 375.

2. STATUS REPORT ON THE AGREEMENT WITH ALLIED WASTE FOR THE SOLID WASTE, RECYCLING AND GREEN WASTE FRANCHISE AGREEMENT. (City Attorney)

At the December 16, 2010 City Council meeting, it was reported that the negotiations with Allied Waste for an extension of the Franchise Agreement for garbage services had broken down. Council directed that the Council Subcommittee return on January 18 with a new agreement or to select a consultant to assist with a request for proposals process. The subcommittee met again with Allied. The parties have successfully arrived at a new proposed franchise agreement. If approved by the City Council, the new franchise agreement will be effective July 1, 2011. The Agreement is in the process of being finalized and will be presented at the February 1 meeting.

RECOMMENDATION: No action is required at this time. This item will be on the February 1 Council agenda for approval of the Collection Service Agreement between the City and Allied Waste Systems for the collection of solid waste, recycling and green waste throughout the City and for direction to prepare an ordinance to mandate commercial and industrial users use Allied Waste for recycling.

3. FOREIGN TRADE ZONES. (City Manager)

Following Valero Benicia Refinery's recent petition to be a sub-zone of San Francisco's Foreign Trade Zone, staff was asked to investigate the process and benefits of Foreign Trade Zones (FTZ). This report provides a brief description of foreign trade zones, evaluates their impacts and the process by which one may attain FTZ benefits.

RECOMMENDATION: This item is provided for information only. No action is required.

B. Council Member Committee Reports

(Council Member serve on various internal and external committees on behalf of the City. Current agendas, minutes and meeting schedules, as available, from these various committees are included in the agenda packet. Oral reports by the Council Members are made only by exception.)

- 1. Mayor's Committee Meeting.
(Mayor Patterson)
Next Meeting Date: January 19, 2011**
- 2. Association of Bay Area Governments (ABAG).
(Mayor Patterson and Council Member Ioakimedes)
Next Meeting Date: 2011 Spring General Assembly will be held on
Thursday, April 14, 2011**
- 3. Finance, Audit and Budget Committee.
(Vice Mayor Schwartzman and Council Member Campbell)
Next Meeting Date: February 3, 2011**
- 4. League of California Cities.
(Mayor Patterson and Vice Mayor Schwartzman)
Next Meeting Date: City Manager's Department Meeting, February 2-
4, 2011**
- 5. School Liaison Committee.
(Council Members Ioakimedes and Hughes)
Next Meeting Date: March 10, 2011**
- 6. Sky Valley Open Space Committee.
(Council Members Campbell and Hughes)
Next Meeting Date: February 2, 2011**
- 7. Solano EDC Board of Directors.
(Mayor Patterson and Council Member Campbell)
Next Meeting Date: January 20, 2011**
- 8. Solano Transportation Authority (STA).
(Mayor Patterson and Council Member Ioakimedes)
Next Meeting Date: January 19, 2011**
- 9. Solano Water Authority-Solano County Water Agency and Delta
Committee.
(Mayor Patterson and Vice Mayor Schwartzman)
Next Meeting Date: January 13, 2011**
- 10. Traffic, Pedestrian and Bicycle Safety Committee.
(Council Members Hughes and Ioakimedes)
Next Meeting Date: January 20, 2011**
- 11. Tri-City and County Regional Parks and Open Space.
(Council Members Campbell and Hughes)
Next Meeting Date: TBD**

12. **Valero Community Advisory Panel (CAP).**
(Council Member Hughes)
Next Meeting Date: TBD

13. **Youth Action Coalition.**
(Vice Mayor Schwartzman and Council Member Campbell)
Next Meeting Date: January 26, 2011

14. **ABAG-CAL FED Task Force-Bay Area Water Forum.**
(Mayor Patterson)
Next Meeting Date: TBD

XI. ADJOURNMENT (9:00 PM):

Public Participation

The Benicia City Council welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The City Council allows speakers to speak on non-agendized matters under public comment, and on agendized items at the time the agenda item is addressed at the meeting. Comments are limited to no more than five minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council.

Should you have material you wish to enter into the record, please submit it to the City Manager.

Disabled Access

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact Anne Cardwell, the ADA Coordinator, at (707) 746-4211. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Meeting Procedures

All items listed on this agenda are for Council discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended

action does not limit, or necessarily indicate, what action may be taken by the City Council.

Pursuant to Government Code Section 65009, if you challenge a decision of the City Council in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. You may also be limited by the ninety (90) day statute of limitations in which to challenge in court certain administrative decisions and orders (Code of Civil Procedure 1094.6) to file and serve a petition for administrative writ of mandate challenging any final City decisions regarding planning or zoning.

The decision of the City Council is final as of the date of its decision unless judicial review is initiated pursuant to California Code of Civil Procedures Section 1094.5. Any such petition for judicial review is subject to the provisions of California Code of Civil Procedure Section 1094.6.

Public Records

The agenda packet for this meeting is available at the City Manager's Office and the Benicia Public Library during regular working hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the City Manager's Office located at 250 East L Street, Benicia, or at the meeting held in the Council Chambers. If you wish to submit written information on an agenda item, please submit to the City Clerk as soon as possible so that it may be distributed to the City Council. A complete proceeding of each meeting is also recorded and available through the City Clerks Office.

RESOLUTION 11-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING
MAYOR'S APPOINTMENTS OF MEMBERS OF THE CITY COUNCIL TO STANDING,
AD HOC AND OUTSIDE AGENCY COMMITTEES**

COMMITTEES

<u>OUTSIDE AGENCY COMMITTEES</u>	<u>COUNCIL APPOINTEES</u>	
ABAG	Elizabeth Patterson	Mike loakimedes (Alternate)
LEAGUE OF CALIFORNIA CITIES	Elizabeth Patterson	Alan Schwartzman (Alternate)
SOLANO EDC BOARD OF DIRECTORS	Elizabeth Patterson	Tom Campbell (Alternate)
SOLANO TRANSPORTATION AUTHORITY	Elizabeth Patterson	Mike loakimedes (Alternate)
SOLANO WATER AUTHORITY/SOLANO COUNTY WATER AGENCY	Elizabeth Patterson	Alan Schwartzman (Alternate)
TRI-CITY & COUNTY REGIONAL PARKS & OPEN SPACE	Tom Campbell	Mark Hughes (Alternate)
SOLTRANS JOINT POWERS AUTHORITY	Elizabeth Patterson Mike loakimedes	Mark Hughes (Alternate)

<u>STANDING COMMITTEES</u>	<u>COUNCIL APPOINTEES</u>	
AUDIT & FINANCE COMMITTEE	Alan Schwartzman	Tom Campbell
SCHOOL DISTRICT LIAISON	Mike loakimedes	Mark Hughes
TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY COMMITTEE	Mark Hughes	Mike loakimedes
YOUTH ACTION TASK FORCE	Alan Schwartzman	Tom Campbell

<u>AD HOC COMMITTEES</u>	<u>COUNCIL APPOINTEES</u>	
SKY VALLEY AREA OPEN SPACE	Tom Campbell	Mark Hughes
VALERO CITIZENS ADVISORY COMMITTEE (CAP)	Mark Hughes	

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby confirms the above Committee appointments and any resolutions inconsistent with this resolution are superceded.

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 18th day of January 2011 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
January 04, 2011

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

I. CALL TO ORDER:

Mayor Patterson called the meeting to order at 6:15 p.m.

II. CONVENE OPEN SESSION:

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Mayor Patterson led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC:

III. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

B. PUBLIC COMMENT

None

IV. CLOSED SESSION:

Heather McLaughlin, City Attorney, read the announcement of Closed Session.

**A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subdivision (b) of
Section 54956.9**

Number of potential cases: 1

V. ADJOURNMENT:

Mayor Patterson adjourned the meeting to closed session at 6:16 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
January 04, 2011

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

I. CALL TO ORDER:

Mayor Patterson called the meeting to order at 7:02 p.m.

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Brad Kilger led the Pledge of Allegiance.

1. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC:

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC:

IV. ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

A. ANNOUNCEMENTS

1. Announcement of action taken at Closed Session, if any.

Ms. McLaughlin reported that Council met in closed session to discuss a potential case.

2. Openings on Boards and Commissions:

Sky Valley Open Space Committee: Four full terms to January 31, 2015

Civil Service Commission: Two full terms to January 31, 2015

Planning Commission: Two full terms to January 31, 2015

Parks, Recreation and Cemetery Commission: Three full terms to January 31, 2015

Building Board of Appeals: Three full terms to January 31, 2015

Solano Transportation Authority Pedestrian Advisory Committee: One full term to January 31, 2014

Human Services Board: One unexpired term to July 31, 2014

Finance, Audit and Budget Committee: Two full terms to January 21, 2015

3. Benicia Arsenal Update

Ms. McLaughlin reported that all information on the Arsenal Project would be presented under item IX.A. In the future, the Arsenal update item would be discussed early on the agenda, if there is not a specific action item being presented (on the Arsenal Project).

4. Mayor's Office Hours:

B. APPOINTMENTS

C. PRESENTATIONS

D. PROCLAMATIONS

- 1. In Recognition of Ron Rice, Volunteer Firefighter**
- 2. In Recognition of Daniel J. Healy, Former Planning Commission Chair**
- 3. Commending Sandra Spagnoli, Police Chief**

V. ADOPTION OF AGENDA:

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council adopted the agenda, as presented, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, Ioakimedes
Noes: (None)

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

B. PUBLIC COMMENT

None

VII. CONSENT CALENDAR:

Council pulled items VII.A and VII.B.

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council adopted the Consent Calendar, as amended, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

A. Approval of Minutes of the November 22, 2010 first and second Special meetings, the Special and Regular minutes of December 7, 2010 and the Special meeting of December 16, 2010

Council approved the minutes of the November 22, 2010 first special meeting, and the special and regular meetings of December 7, 2010.

Council pulled the minutes of the second meeting of November 22, 2010, and the special meeting of December 16, 2010, for discussion.

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council approved the minutes of the first special meeting of November 22, 2010, and the special and regular meetings of December 7, 2010, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

1. Minutes of the second City Council meeting of November 22, 2010

Mayor Patterson read her proposed change to the November 22, 2010 (page VII.A.5), expanding on Mr. Tullock's public comment.

Vice Mayor Schwartzman discussed concern regarding expanding on public speaker's comments.

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council approved the minutes of the second special meeting of November 22, 2010, as amended, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

2. Minutes of the Special City Council meeting of December 16, 2010

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council approved the minutes of the special meeting of December 16, 2010, as amended, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

Vice Mayor Schwartzman requested changing 'he' to 'Vice Mayor Schwartzman' on page VII.A.26.

B. ADOPTION OF THE 2011 CITY COUNCIL REGULAR MEETING CALENDAR

Council Member loakimedes and Staff discussed the meeting calendar. Council discussed whether or not Council had voted not to have a scheduled meeting on election nights.

Mayor Patterson and Staff clarified that the item presented was the regular meeting calendar. A special meeting calendar would be presented at a later date.

Public Comment:

None

Mayor Patterson discussed deleting the second meeting in December 2011.

Council discussed the issue of scheduling 'special meetings.'

Vice Mayor Schwartzman discussed leaving the 12/20 meeting on the calendar.

Council Member loakimedes made a motion to approve the calendar, as presented.

On motion of Council Member loakimedes, seconded by Vice Mayor Schwartzman, Council adopted the 2011 City Council regular meeting calendar, as presented, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

C. SECOND READING OF AN ORDINANCE AMENDING SECTION 9.28.040 OF CHAPTER 9.28 (YOUTH PROTECTION) OF ARTICLE 1 (NIGHTTIME CURFEW) OF TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE MUNICIPAL CODE AND SECTION 9.28.100 OF CHAPTER 9.28 (YOUTH PROTECTION) OF ARTICLE II (DAYTIME CURFEW) OF TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE MUNICIPAL CODE

ORDINANCE 11-1 - AN ORDINANCE AMENDING SUBSECTION I AND ADDING SUBSECTION J OF SECTION 9.28.040 OF CHAPTER 9.28 (YOUTH PROTECTION) OF ARTICLE I (NIGHTTIME CURFEW) OF TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE BENICIA MUNICIPAL CODE, AND ADDING SUBSECTIONS I AND J OF SECTION 9.28.100 OF CHAPTER 9.28 (YOUTH PROTECTION) OF ARTICLE II (DAYTIME CURFEW) OF TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE MUNICIPAL CODE

D. DENIAL OF THE CLAIM AGAINST THE CITY BY JEAN WILLIS AND REFERRAL TO INSURANCE CARRIER

E. Approval to waive the reading of all ordinances introduced and

adopted pursuant to this agenda

VIII. PUBLIC HEARINGS:

IX. ACTION ITEMS:

A. REPORT FROM THE ARSENAL SUBCOMMITTEE AND RECOMMENDATION FOR AWARD OF AN AGREEMENT FOR CONSULTING SERVICES FOR THE BENICIA ARSENAL PROJECT TO ENVIRONMENTAL RISK SERVICES ("ERS")

Mayor Patterson discussed the facilitated meeting that she attended on 12/22/10. It was basically to go over the terms of the contract and the implications for the small, medium, and large property owners. The consultant answered a lot of questions asked by the property owners.

Heather McLaughlin, City Attorney, reviewed the staff report.

Council Member Campbell requested clarification regarding how the contingency funds and left over funds would be handled.

Council and Staff discussed the letter Ms. Dean submitted earlier today, and whether it should be considered substantial information.

Council voted to approve accepting Ms. Dean's written comments (copy on file) as non-substantial information.

Council Members Ioakimedes and Schwartzman disclosed ex parte communications. Council Member Campbell discussed concern regarding Ms. Dean speaking with various Council Members, and the possibility of violating The Brown Act.

Mark O'Brien, ERS, discussed the issue of an escrow account, and how that money would be handled.

Council Member Ioakimedes and Staff discussed separating the large and small property owners, and the possibility of there being advantages of having all property owners being in one pool. They discussed the issue of insurance claims (change language to voluntary), language regarding the City Attorney's veto power, and adding language regarding having the City Attorney involved in negotiations.

Council Member Hughes and Staff discussed the need to be more specific regarding language stating that ERS could not go after the landowners, concern regarding the consultant being able to terminate the contract at any time for any reason, concern regarding 'unplanned costs', and concern regarding ERS being able to walk away with three days notice (which could leave the City open to significant financial exposure).

Vice Mayor Schwartzman discussed the issue of a cost cap.

Council Member Ioakimedes discussed the standard of quality, and the need to reference DTSC's standards (change language to 'including DTSC and other regulator's standards').

Council Member Campbell discussed concern regarding the terminations clause, and the scope of service. He discussed the issue of the risk associated with the agreement.

Council Member Hughes discussed page IX.A.107 - and the need to clean up repetitive language on section (c).

Public Comment:

Craig Anderson, Andersen, Roscha and Odne, LLP - Mr. Anderson discussed concern regarding the landowners not be included in the process, and concern regarding the landowners' insurance companies being able to sue them (landowners). He urged Council to read the contract and see how it affects the landowners.

Dana Dean - Ms. Dean clarified Council Member Campbell's concerns regarding violating The Brown Act. She discussed her written comments she submitted earlier today (copy on file), including comments regarding payments to the consultant, rate schedule, imbalance in the termination clause, and the issue of remediation funds.

Council Member Hughes and Ms. Dean discussed the issue of landowner protection.

Council Member Campbell and Staff discussed the issue of Staff and Council being the 'circuit breaker' in the event the consultant tried to sue the property owners/insurance companies.

Wes Arns - Mr. Arns discussed concerns regarding a possible conflict of interest with having ERS involved in various aspects of the cleanup. He discussed the issue of the fight being between the Army and DTSC, and the negative impacts this could have on the properties in the Arsenal. He suggested the City drop the issue of housing in the Arsenal, and lower the scope of work on the cleanup.

Mark Jacuzzi - Mr. Jacuzzi discussed concerns regarding the City's lack of involvement of the property owners in this issue, comments made by various individuals that ERS would not be suing the individual property owners, the need to get a contract that everyone could live with, the need to tighten up the language in the contract, and he expressed support for Ms. Dean's proposed changes to the agreement language.

Ron Myska - Mr. Myska discussed concern regarding the worst-case scenario (his company would be out of business). The scope of work needs to be scaled

back. He encouraged Council to consider Ms. Dean's proposed language changes.

Jack Bethars - Mr. Bethars discussed the tact small businesses would take (to cut and run). He urged Council to take more time to rethink the approach and the scope of work.

Ned Russell - Mr. Russell discussed concerns regarding addressing the specific needs of the DTSC. He urged Council to address the three specific areas for cleanup (Amports, Gonsalves, and Potter properties).

Public Comment Closed

Mayor Patterson discussed the need to have an efficient and effective 'no harms' program. She discussed the benefits of entering into a contract. She agreed that the property owners needed to be engaged in the process. She discussed ERS' track record of success in such issues. The City needs more certainty than it has today. Entering into an agreement would allow the City to get answers and certainty.

Ms. McLaughlin reviewed each of Ms. Dean's suggestions regarding changes to the contract.

Council Member Hughes and Staff discussed the suggested language change regarding issue of excess funds, and concern regarding the City's insurance company and the property owners.

Vice Mayor Schwartzman discussed the issue of the City's insurance company and the current property owners, the need for a schedule of fees, language regarding compensation from any City funds (not just the General Fund), the need for clarification on what would be done with any excess funds, the issue of consultants not engaging the services of person working for City (one year prohibition), and clarification on how often the consultant would provide updates to the City.

Council Member Campbell, Mayor Patterson, and Ms. McLaughlin discussed amended language regarding the escrow funds and excess funds.

Council Member loakimedes discussed what path the City should take, what involvement the City's insurance company would have, and how the City could assure the property owners.

Vice Mayor Schwartzman and Mr. O'Brien discussed when tendering the City's insurance should be done. Council could dictate when that should be done.

Council Member loakimedes discussed concerns regarding separating the large and small property owners, possibly taking a phased approach, and at the end of each phase come back to Council to sum up, take a business approach, put

everyone under the same tent.

Ms. McLaughlin discussed concern regarding the ability to put all property owners under the same tent.

Mayor Patterson clarified the Council's intent to work together with the property owners, as it would be beneficial to everyone involved.

Council Member Campbell discussed the need to slow this process down to gain manageable control with the situation.

Council Member Hughes clarified that Council could indicate that the City's insurance company would come into play as a last resort.

Council discussed whether the agreement could be approved tonight with the requested changes, or if it needed to be brought back at the next Council meeting. Council decided the agreement should be brought back with the requested changes, on the next Council meeting consent calendar

Mayor Patterson and Ms. McLaughlin summarized the following changes that will be made to the agreement:

- Make the minor change of the written notice to be acknowledged
- Indicate that any landowner is a voluntary process/voluntary landowner
- Insert language that links the negotiations with the City's control of the escrow account
- Clarify the exclusive right to negotiate on behalf of the City
- Include 'DTSC and others' in the language
- Fix the language on page IX.A.7 (duplicate sentences)
- Language regarding other regulatory agencies
- Add the first whereas proposed by Ms. Dean (regarding the business park)
- Insert the following language 'or other City funds' on page IX.A.107, item 3(a), after 'the City shall pay no compensation from the City's general fund'
- On paragraph (e) of the same section, where the excess remediation funds that will go for reimbursement of staff time and other such expenses, as well as redevelopment of remediated properties, or other projects, as determined by the Council
- On page IX.A.111, under the employees assignment and subcontracting, language will be inserted regarding the one-year prohibition on hiring somebody
- Add in the same section, that Mark O'Brien would be the City's primary lead person
- On the scope of work, under #2, on the second sentence, insert 'after approval by the Council will tender the insurance, etc.'
- On page IX.A.117, on the discussion of monthly or twice-monthly reports, have it reflect twice-monthly initially, and then change it to monthly
- On the escrow issue, insert exhibit (b) - rate schedule
- Have Mr. O'Brien and Ms. McLaughlin work on language regarding the

City using insurance as a last resort, and that it would come back to Council prior to a claim being submitted - possibly using 'avoiding adverse effects' rather than 'last resort'

Ms. McLaughlin reminded people to sign up on the mailing list so they would be notified of future actions on this item.

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council accepted the letter from Ms. Dana Dean, as non-substantial information, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

B. COMPLETION OF OPEN GOVERNMENT AWARENESS TRAINING AND ANNUAL REVIEW OF PROTOCOLS AND RULES

Ms. McLaughlin completed the Open Government Training and Annual Review of Protocols and Rules for Council, Brad Kilger, Anne Cardwell, and Lisa Wolfe.

Council and Staff discussed the need for an in-depth review of policies (such as the two-step process).

Council discussed whether or not to proceed with a discussion on the two-step process tonight (as it was past 11:00 p.m.). Council Members Hughes, loakimedes, and Patterson preferred to wait until the public could be involved, and Council Members Schwartzman and Campbell preferred to discuss the issue tonight. Staff recommended discussing it on 1/25/11. Staff's approach on the issue would be to list out some issues that have occurred with the two-step process, and to solicit comments from Council prior to the meeting. All rules and procedures would be discussed. Staff will work on getting materials together for Council to review.

X. COUNCIL MEMBERS REPORTS:

XI. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 11:11 p.m.

AGENDA ITEM
CITY COUNCIL MEETING DATE - JANUARY 18, 2011
CONSENT CALENDAR

DATE : December 17, 2010

TO : City Manager

FROM : Public Works and Community Development Director

SUBJECT : **CONTRACT FOR DESIGN AND CONSTRUCTION**
ADMINISTRATION OF THE DOWNTOWN INTERMODAL PROJECT

RECOMMENDATION:

Adopt a resolution approving a contract with Kimley-Horn and Associates, Inc. for the design and construction administration phases of the Downtown Intermodal Project.

EXECUTIVE SUMMARY:

On October 19, 2010, Council approved site plans for the Downtown Intermodal Project and directed staff to proceed with design, environmental clearance and construction of improvements. Pursuant to that direction, Staff is now asking Council to approve a contract for design and construction administration.

BUDGET INFORMATION:

Regional Measure 2 (Benicia-Martinez bridge toll) funding of \$3 million has been allocated for planning, design and construction of improvements at the two sites. Funding for the first phase (\$92,000 for site planning) has been expended. Funding for the design phase has been requested, and design will begin when the allocation has been received. Pursuant to a provision in the project request for proposals, Kimley-Horn and Associates, Inc. is the same consultant team to be utilized for preliminary design, final design and construction administration.

ENVIRONMENTAL REVIEW:

The Benicia Intermodal Facilities project is categorically exempt from California Environmental Quality Act review under Guidelines Section 15301, which applies to activities that do not expand an existing use, as the project lies entirely within the existing public road right of way and involves minor improvements to provide enhanced parking and increased safety for bicyclists and pedestrians.

GENERAL PLAN

Relevant Goals and Policies include:

- Goal 2.17 Provide an efficient, reliable, and convenient transit system

- Goal 2.20 Provide a balanced street system to serve automobiles, pedestrian, bicycles, and transit, balancing vehicle-flow improvements with multi-modal considerations
- Goal 2.28: Improve and maintain public facilities and services

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies:

- Strategic Issue #2: Protecting and Enhancing the Environment
 - Strategy #1: Reduce greenhouse gas emissions and energy consumption
 - Strategy #3: Pursue and adopt sustainable practices
 - Strategy #4: Protect air quality by pursuing multiple mass transit opportunities
- Strategic Issue #4: Preserving and Enhancing Infrastructure
 - Strategy #2: Increase use of mass transit
 - Action 2(a) Complete plans for and begin construction of park-and-ride facilities at City Park and W. Military at Southampton

BACKGROUND:

In 2004, voters passed Regional Measure 2 (RM2) raising the toll on bridges in the San Francisco Bay Area by \$1 in order to fund various transportation projects within the region that have been determined to reduce congestion or to make improvements to travel in the toll bridge corridors, as identified in SB 916. The funding is administered by the Metropolitan Transportation Commission (MTC) and in Solano County, by the Solano Transportation Authority (STA.)

STA Corridor Plans include existing and future regional bus stop and support facilities at Military West/Southampton Road and Military/First Street. The approved projects at these existing Route 78 bus stop sites are intended to enhance commuting for riders and encourage new passengers by providing amenities and safety features for pedestrians and bicyclists, as well as convenient parking.

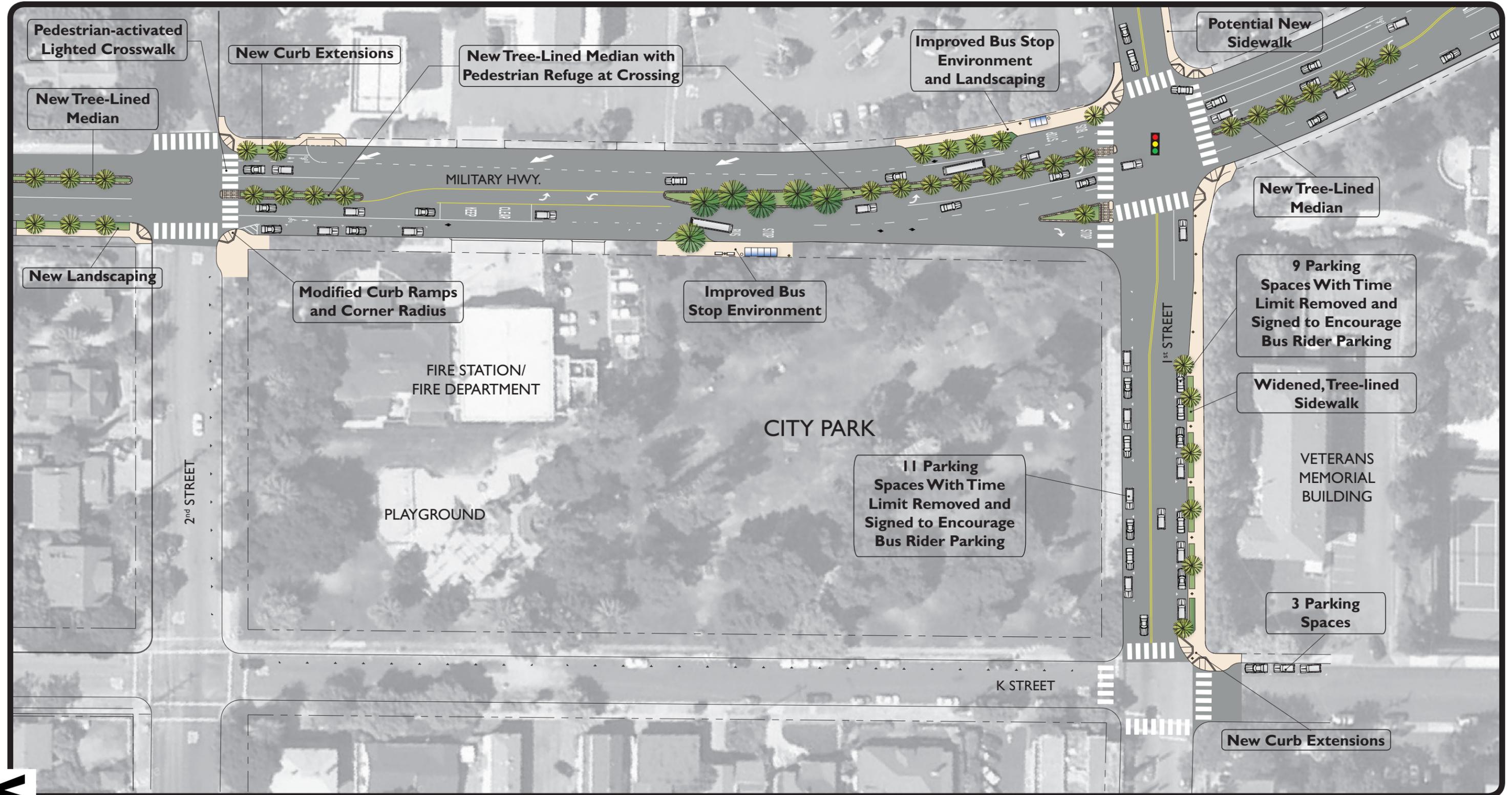
On December 7, 2010, the City Council adopted a resolution authorizing the Public Works and Community Development Director to request an allocation of Regional Measure 2 funds to complete the Downtown Intermodal Project.

Approval of the consultant agreement with Kimley-Horn and Associates, Inc. for a not to exceed cost of \$570,179 (approximately 60% of which is for the Downtown Intermodal Project) will cover completion of the project design and construction administration for the project. Work will commence when funding is received from MTC.

Attachments:

- Downtown Intermodal Preliminary Project Plan
- Proposed Resolution
- Contract with Kimley-Horn and Associates, Inc.

Intermodal Improvements on Military and 1st Street (Post-Workshop)



Concept Plan



RESOLUTION NO. 11-

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
APPROVING A CONTRACT WITH KIMLEY-HORN AND ASSOCIATES, INC.
FOR A NOT TO EXCEED COST OF \$570,179 TO COMPLETE THE DESIGN
AND CONSTRUCTION ADMINISTRATION FOR THE DOWNTOWN
INTERMODAL PROJECT**

WHEREAS, SB 916 (Chapter 715, Statutes 2004), commonly referred to as Regional Measure 2 (RM2), identified projects eligible to receive funding under the Regional Traffic Relief Plan; and

WHEREAS, the Metropolitan Transportation Commission (MTC) is responsible for funding projects eligible for RM2 funds, pursuant to Streets and Highways Code Section 30914(c) and (d); and

WHEREAS, MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for RM2 funding; and

WHEREAS, allocations to MTC must be submitted consistent with procedures and conditions as outlined in RM2 Policy and Procedures; and

WHEREAS, the City of Benicia is an eligible sponsor of transportation projects in RM2, Regional Traffic Relief Plan funds; and

WHEREAS the Benicia Intermodal (Downtown) Facilities Project is eligible for consideration in the Regional Traffic Relief Plan of RM2, as identified in California Streets and Highways Code Section 30914(c) or (d); and

WHEREAS the Benicia Intermodal Facilities project is categorically exempt from California Environmental Quality Act review under Guidelines Section 15301, which applies to activities that do not expand an existing use, as the project lies entirely within the existing public road right of way and involves minor improvements to provide enhanced parking and increased safety for bicyclists and pedestrians; and

WHEREAS, the Downtown site is adjacent to Benicia's City Park, a jewel of the community, an invaluable resource to the community.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Benicia does hereby approve the contract with Kimley-Horn Associates, Inc. for a not to exceed amount of \$579,179 (approximately 60% of which is attributable to the Downtown portion of the project) for completion of the design and construction administration of the project.

* * * * *

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council on the 18th day of January, 2011 and adopted by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Alan Schwartzman, Vice Mayor

Attest:

Lisa Wolfe, City Clerk

CONSULTANT AGREEMENT

This agreement ("Agreement") entered into _____, 2011, is between the City of Benicia, a municipal corporation (hereinafter "CITY"), and Kimley-Horn and Associates, Inc., a California corporation with its primary office located at 555 12th Street, Suite 1230, Oakland, CA 94607, (hereinafter "CONSULTANT") (collectively, "the Parties").

RECITALS

WHEREAS, CITY has determined it is necessary and desirable to secure certain technical services for the Benicia Intermodal Facilities project. The scope of work for said service (hereinafter "Project") is attached hereto as Exhibit "A" and is hereby incorporated by reference; and

WHEREAS, CONSULTANT is specially trained, experienced and competent to perform the services required by this agreement; and

WHEREAS, CONSULTANT represents it is qualified and willing to provide such services pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, IT IS AGREED by and between CITY and CONSULTANT as follows:

AGREEMENT

1. INCORPORATION OF RECITALS. The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

2. SCOPE OF SERVICE.

(a) Services to be Furnished. Subject to such policy direction and approvals as CITY through its staff may determine from time to time, CONSULTANT shall perform the services set forth in the Task Order labeled Exhibit A, which is attached hereto and incorporated herein by reference.

(b) Schedule for Performance. CONSULTANT shall perform the services identified in Exhibit A according to the completion schedule included in Exhibit A and as expeditiously as is consistent with generally accepted standards of professional skill and care, and the orderly progress of work.

(i) CONSULTANT and CITY agree that the completion schedule in Exhibit

A represents the best estimate of the schedule. CONSULTANT shall comply with completion dates noted in Exhibit A unless a written waiver is granted by the CITY's project manager.

(ii) CONSULTANT shall not be responsible for performance delays caused by others, or delays beyond CONSULTANT'S control, and such delays shall extend the times for performance of the work by CONSULTANT.

(c) Standard of Quality. All work performed by CONSULTANT under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in CONSULTANT'S field of expertise. CONSULTANT shall function as a technical advisor to CITY, and all of CONSULTANT'S activities under this Agreement shall be performed to the full satisfaction and approval of the Public Works and Community Development Director.

(d) Compliance With Laws. CONSULTANT shall comply with all applicable federal, state, and local laws, codes, ordinances, regulations, orders, and decrees. CONSULTANT represents and warrants to CITY that CONSULTANT shall, at its own cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and approvals which are legally required for CONSULTANT to practice its profession or are necessary and incident to the due and lawful prosecution of the services it performs under this Agreement. CONSULTANT shall maintain a City of Benicia business license. CONSULTANT shall at all times during the term of this Agreement, and for one year thereafter, provide written proof of such licenses, permits, insurance, and approvals upon request by CITY. CITY is not responsible or liable for CONSULTANT'S failure to comply with any or all of the requirements contained in this paragraph.

3. COMPENSATION.

(a) Schedule of Payment. The compensation to be paid by CITY to CONSULTANT for the services rendered hereunder shall be on a time and materials basis based upon the rate schedule in Exhibit B attached hereto and hereby incorporated by reference. The rate schedule in Exhibit B itemizes those standard and expected expenses for which CONSULTANT shall receive compensation. If CONSULTANT obtains CITY'S prior written approval from the Public Works and Community Development Director, CONSULTANT may be reimbursed for extraordinary costs incurred on the Project.

(b) Additional Services. CITY shall make no payment to CONSULTANT for any additional services unless such services and payment have been mutually agreed to and this Agreement has been formally amended in accordance with Section 7.

(i) Only the City Council can act on behalf of CITY to authorize CONSULTANT to perform additional services.

(ii) CONSULTANT shall not commence any work or services exceeding the Scope of Services in Section 2 without prior written authorization from CITY in accordance with Section 7. CONSULTANT'S failure to obtain a formal amendment to this Agreement authorizing additional services shall constitute a waiver of any and all right to compensation for such work or services.

(iii) If CONSULTANT believes that any work CITY has directed CONSULTANT to perform is beyond the scope of this Agreement and constitutes additional services, CONSULTANT shall promptly notify CITY of this fact before commencing the work. CITY shall make a determination as to whether such work is beyond the scope of this Agreement and constitutes additional services. If CITY finds that such work does constitute additional services, CITY and CONSULTANT shall execute a formal amendment to this Agreement, in accordance with Section 7, authorizing the additional services and stating the amount of any additional compensation to be paid.

(c) Invoicing and Payment. CONSULTANT shall submit monthly invoices for the services performed under this Agreement during the preceding period. Invoices or billings must be submitted in duplicate and must indicate the hours actually worked by each classification and employee name, as well as all other directly related costs by line item in accordance with Exhibit B. CITY shall approve or disapprove said invoice or billing within thirty (30) days following receipt thereof and shall pay all approved invoices and billings within thirty (30) days. Interest at the rate of one and one-half (1.5) percent per month will be charged on all past due amounts starting thirty (30) days after the invoice date, unless not permitted by law, in which case interest will be charged at the highest amount permitted by law. Payments will be credited first to interest, and then to principal.

4. PRODUCT REVIEW AND COMMENT. CONSULTANT shall provide CITY with at least two (2) copies of each product described in Exhibit A. Upon the completion of each product, CONSULTANT shall be available to meet with CITY. If additional review and/or revision is required by CITY, CITY shall conduct reviews in a timely manner.

5. TERM OF AGREEMENT. This Agreement shall be effective immediately upon the signatures of both Parties and shall remain in effect until completed, amended pursuant to Section 7, or terminated pursuant to Section 6.

6. TERMINATION:

(a) CITY shall have the right to terminate this Agreement for any reason whatsoever at any time by serving upon CONSULTANT written notice of termination. The Agreement shall terminate three (3) business days after notice of termination is given. The notice shall be deemed given on the date it is deposited in the U.S. mail, certified, postage prepaid, addressed to

CONSULTANT at the address indicated in Section 11.

(b) If CITY issues a notice of termination,

(i) CONSULTANT shall immediately cease rendering services pursuant to this Agreement;

(ii) CONSULTANT shall deliver to CITY copies of all writings, whether or not completed, which were prepared by CONSULTANT, its employees, or its subcontractors, if any, pursuant to this Agreement. For purposes of this Agreement, the term "writings" shall include, but not be limited to, handwriting, typewriting, computer files and records, drawings, blueprints, printing, photostatting, photographs, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof;

(iii) CITY shall pay CONSULTANT for work actually performed up to the effective date of the notice of termination, subject to the limitations prescribed by Section 3 of this Agreement, less any compensation to CITY for damages suffered as a result of CONSULTANT'S failure to comply with the terms of this Agreement. Such payment shall be in accordance with Exhibit B. However, if this Agreement is terminated for fault of CONSULTANT, CITY shall be obligated to compensate CONSULTANT only for that portion of CONSULTANT'S services which are of benefit to CITY.

7. AMENDMENTS. Modifications or amendments to the terms of this Agreement shall be in writing and executed by both Parties.

8. NONDISCLOSURE OF CONFIDENTIAL INFORMATION. CONSULTANT shall not, either during or after the term of this Agreement, disclose to any third party any confidential information relative to the work of CITY without the prior written consent of CITY.

9. INSPECTION. CITY representatives shall, with reasonable notice, have access to the work and work records, including time records, for purposes of inspecting same and determining that the work is being performed in accordance with the terms of this Agreement. Inspections by CITY do not in any way relieve or minimize the responsibility of CONSULTANT to comply with this Agreement and all applicable laws.

10. INDEPENDENT CONTRACTOR. In the performance of the services in this Agreement, CONSULTANT is an independent contractor and is not an agent or employee of CITY. CONSULTANT, its officers, employees, agents, and subcontractors, if any, shall have no power to bind or commit CITY to any decision or course of action, and shall not represent to any person or business that they have such power. CONSULTANT has and shall retain the right to exercise

full control of the supervision of the services and over the employment, direction, compensation, and discharge of all persons assisting CONSULTANT in the performance of said service hereunder. CONSULTANT shall be solely responsible for all matters relating to the payment of its employees, including compliance with social security and income tax withholding, workers' compensation insurance, and all other regulations governing such matters.

11. NOTICE. Any notices or other communications to be given to either party pursuant to this Agreement shall be in writing and delivered personally or by certified U.S. mail, postage prepaid, addressed to the party at the address set forth below. Either party may change its address for notices by complying with the notice procedures in this Section. Notice so mailed shall be deemed delivered three (3) business days after deposit in the U.S. mail. Nothing shall preclude the giving of notice by facsimile machine provided, however, that notice by facsimile machine shall be followed by notice deposited in the U.S. mail as discussed above.

If to CITY: Charlie Knox
Public Works and Community Development Director
City of Benicia
250 East L Street
Benicia, CA 94510

If to CONSULTANT: Felicia Dean, PE, LEED AP
Kimley-Horn and Associates, Inc.
555 12th Street, Suite 1230
Oakland, CA 94607

12. OWNERSHIP OF MATERIALS. CITY is the owner of all records and information created, produced, or generated as part of the services performed under this Agreement. At any time during the term of this Agreement, at the request of CITY, CONSULTANT shall deliver to CITY all writings, records, and information created or maintained pursuant to this Agreement. In addition, CONSULTANT shall not use any of the writing, records, or information generated for the Project under this Agreement for any other work without CITY's consent.

13. EMPLOYEES; ASSIGNMENT; SUBCONTRACTING.

(a) Employees. CONSULTANT shall provide properly skilled professional and technical personnel to perform all services required by this Agreement. CONSULTANT shall not engage the services of any person(s) now employed by CITY without CITY's prior express written consent.

(b) Assignment. CONSULTANT shall not assign, delegate, or transfer its duties, responsibilities, or interests in this Agreement without the prior express written consent of CITY. Any attempted assignment without such approval shall be void and, at CITY's option, shall terminate this Agreement and any license or privilege granted herein.

(c) Subcontracting. CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the prior express written consent of CITY. If CITY consents to CONSULTANT'S hiring of subcontractors, CONSULTANT shall provide to CITY copies of each and every subcontract prior to its execution. All subcontractors are deemed to be employees of CONSULTANT, and CONSULTANT agrees to be responsible for their performance. CONSULTANT shall give its personal attention to the fulfillment of the provisions of this Agreement by all of its employees and subcontractors, if any, and shall keep the work under its control.

14. BINDING AGREEMENT. This Agreement shall bind the successors in interest, legal representatives, and permitted assigns of CITY and CONSULTANT in the same manner as if they were expressly named herein.

15. WAIVER.

(a) Effect of Waiver. Waiver by either party of any default, breach, or condition precedent shall not be construed as a waiver of any other default, breach, or condition precedent or any other right under this Agreement.

(b) No Implied Waivers. The failure of either party at any time to require performance by the other party of any provision hereof shall not affect in any way the right to require such performance at a later time.

16. NONDISCRIMINATION.

(a) Consultant shall not discriminate in the conduct of the work under this Agreement against any employee, applicant for employment, or volunteer on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited basis will not be tolerated.

(b) Consistent with City's policy that harassment and discrimination are unacceptable employer/employee conduct, CONSULTANT agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by CONSULTANT or CONSULTANT'S employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited basis will not be tolerated. CONSULTANT agrees that any and all violation of this provision shall constitute a material breach of the Agreement.

17. INDEMNITY. CONSULTANT specifically agrees to indemnify, defend, and hold harmless CITY, its officers, agents, and employees from and against any and all actions, claims, demands, losses, expenses including attorneys' fees, damages, and liabilities resulting from injury or death of a person or injury to property, arising out of, pertaining to, or relating to the

negligence, recklessness, or willful misconduct of CONSULTANT, however caused, regardless of any passive negligence of the CITY, excepting only such injury or death as may be caused by the sole negligence or willful misconduct of the CITY. The CONSULTANT shall pay all costs that may be incurred by CITY in enforcing this indemnity, including reasonable attorneys' fees.

18. INSURANCE.

(a) Required Coverage. CONSULTANT, at its sole cost and expense, shall obtain and maintain in full force and effect throughout the entire term of this Agreement the following described insurance coverage. This coverage shall insure not only CONSULTANT, but also, with the exception of workers' compensation and employer's liability insurance, shall name as additional insureds CITY, its officers, agents, employees, and volunteers, and each of them:

<u>Policy</u>	<u>Minimum Limits of Coverage</u>
(i) Workers' Compensation	Statutory
(ii) Comprehensive Automobile Insurance Services Office, form #CA 0001 (Ed 1/87 covering auto liability code 1 (any auto))	Bodily Injury/Property Damage \$1,000,000 each accident
(iii) General Liability Insurance Services Office Commercial General Liability coverage on an occurrence basis (occurrence form CG 0001)	\$1,000,000 per occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit shall apply separately to this Project/location, the general aggregate limit shall be twice the required occurrence limit
(iv) Errors and Omissions/ Professional's Liability, errors and omissions liability insurance appropriate to the CONSULTANT's profession.	Generally \$1,000,000 per occurrence

(b) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by CITY.

(c) Required Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (i) For any claims related to this Project, the CONSULTANT'S insurance

coverage shall be primary insurance as respects CITY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by CITY, its officers, officials, employees, or volunteers shall be in excess of the CONSULTANT'S insurance and shall not contribute with it;

(ii) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to CITY, its officers, officials, employees, or volunteers;

(iii) The CONSULTANT'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability;

(iv) Each insurance policy required by this Section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after giving CITY 30 days' prior written notice by certified mail, return receipt requested.

(d) Acceptability of Insurers. CONSULTANT shall place insurance with insurers with a current A.M. Best's rating of no less than [A:VII] unless CONSULTANT requests and obtains CITY'S express written consent to the contrary.

(e) Verification of Coverage. CONSULTANT must provide complete, certified copies of all required insurance policies, including original endorsements affecting the coverage required by these specifications. The endorsements are to be signed by a person authorized by CONSULTANT'S insurer to bind coverage on its behalf. All endorsements are to be received and approved by CITY before work commences.

19. WORKERS' COMPENSATION.

(a) Covenant to Provide. CONSULTANT warrants that it is aware of the provisions of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code. CONSULTANT further agrees that it will comply with such provisions before commencing the performance of the work under this Agreement.

(b) Waiver of Subrogation. CONSULTANT and CONSULTANT'S insurance company agree to waive all rights of subrogation against CITY, its elected or appointed officials, agents, and employees for losses paid under CONSULTANT'S workers' compensation insurance policy which arise from the work performed by CONSULTANT for CITY.

20. FINANCIAL RECORDS. CONSULTANT shall retain all financial records, including but not limited to documents, reports, books, and accounting records which pertain to any work

or transaction performed pursuant to this Agreement for four (4) years after the expiration of this Agreement. CITY or any of its duly authorized representatives shall, with reasonable notice, have access to and the right to examine, audit, and copy such records.

21. CONFLICT OF INTEREST. CONSULTANT shall exercise reasonable care and diligence to prevent any actions or conditions which could result in a conflict with CITY'S interest. During the term of this Agreement, CONSULTANT shall not accept any employment or engage in any consulting work which creates a conflict of interest with CITY or in any way compromises the services to be performed under this Agreement. CONSULTANT shall immediately notify CITY of any and all violations of this Section upon becoming aware of such violation.

22. TIME OF THE ESSENCE. CONSULTANT understands and agrees that time is of the essence in the completion of the work and services described in Section 2.

23. SEVERABILITY. If any court of competent jurisdiction or subsequent preemptive legislation holds or renders any of the provisions of this Agreement unenforceable or invalid, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected.

24. GOVERNING LAW AND CHOICE OF FORUM. This Agreement shall be administered and interpreted under California law as if written by both parties. Any litigation arising from this Agreement shall be brought in the Superior Court of Solano County.

25. COSTS AND ATTORNEYS' FEES. If either party commences any legal action against the other party arising out of this Agreement or the performance thereof, the prevailing party in such action may recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees. In any action seeking recovery of monetary damages, the plaintiff shall not be considered to be the prevailing party unless it recovers at least 66% of the dollar amount requested in the complaint's prayer for relief.

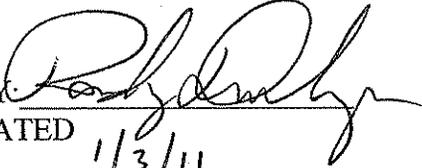
26. INTEGRATION. This Agreement represents the entire understanding of CITY and CONSULTANT as to those matters contained herein and supersedes all prior negotiations, representations, or agreements, both written and oral. This Agreement may not be modified or altered except in accordance with Section 7.

[Signatures on next page]

Executed by CITY and CONSULTANT on the date shown next to their respective signatures.
The effective date of this Agreement shall be the date of execution by the CITY as shown below.

Kimley-Horn and Associates, Inc.

CITY OF BENICIA

BY: 
DATED 1/3/11

BY: _____
Brad Kilger, City Manager
DATED:

RECOMMENDED FOR APPROVAL

Charlie Knox
Public Works and Community Development Director

APPROVED AS TO FORM

Heather McLaughlin
City Attorney

06/30/03

Appendix A: Scope of Work

2. Task 2 - 35-Percent Design

This work will incorporate the features from the Conceptual Design into 35percent plans and specifications.

2.0 Concept Design: Intersection Improvements at First Street /Military East

- a) Assist City staff with CEQA documentation, assumes a Negative Declaration or Mitigated Negative Declaration will be prepared.
- b) Provide traffic analysis of intersection of First Street and Military East to analyze impact of elimination of dedicated right turn lane and pedestrian movements.
- c) Provide alternative design sketches of potential Plaza area based on traffic lane configuration options at Military East westbound traffic at intersection with First Street
- d) Present findings of "b" and "c" above to Traffic, Pedestrian & Bicycle Safety Committee.
- e) Coordinate with Tree Committee regarding selection of tree species for landscape areas.

2.1 General

- a) Provide necessary surveying and control for design and soil-boring locations (if required).
- b) Field locate existing utilities including potholing if necessary.
- c) Provide mapping and/or staking of vegetation or other natural features as required by landscaping needs.
- d) Develop design and operational criteria for proposed bus stops and park-and-ride facilities.
- e) Determine modifications required to parking lots, streets, sidewalks, traffic controls, transit services, landscaping, and bike lanes to accommodate project.
- f) Determine operational and maintenance issues and make recommendations.
- g) Determine traffic control, coordination issues, and construction impacts.
- h) Develop and evaluate alternatives for construction staging and sequencing.
- i) Develop and evaluate alternatives to enable public streets and affected properties to operate normally during construction.
- j) Prepare preliminary layout and profile designs.
- k) Prepare preliminary construction cost estimate.
- l) Prepare preliminary construction schedule.
- m) Incorporate results from Conceptual Design Phase.
- n) Participate in 2 City staff review meetings.
- o) Compile data from this section into 35-percent Design Report.
- p) Proceed with Final Design after City review and approval of 35 percent Design Report.

2.1.1 Deliverables

- a) 35-percent Design Report. Submit 6 A-size copies of each report for draft review; Submit 2 signed and sealed copies of final report(s) and one Adobe portable document format (.pdf) version.

3. Task 3-100-percent Design

3.1 Final Design

3.1.1 General

- a) Provide necessary surveying and control for design.
- b) Develop Contract Documents, including general specifications provided by City, technical specifications and plan sheets prepared by Consultant, and cost estimates.
- c) Incorporate design recommendations from 35-percent Design Report into plans and specifications.
- d) Prepare necessary non-resource agency permit applications such as utility company crossing permission.
- e) Participate in Design Review process.
- f) Develop detailed construction cost estimate.

3.1.2 60-percent Progress Print

- a) Submit Progress Print (60-percent) plans, specifications, and cost estimate documents for review.

3.1.3 Draft/Final (90-percent) Plans, Specifications, and Cost Estimate

- a) Submit Draft/Final (90-percent) plans, specifications, and cost estimate documents for review.
- b) Include response to City comments made at 60% progress print.

3.1.4 Final (100-percent) Plans, Specifications, and Cost Estimate

- a) Submit Final (100-percent) plans, specifications, and cost estimate documents for advertisement.
- b) Include response to City comments made at 90% draft/final PS&E.

3.1.5 Deliverables

- a) 60-percent Progress Print. Provide 6 hard copies each of D-size plans, specifications, and cost estimate.

- b) Draft/Final PS&E. Provide 6 hard copies each of plans, specifications, and cost estimate.
- c) Final PS&E (Contract Documents). Provide 10 hard copies each of D-size original signed and sealed plans and A-size original signed and sealed specifications and one Adobe portable document format (.pdf) version.

3.2 Advertisement/Award Phase

3.2.1 Assumptions

- a) City will provide duplication services for Contract Documents.
- b) City will sell Contract Documents to interested bidders and maintain accurate planholders list.
- c) City will transmit addenda to Contract Documents to planholders.

3.2.2 Advertisement

- a) Provide bidding assistance, including preparation of verbal and written responses to questions received from contractors and suppliers.
- b) Prepare plans and specifications addenda and transmit to City.
- c) Attend 2 prebid conferences and site visits including preparing meeting notes.

3.2.3 Award/Post-Award/Pre-Notice to Proceed

- a) Review and evaluate properly received bids.
- b) Prepare Bid Results Memorandum including review of bid results and recommendation.
- c) Provide assistance to City staff during preparation of city council agenda item awarding construction contract or rejecting bids.
- d) Provide bid protest assistance to City staff.
- e) Prepare electronic and reproducible Conformed Contract Documents incorporating addenda items after construction contract awarded.

3.2.4 Deliverables

- a) Bid Results Memorandum. Provide Adobe portable document format (.pdf) version.
- b) Conformed Contract Documents. Provide 10 bound sets to City and one Adobe portable document format (.pdf) version.

4. Task 4-Project Management

4.1 General

- a) Manage efforts of Consultant engineering team members and subconsultants, assign manpower, delegate responsibilities, review work progress, and otherwise direct progress of work to ensure satisfactory completion of work, on schedule and within budget.
- b) Conduct monthly progress meeting.
- c) Prepare Monthly Project Report.
- d) Submit Monthly Progress Payment request. Include copy of Monthly Progress Report.
- e) Prepare financial plan-related reports and documentation and assist in their submittal, including but not limited to funding allocation requests and invoicing.
- f) Prepare, monitor, and update project design schedule.
- g) Assist City with public information.

4.1.1 Deliverables

- a) Monthly Project Report. Provide Adobe portable document format (.pdf) version.
- b) Monthly Progress Payment. Provide one hardcopy.

5. Task 5-Construction Management and Inspection

Upon the successful award of the construction contract by the Benicia City Council, work may be authorized to perform construction management and inspection services for the project.

5.1 Contract Administration

5.1.1 Project Administration

- a) Provide full project administration and act as project manager on behalf of City.
- b) Coordinate all activities with City's Project Manager.

5.1.2 Project Meetings

- a) Conduct 1 pre-construction meeting.
- b) Conduct weekly construction meetings with contractor field representatives, key subcontractors, city and transit agency representatives, consultant field representatives, key subconsultants, and key testing firms.

- c) Conduct monthly project meetings with those listed above plus contractor management, city management, and consultant management representatives.

5.1.3 Project Recordkeeping

- a) Maintain detailed project records including daily logs, inspection reports, testing/certification, photos, measurement of quantities, schedules, weekly and monthly meeting notes, all written correspondence and documentation of all major decisions and actions.

5.1.4 Monthly Reports

- a) Prepare and submit monthly progress reports that include construction progress summary (contract versus actual) and photos, look-ahead schedule, financial summary, change order summary, pending requests for information (RFI) and contract change orders (CCOs), pending claims, summary of inspection logs and key decisions and actions.

5.1.5 Monthly Progress Payments

- a) Review and approve contractor's construction schedule, updates, and revision in accordance with contract documents and with approval of City Project Manager.
- b) Evaluate monthly progress payment requests from contractor and recommend payment as part of monthly reports.
- c) Prepare draft claim form for City processing and approval.
- d) Track actual and estimated future expenditures to project budget.
Report variations in monthly report.

5.1.6 Review, Negotiate and Recommend Contract Changes

- a) Review and respond to RFI submitted by contractor concerning construction issues. b) Review and consult with City Project Manager on RFI relating to design issues before responding to contractor.
- c) Prepare potential CCOs and in conjunction with City Project Manager, determine changed conditions, define scope, prepare independent cost estimates, negotiate with contractor, prepare and process change orders for approval by City Project Manager and for incorporation into construction contract.

5.1.7 Design Clarifications and Shop Drawings

- a) Coordinate and manage clarification and interpretation process on construction drawings and specifications between contractor, City Project Manager, design engineer (when applicable) and project inspector.
- b) Coordinate and manage shop drawing and submittal review process between City Project Manager, design engineer (when applicable), project inspector, contractor and subcontractors/suppliers and their discipline engineers.

5.1.8 Regulatory Permit Compliance

- a) Monitor contractor's compliance with all construction permit requirements and regulatory agency permits including those issued by City of Benicia, transit agencies, and Regional Water Quality Control Board.
- b) Recommend course of action to City Project Manager if contractor is not meeting permit requirements.

5.1.9 Mitigation Monitoring and Reporting Program

- a) Monitor contractor's compliance with project environmental requirements.
- b) Recommend course of action to City Project Manager if contractor is not meeting environmental compliance requirements.

5.1.10 Claims Management

- a) Identify potential claims and make recommendations to resolve them.
- b) Provide prompt response for actual claims filed by contractor.

5.2 Records Management

5.2.1 Information Management

- a) Utilize a computerized integrated software package to control and document submittals, schedules, cost issues, meeting notes, log change orders, log RFI, and include other critical information to manage communications and develop progress and summary reports on project.

5.2.2 As-Builts

- a) Monitor as-built record drawings to be maintained by the contractor on a daily basis.

- b) Maintain a clean record copy for transfer to final computerized project drawings.

5.2.3 Project Files

- a) Keep a complete file of project to include all documentation generated on this project.
- b) Provide City with a file index and access to files at any time during project.
- c) Provide all files to City as final record at project completion.

5.3 Field Inspection Services

5.3.1 Field Inspection

- a) Provide construction Field Inspector for every working day during project duration with flextime-oriented/task-loaded schedule.

5.3.2 Video/Photo Documentation

- a) Prepare a video of initial site conditions before contractor begins work on project.
- b) Accompany visual documentation with a verbal recording of existing conditions that may be used to settle any claims by contractor and affected property owners regarding final project site conditions.
- c) Take photographs during construction to demonstrate progress.
- d) Include photographs and video material with monthly reports.

5.3.3 Field Coordination

- a) Coordinate and document all field changes to drawings and specifications.
- b) Coordinate specialty services conducted by structural, geotechnical, electrical, environmental and other subconsultants required on this project.

5.3.4 Inspection Reports

- a) Prepare daily inspection reports, construction deficiency lists, and prepare a weekly inspection report (including compliance tests and specialty inspections) to be presented at weekly and monthly meetings.

5.4 Testing and Specialty Services

A subconsultant will provide each of these services with costs included as part of this RFP.

5.4.1 Compliance Testing and Specialty Services

- a) Provide environmental services including inspections and project status reports in accordance with environmental conditions of approval on this project.
- b) Provide geotechnical services including review and approval of retaining wall/shoring plans, excavation/backfill methods, and confirmation of soils report requirements.
- c) Provide testing lab services to conduct concrete testing, structural testing, and other specialty inspection services as required by contract documents.

5.5 Project Closeout

5.5.1 Substantial and Final Completion

- a) Schedule and conduct substantial completion inspections, issue preliminary and final punchlist.
- b) Recommend final acceptance by City after contractor completes all punchlist items.

5.5.2 Final Report

- a) Prepare a final report that includes a summary of work performed, change order summary, project cost summary, schedule analysis and summary, completed punch list summary, closeout and acceptance documentation, and final resolution of any claims or disputed work on project.

5.5.3 Project Documents

- a) Provide a complete set of properly indexed and filed records for project, as-built drawings and specifications, an indexed file with copies of all equipment warranties and O&M manuals.
- b) Update those relevant sections of WTP) O&M manuals modified by project.

5.5.4 As-Built Drawings

- a) Prepare record drawings and specifications for completed project (as-builts) based on markups by Contractor and Field Inspector.
- b) Submit reproducible Mylar drawings.
- c) Submit electronic drawing files in either AutoCAD or MicroStation format.
- d) Submit as-built specifications in Adobe portable document format (.pdf).
- e) Provide 5 bound copies of record drawings and specifications.

5.6 Project Coordination

5.6.1 Public Outreach Support

a) Consultant shall provide support materials (drawings, summary reports, etc.) as necessary for City to conduct monthly public meetings during construction phase and provide a representative to attend when requested by City.

5.6.2 Coordinate Subconsultant Services

a) Coordinate subconsultant services required on this project including but not limited to design engineers, testing services, geotechnical engineering, and environmental inspections. Include costs for these services in this task.

6. Task 6 - Other Services as Requested

Perform other project-related professional services if requested in writing by City and after acceptance of a cost proposal.

Benicia Intermodal Facilities - Level of Effort for Professional Services 11/18/2010

Description	Krimley-Horn and Associates				Chirariletti Associates				Community Design + Architecture				Mountain Pacific Surveys, Inc.		Project Team	
	SP/OC	PM/QA	Sr./Prof.	Total Cost	Res Eng	Consult Resp	Total Hours	Total Cost	Prtn./PM	Assoc	Designer	Total Hours	Total Cost	Total Hours	Total Cost	
TASK 2.1 - 25% Design	2	18	2	\$22,858			8	\$797				6	\$580	70	\$66,095	
Coordination with Surveyor/Topo and R/W Survey														14	\$14,540	
CEQA review														40	\$2,718	
Trade Analysis, Right-Turn movement, Plaza review														40	\$4,580	
Design Development (50%)	2	8	12	\$6,620			18					22	\$1,960	40	\$15,860	
Preliminary Layout and Profile Design	1	4	8	\$4,540			6					6	\$580	40	\$15,860	
Recommendations for Construction Staging	1	1	1	\$400			2	\$797				2	\$210	2	\$1,407	
Operational and Maintenance Issues	1	1	1	\$400			2					2	\$840	2	\$1,240	
Preliminary Estimates of Probable Construction Cost	1	1	1	\$560			3					3	\$2,600	2	\$5,100	
Preliminary Project Schedule	1	1	1	\$560			3					3	\$2,600	2	\$770	
35% Design Report	1	1	1	\$1,030			7					7	\$910	60	\$7,890	
One (1) Traffic, Pedestrian & Bicycle Safety Comm Mtg	0	0	0	\$0			0					0	\$0	1	\$1,840	
One (1) Meeting w/ Tree Committee	0	0	0	\$0			0					0	\$0	1	\$550	
Two Meetings w/ City Staff (in Benicia)	0	0	0	\$0			0					0	\$0	16	\$4,480	
TASK 3 - Final Design Advise and Award	8	15	38	\$159,470			16	\$13,976				11	\$1,280	152	\$234,336	
TASK 3.1 - Bidal Design	1	1	2	\$10,465			11	\$7,952				3	\$5,670	172	\$202,710	
Follow Up Coordination with Surveyor														15	\$1,550	
Contract Drawings (60%)	2	16	44	\$25,200			13					13	\$12,700	249	\$27,900	
Estimate of Probable Construction Cost (60%)	1	2	4	\$2,260			17					17	\$4,200	67	\$6,460	
Technical Specifications - CSI Format (60%)	1	2	4	\$2,260			17					17	\$4,200	69	\$7,440	
Design Review Process (Assumes 2 mths)	8	8	8	\$3,200			16					16	\$4,010	53	\$7,210	
20% Design - Constructability Review	9	20	52	\$29,340			30	\$1,595				0	\$0	10	\$1,595	
Contract Drawings (90%)	1	1	2	\$1,940			13					13	\$2,760	94	\$38,080	
Estimate of Probable Construction Cost (90%)	1	1	2	\$1,940			13					13	\$2,760	43	\$4,700	
Technical Specifications - CSI Format (90%)	1	1	2	\$1,940			13					13	\$2,760	45	\$4,970	
Contingency Budget for City authorized Overtime	9	24	40	\$24,510			17					17	\$4,880	227	\$29,390	
Contract Drawings (100%)	1	1	2	\$1,655			11					11	\$1,965	29	\$3,615	
Estimate of Probable Construction Cost (100%)	1	1	2	\$1,655			11					11	\$1,460	34	\$2,460	
Technical Specifications - CSI Format (100%)	1	1	2	\$1,655			11					11	\$1,460	35	\$3,620	
Traffic Signal Modification (2 signals)	15	36	112	\$36,280			235					15	\$1,460	235	\$36,280	
Street Lighting	8	15	38	\$15,760			105					105	\$15,760	105	\$15,760	
TASK 3.2 - Advertise and Award	1	1	3	\$10,025			10	\$7,287				9	\$9,270	292	\$31,626	
Advertisement (RFI)														42	\$5,375	
Provide Addenda to Plans and Specifications														50	\$5,412	
Attendance of one (1) Pre-bid Conf (incl. site visit)														25	\$2,098	
Award/Post-Award/Pre-Notice to Proceed														20	\$2,865	
Review of Received Bids														17	\$2,415	
Bid Memorandum														24	\$3,468	
Assistance to City Staff														60	\$6,640	
Conformed Contract Documents														172	\$42,090	
TASK 4 - Project Management	30	0	40	\$35,880			108	\$0				34	\$6,270	142	\$21,780	
Ongoing Project Coordination with subs														30	\$5,160	
Monthly Progress Meetings (assumes 3 mths in Benicia)														3	\$15,150	
Monthly Progress Reports														927	\$139,658	
TASK 5 - Construction Management and Inspection	0	0	4	\$19,115			656	\$92,973				0	\$15,870	0	\$0	
Contract Admin, CM and Inspection Submittal														656	\$87,272	
Attend One (1) Pre-Construction Meeting														8	\$1,180	
Attend Weekly Project Meetings														21	\$2,175	
Attend Monthly Construction Meetings (up to 3 meetings)														17	\$2,285	
Monthly Project Reports														60	\$6,960	
Review and Respond to RFIs														40	\$4,410	
Prepare and Coordinate Change Orders														0	\$0	
Design Clarifications and Shop Drawings														0	\$0	
Records Management Assistance														0	\$0	
Field Inspection Service														0	\$0	
Field Inspections Assistance (up to 3 field inspection visits)														16	\$2,080	
Testing and Specialty Services Assistance														0	\$0	
Participate in Substantial Completion Inspection														11	\$1,610	
Other Project Closeout Assistance														28	\$3,040	
Project Coordination														0	\$0	
Public Outreach Support														42	\$4,855	
Contingency Budget for City authorized Overtime														0	\$0	
Construction Staking														0	\$0	
TASK 6 - Optional Items	154	151	523	\$245,803	240	512	752	\$107,746	21	287	711	1019	\$104,220	0	\$0	
Optional Services														0	\$0	
Hours														3,141	\$482,179	
Rate															\$154.179	
Expenses & Reimbursables															\$0.000	
PROJ TOTAL				\$482,179				\$0					\$0		\$0	
Design Contingency/Optional Services				\$13,000				\$0					\$0		\$0	
Concept Phase Additional Services				\$50,000				\$0					\$0		\$0	
GRAND TOTAL				\$545,179				\$0					\$0		\$0	

AGENDA ITEM
CITY COUNCIL MEETING DATE - JANUARY 18, 2011
CONSENT CALENDAR

DATE : December 17, 2010

TO : City Manager

FROM : Public Works and Community Development Director

SUBJECT : **CONTRACT FOR DESIGN AND CONSTRUCTION**
ADMINISTRATION OF THE WESTERN GATEWAY INTERMODAL
PROJECT

RECOMMENDATION:

Adopt a resolution approving a contract with Kimley-Horn and Associates, Inc. for the design and construction administration phases of the Western Gateway Intermodal Project.

EXECUTIVE SUMMARY:

On October 19, 2010, Council approved site plans for the Western Gateway Intermodal Project and directed staff to proceed with design, environmental clearance and construction of improvements. Pursuant to that direction, Staff is now asking Council to approve a contract for design and construction administration.

BUDGET INFORMATION:

Regional Measure 2 (Benicia-Martinez bridge toll) funding of \$3 million has been allocated for planning, design and construction of improvements at the two sites. Funding for the first phase (\$92,000 for site planning) has been expended. Funding for the design phase has been requested, and design will begin when the allocation has been received. Pursuant to a provision in the project request for proposals, Kimley-Horn and Associates, Inc. is the same consultant team to be utilized for preliminary design, final design and construction administration.

ENVIRONMENTAL REVIEW:

The Benicia Intermodal Facilities Project is categorically exempt from California Environmental Quality Act review under Guidelines Section 15301, which applies to activities that do not expand an existing use, as the project lies entirely within the existing public road right of way and involves minor improvements to provide enhanced parking and increased safety for bicyclists and pedestrians.

GENERAL PLAN:

Relevant Goals and Policies include:

- ❑ Goal 2.17 Provide an efficient, reliable, and convenient transit system
- ❑ Goal 2.20 Provide a balanced street system to serve automobiles, pedestrian, bicycles, and transit, balancing vehicle-flow improvements with multi-modal considerations
- ❑ Goal 2.28: Improve and maintain public facilities and services

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies:

- ❑ Strategic Issue #2: Protecting and Enhancing the Environment
 - Strategy #1: Reduce greenhouse gas emissions and energy consumption
 - Strategy #3: Pursue and adopt sustainable practices
 - Strategy #4: Protect air quality by pursuing multiple mass transit opportunities
- ❑ Strategic Issue #4: Preserving and Enhancing Infrastructure
 - Strategy #2: Increase use of mass transit
 - Action 2(a) Complete plans for and begin construction of park-and-ride facilities at City Park and W. Military at Southampton

BACKGROUND:

In 2004, voters passed Regional Measure 2 (RM2) raising the toll on bridges in the San Francisco Bay Area by \$1 in order to fund various transportation projects within the region that have been determined to reduce congestion or to make improvements to travel in the toll bridge corridors, as identified in SB 916. The funding is administered by the Metropolitan Transportation Commission (MTC) and in Solano County, by the Solano Transportation Authority (STA.)

STA Corridor Plans include existing and future regional bus stop and support facilities at Military West/Southampton Road and Military/First Street. The approved projects at these existing Route 78 bus stop sites are intended to enhance commuting for riders and encourage new passengers by providing amenities and safety features for pedestrians and bicyclists, as well as convenient parking.

On December 7, 2010, the City Council adopted a resolution authorizing the Public Works and Community Development Director to request an allocation of Regional Measure 2 funds to complete the Western Gateway Intermodal Project.

Approval of the consultant agreement with Kimley-Horn and Associates, Inc. for a not to exceed cost of \$570,179 (approximately 40% of which is for the Western

Gateway Intermodal Project) will cover completion of the design and construction administration for the project. Work will commence when funding is received from MTC.

Attachments:

- ❑ Western Gateway Intermodal Preliminary Project Plan
- ❑ Proposed Resolution
- ❑ Contract with Kimley-Horn and Associates, Inc.

Intermodal Improvements on Military West, West of Southampton (Post-Workshop)



Concept Plan



RESOLUTION NO. 11-

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
APPROVING A CONTRACT WITH KIMLEY-HORN AND ASSOCIATES, INC.
FOR A NOT TO EXCEED COST OF \$570,179 TO COMPLETE THE DESIGN
AND CONSTRUCTION ADMINISTRATION FOR THE WESTERN GATEWAY
INTERMODAL PROJECT**

WHEREAS, SB 916 (Chapter 715, Statutes 2004), commonly referred to as Regional Measure 2 (RM2), identified projects eligible to receive funding under the Regional Traffic Relief Plan; and

WHEREAS, the Metropolitan Transportation Commission (MTC) is responsible for funding projects eligible for RM2 funds, pursuant to Streets and Highways Code Section 30914(c) and (d); and

WHEREAS, MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for RM2 funding; and

WHEREAS, allocations to MTC must be submitted consistent with procedures and conditions as outlined in RM2 Policy and Procedures; and

WHEREAS, the City of Benicia is an eligible sponsor of transportation projects in RM2, Regional Traffic Relief Plan funds; and

WHEREAS the Benicia Intermodal (Western Gateway) Facilities Project is eligible for consideration in the Regional Traffic Relief Plan of RM2, as identified in California Streets and Highways Code Section 30914(c) or (d); and

WHEREAS the Benicia Intermodal Facilities project is categorically exempt from California Environmental Quality Act review under Guidelines Section 15301, which applies to activities that do not expand an existing use, as the project lies entirely within the existing public road right of way and involves minor improvements to provide enhanced parking and increased safety for bicyclists and pedestrians; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Benicia does hereby approve the contract with Kimley-Horn Associates, Inc. for a not to exceed amount of \$579,179 (approximately 40% of which is attributable to the Western Gateway portion of the project) for completion of the design and construction administration of the project.

* * * * *

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council on the 18th day of January, 2011 and adopted by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Alan Schwartzman, Vice-Mayor

Attest:

Lisa Wolfe, City Clerk

CONSULTANT AGREEMENT

This agreement ("Agreement") entered into _____, 2011, is between the City of Benicia, a municipal corporation (hereinafter "CITY"), and Kimley-Horn and Associates, Inc., a California corporation with its primary office located at 555 12th Street, Suite 1230, Oakland, CA 94607, (hereinafter "CONSULTANT") (collectively, "the Parties").

RECITALS

WHEREAS, CITY has determined it is necessary and desirable to secure certain technical services for the Benicia Intermodal Facilities project. The scope of work for said service (hereinafter "Project") is attached hereto as Exhibit "A" and is hereby incorporated by reference; and

WHEREAS, CONSULTANT is specially trained, experienced and competent to perform the services required by this agreement; and

WHEREAS, CONSULTANT represents it is qualified and willing to provide such services pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, IT IS AGREED by and between CITY and CONSULTANT as follows:

AGREEMENT

1. INCORPORATION OF RECITALS. The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

2. SCOPE OF SERVICE.

(a) Services to be Furnished. Subject to such policy direction and approvals as CITY through its staff may determine from time to time, CONSULTANT shall perform the services set forth in the Task Order labeled Exhibit A, which is attached hereto and incorporated herein by reference.

(b) Schedule for Performance. CONSULTANT shall perform the services identified in Exhibit A according to the completion schedule included in Exhibit A and as expeditiously as is consistent with generally accepted standards of professional skill and care, and the orderly progress of work.

(i) CONSULTANT and CITY agree that the completion schedule in Exhibit

A represents the best estimate of the schedule. CONSULTANT shall comply with completion dates noted in Exhibit A unless a written waiver is granted by the CITY's project manager.

(ii) CONSULTANT shall not be responsible for performance delays caused by others, or delays beyond CONSULTANT'S control, and such delays shall extend the times for performance of the work by CONSULTANT.

(c) Standard of Quality. All work performed by CONSULTANT under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in CONSULTANT'S field of expertise. CONSULTANT shall function as a technical advisor to CITY, and all of CONSULTANT'S activities under this Agreement shall be performed to the full satisfaction and approval of the Public Works and Community Development Director.

(d) Compliance With Laws. CONSULTANT shall comply with all applicable federal, state, and local laws, codes, ordinances, regulations, orders, and decrees. CONSULTANT represents and warrants to CITY that CONSULTANT shall, at its own cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and approvals which are legally required for CONSULTANT to practice its profession or are necessary and incident to the due and lawful prosecution of the services it performs under this Agreement. CONSULTANT shall maintain a City of Benicia business license. CONSULTANT shall at all times during the term of this Agreement, and for one year thereafter, provide written proof of such licenses, permits, insurance, and approvals upon request by CITY. CITY is not responsible or liable for CONSULTANT'S failure to comply with any or all of the requirements contained in this paragraph.

3. COMPENSATION.

(a) Schedule of Payment. The compensation to be paid by CITY to CONSULTANT for the services rendered hereunder shall be on a time and materials basis based upon the rate schedule in Exhibit B attached hereto and hereby incorporated by reference. The rate schedule in Exhibit B itemizes those standard and expected expenses for which CONSULTANT shall receive compensation. If CONSULTANT obtains CITY'S prior written approval from the Public Works and Community Development Director, CONSULTANT may be reimbursed for extraordinary costs incurred on the Project.

(b) Additional Services. CITY shall make no payment to CONSULTANT for any additional services unless such services and payment have been mutually agreed to and this Agreement has been formally amended in accordance with Section 7.

(i) Only the City Council can act on behalf of CITY to authorize CONSULTANT to perform additional services.

(ii) CONSULTANT shall not commence any work or services exceeding the Scope of Services in Section 2 without prior written authorization from CITY in accordance with Section 7. CONSULTANT'S failure to obtain a formal amendment to this Agreement authorizing additional services shall constitute a waiver of any and all right to compensation for such work or services.

(iii) If CONSULTANT believes that any work CITY has directed CONSULTANT to perform is beyond the scope of this Agreement and constitutes additional services, CONSULTANT shall promptly notify CITY of this fact before commencing the work. CITY shall make a determination as to whether such work is beyond the scope of this Agreement and constitutes additional services. If CITY finds that such work does constitute additional services, CITY and CONSULTANT shall execute a formal amendment to this Agreement, in accordance with Section 7, authorizing the additional services and stating the amount of any additional compensation to be paid.

(c) Invoicing and Payment. CONSULTANT shall submit monthly invoices for the services performed under this Agreement during the preceding period. Invoices or billings must be submitted in duplicate and must indicate the hours actually worked by each classification and employee name, as well as all other directly related costs by line item in accordance with Exhibit B. CITY shall approve or disapprove said invoice or billing within thirty (30) days following receipt thereof and shall pay all approved invoices and billings within thirty (30) days. Interest at the rate of one and one-half (1.5) percent per month will be charged on all past due amounts starting thirty (30) days after the invoice date, unless not permitted by law, in which case interest will be charged at the highest amount permitted by law. Payments will be credited first to interest, and then to principal.

4. PRODUCT REVIEW AND COMMENT. CONSULTANT shall provide CITY with at least two (2) copies of each product described in Exhibit A. Upon the completion of each product, CONSULTANT shall be available to meet with CITY. If additional review and/or revision is required by CITY, CITY shall conduct reviews in a timely manner.

5. TERM OF AGREEMENT. This Agreement shall be effective immediately upon the signatures of both Parties and shall remain in effect until completed, amended pursuant to Section 7, or terminated pursuant to Section 6.

6. TERMINATION:

(a) CITY shall have the right to terminate this Agreement for any reason whatsoever at any time by serving upon CONSULTANT written notice of termination. The Agreement shall terminate three (3) business days after notice of termination is given. The notice shall be deemed given on the date it is deposited in the U.S. mail, certified, postage prepaid, addressed to

CONSULTANT at the address indicated in Section 11.

(b) If CITY issues a notice of termination,

(i) CONSULTANT shall immediately cease rendering services pursuant to this Agreement;

(ii) CONSULTANT shall deliver to CITY copies of all writings, whether or not completed, which were prepared by CONSULTANT, its employees, or its subcontractors, if any, pursuant to this Agreement. For purposes of this Agreement, the term "writings" shall include, but not be limited to, handwriting, typewriting, computer files and records, drawings, blueprints, printing, photostating, photographs, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof;

(iii) CITY shall pay CONSULTANT for work actually performed up to the effective date of the notice of termination, subject to the limitations prescribed by Section 3 of this Agreement, less any compensation to CITY for damages suffered as a result of CONSULTANT'S failure to comply with the terms of this Agreement. Such payment shall be in accordance with Exhibit B. However, if this Agreement is terminated for fault of CONSULTANT, CITY shall be obligated to compensate CONSULTANT only for that portion of CONSULTANT'S services which are of benefit to CITY.

7. AMENDMENTS. Modifications or amendments to the terms of this Agreement shall be in writing and executed by both Parties.

8. NONDISCLOSURE OF CONFIDENTIAL INFORMATION. CONSULTANT shall not, either during or after the term of this Agreement, disclose to any third party any confidential information relative to the work of CITY without the prior written consent of CITY.

9. INSPECTION. CITY representatives shall, with reasonable notice, have access to the work and work records, including time records, for purposes of inspecting same and determining that the work is being performed in accordance with the terms of this Agreement. Inspections by CITY do not in any way relieve or minimize the responsibility of CONSULTANT to comply with this Agreement and all applicable laws.

10. INDEPENDENT CONTRACTOR. In the performance of the services in this Agreement, CONSULTANT is an independent contractor and is not an agent or employee of CITY. CONSULTANT, its officers, employees, agents, and subcontractors, if any, shall have no power to bind or commit CITY to any decision or course of action, and shall not represent to any person or business that they have such power. CONSULTANT has and shall retain the right to exercise

full control of the supervision of the services and over the employment, direction, compensation, and discharge of all persons assisting CONSULTANT in the performance of said service hereunder. CONSULTANT shall be solely responsible for all matters relating to the payment of its employees, including compliance with social security and income tax withholding, workers' compensation insurance, and all other regulations governing such matters.

11. NOTICE. Any notices or other communications to be given to either party pursuant to this Agreement shall be in writing and delivered personally or by certified U.S. mail, postage prepaid, addressed to the party at the address set forth below. Either party may change its address for notices by complying with the notice procedures in this Section. Notice so mailed shall be deemed delivered three (3) business days after deposit in the U.S. mail. Nothing shall preclude the giving of notice by facsimile machine provided, however, that notice by facsimile machine shall be followed by notice deposited in the U.S. mail as discussed above.

If to CITY: Charlie Knox
Public Works and Community Development Director
City of Benicia
250 East L Street
Benicia, CA 94510

If to CONSULTANT: Felicia Dean, PE, LEED AP
Kimley-Horn and Associates, Inc.
555 12th Street, Suite 1230
Oakland, CA 94607

12. OWNERSHIP OF MATERIALS. CITY is the owner of all records and information created, produced, or generated as part of the services performed under this Agreement. At any time during the term of this Agreement, at the request of CITY, CONSULTANT shall deliver to CITY all writings, records, and information created or maintained pursuant to this Agreement. In addition, CONSULTANT shall not use any of the writing, records, or information generated for the Project under this Agreement for any other work without CITY's consent.

13. EMPLOYEES; ASSIGNMENT; SUBCONTRACTING.

(a) Employees. CONSULTANT shall provide properly skilled professional and technical personnel to perform all services required by this Agreement. CONSULTANT shall not engage the services of any person(s) now employed by CITY without CITY's prior express written consent.

(b) Assignment. CONSULTANT shall not assign, delegate, or transfer its duties, responsibilities, or interests in this Agreement without the prior express written consent of CITY. Any attempted assignment without such approval shall be void and, at CITY's option, shall terminate this Agreement and any license or privilege granted herein.

(c) Subcontracting. CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the prior express written consent of CITY. If CITY consents to CONSULTANT'S hiring of subcontractors, CONSULTANT shall provide to CITY copies of each and every subcontract prior to its execution. All subcontractors are deemed to be employees of CONSULTANT, and CONSULTANT agrees to be responsible for their performance. CONSULTANT shall give its personal attention to the fulfillment of the provisions of this Agreement by all of its employees and subcontractors, if any, and shall keep the work under its control.

14. BINDING AGREEMENT. This Agreement shall bind the successors in interest, legal representatives, and permitted assigns of CITY and CONSULTANT in the same manner as if they were expressly named herein.

15. WAIVER.

(a) Effect of Waiver. Waiver by either party of any default, breach, or condition precedent shall not be construed as a waiver of any other default, breach, or condition precedent or any other right under this Agreement.

(b) No Implied Waivers. The failure of either party at any time to require performance by the other party of any provision hereof shall not affect in any way the right to require such performance at a later time.

16. NONDISCRIMINATION.

(a) Consultant shall not discriminate in the conduct of the work under this Agreement against any employee, applicant for employment, or volunteer on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited basis will not be tolerated.

(b) Consistent with City's policy that harassment and discrimination are unacceptable employer/employee conduct, CONSULTANT agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by CONSULTANT or CONSULTANT'S employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited basis will not be tolerated. CONSULTANT agrees that any and all violation of this provision shall constitute a material breach of the Agreement.

17. INDEMNITY. CONSULTANT specifically agrees to indemnify, defend, and hold harmless CITY, its officers, agents, and employees from and against any and all actions, claims, demands, losses, expenses including attorneys' fees, damages, and liabilities resulting from injury or death of a person or injury to property, arising out of, pertaining to, or relating to the

negligence, recklessness, or willful misconduct of CONSULTANT, however caused, regardless of any passive negligence of the CITY, excepting only such injury or death as may be caused by the sole negligence or willful misconduct of the CITY. The CONSULTANT shall pay all costs that may be incurred by CITY in enforcing this indemnity, including reasonable attorneys' fees.

18. INSURANCE.

(a) Required Coverage. CONSULTANT, at its sole cost and expense, shall obtain and maintain in full force and effect throughout the entire term of this Agreement the following described insurance coverage. This coverage shall insure not only CONSULTANT, but also, with the exception of workers' compensation and employer's liability insurance, shall name as additional insureds CITY, its officers, agents, employees, and volunteers, and each of them:

<u>Policy</u>	<u>Minimum Limits of Coverage</u>
(i) Workers' Compensation	Statutory
(ii) Comprehensive Automobile Insurance Services Office, form #CA 0001 (Ed 1/87 covering auto liability code 1 (any auto))	Bodily Injury/Property Damage \$1,000,000 each accident
(iii) General Liability Insurance Services Office Commercial General Liability coverage on an occurrence basis (occurrence form CG 0001)	\$1,000,000 per occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit shall apply separately to this Project/location, the general aggregate limit shall be twice the required occurrence limit
(iv) Errors and Omissions/ Professional's Liability, errors and omissions liability insurance appropriate to the CONSULTANT's profession.	Generally \$1,000,000 per occurrence

(b) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by CITY.

(c) Required Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (i) For any claims related to this Project, the CONSULTANT'S insurance

coverage shall be primary insurance as respects CITY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by CITY, its officers, officials, employees, or volunteers shall be in excess of the CONSULTANT'S insurance and shall not contribute with it;

(ii) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to CITY, its officers, officials, employees, or volunteers;

(iii) The CONSULTANT'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability;

(iv) Each insurance policy required by this Section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after giving CITY 30 days' prior written notice by certified mail, return receipt requested.

(d) Acceptability of Insurers. CONSULTANT shall place insurance with insurers with a current A.M. Best's rating of no less than [A:VII] unless CONSULTANT requests and obtains CITY'S express written consent to the contrary.

(e) Verification of Coverage. CONSULTANT must provide complete, certified copies of all required insurance policies, including original endorsements affecting the coverage required by these specifications. The endorsements are to be signed by a person authorized by CONSULTANT'S insurer to bind coverage on its behalf. All endorsements are to be received and approved by CITY before work commences.

19. WORKERS' COMPENSATION.

(a) Covenant to Provide. CONSULTANT warrants that it is aware of the provisions of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code. CONSULTANT further agrees that it will comply with such provisions before commencing the performance of the work under this Agreement.

(b) Waiver of Subrogation. CONSULTANT and CONSULTANT'S insurance company agree to waive all rights of subrogation against CITY, its elected or appointed officials, agents, and employees for losses paid under CONSULTANT'S workers' compensation insurance policy which arise from the work performed by CONSULTANT for CITY.

20. FINANCIAL RECORDS. CONSULTANT shall retain all financial records, including but not limited to documents, reports, books, and accounting records which pertain to any work

or transaction performed pursuant to this Agreement for four (4) years after the expiration of this Agreement. CITY or any of its duly authorized representatives shall, with reasonable notice, have access to and the right to examine, audit, and copy such records.

21. CONFLICT OF INTEREST. CONSULTANT shall exercise reasonable care and diligence to prevent any actions or conditions which could result in a conflict with CITY'S interest. During the term of this Agreement, CONSULTANT shall not accept any employment or engage in any consulting work which creates a conflict of interest with CITY or in any way compromises the services to be performed under this Agreement. CONSULTANT shall immediately notify CITY of any and all violations of this Section upon becoming aware of such violation.

22. TIME OF THE ESSENCE. CONSULTANT understands and agrees that time is of the essence in the completion of the work and services described in Section 2.

23. SEVERABILITY. If any court of competent jurisdiction or subsequent preemptive legislation holds or renders any of the provisions of this Agreement unenforceable or invalid, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected.

24. GOVERNING LAW AND CHOICE OF FORUM. This Agreement shall be administered and interpreted under California law as if written by both parties. Any litigation arising from this Agreement shall be brought in the Superior Court of Solano County.

25. COSTS AND ATTORNEYS' FEES. If either party commences any legal action against the other party arising out of this Agreement or the performance thereof, the prevailing party in such action may recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees. In any action seeking recovery of monetary damages, the plaintiff shall not be considered to be the prevailing party unless it recovers at least 66% of the dollar amount requested in the complaint's prayer for relief.

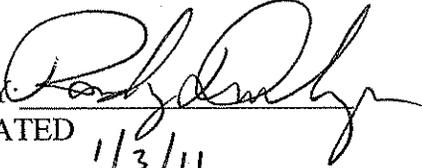
26. INTEGRATION. This Agreement represents the entire understanding of CITY and CONSULTANT as to those matters contained herein and supersedes all prior negotiations, representations, or agreements, both written and oral. This Agreement may not be modified or altered except in accordance with Section 7.

[Signatures on next page]

Executed by CITY and CONSULTANT on the date shown next to their respective signatures.
The effective date of this Agreement shall be the date of execution by the CITY as shown below.

Kimley-Horn and Associates, Inc.

CITY OF BENICIA

BY: 
DATED 1/3/11

BY: _____
Brad Kilger, City Manager
DATED:

RECOMMENDED FOR APPROVAL

Charlie Knox
Public Works and Community Development Director

APPROVED AS TO FORM

Heather McLaughlin
City Attorney

06/30/03

Appendix A: Scope of Work

2. Task 2 - 35-Percent Design

This work will incorporate the features from the Conceptual Design into 35percent plans and specifications.

2.0 Concept Design: Intersection Improvements at First Street /Military East

- a) Assist City staff with CEQA documentation, assumes a Negative Declaration or Mitigated Negative Declaration will be prepared.
- b) Provide traffic analysis of intersection of First Street and Military East to analyze impact of elimination of dedicated right turn lane and pedestrian movements.
- c) Provide alternative design sketches of potential Plaza area based on traffic lane configuration options at Military East westbound traffic at intersection with First Street
- d) Present findings of "b" and "c" above to Traffic, Pedestrian & Bicycle Safety Committee.
- e) Coordinate with Tree Committee regarding selection of tree species for landscape areas.

2.1 General

- a) Provide necessary surveying and control for design and soil-boring locations (if required).
- b) Field locate existing utilities including potholing if necessary.
- c) Provide mapping and/or staking of vegetation or other natural features as required by landscaping needs.
- d) Develop design and operational criteria for proposed bus stops and park-and-ride facilities.
- e) Determine modifications required to parking lots, streets, sidewalks, traffic controls, transit services, landscaping, and bike lanes to accommodate project.
- f) Determine operational and maintenance issues and make recommendations.
- g) Determine traffic control, coordination issues, and construction impacts.
- h) Develop and evaluate alternatives for construction staging and sequencing.
- i) Develop and evaluate alternatives to enable public streets and affected properties to operate normally during construction.
- j) Prepare preliminary layout and profile designs.
- k) Prepare preliminary construction cost estimate.
- l) Prepare preliminary construction schedule.
- m) Incorporate results from Conceptual Design Phase.
- n) Participate in 2 City staff review meetings.
- o) Compile data from this section into 35-percent Design Report.
- p) Proceed with Final Design after City review and approval of 35 percent Design Report.

2.1.1 Deliverables

- a) 35-percent Design Report. Submit 6 A-size copies of each report for draft review; Submit 2 signed and sealed copies of final report(s) and one Adobe portable document format (.pdf) version.

3. Task 3-100-percent Design

3.1 Final Design

3.1.1 General

- a) Provide necessary surveying and control for design.
- b) Develop Contract Documents, including general specifications provided by City, technical specifications and plan sheets prepared by Consultant, and cost estimates.
- c) Incorporate design recommendations from 35-percent Design Report into plans and specifications.
- d) Prepare necessary non-resource agency permit applications such as utility company crossing permission.
- e) Participate in Design Review process.
- f) Develop detailed construction cost estimate.

3.1.2 60-percent Progress Print

- a) Submit Progress Print (60-percent) plans, specifications, and cost estimate documents for review.

3.1.3 Draft/Final (90-percent) Plans, Specifications, and Cost Estimate

- a) Submit Draft/Final (90-percent) plans, specifications, and cost estimate documents for review.
- b) Include response to City comments made at 60% progress print.

3.1.4 Final (100-percent) Plans, Specifications, and Cost Estimate

- a) Submit Final (100-percent) plans, specifications, and cost estimate documents for advertisement.
- b) Include response to City comments made at 90% draft/final PS&E.

3.1.5 Deliverables

- a) 60-percent Progress Print. Provide 6 hard copies each of D-size plans, specifications, and cost estimate.

- b) Draft/Final PS&E. Provide 6 hard copies each of plans, specifications, and cost estimate.
- c) Final PS&E (Contract Documents). Provide 10 hard copies each of D-size original signed and sealed plans and A-size original signed and sealed specifications and one Adobe portable document format (.pdf) version.

3.2 Advertisement/Award Phase

3.2.1 Assumptions

- a) City will provide duplication services for Contract Documents.
- b) City will sell Contract Documents to interested bidders and maintain accurate planholders list.
- c) City will transmit addenda to Contract Documents to planholders.

3.2.2 Advertisement

- a) Provide bidding assistance, including preparation of verbal and written responses to questions received from contractors and suppliers.
- b) Prepare plans and specifications addenda and transmit to City.
- c) Attend 2 prebid conferences and site visits including preparing meeting notes.

3.2.3 Award/Post-Award/Pre-Notice to Proceed

- a) Review and evaluate properly received bids.
- b) Prepare Bid Results Memorandum including review of bid results and recommendation.
- c) Provide assistance to City staff during preparation of city council agenda item awarding construction contract or rejecting bids.
- d) Provide bid protest assistance to City staff.
- e) Prepare electronic and reproducible Conformed Contract Documents incorporating addenda items after construction contract awarded.

3.2.4 Deliverables

- a) Bid Results Memorandum. Provide Adobe portable document format (.pdf) version.
- b) Conformed Contract Documents. Provide 10 bound sets to City and one Adobe portable document format (.pdf) version.

4. Task 4-Project Management

4.1 General

- a) Manage efforts of Consultant engineering team members and subconsultants, assign manpower, delegate responsibilities, review work progress, and otherwise direct progress of work to ensure satisfactory completion of work, on schedule and within budget.
- b) Conduct monthly progress meeting.
- c) Prepare Monthly Project Report.
- d) Submit Monthly Progress Payment request. Include copy of Monthly Progress Report.
- e) Prepare financial plan-related reports and documentation and assist in their submittal, including but not limited to funding allocation requests and invoicing.
- f) Prepare, monitor, and update project design schedule.
- g) Assist City with public information.

4.1.1 Deliverables

- a) Monthly Project Report. Provide Adobe portable document format (.pdf) version.
- b) Monthly Progress Payment. Provide one hardcopy.

5. Task 5-Construction Management and Inspection

Upon the successful award of the construction contract by the Benicia City Council, work may be authorized to perform construction management and inspection services for the project.

5.1 Contract Administration

5.1.1 Project Administration

- a) Provide full project administration and act as project manager on behalf of City.
- b) Coordinate all activities with City's Project Manager.

5.1.2 Project Meetings

- a) Conduct 1 pre-construction meeting.
- b) Conduct weekly construction meetings with contractor field representatives, key subcontractors, city and transit agency representatives, consultant field representatives, key subconsultants, and key testing firms.

- c) Conduct monthly project meetings with those listed above plus contractor management, city management, and consultant management representatives.

5.1.3 Project Recordkeeping

- a) Maintain detailed project records including daily logs, inspection reports, testing/certification, photos, measurement of quantities, schedules, weekly and monthly meeting notes, all written correspondence and documentation of all major decisions and actions.

5.1.4 Monthly Reports

- a) Prepare and submit monthly progress reports that include construction progress summary (contract versus actual) and photos, look-ahead schedule, financial summary, change order summary, pending requests for information (RFI) and contract change orders (CCOs), pending claims, summary of inspection logs and key decisions and actions.

5.1.5 Monthly Progress Payments

- a) Review and approve contractor's construction schedule, updates, and revision in accordance with contract documents and with approval of City Project Manager.
- b) Evaluate monthly progress payment requests from contractor and recommend payment as part of monthly reports.
- c) Prepare draft claim form for City processing and approval.
- d) Track actual and estimated future expenditures to project budget.
Report variations in monthly report.

5.1.6 Review, Negotiate and Recommend Contract Changes

- a) Review and respond to RFI submitted by contractor concerning construction issues. b) Review and consult with City Project Manager on RFI relating to design issues before responding to contractor.

- c) Prepare potential CCOs and in conjunction with City Project Manager, determine changed conditions, define scope, prepare independent cost estimates, negotiate with contractor, prepare and process change orders for approval by City Project Manager and for incorporation into construction contract.

5.1.7 Design Clarifications and Shop Drawings

- a) Coordinate and manage clarification and interpretation process on construction drawings and specifications between contractor, City Project Manager, design engineer (when applicable) and project inspector.
- b) Coordinate and manage shop drawing and submittal review process between City Project Manager, design engineer (when applicable), project inspector, contractor and subcontractors/suppliers and their discipline engineers.

5.1.8 Regulatory Permit Compliance

- a) Monitor contractor's compliance with all construction permit requirements and regulatory agency permits including those issued by City of Benicia, transit agencies, and Regional Water Quality Control Board.
- b) Recommend course of action to City Project Manager if contractor is not meeting permit requirements.

5.1.9 Mitigation Monitoring and Reporting Program

- a) Monitor contractor's compliance with project environmental requirements.
- b) Recommend course of action to City Project Manager if contractor is not meeting environmental compliance requirements.

5.1.10 Claims Management

- a) Identify potential claims and make recommendations to resolve them.
- b) Provide prompt response for actual claims filed by contractor.

5.2 Records Management

5.2.1 Information Management

- a) Utilize a computerized integrated software package to control and document submittals, schedules, cost issues, meeting notes, log change orders, log RFI, and include other critical information to manage communications and develop progress and summary reports on project.

5.2.2 As-Builts

- a) Monitor as-built record drawings to be maintained by the contractor on a daily basis.

- b) Maintain a clean record copy for transfer to final computerized project drawings.

5.2.3 Project Files

- a) Keep a complete file of project to include all documentation generated on this project.
- b) Provide City with a file index and access to files at any time during project.
- c) Provide all files to City as final record at project completion.

5.3 Field Inspection Services

5.3.1 Field Inspection

- a) Provide construction Field Inspector for every working day during project duration with flextime-oriented/task-loaded schedule.

5.3.2 Video/Photo Documentation

- a) Prepare a video of initial site conditions before contractor begins work on project.
- b) Accompany visual documentation with a verbal recording of existing conditions that may be used to settle any claims by contractor and affected property owners regarding final project site conditions.
- c) Take photographs during construction to demonstrate progress.
- d) Include photographs and video material with monthly reports.

5.3.3 Field Coordination

- a) Coordinate and document all field changes to drawings and specifications.
- b) Coordinate specialty services conducted by structural, geotechnical, electrical, environmental and other subconsultants required on this project.

5.3.4 Inspection Reports

- a) Prepare daily inspection reports, construction deficiency lists, and prepare a weekly inspection report (including compliance tests and specialty inspections) to be presented at weekly and monthly meetings.

5.4 Testing and Specialty Services

A subconsultant will provide each of these services with costs included as part of this RFP.

5.4.1 Compliance Testing and Specialty Services

- a) Provide environmental services including inspections and project status reports in accordance with environmental conditions of approval on this project.
- b) Provide geotechnical services including review and approval of retaining wall/shoring plans, excavation/backfill methods, and confirmation of soils report requirements.
- c) Provide testing lab services to conduct concrete testing, structural testing, and other specialty inspection services as required by contract documents.

5.5 Project Closeout

5.5.1 Substantial and Final Completion

- a) Schedule and conduct substantial completion inspections, issue preliminary and final punchlist.
- b) Recommend final acceptance by City after contractor completes all punchlist items.

5.5.2 Final Report

- a) Prepare a final report that includes a summary of work performed, change order summary, project cost summary, schedule analysis and summary, completed punch list summary, closeout and acceptance documentation, and final resolution of any claims or disputed work on project.

5.5.3 Project Documents

- a) Provide a complete set of properly indexed and filed records for project, as-built drawings and specifications, an indexed file with copies of all equipment warranties and O&M manuals.
- b) Update those relevant sections of WTP) O&M manuals modified by project.

5.5.4 As-Built Drawings

- a) Prepare record drawings and specifications for completed project (as-builts) based on markups by Contractor and Field Inspector.
- b) Submit reproducible Mylar drawings.
- c) Submit electronic drawing files in either AutoCAD or MicroStation format.
- d) Submit as-built specifications in Adobe portable document format (.pdf).
- e) Provide 5 bound copies of record drawings and specifications.

5.6 Project Coordination

5.6.1 Public Outreach Support

a) Consultant shall provide support materials (drawings, summary reports, etc.) as necessary for City to conduct monthly public meetings during construction phase and provide a representative to attend when requested by City.

5.6.2 Coordinate Subconsultant Services

a) Coordinate subconsultant services required on this project including but not limited to design engineers, testing services, geotechnical engineering, and environmental inspections. Include costs for these services in this task.

6. Task 6 - Other Services as Requested

Perform other project-related professional services if requested in writing by City and after acceptance of a cost proposal.

Benicia Intermodal Facilities - Level of Effort for Professional Services 11/18/2010

Description	Krimley-Horn and Associates				Chirarriletti Associates				Community Design + Architecture				Mountain Pacific Surveys, Inc.		Project Team	
	SP/OC	PM/QA	Sr./Prof.	Total Cost	Res Eng	Consult Resp	Total Hours	Total Cost	Prtn./PM	Assoc	Designer	Total Hours	Total Cost	Total Hours	Total Cost	
TASK 2.1 - 25% Design	2	18	2	\$22,858				\$797					\$12,700	70	\$56,095	
Coordination with Surveyor/Topo and R/W Survey														14	\$14,540	
CEQA review														40	\$2,718	
Trade Analysis, Right-Turn movement, Plaza review														40	\$4,580	
Design Development (50%)														40	\$15,860	
Preliminary Layout and Profile Design														40	\$5,120	
Recommendations for Construction Staging														40	\$1,407	
Operational and Maintenance Issues														40	\$1,240	
Preliminary Estimates of Probable Construction Cost														40	\$770	
Preliminary Project Schedule														40	\$7,890	
35% Design Report														40	\$1,840	
One (1) Traffic, Pedestrian & Bicycle Safety Comm Mtg														40	\$550	
One (1) Meeting w/ Tree Committee														40	\$1,480	
Two Meetings w/ City Staff (in Benicia)														40	\$4,480	
TASK 3 - Final Design Advise and Award	8	15	8	\$159,470				\$13,976					\$61,890	152	\$234,336	
TASK 3.1 - Final Design	1	16	4	\$140,465				\$7,952					\$52,670	175	\$202,710	
Follow Up Coordination with Surveyor														15	\$1,550	
Contract Drawings (60%)														249	\$27,900	
Estimate of Probable Construction Cost (60%)														67	\$6,460	
Technical Specifications - CSI Format (60%)														69	\$7,440	
Design Review Process (Assumes 2 mths)														53	\$7,210	
20% Design - Constructability Review														10	\$1,595	
Contract Drawings (90%)														94	\$38,080	
Estimate of Probable Construction Cost (90%)														43	\$4,700	
Technical Specifications - CSI Format (90%)														45	\$4,970	
Contingency Budget for City authorized Overtime														45	\$5,000	
Contract Drawings (100%)														227	\$29,390	
Estimate of Probable Construction Cost (100%)														29	\$3,615	
Technical Specifications - CSI Format (100%)														34	\$2,460	
Traffic Signal Modification (2 signals)														235	\$36,280	
Street Lighting														105	\$15,760	
TASK 3.2 - Advertise and Award	1	1	6	\$10,025				\$12,387					\$9,270	292	\$31,626	
Advertisement (RFI)														42	\$11,110	
Provide Addenda to Plans and Specifications														50	\$5,412	
Attendance of one (1) Pre-bid Conf (incl. site visit)														25	\$2,098	
Award/Post-Award/Pre-Notice to Proceed														14	\$2,865	
Review of Received Bids														20	\$2,415	
Bid Memorandum														24	\$3,468	
Assistance to City Staff														60	\$6,640	
Conformed Contract Documents														172	\$42,090	
TASK 4 - Project Management	30	0	40	\$35,880				\$0					\$6,270	142	\$21,780	
Ongoing Project Coordination with subs														30	\$5,160	
Monthly Progress Meetings (assumes 3 mths in Benicia)														30	\$15,150	
Monthly Progress Reports														927	\$139,658	
TASK 5 - Construction Management and Inspection	0	0	4	\$19,115				\$92,973					\$15,870	0	\$0	
Contract Admin, CM and Inspection Submittal														656	\$87,272	
Attend One (1) Pre-Construction Meeting														8	\$1,180	
Attend Weekly Project Meetings														21	\$2,175	
Attend Monthly Construction Meetings (up to 3 meetings)														17	\$2,285	
Monthly Project Reports														60	\$6,960	
Review and Respond to RFIs														40	\$4,410	
Design Clarifications and Shop Drawings														0	\$0	
Records Management Assistance														0	\$0	
Field Inspection Service														0	\$0	
Field Inspections Assistance (up to 3 field inspection visits)														16	\$2,080	
Testing and Specialty Services Assistance														0	\$0	
Participate in Substantial Completion Inspection														11	\$1,610	
Other Project Closeout Assistance														28	\$3,040	
Project Coordination														0	\$0	
Public Outreach Support														42	\$4,855	
Contingency Budget for City authorized Overtime														0	\$0	
Construction Staking														0	\$0	
TASK 6 - Optional Items	154	151	523	\$245,803	240	512	752	\$107,746	21	287	711	1019	\$104,220	0	\$0	
Optional Services														0	\$0	
Hours														3,141	\$482,179	
Rate															\$153.86	
Expenses & Reimbursables															\$0.00	
PROJ TOTAL															\$1,700,000	
Design Contingency/Optional Services															\$26,400	
Concept Phase Additional Services															\$0.00	
GRAND TOTAL															\$1,726,400	

AGENDA ITEM
CITY COUNCIL MEETING DATE - JANUARY 18, 2011
CONSENT CALENDAR

DATE : December 21, 2010

TO : City Manager

FROM : Public Works and Community Development Director

SUBJECT : **FORMATION OF AN AD-HOC TASK FORCE TO RECOMMEND BIKE RACKS AND LOCATIONS**

RECOMMENDATION:

Adopt a resolution forming an Ad-Hoc task force with two members each from City staff, the Historic Preservation Review Commission (HPRC), Community Sustainability Commission (CSC), Parks, Recreation and Cemetery Commission (PRC) and inviting two representatives each from the Main Street Design Committee, Benicia Bicycle Club, and Chamber of Commerce, to hold up to two public meetings to formulate a recommendation to the City Council regarding bicycle rack installation.

EXECUTIVE SUMMARY:

Pursuant to the May 4, 2010 amendment of the 2008 Valero/Good Neighbor Steering Committee (GNSC) Agreement, the City has \$30,000 to purchase and install racks to promote the use of bicycles. Following the installation of nine stainless steel horseshoe-shaped racks along First Street, HPRC has recommended those be removed and that a task force be formed to consider appropriate locations and designs for bicycle racks.

BUDGET INFORMATION:

The amended 2008 Valero/GNSC agreement allocates \$30,000 for purchase and installation of bicycle racks in Benicia.

Of that amount, \$19,000 has been expended to date, which includes the purchase of 22 horseshoe and 4 tandem racks. The cost to return 13 horseshoe and 4 tandem racks, would be \$6,500. The 9 horseshoe racks already installed cannot be returned. It would cost \$1,900 to relocate the 9 horseshoe racks already installed, which cannot be returned.

GENERAL PLAN:

Relevant General Plan Goals:

- Goal 2.21: Encourage Benicia residents and employees to use an

alternative to the single-occupant automobile.

- Policy 2.21.1: Provide and promote a range of travel alternatives to the use of the private automobile.
- ❑ Goal 2.25: Improve auto and non-auto access into the Old Arsenal, without disrupting existing neighborhood, historic, and environmental values.
- ❑ Goal 2.28: Improve and maintain public facilities and services.
- ❑ Goal 3.1: Maintain and enhance Benicia's historic character.
 - Policy 3.1.4: Promote the preservation and enhancement of historic neighborhoods, commercial areas, and governmental districts.

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies:

- ❑ Strategic Issue #2: Protecting and Enhancing the Environment
 - Strategy #1: Reduce greenhouse gas emissions and energy consumption
- ❑ Strategic Issue #4: Preserving and Enhancing Infrastructure
 - Strategy #1: Provide safe, functional and complete streets

CLIMATE ACTION PLAN:

Relevant Climate Action Plan Objective:

- ❑ Objective T-3: Increase Bicycle and Pedestrian Mode Share by 2020
 - Strategy T-3.1: Increase Bicycle Infrastructure at City Facilities

BACKGROUND:

On May 4, 2010, the City Council approved an amendment to the July 10, 2008 Valero/GNSC agreement. One of the provisions in lieu of a portion of attorney's fees to the GNSC is allocation of \$30,000 for the purchase and installation of bicycle racks (or other storage) throughout the City to promote the use of bicycles. The provision also stipulates that each rack or storage unit shall include a placard indicating the unit was provided by the GNSC.

City staff researched various bicycle rack options and models, as well as the cost to purchase and install them. Staff recommended stainless steel racks, four tandem racks in the shape of a bicycle and 22 in the shape of a horseshoe. Proposed locations for the racks were presented to the CSC on September 20, 2010.

Staff then prepared a contract for the purchase and installation of these racks. Following the installation of nine of the horseshoe racks on First Street, the City has received negative feedback from the public and HPRC members. HPRC considered the issue at its December 16, 2010 meeting and recommended the formation of a task force made up of members of HPRC, CSC, the Main Street

Design Committee, the Benicia Bicycle Club, and Chamber of Commerce. The task force would be charged with selecting racks and locations that blend with the historic character of Benicia. In addition, the task force would make a design recommendation regarding placards acknowledging the GNSC. The City also recommends including members from the Parks, Recreation and Cemetery Commission.

This task force would meet once or twice, with ample public notice, and forward its recommendation to the City Council.

During the HPRC meeting, it was noted that splatter from welding the bolts to prevent vandalism, is rusting. The rust is being removed, and if/when the racks are relocated, the bolts will be stripped instead of welded to discourage vandalism.

Attachments:

- ❑ Proposed Resolution
- ❑ Draft Minutes of December 16, 2010 Historic Preservation Review Commission meeting
- ❑ Memo dated December 10, 2010 to Historic Preservation Review Commission (including Minutes and Staff Report from September 20, 2010 Community Sustainability Commission Meeting)

RESOLUTION NO. 11-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
APPROVING THE FORMATION OF A BICYCLE RACK TASK FORCE**

WHEREAS, pursuant to the May 4, 2010 amendment of the 2008 Valero/Good Neighbor Steering Committee Agreement, the City shall utilize settlement funds in the amount of \$30,000 to purchase and install bicycle racks throughout the City in order to promote the use of bicycles; and

WHEREAS, Engineering Division staff presented information on bike rack styles and locations to the Community Sustainability Commission at a regular meeting on September 20, 2010; and

WHEREAS, based on input from the Community Sustainability Commission, the bicycle racks were installed; and

WHEREAS, feedback was received on the style and location of the bicycle racks, and additional information was presented to the Historic Preservation Review Commission at a regular meeting on December 16, 2010; and

WHEREAS, the Historic Preservation Review Commission reviewed the information and recommended the formation of a task force to select the final design and locations for the bike racks; and

WHEREAS, the City Council considered this recommendation at a regular meeting on January 18, 2011 regular meeting.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby adopt a resolution forming a Bicycle Rack Task Force, meeting once or twice, made up of City staff, two members of the Historic Preservation Review Commission, two members of the Community Sustainability Commission, two members of the Parks, Recreation and Cemetery Commission, and two members of the Benicia Main Street Design Committee, with input from the Benicia Bicycle Club, Chamber of Commerce, and members of the public.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of the Council held on the 18th of January, 2011 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



**BENICIA HISTORIC PRESERVATION REVIEW COMMISSION
REGULAR MEETING MINUTES**

**City Hall Commission Room
Thursday, December 16, 2010
6:30 P.M.**

I. OPENING OF MEETING

- A. Pledge of Allegiance**
- B. Roll Call of Commissioners**

Present: Commissioners Crompton, Mang, Taagepera, Van Landschoot,
White and Chair Haughey

Absent: Commissioner McKee (excused)

Staff Present:

Melissa Morton, Land Use & Engineering Manager

Doug Vu, Associate Planner

Gina Eleccion, Management Analyst

Mike Roberts, Senior Civil Engineer

- C. Reference to Fundamental Rights of Public** - A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to this meeting room per Section 4.04.030 of the City of Benicia's Open Government Ordinance.

II. ADOPTION OF AGENDA:

On motion of Commissioner White, seconded by Commissioner Taagepera, the agenda was adopted by the following vote:

Ayes: Commissioners Crompton, Mang, Taagepera, Van Landschoot, White
and Chair Haughey

Noes: None

Absent: Commissioner McKee

Abstain: None

III. OPPORTUNITY FOR PUBLIC COMMENT

A. WRITTEN COMMENT

None.

B. PUBLIC COMMENT

None.

IV. PRESENTATIONS

A. HISTORIC CONTEXT STATEMENTS – State Office of Historic Preservation Training Session

Guest Speaker: Marie Nelson, State Historian II, Surveys & Contexts/CLG Coordinator

Gina Eleccion introduced Marie Nelson, State Historian, and thanked her for her assistance as the CLG Coordinator from the State Office of Historic Preservation. She also introduced Jonathan Lammers, consultant from Page & Turnbull, recognizing his work on the historic context project.

Marie Nelson gave an overview of historic context statements, and explained what a valuable planning tool context statements are. She referenced the Secretary of the Interior Standards for Archaeology and Preservation. She referenced the seven aspects of integrity. Gina Eleccion noted that the seven aspects of integrity are included on page eight of Benicia’s context statement.

Commissioners and the public asked questions about the application of the context statement. Marie Nelson and Jonathan Lammers commented on the use in designation, listing, evaluation, heritage tourism, project review, and development of design guidelines. There was discussion on the Arsenal and landscape settings, historic district boundaries, National Register designation and Historic Preservation Overlay Zones.

Marie Nelson commended Benicia for its work on this document. She stated that it is a good example of what a context should be.

A recess was called at 7:40 p.m. The meeting reconvened at 7:50 p.m.

V. CONSENT CALENDAR

On motion of Commissioner White, seconded by Commissioner Crompton, the Consent Calendar was approved by the following vote:

Ayes: Commissioners Crompton, Mang, Taagepera, Van Landschoot, White and Chair Haughey
Noes: None
Absent: Commissioner McKee
Abstain: None

A. Approval of Minutes of November 18, 2010

VI. REGULAR AGENDA ITEMS

A. CERTIFIED LOCAL GOVERNMENT (CLG) ANNUAL REPORT

Staff will present the CLG Annual Report to the Commission for review and discussion.

Gina Eleccion gave an overview of the report.

Commissioners discussed the report. There were requests to include the demolition and listing process as a goal, as well as applying for a CLG grant for an Arsenal Context Statement.

B. REVIEW OF NEW BICYCLE RACKS THROUGHOUT THE CITY

Recommendation: Review the information and provide suggestions and comments on this matter.

Mike Roberts, Senior Civil Engineer, gave an overview of the project.

Commissioners discussed the bike racks. They noted that nobody is opposed to bike racks, but they should be appropriate to the historic character of the downtown area. They questioned the cost of the racks. Mike Roberts outlined the costs for the racks, installation, and further explained the bid process. He noted that splatter from welding the nuts to the bolts to prevent vandalism, is rusting. This is being removed. Once the project is completed, there will be plaques installed, crediting the rack's placement to the Good Neighbor Steering Committee. The Commission would like to see small, tasteful plaques that will not be visually obtrusive or a tripping hazard.

The public comment period was opened on this issue.

Larry Fullington, 833 Clifton Court – He opposes the current racks and locations. He questioned how much had been spent. He would like them

returned as they are inappropriate. He recommended a rust expert look at the current issue. He believes the City should start over.

Donna Shehan, 393 Marina Place – She stated that the City should protect its historic aspects. The racks are misplaced and inappropriate for the downtown. Small details are very important.

Public comment was closed.

Commissioners recommended the following:

1. Create a committee of representatives from Benicia Main Street Design Committee, Community Sustainability Commission, Benicia Bicycle Club, and Historic Preservation Review Commission to look at the following:
 - i. More traditional racks (bollards, hitching posts, etc...) that blend in with the district, possibly blue powder-coated to match other elements.
 - ii. Locations sensitive to historic resources.
 - iii. Size/type/location of plaques to be installed.

Commissioners would like this to come back before them. Staff noted that their recommendation will be forwarded to the City Council. If a committee is formed, the consensus of the Commission was to have Chair Haughey and Commissioner White sit on the committee.

VII. COMMUNICATIONS FROM STAFF

A. VERBAL UPDATE ON CITY HALL WINDOW REPLACEMENT

Gina Eleccion noted that the City is getting bids on wood window replacement at City Hall. Based on the Commission's recommendation, the City will be phasing the window replacement as finances allow. Staff will keep the Commission updated on the progress of this program.

B. VERBAL UPDATE ON ENERGY EFFICIENT BULB REPLACEMENT ON FIRST STREET

Gina Eleccion gave an overview of the bulb replacement program. She stated that the City had developed a pilot program so that residents could view the alternatives of the replacement bulbs. A handout was distributed that outlines the locations of the light standards in the pilot program. She noted that all comments should be submitted to her. Commissioners thanked staff for this information.

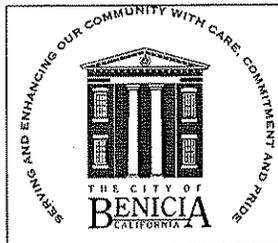
VIII. COMMUNICATIONS FROM COMMISSIONERS

Commissioner Van Landschoot requested follow-up information on the window replaced at 251 West G Street. Gina Eleccion stated that this will be agendized as an informational item to the Commission.

Commission Taagepera commented on a preservation awards program that has been inactive for a few years. She is interested in helping to resurrect this program.

IX. ADJOURNMENT

Chair Haughey adjourned the meeting at 9:12 p.m.



Public Works &
Community Development Department
MEMORANDUM

Date: December 10, 2010
To: Historic Preservation Review Commission
From: Mike Roberts, Senior Civil Engineer
Re: Bicycle Racks in Historic Districts

The City of Benicia has been gifted \$30,000 as part of the Valero/Good Neighbor Steering Committee 2010 VIP Settlement Agreement to install bicycle racks throughout town. The purpose of the racks is to promote bicycling as a climate friendly, alternative mode of transportation.

At their September 20, 2010 meeting, the Community Sustainability Commission (CSC) recommended the types of bike racks to be purchased and locations to be installed based upon input from City staff. Detailed information about the program is provided in the attached staff report and meeting minutes.

Following this meeting, the bike racks were ordered and installation began at locations on First Street. Shortly thereafter, staff received feedback from members of the public that the racks were not sensitive to the historic character of First Street. At the December 7, 2010 Council meeting staff was directed to bring the bicycle racks before the Historic Preservation Review Commission (HPRC) for review. The HPRC is then to provide a recommendation to the CSC, which will forward a final recommendation to Council.

At this time, 9 stainless steel horseshoe racks have been installed at 5 locations on First Street as follows:

J Street adjacent to St. Paul's Episcopal Church (2 each)
H Street (1 each)
G Street adjacent to the Benicia State Capitol (2 each)
F Street adjacent to the Chamber of Commerce (2 each)
D Street at Treasury Commons (2 each)

The order for the 13 remaining horseshoe racks and 4 tandem stainless steel racks have been placed on hold pending final direction from Council. Staff will bring detailed information on the program to the December 16, 2010 HPRC meeting.

Attachments:

- Community Sustainability Commission Staff Report – September 20, 2010
- Community Sustainability Commission Minutes – September 20, 2010

AGENDA ITEM
SUSTAINABILITY COMMISSION MEETING: SEPTEMBER 20, 2010
NEW BUSINESS

DATE : September 8, 2010

TO : Community Sustainability Commission

FROM : Doug Vu, Associate Planner

SUBJECT : **REVIEW OF PROPOSED MAP FOR THE LOCATION OF NEW BICYCLE RACKS THROUGHOUT THE CITY**

RECOMMENDATION:

Review the information contained in this staff report. Provide suggestions and comments on this matter based on the relevant Benicia Climate Action Plan Strategies identified below and contained in the adopted Benicia Climate Action Plan.

EXECUTIVE SUMMARY:

Pursuant to the May 4, 2010 amendment of the 2008 Valero/Good Neighbor Steering Committee Agreement (VIP Settlement Agreement), the City shall utilize settlement funds in the amount of \$30,000 to purchase and install racks throughout the City in order to promote the use of bicycles. Staff has selected the appropriate racks, prepared a map identifying the desired installation locations and is seeking suggestions and comments regarding these locations.

GENERAL PLAN:

Relevant General Plan Goals:

- Goal 2.21: Encourage Benicia residents and employees to use an alternative to the single-occupant automobile.
 - Policy 2.21.1: Provide and promote a range of travel alternatives to the use of the private automobile.
- Goal 2.25: Improve auto and non-auto access into the Old Arsenal, without disrupting existing neighborhood, historic, and environmental values.
- Goal 2.28: Improve and maintain public facilities and services.

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies:

- Strategic Issue #2: Protecting and Enhancing the Environment

- Strategy #1: Reduce greenhouse gas emissions and energy consumption
- Strategic Issue #4: Preserving and Enhancing Infrastructure
 - Strategy #1: Provide safe, functional and complete streets

CLIMATE ACTION PLAN:

Relevant Climate Action Plan Objective:

- Objective T-3: Increase Bicycle and Pedestrian Mode Share by 2020
 - Strategy T-3.1: Increase Bicycle Infrastructure at City Facilities

BUDGET INFORMATION:

Funds identified in the amended 2008 Valero/Good Neighbor Steering Committee Agreement (VIP Settlement Agreement) in the amount of \$30,000 have been specifically allocated for the purchase and installation of bicycle racks throughout the City.

SUMMARY:

On May 4, 2010, the City Council approved an amendment to the July 10, 2008 VIP Settlement Agreement. One of the provisions in lieu of payment of attorney's fees to the Good Neighbor Steering Committee (GNSC) is funding from Valero in the amount of \$30,000 for the purchase and installation of bicycle racks (or other appropriate bicycle storage mechanism) throughout the City in order to promote the use of bicycles in the City. The provision also stipulates that each rack or storage unit shall include a placard indicating the unit is made possible by the efforts of the GNSC, and that installation of the racks shall occur within six months of the date of the amendment.

Public Works staff has since researched various bicycle rack options and models, as well as the cost to purchase and install them. Among those reviewed, staff has determined a stainless steel six-space tandem rack and single-space horseshoe rack to be the most cost effective and appropriate models for installation within City property and public rights-of-way. The locations for these racks are identified on the attached maps.

Staff intends to prepare a contract for the purchase and installation of these the racks within the next month in order to satisfy the November 2010 installation deadline established by the VIP Settlement Agreement.

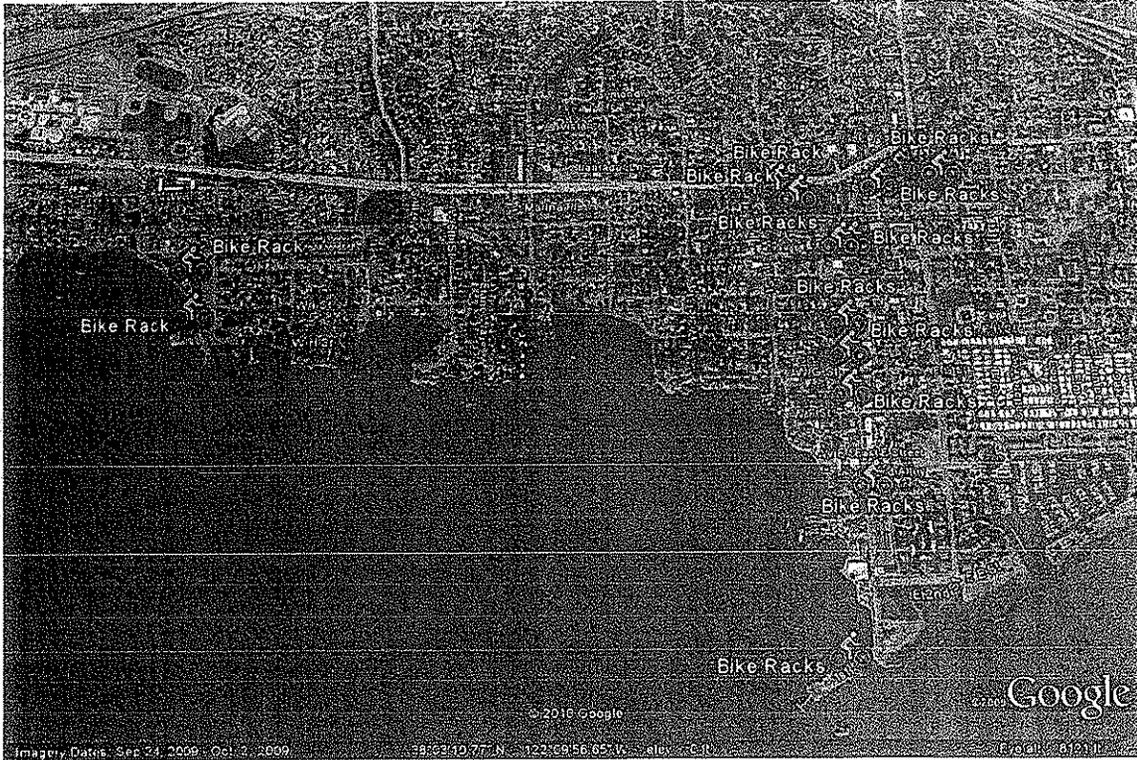
Attachment:

- Location Maps

(

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Bike Rack Location Map



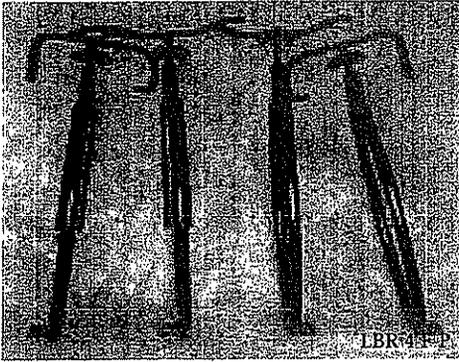
Location	Type	Quantity
City Park	A	2
	B	1
Civic Center Park	B	1
City Hall & City Gym	A	4
	B	1
First St. & J St.	A	4
First St. & West H St.	A	2
First St. & West G St.	A	2
First St. & West F St.	A	2
First St. & East D St.	A	2
First St. Promenade	B	1
West 9 th St. Park	A	4

Legend: A = HS-2-F-SS LOOP STYLE

B = TD-6-E-SS BIKE STYLE



Leaning Bikes™ Rack- LBR™ Series



- Intuitive, patent pending design provides two point support.
- Bicycle shaped design has a simple elegance making the rack easily identifiable as bicycle parking.
- Framework is constructed from extra thick walled 1" I.D. (.179 wall) Schedule 80 steel pipe.

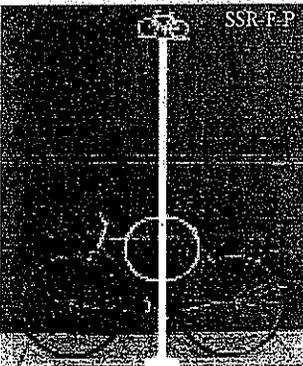
FINISH OPTIONS: Hot-dipped galvanized (standard & recommended); polyester powder coated (optional); thermoplastic powder coat (optional); stainless steel with a #4 satin finish (optional). Designate "-G", "-P", "-T", or "-SS" for galvanized, powder coated, thermoplastic coated, or stainless steel finish respectively after the mounting designation.

MOUNTING OPTIONS: (Please see "INSTALLATION SECTION" on Page 44 for detailed mounting options): Embedded mount or permanent flanged surface mount. Designate "-E" for embedded racks or "-F" for flanged racks after the model number.

MODEL #	CAPACITY	DIMENSIONS
LBR 1	2	21"L x 45"H x 32"W
LBR 2	3 to 4	30"L x 45"H x 32"W
LBR 3	4 to 6	45"L x 45"H x 32"W
LBR 4	5 to 8	58"L x 45"H x 32"W

*Capacity range depends on whether rack is single or double side loaded. Larger number represents double side loading.

Swizzle Stick Rack, Model SSR™ *Also Available in Square Tubing

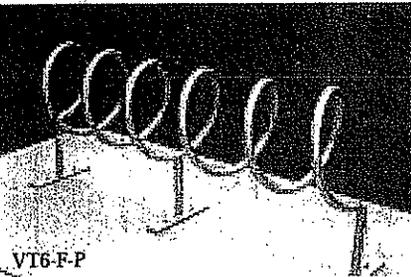


- Intuitive, patent pending design provides two point support.
- Bicycle shaped finial makes the rack easily identifiable.
- Simple design has a small footprint, is economical, is easy to install, is space efficient and offers excellent security against theft.
- Vertical post is constructed from either 1.5" I.D. Schedule 40 steel pipe or 2"x2" structural and mechanical steel tubing
- Locking loops are constructed from 3/8" solid round bar.
- Finial can be customized with a city, state, government, business, or school name/logo or other custom design.

MOUNTING OPTIONS (Please see "INSTALLATION SECTION" on Page 44 for detailed mounting options): standard embedded mount or permanent flanged surface mount. Designate "-E" for embedded or "-F" for flanged after the model number.

FINISH OPTIONS: Hot-dipped galvanized (standard & recommended); polyester powder coated (optional); thermoplastic powder coat (optional); stainless steel with a #4 satin finish (optional). Designate "-G", "-P", "-T", or "-SS" for galvanized, powder coated, thermoplastic coated, or stainless steel finish respectively after the mounting designation.

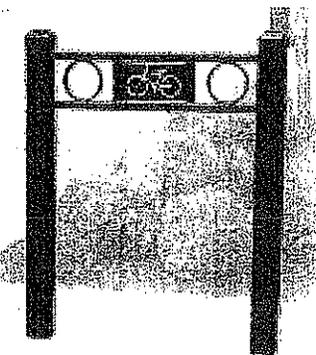
Vortex™-VT Series™



- Spiral design combines elegance with function and security.
- User friendly design allows easy access to bicycle rack.
- Embedded, free standing, flanged surface mount.
- 1" O.D. Schedule 40 steel pipe loop construction with 3/8" steel flat bar flanges.
- Racks stand 34" H by 20" W.

FINISH OPTIONS: Hot-dip galvanized (standard & recommended); polyester powder coat (optional); thermoplastic powder coat (optional); and stainless steel (optional).

MODEL #	CAPACITY	LENGTH
VT 3	3	22"
VT 4	4	32"
VT 5	5	42"
VT 6	6	52"
VT 8	8	73"



FH2-E-P

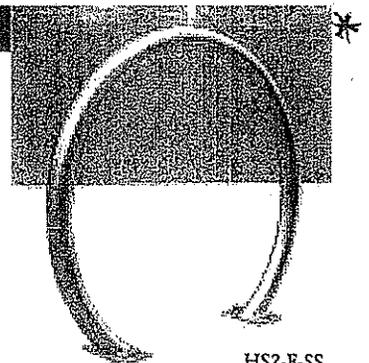
Figure H™-FH2™

MATERIALS: 3" square steel tube.
 MOUNTING: Embedded (standard) or flanged surface mount (optional).
 FINISH OPTIONS: Same as Thunderbolt Racks, see pg. 37.
 CAPACITY: 2 bikes.
 SIZE: 28"L x 36"H



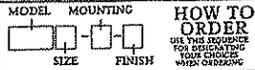
Horseshoe™-HS2™

MATERIALS: 2 3/8" O.D. Schedule 40 steel pipe or 2" square steel tube.
 MOUNTING: Embedded (standard) or flanged surface mount (optional).
 FINISH OPTIONS: Same as Thunderbolt Racks, see pg. 37.
 CAPACITY: 2 bikes.
 SIZE: 36"L x 32.5"H



HS2-F-SS





Bollard • Tandem • Gauntlet

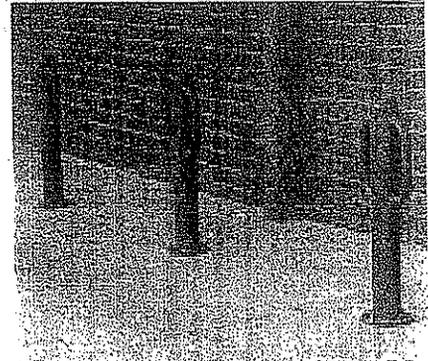


Bollard Bike Rack™ - CPBR™ Series *Also available in Square Tubing

- Post is constructed from extra heavy duty 4 1/2" O.D. (.237 wall) Schedule 40 Steel Pipe (other pipe sizes available).
- Locking loops are constructed from 1 1/2" O.D. (.140 wall) Schedule 40 Steel Pipe.
- Available with 1, 2, or 3 locking loops to accommodate 1, 2, or 3 bicycles.
- Available in a standard embedded mount or optional flanged surface mount.
- Standard hot-dipped galvanized finish and optional powder coated, thermoplastic or Satin #4 stainless steel finish.
- Also available in many sizes of square tubing and with solid bar locking loops.

- **MOUNTING OPTIONS:** (Please see "INSTALLATION SECTION" on page 44 for detailed mounting options): embedded mount (standard) or flanged surface mount (optional). Designate "-E" for embedded racks or "-F" for flanged racks after the model number.

- **FINISH OPTIONS:** Hot-dipped galvanized (standard & recommended); polyester powder coated (optional); thermoplastic powder coat (optional); stainless steel with a #4 satin finish (optional). Designate "-G", "-P", "-T", or "-SS" for galvanized, powder coated, thermoplastic coated, or stainless steel finish respectively after the mounting designation.



CPBR 2-F-P

NOTE: For our Standard Bollards please see page 34

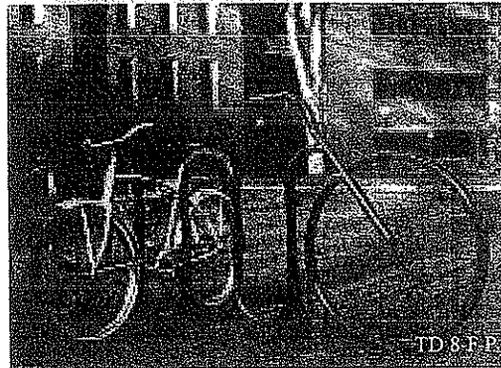
MODEL #	CAPACITY	DIMENSIONS
CPBR 1	1	8"L x 35"H x 4.5"W
CPBR 2	2	12"L x 35"H x 4.5"W
CPBR 3	3	12"L x 35"H x 7"W

Tandem Rack™ - TD™ Series - Patented *Also available in Square Tubing

- Rack is constructed from 1.9" O.D. or 2 1/2" O.D. Schedule 40 steel pipe.
- Attractive design combines the ever popular and functional serpentine style rack, TB™ Series, with an extended bicycle shaped frame that makes it easily identifiable as bicycle parking.
- Bicycles can be parked in the rack's loops as well as to both sides of rack's wheels.

- **MOUNTING OPTIONS:** Embedded mount (optional) or flanged surface mount (standard). Designate "-E" for embedded racks or "-F" for flanged racks after the model number.

- **FINISH OPTIONS:** Hot-dipped galvanized (standard & recommended); polyester powder coated (optional); thermoplastic powder coat (optional); stainless steel with a #4 satin finish (optional). Designate "-G", "-P", "-T", or "-SS" for galvanized, powder coated, thermoplastic coated, or stainless steel finish respectively after the mounting designation.



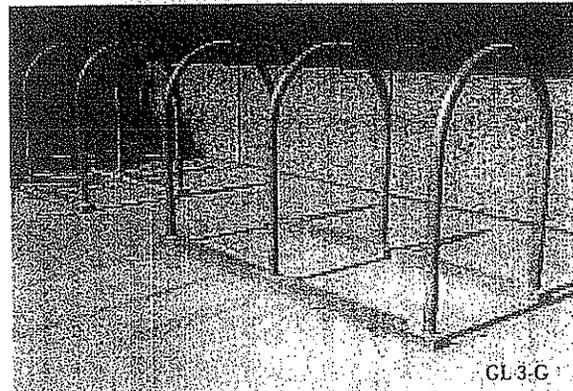
TD 8-F-P

MODEL #	DESCRIPTION	DIMENSIONS
TD 6	6 space Tandem™	96"L x 42"H
TD 8	8 space Tandem™	120"L x 42"H
TD 10	10 space Tandem™	144"L x 42"H
TD 12	12 space Tandem™	168"L x 42"H

Gauntlet™ - GL Series™ *Also available in Square Tubing

- Free standing or permanent surface mount.
- 1 1/2" O.D. Schedule 40 steel pipe with continuous MIG welds at all joints.
- Two point contact of bike frame to rack for added stability and security.
- Available in angle iron, channel (recommended) or flat bar runners.
- Available in 6 standard sizes to accommodate 4 through 14 bicycles.
- Optional sizes and loop spacing available.
- Designed to lock two bicycles per loop.

- **FINISH OPTIONS:** Hot-dipped galvanized (standard & recommended); polyester powder coated (optional); thermoplastic powder coat (optional); stainless steel with a #4 satin finish (optional). Designate "-G", "-P", "-T", or "-SS" for galvanized, powder coated, thermoplastic coated, or stainless steel finish respectively after the mounting designation.

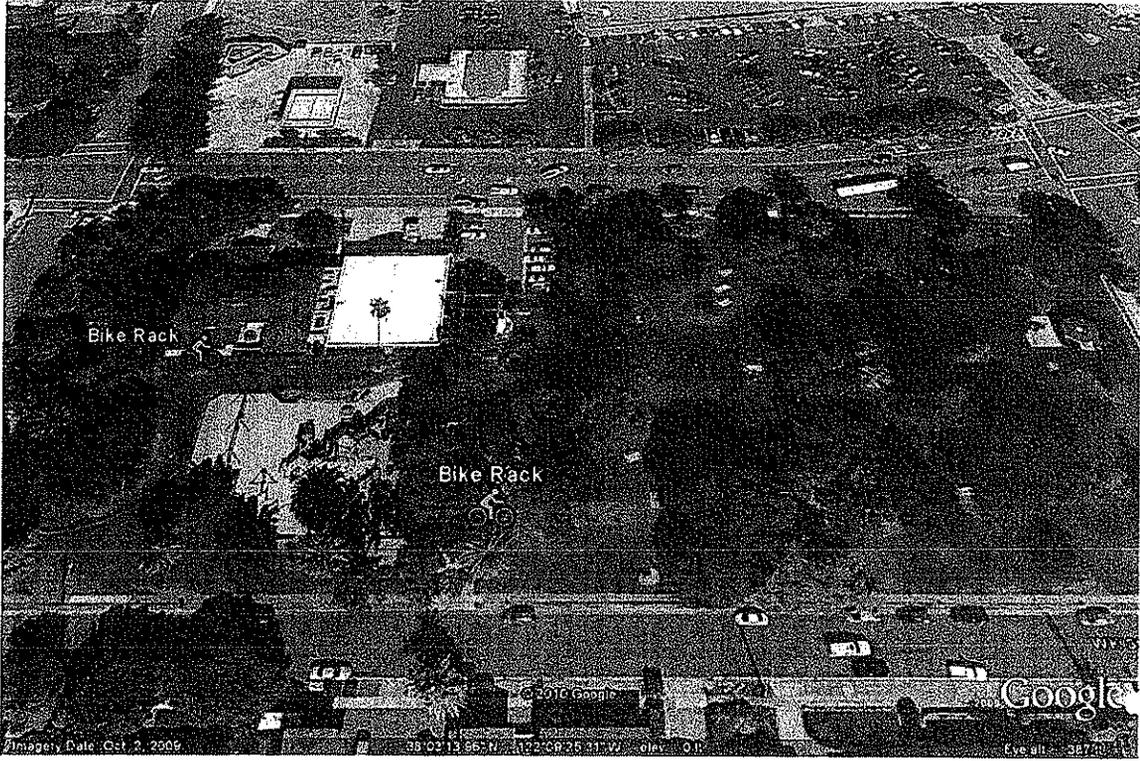


GL 3-G

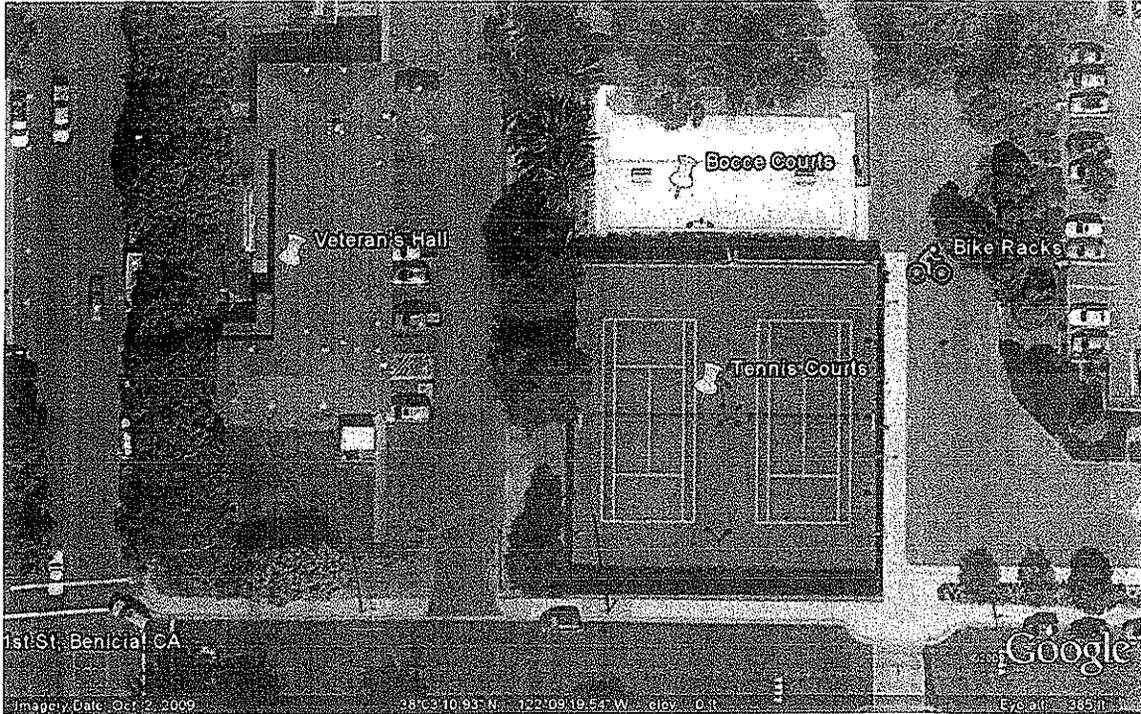
MODEL #	DESCRIPTION	DIMENSIONS
	/MAXIMUM CAPACITY	
GL-2	2 Loop Gauntlet/4 Bicycles	34"L x 36"H x 26"W
GL-3	3 Loop Gauntlet/6 Bicycles	64"L x 36"H x 26"W
GL-4	4 Loop Gauntlet/8 Bicycles	94"L x 36"H x 26"W
GL-5	5 Loop Gauntlet/10 Bicycles	124"L x 36"H x 26"W
GL-6	6 Loop Gauntlet/12 Bicycles	154"L x 36"H x 26"W
GL-7	7 Loop Gauntlet/14 Bicycles	184"L x 36"H x 26"W

NOTE: DISTANCE BETWEEN LOOPS CAN BE CHANGED.





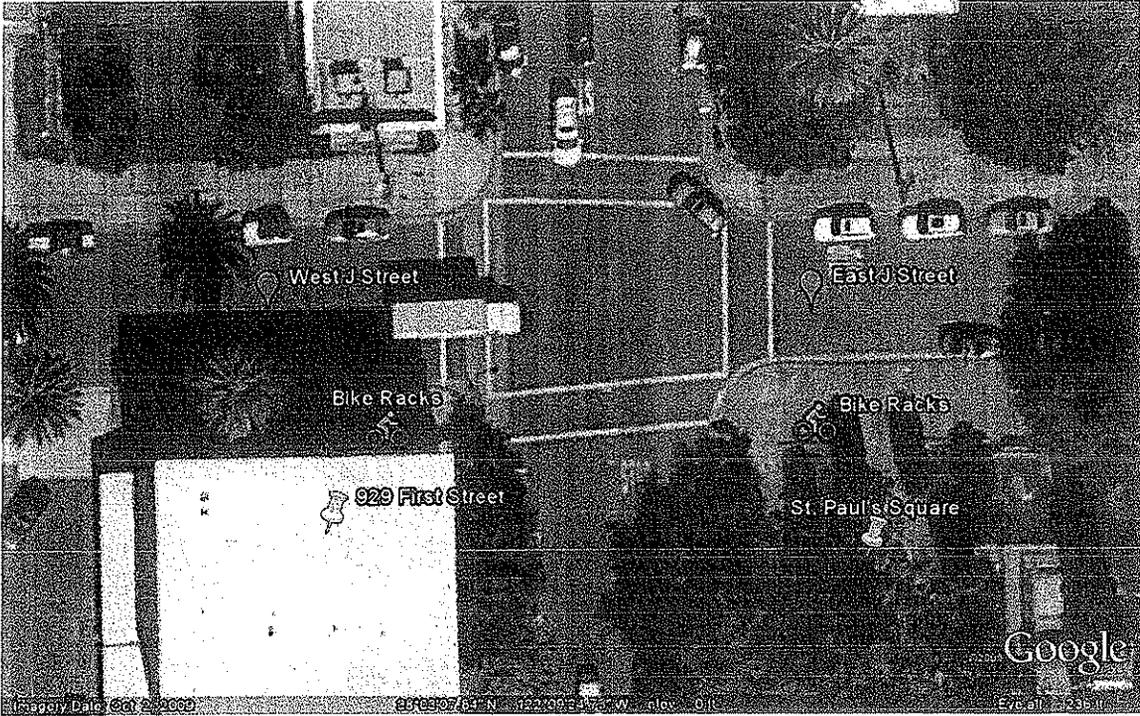
Proposed Bike Racks at City Park



Proposed Bike Racks at Civic Center Park



Proposed Bike Racks at City Hall & City Gym



**Proposed Bike Racks at the
Intersection of First St. & J St.**



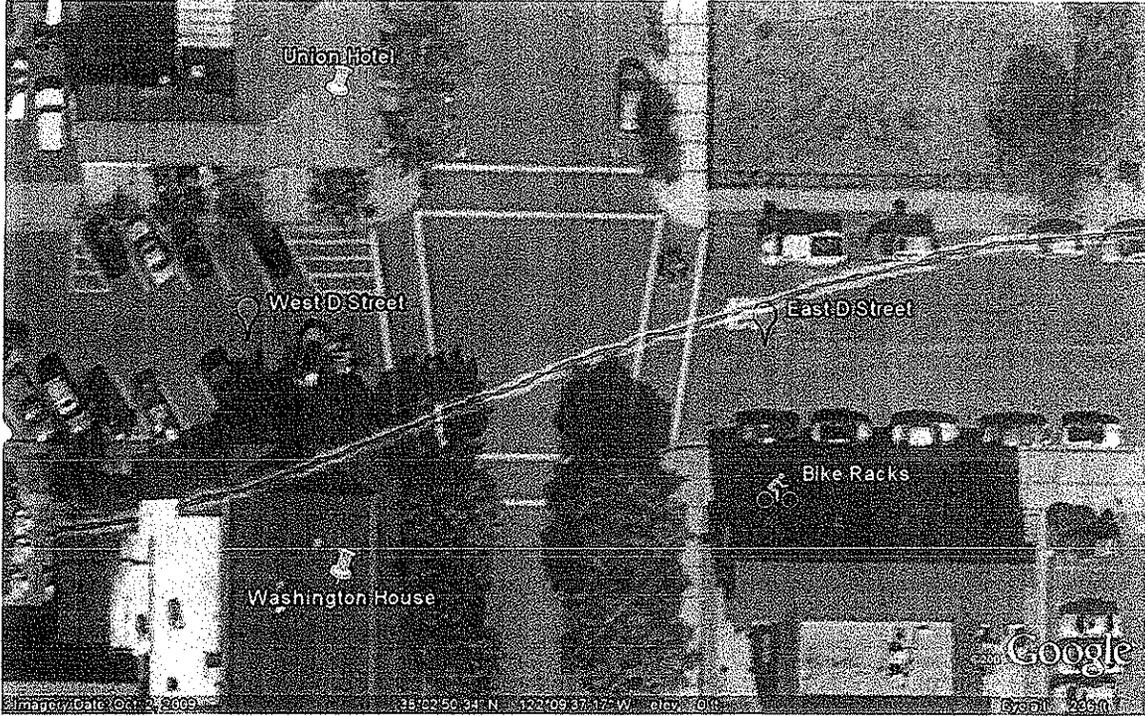
**Proposed Bike Racks on the S/W
Corner of First St. & West H St.**



**Proposed Bike Racks on the N/W
Corner of First St. & West G St.**



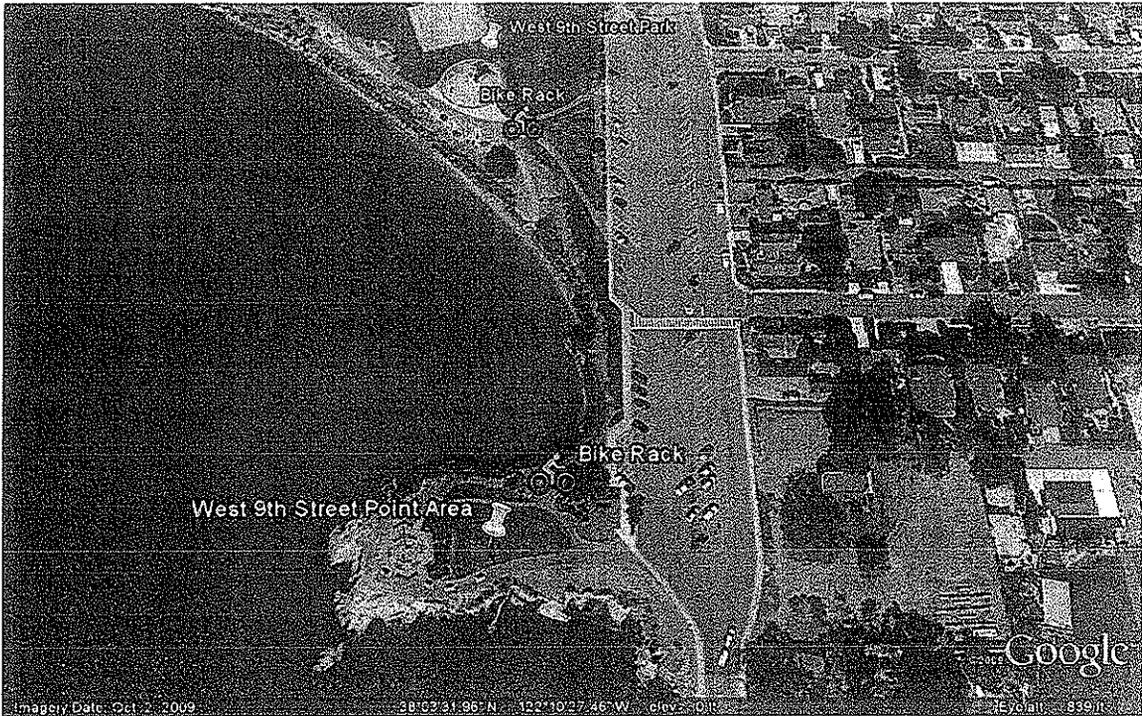
**Proposed Bike Racks on the N/W
Corner of First St. & West F St.**



**Proposed Bike Racks on the S/E
Corner of First St. & East D St.**



**Proposed Bike Racks at the
Promenade Area end of First Street**



Proposed Bike Racks at West 9th Street Park



BENICIA COMMUNITY SUSTAINABILITY COMMISSION

CITY HALL COMMISSION ROOM

REGULAR MEETING MINUTES

Monday, September 20, 2010

7:00 P.M.

I. OPENING OF MEETING

A. Pledge of Allegiance

B. Roll Call of Commissioners

Present: Commissioners Doherty, Fiscalini, Kerridge, Lamoreux, Tringali and Chair
Beutel via live video conference
Ex-Officio Members Scott and Switzer

Absent: Commissioner Silva
Ex-Officio Members Bardet, Lopez

Staff Present: Doug Vu, Associate Planner
Terry Baldwin, Sr. Administrative Clerk, Recording Secretary

II. ADOPTION OF AGENDA

On a motion of Commissioner Doherty, seconded by Commissioner Fiscalini, the Agenda was approved by a majority vote.

III. OPPORTUNITY FOR PUBLIC COMMENT

A. WRITTEN

Correspondence from Todd Lopez and Larry Lamoreux

B. PUBLIC COMMENT

Rick Ernst, 539 Clyne Court, Benicia, announced the passing of City Treasurer, Teddi Bidou, as well as information regarding the services to be held on September 21st, 10:00 am at St. Dominic's Catholic Church in Benicia. Mr. Ernst asked if Proposition 23 would be discussed. Vice Chair Kerridge stated that Prop. 23 was on the agenda. He also spoke of his concerns regarding the City budget. He stated that he would like to see this Commission explore the topic of the financial sustainability of the City.

Jon Van Landschoot, 175 West H Street, Benicia, asked for an update on the 10-10-10 Event. Vice Chair Kerridge stated that the event would be discussed under communication from the Commissioners.

IV. CONSENT CALENDAR

The minutes of August 16, 2010 were pulled from the consent calendar for editing.

A. Approval of Minutes of July 19, 2010 Regular Meeting

On a motion of Commissioner Fiscalini, seconded by Commissioner Doherty, the consent calendar was approved by a majority vote.

B. Approval of Minutes of August 16, 2010 Special Meeting

On motion of Commissioner Doherty, seconded by Chair Beutel, the amended minutes of August 16, 2010 were approved by a majority vote.

V. PRESENTATIONS

A. ICLEI – LOCAL GOVERNMENTS FOR SUSTAINABILITY

Michael Schmitz and Amruta Sudhalkar from ICLEI – Local Governments for Sustainability, gave a brief presentation on ICLEI reporting and provided updates.

Mr. Schmitz congratulated the City of Benicia for their work on the Climate Action Plan and the Charter of the Community Sustainability Commission.

Commissioners asked questions and held a discussion about the program. Mr. Schmitz stated that ICLEI is available to assist the City of Benicia with the process.

Opened public comment

Jon Van Landschoot inquired as to the total number of City's with Sustainability Commissions. Mr. Schmitz stated that numbers reach the double digits and that Benicia is well in front of the majority.

Kimball Goodman asked which cities are currently using the software program. A large majority of the cities are the size of Benicia, with limited budget and limited control.

VI. REGULAR AGENDA ITEMS

A. REVIEW OF PROPOSED MAP FOR THE LOCATIONS OF NEW BICYCLE RACKS THROUGHOUT THE CITY

Mike Roberts, Senior Civil Engineer, gave a brief presentation on the proposed bike rack styles and location map.

Commissioners asked questions and held a discussion about the installation of bike racks and the location maps. The following is a list of requests from the Commissioners:

1. Orient horseshoe racks, especially on First Street, so that they cannot be used as a “rail” by skateboarders.
2. Perform outreach to businesses adjacent to the rack locations.
3. Relocate the horseshoe racks from behind the Fire Station at City Park to the front of the park. (i.e. on First Street) near the stairs. It was noted bicycles are often parked there and a commitment was made that the racks would be moved to that location if it was feasible.
4. Relocate the two horseshoe racks from the west side of First & “J” to halfway between “D” & “C” at the benches in front of Java Point.
5. Relocate the tandem rack at the Promenade location to the restroom area.
6. Relocate one horseshoe rack from First & “H” to the Camel Barn. It was noted that the bike shop had existing racks on the sidewalk.

Public comment

Leah Shelhorn, Owner of Studio 41, 700 First Street, was pleased with the revised bicycle rack location map.

Kimball Goodman praised the efforts of the Good Neighbor Steering Committee. The public has been asking for bike racks for a long time.

B. AUTHORIZATION TO PARTNER WITH WORK GROUP 4 ON TASKS RELATED TO THE URBAN WATER MANAGEMENT PLAN UPDATE

Doug Vu introduced Carrie Wenslawski, Management Analyst in the Public Works & Community Development Department. Ms. Wenslawski introduced Dave Wenslawski, and Chris Tomasik, Assistant Director of Public Works.

Ms. Wenslawski reviewed the information in the staff report and requested authorization for City staff to partner with Work Group 4 on tasks related to the Urban Water Management Plan update.

Public Comment

None

On a motion of Vice Chair Kerridge, seconded by Commissioner Doherty, the motion was passed by a majority vote.

C. CONSIDERATION OF OPPOSITION TO PROPOSITION 23

Discussed Proposition 23 on the November 2, 2010 Statewide ballot, which would suspend implementation of the Air Pollution Control Law (AB 32), and consider a recommendation that the City Council oppose the measure.

Correspondence from Todd Lopez of Valero and a handout from Commissioner Lamoreux were distributed to the Commissioners and members of the public.

Public comment

Dan Kalb, Policy Manager, Union of Concerned Scientists spoke in opposition of Proposition 23. He provided handouts titled, “Economic Benefits of California Clean Energy Policies”, for the Commissioners and members of the public.

Rick Ernst agreed with Mr. Kalb.

Jon Van Landschoot, Benicia resident, spoke in opposition of Proposition 23.

Public comment was closed.

Commissioners asked questions and held a discussion regarding Proposition 23 and the stand that the Commission should take regarding this proposition.

Chair Beutel asked Mr. Vu to explain the differences between the two resolutions. Mr. Vu stated that the revised reso was more diplomatic, recitals less inflammatory; staff recommends using the staff proposed resolution.

Chair Beutel spoke in favor to oppose prop 23 and urged the Commission to submit the amended resolution.

On a motion of Chair Beutel, seconded by Commissioner Doherty, the recommendation to approve the revised resolution recommending that the City Council adopt a resolution opposing proposition 23 was approved by a majority vote

VII. COMMUNICATIONS FROM STAFF

A. STATUS OF VIP FUNDING

Doug Vu, Associate Planner, presented the VIP funding status and answered questions regarding specific line items.

Commissioners asked questions and held a discussion regarding the VIP budget and current planned expenditures. Items of conversation included criteria, spending of the funds, modifying funds with the Good Neighbor Steering committee and Valero.

Chair Beutel thanked Mr. Vu and staff for putting together the report. She would like to see more detail in the report in the future.

B. CHEVRON ENERGY PROJECT UPDATE

Doug Vu presented an update on the Chevron Energy Project and anticipates the project going to City Council in early October.

Commissioners asked questions and held a discussion regarding the project and approval of solar rays to be installed.

C. AMERICORPS INTERN

Doug Vu stated that the Americorps intern, Randy Russell, will be coming to us from Alaska and is expected to begin on Thursday of this week. He will be with the City for 11 months and is required to complete 1700 hours to receive stipend and certificate.

VIII. COMMUNICATIONS FROM COMMISSIONERS

A. INTERNATIONAL DAY OF CLIMATE ACTION

Commissioner Tringali gave a brief update on the event to be held on October 10, 2010

IV. ADJOURNMENT

Vice Chair Kerridge adjourned the meeting at 9:55 pm.

AGENDA ITEM
CITY COUNCIL MEETING DATE - JANUARY 18, 2011
CONSENT CALENDAR

DATE : January 12, 2011

TO : City Manager

FROM : Administrative Services Director

SUBJECT : **APPROVAL OF A CONTRACT AMENDMENT FOR RENNE SLOAN HOLTZMAN SAKAI, LLP FOR HUMAN RESOURCES PROFESSIONAL SERVICES**

RECOMMENDATION:

Adopt a resolution approving a contract amendment with Renne Sloan Holtzman Sakai, LLP for labor relations and personnel services, and authorizing the City Manager to execute the contract amendment on behalf of the City.

EXECUTIVE SUMMARY:

On May 1, 2010, the City entered into an agreement with Renne Sloan Holtzman Sakai, LLP (RSHS) for labor relations and personnel activities. The firm has been providing services relative to the recent negotiations with the City's various bargaining units. Under the proposed amendment, the firm will provide human resources support, including preparations for upcoming negotiations with one of the City's bargaining units, Benicia Public Service Employees Association (BPSEA).

BUDGET INFORMATION:

The purchase order for this agreement was in the amount of \$90,000, which has been expended. This amendment provides for up to an additional \$87,500. Approximately \$50,000 will be applied toward human resources consulting services for the next several months, including the necessary preparations for upcoming negotiations with BPSEA. Remaining cost savings from the vacant HR Manager position will be applied toward those costs.

A portion of the requested funds is for costs related to negotiations with the City's bargaining units, including concluding negotiations with the majority of the City's employee groups. Funds from General Fund, Water Fund and Wastewater Fund accounts will be utilized for these costs of \$37,132.36.

SUMMARY:

In March 2010, the Human Resources Manager for the City of Benicia retired. Soon thereafter, the former City Manager, Jim Erickson, announced his

retirement and the Council elected to hold on filling this position in order to allow time for a new City Manager to be hired and evaluate the organizational structure. In July 2010, the City retained the services of Ann Goodrich as Interim HR Manager. Ms. Goodrich's contract concluded as of December 31, 2010. In order to provide the necessary time to evaluate the organizational structure as it relates to Human Resources, it is being requested that the Council approve an amendment to the existing contract with RSHS for Human Resources consulting services with Mark Gregersen.

Mr. Gregersen has 30+ years of experience in Human Resources, and has recently served in interim appointments with the City of Modesto, City of Sacramento and City of San Luis Obispo. He will provide interim technical support for the City Manager's Office on Human Resources issues, conduct an audit of employee compensation and assist the City with preparations for negotiations with BPSEA. Staff is currently in the process of evaluating the expected time and cost of upcoming negotiations, and will return to Council at a future date for further discussion.

Additionally, the City recently concluded negotiations with seven of the City's employee groups in December 2010. Over the last several months, RSHS assumed a primary role for negotiations with a number of groups, beyond what was originally anticipated, in order to achieve the needed concessions to address the shortfall in the City's budget. Specifically, a reduction in salary of 3.16%, a cap on the City's contribution to health benefits, and agreement to move to a two-tier retirement structure with seven of the City's eight bargaining units. As a result of timing relative to negotiations and the transition of the City Manager, staff was not able to return in December to extend the contract to cover the associated costs with concluding negotiations. This amendment will approve the additional funds needed to cover those services, as well as add additional funds for Mr. Gregersen's services.

Attachments:

- Proposed Resolution
- Contract Amendment

RESOLUTION NO. 11-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE CONTRACT AMENDMENT IN THE AMOUNT OF \$87,500 WITH RENNE SLOAN HOLTZMAN SAKAI, LLP, MODIFYING THE SCOPE TO INCLUDE ADDITIONAL PERSONNEL SERVICES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

WHEREAS, a professional consulting firm is needed to provide labor relations and personnel services for the City Manager's Office; and

WHEREAS, Renne Sloan Holtzman Sakai, LLP has demonstrated the expertise necessary to provide the required services for the City of Benicia.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia approves the contract amendment in the amount of \$87,500 with Renne Sloan Holtzman Sakai, LLP, which also modifies the scope of the agreement to include additional human resources support services.

BE IT FURTHER RESOLVED THAT the City Council of the City of Benicia authorizes the City Manager to execute the agreement on behalf of the City, subject to approval by the City Attorney.

* * * * *

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 18th day of January, 2011 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

AMENDMENT TO AGREEMENT

This Amendment of the Agreement, entered into this ____ day of January, 2011, by and between the City of Benicia, a municipal corporation ("CITY") and Renne Sloan Holtzman Sakai, LLP, a limited liability partnership with its primary office located at 350 Sansome Street, Suite 300, San Francisco, CA 94194 (herein "CONSULTANT"), is made with reference to the following:

RECITALS:

A. On May 1, 2010, an agreement was entered into by and between CITY and CONSULTANT. ("Agreement").

B. CITY and CONSULTANT desire to modify the Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, it is mutually agreed by and between and undersigned parties as follows:

1. Paragraph 3 (a) of the Agreement is modified to read as follows: Compensation. The total cost for services provided by CONSULTANT shall not exceed \$177,500 at the rates set forth in Exhibit A.
2. Paragraph 1 of the Scope of Work is modified to read as follows:
Firm will provide any and all requested or required services in support of labor relations activities of the CITY, including, but not limited to negotiations planning preparation and implementation. Services will also include HR consulting services for personnel related activities, including but not limited to recruitments, workers compensation, benefits administration, and employee relations. HR consulting services will be provided at the rate of \$2,900/week, which will include two-days per week on-site, including expenses.
3. Except as expressly modified herein, all other terms and covenants set forth in the Agreement shall remain the same and shall be in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this modification of Agreement to be executed on the day and year first above written.

Renne Sloan Holtzman Sakai, LLP

City of Benicia,
A Municipal Corporation

By _____
Charles Sakai, Managing Partner

By _____ Date: _____
Brad Kilger, City Manager

RECOMMENDED FOR APPROVAL:

Anne Cardwell, Administrative Services Director

APPROVED AS TO FORM:

Heather McLaughlin, City Attorney

**AGENDA ITEM
CITY COUNCIL MEETING DATE - JANUARY 18, 2011
CONSENT CALENDAR**

DATE : December 22, 2010

TO : City Council

FROM : City Attorney

SUBJECT : **DENIAL OF THE CLAIM AGAINST THE CITY BY PRISM
ENGINEERING, INC. AND REFERRAL TO INSURANCE CARRIER**

RECOMMENDATION:

Deny the Claim against the City by Prism Engineering, Inc.

EXECUTIVE SUMMARY:

Claimant alleges that the City breached the contract and violated the Public Contract Code on the Benicia High School traffic signal and entrance circulation Improvement Project.

BUDGET INFORMATION:

The amount of the claim is \$300,000.00.

GENERAL PLAN:

N/A

STRATEGIC PLAN:

N/A-there is not a relevant Strategic Plan Goal that relates to this agenda item.

BACKGROUND:

Upon rejection of the claim, the City Clerk should issue a rejection notice using ABAG's Form Letter No. 3 of the ABAG Plan Claims Procedures Manual and process with a proof of service by mail form (located in the forms directory). A copy of the rejection notice and proof of service by mail form should be sent to Jim Nagal (ABAG Claims Examiner) and the City Attorney.

Attachment:

- Copy of Claim Filed Against the City

CLAIM AGAINST THE CITY OF BENICIA

Please return to the City Clerk, 250 East L Street, Benicia, CA 94510

Complete the following, adding additional sheets as necessary.

1. CLAIMANT'S NAME (Print): Prism Engineering, Inc.

2. CLAIMANT'S ADDRESS: 630 Reed Street, Santa Clara, CA 95050
(Street or P.O. Box Number, City, State, Zip Code)

HOME PHONE: _____ WORK PHONE: 1-408-562-0026

3. AMOUNT OF CLAIM: \$ >300,000.00 (Attach copies of bills/estimates)

If amount claimed is more than \$10,000, indicate where jurisdiction rests:

Limited Civil Case _____
Unlimited Civil Case xx

4. Address to which notices are to be sent, if different from lines 1 and 2 (Print):

David G. Bicknell
(Name)
2542 S. Bascom Ave. #185, Campbell, CA 95008
(Street or P.O. Box Number, City, State, Zip Code)

5. DATE OF INCIDENT: Various TIME OF INCIDENT: _____

LOCATION OF INCIDENT: At and near Benecia High School

6. Describe the incident or accident including your reason for believing that the City is liable for your damages: The City breached the contract and violated the Public Contract Code

7. Describe all damages which you believe you have incurred as a result of the incident:

See the attached letter.

8. Names of public employee(s) causing the damages you are claiming: Various including Mike Roberts

Dale G. Bicknell for 9/7/2010
Signature of Claimant _____ Date _____
Prism Engrg Inc.

Any person who, with intent to defraud, presents any false or fraudulent claim may be punished by imprisonment or fine or both.

Note: YOU must file a claim in compliance with Government Code Section 911.2.

(revised 12/18/02)

copy
copy desk
Council
cm
mike roberts
melissa m
Nolte Ass.



**Bicknell
Law
Offices**

2542 SO. BASCOM AVE., SUITE 185
CAMPBELL, CALIFORNIA 95008

ATTORNEYS AT LAW

PHONE: (408) 559-5155
FAX: (408) 559-5055
DAVID@BICKNELL-LAW.COM

September 7, 2010

Charlie Knox, Director of Public Works
Community Development Department
250 East L Street
Benicia, CA 94510

Heather C. McLaughlin
Office of the City Attorney
250 East L Street
Benicia, CA 94510

Alan Schwartzman
Vice Mayor and City Councilman
250 East L Street
Benicia, CA 94510

Re: Benicia High School Traffic Signal & Entrance Circulation Improvement Project

Dear Mr. Knox, Ms. McLaughlin and Mr. Schwartzman:

I am writing on behalf of Prism Engineering, Inc., the city's contractor on the above-mentioned project. My letter has two objectives. First, my client wishes to avoid a claims situation and it is certain that the City feels the same way. Second, I am writing to satisfy the Pre-litigation Meet and Confer and Claims Procedures set forth in paragraphs 30 of the contract between Prism Engineering, Inc. ("Prism") and the City. It is also to meet the requirements of the Government Code for a claim.

First, let me describe my understanding of the contract status. The contract was signed by Prism on July 23, 2009 and the base contract price was \$574,842.00. The parties have executed 24 change orders having a total value of \$79,224.29 for a total agreed contract value of \$654,066.29. Of that sum my clients show payments from the City totaling \$556,046.92. On February 16, 2010, Mike Roberts requested that Prism demobilize from the project in an e-mail of that date.

Second, let me describe the structure of the project team. When my client bid the project, it was based on plans and specifications prepared by Nolte Associates, Inc.

City of Benicia
September 7, 2010
Page 2

Nolte was also engaged by the City as its project manager and inspector. During the project, Nolte was relieved of its responsibilities as project manager and replaced by City staff due to budget constraints. Unfortunately, having Nolte preparing the plans and then defending the plans in its roles as project manager and inspector placed Nolte in a difficult position that some would describe as a conflict of interest. The primary City point of contact with Prism was Mike Roberts.

Third, let me describe some of the difficulties encountered by Prism on the project. I will begin by describing what is commonly referred to as the Spearin doctrine: Under that doctrine an owner impliedly warrants the information, plans and specifications which an owner provides to a general contractor. This doctrine, entitled the Spearin doctrine, arises from the case of *United States v. Spearin*, 248 U.S. 132 (1918), and maintains that a contractor will not be liable to the owner for loss or damage which results solely from insufficiencies or defects in such information, plans and specifications.

Courts, both federal and state, have since further refined the Spearin doctrine to encompass two specific implied warranties. The first implied warranty is that the plans and specifications are accurate and the second is that they are suitable for their intended use. An owner breaches the first warranty when the actual condition of the site is not as the owner has stated (e.g. if there is a dam in a sewer which is not on the plans and specifications). An owner breaches the second warranty when a contractor accurately follows the plans and specifications to completion, yet, even so, fails to produce a finished project suitable for its intended purpose or satisfactory to the owner.

1. Defective plans:

- Bus Shelter: The plans called out a "Hip12x7M-P4" bus shelter. This information was apparently taken from a 2006 marketing brochure. The brochure was out-of-date and the designer apparently failed to call the manufacturer to learn what was included in the Hio12x7M-P4 shelter and apparently the designer intended to include the other elements of the shelter that was required including "banded dual columns, windscreens, galvalume roof panes with trim, etc". The supplier took the City at its word and provided a quotation for just the Hip12x7M-P4 bus shelter. Later, it was determined that the City wanted more and the price difference was \$46,860.40. In an e-mail from Nolte to Prism dated November 11, 2009, Nolte indicated that it would approve additional compensation of only \$5,500. Eventually, the City removed the provision of the bus shelter from the contract with Prism.
- Lighted Crosswalk: The plans called for lights to be installed in a crosswalk, however, the plans did not describe how to install those lights. The plans did not provide for a source of power; nor did they furnish instructions for obtaining a source of power. The plans did not even show conduit to suggest how the power should be routed. As a result, Prism was required to contact the manufacturer

City of Benicia
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Page 3

and provide the City with the recommended installation design. The plans did provide the installation of a junction box, a concrete pad and some other equipment. All of the elements appearing on the plans were provided and installed by Prism. After that installation, the City discovered that Pacific Gas & Electric would charge the City additional sums to bring power to the crosswalk. Apparently the price suggested by PG&E was so high that the City balked. Instead, in July 2010, five months after Prism was asked to demobilize, the City approached Prism about installing a solar system to power the lighted crosswalk. The City did not furnish Prism with plans or specifications for this work but insisted, as late as last week, that Prism was required to perform this work as force account work even though the word solar never appears in the plans or specifications for the project and even though Prism had been off the project for nearly half a year. Prism has not agreed to perform this work.

- Traffic Signs: First, traffic signs in the State of California have long been standardized by the California Department of Transportation. Their sizes, height, wording, colors and placement are governed by CalTrans regulations which are set forth on a CalTrans website. Second, on September 29, 2009, Nolte issued a Field Directive to Prism describing a number of "standard" traffic signs, their placement and design. John Donat signed off on the Field Directive. On February 4, 2010, Prism directed a letter to Nolte and to Mr. Donat advising them that the design of the signs described in the plans was defective. The response from Nolte and Donat was that Prism should have made submittals of the signs to be provided, their theory being that by reviewing examples of the signs, Nolte would have discovered its errors and corrected them. How Nolte would have discovered that, for example, a sign which was specified to be installed at five feet of elevation would not have met the minimum CalTrans height of seven feet above grade is unclear. In a letter dated March 3, 2010, Prism referred Nolte to the CalTrans website and pointed out the fact that Nolte had specified the wrong colors for some signs, provided for the placement of signs in the wrong locations and at the wrong elevations. Resolving this matter delayed the completion of the project.

- Striping: The plans and specifications on which Prism based its bid to the City included figures for the removal and installation of specified linear and square feet of striping. For example, Bid Item 000007 provided that Prism and other bidders were to provide a price to "Remove Pavement Markings" and indicated that Prism was to provide a price to remove 63 square feet of pavement markings. Prism quoted unit price of \$5.00/sq. ft. for a total of \$315. During the course of the project that quantity increased to more than 2,710 square feet of pavement markings. The supervision required to oversee that quantity of pavement marking removal was drastically different than that required to remove 63 sq. ft. of markings, yet the City has not provided Prism with an increase in the sum to be paid to Prism for the increase in its general conditions, including supervision, insurance and other overhead expenses. Item 000008 (Remove

City of Benicia
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Traffic Stripes) was similarly distorted in the City's request for proposals. The Request for Proposals listed that item at 360 linear feet. In fact, the City directed Prism to remove 7,560 linear feet of Traffic Stripes. There are many other examples of similar changes directed by the City or its engineer. It is clear from these changes that the project was not properly designed and that Prism is entitled to additional time and money to compensate it for these changes. In addition, Prism was asked to install temporary striping at the project that did not appear on the plans or in the specifications. Prism claims it is due \$28,670.00 for this work:

- Slurry seal: This work was originally scheduled to be performed in October. The City directed Prism not to perform that work until after wheelchair ramps were installed. Although Prism indicated to the City that the slurry seal work would not impact the installation of the wheelchair ramps, the City prevented Prism from proceeding with the slurry seal until after the wheelchair ramps were installed. Nothing in the plans and specifications limited Prism's right to determine the means and methods of construction of the wheelchair ramps or the slurry seal; nevertheless, the City directed Prism to place the slurry seal on hold until completion of the wheelchair ramps were completed. In addition, Nolte stalled the wheelchair work. It required Prism to complete the installation of one ramp before it would permit Prism to excavate for the other ramps, further delaying the project. Again, it will be Prism's position that this direction interfered with Prism's right to determine the means and methods of construction. (These delays cost Prism an additional \$40,000) By the time those wheelchair ramps were installed, the project was in the wet season and a slurry seal could not be applied during that season. In addition, the plans did not describe the locations of the patching or the extent of the slurry seal to be applied, so Prism was left to guess what was wanted by the City. Prism made several requests to the City for documentation of this information, but it was never provided. The only direction the City provided to Prism was verbal on the site at the time the work was performed. Without belaboring the point, let us just say that Prism will claim that the City and Nolte acted in bad faith. Prism will also claim that the project was delayed by the City for obvious reasons. It was not until after the City requested that Prism demobilize from the site, that Prism was directed to apply the slurry seal. During this process, the City's designer made multiple verbal agreements to compensate Prism \$35,000 for this work before de-mobilization and then retracted those agreements in writing after demobilization. Based on those verbal commitments Prism proceeded with the patch work after its submittal for this work was approved only to be told by Mr. Donat that Prism should not expect payment for the work without a written agreement. All of these issues caused the project to be delayed and the delays can easily be laid at the door of the City. I am certain you can understand Prism's belief that these actions were taken in bad faith.

City of Benicia
September 7, 2010
Page 5

- Other delays: Although there was no mention of this in the plans and specifications, the City would not permit Prism to perform any work after school was out.

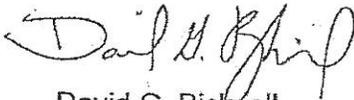
As late as last week, Mike Roberts made thinly veiled threats to engage in litigation and to impose a claim for liquidated damages against Prism if Prism would not agree to install the solar system to power the lighted crosswalk. Then on September 1, 2010, the City directed a punchlist to Prism for a job they were asked to leave in February 2010. Before Prism left the project in February 2010 it was provided a punchlist and it performed all of the work on that list, apparently to the satisfaction of the City.

Prism claims it due more than an additional \$200,000 for miscellaneous work required as the result of the defective plans including the mislocation of a water meter on the plans, adding top soil to areas where the plans called for base rock, an error in the placement of an irrigation crossing, a mistake in the design of an irrigation enclosure, added striping and other expenses too numerous to detail here. The total claim by Prism is for more than \$300,000.00. Pursuant to paragraph 30d, Prism will expect a response from the City within 60 days.

Of course, if the City wishes to engage in mediation of these claims, Prism would be happy to do so as well. Prism is in the process of preparing as-built drawings. We believe that once that process is complete, it would be to the advantage of everyone concerned to seek the assistance of a competent construction mediator to help us resolve the claims. If the City is interested in doing so, we invite an earlier response so that the process can be planned, a mediator can be selected and dates and times for the mediation can be selected.

I look forward to your response. If you have any questions, please call.

Very Truly Yours,



David G. Bicknell

cc: Mohammed Fararheh

AGENDA ITEM
CITY COUNCIL MEETING DATE - JANUARY 18, 2011
CONSENT CALENDAR

DATE : December 29, 2010
TO : City Manager
FROM : Public Works & Community Development Director
SUBJECT : **APPROVAL OF THE BENICIA HIGH SCHOOL TRAFFIC SIGNAL AND ENTRANCE CIRCULATION IMPROVEMENT PROJECT**

RECOMMENDATION:

Adopt a resolution accepting the Benicia High School Traffic Signal and Entrance Circulation Improvement Project as complete, approving Change Order No. 27 in the amount of \$2500.00, accepting Change Order Nos. 1-27, authorizing the City Manager to sign the Notice of Completion, and authorizing the City Clerk to file same with the Solano County Recorder.

EXECUTIVE SUMMARY:

The Benicia High School Traffic Signal and Entrance Circulation Improvement Project has been completed. This project has greatly enhanced safety for school children, reduced traffic congestion during student drop-off and pickup times, and created an attractive gateway for the high school along Military West. Formal acceptance of the work by the City Council is now required to close the construction contract and make final payment to the contractor.

BUDGET INFORMATION:

The final budget is as follows:

PROJECT BUDGET

Adopted FY 2007–2009 Budget (Traffic Mitigation Fund)	\$400,000
Adopted FY 2009–2011 Budget (Traffic Mitigation Fund)	800,000
<u>Total Budget</u>	<u>\$1,200,000</u>

Final Project Expenditures

Conceptual, Prelim., Final Design Services (Fehr & Peers, Task Orders No. 1–3)	\$216,062
Summer 2008 Improvements (radar speed signs, benches, crosswalk)	35,000
Construction Support (Fehr & Peers)	
Task Order 4–Engineering Services.....	18,152
Task Order 5–Construction Management/Inspection Services.....	179,131
Crossing Guards.....	10,000

Provide Solar Power at the East 2 nd Crosswalk	9,500
Water Meter Connection Fee (Irrigation)	8,212
(Subtotal A: Final Project Expenditures Excepting Construction Contract	
\$476,057)	
Construction Contract (Prism Engineering)	
Base Bid (traffic signal, curb extensions, road diet)	377,617
Bid Alternate A (mid-block tree wells/hardscaping)	63,845
Bid Alternate B (slurry seal)	33,250
Bid Alternate C (trees and irrigation)	65,130
Bid Alternate D (relocate lighted crosswalk)	15,000
Bid Alternate E (bus shelter)	20,000
Change Orders Nos. 1-26 (Previously Approved)	93,214
Change Order No. 27: Changeable Message Signs for Slurry Seal (This Request)	2,500
(Subtotal B: Construction Contract Final Expenditures	\$670,556)
<hr/>	
Grand Total Expenditures (Subtotal A + B)	\$1,146,613

GENERAL PLAN:

Relevant General Plan Goals include:

- Goal 2.20: Provide a balanced street system to serve automobiles, pedestrians, bicycles, and transit, balancing vehicle-flow improvements with multi-modal considerations
- Goal 2.28: Improve and maintain public facilities and services

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies include:

- Strategic Issue 4: Preserving and Enhancing Infrastructure
 - Strategy: Provide safe, functional and complete streets
 - Strategy: Provide adequate funding for ongoing infrastructure needs

BACKGROUND:

The Benicia High School Traffic Signal and Entrance Circulation Improvement Project transformed Military West in front of the Benicia High School from a 1960's era four-lane highway into a complete urban street. Noteworthy improvements and enhancements include rightsizing automobile traffic from two lanes to one lane in each direction, installing a traffic signal at the entrance to the high school, constructing pedestrian bulb-outs and high visibility crosswalks, adding a bus shelter, striping bike lanes, creating dedicated student drop-off/pick-up areas, and installing extensive streetscaping that includes 45 trees.

This project has greatly enhanced safety for school children, reduced traffic congestion during student drop-off and pick-up times, calmed traffic on Military West, and created an attractive, campus-oriented gateway for the high school

along Military West. During construction, safety was emphasized at all times, and disruption to the traveling public was kept to a minimum.

The construction contract in the amount of \$574,842 was awarded to Prism Engineering on July 17, 2009 by City Council based upon staff's determination that Prism Engineering submitted the lowest responsive, responsible bid. Prism Engineering subsequently began work on the project in August and completed the majority of the improvements by the end of winter, 2009. Prism then returned in the summer of 2010 when school was out of session to crack seal, patch, slurry seal, and install the final striping on Military West.

Change Order Nos. 1-26, totaling \$93,214, have been approved to date. It is recommended that Council approve Change Order No. 27 in the amount of \$2,500 for Changeable Message Signs that were used to notify drivers in advance that Military West was going to be closed for slurry sealing. The total construction contract amount, including Change Order Nos. 1-27, is \$670,556, which is \$95,714 or 17% greater than the original contract amount of \$574,842. The preventative maintenance work that consisted of slurry sealing and patching Military West, was incorporated into the contract (Change Order Nos. 25-27), and was \$40,500 or 7% of this increase. However, the total project was still under budget by \$53,387 and these funds will remain in the Traffic Mitigation Fund.

Prism has filed a claim for additional compensation, which is being addressed separately.

While there are still outstanding issues on a portion of the work, the work that was completed on the Benicia High School Traffic Signal and Entrance Circulation Improvement Project was completed to the satisfaction of the City Engineer and it is therefore recommended that the City Council accept this project as complete.

Attachments:

- ❑ Proposed Resolution with Attachment "A"
- ❑ Notice of Completion
- ❑ Project Photograph

RESOLUTION NO. 11-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING CHANGE ORDER NO. 27 IN THE AMOUNT OF \$2,500, ACCEPTING THE BENICIA HIGH SCHOOL TRAFFIC SIGNAL AND ENTRANCE CIRCULATION IMPROVEMENT PROJECT AS COMPLETE INCLUDING CHANGE ORDER NOS. 1-27, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

WHEREAS, by Resolution No. 09-66, City Council awarded the contract for the Benicia High School Traffic Signal and Entrance Circulation Improvement Project to Prism Engineering of Santa Clara, CA; and

WHEREAS, Change Order No. 27 in the amount of \$2,500 was needed to provide Changeable Message Signs to notify drivers in advance that Military West was going to be closed for slurry sealing; and

WHEREAS, Prism Engineering has completed the work for a final construction cost of \$670,556, including Change Order Nos. 1-27; and

WHEREAS, formal acceptance of the work is now required to close the construction contract and allow final payment to be made to the contractor.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves Change Order No. 27 in the amount of \$2,500 and authorizes the City Engineer to sign the change order on behalf of the City.

BE IT FURTHER RESOLVED THAT the City Council of the City of Benicia hereby accepts the Benicia High School Traffic Signal and Entrance Circulation Improvement Project as complete including Change Order Nos. 1-27, for a final construction cost of \$670,556.

BE IT FURTHER RESOLVED THAT the City Manager is hereby authorized to sign the Notice of Completion and the City Clerk is authorized to file said Notice with the Solano County Recorder.

On motion of _____, seconded by _____, the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 18th day of January, 2011 and adopted by the following vote:

Ayes:
Noes:
Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

ATTACHMENT "A"

**Benicia High School Traffic Signal and Entrance Improvements Project
Change Order Summary***

No.	Change Order	Amount
1.	Relocate Signal Foundation Southeast Corner of Intersection	\$ 1,563.22
2.	Hand Excavate to Expose Utilities for Northwest Signal Foundations	\$ 793.83
3.	Pull-Box and Conduit for Signal Point of Connection	\$ 793.55
4.	Repair Street Light Conduit at 11th, Install Irrigation Sleeve at 10th, Adjust Signal Mast Arm	\$ 7,786.88
5.	Repair Street Light Conduit between 10 th & 11 th	\$ 412.82
6.	Relocate Street Light Pull Box at Military/W. 11 th Street	\$ 520.15
7.	Repair Street Light Conduit at 10 th Street	\$ 987.60
8.	Relocate Signal Foundation at Northeast Corner of Intersection	\$ 537.43
9.	Adjust Drop Inlet of Storm Drain to avoid Gas Line	\$ 671.79
10.	Additional Road Signs for Lane Modification at Plaza De Oro	\$ 530.20
11.	Additional Road Signs for Lane Modification at Plaza De Oro	\$ 2,136.56
12.	Installation of additional aggregate base under ADA Ramps	\$ 2,533.99
13.	Grinding and Installing Asphalt at Crosswalks	\$ 9,689.67
14.	Install Weep Holes in AC Dyke at 10 th Street	\$ 242.91
15.	Adjustment to Signal Head for Final Lane Configuration	\$ 181.58
16.	Additional Pot-holing for Water Line at 11 th Street	\$ 572.89
17.	Replace Existing LED Lights for Crosswalk	\$ 3,730.60
18.	Install Bus Shelter Pad	\$ 6,500.00
19.	Provide new service cabinet for E. 2 nd Street Crossing	\$10,000.00
20.	Install conduit for E. 2 nd Street Crossing	\$ 5,500.00
21.	Relocate Irrigation Point of Connection to Plaza De Oro	\$ 7,575.00
22.	Temporary Road Striping	\$15,000.00
23.	Delete Bid Items 35, 36, Bid Alt.E from Contract	(\$24,010.00)
24.	Irrigation Back Flow Enclosure Upgrade	\$ 963.62
25.	Crack Seal Military West Prior to Slurry Sealing	\$31,500.00
26.	Repair Asphalt on Military West Prior to Slurry Sealing	\$ 6,500.00
27.	Changeable Message Signs for Slurry Seal (This Request)	<u>\$ 2,500.00</u>
	TOTAL	\$95,714.29

*Staff previously approved Change Order Nos. 4, 7, 12, 13, 15, 17-19, and 21 in the total amount of \$48,985.

City Council approved Change Order Nos. 1-3, 5, 6, 8-11, 14, 16, 20, and 22-26 in the amount of \$44,229 at their June 15, 2010 City Council meeting.

Recorded at the request of:

CITY OF BENICIA

After recording return to:

CITY OF BENICIA
ATTN: CITY ENGINEER
250 EAST L STREET
BENICIA, CA 94510

NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN THAT:

1. The City of Benicia, 250 East L Street, Benicia, CA, 94510, is the owner of the property described as:

Military West located in the City of Benicia, County of Solano, State of California.

Nature of title as stated owner: In Fee.
2. A work of improvement known as the **Benicia High School Traffic Signal and Entrance Circulation Improvement Project** at the property described was completed and accepted by the City Council of the City of Benicia on January 18, 2011.
3. The name of the contractor for the improvement is **Prism Engineering of Santa Clara, California.**

CITY OF BENICIA

Dated: _____

By: _____
Brad Kilger, City Manager

Attest: _____
Lisa Wolfe, City Clerk

The undersigned, being duly sworn, says: that she is the person signing the above document; that she has read the same and knows the contents thereof, and that the facts stated therein are true, under penalty of perjury.

Lisa Wolfe, City Clerk

Benicia High School Traffic Signal and Entrance Circulation Improvement Project



View of Military West at Entrance to the High School (Project Completed)



View of Military West Looking East at Entrance to High School

AGENDA ITEM
CITY COUNCIL MEETING DATE - JANUARY 18, 2011
CONSENT CALENDAR

DATE : January 4, 2011

TO : City Manager

FROM : Finance Director

SUBJECT : **REVIEW AND ACCEPTANCE OF THE INVESTMENT REPORT FOR THE QUARTER ENDED SEPTEMBER 2010**

RECOMMENDATION:

Accept, by motion, the investment report for the quarter ended September 2010.

EXECUTIVE SUMMARY:

The investment portfolio is in compliance with the City's Investment Policy and California Law. Additionally, the City has adequate investments to meet its expenditure needs for the next six months. The Finance, Audit and Budget Committee have reviewed these reports and recommends acceptance.

BUDGET INFORMATION:

There is no effect on the City's budget.

GENERAL PLAN:

There is no effect on the General Plan.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Goal 8.00: Build Organizational Quality and Capacity
 - Strategy 8.20: Measure and track service performance

BACKGROUND:

The City's investment portfolio consists of cash balances in checking accounts (less outstanding checks), Local Agency Investment Fund ("LAIF"), treasury bills, federal agency notes and trustee accounts which manage the installment payments and reserves for bonds issued by the City.

The City has adequate investments to meet its expenditure requirements for the next six months. In addition, the City's investment portfolio is in compliance with Government Code Sections 53600 et seq. and the City's Investment Policy. The

Finance, Audit and Budget Committee have reviewed these reports and recommends acceptance.

The attached schedules identify the City's investments by maturity date, investment type, custodian of investment and cost. The market value information is provided by Union Bank and California State Controller's Office for the LAIF investments.

Attachment:

- Investment Report for September 2010.

**City of Benicia
Investment Report
As of June 30, 2010**

Type of Investment	Name of Issuer	Purchase Date	Maturity Date	Current Yield	Par Value	Cost of Investment	Current Market Value
On Demand							
L.A.I.F.	L.A.I.F.			0.528%	\$ 10,721,519.46	\$ 10,721,519.46	\$ 10,739,143.24
Checking	Bank of America			0.600%	3,290,555.88	3,290,555.88	3,290,555.88
Money Market	Union Bank			0.050%	336,249.49	336,249.49	336,249.49
Money Market	Union Bank			0.050%	194,889.54	194,889.54	194,889.54
Subtotal					14,543,214.37	14,543,214.37	14,560,838.15
Up to 6 Months							
US Obligation	FHLMC	16-Jan-07	16-Aug-10	4.850%	500,000.00	497,190.00	502,905.00
US Obligation	FHLMC	30-Nov-06	8-Dec-10	4.660%	500,000.00	499,370.00	509,845.00
Subtotal					1,000,000.00	996,560.00	1,012,750.00
6 Months to 1 Year							
US Obligation	FFCB	18-Jan-08	18-Jan-11	3.440%	1,000,000.00	1,009,340.00	1,017,190.00
US Obligation	FHLMC	17-Dec-07	24-Feb-11	4.030%	750,000.00	752,227.50	767,580.00
US Obligation	FHLB	17-Nov-08	11-Mar-11	3.190%	1,250,000.00	1,250,650.00	1,274,612.50
US Obligation	FNMA	18-Apr-08	15-Apr-11	4.940%	965,000.00	1,022,186.87	1,001,486.65
US Obligation	FFCB	11-May-07	25-Apr-11	4.630%	500,000.00	498,780.00	517,815.00
US Obligation	FHLB	15-May-08	20-May-11	2.580%	1,000,000.00	979,335.00	1,019,380.00
US Obligation	FHLB	5-Jun-09	3-Jun-11	1.120%	1,000,000.00	993,465.20	1,006,250.00
Subtotal					6,465,000.00	6,505,984.57	6,604,314.15
1 Year to 2 Years							
US Obligation	FHLMC	22-Oct-08	15-Sep-11	5.190%	1,500,000.00	1,580,167.50	1,589,531.25
US Obligation	FHLMC	5-Dec-08	15-Sep-11	5.190%	1,370,000.00	1,477,892.98	1,451,779.05
US Obligation	FHLB	13-Nov-08	18-Nov-11	4.600%	1,400,000.00	1,476,021.40	1,482,250.00
US Obligation	FNMA	24-Nov-09	23-Nov-11	0.990%	750,000.00	751,612.50	754,687.50
US Obligation	FFCB	3-Apr-07	8-Dec-11	4.380%	500,000.00	495,205.00	527,500.00
US Obligation	FFCB	24-Nov-09	17-Jan-12	1.960%	750,000.00	765,547.50	765,937.50
US Obligation	US Treasury	16-Mar-10	29-Feb-12	0.870%	1,000,000.00	998,750.00	1,005,350.00
US Obligation	FHLMC	17-Sep-07	5-Mar-12	4.450%	1,000,000.00	1,003,890.00	1,068,440.00
US Obligation	FNMA	29-May-09	20-Apr-12	1.840%	1,900,000.00	1,907,676.00	1,939,786.00
US Obligation	FNMA	4-Oct-07	18-May-12	4.530%	750,000.00	756,780.00	807,892.50
US Obligation	FHLB	11-Jun-09	20-Jun-12	1.830%	1,050,000.00	1,039,185.00	1,072,974.00
Subtotal					11,970,000.00	12,252,727.88	12,466,127.80

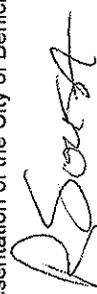
**City of Benicia
Investment Report
As of June 30, 2010**

Type of Investment	Name of Issuer	Purchase Date	Maturity Date	Current Yield	Par Value	Cost of Investment	Current Market Value
2 Years to 3 Years							
US Obligation	FFCB	25-Sep-07	1-Aug-12	4.810%	500,000.00	509,923.50	545,940.00
US Obligation	FHLB	1-Mar-10	15-Oct-12	1.120%	1,270,000.00	1,272,946.40	1,271,193.80
US Obligation	FNMA	17-Feb-10	25-Jan-13	2.110%	750,000.00	754,822.50	755,160.00
US Obligation	FNMA	15-Jan-10	22-Feb-13	1.720%	750,000.00	749,260.88	764,535.00
US Obligation	FNMA	26-Feb-10	26-Feb-13	1.120%	1,000,000.00	999,000.00	1,000,630.00
US Obligation	US Treasury	26-Mar-10	15-Mar-13	1.360%	750,000.00	744,404.30	759,727.50
US Obligation	FHLMC	4-Mar-10	15-Apr-13	1.600%	1,000,000.00	998,600.00	1,015,000.00
US Obligation	FNMA	11-May-10	30-Apr-13	2.000%	1,000,000.00	1,001,100.00	1,001,250.00
US Obligation	FHLMC	26-Apr-10	29-May-13	3.280%	1,200,000.00	1,260,252.00	1,282,128.00
US Obligation	FNMA	11-Jun-10	10-Jun-13	1.000%	500,000.00	500,000.00	500,780.00
Subtotal						8,790,309.58	8,896,344.30
3 Years to 5 Years							
US Obligation	US Treasury	26-Mar-10	30-Apr-14	1.840%	1,000,000.00	986,601.56	1,018,050.00
US Obligation	FNMA	1-Apr-10	30-Mar-15	2.240%	500,000.00	499,875.00	501,875.00
US Obligation	FNMA	29-Apr-10	29-Apr-15	1.550%	500,000.00	500,000.00	501,565.00
Subtotal						1,986,476.56	2,021,490.00
Total (before fiscal agent accounts)						\$ 44,698,214.37	\$ 45,075,272.96
Fiscal Agent Accounts							147,122.25
TOTAL INVESTMENT PORTFOLIO						\$ 45,222,395.21	\$ 45,708,986.65
INVESTMENTS WITH PFM						\$ 16,068,856.48	\$ 16,280,066.94
INVESTMENTS WITH MBIA						\$ 14,994,341.14	\$ 15,252,098.34

WEIGHTED AVERAGE MATURITY OF THE INVESTMENT PORTFOLIO

1.92 Years

The City of Benicia complies with Government Code Sections 53600 et seq. and the City's Investment Policy. The source of market value is Union Bank of California. The City has the ability to meet expenditure requirements for the next six months. This report, to the best of my knowledge, is accurate representation of the City of Benicia's investments.



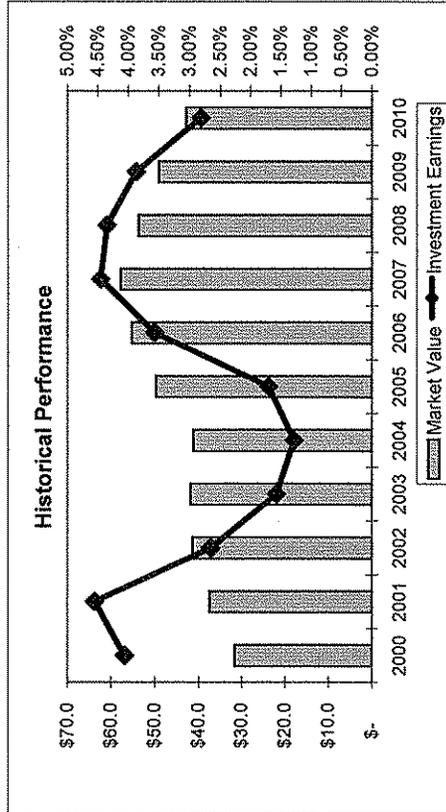
Robert Sousa, Director of Finance

Mark to Market(Gain) \$ 486,591.44

**City of Benicia
Historical Portfolio Comparison**

Market Value (Millions)					
Fiscal Year / Quarter	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Annual Average
2000	\$ 28.4	\$ 31.2	\$ 31.8	\$ 35.1	\$ 31.6
2001	33.0	36.7	37.7	42.8	37.5
2002	39.3	41.5	40.3	44.6	41.4
2003	39.7	43.4	39.5	44.8	41.8
2004	39.3	42.8	41.1	41.8	41.3
2005	38.7	53.8	50.0	56.6	49.8
2006	46.9	54.9	55.1	64.3	55.3
2007	57.4	59.3	54.4	60.1	57.8
2008	51.9	54.7	51.4	56.8	53.7
2009	48.1	52.1	47.3	48.7	49.1
2010	42.6	43.7	39.4	45.7	42.9

Investment Earnings					
Fiscal Year / Quarter	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Annual Average
2000	3.53%	4.17%	4.15%	4.41%	4.06%
2001	4.76%	4.82%	4.58%	4.07%	4.55%
2002	3.52%	2.72%	2.27%	2.01%	2.66%
2003	1.90%	1.61%	1.41%	1.34%	1.57%
2004	1.38%	1.28%	1.24%	1.20%	1.28%
2005	1.31%	1.43%	1.74%	2.33%	1.70%
2006	2.52%	3.76%	3.84%	4.16%	3.57%
2007	4.34%	4.44%	4.46%	4.57%	4.45%
2008	4.56%	4.48%	4.20%	4.15%	4.35%
2009	4.01%	4.07%	4.03%	3.36%	3.87%
2010	3.17%	2.83%	2.65%	2.60%	2.81%



Investment Earnings - Dollars					
Fiscal Year / Quarter	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Annual Average
2008	319,769.25	789,398.11	474,719.57	731,456.95	578,835.97
2009	275,114.02	580,504.43	577,776.19	736,864.05	542,564.67
2010	299,039.99	294,913.48	228,519.31	92,532.73	228,251.38

AGENDA ITEM
CITY COUNCIL MEETING DATE - JANUARY 18, 2011
CONSENT CALENDAR

DATE : January 4, 2011

TO : City Manager

FROM : Public Works and Community Development Director

SUBJECT : **PURCHASE OF REPLACEMENT PUMPS AT THE LAKE HERMAN PUMP STATION**

RECOMMENDATION:

Adopt a resolution approving a contract for pump replacement at the Lake Herman Pump Station with Flo-Line Technology, Inc. in the amount of \$31,903, and authorizing the City Manager to sign the contract on behalf of the City.

EXECUTIVE SUMMARY:

This pump station, located at the end of Channel Court, is a vital component of the water distribution system that moves untreated water from Lake Herman to the Water Treatment Plant and/or to Valero Refining Company. This action approves a contract for replacement of pumps at the Lake Herman Pump Station that have reached the end of useful life. Sufficient funds are available in Account No. 596-8259-9960 (water system replacement fund) to cover the cost.

BUDGET INFORMATION:

The total cost of this work is \$31,903. Sufficient funds are available in water fund Account No. 596-8259-9960 to cover the cost.

GENERAL PLAN:

Relevant General Plan Goal:

- Goal 2.36: Ensure an adequate water supply for current and future residents and businesses.

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategy:

- Strategic Issue 1: Protecting Community Health and Safety
 - Strategy #5: Promote community and personal health
- Strategic Issue 4: Preserving and Enhancing Infrastructure

BACKGROUND:

The Lake Herman pump station, located at the end of Channel Court, is a vital component of the water distribution system that moves untreated water from Lake Herman to the Water Treatment Plant and/or to Valero Refining Company. Two of the original pumps from 1968 are due for replacement as they have reached the end of useful life. The other original pump was replaced last year.

A Request for Quotation (RFQ) for pump replacement services was sent to the only two known qualified firms that furnish the equipment and provide the installation and testing services. Both firms submitted a quote. Staff determined Flo-Line Technology, Inc. to be a responsible firm submitting the lowest responsive quote in the amount of \$31,903. The other firm quoted \$42,767. The services to be provided by Flo-Line Technology, Inc. will include furnishing, installing and testing the two pumps.

cc: City Attorney
Assistant Director of Public Works
Water Treatment Plant Superintendent

Attachments:

- Proposed Resolution
- Contract with Flo-Line Technology, Inc.

RESOLUTION NO. 11 -

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A CONTRACT FOR PUMP REPLACEMENT AT THE LAKE HERMAN PUMP STATION WITH FLO-LINE TECHNOLOGY, INC. IN THE AMOUNT OF \$31,903, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY

WHEREAS, the Lake Herman Pump Station is a vital component of the water distribution system; and

WHEREAS, two of the pumps have reached the end of useful life and need replacement; and

WHEREAS, a Request for Quotation (RFQ) for pump replacement services was sent to the only two known qualified firms; and

WHEREAS, Flo-Line Technology, Inc. submitted the lowest responsible and responsive quote and is the recommended firm for replacing two pumps at the Lake Herman Pump Station.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves a contract for pump replacement at the Lake Herman Pump Station with Flo-Line Technology, Inc. in the amount of \$31,903, and authorizes the City Manager to sign the agreement, subject to approval as to form by the City Attorney.

On motion of Council Member _____, seconded by Council Member _____ the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 18th day of January, 2011 and adopted by the following vote:

Ayes:

Noes:

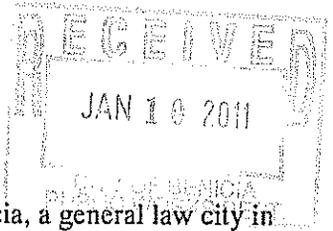
Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

AGREEMENT FOR CONTRACT SERVICES



THIS AGREEMENT is made and entered into between the City of Benicia, a general law city in Solano, County, California, hereinafter called "CITY" and Flo-Line Technology Inc, thereinafter called "CONTRACTOR".

CONTRACTOR'S Business Address: 11822 Kemper Road, Auburn, CA 95603; Phone # (530) 887-2240

The parties to this agreement mutually agree as follows:

1. DESCRIPTION OF SERVICES TO BE PROVIDED

CONTRACTOR shall provide services to CITY in accordance with the Request for Quotation ("RFQ") dated November 18, 2010 and Proposal dated December 2, 2010 for the Pump Replacement Project. The RFQ and Proposal are incorporated herein by reference and are attached as Exhibit "A" and Exhibit "B", respectively. CONTRACTOR shall perform the services contemplated hereunder in a competent and professional manner and to the satisfaction of the CITY'S Public Works Director or his/her designee.

2. PAYMENT

CONTRACTOR shall be paid for the above described services in the amount of \$31,902.57. The compensation agreed to be paid to CONTRACTOR shall be the sole and exclusive consideration paid or provided to the CONTRACTOR by the CITY.

CONTRACTOR shall be paid for the service it/he/she renders hereunder:

within 30 days after receipt of any invoice therefore.

within 30 days after the completion of the work.

on a monthly basis, beginning on _____, in equal installments of \$ _____ each.

3. CONTRACT TERMINATION

Both parties agree and understand that this contract may be terminated under the following conditions:

(a) by failure of the CONTRACTOR to substantially perform the above described services;

and/or

(b) the CITY reserves the right to cancel the work or services before the work or service begins, even though advertised and requested for.

In the event the contract is canceled under the circumstances described in paragraph 3(a), the determination of payment to the CONTRACTOR shall be at the discretion of the City's Public Works Department Director or his/her designee.

4. CONTRACTOR RELATIONSHIP

CONTRACTOR understands and agrees that in performing the above described services, the CONTRACTOR shall act as an independent contractor and not an employee of the CITY.

The CONTRACTOR shall be solely responsible for the reporting of income for tax purposes.

5. COMPLIANCE WITH THE LAW

CONTRACTOR, in the conduct of the services contemplated hereunder, shall comply with all statutes, state or federal, and all ordinances, rules and regulations of the City Council of the City or of the City's Public Works Department.

6. SUPPLIES

CONTRACTOR shall acquire, provide, maintain and repair at its/his/her sole cost and expense such equipment, materials, supplies, etc., as CONTRACTOR needs for its/his/her use for the proper conduct of the aforesaid work or services.

7. INDEMNIFICATION AND INSURANCE

(a) CONTRACTOR agrees to indemnify, release, defend and hold harmless the CITY, its officers, agents and employees ("indemnitees") from and against any and all claims, demands, losses, defense costs or liability of any kind or nature which indemnitees may sustain or incur or which may be imposed upon them for injuries to or death of persons, or damage or injury to property as a result of, arising out of, or in any manner connected with CONTRACTOR'S performance under the terms of this agreement.

(b) In the event CONTRACTOR desires to hire or employ any other company or person to perform any part of the services contemplated herein, the written approval therefore must be first obtained from the CITY. The CITY may withhold such approval for any reason. If approval is given by the CITY, CONTRACTOR shall secure Worker's Compensation insurance covering said approved employee(s) in statutory amounts and providing 30 days' advance notice to CITY in the event said policy is canceled.

(c) Without limiting CONTRACTOR'S indemnification, it is agreed that CONTRACTOR shall maintain in force at all times during the performance of this contract, the following types of insurance providing coverage on an "occurrence" basis. Said insurance shall name the CITY, its officers, agents and employees as additional insureds and provide for 30 days' advance notice of cancellation. Evidence of said insurance shall be delivered to CITY at the same time CONTRACTOR signs this Agreement in certificate forms acceptable to the CITY.

 X Automobile insurance for the vehicle(s) CONTRACTOR uses in connection with the performance of this Agreement. Coverage: \$1,000,000 per occurrence for bodily injury and property damage.

 X Commercial general liability and property damage insurance. Coverage: \$1,000,000 combined, single limit.

 X Worker's Compensation insurance to cover its employees as required by the Labor Code of the State of California. CONTRACTOR's worker's compensation insurance shall include the following language: "All rights of subrogation are hereby waived against the CITY, its officers and employees when acting within the scope of their appointment or employment." In the event any class of employees engaged in hazardous work under this Contract is not protected under Workers' Compensation Statutes, the CONTRACTOR shall provide adequate and suitable insurance for the protection of its employees not otherwise protected.

_____ Pollution and/or Asbestos Pollution Liability and/or Errors and Omissions insurance.
Coverage: \$1,000,000 each occurrence, \$2,000,000 policy aggregate.

8. ASSIGNMENT

The parties acknowledge that the above-described services shall not under any circumstances be assigned to any other person without the prior written consent of the CITY. It is further recognized by the parties hereto that a substantial inducement to the CITY for entering into this agreement was, and is, the professional reputation and competence of the CONTRACTOR.

9. GOVERNING LAW

This Agreement shall be governed by the laws of the State of California. It constitutes the entire agreement between the parties regarding its subject matter. If any provision in this Agreement is held by any court to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force.

WITNESS THE EXECUTION THEREOF, this _____ day of _____, 20__.

CITY OF BENICIA

CONTRACTOR

BY _____
Brad Kilger
CITY MANAGER



Signature

CFO

Title

RECOMMENDED BY:

Chris Tomasik
ASSISTANT PUBLIC WORKS DIRECTOR

APPROVED AS TO FORM:

Heather McLaughlin
CITY ATTORNEY

AGENDA ITEM
CITY COUNCIL MEETING DATE - JANUARY 18, 2011
CONSENT CALENDAR

DATE : January 4, 2011

TO : City Council

FROM : City Attorney

SUBJECT : **REPORT FROM THE ARSENAL SUBCOMMITTEE AND RECOMMENDATION FOR AWARD OF AN AGREEMENT FOR CONSULTING SERVICES FOR THE BENICIA ARSENAL PROJECT TO ENVIRONMENTAL RISK SERVICES ("ERS")**

RECOMMENDATION:

Adopt the Resolution approving an agreement with ERS Corporation for consulting services for the Benicia Arsenal investigation and potential cleanup project and authorizing the City Manager to sign the contract on behalf of the City.

EXECUTIVE SUMMARY:

The proposed agreement with ERS Corporation has been updated to reflect the changes to the agreement discussed at the January 4, 2011.

BUDGET INFORMATION:

There are sufficient funds to cover the \$10,000 for expenses in the City Attorney's budget. It is anticipated that some or all of this may be reimbursed at a future date.

GENERAL PLAN:

Relevant General Plan Goals and Policies include:

- Goal 2.5: Facilitate and encourage new uses and development which provide substantial and sustainable fiscal and economic benefits to the City and the community while maintaining health, safety, and quality of life
- Goal 4.7: Ensure that existing and future neighborhoods are safe from risks to public health that could result from exposure to hazardous materials.
 - Policy 4.7.3: Protect existing and future development from contaminated sites, hazardous landfill waste and debris, chemical spills, and other hazards including unexploded ordnance and explosive waste.

- Policy 4.7.5: Require that all sites known or suspected to have unexploded ordnance and/or a toxic history be tested and remediated before any development can occur.

STRATEGIC PLAN:

Relevant Strategic Plan Goal:

- Strategic Issue #1: Protecting Community Health and Safety

BACKGROUND:

On October 25, 2010, the City issued a Request for Qualification for legal and technical support for the Benicia Arsenal project. A total of 16 firms responded. The Council Subcommittee met on November 8 and reviewed the proposals and selected 7 firms to interview. Interviews were conducted on November 10 and 11. All of the firms, both those interviewed and those not interviewed, have excellent qualifications.

Based on the interviews, the proposal and the qualifications of the team members, it is recommended that an agreement be awarded to the ERS team. ERS has a background in environmental engineering and scientific background as well as an insurance division. The team includes Briscoe, Ivester & Brazel LLP, Garrett & Knisely, Dongell Lawrence Finney LLP, Engineering/Remediation Resources Group so a full range of services is available. A summary of the team members is available in their proposal beginning on their page 15 of 23. The proposal is available on line at www.ci.benicia.ca.us/arsenal. The team has the capacity to provide the necessary services to assist the City in assessing and managing the potential liabilities and risks associated with the state Department of Toxic Substances Control ("DTSC") proposed action. While the firm is not a registered lobbyist they can assist the City in lobbying and supporting legislative solutions. The firm is a registered insurance broker and can assist with purchasing insurance as well as reviewing past insurance.

After valuable input and review from members of the public and the City Council, the agreement is ready for approval. While the City cannot guarantee that property owners will not be adversely affected as a result of DTSC's actions, the City is using reasonable efforts to assist the property owners while keeping in mind the City's fiduciary duty to the City as a whole. Changes to the agreement include requiring City Council approval before tendering insurance to the insurance carriers, adding that contributions from landowners are voluntary and clarifying how payment and excess funds will be handled.

Attachments:

- Resolution
- Draft Agreement

RESOLUTION NO. 11 -

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AWARDING THE CONSULTANT AGREEMENT TO ERS CORPORATION FOR THE BENICIA ARSENAL CLEANUP PROJECT AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY

WHEREAS, the City issued a Request for Proposals for legal and technical support for the Benicia Arsenal Project and 16 responses were received; and

WHEREAS, seven firms were interviewed; and

WHEREAS, the Council Subcommittee recommends that the agreement be awarded to ERS Corporation.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby awards the agreement to ERS Corporation and authorizes the City Manager to execute the agreement subject to minor changes approved by the City Attorney.

On motion of Council Member _____ and seconded by Council Member _____, the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 18th day of January, 2011 and adopted by the following vote.

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

CONSULTANT AGREEMENT

This agreement ("Agreement") entered into January xx, 2011, is between the City of Benicia, a municipal corporation (hereinafter "CITY"), and Environmental Risk Services Corporation, a California corporation, with its primary office located at 1600 Riviera Ave., Suite 310, Walnut Creek, CA 94596 (hereinafter "CONSULTANT") (collectively, "the Parties").

RECITALS

WHEREAS, CITY has determined it is necessary and desirable to secure certain services for consulting, legal and remediation regarding the Arsenal Cleanup Project. CITY solicited proposals from various firms to provide assistance for the potential review and remediation of the former Benicia Arsenal or parts thereof. The scope of work for said services (hereinafter "Project") is attached hereto as Exhibit "A" and is hereby incorporated by reference; and

WHEREAS, CONSULTANT is specially trained, experienced and competent to perform the services required by this agreement; and

WHEREAS, CITY's affirmative duty is public safety and health; and

WHEREAS, CITY desires to protect the economic activity of all property owners in the Arsenal from adverse impacts of an Arsenal Cleanup Project, including the Benicia Business Park; and

WHEREAS, it would be beneficial to CITY if an collaborative and cooperative approach to resolution of the Project was achieved with other property owners; and

WHEREAS, property owners in the Arsenal with smaller holdings, including the Benicia Business Park, do not have the resources for CONSULTANT's services if the property owners were acting alone; and

WHEREAS, CONSULTANT and CITY desire to allow CONSULTANT to provide services to property owners who would like to use CONSULTANT's services to the extent that it does not create a conflict of interest. The parties contemplate that services to other property owners may be provided either under separate contract with the property owners or, for work requiring minimal time or effort, as part of the services under this Agreement; and

WHEREAS, CONSULTANT represents it is qualified and willing to provide such services pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, IT IS AGREED by and between CITY and CONSULTANT as follows:

AGREEMENT

1. INCORPORATION OF RECITALS. The recitals set forth above, and all defined terms

set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

2. SCOPE OF SERVICE.

(a) Services to be Furnished. Subject to such policy direction and approvals as CITY through the City Attorney may determine from time to time, CONSULTANT shall perform the services set forth in the Scope of Work and the incorporated Consultant's proposal and the Request for Qualifications labeled Exhibit A, which is attached hereto and incorporated herein by reference. In the event of a conflict between these documents, text of this Agreement shall prevail over the Exhibit. It is anticipated by the parties that the scope of services will be conducted in at least three phases, including an initial due diligence phase to determine whether any funding sources are available to complete remediation. Funding sources are monies received by CITY from the US Treasury, State of California, insurance companies, voluntary contributions from landowners, grants, and other sources for the investigation and remediation of the Benicia Arsenal, services related to that investigation and cleanup, or from settlement, resolution, or satisfaction of any claims related to the contamination, investigation and/or remediation of the Benicia Arsenal (hereafter, "Remediation Funds"). Upon receipt of adequate Remediation Funds in the escrow account, subsequent phases will include the second phase of site investigation, risk assessment, liability allocation, and the third phase of design and implementation of remediation actions. If no funding is identified to CITY's satisfaction within eighteen months of the date of this Agreement or if insufficient funds are received to do work, the Agreement may be terminated at CITY's discretion.

(b) Schedule for Performance. CONSULTANT shall perform the services identified in Exhibit A and as expeditiously as is consistent with generally accepted standards of professional skill and care, and the orderly progress of work. The parties agree that the efficient and effective prosecution of this Project is vital to the success of the Project. CONSULTANT shall not be responsible for performance delays caused by others, or delays beyond CONSULTANT'S control, subject to City Attorney's approval, and such delays shall extend the times for performance of the work by CONSULTANT. The identification work for the initial funding phase shall be done within eighteen months of the date of this Agreement.

(c) Standard of Quality. All work performed by CONSULTANT under this Agreement shall be in accordance with all applicable legal requirements including, but not limited to, the standards of the California Department of Toxic Substances Control and any other responsible regulatory agency and shall meet the standard of quality ordinarily to be expected of competent professionals in CONSULTANT'S field of expertise. CONSULTANT shall function as a technical advisor to CITY, and all of CONSULTANT'S activities under this Agreement shall be performed to the full satisfaction and approval of the CITY ATTORNEY.

(d) Compliance With Laws. CONSULTANT shall comply with all applicable federal, state, and local laws, codes, ordinances, regulations, orders, and decrees. CONSULTANT represents and warrants to CITY that CONSULTANT shall, at its own cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and approvals which are legally required for CONSULTANT to practice its

profession or are necessary and incident to the due and lawful prosecution of the services it performs under this Agreement. CONSULTANT shall maintain a City of Benicia business license. CONSULTANT shall at all times during the term of this Agreement, and for one year thereafter, provide written proof of such licenses, permits, insurance, and approvals upon request by CITY. CITY is not responsible or liable for CONSULTANT'S failure to comply with any or all of the requirements contained in this paragraph.

3. COMPENSATION.

(a) Contingency Agreement. This is a contingency fee agreement. Other than through the escrow process described herein and the \$10,000 in out-of-pocket expenses set forth in Section 3(b) below, CITY shall pay no compensation from CITY's general fund or other CITY funds for the services to be provided by this Agreement. The compensation paid to CONSULTANT shall be from money received by CITY from the US Treasury, State of California, insurance companies, voluntary contributions from landowners, grants, and other sources for the investigation and remediation of the Benicia Arsenal, services related to that investigation and cleanup, or from settlement, resolution, or satisfaction of any claims related to the contamination, investigation and/or remediation of the Benicia Arsenal (hereafter, "Remediation Funds"). Tendering of insurance policies is to be approved by the City Council. City Attorney shall approve any other Remediation Funds. CONSULTANT shall have the exclusive right to negotiate for Remediation Funds on behalf of CITY. All Remediation Funds shall be deposited into an escrow account, and paid exclusively from that escrow account to CONSULTANT in accordance with escrow instructions to be agreed on by CITY and CONSULTANT. The escrow account shall be held and managed by CITY.

(b) \$10,000 for out of pocket expenses. CONSULTANT shall be reimbursed by CITY for out of pocket expenses incurred in the prosecution of this Project. The amount of out of pocket expenses shall not exceed \$10,000 to be reimbursed from the City's general fund. An invoice and backup documentation shall be provided to CITY for the expenses. If Remediation Funds become available, whether through insurance or other means, and the costs and expenses associated with CONSULTANT's services have been paid as set forth in Section 3(a) of this Agreement, then the \$10,000 shall be reimbursed to CITY.

(c) CONSULTANT shall have the right to timely payments from the escrow account providing fair compensation for services rendered from the effective date of this Agreement. Funds deposited into the escrow account to cover the cost to investigate, remediate and close the environmental liabilities, whether by CONSULTANT or sub-consultants, will be used to pay CONSULTANT for project management services and, in the case of the CITY, as provided in subparagraph (e). The estimated cost to investigate, remediate and close the environmental liabilities will be determined using work plans approved by the appropriate regulatory agencies and, if insurance funds are used, by the appropriate insurance companies. Fair compensation for interim payments shall not exceed the rates on the current rate schedule for when the work was performed; provided, however, that when remediation funds are first transferred into the escrow account, CONSULTANT will be reimbursed for work previously performed at the rates current when the request for reimbursements are submitted. CITY shall have the right to confirm that CONSULTANT has performed work consistent with the Scope of Work. CONSULTANT shall submit monthly reports documenting its time and materials expended for the services performed

under this Agreement during the preceding period. Invoices or reports must be submitted in duplicate and must indicate the hours actually worked by each classification and employee name, as well as all other directly related costs by line item. CITY will pay CONSULTANT within 45 days of receipt of the invoice. Fair compensation shall not exceed the rates on the current rate schedule for when the work was performed. A current rate schedule is attached as Exhibit "B". Not more than annually, CONSULTANT may increase rates, in keeping with industry standards as determined by averaging three sources, by submitting a revised rate schedule, to the City Attorney for review and approval, which will not be unreasonably withheld.

(d) Additional Services. CITY shall make no payment to CONSULTANT for any additional services unless such services and payment have been mutually agreed to and this Agreement has been formally amended in accordance with Section 7.

(i) Only the City Council can act on behalf of CITY to authorize CONSULTANT to perform additional services and any related compensation.

(ii) CONSULTANT shall not commence any work or services exceeding the Scope of Services in Section 2 without prior written authorization from CITY in accordance with Section 7. CONSULTANT'S failure to obtain a formal amendment to this Agreement authorizing additional services shall constitute a waiver of any and all right to compensation for such work or services.

(iii) If CONSULTANT believes that any work CITY has directed CONSULTANT to perform is beyond the scope of this Agreement and constitutes additional services, CONSULTANT shall promptly notify CITY of this fact before commencing the work. CITY shall make a determination as to whether such work is beyond the scope of this Agreement and constitutes additional services. If CITY finds that such work does constitute additional services, CITY and CONSULTANT shall execute a formal amendment to this Agreement, in accordance with Section 7, authorizing the additional services and stating the amount of any additional compensation to be paid.

(e) CONSULTANT agrees that any Remediation Funds in excess of the cost of remediation and closure remands to the CITY and may be used to reimburse City for City Attorney and staff time, travel expenses including City Council and other city officials expended during the time of this Agreement, for outside counsel review of this Agreement, for redevelopment or development or public work improvements for the remediated properties and public roads, or for such other Arsenal area infrastructure or other public projects as the City Council may determine. CITY will keep monthly record of hours spent and hourly rates of employees devoting time to this Project. The excess funds will be from the same sources as noted in 3(a) and available to the City at or before the final closure and sign off by the agency that has the authority to deem the remediation and closure complete.

4. PRODUCT REVIEW AND COMMENT. CONSULTANT shall provide CITY with at least two (2) paper copies of each product described in Exhibit A and one electronic version. Upon the completion of each product, CONSULTANT shall be available to meet with CITY. If

additional review and/or revision is required by CITY, CITY shall conduct reviews in a timely manner.

5. TERM OF AGREEMENT. This Agreement shall be effective immediately upon the signatures of both Parties and shall remain in effect until completed, amended pursuant to Section 7, terminated pursuant to Section 6, or if no Remediation Funds are identified within eighteen months of the date of this Agreement, whichever occurs first.

6. TERMINATION:

(a) CITY shall have the right to terminate this Agreement for non-performance or breach of the terms of this Agreement by serving upon CONSULTANT written notice of termination. CONSULTANT shall have the right to terminate this Agreement for any reason whatsoever at any time by serving upon CITY written notice of termination. The Agreement shall terminate three (3) business days after notice of termination is given. The notice shall be deemed given on the date it is deposited in the U.S. mail, certified, postage prepaid, addressed to CONSULTANT or CITY at the address indicated in Section 11. At the time of mailing, copy of the notice shall also be provided by email.

(b) If CITY issues a notice of termination,

(i) CONSULTANT shall immediately cease rendering services pursuant to this Agreement;

(ii) CONSULTANT shall deliver to CITY copies of all writings, whether or not completed, which were prepared by CONSULTANT, its employees, or its subcontractors, if any, pursuant to this Agreement. For purposes of this Agreement, the term "writings" shall include, but not be limited to, handwriting, typewriting, computer files and records, drawings, blueprints, printing, photostating, photographs, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof. CITY shall pay CONSULTANT for work actually performed according to the scope of work up to the effective date of the notice of termination, provided, however, that this payment is limited by the sum of the \$10,000 for out-of-pocket expenses identified in Section 3(b) of this Agreement plus any Remediation Funds, as defined in Section 3(a) of this Agreement, that are received at any time;

(c) If CONSULTANT issues a notice of termination,

(i) CONSULTANT shall immediately cease rendering services pursuant to this Agreement;

(ii) CONSULTANT shall deliver to CITY copies of all writings, whether or not completed, which were prepared by CONSULTANT, its employees, or its subcontractors, if any, pursuant to this Agreement. For purposes of this Agreement,

250 East L Street
Benicia, CA 94510

If to CONSULTANT: Mark O'Brien
ERS Corporation
1600 Riviera Ave. Suite 310
Walnut Creek, CA 94596

12. OWNERSHIP OF MATERIALS. CITY is the owner of all records and information created, produced, or generated as part of the services performed under this Agreement. At any time during the term of this Agreement, at the request of CITY, CONSULTANT shall deliver to CITY all writings, records, and information created or maintained pursuant to this Agreement. In addition, CONSULTANT shall not use any of the writing, records, or information generated for the Project under this Agreement for any other work without CITY's consent.

13. EMPLOYEES; ASSIGNMENT; SUBCONTRACTING.

(a) Employees. CONSULTANT shall provide properly skilled professional and technical personnel to perform all services required by this Agreement. CONSULTANT shall not engage the services of any person(s) now employed by CITY without CITY's prior express written consent and shall not hire or attempt to hire any person who was a CITY employee during the year prior to the hiring or attempted hiring. The primary team members listed in CONSULTANT's Proposal on pages 18-20 shall not be substituted unless prior agreement is given by the City Attorney. Mark O'Brien of ERS shall be the primary lead for CONSULTANT.

(b) Assignment. CONSULTANT shall not assign, delegate, or transfer its duties, responsibilities, or interests in this Agreement without the prior express written consent of CITY. Any attempted assignment without such approval shall be void and, at CITY's option, shall terminate this Agreement and any license or privilege granted herein.

(c) Subcontracting. CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the prior express written consent of CITY. CITY hereby consents to the subcontracting of work to the primary team members listed in CONSULTANTS proposal on pages 18-20 and their firms. If CITY consents to CONSULTANT'S hiring of subcontractors, CONSULTANT shall provide to CITY copies of each and every subcontract prior to its execution. All subcontractors are deemed to be employees of CONSULTANT, and CONSULTANT agrees to be responsible for their performance. CONSULTANT shall give its personal attention to the fulfillment of the provisions of this Agreement by all of its employees and subcontractors, if any, and shall keep the work under its control.

14. BINDING AGREEMENT. This Agreement shall bind the successors in interest, legal representatives, and permitted assigns of CITY and CONSULTANT in the same manner as if they were expressly named herein.

15. WAIVER.

(a) Effect of Waiver. Waiver by either party of any default, breach, or condition precedent shall not be construed as a waiver of any other default, breach, or condition precedent or any other right under this Agreement.

(b) No Implied Waivers. The failure of either party at any time to require performance by the other party of any provision hereof shall not affect in any way the right to require such performance at a later time.

16. NONDISCRIMINATION.

(a) Consultant shall not discriminate in the conduct of the work under this Agreement against any employee, applicant for employment, or volunteer on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited basis will not be tolerated.

(b) Consistent with City's policy that harassment and discrimination are unacceptable employer/employee conduct, CONSULTANT agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by CONSULTANT or CONSULTANT'S employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited basis will not be tolerated. CONSULTANT agrees that any and all violation of this provision shall constitute a material breach of the Agreement.

17. INDEMNITY. CONSULTANT specifically agrees to indemnify, defend, and hold harmless CITY, its officers, agents, and employees from and against any and all actions, claims, demands, losses, expenses including attorneys' fees, damages, and liabilities resulting from injury or death of a person or injury to property, arising out of or in any way connected with the performance of this Agreement and including any Government Code 1090 actions or conflicts of interest actions, however caused, regardless of any negligence of the CITY, whether active or passive, excepting only such injury or death as may be caused by the sole negligence or willful misconduct of the CITY. The CONSULTANT shall pay all costs that may be incurred by CITY in enforcing this indemnity, including reasonable attorneys' fees.

CONSULTANT's duties to indemnify, defend and hold harmless CITY shall be limited to the extent the services provided pursuant to this Agreement are "design professional services" subject to Section 2782.8 of the California Civil Code. In accordance with Civil Code Section 2728.8, CONSULTANT shall, to the fullest extent allowed by law, with respect to all design professional services performed in connection with this Agreement, defend with counsel acceptable to CITY, indemnify, and hold CITY, its officers, employees, agents, and volunteers, harmless from and against any and all claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, ("Claims"). CONSULTANT will bear all losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such Claims, whether directly or

indirectly (“Liability”). Such obligations to defend, hold harmless and indemnify CITY shall not apply to the extent that such Liability is caused by the sole negligence of, active negligence, or willful misconduct of CITY.

18. INSURANCE.

(a) Required Coverage. CONSULTANT, at its sole cost and expense, shall obtain and maintain in full force and effect throughout the entire term of this Agreement the following described insurance coverage. This coverage shall insure not only CONSULTANT, but also, with the exception of workers’ compensation and errors and omissions insurance, shall name as additional insureds CITY, its officers, agents, employees, and volunteers, and each of them:

<u>Policy</u>	<u>Minimum Limits of Coverage</u>
(i) Workers’ Compensation	Statutory
(ii) Comprehensive Automobile Insurance Services Office, form #CA 0001 (Ed 1/87 covering auto liability code 1 (any auto))	Bodily Injury/Property Damage \$1,000,000 each accident
(iii) General Liability Insurance Services Office Commercial General Liability coverage on an occurrence basis (occurrence form CG 0001)	\$1,000,000 per occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit shall apply separately to this Project/ location, the general aggregate limit shall be twice the required occurrence limit
(iv) Errors and Omissions/ Professional’s Liability, errors and omissions liability insurance appropriate to the CONSULTANT’s profession.	Generally \$1,000,000 per occurrence

(b) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by CITY.

(c) Required Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

(i) For any claims related to this Project, the CONSULTANT’S insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by CITY, its officers, officials, employees, or volunteers shall be in excess of the CONSULTANT’S insurance and shall not contribute with it;

(ii) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to CITY, its officers, officials, employees, or volunteers;

(iii) The CONSULTANT'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability;

(iv) Each insurance policy required by this Section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after giving CITY 30 days' prior written notice by certified mail, return receipt requested.

(d) Acceptability of Insurers. CONSULTANT shall place insurance with insurers with a current A.M. Best's rating of no less than [A:VII] unless CONSULTANT requests and obtains CITY'S express written consent to the contrary.

(e) Verification of Coverage. CONSULTANT must provide complete, certified copies of all required insurance policies, including original endorsements affecting the coverage required by these specifications. The endorsements are to be signed by a person authorized by CONSULTANT'S insurer to bind coverage on its behalf. All endorsements are to be received and approved by CITY before work commences.

19. WORKERS' COMPENSATION.

(a) Covenant to Provide. CONSULTANT warrants that it is aware of the provisions of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code. CONSULTANT further agrees that it will comply with such provisions before commencing the performance of the work under this Agreement.

(b) Waiver of Subrogation. CONSULTANT and CONSULTANT'S insurance company agree to waive all rights of subrogation against CITY, its elected or appointed officials, agents, and employees for losses paid under CONSULTANT'S workers' compensation insurance policy which arise from the work performed by CONSULTANT for CITY.

20. FINANCIAL RECORDS. CONSULTANT shall retain all financial records, including but not limited to documents, reports, books, and accounting records which pertain to any work or transaction performed pursuant to this Agreement for four (4) years after the expiration of this Agreement. CITY or any of its duly authorized representatives shall, with reasonable notice, have access to and the right to examine, audit, and copy such records.

21. CONFLICT OF INTEREST. CONSULTANT shall exercise reasonable care and diligence to prevent any actions or conditions which could result in a conflict with CITY'S interest. During the term of this Agreement, CONSULTANT shall not accept any employment

or engage in any consulting work which creates a conflict of interest with CITY or in any way compromises the services to be performed under this Agreement unless first authorized in writing by the CITY. CONSULTANT shall immediately notify CITY if, at any time during the performance of this contract, CONSULTANT becomes aware of any actual or potential conflicts of interest with CITY.

It is anticipated that the CONSULTANT may provide consulting services to and cooperate with other property owners so that economies and efficiencies of scale may be achieved. Such services, unless de minimus, shall be at the other property owner(s) expense and provided only if desired by said property owner or owners. For the purposes of this Agreement, the CITY shall be the CONSULTANT's primary client. If a conflict arises between the CITY and any other property owners, the CONSULTANT shall cease any consulting services and/or cooperation with those other property owners and work only for the CITY unless otherwise agreed by the CITY and CONSULTANT.

22. TIME OF THE ESSENCE. CONSULTANT understands and agrees that time is of the essence in the completion of the work and services described in Section 2.

23. SEVERABILITY. If any court of competent jurisdiction or subsequent preemptive legislation holds or renders any of the provisions of this Agreement unenforceable or invalid, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected.

24. GOVERNING LAW AND CHOICE OF FORUM. This Agreement shall be administered and interpreted under California law as if written by both parties. Any litigation arising from this Agreement shall be brought in the Superior Court of Solano County and no other place.

25. COSTS AND ATTORNEYS' FEES. If either party commences any legal action against the other party arising out of this Agreement or the performance thereof, the prevailing party in such action may recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees. In any action seeking recovery of monetary damages, the plaintiff shall not be considered to be the prevailing party unless it recovers at least 66% of the dollar amount requested in the complaint's prayer for relief.

26. CONTINGENCY ATTORNEY SUPERVISION. The City Attorney retains (1) complete control over the course and conduct of the Project; (2) a veto power over any decisions made by outside counsel; and (3) must be personally involved in overseeing litigation, if any.

27. INTEGRATION. This Agreement represents the entire understanding of CITY and CONSULTANT as to those matters contained herein and supersedes all prior negotiations, representations, or agreements, both written and oral. This Agreement may not be modified or altered except in accordance with Section 7.

Executed by CITY and CONSULTANT on the date shown next to their respective signatures. The effective date of this Agreement shall be the date of execution by the CITY as shown below.

ERS CORPORATION

BY: _____
DATED

CITY OF BENICIA

BY: _____
Brad Kilger, City Manager
DATED:

APPROVED AS TO FORM

City Attorney

SCOPE OF WORK

The work to be performed under this Agreement includes the work proposed in the Consultant's proposal and the Request for Qualifications, which are incorporated by reference and are subject to the items and limitations listed below.

1. Early Meetings with the Department of Toxic Substances Control and other agencies.
2. Insurance/Funding Options: In order to provide a source of funds for the Arsenal Project, the Consultant shall review and analyze historic insurance policies and insurance records of the City. Only after approval by the City Council, ~~will~~ the Consultant ~~will~~ tender the Arsenal Project to the appropriate insurance companies. If gaps are found in the insurance coverage, the Consultant will perform the necessary historical research to locate other items of evidence of insurance coverage such as non-traditional evidence, e.g. leases or other items mentioning possible responsibility of a party.
 - a. The Consultant may assist other property owners, especially smaller property owners holding less than a combined 10 acres, to determine if they have historical insurance policies and provide assistance with tendering their claims. Similarly, the Consultant may assist other property owners, especially the smaller property owners, to obtain grants and agreements with the Department of Defense and other state and federal agencies. The Consultant may assist other property owners to design and implement investigation and remediation efforts. The assistance provided by the Consultant pursuant to this paragraph is at the option of the property owner or owners and shall be paid for by the property owner or owners unless it involves minimal work by the Consultant.
 - b. The Consultant shall determine if insurance coverage will be provided to the city only if there is litigation or if coverage is provided for a threat of litigation or for an order issued by the State or Federal government.
 - c. The Consultant shall also provide advice on and broker Cost Cap containment policies and other types of insurance products that will help shield the City (and other property owners if possible) from unplanned cleanup costs. If other property owners desire this coverage and there is an additional cost required to cover other property owners, said expense shall be borne by the property owners.
3. Preliminary Strategy and Goal Setting: The Consultant shall meet with the Council Subcommittee and City Attorney to review and discuss preliminary objectives and outcomes for the Project. As a result of this meeting, a timeline and chart of decision-making and action and key milestones, deliverables, and agreements shall be prepared. For example:
 1. Early Meetings with the Department of Toxic Substances Control and other agencies: TBD
 2. Insurance Review: TBD
 3. Preliminary Strategy and Goal Setting: TBD
 4. Funding Options: TBD
 5. Develop Strategies: TBD
 6. Implement Strategies: Ongoing

7. Public Participation: No less than quarterly.
4. Funding Options: The Consultant shall identify and pursue, as appropriate and reasonable, funding options available to the City beyond the insurance option. Options included, but are not limited to, grant funds such as the EPA Brownfields grant program, US O.E.A. BRAC or FUDS Cleanup grants, indemnity, California Revolving Loan program, CERCLA ability to pay and private sources as another possible funding source.
5. Develop Strategy: Based on a review of existing documents pertaining to the Arsenal, the Consultant will develop a strategy for achieving the City's goals in a cost, time efficient and effective manner. The Strategy should include consideration of the best regulating mechanism for the Project goals including which is the best state agency to lead the Project, which approach minimizes the out of pocket expenses and liability for City and other property owners, and which statutory method for meeting CERCLA and environmental clearance (voluntary agreements or orders).
 - a. The Consultant shall analyze the City's potential liability and provide a report. Liability for public utilities as well as property ownership, among other things, shall be reviewed and considered if necessary.
 - b. Various approaches shall be considered and recommended, including Hazardous Substances Accountability Act, Polanco Act, voluntary agreements with one or more PRP, CERCLA methods or orders.
 - c. The Consultant shall analyze the public health and safety risks considering the existing documentation to develop cleanup levels and estimate remediation costs. The Consultant shall consider whether a CERCLA 120f approach is required.
6. Implement the Strategy:
 - a. Directed by the City Attorney, the Consultant shall attend meetings as a representative of the City. Meetings include those with regulators, other PRPs, insurance companies and the public.
 - b. The Consultant shall monitor implementation of the strategy and report to the City to make sure that the goals of the Arsenal Project are attained. The Consultant shall recommend additional measures to attain the goals, if necessary.
7. Public Participation:
 - a. The Consultant shall provide information and recommendations, if any, for the Council Subcommittee's report to the Council and public. The reports will be initially semi-monthly and then monthly reports.
 - b. The Consultant shall participate in periodic meetings for the general public and provide information for the City's website. Information shall consist of background information to assist the public's need to know as well as current status updates on what is going on with the Project. There shall be an up to date FAQ provided by the Consultant as part of this information task. Copies of the information on the website shall be provided in hard copy for a repository of documents to be retained in the City of Benicia Library while the Project is current. Public outreach shall include all stakeholders especially the property owners and businesses of the industrial park and lower arsenal.

8. Legislation and lobbying. As needed, the Consultant will provide lobbying services to assist with any necessary state or federal legislation related directly to this scope of work.
9. Consultant will provide all of the environmental consulting, legal, and remediation services that are funded by settlements and/or agreements with insurance companies, other responsible parties, the US Department of Defense, institutions including state and federal agencies issuing grants, or similar.
10. Consultant shall provide assistance to other property owners only after consulting with outside legal counsel to make sure the City's interests are not jeopardized by such work and that an unreasonable conflict of interest is not created.

EXHIBIT B
RATE SCHEDULE

Environmental and Engineering Services: \$60 - \$425/hr

- Environmental Risk Services; Inc.
- Engineering/Remediation Resource Group; Inc.

(Including project management, senior scientists, expert witnesses, MEC specialists)

Legal Services: \$190 - \$575/hr

- Briscoe, Ivester & Bazel LLP
- Dongell, Lawrence Finney LLP;
- Garrity & Knisely LLP

(Including insurance, grants, environmental, regulatory and military specialists)

AGENDA ITEM
CITY COUNCIL MEETING DATE - JANUARY 18, 2011
INFORMATIONAL ITEMS

DATE : December 27, 2010

TO : City Council

FROM : City Manager

SUBJECT : **OVERVIEW OF THE SUSTAINABLE COMMUNITIES STRATEGY, IMPLEMENTATION OF SENATE BILL 375 RELATIVE TO LAND USE, TRANSPORTATION, AND ENVIRONMENTAL PLANNING**

RECOMMENDATION:

Receive a presentation forwarded by the Association of Bay Area Governments (ABAG) regarding the ongoing effort to develop a Sustainable Communities Strategy for the Bay Area in response to the directives of SB 375.

EXECUTIVE SUMMARY:

The Sustainable Communities Strategy (SCS) provides an opportunity for the City of Benicia to advance local goals as part of a coordinated regional framework. SCS connects local concerns such as housing, jobs and traffic to regional objectives and resources. It provides a means for cities and counties to address such challenges as housing costs, job access and greenhouse gas emissions in concert with the regional planning agencies: ABAG, the Metropolitan Transportation Commission (MTC), the Bay Area Air Quality Management District and the Bay Conservation and Development Commission (BCDC).

BUDGET INFORMATION:

This presentation generates no fiscal impact to the City of Benicia's General Fund.

GENERAL PLAN:

Sustainability is the overarching objective of the General Plan.

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies include:

Strategic Issue 2: Protecting and Enhancing the Environment

- Strategy 1: Reduce greenhouse gas emissions and energy consumption
- Strategy 3: Pursue and adopt sustainable practices
- Strategy 4: Protect air quality

Strategic Issue 4: Preserving and Enhancing Infrastructure

- Strategy 1: Provide safe, functional and complete streets
- Strategy 2: Increase use of mass transit

Strategic Issue 5: Maintain and Enhance a High Quality of Life

- Strategy 2: Implement the Downtown Mixed Use Master Plan

BACKGROUND:

ABAG staff has provided this report, the attached schedule and an accompanying slide presentation to help local elected officials and the public become informed about the SCS process prior to the release of the SCS Vision Scenario planned for February 2011. This report describes SB 375, SCS and related forthcoming requirements for local governments.

The SCS is being developed in partnership among regional agencies, local jurisdictions and Congestion Management Agencies (CMAs) through an iterative process. The regional agencies recognize that input from local jurisdictions with land use authority is essential to create a feasible SCS. The SCS does not alter the authority of jurisdictions over local land use and development decisions.

Purpose and Approach

SB 375 (2008) in the Bay Area gives joint responsibility for the SCS to ABAG and MTC, in coordination with the Air District and BCDC. Per SCS the regional agencies are required to:

1. Provide a new 25-year land use strategy for the Bay Area that is realistic and identifies areas to accommodate all of the region's population, including all income groups;
2. Forecast a land use pattern, which when integrated with the transportation system, reduces greenhouse gas emissions from automobiles and light trucks by 15% over 2010 levels.

The SCS is a land use strategy required to be included as part of the Bay Area 25-year Regional Transportation Plan (RTP). By federal law, the RTP must be internally consistent. Therefore, the over \$200 billion dollars of transportation investment typically included in the RTP must align with and support the SCS land-use pattern. SB 375 also requires that the updated eight-year regional housing need allocation (RHNA) prepared by ABAG is consistent with the SCS. The SCS, RTP and RHNA are planned to be adopted simultaneously in early 2013.

The SCS is intended to:

- Support “complete,” walkable places where residents and workers have access to services and amenities to meet their daily needs;
- Reduce commutes and carbon consumption;
- Retain and attract businesses and create jobs;
- Support a sustainable transportation system and reduce the need for expensive highway and transit expansions, freeing up resources for other more productive public investments;
- Provide increased accessibility and affordability to vulnerable populations;
- Conserve water and decrease dependence on imported food stocks and their high transport costs.

ABAG and MTC are developing performance targets and indicators for these goals to apply to the SCS and RTP in conjunction with local agency and citizen representatives via the Regional Advisory Working Group (RAWG) and ABAG Regional Planning Commission. The targets and indicators are planned for adoption in spring 2011.

SCS builds on efforts to encourage focused growth. Downtown Benicia, for example, is one of the ABAG-approved Priority Development Areas (PDAs) with priority eligibility for planning and project funding under the RTP; however, PDAs with higher-density, significant housing opportunity and fixed-rail transit tend to be first in line for funding.

MTC and ABAG are working with County/Corridor Working Groups throughout the Bay Area, including one for Solano County that has a Benicia City staff representative. The working groups provide an opportunity for the cities to be represented in the SCS process and to provide information to, and input from, local officials and the public through staff reports such as this one as the SCS process evolves.

Process – SCS Scenarios

The final SCS will be the product of an iterative process that includes a series of growth and supportive transportation scenarios, starting with an Initial Vision Scenario (February 2011), followed by more detailed SCS scenarios that refine the initial vision scenario (Spring and Fall 2011), and final draft (early 2012; see the attached SCS Schedule).

The Initial Vision Scenario will be based in large part on input from local jurisdictions through the county/corridor engagement process. The Vision Scenario will identify places, policies and strategies for long-term, sustainable

development in the Bay Area. Local governments will identify places of potential for sustainable development, including PDAs, transit corridors and employment areas, as well as infill opportunities areas that lack transit services but offer opportunities for increased walkability and reduced driving.

The Initial Vision Scenario will:

- Incorporate the 25-year regional housing need encompassed in the SCS;
- Provide a preliminary set of housing and employment growth numbers at regional, county, jurisdictional, and sub-jurisdictional levels;
- Be evaluated against the greenhouse gas reduction target as well as the additional performance targets adopted for the SCS.

During spring 2011 the conversation between local governments and regional agencies will turn to the feasibility of achieving the Initial Vision Scenario by working on Detailed Scenarios. The Detailed Scenarios will be different than the initial Vision Scenario in that they will take into account constraints that might limit development potential and will identify the infrastructure and resources that can be identified and/or secured to support the scenario. MTC and ABAG expect to release a first round of Detailed Scenarios by July 2011. Local jurisdictions will provide input, which will then be analyzed for the release of the Preferred Scenario by the end of 2011. The County/Corridor Working Groups as well as the RAWG will facilitate local input into the scenarios through 2011. The analysis of the Detailed Scenarios and resulting Preferred Scenario will take into account the performance targets and indicators.

Regional Housing Needs Allocation

As described above, the eight-year RHNA must be consistent with the SCS. Planning for affordable housing in the Bay Area is one of the essential tasks of sustainable development. In the SCS, this task becomes integrated with the regional land use strategy, the development of complete communities and a sustainable transportation system. The process to update RHNA will begin in early 2011. The county/corridor engagement process will include discussions of RHNA, since both the SCS and RHNA require consideration of housing needs by income group. Cities will discuss their strategies for the distribution of housing needs at the county level and decide if they want to form a sub-regional RHNA group by March 2011. Staff from Solano County and its cities believe that a sub-regional arrangement will be needed to appropriately locate new housing in places where it feasibly can be accommodated.

The distribution of housing needs will inform the Detailed SCS Scenarios. Regional agencies will take input from local jurisdictions for the adoption of the RHNA methodology by September 2011. The final housing numbers for the

region will be issued by the State Department of Housing and Community Development (HCD) by September 2011. The Draft RHNA will be released by spring 2012. ABAG will adopt the Final RHNA by the end of summer 2012. Local governments will address the next round of RHNA in their next Housing Element update.

Regional Transportation Plan

The SCS links land use choices and the transportation investments. MTC and ABAG will work closely with the transportation agencies and local jurisdictions to define financially constrained transportation priorities in their response to a call for transportation projects in early 2011 and a detailed project assessment that will be completed by July/August 2011; the project assessment will be an essential part of the development of Detailed SCS Scenarios. The RTP will be analyzed through 2012 and released for review by the end of 2012. ABAG will approve the SCS by March 2013. MTC will adopt the final RTP and SCS by April 2013.

Regional agencies will prepare one Environmental Impact Report (EIR) for both the SCS and the RTP. This EIR might assist local jurisdictions in streamlining the environmental review process for some of the projects that are consistent with the SCS. Local jurisdictions are currently providing input for the potential scope of the EIR. Regional agencies are investigating the scope and strategies for an EIR that could provide the most effective support for local governments.

Additional Regional Tasks

MTC, ABAG and the Air District are coordinating the impacts of CEQA thresholds and guidelines recently approved by the Air District. The Air District is currently developing tools and mitigation measures related to the CEQA thresholds and guidelines to assist with development projects in PDAs. The regional agencies will be coordinating other key regional planning issues including any adopted climate adaptation-related policy recommendations or best practices encompassed in the Bay Plan update recently released by BCDC.

Role of the City in the SCS

ABAG and MTC staff suggest Benicia should consider questions such as:

- *What new planning efforts, such as making improvements that add value to existing neighborhoods, including the Downtown PDA, build on the goals of the SCS?*
- *Are there areas that need attention and improvements that can make for*

a higher quality of life in neighborhoods lacking access, services, and mobility options?

- *How can new transit facilities along I-680 tie into the industrial park (and future business park) and integrate into a larger regional framework established by the SCS?*
- *How can Benicia's current job base, along with future jobs that will be created through continued economic development in the industrial areas, tie into local and regional systems for transportation and housing?*
- *What investments should Benicia identify in order to have seamless connectivity to transit systems, efficient circulation, improved accessibility and mobility options?*
- *What ranges of infill are acceptable? Are more second units possible? How about mixed use projects or adding housing to commercial sites?*

Regional Agency Efforts

By coordinating programs across multiple layers of government, the SCS should improve public sector efficiency and create more rational and coordinated regulation and public funding. SCS will reward those cities whose decisions advance local goals and benefit quality of life beyond their borders—whether to create more affordable housing, new jobs or reduce driving. Regional agencies are exploring the following support for the SCS:

- Grants for affordable housing close to transit;
- Infrastructure bank to support investments that can accommodate housing and jobs close to transit;
- Transportation investment in areas that can significantly contribute to the reduction of greenhouse gas emissions through compact development; and
- Infrastructure investments in small towns that can improve access to services through walking and transit.

Next Steps

- Regional agencies expect to release an initial Vision Scenario in early February 2011.
- City staff will then report to the Planning Commission and City Council describing the overall approach, regional context, and local implications for the City of Benicia.
- City staff will seek Planning Commission and City Council feedback and

response to the initial Vision Scenario to share with the regional agencies. This feedback will serve as a basis for the development of Detailed SCS Scenarios through July 2011.

Attachments:

- Sustainable Communities Strategy Schedule
- SCS draft targets Jan 2010
- PowerPoint Presentation

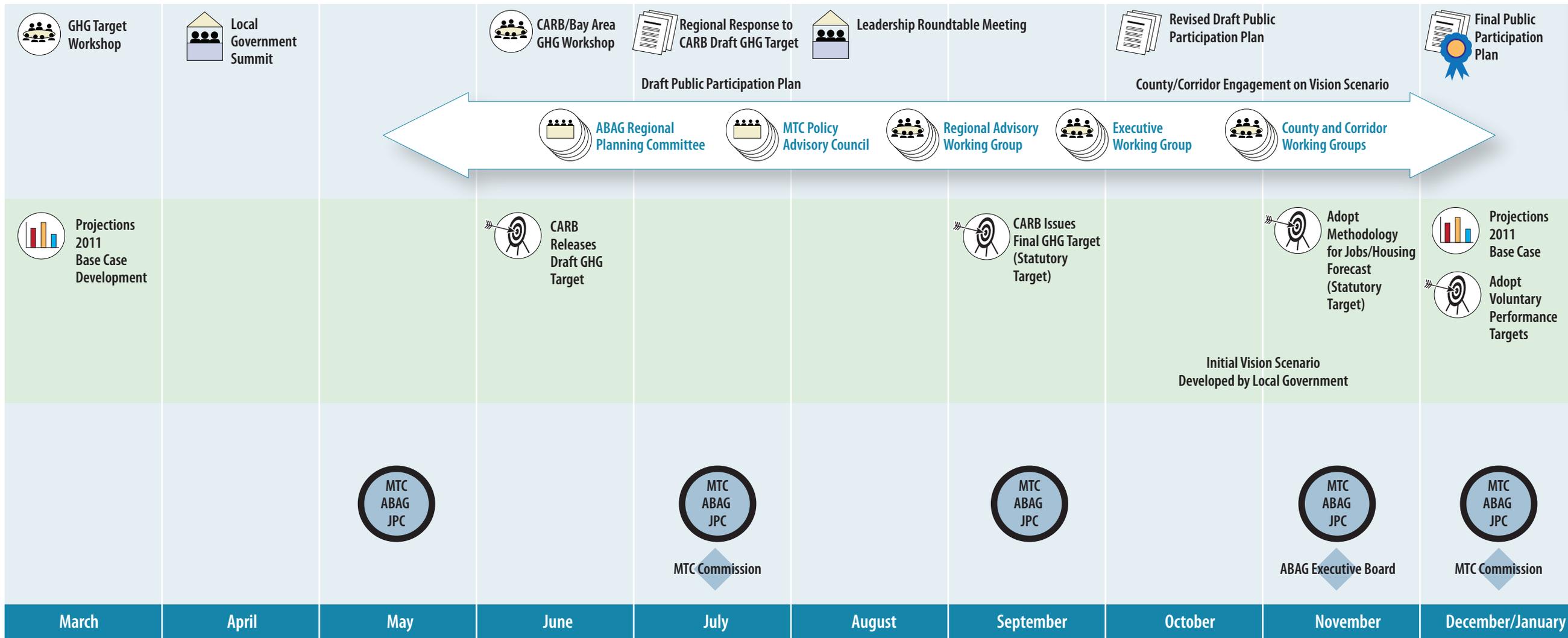
Sustainable Communities Strategy Planning Process: Phase 1 Detail for 2010*

Phase 1: Performance Targets and Vision Scenario

Local Government and Public Engagement

Milestones

Policy Board Action



- Phase One Decisions:**
- GHG Targets
 - Performance Targets
 - Public Participation Plan

2010

*Subject to change

Policy Board Actions

- Meeting for Discussion/Public Comment
- MTC ABAG JPC JOINT meeting of the ABAG Administrative Committee, the Joint Policy Committee and the MTC Planning Committee for Discussion/Public Comment
- ◆ Decision
- ▲ Document Release

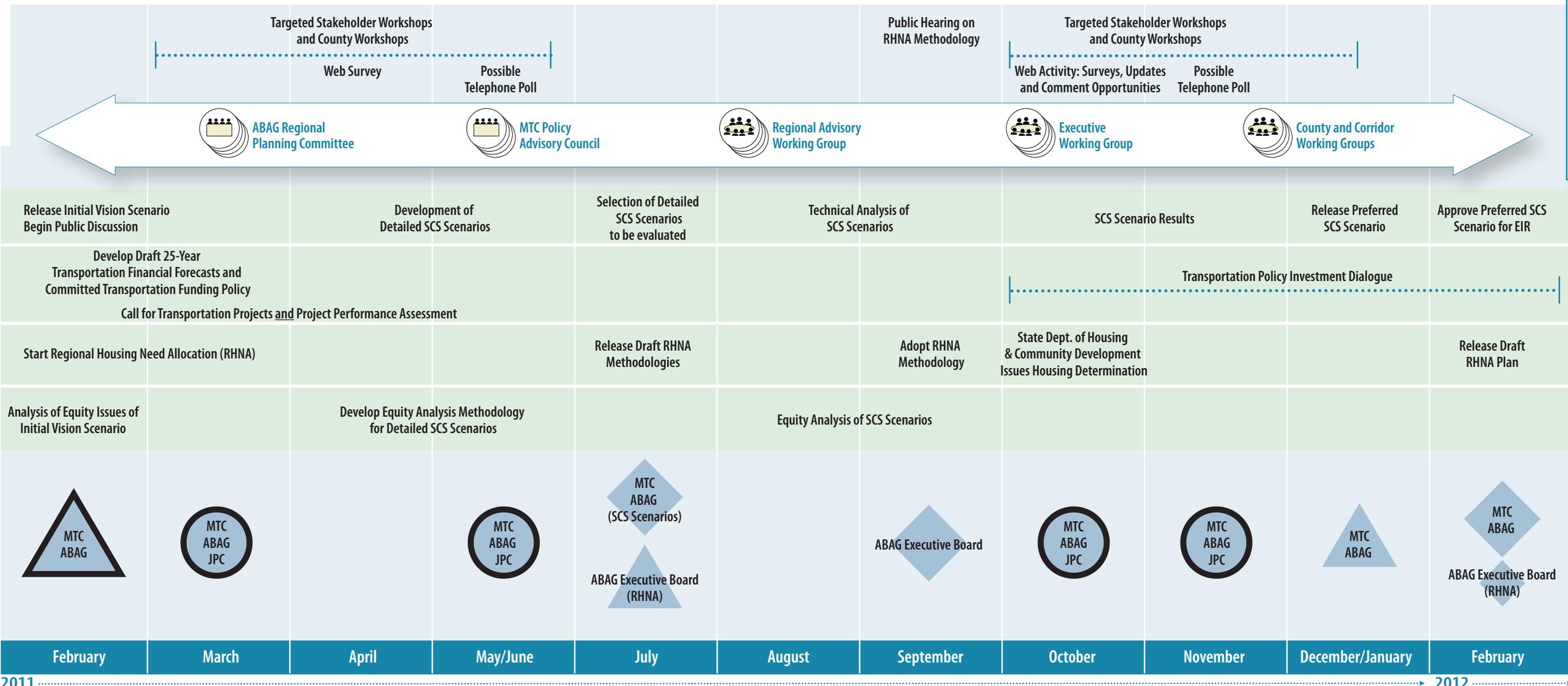
ABAG - ABAG Administrative Committee
JPC - Joint Policy Committee
MTC - MTC Planning Committee

For more information on key actions and decisions and how to get involved, visit OneBayArea.org

December 2010

Sustainable Communities Strategy Planning Process: Phase 2 Detail for 2011*

Phase 2: Scenario Planning, Transportation Policy & Investment Dialogue, and Regional Housing Need Allocation



- Phase Two Actions/Decisions:**
- Initial Vision Scenario
 - Financial Forecasts
 - Detailed SCS Scenarios
 - RHNA Methodology
 - Preferred SCS Scenario
 - Draft RHNA Plan

*Subject to change

Policy Board Actions

- Meeting for Discussion/Public Comment
- JOINT meeting of the ABAG Administrative Committee, the Joint Policy Committee and the MTC Planning Committee for Discussion/Public Comment
- Decision
- Document Release
- JOINT document release by ABAG and MTC

ABAG - ABAG Administrative Committee
JPC - Joint Policy Committee
MTC - MTC Planning Committee

For more information on key actions and decisions and how to get involved, visit OneBayArea.org

December 2010

Sustainable Communities Strategy Planning Process: Phases 3 & 4 Details for 2012–2013*

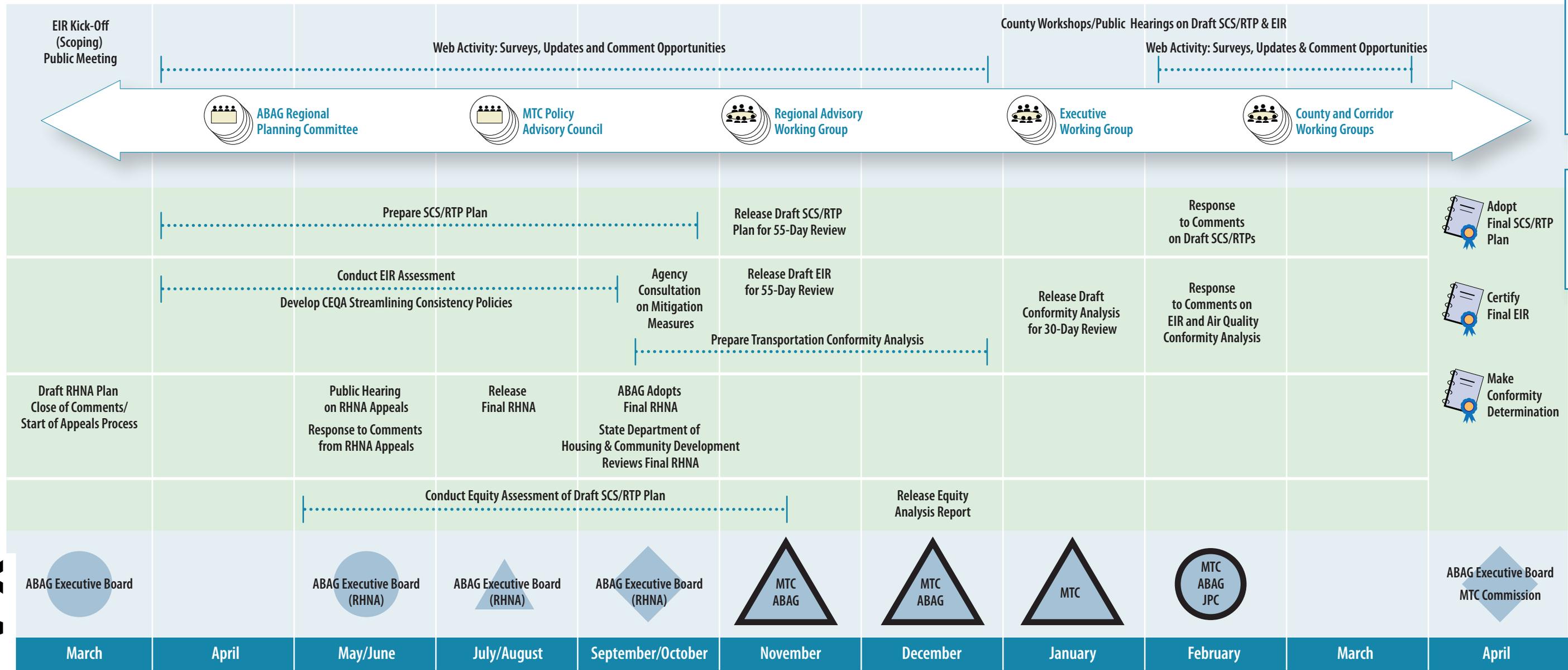
Phase 3: Housing Need Allocation, Environmental/Technical Analyses and Final Plans

Phase 4: Plan Adoption

Local Government and Public Engagement

Milestones

Policy Board X.A.1.11



- Phase Three Actions/Decisions:**
- Draft SCS/RTP Plan
 - Draft EIR
 - Draft RHNA Plan
 - Final RHNA

- Phase Four Decisions:**
- Final SCS/RTP Plan
 - Final EIR
 - Final Conformity

*Subject to change

Policy Board Actions

● Meeting for Discussion/ Public Comment



JOINT meeting of the ABAG Administrative Committee, the Joint Policy Committee and the MTC Planning Committee for Discussion/Public Comment

◆ Decision

▲ Document Release



JOINT document release by ABAG and MTC

ABAG - ABAG Administrative Committee
JPC- Joint Policy Committee
MTC- MTC Planning Committee

For more information on key actions and decisions and how to get involved, visit OneBayArea.org

December 2010

Attachment A
Recommended Targets

GOAL/OUTCOME	#	RECOMMENDED TARGET <i>Unless noted, all targets are for year 2035 compared to a year 2005 base</i>	INT-2035 OR PROJECTIONS 2009
CLIMATE PROTECTION	1	Reduce per-capita CO ₂ emissions from cars and light-duty trucks by 15% <i>Statutory - Source: California Air Resources Board, as required by SB 375</i>	✓
ADEQUATE HOUSING	2	House 100% of the region's projected 25-year growth by income level (very-low, low, moderate, above-moderate) without displacing current low-income residents <i>Statutory - Source: ABAG adopted methodology, as required by SB 375</i>	
HEALTHY & SAFE COMMUNITIES	3	Reduce by 10% premature deaths from exposure to fine particulate matter (PM 2.5) <i>May be amended to reflect targets for CARE communities or hot spots, pending review of feasibility by BAAQMD.</i> <i>Source: Adapted from federal air quality standards by BAAQMD</i>	
	4	Reduce by 50% the number of injuries and fatalities from all collisions (including bike and pedestrian) <i>Source: Adapted from California State Highway Strategic Safety Plan</i>	✓
	5	Increase the average time walking or biking per person per day for transportation by 50% from year 2000 levels <i>Source: Adapted from U.S. Surgeon General's guidelines</i>	
OPEN SPACE AND AGRICULTURAL PRESERVATION	6	Direct all non-agricultural development within urbanized areas as of 2010 <i>Source: Adapted from SB 375</i>	
EQUITABLE ACCESS	7	Decrease by 10% the share of low-income and lower-middle income residents' household income consumed by transportation and housing <i>Source: Adapted from Center for Housing Policy</i>	✓
ECONOMIC VITALITY	8	Increase gross regional product (GRP) by [TBD]% <i>Source: Bay Area Business Community</i>	
TRANSPORTATION SYSTEM EFFECTIVENESS	9	Decrease average per-trip travel time for auto and transit modes by 10% <i>Source: Adapted from Caltrans Smart Mobility 2010</i>	
	10	Maintain the transportation system in a state of good repair: <ul style="list-style-type: none"> • Increase local road pavement condition index (PCI) to 75 or better • Decrease distressed lane-miles of state highways to less than 10% of total lane-miles • Reduce average transit asset age to 50% of useful life <i>Source: Regional and state plans</i>	✓

OneBayArea

Sustainable Communities Strategy



MTC / ABAG / BAAQMD / BCDC

January 2011

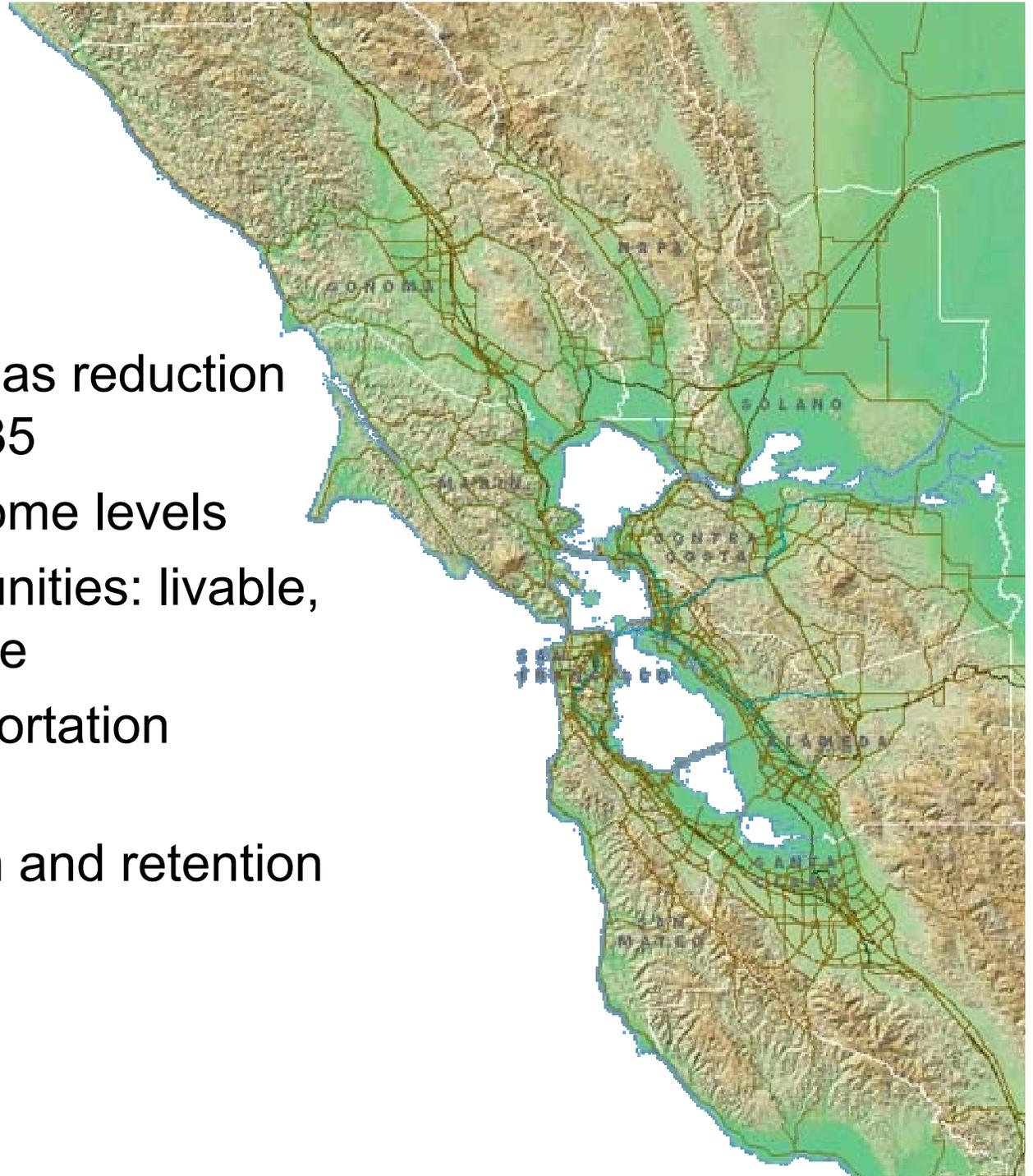
Senate Bill 375

- 2008 Legislation passed linking land use, transportation and environmental planning
- Mandates local-regional process to support neighborhood development, conserve resources and foster sustainability



Goals

- 15% greenhouse gas reduction from driving by 2035
- Housing for all income levels
- “Complete” communities: livable, walkable, affordable
- Sustainable transportation system
- Business attraction and retention



Purpose and Approach

- Alignment of transportation investments, housing needs, and land use planning
- Regional Transportation Plan will align with and support SCS land use pattern
- Regional Housing Needs Allocation will be consistent with SCS
- No change to local authority over land use decisions



Building on Existing Efforts

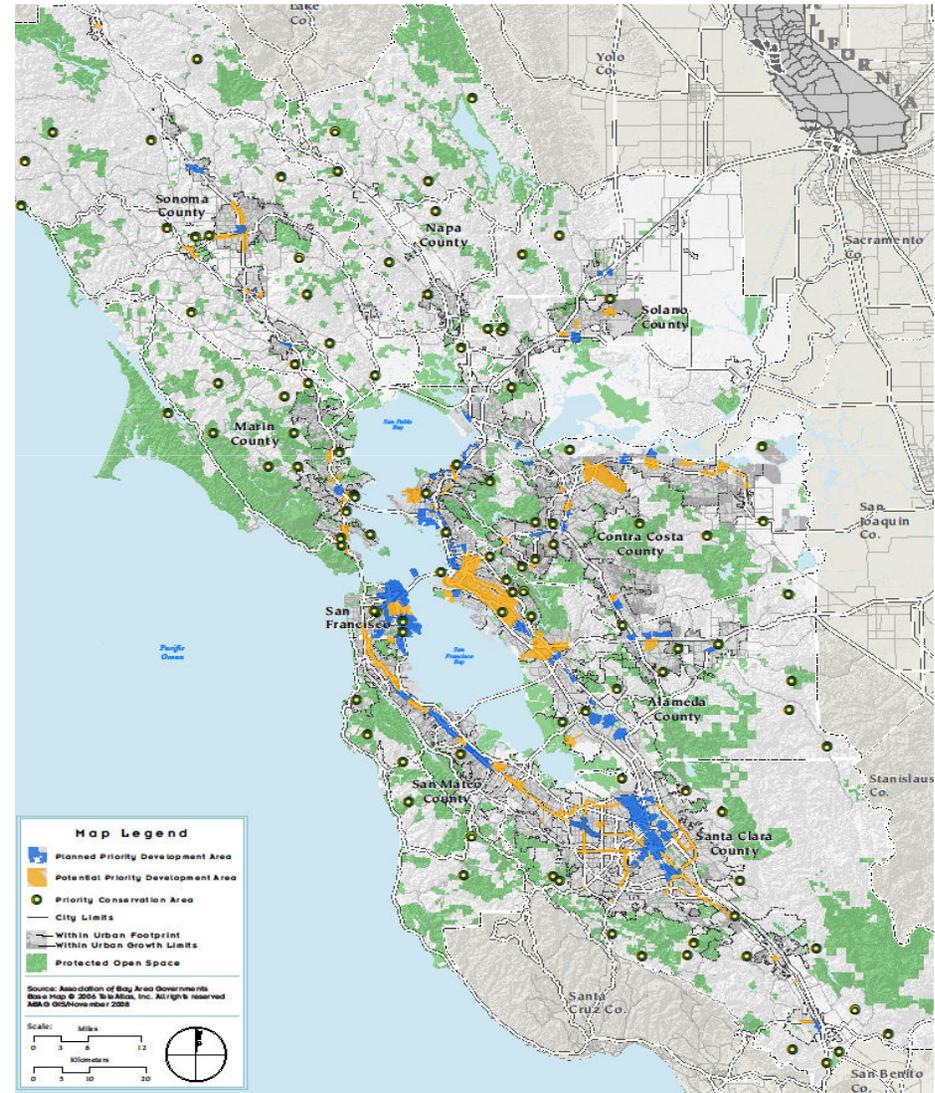
Priority Development Areas

Locally-nominated areas for sustainable development supported by planning and capital grants

- Existing Communities
- Near Transit
- Planned for more housing

Priority Conservation Areas

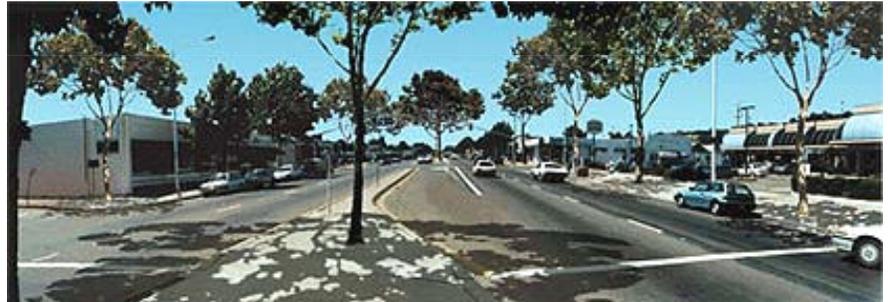
- Identified resource lands
- Enhance Rural Areas



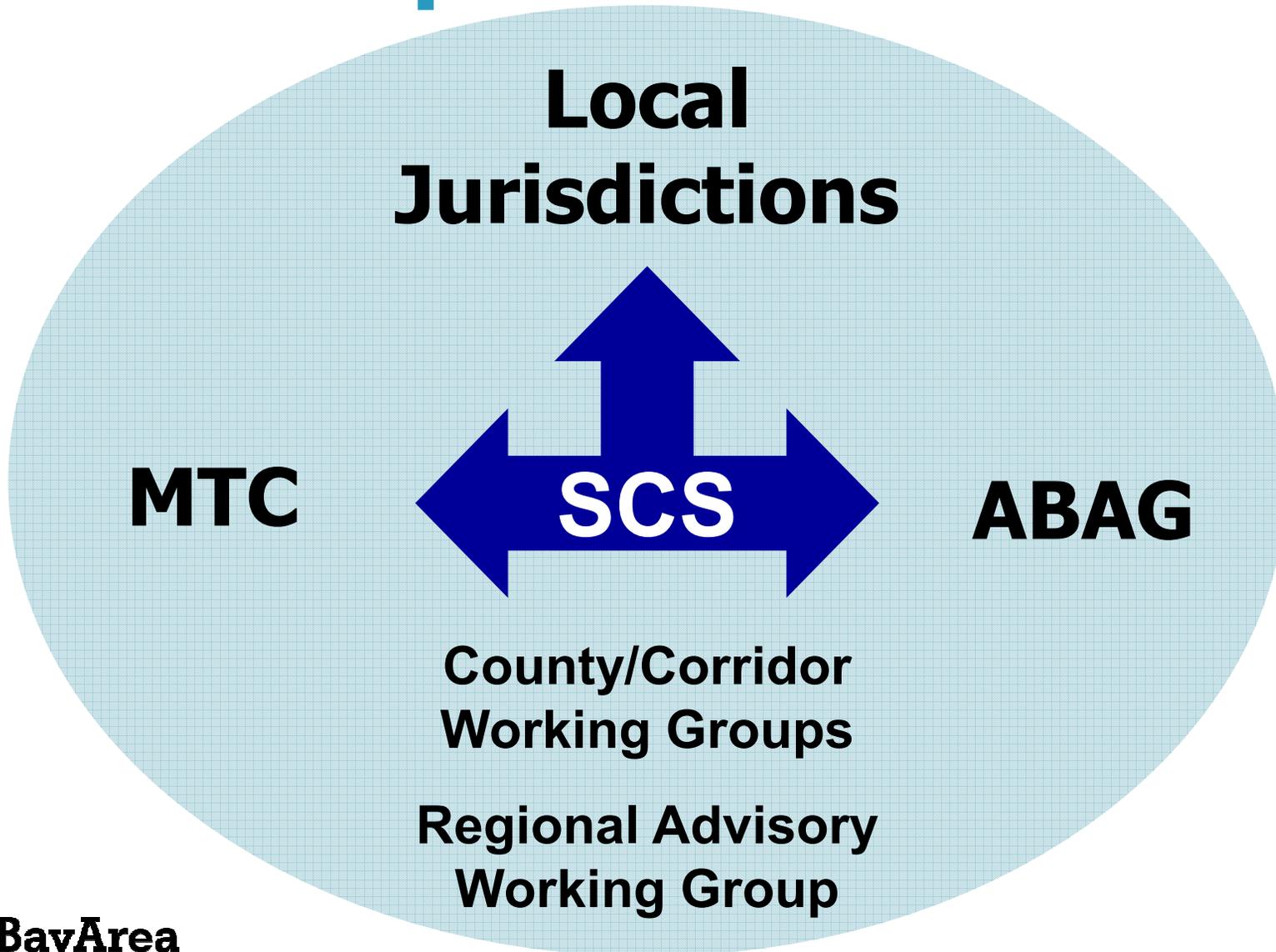
Building on Existing Efforts

Identifying additional opportunity areas for sustainable development:

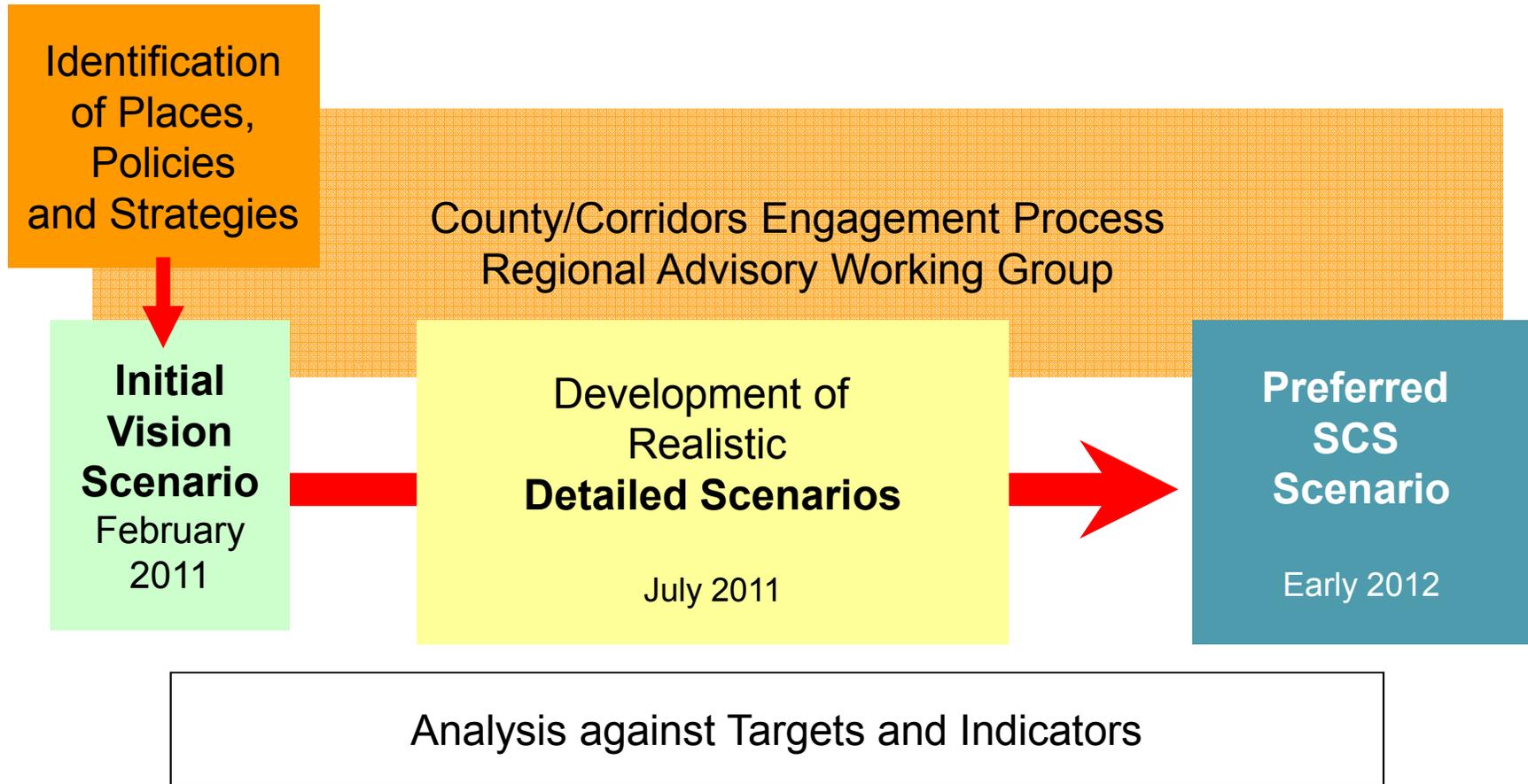
- Mixed-use development in suburban and rural centers
- Retrofitting office parks and shopping centers
- Growing employment centers



Partnership



Process: SCS Scenarios



Regional Housing Needs Allocation

- Essential task of sustainable development in the Bay Area
- Now integrated with land use planning and transportation investments

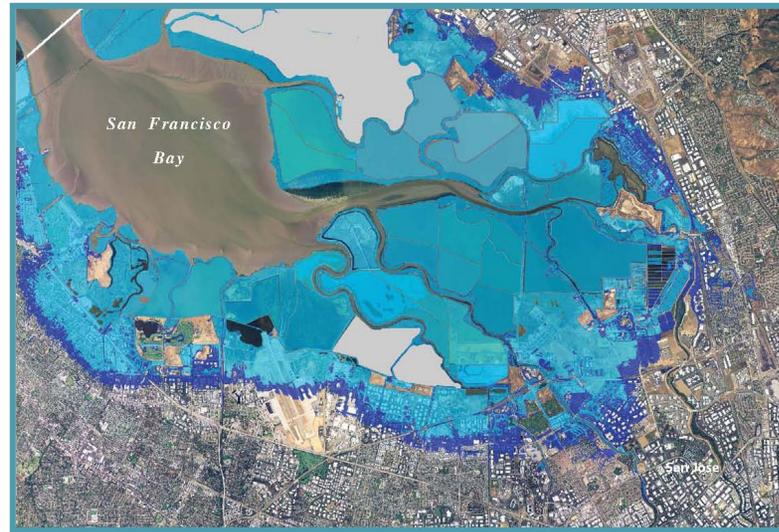


Regional Transportation Plan

- Link land use choices and transportation investments
- Transportation investments address greenhouse gas emissions reduction and supporting complete communities
- Project assessment: important component of the SCS Detailed Scenarios
- One Environmental Impact Report for both SCS and RTP

Integration of Regional Goals

- **BAAQMD** — CEQA Guidelines
- **BCDC** — Bay Plan and Adaptation Strategies



Role of cities

- Link local planning efforts to SCS
- Maintain sustainable strategies
- Identify investment opportunities/constraints for sustainable development
- Provide opportunities for public participation

Potential Benefits

- Rewards cities choosing to advance local goals and improve quality of life beyond their borders through affordable housing, jobs, or reduced driving
- Connects local neighborhood concerns (housing, jobs, traffic) to regional objectives and resources
- Provides a means of addressing high housing costs, poverty, job access, and public health, among other tasks
- Recognizes the importance of identifying and evaluating infrastructure investments

Regional Agencies' Role

Regional agencies are exploring:

- Grants for affordable housing close to transit
- Infrastructure bank to support investments in housing and jobs close to transit
- Transportation investments that reduce greenhouse gas emissions
- Infrastructure investments in small towns providing services and improving pedestrian access

Next Steps

- Regional agencies release Initial Vision Scenario February 2011
- City staffs share input from city councils, planning commissions and public with regional agencies



AGENDA ITEM
CITY COUNCIL MEETING DATE - JANUARY 18, 2011
INFORMATIONAL ITEMS

DATE : January 7, 2011

TO : City Council

FROM : City Attorney

SUBJECT : **STATUS REPORT ON THE AGREEMENT WITH ALLIED WASTE FOR THE SOLID WASTE, RECYCLING AND GREEN WASTE FRANCHISE AGREEMENT**

RECOMMENDATION:

No action is required at this time. This item will be on the February 1 Council agenda for approval of the Collection Service Agreement between the City and Allied Waste Systems for the collection of solid waste, recycling and green waste throughout the City and for direction to prepare an ordinance to mandate commercial and industrial users use Allied Waste for recycling.

EXECUTIVE SUMMARY:

At the December 16, 2010 City Council meeting, it was reported that the negotiations with Allied Waste for an extension of the Franchise Agreement for garbage services had broken down. Council directed that the Council Subcommittee return on January 18 with a new agreement or to select a consultant to assist with a request for proposals process. The subcommittee met again with Allied. The parties have successfully arrived at a new proposed franchise agreement. If approved by the City Council, the new franchise agreement will be effective July 1, 2011. The Agreement is in the process of being finalized and will be presented at the February 1 meeting.

GENERAL PLAN:

Relevant General Plan Goals and Policies include:

- Goal 2.4.2: Enhance the recycling of solid waste
 - Policy 2.42.1: Strive to accomplish the mandated objectives of the California Integrated Waste Management Act
- Goal 4.16: Require hazardous materials and hazardous waste management handling and disposal procedures that are protective of human health and the environment
 - Policy 4.16.1: Support Solano County Hazardous Waste Management Plan and it's goals, policies and implementation guidelines for hazardous waste reduction, hazardous waste facility siting, hazardous waste

- handling and disposal, public education and involvement, and program coordination with regulatory requirements
- Policy 4.16.2: Continue, promote and expand the City's Household Hazardous Waste Program
- Goal 4.16: Reduce health and safety hazards associated with hazardous materials users, hazardous waste generators, and hazardous waste disposal sites and toxic air contaminants

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Goal 1.00: Protect Community Health and Safety
- Goal 4.00: Preserves and Enhance City Assets and Infrastructure

Relevant Benicia Climate Action Plan Strategies:

- Objective SW-1: Commit to a Waste Diversion Goal of 90% for City Government Operations
- Objective SW-2: Commit to Waste Diversion Goal of 75% for the Community
- Strategy T-8.1.1. Encourage local businesses to Use Alternative Fuel Vehicles

BUDGET INFORMATION:

The proposed franchise agreement will bring additional revenue to the city in the form of increased franchise fees and other fees.

BACKGROUND:

The Council Subcommittee met with Allied representatives and have reached a tentative agreement. The complete agreement will be brought to the City Council for approval on February 1, 2011. More time is needed to make sure the wording of the agreement is accurate. Details of the service improvements are listed in the chart below. As noted previously, this agreement proposes to have commercial recycling service mandatory as it is for residential users. An ordinance change will be brought to the council in the future to implement this. This will assist the City in meeting its diversion goals and mandates that are increasing. Also, the State will be requiring commercial recycling on July 1, 2012 as part of the California Air Resources Board plan for implementing AB 32.

IMPROVED SERVICES:

The proposed agreement provides increased services while minimizing rate increases. One of the biggest service increases is the move to weekly recycling for residential users. Another major improvement is the offering of free services to the Benicia Unified School District. Other improvements include:

**Comparison of the “Model” Agreement
to
the Current Franchise Agreement
and
the Proposed Franchise Agreement**

Comments in the Proposed Franchise Agreement Column compare to the Model Agreement

	Current Agreement	Proposed Franchise Agreement	“Model” Agreement
Term	October 1, 2001 – February 28, 2012	yes	July 1, 2011 – June 30, 2020 2, 5-year extensions if diversion and service requirements are met
Hours and Days of Collection	Collection in residential areas between hours of 6am-7pm	yes	Collection in residential areas between hours of 6am-7pm Monday through Friday with no service on Saturday, except for holiday service Collection in commercial areas between hours of 4am-7pm Monday through Friday and Saturday from 4am-4pm
Carts and Bins Replacement	Not specified	yes	Within 3 working days Replace: 1 free garbage cart or bin, 1 free recycling cart or bin, 1 free organic waste cart or bin during the life of the agreement
Carts and Bins Exchange	Not specified	yes	Within 3 working days Replace: 1 free garbage cart or bin, 1 free recycling cart or bin, 1 free organic waste cart or bin per agreement year

	Current Agreement	Proposed Franchise Agreement	“Model” Agreement
Residential Services	Weekly garbage collection	yes	Weekly garbage collection
	Bi-weekly green waste collection	improved	Bi-weekly organic waste collection, green waste collection including new limited food waste collection (including food contaminated paper products, fruits and vegetables)
	Bi-weekly recycled waste collection	yes	Weekly recycled waste collection
	Curbside collection of used motor oil and filters (Maximum 3 gallons per pickup)	yes	Curbside HHW collection, Contractor to provide containers (batteries, used motor oil, filters, compact florescent light bulbs)
	Every Sat. 9-12 residential drop-off of hazardous materials at the Corporation Yard (batteries, fluorescent bulbs, latex paint, antifreeze, mercury thermometers, car batteries, oil, filters)	yes	On-Call HHW collection (cleaning products, pesticides, herbicides, painting supplies, Sharps, U-Waste, etc.)
Two free on-call collections for unlimited quantity of extra containerized yard waste/cardboard	no	Two annual residential drop-offs of hazardous materials at the Corporation Yard	
		Yes plus on call 4x/year for green waste and cardboard	Extra recycling and/or organic waste carts as need for no additional cost

X.A.2.4

	Current Agreement	Proposed Franchise Agreement	“Model” Agreement
	<p>One free on-call collection for up to 2-CY of extra garbage (not including bulky items such as furniture, appliances, etc.)</p> <p>On-call bulky waste and electronic waste collection (for a fee)</p>	<p>yes but 2 CY and 3 bulky items</p> <p>annual reuse days and curbside reuse days (7.02.4 and 5)</p>	<p>Three free on-call large item collections per year (up to 4 CY / collection (containerized waste including electronic waste) and up to 3 individual bulky items such as couch, water heater, etc. per year)</p>
Other Residential Services	Holiday tree chipping fundraiser with Boy Scouts	<p>yes</p> <p>3 CY/once year plus workshops</p>	<p>Holiday tree chipping fundraiser with Boy Scouts</p> <p>Compost give aways 2/year</p>
	Sharps collection program provided by Allied	yes	Sharps collection included as part of on-call HHW collection for a fee.
	<p>Pedrotti collects batteries and fluorescent tubes. Allied picks up material at Pedrotti's, takes it to the disposal facility and pays for disposal.</p> <p>Partnered with Pedrotti's for 2010 Earth Day compost give away</p>	<p>yes and on call</p> <p>one</p>	<p>Batteries and fluorescent tubes are collected as part of the Curbside HHW Collection at no additional cost.</p> <p>Two compost give aways per year</p>
Multi-Family Services	Weekly garbage collection	yes	Same as Commercial with the following exceptions:

	Current Agreement	Proposed Franchise Agreement	“Model” Agreement
	Bi-weekly recycled waste collection On-call bulky waste collection (for a fee)	yes unless exempt yes yes	Bi-weekly organic waste collection, green waste collection including new limited food waste collection (including food contaminated paper products, fruits and vegetables) Recycling Tote Bags Large Item Collection (for a fee)
Commercial Services	Weekly garbage collection Subscription recyclables collection (for an additional fee) Unregulated rates	yes or more yes yes yes	Weekly garbage collection Free weekly recycling collection Additional carts or bins for no additional cost Weekly organic waste collection (for a reduced fee) including new food waste collection (including meat, fish and dairy, food contaminated paper products, fruits and vegetables)
City Collection Services	Collection at City facilities without reimbursement from City 3 debris boxes at Corporation Yard Roll-off/Debris box service at special clean-up events free	yes yes yes at listed events	Collection at City facilities without reimbursement from City 3 debris boxes at Corporation Yard Roll-off/Debris box service at special clean-up events

X.A.2.6

	Current Agreement	Proposed Franchise Agreement	"Model" Agreement
	of charge Free recycling to schools (if school district contracts with Contractor to provide solid waste collection)	yes and garbage yes	free of charge Free recycling to schools School diversion discount School recycling program Compost delivery up to 360 CY
Diversion Requirements	Best efforts to help City attain its AB 939 goals	55% 12/11 60% 12/12 65% 12/13 75% 12/14 also tied to extension	65% by December 31, 2012
Contractor's Office	Local office open to residents for bill pay Toll-free phone number to customer service department	yes yes yes yes	Local office open to residents for bill pay Toll-free phone number to customer service department Multilingual/TDD service Develop and maintain a state-of-the-art website
Other Services	Not specified	yes ½ time yes	Public Outreach and Education Services Recycling Coordinator Annual Collection Service Notice
Collection Vehicles	Clean trucks weekly Contractor's name on side of each truck Contractor's name on side of each truck Leak proof and completely enclose all solid waste	yes yes yes yes	Clean trucks weekly Repaint vehicles as necessary Contractor's name, customer service telephone number, and number of vehicle on each side and rear of each truck Leak proof and completely enclose all

	Current Agreement	Proposed Franchise Agreement	“Model” Agreement
	collected	<p>Yes</p> <p>yes phased in yes</p> <p>yes</p>	<p>solid waste collected</p> <p>All vehicles equipped with GPS</p> <p>Safety equipment (highway lighting, flashing and warning lights, clearance lights, warning flags and back-up warning devices)</p> <p>Clean air vehicles</p> <p>CNG or LNG fuel</p> <p>Vehicle noise level must comply with U.S. EPA noise emission regulations</p> <p>Size limitations – SFD Residential Collection vehicles not exceed 18,000 lbs/axel, must not exceed 52,000 GVWR</p>
Record Keeping & Reporting Requirements	<p>Maintain full and complete accounting records of all service performed</p> <p>Annual profit and loss statement no later than 4 months after close of its fiscal year</p>	<p>yes</p> <p>yes</p> <p>yes</p> <p>yes yes</p>	<p>Maintain all records for a period of 5 years following the close of each the Contractor's fiscal years</p> <p>Maintain full and complete accounting records of all service performed</p> <p>Maintain records of all payments made to the City</p> <p>Maintain tonnage records Monthly, Quarterly and Annual Reports</p>
Liquidated Damages	Not specified	<p>Yes</p> <p>per chart</p>	<p>Procedure for assessment and review of liquidated damages</p> <p>Reasonable estimates of the amount of such damages</p>

	Current Agreement	Proposed Franchise Agreement	“Model” Agreement
Billing Audit and Performance Reviews	Not specified	yes with costs covered to \$50,000 yes	One billing audit and performance review for each 5 years during the term of Agreement Purpose to verify calculation of billing rates, franchise fees, and other fees, compliance with reporting requirements and performance standards, and reported diversion percentages
Performance Bond	\$50,000 (increased by CPI or 5% annually, whichever is lower)	yes	\$500,000
Transition to Next Contractor	Not specified	yes	Cooperate fully with City and any subsequent contractors to assure a smooth transition of services
Insurance: Worker's Compensation Employer's Liability	Bodily Injury \$500,000 Property Damage \$500,000	statutory and yes for ER liability	\$3,000,000 per accident
Comprehensive General Liability & Property	Bodily Injury \$1,000,000 each person \$1,000,000 each occurrence \$5,000,000 combined single limit Property Damage \$2,000,000 Aggregate	yes	\$10,000,000 combined single limit per accident for bodily injury, personal injury and property damage
Comprehensive Auto Liability	Bodily Injury \$1,000,000 each person \$1,000,000 each occurrence \$5,000,000 combined single limit Property Damage	yes	Auto: Bodily Injury \$10,000,000 combined single limit Property Damage \$10,000,000 each accident

	Current Agreement	Proposed Franchise Agreement	“Model” Agreement
Business Auto Policy	\$1,000,000 each accident Bodily Injury \$1,000,000 each person \$1,000,000 each occurrence \$5,000,000 combined single limit Property Damage \$1,000,000 each accident	see above	Not specified
Employee Blanket Fidelity Bond (covering dishonesty, forgery, alteration, theft, disappearance, destruction)	Not specified	yes	\$500,000 per employee
Hazardous Waste and Environmental Impairment Liability	Not specified	yes	\$3,000,000 each occurrence \$10,000,000 aggregate

**AGENDA ITEM
CITY COUNCIL MEETING: JANUARY 18, 2011
CONSENT CALENDAR**

DATE : January 11, 2011
TO : City Manager
FROM : Acting Economic Development Director
SUBJECT : **FOREIGN TRADE ZONES**

RECOMMENDATION:

This item is provided for information only. No action is required.

EXECUTIVE SUMMARY:

Following Valero Benicia Refinery's recent petition to be a sub-zone of San Francisco's Foreign Trade Zone, staff was asked to investigate the process and benefits of Foreign Trade Zones (FTZ). This report provides a brief description of foreign trade zones, evaluates their impacts and the process by which one may attain FTZ benefits.

SUMMARY:

A FTZ is a geographic area designated by the Department of Commerce to facilitate foreign trade. Valero's status as a subzone will provide the company with Federal duty and tax benefits. This will not impact any City fees or local taxes.

The City of Benicia is geographically located between three Foreign Trade Zones, (Stockton, Oakland and San Francisco). Like Valero, other Benicia companies may petition these zones for sub-zone statues. Alternatively, these zones, (except San Francisco) may actually expand their boundaries to include Benicia.

It is also possible for Benicia to create our own General Purpose Zone; however, it is staff's determination that it would be challenging for the City to meet the legal thresholds to qualify for an FTZ. Moreover, at the present time there is insufficient demand pursue such an endeavor.

The following is a question and answer review regarding Foreign Trade Zones.

Questions:

1. **What is a Foreign Trade Zone (FTZ)?**

A foreign-trade zone is a designated location in the United States where companies can use special procedures that help encourage U.S. activity in competition with foreign alternatives by allowing delayed or reduced duty payments on foreign merchandise, as well as other savings.

A specific business (Oakland FTZ) or a government/quasi government entity, like the Port of San Francisco or Merced County may be a grantee for FTZ. The grantee is the administrator of the FTZ.

The following are some key benefits for businesses of an FTZ:

- **Duty Exemption.** No duties on or quota charges on re-exports.
- **Duty Deferral.** Customs duties and federal excise tax deferred on imports.
- **Inverted Tariff.** In situations where zone manufacturing results in a finished product that has a lower duty rate than the rates on foreign inputs (inverted tariff), the finished products may be entered at the duty rate that applies to its condition as it leaves the zone -- subject to public interest considerations.
- **Logistical Benefits.** Companies using FTZ procedures may have access to streamlined customs procedures (e.g. "weekly entry" or "direct delivery").
- **Other Benefits.** Foreign goods and domestic goods held for export are exempt from state/local inventory taxes. FTZ status may also make a site eligible for state/local benefits which are unrelated to the FTZ Act.

2. **Are there any major financial impacts to the local City?**

No. Cities that serve as the grantee of a general purpose zone or have a subzone within their jurisdiction suffer no economic detriment in loss of local taxes or fees due to a FTZ status. Nor is there a direct economic gain for cities that host FTZ's.

3. **Are there indirect benefits to a City?**

Yes. An FTZ designation may encourage a business to expand their operations, selling more goods, thus increasing sales tax. Additionally, such a zone may entice a business to relocate to a municipality that has a FTZ. To that end, an FTZ can serve as an economic tool for cities to apply in business recruitment/retention efforts.

4. **Can Benicia create our own FTZ?**

Maybe. According to staff administrators from the Port of San Francisco and Merced County (which is the grantee for a seven county-wide

central valley FTZ) the creation of an FTZ can be an onerous process that can take up to a year to complete.

Benicia is a port of entry, thus one could entertain the thought of creating our own FTZ. However, a new FTZ must be approved by the Secretary of Commerce. To do win approval Benicia would have to, among other things, demonstrate a compelling business need to create a new zone. In addition, demonstrate that the convenience of commerce is not being served. Furthermore, certain activities are prohibited within a general purpose zone, including residential and retail.

Additionally, the contacts for which I have spoken with have advised that consultants were used to gain approval and remain employed to help administer the FTZ.

5. If Benicia does not have our own FTZ, can Benicia businesses still derive FTZ benefits?

Yes. An FTZ jurisdiction may extend as far as sixty miles or a distance equal to ninety minutes of driving. Benicia is geographically situated between three FTZ's for which that general purpose zone may petition the Dept. of Commerce to extend its boundaries to Benicia. Alternately, a Benicia business may petition, Stockton, Oakland or San Francisco to be a sub-zone (as Valero has done). Of important note, the fact that Benicia is geographically situated between three FTZ's would make our ability to demonstrate that convenience of commerce is not being met very difficult.

Benicia has a record of business achieving FTZ status. Presently, Benicia Valero refinery has submitted an application to the San Francisco FTZ for subzone status. In the past Amports, had an FTZ sub-zone status from Oakland. At this time, Amports has no desire to petition for FTZ status as they would derive no benefit and such a status would place undue restrictions and rules on their property. An FTZ site must be used for foreign trade and may not be used for anything else. Worth noting, a business does not need City endorsement or assistance or approval to apply or receive FTZ status.

6. May Valero's sub-zone be expanded to include other businesses?

Yes. A sub-zone is approved based on specific activity. In Valero's case, it is for oil refining; thus Valero may petition the SF Port to expand its sub-zone to other companies that supports the sub-zone, so long as that

company could qualify to be a sub-zone; in other words could it be its own stand alone sub-zone.

7. What impact, if any, have the refineries in Martinez and Richmond FTZ's status affected their respective cities?

None. Anecdotally, the fact that my contacts at Martinez and Richmond have been unable to answer questions about FTZ's impact and have yet to find a person who can answer such questions is illustrative of the fact that their respective sub-zones have little impact on City business. If my contacts are able generate more information, this memo will be amended.

**AGENDA ITEM
CITY COUNCIL MEETING: JANUARY 18, 2011
COUNCIL MEMBER COMMITTEE REPORTS**

DATE : January 7, 2011
TO : Mayor Patterson
FROM : City Manager
SUBJECT : **MAYORS' COMMITTEE MEETING**

The following information is provided for your committee report at the January 18, 2011 City Council meeting.

The Mayors' Committee meetings are held on the third Wednesday of each month at 6:30 pm. The last meeting was held on December 15, 2010 a copy of the agenda for that meeting and the minutes from the July 21, 2010 meeting are attached.

The next Mayors' Committee meeting is on Wednesday, January 19, 2011. The agenda for that meeting is not yet available.

SOLANO COUNTY MAYORS' COMMITTEE MEETING

**Main Street Bar and Grill
627 Main Street
Suisun City, California**

**Wednesday
December 15, 2010
6:00 PM**

AGENDA

- 1. Roll Call/Call to Order**
- 2. Introductions by Mayor Pete Sanchez**
- 3. Public Comment**
(Members of the public may address the Committee on matters not listed on the agenda, but within the jurisdiction of the Committee.)
- 4. Business:**
 - A. Approval of Minutes for the July 21, 2010, meeting.**
 - B. Roundtable Discussion of City Issues of Mutual Interest.**
 - C. Holiday Gift Exchange**
- 5. Adjournment**

SOLANO COUNTY MAYORS' COMMITTEE MEETING

Main Street Bar and Grill
627 Main Street
Suisun City, California

Wednesday
July 21, 2010
6:30 PM

MINUTES

1. Roll Call/Call to Order

Chairperson/Mayor Pete Sanchez called the meeting to order at 6:40 p.m.

Mayors Present:

Vice-Mayor Alan Schwartzman	City of Benicia
Mayor Harry T. Price	City of Fairfield
Mayor Jan Vick	City of Rio Vista
Mayor Pete Sanchez	City of Suisun City
Vice-Mayor Curtis Hunt	City of Vacaville

Mayors Absent:

Mayor Elizabeth Patterson	City of Benicia
Mayor Jack Batchelor	City of Dixon
Mayor Len Augustine	City of Vacaville
Mayor Osby Davis	City of Vallejo

Others Present:

Suzanne Bragdon	City of Suisun City
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A quorum was present.

2. Introductions by Mayor Pete Sanchez

All attendees were acknowledged and welcomed by Mayor Sanchez.

3. Public Comment

There were no speakers under public comment.

4. Business:

A. Approval of Minutes for the May 19, 2010, meeting:

The May 19, 2010 minutes were approved on a motion by Mayor Harry Price and a second by Mayor Jan Vick.

B. Roundtable discussion of mutual City issues:

The Mayors each discussed issues and accomplishments that are occurring in their respective communities.

C. Information, as requested, on Various Strategies to Deal with City Budget Shortfalls.

Information provided by the City Managers on organizational/operational and labor negotiation strategies that have been used to address budget "gaps" was accepted.

D. Carryover Discussion of Pension Reform – (Mayor Patterson / Mayor Davis).

Request to provide materials from the Legislative Analyst's Office

- **LAO – 2009 Initiative Analysis: Public Employee Pension Limitation Law**
- **LAO – Public Employee Pension and Retiree Health Costs in California, November 2009**
- **LAO – CalPERS – Pension Contributions, FY2008-09**
- **LAO – Public Employee Retirement Benefits: Background and Policy Principles, April 2007**
- **LAO – Addressing Public Pension Benefits and Cost Concerns, February 2005**

Materials Provided.

5. Adjournment

The meeting was adjourned at 7:40 p.m. The next meeting of the Mayors' Committee is scheduled for August 18, 2010.

AGENDA ITEM
CITY COUNCIL MEETING: January 18, 2011
COUNCIL MEMBER COMMITTEE REPORTS

DATE : January 5, 2011

TO : Mayor Patterson
Vice Mayor Schwartzman

FROM : City Attorney

SUBJECT : **ABAG COMMITTEE MEETING**

The following information is provided for your committee report at the January 18, 2011 council meeting:

- The date for the 2011 Spring General Assembly will be held on Thursday, April 14, 2011.
- The conference will be held in Oakland at the Marriott.

AGENDA ITEM
CITY COUNCIL MEETING: JANUARY 18, 2011
COUNCIL MEMBER COMMITTEE REPORTS

DATE : January 11, 2011

TO : Vice Mayor Schwartzman
Council Member Campbell

FROM : Finance Director

SUBJECT : **FINANCE, AUDIT AND BUDGET COMMITTEE**

The following information is provided for your committee report at the Council meeting.

The FAB committee held a meeting on December 15, 2010 and January 6, 2011 and I have attached a copy of the *Draft* minutes for your review. The next meeting will be held on **Thursday, February 3, 2011 at 6 P.M.** in the Commission Room. The FAB has chosen the first Thursday each month as the new regular meeting date, unless otherwise changed.

Attachment:

- ❑ *Draft* Minutes from December 15, 2010
- ❑ *Draft* Minutes from January 6, 2011
- ❑ Press Release from City Manager's Office.

**FINANCE, AUDIT AND BUDGET COMMITTEE
REGULAR MEETING MINUTES
COMMISSION ROOM
December 15, 2010 - 6:00 PM**

1. Call to Order at 6:02 p.m.

Attended by Committee Chair Dennis Lowry, Board Members, Michael Clark, Larry Grossman, Lee Wines; Council Member Tom Campbell; City Treasurer Teri Davena. Staff present - Finance Director Robert Sousa, Assistant Finance Director Abigail Urrutia. Members of the public present – JB Davis, Rick Ernst. Excused absence – Alan Schwartzman.

2. Notice to the Public

3. Approval of Agenda

Approved by consensus.

4. Approval of Minutes from the meeting held on November 17, 2010.

Approved by consensus.

5. Review Long Range Calendar

Meetings to be held the first Thursday of each month starting in January 2011 for a trial run of 3 months. It may revert back to Friday mornings if there are no significant number of public attending the meetings.

6. Review of Audited Financial Reports

Tricia Dittmar of Mayer Hoffman McCann P.C. was not able to attend the meeting due to childbirth. Jennifer Farr, Shareholder will attend the January 6, 2011 meeting to present the City's Comprehensive Annual Financial Report (CAFR). The audit has produced an unqualified opinion for its financial report, meaning the City had a clean audit.

Questions that were brought up that needs further clarification:

1. On the Transmittal Letter – Housing Opportunities – verify when the city expects to adopt the new Housing Element
2. The decrease of \$2 million in Net Assets for the Government Wide Statements needs to be detailed.
3. The decrease in General Fund final expenditure budget of \$.2 million – need to detail the components of the decrease.
4. Enterprise funds net loss for the year – is this a one-time occurrence or is it the trend
5. Interest expense on page 16 – why is it so high

Finance Director Sousa also informed the committee that Mayer Hoffman McCann P.C. were the auditors for the City of Bell, a Southern California city that has been in the news lately due to exorbitant payments to Council members and directors. The State Controller's Office is currently conducting a quality control review of Mayer Hoffman McCann P.C.'s audit

workpapers and the findings of that review should be available by the time the committee meets in January.

7. Review First Quarter Investment Report

Finance Director Sousa informed the committee that the City's portfolio has been declining and recently, \$2 million was drawn from the managed investment portfolio and deposited to the checking account.

A question that was brought up by Member Wines was the purchase of a two-year US Treasury Note that yielded only .87%. Director Sousa will verify the purchase and the reasoning behind purchasing a 2-year note with less yield than a 3-year note with a yield of at least 1.12%.

Approved by consensus.

8. Previous Month Warrant Register Review for November 2010

This item was postponed until the January 2011 meeting due to time constraints.

9. Public Comment

None.

10. Adjournment – 8:15 p.m.

FINANCE, AUDIT AND BUDGET COMMITTEE
***DRAFT* REGULAR MEETING MINUTES**
COMMISSION ROOM
January 6, 2011 - 6:00 PM

1. Call to Order at 6:00 p.m.

Attended by Committee Chair Dennis Lowry, Board Members: Michael Clark, Larry Grossman, Lee Wines; Council Members: Tom Campbell, Alan Schwartzman. Staff present: City Manager Brad Kilger, City Attorney Heather McLaughlin, Finance Director Robert Sousa, and Assistant Finance Director Abigail Urrutia. Members of the public present – JB Davis, Rick Ernst. Excused absence – Teri Davena. Guest – Jennifer Farr, Shareholder Mayer, Hoffman, McCann.

2. Notice to the Public

3. Approval of Agenda

Agenda was revised to include the Open Government Training by City Attorney McLaughlin. Approved by consensus.

4. Approval of Minutes from the meeting held on December 15, 2010.

Finance Director Sousa was to investigate the reason for the investment purchase – due to holidays was not able to review with Investment Advisor, will review next month. Approved by consensus.

5. Annual Open Government Training

The City Attorney provided the board with an update and training on the City's Open Government Ordinance. Informational only.

6. Review of Audited Financial Reports

Jennifer Farr, Shareholder of Mayer, Hoffman, McCann (MHM) presented the City's Comprehensive Annual Financial Report (CAFR). The CAFR is the accumulation of the Audited Financial Statements and other important information compiled by City Finance Staff and management's responsibility. The audit has produced an unqualified opinion for its financial report, meaning the City had a clean audit. Mayer, Hoffman, McCann did not find any material weaknesses or deficiencies in the City's internal controls. The auditors role is to assess that the financial statements are fairly stated, and that the audit is not designed to provide assurance to detect fraud.

Ms. Farr also discussed their audit engagements in the City of Bell and the State Controller's Office (SCO) review of their role in the 2009 audit. The SCO has given MHM an unfavorable review. In response to the SCO, MHM has accelerated their required tri-annual peer review whereby an experienced national audit firm is conducting a review of their audit process. The results of this review will be available by February 2011, in time for the committee to decide whether to continue or terminate the audit services by MHM. In the meantime, the City will do a press release (public notice) regarding the status of the Mayer,

Hoffman, McCann issue with the City of Bell, State Controller's Office review of the audit process and the peer review being conducted by an independent firm on MHM.

7. Follow-up on the Mission, Duty and Structure Policy

The committee will review and suggest changes on the mission, duty and structure policies and will better define the role of the committee and gather existing resolutions for future presentation to Council.

Suggestion was given as to having a one-page financial report that will be more understandable for the reader.

8. Review Monthly Financial Report for November 30, 2010

Due to time constraints, this item will be tabled for the February 2011 meeting.

9. Previous Month Warrant Register for November 2010

Due to time constraints, this item will be tabled for the February 2011 meeting.

10. Public Comment

Rick Ernst commended the committee on changes through the two years he has attended meetings - on how the meetings have been conducted and how information is more readily available to the public.

11. Adjournment – 8:20 p.m.

PRESS RELEASE

CITY MANAGER'S OFFICE
CITY OF BENICIA
250 East L Street
Benicia, California 94510
(707) 746-4200

Contact: Anne Cardwell
Administrative Services Director
acardwell@ci.benicia.ca.us

City Finance Committee Interview with Independent Auditor

BENICIA – January 7, 2011

On January 6, 2011, the City's Finance, Audit and Budget (FAB) Committee met with Jennifer Farr from Mayer Hoffman McCann to review the results of the annual independent audit of the City's financial records. While the City received a "Clean Audit", there were some concerns expressed by committee members. The concerns revolved around the fact that Mayer Hoffman McCann is the firm that also previously worked for the City of Bell, though it was acknowledged that Bell's audit was prepared by the firm's southern California office and the City of Benicia's audit was prepared by the firm's San Jose office. As has been reported in the news, there was a recent report released by the State Controller's Office regarding the quality of the firm's audit work and, as a result, many cities are reviewing the firm's performance.

At the meeting with Ms. Farr, the committee inquired about a number of the firm's practices, including review of cash accounts and payroll records and their methods for uncovering any wrongdoing at upper levels of management or the City Council. Ms. Farr talked about the firm's adherence to all applicable laws and regulations, both professional and regulatory. She also indicated that an independent peer review of their governmental audits is being conducted and a report is expected in February.

Though the City received a Clean Audit determination, the FAB members recommended to City staff that the yearly audit not be forwarded to the City Council for acceptance until after the peer review has been completed and reviewed by the FAB at their March meeting. At that time, the committee will offer further recommendations to the City Council regarding the audit's completeness and whether to retain the firm in the future. The audit will then be forwarded to the City Council for consideration at their March 15, 2011 meeting.

**AGENDA ITEM
CITY COUNCIL MEETING: JANUARY 18, 2011
COUNCIL MEMBER COMMITTEE REPORTS**

DATE : January 7, 2011

TO : Mayor Patterson
Vice Mayor Schwartzman

FROM : City Manager

SUBJECT : **LEAGUE OF CALIFORNIA CITIES**

The following information is provided for your committee report at the January 18, 2011 City Council meeting.

The 2011 City Manager Department Meeting will be held in Monterey, February 2-4, 2011.

AGENDA ITEM
CITY COUNCIL MEETING: JANUARY 18, 2011
COUNCIL MEMBER COMMITTEE REPORTS

DATE : January 7, 2011

TO : Council Member Ioakimedes
Council Member Hughes

FROM : City Manager

SUBJECT : **CITY COUNCIL/SCHOOL BOARD LIAISON COMMITTEE**

The following information is provided for your committee report at the January 18, 2011 City Council meeting.

This committee meets quarterly in the Benicia Unified School District meeting room. A meeting was held on December 9, 2010, the minutes from that meeting are not currently available.

The next meeting is scheduled for Thursday, March 10, 2011 and the agenda is not yet available.

AGENDA ITEM
CITY COUNCIL MEETING: JANUARY 18, 2011
COUNCIL MEMBER COMMITTEE REPORTS

DATE : January 11, 2011

TO : Mayor Patterson
Vice Mayor Campbell

FROM : City Manager

SUBJECT : **SKY VALLEY OPEN SPACE COMMITTEE**

The following information is provided for your committee report at the January 18, 2011 Council meeting.

The next meeting of the Sky Valley Committee is scheduled for Wednesday, February 2, 2011. The agenda for that meeting is not currently available. The meeting will take place in the Commission Room, located at Benicia City Hall, 250 East "L" Street.

AGENDA ITEM
CITY COUNCIL MEETING: JANUARY 18, 2011
COUNCIL MEMBER COMMITTEE REPORTS

DATE : January 10, 2011

TO : Mayor Patterson
Council Member Campbell

FROM : City Manager

SUBJECT : **SOLANO EDC BOARD OF DIRECTORS**

The following information is provided for your committee report at the January 18, 2011 Council meeting.

The last Board of Directors meeting was held on Thursday, November 18, 2010. The agenda and minutes for that meeting are attached. In addition, the minutes from the September 23, 2010 meeting are attached.

The next Board of Directors meeting will be held on Thursday, January 20, 2011 at 9:00 am at Jelly Belly Candy Company. The agenda for that meeting is not yet available.



SOLANO EDC BOARD OF DIRECTORS MEETING

September 23, 2010, 9:00 AM

CALL TO ORDER

Chairman Reynolds called the meeting to order at 9:03 am at the Jelly Belly Candy Company.

Attending were:

Mike Ammann	Len Augustine	Robert Bloom	Barry Cavanna	Elaine Crombie
Kay Draisin	Natalie Hicks	Bill Eisenhardt	Bruce Gondry	Norm Hattich
Daryl Halls	Curt Johnston	Jack Krebs	Jowel Laguerre	Albert Lavezzo
Amalia Lorentz	Foy McNaughton	John Onsum	Sandy Person	Steve Pierce
Tom Recknagel	Scott Reynolds	Michael Segala	Jim Spering	Patsy Van Ouwerkerk

Absent were:

Dee Alarcon	Jack Batchelor	Kevin English	Joanie Erickson	Rebecca Brandt
Kevin Finger	Steve Huddleston	Steve Lessler	Catherine Moy	Elizabeth Patterson
Brooks Pedder	John Ray	Mike Reagan	Debra Russo	Bob Simpson
Talyon Sortor	Sue Vaccaro	Michael Wilson		

APPROVAL OF MINUTES

Chairman Reynolds called for approval of minutes of the July 22, 2010 meeting.

Upon motion duly made (Hattich) and seconded (Segala) it was

RESOLVED, that the minutes of the July 22, 2010 meeting of the Solano EDC Board of Directors be accepted as submitted.

TREASURERS REPORT

Treasurer Onsum presented the financial report for the month of August 2010.

Upon motion duly made (Hattich) and seconded (Recknagel) it was

RESOLVED, that the Treasurer's Report be accepted.

DIRECTOR REPLACEMENT

Motion: Director Lessler moved to accept by acclamation Foy McNaughton of Daily Republic to replace Bill James on Board.

MARKETING TASK FORCE

Committee Chair Johnston discussed Revolving Loan Fund efforts and EDC membership opportunity for Napa businesses.

TRANSPORTATION UPDATE

Director Halls discussed upcoming McGary Road and Northern Connector grand openings; first express lane opening in Alameda County at Sunol and studying similar concept in Solano County; Vallejo/Benicia transit system issues; sustainability of ferry system; and acknowledgement of the great work done by Mayor Len Augustine for STA.

MEMBERSHIP COMMITTEE

Committee Chair Norm Hattich provided updates and noted member reinvestment goals met for 2010!

PRESIDENT'S UPDATE

President Ammann provided an update on Solano Center for Innovation/Green Business Council. He also updated Capital Campaign efforts, including Napa opportunities. Additionally, WIB tour of extensive training and education facilities' in County. Updates given by Sandy on lead and prospect activity since the last meeting.

Calendar items were discussed. The meeting was adjourned at 10:11 am.

Michael S. Ammann

President

mike@solanoedc.org

Sandy Person

Vice-President

sandy@solanoedc.org

Patricia Uhrich

Office Manager

pat@solanoedc.org

Address:

360 Campus Lane, Suite 102
Fairfield, CA 94534

Phone:

707.864.1855

Fax:

707.864.6621

Toll Free:

888.864.1855

Website:

www.solanoedc.org



SOLANO EDC BOARD OF DIRECTORS MEETING

November 18, 2010, 9:00 AM

CALL TO ORDER

Chairman Reynolds called the meeting to order at 9:03 am at the Jelly Belly Candy Company.

Attending were:

Mike Ammann	Dee Alarcon	Robert Bloom	Kay Draisin	Mario Giuliani
Daryl Halls	Norm Hattich	Curt Johnston	Albert Lavezzo	Steve Lessler
Sandy Person	Steve Pierce	Tom Recknagel	Scott Reynolds	Bob Simpson
Talyon Sortor				

Absent were:

Len Augustine	Jack Batchelor	Rebecca Brandt	Barry Cavanna	Elaine Crombie
Bill Eisenhardt	Kevin English	Joanie Erickson	Kevin Finger	Bruce Gondry
Steve Huddleston	Jack Krebs	Jowel Laguerre	Foy McNaughton	Catherine Moy
John Onsum	Elizabeth Patterson		Brooks Pedder	John Ray
Mike Reagan	Debra Russo	Michael Segala	Sue Vaccaro	
Patsy Van Ouwerkerk		Michael Wilson		

APPROVAL OF MINUTES

Chairman Reynolds called for approval of minutes of the September meeting.

Upon motion duly made (Lavezzo) and seconded (Draisin) it was RESOLVED, that the minutes of the September 23, 2010 meeting of the Solano EDC Board of Directors be accepted as submitted.

TREASURERS REPORT

In absence of Treasurer Onsum, Vice-President Person presented the financial report for the month of October 2010. Upon motion duly made (Draisin) and seconded (Hattich) it was RESOLVED, that the Treasurer's Report be accepted.

2011 BOARD OF DIRECTORS NOMINATIONS

Chairman Reynolds presented the draft 2011 Director's ballot. Upon motion duly made (Alarcon), and seconded (Halls), it was RESOLVED, that the 2011 Board of Directors ballot be accepted as presented.

MARKETING TASK FORCE UPDATE

Committee Chair Johnston noted Commissioner Henry Yin recently made a presentation to the Marketing Task Force on Foreign Direct Investment with China.

TRANSPORTATION UPDATE

Director Halls provided updates on: lack of earmarks; Caltrans; Capitol Corridor ridership; Vallejo and Benicia consolidated transit; Highway 12 safety project; Rio Vista bridge study and economic future of Highway 12.

MEMBERSHIP COMMITTEE

Committee Chair Norm Hattich noted two new members have joined: Gestamp and Price-Simms.

PRESIDENT'S UPDATE

President Ammann provided an update on lead and prospect activity since the last meeting.

Staff was excused for a closed meeting to discuss the 2011 budget.

Michael S. Ammann

President

mike@solanoedc.org

Sandy Person

Vice-President

sandy@solanoedc.org

Patricia Uhrich

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**Solano EDC
Board of Directors Meeting
Thursday, November 18, 2010
Jelly Belly Candy Company (Corporate Offices)**

AGENDA

- | | | |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| 9:00 am | 1. Call to Order | Scott Reynolds, Chair |
| Action Item | 2. Approval of 9/23/10 Meeting Minutes | |
| Action Item | 3. Treasurer's Report – October 2010 | Sandy for John Onsum |
| Action Item | 4. 2011 Board Nominations | Scott Reynolds |
| | <ul style="list-style-type: none">• Ballot mailed to members (11/22/10)• Ballot tallied (1/10/11)• New Directors announced at Board meeting (1/20/11)• New Directors installed at 2010 Annual Meeting (1/27/11) | |
| | 5. <u>Committee Reports</u> | |
| | <ul style="list-style-type: none">➤ Marketing Task Force - Curt Johnston➤ Transportation - Daryl Halls➤ Membership Committee - Norm Hattich | |
| | 6. President's Report /Capital Campaign Update | Mike Ammann |
| Action Item | 7. 2011 Budget | Scott Reynolds |
| | 8. Items from Directors | |
| 10:00 am | 9. Adjourn Meeting | |

Calendar of Events

- ◆ December 8, 2010 Solano EDC Membership Breakfast at Hilton Garden Inn
Topic: Solano Innovation Center – Green Council
Keynote: Nicole Biggart -Director, UC Davis Energy Efficiency Center
- ◆ January 20, 2011 Board of Directors Meeting – 9:00 am Jelly Belly
- ◆ January 29, 2011 Annual Meeting Luncheon at Hilton Garden Inn
Keynote: David Hosley, The Great Valley (<http://www.greatvalley.org>)

AGENDA ITEM
CITY COUNCIL MEETING: JANUARY 18, 2011
COUNCIL MEMBER COMMITTEE REPORTS

DATE : January 7, 2011

TO : Mayor Patterson
Council Member Ioakimedes

FROM : Director of Public Works and Community Development

SUBJECT : **SOLANO TRANSPORTATION AUTHORITY**

The following information is provided for your committee report at the January 18, 2011 City Council meeting.

A STA Board Meeting was held on Wednesday, December 8, 2010, the minutes from that meeting are not yet available.

The next regular meeting of the STA Board is scheduled for January 19, 2011 at 6:00 p.m., Suisun City Hall Council Chambers, the agenda for that meeting is not currently available.



**SOLANO TRANSPORTATION AUTHORITY
BOARD MEETING AGENDA**

**6:00 p.m., Regular Meeting
December 8, 2010
Suisun City Hall Council Chambers
701 Civic Center Drive
Suisun City, CA 94585**

Mission Statement: To improve the quality of life in Solano County by delivering transportation system projects to ensure mobility, travel safety, and economic vitality.

Public Comment: Pursuant to the Brown Act, the public has an opportunity to speak on any matter on the agenda or, for matters not on the agenda, issues within the subject matter jurisdiction of the agency. Comments are limited to no more than 3 minutes per speaker unless modified by the Board Chair, Gov't Code § 54954.3(a). By law, no action may be taken on any item raised during the public comment period (Agenda Item IV) although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the agency.

Speaker cards are helpful but not required in order to provide public comment. Speaker cards are on the table at the entry in the meeting room and should be handed to the STA Clerk of the Board.

Americans with Disabilities Act (ADA): This agenda is available upon request in alternative formats to persons with a disability, as required by the ADA of 1990 (42 U.S.C. §12132) and the Ralph M. Brown Act (Cal. Govt. Code §54954.2). Persons requesting a disability related modification or accommodation should contact Johanna Masielat, Clerk of the Board, at (707) 424-6008 during regular business hours at least 24 hours prior to the time of the meeting.

Staff Reports: Staff reports are available for inspection at the STA Offices, One Harbor Center, Suite 130, Suisun City during regular business hours, 8:00 a.m. to 5:00 p.m., Monday-Friday. You may also contact the Clerk of the Board via email at jmasielat@sta-snci.com. **Supplemental Reports:** Any reports or other materials that are issued after the agenda has been distributed may be reviewed by contacting the STA Clerk of the Board and copies of any such supplemental materials will be available on the table at the entry to the meeting room.

Agenda Times: Times set forth on the agenda are estimates. Items may be heard before or after the times shown.

ITEM

BOARD/STAFF PERSON

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE Chair Sanchez
(6:00 – 6:05 p.m.)

II. CONFIRM QUORUM/ STATEMENT OF CONFLICT Chair Sanchez
An official who has a conflict must, prior to consideration of the decision; (1) publicly identify in detail the financial interest that causes the conflict; (2) recuse himself/herself from discussing and voting on the matter; (3) leave the room until after the decision has been made. Cal. Gov't Code § 87200.

STA BOARD MEMBERS

Pete Sanchez Chair City of Suisun City	Harry Price Vice-Chair City of Fairfield	Elizabeth Patterson City of Benicia	Jack Batchelor, Jr. City of Dixon	Jan Vick City of Rio Vista	Len Augustine City of Vacaville	Osby Davis City of Vallejo	Jim Spering County of Solano
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STA BOARD ALTERNATES

Mike Hudson	Chuck Timm	Mike Ioakimedes	Rick Fuller	Ron Jones	Curtis Hunt	Erin Hannigan	Mike Reagan
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III. APPROVAL OF AGENDA

IV. OPPORTUNITY FOR PUBLIC COMMENT

(6:05 – 6:10 p.m.)

V. EXECUTIVE DIRECTOR’S REPORT – Pg. 1

(6:10 – 6:15 p.m.)

Daryl K. Halls

VI. COMMENTS FROM CALTRANS, THE METROPOLITAN TRANSPORTATION COMMISSION (MTC), AND STA

(6:15 – 6:50 p.m.)

1. Federal Legislative Update

Susan Lent, Akin Gump

2. Presentation of Solano Commute Challenge Winners

Judy Leaks

VII. CONSENT CALENDAR

Recommendation:

Approve the following consent items in one motion.

(Note: Items under consent calendar may be removed for separate discussion.)

(6:50 - 6:55 p.m.)

A. STA Board Meeting Minutes of October 13, 2010

Johanna Masiclat

Recommendation:

Approve STA Board Meeting Minutes of October 13, 2010.

Pg. 5

B. Review Technical Advisory Committee (TAC) Draft Minutes for Meeting of November 17, 2010

Johanna Masiclat

Recommendation:

Approve Draft TAC Meeting Minutes of November 17, 2010.

Pg. 15

C. Fiscal Year (FY) 2009-10 Fourth Quarter Budget Report

Susan Furtado

Recommendation:

Review and file.

Pg. 23

D. Fiscal Year (FY) 2010-11 Transportation Development Act (TDA) Matrix – December 2010

Elizabeth Richards

Recommendation:

Approve the FY 2010-11 TDA Matrix – December 2010 as shown in Attachment A for the Cities of Benicia, Fairfield and Rio Vista.

Pg. 29

- E. Vacaville Community Based Transportation Plan (CBTP)** Liz Niedziela
Recommendation:
Approve the Vacaville Community Based Transportation Plan.
Pg. 33
- F. Senior and Disabled Transportation Advisory Committee – Transit Contractors and Taxi Providers** Liz Niedziela
Recommendation:
Approve the following:
- 1. Modify the Senior and Disabled Transportation Advisory Committee membership to include Ex-Officio Advisory Positions as shown on Attachment A;*
 - 2. Appoint First Transit and MV Transportation as Ex-Officio transit providers; and*
 - 3. Appoint Vacaville Checker Cab as the Ex-Officio taxi provider.*
- Pg. 35**
- G. Paratransit Coordinating Council (PCC) Member Appointment** Liz Niedziela
Recommendation:
Reappoint Shirley Stacy, as a Transit User, to the Paratransit Coordinating Council for another three-year term expiring in January 2014.
Pg. 39
- H. Safe Routes to School (SR2S) Two-Year Work Plan for Fiscal Year (FY) 2010-11 and FY 2011-12** Sam Shelton
Recommendation:
Approve the following:
- 1. Solano SR2S 2-year Work Plan for Fiscal Years 2010-11 and 2011-12 as described in Attachment A; and*
 - 2. Authorize the Executive Director to enter into agreement amendments with the Yolo-Solano Air Quality Management District (YSAQMD), the Bay Area Air Quality Management District (BAAQMD), and enter into new agreements with the Metropolitan Transportation Commission (MTC) and the California Department of Transportation (Caltrans) to operate and deliver project and program tasks described in the SR2S 2-year Work Plan for Fiscal Years 2010-11 and 2011-12 as described in Attachment A.*
- Pg. 41**
- I. Management Assistant for Projects in Solano (MAPS) Pilot Project** Sam Shelton
Recommendation:
Authorize the Executive Director to enter into an agreement with the County of Solano to develop the “Management Assistant for Projects in Solano (MAPS)” Pilot project, as described in the scope of work in Attachment A.
Pg. 47

- J. I-80 Express Lanes Project Implementation** Janet Adams
Recommendation:
Approve the attached Resolution No. 2010-17 and Funding Allocation Request to the Metropolitan Transportation Commission for \$15.0 million for Project Approval/Environmental Document (PA/ED) for the I-80 Express Lanes Project.
Pg. 61
- K. I-80/I-680/State Route (SR) 12 Interchange Project Implementation** Janet Adams
Recommendation:
Approve the attached Resolution No. 2010-18 and Funding Allocation Request to the Metropolitan Transportation Commission for \$7.0 million for Project Approval/Environmental Document (PA/ED) for the I-80/I-680/SR 12 Interchange Project.
Pg. 93
- L. I-80/I-680/State Route (SR) 12 Interchange – Right-of-Way Implementation** Janet Adams
Recommendation:
Authorize the Executive Director to enter into an agreement with the Contra Costa Real Property Division to provide right-of-way acquisition services for the first construction package for the I-80/I-680/SR 12 Interchange Project for an amount not-to-exceed \$680,000.
Pg. 125
- M. Authorization of the Executive Director to Purchase Properties for the I-80 Eastbound Cordelia Truck Scales Relocation Project** Janet Adams
Recommendation:
Approve Resolution No. 2010-19 authorizing the Executive Director to purchase properties for the I-80 Eastbound Cordelia Truck Scales Relocation Project.
Pg. 127
- N. Regional Measure 2 (RM 2) Benicia Intermodal Resolution of Support** Janet Adams
Recommendation:
Approve Resolution No. 2010-24 authorizing the funding allocation for Regional Measure 2 funds from the Metropolitan Transportation Commission to the City of Benicia for the Solano County Express Bus North Intermodal Facilities – Benicia Intermodal Facility.
Pg. 133
- O. North Connector Project - Contract Amendment for BKF Engineers** Janet Adams
Recommendation:
Approve a contract amendment for BKF Engineers to cover the preparation and filing of the Record of Survey for the North Connector Project for an amount not-to-exceed \$37,475.
Pg. 153

- P. Pacific Gas & Electric (PG&E) Utility Relocation Agreement for I-80 Eastbound Cordelia Truck Scales Relocation Project** Janet Adams
Recommendation:
 Authorize the Executive Director to finalize and execute the relocation agreement for the PG&E 115Kv electrical transmission line as shown in Attachment A.
Pg. 157
- Q. Caltrans Corridor System Management Plans (CSMP) for State Route (SR) 12 and Corridor Plan (CP) for SR 84** Robert Macaulay
Recommendation:
 Approve the following:
 1. The comments to the SR 12 CSMP as shown in Attachment C;
 2. Authorize the Executive Director to sign the SR 12 CSMP; and
 3. Authorize the Executive Director to send a letter to Caltrans concurring with the SR 84 CP.
Pg. 163
- R. STA Employee 2011 Benefit Summary Update** Susan Furtado
Recommendation:
 Receive and file.
Pg. 167

VIII. ACTION FINANCIAL ITEMS

- A. STA's Annual Audit Fiscal Year (FY) 2009-10** Susan Furtado
Recommendation:
 Receive and file.
 (6:55 – 7:00 p.m.)
Pg. 175
- B. Conduct Public Hearings and Adopt Resolutions of Necessity to Acquire Property by Eminent Domain, if necessary, for the I-80 Eastbound Cordelia Truck Scales Relocation Project** Janet Adams
Recommendation:
 Conduct a separate public hearing and adopt a separate Resolution of Necessity to acquire by eminent domain, if necessary, each of the following properties needed for the I-80 Eastbound Cordelia Truck Scales Relocation Project as specified in Attachment A.
 (7:00 – 7:10 p.m.)
Pg. 177
- C. Adoption of Local Preference Policy** Bernadette Curry
 Janet Adams
Recommendation:
 Adopt the local purchasing policy as shown in Attachment A.
 (7:10 – 7:15 p.m.)
Pg. 263

IX. ACTION NON-FINANCIAL ITEMS

- A. STA's 2011 Legislative Priorities and Platform** Jayne Bauer
Recommendation:
Approve the STA 2011 Legislative Priorities and Platform as specified in Attachment C.
(7:15 – 7:20 p.m.)
Pg. 269
- B. Draft Solano Rail Crossing Inventory and Improvement Plan** Robert Macaulay
Recommendation:
Release the Draft Solano Rail Crossing Inventory and Improvement Plan for a 30-day public comment period.
(7:20 – 7:30 p.m.)
Pg. 291
- C. State Highway Operation and Protection Program (SHOPP) Solano County Priorities** Janet Adams
Recommendation:
Recommend the following two improvements as priorities for the 2012 SHOPP in Solano County:
 1. *Install Traffic Signal at SR 113/SR 12; and*
 2. *Operational improvements to the SR 12/Church Road-Amerada Road Intersection.*
(7:30 – 7:35 p.m.)
Pg. 293
- D. Appointment of STA Representative and Alternate to the Capitol Corridor Joint Powers Authority (CCJPA) Board** Daryl K. Halls
Recommendation:
Appoint a representative to the Capitol Corridor Joint Powers Authority effective immediately and, if necessary, appoint an alternate member.
(7:35 – 7:40 p.m.)
Pg. 303
- E. Solano County Transit (SolTrans) Joint Powers Agreement (JPA) – Appointment of STA Ex-Officio Board Member** Elizabeth Richards
Recommendation:
Appoint a STA Board Member or the Executive Director to the Solano County Transit (SolTrans) JPA Board as an Ex-Officio member.
(7:40 – 7:45 p.m.)
Pg. 305

X. INFORMATIONAL – NO DISCUSSION

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------|--------------------|
| A. Solano Sustainable Communities Strategy Update
<i>Informational</i>
Pg. 317 | Robert Macaulay |
| B. Solano Countywide Transportation for Livable Communities (TLC) Plan Update
<i>Informational</i>
Pg. 319 | Robert Guerrero |
| C. Transportation Study for Solano Seniors and People with Disabilities - Status
<i>Informational</i>
Pg. 323 | Elizabeth Richards |
| D. Unmet Transit Needs Public Hearing for Fiscal Year (FY) 2011-12
<i>Informational</i>
Pg. 331 | Liz Niedziela |
| E. Solano Employer Commute Challenge 2010 Results
<i>Informational</i>
Pg. 343 | Judy Leaks |
| F. Project Initiation Document (PID) Resource Reductions for Caltrans
<i>Informational</i>
Pg. 349 | Janet Adams |
| G. Funding Opportunities Summary
<i>Informational</i>
Pg. 359 | Sara Woo |
| H. STA Board Meeting Schedule for Calendar Year 2011
<i>Informational</i>
Pg. 365 | Johanna Masiclat |

XI. BOARD MEMBERS COMMENTS

XII. ADJOURNMENT

The next regular meeting of the STA Board is scheduled for **Wednesday, January 12, 2011, 6:00 p.m., Suisun City Hall Council Chambers.**

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AGENDA ITEM
CITY COUNCIL MEETING: JANUARY 18, 2011
COUNCIL MEMBER COMMITTEE REPORTS

DATE : January 7, 2011

TO : Mayor Patterson
Vice Mayor Schwartzman

FROM : Director of Public Works and Community Development

SUBJECT : **SOLANO WATER AUTHORITY**

The following information is provided for your committee report at the January 18, 2011 City Council meeting.

The Solano Water Authority (SWA) Board of Directors will hold meeting on January 13, 2011, the agenda for that meeting is attached.

The SWA also has a Delta Committee that typically meets each month directly before the regular SWA meeting.

SOLANO COUNTY WATER AGENCY



BOARD OF DIRECTORS MEETING

DATE: Thursday, January 13, 2011

TIME: 7:00 p.m.

PLACE: Solano Irrigation District
508 Elmira Road
Vacaville

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. APPROVAL OF AGENDA
4. PUBLIC COMMENT

Limited to 5 minutes for any one item not scheduled on the Agenda.

5. ELECTION OF OFFICERS AND APPOINTMENT OF EXECUTIVE COMMITTEE FOR 2011
6. CONSENT ITEMS

- (A) Minutes: Approval of the Minutes of the Board of Directors meeting on December 9, 2010 is recommended.
- (B) Expenditure Approvals: Approval of the December checking account register and list of checks \$500 and over to be paid is recommended.
- (C) Revise Lower Putah Creek Coordinating Committee Appointments: Appointment of Dennis Kilkenny as a Solano landowner representative and Herb Wimmer and John Vickery as alternates is recommended.

P.O. Box 349 • 6040 Vaca Station Road, Building 84
Elmira, California 95625-0349
Phone (707) 451-6090 • FAX (707) 451-6099
www.scwa2.com



X.B.9.3

- (D) Ulatis Flood Control Project: Right of Way Transactions: Authorization of General Manager to execute grant deed accepting a quitclaim of a portion of property containing New Alamo Channel and appurtenances from Solano Irrigation District to the Water Agency is recommended. Authorization of General Manager to execute grant deed to dedicate public access easement to the City of Vacaville for a pedestrian bridge across New Alamo Channel is also recommended.

7. **BOARD MEMBER REPORTS**

RECOMMENDATION: For information only.

8. **GENERAL MANAGER'S REPORT**

RECOMMENDATION: For information only.

9. **SCWA AUDIT AND APPROPRIATION ADJUSTMENTS TO THE FISCAL YEAR 2010-2011 BUDGET**

RECOMMENDATIONS:

1. Review and subsequently accept the Audit Report for Fiscal Year 2009-2010 and staff responses to the auditors' findings and recommendations.
2. Accept Appropriation Adjustments to the Fiscal Year 2010-2011 budget for the implementation of auditors' recommendation and the Agency's purchase of new office space.

10. **DELTA REPORT**

RECOMMENDATIONS: Hear report from staff on the following Delta activities. Provide direction to staff on Delta matters.

1. Status of Bay Delta Conservation Plan and Delta Plan
2. Yolo County Agreements

11. **LEGISLATIVE ADVOCACY**

RECOMMENDATION: Hear presentation from The Gualco Group on the upcoming legislative session and authorize Chairman to execute an agreement with The Gualco Group for continued legislative advocacy. Two-year contract amount is \$160,000.

12. **TIME AND PLACE OF NEXT MEETING**

Thursday, February 10, 2011 at 6:30 pm at the Solano Irrigation District offices.
Note the earlier start time due to the CCCC meeting at 7:00 p.m.

The Full Board of Directors packet with background materials for each agenda item can be viewed on the Agency's website at www.scwa2.com.

Jan.2011.bod.agd.doc

AGENDA ITEM
CITY COUNCIL MEETING: JANUARY 18, 2011
COUNCIL MEMBER COMMITTEE REPORTS

DATE : January 10, 2011

TO : Council Member Hughes
Council Member Ioakimedes

FROM : Director of Public Works and Community Development

SUBJECT : **TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY (TPBS) COMMITTEE**

The following is provided for your committee report at the January 18, 2011 Council meeting.

The Traffic, Pedestrian and Bicycle Safety (TPBS) Committee meets quarterly at 7:00 p.m. in the Commission Room at City Hall.

The October 21, 2010 meeting was cancelled. The next scheduled meeting is January 20, 2011 at 7:00 pm. The agenda for that meeting is being developed.

A special meeting was held on May 20, 2010, 7:00 pm, in the Commission Room. That meeting agenda is attached for your information.

The meeting minutes of the April 23 and May 6, 2009 special meetings (attached) are approved. The meeting minutes from the May 20, 2010 meeting are scheduled for approval at the next committee meeting.

Attachments:

- TPBS Committee minutes from April 23 and May 6, 2009 meetings
- TPBS Committee agenda from May 20, 2010 meeting

Approved May 20, 2010
MINUTES
CITY OF BENICIA
TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY (TPBS) COMMITTEE
Special Meeting
Thursday, April 23, 2009
7:00 pm

I. CALL TO ORDER -- Meeting called to order at 7:00 pm

1. Roll Call -- Committee Members Present:
Council Member Mark Hughes (Chair), Vice-Mayor Tom Campbell, Director of Public Works Dan Schiada, City Engineer Michael Throne, Sgt. Frank Hartig, Police Department Traffic Division
Staff Present: Senior Civil Engineer Mike Roberts, Administrative Secretary Kathy Trinque.
2. Pledge of Allegiance
3. Fundamental Rights Statement

II. APPROVAL OF MINUTES

Minutes for the November 6, 2008 special meeting were approved by a 5-0 vote of the Committee.

Chairman, Mark Hughes, due to the number of interested parties in the audience, changed the order of the agenda to move Item VI. 1. and 3. to after public comment.

III. PUBLIC COMMENT

1. Request to permit unrestricted use (i.e. 24 hr/day) of the East E Street Parking Lot and to keep the Kuhland Alley gate open at all times (Patrick M. Donoghue – Citizen).

Pat Donoghue stated his request to have the parking lot open because it benefits his business and tenants, helps take parking off of First Street. Wants the gate to be open 24/hours per day. Several other residents want the gate open. Requests that this item be placed on the agenda for the next meeting, but does not want to wait 3 months for the next scheduled meeting.

Mark H: Asked why this item was placed under public comment?

Dan S: I agreed to place it under public comment for the committee to hear, discuss and decide on this issue. We did not want to go through a formal public notification process if we are going to re-open this issue since it was already decided by this Committee a few years ago to close the gate. If there's a desire by this Committee to re-consider opening the gate, we need to re-schedule this under "action items" and notice the neighbors. Another issue was to allow parking 24/hours per day.

Mark H: I feel uncomfortable making a decision without neighborhood notice. We should put it on a future agenda to make a decision.

Frank H: I'm not in favor of the gate being open 24 hours/day because it creates problems with reckless driving and other enforcement issues.

Tom C: I wanted the gates closed at both ends, open during the day and closed at night. Would like to see ropes or barriers that divide the lot into smaller lots to discourage reckless driving.

Dan S: My opinion is that the E Street parking lot has 2 entrances, the main one from East E Street and one from Kuhland Alley. The lot is usable 24 hours/day. The alley allows another use. Staff has tried to compromise by closing the Kuhland Alley gate except for special events. Am strongly against changing the parking restrictions unless we decide to post it closed from 2:00 to 6:00 am to keep cars and recreational vehicles from camping there overnight. We can set a special meeting to hear this item.

Mark H: Let's schedule it before the next quarterly meeting.

Tom C: Asked Pat to come back with solutions/ideas to address reckless driving and other problems that come up with the gate being open.

Tom Campbell made the motion to place this item on a future TPBS Committee agenda for action. Seconded by Frank Hartig. Adopted by a 5-0 vote.

2. Other Public Comments:

Gretchen Burgess of Buena Vista St: At a recent public workshop, parking for the downtown came in #2 as a priority. Citizens want to re-claim this parking lot and open the gate. There are lots of potholes, but these are wonderful traffic calming measures.

Reiko McDonald of 1601 Bayview Cir: The handicap ramp on Military at East 2nd Street is not easy for handicapped people to push the pedestrian button (by Baskin Robbins).

Mike R: Offered to meet her at the site in the near future to look at this problem.

VI. ACTION ITEMS

1. East 2nd Street/Riverhill Drive Crosswalk (M. Roberts/F. Hartig)

Mike Roberts summarized the written report.

Frank Hartig reported on his investigation of the accident that occurred in February 2009. Regarding this accident, the pedestrian was intoxicated and did not use the crossing guard to cross the street, instead he stepped into the path of the vehicle that hit him. There were no injuries. The car was not speeding (determined after the investigation). The PD has worked additional enforcement at this location. No citations were issued as a result of the accident. Both pedestrians and vehicle drivers have to use due caution.

Mike Roberts: We made an effort to inform concerned residents and to look at the flashing warning lights currently in place. All were properly functioning. We need to recognize that 16,000 cars per day use this street. Staff is recommending that we upgrade this crosswalk to a high visibility crosswalk and pursue grant funds to install radar speed signs.

Mark H: It does appear that in this case the pedestrian was at fault.

Resident of Bayview Circle stated that she has observed near misses with crossing guards. Cars don't stop for pedestrians and kids are afraid to cross there. Need blinking lights at the crosswalk.

Judy Arrants of Riverview Terrace stated that she was worried when the new development was built, specifically about increased pedestrians crossing East 2nd Street. Need to do something there to make the crosswalk safer.

Larry Bennett of Riverview Terrace stated that he sees E 2nd Street as a dangerous entrance to town. Often has to turn right instead of left because the street is a race course. Wants the entire corridor addressed with speed bumps or something to slow the cars down. Photo traffic enforcement would help and change the truck route.

Pam Schutz of St. Augustine stated that she doesn't cross there because cars do not stop. There's too much traffic to turn left on East 2nd Street. The entire street needs to be looked at because commuters cut through town when the freeway traffic is stopped. No recommendation but this needs to be addressed.

Gretchen Burgess of Buena Vista stated that she loves ladder crosswalks and the yield to pedestrian signs like they have in Vallejo.

Mark H: Questions from the Committee?

Frank H: We have done some pedestrian stings at this intersection, which is a planned event. We were successful at this intersection. Red light cameras are expensive and we don't have quite enough traffic volume to justify the cost. PD has increased speed enforcement on this street and the vehicle speeds seemed to be OK.

Dan S: I like the ladder type crosswalk because it's helps to increase visibility for the pedestrian. Radar speed signs will also help with vehicle speed. Maybe we need to move the flashing signs closer to the crosswalk.

Michael T: The next step in the works is to add the radar speed signs, then we will make the crosswalks more visible. As the entrance to town it is designed to funnel traffic into the City. We have good site distance here. A ladder crosswalk should be a good improvement and moving the flashing signs with the addition of radar speed signs. We could look into relocating the lighted crosswalk from the high school. We will be salvaging the lights and could move them to this location, as funding allows. A longer

term solution is for a capital improvement project to improve this street, as a gateway entrance to the City.

Motion made by Dan Schiada to install a ladder-type crosswalk here, have staff report back at the next meeting on the grant application, move the BHS lighted crosswalk here and look at the funding and timing of this work.

Seconded by Michael Throne. Tom Campbell recused himself. Adopted by a 4-0 vote.

VI. 3. On-street Parking on East 4th Street between East I and East J Street (Mike Roberts). Mike summarized the written report and passed out exhibits to the committee and members of the public.

Michael Throne recused himself, due to a conflict of interest. Mike Roberts summarized the written report.

Elizabeth Lundberg of 926 East 4th Street passed out pictures of the area and reviewed them with the committee and the public.

Dan S asked what are the solutions you offer the committee?

Elizabeth Lundberg responded that she supports a parking permit program that excludes residents with parking lots; change the curb to emergency drop-off only; no parking on East I Street to East 5th Street. No parking on East J Street to St. Dominic's. Make East I and East J Streets one-way and add a stop sign on East I at East J Street.

Mark H: How many houses are there on East 4th Street in the 900 block?

Mike R: 2 houses.

Julie Peterson, Benicia Housing Authority Director stated that the 20 to 30% rationale is low. Casa de Villarasa tenants choose to park on the street, though the Housing Authority recommends that they use the lots. Residents still want the same right as other residents to park on the street. Submitted a petition from the senior housing complex.

Casa de Villarasa resident stated that he often prefers to park on the street because it's easier for him when he leaves for work and when it's dark. Mrs. Lundberg blocks the sidewalk with her car, then pedestrians have to walk in the street.

Two Casa de Villarasa residents stated that they want to be able to park on the street. Trucks option take up parking on both sides of the street. Wants cars parked where it's easier to see.

Priscilla Bernal stated that a loading zone from 9 to 5, Monday – Saturday would not help during church for the church congestion.

Comments from Tom & Mildred Donahue of 300 East I Street, read by Elizabeth Lund: stated that they are housebound and their visitors cannot find parking. Were assured that Casa de Villerasa residents would be required to park in the parking lot.

Julie Peterson stated that the Housing Authority is not aware of safety concerns on East 4th Street. The management has been in place for 23 years, enforcing the same rules. Some newer residents prefer to park on East 4th Street.

Mike R: I checked with the City Attorney's office and she confirmed that all residents are entitled to use street parking. Staff looked for a parking lot agreement with Casa de Villerasa and did not find one.

Dan S: Regarding the issue with the staircase off the southwest entry, the City looks at it from the standpoint that it met the code at the time it was built. Regarding inadequate handicap access, the Casa de Villerasa complex does have handicap access on site. These two streets are very narrow and in light of traffic calming, narrow streets actually help to keep vehicle speeds down. While parking can be inconvenient, it does help with this traffic calming concept. About the existing 15-minute zone, the intent is for loading and unloading. Maybe we can expand that zone.

Tom C: This is a neighborhood problem. If you expand zones and add no parking, it will reduce available parking spots.

Frank H: The Police Dept. met with the principal of St. Dominic's school to improve student drop-off safety next year. We will continue to work with them. We are trying to find a happy medium for everyone.

Dan: On J Street, on the St. Dominic church side, there were some signs put up, such as no parking, loading during school hours, which left parking open at other times for residents to park. We will continue to work with the schools in this area.

Mark H. We can't make everyone happy on this issue. I appreciate your issues and I understand the Casa de Villerasa residents' concerns also. We can explore some ideas tonight.

Tom C. I know that permit parking doesn't work because everyone here are residents.

Dan: I will offer a motion (we can't address request #1 on the petition) that the Police Dept. and Engineering staff work with St. Dominic's school to review their drop off and pick up activity and report back to the committee at the next meeting with a verbal status and offer some solutions. In addition, we ask the Casa de Villerasa management to encourage residents to use the parking lots and ask vendors to use the parking lots during their deliveries.

Seconded by Frank H and adopted by a 4-0 vote.

Elizabeth Lundberg requested that the Casa de Villerasa ask residents not to park in front of residents' homes.

VI. 2. Safe Routes to School Radar Speed Sign Grant Program (M. Throne)

Michael Throne summarized the written report.

Tom C. How much do these signs cost?

Michael: \$8,000 each and crosswalks cost \$3,000 to \$5,000 each. According to the grant, we can only have two locations. We also need to buy a computer so we can re-program the signs as needed.

Tom C. Can we get more signs added to this grant?

Dan S: The criteria is 2 locations maximum. We can add a landing zone or bulb out on Southampton Road on the church side of the street.

Committee discussion.

Gretchen Burgess: Likes the idea of two locations, but wants signs on both sides of the street.

Motion made by Dan: To confirm the selection of the East 2nd Street corridor and Southampton Road corridor as appropriate Safe Routes to School sections for the placement of radar speed signs and direct staff to maximize the use of grant funds. Seconded by Michael Throne. Adopted by a 5-0 vote.

IV. VERBAL UPDATES

1. Safety enhancements on Drolette Drive near Mary Farmar Elementary School (M. Roberts).

Mike Roberts reviewed the requests we received from the Mary Farmar Elementary School staff. He distributed pictures to the committee.

The following improvements have been made since the last meeting:

- ✓ Bus pull-outs were converted back to employee parking.
- ✓ Old bus pull-outs became a new loading zone.
- ✓ No U-turn signs were installed on Drolette
- ✓ Extended the intersection lines at the nearby intersection.

Read e-mail received from Susan Sullivan, Principal, expressing her thanks to staff for their cooperation and installing the improvements to improve student safety on Drolette Way.

V. INFORMATION ITEMS

1. Benicia High School Signal and Entrance Circulation Improvement Project – Progress Report (Michael Throne)

Michael Throne summarized his written report. We are in process of finishing the final project design and plan to be out to bid next month. Award of contract could occur in June 09. We are on schedule for construction summer.

Mark H: If the road diet doesn't work, is it flexible enough that we could change it?

Michael T: It is not flexible, it's actually done with concrete.

Mike R: It might be interesting to have a mock-up done (with paint) to make sure it works, before school is out.

Mark H: Would ask staff to look into these options.

Committee discussion with Ron Wheat, Vice-principal at Benicia High School. Ron asked if the City would also help them with traffic pattern flows both on and off campus.

2. Regional Signal Timing Program Grant (M. Throne)

Michael summarized the written report. We received a grant from MTC to interconnect/synchronize 2 sets of traffic signals -- one on the East 2nd Street corridor and the other on the Southampton Road/West 7th Street corridor. Does not include all the necessary funding, but will provide a technical consultant to do the work. The idea is that a car could leave the First/Military intersection and travel up East 2nd Street to the freeway without stopping. Will require working with CALTRANS because they own several of the signals.

VII. COMMUNICATION FROM STAFF

Michael Throne announced that Dan is retiring in July, before the next regularly scheduled meeting.

Dan S: This committee has to consider the challenge of working without a registered traffic engineer along with possible committee member changes. We'll include this item on the agenda of the next TPBS Committee meeting.

Adjourned at 9:25 pm.

Respectfully submitted,

Kathy Trinque
Administrative Secretary
Public Works Department

Approved May 20, 2010

MINUTES

CITY OF BENICIA

TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY (TPBS) COMMITTEE

Special Meeting

Wednesday, May 6, 2009

5:30 pm

I. CALL TO ORDER -- Meeting called to order at 5:30 pm

1. Roll Call -- Committee Members Present:

Council Member Mark Hughes (Chair), Vice-Mayor Tom Campbell, Director of Public Works Dan Schiada, City Engineer Michael Throne, Sgt. Frank Hartig, Police Department Traffic Division

Staff Present: Senior Civil Engineer Mike Roberts, Administrative Secretary Kathy Trinque.

2. Pledge of Allegiance

3. Fundamental Rights Statement

II. ACTION ITEM

1. East E Street Parking Lot – Request to keep Kuhland Alley Gate Open at all times and to allow Unrestricted Parking (24 hrs/day)

Dan S. summarized the staff report.

We received a request from Pat Donaghue to eliminate the parking restriction on the East E Street parking lot and keep the gate open 24 hours/day. The TPBS committee heard this request at its April 23, 2009 meeting and considered how/when to schedule it so we could invite neighborhood residents to comment.

To provide some history, this gate was installed about 5 years ago in response to complaints from the neighbors about excessive dust, through traffic and reckless driving. Various options were discussed by this committee at that time and due to budget constraints after consideration by the City Council, staff was directed to install a gate (that would be closed) across the alley access except for special events. This lot is used to capacity as a lot for parking, except during special events. The Committee is open to hear feedback from local residents regarding the gate being open or closed.

Regarding the request to change the parking restrictions, staff considers a need to keep this restriction in place, which is similar to other parks. It resolves problems with minimal lighting and overnight recreational vehicle parking.

Committee discussion/questions:

Tom C: How much would it cost to pave the lot?

Dan: Significantly over \$100k. Keep in mind that this lot is currently being evaluated by the Economic Development Manager for future development – mixed use.

Frank H: Did the Council ever consider adding lights?

Dan: City code requires that all amenities be included, if developed, such as landscaping and lighting. The City has to look at permanent uses also.

Public Comment:

Dave Delgado of 185 East D Street stated that he lived there for 20 years. Supports keeping the gate closed. It's a safety issue with lots of kids on bikes. It's a speed race when the gate is left open. Saw trucks going through the lot to the alley. Wants speed bumps in alley.

Pam Dixon of 161 East D Street stated that she wants a permanent parking lot. Does not want condos built here, but instead wants the lot paved with lights. Not here to discuss gate issue.

Resident from the west side of town spoke in favor of keeping the gate open. This lot serves all residents. Without the gate open, traffic doubles on East E Street.

Charles Allen from 133 East E Street stated that he supports having the gate open. There used to be a barrier at the end of East E Street, but it was removed when an emergency vehicle couldn't get access. Customers want to park at the lot. In favor of having it paved.

Carol de Maintenon of 126 East E Street is in favor of gate being kept open. Business decreased when gate was installed. If there's a problem with spin outs, add berms to the lot. Doesn't want to be boxed in as a cul-de-sac. About overnight parking, she has guests that want to park there. Resident permit parking would take care of the problem.

Kirk Arneson of 110 East E Street is opposed to the gate being open. The lot is unsafe as it currently is.

Tom of East E Street lives across from the lot for 7 years. Supports the current gate closure. Has seen donuts and dust from the parking lot. The gate is not open and closed for events and reduces liability for the City. 24 hr/day parking for events is OK but not for normal daily use.

Craig Arneson is opposed to the gate being open because it's not safe.

Vallejo resident doesn't see lots of traffic there, but has seen spinners. If First Street is closed there's no way into the E Street lot.

Gretchen Burgess of Buena Vista stated that the parking lot needs renovation because parking is needed. Its been discussed before and nothing is done. What are we going to do with the lot? There are potholes at the entrance. It's important to increase parking for economic development. The gate needs to be open and 24 hour parking is OK.

Mr. Shea of 110 E D Street stated that Kuhland Alley is not designed for 2-way traffic. It has potential for accidents. It's more liability for the gate to be open. For safety and residents, keep the gate closed.

Sandra Shannonhouse of 110 East E Street submitted a letter in support of keeping the gate closed. Wants to see the City take care of this parking lot. Mentioned court case from 1985.

Pat Donaghue of 126 East E Street stated that we need to do something about this lot. General Plan addresses this lot as a parking lot. Wants the gate open for business. A majority of residents want the gate open. It will create a danger because we need to develop the lot. I will require my employees and tenants to park in the lot.

Committee discussion:

Tom C. What if we leave the gate open and put in a barrier to create a smaller lot, restrict donuts and leave a larger lot on the other side.

Dan: There are 2 issues, 1 is the gate the other is overnight parking. We will have to get approval for funding before we can improve the lot. Staff will have to look into costs, impacts, lighting, and liability and bring it back as part of the budget process. My concern about overnight parking is safety related. Paving is very expensive...\$240k. Staff may need to work closer with Main Street to make sure gate gets opened and closed during events.

Frank H: We chase the motor homes all over town. Overnight parking is a problem. Restricted parking helps the PD to maintain the safety of the lot. The PD likes it as is.

Michael T: There's not a simple solution. We would need a drainage system, paving, lighting and an environmental study because there's no lighting there now. We can't use gas tax funds or traffic impact funds. The general fund is fairly stressed now and this project would have to compete with other projects for funding. What we have now works. It took care of the prior issues. I recommend that we bring it to the City Council for the budget priority setting session. Economic Development is already looking into this – it may be beyond the TPBS committee's authority.

Dan: In addition to paving, we have drainage issues that may require a full environmental review.

Mark H: I know there's a parking shortage downtown. I have used this lot and it was a congested spot. It is slated for development. If you're passionate that we need a lot, be there at the next meeting. We're not here to decide the future development tonight. It's highly unlikely that the Council will approve a lot of money be spent here. Dust happens with the gate open or closed, not a huge issue. It's an underutilized property. I support the 24 hr parking restriction and support opening the gate for better access to the community. Are there ways to slow down traffic?

Dan S: We can install berms or power poles to create obstacles, but that creates higher liability. We've considered trees, but that's costly because of the maintenance and water. If we open the gate as a trial, then review and see how it is going? The access from Kuhland Alley is narrow—the gate has a narrow opening.

Tom C: showed the committee a sketch of his idea of a sectioned parking lot with a nautical theme – posts with ropes and add reflectors.

Frank: If we put objects in the lot are we responsible?

Mark: What if we do a trial period, say 6 months. We need to develop some ideas about slowing down traffic?

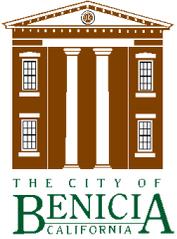
Frank: I'll support opening the gate, but leave parking restrictions in place. I'll do some statistical analysis to track the # of calls for service here.

Dan made a motion: Direct staff to open the gate for a 5-month trial period and come back in October with a report including a plan for safe, inexpensive, temporary barriers to prevent through traffic and keep the current 24 hour parking restrictions in place. Seconded by Michael Throne. Adopted by a 5-0 vote in favor of the motion.

Adjourned at 6:35 pm.

Respectfully submitted,

Kathy Trinqué
Administrative Secretary
Public Works Department



City of Benicia
**TRAFFIC PEDESTRIAN &
BICYCLE SAFETY (TPBS) COMMITTEE**

SPECIAL MEETING

City Hall – Commission Room
Thursday, May 20, 2010
7:00 pm

AGENDA

I. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Fundamental Rights Statement

II. APPROVAL OF MINUTES

- April 23, 2009 Special Meeting
- May 6, 2008 Special Meeting

III. PUBLIC COMMENT

IV. PRESENTATIONS:

1. Facilitating Public Participation (Open Government Commissioner, Claire McFadden).
2. Open Government. (City Attorney, Heather McLaughlin)
3. Solano Transportation Authority, Safe Routes to School Program (Sam Shelton, STA).

V. INFORMATIONAL ITEMS:

1. Public Works & Community Development Dept Staffing Update– Mike Roberts, Acting City Engineer
2. St. Dominic School Pick-up/Drop off Activity Report – Sgt. Hartig

VI. ACTION ITEMS

1. Meeting Calendar for 2010.
Recommendation: The Committee review and approve the calendar for regularly scheduled TPBS meetings for the remainder of 2010.

VII. COMMUNICATION FROM STAFF

VIII. ADJOURNMENT

Public Participation

The Traffic Pedestrian and Bicycle Safety (TPBS) Committee welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The TPBS Committee allows speakers to speak on agenda and non-agenda matters under public comment. Comments are limited to no more than 5 minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the TPBS Committee.

Disabled Access

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact Valerie Ruxton the ADA Coordinator at (707) 746-4211. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Meeting Procedures

All items listed on this agenda are for the TPBS Committee discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the TPBS Committee.

Public Records

The agenda packet for this meeting is available at the Public Works Department, City Clerk's Office and the Benicia Public Library during regular work hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." If you wish to submit written information on an agenda item, please submit to the Public Works Director as soon as possible so that it may be distributed to the Committee.

AGENDA ITEM
CITY COUNCIL MEETING: JANUARY 18, 2011
COUNCIL MEMBER COMMITTEE REPORTS

DATE : January 11, 2011

TO : Mayor Patterson
Vice Mayor Campbell

FROM : City Manager

SUBJECT : **TRI-CITY AND COUNTY COOPERATIVE PLANNING GROUP**

The following information is provided for your committee report at the January 18, 2011 Council meeting.

The last scheduled meeting between the Governing Board and Citizens Advisory Committee took place on Monday, December 13, 2010. The agenda and minutes from that meeting are not available, and there is no information on upcoming meetings.

**AGENDA ITEM
CITY COUNCIL MEETING: JANUARY 18, 2011
COUNCIL MEMBER COMMITTEE REPORTS**

DATE : January 7, 2011
TO : Council Member Hughes
FROM : City Manager
SUBJECT : **VALERO COMMUNITY ADVISORY PANEL (CAP)**

The following information is provided for your committee report at the January 18, 2011 Council meeting.

The CAP meets quarterly at 6:30 p.m. at the refinery at 610 Industrial Way.

The next meeting date has not been scheduled.

AGENDA ITEM
CITY COUNCIL MEETING: JANUARY 18, 2011
COUNCIL MEMBER COMMITTEE REPORT

DATE : January 6, 2011

TO : Mayor Elizabeth Patterson
Council Member Mike Ioakimedes
Council Member Schwartzman

FROM : Youth Action Coalition

SUBJECT : **YOUTH ACTION COALITION**

The next Benicia Youth Action Coalition meeting will be held on Wednesday, January 26, 3:30 p.m. in the Commission Room at City Hall. The agenda is not yet available.

**AGENDA ITEM
CITY COUNCIL MEETING: JANUARY 18, 2011
COUNCIL MEMBER COMMITTEE REPORTS**

DATE : January 7, 2011
TO : City Council
FROM : Mayor Patterson
SUBJECT : **ABAG/CAL FED TASK FORCE/BAY AREA WATER FORUM**

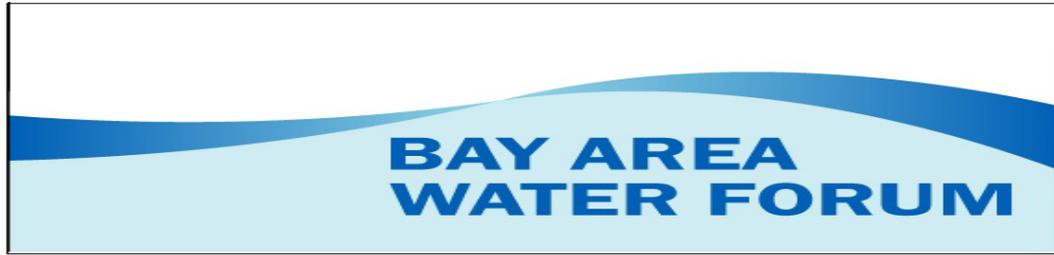
The following information is provided for your committee report at the January 18, 2011 City Council meeting.

The last meeting was held on Monday, December 6, 2010, the agenda from that meeting is attached.

The next meeting date and topic are not currently scheduled. Meetings are from 10:00 a.m. to 12:30 p.m. at the State Coastal Conservancy, 11th floor conference room, 1330 Broadway at 13th Street, Oakland.

The topic for the next meeting is:

- To be determined



Regional Approaches to Water Recycling & Wetlands Enhancement: the North Bay Example

Monday, December 6, 2010, 10 AM – 12:30 PM

Meeting Location: State Coastal Conservancy, 11th floor conference room, 1330 Broadway at 13th Street, Oakland

Conference Call / Webinar Information:

- To participate remotely, you must call in AND you can join the online webinar to observe.
- Dial 1-888-422-7120, Access Code: 555450# - **Please mute and do not put us on hold**
- Online Presentation Viewing link:
<https://www1.gotomeeting.com/register/966663849>
- Webinar registration can take 10 minutes - please register in advance

AGENDA

10:00 Welcome and Introductions

10:10 Forum Business

- Updates from Co-Chairs Cynthia Murray, North Bay Leadership Council; Elizabeth Patterson, City of Benicia; David Nesmith, Environmental Water Caucus; and Katy Foulkes, EBMUD
- Updates: Legislative, Committee Reports, IRWMP Update
- BAWF 2011 Work Plan

10:30 Regional Approaches to Water Recycling & Wetlands Enhancement: the North Bay Example

- **Chuck Weir**, Program Manager, North Bay Water Reuse Authority, will discuss the Authority's three-county, seven-agency North Bay cooperative approach to water recycling, as well as the role the project will play in wetlands recharge and restoration.

12:20 Wrap Up and Adjourn

www.baywaterforum.org

Directions to the Meeting

The State Coastal Conservancy offices are roughly three blocks from our previous meeting location and close to numerous parking lots. The meeting site is across Broadway from the Oakland City Center 12th Street BART Station. From the **south**, take I-880 to the Broadway/Downtown exit, merge onto 6th Street, and turn right on Broadway. From the **Bay Bridge** or **north**, take I-580 E towards Hayward/Stockton, merge onto I-980 W, take the 18th Street exit towards 14th Street, turn left on 14th Street, then right on Broadway.

[Get directions](#)

[See map of parking lots](#)



Webinar Instructions

To participate in the webinar, you must call in using a regular telephone line. If you'd like to view the session and ask questions via the web, you must also log-in online.

Asking Questions?

There are several ways to ask questions if you are participating remotely:

- 1) Ask the facilitator, via the telephone, to be put in the queue
- 2) Put you "hand up" through the webinar function and the facilitator will call on you to speak
- 3) Type a question on the webinar "questions" segment. The facilitator will then raise your question with the presenter.

Problems?

- You can type questions to the facilitator
- You can also call the Center for Collaborative Policy, 916-445-2079, and seek assistance with someone at the front desk.

Working Agreements

- One person speaks at a time.
- **Do not put the conference on hold, as music will then prevent other participants from hearing the speakers.** Please hang up/call back later or put us on mute instead.
- Please **mute your phones** unless using them to speak.
- Participants are encouraged to use the Webinar "raise your hand" function to alert the Facilitator when they have a specific comment.
- For those participants on the phone and NOT on the Webinar, the Facilitator will invite comments from those on the phone.

NEXT MEETING	2011 Program in planning stages - To Be Announced
TOPIC	▪ To Be Announced

www.baywaterforum.org

The Bay Area Water Forum serves as a venue for encouraging regional cooperation, education and exchange of ideas on critical Bay area water issues. Monthly meetings are open to all interested parties. The Forum is sponsored by numerous Bay area water agencies and consulting firms along with the State Coastal Conservancy.