



**BENICIA CITY COUNCIL
REGULAR MEETING AGENDA**

**City Council Chambers
October 02, 2012
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 for 6:30 pm,
the open session will begin at 7:00 pm.**

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

II. CLOSED SESSION:

**A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Subdivision (a) of Government Code Section 54956.9)**

Name of case: Riverwatch v. City of Benicia.

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/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

A. ANNOUNCEMENTS.

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

2. Openings on Boards and Commissions:

Building Board of Appeals
1 full term
Open Until Filled

SolTrans Public Advisory Committee
1 full term
Open Until Filled

Historic Preservation Review Commission
1 full term
Open Until Filled

Art and Culture Commission
2 unexpired terms
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:

B. APPOINTMENTS.

1. Appointment of J. Bruce Barrow to the Benicia Community Sustainability Commission to a full term ending July 31, 2016.

2. Appointment of Kari Birdseye to the Human Services Board for an unexpired term ending July 31, 2014.

3. Appointment of David De Long to the Uniform Code Board of Appeals to a full term ending July 31, 2016.

4. Appointment of Frances Harkins to the Human Services Board to a full term ending July 31, 2016.

5. **Appointment of Susan Lynn to the Open Government Commission for an unexpired term ending January 31, 2014.**
6. **Appointment of Ron Myska to the Economic Development Board to a full term ending July 31, 2016.**
7. **Appointment of Jerry Pollard to the Human Services Board to a full term ending July 31, 2016.**
8. **Appointment of Roy Salazar to the Human Services Board to a full term ending July 31, 2016.**
9. **Appointment of Suzanne Foley Sprague to the Planning Commission to a full term ending January 31, 2016.**
10. **Appointment of Gilbert von Studnitz to the Historic Preservation Review Commission to a full term ending July 31, 2016.**

C. PRESENTATIONS.

D. PROCLAMATIONS.

1. **In Recognition of Solano-Napa Habitat for Humanity World Habitat Day on October 1, 2012**

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 (7:45 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 SEPTEMBER 18, 2012 MEETING.
(City Clerk)**

B. ACCEPTANCE OF A CALIFORNIA LIBRARY LITERACY SERVICES (CLLS) LITERACY AWARD FOR 2012/13 AND APPROPRIATION OF FUNDS FOR THE LIBRARY'S STATE FUNDED LITERACY PROGRAM. (Library Director)

The Benicia Public Library (Library) has offered adult literacy services through the Adult Literacy and English as a Second Language (ESL) Program since 1987. The program has successfully received grant funding from the CLLS since 1987, and the Library has been notified that they will be awarded \$22,642 for the program in 2012/13.

Recommendation: Adopt the resolution authorizing acceptance of a California Library Literacy Services (CLLS) Literacy Award in the amount of \$22,642.

C. DENIAL OF THE CLAIM AGAINST THE CITY BY SORAYA MOORE, MICHAELA JACKSON, AND GREENWELL COLLECTIVE, INC. (City Attorney)

The claimants assert that the Benicia Police Department unlawfully detained, interrogated, and searched them at their Benicia residence and unlawfully seized items. On February 21, 2012, the Vallejo Police Department asked the Benicia Police Department to assist in executing a search warrant at the claimants' address. The search was relating to Greenwell Collective, Inc., a medical cannabis dispensary located in Vallejo, California. Benicia staff confirmed that their only involvement in the executing of the search warrant was assisting with emergency communications. Benicia Police records indicate that the City's officer was only at the claimants' residence for a total of 14 minutes.

Recommendation: Deny the claim against the City by Soraya Moore, Michaela Jackson, and Greenwell Collective, Inc.

D. AMENDMENT TO THE CONSTRUCTION CONTRACT FOR GRANT-FUNDED IMPROVEMENTS TO THE DOWNTOWN INTERMODAL PROJECT. (Interim Public Works Director)

The improvements include lighting for City Park and the Military/First Street corridors using the historic, Benicia Blue branding; traffic signal enhancements to minimize delays for First Street traffic caused by the construction; and new bus shelters for an enhanced bus stop environment. There is sufficient capacity in the \$3 million RM2 grant to fund these improvements, including contingencies, and the Western Gateway Intermodal site scheduled for construction next summer.

Recommendation: Adopt a resolution approving Change Order Nos. 1 - 3 for \$131,960 in lighting, traffic signal, and bus shelter improvements to the Downtown Intermodal Project fully funded by a Regional Measure 2 (RM2) Grant.

- E. **Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.**

VIII. BUSINESS ITEMS (8:00 PM):

- A. **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA DECLARING ITS INTENTION TO ESTABLISH THE BENICIA BUSINESS IMPROVEMENT DISTRICT (BBID) AND FIXING THE TIME AND PLACE OF A PUBLIC MEETING AND A PUBLIC HEARING THEREON AND GIVING NOTICE THEREOF. (Economic Development Manager)**

A business improvement district is a source of funding which is used to provide special improvements and/or services within the district. It is a self-assessment levied by and upon those business owners that exist within the district. Benicia downtown merchants have been working in earnest to develop a business improvement district (BID). Over the last two months downtown merchants have collected over 100 petitions from First Street business owners supporting the formation of a BID. The adoption of a resolution of intention by the City Council is the next step required by the Property and Business Improvement Law of 1994 necessary to form a BID.

Recommendation: Adopt a resolution declaring intention to establish the Benicia Business Improvement District and fixing the time and place of a public meeting and a public hearing thereon and giving notice.

- B. **AWARD OF CONTRACT TO ATG LIGHTING INC. FOR INSTALLATION AND MAINTENANCE OF DECORATIVE TREE LIGHTS ON FIRST STREET TREES. (Economic Development Manager)**

Presently First Street Business owners are in the process of forming a business improvement district (BID). The primary benefit of the proposed district is to install decorative lights on the trees located on First Street. In order

to install such lights by November 30, 2012 it is necessary for the City to initiate this project because the prospective First Street BID will not be operational until Spring of 2013. To have the decorative lights installed this season staff is requesting City Council approve a contract with ALG Lighting Inc. to perform this work. The scope of work for this contract requires the purchase and installation of decorative tree lights on 192 trees on First Street and 13 months of maintenance.

Recommendation: Approve by resolution the award of a contract valued at \$80,000 to ATG Lighting Inc, a Walnut Creek Company to install decorative tree lights on the trees on First Street and maintain them for a period of thirteen months.

C. REQUEST TO REVISIT DECISION TO CANCEL THE NOVEMBER 6, 2012 CITY COUNCIL MEETING. (City Manager)

On January 3, 2012, the Council approved the 2012 calendar of regular Council meetings, which included canceling the November 6, 2012 meeting. In recent years, the Council has opted not to meet on council meeting dates that fall on the day of an election, which this year falls on November 6th. At the September 18, 2012 Council meeting, Vice Mayor Campbell requested that the Council revisit this decision and consider meeting on November 6th, since there is not a local election this year.

Recommendation: Consider Vice Mayor Campbell's request to revisit the Council's prior decision to cancel the November 6, 2012 City Council meeting.

IX. ADJOURNMENT (9:30 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.

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF J. BRUCE BARROW TO THE BENICIA COMMUNITY SUSTAINABILITY COMMISSION TO A FULL TERM ENDING JULY 31, 2016

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of J. Bruce Barrow to the Benicia Community Sustainability Commission by Mayor Patterson is hereby confirmed.

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 2nd day of October 2012 and adopted by the following vote:

Ayes:

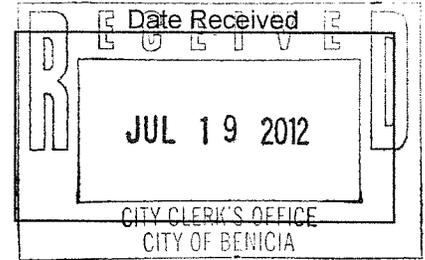
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: J. Bruce Barrow _____

Address: _____

Phone: (Work) 707-747-0481 (Home) 707-747-0917

(Cell) 415-99-0-2032 Fax: 707-747-1355

Email: { HYPERLINK "mailto:bruce@greenerdm.com" } Years as Benicia resident:
32

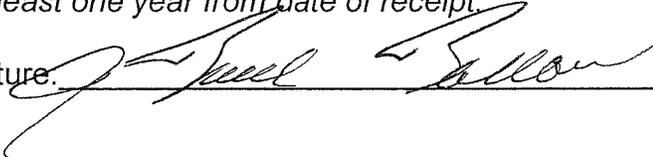
Occupation/Employer: Direct Marketing/GreenerDM

Please note your most recent community or civic volunteer experience:

Coached in Benicia Little League for 7 years, last team 2001

Please describe any applicable experience/training: My business has been producing Sustainable Marketing plans and products for clients for over 10 years.

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature:  Date: 7/18/12



Community Sustainability Commission Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Commission? I have been interested in Sustainable business practices for over 20 years. With such experience in the business world I believe I can add value to the Commission.
2. Please describe any background or experience you may have in one or more of the following areas: (1) water quality, (2) water use efficiency and conservation; (3) air quality; (4) local and regional ecology; (5) energy; (4) mobility; (6) land use/stewardship; (7) green site planning and building; (8) waste management; (9) community and regional economics/finance; (10) social justice; (11) public relations, and/or, (12) local based business management (merchants, etc):
I have worked for the past 30 years in an industry that has gone from one of environmental neglect to being a leader in clean water, recycled production materials, and renewable energy usage. Along the way I have been fortunate in being able to work with some of the leaders in the Sustainability movement, both individuals – Adam Werbach and L. Hunter Lovins, companies – Walmart, and HP, Inc. as well as the Pew Environmental Trusts.
3. Have you read the City's Climate Action Plan? What aspects of this plan do you find important and why? Yes. I find the Solar energy statagy and the water reduction and grey-rain water management the most intriguing elements in the Plan. Why, because they seem to hold the most long term benefits/solutions to continued Global Climate Change.
4. How do you see the Community Sustainability Commission supporting sustainability and climate protection planning in the Benicia community? If a true partnership can be developed between City Staff and Commissioners I believe the CSC can provide most of the research necessary to implement parts of the CAP.

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF KARI BIRDSEYE TO THE HUMAN SERVICES BOARD TO AN UNEXPIRED TERM ENDING JULY 31, 2014

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Kari Birdseye to the Human Services Board by Mayor Patterson is hereby confirmed.

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 2nd day of October 2012 and adopted by the following vote:

Ayes:

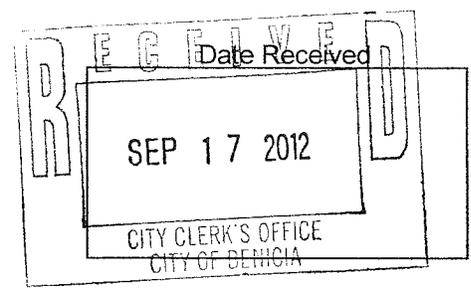
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

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Please check the board, commission, or committee you wish to apply for:

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- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services & Arts Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Kari Birdseye

Address: _____

Phone: (Work) 415.217.2098 (Home) 707.745.6230

(Cell) 415.350.7562 Fax: _____

Email: karibirdseye@earthlink.net Years as Benicia resident: 12

Occupation/Employer: National Press Secretary, Earthjustice - a non-profit environmental law firm

Please note your most recent community or civic volunteer experience: _____
Incoming President - Benicia Stingrays Swim Team, PTA President, Vice-President of Fundraising - Matthew Turner Elementary School, VP of Fundraising - American Association of University Women

Please describe any applicable experience/training: _____
11 years at CNN as Executive Producer, 10 years of volunteer work in Benicia, 12 years of non-profit professional work.

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: *Kari Birdseye* Date: Sept. 14, 2012



Human Services & Arts Board Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Board? Have you attended a Human Services & Arts Board meeting? If so, when?

Providing support to a diverse and/or under-served portion of our community interests me. I have not attended a meeting in person but I do monitor the activities of the Board through reading meeting minutes and reports online.

2. Participation on this Board involves annual visits to an assigned grantee and attending outreach events, as well as review of grantee quarterly reports. Do you feel you have the time and commitment to be a viable member of this Board?

Now that my children are at or near middle school age, the volunteer commitments at school are minimal. I've always had an interest in engaging in city service and currently, I believe I have the time, energy and expertise to dedicate to this Board.

3. Is there a particular segment of human services and/or arts that interests you more than others?

Educational and environmental issues are a personal priority for me. However, my experience in developing creative fundraising opportunities may be an immediate area where I can help out. I look forward to identifying additional areas of interest related to the work of this Board.

4. Why do you think human services and/or arts needs to play a lead role in fortifying the quality of life in Benicia? Do you see an area of human services and/or arts that needs to be expanded at this point?

It is commendable that the City of Benicia supports a Human Services Board in general. During tough economic times, it is even more important that we as a community support those local organizations who enrich the culture, diversity and fabric of Benicia.

I hope I am given the opportunity to serve on this Board and assist in identifying areas of expansion.

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF DAVID DE LONG TO THE UNIFORM CODE BOARD OF APPEALS TO A FULL TERM ENDING JULY 31, 2016

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of David De Long to the Uniform Code Board of Appeals by Mayor Patterson is hereby confirmed.

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 2nd day of October 2012 and adopted by the following vote:

Ayes:

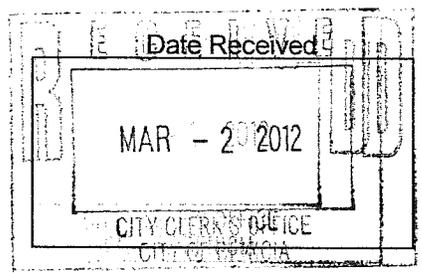
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services & Arts Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: David DeLong

Address: _____

Phone: (Work) 299-1340 (Home) 747-9701

(Cell) 481-9162 Fax: _____

Email: dmdelong@sbcglobal.net Years as Benicia resident: 25 years

Occupation/Employer: Building Inspector III County of Napa

Please note your most recent community or civic volunteer experience: _____

Benicia Little League

Please describe any applicable experience/training: _____

Building inspector for 23 years, in construction for 35 years.

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: David DeLong Date: 3/2/12



Uniform Code Board of Appeals Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Board? What do you see as its primary function?

I see this as a way to give back to the city that has been good to my family. Its function should be to resolve disputes in model code conflicts.

2. What experience/training do you have that qualifies you to judge matters pertaining to building construction?

My position as a Building Inspector requires me to judge construction projects every working day.

3. What is your level of familiarity with the Uniform Code or California Code?

I have been college trained [DVC], and have more than thirty code related classes. I read and interpret model codes as part of my training and work.

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF FRANCES HARKINS TO THE HUMAN SERVICES BOARD TO A FULL TERM ENDING JULY 31, 2016

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Frances Harkins to the Human Services Board by Mayor Patterson is hereby confirmed.

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 2nd day of October 2012 and adopted by the following vote:

Ayes:

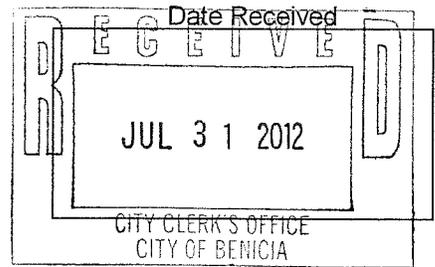
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

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- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Frances Evans Hawkins

Address: _____

Phone: (Work) (707) 745-8756 (Home) (707) 747-5758

(Cell) (707) 853-5109 Fax: (707) 745-8723

Email: frances@grossmanfinancial.com Years as Benicia resident: 18

Occupation/Employer: Certified Financial Planner, Financial Advisor/
Grossman Financial Management

Please note your most recent community or civic volunteer experience: Board

member Soroptimist International of Benicia and Benicia
Chamber of Commerce

Please describe any applicable experience/training: BA + MA Economics.
Banking, Finance, Government, Spanish. Also served on
local PPA and American Association of University Boards.

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: Frances Evans Hawkins

Date: 7/29/2012



Human Services & Arts Board Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Board? Have you attended a Human Services & Arts Board meeting? If so, when?

I am acquainted with several members of the current Board and have heard about their work through the years. This Board deals with many of the issues that I have been interested in or involved with such as lending assistance to less privileged families and supporting the arts in Benicia. Although I have not attended a meeting, I have a sense of what the Board does from my discussions with Board members and City staff and feel it serves a vital function in our town.

2. Participation on this Board involves annual visits to an assigned grantee and attending outreach events, as well as review of grantee quarterly reports. Do you feel you have the time and commitment to be a viable member of this Board?

Yes, I can commit the time and skills necessary to serve the HSA Board. Over the past six years and until recently, I was a board member of both the Benicia Chamber of Commerce and Benicia Soroptimist International and was taking advanced courses in my field. Other than the occasional business or personal absence, I'll be able to attend meetings and events as required. I participate in many community events and would feel privileged to perform duties as an HSA Board member.

3. Is there a particular segment of human services and/or arts that interests you more than others?

As a financial planner, I see the devastation that the economy has brought to middle class families and know that the lesser fortunate have been even more distressed by unemployment and cuts in services and education - help is needed more than ever. In addition, I am proud of our Benicia arts community and feel it is important to ensure that this segment survives today's financial strains so that our youth and citizens are able to continue to enjoy the intellectual and creative stimulation that it provides.

4. Why do you think human services and/or arts needs to play a lead role in fortifying the quality of life in Benicia? Do you see an area of human services and/or arts that needs to be expanded at this point?

Benicia's quality of life is high because of the community's willingness to share resources with those in need as well as its rich art presence and history. Without these characteristics, our town and its ambience would deteriorate. The annual Arts in the Park event used to draw my family for a visit from our former home in El Cerrito, and it was partly this exposure that drew us to buy a home in Benicia when our children became school-aged.

In an ideal world, we would have much greater funding for both human services and the arts. In these lean times, I would expect that the greatest need is with Benicia's children. Helping the disadvantaged youth with basic needs and exposure to arts would likely have the greatest benefit and impact with today's limited budgets.

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF SUSAN LYNN TO THE OPEN GOVERNMENT COMMISSION TO AN UNEXPIRED TERM ENDING JANUARY 31, 2014

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Susan Lynn to the Open Government Commission by Mayor Patterson is hereby confirmed.

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 2nd day of October 2012 and adopted by the following vote:

Ayes:

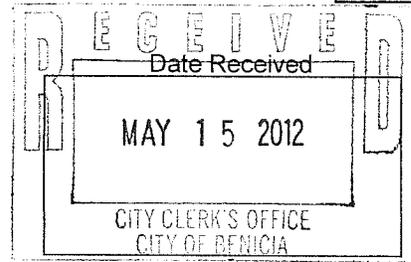
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

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Please check the board, commission, or committee you wish to apply for:

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- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
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- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services & Arts Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Susan Lynn

Address: _____

Phone: (Work) n/a (Home) 707-747-5482

(Cell) 707-246-6200 Fax: _____

Email: redboa4@hotmail.com Years as Benicia resident: 33

Occupation/Employer: retired from the Contra Costa County Library

Please note your most recent community or civic volunteer experience: _____

Most recently I have been doing public speaking promoting Measure L, the renewal of the 1/8% sales tax on the June 5th ballot.

Please describe any applicable experience/training: _____

I was a government employee for almost 25 years and have facilitated and attended many public meetings.

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: *Susan Lynn* Date: May 15, 2012



Open Government Commission Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about the Opening Government Commission?

I am a person known for her integrity, who believes strongly in government officials and employees being accountable and responsible to their constituents. I would hope that by serving on this Commission I will have the opportunity to promote transparency and understanding between the City and the people who live here. I am a good listener with an uncanny ability to "translate" information so that people on different sides of an issue hear each other. If I understand the role of this Commission accurately, serving on it will provide me with a venue to practice that skill and that interests me very much.

2. What are your expectations for this Commission and how do you see your role on the Commission?

I think my answer to the first question answers this one as well. All I will add is that I have always been a politically active person who pay attention to what is going on in government at a local, state and national level, supporting or challenging decisions that effect my life and speak to my values. The thought of being able to do that officially, while helping others to do the same is very appealing to me.

3. This Board meets quarterly, typically on a Tuesday evening. Currently the meetings begin at 5:00 pm. In addition, there may be several special meetings of the commission and/or subcommittees during the year. Do you feel you have the time and commitment to be a viable member of this Commission?

I have been told that this Commission now meets on Monday evenings. If that is true I have the time to be an active participant. If however the meetings are on Tuesday (or Thursday) evening I will need to withdraw this application as I have other commitments on those nights. *I have also been told that this Commission meets quarterly.*

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF RON MYSKA TO THE ECONOMIC DEVELOPMENT BOARD TO A FULL TERM TERM ENDING JULY 31, 2016

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Ron Myska to the Economic Development Board by Mayor Patterson is hereby confirmed.

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 2nd day of October 2012 and adopted by the following vote:

Ayes:

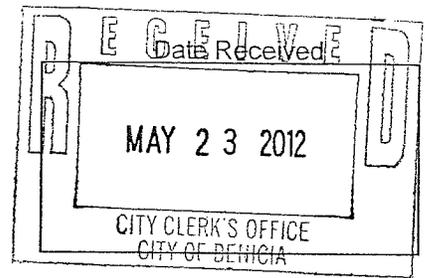
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: RON MYSKA

Address: _____

Phone: (Work) 707 745 1116 (Home) 707 975 6930

(Cell) _____ Fax: 707 745 1443

Email: RON@ALLPOINTSPEUROLEUM.COM Years as Benicia resident: 0

Occupation/Employer: ALL POINTS PETROLEUM

Please note your most recent community or civic volunteer experience: COB - VCS

CURRENT - EDB, BENICIA PLANNING COMMISSIONER - FAIRFIELD

Please describe any applicable experience/training: OVER 3.5 YEARS

SERVING ON EDB, PLANNING COMMISSIONER - FAIRFIELD

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: R Myska Date: 5-18-12



Economic Development Board Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Board? Have you attended a meeting within the last six months?

CONTINUED PARTICIPATION IN THE PROGRESS EDB IS MAKING IN THE COMMUNITY.

2. Participation on the Board involves monthly meetings on the 3rd Wednesday at 5:30 at City Hall, as well as reading the packet distributed in advance. Do you have any concerns with this commitment?

I HAVE ACCEPTED THIS COMMITMENT AND FULFILLING MY OBLIGATION.

3. Are you the employee or owner of a Benicia business? If so, please describe the business and your role?

I AM THE OWNER OF ALL-POINTS PETROLEUM.

4. Given the adopted economic development goals in the City's General Plan (available online at the Community Development Department webpage on www.ci.benicia.ca.us), and Economic Development Strategy (available online at www.BeniciaBusiness.com) which do you feel the EDB should focus on, and why?

EDB SHOULD FOCUS ON IMPLEMENTING THE BDAP AND CONTINUING TO PROMOTE BUSINESS IN THE CITY AND TAKE A LEADERSHIP ROLE IN MARKETING BENICIA.

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF JERRY POLLARD TO THE HUMAN SERVICES BOARD TO A FULL TERM ENDING JULY 31, 2016

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the reappointment of Jerry Pollard to the Human Services Board by Mayor Patterson is hereby confirmed.

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 2nd day of October 2012 and adopted by the following vote:

Ayes:

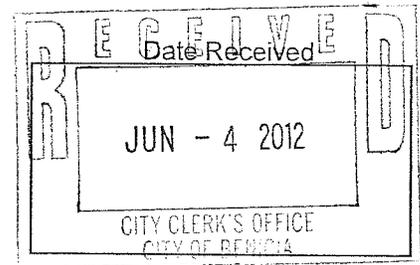
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: JERRY POLLARD

Address: _____

Phone: (Work) (707) 745-5683 (Home) (707) 750-5725

(Cell) (707) 980-8730 Fax: _____

Email: bkwyrmaster@gmail.com Years as Benicia resident: 14

Occupation/Employer: PASTOR - THE GATEWAY CHURCH, BENICIA

Please note your most recent community or civic volunteer experience:
MEMBER - BENICIA HUMAN SERVICES BOARD,
CHAIRPERSON - BYAC

Please describe any applicable experience/training: MINISTERIAL AND
COUNSELING

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: Jerry H. Pollard Date: 6/5/2012



Human Services Board Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Board? Have you attended a Human Services Board meeting? If so, when?

I HAVE A GREAT INTEREST IN SERVING BENICIANS, ESPECIALLY THOSE IN PRACTICAL NEED. I HAVE BEEN A MEMBER OF THIS BOARD FOR FOUR YEARS.

2. Participation on this Board involves annual visits to an assigned grantee and attending outreach events, as well as review of grantee quarterly reports. Do you feel you have the time and commitment to be a viable member of this Board?

I CAN MAKE MYSELF AVAILABLE FOR SUCH SERVICE.

3. Is there a particular segment of human services and/or arts that interests you more than others?

FOOD & HOUSING NEEDS, YOUTH.

4. Why do you think human services needs to play a lead role in fortifying the quality of life in Benicia? Do you see an area of human services that needs to be expanded at this point?

WE SOMETIMES FORGET ABOUT THE NEEDY AMONG US. THEY ARE AN IMPORTANT PART OF OUR COMMUNITY.

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF ROY SALAZAR TO THE HUMAN SERVICES BOARD TO A FULL TERM ENDING JULY 31, 2016

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the reappointment of Roy Salazar to the Human Services Board by Mayor Patterson is hereby confirmed.

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 2nd day of October 2012 and adopted by the following vote:

Ayes:

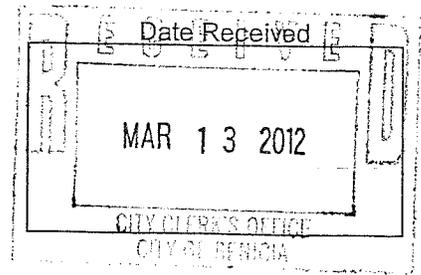
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Roy J. Salazar

Address: _____

Phone: (Work) 707-205-7411 (Home) 707-205-7411

(Cell) 707-205-7411 Fax: 707-205-7411

Email: royjsalazar@yahoo.com Years as Benicia resident: 12 years

Occupation/Employer: Culinary Project Manager/ Certified Master Chef/ Certified Master Taster/ Master Sommelier/ Chef Instructor. University Electric

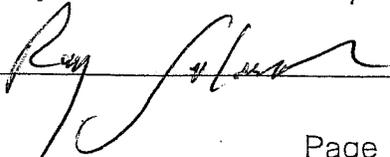
Please note your most recent community or civic volunteer experience: _____

I was the Chef in charge of the Human Services charity event of August 2011 at Winter Hawk, where I created and cooked a 5-course gourmet menu, with wine pairings for the charity event that helped to create funds for the community of Benicia.

Please describe any applicable experience/training: _____

I have been on the Human Services Board since 2003, and continue to see the growth of this board, and how this board really helps the community of Benicia.

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature:  Date: 3/12/12



Human Services Board Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Board? Have you attended a Human Services Board meeting? If so, when?

At this point much is getting discussed on ways to expand on what the Human Services Board can do to insure that we offer more to the community. One of the items being talked of is more fundraising.

2. Participation on this Board involves annual visits to an assigned grantee and attending outreach events, as well as review of grantee quarterly reports. Do you feel you have the time and commitment to be a viable member of this Board?

I have done the annual visits, attended the outreach programs and reviewed the grantee quarterly reports since 2003. I remain to have the time and commitment for these duties.

3. Is there a particular segment of human services and/or arts that interests you more than others?

All aspects interest me, as long as they help our community. I am very interested in doing more fundraisers that generate money for the people of our community that have the most need.

4. Why do you think human services needs to play a lead role in fortifying the quality of life in Benicia? Do you see an area of human services that needs to be expanded at this point?

The Human Services Board helps to direct funding to entities that generate needed services to the population of Benicia. By this function alone, it plays a lead role in fortifying the quality of life in Benicia.

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF SUZANNE FOLEY SPRAGUE TO THE PLANNING COMMISSION TO A FULL TERM ENDING JANUARY 31, 2016

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Suzanne Foley Sprague to the Planning Commission by Mayor Patterson is hereby confirmed.

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 2nd day of October 2012 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services & Arts Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Suzanne Foley Sprague

Address: _____

Phone: (Work) 707-748-0900 (Home) 707-751-0299

(Cell) 707-334-1900 Fax: 707-748-0921

Email: suzanne@solanolawgroup.com Years as Benicia resident: 10

Occupation/Employer: Attorney/Gizzi & Reep, LLP

Please note your most recent community or civic volunteer experience: _____

Lawyer in the Library volunteer, Benicia Public Library

Please describe any applicable experience/training: _____

B.A. Political Science and Business Administration UCLA; J.D. USF School of Law; Practicing attorney for 10 years.

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: *Suzanne F. Sprague* Date: 1/13/2011



Planning Commission Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Commission? Have you attended a Planning Commission meeting? If so, when?

I believe planning is important in order to manage wisely the unique combination of visual and historical character that gives Benicia its small-town atmosphere, while at the same time stimulate business and meet the needs of our community. I have not attended a Planning Commission meeting in person. However, I have watched the televised meetings on occasion since I moved to Benicia in 2001.

2. Participation on this Commission involves monthly meetings, periodically special meetings, and possibly attending community events related to planning. Do you feel you have the time and commitment to be a viable member of this Commission?

Yes.

3. Is there a particular segment of planning and development that interests you more than others?

As an attorney, I am interested in analyzing the duties, rights, and powers imposed by the various laws, ordinances, and resolutions regarding planning issues and working to ensure consistency in enforcing them.

4. Why do you think planning needs to play a lead role in fortifying the quality of life in Benicia? Do you see an area of planning that needs to be expanded at this point? How does zoning reinforces the goal of the General Plan?

I see the General Plan as the foundation of a well-developed community. It should ensure consistency, but also be responsive to change. Zoning upholds the General Plan. In terms of expansion, I believe it is possible to promote Benicia's unique character, and still maintain its small-town atmosphere through proper planning.

Suzanne Foley Sprague
520 Breck Court
Benicia, California 94510
Cell: (707) 334-1900
Office: (707) 748-0900
Facsimile: (707)748-0900
Suzanne@SolanoLawGroup.com

PROFESSIONAL EXPERIENCE Civil Litigation Practice: Civil trial attorney with a broad range of litigation and mediation experience across practice areas in state and federal courts

EMPLOYMENT

March 2011 to present **GIZZI & REEP, LLP**
Benicia, CA
Attorney At Law

August 2001 to December 2011 **MCNAMARA LAW FIRM**
Fairfield, CA
Associate

EDUCATION University of San Francisco School of Law – J.D. 2000
University of California, Los Angeles – B.A. 1987
Political Science and Business Administration

BAR ADMISSIONS California Supreme Court
U.S. Court of Appeals 9th Circuit
U.S. District Court Northern District of California
U.S. District Court Eastern District of California

PERSONAL Benicia resident since 2001.
Co-founder of Benicia Public Library’s “Lawyers @ the Library”

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF GILBERT VON STUDNITZ TO THE HISTORIC PRESERVATION REVIEW COMMISSION TO A FULL TERM TERM ENDING JULY 31, 2016

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Gilbert Von Studnitz to the Historic Preservation Review Commission by Mayor Patterson is hereby confirmed.

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 2nd day of October 2012 and adopted by the following vote:

Ayes:

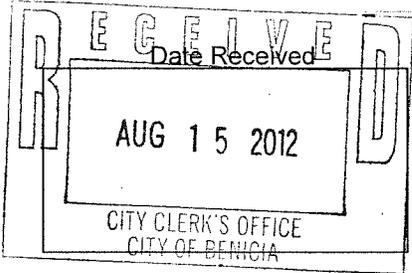
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services & Arts Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Gilbert von Studnitz

Address: _____

Phone: (Work) 916-653-6748 (Home) 707-745-1605

(Cell) _____ Fax: _____

Email: vonstudnitz@sbcglobal.net Years as Benicia resident: 20

Occupation/Employer: State of California Employment Development Department

Please note your most recent community or civic volunteer experience: _____

Currently am the elected chairman, English Learner Advisory Committee, Mary Farmar School

Please describe any applicable experience/training: _____

Former Member of the Board of Directors, West Adams Heritage Association (largest historic homeowners association in California). Former member of the Board of the City of Los Angeles Adams-

~~NORMANIE HISTORIC PRESERVATION OVERLAY ZONE.~~

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: Date: Aug 14, 2012



Historic Preservation Review Commission Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Commission? Have you attended a Historic Preservation Review Commission meeting? If so, when?

I have been interested and involved in historic preservation for decades, currently owning a 1914 craftsman home in Benicia that is a contributing structure to the Downtown Historic Overlay District, and before that one in Los Angeles. I wish to support historic preservation in Benicia and the historic character of our city. I have attended meetings of the Commission in the past, especially when our home was considered for (and received) Mills Act status, and read the agenda/minutes of the Board every month.

2. Participation on this Commission involves monthly meetings, periodically special meetings, and possibly attending community events related to historic preservation. Do you feel you have the time and commitment to be a viable member of this Commission?

Yes. The commission's activities are important enough for me to make the time as necessary.

3. Is there a particular segment of historic preservation and/or design review that interests you more than others?

I am most interested in the craftsman period and its houses, and the preservation of their historic character, as well as the continued architectural integrity of historic buildings in the City.

4. Why do you think historic preservation and/or design review needs to play a lead role in fortifying the quality of life in Benicia? Do you see an area of historic preservation that needs to be expanded at this point?

I would like to see the full integration of historic preservation into the ongoing programs of the City, and support identifying and protecting historic properties and avoiding unnecessary damage to them. The Commission should take a leading role in this effort. This will lead not only to a greater visibility for the City in tourism, but support its economic viability.

5. Explain how you meet the qualifications below:

A. Each member of the historic preservation review commission shall be a Benicia resident and have a demonstrated special interest, competence or knowledge of historic preservation.

B. Members shall, to the extent possible, be:

1. Professionals in the disciplines of history, architecture, architectural history, planning, pre-historic and historic archeology, folklore, cultural anthropology, curation, conservation, and landscape architecture or related disciplines, such as urban planning, American studies, American civilization, or cultural geography, to the extent that such professionals are available in the community; or
2. Lay members who have demonstrated special interest, competence, experience, or knowledge in historic preservation.

C. At least two members shall be owners of a historic property within the historic district. One of these members shall be the owner of a residence in the historic district. The other member shall be the owner of either a residence or business property in the historic district.

I have been a Benicia resident for twenty years, and for that period have been the owner of a designated contributing building in the Downtown Historic district. I have served on the Board of the largest historic homeowners association in California, and on a Los Angeles City HPOZ Committee. I have a degree in Political Science which had a heavy emphasis on history, and have studied archaeology as well as been on several University-sponsored historical "digs".

6. What special skills or attributes do you have that would foster civic pride, particularly related to historic preservation?

My long-standing interest in historic preservation, my experience in historic homeowner and large City historic preservation organizations, and my current professional position in economic and workforce development will assist in protecting our historical base, fostering civic pride by increasing public awareness of what treasures we have in town, and furthering efforts to increase tourism in Benicia by marketing the historic aspects of the City.



PROCLAMATION

IN RECOGNITION OF



**PROCLAIMING OCTOBER 1, 2012
WORLD HABITAT DAY**

WHEREAS, Habitat for Humanity International was founded on the conviction that every man, woman and child should have a decent, safe and affordable place to live; and

WHEREAS, Habitat for Humanity International has designated October 1, 2012 as World Habitat Day with the theme "Many Homes, One Community," highlighting the vital role that decent, affordable housing plays in community stabilization and development; and

WHEREAS, Solano-Napa Habitat for Humanity, an independent affiliate of Habitat for Humanity International, is likewise committed to the provision of decent, affordable housing for all residents of Solano and Napa Counties; and

WHEREAS, Solano-Napa Habitat for Humanity wishes to recognize World Habitat Day on October 1, 2012 in Solano County and in the City of Benicia; and

WHEREAS, the City Council of the City of Benicia wishes also to recognize October 1, 2012 as World Habitat Day in Solano County and in the City of Benicia.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the City Council of the City of Benicia proclaims October 1, 2012 as World Habitat Day in the City of Benicia.

BE IT FURTHER RESOLVED that I, Elizabeth Patterson, Mayor of the City of Benicia on behalf of the City Council, affirms its shared commitment with Solano-Napa Habitat for Humanity that all City of Benicia residents deserve the opportunity for decent, affordable housing.

Elizabeth Patterson, Mayor
October 2, 2012



MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
September 18, 2012

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 open session to order at 7:03 p.m.

II. CLOSED SESSION:

**A. CONFERENCE WITH LABOR NEGOTIATOR
(Government Code Section 54957.6 (a))**

Agency negotiators: City Manager, Administrative Services Director

Employee organizations: Benicia Firefighters Association (BFA)

III. CONVENE OPEN SESSION:

Mayor Patterson called the open session to order at 7:03 p.m.

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Jasmine Powell led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC

IV. ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

A. ANNOUNCEMENTS

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

Ms. McLaughlin reported that Council received information from Staff. Council did not provide direction to Staff.

2. Openings on Boards and Commissions:

Anne Cardwell, Administrative Services Director, provided a brief update on the appointment process, scheduled interviews, etc.

Building Board of Appeals 1 full term Open Until Filled

SolTrans Public Advisory Committee 1 full term Open Until Filled

Historic Preservation Review Commission 1 full term Open Until Filled

Art and Culture Commission 2 unexpired terms Open Until Filled

3. Mayor’s Office Hours:

4. Benicia Arsenal Update:

Ms. McLaughlin reported that there was not much to report since the last meeting. There will be an update at the October meeting regarding the first working group that is being formed to answer frequently asked questions and provide assistance to the property owners. The subcommittee will be meeting on September 19, 2012.

B. APPOINTMENTS

1. Appointment of Ariana Chaney as the Youth Commissioner to the Parks, Recreation and Cemetery Commission.

RESOLUTION 12-108 - A RESOLUTION CONFIRMING THE MAYOR’S APPOINTMENT OF ARIANA CHANEY AS THE YOUTH COMMISSIONER TO THE PARKS, RECREATION AND CEMETERY COMMISSION

On motion of Mayor Patterson, Council adopted Resolution 12-108, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

C. PRESENTATIONS

D. PROCLAMATIONS

V. ADOPTION OF AGENDA:

Mr. Kilger stated there were no changes to the agenda. However, Staff would be asking Council for a continuance on item VIII.A (Fiscal Year 2011-12 Annual Accounting of Valero/Good Neighbor Steering Committee Settlement Agreement

Fund Expenditures). The item would be opened and a summary would be given.

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council adopted the agenda, as presented, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

One item received (copy on file).

B. PUBLIC COMMENT

1. Constance Beutel - Ms. Beutel encouraged citizens to attend the upcoming Clean Tech Expo, which is being sponsored by the Community Sustainability Commission.
2. Elizabeth d'Huart - Ms. d'Huart discussed the upcoming exhibit reception at the Benicia Historical Museum. She discussed the proclamation regarding the 150th Anniversary of Lincoln's Emancipation Proclamation.
3. Vice Mayor Campbell - Vice Mayor Campbell discussed concern regarding the cancellation of the 11/6/12 City Council meeting. Traditionally meetings that fall on election night are cancelled, however, there are no local issues on the ballot. He requested this item be reviewed on a future agenda.
4. Council Member Strawbridge - Council Member Strawbridge stated she would miss the next two City Council meetings, as she would be out of the country.
5. Mayor Patterson - Mayor Patterson discussed the recent League of California Cities Annual Conference she attended. She discussed the handout provided at tonight's meeting, which included information on the newly elected officers, summary of conference, and the North Bay Division new officer's announcement.

VII. CONSENT CALENDAR:

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted the Consent Calendar, as presented, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

A. APPROVAL OF MINUTES OF THE AUGUST 21, 2012, THE AUGUST 28, 2012 AND THE SEPTEMBER 4, 2012 MEETINGS

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council approved the minutes of the August 21, 2012, August 28, 2012, and September 4, 2012 meetings, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

B. APPROVAL OF A CONTRACT AMENDMENT FOR BUILDING OFFICIAL, PLAN REVIEW AND INSPECTION SERVICES

RESOLUTION 12-109 - A RESOLUTION APPROVING A CONTRACT AMENDMENT IN THE AMOUNT NOT-TO-EXCEED \$75,000 PER FISCAL YEAR WITH BUREAU VERITAS FOR BUILDING OFFICIAL, PLAN REVIEW AND INSPECTION SERVICES, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted Resolution 12-109, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

C. ACCEPTANCE OF THE CLEARWELL COATING IMPROVEMENT PROJECT

RESOLUTION 12-110 - A RESOLUTION ACCEPTING THE CLEARWELL COATING IMPROVEMENT PROJECT AS COMPLETE, INCLUDING CHANGE ORDER NOS. 1 THROUGH 8, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted Resolution 12-110, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

D. SECOND READING OF A ZONING ORDINANCE AMENDMENT TO REMOVE REMNANT REFERENCES TO THE FORMER DOWNTOWN COMMERCIAL ZONING DISTRICT

ORDINANCE 12-06 - AN ORDINANCE AMENDING SECTION 17.70.350 (FORMULA BUSINESSES) OF CHAPTER 17.70 (SITE REGULATIONS), OF

TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE TO UPDATE THE DEVELOPMENT STANDARDS AND REGULATIONS REFLECTING THE ELIMINATION OF THE CD DOWNTOWN COMMERCIAL ZONING DISTRICT WITH ADOPTION OF THE DOWNTOWN MIXED USE MASTER PLAN

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted Ordinance 12-06, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

E. ACCEPTANCE OF THE BENICIA COMMUNITY CENTER PROJECT, INCLUDING CHANGE ORDERS

RESOLUTION 12-111 - A RESOLUTION AUTHORIZING THE DIRECTOR OF PARKS & COMMUNITY SERVICES TO EXECUTE, ON BEHALF OF THE CITY, CONTRACT CHANGE ORDERS AFFIRMING STAFF-AUTHORIZED COSTS WITH BRCO CONSTRUCTORS, INC. FOR THE BENICIA COMMUNITY CENTER PROJECT, THE APPROPRIATION OF \$91,637 FROM THE CONTINGENCY AND ACCEPTING THE BENICIA COMMUNITY CENTER PROJECT AT 370 EAST L STREET, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION AND CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted Resolution 12-111, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

F. REVIEW AND ACCEPTANCE OF THE INVESTMENT REPORT FOR THE QUARTER ENDED JUNE 30, 2012

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council reviewed and accepted the investment report for the quarter ended June 30, 2012, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

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

VIII. BUSINESS ITEMS:

A. FISCAL YEAR 2011-12 ANNUAL ACCOUNTING OF VALERO/GOOD NEIGHBOR STEERING COMMITTEE SETTLEMENT AGREEMENT FUND EXPENDITURES

Brad Kilger, City Manager introduced the item.

Heather McLaughlin, City Attorney, discussed the need to continue this item. Because of the timing of the agendas and the information that needs to be included, the appropriate information was not able to be included in the agenda packet. She suggested continuing this item until a meeting in November 2012.

Public Comment:

1. Dana Dean, Valero/Good Neighbor Steering Committee - Ms. Dean agreed with Staff on the suggestion to continue this item. The committee remains committed to resolving the outstanding issues.
2. Mary Frances Kelly Poh - Ms. Kelly Poh supported the continuance of this item so that a proper accounting could be done.

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council approved continuing this item to a future City Council meeting, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

B. ALLOCATION OF \$9,000 OF VALERO/GOOD NEIGHBOR STEERING COMMITTEE SETTLEMENT AGREEMENT FUNDS FOR A FALL 2012 OR SPRING 2013 WORKSHOP SERIES TO BE FACILITATED BY DOMINICAN UNIVERSITY

RESOLUTION 12-112 - A RESOLUTION APPROVING A GRANT FUNDING REQUEST FROM COMMUNITY SUSTAINABILITY COMMISSION WORK GROUP 1 FOR A FALL 2012 OR SPRING 2013 WORKSHOP SERIES TO BE FACILITATED BY DOMINICAN UNIVERSITY IN THE AMOUNT OF \$9,000

Charlie Knox, Community Development Director, reviewed the staff report.

Vice Mayor Campbell and Staff discussed how 'appropriated' funds were handled if they are appropriated but not spent.

Council Member Schwartzman discussed possibly waiting on approving the funds until the issues are resolved with the Valero Good Neighbor Steering

Committee.

Mr. Kilger discussed the need for Staff to be able to develop an accounting process for the Valero Good Neighbor Steering Committee funds.

Public Comment:

1. Constance Beutel - Ms. Beutel spoke in favor of the proposed resolution.
2. Mary Frances Kelly Poh - Ms. Kelly Poh asked Council to wait on this item until the accounting is figured out.
3. Dana Dean - Ms. Dean discussed the difference of allocating funds and committing to the expenditures. Council does not have authority to spend the funds because they don't actually have them yet.

Council Member Schwartzman clarified that he was not against the project. He was concerned with the timing of it.

Mayor Patterson suggested approving the resolution, subject to resolving the issues identified, and affirming the funds are available (as done at the last meeting).

Council discussed amending the resolution language to reflect that 'it would be approved subject to a complete accounting of the Valero/Good Neighbor Steering Committee funds' or 'subject to resolving the issues that have been identified, and affirming the funds are available.'

Vice Mayor Campbell and Ms. Beutel discussed the timing of the proposed event/expenditure. Vice Mayor Campbell thought the expenditure could wait until 2013.

Mayor Patterson clarified that the motion was to approve the Resolution, with the amended language ' subject to confirmation the funds are available, and a complete audit/assessment report.'

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted Resolution 12-112, as amended, on roll call by the following vote:

Ayes: Patterson, Campbell, Hughes, Strawbridge

Noes: Schwartzman

C. FILLING THE VACANCY IN THE OFFICE OF THE CITY TREASURER

RESOLUTION 12-113 - A RESOLUTION DECLARING THE POSITION OF CITY TREASURER VACANT, DIRECTING THE CITY CLERK TO POST A NOTICE OF INTENTION TO FILL THE POSITION AND TO ADVERTISE FOR APPLICATIONS TO FILL THE VACANCY

Heather McLaughlin, City Attorney, reviewed the staff report.

Public Comment:

1. H.R. Autz - Mr. Autz discussed the importance of the City having a member of the public (not City staff) serve as City Treasurer. He was willing to serve as the City Treasurer.

Mayor Patterson discussed support for the appointment process, because of the cost of a special election. However, she would like a better interview process followed, and would like those interviews to be conducted publicly.

Council Member Hughes and Staff discussed whether the City was required to solicit applications for the position, or whether they could simply appoint someone. He discussed Mr. Autz' campaign effort in the last election. He supported appointing Mr. Autz to the position.

Council Member Schwartzman discussed support for soliciting applications and opening up the application process for other citizens.

Vice Mayor Campbell discussed support for appointing Mr. Autz. He could support interviewing other citizens, but was leaning towards appointing Mr. Autz.

Council Member Strawbridge discussed concern regarding appointing Ms. Davena to the position, as she was a vital part of the Economic Development team for the City, and would prefer she concentrate on the City's economic development efforts.

Mayor Patterson discussed support for soliciting applications. She thought it was important to allow the public to participate and weigh in on the issue.

Ms. McLaughlin clarified that applications would be due by 5:00 p.m. on 9/25/12. Council could address the appointment process at the first meeting in October.

Council Member Hughes made a motion to appoint Mr. Autz as City Treasurer, which did not pass.

Council Member Schwartzman discussed opening up the interview process. He made a motion to open up the interview process, allowing two weeks for

applications to be submitted. The applicant would be interviewed/appointed at the following Council meeting.

Ms. McLaughlin clarified that the motion would be to amend the resolution in the packet to state that the applications would be required to be filed by October 2, 2012, and the interview process would take place at the October 16, 2012 City Council meeting.

Council Member Schwartzman and Staff discussed options for the interview process. Council Member Schwartzman would like to use the same process as last time (each candidate would interview separately in front of Council, and the others would remain outside Council Chambers).

Ms. McLaughlin clarified that someone had to be appointed by October 25, 2012.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council did not approve appointing Mr. Autz as City Treasurer, on roll call by the following vote:

Ayes: Hughes

Noes: Patterson, Schwartzman, Campbell, Strawbridge

On motion of Council Member Schwartzman, seconded by Vice Mayor Campbell, Council adopted Resolution 12-113, as amended, on roll call by the following vote:

Ayes: Patterson, Campbell, Schwartzman, Strawbridge

Noes: Hughes

D. Council Member Committee Reports:

- 1. Mayor's Committee Meeting. (Mayor Patterson) Next Meeting Date: October 17, 2012**
- 2. Association of Bay Area Governments (ABAG)<http://www.abag.ca.gov/>. (Mayor Patterson and Council Member Strawbridge)Next Meeting Date: October 18, 2012**
- 3. Finance Committee. (Vice Mayor Campbell and Council Member Strawbridge)Next Meeting Date: September 28, 2012**
- 4. League of California Cities. (Mayor Patterson and Vice Mayor Campbell) Next Meeting Date: TBD**
- 5. School Liaison Committee. (Council Members Strawbridge and Council Member Hughes) Next Meeting Date: September 13, 2012**

6. Sky Valley Open Space Committee. (Vice Mayor Campbell and Council Member Schwartzman) Next Meeting Date: November 7, 2012
7. Solano EDC Board of Directors. (Mayor Patterson and Council Member Strawbridge) Next Meeting Date: September 19, 2012
8. Solano Transportation Authority (STA). <http://www.sta.ca.gov/> (Mayor Patterson and Council Member Schwartzman) Next Meeting Date:TBD
9. Solano Water Authority-Solano County Water Agency and Delta Committee. <http://www.scwa2.com/>(Mayor Patterson and Vice Mayor Schwartzman) Next Meeting Date: October 11, 2012
10. Traffic, Pedestrian and Bicycle Safety Committee. (Vice Mayor Campbell and Council Member Schwartzman) Next Meeting Date: October 18, 2012
11. Tri-City and County Cooperative Planning Group. (Vice Mayor Campbell and Council Member Hughes) Next Meeting Date: December 10, 2012
12. Valero Community Advisory Panel (CAP). (Mayor Patterson and Council Member Hughes) Next Meeting Date: October 10, 2012
13. Youth Action Coalition. (Mayor Patterson, Council Member Strawbridge and Council Member Hughes) Next Meeting Date: September 26, 2012
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: September 20, 2012

IX. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 8:16 p.m.

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 2, 2012
CONSENT CALENDAR

DATE : September 14, 2012

TO : City Manager

FROM : Library Director

SUBJECT : **ACCEPTANCE OF A CALIFORNIA LIBRARY LITERACY SERVICES (CLLS) LITERACY AWARD FOR 2012/13 AND APPROPRIATION OF FUNDS FOR THE LIBRARY'S STATE FUNDED LITERACY PROGRAM**

RECOMMENDATION:

Adopt the resolution authorizing acceptance of a California Library Literacy Services (CLLS) literacy award in the amount of \$22,642 and approve the appropriation of funds for the Library's State Funded Literacy Program.

EXECUTIVE SUMMARY:

The Benicia Public Library (Library) has offered adult literacy services through the Adult Literacy Services (ALS) and English as a Second Language (ESL) Program since 1987. The program has successfully received grant funding from the CLLS since 1987, and the Library has been notified that they will be awarded \$22,642 for the program in 2012/13.

BUDGET INFORMATION:

Receipt of these funds will require a budget adjustment to account 089-7089-7523 (Literacy Program – State Funded Fund) reflecting the increased revenue and associated expenditures.

GENERAL PLAN:

GOAL 3.4: Support the library and the services it provides to the community.
Policy 3.4.1: Maintain and expand library services

STRATEGIC PLAN:

STRATEGIC ISSUE 5: Maintain and Enhance a High Quality of Life
Strategy 6) Support Benicia Public Library's ability to meet the public's expanding needs for information, communication and literacy.

BACKGROUND:

The California Library Literacy Services (CLLS) Literacy Award for 2012/13 is being made available to libraries in the State of California that offer literacy services that meet the grant criteria. The Adult Literacy Services (ALS) program has

existed in Benicia since 1987. For the first five years, it received full funding from the State of California through CLLS; after the first five years, local funding sources had to be found to match the reduced State funding. In 2011/12, funding was not available from the State in 2011/12 due to state budget reductions.

The Library's Literacy Match fund (089-7189) has been used to track funding for eligible expenses, and funds that were originally budgeted to match state funds have made it possible to sustain the program during the last fiscal year. As a result of the city retaining the program's local funding, the process for receiving funding from the State was streamlined, and in 2012/13, the Library is eligible for a \$22,642 grant based on a local-funding base match of \$50,950. The Library's local match is included in the approved budget in the Literacy Match Fund (089-7189).

The Benicia Public Library has successfully submitted ongoing reports to the State, making the program eligible for the CLLS literacy award for 2012/13. The award is based upon the amount of local dollars expended on the program and the number of adult learners served by the program between July 1, 2011 and June 30, 2012.

The ALS provides 1:1 tutoring and computer lab assistance to English speaking adults. Participants must live or work in Benicia, be over 16 years of age, out of school, and want to improve their basic reading and writing skills.

At the end of 2011/12, the program had served 107 adult learners. There are currently 30 active volunteer tutors. Learners often supplement their skills through use of the Computer Lab, where they can build computer keyboarding skills, learn to use various software programs, strengthen their writing and reading skills, learn to access the Internet, and receive additional support from several dedicated volunteers. All learners and their tutors are required to complete the "Roles and Goals" form to identify goals they will strive to accomplish together. They include progress updates on their monthly tutoring reports that are submitted to the Literacy office. These statistics are reported to the CLLS offices as required.

The Library Director recommends acceptance of these funds by the City Council along with a modification in the approved budget to appropriate these funds for literacy expenditures.

Attachment:

- Resolution

VII.B.2

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING SUBMITTAL OF AN APPLICATION FOR A CALIFORNIA LIBRARY LITERACY SERVICE MATCHING FUNDS GRANT FOR FISCAL YEAR 2010/2011 AND AUTHORIZING THE APPROPRIATION OF FUNDS FOR THE LIBRARY'S STATE FUNDED LITERACY ACCOUNT

WHEREAS, the Benicia Public Library has successfully submitted an application for the California Library Literacy Service literacy award since 1987; and

WHEREAS, the award will provide funds needed to meet costs for the Adult Literacy Services and the English as a Second Language Program services including, but not limited to, literacy staff salaries, operating costs such as instructional resources, library materials, office supplies, printing costs, contract services, and equipment costs related to the computer lab.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Benicia hereby authorizes the acceptance of \$22,642 for the State Funded Literacy Account (089-7089-7523) and appropriation of these funds for Adult Literacy and English as a Second Language Services.

BE IT FURTHER RESOLVED that the City Council authorizes the Library Director to sign any necessary documents needed to secure and implement the grant.

* * * * *

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 2nd of October, 2012 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 2, 2012
CONSENT CALENDAR

DATE : September 24, 2012

TO : City Council

FROM : City Attorney

SUBJECT : **DENIAL OF THE CLAIM AGAINST THE CITY BY SORAYA MOORE, MICHAELA JACKSON, AND GREENWELL COLLECTIVE, INC.**

RECOMMENDATION:

Deny the claim against the City by Soraya Moore, Michaela Jackson, and Greenwell Collective, Inc.

EXECUTIVE SUMMARY:

The claimants assert that the Benicia Police Department unlawfully detained, interrogated, and searched them at their Benicia residence and unlawfully seized items. On February 21, 2012, the Vallejo Police Department asked the Benicia Police Department to assist in executing a search warrant at the claimants' address. The search was relating to Greenwell Collective, Inc., a medical cannabis dispensary located in Vallejo, California. Benicia staff confirmed that their only involvement in the executing of the search warrant was assisting with emergency communications. Benicia Police records indicate that the City's officer was only at the claimants' residence for a total of 14 minutes.

BUDGET INFORMATION:

The amount of the claim is for 5 million dollars.

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 the 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): Soraya Moore, Michaela Jackman, and Greenwell Collective, Inc.

2. CLAIMANT'S ADDRESS: Thurston Law Firm, 275 Fifth St., Suite 309, San Francisco, CA 94103
(Street or P.O. Box Number, City, State, Zip Code)

HOME PHONE: (415) 240-9024 WORK PHONE: (415) 240-9024

3. AMOUNT OF CLAIM: \$ 5 million (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):

(Name)

(Street or P.O. Box Number, City, State, Zip Code)

5. DATE OF INCIDENT: Feb. 21, 2012 TIME OF INCIDENT: approx 9:50am

LOCATION OF INCIDENT:

6. Describe the incident or accident including your reason for believing that the City is liable for your damages:

See Attachment 1

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

See Attachment 2

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

See Attachment 2

Signature of Claimant: Natalia Thurston, Attorney Date: 8/20/12

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)



ATTACHMENT 1

Claim Against City of Benecia

Date of Incident: 2/21/12

On February 21, 2012, at approximately 9:50am, Michaela Jackman ("Jackman"), the nanny of Soraya Moore ("Moore"), was unlawfully detained and illegally interrogated at Moore's home at Benecia, CA. The unlawful search of the Moore's home was purportedly related to a unlawful raid of Greenwell Collective, Inc. (the "Collective"), a nonprofit mutual benefit corporation duly organized under State law located in Vallejo, CA. At no time were either Moore or Jackman members, officers or volunteers of the Collective, nor were they involved in any aspect of the Collective that provided medical cannabis to its qualified patient members for their medical treatment in accordance with the CUA and MMPA at its dispensary located at 616 Marin Street in Vallejo, CA.

Although Moore and Jackman's had no involvement with the Collective, a multi-unit task force including officers of the Benecia Police Department ("BPD") with excessive force, used a battering ram to break the home's front door down, despite the fact Jackman had indicated that she was about to open the home's front door at the officers' request. Moore was not present at the time of the search. Upon entering the home, Jackman repeatedly asked officers for a warrant, and she was subsequently illegally interrogated and detained for approximately 2 hours while officers illegally searched Moore's home. During the illegal search, officers intentionally and maliciously destroyed items in Moore's home, and unlawfully seized an unknown quantity of items including business records and two laptops that were used for Moore's acting career. No warrant or police property inventory were produced for the search or for the items seized despite multiple requests.

ATTACHMENT 2

Claim Against City of Benecia

Date of Incident: 2/21/12

List of Public Employees Involved in Injury/Damage/Loss:

Unknown Benecia police officers to be determined, and unknown public employees to be determined.

Specific Injuries, Damages & Losses

The damages resulting from both BPD officers' unlawful actions, and the City of Benecia's gross negligence, give rise to civil claims in excess of \$5 million, including but not limited to violation of civil rights, violation of due process rights, unlawful detention, illegal search and seizure of persons and property, and emotional distress.

The City of Benecia is liable for the actions of BPD officers in authorizing the unlawful search of Moore's home, and the illegal detention of her nanny Jackman at the home. The City of Benecia's grossly negligent failure to properly train and supervise members of BPD on the laws related to custodial interrogation, search and seizure, and the lawful operation of collectives under Health & Safety Code §§ 11362.665, 11362.775 directly resulted in the damages as set forth in this claim, and the impermissible conduct of BPD officers on February 21, 2012.

Appropriate Jurisdiction

The incidents in this claim give rise to damages that exceed \$5 Million, occurred in Benecia, California by City of Benecia employees, and therefore proper jurisdiction is before the Solano County Superior Court, Unlimited Jurisdiction – Civil Case.

Amount Calculated

The amount in excess of \$5 million calculated as damages related to this claim result from the City's violations of civil rights and due process laws, unlawful detention, illegal search of persons and property, and damages resulting from the emotional distress, pain and suffering endured by Jackman who was subject to unlawful detention and harassment by BPD officers on February 21, 2012, and the economic harm, emotional distress, pain and suffering endured by Moore as a result of the unlawful search and seizure of items in her home in Benecia.

**AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 2, 2012
CONSENT CALENDAR**

DATE : September 19, 2012

TO : City Manager

FROM : Interim Public Works Director

SUBJECT : **AMENDMENT TO THE CONSTRUCTION CONTRACT FOR GRANT-FUNDED IMPROVEMENTS TO THE DOWNTOWN INTERMODAL PROJECT**

RECOMMENDATION:

Adopt a resolution approving Change Order Nos. 1 - 3 for \$131,960 in lighting, traffic signal, and bus shelter improvements to the Downtown Intermodal Project fully funded by a Regional Measure 2 (RM2) Grant.

EXECUTIVE SUMMARY:

The improvements include lighting for City Park and the Military/First Street corridors using the historic, Benicia Blue branding; traffic signal enhancements to minimize delays for First Street traffic caused by the construction; and new bus shelters for an enhanced bus stop environment. There is sufficient capacity in the \$3 million RM2 grant to fund these improvements, including contingencies, and the Western Gateway Intermodal site scheduled for construction next summer.

BUDGET INFORMATION:

Project Revenue:

Regional Measure 2 Grant (Acct #048-3148-7532) \$3,000,000

Project Expenditures (048-3148-9766):

Downtown Intermodal Project:

Construction Contract (<i>Carone & Company</i>)	\$1,025,289 ¹
Chg Order No. 1 - Project Lighting (<i>This Request</i>)	\$85,050
Chg Order No. 2 - Traffic Signal Modifications (<i>Staff Approved</i>)	\$16,250
Chg Order No. 3 - Bus Shelters (<i>Staff Approved</i>)	<u>\$30,660</u>
Other Contingencies	\$50,000
Total Change Orders to Date	\$131,960

Western Gateway Intermodal Project:

Construction Contract (<i>Estimated</i>)	\$930,000
Contingencies	\$93,000

Consultant Contract (<i>Kimley-Horn & Associates</i>)	
Preliminary Plan & Environmental (<i>Completed</i>)	\$92,000
Design & Construction Management	<u>\$570,000</u>
Total Project Expenditures:	\$2,892,249
Projected Net Budget:	\$ 107,751

Notes:

1. Carone's low bid amount of \$1,025,289 for the Downtown Intermodal Project was approximately \$225,000 less than the Engineer's estimate. Savings are anticipated on the Western Gateway site as well.

GENERAL PLAN:

Relevant General Plan Goals and Policies include:

- ❑ Overarching Goal of the General Plan: Sustainability
- ❑ Goal 2.17: Provide an efficient, reliable, and convenient transit system
- ❑ Goal 2.20: Provide a balanced street system to serve automobiles, pedestrians, bicycles, and transit
- ❑ Goal 2.28: Improve and maintain public facilities and services

STRATEGIC PLAN:

Relevant Strategic Plan Issue and Strategies include:

- ❑ Strategic Issue #2: Protecting and Enhancing the Environment
 - Protect air quality/Pursue multiple mass transit opportunities
- ❑ Strategic Issue #4: Preserving and Enhancing Infrastructure
 - Strategy #1: Provide safe, functional, and complete streets
 - Strategy #2: Increase use of mass transit/Design and construct the Downtown Intermodal Facilities Project

BACKGROUND:

C.O. No. 1: Correction to the Bid Quantities for Project Lighting

The improvement plans and project budget call for a total of 26 Benicia Blue, historic lights (12 gooseneck style street lights, 14 ² lantern style pedestrian lights).

The quantities on the bid sheet prepared by Kimley-Horn, the City's design consultant, indicated 17 lights (11 street lights, 6 pedestrian lights), which was incorrect but of sufficient quantity to obtain a competitive bid price. C.O. No. 1 corrects the bid quantity error by adding 1 street light and 8 pedestrian lights at the bid price of \$9,450 per each (same for both styles) for a total addition of \$85,050 to the construction contract (see calculation below).

The lantern style pedestrian scale lights will illuminate West 2nd Street between K and Military and the interior of City Park, which was requested by the Parks,

² One pedestrian light was added to the design at the south end of West 2nd Street.

Recreation, and Cemetery Commission. The gooseneck style streetlights will be placed along the Military and First Street corridors. The project lighting is identical to the lighting on First Street and constitutes one of the City's branding themes to market Benicia as a quaint, historic destination to shop, dine, and stay. As configured in the approved design, the lights will create a vertical gateway at the top of First Street to draw tourist to the downtown core. The grant funding is a one-time opportunity to implement these improvements.

1 each Gooseneck Style Street Light @ \$9,450 = \$ 9,450
8 each Lantern Style Pedestrian Light @ \$9,450 = \$75,600
Total = \$85,050

Change Order No. 2: Enhancements to the Traffic Signal at First & Military

This change order is for the installation of traffic video detectors on the First & Military traffic signal in lieu of traditional wire loop detectors that would have been cut into the new pavement. Wire loop detectors reduce the life of the pavement and require costly maintenance due to the heavy traffic loading. Additionally, construction activities render the loops inoperable, causing the signal phasing to be fixed on a clock timer rather than variable based upon real-time traffic patterns. Traffic video detectors were installed for the first time in Benicia on a trial basis at the Southampton/Chelsea Hills Signal and have performed flawlessly. Upgrading to video detectors at the busy First & Military intersection will allow traffic to flow unimpeded during the construction period and save money in the long run due to reduced maintenance costs.

Lump Sum Amount = \$16,250

Change Order No. 3: Bus Shelters

Initially the 2 bus shelters (one for each side of Military) were to be purchased with American Recovery and Reinvestment Act (ARRA) grant funding the City received in 2009 and delivered to the project site. Upon further investigation it became apparent that the stringent ARRA reporting and bidding requirements would require an inordinate amount of staff time and cause a several month delay, ultimately making this funding source a poor choice. City staff is now in discussion with Soltrans, the new Benicia-Vallejo bus agency, regarding transferring the ARRA grant dollars. Change Order No. 3 swaps the ARRA transit grant funding with the RM2 grant funding.

Lump Sum Amount for 2 Shelters = \$30,660

Attachments:

- Proposed Resolution
- Exhibit A – Change Order Summary
- Exhibit B -- Street Lights

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING CHANGE ORDER NOS. 1 – 3 FOR \$131,960 IN LIGHTING, TRAFFIC SIGNAL, AND BUS SHELTER IMPROVEMENTS TO THE DOWNTOWN INTERMODAL PROJECT FULLY FUNDED BY A REGIONAL MEASURE 2 (RM2) GRANT AND AUTHORIZING THE CITY MANAGER TO SIGN THE CHANGE ORDERS ON BEHALF OF THE CITY

WHEREAS, by Resolution No. 12-50, the City Council awarded a \$1,025,289.20 construction contract for the Downtown Intermodal Project to Carone & Company, Inc of Concord, California; and

WHEREAS, Change Order Nos. 1 - 3 (attached as Exhibit A) totaling \$131,960 for lighting, traffic signal, and bus shelter improvements are needed to complete the project as designed and to minimally impact the traveling public while the construction is underway; and

WHEREAS, there is sufficient Regional Measure 2 (RM2) grant monies to fund these change orders, the original construction contract, the Western Gateway site, and any future contingencies.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves Change Order Nos.1 - 3 (attached as Exhibit A) totaling \$131,960 in grant-funded improvements to the Downtown Intermodal Project.

BE IT FURTHER RESOLVED THAT the City Manager is authorized to sign Contract Change Order Nos 1 – 3 on behalf of the City.

On motion of Council Member _____, 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 2nd day of October 2012, and adopted by the following vote:

Ayes:
Noes:
Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

EXHIBIT A

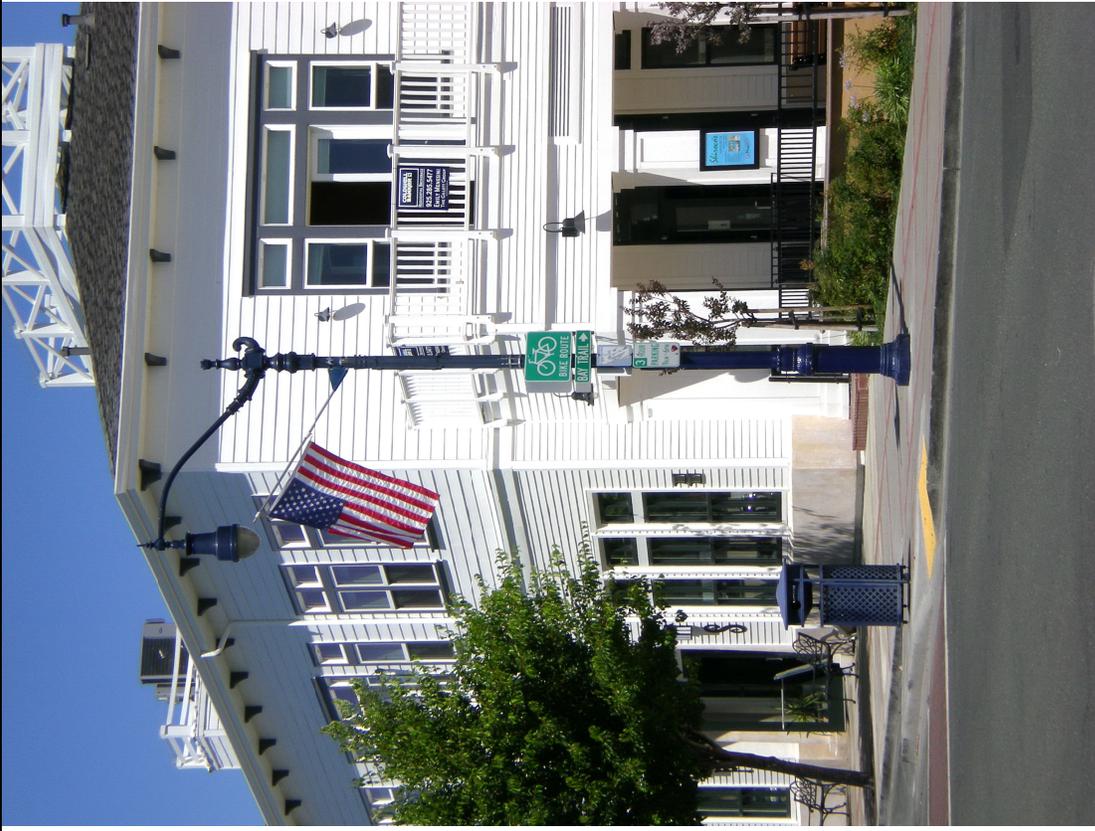
**CHANGE ORDERS FOR THE
DOWNTOWN INTERMODAL PROJECT**

Change Order No. 1:	
Project Lighting (1 each Benicia Blue Gooseneck Street Light, 8 each Benicia Blue Lantern Pedestrian Lights) (<i>This Request</i>)	\$85,050
Change Order No. 2:	
Traffic Video Detectors for the 1st/Military Signal (<i>Staff Approved</i>).....	\$16,250
Change Order No. 3:	
2 each Bus Shelters (<i>Staff Approved</i>)	<u>\$30,660</u>
 CHANGE ORDER TOTAL	 \$131,960

DOWNTOWN INTERMODAL PROJECT -- STREET LIGHTS EXHIBIT



Lantern Style Pedestrian Scale Streetlight
First Street Looking North from Promenade



Gooseneck Style Vehicle Scale Streetlight
First & B looking North



AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 2, 2012
BUSINESS ITEMS

DATE : September 21, 2012

TO : City Manager

FROM : Economic Development Manager

SUBJECT : **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
DECLARING ITS INTENTION TO ESTABLISH THE BENICIA BUSINESS
IMPROVEMENT DISTRICT (BBID) AND FIXING THE TIME AND
PLACE OF A PUBLIC MEETING AND A PUBLIC HEARING THEREON
AND GIVING NOTICE THEREOF**

RECOMMENDATION:

Adopt a resolution declaring intention to establish the Benicia Business Improvement District and fixing the time and place of a public meeting and a public hearing thereon and giving notice.

EXECUTIVE SUMMARY:

A business improvement district is a source of funding which is used to provide special improvements and/or services within the district. It is a self-assessment levied by and upon those business owners that exist within the district. Benicia downtown merchants have been working in earnest to develop a business improvement district (BID). Over the last two months downtown merchants have collected over 100 petitions from First Street business owners supporting the formation of a BID. The adoption of a resolution of intention by the City Council is the next step required by the Property and Business Improvement Law of 1994 necessary to form a BID.

GENERAL PLAN:

Relevant General Plan Goals:

Program 2.12.D: Develop public/private partnerships to implement financing mechanisms such as a Business Improvement District to fund capital improvements and repairs to Downtown.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

Strategic Issue 3: Strengthening Economic and Fiscal Conditions

- Strategy #1: Implement Economic Development Strategy

- Action 1 (b): Fund and provide staff support for BID proposal
- Strategy #3: Retain and Attract Business

BUDGET INFORMATION:

There are no additional costs to the City for this action. Costs associated to form the BBID are already assumed in the contract with Civitas Advisors, entered into on July 21, 2012.

BACKGROUND:

Following the recognition and development of Benicia' s tourism program in 2008, it was determined the exploration and possible formation of a business improvement district was once again a worthwhile endeavor. A concerted effort to develop a business improvement district had been attempted twice before in 1989 and 1995. So committed have civic and business leaders been to developing a BID, it has been identified, codified and reaffirmed in seven separate guiding policy documents as an appropriate vehicle or tool in implementing parts of Benicia's economic development strategy. Spanning seventeen years the following plans and strategies have called out the formation of a BID:

- 1995 Economic Development Strategy
- 1999 General Plan
- 2001 Downtown Action Plan
- 2007 Economic Development Strategy
- 2009 City Strategic Plan
- 2011 City Strategic Plan
- 2012 Business Development Action Plan

Following the adoption of the '07 Economic Development Strategy, for the last five years, City staff and merchants have been working to explore and develop a Business Improvement District. In April of 2011 that effort to form gained momentum when City contracted with Civitas Advisors for professional services to facilitate the formation of a Business Improvement District. The contract with Civitas conceived two phases. The first phase was to determine the feasibility of developing a BID. The second phase was the formation phase. This phase would occur if there was substantial interest by business owners to move forward with a BID.

Over the course of the last year Civitas Advisors successfully completed the feasibility phase of their agreement. They identified a First Street centric BID area and solicited feedback from prospective business owners and in February of this year a survey was conducted, achieving 72 responses of which 70% favored moving forward with a BID with only 10% opposed. Following this result a BID Steering Group was established to begin the formation process.

Those businesses owners that participated in the survey and indicated both support for a BID and a willingness to serve on a BID steering group were invited to participate in the steering group. After outreach to business owners the steering group, with guidance from Civitas Advisors, decided to pursue a Business Improvement District pursuant to the Property and Business Improvement Law of 1994, Streets and Highways Code 36600 et seq., which authorizes cities and counties to establish property and business improvement districts for the purposes of promoting business. After working through the summer months the steering group generated the BID Management District Plan. That plan governs how a BID will be formed and operated.

In Benicia's case the BID Annual assessment rates are proposed to be \$192 per year (\$16 per month) for businesses located on the first floor, and \$60 per year (\$5 per month) for businesses located on the second or higher floors. The assessments levied for the BBID levied in year one will provide up to \$30,000 for installation of decorative street tree lights along First Street. In years two through five, the District will maintain the installed lights. In year two, a marketing and promotions program will be implemented.

This program will promote the District as a vibrant commercial destination for residents and visitors alike. The purpose of the program will be to specifically benefit assessed businesses by attracting shoppers to increase commercial activity and business revenues. This program may include signage, website development and maintenance, advertising, and special event sponsorships. Marketing and promotions programs will only be provided to those businesses assessed within the District. Only assessed businesses will be featured in advertisements, signage, and on websites. Any special events shall sponsored shall only receive funding to the extent that they specifically benefit the assessed businesses within the District.

In the final year of operation, the marketing and promotions funds may be used for the costs of renewing the District. The assessment amount and collection procedures have been included in a management district plan which has been prepared for the district. The BBID management district plan also allows for city oversight of the BBID management of funds, including submission of annual reports.

In order for this BBID to be enacted California Streets and Highway Code section 36623 requires specific actions occur to create the proposed BBID. Under the 1994 act, petitions of support must be collected by a number of businesses representing over 50% of the value of the proposed BBID. In Benicia's case that number was approximately 92 businesses. To date, at the time of the drafting of this staff report, the steering group has collected 114 petitions, representing

nearly 60% of the total value of the proposed BBID. By exceeding the 92 business threshold, the BBID can now be considered qualified and the process can continue to the next step.

The next step is the action being requested at the October 2, 2012 City Council meeting. The City Council adoption of a resolution of intention is the second action required to form the BBID. This action will also trigger the third task, which is the mailing of a public notice to all affected businesses. Next, a public meeting, where City Council must allow public testimony regarding the proposed assessment is required to be scheduled. Finally, a public hearing where City Council may receive any protests must be scheduled and held. If at the time of the final public hearing, protests have not been received from businesses that will pay more than fifty percent of the proposed assessment, the City Council can adopt a resolution forming the district.

Staff recommends holding the public meeting on October 16, 2012 and the final hearing on November 20, 2012. These dates are compliant with the requirements of the '94 Act and related Government Code sections.

Task	Date of Action	Completed
1) Collect Petitions of Support ~ (92 businesses needed)	August 2, 2012 – September 21, 2012	
2) Adoption of Resolution of Intent (City Council)	October 2, 2012	
3) 45 Day Public Notice	October 3, 2012	
4) Public Hearing (City Council)	October 16, 2012	
5) Final Hearing & Adoption (City Council)	November 20, 2012	

Before discussion may begin on this item, those Council members who have property/business interests within this area must recuse themselves from discussion and action. Because Council Members Strawbridge, Schwartzman, and Vice Mayor Campbell have property/business interests within 500 feet of the designated BID area, staff recommends that straws be drawn, or a similar game of chance be performed, as deemed appropriate by the City Attorney, to select one member to join Council Member Hughes and Mayor Patterson to act on this item. The member selected will continue to participate in the other actions related to the BBID formation.

VIII.A.4

Staff recommends adoption of the proposed resolution. This action will continue the process of forming the proposed BBID and if formed will increase the amount of money spent to beautify and enhance business on First Street.

Attachments:

- ❑ Proposed Resolution
- ❑ Notice of Public Meeting and Hearing
- ❑ BBID Management District Plan

RESOLUTION NO. 12 -

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA DECLARING ITS INTENTION TO ESTABLISH THE BENICIA BUSINESS IMPROVEMENT DISTRICT (BBID) AND FIXING THE TIME AND PLACE OF A PUBLIC MEETING AND A PUBLIC HEARING THEREON AND GIVING NOTICE THEREOF

WHEREAS, the Property and Business Improvement Law of 1994, Streets and Highways Code § 36600 et seq., authorizes cities and counties to establish property and business improvement districts for the purposes of promoting business; and

WHEREAS, business owners and representatives from the City of Benicia have met to consider the formation of the Benicia Business Improvement District (BBID); and

WHEREAS, Benicia businesses have drafted a Management District Plan which sets forth the proposed boundary of the BBID, a service plan and budget, and a proposed means of governance; and

WHEREAS, a majority of the business owners (weighted by how much they pay) subject to assessment under the BBID have petitioned the City Council to establish the BBID.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby accepts the following:

1. The recitals set forth herein are true and correct.
2. The City Council finds that the businesses that will pay more than fifty percent (50%) of the assessment proposed in the Management District Plan have signed and submitted petitions in support of the formation of the BBID. The City Council accepts the petitions and adopts this Resolution of Intention to establish the BBID and to levy an assessment on certain businesses within the BBID boundaries in accordance with the Property and Business Improvement District Law of 1994.
3. The City Council finds that the Management District Plan satisfies all requirements of Streets and Highways Code § 36622.
4. The City Council declares its intention to establish the BBID and to levy and collect assessments on businesses within the BBID boundaries pursuant to the Property and Business Improvement District Law of 1994.
5. The boundaries of the BBID shall be all businesses fronting First Street between Military and the Carquinez Strait. Businesses located at 117 East F Street, 141 East D Street, 142 East D Street, 144 East D Street, 145 East D Street, 146 East

D Street, 120 East G Street, 144 East G Street, 164 East H Street, and will also be included in the district.

Please see the attached map, incorporated herein as Exhibit A.

6. The name of the district shall be the Benicia Business Improvement District (BBID).
7. Annual assessment rates are \$192 per year (\$16 per month) for businesses located on the first floor, and \$60 per year (\$5 per month) for businesses located on the second or higher floors.
8. The assessments levied for the BBID levied in year one will provide up to \$30,000 for installation of street “twinkle” lights along First Street. In years two through five, the District will maintain the installed lights. In year two, a marketing and promotions program will be implemented. This program will promote the District as a vibrant commercial destination for residents and visitors alike. The purpose of the program will be to specifically benefit assessed businesses by attracting shoppers to increase commercial activity and business revenues. This program may include signage, website development and maintenance, advertising, and special event sponsorships. Marketing and promotions programs will only be provided to assessed businesses within the District. Only assessed businesses will be featured in advertisements, signage, and on websites. Any special events shall sponsored shall only receive funding to the extent that they specifically benefit the assessed businesses within the District.

In the final year of operation, the marketing and promotions funds may be used for the costs of renewing the District.

9. The BBID will have a five year term unless renewed pursuant to Streets and Highways Code § 36660.
10. Bonds shall not be issued.
11. The time and place for the public meeting to establish the BBID and the levy of assessments are set for October 16, 2012, at 7:00 p.m., or as soon thereafter as the matter may be heard, at the Council Chambers located at 250 East L Street, Benicia, CA 94510.
12. The time and place for the public hearing to establish the BBID and the levy of assessments are set for November 20, 2012, at 7:00 p.m., or as soon thereafter as the matter may be heard, at the Council Chambers located at 250 East L Street, Benicia, CA 94510. The City Clerk is directed to provide written notice to the businesses subject to assessment of the date and time of the hearing and to provide that notice as required by Streets and Highways Code § 36623.

13. At the public hearing the testimony of all interested persons for or against the establishment of the BBID may be received. If at the conclusion of the public hearing, there are of record written protests by the owners of the businesses within the proposed BBID that will pay fifty percent (50%) or more of the estimated total assessment of the entire BBID, no further proceedings to establish the BBID shall occur.
14. The complete Management District Plan is on file with the City Clerk and may be reviewed upon request.
15. This resolution shall take effect immediately upon its adoption by the City Council.

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 2nd day of October, 2012 and adopted by the following vote.

Ayes:

Noes:

Absent:

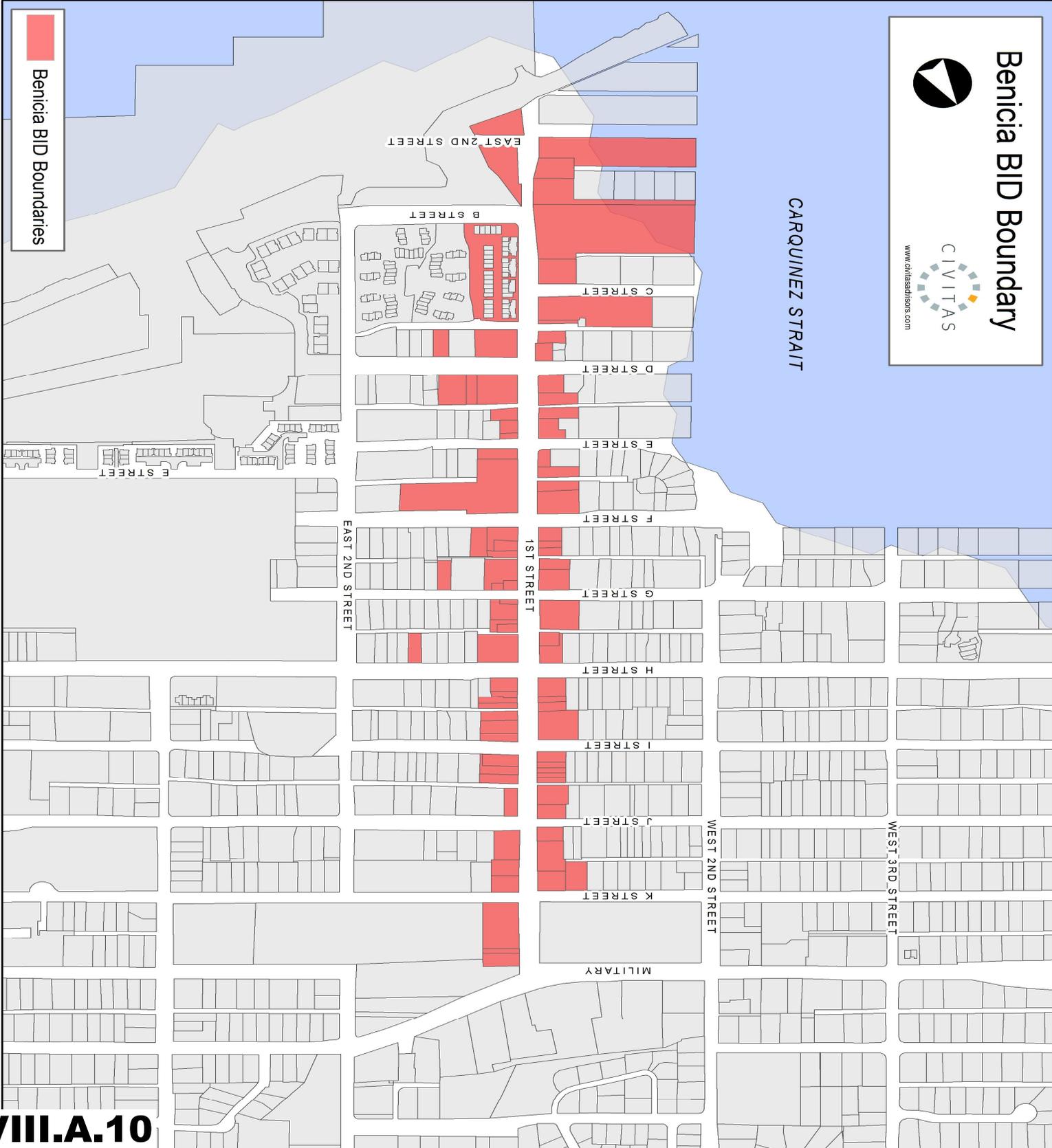
Abstain:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

EXHIBIT A District Boundaries



**2013-
2017**

Civitas Advisors Inc.

September 21, 2012



DOWNTOWN BENICIA BID

Management District Plan

VIII.A.11

**DOWNTOWN BENICIA BUSINESS IMPROVEMENT DISTRICT
MANAGEMENT DISTRICT PLAN**

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I. INTRODUCTION AND OVERVIEW

Developed by Downtown Benicia business owners, the Downtown Benicia Business Improvement District (the District) is a benefit assessment district proposed to help fund marketing and sales promotion efforts for Downtown Benicia businesses. This approach has been used successfully in other destination areas throughout the country to improve tourism and drive additional room nights.

Location: The proposed District includes all businesses fronting First Street between Military and the Carquinez Strait. Businesses located at 117 East F Street, 141 East D Street, 142 East D Street, 144 East D Street, 145 East D Street, 146 East D Street, 120 East G Street, 144 East G Street, 164 East H Street, and will also be included in the district.

Services: Street light installation and maintenance, and marketing and promotions to increase commerce in the District for the specific benefit of assessed businesses.

Budget: The total District annual budget for each year of its five-year operation is anticipated to be approximately \$34,752.

Cost: Annual assessment rates are \$192 per year (\$16 per month) for businesses located on the first floor, and \$60 per year (\$5 per month) for businesses located on the second or higher floors.

Formation: BID formation requires submittal of petitions from businesses representing more than 50% of the total annual assessment followed by a City Council hearing and an opportunity for a written protest. The assessed business owners will receive notice of the public hearing by mail. If there is a majority written protest, the BID will not be formed.

Duration: The proposed District will have a five-year life. The District assessment will be implemented beginning January 1, 2013 through December 31, 2017. Once per year beginning on the anniversary of the formation of the district there is a 30-day period in which owners paying more than 50% of the assessment may protest and terminate the district.

Governance: The City Council has the authority to designate a non-profit corporation to manage the District's funds. This corporation is referred to in the law as the "Owners' Association." A new non-profit corporation, the Downtown Benicia Alliance, will be formed to serve as the Owners' Association for the District. The Alliance's Board of Directors will be comprised primarily of assessed businesses and charged with managing District funds in accordance with the provisions of this Plan.

II. BACKGROUND

Business Improvement Districts (BIDs) utilize the efficiencies of private sector operation in the market-based promotion of commercial districts. BIDs allow business owners to organize their efforts to increase commerce. Business owners within the district fund a BID, and those funds are used to provide services that the businesses desire and that benefit the businesses within the District.

In California, Business Improvement Districts are formed pursuant to the Property and Business Improvement District Law of 1994 (PBID Law). This law allows for the creation of a special benefit assessment district to raise funds within a specific geographic area. *The key difference between BIDs and other special benefit assessment districts is that funds raised are returned to the private non-profit corporation governing the district.*

There are many benefits to Business Improvement Districts:

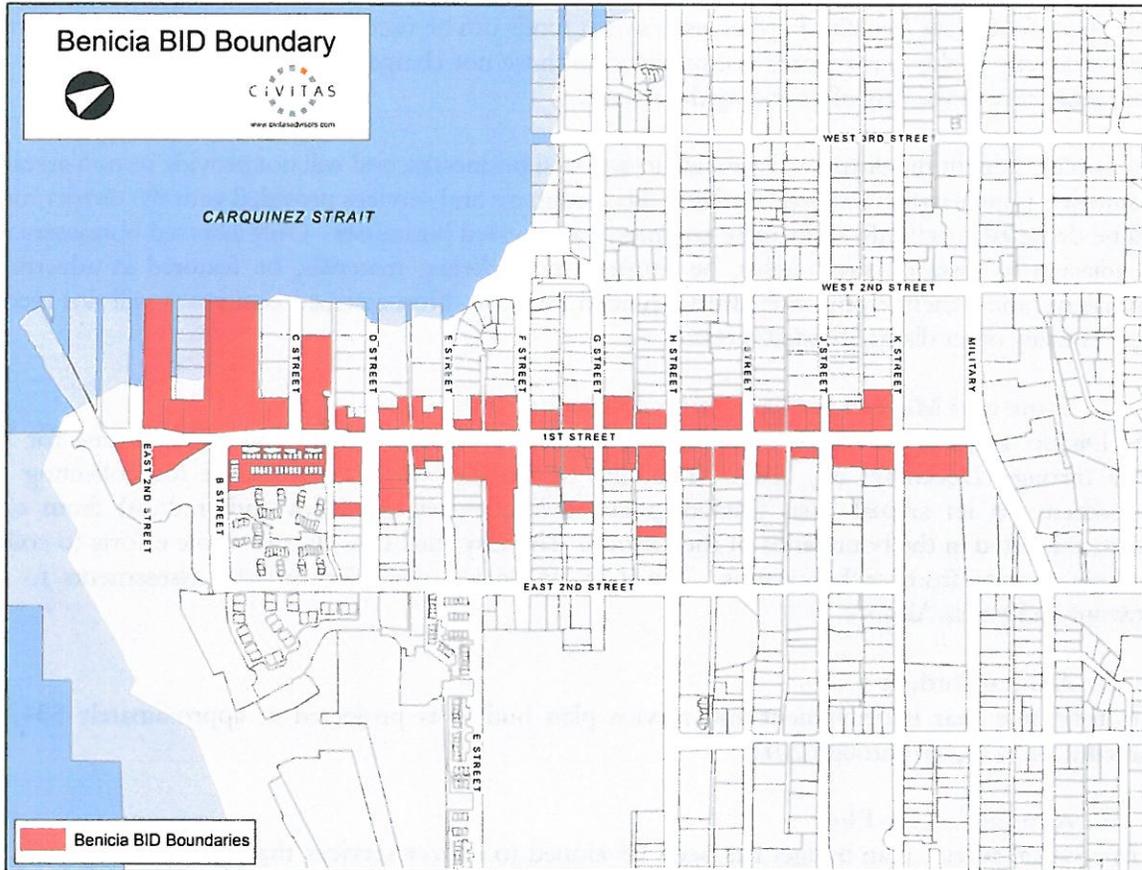
- Funds cannot be diverted for other government programs;
- Business Improvement Districts are customized to fit the needs of each commercial district;
- They allow for a wide range of services;
- Business Improvement Districts are ***designed, created and governed by those who will pay*** the assessment;
- They provide a stable funding source for services above and beyond those provided by local agencies.

The Property and Business Improvement District Law of 1994 is provided in Appendix 1 of this document.

III. BOUNDARY

The proposed District includes all businesses fronting First Street between Military and the Carquinez Strait. Businesses located at 117 East F Street, 141 East D Street, 142 East D Street, 144 East D Street, 145 East D Street, 146 East D Street, 120 East G Street, 144 East G Street, 164 East H Street, and will also be included in the district.

The boundary currently includes 203 businesses. Please see the map below. A complete listing of businesses within the proposed the District can be found on Appendix 2 of this Plan.



IV. SERVICE PLAN AND BUDGET

A. Assessment

The annual assessment rates are \$192 per year for businesses located on the first floor, and \$60 per year for businesses located on the second or higher floors.

Bonds shall not be issued.

B. Determination of Specific Benefit

State law requires that assessment funds be expended on a specific benefit conferred directly to the payors that is not provided to those not charged, and which does not exceed the reasonable cost to the City of conferring the benefit. Further, assessment funds can be used to provide a specific government service directly to the payor that is not provided to those not charged, and which does not exceed the reasonable cost to the City of providing the service.

The specific benefit the district will provide to assessed businesses, and will not provide to non-assessed businesses, is increased commercial activity. The programs and services provided with the district funds will be designed specifically to increase commerce at assessed businesses. Only assessed businesses will be adjacent to installed street lights, be featured in marketing materials, be featured in advertising campaigns, and benefit from other district-funded services. Non-assessed businesses will not receive these and any other district-funded services.

C. Time and Manner for Collecting Assessments

The District assessment will be implemented beginning January 1, 2013 and will continue for five years through December 31, 2017. The City of Benicia will be responsible for collecting the assessment on an annual basis (including any delinquencies, penalties and interest) from each business located in the boundaries of the District. The City shall take all reasonable efforts to collect the assessments from each business. The City of Benicia shall forward the assessments to the Downtown Benicia Alliance.

D. Annual Budget

The total five year improvement and service plan budget is projected at approximately \$34,752 annually, or \$173,760 through 2017.

E. Annual Service Plan

A categorical service plan budget has been developed to deliver services throughout the District. A detailed annual service plan and budget will be developed, within these categories, and approved by the Downtown Benicia Alliance.

**Downtown Benicia Business Improvement District
Annual Budget, Years One through Five**

Category	Year 1 %	Year 1 \$	Year 2-5 %	Year 2-5 \$
Marketing / Promotions	-	-	48.94%	\$17,256
Street Lights	85.09%	\$30,000	34.08%	\$12,000
Administration	8.51%	\$3,000	8.51%	\$3,000
Contingency/Renewal	6.40%	\$1,752	8.51%	\$2,496
Total Annual Budget	100%	\$34,752	100%	\$34,752

Marketing and Promotions

In year two, a marketing and promotions program will be implemented. This program will promote the District as a vibrant commercial destination for residents and visitors alike. The purpose of the program will be to specifically benefit assessed businesses by attracting shoppers to increase commercial activity and business revenues. This program may include signage, website development and maintenance, advertising, and special event sponsorships. Marketing and promotions programs will only be provided to assessed businesses within the District. Only assessed businesses will be featured in advertisements, signage, and on websites. Any special events shall sponsored shall only receive funding to the extent that they specifically benefit the assessed businesses within the District.

In the final year of operation, the marketing and promotions funds may be used for the costs of renewing the District.

Street Lights

In year one, the District will provide up to \$30,000 for installation (or reimbursement to the City of Benicia for the installation) of street “twinkle” lights along First Street. In years two through five, the District will maintain the installed lights.

Administration and Operations

The administrative and operations portion of the budget shall be utilized for insurance, accounting and legal fees, and other general administrative costs.

Contingency/Renewal

A prudent portion of the budget will be set aside in a contingency fund, to be used for unforeseeable costs in carrying out the district’s programs. If at the expiration of the district there are contingency funds remaining, and business owners wish to renew the district, the remaining contingency funds may be used for renewal costs (in addition to the year five amount for marketing and promotions).

F. Adjustments

Although actual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain the same. However, the City and the Downtown Benicia Alliance shall have the authority to adjust budget allocations between the categories by no more than fifteen percent (15%) of the total budget per year.

G. Expiration

Should the Downtown Benicia Alliance approve, funds from the contingency/renewal portion of the budget and the final years' marketing and promotions budget may be appropriated for the renewal effort. If there are other funds remaining at the end of the District term which are not used for the renewal effort, and the district is renewed, these remaining funds would be transferred to the renewed District. If there are funds remaining at the end of the District and businesses choose not to renew, any remaining funds will be spent consistent with this Plan or returned to assessed businesses in equal proportions to the assessment paid by each business.

V. BID GOVERNANCE

A. Owners' Association

The City Council, through adoption of this Management District Plan, has the right, pursuant to California Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the District as defined in Streets and Highways Code §36614.5. A new nonprofit, to be called the Downtown Benicia Alliance, will be formed. The Downtown Benicia Alliance will serve as the Owners' Association for the District. At least a majority of the members of the Downtown Benicia Alliance Board will be the owners, or owners' authorized representative, of assessed businesses.

B. Brown Act and California Public Records Act Compliance

The Owners' Association is subject to government regulations relating to transparency, namely the Ralph M. Brown Act and the California Public Records Act, designed to promote public accountability. The Owners' Association of a BID is considered a legislative body under the Ralph M. Brown Act (Government Code §54950 et seq.). Thus, meetings of the Downtown Benicia Alliance Board must be held in compliance with the public notice and other requirements of the Brown Act. The Owners' Association is also subject to the record keeping requirements of the California Public Records Act.

C. Annual Report

The Downtown Benicia Alliance shall present an annual report at the end of each year of operation to the City Council pursuant to Streets and Highways Code §36650 (see Appendix 1).

APPENDIX 1 – 1994 LAW

PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994 STREETS AND HIGHWAYS CODE Division 18. Parking

*** THIS DOCUMENT IS CURRENT THROUGH 2009-2010 EXTRAORDINARY SESSIONS 1-5, ***
AND 7, AND URGENCY LEGISLATION THROUGH CH 4 OF THE 2010 REGULAR SESSION

§ 36600. Citation of part

This part shall be known and may be cited as the "Property and Business Improvement District Law of 1994."

§ 36601. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) Businesses located and operating within the business districts of this state's communities are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts.

(b) It is in the public interest to promote the economic revitalization and physical maintenance of the business districts of its cities in order to create jobs, attract new businesses, and prevent the erosion of the business districts.

(c) It is of particular local benefit to allow cities to fund business related improvements, maintenance, and activities through the levy of assessments upon the businesses or real property that benefits from those improvements.

(d) Assessments levied for the purpose of providing improvements and promoting activities that benefit real property or businesses are not taxes for the general benefit of a city, but are assessments for the improvements and activities which confer special benefits upon the real property or businesses for which the improvements and activities are provided.

§ 36602. Purpose of part

The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments within a business improvement area. This part does not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes.

§ 36603. Preemption of authority or charter city to adopt ordinances levying assessments

Nothing in this part is intended to preempt the authority of a charter city to adopt ordinances providing for a different method of levying assessments for similar or additional purposes from those set forth in this part. A property and business improvement district created pursuant to this part is expressly exempt from the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800)).

§ 36603.5. Part prevails over conflicting provisions

Any provision in this part that conflicts with any other provision of law shall prevail over the other provision of law.

§ 36604. Severability

This part is intended to be construed liberally and, if any provision is held invalid, the remaining provisions shall remain in full force and effect. Assessments levied under this part are not special taxes.

§ 36605. [Section repealed 2001.]

§ 36606. "Assessment"

"Assessment" means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and promoting activities which will benefit the properties or businesses located within a property and business improvement district.

§ 36607. "Business"

"Business" means all types of businesses and includes financial institutions and professions.

§ 36608. "City"

"City" means a city, county, city and county, or an agency or entity created pursuant to Article 1 (commencing with *Section 6500*) of *Chapter 5 of Division 7 of Title 1 of the Government Code*, the public member agencies of which includes only cities, counties, or a city and county.

§ 36609. "City council"

"City council" means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.

§ 36610. "Improvement"

"Improvement" means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following:

- (a) Parking facilities.
- (b) Benches, booths, kiosks, display cases, pedestrian shelters and signs.
- (c) Trash receptacles and public restrooms.
- (d) Lighting and heating facilities.
- (e) Decorations.
- (f) Parks.
- (g) Fountains.
- (h) Planting areas.
- (i) Closing, opening, widening, or narrowing of existing streets.
- (j) Facilities or equipment, or both, to enhance security of persons and property within the area.
- (k) Ramps, sidewalks, plazas, and pedestrian malls.
- (l) Rehabilitation or removal of existing structures.

§ 36611. "Property and business improvement district"; "District"

"Property and business improvement district," or "district," means a property and business improvement district established pursuant to this part.

§ 36612. "Property"

"Property" means real property situated within a district.

§ 36613. "Activities"

"Activities" means, but is not limited to, all of the following:

- (a) Promotion of public events which benefit businesses or real property in the district.
- (b) Furnishing of music in any public place within the district.

- (c) Promotion of tourism within the district.
- (d) Marketing and economic development, including retail retention and recruitment.
- (e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.
- (f) Activities which benefit businesses and real property located in the district.

§ 36614. "Management district plan"; "Plan"

"Management district plan" or "plan" means a proposal as defined in Section 36622.

§ 36614.5. "Owners' association"

"Owners' association" means a private nonprofit entity that is under contract with a city to administer or implement activities and improvements specified in the management district plan. An owners' association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners' association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners' association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with *Section 54950*) of Part 1 of Division 2 of Title 5 of the *Government Code*), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Chapter 3.5 (commencing with *Section 6250*) of Division 7 of Title 1 of the *Government Code*), for all documents relating to activities of the district.

§ 36615. "Property owner"; "Owner"

"Property owner" or "owner" means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of land by the city council. The city council has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this part. Wherever this subdivision requires the signature of the property owner, the signature of the authorized agent of the property owner shall be sufficient.

§ 36616. "Tenant"

"Tenant" means an occupant pursuant to a lease of commercial space or a dwelling unit, other than an owner.

§ 36617. Alternate method of financing certain improvements and activities; Effect on other provisions

This part provides an alternative method of financing certain improvements and activities. The provisions of this part shall not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes. Every improvement area established pursuant to the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500) of this division) is valid and effective and is unaffected by this part.

§ 36620. Establishment of property and business improvement district

A property and business improvement district may be established as provided in this chapter.

§ 36620.5. Requirement of consent of city council

A county may not form a district within the territorial jurisdiction of a city without the consent of the city council of that city. A city may not form a district within the unincorporated territory of a county without the consent of the board of supervisors of that county. A city may not form a district within the territorial jurisdiction of another city without the consent of the city council of the other city.

§ 36621. Initiation of proceedings; Petition of property or business owners in proposed district

(a) Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property or a business owned by the same property or business owner that is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property or business owners who will pay more than 50 percent of the total amount of assessments proposed to be levied.

(b) The petition of property or business owners required under subdivision (a) shall include a summary of the management district plan. That summary shall include all of the following:

- (1) A map showing the boundaries of the district.
- (2) Information specifying where the complete management district plan can be obtained.
- (3) Information specifying that the complete management district plan shall be furnished upon request.

(c) The resolution of intention described in subdivision (a) shall contain all of the following:

- (1) A brief description of the proposed activities and improvements, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement as to whether bonds will be issued, and a description of

the exterior boundaries of the proposed district. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements and activities and the location and extent of the proposed district.

(2) A time and place for a public hearing on the establishment of the property and business improvement district and the levy of assessments, which shall be consistent with the requirements of Section 36623.

§ 36622. Contents of management district plan

The management district plan shall contain all of the following:

(a) A map of the district in sufficient detail to locate each parcel of property and, if businesses are to be assessed, each business within the district.

(b) The name of the proposed district.

(c) A description of the boundaries of the district, including the boundaries of benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected lands and businesses included. The boundaries of a proposed property assessment district shall not overlap with the boundaries of another existing property assessment district created pursuant to this part. This part does not prohibit the boundaries of a district created pursuant to this part to overlap with other assessment districts established pursuant to other provisions of law, including, but not limited to, the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500)). This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with another business assessment district created pursuant to this part. This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with a property assessment district created pursuant to this part.

(d) The improvements and activities proposed for each year of operation of the district and the maximum cost thereof.

(e) The total annual amount proposed to be expended for improvements, maintenance and operations, and debt service in each year of operation of the district.

(f) The proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each property or business owner to calculate the amount of the assessment to be levied against his or her property or business. The plan also shall state whether bonds will be issued to finance improvements.

(g) The time and manner of collecting the assessments.

(h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years. Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.

(i) The proposed time for implementation and completion of the management district plan.

(j) Any proposed rules and regulations to be applicable to the district.

(k) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof, including operation and maintenance. The plan may provide that all or any class or category of real property which is exempt by law from real property taxation may nevertheless be included within the boundaries of the district but shall not be subject to assessment on real property.

(l) Any other item or matter required to be incorporated therein by the city council.

§ 36623. Procedure to levy assessment

(a) If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedure shall comply with *Section 53753 of the Government Code*.

(b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with *Section 54954.6 of the Government Code*, except that notice shall be mailed to the owners of the businesses proposed to be assessed. A protest may be made orally or in writing by any interested person. Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing. Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business. A written protest which does not comply with this section shall not be counted in determining a majority protest. If written protests are received from the owners of businesses in the proposed district which will pay 50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to levy the proposed assessment against such businesses, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

§ 36624. Changes to proposed assessments

At the conclusion of the public hearing to establish the district, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them. At the public hearing, the city council may only make changes in, to, or from the boundaries of the proposed property and business improvement district that will exclude territory that will not benefit from the proposed improvements or activities. Any modifications, revisions, reductions, or changes to the proposed assessment district shall be reflected in the notice and map recorded pursuant to Section 36627.

§ 36625. Resolution of formation

(a) If the city council, following the public hearing, decides to establish the proposed property and business improvement district, the city council shall adopt a resolution of formation that shall contain all of the following:

(1) A brief description of the proposed activities and improvements, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement about whether bonds will be issued, and a description of the exterior boundaries of the proposed district. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements and activities and the location and extent of the proposed district.

(2) The number, date of adoption, and title of the resolution of intention.

(3) The time and place where the public hearing was held concerning the establishment of the district.

(4) A determination regarding any protests received. The city shall not establish the district or levy assessments if a majority protest was received.

(5) A statement that the properties or businesses in the district established by the resolution shall be subject to any amendments to this part.

(6) A statement that the improvements and activities to be provided in the district will be funded by the levy of the assessments. The revenue from the levy of assessments within a district shall not be used to provide improvements or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the district.

(7) A finding that the property or businesses within the area of the property and business improvement district will be benefited by the improvements and activities funded by the assessments proposed to be levied.

(b) The adoption of the resolution of formation and recordation of the notice and map pursuant to Section 36627 shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan.

§ 36626. Resolution establishing district

If the city council, following the public hearing, desires to establish the proposed property and business improvement district, and the city council has not made changes pursuant to Section 36624, or has made changes that do not substantially change the proposed assessment, the city council shall adopt a resolution establishing the district. The resolution shall contain all of the information specified in paragraphs (1) to (8), inclusive, of subdivision (b) of Section 36625, but need not contain information about the preliminary resolution if none has been adopted.

§ 36626.5. [Section repealed 1999.]

§ 36626.6. [Section repealed 1999.]

§ 36626.7. [Section repealed 1999.]

§ 36627. Notice and assessment diagram

Following adoption of the resolution establishing the district pursuant to Section 36625 or 36626, the clerk of the city shall record a notice and an assessment diagram pursuant to Section 3114. If the assessment is levied on businesses, the text of the recorded notice shall be modified to reflect that the assessment will be levied on businesses, or specified categories of businesses, within the area of the district. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

§ 36628. Establishment of separate benefit zones within district; Categories of businesses

The city council may establish one or more separate benefit zones within the district based upon the degree of benefit derived from the improvements or activities to be provided within the benefit zone and may impose a different assessment within each benefit zone. If the assessment is to be levied on businesses, the city council may also define categories of businesses based upon the degree of benefit that each will derive from the improvements or activities to be provided within the district and may impose a different assessment or rate of assessment on each category of business, or on each category of business within each zone.

§ 36628.5. Assessments on businesses or property owners

The city council may levy assessments on businesses or on property owners, or a combination of the two, pursuant to this part. The city council shall structure the assessments in whatever manner it determines corresponds with the distribution of benefits from the proposed improvements and activities.

§ 36629. Provisions and procedures applicable to benefit zones and business categories

All provisions of this part applicable to the establishment, modification, or disestablishment of a property and business improvement district apply to the establishment, modification, or disestablishment of benefit zones or categories of business. The city council shall, to establish, modify, or disestablish a benefit zone or category of business, follow the procedure to establish, modify, or disestablish a parking and business improvement area.

§ 36630. Expiration of district; Creation of new district

If a property and business improvement district expires due to the time limit set pursuant to subdivision (h) of Section 36622, a new management district plan may be created and a new district established pursuant to this part.

§ 36631. Time and manner of collection of assessments; Delinquent payments

The collection of the assessments levied pursuant to this part shall be made at the time and in the manner set forth by the city council in the resolution establishing the management district plan described in Section 36622. Assessments levied on real property may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment. All delinquent payments for assessments levied pursuant to this part shall be charged interest and penalties.

§ 36632. Assessments to be based on estimated benefit; Classification of real property and businesses; Exclusion of residential and agricultural property

(a) The assessments levied on real property pursuant to this part shall be levied on the basis of the estimated benefit to the real property within the property and business improvement district. The city council may classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.

(b) Assessments levied on businesses pursuant to this part shall be levied on the basis of the estimated benefit to the businesses within the property and business improvement district. The city council may classify businesses for purposes of determining the benefit to the businesses of the improvements and activities provided pursuant to this part.

(c) Properties zoned solely for residential use, or that are zoned for agricultural use, are conclusively presumed not to benefit from the improvements and service funded through these assessments, and shall not be subject to any assessment pursuant to this part.

§ 36633. Time for contesting validity of assessment

The validity of an assessment levied under this part shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted pursuant to Section 36626. Any appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

§ 36634. Service contracts authorized to establish levels of city services

The city council may execute baseline service contracts that would establish levels of city services that would continue after a property and business improvement district has been formed.

§ 36635. Request to modify management district plan

The owners' association may, at any time, request that the city council modify the management district plan. Any modification of the management district plan shall be made pursuant to this chapter.

§ 36636. Modification of plan by resolution after public hearing; Adoption of resolution of intention; Modification of improvements and activities by adoption of resolution after public hearing

(a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section 36623 . Notice of all other public meetings and public hearings pursuant to this section shall comply with both of the following:

(1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public meeting.

(2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public meeting, to each business owner or property owner affected by the proposed modification.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

§ 36637. Reflection of modification in notices recorded and maps

Any subsequent modification of the resolution shall be reflected in subsequent notices and maps recorded pursuant to Division 4.5 (commencing with Section 3100), in a manner consistent with the provisions of Section 36627.

§ 36640. Bonds authorized; Procedure; Restriction on reduction or termination of assessments

(a) The city council may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of some or all of the proposed improvements described in the resolution of formation adopted pursuant to Section 36625, if the resolution of formation adopted pursuant to that section provides for the issuance of bonds, under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500)) or in conjunction with Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with *Section 6584*) of *Chapter 5 of Division 7 of Title 1 of the Government Code*). Either act, as the case may be, shall govern the proceedings

relating to the issuance of bonds, although proceedings under the Bond Act of 1915 may be modified by the city council as necessary to accommodate assessments levied upon business pursuant to this part.

(b) The resolution adopted pursuant to subdivision (a) shall generally describe the proposed improvements specified in the resolution of formation adopted pursuant to Section 36625, set forth the estimated cost of those improvements, specify the number of annual installments and the fiscal years during which they are to be collected. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from assessments over 30 years.

(c) Notwithstanding any other provision of this part, assessments levied to pay the principal and interest on any bond issued pursuant to this section shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt.

§ 36641. [Section repealed 2001.]

§ 36642. [Section repealed 2001.]

§ 36643. [Section repealed 2001.]

§ 36650. Report by owners' association; Approval or modification by city council

(a) The owners' association shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvements and activities described in the report. The owners' association's first report shall be due after the first year of operation of the district. The report may propose changes, including, but not limited to, the boundaries of the property and business improvement district or any benefit zones within the district, the basis and method of levying the assessments, and any changes in the classification of property, including any categories of business, if a classification is used.

(b) The report shall be filed with the clerk and shall refer to the property and business improvement district by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following information:

(1) Any proposed changes in the boundaries of the property and business improvement district or in any benefit zones or classification of property or businesses within the district.

(2) The improvements and activities to be provided for that fiscal year.

(3) An estimate of the cost of providing the improvements and the activities for that fiscal year.

(4) The method and basis of levying the assessment in sufficient detail to allow each real property or business owner, as appropriate, to estimate the amount of the assessment to be levied against his or her property or business for that fiscal year.

(5) The amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

(6) The amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(c) The city council may approve the report as filed by the owners' association or may modify any particular contained in the report and approve it as modified. Any modification shall be made pursuant to Sections 36635 and 36636.

The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments, including any commitment to pay principal and interest on any bonds issued on behalf of the district.

§ 36651. Designation of owners' association to provide improvements and activities

The management district plan may, but is not required to, state that an owners' association will provide the improvements or activities described in the management district plan. If the management district plan designates an owners' association, the city shall contract with the designated nonprofit corporation to provide services.

§ 36660. Renewal of district; Transfer or refund of remaining revenues; District term limit

(a) Any district previously established whose term has expired, may be renewed by following the procedures for establishment as provided in this chapter.

(b) Upon renewal, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed district. If the renewed district includes additional parcels or businesses not included in the prior district, the remaining revenues shall be spent to benefit only the parcels or businesses in the prior district. If the renewed district does not include parcels or businesses included in the prior district, the remaining revenues attributable to these parcels shall be refunded to the owners of these parcels or businesses.

(c) Upon renewal, a district shall have a term not to exceed 10 years, or, if the district is authorized to issue bonds, until the maximum maturity of those bonds. There is no requirement that the boundaries, assessments, improvements, or activities of a renewed district be the same as the original or prior district.

§ 36670. Circumstances permitting disestablishment of district; Procedure

(a) Any district established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the city council in either of the following circumstances:

(1) If the city council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.

(2) During the operation of the district, there shall be a 30-day period each year in which assesses may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners of real property or of businesses in the area who pay 50 percent or more of the assessments levied, the city council shall pass a resolution of intention to disestablish the district. The city council shall notice a hearing on disestablishment.

(b) The city council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel or to the owner of each business subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.

§ 36671. Refund of remaining revenues upon disestablishment of district; Calculation of refund; Use of outstanding revenue collected after disestablishment of district

(a) Upon the disestablishment of a district, any remaining revenues, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be refunded to the owners of the property or businesses then located and operating within the district in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in which the district is disestablished. All outstanding assessment revenue collected after disestablishment shall be spent on improvements and activities specified in the management district plan.

(b) If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund.

APPENDIX 2 – DISTRICT BUSINESSES

BUSINESS NAME	ST #	ST DIR	ST NAME	ST SUFFIX	ST UNIT	FLOOR
A & M PROPERTY SERVICES INC	1021		FIRST	ST		Second
A JEWEL IN THE SKY	919		FIRST	ST		First
A. LAGO SALON	1036		FIRST	ST		First
ABC MUSIC	739		FIRST	ST		First
ADOBE	929		FIRST	ST		First
ADVANCED MORTGAGE	615		FIRST	ST		First
AIR PRODUCTS & CHEMICALS INC	555		FIRST	ST	302	First
ALL ABOUT BEAUTY DAY SPA	507		FIRST	ST		Second
ALL ABOUT YOU	333		FIRST	ST	7	Second
ALTA PLANNING & DESIGN INC	919		FIRST	ST	A	First
ALYSSA DOSIER	601		FIRST	ST		First
AM CREDIT & MORTGAGE	175		D	ST		First
ANGEL HEART 4 YOU	501		FIRST	ST		First
ARIAN NAIL SPA	521		FIRST	ST	200	Second
ARNOLD & ASSOC REAL ESTATE SERV	333		FIRST	ST		First
ARTCENTRIC POTTERY & GLASS STUDIO	733		FIRST	ST		First
ATS TAX SERVICE	1075		FIRST	ST		First
BANK OF THE WEST	1001		FIRST	ST		First
BAY AREA ENTERTAINMENT	280		FIRST	ST		First
BB VENTURES LLC (AROMA)	818		FIRST	ST	D	First
BE CHIC	309		FIRST	ST		First
BELA'S MARKET	632		FIRST	ST		First
BENICIA ANTIQUE MALL	918		FIRST	ST	203	First
BENICIA BAY COMPANY	714		FIRST	ST	C-207	First
BENICIA BAY PHYSICAL THERAPY	560		FIRST	ST	D-101	First
BENICIA BUSINESS DIRECTORY	935		FIRST	ST		First
BENICIA DENTAL CARE	560		FIRST	ST	B-111	First
BENICIA FAMILY DENTISTRY	321		FIRST	ST	200	Second
BENICIA FIRST CORP	90		FIRST	ST		First
BENICIA FITNESS	606		FIRST	ST		First
BENICIA FLORAL & GIFTS	838		FIRST	ST		First
BENICIA FRAME	638		FIRST	ST		First
BENICIA HERALD	820		FIRST	ST		First
BENICIA KITE AND PADDLE SPORTS	238		FIRST	ST		First
BENICIA PLEIN AIR GALLERY	307		FIRST	ST	202	First
BILL PARSON'S GALLERY	131		FIRST	ST		First
BIRNBAUM REALTY	833		FIRST	ST		First
BLACK AND ASSOCIATES	920		FIRST	ST	205	First

BLISS SALON AND SPA LLC	117		F	ST		First
BLUE BIRD ANTIQUES	800		FIRST	ST		First
BLUE GOOSE ANTIQUES / MARGE DELMAS	622		FIRST	ST		First
BOMBSHELL HAIR AND INK	120		G	ST		First
BOOKSHOP BENICIA	636		FIRST	ST		First
BUDDAHFUL A SALON	814		FIRST	ST		First
BURNS & ASSOCIATES ENGINEERS	638		FIRST	ST		Second
CALIFORNIA VALLEY REAL ESTATE	801		FIRST	ST		First
CAMELLIA TEA ROOM	828		FIRST	ST		First
CAPITAL CAFÉ	639		FIRST	ST		First
CARE NETWORK LLC	920		FIRST	ST	103	First
CARQUINEZ DENTAL GROUP	142	EAST	D	ST		First
CHANGES HAIR STUDIO	631		FIRST	ST	C	First
CHARLIE'S ATTIC	519		FIRST	ST		First
CHARS	131		FIRST	ST		First
CHRISTINA S	370		FIRST	ST		First
COLDWELL BANKER	900		FIRST	ST		First
COLOR MOTION	328		FIRST	ST		First
COMMUNITY PSYCHIATRY	1021		FIRST	ST		Second
COMPUTER 1	737		FIRST	ST	D-100	First
CONFERENCE RESOURCE CENTER	333		FIRST	ST		First
Contra Costa Credit Union	560		FIRST	ST		First
COURTYARD CUSTOMS	333		FIRST	ST	D	First
CREMONA FINE VIOLINS	601		FIRST	ST		First
CRR GLOBAL	111	WEST	C	ST	A	Second
CULLEN'S TANNERY PUB	131		FIRST	ST		First
DELGADO PROPERTY MANAGEMENT	917		FIRST	ST		First
DISCOVER YESTERDAY	364		FIRST	ST		First
DOUBLE EAGLE SECURITY	560		FIRST	ST		First
DOUBLE EAGLE SECURITY	560		FIRST	ST		First
DR. HILL	231		C	ST		First
DRIFTWOOD TRADING CO.	611		FIRST	ST		First
DVA RENAL HEALTHCARE INC (BENICIA DIALYSIS)	560		FIRST	ST	D-103	First
EDWARD JONES INVESTMENTS	555		FIRST	ST	104	First
ELISA	623		FIRST	ST		First
ELISABETH'S HAIR DESIGN	601		FIRST	ST	101	First
ESTEY REAL ESTATE	935		FIRST	ST	200	First
FABULOUS FINDS	129		FIRST	ST		First
FEEL GOOD FOODS LLC (DOUBLE RAINBOW CAFÉ)	560		FIRST	ST	B-150	First
FIRST IMPRESSIONS	832		FIRST	ST		First

FIRST PRIORITY FINANCIAL	333		FIRST	ST		First
FIRST STREET BARBER SHOP	602		FIRST	ST		Second
FIRST THINGS FIRST INC	440		FIRST	ST		First
FLOORS ON FIRST	840		FIRST	ST		First
FROM THE CORE PILATES STUDIO	560		FIRST	ST	D-200	Second
G & M CORPORATION	401		FIRST	ST		First
GABRIEL INSURANCE	376		FIRST	ST		First
GALLERY 621	621		FIRST	ST		First
GAVIN & SCHREINER INSURANCE	828		FIRST	ST		Second
GIOVANNA'S FIBER-FROLICS	637		FIRST	ST	B	First
GOLD KEY REALTY	800		FIRST	ST		First
GOLDEN GATE TAX ADVICE INC	919		FIRST	ST		Second
GOLDEN HORSE SHOE ANTIQUES	415		FIRST	ST		First
GRAND CHINA	718		FIRST	ST		First
HAMANN REALTY	513		FIRST	ST		First
HANEY, NICHOLAS, ATT.	903		FIRST	ST		Second
HEIDI'S SKIN CARE	333		FIRST	ST	4	Second
HF VENTURES LLC	333		FIRST	ST	A	First
HOFFMAN HOUSE ANTIQUES	918		FIRST	ST		First
HONEYSUCKLE ROSE	620		FIRST	ST	B	First
INTUITIVE HEALING	555		FIRST	ST	200	Second
JAE PROPERTIES INC	801		FIRST	ST		Second
JAMES BIRDSEYE INC GRP FARMERS INS	110	EAST	D	ST	H	First
JAMES M. PRESCOTT	555		FIRST	ST		First
JAVA POINT CAFÉ	366		FIRST	ST		First
JENNIE DILLON CMT	555		FIRST	ST	200	Second
JERRY S. REED DDS	1075		FIRST	ST	5	Second
JON LEWIS VIDEO EDITING SERVICES	110	EAST	D	ST	K	First
JORDAN REAL ESTATE INC	1038		FIRST	ST		First
JOYOUS SPACES	301		FIRST	ST	101	First
KAIGAN SUSHI INC	560		FIRST	ST	A-103	First
KATHLEEN A. HESS PHD	1021		FIRST	ST		Second
KEITH WEINSTEIN MFT	638		FIRST	ST		First
KENNON REALTY	1015		FIRST	ST		First
LANDON MAU'S CREATIONS &	131	EAST	FIRST	ST		First
LARNED S. WHITNEY CPA	1021		FIRST	ST	4	Second
LE'S BEAUTY SALON	845		FIRST	ST		First
LINDSAY ART GLASS	109	EAST	F	ST		First
LUCCA BAR AND GRILL	439		FIRST	ST		First
LUXE HAIR DESIGN	360		FIRST	ST		First
LYNNE'S STUDIO	372		FIRST	ST		First
M.J. KLIMENKO MFT	714		FIRST	ST	102	Second

MACLANE AND COMPANY INC	110	EAST	D	ST	D	Second
MAGIC HANDS BY SHAWNA MILLER	555		FIRST	ST	200	Second
MAI THAI RESTAURANT	807		FIRST	ST	102	First
MATSURI	920		FIRST	ST	102	First
MCCONNELL CHIROPRACTIC CORP	1075		FIRST	ST	3	First
MCKAY INTERNATIONAL ENGINEERS	560		FIRST	ST	C-107	First
MIGUELENA	555		FIRST	ST		First
MILINDA PERRY DESIGNS	560		FIRST	ST		First
MIOJI DESIGNS	333		FIRST	ST		First
MORTGAGE FINANCIAL	920		FIRST	ST	101	First
NANCI SU FINLEY LMFT	1021		FIRST	ST	5	Second
NARCISSUS	920		FIRST	ST	201	First
NEXT DOOR	610		FIRST	ST		First
NINE O SEVEN CAFÉ	907		FIRST	ST		First
NORTH AMERICAN TITLE CO	560		FIRST	ST	200	First
NORTH BAY PEDIATRICS	1075		FIRST	ST		First
NORTH BAY PSYCHOLOGY ASSOCIATE	1021		FIRST	ST	5	Second
OLD CAPITOL	101	EAST	H	ST		First
OLSON REALTY INC	920		FIRST	ST		First
P S HAIR STUDIO	638		FIRST	ST	A-105	Second
PACIFICA PIZZA INC	915		FIRST	ST		First
PCM3 INC	1021		FIRST	ST		Second
PEGGY BLAIR	919		FIRST	ST		First
PHIL JOY			FIRST	ST		First
PHOENIX AUTOMATION AND SALES	840		FIRST	ST	B	First
PICCOLO	216		FIRST	ST		First
PIEL MEDICAL AESTHETICS INC	560		FIRST	ST	100	First
POSH BED & BATH	635		FIRST	ST		First
PRISM SIGN GRAPHICS	117		D	ST		First
PROTECTION & PROSPERITY INSURANCE & PRUDENTIAL REAL ESTATE	110		D	ST	M	First
PUPS 'N' PURRZ DOG & CAT BOUTIQUE	801		FIRST	ST		First
PUPS 'N' PURRZ DOG & CAT BOUTIQUE	424		FIRST	ST	C105	First
R A STORLEE INSURANCE	321		FIRST	ST		First
RANDALL C. LUM DDS INC	815		FIRST	ST		First
RANDYS BAR & GRILL INC	725		FIRST	ST		First
RE/MAX GOLD	426		FIRST	ST	5	First
REALTY WORLD ALL SERVICES	555		FIRST	ST	103	First
RMNA ENTERPRISES INC	321		FIRST	ST		First
ROBERTO SCHERILLO'S FINE JEWELRY	560		FIRST	ST	B	First
ROBYN AND COMPANY	101	EAST	H	ST		First
ROMANCING THE HOME	617		FIRST	ST		First
RONALD TOSCH, DDS	118		K	ST		First

ROSANNA'S EUROPEAN DELIGHTS	305		FIRST	ST		First
RUBY REAL ESTATE LLC	560		FIRST	ST		First
SAILOR JACKS	123		FIRST	ST		First
SALLY BABSON - DRESSMAKER	638		FIRST	ST		Second
SANDOVAL'S MEXICAN FOOD	640		FIRST	ST		First
SCOTT STRAWBRIDGE ASSOC. MANAGEMENT	144	E	G	ST		First
SHIROCO'S FUSION DÉCOR	216		FIRST	ST		First
SOLANO REALTY BROKERS INC	513		FIRST	ST		First
SPARROW DENTAL LABORATORY	920		FIRST	ST	204	Second
SPOONFUL OF SUGAR	374		FIRST	ST		First
STATE FARM INSURANCE	560		FIRST	ST		First
STILLWATER ORIENTAL MEDICINE	555		FIRST	ST	D	First
STUDIO 41	700		FIRST	ST	1	First
STUDIO SHANNONHOUSE	430		FIRST	ST	C-107	First
SZECHWAN HOUSE RESTAURANT	500		FIRST	ST		First
TAPIN ALILIN	114		D	ST		First
THE CHILL LLC	362		FIRST	ST		First
THE INN AT BENICIA BAY	145	EAST	D	ST		First
THE LOFT	280		FIRST	ST		First
THE NEST	131		FIRST	ST	C	First
THE RELLIK TAVERN	726		FIRST	ST	2	First
THE STEFFEN COLLECTION	627		FIRST	ST		First
THE UNION HOTEL	401		FIRST	ST		First
THE UNION HOTEL RESTAURANT	401		FIRST	ST		First
THREE CANDLE SHIATSU MASSAGE	555		FIRST	ST		First
TOM CAMBELL, DDS	164	EAST	H	ST		First
TOM WILSON ARCHITECT	920		FIRST	ST		Second
TOMMYE HANSEN'S NAIL SALON	800		FIRST	ST	200	First
TRANQUIL TOUCH	555		FIRST	ST	B110	Second
TRANSHOIST ENGINEERING INC	560		FIRST	ST		First
TRINITY EMCS INC	560		FIRST	ST	4	First
TWIN OAKS REAL ESTATE INC	231		FIRST	ST		First
TWODAYS JEWELRY	612		FIRST	ST		First
VENTICELLOS	911		FIRST	ST		First
VETERANS HOUSE COMMISSION	1150		FIRST	ST		First
WARRING & ASSOCIATES REALTORS	829		FIRST	ST	1	First
WELLNESS WISDOM	827		FIRST	ST		First
WHEELS IN MOTION SKATE SHOP	735		FIRST	ST		First
WORLD PROJECTS CORPORATION	601		FIRST	ST	F	Second
YAN'S DAY SPA	252		FIRST	ST		First
ZEN SPA	435		FIRST	ST	4	First

**PETITION TO THE CITY OF BENICIA
TO FORM THE DOWNTOWN BENICIA BUSINESS IMPROVEMENT DISTRICT**

We petition you to initiate special assessment proceedings to form a Downtown Benicia Business Improvement District in accordance with the Property and Business Improvement District Law of 1994, Streets and Highways Code Section 36600 et seq., for the purpose of undertaking and implementing the Downtown BID as described in the attached summary of the Management District Plan attached hereto as Exhibit A.

Business Name

Business Owner

_____	_____
_____	_____
_____	_____
_____	_____

Owner Representative/Owner Name (printed)

Title

Owner/Representative Signature

Date

A complete copy of the Management District Plan will be furnished upon request. Requests for a complete copy of the Management District Plan should be made to:

Ms. Carson Lambeth
Civitas Advisors Inc.
7700 College Town Drive, Suite 111
Sacramento, CA 95826
(916)325-0604

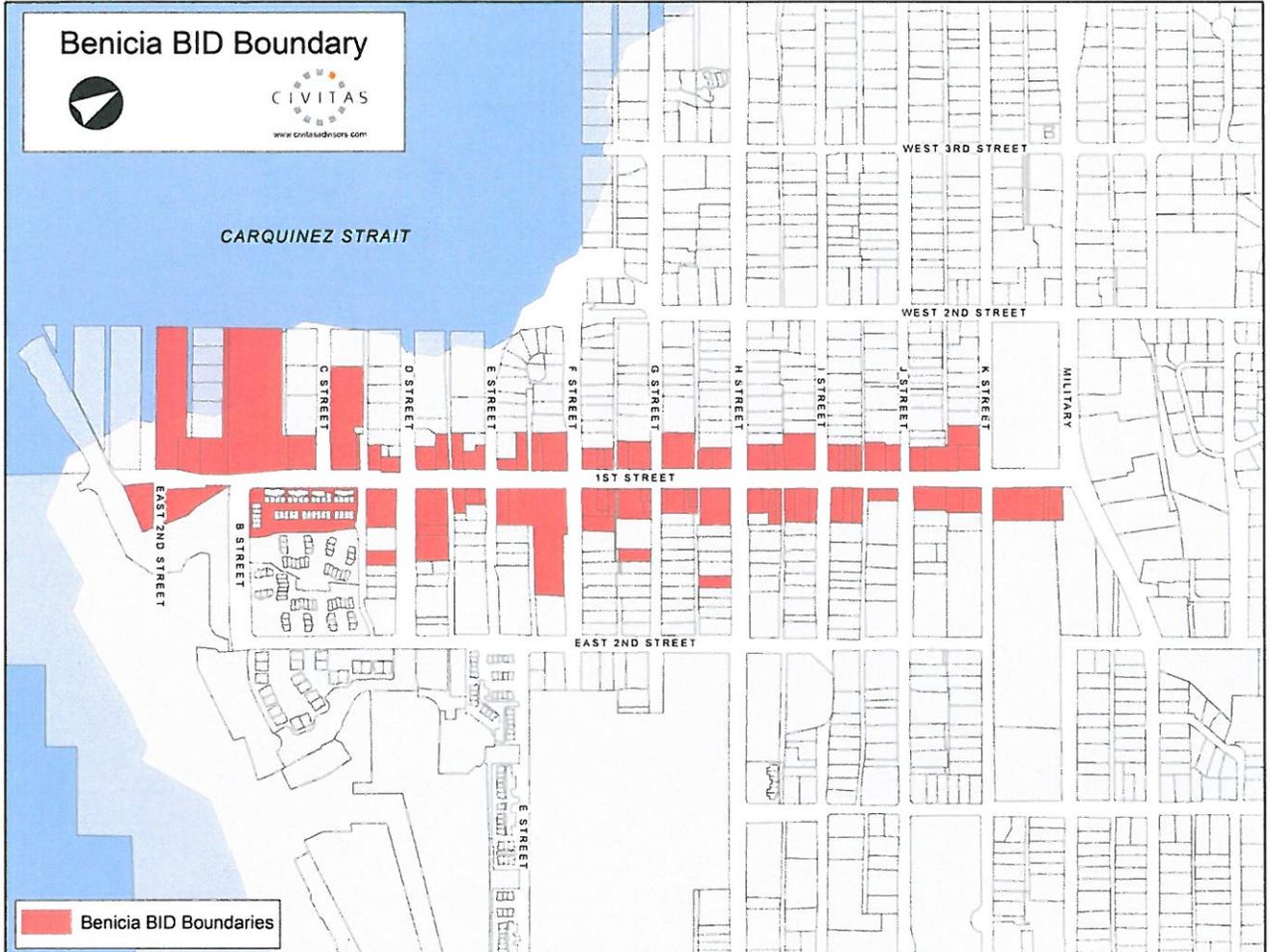
EXHIBIT A

MANAGEMENT DISTRICT PLAN SUMMARY

- Location:** The proposed District includes all businesses fronting First Street between Military and the Carquinez Strait. Businesses located at 117 East F Street, 141 East D Street, 142 East D Street, 144 East D Street, 145 East D Street, 146 East D Street, 120 East G Street, 144 East G Street, 164 East H Street, and will also be included in the district.
- Services:** Street light installation and maintenance, and marketing and promotions to increase commerce in the District for the specific benefit of assessed businesses.
- Budget:** The total District annual budget for each year of its five-year operation is anticipated to be approximately \$34,752.
- Cost:** Annual assessment rates are \$192 per year (\$16 per month) for businesses located on the first floor, and \$60 per year (\$5 per month) for businesses located on the second or higher floors.
- Formation:** BID formation requires submittal of petitions from businesses representing more than 50% of the total annual assessment followed by a City Council hearing and an opportunity for a written protest. The assessed business owners will receive notice of the public hearing by mail. If there is a majority written protest, the BID will not be formed.
- Duration:** The proposed District will have a five-year life. The District assessment will be implemented beginning January 1, 2013 through December 31, 2017. Once per year beginning on the anniversary of the formation of the district there is a 30-day period in which owners paying more than 50% of the assessment may protest and terminate the district.
- Collection:** The District assessment will be implemented beginning January 1, 2013 and will continue for five years through December 31, 2017. The City of Benicia will be responsible for collecting the assessment on an at least quarterly basis (including any delinquencies, penalties and interest) from each business located in the boundaries of the the District. The City shall take all reasonable efforts to collect the assessments from each business. The City of Benicia shall forward the assessments to the Owners' Association.

EXHIBIT A
MANAGEMENT DISTRICT PLAN SUMMARY

District Boundaries



**NOTICE OF PUBLIC MEETING AND PUBLIC HEARING CONCERNING THE
ESTABLISHMENT OF THE BENICIA BUSINESS IMPROVEMENT DISTRICT AND THE LEVY
OF AN ASSESSMENT ON CERTAIN BUSINESSES WITHIN THE DISTRICT**

NOTICE IS HEREBY GIVEN that on October 2, 2012, the City Council (the “Council”) of the City of Benicia (the “City”) adopted a Resolution of Intention to establish the Benicia Business Improvement District (the “BBID”) and to levy an assessment on certain businesses within the BBID as set forth in the attached Resolution of Intention.

NOTICE IS HEREBY FURTHER GIVEN that at 7:00 p.m. on October 16, 2012, at the City of Benicia Council Chambers, 250 East L Street, Benicia, CA 94510, a public meeting shall be held pursuant to Government Code section 54954.6 to allow public testimony regarding the establishment of the BBID and the levy of assessments therein as set forth in the enclosed Resolution of Intention and pursuant to Government Code section 54954.6.

NOTICE IS HEREBY FURTHER GIVEN that at 7:00 p.m. on November 20, 2012, at the City of Benicia Council Chambers, 250 East L Street, Benicia, CA 94510, has been set as the time and place for a public hearing at which time the Council proposes to establish the BBID and to levy the proposed assessment as set forth in the Resolution of Intention.

Boundaries: The proposed District includes all businesses fronting First Street between Military and the Carquinez Strait. Businesses located at 117 East F Street, 141 East D Street, 142 East D Street, 144 East D Street, 145 East D Street, 146 East D Street, 120 East G Street, 144 East G Street, 164 East H Street, and will also be included in the district.

Assessment: The annual assessment rates are \$192 per year for businesses located on the first floor, and \$60 per year for businesses located on the second or higher floors.

Budget: The total BBID annual budget for each year of its five-year operation is anticipated to be approximately \$35,000.

Purpose: The assessments levied for the BBID levied in year one will provide up to \$30,000 for installation of street “twinkle” lights along First Street. In years two through five, the District will maintain the installed lights. In year two, a marketing and promotions program will be implemented. This program will promote the District as a vibrant commercial destination for residents and visitors alike. The purpose of the program will be to specifically benefit assessed businesses by attracting shoppers to increase commercial activity and business revenues. This program may include signage, website development and maintenance, advertising, and special event sponsorships. Marketing and promotions programs will only be provided to assessed businesses within the District. Only assessed businesses will be featured in advertisements,

signage, and on websites. Any special events shall sponsored shall only receive funding to the extent that they specifically benefit the assessed businesses within the District.

Collection: The BBID assessment will be implemented beginning January, 2013 and will continue for five years. The City of Benicia will be responsible for collecting the assessment on an annual basis (including any delinquencies, penalties and interest) from each business located in the boundaries of the BBID.

Protest: Any owner of a business within the proposed BBID that will be subject to the assessment may protest the establishment of the BBID. If written protests are received from the owners of businesses in the proposed BBID who represent 50 percent (50%) or more of the estimated annual assessments to be levied, the BBID shall not be established and the assessment shall not be imposed.

You may mail a written protest to:

Office of the City Clerk
City of Benicia
250 East L Street
Benicia, CA 94510

You may also appear at the public hearing and submit a written protest at that time.

Information: Should you desire additional information about this proposed BBID or assessment contact:

Carson Lambeth
Civitas Advisors
7700 College Town Drive
Sacramento, CA 95826
916-833-6231

Dated: _____

City Clerk

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 2, 2012
BUSINESS ITEMS

DATE : September 25, 2012

TO : City Manager

FROM : Economic Development Manager

SUBJECT : **AWARD OF CONTRACT TO ATG LIGHTING INC. FOR
INSTALLATION AND MAINTENANCE OF DECORATIVE TREE
LIGHTS ON FIRST STREET TREES**

RECOMMENDATION:

Approve by resolution the award of a contract valued at \$80,000 to ATG Lighting Inc, a Walnut Creek Company to install decorative tree lights on the trees on First Street and maintain them for a period of thirteen months.

EXECUTIVE SUMMARY:

Presently First Street Business owners are in the process of forming a business improvement district (BID). The primary benefit of the proposed district is to install decorative lights on the trees located on First Street. In order to install such lights by November 30, 2012 it is necessary for the City to initiate this project because the prospective First Street BID will not be operational until Spring of 2013.

To have the decorative lights installed this season staff is requesting City Council approve a contract with ALG Lighting Inc. to perform this work. The scope of work for this contract requires the purchase and installation of decorative tree lights on 192 trees on First Street and 13 months of maintenance.

GENERAL PLAN:

Relevant General Plan Goals:

Program 2.12.D: Develop public/private partnerships to implement financing mechanisms such as a Business Improvement District to fund capital improvements and repairs to Downtown.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

Strategic Issue 3: Strengthening Economic and Fiscal Conditions

- Strategy #1: Implement Economic Development Strategy
 - Action 1(b): Fund and provide staff support for BID proposal

- Strategy #3: Retain and Attract Business

BUDGET INFORMATION:

The total cost for this contract is valued at \$80,000 and spans two fiscal years. Staff is recommending appropriation of funds from the following Economic Development Accounts:

Fiscal Year 12/13:

ED Account No. 086-0000-3275: \$35,000 .00
 (Monies collected from recent Crown Castle Lease extension)

ED Account 226-2605-8100: \$36,583.80
 (Special ED Account: Loan funds from Intermodal account)

Fiscal Year 13/14:

ED Account 010-2605-8100: \$8,416.20
 (ED Contract Services Account)

On September 4, 2012, City Council approved a lease extension with Crown Castle. In consideration for this lease extension the City received a one-time commencement fee of \$35,000. At that time, staff recommended to Council that these proceeds be applied to the BID effort.

This action is in coordination with the Benicia Business Improvement District effort. When the Benicia Business Improvement District is formed, the assessments shall be collected with the issuance of the Benicia Business License. At that time the BBID shall reimburse the City \$30,000 for the costs of the light installation. As a result the total requested City contribution to this effort, after reimbursement from the BBID has been received, is \$50,000.

BACKGROUND:

On September 12th the City released a request for proposals for the purchase, installation and maintenance of decorative tree lights on approximately 192 trees on First Street. The bid period closed on Tuesday, September 25th. The City received two bids and ranked them in the following order:

Bid Results:

RANK	BIDDER'S NAME AND ADDRESS	Total BASE BID	Maintenance Bid	Base Bid + Maint.
1	ALG Lighting Inc. (Walnut Creek, CA 94598)	\$65,973	\$14,027 (13 months)	\$80,000

2	Republic ITS (West Sacramento, CA 95691)	\$124,150	\$915 per call out	\$124,150 +

The bids are based on the quantities (number of trees and number of lights estimated by staff in the Spring of 2012 and based on a cost estimate developed by Benicia Main Street in 2008. The final contract amount may be adjusted once final material quantities are determined upon completion of work.

In accordance with the contract specifications, the contract should be awarded to the bidder submitting the lowest responsive responsible total bid, which is ALG Lighting Inc. from Walnut Creek California. ALG Lighting Inc. is the company that installed and maintains the lights that decorate the trees in downtown Walnut Creek. Staff recommends that the decorative tree light installation and maintenance contract be awarded to ALG Lighting Inc. in the amount of \$80,000.

The purpose of this requested action is to time the formation of the BBID and the installation of its primary improvement (tree lights) with the City's holiday activities that begin on Friday, November 30, 2012. In order to accomplish this, it is necessary for the City to initiate the project by coordinating and awarding the contract for tree light installation.

If the City did not take action to assist with the implementation of the BBID improvement (installation of decorative tree lights) it would require the BBID to collect assessments for two consecutive years in order for it to have sufficient funds to pay for the costs of installation. As a result decorative lights would not be installed until Fall of 2014 at the earliest. Such a wait could stifle the momentum and enthusiasm that has helped to galvanize so many First Street merchants to form the BBID.

Alternatively, the City could accept the obligation of paying the initial costs for the lights but require more than \$30,000 in reimbursement from the BBID. Like the scenario above this would indebt the BBID for successive years, severely limiting its ability to perform other marketing tasks. In addition such a prolonged period of potential indebtedness could jeopardize the support to form a BBID.

Based on observations and merchant feedback during the development of the BBID, over the course of the last twenty-four months, it is staff's assessment that without the recommended City support to initiate this tree lights contract and the financial contribution of \$50,000, support for the BBID would collapse.

Worth noting is that each year City staff decorates the palm trees on First Street for the Holiday season. The total cost to perform this work, based on staff time and expenses, is \$22,000. Therefore, should the City enter into the contract with ALG Inc, the Parks and Community Services Department would no longer have to bear these expenses.

Notwithstanding the potential savings from the Parks Department, should the City approve this contract there is some risk associated with moving forward with award prior to BBID ratification on November 20th. By awarding the contract on October 2nd there is a possibility, while very remote, that the BBID could still fail to be formed. The financial consequence to the City for such an occurrence would be the full cost of the ALG Lighting Inc. contract.

For the BBID to fail one of two things must occur: either the City Council could vote not to form the BBID, at which point any City Council discussion of this subject is moot; or the City receives, within the next 45 days, written protests from affected business owners representing 50% plus one of the total value of the BBID, approximately 92 business. In order for this to occur many business owners who have already submitted a petition supporting the BBID would have to change their position to oppose it.

This risk must be balanced by the potential reward. On the evening of October 2nd the City Council can “dot the I” of an initiative nearly twenty-five years in the making. The effort to create a business improvement district was first tried in 1989, then again in 1995. Its implementation has been recognized and codified in seven separate City of Benicia policy documents. Additionally, such supportive action on 10/2/12 will create a nearly unstoppable cadence and set-up a most exciting timeline of BBID formation on November 20th and just ten days later, with almost unthinkable speed, the illumination of First Street, coinciding with the lighting of the City Christmas Tree and Holiday Open House. Rarely, does one have an opportunity to make such a dramatic impact.

Taking all these factors into consideration, and weighing most heavily on the incredible work, time and effort invested by First Street merchants to secure over 100 petitions to form the BBID, an effort made that much more impressive when one considers the present economic climate, staff asserts that the recommended action's benefit far exceed the risk.

Like the discussion and action to approve the Resolution of Intent to form a BID, this action benefits the First Street geographic region as well as benefit the soon to be created BBID. For these reasons staff is recommending that those Council members who have property/business interests within this area recues themselves from the discussion and action. Because Council Members

VIII.B.4

Strawbridge, Schwartzman, and Vice Mayor Campbell have property/business interests within 500 feet of the designated BID area, staff recommends that straws be drawn, or a similar game of chance be performed, as deemed appropriate by the City Attorney, to select one member to join Council Member Hughes and Mayor Patterson to act on this item. Since this item is so closely tied to the formation of the BBID, it is recommended that the same member selected to participate in the formation of the BBID participate in this item.

Staff recommends approval of the contract with ALG Lighting Inc. for the Downtown Benicia Tree Lights Project.

Attachments:

- Proposed Resolution
- Exhibit "A" Project Schematic

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING THE BIDS FOR THE DOWNTOWN BENICIA TREE LIGHTS PROJECT, AWARDING THE LIGHT INSTALLATION CONTRACT, INCLUDING THIRTEEN MONTHS OF MAINTENANCE TO ALG LIGHTING INC. OF WALNUT CREEK CALIFORNIA, IN THE AMOUNT OF \$80,000, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONSTRUCTION CONTRACT ON BEHALF OF THE CITY

WHEREAS, on September 12 the City Office of Economic Development released a request for proposals for the Downtown Benicia Tree Lights Project available for public bidding and advertised for proposals and two informal proposals were properly received on September 25th; and

WHEREAS, ALG Lighting Inc. of Walnut Creek California was the lowest, responsive, responsible bidder; and

WHEREAS, ALG Lighting Inc. has a 22 years of business history and a strong professional reputation for the performance of this type of work, providing such service for the Walnut Creek Downtown Business Association; and

WHEREAS, sufficient funds are available in the project budget; and

WHEREAS, this project is categorically exempt under CEQA pursuant to Section 15302(c) of the CEQA guidelines; and

WHEREAS, award of this contract will help to consummate the Benicia Business Improvement District.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby accepts the proposals submitted in response to the City's Request for Proposals awards the contract in the amount of \$80,000 to ALG Lighting Inc. of Walnut Creek California for the Downtown Benicia Tree Lights Project.

BE IT FURTHER RESOLVED THAT the City Manager is hereby authorized to sign the contract on behalf of the City, subject to approval 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 2nd day of October, 2012 and adopted by the following vote.

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

AGREEMENT FOR CONTRACT SERVICES
DOWNTOWN BENICIA TREE LIGHTS PROJECT

This agreement ("Agreement") entered into October____, 2012 is between the City of Benicia, a municipal corporation (hereinafter "CITY"), ALG Lighting Inc. with its primary office located at 712 Bancroft Rd. Suite 523, Walnut Creek, California 94598 (hereinafter "CONTRACTOR") (collectively, "the Parties").

RECITALS

WHEREAS, CITY has determined it is necessary and desirable to secure certain professional services for the purchase of all materials, installation and maintenance of decorative tree lights for approximately 192 trees located on First Street in Benicia. The scope of work for said service (hereinafter "Project") is attached hereto as Exhibit A and hereby incorporated by reference; and

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

WHEREAS, CONTRACTOR 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 CONTRACTOR 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 SERVICES.

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

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

(i) CONTRACTOR and CITY agree that the completion schedule in Exhibit A represents the best estimate of the schedule. CONTRACTOR shall comply with completion dates noted in Exhibit A unless the CITY's project manager grants a written waiver.

(ii) CONTRACTOR shall not be responsible for performance delays caused by others, or delays beyond CONTRACTOR'S control.

(c) Standard of Quality. All work performed by CONTRACTOR 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 CONTRACTOR'S field of expertise. CONTRACTOR shall function as a technical advisor to CITY, and all of CONTRACTOR'S activities under this Agreement shall be performed to the full satisfaction and approval of the City Manager or his designee.

(d) Compliance With Laws. CONTRACTOR shall comply with all applicable federal, state, and local laws, codes, ordinances, regulations, orders, and decrees. CONTRACTOR represents and warrants to CITY that CONTRACTOR 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 CONTRACTOR to practice its profession or are necessary and incident to the due and lawful prosecution of the services it performs under this Agreement. CONTRACTOR shall maintain a City of Benicia business license. CONTRACTOR 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 CONTRACTOR'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 CONTRACTOR for the services rendered hereunder shall be Eighty Thousand (\$80,000) as consideration for the performance of services set forth in Exhibit A; which shall include all services, materials and other reimbursable expenses.

The CITY shall pay the CONTRACTOR for the material and labor for the Installation of Lights (Article 1 of Exhibit A) to be performed under the Contract the sum of Sixty Five Thousand Nine Hundred and Seventy-Three Dollars (\$65,973.00), subject to additions and deductions pursuant to authorized change orders.

Payments of the Contract Price shall be paid in the manner following:

50% (\$32,986.50) Due at contract execution

50% (\$32,986.50) Due upon completion of installation of lights

For the contract services related to monthly maintenance (Article 1.5 of Exhibit A), commencing March 2013 thru December 2013 at a cost of \$1,402.70 per month, which is to be paid by the 1st of the following month of maintenance.

(b) Additional Services. CITY shall make no payment to CONTRACTOR 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) The City Manager is authorized to execute change orders to deduct or add work provided that the total sum of change orders does not exceed \$6,500 total. The prior authorization of the City Council is required to authorize CONTRACTOR to perform additional services.

(ii) CONTRACTOR 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. CONTRACTOR'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 CONTRACTOR believes that any work CITY has directed CONTRACTOR to perform is beyond the scope of this Agreement and constitutes additional services, CONTRACTOR 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 CONTRACTOR 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. CONTRACTOR shall submit monthly invoices for the maintenance 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. 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. Unless otherwise specified, CONTRACTOR shall provide CITY with at least one (1) copy of each work product described in Exhibit A. Upon the completion of each product, CONTRACTOR shall be available to discuss with CITY. If CITY requires additional review and/or revision, CITY shall conduct reviews in a timely manner.

5. TERM OF AGREEMENT. This Agreement shall be effective from October 3, 2012 through December 31, 2013, unless it is amended pursuant to Section 7 or terminated pursuant to Section 6.

6. TERMINATION:

(a) CITY and CONTRACTOR shall have the right to terminate this Agreement for any reason whatsoever at any time by serving upon the other party 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 CONTRACTOR or CITY at the address indicated in Section 11.

(b) If CITY issues a notice of termination,

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

(ii) CONTRACTOR shall deliver to CITY copies of all writings, whether or not completed, which were prepared by CONTRACTOR, 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 and website 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 CONTRACTOR 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 CONTRACTOR'S failure to comply with the terms of this Agreement. Such payment shall be in accordance with Exhibit A. However, if this Agreement is terminated for fault of CONTRACTOR, CITY shall be obligated to compensate CONTRACTOR only for that portion of CONTRACTOR'S services that 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. CONTRACTOR 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 CONTRACTOR to comply with this Agreement and all applicable laws.

10. INDEPENDENT CONTRACTOR. In the performance of the services in this Agreement, CONTRACTOR is an independent contractor and is not an agent or employee of CITY.

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) CONTRACTOR 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, CONTRACTOR agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by CONTRACTOR or CONTRACTOR'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. CONTRACTOR agrees that any and all violation of this provision shall constitute a material breach of the Agreement.

17. INDEMNITY. CONTRACTOR 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, 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 CONTRACTOR shall pay all costs that may be incurred by CITY in enforcing this indemnity, including reasonable attorneys' fees.

18. INSURANCE.

(a) Required Coverage. CONTRACTOR, 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 CONTRACTOR, 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 Minimum.

- | | | |
|-------|--|--|
| (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 |

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

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

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

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

21. TIME OF THE ESSENCE. CONTRACTOR understands and agrees that time is of the essence in the completion of the work and services described in Section 2. **The installation of all tree lights shall be performed no later than 4:00 p.m. on November 30, 2012.**

22. 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.

23. 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.

24. 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.

25. INTEGRATION. This Agreement represents the entire understanding of CITY and CONTRACTOR 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 CONTRACTOR 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.

ALG LIGHTING INC.

CITY OF BENICIA

BY: _____

BY: _____
BRAD KILGER, CITY MANAGER

DATED:

DATED:

APPROVED AS TO FORM

HEATHER C. MC LAUGHLIN, CITY ATTORNEY

EXHIBIT A
SCOPE OF WORK AND SCHEDULE

Article 1: Installation of Lights:

The Contractor shall furnish all of the materials, including lights, extension cords and timers to perform all of the work necessary to install 1450 sets of LED polka-dot white lights over 192 trees in the area specified in the Exhibit B.

Contractor warrants all work for a period of 90 days following completion.

Article 1.5 Maintenance of Lights

The Contractor shall provide a monthly maintenance in the last two weeks of every month commencing December 2012 thru December 2013. (90 day warranty shall cover the months of December 2012, January 2013 and February 2013. Charged monthly maintenance shall begin on March 2013 thru December 2013)

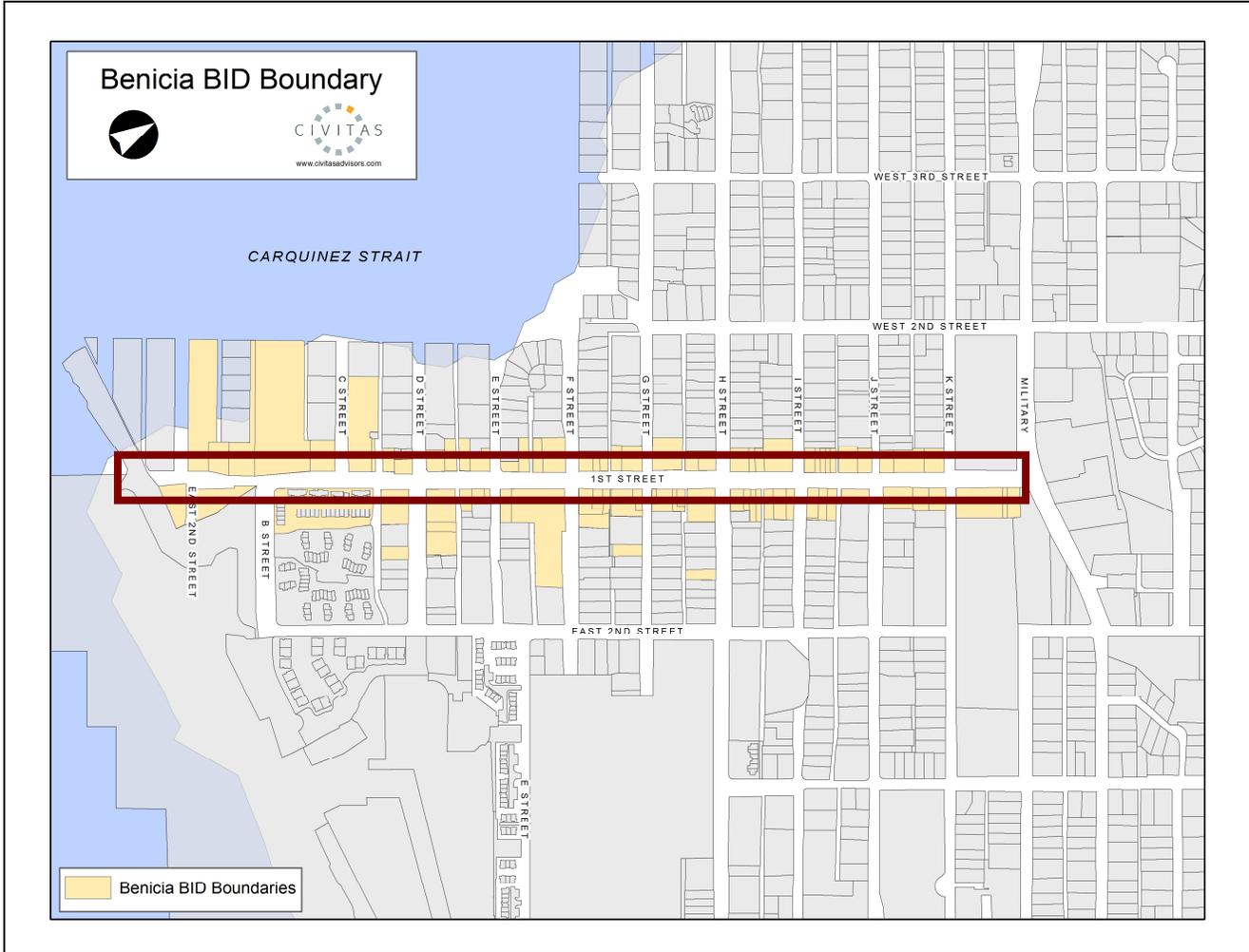
Contractor shall provide routine maintenance on a monthly basis and respond to major issues within 24 hours of notification. (A 24hour response call can also be considered monthly maintenance.)

Maintenance includes repair and/or replacement of all equipment including lights, strands of lights, extension cords, timers and related material whether defective, broken, missing or stolen.

Article 2. Schedule - Time of Completion

The work to be performed under this Contract shall be commenced on or before November 1, 2012, and shall be completed on or before 4:00 p.m. on November 30, 2012. Contractor anticipates the installation process to take approximately 14 days for a crew working 8-hour shifts.

EXHIBIT B
MAP OF PROJECT AREA
TREES WITHIN RED BOX (APPROXIMATELY 192 TREES) TO BE FURNISHED
WITH LIGHTS



Project area includes all street trees lining the east and west sides of First Street, beginning with those trees adjacent to City Park and the Veterans Building to the Palm Trees located nearest the water on First Street.

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 2, 2012
BUSINESS ITEMS

DATE : September 26, 2012

TO : Mayor & City Council

FROM : City Manager

SUBJECT : **REQUEST TO REVISIT DECISION TO CANCEL THE NOVEMBER 6, 2012 CITY COUNCIL MEETING**

RECOMMENDATION:

Consider Vice Mayor Campbell's request to revisit the Council's prior decision to cancel the November 6, 2012 City Council meeting.

EXECUTIVE SUMMARY:

On January 3, 2012, the Council approved the 2012 calendar of regular Council meetings, which included canceling the November 6, 2012 meeting. In recent years, the Council has opted not to meet on council meeting dates that fall on the day of an election, which this year falls on November 6th. At the September 18, 2012 Council meeting, Vice Mayor Campbell requested that the Council revisit this decision and consider meeting on November 6th, since there is not a local election this year.

GENERAL PLAN:

Relevant General Plan Goals:
N/A

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:
N/A

BUDGET INFORMATION:

There is no budget impact associated with this council member request.

Attachment:

- January 3, 2012 City Council Staff Report – Adoption of the 2012 Regular Council Meeting Calendar

AGENDA ITEM
CITY COUNCIL MEETING: JANUARY 3, 2012
CONSENT CALENDAR

DATE : December 28, 2011

TO : City Council

FROM : City Manager

SUBJECT : **ADOPTION OF THE 2012 CITY COUNCIL REGULAR MEETING CALENDAR**

RECOMMENDATION:

Adopt, by motion, the 2012 City Council Regular Meeting Calendar.

EXECUTIVE SUMMARY:

The Open Government Ordinance (Section 4.08.040 of Ordinance No. 05-6) states that each body established by ordinance shall establish and publish an annual schedule of regular meetings. The proposed calendar lists the City Council's regular meeting dates for 2012.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Goal 8.00: Build Organizational Quality and Capacity

BACKGROUND:

Per the City's Open Government Ordinance, the proposed schedule of regular meetings of the City Council for 2012 follows for Council review and approval. As reflected on the attached schedule, it is recommended that the first regular meeting in August be cancelled. In previous years, a City Council meeting has been cancelled during the summer months as business to be addressed is typically lighter during this time of year and residents are more likely to be out of town on vacation. It also provides both Council and staff an opportunity to make vacation plans accordingly, if they wish, as well as giving staff an extra few weeks prior to the next Council meeting to address various projects.

Attachment:

- 2012 City Council Regular Meeting Calendar

2012 City Council Regular Meeting Calendar

All meetings are on a Tuesday beginning at 7:00 p.m. in the Council Chambers at City Hall, unless otherwise noted.

This schedule does not include special City Council meetings, including study sessions. For information on upcoming special meetings, please visit the City's website at www.ci.benicia.ca.us or contact the City Manager's Office at (707) 746-4200.

January

- January 3rd
- January 17th

February

- February 7th
- February 21st

March

- March 6th
- March 20th

April

- April 3rd
- April 17th

May

- May 1st
- May 15th

June

- June 5th
- June 19th

July

- ❑ July 3rd
- ❑ July 17th

August

- ❑ August 7th – No Council Meeting
- ❑ August 21st

September

- ❑ September 4th
- ❑ September 18th

October

- ❑ October 2nd
- ❑ October 16th

November

- ❑ November 6th – Election Day – No Council Meeting
- ❑ November 20th

December

- ❑ December 4th
- ❑ December 18th

