

**BENICIA CITY COUNCIL
REGULAR MEETING AGENDA**

**City Council Chambers
April 01, 2014
6:30 PM**

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

*Please Note:
Regardless of whether there is a Closed Session scheduled, the open session will begin
at 7:00 PM*

I. CALL TO ORDER (6:30 PM):

II. CLOSED SESSION (6:30 PM):

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9

Number of potential cases: One (1) West Corporation

B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: Potential Contracts for Various Water Rights

Agency negotiator: City Manager, City Attorney, Public Works

Negotiating parties: City of Benicia and various water providers

Under Negotiation: Both price and terms of payment

III. CONVENE OPEN SESSION (7:00 PM):

A. ROLL CALL.

B. PLEDGE OF ALLEGIANCE.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE 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/PROCLAMATIONS/APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS.

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

2. Openings on Boards and Commissions:

Arts and Culture Commission

1 full term

1 unexpired term

Open until filled

Historic Preservation Review Commission

1 unexpired term

Open until filled

Finance Committee

1 unexpired term

Open until filled

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

Update from City Attorney

B. PROCLAMATIONS.

1. In Recognition of Equal Pay Day April 8, 2014

C. APPOINTMENTS.

D. PRESENTATIONS.

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 THE MINUTES OF THE MARCH 18, 2014 CITY COUNCIL MEETING. (City Clerk)

B. APPROVAL OF AMENDMENT TO CONTRACT FOR THE WATER TREATMENT PLANT SECURITY SURVEILLANCE IMPROVEMENT PROJECT. (City Manager)

This action settles a dispute between the City and WEST Corporation, the construction contractor the Water Treatment Plant Security Surveillance Improvement Project by executing a Release and Settlement Agreement and contract change order in the amount of \$3,000 in lieu of \$6,000 in liquidated damages as previously accepted by City Council on February 4, 2014.

Recommendation: Adopt a resolution approving an amendment to the final contract price for the Water Treatment Plant Security Surveillance Project, authorizing the City Manager to execute the Release and Settlement Agreement with West Corporation and authorizing the City Manager to execute a final contract change order in the amount of \$3,000.

C. SECOND READING OF AN ORDINANCE TO AMEND BENICIA MUNICIPAL CODE SECTION 2.64.030 (MEETING TIME AND PLACE) OF CHAPTER 2.64 (BOARD OF LIBRARY TRUSTEES) OF TITLE 2 (ADMINISTRATION AND PERSONNEL). (City Attorney)

The meeting time of the Board of Library Trustees has been changed to the second Tuesday of each month at 6:30 p.m. at the Benicia Library.

Recommendation: Adopt the ordinance updating Benicia Municipal Code to reflect the current meeting time of the Board of Library Trustees.

D. CONTINUE SUPPORT AND PARTICIPATION IN THE EAST BAY BROADBAND CONSORTIUM AND AUTHORIZE THE MAYOR'S SIGNATURE FOR A "LETS GET FAST" PLEDGE LETTER ENDORSING THE CONSORTIUM'S EFFORTS. (Economic Development Manager)

The East Bay Broadband Consortium (EBBC) is as an East Bay regional initiative organized by the Contra Costa Council, the East Bay Economic Development Alliance, and the Solano Economic Development Corporation to improve Broadband deployment, access, and adoption in the East Bay. EBBC is requesting each participating member to sign a pledge as a way to continue the momentum of improving broadband capacity in the East Bay.

Recommendation: Approve by motion the City of Benicia continued support of the East Bay Broadband Consortium and authorize the Mayor, on behalf of the City Council, to sign a "Let's Get Fast" pledge.

E. RESOLUTION APPROVING THE 2014-2018 TRAVIS COMMUNITY CONSORTIUM STRATEGY. (Economic Development Manager)

The TCC is a consortium of interested stakeholders from and within Solano County whose mission is to advocate for the continued operation of Travis Air Force Base (AFB). Due to Travis' AFB billion dollar impact on Solano County, its continued operation is vital to the area's economic vitality. To that end, the City of Benicia has joined the TCC. The proposed TCC 2014-2018 Strategy is a list of goals for the TCC to work towards over the next four years. Each member agency has been asked to adopt a resolution as a show of support for these efforts.

Recommendation: Approve by Resolution the 2014-2018 Travis Community Consortium (TCC) Strategy.

F. APPROVE THE AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF BENICIA AND MANAGEMENT PARTNERS. (Assistant City Manager)

Staff is proposing to amend the contract with Management Partners for the management services of Steve Salomon for the Public Works Department.

Recommendation: Adopt the resolution approving the amendment to the agreement with Management Partners for interim Public Works management services.

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

VIII. BUSINESS ITEMS (7:30 PM):

A. OFFICE OF ECONOMIC DEVELOPMENT QUARTERLY REPORT PRESENTATION. (Economic Development Manager)

City staff will provide a presentation highlighting the various components of the City's economic development program, such as tourism, sales tax data, business retention efforts and business services.

Recommendation: Receive presentation on the City's recent economic development activities.

IX. ADJOURNMENT (8:00 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 or Special Needs

In compliance with the Americans with Disabilities Act (ADA) and to accommodate any special needs, 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 the 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 Clerk's Office.



PROCLAMATION

IN RECOGNITION OF Equal Pay Day

WHEREAS, 50 years after the passage of the Equal Pay Act, women, especially minority women, continue to suffer the consequences of unequal pay; and

WHEREAS, according to the U.S. Census Bureau, full-time women working year round in 2012 earned on average 77 percent of the earnings of their male counterparts, indicating little change or progress in pay equity; and

WHEREAS, in 2009 the Lilly Ledbetter Fair Pay Act was signed into law, which gives back to employees their day in court to challenge a pay gap, and now we must pass the Paycheck Fairness Act, which would amend the Equal Pay Act by closing loopholes and improving the law's effectiveness; and

WHEREAS, according to one estimate, college-educated women working full-time earn more than a half million dollars less than their male peers do over the course of a lifetime; and

WHEREAS, nearly four in 10 mothers are primary breadwinners in their households, and nearly two-thirds are significant earners, making pay equity critical to families' economic security; and

WHEREAS, a lifetime of lower pay means women have less income to save for retirement and less income counted in a Social Security or pension benefit formula; and

WHEREAS, fair pay equity policies can be implemented simply and without undue costs or hardship in both the public and private sectors; and

WHEREAS, Tuesday, April 8, symbolizes the time in 2014 when the wages paid to American women catch up to the wages paid to men from the previous year.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor of the City of Benicia, do hereby proclaim Tuesday, April 8, 2014 as "Equal Pay Day" to recognize the full value of women's skills and significant contributions to the labor force, and further encourages businesses to conduct an internal pay evaluation to ensure women are being paid fairly.

Elizabeth Patterson, Mayor
April 1, 2014



MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
March 18, 2014

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 Closed Session to order at 6:30 p.m.

Council Member Hughes was absent. All other Council Members were present.

II. CLOSED SESSION:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: Potential Contracts for Various Water Rights

Agency negotiator: City Manager, City Attorney, Interim Public Works

Negotiating parties: City of Benicia and various water providers

Under negotiation: Both price and terms of payment

III. CONVENE OPEN SESSION:

Mayor Patterson called the Open Session to order at 7:07 p.m.

A. ROLL CALL

Council Members Hughes and Schwartzman were absent.

All other Council Members were present.

B. PLEDGE OF ALLEGIANCE

Boy Scout Troop 295 led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC

IV. ANNOUNCEMENTS/PROCLAMATIONS/ APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS

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

Heather McLaughlin, City Attorney, reported that Council received information from Staff and provided direction to Staff.

2. Openings on Boards and Commissions:

Arts and Culture
1 full term
Open until filled

Historic Preservation Review Commission
1 unfilled term
Open until filled

3. Mayor's Office Hours:

4. Benicia Arsenal Update

Update from City Attorney

Status quo. Nothing new to report.

B. PROCLAMATIONS

1. IN RECOGNITION OF SUNSHINE WEEK - MARCH 16-22, 2014

C. APPOINTMENTS

Mayor Patterson discussed concerns regarding the appointment process. She and Staff have been working on ideas that might make the process smoother.

Council Member Strawbridge requested the appointments be continued until all Council Members could be present.

Vice Mayor Campbell discussed support for voting on the appointments tonight.

Mayor Patterson discussed concern regarding delaying the appointments. If an appointment could not be agreed upon, it would be continued to the next meeting.

1. Appointment of Jacquelyn Sells DuBois to the Arts and Culture Commission for a four-year term ending January 31, 2018.

RESOLUTION 14-18 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF JACQUELYN SELLS DUBOIS TO THE OPEN GOVERNMENT COMMISSION FOR A FOUR-YEAR TERM ENDING JANUARY 31, 2018

On motion of Mayor Patterson, Council adopted Resolution 14-18, on roll call by the following vote:

Ayes: Patterson, Campbell, Strawbridge
Noes: (None)

- 2. Reappointment of Douglas Funk to the Civil Service Commission for a four-year term ending January 31, 2018.**

RESOLUTION 14-19 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF DOUGLAS FUNK TO THE CIVIL SERVICE COMMISSION FOR A FOUR-YEAR TERM ENDING JANUARY 31, 2018

On motion of Mayor Patterson, Council adopted Resolution 14-19, on roll call by the following vote:

Ayes: Patterson, Campbell, Strawbridge
Noes: (None)

- 3. Reappointment of Martha Christopher to the Civil Service Commission for a four-year term ending January 31, 2018.**

RESOLUTION 14-20 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF MARTHA CHRISTOPHER TO THE CIVIL SERVICE COMMISSION FOR A FOUR-YEAR TERM ENDING JANUARY 31, 2018

On motion of Mayor Patterson, Council adopted 14-20, on roll call by the following vote:

Ayes: Patterson, Campbell, Strawbridge
Noes: (None)

- 4. Appointment of Stanley Adkins, Jr. to the Civil Service Commission for a four-year term ending January 31, 2018.**

RESOLUTION 14-21 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF STANLEY ADKINS, JR. TO THE CIVIL SERVICE COMMISSION FOR A FOUR-YEAR TERM ENDING JANUARY 31, 2018

On motion of Mayor Patterson, Council adopted Resolution 14-21, on roll call by the following vote:

Ayes: Patterson, Campbell, Strawbridge
Noes: (None)

- 5. Reappointment of Michael Roetzer to the Civil Service Commission for a four-year term ending January 31, 2018.**

RESOLUTION 14-22 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF MICHAEL ROETZER TO THE CIVIL SERVICE COMMISSION FOR A FOUR-YEAR TERM ENDING JANUARY 31, 2018

On motion of Mayor Patterson, Council adopted Resolution 14-22, on roll call by the following vote:

Ayes: Patterson, Campbell, Strawbridge
Noes: (None)

- 6. Appointment of Dennis Cullen to the Economic Development Board for a four-year term ending January 31, 2018.**

RESOLUTION 14-23 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF DENNIS CULLEN TO THE ECONOMIC DEVELOPMENT BOARD FOR A FOUR-YEAR TERM ENDING JANUARY 31, 2018

On motion of Mayor Patterson Council adopted Resolution 14-23, on roll call by the following vote:

Ayes: Patterson, Campbell, Strawbridge
Noes: (None)

- 7. Reappointment of Jon Van Landschoot to the Historic Preservation Review Commission for a four-year term ending January 31, 2018.**

On motion of Mayor Patterson, Council adopted Resolution 14-24, on roll call by the following vote:

Ayes: Patterson, Campbell, Strawbridge
Noes: (None)

- 8. Reappointment of Richard Sprankle to the Benicia Housing**

Authority Board of Commissioners for a two-year term ending January 31, 2016.

RESOLUTION 14-25 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF RICHARD SPRANKLE TO THE BENICIA HOUSING AUTHORITY BOARD OF COMMISSIONERS FOR A TWO-YEAR TERM ENDING JANUARY 31, 2016

On motion of Mayor Patterson, Council adopted Resolution 14-25, on roll call by the following vote:

Ayes: Patterson, Campbell, Strawbridge
Noes: (None)

- 9. Reappointment of Atiba Murphy to the Benicia Housing Authority Board of Commissioners for a two-year term ending January 31, 2016.**

RESOLUTION 14-26 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF ATIBA MURPHY TO THE BENICIA HOUSING AUTHORITY BOARD OF COMMISSIONERS FOR A TWO-YEAR TERM ENDING JANUARY 31, 2016

On motion of Mayor Patterson Council adopted Resolution 14-26, on roll call by the following vote:

Ayes: Patterson, Campbell, Strawbridge
Noes: (None)

- 10. Appointment of Zoe Bartholomew to the Open Government Commission for a four-year term ending January 31, 2018.**

RESOLUTION 14-27 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF ZOE BARTHOLOMEW TO THE OPEN GOVERNMENT COMMISSION FOR A FOUR-YEAR TERM ENDING JANUARY 31, 2018

On motion of Mayor Patterson Council adopted Resolution 14-27, on roll call by the following vote:

Ayes: Patterson, Campbell, Strawbridge
Noes: (None)

- 11. Reappointment of Susan Lynn to the Open Government Commission for a four-year term ending January 31, 2018.**

RESOLUTION 14-28 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF SUSAN LYNN TO THE OPEN GOVERNMENT COMMISSION FOR A FOUR-YEAR TERM ENDING JANUARY 31, 2018

On motion of Mayor Patterson, Council adopted Resolution 14-28, on roll call by the following vote:

Ayes: Patterson, Campbell, Strawbridge

Noes: (None)

12. Reappointment of Larry Fullington to the Open Government Commission for a four-year term ending January 31, 2018.

RESOLUTION 14-29 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF LARRY FULLINGTON TO THE OPEN GOVERNMENT COMMISSION FOR A FOUR-YEAR TERM ENDING JANUARY 31, 2018

On motion of Mayor Patterson, Council adopted Resolution 14-29, on roll call by the following vote:

Ayes: Patterson, Campbell, Strawbridge

Noes: (None)

13. Reappointment of Kimberly Funk to the Parks, Recreation & Cemetery Commission for a four-year term ending January 31, 2018.

RESOLUTION 14-30 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF KIMBERLY FUNK TO THE PARKS, RECREATION & CEMETERY COMMISSION FOR A FOUR-YEAR TERM ENDING JANUARY 31, 2018

On motion of Mayor Patterson Council adopted Resolution 14-30, on roll call by the following vote:

Ayes: Patterson, Campbell, Strawbridge

Noes: (None)

14. Appointment of Sharon Maher to the Community Sustainability Commission for a four-year term ending January 31, 2018.

On motion of Mayor Patterson, Council did not approve the above appointment, on roll call by the following vote:

Ayes: Patterson, Campbell
Noes: Strawbridge

The motion did not pass. Per the discussion prior to the appointments, this item would be continued to the next meeting.

15. Appointment of Ershely Raj to the Community Sustainability Commission for a four-year term ending January 31, 2018.

RESOLUTION 14-31 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF ERSHEL Y RAJ TO THE COMMUNITY SUSTAINABILITY COMMISSION FOR A FOUR-YEAR TERM ENDING JANUARY 31, 2018

On motion of Mayor Patterson, Council adopted Resolution 14-31, on roll call by the following vote:

Ayes: Patterson, Campbell, Strawbridge
Noes: (None)

16. Additional Board and Commission Applications.

D. PRESENTATIONS

V. ADOPTION OF AGENDA:

On motion of Council Member Strawbridge, seconded by Vice Mayor Campbell, Council adopted the Agenda, as presented, on roll call by the following vote:

Ayes: Patterson, Campbell, Strawbridge
Noes: (None)

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

B. PUBLIC COMMENT

1. Sue Fischer Jones, Valero - Ms. Fischer Jones discussed the Crude by Rail Project. Valero has scheduled a Citizens Advisory Panel (CAP) meeting on 3/24/14, where the project would be discussed. She confirmed the meeting would be videotaped. She would provide Council and City staff with copies of the DVD.
2. Keith Washington, Safety Manager, Valero - Mr. Washington discussed Valero's extensive safety certification. He invited Council to the

awards presentation.

3. Donna Smith - Ms. Smith discussed concern regarding the traffic on Rose Drive. She discussed concerns regarding the speed of cars on Rose Drive. Her car was hit by a car going 40 m.p.h. down Rose Drive. She requested the City consider installing low-grade speed bumps.
4. Mayor Patterson - Mayor Patterson discussed a recent conference she attended.

Council Member Strawbridge discussed attending last year's Valero safety awards presentations.

Council and Staff discussed efforts that are being made to slow traffic down on Rose Drive. Staff confirmed they would advise Ms. Smith of the next Traffic, Pedestrian & Bicycle Safety Committee meeting date/time.

VII. CONSENT CALENDAR:

Council Member Strawbridge stated she would have to recuse herself from item VII.C, due to a conflict of interest.

Ms. McLaughlin confirmed Council Member Strawbridge could vote on the Consent Calendar as a whole, however if item VII.C were pulled, she would have to recuse herself.

Council agreed to pull the resolution from item VII.C, and it would be approved by motion under the Consent Calendar.

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

Ayes: Patterson, Campbell, Strawbridge
Noes: (None)

- A. APPROVAL OF THE MINUTES OF THE FEBRUARY 25, 2014, MARCH 4, 2014 SPECIAL, AND MARCH 4, 2014 REGULAR CITY COUNCIL MEETINGS**
- B. APPROVAL OF CONSTRUCTION CONTRACT FOR THE WATER TREATMENT PLANT FILTER SLIDE GATE REPLACEMENT PROJECT**

RESOLUTION 14-32 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING THE BIDS FOR THE WATER TREATMENT PLANT FILTER SLIDE GATE REPLACEMENT PROJECT, AFFIRMING STAFF'S DECISION ON THE BID PROTEST, REJECTING THE LOWEST BIDDER,

**AWARDING THE CONSTRUCTION CONTRACT TO SPIESS
CONSTRUCTION COMPANY IN THE AMOUNT OF \$68,800, AND
AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT ON
BEHALF OF THE CITY**

- C. **AMENDMENT OF CONTRACT FOR PROFESSIONAL SERVICES FOR THE BENICIA URBAN WATERFRONT ENHANCEMENT AND MASTER PLAN**
- D. **Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.**

VIII. BUSINESS ITEMS:

- A. **COMPREHENSIVE ANNUAL FINANCIAL REPORT AND MEMORANDUM ON INTERNAL CONTROL FOR THE FISCAL YEAR ENDED JUNE 30, 2013**

Mayor Patterson asked Staff if there was urgency on this item, or could it be continued to the next meeting when all Council Members were present. Staff recommended this item not be continued.

Katherine Yuen, Maze and Associates, reviewed the Comprehensive Annual Financial Report (CAFR).

Vice Mayor Campbell and Staff discussed the issue of pension obligation bonds.

Council Member Strawbridge and Staff discussed the City's overall credit rating.

Mayor Patterson and Staff discussed the City's liabilities with regards to Public Employees Retirement System.

Vice Mayor Campbell and Staff discussed the issue of bond ratings.

Public Comment:

None

On motion of Vice Mayor Campbell, seconded by Council Member Strawbridge, Council accepted the Comprehensive Annual Financial Report and Memorandum on Internal Control for the fiscal year ended June 30, 2013, on roll call by the following vote:

Ayes: Patterson, Campbell, Strawbridge

Noes: (None)

- B. **Council Member Committee Reports:**

1. **Mayor's Committee Meeting.(Mayor Patterson) Next Meeting Date: April 16, 2014**
2. **Association of Bay Area Governments (ABAG)<http://www.abag.ca.gov/>. (Mayor Patterson and Council Member Strawbridge)Next Meeting Date: TBD**
3. **Finance Committee. (Vice Mayor Campbell and Council Member Strawbridge)Next Meeting Date: March 28, 2014**
4. **League of California Cities. (Mayor Patterson and Vice Mayor Campbell) Next Meeting Date: April 30, 2014**
5. **School Liaison Committee. (Council Members Strawbridge and Council Member Hughes) Next Meeting Date: June 12, 2014**
6. **Sky Valley Open Space Committee. (Vice Mayor Campbell and Council Member Schwartzman) Next Meeting Date: TBD**
7. **Solano EDC Board of Directors. (Mayor Patterson and Council Member Strawbridge) Next Meeting Date: March 13, 2014**
8. **Solano Transportation Authority (STA). <http://www.sta.ca.gov/> (Mayor Patterson and Council Member Schwartzman) Next Meeting Date: April 9, 2014**
9. **Solano Water Authority-Solano County Water Agency and Delta Committee. <http://www.scwa2.com/>(Mayor Patterson and Council Member Mark Hughes) Next Meeting Date: April 10, 2014**
10. **Traffic, Pedestrian and Bicycle Safety Committee. (Vice Mayor Campbell and Council Member Schwartzman) Next Meeting Date: April 17, 2014**
11. **Tri-City and County Cooperative Planning Group. (Mayor Patterson and Council Member Strawbridge) Next Meeting Date: June 9, 2014**
12. **Valero Community Advisory Panel (CAP). (Mayor Patterson and Council Member Hughes) Next Meeting Date: March 24, 2014**
13. **Youth Action Coalition. (Mayor Patterson, Council Member Strawbridge and Council Member Hughes) Next Meeting Date: March 26, 2014**
14. **ABAG-CAL FED Task Force-Bay Area Water Forum.**

<http://www.baywaterforum.org/> (Mayor Patterson)Next Meeting
Date: TBD

15. **SOLTRANS Joint Powers Authority (Mayor Patterson, Council Member Hughes and Council Member Schwartzman) Next Meeting**
Date: March 20, 2014

IX. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 8:19 p.m.

AGENDA ITEM
CITY COUNCIL MEETING DATE - APRIL 1, 2014
CONSENT CALENDAR

DATE : March 7, 2014

TO : City Council

FROM : City Manager

SUBJECT : **APPROVAL OF AMENDMENT TO CONTRACT FOR THE WATER TREATMENT PLANT SECURITY SURVEILLANCE IMPROVEMENT PROJECT**

RECOMMENDATION:

Adopt a resolution approving an amendment to the final contract price for the Water Treatment Plant Security Surveillance Project, authorizing the City Manager to execute the Release and Settlement Agreement with West Corporation and authorizing the City Manager to execute a final contract change order in the amount of \$3,000.

EXECUTIVE SUMMARY:

This action settles a dispute between the City and WEST Corporation, the construction contractor the Water Treatment Plant Security Surveillance Improvement Project by executing a Release and Settlement Agreement and contract change order in the amount of \$3,000 in lieu of \$6,000 in liquidated damages as previously accepted by City Council on February 4, 2014.

BUDGET INFORMATION:

The total revised construction cost is \$224,674.61, which includes the construction costs paid to date (\$204,907.15) and the 10% retention (\$22,767.46) less \$3,000 in final contract change order adjustments.

GENERAL PLAN:

Relevant General Plan Goal:

- Goal 2.28: Improve and maintain public facilities and services

STRATEGIC PLAN:

Relevant Strategic Plan Issue and Strategies include:

- Strategic Issue #1: Protecting Community Health and Safety
- Strategic Issue #4: Preserving and Enhancing Infrastructure

BACKGROUND:

WEST Corporation was the construction contractor for the Water Treatment Plant Security Surveillance Improvement Project. On February 4, 2014 the project was accepted as complete and \$6,000 in liquidated damages was assessed for project delays (staff report and Resolution No. 14-12 attached). WEST Corporation challenged the assessment of liquidated damages contending City staff contributed to the delays in completing the project in a timely manner. As required, City staff and the president of WEST Corporation met and conferred to resolve the matter and agreed to resolve the dispute subject to City Council approval. If acceptable to Council, the City will execute a Release and Settlement Agreement and contract change order (CCO) in the amount of \$3,000 in lieu of \$6,000 in liquidated damages (Agreement and CCO attached).

Attachments:

- Proposed Resolution
- Release and Settlement Agreement (Exhibit A to proposed resolution)
- Contract Change Order 1
- Staff Report from February 4, 2014 City Council meeting
- Resolution No. 14-12

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING AN AMENDMENT TO THE FINAL CONTRACT PRICE FOR THE WATER TREATMENT PLANT SECURITY SURVEILLANCE PROJECT, AUTHORIZING THE CITY MANAGER TO EXECUTE THE RELEASE AND SETTLEMENT AGREEMENT WITH WEST CORPORATION AND AUTHORIZING THE CITY MANAGER TO EXECUTE A FINAL CONTRACT CHANGE ORDER IN THE AMOUNT OF \$3,000

WHEREAS, by Resolution No. 13-29, City Council awarded the construction contract for the Water Treatment Plant Security Surveillance Project to WEST Corporation in the amount of \$238,402 and the construction management contract to California Technical Concepts in the amount of \$27,590; and

WHEREAS, by Resolution No. 14-12, the City Council accepted the project and assessed liquidated damages in the amount of Six Thousand Dollars (\$6,000) against WEST Corporation for delays in completing the project in a timely manner; and

WHEREAS, WEST Corporation challenged the assessment of liquidated damages contending City staff contributed to the delays in completing the project in a timely manner; and

WHEREAS, City staff and Dan Walsh, President of WEST Corporation met and conferred to resolve the matter; and

WHEREAS, after the meet and confer session, City staff and WEST Corporation agreed to resolve the dispute subject to City Council approval; and

WHEREAS, the City Council has reviewed the matter and concurs in staff's recommendation to settle the dispute with WEST Corporation; and

WHEREAS, the total construction cost is \$224,674.61 [which includes the construction costs paid to date (\$204,907.15) and the 10% retention (\$22,767.46) less \$3000.00 in final contract change order adjustments].

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves the final contract cost adjustments recited above and authorizes the City Manager to execute a final change order for the project consistent with said approved contract adjustments. This resolution supersedes Resolution 14-12 to the extent that it authorized the assessment of liquidated damages against WEST Corporation.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute the Release and Settlement Agreement with WEST Corporation attached as Exhibit "A" to this Resolution.

* * * * *

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 1st day of April 2014, and adopted by the following vote:

Ayes:

Noes:

Absent:

Tom Campbell, Vice Mayor

Attest:

Lisa Wolfe, City Clerk

Date

RELEASE AND SETTLEMENT AGREEMENT

RECITALS

1.1 The Purpose of the Agreement

This release and settlement agreement is made and entered into by and among the parties to formalize a settlement reached to resolve a dispute arising out of the performance of the Security Surveillance Improvement Contract, Project #12-05.

1.2 The Parties

The parties to this release and settlement agreement are as follows:

- (1) The City of Benicia (City)
- (2) WEST Corporation (WEST)

1.3 The Dispute

WEST was awarded a construction contract in May 2013 for the installation of video cameras, monitors, digital video recording equipment and other related equipment at the City's Water Treatment Plant. During the course of construction there were extensions of time agreed to by the City and WEST for completion of the project by November 30, 2013. Despite the parties' best efforts to complete the project by the agreed date, the actual date of completion was January 10, 2014.

The underlying dispute involves the assessment by the City of six thousand dollars (\$6000.00) in liquidated damages against WEST for delays in completing the project by November 30, 2013.

WEST challenged the assessment of liquidated damages contending that the City contributed to the delays in completion of the project. As permitted under the contract and the Public Contract Code, City staff and WEST met in a meet and confer conference and thoroughly reviewed the facts relating to the delays in an attempt to resolve the dispute.

The parties hereto desire to resolve the dispute and settle the matter by entering into this Release and Settlement Agreement.

PAYMENT AND RELEASE PROVISIONS

2.1 Amount of Settlement

In consideration for the full and timely performance of the terms and conditions of this agreement, The City agrees to reduce the assessment of liquidated damages to Three Thousand Dollars (\$3000.00) and to recharacterize said damages as an adjustment in the total contract amount to be paid WEST embodied in a final contract change order on the project. The City's resolution adjusting the contract price shall not make any references to the assessment of liquidated damages.

2.2 Release

In consideration of full and timely performance of all terms and conditions of this agreement in the manner prescribed herein, including but not limited to all releases, dismissals, waivers, covenants, warranties and representations, and, except as otherwise provided herein, the parties, on behalf of themselves, and on behalf of each of their heirs, assigns, and agents does hereby release, acquit and forever discharge the other party and all other persons, individuals, firms, entities, companies and corporations controlled by or in conjunction with said parties, of and

from any and all actions, causes of action, claims, demands, damage, costs, loss of services, expenses and compensation, on account of, or in any way arising out of the performance or administration of the construction contract.

2.3 Waiver

The parties hereto acknowledge that there is a risk that, subsequent to the execution of this agreement, each party may incur, suffer or sustain injury, loss, damage, costs, attorneys' fees, expenses, or any of these, which are in some way caused by and/or connected with the matters referred to in the dispute, as defined herein, or which are unknown or unanticipated at the time this agreement is signed, or which are not presently capable of being ascertained.

The parties hereto acknowledge that there is a risk that such damages as are known may become more serious than they now expect or anticipate. Nevertheless, the parties hereto acknowledge that this agreement has been negotiated and agreed upon in light of those realizations and they hereby expressly waive all rights each may have in such unsuspected claims. In doing so, they have had the benefit of counsel, have been advised of, understand and knowingly and specifically waive their rights described in Civil Code Section 1542 as follows:

A general release does not extend to the claims which the creditor does not know or suspect to exist in his favor at the time of executing the release which, if known by him, must have materially affected his settlement with the debtor.

The parties hereto acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those which they know or believe to be true, but it is their intention fully and finally and forever, to settle and release any and all claims based on or arising from the disputes (as herein defined), known or unknown, suspected or unsuspected, which do now exist or heretofore have existed among them. In furtherance of this intention, the releases herein shall be and remain in effect as full or complete general releases notwithstanding discovery of existence of any such additional or different facts.

GENERAL PROVISIONS

3.0 Performance of Agreement

Each of the parties hereto recognizes and acknowledges that the agreement is not intended to and shall not release any parties hereto from any liability or damages, if any, caused by or arising out of such party's or parties' failure or refusal to perform the acts required in accordance with the terms of this agreement.

3.1 Compromise and Denial of Liability

Each of the parties hereto acknowledges and agrees that the agreement is the result of a compromise among the parties hereto and shall never at any time or for any purpose be considered as an admission of liability and/or responsibility on the part of any party released herein, nor shall the payment of any sum of money in consideration for the execution of this agreement constitute or be construed as an admission of any liability whatsoever by any party herein released, each of which continues to deny such liability and disclaim such responsibility.

3.2 Representation of Non-Assignment of Claim

WEST has not assigned or in any other way transferred or conveyed to any other person or entity any of the claims released herein.

3.3 Attorneys' Fees

Each of the parties shall bear its own attorneys' fees, costs, and expenses incurred in connection with the disputes as defined herein and all matters arising out of or connected therewith.

3.4 Governing Law

This agreement shall in all respects be interpreted, enforced, and governed by and under the laws of the State of California.

3.5 Binding Effect

This agreement shall be binding upon and inure to the benefit of each of the parties and its respective heirs, successors and assigns, predecessors, successors, assigns, partners, partnerships, joint ventures, parent, subsidiary, affiliated and related entities, companies, officers, directors, principals, agents, servants, employees, representatives, and all persons firms, associations and/or corporations connected with them including, without limitation, their insurers and/or attorneys.

3.6 Entire Agreement

This agreement constitutes the entire understanding among the parties with regard to the matters herein set forth. There are no representations, warranties, agreements or undertakings, oral or written, between and among any of the parties hereto relating to the subject matter of this agreement, which are not fully expressed herein.

DATED: _____, 2014

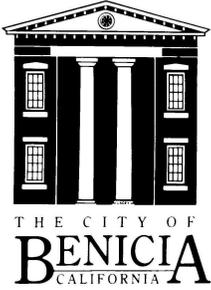
By _____
Dan Walsh, President
WEST Corporation

DATED: _____, 2014

By _____
Brad Kilger
City Manager

Approved as to Form

Heather McLaughlin
City Attorney



CHANGE ORDER

PROJECT
PROJECT NO.

Water Treatment Plant Security Surveillance Project
12-05

CONTRACT DATE June 2013

Change Number	1
----------------------	----------

TO CONTRACTOR WEST Corporation

The following changes are hereby made to the Contract Documents:

- 1. Release and Settlement Agreement (Copy Attached) \$3,000.00

Justification: Resolution No. 14- _____. Approved by City Council on March 18, 2014.

CHANGE TO CONTRACT PRICE

Original Contract Price:	\$238,402.00
Actual Contract Price:	\$221,674.61
The Contract Price due to this Change Order will be increased by:	\$3,000.00
The New Contract Price due to this Change Order will be:	\$224,674.61

NOTE: The price is base on the original bid price.

CHANGE TO CONTRACT TIME

APPROVALS REQUIRED:

To be effective, the Owner must approve this order if it changes the scope or objective of the project, or as may otherwise be required under the terms of the General Provisions of the Contract.

Recommended by: _____ Date _____
Project Manager

Accepted by: _____ Date _____
Contractor

Ordered by: _____ Date _____
City of Benicia (City Manager)

AGENDA ITEM
CITY COUNCIL MEETING DATE - FEBRUARY 4, 2014
CONSENT CALENDAR

DATE : January 28, 2014

TO : Mayor and Council

FROM : City Manager

SUBJECT : **ACCEPTANCE OF WATER TREATMENT PLANT SECURITY SURVEILLANCE IMPROVEMENT PROJECT**

RECOMMENDATION:

Adopt a resolution:

- 1) Accepting the Water Treatment Plant Security Surveillance Improvement Project as complete, assessing liquidated damages of \$6,000 for project delays, authorizing the City Manager to sign the Notice of Completion and authorizing the City Clerk to file same with the Solano County Recorder; and
- 2) Approving a contract purchase order increase of \$9,204 with the construction management firm, California Technical Concepts, due to the project delay.

EXECUTIVE SUMMARY:

This security project, located at the Water Treatment Plant, included installation of video cameras, monitors, digital video recording equipment, electronic card readers for the magnetic door locks, hatch alarms, motion detectors, security system commissioning, and ancillary electrical improvements for power. WEST Corporation completed the project on January 10, 2014, twenty-four (24) working days beyond the project deadline. Liquidated damages of \$6,000 (\$250 per day x 24) will be assessed by the City against the contractor from the 10% retention funds. In order to keep the project properly managed during the construction delays, the contract purchase order with the construction management firm, California Technical Concepts, will be increased by \$9,204 to a new contract amount of \$53,637. The project was budgeted for \$336,273 and was completed under budget at \$333,673.11. Sufficient funds are available in the Water System Replacement Fund, Major Water Capital Fund, and System Capacity Fund to cover the final costs, as per the adopted City Budget. The last step of the project requires formal acceptance by the City Council and filing of the Notice of Completion by the City Clerk, which allows the City to process the final payment to the contractor.

BUDGET INFORMATION:

Project Budget

Construction Contract.....	\$238,402.00
Construction Contingency (5%)	\$11,920.00
Construction Management.....	\$27,590.00
Engineering Support Services	\$11,635.00
Control Room Consoles	\$46,726.00
Total Construction Budget	\$336,273.00

Project Expenditures

Construction Cost Paid to Date (\$227,674.61 minus 10% retention) ...	\$209,907.15
Retention Payment (10% of \$227,674.61).....	\$22,767.46
Minus Liquidated Damages (\$250/day x 24 days)	\$-6,000.00
Adjusted Retention Payment.....	\$16,767.46

\$204,907.15

Final Construction Cost..... \$221,674.61

Construction Management	\$53,637.50
Engineering Support	\$11,635.00
Control Room Consoles	\$46,726.00

Total Project Cost \$333,673.11

The total project cost is \$333,673.11, which is \$2,599.89 less than the project budget. The ten percent (10%) retention of \$22,767.46 for construction will be released, less liquidated damages of \$6,000 and any contractor liens after 35 days following recording with Solano County. The increased purchase order amount to California Technical Concepts of \$9,204 will be funded from the liquidated damages (\$6,000) and the balance (\$5,681) will be allocated from the construction contingency. Sufficient funds are available in the Water Enterprise Funds as per the adopted City budget.

GENERAL PLAN:

Relevant General Plan Goal:

- Goal 2.28: Improve and maintain public facilities and services

STRATEGIC PLAN:

Relevant Strategic Plan Issue and Strategies include:

- Strategic Issue #1: Protecting Community Health and Safety
- Strategic Issue #4: Preserving and Enhancing Infrastructure

BACKGROUND:

WEST Corporation was awarded the construction contract in May 2013 and began work on June 27, 2013 with a project completion date of September 30 (65 working days). Michael Wright with California Technical Concepts, serving as the construction manager (CM), noticed irregularities during the early phase of the project, such as WEST was eager to begin construction but failed to supply proper material submittals for review, had materials delivered that did not meet the project specification, and hired an electrician that did not perform to the industrial electrical code requirements. The CM and the Water Treatment Plant Superintendent discussed these significant issues in July, but decided that the problems were not insurmountable for the continued success of the project and that the CM would work more closely with the contractor to correct these issues.

During August, it was apparent that the contractor was having difficulties delivering proper submittals and the electrician's workmanship was still deficient. The CM and the Superintendent discussed what options were available to the City, including dismissing the contractor and asking the City Council to award the second bidder to complete the project. The monetary difference between the 1st and 2nd bid was \$84,324, and so the decision was made to extend the completion date to October 31, 2013 (87 working days), thus allowing the contractor to rectify the problems identified by the CM. This included the replacement of the original electrician and the hiring of a qualified industrial electrician (Benicia Bay Electric). Due to the change in electricians and unexpected delays in some material delivery, it was agreed to extend the project to a final completion date of November 30, 2013 (105 working days), and this was communicated to the contractor on November 19 via e-mail. The contractor eventually completed the project on January 10, 2014, twenty-four (24) working days beyond the November 30 deadline. The contractor was informed in a January 14, 2014 e-mail that liquidated damages cited in the construction contract would be assessed due to project delays, caused solely by the contractor.

Because the contractor delayed the completion of the project, the contract with the CM had to be extended. On December 19, the City Manager approved the increase of the CM purchase order from \$27,590 to \$44,433.75 to cover expenses in October and November (two months beyond the original completion date of September 30). The CM expenses for December and January total \$11,681. The final cost for CM to perform construction management services was \$53,637.50. If not for the tenacious actions on part of the CM, this project would not have been completed successfully.

Staff proposes that the liquidated damages of \$6,000 should be assessed for delays solely caused by the contractor. The additional \$26,047.50 paid to the

CM to see the project to completion represents the business costs of managing a challenged contractor. Firing the original contractor and hiring the second lowest bid would have cost the City far more in money and time. It should also be noted that due to the careful management of the project by the CM, the contractor completed the project for \$227,674.61; a cost savings of \$10,727 from his original bid. It should be noted that the additional cost of construction management (\$26,048) can be partially recovered from the \$6,000 for liquidated damages, the \$10,727 in realized savings, and the balance from contingency funds available in the budgeted accounts.

Attachments:

- Proposed Resolution
- Notice of Completion
- E-mail declaring final completion date of project
- December 19, 2013 Consultant Agreement Modification memo
- January 10, 2014 Consultant Agreement Exhibit B cost summary
- Project Chronology

RESOLUTION NO. 14- 12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING THE WATER TREATMENT PLANT SECURITY SURVEILLANCE PROJECT AS COMPLETE, ASSESSING LIQUIDATED DAMAGES OF \$6,000 FOR PROJECT DELAYS, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER; AND APPROVING AN AMENDMENT AND PURCHASE ORDER INCREASE OF \$9,204 WITH THE CONSTRUCTION MANAGEMENT FIRM, CALIFORNIA TECHNICAL CONCEPTS, DUE TO THE PROJECT DELAY

WHEREAS, by Resolution No. 13-29, City Council awarded the construction contract for the Water Treatment Plant Security Surveillance Project to WEST Corporation in the amount of \$238,402 and the construction management contract to California Technical Concepts in the amount of \$27,590; and

WHEREAS, WEST Corporation completed the project on January 10, 2014, twenty-four (24) working days beyond the project deadline in accordance with the plans and specifications; and

WHEREAS, liquidated damages of \$6,000 (24 days @ \$250 per day) will be assessed by the City against the contractor from the 10% retention funds; and

WHEREAS, the total construction cost is \$221,674.61 [which includes the construction costs paid to date (\$204,907.15) and the 10% retention (\$22,767.46) less \$6,000 for liquidated damages]; and

WHEREAS, the final cost of the construction management contract with California Technical Concepts is \$53,637.50 due to the project delay, requiring a purchase order increase in the amount of \$9,204; and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby accepts the Water Treatment Plant Security Surveillance Project as complete for a final construction cost of \$333,673.11 and approves a contract amendment and a purchase order increase with the construction management firm, California Technical concepts, in the amount of \$28,525 [funded between 045-8045-9896 (46%), 596-8259-9960 (23%), 090-8205-9198 (28%) and 090-8205-8106 (3%)].

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 Council Member **Hughes**, seconded by Council Member **Strawbridge**, 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 4th day of February 2014, and adopted by the following vote:

Ayes: **Council Members Campbell, Hughes, Schwartzman, Strawbridge, and Mayor Patterson**

Noes: **None**

Absent: **None**


Elizabeth Patterson, Mayor

Attest:


Lisa Wolfe, City Clerk

2-10-14
Date

AGENDA ITEM
CITY COUNCIL MEETING DATE - APRIL 1, 2014
CONSENT CALENDAR

DATE : March 21, 2014

TO : City Council

FROM : City Attorney

SUBJECT : **SECOND READING OF AN ORDINANCE TO AMEND BENICIA MUNICIPAL CODE SECTION 2.64.030 (MEETING TIME AND PLACE) OF CHAPTER 2.64 (BOARD OF LIBRARY TRUSTEES) OF TITLE 2 (ADMINISTRATION AND PERSONNEL)**

RECOMMENDATION:

Adopt the ordinance updating Benicia Municipal Code to reflect the current meeting time of the Board of Library Trustees.

EXECUTIVE SUMMARY:

The meeting time of the Board of Library Trustees has been changed to the second Tuesday of each month at 6:30 p.m. at the Benicia Library.

BUDGET INFORMATION:

N/A

BACKGROUND:

At the March 4, 2014 City Council meeting, the Council reviewed an ordinance that reflects a technical change to BMC Chapter 2.64. The meeting time of the Board of Library Trustees has been changed from the second Monday of each month to the second Tuesday of each month. The time and place, 6:30 p.m. at the Benicia Library, remain the same. This ordinance will update the Benicia Municipal Code to reflect that change.

ATTACHMENT:

- Proposed Ordinance

CITY OF BENICIA

ORDINANCE NO. 14-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA
AMENDING SECTION 2.64.030 (MEETING TIME AND PLACE) OF CHAPTER
2.64 (BOARD OF LIBRARY TRUSTEES) OF TITLE 2 (ADMINISTRATION AND
PERSONNEL) OF THE BENICIA MUNICIPAL CODE.**

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES
ORDAIN** as follows:

Section 1

Section 2.64.030 (Meeting time and place) of Chapter 2.64 (Board of Library Trustees) of Title 2 (Administration and Personnel) of the Benicia Municipal Code is amended to read as follows:

2.64.030 Meeting time and place. The board shall meet on the second Tuesday of each month at 6:30 p.m. at the Benicia Library.

Section 2.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

Section 3.

Effective date. This ordinance shall become effective thirty (30) days after the date of adoption.

* * * * *

On motion of Council Member _____, seconded by Council Member _____, the foregoing Ordinance was introduced at a regular meeting of the City Council on the day of _____, 2014, and adopted at a regular meeting of the Council held on the day of _____ 2014, by the following vote:

Ayes:

Noes:

Absent:

Tom Campbell, Vice Mayor

Attest:

Lisa Wolfe, City Clerk

Date

AGENDA ITEM
CITY COUNCIL MEETING DATE - APRIL 1, 2014
CONSENT CALENDAR

DATE : March 24, 2014

TO : City Manager

FROM : Economic Development Manager

SUBJECT : **CONTINUE SUPPORT AND PARTICIPATION IN THE EAST BAY BROADBAND CONSORTIUM AND AUTHORIZE THE MAYOR'S SIGNATURE FOR A "LETS GET FAST" PLEDGE LETTER ENDORSING THE CONSORTIUM'S EFFORTS**

RECOMMENDATION:

Approve by motion the City of Benicia continued support of the East Bay Broadband Consortium and authorize the Mayor, on behalf of the City Council, to sign a "Let's Get Fast" pledge.

EXECUTIVE SUMMARY:

The East Bay Broadband Consortium (EBBC) is as an East Bay regional initiative organized by the Contra Costa Council, the East Bay Economic Development Alliance, and the Solano Economic Development Corporation to improve Broadband deployment, access, and adoption in the East Bay. EBBC is requesting each participating member to sign a pledge as a way to continue the momentum of improving broadband capacity in the East Bay.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

Strategic Issue 3: Strengthening Economic and Fiscal Conditions

- Strategy #2: Strengthen Benicia Industrial Park Competitiveness
- Strategy #3: Retain and Attract Business

BUDGET INFORMATION:

Not applicable at this time.

BACKGROUND:

The East Bay Broadband Consortium (EBBC) is a regional initiative covering Alameda, Contra Costa, and Solano counties. EBBC has 41 formal organizational and institutional members and has been endorsed by 25 leadership organizations. EBBC has received a three year grant from the California Public Utilities Commission (CPUC).

The Steering Committee for EBBC is composed of the Contra Costa Economic Partnership, the East Bay Economic Development Alliance (East Bay EDA), the Solano Economic Development Corporation (Solano EDC), and the East Bay Community Foundation. The Contra Costa Economic Partnership is serving as fiscal agent for EBBC and Sustainable Systems and Applied Development Economics are serving as consultants to EBBC.

The overarching goal of EBBC for the first year has been to develop an East Bay Broadband Strategic Plan. To produce the East Bay Broadband Strategic Plan, EBBC has used a Broadband Technology Committee meeting, three East Bay Broadband Roundtables, a Funders' Forum in 2012, all leading up to the 1st East Bay Broadband Summit in 2013.

The Work Plan and Budget are organized according to five goals, as follows:

- Goal 1, Deployment, which focuses on the East Bay Broadband Infrastructure Initiative.
- Goal 2, Access, and Goal 3, Adoption, which focus on the East Bay Connects Digital Inclusion Initiative.
- Goal 4, Mobilization, which addresses the East Bay Broadband Summits.
- Goal 5, Project Management and Coordination, which includes EBBC administration, support for the two initiatives and the summits, and reporting to the CPUC.

Moving forward, EBBC desires to re-energize its member organizations and continue the momentum of the first 18 months. As part of that effort the EBBC has requested that each member sign the "Let's Get Fast" pledge. Because of the recognized need to improve broadband capabilities in the BIP and the obvious grant opportunities provided by this Consortium, staff enthusiastically recommends the City's continued support of the EBBC and authorizes the Mayor to sign the pledge.

Attachment:

- East Bay Broadband Consortium "Let's Get Fast Pledge"



“LET’S GET FAST” BUSINESS PLEDGE

East Bay Businesses Say Yes!

The East Bay business community understands the critical importance of a strong broadband/high-speed internet infrastructure to growing businesses and creating jobs. We also recognize that business leaders can play an important role in advancing the East Bay’s broadband infrastructure. We therefore fully endorse the East Bay Broadband Consortium’s *Let’s Get Fast* Business Pledge.

We Pledge:

- *To educate other businesses and our community via social media, our website and meetings about how broadband is a critical 21st century infrastructure that increases economic competitiveness, improves public health and safety and helps build sustainable communities.*
- *To proactively reach out to our elected officials, where appropriate, and share information about the East Bay’s current broadband infrastructure and what needs to be done to address the future broadband needs of the regional business community.*
- *To maintain the East Bay’s global competitiveness by reaching out to broadband providers and collaborating with others in the business community to ensure that we are addressing the broadband needs of businesses in the region.*
- *To establish a point-person to work with the East Bay Broadband Consortium and promote policies and best practices that make broadband accessible and effective across the East Bay.*
- *To support strong broadband infrastructure solutions that move the needle from the current broadband minimum level (5 Megabytes per second) to an optimal level (100 Megabytes per second).*

NAME OF BUSINESS/ORGANIZATION: _____

SIGNATURE OF BUSINESS/ORGANIZATION: _____

AGENDA ITEM
CITY COUNCIL MEETING DATE - APRIL 1, 2014
CONSENT CALENDAR

DATE : March 24, 2014

TO : City Manager

FROM : Economic Development Manager

SUBJECT : **RESOLUTION APPROVING THE 2014-2018 TRAVIS COMMUNITY CONSORTIUM STRATEGY**

RECOMMENDATION:

Approve by Resolution the 2014-2018 Travis Community Consortium (TCC) Strategy.

EXECUTIVE SUMMARY:

The TCC is a consortium of interested stakeholders from and within Solano County whose mission is to advocate for the continued operation of Travis Air Force Base (AFB). Due to Travis' AFB billion dollar impact on Solano County, its continued operation is vital to the area's economic vitality. To that end, the City of Benicia has joined the TCC. The proposed TCC 2014-2018 Strategy is a list of goals for the TCC to work towards over the next four years. Each member agency has been asked to adopt a resolution as a show of support for these efforts.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

Strategic Issue 3: Strengthening Economic and Fiscal Conditions

- Strategy #2: Strengthen Benicia Industrial Park Competitiveness
- Strategy #3: Retain and Attract Business

BUDGET INFORMATION:

Benicia's annual TCC membership of \$1,000 is paid from the Economic Development membership and subscriptions account.

BACKGROUND:

The City of Benicia recently became a member agency of the Travis Community Consortium (TCC), which was formed to provide lobbying services and for related collaboration of Solano County area entities in support of ensuring the long term mission at Travis Air Force Base (Travis AFB). The support of the Travis

AFB mission is essential to the health of the local economy as Travis AFB is the major employer in Solano County.

2013 was a particularly challenging and unpredictable year for Travis AFB. Because of ongoing federal budget sequestration, the Department of Defense (DOD) continues to implement cost-saving measures, including the recent news of the US Air Force leadership's proposal to retire the entire KC-10 fleet. Travis AFB is home to one-half the KC-10 aircraft in the Air Force. There are a combined 625 military, DOD civilian employees, and contractors associated with the KC-10 in the active duty and reserve wings. The TCC has been in constant contact with our federal representatives, sharing concerns over the recent decision to retire the KC-10 fleet. It is now more important than ever for the TCC to protect the base from a restructuring that would result in further relocation of vital operations and the loss of additional civilian jobs.

The TCC Board continues to meet and work hard on developing an updated strategy that takes the history and new federal budget issues into account. This year's strategy has been re-focused to include more extensive lobbying efforts, including sending delegations to Washington D.C. and Scott AFB, IL. Because of the sudden and unexpected US Air Force leadership proposal to retire the KC-10, the TCC will focus on preserving existing missions and actively seek bridge missions to backfill the retirement of the KC-10 by engaging with key leadership at Travis AFB, the Pentagon, Capitol Hill, and Air Mobility Command, positioning Travis AFB for the bed down of the KC-46. The TCC will seek support from federal representatives to preserve Travis AFB's existing aircraft, including technology upgrades and ongoing maintenance funding.

The TCC has approved the attached TCC Strategy document and is requesting member agencies adopt the Strategy by resolution as a show of support for the TCC.

Attachments:

- Proposed Resolution Supporting Travis Community Consortium
- Travis Community Consortium 2014-2018 Strategy

RESOLUTION NO. 14-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE 2014-2018 TRAVIS COMMUNITY CONSORTIUM (TCC) STRATEGY

WHEREAS, Travis Air Force Base (Travis AFB) represents a very large and important economic engine to the region and it is important for the City to be informed and active in the efforts to retain and enhance the operations of Travis AFB; and

WHEREAS, the city is a member of the Travis Community Consortium (TCC), a regional partnership between the Cities of Dixon, Fairfield, Suisun City, Vacaville, County of Solano, Solano Community College, Solano EDC, and the Travis Regional Armed Forces Committee, to collectively advocate for Travis AFB; and

WHEREAS, ongoing federal budget sequestration and Department of Defense cost saving measures have led to the US Air Force leadership proposing to retire the entire KC-10 fleet, half of Travis AFB's 58 total aircraft, which led to the need to update the TCC Strategy; and

WHEREAS, the TCC 2014-2018 Strategy has been re-focused to include more extensive lobbying efforts, including sending delegations to Scott AFB, IL and Washington, DC in order to strengthen and enhance partnerships with congress, Air Mobility Command, the Department of Defense, and the California Governor's Military Council.

NOW, THEREFORE BE IT RESOLVED THAT, the City Council of the City of Benicia hereby approves the 2014-2018 TCC Strategy as provided in Exhibit A attached hereto.

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 1ST day of April, 2014, and adopted by the following vote.

Ayes:

Noes:

Absent:

Tom Campbell, Vice Mayor

Attest:

Lisa Wolfe, City Clerk

Date

EXHIBIT A

Travis Community Consortium

1000 Webster Street ♦ 4th Floor ♦ Fairfield, CA ♦ 94533
Phone (707) 428-7749 ♦ Fax (707) 428-7631

TCC 2014-2018 Strategy

- 1. Seek public assurances that Travis Air Force Base will receive “bridge missions” to backfill the retirement of the KC-10. Additionally, acquire assurances that manpower levels will remain constant in the meantime due to the retirement of the KC-10, and strongly advocate that Travis will retain an air refueling mission.**
- 2. Engage with key federal representatives to ensure those assurances become reality, maintaining close contact with the TCC’s Congressional delegation and encouraging optimum advocacy for Travis and the region.**
- 3. Actively engage with the US Air Force by visiting the Pentagon, Capitol Hill, and Air Mobility Command, Scott AFB, IL as needed, in addition to key leadership at Travis AFB. Also, participate and maintain communication within the Governor’s Military Council and its staff and utilize the Council’s access, expertise, and resources.**
- 4. Seek to preserve other existing missions and enhance the potential to assume additional missions at Travis AFB during future BRAC or non-BRAC realignments by advocating for continued investment in base infrastructure, operating and maintenance funding, demolition funding for condemned buildings and modernization of Travis’ Aircraft.**
- 5. Seek to protect and preserve Travis’s existing aircraft including technology upgrades and ongoing maintenance costs by advocating for continued investment and funding.**
- 6. Strengthen and enhance partnerships and joint ventures with civilian agencies such as Solano Community College, the University of California at Davis, local medical service providers, and corporate partners. Explore new and additional cooperative areas of benefit through public-private, public-public agreements (P4) or any ventures that will reduce base overhead costs. P4 and Enhanced Use Lease (EUL) opportunities should be viewed as opportunities to partner with Travis to the mutual benefit of both.**
- 7. Implement policy that will ensure continued compatible regional development, the preservation of unrestricted air space and other base operations from encroachment, and remediate situations that may detract from Travis’s standing in future BRAC or non-BRAC decisions.**
- 8. Expand TCC membership, financial resources, administrative capability and community outreach to further achieve the TCC goals.**

*City of Dixon / City of Fairfield / City of Suisun City / City of Vacaville / County of Solano
Solano Community College / Solano Economic Development Corporation / Travis Credit Union
Travis Regional Armed Forces Committee (Fairfield-Suisun and Vacaville Chambers of Commerce)*

Adopted by TCC January 2014

AGENDA ITEM
CITY COUNCIL MEETING DATE - APRIL 1, 2014
CONSENT CALENDAR

DATE : March 13, 2014

TO : City Manager

FROM : Assistant City Manager

SUBJECT : **APPROVE THE AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF BENICIA AND MANAGEMENT PARTNERS**

RECOMMENDATION:

Adopt the resolution approving the amendment to the agreement with Management Partners for interim Public Works management services.

EXECUTIVE SUMMARY:

Staff is proposing to amend the contract with Management Partners for the management services of Steve Salomon for the Public Works Department.

BUDGET INFORMATION:

The cost of this contract will be funded from salary savings of the vacant Public Works Director position.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:
Strategic Issue 3: Strengthening Economic and Fiscal Conditions

BACKGROUND:

The City is contracting with Management Partners for interim assistance with management of the Public Works Department while the City conducts its search for a permanent Public Works Director. This action will extend the term of the contract through June 30, 2014, and increase the not to exceed compensation amount accordingly.

Attachments:

- Proposed Resolution
- Proposed Amendment to Agreement

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING THE CONTRACT WITH MANAGEMENT PARTNERS FOR INTERIM PUBLIC WORKS MANAGEMENT SERVICES

WHEREAS, the City of Benicia's former Public Works Director, Melissa Morton, resigned from the City of Benicia in January 2014; and

WHEREAS, the City contracted with Management Partners for interim assistance in the Public Works Department; and

WHEREAS, the City desires to amend the agreement due to the need for continued interim services while the City conducts its search for a permanent Public Works Director; and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia approves the amendment to the contract in the amount not to exceed \$85,000 and authorizes the City Manager to sign the contract on behalf of the City, subject to approval by the City Attorney.

BE IT FURTHER RESOLVED THAT sufficient funds to cover this service contract, including budget transfers from vacant positions, exist in Accounts Nos. 010-8105-8100 (20%), 014-8305-8100 (40%), and 090-8205-8100 (40%).

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 1st day of April, 2014, and adopted by the following vote.

Ayes:

Noes:

Absent:

Tom Campbell, Vice Mayor

Attest:

Lisa Wolfe, City Clerk

Date

AMENDMENT TO AGREEMENT

This Amendment of the Agreement, entered into this ____ day of April, 2014 by and between the City of Benicia, a municipal corporation (hereinafter "CITY") and Management Partners, a Ohio Corporation with its primary office located at 1730 Madison road, Cincinnati, OH 45206 (hereinafter "CONSULTANT").

RECITALS:

A. On January 6, 2014 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. Paragraphs 3 and 9 of the Agreement are modified to read as follows:

CITY agrees to pay CONSULTANT as full compensation for all services and duties performed, except as otherwise provided herein, as described in the fee proposal. The total compensation to be paid under this Agreement shall not exceed \$85,000.

The term of this Agreement shall be extended to June 30, 2014 or upon reaching the "not to exceed" compensation amount, whichever occurs first. This agreement may be terminated by giving written notice to the other party of that party's intention to so terminate. This Agreement shall be terminated two (2) days from and after the date of delivery or mailing of the notice, unless the notice specifies otherwise.

2. 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.

04/07/14

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

CONSULTANT
Gerald E. Newfarmer
President & CEO

CITY OF BENICIA
Brad Kilger, City Manager

By _____
Dated:

By _____
Dated:

APPROVED AS TO FORM:

City Attorney

04/07/14

AGENDA ITEM
CITY COUNCIL MEETING DATE - APRIL 1, 2014
BUSINESS ITEMS

DATE : March 26, 2014

TO : City Manager

FROM : Economic Development Manager

SUBJECT : **OFFICE OF ECONOMIC DEVELOPMENT QUARTERLY REPORT PRESENTATION**

RECOMMENDATION:

Receive presentation on the City's recent economic development activities.

EXECUTIVE SUMMARY:

City staff will provide a presentation highlighting the various components of the City's economic development program, such as tourism, sales tax data, business retention efforts and business services.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

Strategic Issue 3: Strengthening Economic and Fiscal Conditions

- Strategy #2: Strengthen Benicia Industrial Park Competitiveness
- Strategy #3: Retain and Attract Business

BUDGET INFORMATION:

Not applicable at this time.

BACKGROUND:

Staff will give a presentation that will highlight various economic development efforts over the first three months of 2014. The presentation will also review the 2013 third quarter sales tax data for downtown, commercial centers and the industrial park. Additionally, staff will note services the Office of Economic Development provides to business.

