AMENDED

BENICIA CITY COUNCIL
REGULAR MEETING AGENDA

City Council Chambers
November 16, 2010
7:00 PM

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

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

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL.

B. PLEDGE OF ALLEGIANCE.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC.

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

IV. ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

A. ANNOUNCEMENTS.

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

2. **Openings on Boards and Commissions:**

   Sky Valley Open Space Committee:
   One unexpired term to January 31, 2011

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.

B. APPOINTMENTS.

C. PRESENTATIONS.

D. PROCLAMATIONS.

1. **In Recognition of Lung Cancer Awareness Month**

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 (7:20 PM):

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

A. Approval of Minutes for Special and Regular meeting of November 2, 2010. (City Clerk).

B. REDUCTION OF $20,000 FROM ARTS AND CULTURE GRANTEES DURING 2010-11 FISCAL YEAR. (Library Director)

At the September 21, 2010 budget meeting the City Council voted to reduce the Arts and Culture grants for the remainder of the 2010-11 fiscal year by $20,000. The Commission is recommending that this amount be proportionately reduced to each grantee for the 3rd and/or 4th quarters. The Commission recommends that the grantees have the option to reduce the 3rd and 4th quarter payments equally, or take the entire reduction from their 4th quarter payment.

Recommendation: Reduce the amount of the arts grants by $20,000, with reductions to the four current grantees occurring in the 3rd and/or 4th quarter of the 2010-11 Fiscal Year and being reduced proportionate to the amount granted.

C. MILLS ACT CONTRACT FOR 395 WEST J STREET. (Public Works and Community Development Director)

The Mills Act program is a mechanism authorized by the State of California which owners of "Qualified Historical Properties" may use an alternative method of determining property value for property tax purposes. The Historic Preservation Review Commission (HPRC) has reviewed and found that entering into Mills Act contracts for the subject properties would encourage the preservation and rehabilitation of qualified historic properties in Benicia.

Recommendation: Adopt a resolution authorizing the City Manager to enter into a Mills Act Contract with the property owner of 395 West J Street.

D. APPOINTMENT OF AN ACTING CITY MANAGER. (City Attorney)

The City Council has hired a new city manager effective December 13, 2010. The last day for Mr. Erickson, the interim city manager, is November 30th. An acting city manager is needed for the gap between November 30 and December 13. Police Chief Sandra Spagnoli has agreed to fill in on an acting

basis.

Recommendation: Adopt the resolution appointing Police Chief Sandra Spagnoli as acting city manager from December 1 to December 13, 2010 when the new city manager starts work with the City of Benicia.

E. APPROVE THE JULY 1, 2010 TO JUNE 30, 2012 AMENDMENTS TO THE LABOR AGREEMENT WITH POLICE MANAGEMENT EMPLOYEES. (City Manager)

The City concluded negotiations with Police Management Employees on November 2, 2010 and the group has ratified the tentative agreement. Police Management consists of 3 incumbents and is comprised of the Police department mid management employees.
This agreement provides for:

- No salary increases during the term and an ongoing 3.16% salary reduction effective November 1, 2010. Additional one-time reductions in deferred compensation to cover the salary savings that would have occurred in July- October 2010.
- Sets a fixed dollar contribution for the City for employee medical insurance that will help control future City cost increases in benefits.
- Agrees to a new lower retirement tier for new hires that will help control future City cost increases in benefits.
- Provides for a reopener for additional negotiations during the term if additional concessions are determined to be needed.

Recommendation: Adopt the resolution approving the amendments to the July 1, 2010 through June 30, 2012 Labor Agreement with POLICE MANAGEMENT EMPLOYEES.

F. APPROVE THE JULY 1, 2010 TO JUNE 30, 2012 AMENDMENTS TO THE LABOR AGREEMENT BENICIA DISPATCHERS ASSOCIATION. (City Manager)

The City concluded negotiations with BDA on October 20, 2010. BDA consists of 15 incumbents and is comprised of the City's public safety dispatchers, community service officers and animal control officers. This agreement provides for:

- No salary increases during the term and an ongoing amount equal to a 3.16% salary reduction. This salary reduction will occur as an additional employee deduction for medical insurance equal to 5.01% of salary from November 1, 2010 to June 30, 2011 and an ongoing additional employee medical deduction equal to 3.91% of salary effective July 1, 2011. Additionally one-time reductions in their sick leave incentive will be made to cover part of the salary savings that would have occurred in July- October 2010.

- Sets a fixed dollar contribution for the City for employee medical insurance that will help control future City cost increases in benefits.
- Agrees to a new lower retirement tier for new hires that will help control future City cost increases in benefits.
- Provides for a re-opener for additional negotiations during the term if additional concessions are determined to be needed.

Recommendation: Adopt the resolution approving the amendments to the July 1, 2010 through June 30, 2012 Labor Agreement with BENICIA DISPATCHERS ASSOCIATION.

G. CANCELLATION OF THE DECEMBER 21, 2010 CITY COUNCIL MEETING. (City Manager)

In respect of the Holiday season, and to allow the new City Manager time to become familiar with his new role, it is proposed that the Council meeting December 21, 2010 be canceled. There is no known business to be conducted on that date.

RECOMMENDATION: City Council authorize, by motion, cancellation of the December 21, 2010 City Council meeting.

H. DENIAL OF CLAIM AGAINST THE CITY BY WILLIE JOHNSON, JR. AND REFERRAL TO INSURANCE CARRIER. (City Attorney)

Claimant alleges that he fell in front of Estey Real Estate on July 30, 2010 at 1st and J Street. Claimant states when his shoe hit a hole in the sidewalk, it caused him to fall on his face. Claimant's injuries include cut lip and finger, fat lip and fractured dentures.

Recommendation: Deny the claim filed by Willie Johnson, Jr.

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

VIII. PUBLIC HEARINGS (7:40 PM):

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

A. FIRST READING OF AN ORDINANCE AMENDING THE BENICIA FIRE PREVENTION AND LIFE SAFETY CODE. (Fire Chief)

In order to adopt the most recent version of the California Fire Code, an ordinance is required to accommodate local conditions. The 2010 edition of the California Fire Code (2009 International Fire Code as amended by the State of California), regulates and governs the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Benicia. The proposed ordinance will adopt the 2010 edition of the California Fire Code.

Recommendation: Conduct a public hearing and first reading of a proposed ordinance to amend the Benicia Municipal Code by amending the following chapters of Title 8 Health and Safety, Chapter 8.28 pursuant to Statewide code updates and providing for certain amendments required to address local conditions.

B. FIRST READING OF AN ORDINANCE AMENDING THE BENICIA MUNICIPAL CODE TO INCORPORATE BUILDING CODE REVISIONS AND TO ADJUST BUILDING INSPECTION FEES. (Public Works and Community Development Director)

The State of California updates the Building standards every three years. The City then adopts the codes, with certain amendments, to address specific City of Benicia needs.

Recommendation: Conduct a public hearing and first reading of a proposed ordinance to amend the Benicia Municipal Code by amending the following chapters of Title 15 Buildings and Construction pursuant to Statewide code updates and providing for certain amendments required to address local conditions:

New California Residential Code
New California Green Building Standards Code
Chapter 15.04 California Building Code
Chapter 15.08 California Mechanical Code
Chapter 15.12 California Plumbing Code
Chapter 15.16 California Electrical Code
Chapter 15.26 Building Permit and Other Fees

IX. ACTION ITEMS (8:30 PM):

A. UPDATE MILLS ACT PROGRAM GUIDELINES AND ESTABLISH A MONETARY THRESHOLD FOR ANNUAL FUNDING OF THE PROGRAM. (Public Works and Community Development Director)

The Mills Act program is a State of California authorized mechanism by which owners of "Qualified Historical Properties" may use an alternative method of determining property value for property tax assessment purposes. The Mills Act Program encourages the preservation and rehabilitation of qualified historic properties in Benicia.

The Historic Preservation Review Commission (HPRC) has reviewed current program guidelines and recommends City Council approval of amendments, including a monetary threshold for annual funding of the program.

Recommendation: Adopt a resolution to update the Mills Act Program Guidelines and establish a monetary threshold for annual funding of the program.

B. AWARD OF CONSTRUCTION CONTRACT FOR FIRE STATION 12 DORMITORY RENOVATION PROJECT. (Fire Chief)

This Fire Station 12 Dormitory Renovation Project, located at 601 Hasting Drive, will create individual dorm rooms, rectifying existing gender privacy issues. Sufficient funds are available in the Facility Maintenance budget 113-9205-9426 to cover the proposed costs as per the adopted City Budget.

Recommendation: Adopt the resolution accepting the bids for the Fire Station 12 Dormitory Renovation Project awarding the construction contract to Calstroy Construction of San Francisco, California, in the amount of $150,000, and authorizing the City Manager to sign the contract on behalf of the City.

C. CONSIDERATION OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A JOINT POWERS AGREEMENT WITH THE CITY OF VALLEJO AND THE SOLANO TRANSPORTATION AUTHORITY FOR THE CONSOLIDATION OF VALLEJO TRANSIT AND BENICIA BREEZE FIXED ROUTE BUS AND PARATRANSIT SERVICES AND TO TAKE FURTHER IMPLEMENTING ACTIONS. (Finance Director)

In October of 2009, the City Councils of Vallejo and Benicia adopted a resolution entering into a Memorandum of Understanding (MOU) between the two cities and the STA establishing a process to study the feasibility and implementation of a JPA for the consolidation of Vallejo Transit and Benicia Breeze fixed route bus and paratransit services. The MOU also established the Solano County Transit Coordinating Committee, a Management Committee and a Staff Working Committee whose purpose is to guide the consolidation process by formulating the JPA Agreement, the consolidated Budget and the Transition Plan. The Coordinating Committee members are Benicia Mayor Patterson, Vallejo Mayor Davis, Benicia Councilmember Ioakimedes, and

Vallejo Councilmember Hannigan. The Management Committee consists of the Benicia and Vallejo City Managers and the STA's Executive Director. At the July 6, 2010 council meeting, staff presented the results of the group efforts and discussed the benefits and risks related to proceeding (or not) with this proposed JPA. The Vallejo City Council approved the consolidation of the two agencies on October 26, 2010, including approval of the JPA agreement and the Transition Plan, which are attached to the staff report.

RECOMMENDATION: Approve the Resolution authorizing the City Manager to execute a Joint Powers Agreement with the City of Vallejo and the Solano Transportation Authority (STA) to form a new joint powers agency for the consolidation of Vallejo Transit and Benicia Breeze fixed route bus and Paratransit services and authorizing the City Manager to execute documents and take further actions as may be necessary in order to accomplish the goals contemplated by the SolTrans Joint Powers Authority (JPA).

D. REPORT FROM THE ARSENAL SUBCOMMITTEE AND RECOMMENDATION FOR AWARD OF AN AGREEMENT FOR CONSULTING SERVICES FOR THE BENICIA ARSENAL PROJECT. (City Attorney)

With the recent notification from the state Department of Toxic Substances Control that further investigation and remediation is needed for the Benicia Arsenal, the City issued a request for qualifications from legal and technical firms to provide the City support on the project. The Subcommittee will present their recommendation for the selected firm at the meeting. Sufficient funds are available in the City Attorney's budget to cover the initial costs of this agreement.

RECOMMENDATION:
(1) Adopt the Resolution approving a agreement with a firm to be named later for consulting services for the Benicia Arsenal investigation and potential cleanup project and authorizing the City Attorney to sign the contract on behalf of the City; and
(2) Place a standing item on the Council's agenda for a report on the Arsenal.

X. INFORMATIONAL ITEMS (9:30 PM):

A. City Manager Reports.

1. Policy Calendar Updates. (City Manager)

A verbal report will be provided by the City Manager.

Recommendation: Hear the verbal report and provide direction.

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

1. **Mayor's Committee Meeting. (Mayor Patterson)**
   Next Meeting Date: November 17, 2010

2. **Association of Bay Area Governments (ABAG). (Mayor Patterson and Council Member Ioakimedes)**
   Next Meeting Date: TBD

3. **Finance, Audit and Budget Committee. (Vice Mayor Schwartzman and Council Member Campbell)**
   Next Meeting Date: November 17, 2010

4. **League of California Cities. (Mayor Patterson and Vice Mayor Schwartzman)**
   Next Meeting Date: Legislative Briefings - November 16, 2010

5. **School Liaison Committee. (Council Members Ioakimedes and Hughes)**

6. **Sky Valley Open Space Committee. (Council Members Campbell and Hughes)**
   Next Meeting Date: February 2, 2011

7. **Solano EDC Board of Directors. (Mayor Patterson and Council Member Campbell)**
   Next Meeting Date: November 18, 2010

8. **Solano Transportation Authority (STA). (Mayor Patterson and Council Member Ioakimedes)**
   Next Meeting Date: December 8, 2010

9. **Solano Water Authority-Solano County Water Agency and Delta Committee. (Mayor Patterson and Vice Mayor Schwartzman)**
   Next Meeting Date: December 9, 2010

10. **Traffic, Pedestrian and Bicycle Safety Committee. (Council Members Hughes and Ioakimedes)**
    Next Meeting Date: January 20, 2011

11. **Tri-City and County Regional Parks and Open Space. (Council Members Campbell and Hughes)**
    Next Meeting Date: December 13, 2010

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

13. **Youth Action Coalition. (Vice Mayor Schwartzman and Council Member Campbell)**
    Next Meeting Date: December 1, 2010

14. **ABAG-CAL FED Task Force-Bay Area Water Forum. (Mayor Patterson)**
    Next Meeting Date: December 6, 2010

XI. ADJOURNMENT (10:00 PM):

Public Participation

The Benicia City Council welcomes public participation.

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

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

Disabled Access

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

Meeting Procedures

All items listed on this agenda are for Council discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the City Council.

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

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

Public Records

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

SERVING AND ENHANCING OUR COMMUNITY WITH CARE, COMMITMENT AND PRIDE

THE CITY OF BENICIA CALIFORNIA

PROCLAMATION

LUNG CANCER AWARENESS MONTH

NOVEMBER 2010

WHEREAS, lung cancer is still the leading cause of cancer death in both men and women in the United States and the World; and

WHEREAS, more than half of newly diagnosed cases this year will be found in people who no longer smoke or have never smoked; and

WHEREAS, there is still a great need for vast improvement in the rate of early detection of lung cancer to increase prompt treatment; and

WHEREAS, early detection and treatment increases the cure and survival rate among both men and women; and

WHEREAS, lung cancer kills more people annually than breast, colon, liver, melanoma and prostrate cancers combined. Only 15% of individuals with lung cancer survive more than five years; and

WHEREAS, there is a critical need for increased research funding for the most stigmatized and ignored cancer – lung cancer; and

WHEREAS, other cancer deaths have declined in recent years, lung cancer is still on the rise, more research and early detection is needed for this number one cancer killer so that it can be eradicated and a cure found quickly.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor of the City of Benicia**,** on behalf of the City Council, do hereby recognize the need to increase the awareness of lung cancer in our community and hereby proclaim November 2010 as Lung Cancer Awareness Month.

CITY OF BENICIA CALIFORNIA

_____

Elizabeth Patterson, Mayor
November 16, 2010

IV.D.1.2

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
November 02, 2010

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

I. CALL TO ORDER:

Mayor Patterson called the meeting to order at 5:30 p.m.

II. CONVENE OPEN SESSION:

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Heather McLaughlin led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC:

III. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

B. PUBLIC COMMENT

None

V. CLOSED SESSION:

Heather McLaughlin read the announcement of Closed Session.

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code Section §54956.8)
City owned property (City of Benicia Park Road Right of Way between Stone Road and East Second Street, i.e., the location of the "Nationwide" sign)

Negotiating parties: City Manager and Economic Development Manager - Instruction to negotiator on price and terms of payment.

B. CONFERENCE WITH LABOR NEGOTIATOR (Government Code Section 54957.6 (a))
Agency negotiators: Council Subcommittee, City Manager, Administrative Services Director

Employee organizations: City Manager, Local #1, Benicia Public Service Employees' Association (BPSEA), Police Officers Association (BPOA), Benicia Firefighters Association (BFA), Benicia Dispatchers Association (BDA), Police Management, Unrepresented.

C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Subdivision (b) of Government Code Section 54957)

Title: City Manager

D. PUBLIC EMPLOYEE APPOINTMENT (Government Code Section 54957(b))

Employee: City Manager

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

Number of potential cases: 1

VI. ADJOURNMENT:

Mayor Patterson adjourned the meeting to Closed Session at 5:32 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
November 02, 2010

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

I. CALL TO ORDER:

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

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Rick Knight led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC:

IV. ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

A. ANNOUNCEMENTS

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

Ms. McLaughlin announced that Council met to discuss five items: Council did not hear item V.A, Item V.B - Council received information from Staff, Item V.C - Council received information from Staff, V.D - Council received information from Staff, and item V.E - Council gave direction to Staff.

2. Openings on Boards and Commissions:

Sky Valley Open Space Committee:
One unexpired term to January 31, 2011

3. Mayor's Office Hours:

B. APPOINTMENTS

1. Appointment of Michael T. Clarke to the Finance, Audit and Budget Committee for an unexpired term to January 31, 2013.

On motion of Mayor Patterson Council adopted the Resolution, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, Ioakimedes
Noes: (None)

RESOLUTION 10-142 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF MICHAEL T. CLARKE TO THE FINANCE, AUDIT & BUDGET COMMITTEE FOR AN UNEXPIRED TERM ENDING JANUARY 31, 2013

2. Appointment of Anthony Shannon to the Open Government Commission for an unexpired term to January 31, 2013.

On motion of Mayor Patterson Council adopted the Resolution, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, Ioakimedes
Noes: (None)

RESOLUTION 10-143 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF ANTHONY SHANNON TO THE OPEN GOVERNMENT COMMISSION FOR AN UNEXPIRED TERM ENDING JANUARY 31, 2013

C. PRESENTATIONS

D. PROCLAMATIONS

1. In Recognition of Steve Schueler

2. Welcoming Dario Caracappa to Benicia

V. ADOPTION OF AGENDA:

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

Mr. Erickson confirmed there were no changes to the Agenda.

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

Mayor Patterson stated there was one item: a revision to a staff report that was placed on the dias as well as the back table.

B. PUBLIC COMMENT

None

VII. CONSENT CALENDAR:

On motion of Council Member Hughes, seconded by Council Member Ioakimedes, Council adopted the Consent Calendar, as amended, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, Ioakimedes
Noes: (None)
Council pulled items VII-C, VII-D, and VII-E.

A. Approval of Minutes for Special Meetings of October 12, 2010 and October 19, 2010, and Regular Meeting of October 19, 2010

On motion of Council Member Hughes, seconded by Council Member Ioakimedes, Council approved the Minutes, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, Ioakimedes
Noes: (None)

B. GRANTING OF AUTHORITY TO THE CITY TREASURER FOR DEPOSITING AND WITHDRAWING OF CITY MONIES IN THE LOCAL AGENCY INVESTMENT FUND

RESOLUTION 10-144 - A RESOLUTION AUTHORIZING INVESTMENT OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND
On motion of Council Member Hughes, seconded by Council Member Ioakimedes, Council adopted the Resolution, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, Ioakimedes
Noes: (None)

C. REVIEW AND ACCEPTANCE OF THE INVESTMENT REPORT FOR THE QUARTER ENDED JUNE 2010

Council Member Ioakimedes discussed the investment-earning chart on page VII-C-5. He and Staff discussed the change to the report (per handout - copy on file).
On motion of Vice Mayor Schwartzman, seconded by Council Member Ioakimedes, Council accepted the investment report for the quarter ending June 2010, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, Ioakimedes
Noes: (None)

D. APPROVE THE JULY 1, 2010 TO JUNE 30, 2012 AMENDMENTS TO THE LABOR AGREEMENT WITH PUBLIC EMPLOYEES UNION, LOCAL #1

RESOLUTION 10-145 - A RESOLUTION APPROVING THE JULY 2, 2010 TO JUNE 30, 2012 AMENDMENTS TO THE LABOR AGREEMENT WITH PUBLIC EMPLOYEES UNION, LOCAL 1

Jim Erickson, City Manager, reviewed the staff report.

Public Comment:

Rick Ernst - Mr. Ernst discussed concerns regarding the Memorandum of Understanding. He discussed concerns regarding sick time, PTO, and vacation accrual. He was not sure if 3.5 % was sufficient enough of a decrease in pay. He also discussed concerns regarding the amount of salary and benefits the City pays its employees.

Larry Fullington - Mr. Fullington discussed concern regarding the salary and benefit costs to the City, and why the City did not ask its employees for a larger pay cut.

Council Member Ioakimedes discussed the current status of the City's reserve fund. He was concerned about the inflammatory statements being made regarding bankruptcy.

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

E. APPROVE THE SALARY AND BENEFITS FOR UNREPRESENTED CONFIDENTIAL EMPLOYEES

RESOLUTION 10-146 - A RESOLUTION APPROVING SALARY AND BENEFITS FOR UNREPRESENTED EMPLOYEES

Public Comment:

Rick Ernst - Mr. Ernst discussed concerns regarding the issue of bankruptcy, the City's reserve fund, and concern regarding the cities that the City of Benicia is being compared to for benchmarks.

Council Member Campbell clarified budget information for the City of Yucaipa, as quoted by Mr. Ernst.

Council Member Ioakimedes clarified information in the proposed agreement regarding salary increases and salary surveys.

Staff discussed the City's reserve funds with respect to salaries, and other budget adjustments. The City has a balanced budget at this time.

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

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

VIII. PUBLIC HEARINGS:

IX. ACTION ITEMS:

A. APPOINTMENT OF NEW CITY MANAGER

RESOLUTION 10-147 - A RESOLUTION APPOINTING A CITY MANAGER

Mayor Patterson reviewed the staff report.

Public Comment:

Rick Ernst - Mr. Ernst discussed concern regarding the salary the new city manager will be paid. He suggested looking for someone who was a basic manager.

Citizen - the citizen discussed language in the city manager's contract addressing early exit from his contract and clarification on retirement benefits.

Council Member Hughes discussed comments made by Mr. Ernst regarding the required skill set for a city manager.

Council Member Campbell discussed the process Council went through in choosing the new city manager.

Mayor Patterson discussed the detailed and lengthy process Council went through in choosing the new city manager.

On motion of Council Member Hughes, seconded by Vice Mayor Schwartzman, Council adopted the Resolution, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Hughes, Ioakimedes
Noes: Campbell

X. INFORMATIONAL ITEMS:

A. City Manager Reports

XI. COUNCIL MEMBERS REPORTS:

XII. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 8:14 p.m.

VII.A.8

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 16, 2010
CONSENT CALENDAR

DATE : October 21, 2010

TO : City Manager

FROM : Library Director

SUBJECT : **REDUCTION OF $20,000 FROM ARTS AND CULTURE GRANTEES DURING 2010-11 FISCAL YEAR**

RECOMMENDATION:
Reduce the amount of the arts grants by $20,000, with reductions to the four current grantees occurring in the 3rd and/or 4th quarter of the 2010-11 Fiscal Year and being reduced proportionate to the amount granted.

EXECUTIVE SUMMARY:
At the September 21, 2010 budget meeting the City Council voted to reduce the Arts and Culture grants for the remainder of the 2010-11 fiscal year by $20,000. The Commission is recommending that this amount be proportionately reduced to each grantee for the 3rd and/or 4th quarters. The Commission recommends that the grantees have the option to reduce the 3rd and 4th quarter payments equally, or take the entire reduction from their 4th quarter payment.

BUDGET INFORMATION:

Below is a summary on the amount of reductions for each grantee:

Grantee	Amount of grant (annual)	% of grant funds	Total reduction
Arts Benicia	**$65,000**	**64.76%**	**$12,951**
Benicia Community Arts	**$12,700**	**12.65%**	**$2,531**
Benicia Old Town Theater Group	**$10,675**	**10.64%**	**$2,127**
Benicia Performing Arts	**$12,000**	**11.96%**	**$2,391**
Total	*$100,375*	*100.00%*	*$20,000*

SUMMARY:

The Arts and Culture Commission feels that reducing the grants proportionately is the fair way to handle this reduction. Giving the grantees the option on how they want the reduction spread out over the last two quarters of the fiscal year will allow them the opportunity of controlling their budget.

VII.B.2

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 16, 2010
CONSENT CALENDAR

DATE : November 16, 2010

TO : City Manager

FROM : Public Works and Community Development Director

SUBJECT : **MILLS ACT CONTRACT FOR 395 WEST J STREET**

RECOMMENDATION:
Adopt a resolution authorizing the City Manager to enter into a Mills Act Contract with the property owner of 395 West J Street.

EXECUTIVE SUMMARY:
The Mills Act program is a mechanism authorized by the State of California which owners of "Qualified Historical Properties" may use an alternative method of determining property value for property tax purposes. The Historic Preservation Review Commission (HPRC) has reviewed and found that entering into Mills Act contracts for the subject properties would encourage the preservation and rehabilitation of qualified historic properties in Benicia.

BUDGET INFORMATION:
The City of Benicia receives approximately 26% of the property taxes collected on parcels in the City. An approved Mills Act contract would reduce this percentage of property taxes collected from the subject property. Based on data available on the Solano County Tax Assessor's website, the City will receive approximately $1,720 during the 2010/11 tax year from 395 West J Street. Should this Mills Act contract be approved, the City will receive approximately $480 per year, which is an estimated annual loss of $1,240.

The City Council authorized up to $30,000 annually in staff costs and City property tax rebates for Mills Act contracts for Fiscal Years 2003-05 with future contracts to be approved on a case-by-case basis.

The staff cost to process each Mills Act application is approximately $1,350, which is partially offset by the Mills Act application fee of $550. Annual inspection and reporting incurs another $150 in staff time per contract per year. Total program costs to date are summarized below and detailed in Attachment 1 (Mills Act Program Costs).

	ANNUAL REVENUE LOSS	ANNUAL INSPECTION COSTS
30 Existing Contracts	$27,805	$4,500
Proposed Contract	$1,240	$150
TOTAL:	**$29,045**	**$4,650**

The 30 existing contracts have resulted in an annual loss of tax revenue to the City in the amount of $27,805, with additional annual inspection costs of $4,500, for a total program annual cost of $32,305.

If approved, the proposed contract would result in an additional annual loss of tax revenue to the City in the amount of $1,240, with additional annual inspection cost of $150, for a total program annual cost of $33,695.

GENERAL PLAN:
Relevant General Plan Policies and Programs:

- Goal 3.1: Maintain and enhance Benicia's historic character
  - Program 3.1.A: Continue to maintain a current inventory of historic and architectural resources in the city
- Policy 3.1.6: Promote restoration of public and privately owned historic and architecturally significant properties.
  - Program 3.1.G: Develop a program for property tax incentives.

STRATEGIC PLAN:
Relevant Strategic Plan Issues and Strategies:

There are no strategic plan issues and strategies that pertain to these residential historic preservation proposals in the Downtown Historic Overlay District.

BACKGROUND:
In October 2002, City Council approved the establishment of the City of Benicia Mills Act Program and adopted criteria and procedures for implementation of the program (although two contracts had been approved prior to 2002). Council set the maximum annual program cost at $30,000 for Fiscal Years 2003-05, intending that up to $30,000 in new contracts (including staff costs) could be approved each year. However, it was not expected that the total amount would be reached by 2005 based on citizen demand for the program at that time.

In December 2007, City Council discussed the program costs and revenue loss to the City. Although there was discussion regarding the possibility of setting a limit on the cost and revenue loss, no formal direction was given to staff. Mills Act contracts continue to be approved on a case-by-case basis.

Attachments:

- Mills Act Program Costs
- Proposed Resolution for 395 West J Street
- Draft Mills Act Contract including Exhibit B (Secretary of the Interior Standards for Rehabilitation) and Exhibit C (Work Plan)
- HPRC Resolution 10-9(HPRC) recommending City Council approval of Mills Act contract for 395 West J Street

VII.C.4

City of Benicia Mills Act Program Costs

The Mills Act contracts will reduce the property tax paid by these properties. The City of Benicia receives approximately 26% of the property taxes collected on parcels in the City.

PROPERTY ADDRESS	DATE ENTERED INTO	BASE PROPERTY VALUE (to be updated)	PROPERTY TAX WITHOUT CONTRACT (1%)	CITY PROPERTY TAX REVENUE (26% OF PROPERTY TAX)	REASSESSED MILLS ACT PROPERTY VALUE (as of 2010)	PROPERTY TAX WITH CONTRACT* (1%)	CITY PROPERTY TAX REVENUE OF REASSESSED VALUE (26% OF PROPERTY TAX)	FAIR MARKET VALUE (AS OF 1/1/10) *to be provided by Solano County*	ESTIMATED TAX SAVINGS*	LOSS OF CITY REVENUE*
EXISTING CONTRACTS:										
245 West K Street** - **M**	11/7/90	$1,255,877	$12,558.77	$3,265.28	$179,310	$1,793.10	$466.21	$893,000	$10,766	$2,799
235 East L Street**	6/11/90	$1,201,877	$12,019	$3,125	$225,882	$2,259	$587	$645,000	$9,760	$2,538
230 West K Street	10/22/04	$446,888	$4,469	$1,162	$155,402	$1,554	$404	$635,000	$2,915	$758
121 West J Street - **M**	12/3/04	$344,401	$3,444	$895	$176,011	$1,760	$458	$612,000	$1,684	$438
185 East D Street - **M**	11/9/04	$299,025	$2,990	$777	$119,540	$1,195	$311	$604,000	$1,795	$467
251 West J Street - **M**	12/17/04	$246,998	$2,470	$642	$86,667	$867	$225	$442,000	$1,603	$417
401 First Street	10/15/04	$946,442	$9,464	$2,461	$931,765	$9,318	$2,423	$1,300,000	$147	$38
166 West H Street	12/17/04	$760,000	$7,600	$1,976	$188,203	$1,882	$489	$650,000	$5,718	$1,487
123 West D Street - **M**	12/27/05	$675,378	$6,754	$1,756	$107,586	$1,076	$280	$637,000	$5,678	$1,476
1063 Jefferson Street - **M**	5/24/05	$343,664	$3,437	$894	$209,195	$2,092	$544	$1,000,000	$1,345	$350
125 East I Street	12/20/06	$438,178	$4,382	$1,139	$179,310	$1,793	$466	$434,000	$2,589	$673
159 West G Street - **M**	10/30/06	$383,217	$3,832	$996	$131,494	$1,315	$342	$518,000	$2,517	$654
163 West J Street - **M**	10/30/06	$291,875	$2,919	$759	$89,655	$897	$233	$311,000	$2,022	$526
149 West G Street - **M**	10/30/06	$548,760	$5,488	$1,427	$89,655	$897	$233	$435,000	$4,591	$1,194
145 East I Street	10/30/06	$401,000	$4,010	$1,043	$65,747	$657	$171	$399,000	$3,353	$872
141 West H Street - **M**	12/18/07	$405,756	$4,058	$1,055	$114,811	$1,148	$299	$482,000	$2,909	$756
120 West D Street	12/18/07	$338,130	$3,381	$879	$129,163	$1,292	$336	$444,000	$2,090	$543
1025 West Second Street	12/18/07	$312,120	$3,121	$812	$77,647	$776	$202	$369,000	$2,345	$610
140 East G Street	12/18/07	$326,835	$3,268	$850	$234,131	$2,341	$609	$679,000	$927	$241
392-396 East H Street	12/18/07	$376,478	$3,765	$979	$185,308	$1,853	$482	$300,000	$1,912	$497
224 West I Street	12/18/07	$610,000	$6,100	$1,586	$133,333	$1,333	$347	$623,000	$4,767	$1,239
242 West I Street	12/18/07	$550,000	$5,500	$1,430	$109,091	$1,091	$284	$374,000	$4,409	$1,146
171 West H Street	12/18/07	$632,540	$6,325	$1,645	$93,939	$939	$244	$442,000	$5,386	$1,400
270 West H Street	12/18/07	$1,300,000	$13,000	$3,380	$179,310	$1,793	$466	$644,000	$11,207	$2,914
441 West J Street	12/18/07	$649,000	$6,490	$1,687	$101,609	$1,016	$264	$477,000	$5,474	$1,423
271 West J Street	12/02/08	$299,269	$2,993	$778	$121,203	$1,212	$315	$502,000	$1,781	$463
141 West F Street	12/02/08	$223,121	$2,231	$580	$149,425	$1,494	$389	$612,000	$737	$192
155 West J Street	12/02/08	$189,717	$1,897	$493	$65,747	$657	$171	$408,000	$1,240	$322
182 East I Street	12/9/2009	$403,929	$4,039	$1,050	$109,082	$1,091	$284	$404,000	$2,948	$767
1101 West Second Street	12/9/2009	$390,440	$3,904	$1,015	$157,564	$1,576	$410	$654,000	$2,329	$605
	TOTAL VALUE:	**$15,590,915**	**$155,909**	**$40,536**	**$4,896,785**	**$48,968**	**$12,732**	**$16,929,000**		
EXISTING CONTRACTS TOTAL:									**$106,941**	**$27,805**
EXISTING CONTRACTS ANNUAL COSTS:	($150 per contract for annual inspections)									$4,500
2010 CONTRACTS PROPOSED:										
395 West J Street (estimated #s)		$390,591	$6,616	$1,720	TBD	$1,847	$480		$4,769	$1,240
2010 CONTRACTS TOTAL:									$4,769	$1,240
2010 CONTRACTS STAFF COSTS:	($1350 per application)									$1,350
2010 CONTRACTS ANNUAL STAFF COSTS:	($150 per contract for annual inspections)									$150
CONTRACTS TOTAL (EXISTING AND PROPOSED):									**$111,710**	**$29,045**
CONTRACTS ANNUAL STAFF COSTS TOTAL (EXISTING AND PROPOSED):										**$4,650**

* Tax savings are estimates and subject to change annually

** Prior to 2003 City Council program authorization

M - Maintenance Only contract

VII.C.6

RESOLUTION NO. 10-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA DIRECTING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A MILLS ACT CONTRACT FOR 395 WEST J STREET IN THE CITY OF BENICIA

WHEREAS, the General Plan is the guiding land use and development document of the City of Benicia; and

WHEREAS, General Plan Goal 3.1 is to maintain and enhance Benicia's historic character and General Plan Policy 3.1.6 to promote restoration of public and privately-owned historic and architecturally significant properties; and

WHEREAS, the Benicia City Council adopted Resolution No. 03-12 approving the implementation of a Mills Act program in the City of Benicia; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on September 23, 2010, recommended approval of the proposed Mills Act Contract and adopted Resolution 10-9; and

WHEREAS, the City has determined that this project is exempt from the California Environmental Quality Act pursuant to Section 15331, which states that modifications to historic structures consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties are categorically exempt from further CEQA review; and

WHEREAS, the City Council at a regular meeting on November 16, 2010, considered public comment and reviewed the proposed Mills Act contract.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Benicia finds that:

a) The Mills Act contract for the specified property is consistent with General Plan Goal 3.1 and General Plan Policy 3.1.6 because it will require that the property be well maintained to better enhance and preserve the Downtown Historic District.

b) The Mills Act contract for the specified property will help preserve this listed historic resources for the City of Benicia.

BE IT FURTHER RESOLVED that the City Council directs the City Manager to negotiate and execute a Mills Act contract, subject to the review and approval as to form by the City Attorney, with the property owners of 395 West J Street.

* * * *

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 16th day of November, 2010 and adopted by the following vote:

Ayes:
Noes:
Absent:
Abstain:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

WHEN RECORDED, RETURN TO:

CITY OF BENICIA
250 East L Street
Benicia, CA 94510
Attention: City Clerk

HISTORICAL PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of November, 2010, by and between the CITY OF BENICIA, a municipal corporation (hereinafter referred to as the "City"), and Kathleen Keady (hereinafter referred to as the "Owner").

WITNESSETH

A. Recitals

1. California Government Code Sections 50280, et seq. allow cities the discretion to enter into contracts with the owners of qualified historical properties, as the term is defined by Government Code Section 50280.1, for the purpose of restricting development of its cultural and historic significance and continuing maintenance of the historical property;

2. Owner possess fee title in and to that certain real property, together with associate structures and improvements thereon, located at the street address 395 West J Street, Benicia, CA 94510 (hereinafter, shall be referred to as the "the Historical Property"). A legal description of the Property is attached hereto and incorporated herein by this reference as Exhibit A;

3. On November 16, 2020 the City Council of the City of Benicia adopted Resolution No. 10-XXX thereby declaring its intention to enter into this Historic Property Preservation Agreement.

4. City and Owner, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of cultural and historical significance of the Property and to qualify the Property for an assessment of valuation pursuant to the provisions of Article 1.9, Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code

B. Agreement

NOW, THEREFORE, City and Owner, in consideration of the mutual promises, covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on January 1, 2010 and shall remain in effect for a term of (10) years thereafter. Each year, upon the anniversary of the effective date of this Agreement (hereinafter "renewal date"), one (1) year shall automatically be added to the term of the Agreement, unless timely notice of nonrenewal, as provided in paragraph 2, is given. If either City or Owners serves notice to the other of nonrenewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.

2. Notice of Nonrenewal. If City or Owner desires in any year not to renew the Agreement, that party shall serve written notice of nonrenewal in advance of the annual renewal date of the contract as follows: (1) Owner must serve written notice of nonrenewal at least ninety (90) days prior to the renewal date or (2) City must serve written notice within sixty (60) days prior to the renewal date. Owner may make a written protest of the notice. City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice of nonrenewal to Owner.

3. Valuation of Historical Property. During the term of this Agreement, Owner is entitled to seek assessment of valuation of the Historical Property pursuant to the provisions of Article 1.9, Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

4. Standards for Historical Property. During the term of this Agreement, the Property shall be subject to the following conditions, requirements and restrictions:

   a) Owner shall preserve and maintain the characteristics of cultural and historical significance of the Property in accordance to the Secretary of the Interiors Standards for Rehabilitation and the minimum maintenance standards, identified in Exhibit "B", attached hereto, which shall apply to the property throughout the term of this Agreement. New additions, exterior alterations, or related new

construction shall comply with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings.

5. Inspections and Annual Reporting. Owners agrees to permit the periodic examination, by prior appointment, of the interior and exterior of the Historic Property by the County Assessor, the State Department of Parks and Recreation, the State Board of Equalization and the City as may be necessary to determine Owners' compliance with the terms and provisions of this Agreement. Owners agree to provide the City with a report as to the status of the Historic Property annually and when any improvements or changes have been made.

6. Provision of Information. Owners hereby agree to furnish City with any and all information requested by City, which City deems necessary or advisable to determine compliance with the terms and provisions of this Agreement.

7. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Section 50285 may cancel this Agreement if it determines that Owners have breached any of the conditions of the Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines that Owners have failed to restore or rehabilitate the Historical Property in the manner specified in paragraph 4 of this Agreement.

   In the event of cancellation, Owner shall be subject to payment of those cancellation fees set forth in California Government Code Sections 50280 et seq., described herein. Upon cancellation, Owners shall pay a cancellation fee of twelve and one-half percent (12 1/2%) of the current fair market value of the Historic Property at the time of cancellation, as determined by the county assessor as though the Historic Property were free of any restrictions pursuant to this Agreement.

8. Enforcement of Agreement. In lieu of any provisions to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default, under the provisions of this Agreement by Owner, City shall give written notice to Owner by registered or certified mail addressed to the address stated in the Agreement, and if such a

violation is not corrected to the reasonable satisfaction of City within thirty (30) days thereafter, or if not corrected within such a reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days provided that acts to cure the breach or default may be commenced within (30) days and must thereafter be diligently pursued to completion by Owner, then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owner growing out of the terms of this Agreement, apply to any violation by Owner or apply for such other relief as may be appropriate.

9. Waiver. City does not waive any claim of default by Owner if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

10. Binding Effect of Agreement. Owner hereby subject the Historical Property described in Exhibit A hereto to the covenants, reservations and restrictions as set forth in this Agreement. City and Owners hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owners' successors and assigns in title or interest to the Historical Property.

    Each and every contract, deed or other instrument hereinafter executed, governing or conveying the Historical Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

    City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that it restricts development of the Historic Property. City and Owners hereby further declare their understanding and intent that the benefit of such covenants,

reservations and restrictions touch and concern the land by enhancing and maintaining the cultural and historic characteristics and significance of the Historic Property for the benefit of the public and Owner.

11. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below, or at any other address as may be later specified by the parties hereto.

City: City of Benicia
250 East L Street
Benicia, California 94510

Owner: Kathleen Keady
395 West J Street
Benicia, CA 94510

12. General Provisions

a. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.

b. Owner agrees to and shall hold City and its elected officials, officers, agents and employees harmless from liability for damage or claims which may arise from the direct or indirect use or operations of Owner or those of their contractor, subcontractor, agenda, employee or other person acting on his/her behalf which relates to the use, operation and maintenance of the Historic Property and from any injury to property caused by the restrictions on development of the Historical Property from application or enforcement of the City's Historical Preservation Ordinance or from the enforcement of this Agreement. Owner hereby agrees to and shall defend the City and its elected officials, officers, agents and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owners' activities in connections with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations

referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historical Property.

c. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

d. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

e. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

f. This Agreement shall be constructed and governed in accordance with the laws of the State of California.

13. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause the Agreement to be recorded in the office of the County Recorder of the County of Solano.

14. Notice to State Office of Historic Preservation. The Owner or Agent of the Owner shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of the date of this Agreement.

15. Amendments. This Agreement may be amended, in whole or in part, only by written recorded instrument executed by the parties hereto

IN WITNESS WHEREOF, City and Owners have executed this Agreement on the day and year first written above.

Kathleen Keady

_____

BY:
DATED:

CITY OF BENICIA

_____

BY: Jim Erickson, City Manager
DATED:

APPROVED AS TO FORM

_____

Heather McLaughlin, City Attorney

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

THE WEST SEVENTY FIVE (75) FEET OF LOT NUMBER FOUR (4) IN BLOCK NUMBER FORTY-FOUR (44) AS THE SAME IS LAID DOWN ON THE OFFICIAL MAP OF THE CITY OF BENICIA, NOW ON FILE IN THE OFFICE OF THE COUNTY RECORDER, FAIRFIELD, SOLANO COUNTY, CALIFORNIA.

AP No.: 0087-154-140

EXHIBIT B

THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

The following Standards are to be applied to rehabilitation projects for the Property in a reasonable manner, taking into consideration economic and technical feasibility:

(1) The Property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

(2) The historic character of the Property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize the Property shall be avoided.

(3) The Property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

(4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

(5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize the historic property shall be preserved.

(6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.

(7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of the structure(s), if appropriate, shall be undertaken using the gentlest means possible.

(8) Significant archeological resources affected by this project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

(10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Minimum Property Maintenance:

As part of this agreement the Owner shall maintain all buildings, structures, yards and other improvements in a manner that does not detract from the appearance of the immediate neighborhood. The following conditions (including, but not limited to) are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls, and windows, broken windows, peeling exterior paint, broken structures;

2. Scrap lumber, junk, trash or debris;

3. Abandoned discarded or unused objects, equipment such as automobiles, automobile parts, furniture, appliances, containers, cans or similar items;

4. Stagnant water, including pools or spas, or open excavations;

5. Any device, decoration, design, structure, vegetation or landscape which is unsightly by reason of its height, condition or its inappropriate location;

6. Graffiti;

7. Incomplete exterior construction where no building inspections have been requested for 6 or more months, or for work which does not require a building permit, where there has been no significant progress for 90 days.

EXHIBIT C

Architectural Rehabilitation and/or Restoration

The City and the Owner agrees to the following Rehabilitation project to be undertaken by the Owner in conformance with Paragraph 4b of this Agreement. In addition, throughout the life of this contract the owner shall maintain Minimum Property Maintenance as described in Exhibit B. The work will be conducted as indicated below.

PROJECT(S)	SCHEDULE
Repair and paint newel posts and railings on front entry steps.	2012-2013
Repair and paint front steps.	2012-2013
Sand and re-finish original front door	2012-2013
Landscape improvements including weeding and trimming, repair sprinklers in front and street side yards. Install new landscaping in bare areas between lawn and residence on the west and south facades.	2014
Replace roof, if necessary.	2015-2016
Repair or replace the gutters on the north side and repair the trim on west façade under gutter. **Item can be completed in 2020 if roof does not require replacement.	2015-2016 2020 **
Paint exterior of house.	2017
Replace non-original aluminum windows on the west and south facades (street facades) with more historically appropriate wood or wood clad windows.	2018-2019
Repair east side gate and repair fence of west and south sides. If the gates and fence cannot be repaired and replacement of any materials are necessary, the materials shall be replaced in-kind.	2021

VII.C.20

RESOLUTION NO. 10-9

A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL AUTHORIZE THE CITY MANAGER TO ENTER INTO A MILLS ACT CONTRACT FOR THE PROPERTY LOCATED AT 395 WEST J STREET

WHEREAS, the purpose of the Mills Act Program is to encourage the preservation, restoration and rehabilitation of historic properties within the City of Benicia; and

WHEREAS, the property at 395 West J Street is listed as a contributing building in the Downtown Historic Conservation Plan; and

WHEREAS, General Plan Goal 3.1 is to "Maintain and enhance Benicia's historic character" and the and preservation and rehabilitation of the contributing building at 395 West J Street is consistent with this Goal; and

WHEREAS, all exterior work undertaken pursuant to the subject Mills Act Contract must be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties; and

WHEREAS, the City has determined that this project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15331, which states that modifications to historic structures consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties are categorically exempt from CEQA review; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on September 23, 2010 considered the Mills Act contract application of Kathleen Keady; and

WHEREAS, the Historic Preservation Review Commission reviewed the Draft Mills Act Contract and recommended changes to Exhibit C.

NOW, THEREFORE, BE IT RESOLVED THAT the Historic Preservation Review Commission of the City of Benicia hereby finds that:

The proposed application is consistent with General Plan Goal 3.1 as the proposed contract will allow the applicant to continue to preserve and enhance a contributing building at 395 West J Street.

BE IT FURTHER RESOLVED THAT the Historic Preservation Review Commission recommends that the City Council approve the Mills Act Contract application

of Kathleen Keady.

* * * * *

On motion of Commissioner Mang, seconded by Commissioner White, the above Resolution was adopted at a regular meeting of the Historic Preservation Review Commission on September 23, 2010 by the following vote:

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

Toni Haughey, Historic Preservation Review Commission Chair

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 16, 2010
CONSENT CALENDAR

DATE : November 3, 2010

TO : City Council

FROM : City Attorney

SUBJECT : **APPOINTMENT OF AN ACTING CITY MANAGER**

RECOMMENDATION:
Adopt the resolution appointing Police Chief Sandra Spagnoli as acting city manager from December 1 to December 13, 2010 when the new city manager starts work with the City of Benicia.

EXECUTIVE SUMMARY:
The City Council has hired a new city manager effective December 13, 2010. The last day for Mr. Erickson, the interim city manager, is November 30th. An acting city manager is needed for the gap between November 30 and December 13. Police Chief Sandra Spagnoli has agreed to fill in on an acting basis.

BUDGET INFORMATION:
There is no budget impact from this action. Chief Spagnoli has agreed to do the extra work for no extra compensation.

GENERAL PLAN/STRATEGIC PLAN:
N/A

BACKGROUND:
On November 2, 2010, the City Council hired Brad Kilger to be the next city manager. The agreement provides that he will start work on December 13, 2010. Jim Erickson who has graciously agreed to several extensions to his agreement would like to stop working at the end of November. This leaves a two-week period when there is no city manager. To remedy this, an acting city manager should be appointed. Police Chief Sandra Spagnoli has been acting city manager when Mr. Erickson was on vacation in the past. She is willing and available to serve as city manager for time between Mr. Erickson's last day and Mr. Kilger's first day. She is willing to serve without additional compensation.

Attachment:
- Resolution

VII.D.2

RESOLUTION NO. 10-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPOINTING POLICE CHIEF SANDRA SPAGNOLI AS ACTING CITY MANAGER

WHEREAS, Jim Erickson currently serves as the Interim City Manager for the City and has performed his duties in a praiseworthy and diligent manner; and

WHEREAS, Mr. Erickson's last day is November 30, 2010; and

WHEREAS, Brad Kilger has been hired as the new City Manager effective December 13, 2010; and

WHEREAS, Police Chief Sandra Spagnoli has agreed to serve as acting City Manager without additional compensation for the period between November 30, 2010 and December 13, 2010.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BENICIA that Police Chief Sandra Spagnoli is appointed acting city manager from December 1, 2010 to December 13, 2010 until the new City Manager Brad Kilger reports for work.

*****

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 16th day of November, 2010, and adopted by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

VII.D.4

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 16, 2010
CONSENT CALENDAR

DATE : November 2, 2010

TO : City Council

FROM : City Manager

SUBJECT : **APPROVE THE JULY 1, 2010 TO JUNE 30, 2012 AMENDMENTS TO THE LABOR AGREEMENT WITH POLICE MANAGEMENT EMPLOYEES**

RECOMMENDATION:
Adopt the resolution approving the amendments to the July 1, 2010 through June 30, 2012 Labor Agreement with POLICE MANAGEMENT EMPLOYEES.

EXECUTIVE SUMMARY:
The City concluded negotiations with Police Management Employees on November 2, 2010 and the group has ratified the tentative agreement. Police Management consists of 3 incumbents and is comprised of the Police department mid management employees.
This agreement provides for:

- No salary increases during the term and an ongoing 3.16% salary reduction effective November 1, 2010. Additional one-time reductions in deferred compensation to cover the salary savings that would have occurred in July- October 2010.
- Sets a fixed dollar contribution for the City for employee medical insurance that will help control future City cost increases in benefits.
- Agrees to a new lower retirement tier for new hires that will help control future City cost increases in benefits.
- Provides for a reopener for additional negotiations during the term if additional concessions are determined to be needed.

BUDGET INFORMATION:
This agreement achieves 3.16% of salary reduction that is required for this group as part of the City's $1.2 million dollars reduction that is needed in order to balance the City's budget.

Attachments:

- Resolution
- Agreement – Proposed Language
- Agreement – Clean Copy

RESOLUTION NO. 10-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE JULY 1, 2010 TO JUNE 30, 2012 AMENDMENTS TO THE LABOR AGREEMENT WITH POLICE MANAGEMENT

WHEREAS, the existing Agreement between the City of Benicia and Police Management Employees which covers salaries and other conditions of employment lapsed on June 30, 2010; and

WHEREAS, the City has an average of a $1.2 million dollar deficit over the next two years; and

WHEREAS, the City requested Police Management to negotiate concessions towards closing the $1.2 million dollar gap; and

WHEREAS, the City has concluded negotiations with Police Management relative to amendments to the Agreement for the term covering July 1, 2010 to June 30, 2012 that achieve the requested concessions; and

WHEREAS, Police Management accepted the terms of the July 1, 2010 to June 30, 2012 amendments to the Agreement.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves changes to the following sections in the July 1, 2010 through June 30, 2012 Agreement with Police Management (a complete copy of the Agreement with the specified amendment language is attached to the staff report), and the City Council authorizes the City Manager to execute the Agreement as amended:

1. Section I - Term
2. Section II– Compensation
3. Section VI – Insurance and Occupational Health
4. Section VII – Retirement Reform
5. Section VIII – Uniform Allowance
6. Section XVIII – Closing Clause

*****

On motion of Council Member, seconded by Council Member _____, the above resolution was introduced and passed by the Council of the City of Benicia at a regular meeting of said Council on the 16th day of November, 2010, and adopted by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

ATTEST:

_____
Lisa Wolfe, City Clerk

VII.E.4

AGREEMENT BETWEEN THE CITY OF BENICIA AND POLICE MANAGEMENT EMPLOYEES ESTABLISHING A BENEFIT AND COMPENSATION PROGRAM FOR PERIOD OF JULY 1, 20~~06~~~~06~~10 THROUGH JUNE 30, 201~~00~~2.

I. PREAMBLE

In order to further the spirit of goodwill that exists between the City and its Police Management employees and to encourage and promote the development of a stronger and more effective police management team, this agreement is hereby adopted. The principal objectives of this agreement are as follows:

1. To provide a sense of employment security for both the employee and the City.
2. To clearly define the working conditions of the police management employees.
3. To provide incentives for police management employees to develop and further their skills in order to be able to provide a higher level of service to the City.
4. To provide a comfortable work environment and encourage employees to remain in the City's employ.
5. To provide a vehicle for the City to recruit and retain highly qualified Police Management employees.

Police Management employees covered by this agreement include the ~~Police Captain~~ Deputy Police Chief, ~~-~~and Police Lieutenant.

II. COMPENSATION

A. Salaries

A. Salaries

~~Effective FY 2006 – 2007:~~

~~7/1/06 Top (E) Step Salary shall be set and maintained at 30% above that of Police Sergeant for the term of this Memorandum of Agreement.~~

~~Salary Steps effective 7/1/06~~	
~~Police Sergeant Step E~~	~~$8,050~~
~~Police Captain Step A~~	~~$8,610~~
~~Police Captain Step B~~	~~$9,040~~
~~Police Captain Step C~~	~~$9,492~~

~~Police Captain Step D~~	~~$9,967~~
~~Police Captain Step E~~	~~$10,465~~

~~*Future scheduled increases to maintain the 30% differential, are anticipated as follows:*~~

~~*7/1/07 Market Adjustment*~~
~~*7/1/08 2% Cost of Living*~~
~~*1/1/09 2% Cost of Living*~~
~~*7/1/09 Market Adjustment*~~

There shall be no salary increases or salary surveys during the term of this MOU. Effective November 1, 2010 each step of the salary range for each classification in this unit shall be reduced by 3.16%. Additionally, all members will take a reduction from the city contribution towards deferred comp in order to cover the needed reduction for the months of July – October, 2010. For the period of November 2010 through June 2011, the city contribution will decrease from 4% to 1.294%. Effective July 2011, it will revert to the 4% amount. Individual amounts will vary based on salary and will be pro-rated over the remainder of the FY 10/11 to equal a group total of $7,346.

B. **Contractual Overtime**: The hourly salary rate paid for hours worked for the purpose of contractual overtime shall include base salary and the 9% equivalent value of the employee's retirement contribution.

C. **Longevity Pay Program**

At completion of twenty (20 years of service 5%
At completion of twenty-five (25) years service - 6.25%

D. **Deferred Compensation**

Police Management employees may elect a monthly payroll deduction to be placed in the City administered deferred compensation program. Any monies so deposited would become tax deferred and would be subject to income taxation in the year they are withdrawn from the deferred compensation program. Effective December 1, 2005, the City agree~~s~~d to pay 4% of the employee's salary to the deferred compensation program

provided the employee contributes a 1% matching share.

III. LEAVE

A. Vacation

Police Management employees shall accumulate vacation time in accordance with the following vacation entitlement schedule:

Years of Service	Weeks of Vacation
0 through 6 years	3 weeks
7 through 14 years	4 weeks
15 through 20 years	5 weeks
21 years and over	6 weeks

An employee may take vacation at times approved by the Department Head and the City Manager. It is the policy of the City that employees take their normal vacation each year. However, an employee may take less than a normal vacation in one year and carry the balance over to the next year. Such carry-over accumulation shall not exceed 360 hours, and any accrual over 360 hours shall be used by December 31st of each year.

B. Holidays

Authorized Holidays

Employees shall be entitled to the following paid holidays:
Christmas Day, New Year's Day, Martin Luther King Jr.'s Birthday, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, the Friday following Thanksgiving Day, and one personal leave day. For the purpose of this section, the holiday shall be considered the day on which it is celebrated.

Work Performed on Holidays

The City and the Police Management employees agree that public safety employees are scheduled to work on the aforementioned holidays as a matter of health and safety of the community. In lieu of the aforementioned holidays, the City agrees to pay Police Management employees one and one-twelfth (1-1/12) days' straight-time pay per month.

C. Overtime Compensation

In recognition of the extended hours required of Police Management employees, including attendance at meetings outside of normal working hours, the following leave policy shall be implemented:

Administrative Leave:

Each Police Management employee may receive up to 9 days Administrative Leave upon approval of the Department Head and City Manager.

On June 1st of each year, employees may elect to convert unused Administrative Leave for cash for an amount up to one-half his/her authorized Administrative Leave allowance. Payment for cash conversion shall be made by June 30th. Administrative Leave must be converted to cash payment or used by July 20th of each year.

Personal Leave: Each employee shall be credited with two additional personal leave days representing a floating holiday and eight (8) leave hours granted following the elimination of the Management Bonus Plan. Personal Leave may be taken at any time during the fiscal year with the approval of the Department Head and the City Manager. Personal Leave may not be accumulated and carried forward to the next fiscal year.

D. Sick Leave

1. Police Management employees shall be entitled to one day of sick leave with pay for each month worked or major fraction thereof. Sick leave with pay up to the total number of days accumulated shall be granted by the Department Head and City Manager in the case of a bonafide illness or injury.

2. Absence due to pregnancy shall be charged to sick leave up to the total of the employee's accumulated sick leave. Additional time away from work due to pregnancy, up to a total of four (4) months, will be treated as leave of absence without pay in accordance with Section III F.

3. Sick leave with pay shall not be granted for any injury attributable to an outside occupation for which worker's compensation benefits are available and engagement therein has not been authorized by the City Manager.

4. Police Management employees may participate in the City's Sick Leave Bank that has been established in accordance with City Policy & Procedure #5 - Sick Leave Bank Policy.

Sick Leave Conversion: The City agrees to convert 25% of accrued sick leave upon retirement (service or disability) to cash, payable to the retiring employee, provided he/she has at least twelve (12) years service. In no case shall such payment exceed one months' salary for the incumbent position in effect at the time of retirement.

E. Paid Accident Leave:

Safety employees shall be governed by Section 4850 of the Workers' Compensation Act.

F. Leave of Absence

1. Police Management employees shall be granted a leave of absence with full pay for jury service, an appearance required of the employee as a witness, or attendance in court proceedings resulting from the employee's official duties. Any compensation received by the employee for such service shall be remitted to the City.

2. Upon written request by the employee, the City Manager may approve in writing a leave of absence without pay for a period up to but not exceeding four (4) months. The City Council may approve such a leave of absence without pay for a period not exceeding one (1) year.

G. Bereavement Leave

Any employee shall obtain the approval of the employee's Department Head in advance of an absence due to a death in the employee's family. Failure to obtain the Department Head's approval shall result in ineligibility for benefits under this section.

In the event of a death in the immediate family of an employee, he/she shall, upon request, be granted such time off with pay as is necessary to make arrangements for the funeral and attend same, not to exceed three (3) regularly scheduled working days. However, up to an additional two (2) days may be granted for out-of-state funerals. This provision does not apply if the death occurs during the employee's paid vacation, or while the employee is on leave of absence, layoff, or sick leave.

For the purposes of this section immediate family shall be defined as follows: Spouse, children, father, mother, brothers, sisters, mother-in-law, father-in-law, sister-in-law, brother-in-law, grandparents, grandchildren and members of the employee's household.

Additional Bereavement Leave may be granted to an employee to attend the funeral of a person other than a member of the employee's immediate family, chargeable to sick leave, compensatory time, or vacation leave.

IV. EDUCATIONAL BENEFITS

1. In order to promote continued development of professional skills, knowledge, and abilities among the Police Management team of the City, the City Manager may grant time for educational leave. Such leave may be received in order to attend professional, technical, or managerial workshops, conferences, conventions, seminars, or related activities.

   All such requests for educational leave shall be submitted in writing to the Department Head with adequate justification. The amount of leave granted shall be at the discretion of the Department Head, subject to City Manager approval. Educational leave will not be charged to any other leave account.
   The costs for attendance at these activities, including travel, per diem, registration, tuition, books and course materials, or other reasonable costs, are considered legitimate City expenditures when provided for in the annual City budget and approved by the City Manager.

2. An Educational Reimbursement Program is hereby established to encourage employees to continue their professional and career development by enrolling in job related university/college level courses during off duty time. The City agrees to pay up to $620 in any one twelve (12) month period toward the cost of books and tuition for courses of study undertaken by employees pursuant to this Program, provided such courses and institutions have been approved by the employee's Department Head and City Manager. Requests for participation in the Educational Reimbursement Program shall be submitted in writing to the Department Head with adequate justification, prior to April 1 of each fiscal year.

V. PROFESSIONAL ORGANIZATIONS

Police Management employees are encouraged to maintain membership in a minimum of one (1) appropriate professional organization in order to keep informed of current

state-of-the-art information in their respective professional field. The City will include the cost of these professional membership fees in the respective departmental budgets.

VI. INSURANCE AND OCCUPATIONAL HEALTH

A. The City shall maintain current health insurance benefits to include a physical exam every two years. Any costs beyond those not covered by the employee's health insurance for the biennial medical examination shall be paid by the City upon prior written approval. The costs for treatment or correction of deficiencies shall be paid by the employee.

The City shall continue to offer hospital-medical-dental and vision plans as those plans are currently structured or as the plans may be amended from time to time by the plan providers. The City may substitute plans currently offered with plans of substantially similar benefits. ~~The City's maximum liability for premium contribution for hospital-medical benefits shall be limited to the then current Kaiser Foundation Health Plan contribution rate for the class of dependency coverage involved. For those employees enrolled in other plans, the City shall contribute in addition to the current Kaiser Foundation Health Plan contribution rate, 50% of the difference between the current Kaiser Foundation Health Plan contribution rate and the then contribution rate charged by the City's individual practitioner health maintenance organization provider (HMO) for the class of dependency coverage involved. The City shall contribute the full premium required by the providers of the dental and vision care plans provided herein for the terms of this agreement.~~

Effective the first full pay period after the ratification by the Union and approval by the City Council on its agenda the City's contribution towards medical premiums for the term of the contract shall be a maximum up to the following contributions for any plan:

Employee:	$592.37
Employee plus One:	$1,184.75
Employee plus Family:	$1,575.71

During the term of the MOU, the parties agree to participate with the other bargaining units to determine whether or not any medical plan design changes would assist in reduction of costs to the city and/or reduction of premiums for employees. The parties recognize that any such changes in plan design require agreement by all city bargaining units. In order to allow employees in Health Net time to transition to the City's new capped contribution to any plan, the City will continue the existing City dollar contributions for Health Net participants in effect on September 30, 2010 until June 30, 2011. At that time this extra contribution shall expire and the City's contribution for all

participants shall be as described below for fiscal year 2011 - 2012.

For fiscal year 2011-2012 the parties agree to the following cost sharing approach to premium increases in 2011 and 2012 only. Specifically, the City will share evenly any amount that exceeds the current FY 2010-2011 Kaiser contribution levels, up to a capped maximum City contribution amount of $29.63/month for single, $59.25/month for employee plus one, and $79.49/month for employee plus family.

~~B. Employees with dual insurance coverage may elect to drop their health insurance coverage and instead receive additional reimbursement at the Kaiser Health Plan individual rate.~~

B. The City shall allow employees who have dual coverage on their health plan to receive the amount the city contributes towards the single rate listed above; this amount is to be added to the employee's paycheck.

C. The City shall pay the entire cost of providing each insurable regular, full-time employee with $30,000 group term life insurance with said policy to include accidental death and dismemberment coverage.

D. Retiree Health Savings Plan Medical: Police Management employees agree to participate in the ICMA VantageCare Retiree Health Savings Plan effective July 2001. Police Management employees agree to the elimination of the Sick Leave Incentive provision of their current agreement in order to participate in the program. The City will contribute to the individual employee's savings account an amount equivalent to:

5-10 Years	-	25% of Annual Unused Sick Leave Accrual
11-15 Years	-	40% of Annual Unused Sick Leave Accrual
16-19 Years	-	60% of Annual Unused Sick Leave Accrual
20-24 Years	-	80% of Annual Unused Sick Leave Accrual
25 Years or more	-	100% of Annual Unused Sick Leave Accrual

VII. RETIREMENT

A. The City agreed to amend its contract with the Public Employees' Retirement System [PERS] to include the retirement benefit option of 3% @ 50 in accordance with Government Code § 21362.3. This benefit shall become effective on November 18, 2000 following the final amendment process and approval by PERS. The City and Police Management employees understand that this contract amendment would be prospective

only from the effective date of the PERS contract amendment.

Based upon actuarial information provided by PERS, in their valuation report dated January 21, 2000, the cost associated with providing the 3% @ 50 retirement benefit for Police Management employees has been calculated at 4.774% of salary. The City has current excess plan assets to cover the cost of this contract amendment. However, Police Management employees agree that the 3% @ 50 retirement benefit option is to be provided with the understanding that, should the City's cost of providing this benefit increase during the term of this agreement, the City has the right to reopen negotiations on payment of this 4.774% cost.

B. The City's contract with the Public Employees' Retirement System (PERS) has been amended and shall provide the following additional benefits:

1. One year highest compensation benefit as outlined in Government Code.

2. The City implemented the Fourth Tier of the 59 Survivor Benefit with CalPERS upon amendment of the PERS contract.

3. Credit for unused Sick Leave as provided for in Government Code.

The City is paying the employee's 9% portion of the PERS Retirement contribution and reporting the value of the 9% Employer Paid Member Contribution (EPMC) as special compensation.

C. Retirement Reform: The Safety employees in this unit agree to the implementation of a new, less costly, CalPERS 2nd tier pension formula for new hires contingent upon agreement with all other Safety employees to the same and effective thereafter as soon as administratively possible consistent with CalPERS contract amendment requirements.

VIII. UNIFORM ALLOWANCE

The City agrees to provide a monthly uniform allowance to Police Management employees to cover the cost of purchasing, maintaining and cleaning their uniforms. ~~Effective July 1, 2000, said allowance to be paid at the rate of $65.00 per month. Beginning~~ Effective July 1, 2003, the allowance shall increased to $75.00 per month.

IX. TERMINATION

Employees shall give fourteen (14) days notice prior to voluntary termination. The employee shall be paid any accrued vacation and administrative leave at the time of termination.

X. CLOSING CLAUSE

The terms of this agreement shall remain in effect through June 30, 20~~10~~12. All other provisions of the MOU expiring June 30, 2010, including side letters established during that MOU period, remain the same unless otherwise modified by the provisions in this agreement.

The parties agree that during the term of the agreement, if the Council, after a noticed public hearing, deems additional reductions are necessary to balance the City's budget, the parties agree to reopen the contract for the narrow and specific purpose of meeting and conferring over concessions identified by the City as needed to prevent layoffs of Police Mid-Manager members.

AGREEMENT BETWEEN THE CITY OF BENICIA AND POLICE MANAGEMENT EMPLOYEES ESTABLISHING A BENEFIT AND COMPENSATION PROGRAM FOR PERIOD OF JULY 1, 2010 THROUGH JUNE 30, 2012

I. PREAMBLE

In order to further the spirit of goodwill that exists between the City and its Police Management employees and to encourage and promote the development of a stronger and more effective police management team, this agreement is hereby adopted. The principal objectives of this agreement are as follows:

1. To provide a sense of employment security for both the employee and the City.
2. To clearly define the working conditions of the police management employees.
3. To provide incentives for police management employees to develop and further their skills in order to be able to provide a higher level of service to the City.
4. To provide a comfortable work environment and encourage employees to remain in the City's employ.
5. To provide a vehicle for the City to recruit and retain highly qualified Police Management employees.

Police Management employees covered by this agreement include the Deputy Police Chief and Police Lieutenant.

II. COMPENSATION

A. Salaries

A. Salaries

There shall be no salary increases or salary surveys during the term of this MOU. Effective November 1, 2010 each step of the salary range for each classification in this unit shall be reduced by 3.16%. Additionally, all members will take a reduction from the city contribution towards deferred comp in order to cover the needed reduction for the months of July – October, 2010. For the period of November 2010 through June 2011, the city contribution will decrease from 4% to 1.294%. Effective July 2011, it will revert to the 4% amount. Individual amounts will vary based on salary and will be pro-rated over the remainder of the FY 10/11 to equal a group total of $7,346.

B. **Contractual Overtime**: The hourly salary rate paid for hours worked for the purpose of contractual overtime shall include base salary and the 9% equivalent value of the

employee's retirement contribution.

C. Longevity Pay Program

At completion of twenty (20) years of service - 5%
At completion of twenty-five (25) years service - 6.25%

D. Deferred Compensation

Police Management employees may elect a monthly payroll deduction to be placed in the City administered deferred compensation program. Any monies so deposited would become tax deferred and would be subject to income taxation in the year they are withdrawn from the deferred compensation program. Effective December 1, 2005, the City agreed to pay 4% of the employee's salary to the deferred compensation program provided the employee contributes a 1% matching share.

III. LEAVE

A. Vacation

Police Management employees shall accumulate vacation time in accordance with the following vacation entitlement schedule:

Years of Service	Weeks of Vacation
0 through 6 years	3 weeks
7 through 14 years	4 weeks
15 through 20 years	5 weeks
21 years and over	6 weeks

An employee may take vacation at times approved by the Department Head and the City Manager. It is the policy of the City that employees take their normal vacation each year. However, an employee may take less than a normal vacation in one year and carry the balance over to the next year. Such carry-over accumulation shall not exceed 360 hours, and any accrual over 360 hours shall be used by December 31st of each year.

B. Holidays

Authorized Holidays
Employees shall be entitled to the following paid holidays:
Christmas Day, New Year's Day, Martin Luther King Jr.'s Birthday, Lincoln's Birthday,

Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, the Friday following Thanksgiving Day, and one personal leave day. For the purpose of this section, the holiday shall be considered the day on which it is celebrated.

Work Performed on Holidays

The City and the Police Management employees agree that public safety employees are scheduled to work on the aforementioned holidays as a matter of health and safety of the community. In lieu of the aforementioned holidays, the City agrees to pay Police Management employees one and one-twelfth (1-1/12) days' straight-time pay per month.

C. Overtime Compensation

In recognition of the extended hours required of Police Management employees, including attendance at meetings outside of normal working hours, the following leave policy shall be implemented:

Administrative Leave:

Each Police Management employee may receive up to 9 days Administrative Leave upon approval of the Department Head and City Manager.

On June 1st of each year, employees may elect to convert unused Administrative Leave for cash for an amount up to one-half his/her authorized Administrative Leave allowance. Payment for cash conversion shall be made by June 30th. Administrative Leave must be converted to cash payment or used by July 20th of each year.

Personal Leave: Each employee shall be credited with two additional personal leave days representing a floating holiday and eight (8) leave hours granted following the elimination of the Management Bonus Plan. Personal Leave may be taken at any time during the fiscal year with the approval of the Department Head and the City Manager. Personal Leave may not be accumulated and carried forward to the next fiscal year.

D. Sick Leave

1. Police Management employees shall be entitled to one day of sick leave with pay for each month worked or major fraction thereof. Sick leave with pay up to the total number of days accumulated shall be granted by the Department Head and City Manager in the case of a bonafide illness or injury.

2. Absence due to pregnancy shall be charged to sick leave up to the total of the employee's accumulated sick leave. Additional time away from work due to pregnancy, up to a total of four (4) months, will be treated as leave of absence without pay in accordance with Section III F.

3. Sick leave with pay shall not be granted for any injury attributable to an outside occupation for which worker's compensation benefits are available and engagement therein has not been authorized by the City Manager.

4. Police Management employees may participate in the City's Sick Leave Bank that has been established in accordance with City Policy & Procedure #5 - Sick Leave Bank Policy.

Sick Leave Conversion: The City agrees to convert 25% of accrued sick leave upon retirement (service or disability) to cash, payable to the retiring employee, provided he/she has at least twelve (12) years service. In no case shall such payment exceed one months' salary for the incumbent position in effect at the time of retirement.

E. Paid Accident Leave:

Safety employees shall be governed by Section 4850 of the Workers' Compensation Act.

F. Leave of Absence

1. Police Management employees shall be granted a leave of absence with full pay for jury service, an appearance required of the employee as a witness, or attendance in court proceedings resulting from the employee's official duties. Any compensation received by the employee for such service shall be remitted to the City.

2. Upon written request by the employee, the City Manager may approve in writing a leave of absence without pay for a period up to but not exceeding four (4) months. The City Council may approve such a leave of absence without pay for a period not exceeding one (1) year.

G. Bereavement Leave

Any employee shall obtain the approval of the employee's Department Head in advance of an absence due to a death in the employee's family. Failure to obtain the Department

Head's approval shall result in ineligibility for benefits under this section.

In the event of a death in the immediate family of an employee, he/she shall, upon request, be granted such time off with pay as is necessary to make arrangements for the funeral and attend same, not to exceed three (3) regularly scheduled working days. However, up to an additional two (2) days may be granted for out-of-state funerals. This provision does not apply if the death occurs during the employee's paid vacation, or while the employee is on leave of absence, layoff, or sick leave.

For the purposes of this section immediate family shall be defined as follows: Spouse, children, father, mother, brothers, sisters, mother-in-law, father-in-law, sister-in-law, brother-in-law, grandparents, grandchildren and members of the employee's household.

Additional Bereavement Leave may be granted to an employee to attend the funeral of a person other than a member of the employee's immediate family, chargeable to sick leave, compensatory time, or vacation leave.

IV. EDUCATIONAL BENEFITS

1. In order to promote continued development of professional skills, knowledge, and abilities among the Police Management team of the City, the City Manager may grant time for educational leave. Such leave may be received in order to attend professional, technical, or managerial workshops, conferences, conventions, seminars, or related activities.

   All such requests for educational leave shall be submitted in writing to the Department Head with adequate justification. The amount of leave granted shall be at the discretion of the Department Head, subject to City Manager approval. Educational leave will not be charged to any other leave account.
   The costs for attendance at these activities, including travel, per diem, registration, tuition, books and course materials, or other reasonable costs, are considered legitimate City expenditures when provided for in the annual City budget and approved by the City Manager.

2. An Educational Reimbursement Program is hereby established to encourage employees to continue their professional and career development by enrolling in job related university/college level courses during off duty time. The City agrees to pay up to $620 in any one twelve (12) month period toward the cost of books and tuition for courses of study undertaken by employees pursuant to this Program, provided such courses and institutions have been approved by the

employee's Department Head and City Manager. Requests for participation in the Educational Reimbursement Program shall be submitted in writing to the Department Head with adequate justification, prior to April 1 of each fiscal year.

V. PROFESSIONAL ORGANIZATIONS

Police Management employees are encouraged to maintain membership in a minimum of one (1) appropriate professional organization in order to keep informed of current state-of-the-art information in their respective professional field. The City will include the cost of these professional membership fees in the respective departmental budgets.

VI. INSURANCE AND OCCUPATIONAL HEALTH

A. The City shall maintain current health insurance benefits to include a physical exam every two years. Any costs beyond those not covered by the employee's health insurance for the biennial medical examination shall be paid by the City upon prior written approval. The costs for treatment or correction of deficiencies shall be paid by the employee.

The City shall continue to offer hospital-medical-dental and vision plans as those plans are currently structured or as the plans may be amended from time to time by the plan providers. The City may substitute plans currently offered with plans of substantially similar benefits.

Effective the first full pay period after the ratification by the Union and approval by the City Council on its agenda the City's contribution towards medical premiums for the term of the contract shall be a maximum up to the following contributions for any plan:

Employee:	$592.37
Employee plus One:	$1,184.75
Employee plus Family:	$1,575.71

During the term of the MOU, the parties agree to participate with the other bargaining units to determine whether or not any medical plan design changes would assist in reduction of costs to the city and/or reduction of premiums for employees. The parties recognize that any such changes in plan design require agreement by all city bargaining units. In order to allow employees in Health Net time to transition to the City's new capped contribution to any plan, the City will continue the existing City dollar contributions for Health Net participants in effect on September 30, 2010 until June 30, 2011. At that time this extra contribution shall expire and the City's contribution for all participants shall be as described below for fiscal year 2011 - 2012.

For fiscal year 2011-2012 the parties agree to the following cost sharing approach to premium increases in 2011 and 2012 only. Specifically, the City will share evenly any

amount that exceeds the current FY 2010-2011 Kaiser contribution levels, up to a capped maximum City contribution amount of $29.63/month for single, $59.25/month for employee plus one, and $79.49/month for employee plus family.

B. The City shall allow employees who have dual coverage on their health plan to receive the amount the city contributes towards the single rate listed above; this amount is to be added to the employee's paycheck.

C. The City shall pay the entire cost of providing each insurable regular, full-time employee with $30,000 group term life insurance with said policy to include accidental death and dismemberment coverage.

D. Retiree Health Savings Plan Medical: Police Management employees agree to participate in the ICMA VantageCare Retiree Health Savings Plan effective July 2001. Police Management employees agree to the elimination of the Sick Leave Incentive provision of their current agreement in order to participate in the program. The City will contribute to the individual employee's savings account an amount equivalent to:

5-10 Years	-	25% of Annual Unused Sick Leave Accrual
11-15 Years	-	40% of Annual Unused Sick Leave Accrual
16-19 Years	-	60% of Annual Unused Sick Leave Accrual
20-24 Years	-	80% of Annual Unused Sick Leave Accrual
25 Years or more	-	100% of Annual Unused Sick Leave Accrual

VII. RETIREMENT

A. The City agreed to amend its contract with the Public Employees' Retirement System [PERS] to include the retirement benefit option of 3% @ 50 in accordance with Government Code § 21362.3. This benefit shall become effective on November 18, 2000 following the final amendment process and approval by PERS. The City and Police Management employees understand that this contract amendment would be prospective only from the effective date of the PERS contract amendment.

Based upon actuarial information provided by PERS, in their valuation report dated January 21, 2000, the cost associated with providing the 3% @ 50 retirement benefit for Police Management employees has been calculated at 4.774% of salary. The City has current excess plan assets to cover the cost of this contract amendment. However, Police Management employees agree that the 3% @ 50 retirement benefit option is to be provided with the understanding that, should the City's cost of providing this benefit increase during the term of this agreement, the City has the right to reopen negotiations

on payment of this 4.774% cost.

B. The City's contract with the Public Employees' Retirement System (PERS) has been amended and shall provide the following additional benefits:

1. One year highest compensation benefit as outlined in Government Code.

2. The City implemented the Fourth Tier of the 59 Survivor Benefit with CalPERS upon amendment of the PERS contract.

3. Credit for unused Sick Leave as provided for in Government Code.

The City is paying the employee's 9% portion of the PERS Retirement contribution and reporting the value of the 9% Employer Paid Member Contribution (EPMC) as special compensation.

C. Retirement Reform: The Safety employees in this unit agree to the implementation of a new, less costly, CalPERS 2nd tier pension formula for new hires contingent upon agreement with all other Safety employees to the same and effective thereafter as soon as administratively possible consistent with CalPERS contract amendment requirements.

VIII. UNIFORM ALLOWANCE

The City agrees to provide a monthly uniform allowance to Police Management employees to cover the cost of purchasing, maintaining and cleaning their uniforms. Effective July 1, 2003, the allowance was increased to $75.00 per month.

IX. TERMINATION

Employees shall give fourteen (14) days notice prior to voluntary termination. The employee shall be paid any accrued vacation and administrative leave at the time of termination.

X. CLOSING CLAUSE

The terms of this agreement shall remain in effect through June 30, 2012. All other provisions of the MOU expiring June 30, 2010, including side letters established during that MOU period, remain the same unless otherwise modified by the provisions in this agreement.

The parties agree that during the term of the agreement, if the Council, after a noticed public hearing, deems additional reductions are necessary to balance the City's budget, the

parties agree to reopen the contract for the narrow and specific purpose of meeting and conferring over concessions identified by the City as needed to prevent layoffs of Police Mid-Manager members.

VII.E.24

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 16, 2010
CONSENT CALENDAR

DATE : November 3, 2010

TO : City Council

FROM : City Manager

SUBJECT : **APPROVE THE JULY 1, 2010 TO JUNE 30, 2012 AMENDMENTS TO THE LABOR AGREEMENT BENICIA DISPATCHERS ASSOCIATION**

RECOMMENDATION:
Adopt the resolution approving the amendments to the July 1, 2010 through June 30, 2012 Labor Agreement with BENICIA DISPATCHERS ASSOCIATION.

EXECUTIVE SUMMARY:
The City concluded negotiations with BDA on October 20, 2010. BDA consists of 15 incumbents and is comprised of the City's public safety dispatchers, community service officers and animal control officers. This agreement provides for:

- No salary increases during the term and an ongoing amount equal to a 3.16% salary reduction. This salary reduction will occur as an additional employee deduction for medical insurance equal to 5.01% of salary from November 1, 2010 to June 30, 2011 and an ongoing additional employee medical deduction equal to 3.91% of salary effective July 1, 2011. Additionally one-time reductions in their sick leave incentive will be made to cover part of the salary savings that would have occurred in July-October 2010.
- Sets a fixed dollar contribution for the City for employee medical insurance that will help control future City cost increases in benefits.
- Agrees to a new lower retirement tier for new hires that will help control future City cost increases in benefits.
- Provides for a re-opener for additional negotiations during the term if additional concessions are determined to be needed.

BUDGET INFORMATION:
This agreement achieves 3.16% of salary reduction that is required for this group as part of the City's $1.2 million dollars reduction that is needed in order to balance the City's budget.

Attachments:

- Resolution
- Agreement – Proposed Language
- Agreement – Clean Copy

RESOLUTION NO. 10-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE JULY 1, 2010 TO JUNE 30, 2012 AMENDMENTS TO THE LABOR AGREEMENT WITH BENICIA DISPATCHERS ASSOCIATION

WHEREAS, the existing Agreement between the City of Benicia and Benicia Dispatcher Association (BDA) which covers salaries and other conditions of employment lapsed on June 30, 2010; and

WHEREAS, the City has an average of a $1.2 million dollar deficit over the next two years; and

WHEREAS, the City requested BDA to negotiate concessions towards closing the $1.2 million dollar gap; and

WHEREAS, the City has concluded negotiations with BDA relative to amendments to the Agreement for the term covering July 1, 2010 to June 30, 2012 that achieve the requested concessions; and

WHEREAS, BDA accepted the terms of the July 1, 2010 to June 30, 2012 amendments to the Agreement.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves changes to the following sections in the July 1, 2010 through June 30, 2012 Agreement with Benicia Dispatchers Association (a complete copy of the Agreement with the specified amendment language is attached to the staff report), and the City Council authorizes the City Manager to execute the Agreement as amended:

1. Section VI- Overtime Work
2. Section XIV- Sick Leave
3. Section XVII- Salary Plan
4. Section XX- Educational Reimbursement
5. Section XXIV- Seniority Rights
6. Section XXVI- Insurance
7. Section XXIX- Closing Clause

*****

VII.F.4

On motion of Council Member, seconded by Council Member, the above resolution was introduced and passed by the Council of the City of Benicia at a regular meeting of said Council on the 16th day of November, 2010, and adopted by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

ATTEST:

_____
Lisa Wolfe, City Clerk

VII.F.6

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DISPATCHERS MEMORANDUM OF UNDERSTANDING
JULY 1, 20~~06~~10 – JUNE 30, 2012~~0~~

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Section 1. Preamble

This Agreement is entered into by the City of Benicia, hereinafter referred to as the "City" and the Benicia Dispatchers Association hereinafter referred to as the "Association" for the purpose of promoting harmonious relations between the City and the Association, to establish an orderly and peaceful procedure to settle differences which might arise and to set for the basic, complete and full agreement between the parties concerning salaries and all other conditions of employment, and preclude any further negotiations during its term unless otherwise stated herein.

Section 2. Recognition

The Association is hereby recognized by the City as the exclusive representative and sole bargaining agent for the bargaining unit composed of Public Safety Dispatchers, Public Safety Dispatch Supervisors, Community Service Officer I/II (referred to as CSO throughout the remainder of this document), Animal Control Officers, and Records Clerk, established by the City on or about March 1, 2005 and for said bargaining unit, under conditions of State law.

Section 3. Non-Discrimination

The City shall not discriminate against any employee covered by this agreement because of membership or non-membership in the Association or authorized activity as required in this agreement on behalf of the members of the Association. The Association shall not discriminate against any employee covered by this agreement because of membership or non-membership in the Association. Neither party shall discriminate against any employee because of race, color, creed, sex, age, or national origin.

Section 4. Employee Rights

Employees shall have the right to fair and equal treatment in all aspects of employment conditions. Neither management nor its representatives shall exercise their rights and authority in relationship to conditions of employment in a capricious, arbitrary, or unreasonable manner. Any punitive personnel action taken which will result in any loss of pay or benefits shall be taken in a manner consistent with Civil Service Rules and Regulations and Laws of the State. An employee's salary shall not be directly deposited in the bank by the City without the employee's consent.

Section 5. Association Business

5.1 The City agrees to provide space on bulletin boards to the Association for the announcement of meetings, election of officers of the Association and any other material related to the Association business. Furthermore, the Association shall not post material detrimental to the labor-management relationship nor of a political or controversial nature.

5.2 No Association member or representative shall solicit members, engage in organizational work, or participate in other Association activities during working hours on the City's premises except as provided for in the processing of grievances, or during periods of negotiations to update the membership on the progress of said negotiations.

5.3 Association members or representatives may be permitted to use suitable facilities on the City's premises to conduct Association business during non-work hours upon obtaining permission from the City's Personnel Officer or his designated representative. Any additional costs involved in such use must be paid by the Association.

5.4 Association representatives shall be permitted to investigate and discuss grievances during working hours on the City's premises if notification is given to the Personnel Officer or his designated representative. If the Association representative is an employee of the City, he/she shall request from his immediate supervisor, reasonable time off from his/her regular duties to process such grievances. The City will provide a reasonable number of employees with time off, if required, to attend negotiating meetings.

5.5 Upon official and reasonable notification by the Association, employees may be released from work without pay for the purpose of participating in authorized Association activities. Such release time without pay shall not exceed an aggregate of forty (40) hours per calendar year for all members of the unit. Under extraordinary circumstances the City Manager may grant an exception to the forty (40) hour aggregate limit. Employees released under this section shall have no reduction in accrual of vacation, sick leave, holiday time or other benefits provided in the Memorandum of Understanding.

Section 6. Overtime Work, Recall

6.1 Overtime Work

All work performed in excess of an employee's normal work day or in excess of an employee's normal workweek shall be considered overtime work. For the purpose of this Section, an employee's "normal work day" shall be defined as ~~anything worked in excess of~~ the hours they are normally scheduled in a 24-hour period. An employee's "normal work week" shall be defined as ~~anything in excess off~~ 40 hours in a 7 day period. The parties agree that assignments of overtime work shall rest solely with the department head or designated representative, taking seniority into consideration whenever possible. The parties agree that the assignment of overtime work is on an involuntary basis and any employee refusing assignment of such work is subject to disciplinary action deemed appropriate by the department head.

6.2 Compensation for Overtime Work

Any authorized time worked in excess of the employee's regular work week shall be compensated at the rate of one and one-half (1 ½) times the employee's straight time hourly rate of pay.

The Chief of Police may post overtime which will be compensated in time off (CTO) at the one and one-half (1 ½) time rate. Employees who wish to work overtime for CTO may do so by volunteering for such offered hours.

No employee shall be required to work overtime for CTO. If an employee is required to work overtime, such overtime shall be paid in cash, or CTO, at the employee's discretion..

No employee may exceed sixty (60) hours of accrued CTO at any time. Any hours of overtime worked which exceed the sixty (60) hours of accrued time shall be paid in cash.

Employees may request to cash out any accrued CTO. Requests to cash out CTO must be submitted to the Chief of Police by May 30th. Such requests will be acted upon prior to conclusion of the June pay period [6/20] of each calendar year. The Chief of Police may approve or deny such requests based on the availability of funds.

6.3 Call Out

If an employee is called to work at a time other than his/her scheduled work shift, he/she shall be credited with a minimum of four (4) hours at one and one-half times his/her straight-time hourly rate; provided, however, that this provision shall not apply if the employee is called to work immediately preceding his/her scheduled work shift or is held over for work immediately following the scheduled work shift.

~~6.4Animal Control Officers are expected to carry a cell phone during off-duty hours as a part of their job requirements. There is no expectation that Animal Control Officers will always respond to a call on their cell phone and there will be no disciplinary action taken if an Animal Control Officer does not respond to a cell phone call during off-duty hours. However, any employee of the Benicia Police Department may be required to report for duty on an emergency basis if availableOvertime during Shift Change Weeks~~

~~The city agrees to request legal advice on implementing a different workweek than is currently being used. The City will meet and confer with the association prior to the December 2007 shift change on any changes recommended and the impact of such changes.~~6.4 Daylight Savings Time

On any weekend during which there is a change to or from Standard Time to Daylight Savings time, the Chief of Police may adjust work schedules so that those assigned to work do actually work the regular number of hours normally assigned to the shift.

The "time change hour" for Daylight Savings shall not be included in the definition of actual hours worked or be considered for pay purposes, and no employee assigned to a shift who works during the transition to or from Standard Time to Daylight Savings Time shall be paid any sum except for actual hours worked during said shift.

6.5 Overtime for Dispatchers

Public Safety Dispatchers and Public Safety Supervisors ("dispatchers") who work a schedule consisting of six 12-hour shifts and one 8-hour shift every two weeks do so under agreements that designate their workweeks such that their normal schedule consists of no more than 40 hours in a seven-day work period.

The parties have requested NLRB certification of a 26-week/1040-hours work period under the FLSA, pursuant to 29 U.S.C. section 207(b) ("section 7(b) work period"). Should the parties decide, upon receipt of NLRB certification, to formally implement the section 7(b) work period, dispatchers will be eligible to be paid FLSA overtime for hours worked in excess of 12 hours in a day or 56 hours in a seven-day period.

Under the current designated workweeks or under the section 7(b) work period, dispatchers will continue to be eligible for and will receive overtime for all hours worked outside of their regular assigned schedule, pursuant to MOU section 6.1.

Employees will continue to receive straight time pay during the week of their schedule change or rotation for all hours worked, unless they work hours outside of their assigned schedules (MOU overtime) or work in excess of their designated work period (FLSA overtime).

When an employee takes a day of annual leave, sick leave, administrative leave or other leave benefit, the employee must use the number of hours which correspond to the employee's work schedule.

Section 7. Dues Check off

The City Finance Director shall commence and continue to withhold from the payroll warrants of those employees who are members of the Association such amounts of dues and at such time as it is certified to the city by the Association. The Association shall be responsible for certifying current withholding lists to the City so the same may be submitted with the payrolls, and no employee's name shall be included on such certified list unless she/he is a member of the Association and unless she/he has given to the City a written authorization for such withholding.

The Association shall indemnify, defend, and save harmless the City of Benicia, its officers, employees and agents acting on its behalf from and against any and all losses, damages, costs, expenses, claims, demands, actions, suits, judgments and other forms of liability arising out of the application or enforcement of this Section. In addition, the Association shall refund to the City of Benicia any amounts paid to it in error upon presentation of supporting evidence.

Section 8. Maintenance of Membership

Employees covered by this Memorandum of Understanding who are members of the Association, upon final ratification of the MOU, or who become members after the effective date of this Memorandum of Understanding, shall remain members in good standing with the Association for the full term of this MOU and all successive MOU's provided, however, that any member of the Association shall have the right to withdraw from and discontinue dues deduction, provided said member communicates the employee's intent in writing to withdraw from the Association to the City Finance Department between May 1 and May 30 of the contract year. A withdrawal submitted to the City Finance Department outside of the thirty (30) day period shall be returned to the employee.

Section 9. Agency Shop

9.1 Agency Shop Definition

As a condition of continuing employment, employees shall become and remain members of the Association or shall pay to the Association a service fee in lieu thereof. Such service fee shall be established by the Association and shall not exceed that portion of the Association's dues paid by members of the Association as are expended by the Association in fulfilling its responsibilities for representing members of the Representation Unit in the negotiation and administration of the Memorandum of Understanding. The Association shall comply with the rules governing the establishment of agency shop fees as set forth in the U.S. Supreme Court's decision in March 1986 in Chicago Teachers Association v. Hudson.

9.2 Implementation

Any employee hired by the City subject to this Memorandum of Understanding shall be provided, through the employee's department, a notice advising that the City has entered into an Agency Shop Agreement with the Association and that all employees subject to the Memorandum of Understanding must either join the Association, pay a service fee to the Association, or execute a written declaration claiming a religious exemption from this requirement. Such notice shall include a form for the employee's signature authorizing payroll deduction of Association dues or a service fee, or a non-religious charitable contribution equal to the service fee.

Said employee shall have five (5) working days following the initial date of employment to fully execute the authorization form indicating his/her choice and return said form to the Finance Department.

If the form is not completed properly and returned within five (5) working days, the City Finance Director shall commence and continue a payroll deduction of service fees from the regular monthly pay warrants of such employee. The effective date of Association dues, service fee deductions or charitable contributions for such employees shall be the beginning of the first pay period of employment. The employee's earnings must be sufficient after the other legal and required deductions are made to cover the amount of the dues or fees authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of an employee who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions (including health care deductions) have priority over Association dues and service fees.

9.3 Religious Exemption

Any employee of the City subject to this Memorandum of Understanding who is a member of a bonafide religion, body or sect which has historically held conscientious objections to joining or financially supporting a Association and which is recognized as such by the National Labor Relations Board, shall, upon presentation of verification of active membership in such religion, body or sect be permitted to make a non-religious charitable contribution equal to the service fee in lieu of Association membership or service fee payment. Declarations of or applications for religious exemption and any other supporting documentation shall be forwarded to the appropriate local Association within fifteen (15) days of receipt by the City. The Association shall have fifteen (15) days after receipt of a request for religious exemption to challenge any exemption granted by the City Manager or his/her designee. If challenged, the deduction to the non-religious charity of the employee's choice shall commence but shall be held in escrow pending resolution of the challenge. Non-religious charitable contributions shall be by regular payroll deduction only.

9.4 Financial Reports

The Association shall submit copies of the financial report required pursuant to the Labor-Management Disclosure Act of 1959 to the City Manager once annually.

Copies of such reports shall be available to employees subject to the Agency Shop requirements of this agreement at the office of the Association. Failure to file such a report within one hundred (100) days of the close of the Association's fiscal year shall result in the termination of all agency fee deductions, without jeopardy to the employee, until said report is filed.

9.5 Payroll Deductions

The City shall deduct Association dues or service fees and premiums for approved insurance programs from employee's pay in conformity with State and City regulations. The City shall promptly pay over to the designated payee all sums so deducted. The City shall also periodically provide the Association with a list of all persons making charitable deductions pursuant to the religious exemption granted herein.

9.6 Hold Harmless

The Association shall indemnify, defend, and hold harmless the City, its officers, employees, and agents acting on its behalf from and against any and all losses, damages, costs, expenses, claims, demands, actions, suits, judgments and other forms of liability arising out of the application or enforcement of this Section. In no event shall the City be required to pay from its own funds Association dues, service fees or charitable contributions, which the employee was obligated to pay, but failed to pay, regardless of the reasons.

9.7 Election

Promptly upon approval of this Memorandum of Understanding by the City Council of the City of Benicia, the parties shall schedule an election to implement the provisions of this Section 9. Eligible voters shall be all employees assigned to job classifications in the representation unit regardless of Association membership or non-membership. A simple majority of those eligible voters voting shall determine whether or not this Section 9 is implemented. In the event it is not implemented, the provisions of Sections 7 and 8,

Dues Deduction and Maintenance of Membership, shall remain in full force and effect.

An election to implement the provisions of this agreement shall not prohibit or restrict an election to rescind this Section as provided for by Section 3502.5 of the Government Code.

9.8 Waiver of Election for Newly-Represented Employees and New Representation Units

The accreditation of classifications and/or employees to representation units set forth in this Memorandum of Understanding shall not require an election pursuant to subsection 7 herein for the application of this Agency Shop provisions to such classifications and/or employees. The recognition of newly-established bargaining units and inclusion of same within this Memorandum of Understanding shall also not require an election pursuant to subsection 7 herein for the application of this Agency Shop to such units.

Section 10. No Strike – No Lockout

10.1 The Association agrees that participation in a strike shall subject an employee to disciplinary action, up to and including discharge.

10.2 The Association, its representatives, or members, shall not engage or cause, instigate, encourage, sanction, or condone a strike of any kind. No employee shall refuse to cross any picket line in the conduct of official City business, nor shall the Association, its representatives, or members, discriminate in any way toward anyone who refuses to participate in a strike. Strike, means the concerted failure to perform or report to duty, for the purpose of inducing, influencing, or coercing a change in the conditions of compensation, or the rights, privileges, or obligations of employment.

10.3 The City shall not institute, authorize, cause, aid, ratify, or condone any action to provoke interruption of or prevent the continuity of work normally and usually performed by employees for the purpose of coercing the employees into relinquishing rights guaranteed under the law. The City shall not, during the terms of this Memorandum, engage in any lockout of employees represented by the Association.

Section 11. Management Rights

The Association agrees that the City retains all its remaining rights and authority under law and expressly and exclusively retains its management rights not affected by this Agreement which include, but are not limited to: The exclusive right to determine the mission of its constituent departments, commissions, boards; set standards and levels of service; determine the procedures and standards of selection for employment and promotions; direct its employees; establish and enforce dress and grooming standards; determine the methods and means to relieve its employees from duty because of lack of work or other lawful reasons; maintain the efficiency of government operations; determine the methods, means and number and kinds of personnel by which government operations are to be conducted: determine the content and intent of job classifications; determine methods of financing; determine style and/or types of City-issued wearing apparel, equipment or technology to be used; determine and/or change the facilities, methods, technology, means organizational structure and size and composition of the work force and allocate and assign work by which the City operations are to be conducted; determine and change the number of locations, relocations, and types of operations, processes and materials to be used in carrying out all City functions including, but not limited to, the right to contract for subcontract any work operations of the City; to assign work to and schedule employees in accordance with requirement as determined by the City and to establish and change work schedules and assignments upon reasonable notice; establish and modify productivity and performance programs and standards; discharge, suspend, demote, reprimand, withhold salary increases, and benefits, or otherwise discipline employees in accordance with applicable law; establish employee performance standards including, but not limited to, quality and quantity standards, and to require compliance therewith; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

Management rights shall be exercised in a manner consistent with applicable laws and the Personnel Rules.

Section 12. Vacation Leave and Annual Personal Leave

12.1 Vacation Leave

The authorized annual vacation leave granted employees after one (1) continuous year of City Service shall be as follows:

One (1) through three (3) years of continuous service – ten (10) work days.

Four (4) through nine (9) years of continuous service – fifteen (15) work days.

Ten (10) through nineteen (19) years of continuous service – twenty (20) work days.

Twenty (20) years or more of continuous service – twenty-five (25) work days.

12.2 Earning Vacation Leave

Full vacation leave as set forth in Section 12.1 shall be earned by:

1. An employee on sick leave with pay.

2. An employee while on a leave of absence covered by California Worker's Compensation law (Paid Industrial Leave).

3. An employee on jury leave.

Vacation leave as set forth in Section 12.1 shall not be earned by:

1. An employee on an unpaid leave of absence.

12.3 Scheduling Vacation Leave

The scheduling of vacation leave shall be determined by the department head based on the wishes of the employee and with particular regard for the needs of the City.

Employees are encouraged to take vacation leave in increments of one (1) week at a time.

12.4 Sick Leave During Vacation Leave

An employee may change vacation leave to sick leave upon submission of a doctor's certificate that the employee is ill and unable to work.

12.5 Annual Personal Leave Allowance

Employees covered by this Agreement will earn one (1) day of personal leave per year. For this section, a "day" is defined as 8 hours. The employee may use such leave for any purpose subject to advance approval of his absence. The personal Leave Day must be used and cannot be carried over from one fiscal year to the next.

12.6 Vacation Accrual Limits

Employees covered by this Agreement may exceed vacation accrual limits during a calendar year, however, the accrual limit ceiling of 360 hours will be imposed on December 31st of each year.

If employees in this unit agree to participate in the ICMA VantageCare retiree medical program, the accrual limit shall be reduced to 320 hours. In December of each calendar year, the City will allow employees who have in excess of 320 hours of accrued vacation leave to convert forty (40) hours of vacation leave to sick leave.

12.7 Vacation Accrual Upon Hire

In order to recruit qualified lateral dispatch candidates, the Police Chief may approve a new lateral dispatcher to begin accruing at a higher vacation level commensurate with their years of comparable public safety dispatching experience. These years of experience will carry forward, and will be considered for eligibility for advancement in vacation accrual levels in Benicia. This section applies to employees hired after January 1, 2008 and will not be applied retroactively.

The enhanced accrual level will be negotiated between the Police Chief and employee, based upon the total number of years experience the employee has working as a Public Safety Dispatcher. The accrual rate at hire shall be at the one to three year level; at the point the employee successfully completes probation, the accrual rate shall be adjusted to reflect the enhanced accrual level, up to the twenty year level, retroactive to the date of hire. In accordance with Benicia Police Department's Core Values, unless extenuating circumstances arise, vacation leave use is strongly discouraged until the employee has successfully completed the training program.

Public Safety Dispatching experience shall only be recognized for the purposes of establishing a vacation accrual, and will not be used to calculate any other benefits (such as seniority.)

Section 13. Leave of Absence

13.1 Definition

A leave of absence is a privilege which may be granted to an employee wishing to leave the City service without pay and in good standing for a limited period of time.

13.2 Procedure

A request for a leave of absence without pay must be made to the department head in writing by the employee stating the dates of leave of absence requested and the reason for the request.

A department head may grant an employee a leave of absence without pay for not more than ten (10) working days when it is in the best interest of the City. The City Manager must approve a leave of absence without pay exceeding ten (10) working days.

An employee shall be entitled to payment for any earned vacation and accumulated overtime at the beginning of an approved leave of absence.

13.3 Unauthorized Leave of Absence

The failure of an employee to return to duty upon the termination of an authorized leave of absence is an unauthorized leave of absence. An unauthorized leave of absence is grounds for disciplinary action, including dismissal, unless upon the employee's return, the employee furnishes reasons satisfactory to the department head and the City Manager for not having obtained an authorized leave of absence. The unauthorized leave of absence shall be treated as time not worked. The City shall deduct from the employee's pay, an amount equal to time absent from City service.

13.4 Jury Leave

When an employee is summoned for jury duty, the employee shall be granted a leave for jury duty, upon presentation of the summons to the employee's department head.

An employee shall receive full pay while on leave for jury duty; provided, however, the employee must remit compensation

received for jury duty, except compensation for mileage. An employee who elects to retain compensation received for jury duty shall not receive salary while on jury duty.

An employee's hours will be changed to day shift to coincide with jury duty. When an employee is released from jury duty, he/she will report to work to complete the remainder of the day shift, if any time remains in the shift. When an employee is released from jury duty and no time remains in the day shift, he/she shall report to their regularly scheduled shift the following day, providing it is to begin ten (10) or more hours after being released from jury duty. The only exception is under emergency conditions.

The City will not permit an employee who is summoned for jury duty on a day off to alter their work schedule so that their jury duty summons becomes a work day.

13.5 Bereavement Leave

Any employee shall obtain the approval of the employee's department head in advance of an absence due to a death in the employee's family. Failure to obtain the department head's approval shall result in ineligibility for benefits under this section.

A department head may allow an employee a leave of absence up to three (3) days to attend the funeral of a member of the employee's immediate family.

A department head may allow an employee leave of absence up to one (1) day to attend the funeral of a person other than a member of the employee's immediate family, chargeable to sick leave, compensatory time, or vacation leave. Additional time may be charged to compensatory time or vacation leave.

For the purpose of this section, immediate family shall be defined as follows: Spouse, children, father, mother, brothers, sisters, mother-in-law, father-in-law, sister-in-law, brother-in-law, grandparents, grandchildren and member of the employee's household.

13.6 Military Leave

Military leave shall be granted in accordance with the provisions of state and federal law. An employee taking military leave shall give the employee's department head a copy of the employee's orders to report to military duty.

13.7 Parental Leave

A pregnant employee (and father of the baby) shall be entitled to a maternity leave of absence without pay in accordance with State and Federal laws. An employee may opt to use accumulated vacation or sick leave as defined in Section 14.2 for this purpose.

Section 14. Sick Leave

14.1 Eligibility and Accrual

Employees shall accrue sick leave beginning the first day of the month following the employee's completion of one month of service. Employees shall earn sick leave at the rate of 8 hours per month for each calendar month of service. Full sick leave is earned by each full-time employee while on paid leave of absence, including sick leave and jury leave. Sick leave shall not be earned by employees on unpaid leave of absence. Employees shall continue to earn sick leave while on Paid Industrial Accident (PIA) leave.

The Police Chief may allow Public Safety Dispatchers hired after January 1, 2008 who meet the eligibility threshold for higher vacation accrual as set forth in Section 12.7 to use sick leave in advance of accrual during the first year of employment, up to the maximum first year accrual level of ninety-six (96) hours. Should the employee be terminated or leave the City prior to the completion of one year of employment, any sick leave used beyond that which would have been accrued based on months of service will taken out of accrued vacation, compensatory time off, or final wages. The accrual rate for sick leave remains at eight (8) hours per month.

14.2 Usage of Sick Leave

(1) Permissible Usage of Sick Leave for Employee.

Employees eligible for sick leave may use paid sick leave following the completion of six months of employment with the City. The City Manager shall maintain records of sick leave for all City employees.

With the prior approval of an employee's department head, an employee may use accumulated sick leave for medical or dental appointments.

(2) Family Member Illness / Medical Appointment: Family Care (Labor Code Section 233). Employees may use one half of their annual accrual worth of sick leave to care for an ill family member. Under this section, family member includes Child, Parent, Spouse, and Domestic Partner. Mothers-in-law, fathers-in-law, and grandparents are not considered "parents" for purposes of this law. The illness does not have to be serious in nature and includes doctors appointments. These days may not be carried over from year to year. Conditions and restrictions contained in this Memorandum of Understanding for an employee's use of sick leave also apply to sick leave used under this section.

Any employee on authorized leave under Family Medical Leave Act (FMLA), California Family Rights Act (CFRA), or other federal or state law shall be governed by the provisions of said regulations.

(3) Non-permissible Usage of Sick Leave

No employee shall be entitled to use sick leave with pay while absent from duty under any of the following conditions:

Disability arising from sickness or injury purposely self-inflicted or caused by employee's willful misconduct;

Disability arising from sickness or injury sustained while on unpaid leave of absence;

Disability arising from sickness or injury related to compensated employment other than with the City;

Disability arising from sickness or injury while receiving compensation from the City for an industrial accident pursuant to Section 15.

For absence caused by intoxication or excessive use of alcoholic beverages.

14.3 Accumulation

Accumulation of sick leave by all employees shall be unlimited.

14.4 Notification

To receive sick leave, an employee must notify the department at least two (2) hours prior to the commencement of the employee's scheduled shift.

14.5 Sick Leave Incentive

The City agrees to reimburse each employee 25% of their annually accrued, but unused, sick leave during November of each year. If employees in this unit agree to participate in the ICMA VantageCare retiree medical program, the provisions of this section shall be eliminated. The annual 25% Sick Leave Incentive shall be suspended for 2010.

14.6 Sick Leave Conversion

The City agrees to convert 25% of accrued sick leave upon retirement (service or disability) to cash, payable to the retiring employee, provided he/she has at least twelve (12) years service. In no case shall such payment exceed one months' salary for the incumbent position in effect at the time of retirement.

14.7 Return to Employment Following Sick Leave

When an employee returns to duty following an absence chargeable to sick leave, the employee's department head or the City's personnel officer may require an affidavit showing the nature of the cause of sickness or injury.

When an employee returns to duty following an absence of three (3) days or longer, the department head or personnel officer may require a signed statement from a doctor or dentist that the employee was incapacitated and unable to perform the employee's duties throughout the entire period of sick leave.

The failure of the employee to file the personnel affidavit or the statement from the doctor or dentist shall result in the employee's ineligibility for sick leave benefits, unless a waiver is granted by the City Manager.

In the case of frequent use of sick leave, the employee's department head or the personnel officer may request that the employee file a doctor's statement for each such illness regardless of duration. An employee may be required to take an examination by a doctor mutually agreed to by the City

and the employee. If requested by the City, the employee shall authorize consultation with the employee's doctor concerning the illness.

On the basis of such medical advice, the City Manager shall determine whether an employee is incapacitated for the duties of the employee's position and may take the action the City Manager considers appropriate.

Sick Leave Usage Policy:

The city agrees to form a committee made up of members from the association, management, and a representative from Human Resources to review the current sick leave issues within the association, such as the sick leave contract. The committee will begin meeting no later than July 1, 2007. The current policy will remain in effect until such time a mutually agreed upon change is made.

14.8 Supplemental Sick Leave

Employees are entitled to Supplemental Sick Leavebenefits in accordance with Policy #05 which was updated and issued in February 2007 named Supplemental Sick Leave Benefit.

Section 15. Paid Industrial Accident Leave

15.1 Eligibility

Employees shall be eligible for paid industrial accident leave ("PIA") provided, however, that the employee's claim for State Workers' Compensation must be approved and further provided that the injured employee shall immediately report the accident to the employee's supervisor or if the supervisor cannot be contacted, the employee must notify the Police Communication Center immediately.

15.2 PIA Benefits

The City agrees that each employee shall be granted paid industrial leave ("PIA") if the claim is approved by the State Workers' Compensation, with the City paying full, basic salary during such leave. "PIA" shall begin on the first day of said industrial accident and shall extend for a maximum of one year. When an employee is on "PIA," the employee is charged neither vacation nor sick leave but during this time, the employee does

accrue vacation or sick leave. The employee is not eligible for a step increase while on "PIA," and the employee's anniversary date will be adjusted so that the employee will observe the normal working period between steps.

Section 16. Holidays

16.1 Authorized Holidays

Employee's shall be entitled to the following paid holidays:

New Year's Day, Martin Luther King, Jr. Birthday, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, and the Friday following Thanksgiving Day and Christmas.

The City shall observe the Friday preceding a legal holiday falling on Saturday as a legal holiday and the Monday following a legal holiday falling on a Sunday as a legal holiday. For employees on seven (7) day per week assignments, the holiday shall be celebrated on the day on which it falls.

16.2 Work Performed on Holidays

The City and the Association agree that Public Safety Dispatchers and Public Safety Dispatch Supervisors are scheduled to work on the aforementioned holidays as a matter of health and safety of the Community. In lieu of the aforementioned holidays, the City agrees to pay Public Safety Dispatchers and Public Safety Dispatch Supervisors one and one-twelfth (1-1/12) days straight-time pay per month in lieu of having the holiday off. Employees required to work on a holiday they were not scheduled for according to the shift they bid or regularly work, he/she will be compensated at one and one-half (1 ½) times his/her hourly rate of pay for each hour so worked. Additionally, shall receive time off equivalent to the number of hours worked on the non-scheduled holiday. This time to be scheduled by the department head based on the wishes of the employee and the needs of the City.

Employees who actually work on an aforementioned holiday shall receive an additional ½ time pay or compensatory time off (CTO). This section applies to employees previously scheduled to work this day, not employees who sign up for overtime. However, if an employee is working this shift due to a shift trade, the employee who actually works the hours is the employee who receives the additional time off or pay. Non-dispatch employees (Records

Clerk, and Community Service Officer) are not eligible for this additional time unless the holiday falls on a day they are routinely scheduled to work in dispatch, or they are working a shift trade, and they do not qualify for the additional ½ time pay or CTO hours if they signed up to work voluntary overtime on this day.

Section 17. Salary Plan

17.1 Salaries

(1) Effective July 1, 1994, the City converted the employer-paid employee 7% P.E.R.S. contribution to salary and allowed all employees in the bargaining unit to begin paying their own P.E.R.S. contribution. In 2001, the employee P.E.R.S. contribution increased to 8% when the City implemented the 2.7% at 55 plan.

(2) Additionally, the City implemented Internal Revenue Code Section 414 (h) (2) which will allow all employees in the bargaining unit to defer paying taxes on their contribution to P.E.R.S. (~~7~~8%) until retirement or receipt of a lump sum payment (refund).

(3) There shall be no Cost of Living Adjustments, and the remainder of section 17.1 shall be suspended, through the term of this contract ~~as follows:~~

(4) Effective November 1, 2010 through June 30, 2011, employees enrolled in City-offered medical plans shall contribute 5.01% of base salary on a pre-tax basis towards health insurance premiums. Effective July 1, 2011, employees enrolled in City-offered medical plans shall contribute 3.91% of base salary on a pre-tax basis towards health insurance premiums. For employees not enrolled in City-offered medical plans who receive cash in lieu of City contributions towards health insurance premiums, the cash in lieu shall be reduced by amounts equal to the percentages above.

It is the intent of the City to remain competitive in the labor market and provide equitable salaries for its employees.

~~**The basic salaries of positions covered by this bargaining unit shall be increased as follows:**~~

~~**July 1, 2006**~~	~~**2% Cost of Living (COLA)**~~
~~**January 1, 2007**~~	~~**2% Cost of Living (COLA)**~~
~~**July 1, 2007**~~	~~**Market adjustment**~~
~~**July 1, 2008**~~	~~**2% Cost of Living**~~
~~**January 1, 2009**~~	~~**2% Cost of Living**~~
~~**July 1, 2009**~~	~~**Market adjustment**~~

The basic salary for Public Safety Dispatcher shall be a benchmark position and based on market survey.

The basic salary for Public Safety Dispatch Supervisor shall be set at an amount equal to twenty percent (20%) above that of Public Safety Dispatcher.

The basic salary for CSO II shall be set at an amount equal to five percent (5%) below that of Public Safety Dispatcher.

The salary for CSO I shall be set at an amount equal to ten percent (10%) below that of CSO II.

The salary for Animal Control Officer shall be set at an amount equal to the salary of CSO I.

The salary for Records Clerk shall currently be set at an amount equal to the salary of CSO I. A classification study will be conducted on this position and will begin no later than December 31, 2007.

Salary surveys for market adjustments are calculated at the mean and based on:

Top Step base salary
PERS Pick-up
Uniform Allowance
Insurance (health, dental, vision, life)

Survey cities are cities of: Brentwood, Davis, El Cerrito, Fairfield, Folsom, Napa, Pleasant Hill, Pinole, Richmond, San Pablo, Vacaville, and Vallejo.

~~Compensation data from other agencies will be collected for salaries and benefits in effect on April 1, 2007 except that where agencies have committed, via contract or resolution, to increases effective July 1, 2007 the salary after applying such increase shall be used for comparison.~~

In the event a position is above the mean after conducting a market survey, the position shall not lose pay, but instead shall remain at the current range for that market adjustment period.

17.2 Salaries – New Employees

A new employee shall be appointed to the first step of the salary range to which the employee is assigned, provided, however, that a new employee may be appointed at a salary in excess of the first step when it is difficult for the City to locate qualified personnel. In this event, no incumbent employee in the same classification shall be paid less than the salary paid to the new employee. Exceptions to the foregoing may occur if a prospective employee has education, training or experience substantially superior to the minimum qualifications required for the position. In exceptional cases, at the discretion of the City Manager, an employee may be hired at an advanced step without regard to salaries of existing employees.

17.3 Anniversary Date

The employee's anniversary date is the first day of the month if employment occurs during the first fifteen (15) days of the month; otherwise, the anniversary date is the first day of the next pay period.

The anniversary date of an employee on leave without pay for one (1) month or longer, shall be extended by the period of the leave.

17.4 Advancement Within Salary Range

Advancement within the salary range for a classification shall not be automatic. All increases shall be based on merit as established by a record of the employee's performance and shall require the written recommendation of the Department Head and approval by the City Manager.

An employee who does not receive an in-grade salary advancement shall be notified in writing by the employee's department head as to the reason for denial.

The City Manager may adjust the salary rate of an employee to any step in the employee's existing salary range to correct gross inequities in salary or to reward outstanding achievement and performance.

17.5 Salary after Promotion or Demotion

When an employee is promoted, the employee's compensation shall be set at Step A or one step higher than the employee's current salary whichever is higher, provided however, the employee's salary shall increase by at least 5%. If an employee is promoted within ninety (90) days prior to their anniversary date, they may be granted an additional salary increase beyond that provided above. Such additional step may be denied for reasonable cause; including the employee being hired, promoted or receiving extraordinary step increases within the last twelve (12) months.

When an employee is demoted to a class with a lower maximum salary, the employee shall be assigned to the applicable salary step in the new class, provided however, that there shall be at least a 5% decrease in salary assuming that the employee's service has been continuous in the new class. The employee shall retain the employee's previous anniversary date.

17.6 Salary after Transfer

When an employee is transferred from one position to another position in the same class or to another class with the same pay range, the employee shall retain the same step and the same anniversary date.

17.7 Acting Pay

A. Acting Supervisor – One Shift: Whenever a bargaining unit employee is required to serve as an acting supervisor for a minimum of one (1) shift, the employee shall be compensated for each shift in that capacity by an increase of $10.00 per shift.

All such acting assignments shall be offered on the basis of qualifications for such assignment according to the judgment of the department head or the department head' s authorized representative and shall be consistent with the Personnel Rules.

B. Acting Dispatch Supervisor: An employee shall be assigned to perform the duties of the Dispatch Supervisor on an "acting" basis when it is necessary to provide coverage during vacation or leave periods of the Dispatch Supervisor in excess of five (5)

consecutive working days. An "acting" assignment shall only be made by the Department Head and employees shall be provided with a written notice assigning them to the higher classification on an acting basis. Employees so assigned shall receive "acting" pay only after performing in the higher classification for a period of five (5) consecutive workdays.

Employees assigned by the Department Head to perform the duties of a higher classification on an "acting" basis, shall receive "acting" pay for each full day of assignment in such higher classification at the completion of the fifth day retroactive to the first day of assignment. Acting pay shall be at least five percent (5%) more than the employee's salary in his/her present classification; provided, however, in no event shall acting pay exceed the top salary step of the classification in which the employee is serving in an acting capacity.

17.8 Pay Period

The pay day for each employee shall be the last day of the month or as authorized by the City Council.

17.9 Terminal Pay

An employee who is terminated is entitled to terminal pay for:

1. That portion of the final pay period from the first day of the final pay period to the effective date of separation. The day of separation is either the working day specified for the separation or the last day of the pay period if no date is specified;

2. Accrued vacation actually earned but not taken, provided the employee has been in the continuous service of the City for at least six (6) months prior to the effective date of his termination~~ and provided the employee submits notice of his resignation at least fourteen (14) days before the effective date of his resignation~~.

3. Accrued overtime: In the case of an employee's death, the City shall pay the employee's beneficiary the sums set forth in items 1 through 2 above provided, however, that the employee must have designated a beneficiary on a form specified by the City Manager. If the form specified by the City Manager has not been

completed and returned to the finance director, terminal pay shall be paid to the estate of the employee.

~~Terminal pay shall be paid to an employee only upon submission by the employee of all City-owned property in the employee's possession, including but not limited to, keys, badges, and credit cardsSeverance of the employment relationship with the City is defined as a separation of service and withdrawing of retirement contributions under the Public Employee's Retirement System.~~

17.10 CSO I/II / Records Clerk (~~refer to side letter dated 9-17-07~~)

CSO I/II's shall be provided on-the-job training in the performance of Public Safety Dispatcher duties for a period of one hundred sixty (160) hours, such training to be completed during the first twelve (12) months of employment. Records Clerks may be offered the on-the-job training based on department needs. Upon successful completion of this training period, the CSO I/II , and Records Clerk (if applicable) shall receive the salary step in the dispatch salary range which equated to the step they are normally paid in their regular position. For example, an employee at Step C of the CSO range, shall be paid Step C rate of pay in the dispatch range ~~provides a minimum of 5% increase over the CSO's current step~~ when assigned to perform dispatcher duties except for time worked temporarily relieving on-duty Public Safety Dispatchers. In no event shall an employee receive "acting pay" at a rate which is in excess of the maximum rate of the classification of Public Safety Dispatcher. The provisions of this Section 17.10 shall not be used by the City to circumvent the requirement to fill vacant Public Safety Dispatcher positions in an expeditious manner.

17.11 Training Pay

Personnel who are assigned to train shall receive additional compensation of five percent (5%) of their basic salary during the period of time while actually assigned training responsibilities. Assignment, length of service, and termination of assignment will be made in accordance to procedures as approved by the Department Head or his/her designee. It is understood and agreed that qualifying to be able to train does not guarantee assignment to train. Training pay will only be paid for actual hours worked in that capacity, and not paid time off.

17.12 Longevity Pay Program

The City agrees to the implementation of a Longevity Pay Program. This Program applies to all regular full-time employees and those employees in positions covered under the Job-Sharing/Reduction in Hours of Employment Policy #14. Authorized employees shall be entitled to a 2 ½% increase in compensation upon completion of ten (10) consecutive years of full-time (or full-time equivalent) service.

Additionally, for each additional ten (10) consecutive year increment, i.e., twenty (20), thirty (30), forty (40) years, of full-time consecutive service, employees shall be entitled to an additional 2-½% increase in compensation over the rate for the class in which the employee is employed.

Prior City service shall not count toward this Program ~~for those employees who have previously severed their employment relationship with the City as defined in Section 17.9 of the agreement~~.

17.13 Retirement Plan

1. The City shall continue in effect its contract with the Public Employees' Retirement System (PERS) for the term of this Memorandum of Understanding. The City amended its contract with P.E.R.S. to include the 2.7% @ 55 benefit.

2. New Retirement Tier for New Hires

BDA agrees to the implementation of a new, less costly, CalPERS second tier pension formula for new hires contingent on agreement with all other Miscellaneous employees to the same, and effective thereafter as soon as administratively possible, consistent with CalPERS contract amendment requirements.

Section 18. Deferred Compensation

The City agrees that employees represented by the Association may participate, at their own expense, in the City's deferred compensation plan.

Section 19. Uniform Allowance

The City agrees to provide a monthly uniform allowance to the employees to cover the costs of purchasing, maintaining and cleaning their uniforms. Effective 7/1/05, said allowance ~~to be~~ was as follows: Public Safety Dispatchers, Public Safety Dispatch

Supervisor, CSO's and Animal Control Officers $70.00 per month. Effective July 1, 2007, uniform allowance ~~will~~ increased to $75.00 per month. Effective July 1, 2008, uniform allowance will also be provided to Records Clerks. Such uniform allowance will not be reduced as a result of job-share or reduced schedule arrangements under City Policy #14. Said allowance will be paid annually in November and will be included in the same paycheck which contains Sick Leave Incentive pay where applicable. Employees who leave City employment any time prior to November shall have $75.00 for each month of the twelve (12) months previous to November in which she/he is not a City employee, deducted from their final City paycheck. While uniform allowance is advanced and paid to all BDA members listed above on an annual basis, it is reported to PERS on a monthly basis, as it is earned.
~~While uniform allowance is 'paid' to dispatchers annually, it is required to be reported to PERS monthly as it is earned.~~

Section 20. Educational Reimbursement

The Educational Reimbursement Program is designed to encourage employees to continue their self-development and career development by enrolling in classroom courses which will prepare them in new concepts and methods needed to meet the changing demand of City service. Effective 7/1/00, the City agrees to pay the cost of books and tuition up to a maximum of $~~750.00~~ $1,000 per employee per fiscal year for courses of study completed during that fiscal year and related to the member's current employment or to obtain a two or four year degree in Administration of Justice, Criminal Justice Administration or Criminology. Courses submitted for reimbursement which do not fall in the major must be certified by the college as requisite for attaining a two or four year degree. All courses must have been approved in advance by the employee's
Department head. Employees will be reimbursed for expenses upon completion of the course(s) with a passing grade. ~~Effective 7/1/03, this amount shall increase to $1,000.00 per fiscal year.~~

Section 21. Shift Differential

All qualified employees who work in a Public Safety Dispatcher position and who work a swing or relief shift will receive a five percent (5%) premium in addition to their regular rate of pay; those who work a graveyard shift will receive a seven percent (7%) premium in addition to their regular rate of pay. For employees whose shift on a particular day overlap the two differential rates,

the rate paid will be paid for the entire shift based on the shift that the majority of the hours were worked.

21.1 Solo Graveyard Shift

The City will make every effort to avoid the scheduling of dispatchers to work solo on the graveyard shift. Employees shall receive an additional $25.00 per solo graveyard shift for the period of 7/1/06 – 12/31/06. Effective 1/1/07, this amount ~~shall~~ increased to $40.00 per shift. Employees must work a minimum of ~~half~~ four (4) hours of their assigned shift on graveyard in order to receive ~~this pay~~ Solo Graveyard Pay.

Section 22. Alternate Work Schedule (inserted from November 14, 2000 side letter):

The City implemented a 9/80 or 4/10 work schedule for CSO, Records Clerk, and Public Safety Dispatch Supervisor. Dispatchers are eligible to participate in the 4/10 work schedule. The Department Head has the authority to modify or discontinue this work schedule at any time with thirty (30) days notice to the Associate and the opportunity to meet and confer on the impact of the change. With the approval of the Department Head, there may be variations in employees' work hours keeping in mind the City's need to provide maximum service to the citizens while granting employees a work schedule that best fits their needs as well. The following parameters apply to employees participating in the 9/80 or 4/10 work schedule:

A. The exact schedule (i.e., every other Monday off, Friday off, hours of work, etc.) must first be approved by the Department Head.

B. This schedule will not preclude the City from implementing a different schedule (such as 5/8's) for training purposes, particularly for new employees. It is the City's intent to have the employee move into the flex schedule as soon as feasible.

C. CSOs and Records Clerks working a 9/80 or 4/10 work schedule will not have to dock an hour of annual leave or administrative leave when they are off on a holiday. The holiday will be equivalent to a nine (9) hour day for employees working a 9/80 work schedule and ten (10) hour day for employees working a 4/10 work schedule. If the holiday falls on a regularly scheduled day off, then the

employee will receive eight (8) hours of administrative leave which will need to be taken before the end of each fiscal year.

D. When an employee takes a day of annual leave, sick leave, administrative leave or other leave benefit, the employee must use the number of hours which correspond to the employee's 9/80 or 4/10 work schedule.

E. Temporary changes in an employee's 9/80 work schedule must be approved by the employee's Department Head (i.e., employee hardship).

F. The Department Head may determine that not all employees in the bargaining unit may participate in the 9/80 or 4/10 work schedule in order to maintain the efficiency of government operations.

Section 23 Meal Period

Dispatchers get a paid lunch; Records Clerk, Community Service Officers, and Animal Control Officers get an unpaid lunch period.

Section 24 Seniority Rights

Seniority is herein defined to be an employee's length of continuous service with the City of Benicia in the representation unit covered by this Memorandum of Understanding. An individual employee's seniority shall be effective from the date of first employment in a position within the representation unit. The Department will consider seniority in vacation scheduling and shift assignment. For the purposes of vacation scheduling and/or shift assignment for employees holding a promoted position, the effective date of the employee's promotion shall be controlling.

24.1 Seniority Rights for employees in a Job Share or Reduced Hour position

Any employee who has signed a Job-Sharing Request agreement, or a Voluntary Reduced Work Hours Program agreement, pursuant to the City's Job-Sharing / Reduction in Hours Employment Policy #14, may only exercise the right to resume full-time status in the event of a full-time, budgeted and funded, vacancy within their position.

Section 25. Court Appearance

~~24.1~~25.1 If any court appearance scheduled for the employee's day off is cancelled with less than six (6) hours notice provided to the subpoenaed employee, then the employee shall be compensated for a minimum of four (4) hours overtime at the overtime rate that applies to the employee's classification for no more than one such occurrence during the employee's normally scheduled weekend (days off).

~~24.2~~25.2 Employees subpoenaed to appear in court on a regularly scheduled work day shall be compensated in the following manner:

When the court appearance is scheduled for a time prior to the employee's regularly scheduled work hours and the employee appears in court, the employee shall be compensated at an overtime rate of one and one-half (1 ½) times the employee's regular rate of pay for the period of time the employee is in court beyond the normally scheduled work hours.

When the court appearance is scheduled for a time that employee is regularly scheduled to work and extends beyond those regularly scheduled hours, the employee shall be compensated at a rate of one and one half (1 ½) times the employee's regular rate of pay for the period of time the employee is in court beyond the normally scheduled work hours.

When the court appearance is scheduled for a time after the employee's regularly scheduled work hours, the employee shall be compensated for a minimum of four hours at a rate of pay one and one-half (1 ½) times their regular rate of pay.

Employees with multiple subpoenas for the same day for appearance times prior to their regularly scheduled work hours may only be compensated at the overtime rate of one and one-half (1 ½) times their regular rate of pay for the actual time spent in court until the beginning time of their regularly scheduled work shift or for a minimum of four (4) hours, whichever is shorter.

Employees with multiple subpoenas for the same day for appearance times after their regularly scheduled work hours

may only be compensated at the overtime rate of one and one-half (1 ½) times their regular rate of pay for the actual time spent in court or a minimum of four (4) hours, whichever is longer.

An employee with multiple subpoenas for appearances in the morning as well as the afternoon may only claim one four (4) hour minimum for the morning court appearance and one four (4) hour minimum for the afternoon appearance. An employee is precluded from collecting more that eight (8) hours of guaranteed minimums (four (4) in the morning and four (4) in the afternoon).

Section 26. Insurance

2~~5~~6.1 Health and Welfare

The City shall continue to offer hospital-medical, dental and vision plans as those plans are currently structured or as the plans may be amended from time to time by the plan providers. The City may substitute plans currently offered with plans of substantially similar benefits. ~~The City's maximum liability for premium contributions for hospital-medical benefits shall be limited to the then current Kaiser foundation Health Plan contribution rate for the class of dependency coverage involved. For those employees enrolled in other plans, the City shall contribute in addition to the then current Kaiser foundation contribution rate, fifty percent (50%) of the difference between the current Kaiser Foundation contribution rate and the then current contribution rate charged by the City's individual practitioner Health Maintenance Organization provider for the class of dependency coverage involved~~. The City shall contribute the full premium required by the providers of the dental and vision care plans provided herein through ~~June 30, 2010~~ the end of this MOU. The City shall allow employees who have dual coverage on their health plan to receive in cash ~~an~~ the amount ~~equivalent~~ the City contributes towards ~~to~~ the single ~~Kaiser~~ rate if they decline enrolling in the City's plan.

Effective the first full pay period after ratification of this agreement by the City Council the City's contribution towards medical premiums for fiscal year 2010 – 2011 shall be a maximum up to the following contributions for any plan:

Employee: $592.37
Employee plus One: $1,184.75
Employee plus Family: $1,575.71

For Fiscal year 2011 – 2012 the parties agree to the following cost sharing approach to premium increases in 2011 and 2012 only. Specifically, the City will share evenly any amount that exceeds the current FY 2010-2011 Kaiser contribution levels, up to a capped maximum City contribution amount of $29.63/month for single, $59.25 for employee +1 and $79.49 for employee + family.

In order to allow employees in Health Net time to transition to the City's new capped contribution to any plan, the City agrees to continue the existing City dollar contributions for Health Net participants in effect on September 30, 2010 until June 30, 2011 only. At that time this extra contribution shall expire and the City's contribution for particpants for both Kaiser and Health Net shall be as described above.

During the term of the MOU, the parties agree to participate with the other bargaining units to determine whether or not any medical plan design changes would assist in reduction of costs to the city and/or reduction of premiums for employees. The parties recognize that any such changes in plan design require agreement by all city bargaining units.

2~~5~~6.2 Life Insurance

The City shall provide regular, full-time employees with $30,000 group term life insurance with said policy to include accidental death and dismemberment coverage.

2~~5~~6.3 Retiree Medical

Should employees in this unit agree to participate in the City's ICMA VantageCare retiree medical program, provisions for the Sick Leave Incentive in Section 14 shall be eliminated. Under the retiree medical program, the City will contribute to the individual employee's savings account an amount equivalent to:

5-10 years	-	25% of Annul Unused Sick Leave Accrual
11-15 years	-	40% of Annual Unused Sick Leave Accrual
16-19 years	-	60% of Annual Unused Sick Leave Accrual
20-24 years	-	80% of Annual Unused Sick Leave

Accrual
25 years or more - 100% of Annual Unused Sick Leave Accrual

Section 27. Grievances/Disciplinary Appeals

2~~6~~7.1 Definition

(1) A grievance is any dispute which involves the interpretation or application of any provisions of this Memorandum of Understanding. A disciplinary appeal is an appeal by an employee of a discharge, demotion, reduction in pay or suspension without pay. If the employee selects use of the grievance procedure as set forth in Section 9.11 of the City of Benicia Personnel Rules then this procedure shall apply.

(2) A work day is defined as a day on which administrative offices of the City of Benicia are open for business.

2~~6~~7.2 Procedure

Grievances/Appeals filed pursuant to this Memorandum of Understanding shall be processed in the following manner:

The grievance shall be presented in writing either by the employee or by an authorized Association representative to the designated supervisor of the employee within ten (10) working days after the occurrence of the cause of such grievance.

The designated supervisor shall have ten (10) working days from date of receipt of the grievance in which to investigate and respond. If the grievance is not satisfactorily adjusted within this period, the grievance may be presented in writing either by the employee or by an authorized Association representative within ten (10) working days to the Department Head or to such representative as the employee may designate.

Disciplinary appeals must be presented in writing to the Department Head within ten (10) working days from date of receipt of the Notice of Intent to Discipline. Appeals which are not presented within this time limit shall be deemed waived and abandoned.

The Department Head or a designated representative shall have ten (10) working days from date of receipt of the grievance in which to respond. If the grievance/appeal is not satisfactorily adjusted/resolved within this period, the grievance/appeal may be presented in writing either by the employee or by an authorized Association representative to the City Manager or to such representative (grievances only) as the City Manager may designate within ten (10) days.

If the parties are unable, within ten (10) working days, to reach a mutually satisfactory accord on any grievance/appeal which arises and is presented during the term of this Memorandum of Understanding, a request for hearing such grievance before an Adjustment Board shall be submitted in writing to the Personnel Officer. The Adjustment Board shall be comprised of two (2) Association representatives, no more than one (1) of whom shall be either an employee of the City or an elected or appointed official of the Association; and two (2) representatives of the City, no more than one (1) of whom shall be either an employee of the City or a member of the staff of any organization employed to represent the City in the meeting and conferring process. No decision of the Adjustment Board shall be final and binding without receiving the affirmative votes of a least three (3) members of the Board.

If an Adjustment Board is unable to arrive at a majority decision, either the Association or the City may require that the grievance/appeal be referred to an impartial arbitrator who shall be designated by mutual agreement between the Association and the City Manager. The fees and expenses of the arbitrator and of a court reporter shall be shared equally by the Association and the City. Each party, however, shall bear the cost of its own presentation including, but not limited to, preparation and post hearing briefs, if any.

Decisions of Adjustment Boards and arbitrators on matters properly before them shall be final and binding on the parties hereto.

2~~6~~7.3 Scope of Procedure

No Adjustment Board and no arbitrator shall entertain, hear, decide or make recommendations on any dispute unless such dispute involves a position in a unit

represented by the Association and unless such dispute falls within the definition of a grievance or disciplinary appeal as set forth in subsection 25.1 (1).

2~~6~~7.4 Change to Memorandum

Proposals to add to or change this Memorandum of Understanding or written agreement or addenda supplementary hereto shall not be arbitrable and no proposal to modify, amend or terminate this Memorandum of Understanding, nor any matter or subject arising out of or in connection with such proposal, may be referred to arbitration under this Section. Neither any Adjustment Board nor any arbitrator shall have the power to amend or modify this Memorandum of Understanding or written agreements or addenda supplementary hereto or to establish any new terms or conditions of employment.

2~~6~~7.5 Disciplinary Action

No appeal involving disciplinary action taken against an employee will be entertained unless it is filed in writing with the City Manager within ten (10) working days of the time at which the affected employee was notified of such action.

2~~6~~7.6 Compensation Complaints

All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Chief of Police. Only complaints which allege that employees are not being compensated in accordance with the provisions of the Memorandum of Understanding shall be considered as grievances. Any other matters of compensation are to be resolved in the meeting and conferring process and if not detailed in the Memorandum of Understanding which results from such meeting and conferring process shall be deemed withdrawn until the meeting and conferring process is next opened for such discussion. No adjustment shall be retroactive for more than thirty (30) days from the date upon which the complaint was filed.

2~~6~~7.7 Civil Service Personnel Rules and Regulations

The provisions of this Section shall not abridge any rights to which an employee may be entitled under the City of Benicia Personnel Rules.

All grievances/appeals of employees represented by the Association shall be processed under this Section. If the Personnel Rules require that a differing option be available to the employee, no action under paragraph (4) of Section 25.2(4) above shall be taken unless it is determined that the employee is not availing himself or herself of such option.

No action under paragraph (2) or (3) of Section 25.2 above shall be taken if action on the complaint or grievance/appeal has been taken by the Civil Service Commission, or if the complaint or grievance/appeal is pending before the Civil Service Commission.

Section 28. Legal Defense

The City will provide legal defense for employees within the definitions and limitations set forth in all applicable sections of the State of California Government Code.

Section 29. Closing Clause

~~28.1~~29.1 The effective date of this agreement shall be July 1, 20~~06~~10, and the agreement shall remain in effect through June 30, 20~~10~~12.

29.2 During the term of the agreement, if the Council, after a noticed public hearing, deems additional reductions are necessary to balance the City's budget, the parties agree to reopen the contract for the narrow and specific purpose of meeting and conferring over concessions identified by the City as needed to prevent layoffs of BDA members.

~~28.2~~29.3 This agreement shall remain in force after its expiration where negotiations between the employer and the Association have not resulted in a new agreement, until such time as a new agreement is reached by both parties.

~~28.3~~29.4 Any provisions in this agreement pertaining to work hours, shifts, or personnel assignments may be suspended temporarily by the City where a declared emergency exists as defined by the Civil Disaster Emergency Plan. The City shall have sole power to determine the existence of an emergency and shall meet with the Association at the earliest possible time to discuss the suspension of provisions during the declared emergency.

~~28.4~~29.5 If any section of this Agreement should be found invalid, unlawful, or unenforceable by reason of any existing or subsequent enacted legislation or by judicial authority, all other sections of this agreement shall remain in full force and effect for the duration of this Agreement. In the event of invalidation of any Section, the City and the Association agree to meet within thirty (30) days for the purpose of renegotiating said Section.

~~28.5~~29.6 This Memorandum of Understanding shall be submitted to the City Council for its adoption at its regular meeting.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this _____this day of _____, 20~~07~~10.

Benicia Dispatchers Association/ City of Benicia

Need to update this page with current names:

By

by

James Erickson
City Manager

By

by

Kim Imboden
Sr. Personnel Analyst

By

Approved as to form:

By

Heather Mc Laughlin
City Attorney

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DISPATCHERS MEMORANDUM OF UNDERSTANDING
JULY 1, 2010 – JUNE 30, 2012

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Section 1. Preamble

This Agreement is entered into by the City of Benicia, hereinafter referred to as the "City" and the Benicia Dispatchers Association hereinafter referred to as the "Association" for the purpose of promoting harmonious relations between the City and the Association, to establish an orderly and peaceful procedure to settle differences which might arise and to set for the basic, complete and full agreement between the parties concerning salaries and all other conditions of employment, and preclude any further negotiations during its term unless otherwise stated herein.

Section 2. Recognition

The Association is hereby recognized by the City as the exclusive representative and sole bargaining agent for the bargaining unit composed of Public Safety Dispatchers, Public Safety Dispatch Supervisors, Community Service Officer I/II (referred to as CSO throughout the remainder of this document), Animal Control Officers, and Records Clerk, established by the City on or about March 1, 2005 and for said bargaining unit, under conditions of State law.

Section 3. Non-Discrimination

The City shall not discriminate against any employee covered by this agreement because of membership or non-membership in the Association or authorized activity as required in this agreement on behalf of the members of the Association. The Association shall not discriminate against any employee covered by this agreement because of membership or non-membership in the Association. Neither party shall discriminate against any employee because of race, color, creed, sex, age, or national origin.

Section 4. Employee Rights

Employees shall have the right to fair and equal treatment in all aspects of employment conditions. Neither management nor its representatives shall exercise their rights and authority in relationship to conditions of employment in a capricious, arbitrary, or unreasonable manner. Any punitive personnel action taken which will result in any loss of pay or benefits shall be taken in a manner consistent with Civil Service Rules and Regulations and Laws of the State. An employee's salary shall not be directly deposited in the bank by the City without the employee's consent.

Section 5. Association Business

5.1 The City agrees to provide space on bulletin boards to the Association for the announcement of meetings, election of officers of the Association and any other material related to the Association business. Furthermore, the Association shall not post material detrimental to the labor-management relationship nor of a political or controversial nature.

5.2 No Association member or representative shall solicit members, engage in organizational work, or participate in other Association activities during working hours on the City's premises except as provided for in the processing of grievances, or during periods of negotiations to update the membership on the progress of said negotiations.

5.3 Association members or representatives may be permitted to use suitable facilities on the City's premises to conduct Association business during non-work hours upon obtaining permission from the City's Personnel Officer or his designated representative. Any additional costs involved in such use must be paid by the Association.

5.4 Association representatives shall be permitted to investigate and discuss grievances during working hours on the City's premises if notification is given to the Personnel Officer or his designated representative. If the Association representative is an employee of the City, he/she shall request from his immediate supervisor, reasonable time off from his/her regular duties to process such grievances. The City will provide a reasonable number of employees with time off, if required, to attend negotiating meetings.

5.5 Upon official and reasonable notification by the Association, employees may be released from work without pay for the purpose of participating in authorized Association activities. Such release time without pay shall not exceed an aggregate of forty (40) hours per calendar year for all members of the unit. Under extraordinary circumstances the City Manager may grant an exception to the forty (40) hour aggregate limit. Employees released under this section shall have no reduction in accrual of vacation, sick leave, holiday time or other benefits provided in the Memorandum of Understanding.

Section 6. Overtime Work, Recall

6.1 Overtime Work

All work performed in excess of an employee's normal work day or in excess of an employee's normal workweek shall be considered overtime work. For the purpose of this Section, an employee's "normal work day" shall be defined as the hours they are normally scheduled in a 24-hour period. An employee's "normal work week" shall be defined as 40 hours in a 7 day period. The parties agree that assignments of overtime work shall rest solely with the department head or designated representative, taking seniority into consideration whenever possible. The parties agree that the assignment of overtime work is on an involuntary basis and any employee refusing assignment of such work is subject to disciplinary action deemed appropriate by the department head.

6.2 Compensation for Overtime Work

Any authorized time worked in excess of the employee's regular work week shall be compensated at the rate of one and one-half (1 ½) times the employee's straight time hourly rate of pay.

The Chief of Police may post overtime which will be compensated in time off (CTO) at the one and one-half (1 ½) time rate. Employees who wish to work overtime for CTO may do so by volunteering for such offered hours.

No employee shall be required to work overtime for CTO. If an employee is required to work overtime, such overtime shall be paid in cash, or CTO, at the employee's discretion..

No employee may exceed sixty (60) hours of accrued CTO at any time. Any hours of overtime worked which exceed the sixty (60) hours of accrued time shall be paid in cash.

Employees may request to cash out any accrued CTO. Requests to cash out CTO must be submitted to the Chief of Police by May 30th. Such requests will be acted upon prior to conclusion of the June pay period [6/20] of each calendar year. The Chief of Police may approve or deny such requests based on the availability of funds.

6.3 Call Out

If an employee is called to work at a time other than his/her scheduled work shift, he/she shall be credited with a minimum of four (4) hours at one and one-half times his/her straight-time hourly rate; provided, however, that this provision shall not apply if the employee is called to work immediately preceding his/her scheduled work shift or is held over for work immediately following the scheduled work shift.

6.4 Daylight Savings Time

On any weekend during which there is a change to or from Standard Time to Daylight Savings time, the Chief of Police may adjust work schedules so that those assigned to work do actually work the regular number of hours normally assigned to the shift.

The "time change hour" for Daylight Savings shall not be included in the definition of actual hours worked or be considered for pay purposes, and no employee assigned to a shift who works during the transition to or from Standard Time to Daylight Savings Time shall be paid any sum except for actual hours worked during said shift.

6.5 Overtime for Dispatchers

Public Safety Dispatchers and Public Safety Supervisors ("dispatchers") who work a schedule consisting of six 12-hour shifts and one 8-hour shift every two weeks do so under agreements that designate their workweeks such that their normal schedule consists of no more than 40 hours in a seven-day work period.

The parties have requested NLRB certification of a 26-week/1040-hours work period under the FLSA, pursuant to 29 U.S.C. section 207(b) ("section 7(b) work period"). Should the parties decide, upon receipt of NLRB certification, to formally implement the section 7(b) work period, dispatchers will be eligible to be paid FLSA overtime for hours worked in excess of 12 hours in a day or 56 hours in a seven-day period.

Under the current designated workweeks or under the section 7(b) work period, dispatchers will continue to be eligible for and will receive overtime for all hours worked outside of their regular assigned schedule, pursuant to MOU section 6.1.

Employees will continue to receive straight time pay during the week of their schedule change or rotation for all hours worked, unless they work hours outside of their assigned schedules (MOU overtime) or work in excess of their designated work period (FLSA overtime).

When an employee takes a day of annual leave, sick leave, administrative leave or other leave benefit, the employee must use the number of hours which correspond to the employee's work schedule.

Section 7. Dues Check off

The City Finance Director shall commence and continue to withhold from the payroll warrants of those employees who are members of the Association such amounts of dues and at such time as it is certified to the city by the Association. The Association shall be responsible for certifying current withholding lists to the City so the same may be submitted with the payrolls, and no employee's name shall be included on such certified list unless she/he is a member of the Association and unless she/he has given to the City a written authorization for such withholding.

The Association shall indemnify, defend, and save harmless the City of Benicia, its officers, employees and agents acting on its behalf from and against any and all losses, damages, costs, expenses, claims, demands, actions, suits, judgments and other forms of liability arising out of the application or enforcement of this Section. In addition, the Association shall refund to the City of Benicia any amounts paid to it in error upon presentation of supporting evidence.

Section 8. Maintenance of Membership

Employees covered by this Memorandum of Understanding who are members of the Association, upon final ratification of the MOU, or who become members after the effective date of this Memorandum of Understanding, shall remain members in good standing with the Association for the full term of this MOU and all successive MOU's provided, however, that any member of the Association shall have the right to withdraw from and discontinue dues deduction, provided said member communicates the employee's intent in writing to withdraw from the Association to the City Finance Department between May 1 and May 30 of the contract year. A withdrawal submitted to the City Finance Department outside of the thirty (30) day period shall be returned to the employee.

Section 9. Agency Shop

9.1 Agency Shop Definition

As a condition of continuing employment, employees shall become and remain members of the Association or shall pay to the Association a service fee in lieu thereof. Such service fee shall be established by the Association and shall not exceed that portion of the Association's dues paid by members of the Association as are expended by the Association in fulfilling its responsibilities for representing members of the Representation Unit in the negotiation and administration of the Memorandum of Understanding. The Association shall comply with the rules governing the establishment of agency shop fees as set forth in the U.S. Supreme Court's decision in March 1986 in Chicago Teachers Association v. Hudson.

9.2 Implementation

Any employee hired by the City subject to this Memorandum of Understanding shall be provided, through the employee's department, a notice advising that the City has entered into an Agency Shop Agreement with the Association and that all employees subject to the Memorandum of Understanding must either join the Association, pay a service fee to the Association, or execute a written declaration claiming a religious exemption from this requirement. Such notice shall include a form for the employee's signature authorizing payroll deduction of Association dues or a service fee, or a non-religious charitable contribution equal to the service fee.

Said employee shall have five (5) working days following the initial date of employment to fully execute the authorization form indicating his/her choice and return said form to the Finance Department.

If the form is not completed properly and returned within five (5) working days, the City Finance Director shall commence and continue a payroll deduction of service fees from the regular monthly pay warrants of such employee. The effective date of Association dues, service fee deductions or charitable contributions for such employees shall be the beginning of the first pay period of employment. The employee's earnings must be sufficient after the other legal and required deductions are made to cover the amount of the dues or fees authorized. When an employee is in a non-pay status for an entire pay period, no

withholding will be made to cover the pay period from future earnings. In the case of an employee who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions (including health care deductions) have priority over Association dues and service fees.

9.3 Religious Exemption

Any employee of the City subject to this Memorandum of Understanding who is a member of a bonafide religion, body or sect which has historically held conscientious objections to joining or financially supporting a Association and which is recognized as such by the National Labor Relations Board, shall, upon presentation of verification of active membership in such religion, body or sect be permitted to make a non-religious charitable contribution equal to the service fee in lieu of Association membership or service fee payment. Declarations of or applications for religious exemption and any other supporting documentation shall be forwarded to the appropriate local Association within fifteen (15) days of receipt by the City. The Association shall have fifteen (15) days after receipt of a request for religious exemption to challenge any exemption granted by the City Manager or his/her designee. If challenged, the deduction to the non-religious charity of the employee's choice shall commence but shall be held in escrow pending resolution of the challenge. Non-religious charitable contributions shall be by regular payroll deduction only.

9.4 Financial Reports

The Association shall submit copies of the financial report required pursuant to the Labor-Management Disclosure Act of 1959 to the City Manager once annually.

Copies of such reports shall be available to employees subject to the Agency Shop requirements of this agreement at the office of the Association. Failure to file such a report within one hundred (100) days of the close of the Association's fiscal year shall result in the termination of all agency fee deductions, without jeopardy to the employee, until said report is filed.

9.5 Payroll Deductions

The City shall deduct Association dues or service fees and premiums for approved insurance programs from employee's pay

in conformity with State and City regulations. The City shall promptly pay over to the designated payee all sums so deducted. The City shall also periodically provide the Association with a list of all persons making charitable deductions pursuant to the religious exemption granted herein.

9.6 Hold Harmless

The Association shall indemnify, defend, and hold harmless the City, its officers, employees, and agents acting on its behalf from and against any and all losses, damages, costs, expenses, claims, demands, actions, suits, judgments and other forms of liability arising out of the application or enforcement of this Section. In no event shall the City be required to pay from its own funds Association dues, service fees or charitable contributions, which the employee was obligated to pay, but failed to pay, regardless of the reasons.

9.7 Election

Promptly upon approval of this Memorandum of Understanding by the City Council of the City of Benicia, the parties shall schedule an election to implement the provisions of this Section 9. Eligible voters shall be all employees assigned to job classifications in the representation unit regardless of Association membership or non-membership. A simple majority of those eligible voters voting shall determine whether or not this Section 9 is implemented. In the event it is not implemented, the provisions of Sections 7 and 8, Dues Deduction and Maintenance of Membership, shall remain in full force and effect.

An election to implement the provisions of this agreement shall not prohibit or restrict an election to rescind this Section as provided for by Section 3502.5 of the Government Code.

9.8 Waiver of Election for Newly-Represented Employees and New Representation Units

The accreditation of classifications and/or employees to representation units set forth in this Memorandum of Understanding shall not require an election pursuant to subsection 7 herein for the application of this Agency Shop provisions to such classifications and/or employees. The recognition of newly-established bargaining units and inclusion of same within this Memorandum of Understanding shall also not

require an election pursuant to subsection 7 herein for the application of this Agency Shop to such units.

Section 10. No Strike – No Lockout

10.1 The Association agrees that participation in a strike shall subject an employee to disciplinary action, up to and including discharge.

10.2 The Association, its representatives, or members, shall not engage or cause, instigate, encourage, sanction, or condone a strike of any kind. No employee shall refuse to cross any picket line in the conduct of official City business, nor shall the Association, its representatives, or members, discriminate in any way toward anyone who refuses to participate in a strike. Strike, means the concerted failure to perform or report to duty, for the purpose of inducing, influencing, or coercing a change in the conditions of compensation, or the rights, privileges, or obligations of employment.

10.3 The City shall not institute, authorize, cause, aid, ratify, or condone any action to provoke interruption of or prevent the continuity of work normally and usually performed by employees for the purpose of coercing the employees into relinquishing rights guaranteed under the law. The City shall not, during the terms of this Memorandum, engage in any lockout of employees represented by the Association.

Section 11. Management Rights

The Association agrees that the City retains all its remaining rights and authority under law and expressly and exclusively retains its management rights not affected by this Agreement which include, but are not limited to: The exclusive right to determine the mission of its constituent departments, commissions, boards; set standards and levels of service; determine the procedures and standards of selection for employment and promotions; direct its employees; establish and enforce dress and grooming standards; determine the methods and means to relieve its employees from duty because of lack of work or other lawful reasons; maintain the efficiency of government operations; determine the methods, means and number and kinds of personnel by which government operations are to be conducted: determine the content and intent of job classifications; determine methods of financing; determine style and/or types of City-issued wearing apparel, equipment or technology to be used; determine and/or change the facilities, methods, technology, means organizational structure and size and composition of the work force and allocate and assign work by which the City operations

are to be conducted; determine and change the number of locations, relocations, and types of operations, processes and materials to be used in carrying out all City functions including, but not limited to, the right to contract for subcontract any work operations of the City; to assign work to and schedule employees in accordance with requirement as determined by the City and to establish and change work schedules and assignments upon reasonable notice; establish and modify productivity and performance programs and standards; discharge, suspend, demote, reprimand, withhold salary increases, and benefits, or otherwise discipline employees in accordance with applicable law; establish employee performance standards including, but not limited to, quality and quantity standards, and to require compliance therewith; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

Management rights shall be exercised in a manner consistent with applicable laws and the Personnel Rules.

Section 12. Vacation Leave and Annual Personal Leave

12.1 Vacation Leave

The authorized annual vacation leave granted employees after one (1) continuous year of City Service shall be as follows:

One (1) through three (3) years of continuous service – ten (10) work days.

Four (4) through nine (9) years of continuous service – fifteen (15) work days.

Ten (10) through nineteen (19) years of continuous service – twenty (20) work days.

Twenty (20) years or more of continuous service – twenty-five (25) work days.

12.2 Earning Vacation Leave

Full vacation leave as set forth in Section 12.1 shall be earned by:

1. An employee on sick leave with pay.

2. An employee while on a leave of absence covered by California Worker's Compensation law (Paid Industrial Leave).

3. An employee on jury leave.

Vacation leave as set forth in Section 12.1 shall not be earned by:

1. An employee on an unpaid leave of absence.

12.3 Scheduling Vacation Leave

The scheduling of vacation leave shall be determined by the department head based on the wishes of the employee and with particular regard for the needs of the City.

Employees are encouraged to take vacation leave in increments of one (1) week at a time.

12.4 Sick Leave During Vacation Leave

An employee may change vacation leave to sick leave upon submission of a doctor's certificate that the employee is ill and unable to work.

12.5 Annual Personal Leave Allowance

Employees covered by this Agreement will earn one (1) day of personal leave per year. For this section, a "day" is defined as 8 hours. The employee may use such leave for any purpose subject to advance approval of his absence. The personal Leave Day must be used and cannot be carried over from one fiscal year to the next.

12.6 Vacation Accrual Limits

Employees covered by this Agreement may exceed vacation accrual limits during a calendar year, however, the accrual limit ceiling of 360 hours will be imposed on December 31st of each year.

If employees in this unit agree to participate in the ICMA VantageCare retiree medical program, the accrual limit shall be reduced to 320 hours. In December of each calendar year, the City will allow employees who have in excess of 320 hours of accrued vacation leave to convert forty (40) hours of vacation leave to sick leave.

12.7 Vacation Accrual Upon Hire

In order to recruit qualified lateral dispatch candidates, the Police Chief may approve a new lateral dispatcher to begin accruing at a higher vacation level commensurate with their years of comparable public safety dispatching experience. These years of experience will carry forward, and will be considered for eligibility for advancement in vacation accrual levels in Benicia. This section applies to employees hired after January 1, 2008 and will not be applied retroactively.

The enhanced accrual level will be negotiated between the Police Chief and employee, based upon the total number of years experience the employee has working as a Public Safety Dispatcher. The accrual rate at hire shall be at the one to three year level; at the point the employee successfully completes probation, the accrual rate shall be adjusted to reflect the enhanced accrual level, up to the twenty year level, retroactive to the date of hire. In accordance with Benicia Police Department's Core Values, unless extenuating circumstances arise, vacation leave use is strongly discouraged until the employee has successfully completed the training program.

Public Safety Dispatching experience shall only be recognized for the purposes of establishing a vacation accrual, and will not be used to calculate any other benefits (such as seniority.)

Section 13. Leave of Absence

13.1 Definition

A leave of absence is a privilege which may be granted to an employee wishing to leave the City service without pay and in good standing for a limited period of time.

13.2 Procedure

A request for a leave of absence without pay must be made to the department head in writing by the employee stating the dates of leave of absence requested and the reason for the request.

A department head may grant an employee a leave of absence without pay for not more than ten (10) working days when it is in

the best interest of the City. The City Manager must approve a leave of absence without pay exceeding ten (10) working days.

An employee shall be entitled to payment for any earned vacation and accumulated overtime at the beginning of an approved leave of absence.

13.3 Unauthorized Leave of Absence

The failure of an employee to return to duty upon the termination of an authorized leave of absence is an unauthorized leave of absence. An unauthorized leave of absence is grounds for disciplinary action, including dismissal, unless upon the employee's return, the employee furnishes reasons satisfactory to the department head and the City Manager for not having obtained an authorized leave of absence. The unauthorized leave of absence shall be treated as time not worked. The City shall deduct from the employee's pay, an amount equal to time absent from City service.

13.4 Jury Leave

When an employee is summoned for jury duty, the employee shall be granted a leave for jury duty, upon presentation of the summons to the employee's department head.

An employee shall receive full pay while on leave for jury duty; provided, however, the employee must remit compensation received for jury duty, except compensation for mileage. An employee who elects to retain compensation received for jury duty shall not receive salary while on jury duty.

An employee's hours will be changed to day shift to coincide with jury duty. When an employee is released from jury duty, he/she will report to work to complete the remainder of the day shift, if any time remains in the shift. When an employee is released from jury duty and no time remains in the day shift, he/she shall report to their regularly scheduled shift the following day, providing it is to begin ten (10) or more hours after being released from jury duty. The only exception is under emergency conditions.

The City will not permit an employee who is summoned for jury duty on a day off to alter their work schedule so that their jury duty summons becomes a work day.

13.5 Bereavement Leave

Any employee shall obtain the approval of the employee's department head in advance of an absence due to a death in the employee's family. Failure to obtain the department head's approval shall result in ineligibility for benefits under this section.

A department head may allow an employee a leave of absence up to three (3) days to attend the funeral of a member of the employee's immediate family.

A department head may allow an employee leave of absence up to one (1) day to attend the funeral of a person other than a member of the employee's immediate family, chargeable to sick leave, compensatory time, or vacation leave. Additional time may be charged to compensatory time or vacation leave.

For the purpose of this section, immediate family shall be defined as follows: Spouse, children, father, mother, brothers, sisters, mother-in-law, father-in-law, sister-in-law, brother-in-law, grandparents, grandchildren and member of the employee's household.

13.6 Military Leave

Military leave shall be granted in accordance with the provisions of state and federal law. An employee taking military leave shall give the employee's department head a copy of the employee's orders to report to military duty.

13.7 Parental Leave

A pregnant employee (and father of the baby) shall be entitled to a maternity leave of absence without pay in accordance with State and Federal laws. An employee may opt to use accumulated vacation or sick leave as defined in Section 14.2 for this purpose.

Section 14. Sick Leave

14.1 Eligibility and Accrual

Employees shall accrue sick leave beginning the first day of the month following the employee's completion of one month of service. Employees shall earn sick leave at the rate of 8 hours per month for each calendar month of service. Full sick leave is earned by each full-time employee while on paid leave of absence,

including sick leave and jury leave. Sick leave shall not be earned by employees on unpaid leave of absence. Employees shall continue to earn sick leave while on Paid Industrial Accident (PIA) leave.

The Police Chief may allow Public Safety Dispatchers hired after January 1, 2008 who meet the eligibility threshold for higher vacation accrual as set forth in Section 12.7 to use sick leave in advance of accrual during the first year of employment, up to the maximum first year accrual level of ninety-six (96) hours. Should the employee be terminated or leave the City prior to the completion of one year of employment, any sick leave used beyond that which would have been accrued based on months of service will taken out of accrued vacation, compensatory time off, or final wages. The accrual rate for sick leave remains at eight (8) hours per month.

14.2 Usage of Sick Leave

(1) Permissible Usage of Sick Leave for Employee.

Employees eligible for sick leave may use paid sick leave following the completion of six months of employment with the City. The City Manager shall maintain records of sick leave for all City employees.

With the prior approval of an employee's department head, an employee may use accumulated sick leave for medical or dental appointments.

(2) Family Member Illness / Medical Appointment: Family Care (Labor Code Section 233). Employees may use one half of their annual accrual worth of sick leave to care for an ill family member. Under this section, family member includes Child, Parent, Spouse, and Domestic Partner. Mothers-in-law, fathers-in-law, and grandparents are not considered "parents" for purposes of this law. The illness does not have to be serious in nature and includes doctors appointments. These days may not be carried over from year to year. Conditions and restrictions contained in this Memorandum of Understanding for an employee's use of sick leave also apply to sick leave used under this section.

Any employee on authorized leave under Family Medical Leave Act (FMLA), California Family Rights Act (CFRA), or other federal or state law shall be governed by the provisions of said regulations.

(3) Non-permissible Usage of Sick Leave

No employee shall be entitled to use sick leave with pay while absent from duty under any of the following conditions:

Disability arising from sickness or injury purposely self-inflicted or caused by employee's willful misconduct;

Disability arising from sickness or injury sustained while on unpaid leave of absence;

Disability arising from sickness or injury related to compensated employment other than with the City;

Disability arising from sickness or injury while receiving compensation from the City for an industrial accident pursuant to Section 15.

For absence caused by intoxication or excessive use of alcoholic beverages.

14.3 Accumulation

Accumulation of sick leave by all employees shall be unlimited.

14.4 Notification

To receive sick leave, an employee must notify the department at least two (2) hours prior to the commencement of the employee's scheduled shift.

14.5 Sick Leave Incentive

The City agrees to reimburse each employee 25% of their annually accrued, but unused, sick leave during November of each year. If employees in this unit agree to participate in the ICMA VantageCare retiree medical program, the provisions of this section shall be eliminated. The annual 25% Sick Leave Incentive shall be suspended for 2010.

14.6 Sick Leave Conversion

The City agrees to convert 25% of accrued sick leave upon retirement (service or disability) to cash, payable to the retiring employee, provided he/she has at least twelve (12)

years service. In no case shall such payment exceed one months' salary for the incumbent position in effect at the time of retirement.

14.7 Return to Employment Following Sick Leave

When an employee returns to duty following an absence chargeable to sick leave, the employee's department head or the City's personnel officer may require an affidavit showing the nature of the cause of sickness or injury.

When an employee returns to duty following an absence of three (3) days or longer, the department head or personnel officer may require a signed statement from a doctor or dentist that the employee was incapacitated and unable to perform the employee's duties throughout the entire period of sick leave.

The failure of the employee to file the personnel affidavit or the statement from the doctor or dentist shall result in the employee's ineligibility for sick leave benefits, unless a waiver is granted by the City Manager.

In the case of frequent use of sick leave, the employee's department head or the personnel officer may request that the employee file a doctor's statement for each such illness regardless of duration. An employee may be required to take an examination by a doctor mutually agreed to by the City and the employee. If requested by the City, the employee shall authorize consultation with the employee's doctor concerning the illness.

On the basis of such medical advice, the City Manager shall determine whether an employee is incapacitated for the duties of the employee's position and may take the action the City Manager considers appropriate.

Sick Leave Usage Policy:

The city agrees to form a committee made up of members from the association, management, and a representative from Human Resources to review the current sick leave issues within the association, such as the sick leave contract. The committee will begin meeting no later than July 1, 2007. The current policy will remain in effect until such time a mutually agreed upon change is made.

14.8 Supplemental Sick Leave

Employees are entitled to Supplemental Sick Leavebenefits in accordance with Policy #05 which was updated and issued in February 2007 named Supplemental Sick Leave Benefit.

Section 15. Paid Industrial Accident Leave

15.1 Eligibility

Employees shall be eligible for paid industrial accident leave ("PIA") provided, however, that the employee's claim for State Workers' Compensation must be approved and further provided that the injured employee shall immediately report the accident to the employee's supervisor or if the supervisor cannot be contacted, the employee must notify the Police Communication Center immediately.

15.2 PIA Benefits

The City agrees that each employee shall be granted paid industrial leave ("PIA") if the claim is approved by the State Workers' Compensation, with the City paying full, basic salary during such leave. "PIA" shall begin on the first day of said industrial accident and shall extend for a maximum of one year. When an employee is on "PIA," the employee is charged neither vacation nor sick leave but during this time, the employee does accrue vacation or sick leave. The employee is not eligible for a step increase while on "PIA," and the employee's anniversary date will be adjusted so that the employee will observe the normal working period between steps.

Section 16. Holidays

16.1 Authorized Holidays

Employee's shall be entitled to the following paid holidays:

New Year's Day, Martin Luther King, Jr. Birthday, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, and the Friday following Thanksgiving Day and Christmas.

The City shall observe the Friday preceding a legal holiday falling on Saturday as a legal holiday and the Monday following a legal

holiday falling on a Sunday as a legal holiday. For employees on seven (7) day per week assignments, the holiday shall be celebrated on the day on which it falls.

16.2 Work Performed on Holidays

The City and the Association agree that Public Safety Dispatchers and Public Safety Dispatch Supervisors are scheduled to work on the aforementioned holidays as a matter of health and safety of the Community. In lieu of the aforementioned holidays, the City agrees to pay Public Safety Dispatchers and Public Safety Dispatch Supervisors one and one-twelfth (1-1/12) days straight-time pay per month in lieu of having the holiday off. Employees required to work on a holiday they were not scheduled for according to the shift they bid or regularly work, he/she will be compensated at one and one-half (1 ½) times his/her hourly rate of pay for each hour so worked. Additionally, shall receive time off equivalent to the number of hours worked on the non-scheduled holiday. This time to be scheduled by the department head based on the wishes of the employee and the needs of the City.

Employees who actually work on an aforementioned holiday shall receive an additional ½ time pay or compensatory time off (CTO). This section applies to employees previously scheduled to work this day, not employees who sign up for overtime. However, if an employee is working this shift due to a shift trade, the employee who actually works the hours is the employee who receives the additional time off or pay. Non-dispatch employees (Records Clerk, and Community Service Officer) are not eligible for this additional time unless the holiday falls on a day they are routinely scheduled to work in dispatch, or they are working a shift trade, and they do not qualify for the additional ½ time pay or CTO hours if they signed up to work voluntary overtime on this day.

Section 17. Salary Plan

17.1 Salaries

(1) Effective July 1, 1994, the City converted the employer-paid employee 7% P.E.R.S. contribution to salary and allowed all employees in the bargaining unit to begin paying their own P.E.R.S. contribution. In 2001, the employee P.E.R.S. contribution increased to 8% when the City implemented the 2.7% at 55 plan.

(2) Additionally, the City implemented Internal Revenue Code Section 414 (h) (2) which will allow all employees in the bargaining unit to defer paying taxes on their contribution to P.E.R.S. (8%) until retirement or receipt of a lump sum payment (refund).

(3) There shall be no Cost of Living Adjustments, and the remainder of section 17.1 shall be suspended, through the term of this contract

(4) Effective November 1, 2010 through June 30, 2011, employees enrolled in City-offered medical plans shall contribute 5.01% of base salary on a pre-tax basis towards health insurance premiums. Effective July 1, 2011, employees enrolled in City-offered medical plans shall contribute 3.91% of base salary on a pre-tax basis towards health insurance premiums. For employees not enrolled in City-offered medical plans who receive cash in lieu of City contributions towards health insurance premiums, the cash in lieu shall be reduced by amounts equal to the percentages above.

It is the intent of the City to remain competitive in the labor market and provide equitable salaries for its employees.

The basic salary for Public Safety Dispatcher shall be a benchmark position and based on market survey.

The basic salary for Public Safety Dispatch Supervisor shall be set at an amount equal to twenty percent (20%) above that of Public Safety Dispatcher.

The basic salary for CSO II shall be set at an amount equal to five percent (5%) below that of Public Safety Dispatcher.

The salary for CSO I shall be set at an amount equal to ten percent (10%) below that of CSO II.

The salary for Animal Control Officer shall be set at an amount equal to the salary of CSO I.

The salary for Records Clerk shall currently be set at an amount equal to the salary of CSO I. A classification study will be conducted on this position and will begin no later than December 31, 2007.

Salary surveys for market adjustments are calculated at the mean and based on:

Top Step base salary
PERS Pick-up
Uniform Allowance
Insurance (health, dental, vision, life)

Survey cities are cities of: Brentwood, Davis, El Cerrito, Fairfield, Folsom, Napa, Pleasant Hill, Pinole, Richmond, San Pablo, Vacaville, and Vallejo.

In the event a position is above the mean after conducting a market survey, the position shall not lose pay, but instead shall remain at the current range for that market adjustment period.

17.2 Salaries – New Employees

A new employee shall be appointed to the first step of the salary range to which the employee is assigned, provided, however, that a new employee may be appointed at a salary in excess of the first step when it is difficult for the City to locate qualified personnel. In this event, no incumbent employee in the same classification shall be paid less than the salary paid to the new employee. Exceptions to the foregoing may occur if a prospective employee has education, training or experience substantially superior to the minimum qualifications required for the position. In exceptional cases, at the discretion of the City Manager, an employee may be hired at an advanced step without regard to salaries of existing employees.

17.3 Anniversary Date

The employee's anniversary date is the first day of the month if employment occurs during the first fifteen (15) days of the month; otherwise, the anniversary date is the first day of the next pay period.

The anniversary date of an employee on leave without pay for one (1) month or longer, shall be extended by the period of the leave.

17.4 Advancement Within Salary Range

Advancement within the salary range for a classification shall not be automatic. All increases shall be based on merit as established by a record of the employee's performance and shall require the written recommendation of the Department Head and approval by the City Manager.

An employee who does not receive an in-grade salary advancement shall be notified in writing by the employee's department head as to the reason for denial.

The City Manager may adjust the salary rate of an employee to any step in the employee's existing salary range to correct gross inequities in salary or to reward outstanding achievement and performance.

17.5 Salary after Promotion or Demotion

When an employee is promoted, the employee's compensation shall be set at Step A or one step higher than the employee's current salary whichever is higher, provided however, the employee's salary shall increase by at least 5%. If an employee is promoted within ninety (90) days prior to their anniversary date, they may be granted an additional salary increase beyond that provided above. Such additional step may be denied for reasonable cause; including the employee being hired, promoted or receiving extraordinary step increases within the last twelve (12) months.

When an employee is demoted to a class with a lower maximum salary, the employee shall be assigned to the applicable salary step in the new class, provided however, that there shall be at least a 5% decrease in salary assuming that the employee's service has been continuous in the new class. The employee shall retain the employee's previous anniversary date.

17.6 Salary after Transfer

When an employee is transferred from one position to another position in the same class or to another class with the same pay range, the employee shall retain the same step and the same anniversary date.

17.7 Acting Pay

A. Acting Supervisor – One Shift: Whenever a bargaining unit employee is required to serve as an acting supervisor for a minimum of one (1) shift, the employee shall be compensated for each shift in that capacity by an increase of $10.00 per shift.

All such acting assignments shall be offered on the basis of qualifications for such assignment according to the judgment of the department head or the department head' s authorized representative and shall be consistent with the Personnel Rules.

B. Acting Dispatch Supervisor: An employee shall be assigned to perform the duties of the Dispatch Supervisor on an "acting" basis when it is necessary to provide coverage during vacation or leave periods of the Dispatch Supervisor in excess of five (5) consecutive working days. An "acting" assignment shall only be made by the Department Head and employees shall be provided with a written notice assigning them to the higher classification on an acting basis. Employees so assigned shall receive "acting" pay only after performing in the higher classification for a period of five (5) consecutive workdays.

Employees assigned by the Department Head to perform the duties of a higher classification on an "acting" basis, shall receive "acting" pay for each full day of assignment in such higher classification at the completion of the fifth day retroactive to the first day of assignment. Acting pay shall be at least five percent (5%) more than the employee's salary in his/her present classification; provided, however, in no event shall acting pay exceed the top salary step of the classification in which the employee is serving in an acting capacity.

17.8 Pay Period

The pay day for each employee shall be the last day of the month or as authorized by the City Council.

17.9 Terminal Pay

An employee who is terminated is entitled to terminal pay for:

1. That portion of the final pay period from the first day of the final pay period to the effective date of separation. The day of separation is either the working day specified for the separation or the last day of the pay period if no date is specified;

2. Accrued vacation actually earned but not taken, provided the employee has been in the continuous service of the City for at least six (6) months prior to the effective date of his termination.

3. Accrued overtime: In the case of an employee's death, the City shall pay the employee's beneficiary the sums set forth in items 1 through 2 above provided, however, that the employee must have designated a beneficiary on a form specified by the City Manager. If the form specified by the City Manager has not been completed and returned to the finance director, terminal pay shall be paid to the estate of the employee.

17.10 CSO I/II / Records Clerk

CSO I/II's shall be provided on-the-job training in the performance of Public Safety Dispatcher duties for a period of one hundred sixty (160) hours, such training to be completed during the first twelve (12) months of employment. Records Clerks may be offered the on-the-job training based on department needs. Upon successful completion of this training period, the CSO I/II , and Records Clerk (if applicable) shall receive the salary step in the dispatch salary range which equated to the step they are normally paid in their regular position. For example, an employee at Step C of the CSO range, shall be paid Step C rate of pay in the dispatch range when assigned to perform dispatcher duties except for time worked temporarily relieving on-duty Public Safety Dispatchers. In no event shall an employee receive "acting pay" at a rate which is in excess of the maximum rate of the classification of Public Safety Dispatcher. The provisions of this Section 17.10 shall not be used by the City to circumvent the requirement to fill vacant Public Safety Dispatcher positions in an expeditious manner.

17.11 Training Pay

Personnel who are assigned to train shall receive additional compensation of five percent (5%) of their basic salary during the period of time while actually assigned training responsibilities.

Assignment, length of service, and termination of assignment will be made in accordance to procedures as approved by the Department Head or his/her designee. It is understood and agreed that qualifying to be able to train does not guarantee assignment to train. Training pay will only be paid for actual hours worked in that capacity, and not paid time off.

17.12 Longevity Pay Program

The City agrees to the implementation of a Longevity Pay Program. This Program applies to all regular full-time employees and those employees in positions covered under the Job-Sharing/Reduction in Hours of Employment Policy #14. Authorized employees shall be entitled to a 2 ½% increase in compensation upon completion of ten (10) consecutive years of full-time (or full-time equivalent) service.

Additionally, for each additional ten (10) consecutive year increment, i.e., twenty (20), thirty (30), forty (40) years, of full-time consecutive service, employees shall be entitled to an additional 2-½% increase in compensation over the rate for the class in which the employee is employed.

Prior City service shall not count toward this Program.

17.13 Retirement Plan

1. The City shall continue in effect its contract with the Public Employees' Retirement System (PERS) for the term of this Memorandum of Understanding. The City amended its contract with P.E.R.S. to include the 2.7% @ 55 benefit.

2. New Retirement Tier for New Hires

BDA agrees to the implementation of a new, less costly, CalPERS second tier pension formula for new hires contingent on agreement with all other Miscellaneous employees to the same, and effective thereafter as soon as administratively possible, consistent with CalPERS contract amendment requirements.

Section 18. Deferred Compensation

The City agrees that employees represented by the Association may participate, at their own expense, in the City's deferred compensation plan.

Section 19. Uniform Allowance

The City agrees to provide a monthly uniform allowance to the employees to cover the costs of purchasing, maintaining and cleaning their uniforms. Effective 7/1/05, said allowance was as follows: Public Safety Dispatchers, Public Safety Dispatch Supervisor, CSO's and Animal Control Officers $70.00 per month. Effective July 1, 2007, uniform allowance increased to $75.00 per month. Effective July 1, 2008, uniform allowance will also be provided to Records Clerks. Such uniform allowance will not be reduced as a result of job-share or reduced schedule arrangements under City Policy #14. Said allowance will be paid annually in November and will be included in the same paycheck which contains Sick Leave Incentive pay where applicable. Employees who leave City employment any time prior to November shall have $75.00 for each month of the twelve (12) months previous to November in which she/he is not a City employee, deducted from their final City paycheck. While uniform allowance is advanced and paid to all BDA members listed above on an annual basis, it is reported to PERS on a monthly basis, as it is earned.

Section 20. Educational Reimbursement

The Educational Reimbursement Program is designed to encourage employees to continue their self-development and career development by enrolling in classroom courses which will prepare them in new concepts and methods needed to meet the changing demand of City service. Effective 7/1/00, the City agrees to pay the cost of books and tuition up to a maximum of $ $1,000 per employee per fiscal year for courses of study completed during that fiscal year and related to the member's current employment or to obtain a two or four year degree in Administration of Justice, Criminal Justice Administration or Criminology. Courses submitted for reimbursement which do not fall in the major must be certified by the college as requisite for attaining a two or four year degree. All courses must have been approved in advance by the employee's
Department head. Employees will be reimbursed for expenses upon completion of the course(s) with a passing grade.

Section 21. Shift Differential

All qualified employees who work in a Public Safety Dispatcher position and who work a swing or relief shift will receive a five percent (5%) premium in addition to their regular rate of pay; those who work a graveyard shift will receive a seven percent (7%)

premium in addition to their regular rate of pay. For employees whose shift on a particular day overlap the two differential rates, the rate paid will be paid for the entire shift based on the shift that the majority of the hours were worked.

21.1 Solo Graveyard Shift

The City will make every effort to avoid the scheduling of dispatchers to work solo on the graveyard shift. Employees shall receive an additional $25.00 per solo graveyard shift for the period of 7/1/06 – 12/31/06. Effective 1/1/07, this amount increased to $40.00 per shift. Employees must work a minimum of four (4) hours of their assigned shift on graveyard in order to receive Solo Graveyard Pay.

Section 22. Alternate Work Schedule (inserted from November 14, 2000 side letter):

The City implemented a 9/80 or 4/10 work schedule for CSO, Records Clerk, and Public Safety Dispatch Supervisor. Dispatchers are eligible to participate in the 4/10 work schedule. The Department Head has the authority to modify or discontinue this work schedule at any time with thirty (30) days notice to the Associate and the opportunity to meet and confer on the impact of the change. With the approval of the Department Head, there may be variations in employees' work hours keeping in mind the City's need to provide maximum service to the citizens while granting employees a work schedule that best fits their needs as well. The following parameters apply to employees participating in the 9/80 or 4/10 work schedule:

A. The exact schedule (i.e., every other Monday off, Friday off, hours of work, etc.) must first be approved by the Department Head.

B. This schedule will not preclude the City from implementing a different schedule (such as 5/8's) for training purposes, particularly for new employees. It is the City's intent to have the employee move into the flex schedule as soon as feasible.

C. CSOs and Records Clerks working a 9/80 or 4/10 work schedule will not have to dock an hour of annual leave or administrative leave when they are off on a holiday. The holiday will be equivalent to a nine (9) hour day for employees working a 9/80 work schedule and ten (10) hour

day for employees working a 4/10 work schedule. If the holiday falls on a regularly scheduled day off, then the employee will receive eight (8) hours of administrative leave which will need to be taken before the end of each fiscal year.

D. When an employee takes a day of annual leave, sick leave, administrative leave or other leave benefit, the employee must use the number of hours which correspond to the employee's 9/80 or 4/10 work schedule.

E. Temporary changes in an employee's 9/80 work schedule must be approved by the employee's Department Head (i.e., employee hardship).

F. The Department Head may determine that not all employees in the bargaining unit may participate in the 9/80 or 4/10 work schedule in order to maintain the efficiency of government operations.

Section 23 Meal Period

Dispatchers get a paid lunch; Records Clerk, Community Service Officers, and Animal Control Officers get an unpaid lunch period.

Section 24 Seniority Rights

Seniority is herein defined to be an employee's length of continuous service with the City of Benicia in the representation unit covered by this Memorandum of Understanding. An individual employee's seniority shall be effective from the date of first employment in a position within the representation unit. The Department will consider seniority in vacation scheduling and shift assignment. For the purposes of vacation scheduling and/or shift assignment for employees holding a promoted position, the effective date of the employee's promotion shall be controlling.

24.1 Seniority Rights for employees in a Job Share or Reduced Hour position

Any employee who has signed a Job-Sharing Request agreement, or a Voluntary Reduced Work Hours Program agreement, pursuant to the City's Job-Sharing / Reduction in Hours Employment Policy #14, may only exercise the right to resume full-time status in the

event of a full-time, budgeted and funded, vacancy within their position.

Section 25. Court Appearance

25.1 If any court appearance scheduled for the employee's day off is cancelled with less than six (6) hours notice provided to the subpoenaed employee, then the employee shall be compensated for a minimum of four (4) hours overtime at the overtime rate that applies to the employee's classification for no more than one such occurrence during the employee's normally scheduled weekend (days off).

25.2 Employees subpoenaed to appear in court on a regularly scheduled work day shall be compensated in the following manner:

When the court appearance is scheduled for a time prior to the employee's regularly scheduled work hours and the employee appears in court, the employee shall be compensated at an overtime rate of one and one-half (1 ½) times the employee's regular rate of pay for the period of time the employee is in court beyond the normally scheduled work hours.

When the court appearance is scheduled for a time that employee is regularly scheduled to work and extends beyond those regularly scheduled hours, the employee shall be compensated at a rate of one and one half (1 ½) times the employee's regular rate of pay for the period of time the employee is in court beyond the normally scheduled work hours.

When the court appearance is scheduled for a time after the employee's regularly scheduled work hours, the employee shall be compensated for a minimum of four hours at a rate of pay one and one-half (1 ½) times their regular rate of pay.

Employees with multiple subpoenas for the same day for appearance times prior to their regularly scheduled work hours may only be compensated at the overtime rate of one and one-half (1 ½) times their regular rate of pay for the actual time spent in court until the beginning time of their regularly scheduled work shift or for a minimum of four (4) hours, whichever is shorter.

Employees with multiple subpoenas for the same day for appearance times after their regularly scheduled work hours may only be compensated at the overtime rate of one and one-half (1 ½) times their regular rate of pay for the actual time spent in court or a minimum of four (4) hours, whichever is longer.

An employee with multiple subpoenas for appearances in the morning as well as the afternoon may only claim one four (4) hour minimum for the morning court appearance and one four (4) hour minimum for the afternoon appearance. An employee is precluded from collecting more that eight (8) hours of guaranteed minimums (four (4) in the morning and four (4) in the afternoon).

Section 26. Insurance

26.1 Health and Welfare

The City shall continue to offer hospital-medical, dental and vision plans as those plans are currently structured or as the plans may be amended from time to time by the plan providers. The City may substitute plans currently offered with plans of substantially similar benefits.. The City shall contribute the full premium required by the providers of the dental and vision care plans provided herein through the end of this MOU. The City shall allow employees who have dual coverage on their health plan to receive in cash the amount the City contributes towards the single rate if they decline enrolling in the City's plan.

Effective the first full pay period after ratification of this agreement by the City Council the City's contribution towards medical premiums for fiscal year 2010 – 2011 shall be a maximum up to the following contributions for any plan:

Employee: $592.37
Employee plus One: $1,184.75
Employee plus Family: $1,575.71

For Fiscal year 2011 – 2012 the parties agree to the following cost sharing approach to premium increases in 2011 and 2012 only. Specifically, the City will share evenly any amount that exceeds the current FY 2010-2011 Kaiser contribution levels, up to a capped maximum City contribution amount of $29.63/month for single, $59.25 for employee +1 and $79.49 for employee + family.

In order to allow employees in Health Net time to transition to the City's new capped contribution to any plan, the City agrees to continue the existing City dollar contributions for Health Net participants in effect on September 30, 2010 until June 30, 2011 only. At that time this extra contribution shall expire and the City's contribution for particpants for both Kaiser and Health Net shall be as described above.

During the term of the MOU, the parties agree to participate with the other bargaining units to determine whether or not any medical plan design changes would assist in reduction of costs to the city and/or reduction of premiums for employees. The parties recognize that any such changes in plan design require agreement by all city bargaining units.

26.2 Life Insurance

The City shall provide regular, full-time employees with $30,000 group term life insurance with said policy to include accidental death and dismemberment coverage.

26.3 Retiree Medical

Should employees in this unit agree to participate in the City's ICMA VantageCare retiree medical program, provisions for the Sick Leave Incentive in Section 14 shall be eliminated. Under the retiree medical program, the City will contribute to the individual employee's savings account an amount equivalent to:

5-10 years	-	25% of Annul Unused Sick Leave Accrual
11-15 years	-	40% of Annual Unused Sick Leave Accrual
16-19 years	-	60% of Annual Unused Sick Leave Accrual
20-24 years	-	80% of Annual Unused Sick Leave Accrual
25 years or more	-	100% of Annual Unused Sick Leave Accrual

Section 27. Grievances/Disciplinary Appeals

27.1 Definition

(1) A grievance is any dispute which involves the interpretation or application of any provisions of this

Memorandum of Understanding. A disciplinary appeal is an appeal by an employee of a discharge, demotion, reduction in pay or suspension without pay. If the employee selects use of the grievance procedure as set forth in Section 9.11 of the City of Benicia Personnel Rules then this procedure shall apply.

(2) A work day is defined as a day on which administrative offices of the City of Benicia are open for business.

27.2 Procedure

Grievances/Appeals filed pursuant to this Memorandum of Understanding shall be processed in the following manner:

The grievance shall be presented in writing either by the employee or by an authorized Association representative to the designated supervisor of the employee within ten (10) working days after the occurrence of the cause of such grievance.

The designated supervisor shall have ten (10) working days from date of receipt of the grievance in which to investigate and respond. If the grievance is not satisfactorily adjusted within this period, the grievance may be presented in writing either by the employee or by an authorized Association representative within ten (10) working days to the Department Head or to such representative as the employee may designate.

Disciplinary appeals must be presented in writing to the Department Head within ten (10) working days from date of receipt of the Notice of Intent to Discipline. Appeals which are not presented within this time limit shall be deemed waived and abandoned.

The Department Head or a designated representative shall have ten (10) working days from date of receipt of the grievance in which to respond. If the grievance/appeal is not satisfactorily adjusted/resolved within this period, the grievance/appeal may be presented in writing either by the employee or by an authorized Association representative to the City Manager or to such representative (grievances only) as the City Manager may designate within ten (10) days.

If the parties are unable, within ten (10) working days, to reach a mutually satisfactory accord on any grievance/appeal which arises and is presented during the term of this Memorandum of Understanding, a request for hearing such grievance before an Adjustment Board shall be submitted in writing to the Personnel Officer. The Adjustment Board shall be comprised of two (2) Association representatives, no more than one (1) of whom shall be either an employee of the City or an elected or appointed official of the Association; and two (2) representatives of the City, no more than one (1) of whom shall be either an employee of the City or a member of the staff of any organization employed to represent the City in the meeting and conferring process. No decision of the Adjustment Board shall be final and binding without receiving the affirmative votes of a least three (3) members of the Board.

If an Adjustment Board is unable to arrive at a majority decision, either the Association or the City may require that the grievance/appeal be referred to an impartial arbitrator who shall be designated by mutual agreement between the Association and the City Manager. The fees and expenses of the arbitrator and of a court reporter shall be shared equally by the Association and the City. Each party, however, shall bear the cost of its own presentation including, but not limited to, preparation and post hearing briefs, if any.

Decisions of Adjustment Boards and arbitrators on matters properly before them shall be final and binding on the parties hereto.

27.3 Scope of Procedure

No Adjustment Board and no arbitrator shall entertain, hear, decide or make recommendations on any dispute unless such dispute involves a position in a unit represented by the Association and unless such dispute falls within the definition of a grievance or disciplinary appeal as set forth in subsection 25.1 (1).

27.4 Change to Memorandum

Proposals to add to or change this Memorandum of Understanding or written agreement or addenda supplementary hereto shall not be arbitrable and no proposal to modify, amend or terminate this Memorandum

of Understanding, nor any matter or subject arising out of or in connection with such proposal, may be referred to arbitration under this Section. Neither any Adjustment Board nor any arbitrator shall have the power to amend or modify this Memorandum of Understanding or written agreements or addenda supplementary hereto or to establish any new terms or conditions of employment.

27.5 Disciplinary Action

No appeal involving disciplinary action taken against an employee will be entertained unless it is filed in writing with the City Manager within ten (10) working days of the time at which the affected employee was notified of such action.

27.6 Compensation Complaints

All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Chief of Police. Only complaints which allege that employees are not being compensated in accordance with the provisions of the Memorandum of Understanding shall be considered as grievances. Any other matters of compensation are to be resolved in the meeting and conferring process and if not detailed in the Memorandum of Understanding which results from such meeting and conferring process shall be deemed withdrawn until the meeting and conferring process is next opened for such discussion. No adjustment shall be retroactive for more than thirty (30) days from the date upon which the complaint was filed.

27.7 Civil Service Personnel Rules and Regulations

The provisions of this Section shall not abridge any rights to which an employee may be entitled under the City of Benicia Personnel Rules.

All grievances/appeals of employees represented by the Association shall be processed under this Section. If the Personnel Rules require that a differing option be available to the employee, no action under paragraph (4) of Section 25.2(4) above shall be taken unless it is determined that the employee is not availing himself or herself of such option.

No action under paragraph (2) or (3) of Section 25.2 above shall be taken if action on the complaint or

grievance/appeal has been taken by the Civil Service Commission, or if the complaint or grievance/appeal is pending before the Civil Service Commission.

Section 28. Legal Defense

The City will provide legal defense for employees within the definitions and limitations set forth in all applicable sections of the State of California Government Code.

Section 29. Closing Clause

29.1 The effective date of this agreement shall be July 1, 2010, and the agreement shall remain in effect through June 30, 2012.

29.2 During the term of the agreement, if the Council, after a noticed public hearing, deems additional reductions are necessary to balance the City's budget, the parties agree to reopen the contract for the narrow and specific purpose of meeting and conferring over concessions identified by the City as needed to prevent layoffs of BDA members.

29.3 This agreement shall remain in force after its expiration where negotiations between the employer and the Association have not resulted in a new agreement, until such time as a new agreement is reached by both parties.

29.4 Any provisions in this agreement pertaining to work hours, shifts, or personnel assignments may be suspended temporarily by the City where a declared emergency exists as defined by the Civil Disaster Emergency Plan. The City shall have sole power to determine the existence of an emergency and shall meet with the Association at the earliest possible time to discuss the suspension of provisions during the declared emergency.

29.5 If any section of this Agreement should be found invalid, unlawful, or unenforceable by reason of any existing or subsequent enacted legislation or by judicial authority, all other sections of this agreement shall remain in full force and effect for the duration of this Agreement. In the event of invalidation of any Section, the City and the Association agree to meet within thirty (30) days for the purpose of renegotiating said Section.

29.6 This Memorandum of Understanding shall be submitted to the City Council for its adoption at its regular meeting.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this _____this day of _____, 2010.

Benicia Dispatchers Association/ City of Benicia

Need to update this page with current names:

By by

James Erickson
City Manager

By by

Anne Cardwell
Administrative Svcs Dir

By

Approved as to form:

By Heather Mc Laughlin
City Attorney

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 16, 2010
CONSENT CALENDAR

DATE : November 3, 2010

TO : City Council

FROM : City Manager

SUBJECT : **CANCELLATION OF THE DECEMBER 21, 2010 CITY COUNCIL MEETING**

RECOMMENDATION:
City Council authorize, by motion, cancellation of the December 21, 2010 City Council meeting.

EXECUTIVE SUMMARY:
In respect of the Holiday season, and to allow the new City Manager time to become familiar with his new role, it is proposed that the Council meeting December 21, 2010 be canceled. There is no known business to be conducted on that date.

STRATEGIC PLAN:
N/A

BUDGET INFORMATION:
There is no direct budget impact associated with this action.

VII.G.2

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 16, 2010
CONSENT CALENDAR

DATE : November 8, 2010

TO : City Council

FROM : City Attorney

SUBJECT : **DENIAL OF CLAIM AGAINST THE CITY BY WILLIE JOHNSON, JR. AND REFERRAL TO INSURANCE CARRIER**

RECOMMENDATION:
Deny the claim filed by Willie Johnson, Jr.

EXECUTIVE SUMMARY:
Claimant alleges that he fell in front of Estey Real Estate on July 30, 2010 at 1st and J Street. Claimant states when his shoe hit a hole in the sidewalk, it caused him to fall on his face. Claimant's injuries include cut lip and finger, fat lip and fractured dentures.

BUDGET INFORMATION:
The amount of the claim is $12,500.00.

GENERAL PLAN:
N/A

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

BACKGROUND:
Upon rejection of the claim, the City Clerk should issue a rejection notice using ABAG's Form Letter No. 3 of the ABAG Plan Claims Procedures Manual and process with 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.

VII.H.2

In Person

RECEIVED
AUG - 2 2010
CITY CLERK'S OFFICE
CITY OF BENICIA

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): Willie Johnson Jr.
2. CLAIMANT'S ADDRESS: 143 W. J. St. Benicia, Ca. 94510
   (Street or P.O. Box Number, City, State, Zip Code)

   HOME PHONE: 707-534-1698 WORK PHONE: Retired
3. AMOUNT OF CLAIM: $ open (Attach copies of bills/estimates)

   If amount claimed is more than $10,000, indicate where jurisdiction rests:
   Limited Civil Case ?
   Unlimited Civil Case ?
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: 7/30/10 TIME OF INCIDENT: 4:30 pm

   LOCATION OF INCIDENT: 1st and J St. in Front of Estey Real Estat
6. Describe the incident or accident including your reason for believing that the City is liable for your damages: Walking Home Shoe hit hole, Feel on Face, cut Lip and Finger, Sore Face. MAN came Help me up.
7. Describe all damages which you believe you have incurred as a result of the incident:
   Cut Lip, Fat Lip cut Finger Sore Face
   Fractured Dentures
8. Names of public employee(s) causing the damages you are claiming:

Willie Johnson 8/2/10

Signature of Claimant Date

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)

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 16, 2010
PUBLIC HEARING

DATE : November 4, 2010

TO : City Manager

FROM : Fire Chief

SUBJECT : **FIRST READING OF AN ORDINANCE AMENDING THE BENICIA FIRE PREVENTION AND LIFE SAFETY CODE**

RECOMMENDATION:
Conduct a public hearing and first reading of a proposed ordinance to amend the Benicia Municipal Code by amending the following chapters of Title 8 Health and Safety, Chapter 8.28 pursuant to Statewide code updates and providing for certain amendments required to address local conditions.

EXECUTIVE SUMMARY:
In order to adopt the most recent version of the California Fire Code, an ordinance is required to accommodate local conditions. The 2010 edition of the California Fire Code (2009 International Fire Code as amended by the State of California), regulates and governs the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Benicia. The proposed ordinance will adopt the 2010 edition of the California Fire Code.

BUDGET INFORMATION:
No budget impact.

GENERAL PLAN:
Relevant Goals and Policies include:

- Goal 4.1: Make community health and safety a high priority for Benicia.
    1. Policy 4.1.1: Strive to protect and enhance the safety and health of Benicians when making planning and policy decisions.

STRATEGIC PLAN:
Relevant Strategic Plan Goals and Strategies:

- Goal 1.00: Protect Community and Environmental Health and Safety
    1. Strategy 1.30: Protect neighborhoods from risks to health and safety.

BACKGROUND:

The California Building Standards Commission adopted and published the 2010 California Fire Code on July 1, 2010. The California Fire Code as referred to Title 24 Part 9 of the California Code of Regulations and will take effect on January 1, 2011. A City, county or city and county may establish more restrictive building standards reasonable necessary because of local climatic, geological or topographical conditions. Findings of the local condition(s) and the adopted local building standard(s) must be filed with the California Building Standards Commission.

The City of Benicia has unique climatic, geographical and topographical conditions, which require local amendments to mitigate potential hazards, and to reduce loss of life caused by fires or natural disasters.

This code adopts changes, modifications and requirements not mandated by the California Fire Code (CFC) because of climatic, geological or topographical conditions. The modifications are needed based on the following local conditions.

- The city is geographically situated in an area subject to frequent periods of strong gusty winds from the southwest and north. In addition, temperatures during the summer months range from 80 to 100+ degrees. During this period, the relative humidity can fall below 20%. The city contains a significant amount of hilly undeveloped acreage designated as permanent open space. This wildland/urban interface, in conjunction with the hot, dry and windy climatic conditions, creates a hazardous situation that has lead to extensive grass and brush fires in recent years. With more development extending into and adjacent to the open space areas, heat and wind-driven fires could lead to serious consequences.

- The city is divided by several topographic features, including Interstate 680 and 780. As a result, the city is primarily divided into three parts. Traffic within and between the parts of the city is channeled onto several major thoroughfares that must cross freeways by way of underpasses and overpasses. In addition, it is bordered on two sides by the Carquinez Straits. Periodic heavy congestion on the city's major streets and interstate act as a barrier to timely response for fire and emergency service vehicles. Because of traffic or accidents, there could be times that fire equipment could be sufficiently slowed to increase the risk of substantial structural damage. With the possibility of fire services unable to guarantee rapid response to various sections of the city during these times, it is necessary to mitigate this problem by requiring built–in automatic fire protection systems which provide for early detection and suppression until the arrival of firefighting equipment and other emergency services.

- The city is subject to ground tremors from seismic events on the San Andreas, Concord/Green Valley, Hayward, and/or other major active faults in the greater San Francisco Bay Area. The concord /Green Valley fault is immediately adjacent to the city to the north. Seismological evidence indicates the probability of an earthquake in the region capable of doing significant damage to buildings is high. A major seismic event would create a citywide demand on fire protection services, which would be beyond the response capability of the fire department. This problem can be lessened or mitigated by requiring initial fire control through the installation of automatic fire protection systems.

The requirements listed below have been amended to the existing Benicia Municipal Code, even though they are not in the 2010 CFC.

1. **Automatic fire sprinkler system.**
   New and existing buildings occupied or used for any purpose including Occupancy groups A, B. F, H, I, L, M, S, and U (as defined in the California Fire Code), where the fire flow requirements for the building are fifteen hundred gallon per minute or more based on Appendix B requirements.
   Exception: Buildings existing after January 1, 2011 are exempt until such time:
   a. Structural changes or tenant improvements of thirty Percent or greater are made to the building, or
   b. The building adds or changes occupancy Classification as defined in the California Building Code.
2. **Standpipe system.**
   In other than Group R-3 and R-3.1 occupancies, Class 1 standpipe system shall be installed throughout at each floor where any of the follow occur.
   1. Buildings where the floor level of the highest story is located more than 30 feet above the lowest level of the fire department vehicle access.
   2. Buildings that are three or more stories in height.
   3. Buildings where the floor level of the lowest story is located more than 30 feet below the highest level of the fire department vehicle access.
   4. Buildings where there are two or more stories below the highest level of fire department access.

3. **Alarm certification.**
   Alarm Certifications. A UUFX certificate from Underwriters Laboratories (UL) shall be required an all commercial fire alarm/monitoring systems installed after January 1, 2011. UL UUFX certification shall be provided for all previously existing commercial fire alarm systems no later than January 1,

2013.
UL Certification is required to be maintained for commercial fire alarm/monitoring systems throughout the life of the alarmed/monitored building. The UL certified system is to be monitored by a UL Central Station with all required services.

These amendments to the Fire Code will undergo separate out reach to the construction community and will be brought back to the City Council at a future date for consideration.

Attachments:

- Proposed Fire Prevention and Life Safety Code Ordinance

CITY OF BENICIA

ORDINANCE NO. 10-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING IN CHAPTER 8.28 (FIRE PREVENTION AND LIFE SAFETY CODE) IN ITS ENTIRETY OF TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE.

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

Chapter 8.28 of the Benicia Municipal Code is hereby repealed and a new Chapter 8.28 is hereby added to read as follows:

Chapter 8.28

FIRE PREVENTION AND LIFE SAFETY CODE

Sections:

8.28.010	Findings
8.28.020	Adoption by Reference
8.28.030	Establishment and Duties of the Division of Fire and Life Safety.
8.28.040	Definitions
8.28.050	Establishment of Limits within the City of Benicia where Materials regulated by the Code are Prohibited or Limited.
8.28.060	Amendments made in the International Fire Code.
8.28.070	Penalties

8.28.010 Findings

That portion of the California Fire Code that imposes substantially the same requirements as are contained in the International Fire Code, 2009 Edition published by the International Code Council and the California Building Standards Commission with Errata, together with those portions of the International Fire Code, 2009 Edition, including Appendix Chapters 4, B, C, D, E, F, G, and I, as modified and amended by this chapter, are adopted by this reference into this Chapter, and are hereby collectively declared to be the Fire Code of the City of Benicia, in the State of California regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of the Fire Marshal are hereby referred to,

adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

This Code adopts changes, modifications and requirements not mandated by the California Fire Code (CFC) and International Fire Code (IFC) because of local climatic, geological or topographical conditions. The modifications are needed due to the following local conditions that exist in Benicia and on the following findings:

1. The city is geographically situated in an area subject to frequent periods of strong gusty winds from the southwest and north. In addition, temperatures during the summer months range from 80 to 100+ degrees. During this period, the relative humidity can fall below 20%. The city contains a significant amount of hilly undeveloped acreage designated as permanent open space. This wildland/urban interface, in conjunction with the hot, dry and windy climatic conditions, creates a hazardous situation that has lead to extensive grass and brush fires in recent years. With more development extending into and adjacent to the open space areas, heat and wind-driven fires could lead to serious consequences.

2. The city is divided by several topographic features, including Interstates 680 and 780. As a result, the city is primarily divided into three parts. Traffic within and between the parts of the city is channeled onto several major thoroughfares that must cross freeways by way of underpasses and overpasses. In addition, it is bordered on two sides by the Carquinez Straits. Periodic heavy traffic congestion on the city's major streets and interstates acts as a barrier to timely response for fire and emergency service vehicles. Because of traffic or accidents, there could be times that fire equipment could be sufficiently slowed to increase the risk of substantial structural damage. With the possibility of fire services unable to guarantee rapid response to various sections of the city during these times, it is necessary to mitigate this problem by requiring built-in automatic fire protection systems which provide for early detection and suppression until the arrival of firefighting equipment and other emergency services.

3. The city is subject to ground tremors from seismic events on the San Andreas, Concord/Green Valley, Hayward, and/or other major active faults in the greater San Francisco Bay Area. The Concord/ Green Valley fault is immediately adjacent to the city to the north. Seismological evidence indicates the probability of an earthquake in the region capable of doing significant damage to buildings is high. A major seismic event would create a citywide demand on fire protection services, which would be beyond the response capability of the fire department. This problem can be lessened or mitigated by requiring initial fire control through the installation of automatic fire protection systems.

8.28.020 Adoption by Reference

A. International Fire Code Adopted. That portion of the California Building Standards Code that imposes substantially the same requirements as are contained in the International Fire Code, 2009 Edition published by the International Code Council and the California Building Standards Commission with errata, together with those portions of the International Fire Code, 2009 Edition, including Appendix Chapter 4, A, B, C, D, E, F, G and I, as modified and amended by this chapter, are adopted by this

reference into this Chapter, and are hereby collectively declared to be the Fire Code of the City of Benicia for the purpose of regulating and governing the safeguarding of life, property and public welfare to a reasonable degree from the hazards of fire, hazardous materials release and explosions(s) arising from the storage, use and handling of dangerous and hazardous materials, substances and devices, conditions hazardous to life or property in the occupancy and use of buildings and premises, then operation, installation and maintenance of adequate means of egress not provided for by the building code, and providing for the issuance of permits and collection of fees thereof.

B. An ordinance of the City of Benicia adopting the 2010 edition of the California Fire Code (2009 International Fire Code as amended by the State of California), regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Benicia; providing for the issuance of permits and collection of fees therefore; repealing Chapter 8.28 of the City of Benicia Municipal Code, and all other ordinances and parts of the ordinances in conflict therewith.

8.28.030 Establishment and Duties of the Division of Fire and Life Safety. The California Fire Code as adopted and amended herein shall be enforced by the fire and life safety division in the fire department of the City of Benicia which is hereby established and which shall be operated under the supervision of the Fire Chief of the fire department. All members of the fire department may enforce the California Fire Code as adopted and amended herein.

8.28.040 Definitions. As used in this chapter, the following terms shall have the meanings set forth herein below:

"Jurisdiction" whenever the word jurisdiction is used in the California Fire Code, it is the City of Benicia.

"Fire Code Official" whenever the words Fire Code Official are used they shall be held to mean Fire Marshal.

"Bureau" whenever the words "Bureau of Fire Prevention", or "Bureau" are used they shall be held to mean the Fire and Life Safety Division.

8.28.050 Establishment of Limits Within The City of Benicia Where Materials Regulated by this Code are Prohibited or Limited.

A. Establishment of limits in which storage of liquefied petroleum gases is to be restricted. The limits referred to in Section 3804.2 of the California Fire Code, in which storage of liquefied petroleum gas is restricted, are hereby established as follows: The bulk storage of liquefied petroleum gas is prohibited in all residentially zoned areas of the City, excluding public and public safety facilities.

B. Establishment of limits in which the storage of stationary tanks of flammable cryogenic fluids are to be prohibited. The limits referred to in Section 3204.3.1.1 of the California Fire Code in which the storage of flammable cryogenic

fluids in stationary containers is prohibited is hereby established as follows: Any area which is zoned for other than industrial use.

C. Establishment of limits in which storage of flammable or combustible liquids in outside aboveground tanks; bulk plants or terminals; and bulk transfer operations is to be prohibited. The limits referred to in Section 3404.2.9.6.1 of the California Fire Code in which storage of Class I and II liquids in outside aboveground tanks is prohibited, are hereby established as follows:

1. Storage of flammable or combustible liquids in excess of 2,000 gallons shall be limited to refineries or bulk storage plant location.

2. Storage shall be limited to Public, Limited Industrial (IL), General Industrial (IG), and Water-Related Industrial (IW) zoned districts, or public safety facilities.

8.28.060 Amendments made in the California Fire Code: The California Fire Code is amended and changes in the following respects:

A. Section 101.1-Title. Section 101.1 of Chapter 1 is amended to read as follows:

101.1 Title. These regulations shall be known as the Fire Code of the City of Benicia, hereinafter referred to as "this code."

B. Section 104.3.2 – Fire Clearance. Section 104.3.2 of Chapter 1 is added to read:

104.3.2 Fire Clearance. It shall be unlawful for any person, firm or corporation to operate a business unless a fire clearance inspection has been made and such businesses are in compliance with all fire department requirements.

C. Section 104.10.1-Assistance from other agencies. Section 104.10.1 of Chapter 1 is added to read:

104.10.1 Fire Prevention Bureau Personnel and Police. All sworn safety personnel assigned to the Fire and Life Safety Division, or such other full-time Fire Department officers or fire prevention personnel including the Community Preservation Officer(s), as may be authorized by the Chief, shall be peace officers as described in Section 830.37 of the California Penal Code and shall enforce the Penal Code, California Fire Code, and where necessary and appropriate, any sections of the Benicia Municipal Code, California Health and Safety Code, and any other county or state fire-related laws or codes not specifically covered in any part of this Code. These police powers include the issuance of misdemeanor citations (Notice to Appear), and as approved by the Chief, carrying and use of firearms.

When requested to do so by the Fire Chief, the Chief of Police is authorized to assign such available police officers as necessary to assist the Fire Department in enforcing the provisions of this Code.

D. Section 105.4.2.2 - Plan Review and Fees. Section 105.4.2.2 of Chapter 1 is added to read as follows:

1. Plan Review: Plan Review: The Fire Code Official may review all plans for the construction or remodeling of buildings for the purpose of ascertaining and requiring to be corrected any condition liable to cause fire, or endanger life from fire or panic, or any violation of this Code, state laws and regulations, and any other local ordinances or requirements which the Fire Code Official may deem necessary. The

Chief of the Fire Department may establish a schedule of fees, as approved by resolution of the City Council; to be charged and collected for plan checking and other required inspection services.

2. Fees. The Fire Chief may establish a schedule of fees, as approved by the City Council, to be charged and collected for plan checking, required inspection services, and for the issuance of permits pursuant to Section 105.7 of this Code. Fire service fees may be charged to any person, firm, corporation or business that through negligence, violation of the law or as a result of carelessness is responsible for the cause of any fire department response to the scene of such an incident. A copy of fee schedules shall be kept in the office of the City Clerk and the office of the Fire Marshal, and shall be available for public inspection.

E. Section 108 is amended -Appeal Process. Section 108 of Chapter 1 is amended to read as follows:

108 -Appeal Process. Section 108 of Chapter 1 is amended to read as follows:

108.1 Board of Appeals established. When it is claimed that the provisions of this Code do not apply, or that the true intent and meaning of this Code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the City Manager within 30 days from the date of the decision of the Chief of the Fire Department. The City Manager, or the Manager's duly authorized representative, shall be the hearing officer and his or her decision shall be final.

F. Section 109.3 – Violation penalties. Section 109.3 of Chapter 1 is amended to read as follows:

109.3 Violation Penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code Official, or of a permit or certificate used under provisions of this code, shall be guilty of an Infraction or Misdemeanor as specified in the California Penal Code. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

G. Section 110.4.1 - Abatement of Hazards. Section 101.1.3 of Chapter 1 is added to read as follows:

110.4.1 Abatement of Hazards. In situations where immediate abatement of a fire hazard or another potentially hazardous condition is required, the Fire Code Official shall have the authority to abate such hazard immediately. This may include, but is not limited to, confiscation of flammable liquids, fireworks, removing hazardous wiring and adapters, temporary closure of commercial occupancies, extinguishing unsafe or illegal fires and any other similar hazards determining no smoking and ceasing operation of any type of apparatus that may be a danger to property or life. Costs of abatement may become a lien upon the property affected. Affected persons shall be notified of action taken as soon as possible.

H. Section 111.4 – Failure to comply. Section 111.4 of Chapter 1 is amended to read as follows:

111.4 Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to

perform to remove a violation or unsafe condition, shall be liable to a fine of not less than ($500.00) dollars or more than ($1,500.00) dollars.

I. Section 202 – General Definitions Fire Watch. Section 202 is amended by adding the following:

202 General Definitions Fire Watch. Qualified individual(s) shall mean an employee of an acceptable security guard/patrol service.

J. Section 307.6 – Open Burning. Section 307.6 of Chapter 1 is added to read as follows:

1 307.6 Open Burning. No person may ignite, permit or maintain an open fire within the city.

2. Open Outdoor Fires - Exceptions. The following are exceptions from the prohibitions in Section 307.6:

(a) Fire for cooking of food for human consumption, where such use is accomplished in an approved barbecue pit.

(b) Fire for recreational heating, where such use is accomplished in an approved fireplace.

(c) A fire set or permitted by a public fire official in the performance of official duties.

K. Section 502.1 of Chapter 5 is amended to add the following definition:

502.1 All Weather Driving Surface. A roadway designed to carry the imposed weight loads of fire apparatus complete with all underground utilities, curbs, gutters, and a minimum surface finish of one layer of asphalt or concrete or road pavers.

L. Section 503.1.2.1 – Access to open spaces. Section 503 of Chapter 5 is added to read as follows

503.1.2.1 Access to Open Spaces. When access to open land/space or fire trail systems maintained for public or private use is obstructed by vehicles of any kind, or other obstructions both within the access or the road or street access to the open space, the vehicle or obstruction may be removed and the cost of such removal will be assessed to the responsible party or vehicle owner.

M. 503.2.1 Dimensions. Section 503.2.1 is amended to add subsections 503.2.1.2 as follows:

503.2.1.2 Parking of vehicles on fire apparatus access roads. For the parking of vehicles on a fire apparatus access road, roadway widths shall be increased to accommodate the parking of vehicles as follows:

1. Roadways 20 feet (6096 mm) in width, no parking permitted,
2. Roadways 28 feet (8534mm) in width, parking permitted on one side only. Parking is permitted on the side of the street absent fire hydrants, and
3. Roadways 36 feet (10 973 mm) in width when parking is not restricted.

N. 503.2 Specifications. Sections 503.2.4 and 503.2.5 are amended as follows:

503.2.4 Minimum turning radius. A fire department access road shall have a minimum standard turning radius of 30 feet inside and a 42-foot outside diameter.

503.2.5 Dead ends. Dead end fire apparatus access roads in excess of 150 feet (45 720 mm) in length shall be provided with an approved area for turning around aerial fire apparatus.

O. 503.2.7 Grade. Section 503.2.7 is amended in its entirety and replaced as follows:

503.2.7 Grade. A fire department access road having a grade of between 12% and 15% shall be designed to have a finished surface of grooved concrete or rough asphalt to hold a 50,000-pound traction load. Design for grooved concrete shall be ¼ inch (6 mm) wide by ¼ inch (6 mm) deep and ¾ inch (19 mm) on center. Grades exceeding 15% are not permitted.

Exception: Other approved all weather surfaces may be used if the skid resistance is equivalent to or greater than grooved concrete as certified by a registered engineer and approved by the Fire Code Official.

P. 503.2 Specifications. Section 503.2 is further amended to add Section 503.2.9 as follows:

503.2.9 Roadway minimum design weight load capacity. A fire department access road shall be designed and maintained to support a minimum load of 60,000 pounds (H-20 Cal-Trans Design Standard) and shall be provided with an all-weather driving surface as specified in this standard.

Q. 503.3.1 Access-parking Prohibited. Section 503.3.1 is added to read:

503.3.1 Access-parking Prohibited. If, in the judgment of the Fire Code Official, it is necessary to prohibit vehicular parking along public or private driveways and other access ways devoted to public use in order to maintain clear and unobstructed access, the Fire Code Official may require the owner, lessee, or other person in charge of the premises to paint the curbs red, install signs, or give other appropriate notice that parking is prohibited. It shall thereafter be unlawful for any such owner, lessee, or other person in charge to fail to install and maintain in good condition the painted curbs, signs, or other appropriate notice so prescribed. When such areas are marked or signed as provided herein, it shall be unlawful for any person to park or leave standing a vehicle adjacent to any such curb marking or contrary to such sign(s).

It shall be unlawful to park any vehicle or in any other way obstruct or block any "Fire Lane", general access road to any building or complex, fire department connection, access roads or areas to any open space, no parking zones at fire stations or within 10 feet of any fire hydrant.

R. 505 Premises Identification. Section 505.1 is added to read:

505.1 Address Identification. Any business or building that affords vehicular access to the rear through a driveway, alleyway, or parking lot, shall also display the building identification or address numbers on the rear of the building.

At the main entrance driveway to each newly constructed multiple dwelling complex, there shall be positioned an illuminated diagram (map) of the complex, which lists all individual addresses of each unit in the complex. The design and location of the map shall be approved by the Fire Marshal.

S. Section 507.5.1 – Where Required. Section 507.5.1 of Chapter 5 is amended to read:

507.5.1 Where Required. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 300 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the Fire Code Official.

Fire hydrants shall be placed as approved by the Fire Code Official within fifty (50') feet of fire department connections on new construction.

T. Section 903.2 – Where Required. Section 903.2 through Section 903.2.10 of Chapter 9 is amended to read:

Section 903.2 Where Required. An approved automatic fire sprinkler system shall be installed and maintained in each new building, with the City requiring a building permit according to the following criteria:

1. A Building occupied or used for any purpose including occupancy group A, B, F, H, I, L, M, S, U and X (as defined in the California Fire Code), where the fire flow requirements for the building are fifteen hundred gallons per minute or more based on Appendix B requirements.

Exception: Groups R-2.1, R-3.1, or R-4 occupancies are exempt unless otherwise provided for in this code shall comply with the California Residential Code.

2. A building more than two stories or thirty-five feet in height;

U. Section 905.3.1 - Height. Section 905.3.1 is amended to Chapter 9 to read as follows:

905.3.1 Height. In other than Group R-3 and R-3.1 occupancies, Class I standpipe system shall be installed throughout at each floor where any of the follow occur.

1. Buildings where the floor level of the highest story is located more than 30 feet above the lowest level of the fire department vehicle access.

2. Buildings that are three or more stories in height.

3. Buildings where the floor level of the lowest story is located more than 30 feet below the highest level of the fire department vehicle access.

4. Buildings where there are two or more stories below the highest level of fire department access.

V. Subsection 907.1.1.1 - Alarm Certification. Subsection 907.1.1.1 of Chapter 9 is added to read as follows:

907.1.1.1 Alarm Certifications. A UUFX certificate from Underwriters Laboratories (UL) shall be required on all commercial fire alarm/monitoring systems installed after January 1, 2011. UL UUFX certification shall be provided for all previously existing commercial fire alarm systems no later than January 1, 2013. UL Certification is required to be maintained for commercial fire alarm/monitoring systems throughout the life of the alarmed/monitored building. The UL certified system is to be monitored by a UL Central Station with all required services.

W Section 3302 - Firework Findings. Section 3302 is added to Chapter 33 to read as follows:

1. 3302 Firework Findings. The City Council finds that the sale, use and/or discharge of fireworks in the City, whether classified as "dangerous fireworks" and/or "safe and sane fireworks" pursuant to Health and Safety Code Sections 12500 et seq. will endanger life and property, and may encourage the use and/or discharge of fireworks in neighboring jurisdictions where their sale, use and/or discharge are prohibited.

2. 3302.1 Definitions. Any and all terms used in this article shall have the same meaning as defined in Health and Safety Code Sections 12500 et seq. and shall govern the construction of this article.

3. 3302.2 Applicability of State Law. This article does not supersede State law, but is intended to supplement the provisions of Division 11, Part 2, of the Health and Safety Code (Sections 12500 et seq.) and the administrative regulations adopted pursuant to law, and to prohibit and/or regulate by local authority, as authorized by Health and Safety Code Section 12541, the sale used and/or discharge of fireworks in the City.

4. 3302.3 Sale, Use, Possession and/or Discharge Prohibited. No person or organization shall sell, use, possess and/or discharge in the city any fireworks, including, but not limited to, dangerous fireworks and safe and sane fireworks, subject to the exceptions set forth in this article.

5. 3302.4 Seizure of Fireworks. The Fire Code Official is authorized to seize, take, remove or cause to be removed at the expense of the owner any and all fireworks, including, but not limited to, dangerous fireworks and safe and sane fireworks, which are possessed in violation of Article 78. Confiscation by any law enforcement officer and/or fire department official is subject to the exceptions set forth in this article.

Exceptions. This article does not prohibit, and does not authorize confiscation of fireworks possessed for, the following:

a. A public display of fireworks, including, but not limited to, dangerous fireworks and safe and sane fireworks, in the city; provided, that the person or organization is properly licensed, strictly complies with all applicable provisions of this article, all regulations adopted by the Fire Code Official, all city resolutions and ordinances, all provisions of the Health and Safety Code, and receives authorization of the Fire Code Official for the public displays of fireworks.

b. Any special item containing pyrotechnic compositions which the State Fire Marshal, with the advice of the State Advisory Board, has investigated and determined to be limited to industrial, commercial, agricultural use, or religious ceremonies when authorized by a permit granted by the authority having jurisdiction and is classified as "exempt fireworks" in the Health and Safety Code.

c. The use of torpedoes, flares, or fuses by railroads or transportation agencies for signal purposes or illumination.

d. The sale, use or discharge of blank cartridges for ceremonial purposes, athletic or sports events, or military ceremonial or demonstrations.

6. 3302.5 Bond - Insurance. An applicant for a permit to make a public display of fireworks shall furnish proof of adequate compensation insurance for employees as required by State law. The permittee shall furnish a bond or certificate of insurance in an amount deemed adequate by the Fire Code Official for payment of damages that may result to person(s) or property caused by the public display of fireworks or negligence on the part of the applicant or his agents or employees.

X. Section 4603.4 – Sprinkler Systems where required. Section 4603.4.1 through 4603.4.3.

Section 4603.4.3-added to read where required. Section 4603.4.3 of Chapter 46 is added to read:

An approved automatic fire sprinkler system shall be installed and maintained in each new building and addition to an existing building and in the case of

the major remodeling of an existing building, with the City requiring a building permit according to the following criteria:

1. A building occupied or used for any purpose including occupancy group A, B, F, H, I, L, M, S and U (as defined in the California Fire Code), Where the fire flow requirements for the building are fifteen hundred gallons per minute or more based on Appendix B requirements;

2. Each building existing on January 1, 2011 is exempt from this section until such time as:

a. Structural changes or tenant improvements of thirty percent or greater are made to the building, or

b. The building adds or changes occupancy classification as defined in the California Building Code.

8.28.070 Penalties.

A. Any person who violates any of the provisions of this Code or Standards hereby adopted or fails to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the Fire Code Official or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine of not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000.00) or by imprisonment for not more than six months or by both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time.

B. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions or the invocation of other remedies provided in the Benicia Municipal Code or by other law.

C. Each person is guilty of a separate offense for each and every day during any portion of which the violation of this code is committed, continued, or permitted by that person.

Section 3.

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

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

****

On Motion of Council Member _____ , seconded by _____ _____, the foregoing ordinance was introduced at a regular meeting of the City Council on the 16th day of November 2010 and adopted at a regular meeting of the Council held on the _____ by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

VIII.A.16

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 16, 2010
PUBLIC HEARING

DATE : November 2, 2010

TO : City Manager

FROM : Public Works and Community Development Director

SUBJECT : **FIRST READING OF AN ORDINANCE AMENDING THE BENICIA MUNICIPAL CODE TO INCORPORATE BUILDING CODE REVISIONS AND TO ADJUST BUILDING INSPECTION FEES**

RECOMMENDATION:
Conduct a public hearing and first reading of a proposed ordinance to amend the Benicia Municipal Code by amending the following chapters of Title 15 Buildings and Construction pursuant to Statewide code updates and providing for certain amendments required to address local conditions:

- New California Residential Code
- New California Green Building Standards Code
- Chapter 15.04 California Building Code
- Chapter 15.08 California Mechanical Code
- Chapter 15.12 California Plumbing Code
- Chapter 15.16 California Electrical Code
- Chapter 15.26 Building Permit and Other Fees

EXECUTIVE SUMMARY:
The State of California updates the Building standards every three years. The City then adopts the codes, with certain amendments, to address specific City of Benicia needs.

BUDGET INFORMATION:
Inspection fees for large commercial photovoltaic systems are proposed to be adjusted to reflect the direct costs to issue permits and perform inspections. In addition, the cost to perform fireplace insert permitting and inspection is proposed to be reduced.

GENERAL PLAN:
Relevant Goals and Policies include:

- Goal 3.27: Improve energy efficiency.
  - Policy 3.27.1: Promote energy conservation in all new development and during rehabilitation of existing homes.
  - Policy 3.27.A: Distribute information on weatherization and energy conservation.
  - Policy 3.27.B: Implement State energy conservation requirements in new housing.
- Goal 4.1: Make community health and safety a high priority for Benicia
  - Policy 4.1.1: Strive to protect and enhance the safety and health of Benicians when making planning and policy decisions.

STRATEGIC PLAN:
Relevant Strategic Plan Issues and Strategies include:

- Strategic Issue 1: Protecting Community Health and Safety
- Strategic Issue 2: Protecting and Enhancing the Environment
  - Reduce greenhouse gas emissions and energy consumption
- Strategic Issue 5: Maintain and Enhance a High Quality of Life

BACKGROUND:
The State of California promulgates uniform construction related codes for statewide use in order to ensure quality building construction and public safety. These codes are reviewed and updated on a 3-year cycle and published by the International Code Council, the International Association of Plumbing and Mechanical Officials, and the National Fire Protection Association.

The State has adopted two new codes effective January 1, 2011, the California Residential Code and the California Green Building Standards Code. Individual jurisdictions must use these codes as adopted by the State. However, cities may also adopt additional specific local amendments due to local climatic, geological or topographical attributes.

The State of California has recently approved the latest editions of the following codes:

California Building Code (2010)
California Mechanical Code (2010)
California Plumbing Code (2010)
California Electrical Code (2010)
California Residential Code (2010)
California Green Building Standards Code (2010)

In addition to adoption of the tri-annual California Building Standards code updates, the proposed ordinance will also adopt the following requirements as amendments to the California Building Code (CBC), the California Plumbing Code (CPC), and the California Residential Code (CRC). Items #1- 7 are Benicia specific amendments to both the CBC and the CRC. Item #8 is an amendment to CPC.

The requirements listed below already exist in the Benicia Municipal Code, even though they are not in the 2010 Statewide codes, and shall remain based upon the findings described below:

1. **Lighted street address numbers.**
   The City is geographically bordered on two sides by the Carquinez Strait. The water may cause fog to form in the city, which limits the ability of emergency personnel to quickly locate buildings during night hours without the aid of lighted street address numbers.

2. **Roof assembly.**
   The City is geographically situated in an area subject to frequent periods of strong wind conditions. Additionally, the City contains a significant amount of hilly, undeveloped acreage designated as permanent open space. These large open space areas are characterized as brush and grasslands, which during certain times of the year present extreme fire hazard. Wind conditions, combined with brush and grassland areas, result in heightened concern for fire damage and require additional constraints on the use of wood shake and shingles on roofs and siding.

3. **Wood burning fireplaces restricted.**
   This code revision is in response to the Bay Area Air Quality Management District requirement that any new fireplaces must either be pellet fueled or EPA certified. The ordinance is designed to assist the Bay Area in meeting federal standards and improve air quality.

4. **Restricted use of gypsum wallboard for lateral bracing.**
   Gypsum wall board (sheetrock) will be prohibited to be used as lateral bracing. Because Benicia is in a high seismic zone, this change is necessary to ensure adequate safety in case of seismic activity.

5. **Restricted use of paper backed gypsum board in showers and bathtub areas.**
   Paper backed gypsum board will not be permitted in showers and tub areas subject to water splash. Because of this material's lack of resistance to damage in high moisture areas, premature failure of the product frequently occurs.

6. **Concrete slabs require 4 inches minimum thickness and rebar: gravel is required between the concrete and the earth.**
   Benicia has numerous places where expansive soil is present. The rebar requirement lessens the cracking of the slab. A 4-inch slab is required to accommodate the rebar in the slab. Underground water found in the soils of Benicia by capillary action, can cause water to be pulled into the slab. The gravel breaks this underground water flow.

7. **Pool and spa barriers.**
   The City's ordinance strengthens the State mandated barrier requirement by specifying that garage doors opening in the pool area meet the same self closing requirements as gates. The City code requires all human made bodies of water over 18 inches to be protected. This requirement is in both the CBC and the CRC.

8. **Prohibit metal water pipe under concrete slabs.**
   The use or repair of metal water pipes buried under the concrete slab of a building is prohibited. Buildings have developed water leaks under the slab, and the cost of repair is considerable. In order to eliminate this problem, buried metal water pipe will remain prohibited under a building slab, as it has been since 2003.

Fees: The proposed ordinance adjusts building inspection fees.

Staff recommends building inspection fees be adjusted to reflect the actual cost to issue permits and inspect the work.

	Existing fee	**Proposed fee Based on Costs**		**Cost of Improvements (Typical Total)**
Non-residential photovoltaic	$125.00	>8 kw <49 kw >49 kw-	$500.00 $1,000.00 $1,500.00	8kw = $74,000 49kw = $475,000 131kw = $1,200,000
Fireplace inserts	$206.75	$150.00		

Non-Residential Photovoltaic

The current fee schedule lists a fee for electric solar systems as $125. This fee was intended for residential solar photovoltaic systems. A Statewide 2010 study by

the Sierra Club determined fees based on inspection times and plan review. The survey found an average of 3 hours was used to inspect 8 kw systems, 7 hours for up to 49 kw systems, and 10 hours for systems of 131 kw. The proposed rates were calculated using the established City rate of $129 dollars per hour for inspection services and $64.50 for issuance of the permit.

Fireplace Inserts

The new fee is reduced to reflect actual time to perform the inspection and issue the permit.

Green Building Standards Code (CAL Green Code)

The California Green Building Standards code is required for the first time beginning on January 1, 2011. The CAL Green Code is intended to (1) reduce greenhouse gas emissions from buildings; (2) promote environmentally responsible, cost-effective, healthier places to live and work; and (3) reduce energy and water consumption.

The work required by CAL Green Code (which includes low flow devices, insulation, window replacement, low use toilets, and other features), will provide savings for homeowners in reduced energy and water bills, in addition to meeting the goals of the Climate Action Plan

<u>Sustainability Commission Recommendation</u>
Local jurisdictions are allowed to strengthen the CAL Green Code in the same manner as other Building Standards in California. At its October 12, 2010 meeting, the Sustainability Commission recommended that the City add two items: 1) Require the Standard to apply to all residential room additions over 600 square feet, instead of only applying to new structures, and 2) Require energy conservation work to be performed on an existing dwelling (not only new dwellings) when a permit valuation exceeds $20,000. The costs of any required energy changes would be capped at 2% of the construction cost.

The amendments to the CAL Green Code recommended by the Sustainability Commission will undergo separate outreach to the construction community and will be brought back to the City Council at a future date for consideration.

Attachments:
- Proposed Ordinance (changes shown)
- Proposed Ordinance (clean copy version)
- Sierra Club Recommendations commercial solar electric permit fees as of 10/04/2010

VIII.B.6

CITY OF BENICIA

ORDINANCE NO. 10-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING CHAPTER 15.04 (DIVISION I. CONSTRUCTION STANDARDS AND STRUCTURE RELOCATION) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

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

Section 1.

Chapter 15.04, Division I. Construction Standards and Structure Relocation of Title 15, Buildings and Construction, of the Benicia Municipal Code is hereby amended and replaced in its entirety by the following:

Title 15
BUILDINGS AND CONSTRUCTION

Chapter 15.04

Division I. Construction Standards and Structure Relocation*

Chapters:

NEW	California Residential Code
15.04	California Building Code
15.08	California Mechanical Code
15.12	California Plumbing Code
15.16	California Electrical Code
NEW	California Green Building Standards Code
15.26	Building Permit and Other Fees

Chapter 15.NEW

California Residential Code

15.NEW.010 Adoption by reference.
15.NEW.020 Copies on file.

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* Prior ordinance history: Ords. 88-13 N.S., and 90-11 N.S., and 92-1 N.S.

15.NEW.030 Amendments made in the California Residential Code.

15.NEW.010 Adoption by reference.

The California Residential Building Code, 2010 Edition, Appendix H, J, K published by the International Code Council is adopted by reference the same as though fully set forth in this chapter.

15.NEW.020 Copies on file.

One copy of the California Residential Code and Appendix as adopted by BMC 15.NEW.010, and all amendments thereto, shall be kept on file in the building official's office for inspection by the public.

15.NEW.030 Amendments made in the California Residential Code.

The California Residential Code is amended and changed in the following respects:

A. Section R202 of Chapter 2 (Definitions) is amended to add the following definition to read as follows:

Pool: Any outside body of water created by artificial means, any portion of which exceeds eighteen inches (18") in depth.

B. Section R319 added to read as follows:

Minimum numeral size shall be 6" high with a stroke of 1" and shall contrast with the background.

1. Lighting of building addresses – The building address for all new buildings constructed after the date of this ordinance shall be automatically lighted at night. Buildings under renovation which the lighted numbers can readily be added are required to add the numbers.

C. Subsection R902.3 is added to Chapter 9 (Roof Assemblies) of the California Residential Code to read as follows:

All new roof coverings shall be a class B or better roof covering assembly as defined by CBC 1505.6.

D. Subsection R506.1 (Minimum slab thickness) is amended to read as follows:

Minimum slab thickness. A minimum of four inches (4") of gravel and 4" of concrete shall be required under all non-engineered concrete floor slabs supported directly on the ground in all occupancies except "M" occupancies that are not attached to another structure. Non-engineered concrete floor slabs on grade shall be reinforced with deform reinforcing bars not less than three-eighths inch (3/8") at twenty-four inches (24") each way.

E. R1007(Wood burning stoves) is added to Chapter 10 (Chimneys and Fireplaces) of the California Residential Code to read as follows:

Wood burning stove appliances. Any new wood-burning appliance must be one of the following:

1. A pellet-fueled wood device;

2. A U. S. EPA Phase II certified device; or

3. A low mass fireplace, masonry heater or other wood burning device of a make and model that meets EPA emission targets and has been approved in writing by the air pollution control officer of the bay area air quality management district or the designee thereof.

F. Section 3109 (Pools) is added to Chapter 31 (Special construction) of the California Residential Code to read as follows:

Pools.

1. Any body of water to which a permit issued after March 19, 1998, shall comply with the following: An outdoor swimming pool, spa, hot tub or manmade body of water such as decorative fountains or ponds over 18" deep, shall be provided with a barrier that shall be installed, inspected and approved prior to plastering or filling with water. The barrier shall comply with the following:

a. The top of the barrier shall be at least 60 inches above grade measured on the side of the barrier which faces away from the pool. The vertical clearance between grade and the bottom of the barrier shall not be more than 2 inches measured on the side of the barrier which faces away from the swimming pool. Any decorative design work on the side away from the swimming pool, such as protrusions, indentations or cutouts, which render the barrier easily climbable, is prohibited.

b. Openings in the barrier shall not allow passage of a 4" diameter sphere.

c. Chain link fences used as the barrier shall be substantial and shall not be less than 11 gage.

d. Access gates shall comply with the requirements of Items a. through c. Pedestrian access gates shall be self-closing and have a self-latching device with the latching service at least 60" above grade. Pedestrian gates shall swing away from the pool area. Any gates other than pedestrian access gates shall be equipped with attached lockable hardware or padlocks and shall remain locked at all times when not in use. This gate must have only occasional use.

e. All doors of a dwelling or garage providing direct access to the water area shall provide a separation fence and gate meeting the requirements of Items a, b, c and d.

EXCEPTION: When approved by the building official, one of the following may be used:

i. Self-closing and self-latching devices installed on all doors with direct access to the pool with the release mechanism located a minimum of 60 inches (1,372 mm) above the floor.

ii. An alarm installed on all doors with direct access to the pool. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door and its screen, if present, are opened, and be capable of providing a sound pressure level of not less that 85 dba when measured indoors at 10 feet (3,048 mm). The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual device, such as a touchpad or switch to temporarily deactivate the alarm for a single opening. Such deactivations shall last no longer than 15 seconds. The deactivation switch shall be located at least 60 inches (1,524 mm) above the threshold of the door.

iii. Hot tubs or spas with locking safety covers complying with ASTM-ES 13-89 shall be considered in compliance with Pool Enclosure Requirements.

Indoor Swimming Pool. For an indoor swimming pool, protection shall comply with the requirements of Item e.

2. Any pool, spa or hot tub for which a building permit was issued prior to March 19, 1998, shall comply with the following. Every swimming pool shall be completely enclosed by a wall, fence or other substantial structure not less than four feet (4') in height measured on the outside of the enclosure. No openings other than doors and gates with any dimension greater than four inches (4") shall be permitted therein except that a picket fence may be erected or maintained having horizontal spacing between pickets not more than four inches (4"). All gates or door openings through such enclosures shall be equipped with self closing and self-latching devices designed to keep and are capable of keeping such door or gate securely closed at all times when not in actual use; provided, however, that the door of any dwelling occupied by human beings and forming any part of the enclosure hereinabove required need not be so equipped. Any self-latching device accessible from the outside of the pool enclosure shall be located at least four feet (4') above the ground or otherwise equally inaccessible to small children. This requirement applies to any manmade body of water over 18" deep, including decorative fountains or ponds.

G. Section R601.3.4 (Wall construction) Wood framed and steel framed shear walls and all braved wall panels sheathed with gypsum board, lath and plaster shall not be permitted to resist wind and seismic loads.

Chapter 15.04
CALIFORNIA BUILDING CODE[1]

Sections:

15.04.010 Adoption by reference.
15.04.020 Copies on file.
15.04.030 Amendments made in the California Building Code.

15.04.010 Adoption by reference.
The California Building Code, 2010Edition, Volumes 1 and 2, Chapter 1, Division II and Appendix I published by the International Code Council is adopted by reference the same as though fully set forth in this chapter. (Ord. 08-08 § 1).

A. Section 105.3.2 of Chapter 1, Division II is amended to read as follows;
An application for a permit for any proposed work shall be deemed to have been abandoned six (6) months after the date of filing unless such application has been pursued in good faith, or a permit has been isssued; except that the building official is authorized to grant one extension of six (6) months. The extension shall be requested in writing and justified cause demonstrated. Whatever the case, a permit application is valid for a maximum one (1) year after which time the application expires and a new plan review feee must be paid. The code in effect at the time the newest application is made shall be the code that is enforced.

B. Section 105.5 (Building permit) of Chapter 1 Division II is amended to read as follows:

> Building Permit. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within six (6) months after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of six (6) months after the time the work is commenced. The permit will remain valid for a total of two (2) years from the date of the permit issuance. If the work becomes invalid, a new permit must be issued and the permit fees paid as per the city fee schedule for the amount of work required to finish the job.

C. Chapter 1 Division II Subsection 107.6 (Standard plans) is added to read as follows:

> 106.1.1 – Standard plans. The building official may approve a set of plans for a building or structure as a “standard plan,” provided the applicant has made proper application, submitted complete sets of

plans, and paid the plan checking fee as required by Benicia Municipal Code Chapter 15.26. When it is desired to use an approved "standard plan" for an identical structure, three plot plans shall be submitted, and a plan-checking fee equal to one-half of the full plan-checking fee required by Benicia Municipal Code Chapter 15.26 shall be paid at the time application is made for such identical structure. Such duplicate plans shall be compared, stamped, and kept on the job as required by California Building Code Appendix 106.3.1. In case of any deviation whatsoever from this standard plan, complete plans, together with a full plan-checking fee, shall be submitted for the proposed work, as required by California Building Code Appendix Section 106.1. Standard plans shall be valid for a period of one year from the date of approval. This period may be extended by the building official when there is evidence that the plan may be used again. The code in effect when the plan review application is submitted and the plan review fee paid shall be the governing code.

D. Appendix Chapter 1, Section 113.1 (Unlawful act). Chapter 1, Division II Section 114.5 – Violation a Public Nuisance is added to read as follows:

It is declared that any violation of this code, the CPC, CMC, CEC or other state building codes constitutes a public nuisance. In addition to any other remedies this code provides for enforcement, the city may bring civil suit to enjoin violation of its provisions.

15.04.020 Copies on file.
One copy of the California Building Code and Appendix as adopted by BMC 15.04.010, and all amendments thereto, shall be kept on file in the building official's office for inspection by the public. (Ord. 08-08 § 1).

15.04.030 Amendments made in the California Building Code.
The California Building Code is amended and changed in the following respects:

A. Section 202 of Chapter 2 (Definitions) is amended to add the following definition to read as follows:

Pool: Any outside body of water created by artificial means, any portion of which exceeds eighteen inches (18") in depth.

B. Section 501.2 of Chapter 5 (General building heights and areas) is amended to read as follows:

1. Address numbers. Apartment, Condominium and Townhouse Complexes – An illuminated, diagrammatic representation of the complex shall be installed at the primary vehicular and walkway entrance to each complex. This diagram shall be of sufficient size to be easily visible from said vehicular and walkway entrance.

a. An apartment, condominium, or townhouse complex shall be defined as a group of three or more separate, non-connecting buildings, all located on common ground where each building contains two or more living units.

b. Each building shall be marked at a location clearly visible from the nearest vehicular access with the street address, building number/letter and numbers of units located in that building.

Example: 2237 Address
Bldg. “B” Building designation
Units 1 – 8 Units in building

Minimum numeral size shall be 6" high with a stroke of 1" and shall contrast with the background.

2. Commercial – Individual units shall be addressed front and back. Minimum numeral size shall be 6" high with a stroke of 1" and shall contrast with the background. Units with entrances on both the front and rear of the building shall have identical addresses at both locations.

3. Industrial – Individual units within a building shall be addressed front and back. Individual buildings shall be marked at a point clearly visible from the street. Minimum numeral size shall be 12" high with a 3" wide stroke and shall contrast with the background. Units with entrances on both the front and rear of the building shall have identical addresses at both locations.

4. Lighting of building addresses – The building address for all new buildings constructed after the date of this ordinance shall be automatically lighted at night.

C. Subsection 1505.1.5 (Shingles and shakes) is added to Chapter 15 (Roofing) of the California Building Code to read as follows:

Shingles and shakes. All new roof coverings shall be a class B or better roof covering assembly as defined by CBC 1505.6.

D. Subsection 1910.1.1 (Minimum slab thickness) is added to Chapter 19 (Concrete) of the California Building Code to read as follows:

Minimum slab thickness. A minimum of four inches (4") of gravel and 4" of concrete shall be required under all non-engineered concrete floor slabs supported directly on the ground in all occupancies except "M" occupancies that are not attached to another structure. Non-engineered concrete floor slabs on grade shall be reinforced with deform reinforcing bars not less than three-eighths inch (3/8") at twenty-four inches (24") each way.

E. Subsection 2111.14 (Wood burning stove appliances) is added to Chapter 21 (Masonry) of the California Building Code to read as follows:

Wood burning stove appliances. Any new wood-burning appliance must be one of the following:

1. A pellet-fueled wood device;

2. A U. S. EPA Phase II certified device; or

3. A low mass fireplace, masonry heater or other wood burning device of a make and model that meets EPA emission targets and has been approved in writing by the air pollution control officer of the bay area air quality management district or the designee thereof.

F. Section 3109 (Pools) is added to Chapter 31 (Special construction) of the California Building Code to read as follows:

Pools.

1. Any body of water to which a permit issued after March 19, 1998, shall comply with the following: An outdoor swimming pool, spa, hot tub or manmade body of water such as decorative fountains or ponds over 18" deep, shall be provided with a barrier that shall be installed, inspected and approved prior to plastering or filling with water. The barrier shall comply with the following:

a. The top of the barrier shall be at least 60 inches above grade measured on the side of the barrier which faces away from the pool. The vertical clearance between grade and the bottom of the barrier shall not be more than 2 inches measured on the side of the barrier which faces away from the swimming pool. Any decorative design

work on the side away from the swimming pool, such as protrusions, indentations or cutouts, which render the barrier easily climbable, is prohibited.

b. Openings in the barrier shall not allow passage of a 4" diameter sphere.

c. Chain link fences used as the barrier shall be substantial and shall not be less than 11 gage.

d. Access gates shall comply with the requirements of Items a. through c. Pedestrian access gates shall be self-closing and have a self-latching device with the latching service at least 60" above grade. Pedestrian gates shall swing away from the pool area. Any gates other than pedestrian access gates shall be equipped with attached lockable hardware or padlocks and shall remain locked at all times when not in use. This gate must have only occasional use.

e. All doors of a dwelling or garage providing direct access to the water area shall provide a separation fence and gate meeting the requirements of Items a, b, c and d.

EXCEPTION: When approved by the building official, one of the following may be used:

i. Self-closing and self-latching devices installed on all doors with direct access to the pool with the release mechanism located a minimum of 60 inches (1,372 mm) above the floor.

ii. An alarm shall be installed on all doors with direct access from the living area of the dwelling to the pool. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door and its screen, if present, are opened, and be capable of providing a sound pressure level of not less that 85 dba when measured indoors at 10 feet (3,048 mm). The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual device, such as a touchpad or switch to temporarily deactivate the alarm for a single opening. Such deactivations shall last no longer than 15 seconds. The deactivation switch shall be located at least 60 inches (1,524 mm) above the threshold of the door.

iii. Hot tubs or spas with locking safety covers complying with or ASTM ES 13-89 shall be considered in compliance with Pool Enclosure Requirements.

Indoor Swimming Pool. For an indoor swimming pool, protection shall comply with the requirements of Item e.

2. Any pool, spa or hot tub for which a building permit was issued prior to March 19, 1998, shall comply with the following. Every swimming pool shall be completely enclosed by a wall, fence or other substantial structure not less than four feet (4') in height measured on the outside of the enclosure. No openings other than doors and gates with any dimension greater than four inches (4") shall be permitted therein except that a picket fence may be erected or maintained having horizontal spacing between pickets not more than four inches (4"). All gates or door openings through such enclosures shall be equipped with self closing and self-latching devices designed to keep and are capable of keeping such door or gate securely closed at all times when not in actual use; provided, however, that the door of any dwelling occupied by human beings and forming any part of the enclosure hereinabove required need not be so equipped. Any self-latching device accessible from the outside of the pool enclosure shall be located at least four feet (4') above the ground or otherwise equally inaccessible to small children. This requirement applies to any manmade body of water over 18" deep, including decorative fountains or ponds.

G. Section 2505 (Shear wall construction) of Chapter 25 (Gypsum board and plaster) is amended to read as follows:

Shear wall construction.

1. 2505.1 – Resistance to shear (wood framing) is amended to read as follows:

Delete the section and replace with the following: Wood framed Shear walls sheathed with gypsum board, lath and plaster are not be permitted to resist wind and seismic loads.

2. 2505.2 – Resistance to shear (steel framing) is amended to read as follows:

Delete the section and replace with the following: Steel framed shear walls sheathed with gypsum board, lath and plaster shall not be permitted to resist wind and seismic loads.

H. Subsection 2509.3 (Gypsum board in showers and water closets) of Chapter 25 (Gypsum board and plaster) is amended by adding the following:

4. Gypsum board in showers and water closets. Paper-backed gypsum board products shall not be used as a backer for tile in showers and bathtub areas.

(Ord. 08-08 § 1).

1

Prior legislation: Ords. 87-6, 87-25, 88-15, 93-6, 95-15, 98-2, 99-11, 02-4 and 07-07.

Chapter 15.08
CALIFORNIA MECHANICAL CODE

Sections:

15.08.010 Adoption by reference.
15.08.020 Copies on file.
15.08.030 *Repealed.*

15.08.010 Adoption by reference.
The California Mechanical Code, 2010 Edition, including the Appendix, is adopted by reference the same as though fully set forth in this chapter. (Ord. 08-09 § 1; Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

15.08.020 Copies on file.
One copy of the California Mechanical Code as adopted by BMC 15.08.010, and all amendments thereto, shall be kept on file in the building official's office for inspection by the public. (Ord. 08-09 § 2; Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

15.08.030 Violation – Penalty.
Repealed by Ord. 03-9. (Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

Chapter 15.12
CALIFORNIA PLUMBING CODE[1]

Sections:

15.12.010 Adoption by reference.
15.12.020 Copies on file.
15.12.030 Amendments made in the California Plumbing Code.

15.12.010 Adoption by reference.
The California Plumbing Code, 2007 Edition, including AppendicesA, D, G, I are adopted by reference the same as though fully set forth in this chapter. (Ord. 08-10 § 1).

15.12.020 Copies on file.
One copy of the California Plumbing Code and Appendix as adopted by BMC 15.12.010, and all amendments thereto, shall be kept on file in the building official's office for inspection by the public. (Ord. 08-10 § 1).

15.12.030 Amendments made in the California Plumbing Code.
The California Plumbing Code is amended and changed in the following respects:

.A. Chapter 604 (Water supply and distribution) is amended by adding Section 604.15 (Metal water piping). Section 604.15 (Metal water piping) is added to read as follows:

> Section 604.15 – Metal water piping. Metal water piping, including any repair of any metal water piping, is not to be permitted buried under any structure except as permitted in individual circumstances and approved by the building official.

C. Chapter 710 (Sanitary drainage) is amended by adding Section 710.1 – (Sewage backwater). Section 710.1 (Sewage backwater) is added to read as follows:

> Section 710.1 – Sewage backwater. Where a fixture is installed on a floor level that is lower than the next upstream manhole cover of the public or private sewer, serving such drainage piping, shall be protected

from backflow of sewage by installing an approved type of backwater valve or mushroom type device or other fixtures approved by the Building Official. Fixtures on floor levels above such level elevation shall not be discharged through the backwater valve. Cleanouts for drains that pass through a backwater valve shall be clearly identified with a permanent label stating “Backwater Valve Downstream.”

(Ord. 08-10 § 1).

1

Prior legislation: Ords. 87-6, 95-15, 99-11 and 02-4.

Chapter 15.16
CALIFORNIA ELECTRICAL CODE

Sections:

15.16.010 Adoption by reference.
15.16.020 Copy on file.
15.16.030 *Repealed.*

15.16.010 Adoption by reference.
The California Electrical Code, 2010 Edition, is adopted by reference the same as though fully set forth in this chapter. (Ord. 08-11 § 1; Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

15.16.020 Copy on file.
One copy of the California Electrical Code as adopted by BMC 15.16.010, and all amendments thereto, shall be kept on file in the building official's office for inspection by the public. (Ord. 08-11 § 2; Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

15.16.030 Violation – Penalty.
Repealed by Ord. 03-9. (Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

Chapter 15.NEW
CALIFORNIA GREEN BUILDING STANDARDS CODE

Sections:

15.NEW.010 Adoption by reference.
15.NEW.020 Copies on file.
15.NEW.030 Amendments made in the California Green Building Standards Code

15.NEW.010 Adoption by reference.

The California Green Building Standards Code, 2010 Edition is adopted by reference the same as though fully set forth in this chapter.

15.NEW.020 Copies on file.

One copy of the California Green Building Standards Code as adopted by BMC 15.NEW.010, and all amendments thereto, shall be kept on file in the building official's office for inspection by the public.

Chapter 15.26
BUILDING PERMIT FEES AND OTHER FEES

Sections:

15.26.010 General requirements and other fees.
15.26.020 Building permit fees.

15.26.010 General requirements and other fees.

A. Building permit fees charged on all building permit applications including electrical, mechanical and plumbing permits are in accordance with the fee schedules contained within this chapter.

B. Other Fees (Includes Permit Issuance Fee).

1. a. Inspection for compliance to city codes which requires a letter certifying same: $160.00.

b. Inspection for compliance to city code without a letter: $86.00.

2. Spa permit (prefabricated): $96.75 to include installation, plumbing, mechanical and electrical.

3 Residential Solar Photovoltaic Systems: $150.00

3b. Non-residential Solar Photovoltaic Systems:

>8 kw	$493.00
<49 kw	$963.00
>49kw	$1,438.00

4. Kitchen remodel: lighting only – $106.25.

5. Kitchen remodel: plugs and lights – $118.25.

6. Kitchen remodel: complete electric and DWV with water lines – $150.50.

7. Bath/shower remodel: $129.00.

8. Pools.

a. Gunite pools plan review: $129.00.

b. Gunite pool permit issuance and inspection: $258.00.

c. Pool heater: $64.50.

9. Fireplace insert with gas and electric: $142.25

10. Work which was begun prior to required permit issuance: $129.00. Investigation fee over one hour at $129.00 per hour.

11. Inspections outside of normal business hours, per hour (minimum charge – two hours): $129.00[1].

12. Reinspection fees, per inspection: $129.00*.

13. Inspections for which no fee is specifically indicated, per hour (minimum charge of one-half hour): $129.00* (plus issuance fee).

14. Additional plan review required by changes, additions or revisions to plans or to plans for which an initial review has been completed, per hour (minimum charge of one-half hour): $129.00*.

15. Inspections outside of normal business hours, per hour (minimum charge – two hours): $129.00*.

16. Plan Retention.

a. A plan retention fee shall be charged at a rate of $2.25 per page for all plans and $0.25 per eight-inch by 11-inch paper with a $1.00 minimum charge.

b. The plan retention fee shall be used solely for the purpose of preserving building division plans.

c. The building official may adjust the rate charged, on July 30th of each year, to reflect an increase or decrease in cost of preserving plans.

17. Plan review is 65 percent of the building inspection fee.

18. Building inspection fees may be refunded upon written request if no work for the permit has begun. An administrative fee of up to $110.00 will be assessed for any fee request refund at the discretion of the building official. (Ord. 08-16 § 1; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

Section 2.

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

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

*****

On motion of Council member , seconded by Council member , the foregoing ordinance was introduced at a regular meeting of the City Council on the 16th day of November 2010, and adopted at a regular meeting of the Council held on the 7th day of December, 2010 by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

CITY OF BENICIA

ORDINANCE NO. 10-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING CHAPTER 15.04 (DIVISION I. CONSTRUCTION STANDARDS AND STRUCTURE RELOCATION) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

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

Section 1.

Chapter 15.04, Division I. Construction Standards and Structure Relocation of Title 15, Buildings and Construction, of the Benicia Municipal Code is hereby amended and replaced in its entirety by the following:

Title 15
BUILDINGS AND CONSTRUCTION

Chapter 15.04

Division I. Construction Standards and Structure Relocation*

Chapters:

NEW	California Residential Code
15.04	California Building Code
15.08	California Mechanical Code
15.12	California Plumbing Code
15.16	California Electrical Code
NEW	California Green Building Standards Code
15.26	Building Permit Fees and Other Fees

Chapter 15.NEW

California Residential Code

15.NEW.010	Adoption by reference.
15.NEW.020	Copies on file.

* Prior ordinance history: Ords. 88-13 N.S., and 90-11 N.S., and 92-1 N.S.

15.NEW.030 Amendments made in the California Residential Code.

15.NEW.010 Adoption by reference.

The California Residential Building Code, 2010 Edition, Appendix H, J, K published by the International Code Council is adopted by reference the same as though fully set forth in this chapter.

15.NEW.020 Copies on file.

One copy of the California Residential Code and Appendix as adopted by BMC 15.NEW.010, and all amendments thereto, shall be kept on file in the building official's office for inspection by the public.

15.NEW.030 Amendments made in the California Residential Code.
The California Residential Code is amended and changed in the following respects:

A. Section R202 of Chapter 2 (Definitions) is amended to add the following definition to read as follows:

Pool: Any outside body of water created by artificial means, any portion of which exceeds eighteen inches (18") in depth.

B. Section R319 added to read as follows:
Minimum numeral size shall be 6" high with a stroke of 1" and shall contrast with the background.
1. Lighting of building addresses – The building address for all new buildings constructed after the date of this ordinance shall be automatically lighted at night. Buildings under renovation which the lighted numbers can readily be added are required to add the numbers.

C. Subsection R902.3 is added to Chapter 9 (Roof Assemblies) of the California Residential Code to read as follows:

All new roof coverings shall be a class B or better roof covering assembly as defined by CBC 1505.6.

D. Subsection R506.1 (Minimum slab thickness) is amended to read as follows:

Minimum slab thickness. A minimum of four inches (4") of gravel and 4" of concrete shall be required under all non-engineered concrete floor

slabs supported directly on the ground in all occupancies except “M” occupancies that are not attached to another structure. Non-engineered concrete floor slabs on grade shall be reinforced with deform reinforcing bars not less than three-eighths inch (3/8") at twenty-four inches (24") each way.

E. R1007(Wood burning stoves) is added to Chapter 10 (Chimneys and Fireplaces) of the California Residential Code to read as follows:

Wood burning stove appliances. Any new wood-burning appliance must be one of the following:

1. A pellet-fueled wood device;

2. A U. S. EPA Phase II certified device; or

3. A low mass fireplace, masonry heater or other wood burning device of a make and model that meets EPA emission targets and has been approved in writing by the air pollution control officer of the bay area air quality management district or the designee thereof.

F. Section 3109 (Pools) is added to Chapter 31 (Special construction) of the California Residential Code to read as follows:

Pools.

1. Any body of water to which a permit issued after March 19, 1998, shall comply with the following: An outdoor swimming pool, spa, hot tub or manmade body of water such as decorative fountains or ponds over 18" deep, shall be provided with a barrier that shall be installed, inspected and approved prior to plastering or filling with water. The barrier shall comply with the following:

a. The top of the barrier shall be at least 60 inches above grade measured on the side of the barrier which faces away from the pool. The vertical clearance between grade and the bottom of the barrier shall not be more than 2 inches measured on the side of the barrier which faces away from the swimming pool. Any decorative design work on the side away from the swimming pool, such as protrusions, indentations or cutouts, which render the barrier easily climbable, is prohibited.

b. Openings in the barrier shall not allow passage of a 4" diameter sphere.

c. Chain link fences used as the barrier shall be substantial and shall not be less than 11 gage.

d. Access gates shall comply with the requirements of Items a. through c. Pedestrian access gates shall be self-closing and have a self-latching device with the latching service at least 60" above grade. Pedestrian gates shall swing away from the pool area. Any gates other than pedestrian access gates shall be equipped with attached lockable hardware or padlocks and shall remain locked at all times when not in use. This gate must have only occasional use.

e. All doors of a dwelling or garage providing direct access to the water area shall provide a separation fence and gate meeting the requirements of Items a, b, c and d.

EXCEPTION: When approved by the building official, one of the following may be used:

i. Self-closing and self-latching devices installed on all doors with direct access to the pool with the release mechanism located a minimum of 60 inches (1,372 mm) above the floor.

ii. An alarm installed on all doors with direct access to the pool. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door and its screen, if present, are opened, and be capable of providing a sound pressure level of not less that 85 dba when measured indoors at 10 feet (3,048 mm). The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual device, such as a touchpad or switch to temporarily deactivate the alarm for a single opening. Such deactivations shall last no longer than 15 seconds. The deactivation switch shall be located at least 60 inches (1,524 mm) above the threshold of the door.

iii. Hot tubs or spas with locking safety covers complying with ASTM-ES 13-89 shall be considered in compliance with Pool Enclosure Requirements.

Indoor Swimming Pool. For an indoor swimming pool, protection shall comply with the requirements of Item e.

2. Any pool, spa or hot tub for which a building permit was issued prior to March 19, 1998, shall comply with the following. Every swimming pool shall be completely enclosed by a wall, fence or other substantial structure not less than four feet (4') in height measured on the outside of the enclosure. No openings other than doors and gates with any dimension greater than four inches (4") shall be permitted therein except that a picket fence may be erected or maintained having horizontal spacing between pickets not more than four inches (4"). All gates or door openings through such enclosures shall be equipped with self closing and self-latching devices designed to keep and are capable of keeping such door or gate securely closed at all times when not in actual use; provided, however, that the door of any dwelling occupied by human beings and forming any part of the enclosure hereinabove required need not be so equipped. Any self-latching device accessible from the outside of the pool enclosure shall be located at least four feet (4') above the ground or otherwise equally inaccessible to small children. This requirement applies to any manmade body of water over 18" deep, including decorative fountains or ponds.

G. Section R601.3.4 (Wall construction) Wood framed and steel framed shear walls and all braved wall panels sheathed with gypsum board, lath and plaster shall not be permitted to resist wind and seismic loads.

Chapter 15.04
CALIFORNIA BUILDING CODE[1]

Sections:

15.04.010 Adoption by reference.
15.04.020 Copies on file.
15.04.030 Amendments made in the California Building Code.

15.04.010 Adoption by reference.
The California Building Code, 2010Edition, Volumes 1 and 2, Chapter 1, Division II and Appendix I published by the International Code Council is adopted by reference the same as though fully set forth in this chapter. (Ord. 08-08 § 1).

A. Section 105.3.2 of Chapter 1, Division II is amended to read as follows;
An application for a permit for any proposed work shall be deemed to have been abandoned six (6) months after the date of filing unless such application has been pursued in good faith, or a permit has been isssued; except that the building official is authorized to grant one extension of six (6) months. The extension shall be requested in writing and justified cause demonstrated. Whatever the case, a permit application is valid for a maximum one (1) year after which time the application expires and a new plan review feee must be paid. The code in effect at the time the newest application is made shall be the code that is enforced.

B. Section 105.5 (Building permit) of Chapter 1 Division II is amended to read as follows:

> Building Permit. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within six (6) months after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of six (6) months after the time the work is commenced. The permit will remain valid for a total of two (2) years from the date of the permit issuance. If the work becomes invalid, a new permit must be issued and the permit fees paid as per the city fee schedule for the amount of work required to finish the job.

C. Chapter 1 Division II Subsection 107.6 (Standard plans) is added to read as follows:

> 106.1.1 – Standard plans. The building official may approve a set of plans for a building or structure as a “standard plan,” provided the applicant has made proper application, submitted complete sets of

plans, and paid the plan checking fee as required by Benicia Municipal Code Chapter 15.26. When it is desired to use an approved "standard plan" for an identical structure, three plot plans shall be submitted, and a plan-checking fee equal to one-half of the full plan-checking fee required by Benicia Municipal Code Chapter 15.26 shall be paid at the time application is made for such identical structure. Such duplicate plans shall be compared, stamped, and kept on the job as required by California Building Code Appendix 106.3.1. In case of any deviation whatsoever from this standard plan, complete plans, together with a full plan-checking fee, shall be submitted for the proposed work, as required by California Building Code Appendix Section 106.1. Standard plans shall be valid for a period of one year from the date of approval. This period may be extended by the building official when there is evidence that the plan may be used again. The code in effect when the plan review application is submitted and the plan review fee paid shall be the governing code.

D. Appendix Chapter 1, Section 113.1 (Unlawful act). Chapter 1, Division II Section 114.5 – Violation a Public Nuisance is added to read as follows:

It is declared that any violation of this code, the CPC, CMC, CEC or other state building codes constitutes a public nuisance. In addition to any other remedies this code provides for enforcement, the city may bring civil suit to enjoin violation of its provisions.

15.04.020 Copies on file.
One copy of the California Building Code and Appendix as adopted by BMC 15.04.010, and all amendments thereto, shall be kept on file in the building official's office for inspection by the public. (Ord. 08-08 § 1).

15.04.030 Amendments made in the California Building Code.
The California Building Code is amended and changed in the following respects:

A. Section 202 of Chapter 2 (Definitions) is amended to add the following definition to read as follows:

Pool: Any outside body of water created by artificial means, any portion of which exceeds eighteen inches (18") in depth.

B. Section 501.2 of Chapter 5 (General building heights and areas) is amended to read as follows:

1. Address numbers. Apartment, Condominium and Townhouse Complexes – An illuminated, diagrammatic representation of the complex shall be installed at the primary vehicular and walkway entrance to each complex. This diagram shall be of sufficient size to be easily visible from said vehicular and walkway entrance.

a. An apartment, condominium, or townhouse complex shall be defined as a group of three or more separate, non-connecting buildings, all located on common ground where each building contains two or more living units.

b. Each building shall be marked at a location clearly visible from the nearest vehicular access with the street address, building number/letter and numbers of units located in that building.

Example: 2237 Address
Bldg. “B” Building designation
Units 1 – 8 Units in building

Minimum numeral size shall be 6" high with a stroke of 1" and shall contrast with the background.

2. Commercial – Individual units shall be addressed front and back. Minimum numeral size shall be 6" high with a stroke of 1" and shall contrast with the background. Units with entrances on both the front and rear of the building shall have identical addresses at both locations.

3. Industrial – Individual units within a building shall be addressed front and back. Individual buildings shall be marked at a point clearly visible from the street. Minimum numeral size shall be 12" high with a 3" wide stroke and shall contrast with the background. Units with entrances on both the front and rear of the building shall have identical addresses at both locations.

4. Lighting of building addresses – The building address for all new buildings constructed after the date of this ordinance shall be automatically lighted at night.

C. Subsection 1505.1.5 (Shingles and shakes) is added to Chapter 15 (Roofing) of the California Building Code to read as follows:

Shingles and shakes. All new roof coverings shall be a class B or better roof covering assembly as defined by CBC 1505.6.

D. Subsection 1910.1.1 (Minimum slab thickness) is added to Chapter 19 (Concrete) of the California Building Code to read as follows:

Minimum slab thickness. A minimum of four inches (4") of gravel and 4" of concrete shall be required under all non-engineered concrete floor slabs supported directly on the ground in all occupancies except "M" occupancies that are not attached to another structure. Non-engineered concrete floor slabs on grade shall be reinforced with deform reinforcing bars not less than three-eighths inch (3/8") at twenty-four inches (24") each way.

E. Subsection 2111.14 (Wood burning stove appliances) is added to Chapter 21 (Masonry) of the California Building Code to read as follows:

Wood burning stove appliances. Any new wood-burning appliance must be one of the following:

1. A pellet-fueled wood device;

2. A U. S. EPA Phase II certified device; or

3. A low mass fireplace, masonry heater or other wood burning device of a make and model that meets EPA emission targets and has been approved in writing by the air pollution control officer of the bay area air quality management district or the designee thereof.

F. Section 3109 (Pools) is added to Chapter 31 (Special construction) of the California Building Code to read as follows:

Pools.

1. Any body of water to which a permit issued after March 19, 1998, shall comply with the following: An outdoor swimming pool, spa, hot tub or manmade body of water such as decorative fountains or ponds over 18" deep, shall be provided with a barrier that shall be installed, inspected and approved prior to plastering or filling with water. The barrier shall comply with the following:

a. The top of the barrier shall be at least 60 inches above grade measured on the side of the barrier which faces away from the pool. The vertical clearance between grade and the bottom of the barrier shall not be more than 2 inches measured on the side of the barrier which faces away from the swimming pool. Any decorative design

work on the side away from the swimming pool, such as protrusions, indentations or cutouts, which render the barrier easily climbable, is prohibited.

b. Openings in the barrier shall not allow passage of a 4" diameter sphere.

c. Chain link fences used as the barrier shall be substantial and shall not be less than 11 gage.

d. Access gates shall comply with the requirements of Items a. through c. Pedestrian access gates shall be self-closing and have a self-latching device with the latching service at least 60" above grade. Pedestrian gates shall swing away from the pool area. Any gates other than pedestrian access gates shall be equipped with attached lockable hardware or padlocks and shall remain locked at all times when not in use. This gate must have only occasional use.

e. All doors of a dwelling or garage providing direct access to the water area shall provide a separation fence and gate meeting the requirements of Items a, b, c and d.

EXCEPTION: When approved by the building official, one of the following may be used:

i. Self-closing and self-latching devices installed on all doors with direct access to the pool with the release mechanism located a minimum of 60 inches (1,372 mm) above the floor.

ii. An alarm shall be installed on all doors with direct access from the living area of the dwelling to the pool. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door and its screen, if present, are opened, and be capable of providing a sound pressure level of not less that 85 dba when measured indoors at 10 feet (3,048 mm). The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual device, such as a touchpad or switch to temporarily deactivate the alarm for a single opening. Such deactivations shall last no longer than 15 seconds. The deactivation switch shall be located at least 60 inches (1,524 mm) above the threshold of the door.

iii. Hot tubs or spas with locking safety covers complying with or ASTM ES 13-89 shall be considered in compliance with Pool Enclosure Requirements.

Indoor Swimming Pool. For an indoor swimming pool, protection shall comply with the requirements of Item e.

2. Any pool, spa or hot tub for which a building permit was issued prior to March 19, 1998, shall comply with the following. Every swimming pool shall be completely enclosed by a wall, fence or other substantial structure not less than four feet (4') in height measured on the outside of the enclosure. No openings other than doors and gates with any dimension greater than four inches (4") shall be permitted therein except that a picket fence may be erected or maintained having horizontal spacing between pickets not more than four inches (4"). All gates or door openings through such enclosures shall be equipped with self closing and self-latching devices designed to keep and are capable of keeping such door or gate securely closed at all times when not in actual use; provided, however, that the door of any dwelling occupied by human beings and forming any part of the enclosure hereinabove required need not be so equipped. Any self-latching device accessible from the outside of the pool enclosure shall be located at least four feet (4') above the ground or otherwise equally inaccessible to small children. This requirement applies to any manmade body of water over 18" deep, including decorative fountains or ponds.

G. Section 2505 (Shear wall construction) of Chapter 25 (Gypsum board and plaster) is amended to read as follows:

Shear wall construction.

1. 2505.1 – Resistance to shear (wood framing) is amended to read as follows:

Delete the section and replace with the following: Wood framed Shear walls sheathed with gypsum board, lath and plaster are not be permitted to resist wind and seismic loads.

2. 2505.2 – Resistance to shear (steel framing) is amended to read as follows:

Delete the section and replace with the following: Steel framed shear walls sheathed with gypsum board, lath and plaster shall not be permitted to resist wind and seismic loads.

H. Subsection 2509.3 (Gypsum board in showers and water closets) of Chapter 25 (Gypsum board and plaster) is amended by adding the following:

4. Gypsum board in showers and water closets. Paper-backed gypsum board products shall not be used as a backer for tile in showers and bathtub areas.

(Ord. 08-08 § 1).

1

Prior legislation: Ords. 87-6, 87-25, 88-15, 93-6, 95-15, 98-2, 99-11, 02-4 and 07-07.

Chapter 15.08
CALIFORNIA MECHANICAL CODE

Sections:

15.08.010 Adoption by reference.
15.08.020 Copies on file.
15.08.030 *Repealed.*

15.08.010 Adoption by reference.
The California Mechanical Code, 2010 Edition, including the Appendix, is adopted by reference the same as though fully set forth in this chapter. (Ord. 08-09 § 1; Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

15.08.020 Copies on file.
One copy of the California Mechanical Code as adopted by BMC 15.08.010, and all amendments thereto, shall be kept on file in the building official's office for inspection by the public. (Ord. 08-09 § 2; Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

15.08.030 Violation – Penalty.
Repealed by Ord. 03-9. (Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

Chapter 15.12
CALIFORNIA PLUMBING CODE[1]

Sections:

15.12.010 Adoption by reference.
15.12.020 Copies on file.
15.12.030 Amendments made in the California Plumbing Code.

15.12.010 Adoption by reference.
The California Plumbing Code, 2007 Edition, including AppendicesA, D, G, I are adopted by reference the same as though fully set forth in this chapter. (Ord. 08-10 § 1).

15.12.020 Copies on file.
One copy of the California Plumbing Code and Appendix as adopted by BMC 15.12.010, and all amendments thereto, shall be kept on file in the building official's office for inspection by the public. (Ord. 08-10 § 1).

15.12.030 Amendments made in the California Plumbing Code.
The California Plumbing Code is amended and changed in the following respects:

A. Chapter 604 (Water supply and distribution) is amended by adding Section 604.15 (Metal water piping). Section 604.15 (Metal water piping) is added to read as follows:

> Section 604.15 – Metal water piping. Metal water piping, including any repair of any metal water piping, is not to be permitted buried under any structure except as permitted in individual circumstances and approved by the building official.

C. Chapter 710 (Sanitary drainage) is amended by adding Section 710.1 – (Sewage backwater). Section 710.1 (Sewage backwater) is added to read as follows:

> Section 710.1 – Sewage backwater. Where a fixture is installed on a floor level that is lower than the next upstream manhole cover of the public or private sewer, serving such drainage piping, shall be protected from backflow of sewage by installing an approved type of backwater valve or mushroom type device or other fixtures approved by the

Building Official. Fixtures on floor levels above such level elevation shall not be discharged through the backwater valve. Cleanouts for drains that pass through a backwater valve shall be clearly identified with a permanent label stating “Backwater Valve Downstream.”

(Ord. 08-10 § 1).

1

Prior legislation: Ords. 87-6, 95-15, 99-11 and 02-4.

Chapter 15.16
CALIFORNIA ELECTRICAL CODE

Sections:

15.16.010 Adoption by reference.
15.16.020 Copy on file.
15.16.030 *Repealed.*

15.16.010 Adoption by reference.
The California Electrical Code, 2010 Edition, is adopted by reference the same as though fully set forth in this chapter. (Ord. 08-11 § 1; Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

15.16.020 Copy on file.
One copy of the California Electrical Code as adopted by BMC 15.16.010, and all amendments thereto, shall be kept on file in the building official's office for inspection by the public. (Ord. 08-11 § 2; Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

15.16.030 Violation – Penalty.
Repealed by Ord. 03-9. (Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

Chapter 15.NEW
CALIFORNIA GREEN BUILDING STANDARDS CODE

Sections:

15.NEW.010 Adoption by reference.
15.NEW.020 Copies on file.
15.NEW.030 Amendments made in the California Green Building Standards Code

15.NEW.010 Adoption by reference.

The California Green Building Standards Code, 2010 Edition is adopted by reference the same as though fully set forth in this chapter.

15.NEW.020 Copies on file.

One copy of the California Green Building Standards Code as adopted by BMC 15.NEW.010, and all amendments thereto, shall be kept on file in the building official's office for inspection by the public.

Chapter 15.26
BUILDING PERMIT FEES AND OTHER FEES

Sections:

15.26.010 General requirements and other fees.
15.26.020 Building permit fees.

15.26.010 General requirements and other fees.

A. Building permit fees charged on all building permit applications including electrical, mechanical and plumbing permits are in accordance with the fee schedules contained within this chapter.

B. Other Fees (Includes Permit Issuance Fee).

1. a. Inspection for compliance to city codes which requires a letter certifying same: $160.00.

b. Inspection for compliance to city code without a letter: $86.00.

2. Spa permit (prefabricated): $96.75 to include installation, plumbing, mechanical and electrical.

3 a. Residential Solar Photovoltaic Systems: $150.00

3 b. Non-residential Solar Photovoltaic Systems:

>8 kw $493.00
<49 kw $963.00
>49kw $1,438.00

4. Kitchen remodel: lighting only – $106.25.

5. Kitchen remodel: plugs and lights – $118.25.

6. Kitchen remodel: complete electric and DWV with water lines – $150.50.

7. Bath/shower remodel: $129.00.

8. Pools.

a. Gunite pools plan review: $129.00.

b. Gunite pool permit issuance and inspection: $258.00.

c. Pool heater: $64.50.

9. Fireplace insert with gas and electric: $142.25

10. Work which was begun prior to required permit issuance: $129.00. Investigation fee over one hour at $129.00 per hour.

11. Inspections outside of normal business hours, per hour (minimum charge – two hours): $129.00[1].

12. Reinspection fees, per inspection: $129.00*.

13. Inspections for which no fee is specifically indicated, per hour (minimum charge of one-half hour): $129.00* (plus issuance fee).

14. Additional plan review required by changes, additions or revisions to plans or to plans for which an initial review has been completed, per hour (minimum charge of one-half hour): $129.00*.

15. Inspections outside of normal business hours, per hour (minimum charge – two hours): $129.00*.

16. Plan Retention.

a. A plan retention fee shall be charged at a rate of $2.25 per page for all plans and $0.25 per eight-inch by 11-inch paper with a $1.00 minimum charge.

b. The plan retention fee shall be used solely for the purpose of preserving building division plans.

c. The building official may adjust the rate charged, on July 30th of each year, to reflect an increase or decrease in cost of preserving plans.

17. Plan review is 65 percent of the building inspection fee.

18. Building inspection fees may be refunded upon written request if no work for the permit has begun. An administrative fee of up to $110.00 will be assessed for any fee request refund at the discretion of the building official. (Ord. 08-16 § 1; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

Section 2.

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

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

*****

On motion of Council member , seconded by Council member , the foregoing ordinance was introduced at a regular meeting of the City Council on the 16th day of November 2010, and adopted at a regular meeting of the Council held on the 7th day of December, 2010 by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

SIERRA CLUB
FOUNDED 1892
Loma Prieta Chapter

Recommendations for Commercial Solar Electric Permit Fees, as of 10/04/2010

It is imperative that municipal governments complement federal and state incentives by keeping their permit fees as low as possible. High permit fees discourage business from investing in solar power.

Based on interviews with building department officials in numerous cities, the authors of these recommendations have confirmed there is no correlation between the cost of a photovoltaic (PV) project and the staff-hours a municipality must devote to plan reviews and inspections! Permit fees must be based on specific review times and billable hourly rates to enable cost recovery. Basing a permit fee on the valuation of a PV system tends to generate higher fees than the actual cost incurred to service a permit. The time involved for review and inspection is not linear either (i.e. incurred cost does not directly relate to system size). For example, it does not take six times as long to evaluate a 49kW installation as an 8kW system, and a 100kW PV system typically takes about twice as long to process as a 10kW permit.

In the interest of encouraging cost-recovery based fees, we recommend the following measures for municipalities to estimate fees and reduce processing costs:

1. **Read our report on PV permit fees for commercial installations** published in Oct. 2010:

   www.SolarPermitFees.org/PVFeeStudyCommercial.pdf

2. **Create a fair and reasonable PV permit fee schedule to enable cost recovery.** Try the PV permit fee calculator spreadsheet developed for the aforementioned Sierra Club report at: www.SolarPermitFees.org/PVFeeCalcCommercial.xls. This calculator is sophisticated enough for a municipality's permitting staff to precisely determine the recovery cost for a permit based on customizable specific review times for each task and billable hourly rates. This calculator is also simple enough that anyone can use its default values to estimate a commercial PV permit fee based on the relevant factors: specific review tasks, PV project size, time assessments for each task and billable hourly rates for cost recovery. These are the specific factors that are most relevant to cost recovery. Using the PV permit fee calculator's default values (such as a reasonable billable hourly rate of $135 for staff time), we computed the following *reasonable* fees to achieve cost recovery for the three sizes of PV systems included in the 2010 Sierra Club commercial PV permit fee survey and report.

   Estimated reasonable PV permit fee for cost recovery:

   - 8kW size: $493
   - 49kW size: $965
   - 131kW size: $1,438

   For details on how these fees were derived see sections 4, 5 and Appendix C of the Sierra Club report on PV Permit Fees for Commercial Installations referenced in item 1 above.

3. **Encourage complete and accurate permit submittals by the solar installers.** This is probably the most important factor determining how much time a municipality spends processing a permit. Before accepting a permit application, the building department might want to review the plans over-the-counter with the applicant present to ensure all necessary items are included. If items are missing, staff can request that the applicant provide these missing items to encourage complete submittals. For busy jurisdictions and applicants, the building department can offer this over-the-counter pre-review by appointment to economize everyone's time.

4. **Integrate review processes and inspections.** Incorporating the fire, planning, and other reviews into the building department review not only expedites the review process, but reduces the overall cost. This might involve training building department staff to perform standard fire department plan checks on standard PV systems. In this scenario, staff would only submit the application to the fire department for systems that present an unusual design or challenge. The same concept applies to the inspection process.

5. **Standardize permit requirements and guidelines.** Provide application forms, requirements/guidelines and permit fee schedules on the municipality's website to facilitate the application process. We recommend that municipalities create a standard permit process with clear guidelines. It would be best if municipalities collaborated to create and adopt regional standard guidelines for permit submittal, review and inspection tasks, as well as standard signage for labeling that do not vary by jurisdiction. This reduces the variability between jurisdictions. Such variability tends to increase the costs to the solar installers and ultimately the solar owners. Here is an example of standardized PV permit guidelines, which local chapters of the International Code Council in Northern California have approved for residential PV permit submittals:

   www.SolarPermitFees.org/PVPermitGuidelines2010-07TUCC.pdf

6. **Consider fast-tracking applications for solar contractors who have reliable track records** for PV installations. One process for fast-tracking an experienced contractor is to allow that contractor to submit an initial master PV plan to the building department for review. Based on that review, the contractor and building department could refine the master PV plan until it becomes an agreed-upon template for future PV plans. When that contractor applies for future PV permits, the building department's plan review could be completed quickly or even over-the-counter for PV systems that are similar to the pre-approved plan.

7. **Reduce the time window for inspection appointments.** Some cities schedule inspection windows of half a day. We recommend that the appointment window be no more than two hours. When feasible, cities should offer specific appointment times, such as the first inspection of the day or the first inspection after lunch. Another option is for the city to call the solar contractor with an estimated appointment time as the appointment window time gets close. We also recommend that cities grant an appointment within one business day after the solar installer gives notice that the installation is ready for inspection.

The following website has more details on the Sierra Club's PV Permit Fee campaign:
www.SolarPermitFees.org

For more information on related solar PV permit issues, you may contact Kurt Newick via email at SolarPermitFees@gmail.com or by phone at 408-370-9636.

Laws Governing PV Permits and Fees:

California Government Code Section 66014 provides that fees associated with building inspections and building permits "**shall not exceed the estimated reasonable cost of providing the service for which the fee is charged.**" (Emphasis added).

The California Solar Rights Act[1] **limits the review of solar energy systems by city building officials to whether they meet applicable health and safety requirements.** (See California Government Code Section 65850.5 (b) and California Health and Safety Code Section 17959.1.) Discretionary reviews, including a design review for aesthetics, are prohibited. Section 65850.5(a) states: "It is the intent of the Legislature that local agencies not adopt ordinances that create unreasonable barriers to the installation of solar energy systems, including, but not limited to, design review for aesthetic purposes...."

The California Solar Rights Act (AB 2473) declares that **solar energy system permitting costs shall be minimized**. For details on this issue, see the letter of intent about solar permit fees that State Assembly member Lois Wolk authored. The letter was emailed to all California Cities on June 7, 2006. This letter can be downloaded at:

www.SolarPermitFees.org/WolkPVFeeLetter.pdf

[1] California Solar Rights Act: www.SolarPermitFees.org/070123_RightsActPaperFINAL.pdf

VIII.B.50

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 16, 2010
ACTION ITEMS

DATE : October 28, 2010

TO : City Manager

FROM : Public Works and Community Development Director

SUBJECT : **UPDATE MILLS ACT PROGRAM GUIDELINES AND ESTABLISH A MONETARY THRESHOLD FOR ANNUAL FUNDING OF THE PROGRAM**

RECOMMENDATION:
Adopt a resolution to update the Mills Act Program Guidelines and establish a monetary threshold for annual funding of the program.

EXECUTIVE SUMMARY:
The Mills Act program is a State of California authorized mechanism by which owners of "Qualified Historical Properties" may use an alternative method of determining property value for property tax assessment purposes. The Mills Act Program encourages the preservation and rehabilitation of qualified historic properties in Benicia.

The Historic Preservation Review Commission (HPRC) has reviewed current program guidelines and recommends City Council approval of amendments, including a monetary threshold for annual funding of the program.

BUDGET INFORMATION:

Mills Act contracts reduce the property tax paid. The City of Benicia receives approximately 26% of the property taxes collected on parcels in the city. The City Council authorized up to $30,000 annually in staff costs and City property tax rebates for Mills Act contracts for Fiscal Years 2003-05 with future contracts to be approved on a case-by-case basis. In December 2007, the City Council decided to continue approving Mills Act contracts on a case-by-case basis.

The staff cost to process each Mills Act application is approximately $1,350, which is partially offset by the Mills Act application fee of $550. Annual inspection and reporting incurs another $150 in staff time per contract per year. Total program costs to date are summarized below and detailed in Attachment 2 (Mills Act Program Costs).

Summary of Annual Program Costs

	ANNUAL REVENUE LOSS	ANNUAL INSPECTION COSTS
30 Existing Contracts	$27,805	$4,500
2010 Proposed Contract	$1,240	$150
TOTAL:	**$29,045**	**$4,650**

The 30 existing contracts result in an annual loss of tax revenue to the City of $27,805, with additional annual inspection costs of $4,500, for a total program annual cost of $32,305. The new contract has been requested this year for a total additional revenue loss of $1,240. If the proposed contract is approved, the total annual program cost would be $33,695.

The primary budgetary issue for Council consideration is to establish limits of $50,000 in annual program costs, recommended by the HPRC.

GENERAL PLAN:

Relevant General Plan Policies and Programs:

- Goal 3.1: Maintain and enhance Benicia's historic character
  - Program 3.1.A: Continue to maintain a current inventory of historic and architectural resources in the city
- Policy 3.1.6: Promote restoration of public and privately owned historic and architecturally significant properties.
  - Program 3.1.G: Develop a program for property tax incentives.

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies:

- Strategic Issue 3: Strengthening Economic and Fiscal Conditions
  - Strategy 4: Manage City financed prudently.

BACKGROUND:

In October 2002, the City Council approved the establishment of the City of Benicia Mills Act Program and adopted criteria and procedures for implementation of the program (though two contracts had been approved prior to 2002). Council set the maximum annual program cost at $30,000 for

Fiscal Years 2003-05; however, it was not expected that the total amount would be reached by 2005 based on citizen demand for the program at that time. Since the program's establishment, the City has entered into 30 Mills Act contracts, with one additional contract proposed for 2010.

In December 2007, the City Council reviewed and discussed the Mills Act Program, including the costs of continuing the program. At that time, the City Council decided to continue the program, reviewing and approving contracts on a case-by-case basis.

In response to questions from the City Council, and based on current economic realities, HPRC recently reviewed the program again. Part of that review included research of other well-established Mills Act Programs, including in the cities of San Diego and Pasadena, both of which have established program limits (San Diego has a financial limit of no more than $200,000 in annual revenue loss, and Pasadena conducts no more than 20 single family and 6 multi-family/commercial/industrial contracts per year.) At its July 22, 2010 regular meeting, HPRC recommended amendments to the program guidelines to address concerns over the monetary cost and revenue loss of the program. HPRC recommended establishing limits of $50,000 and/no more than five contracts per calendar year.

Attachments:

- Proposed Resolution (including Exhibit A – City of Benicia Mills Act Program)
- Mills Act Program Costs Spreadsheet
- July 22, 2010 Historic Preservation Review Commission memo (red-lined Program Guidelines included as Exhibit A to proposed City Council resolution)

IX.A.4

RESOLUTION NO. 10-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING AMENDMENTS TO THE MILLS ACT PROGRAM

WHEREAS, the Historic Preservation Commission voted to recommend to the City Council that the Council direct the City Manager to commit up to $30,000 annually in tax rebates and staff costs for implementation of this program over the 2003-05 two-year budget cycle; and

WHEREAS, at regularly scheduled meetings on October 15, 2002, and January 7, 2003, the City Council held a public hearing on the proposed Mills Act program, received public testimony, and adopted Resolution No. 03-12 approving the implementation of the Mills Act Program; and

WHEREAS, at a regularly scheduled meeting on December 16, 2007, the City Council held a public hearing on amendments to the Mills Act program, received public testimony, and adopted Resolution No. 07-151 approving amendments to the Mills Act Program Guidelines; and

WHEREAS, since Fiscal Years 2003-05, the City Council has approved Mills Act contracts on a case by case basis; and

WHEREAS, at a regularly scheduled meeting on July 22, 2010, the Historic Preservation Review Commission voted to recommend to the City Council amendments to the program guidelines, including that the Council direct the City Manager to establish a threshold of $50,000 annually in tax revenue loss and staff costs for implementation of this program, and a limit of five contracts per calendar year; and

WHEREAS, at a regularly scheduled meeting on November 16, 2010, the City Council held a public hearing on proposed amendments to the Mills Act program, received public testimony and approved amendments to the Mills Act Program; and

WHEREAS, the City Council finds that the proposed amendments to the Mills Act program is exempt from the California Environmental Quality Act under CEQA Section 15061 (b)(3) that identifies the activity as being covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment; and

WHEREAS, the City Council finds that the proposed amendments to the Mills Act program are consistent with the goals, objectives, and policies of the General Plan.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves the amendments to the Mills Act program as set out in Exhibit "A" entitled "City of Benicia Mills Act Program. "

*****

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 16th day of November, 2010 and adopted by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

Exhibit A

THE CITY OF BENICIA MILLS ACT

A Tax Incentive Law
for
Historic Properties

Public Works &
Community Development Department
250 East L Street
Benicia, CA 94510
(707) 746-4280

Artwork by Del Lacey

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MILLS ACT PROGRAM: WHAT IS IT?

The Mills Act is a State law that allows cities and owners of historic structures to enter into contracts that decrease property tax in exchange for continued preservation of buildings and property. Property tax can be reduced by 50 percent or more under Mills Act contracts.

How it works…

State law enables the City of Benicia to enter into ten-year contracts with owners of properties in the Historic District, by which owners agree to maintain and, if necessary, rehabilitate historic structures. The contracts automatically renew annually for another ten years, unless purposely non-renewed by either party (in which case the contract lasts only through stated ten-year term) or cancelled. An owner may petition the City for immediate cancellation, and the City may only cancel a contract for breach of conditions (which carries a penalty for the owner equal to 12 ½ percent of assessed property value).

Who's eligible…

Participation in the program is open to owners of the following types of structures:

1. Historic Landmark Buildings, as identified by the Downtown or Arsenal Historic Conservation Plans;
2. Contributing Buildings, as identified by the Downtown or Arsenal Historic Conservation Plans;
3. Buildings listed in the National Register of Historic Places; and
4. Buildings listed in any State, City, or County official register of historical or architecturally significant sites, places, or landmarks.

1. The City of Benicia has an annual threshold of $50,000 (TBD) projected reduction in property tax revenue to the City's General Fund. The applications shall be evaluated and processed in the order received until the total projected reduction in property tax revenue to the City has reached $50,000 (TBD) on an annual fiscal basis.
    a. If in any fiscal year, the project reduction in property tax revenue from Mills Act Agreement applications exceeds $50,000, the City Manager or designee shall seek City Council authorization to exceed the threshold, if Council can make the finding that the fiscal health of the City is such that additional reduction in tax revenue can be supported by the budget.
    b. If in any calendar year the projected reduction in property tax revenue to the City from Mills Act Agreement applications exceeds $50,000, and the City Council does not make a finding to authorize the processing of those Agreements, the property owner's application will be automatically rolled over to the next fiscal year.

2. The City of Benicia shall process up to 5 agreements per calendar year.

City of Benicia Mills Act Program

Approved by the City Council on January 7, 2003
Amended by the City Council on December 18, 2007
Further Amended by the City Council on November 16, 2010

Purpose and Goal:

The purpose of the program is to encourage the preservation, restoration and rehabilitation of historic property in the City of Benicia.

The Mills Act is a state law that enables a community to enter into 10-year contracts with owners of historically significant properties who agree to maintain and, if necessary, rehabilitate their historic structure in exchange for a reduction in property tax. The contract renews itself annually; hence, the owner is always between 9 and 10 years from termination unless there is a notice of nonrenewal. Either the property owner or the City may elect not to renew for any reason. The effect of nonrenewal is to terminate the contract at the end of the current nine to ten-year term.

A Mills Act contract provides a method of reducing property taxes in exchange for the continued preservation of a historic property. Property taxes are recalculated using the special Mills Act assessment method and can be reduced by 50 percent or more. Property valuation is determined by the "income" method set out in Revenue and Tax Code Section 439.2. Generally, the income, or projected income, less certain expenses, is divided by a capitalization rate to determine the assessed value of the property. When a property is owner occupied, the determination of "income" is based on what a property could reasonably be expected to yield, or an amount stipulated in the contract as the minimum income to be used. The income projected for owner occupied property is based on comparable rents for similar property in the area or, if insufficient rental information is available, the income that it could reasonably be expected to produce under prudent management.

It is the policy of the City of Benicia to foster and encourage the preservation, maintenance, rehabilitation and restoration of historically designated properties. It is recognized by the City that a reduction in property taxes afforded by the Mills Act will serve as a key monetary incentive for citizens to acquire, maintain and restore historic properties within the City of Benicia. However, it is also recognized that the reduction in property taxes affects the City's General Fund, and in order to understand and manage this fiscal impact, all Mills Act contracts shall be subject to the guidelines contained herein.

Definitions:

Preservation: The maintenance of the structure in its present condition or as originally constructed. Preservation aims at halting further deterioration and providing structural safety, but does not contemplate significant rebuilding. Preservation includes techniques of arresting or slowing the deterioration of a structure; improvement of structural conditions to make a structure safe, habitable, or otherwise useful; normal maintenance and minor repairs that do not change or adversely affect the fabric or appearance of a structure.

Rehabilitation: Involves equipping the building or facility for an extended useful life with a minimum alteration of original construction or the process of returning a structure to a state of usefulness by repairs or alterations.

Restoration: The process of accurately recovering, by the removal of later work and the replacement of missing earlier work, the form and details of a structure, together with its setting, as it appeared at a particular period of time.

Eligibility Criteria:

Qualified historical property: for purposes of this Mills Act Program, means privately owned property which is not exempt from property taxation and which meets either of the following:

A. Listed in the National Register of Historic Places or located in a registered historic district.

B. Listed in any state, city, county, or city and county official register of historical or architecturally significant sites, places, or landmarks.

Participation in the program is open to the following types of structures:

A. Historic Landmark Buildings, and

B. Contributing Buildings to the Downtown Historic or Arsenal District.

Type and Extent of Proposed Work:

The applicant will propose a schedule of proposed preservation, maintenance and/or improvements to the building to protect or enhance its historical value. The type and extent of the proposed work to be committed to in the Mills Act contract will also be used to evaluate the proposal.

A. Extend the life of the structure, such as a new roof, a stable foundation; seismic retrofits (bolting to the foundation, shear walls, etc.) weatherproof exterior walls. Primary mechanical systems necessary to maintain the structural integrity or address safety concerns of the building (plumbing, electrical, heating) may be included in the work plan.

B. Improve or restore the building's historic exterior appearance.

C. Provides extensive improvement.

D. New additions, exterior alterations, or related new construction shall follow the Secretary of Interior guidelines such as: the project shall not destroy historic materials that characterize the property; the new work shall be differentiated from the old and shall be compatible with the massing, size, scale; and architectural features to protect the historic

integrity of the property and its environment.

E. A Maintenance program for properties that are already in good condition.

Mills Act Program Procedures:

A. The Mills Act process starts with a meeting between the Planning Division staff and the potential applicant to discuss the program. The property owner and staff will consult with the County Assessor's Office to get detailed information on how their property taxes would be affected.

B. The applicant submits an application packet requesting that the City enter into a Historic Property Preservation Agreement. Applications will be accepted from January-June of each calendar year. An application packet will include the following:

1. A completed application form.

2. The Historic Resources Inventory entry, updated to comply with the most current procedures of the State Office of Historic Preservation (form DPR 523B 1/95).

3. An itemized description of the annual preservation and restoration goals to be undertaken by the owner through the initial ten-year term of the agreement.

4. A maintenance plan for building(s), yards and other improvements.

5. A copy of the last tax bill and the projected adjustments of the property taxes as determined by the Solano County Assessors Office.

6. The application fee.

Other Supplemental Information:

7. Depending on the condition of the property and the nature of the proposed work, staff may request that a Structural Pest Report be made part of the application submittal.

8. Depending on the condition of the property and the nature of the proposed work, staff may request that a Roof Inspection Report be made part of the application submittal.

9. Depending upon the nature of the proposed work and the significance of the property, the City may retain an architectural historian, or restoration architect, at the applicant's expense, to evaluate the applicant's proposal for consistency with the architectural, historic, or aesthetic integrity of the resource. The architectural historian shall review and make recommendations to the City to help ensure that the proposed work will not adversely affect the significant architectural features

of the property nor adversely affect the character or historic architectural or aesthetic interest or value of the cultural resource and its site. Every reasonable effort should be made to restore the architectural character of the structure back to its original material or architectural features. Restoration would not necessarily be required unless the structure has been modified to change its historic character, or in a manner which is contrary to the Downtown Historic Conservation Plan or Secretary of the Interiors Standards. The architectural historian would review the application and proposed improvements and formulate a recommendation to staff on what, if anything is needed to restore and/or preserve the property.

Once a complete application is submitted and deemed complete, staff prepares an analysis and recommendation, which is forwarded to the Historic Preservation Review Commission.

The Historic Preservation Review Commission evaluates the application based upon the Mill Act Criteria and votes to recommend to the City Council approval or denial of the contract.

Staff forwards the application and the Historic Preservation Review Commission's recommendation to the City Council for consideration.

The City Council considers the application request and decides to approve, modify or deny the request.

If approved, a draft Agreement is prepared by staff and reviewed by the City Attorney's Office for form and content.

The City Manager or Public Works & Community Development Director executes the agreement with the property owner. The City of Benicia is responsible for having the agreement recorded with the Solano County Recorder's Office by the end of the calendar year in which it is executed **.

Once the Agreement is signed, the Solano County Assessor's Office is notified and the assessor determines the value of the property and annual property tax using the capitalization of income method.

Staff annually inspects the property to ensure that the terms of the Agreement are being met and that the property is being properly maintained and preserved and reports to the Historic Preservation Review Commission.

The Historic Preservation Review Commission recommends action to be taken by the City if the terms of the Agreement are not being met. If appropriate, the Commission may recommend that the Council cancel or not renew the Agreement.

** - For all contracts recorded by December 31 of a calendar year, reassessment by the County is conducted by June 30 of the following year and is reflected on fiscal year tax bills issued in October.

Each year the properties under Mills Act contract are to be inspected and their compliance with their contracts reported to the Historic Preservation Review Commission. Following consideration at a public meeting, the Commission shall accept each property as being in compliance or find that the project may not be in compliance, citing the particular areas of concern. The areas of concern shall be reviewed by City staff with the property owner. Where they are resolved, a supplemental report is to be submitted for the Historic Preservation Review Commission's further consideration of finding the property in compliance. Where the concerns are not resolved, then the matter shall be referred to the City Council for action, which may include termination of the contract for noncompliance.

EXAMPLE OF MILLS ACT
PROPERTY TAX ASSESSMENT FORMULA

The usual method of valuation for property tax is to determine fair market value based on comparable sales. However, under the Mills Act, valuation is determined by a capitalization of income method rather than on market value. The following example estimates the potential net savings to a property owner entering into a Mills Act agreement. If the Agreement is approved, the County Assessor will make an official determination on the value of the property using the following capitalization of income method. THE MILLS ACT MAY NOT PROVIDE A TAX SAVINGS FOR EVERYONE WHO CHOOSES TO PARTICIPATE IN THE PROGRAM. IN CERTAIN CIRCUMSTANCES, PARTICULARLY FOR PROPERTY OWNERS WHO HAVE OWNED THEIR HOMES PRE-PROPOSITION 13, A PROPERTY OWNER'S TAXES MIGHT INCREASE.

Estimated Gross Income: ($1,400/mo. X 12)	$16,800
Expenses: ($800.00/mo. X 12)	- 9,600
Net Operating Income (NOI)	**$ 7,200**
Capitalization Rate	
Interest Component (rate)	8.12%
Historical Property Risk Component	2.00%
Amortization Component (assume reciprocal life of 50 years)	2.00%
Property Taxes Component	1.00%
Total Capitalization Rate	**13.12%**
Capitalization of Net Income (NOI ÷ Cap Rate)	$7,200 ÷ .1312 = $54,878
Current Assessed Value	$180,000
Current Property Taxes	$1,800
Assessed Value w/ Agreement	$55,000
Estimated Property Tax w/ Agreement	$550

Potential property tax reduction to property owner is $1,250.00 ($1,800 - $550)

The assessed value of property under an Agreement is recalculated each year by the County Assessor to reflect changes in income, expenses, interest rate, and amortization. Through the life of the Agreement, the tax savings to the property owner will increase as the market value assessment increases.

Estimated Gross Income: is determined by the rental income a property can potentially produce as determined by other comparable properties in the area. (multiplied by 12 months)

Expenses: utilities, insurance etc. (multiplied by 12 months)

Net Operating Income (NOI) equals the *gross income - expenses*.

Capitalization Rate:

Interest Component is determined by the State Board of Equalization and announced no later than September 1 of the year preceding the assessment year (the yield rate is equal to the effective rate on conventional mortgages as determined by the Federal Home Loan Bank Board, rounded to the nearest ¼ percent).

Historical Property Risk Component is 4% in the case of owner occupied single-family dwellings. In all other cases, the property risk component is 2%.

Amortization Component is a percentage equal to the reciprocal of the remaining life of the improvements. This can be determined by the information on the Solano County Assessor's Office website for each address. Simply calculate Land / Improvements.

Property Taxes Component is defined by the percentage of the estimated total tax rate applicable to the property for the assessment year times the assessment ratio. Contact the Assessor's Office for the official rate, it will be approximately 1%.

MILLS ACT PROGRAM
PROPERTY OWNER ANNUAL REPORT

Property Address: _____ Date: _____

Date contract entered into (month/year): _____

What were your tax savings this year? _____

What project(s) was completed this year? _____

_____

_____

What was the cost of the project(s)? _____

Based on the results of this project would you like to revise your Ten-Year Plan? _____

If so, how? _____

_____

Comments/ Suggestions: _____

_____

_____

(Attach additional sheets if necessary)

Name _____ Signature _____

For Office Use Only

Date Received: _____ Inspection Date: _____

Work Completed? _____ Staff Inspection Report Attached? _____

RECORDED AT THE REQUEST OF THE CITY OF BENICIA
WHEN RECORDED, RETURN TO:

CITY OF BENICIA
250 East L Street
Benicia, CA 94510
Attention: City Clerk

HISTORICAL PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of __(month) , (year)___ by and between the CITY OF BENICIA, a municipal corporation (hereinafter referred to as the "City"), and _____ (hereinafter referred to as the "Owners").

WITNESSETH

A. Recitals

1. California Government Code Sections 50280, et seq. allow cities the discretion to enter into contracts with the owners of qualified historical properties, as the term is defined by Government Code Section 50280.1, for the purpose of restricting development of its cultural and historic significance and continuing maintenance of the historical property;

2. Owners possess fee title in and to that certain real property, together with associate structures and improvements thereon, located at the street address _____ (hereinafter, shall be referred to as the "the Historical Property"). A legal description of the Property is attached hereto and incorporated herein by this reference as Exhibit A;

3. On _____, the City Council of the City of Benicia adopted Resolution No. _____ thereby declaring its intention to enter into this Historic Property Preservation Agreement.

4. City and Owners, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of cultural and historical significance of the Property and to qualify the Property for an assessment of valuation pursuant to the provisions of Article 1.9, Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

B. Agreement

NOW, THEREFORE, City and Owners, in consideration of the mutual promises, covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on _____ and shall remain in effect for a term of (10) years thereafter. Each year, upon the anniversary of the effective date of this Agreement (hereinafter "renewal date"), one (1) year shall automatically be added to the term of the Agreement, unless timely notice of nonrenewal, as provided in paragraph 2, is given. If either City or Owners serves notice to the other of nonrenewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.

2. Notice of Nonrenewal. If City or Owners desires in any year not to renew the Agreement, that party shall serve written notice of nonrenewal in advance of the annual renewal date of the contract as follows: (1) Owners must serve written notice of nonrenewal at least ninety (90) days prior to the renewal date or (2) City must serve written notice within sixty (60) days prior to the renewal date. Owners may make a written protest of the notice. City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice of nonrenewal to Owners.

3. Valuation of Historical Property. During the term of this Agreement, Owners are entitled to seek assessment of valuation of the Historical Property pursuant to the provisions of Article 1.9, Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

4. Standards for Historical Property. During the term of this Agreement, the Property shall be subject to the following conditions, requirements and restrictions:

a) Owners shall preserve and maintain the characteristics of cultural and historical significance of the Property in accordance to the Secretary of the Interiors Standards for Rehabilitation and the minimum maintenance standards, identified in Exhibit "B", attached hereto, which shall apply to the property throughout the term of this Agreement. New additions, exterior alterations, or related new construction shall comply with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings.

b) Owner shall make improvements to preserve the integrity of the Property. Attached hereto, marked as Exhibit "C", and incorporated herein by this reference, is a Schedule of Stabilization Measures that both City and Owner agree is necessary for the immediate preservation of the Property. Owner shall undertake these improvements in accordance with Exhibit "C".

c) Owner shall make improvements to bring the Property into good condition. Attached hereto, marked as Exhibit "D", and incorporated herein by this reference, is a list of work that both City and Owner agree is necessary to bring the Property into good condition.

   Owner shall undertake all improvements in accordance with Exhibit "D". If the schedule set out in Exhibit "D" is not complied with, then City will use the following process to determine whether the owner is making good faith progress on the schedule of work. Upon City's request, the Owner shall submit documentation of expenditures, made to accomplish the next highest priority improvement project for the property, within the last 24 months. The owner shall be determined to be in substantial compliance when the expenditures are equal to or greater than the property tax savings provided by the Property being in the Mills Act Program. This schedule set out in Exhibit "D" shall be revised to reflect the schedule change. The Community Development Director shall have the ability to administratively adjust the schedule timeline, in concurrence with the property owner, only by written recorded instrument executed by the parties hereto.

5. Inspections and Annual Reporting. Owner agrees to permit the periodic examination, by prior appointment, of the interior and exterior of the Historic Property by the County Assessor, the State Department of Parks and Recreation, the State Board of Equalization and the City as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement. Owner agrees to provide the City with a report as to the status of the Historic Property annually and when any improvements or changes have been made.

6. Provision of Information. Owners hereby agree to furnish City with any and all information requested by City which City deems necessary or advisable to determine compliance with the terms and provisions of this Agreement.

7. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Section 50285 may cancel this Agreement if it determines that Owners have breached any of the conditions of the Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines that Owners have failed to restore or rehabilitate the Historical Property in the manner specified in paragraph 4 of this Agreement.

In the event of cancellation, Owners shall be subject to payment of those cancellation fees set forth in California Government Code Sections 50280 et seq., described herein. Upon cancellation, Owners shall pay a cancellation fee of twelve and one-half percent (12 1/2%) of the current fair market value of the Historic Property at the time of cancellation, as determined by the county assessor as though the Historic Property were free of any restrictions pursuant to this Agreement.

8. Enforcement of Agreement. In lieu of any provisions to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default, under the provisions of this Agreement by Owners, City shall give written notice to Owners by registered or certified mail addressed to the address stated in the Agreement, and if such a violation is not corrected to the reasonable satisfaction of City within thirty (30) days thereafter, or if not corrected within such a reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days provided that acts to cure the breach or default may be commenced within (30) days and must thereafter be diligently pursued to completion by Owners, then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owners growing out of the terms of this Agreement, apply to any violation by Owners or apply for such other relief as may be appropriate.

9. Waiver. City does not waive any claim of default by Owners if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

10. Binding Effect of Agreement. Owners hereby subject the Historical Property described in Exhibit A hereto to the covenants, reservations and restrictions as set forth in this Agreement. City and Owners hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owners' successors and assigns in title or interest to the Historical Property.

    Each and every contract, deed or other instrument hereinafter executed, governing or conveying the Historical Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owners hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that it restricts development of the Historic Property. City and Owners hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the cultural and historic characteristics and significance of the Historic Property for the benefit of the public and Owners.

11. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below, or at any other address as may be later specified by the parties hereto.

City: City of Benicia
250 East L Street
Benicia, California 94510

Owners: _____
_____
_____
_____

12. General Provisions

a. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.

b. Owners agree to and shall hold City and its elected officials, officers, agents and employees harmless from liability for damage or claims which may arise from the direct or indirect use or operations of Owners or those of their contractor, subcontractor, agenda, employee or other person acting on his/her behalf which relates to the use, operation and maintenance of the Historic Property and from any injury to property caused by the restrictions on development of the Historical Property from application or enforcement of the City's Historical Preservation Ordinance or from the enforcement of this Agreement. Owners hereby agree to and shall defend the City and its elected officials, officers, agents and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owners' activities in connections with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historical Property.

c. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

d. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

e. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

f. This Agreement shall be constructed and governed in accordance with the laws of the State of California.

13. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause the Agreement to be recorded in the office of the County Recorder of the County of Solano.

14. Notice to State Office of Historic Preservation. The Owners or Agent of the Owners shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of the date of this Agreement.

15. Amendments. This Agreement may be amended, in whole or in part, only by written recorded instrument executed by the parties hereto.

IN WITNESS WHEREOF, City and Owners have executed this Agreement on the day and year first written above.

OWNER	CITY OF BENICIA
_____	_____
BY:	BY: City Manager
DATED:	DATED:
	APPROVED AS TO FORM
	_____
	City Attorney

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B

THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

The following Standards are to be applied to rehabilitation projects for the Property in a reasonable manner, taking into consideration economic and technical feasibility:

(1) The Property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

(2) The historic character of the Property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize the Property shall be avoided.

(3) The Property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

(4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

(5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize the historic property shall be preserved.

(6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.

(7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of the structure(s), if appropriate, shall be undertaken using the gentlest means possible.

(8) Significant archeological resources affected by this project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

(10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Please refer to the complete text for additional information.

Copied from The Secretary of the Interior's Standards for the Treatment of Historic Properties U. S. Department of the Interior, National Park Service, Weeks and Grimmer, 1995, pg. 62.

Minimum Property Maintenance:

As part of this agreement the Owners shall maintain all buildings, structures, yards and other improvements in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions (includes but does not limit to the following) are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls, and windows, broken windows, peeling exterior paint, broken structures;

2. Scrap lumber, junk, trash or debris;

3. Abandoned discarded or unused objects, equipment such as automobiles, automobile parts, furniture, appliances, containers, cans or similar items;

4. Stagnant water, including pools or spas, or open excavations;

5. Any device, decoration, design, structure, vegetation or landscape which is unsightly by reason of its height, condition or its inappropriate location;

6. Graffiti;

7. Incomplete exterior construction where no building inspections have been requested for 6 or more months, or for work which does not require a building permit, where there has been no significant progress for 90 days.

EXHIBIT C

Schedule of Stabilization and Rehabilitation Work

The City and Owners agree to the following schedule of Stabilization and /or Protection Measures to be undertaken by Owner pursuant to the Paragraph 4b or this Agreement. All work shall be down in conformance with Paragraph 4a.

	Project (s)	Schedule
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____
7.	_____	_____
8.	_____	_____
9.	_____	_____
10.	_____	_____

Work Item: The methods and materials for completing the above work items shall be subject to review and approval by the City prior to commencement of work. All work shall comply with the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings. Non-compliance with this requirement may constitute grounds for a termination of the Historic Property Contract by the City.

Completion Date: Work shall be completed by the specified date unless the Owner requests a change to a later completion date in writing and the City agrees to a later completion date. Non-compliance with this requirement may constitute grounds for a termination of the Historic Property Contract by the City.

EXHIBIT D

Architectural Rehabilitation and/or Restoration

The City and Owners agree to the following schedule of Rehabilitation and /or Restoration projects to undertaken by Owner pursuant to the Paragraph 4c or this Agreement. All work shall be down in conformance with Paragraph 4a.

	Project (s)	Schedule
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____
7.	_____	_____
8.	_____	_____
9.	_____	_____
10.	_____	_____

Work Item: The methods and materials for completing the above work items shall be subject to review and approval by the City prior to commencement of work. All work shall comply with the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings. Non-compliance with this requirement may constitute grounds for a termination of the Historic Property Contract by the City.

Completion Date: Work shall be completed by the specified date unless the Owner requests a change to a later completion date in writing and the City agrees to a later completion date. Non-compliance with this requirement may constitute grounds for a termination of the Historic Property Contract by the City.

250 East L Street • Benicia, CA 94510 • (707) 746-4280 • Fax (707) 747-1637

Public Works & Community Development Department

Planning Division

MILLS ACT CONTRACT APPLICATION

Application Due Date: June 30th

If approved, this application would require a historic building property owner to enter into a ten-year contract with the City (subject to annual renewal) for a reduction of property taxes in exchange for undertaking all rehabilitation, restoration or maintenance of the historic building in compliance with the Secretary of the Interior's Standards.

1. Property Information.

Address/location _____

APN(s) _____ Parcel area (sq. ft. or ac) _____

☐ Single-Family ☐ Multi-Family/Commercial ☐ Other _____

Year Built _____

Date of purchase of current owner _____

List all known prior alterations or additions to structure _____

_____

_____

2. Location.

Downtown Historic District ☐ Arsenal Historic District

Designation _____

3. Tax Assessment. (Please contact the Solano County Assessor's Office at (707) 748-6210 for information)

Current year: $ _____ Estimated with Contract: $ _____

Are property taxes paid to date? ☐ Yes ☐ No

4. Potential Structure/Property Improvements.

What is the general condition of the property? ☐ Excellent ☐ Good ☐ Fair ☐ Deteriorated

What type of work needs to be done? ☐ Stabilization ☐ Rehabilitation ☐ Maintenance

Please list improvements that will take place over the next ten years. See attached form.

5. Application Materials.

The following materials must be submitted along with this application form in order to process a Mills Act Contract application. See attached form.

For Staff Use: Application #(s) _____ Date Filed _____

Date Entered _____ Entered By _____ Receipt # _____ Total Fees Paid $ _____

Fee Breakdown _____

GP designation _____ Current zoning _____ Historical Dist./designation _____

6. Contact Information. Check the ☐ to indicate the primary contact.

☐ **Property Owner**

Name _____ Organization _____

Mailing address _____

Phone _____ Fax _____ E-mail _____

☐ **Applicant, if different from owner**

Name _____ Organization _____

Mailing address _____

Phone _____ Phone (2) _____

E-mail _____ Fax _____

7. Signatures. Applicant and Property Owner must sign. Both signature lines must be signed, even if the applicant and property owner are the same.

Applicant

HOLD HARMLESS/INDEMNIFICATION: As part of this application the applicant hereby agrees to defend, indemnify and hold harmless the City of Benicia, its Council, boards and commissions, officers, employees, volunteers and agents from any claim, action, or proceeding against the City of Benicia, its Council, boards and commissions, officers, employees, volunteers and agents, to attack, set aside, void or annul an approval or challenge a denial of the application or related decision, including environmental documents. The applicant's duty to defend, indemnify and hold harmless shall be subject to the City's promptly notifying the applicant of said claim, action or proceeding and the City's cooperation in the applicant's defense of said claims, actions or proceedings. The City of Benicia shall have the right to appear and defend its interests in any action through the City Attorney or outside counsel.

By signing below, I hereby certify that the application I am submitting, including all additional required information, is complete and accurate to the best of my knowledge. I understand that any misstatement or omission of the requested information or of any information subsequently requested may be grounds for rejecting the application, deeming the application incomplete, denying the application, suspending or revoking a permit issued on the basis of these or subsequent representations, or for the seeking of such other and further relief as may seem proper by the City of Benicia.

Applicant: _____ Date: _____

Property owner

By signing below, I hereby certify under penalty of perjury, that I am the owner of record of the property described herein and that I consent to the action requested herein. All other owners, lenders or other affected parties on the title to the property have been notified of the filing of this application. Further, I hereby authorize City of Benicia employees and officers to enter upon the subject property, as necessary to inspect the premises and process this application.

In order to facilitate the public review process, the City requires that property owners agree to allow any plans or drawings submitted as part of the application to be copied for members of the public. Property owner(s) hereby agree to allow the City to copy the plans or drawings for the limited purpose of facilitating the public review process.

Property owner: _____ Date: _____

NOTE: In addition to City and other government agency requirements, many development areas, particularly residential areas, are regulated by private agreements and/or private easements. Applicants should check project property descriptions, including title reports, to determine if such private contractual agreements ("CC&Rs") or easement descriptions impact the project proposal.

The City's issuance of a building or development permit does not indicate conformance to these private agreements.

DESIGNATION OF A REPRESENTATIVE FORM

Applicants or property owners who desire to authorize a representative or representatives to act on their behalf in conjunction with this application shall provide the following information:

Name of authorized representative(s): _____

Address of representative(s): _____

Phone number of representative(s): _____

The above named representative(s) is authorized as follows:

[ ] File any and all papers in conjunction with the application including the signing of the application. ____ (initial)

[ ] Speak on behalf of, or representing, the [choose owner and/or applicant and fill in blank] _____ at any staff meeting and/or public hearing. ____(initial)

[ ] Sign any and all papers on my behalf, with the exception of the application form. ____(initial)

This authorization is valid until revoked in writing and filed with the Community Development Department.

_____ _____

Owner/ Applicant (specify) **Date**

250 East L Street • Benicia, CA 94510 • (707) 746-4280 • Fax (707) 747-1637

Public Works & Community Development Department

Planning Division

Project Address: **Date:** **Planner:** accepting application

For Applicant's Use	For Staff Use	**Mills Act Application Checklist** Please note: Your project planner may require additional information depending on the specifics of your project.	
		Application Form - Due by June 30th	Required
		Updated Historic Resources Inventory entry (State DPR Form 523), to be completed by a qualified historic preservation specialist	Required
		Work Plan, consisting of a description and schedule of work needed to stabilize or restore character defining features of the property, for the initial 10-year contract period. Check the box that most closely resembles your property: ❑ Building in good condition—no repair necessary, ongoing maintenance consistent with the Secretary of the Interior's Standards for Rehabilitation ❑ Building requires some rehabilitation work ❑ Building requires immediate work to preserve, stabilize, or protect resource	Requirement: • Work plan may be needed for unusual building details • Proposed work plan • Proposed work plan
		Legal Description of Property (Can be provided by Title Company)	Required
		Copy of Last Property Tax Bill	Required
		Filing Fee	$550
		Mailing Labels	Required (see Mailing Notice handout)
Supplemental Information: Your project planner may require one or more of the following items after your initial application submittal, depending on the condition of the property and nature of the proposed work.			
		Physical Inspection A physical inspection by City staff—building inspector, Fire Marshall, and/or planner—may be required	Dependent upon Property
		Architectural Historian Report At the applicant's expense, the City may retain an architectural historian, or restoration architect, to evaluate the applicant's proposal for consistency with the architectural, historic, or aesthetic integrity of the resource. The architectural historian shall review and make recommendations to the City to help ensure that the proposed work will not adversely affect the significant architectural features of the property, nor adversely affect the character or historic architectural or aesthetic interest or value of the cultural resource and its site.	Dependent upon Property

For Applicant's Use	For Staff Use	**Mills Act Application Checklist** Please note: Your project planner may require additional information depending on the specifics of your project.	
		Structural Pest Report	Dependent upon Property
		Roof Inspection Report	Dependent upon Property

City of Benicia Mills Act Program Costs

The Mills Act contracts will reduce the property tax paid by these properties. The City of Benicia receives approximately 26% of the property taxes collected on parcels in the City.

PROPERTY ADDRESS	DATE ENTERED INTO	BASE PROPERTY VALUE (to be updated)	PROPERTY TAX WITHOUT CONTRACT (1%)	CITY PROPERTY TAX REVENUE (26% OF PROPERTY TAX)	REASSESSED MILLS ACT PROPERTY VALUE (as of 2010)	PROPERTY TAX WITH CONTRACT* (1%)	CITY PROPERTY TAX REVENUE OF REASSESSED VALUE (26% OF PROPERTY TAX)	FAIR MARKET VALUE (AS OF 1/1/10) *to be provided by Solano County*	ESTIMATED TAX SAVINGS*	LOSS OF CITY REVENUE*
EXISTING CONTRACTS:										
245 West K Street** - **M**	11/7/90	$1,255,877	$12,558.77	$3,265.28	$179,310	$1,793.10	$466.21	$893,000	$10,766	$2,799
235 East L Street**	6/11/90	$1,201,877	$12,019	$3,125	$225,882	$2,259	$587	$645,000	$9,760	$2,538
230 West K Street	10/22/04	$446,888	$4,469	$1,162	$155,402	$1,554	$404	$635,000	$2,915	$758
121 West J Street - **M**	12/3/04	$344,401	$3,444	$895	$176,011	$1,760	$458	$612,000	$1,684	$438
185 East D Street - **M**	11/9/04	$299,025	$2,990	$777	$119,540	$1,195	$311	$604,000	$1,795	$467
251 West J Street - **M**	12/17/04	$246,998	$2,470	$642	$86,667	$867	$225	$442,000	$1,603	$417
401 First Street	10/15/04	$946,442	$9,464	$2,461	$931,765	$9,318	$2,423	$1,300,000	$147	$38
166 West H Street	12/17/04	$760,000	$7,600	$1,976	$188,203	$1,882	$489	$650,000	$5,718	$1,487
123 West D Street - **M**	12/27/05	$675,378	$6,754	$1,756	$107,586	$1,076	$280	$637,000	$5,678	$1,476
1063 Jefferson Street - **M**	5/24/05	$343,664	$3,437	$894	$209,195	$2,092	$544	$1,000,000	$1,345	$350
125 East I Street	12/20/06	$438,178	$4,382	$1,139	$179,310	$1,793	$466	$434,000	$2,589	$673
159 West G Street - **M**	10/30/06	$383,217	$3,832	$996	$131,494	$1,315	$342	$518,000	$2,517	$654
163 West J Street - **M**	10/30/06	$291,875	$2,919	$759	$89,655	$897	$233	$311,000	$2,022	$526
149 West G Street - **M**	10/30/06	$548,760	$5,488	$1,427	$89,655	$897	$233	$435,000	$4,591	$1,194
145 East I Street	10/30/06	$401,000	$4,010	$1,043	$65,747	$657	$171	$399,000	$3,353	$872
141 West H Street - **M**	12/18/07	$405,756	$4,058	$1,055	$114,811	$1,148	$299	$482,000	$2,909	$756
120 West D Street	12/18/07	$338,130	$3,381	$879	$129,163	$1,292	$336	$444,000	$2,090	$543
1025 West Second Street	12/18/07	$312,120	$3,121	$812	$77,647	$776	$202	$369,000	$2,345	$610
140 East G Street	12/18/07	$326,835	$3,268	$850	$234,131	$2,341	$609	$679,000	$927	$241
392-396 East H Street	12/18/07	$376,478	$3,765	$979	$185,308	$1,853	$482	$300,000	$1,912	$497
224 West I Street	12/18/07	$610,000	$6,100	$1,586	$133,333	$1,333	$347	$623,000	$4,767	$1,239
242 West I Street	12/18/07	$550,000	$5,500	$1,430	$109,091	$1,091	$284	$374,000	$4,409	$1,146
171 West H Street	12/18/07	$632,540	$6,325	$1,645	$93,939	$939	$244	$442,000	$5,386	$1,400
270 West H Street	12/18/07	$1,300,000	$13,000	$3,380	$179,310	$1,793	$466	$644,000	$11,207	$2,914
441 West J Street	12/18/07	$649,000	$6,490	$1,687	$101,609	$1,016	$264	$477,000	$5,474	$1,423
271 West J Street	12/02/08	$299,269	$2,993	$778	$121,203	$1,212	$315	$502,000	$1,781	$463
141 West F Street	12/02/08	$223,121	$2,231	$580	$149,425	$1,494	$389	$612,000	$737	$192
155 West J Street	12/02/08	$189,717	$1,897	$493	$65,747	$657	$171	$408,000	$1,240	$322
182 East I Street	12/9/2009	$403,929	$4,039	$1,050	$109,082	$1,091	$284	$404,000	$2,948	$767
1101 West Second Street	12/9/2009	$390,440	$3,904	$1,015	$157,564	$1,576	$410	$654,000	$2,329	$605
	TOTAL VALUE:	**$15,590,915**	**$155,909**	**$40,536**	**$4,896,785**	**$48,968**	**$12,732**	**$16,929,000**		
EXISTING CONTRACTS TOTAL:									**$106,941**	**$27,805**
EXISTING CONTRACTS ANNUAL COSTS:	($150 per contract for annual inspections)									$4,500
2010 CONTRACTS PROPOSED:										
395 West J Street (estimated #s)		$390,591	$6,616	$1,720	TBD	$1,847	$480		$4,769	$1,240
2010 CONTRACTS TOTAL:									$4,769	$1,240
2010 CONTRACTS STAFF COSTS:	($1350 per application)									$1,350
2010 CONTRACTS ANNUAL STAFF COSTS:	($150 per contract for annual inspections)									$150
CONTRACTS TOTAL (EXISTING AND PROPOSED):									**$111,710**	**$29,045**
CONTRACTS ANNUAL STAFF COSTS TOTAL (EXISTING AND PROPOSED):										**$4,650**

* Tax savings are estimates and subject to change annually

** Prior to 2003 City Council program authorization

M - Maintenance Only contract

THE CITY OF BENICIA MILLS ACT

A Tax Incentive Law
for
Historic Properties

Public Works &
Community Development Department
250 East L Street
Benicia, CA 94510
(707) 746-4280

Artwork by Del Lacey

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MILLS ACT PROGRAM: WHAT IS IT?

The Mills Act is a State law that allows cities and owners of historic structures to enter into contracts that decrease property tax in exchange for continued preservation of buildings and property. Property tax can be reduced by 50 percent or more under Mills Act contracts.

How it works…

State law enables the City of Benicia to enter into ten-year contracts with owners of properties in the Historic District, by which owners agree to maintain and, if necessary, rehabilitate historic structures. The contracts automatically renew annually for another ten years, unless purposely non-renewed by either party (in which case the contract lasts only through stated ten-year term) or cancelled. An owner may petition the City for immediate cancellation, and the City may only cancel a contract for breach of conditions (which carries a penalty for the owner equal to 12 ½ percent of assessed property value).

Who's eligible…

Participation in the program is open to owners of the following types of structures:

1. Historic Landmark Buildings, as identified by the Downtown or Arsenal Historic Conservation Plans;
2. Contributing Buildings, as identified by the Downtown or Arsenal Historic Conservation Plans;
3. Buildings listed in the National Register of Historic Places; and
4. Buildings listed in any State, City, or County official register of historical or architecturally significant sites, places, or landmarks.

Staff suggests adding the following, based on past Commission discussion, and current economic conditions:

Program Threshold
(Suggested additions. Add either one or both of the following)

1. **The City of Benicia has an annual threshold of $50,000 (TBD) projected reduction in property tax revenue to the City's General Fund. The applications shall be evaluated and processed in the order received until the total projected reduction in property tax revenue to the City has reached $50,000 (TBD) on an annual fiscal basis.**
    a. **If in any fiscal year, the project reduction in property tax revenue from Mills Act Agreement applications exceeds $50,000, the City Manager or designee shall seek City Council authorization to exceed the threshold, if Council can make the finding that the fiscal health of the City is such that additional reduction in tax revenue can be supported by the budget.**

b. If in any calendar year the projected reduction in property tax revenue to the City from Mills Act Agreement applications exceeds $50,000, and the City Council does not make a finding to authorize the processing of those Agreements, the property owner's application will be automatically rolled over to the next fiscal year.

2. The City of Benicia shall process up to 5 ~~(TBD)~~ agreements per calendar year.

City of Benicia Mills Act Program

Approved by the City Council on January 7, 2003
Amended by the City Council on December 18, 2007
Further Amended by the City Council on _____ 2010

Purpose and Goal:

The purpose of the program is to encourage the preservation, restoration and rehabilitation of historic property in the City of Benicia.

The Mills Act is a state law that enables a community to enter into 10-year contracts with owners of historically significant properties who agree to maintain and, if necessary, rehabilitate their historic structure in exchange for a reduction in property tax. The contract renews itself annually; hence, the owner is always between 9 and 10 years from termination unless there is a notice of nonrenewal. Either the property owner or the City may elect not to renew for any reason. The effect of nonrenewal is to terminate the contract at the end of the current nine to ten-year term.

A Mills Act contract provides a method of reducing property taxes in exchange for the continued preservation of a historic property. Property taxes are recalculated using the special Mills Act assessment method and can be reduced by 50 percent or more. Property valuation is determined by the "income" method set out in Revenue and Tax Code Section 439.2. Generally, the income, or projected income, less certain expenses, is divided by a capitalization rate to determine the assessed value of the property. When a property is owner occupied, the determination of "income" is based on what a property could reasonably be expected to yield, or an amount stipulated in the contract as the minimum income to be used. The income projected for owner occupied property is based on comparable rents for similar property in the area or, if insufficient rental information is available, the income that it could reasonably be expected to produce under prudent management.

It is the policy of the City of Benicia to foster and encourage the preservation, maintenance, rehabilitation and restoration of historically designated properties. It is recognized by the City that a reduction in property taxes afforded by the Mills Act will serve as a key monetary incentive for citizens to acquire, maintain and restore historic properties within the City of Benicia. However, it is also recognized that the reduction in property taxes affects the City's General Fund, and in order to understand and manage this fiscal impact, all Mills Act contracts shall be subject to the guidelines contained herein.

Definitions:

Preservation: The maintenance of the structure in its present condition or as originally constructed. Preservation aims at halting further deterioration and providing structural safety, but does not contemplate significant rebuilding. Preservation includes techniques of arresting or slowing the deterioration of a structure; improvement of structural conditions to make a structure safe, habitable, or otherwise useful; normal maintenance and minor repairs that do not change or adversely affect the fabric or appearance of a structure.

Rehabilitation: Involves equipping the building or facility for an extended useful life with a minimum alteration of original construction or the process of returning a structure to a state of usefulness by repairs or alterations.

Restoration: The process of accurately recovering, by the removal of later work and the replacement of missing earlier work, the form and details of a structure, together with its setting, as it appeared at a particular period of time.

Eligibility Criteria:

Qualified historical property: for purposes of this Mills Act Program, means privately owned property which is not exempt from property taxation and which meets either of the following:

A. Listed in the National Register of Historic Places or located in a registered historic district.

B. Listed in any state, city, county, or city and county official register of historical or architecturally significant sites, places, or landmarks.

Participation in the program is open to the following types of structures:

A. Historic Landmark Buildings, and

B. Contributing Buildings to the Downtown Historic or Arsenal District.~~, and~~

Type and Extent of Proposed Work:

The applicant will propose a schedule of proposed preservation, maintenance and/or improvements to the building to protect or enhance its historical value. The type and extent of the proposed work to be committed to in the Mills Act contract will also be used to evaluate the proposal.

A. Extend the life of the structure, such as a new roof, a stable foundation; seismic retrofits (bolting to the foundation, shear walls, etc.) weatherproof exterior walls. Primary mechanical systems necessary to maintain the structural integrity or address safety concerns of the building (plumbing, electrical, heating) may be included in the work plan.

B. Improve or restore the building's historic exterior appearance.

C. Provides extensive improvement.

D. New additions, exterior alterations, or related new construction shall follow the Secretary of Interior guidelines such as: the project shall not destroy historic materials that characterize the property; the new work shall be differentiated from the old and shall be

compatible with the massing, size, scale; and architectural features to protect the historic integrity of the property and its environment.

E. A Maintenance program for properties that are already in good condition.

Mills Act Program Procedures:

A. The Mills Act process starts with a meeting between the ~~Community Development Department~~Planning Division staff and the potential applicant to discuss the program. The property owner and staff will consult with the County Assessor's Office to get detailed information on how their property taxes would be affected.

B. The applicant submits an application packet requesting that the City enter into a Historic Property Preservation Agreement. Applications will be accepted from January-June of each calendar year. An application packet will include the following:

1. A completed application form.

2. The Historic Resources Inventory entry, updated to comply with the most current procedures of the State Office of Historic Preservation (form DPR 523B 1/95).

3. An itemized description of the annual preservation and restoration goals to be undertaken by the owner through the initial ten-year term of the agreement.

4. A maintenance plan for building(s), yards and other improvements.

5. A copy of the last tax bill and the projected adjustments of the property taxes as determined by the Solano County Assessors Office.

6. The application fee.

Other Supplemental Information:

7. Depending on the condition of the property and the nature of the proposed work, staff may request that a Structural Pest Report be made part of the application submittal.

8. Depending on the condition of the property and the nature of the proposed work, staff may request that a Roof Inspection Report be made part of the application submittal.

9. Depending upon the nature of the proposed work and the significance of the property, the City may retain an architectural historian, or restoration architect, at the applicant's expense, to evaluate the applicant's proposal for consistency with the architectural, historic, or aesthetic integrity of the resource. The architectural historian shall review and make recommendations to the City to help ensure that

the proposed work will not adversely affect the significant architectural features of the property nor adversely affect the character or historic architectural or aesthetic interest or value of the cultural resource and its site. Every reasonable effort should be made to restore the architectural character of the structure back to its original material or architectural features. Restoration would not necessarily be required unless the structure has been modified to change its historic character, or in a manner which is contrary to the Downtown Historic Conservation Plan or Secretary of the Interiors Standards. The architectural historian would review the application and proposed improvements and formulate a recommendation to staff on what, if anything is needed to restore and/or preserve the property.

Once a complete application is submitted and deemed complete, staff prepares an analysis and recommendation, which ~~it~~ is forwarded to the Historic Preservation Review Commission~~ along with staff's recommendation.~~ .

The Historic Preservation Review Commission evaluates the application based upon the Mill Act Criteria and votes to recommend to the City Council approval or denial of the contract~~project~~.

Staff forwards the application and the Historic Preservation Review Commission's recommendation to the City Council for ~~their~~ consideration.

The City Council considers the application request and decides to approve, modify or deny the request.

If approved, a draft Agreement is prepared by staff and reviewed by the City Attorney's Office for form and content.

The City Manager or Public Works & Community Development Director executes the agreement with the property owner. The ~~property owner~~City of Benicia is responsible for having the agreement recorded with the Solano County Recorder's Office by the end of the calendar year in which it is executed **.

Once the Agreement is signed, the Solano County Assessor's Office is notified and the assessor determines the value of the property and annual property tax using the capitalization of income method.

Staff annually inspects the property to ensure that the terms of the Agreement are being met and that the property is being properly maintained and preserved and reports to the Historic Preservation Review Commission.

The Historic Preservation Review Commission recommends action to be taken by the City if the terms of the Agreement are not being met. If appropriate, the Commission may recommend that the Council cancel or not renew the Agreement.

** - For all contracts recorded by December 31 of a calendar year, reassessment by the County is conducted by June 30 of the following year and is reflected on fiscal year tax bills issued in October.

Annual Inspection

Each year the properties under Mills Act contract are to be inspected and their compliance with their contracts reported to the Historic Preservation Review Commission. Following consideration at a public meeting, the Commission shall accept each property as being in compliance or find that the project may not be in compliance, citing the particular areas of concern. The areas of concern shall be reviewed by City staff with the property owner. Where they are resolved, a supplemental report is to be submitted for the Historic Preservation Review Commission's further consideration of finding the property in compliance. Where the concerns are not resolved, then the matter shall be referred to the City Council for action, which may include termination of the contract for noncompliance.

EXAMPLE OF MILLS ACT
PROPERTY TAX ASSESSMENT FORMULA

The usual method of valuation for property tax is to determine fair market value based on comparable sales. However, under the Mills Act, valuation is determined by a capitalization of income method rather than on market value. The following example estimates the potential net savings to a property owner entering into a Mills Act agreement. If the Agreement is approved, the County Assessor will make an official determination on the value of the property using the following capitalization of income method. THE MILLS ACT MAY NOT PROVIDE A TAX SAVINGS FOR EVERYONE WHO CHOOSES TO PARTICIPATE IN THE PROGRAM. IN CERTAIN CIRCUMSTANCES, PARTICULARLY FOR PROPERTY OWNERS WHO HAVE OWNED THEIR HOMES PRE-PROPOSITION 13, A PROPERTY OWNER'S TAXES MIGHT INCREASE.

Estimated Gross Income: ($1,400/mo. X 12)	$16,800
Expenses: ($800.00/mo. X 12)	- 9,600
Net Operating Income (NOI)	**$ 7,200**
Capitalization Rate	
Interest Component (rate)	8.12%
Historical Property Risk Component	2.00%
Amortization Component (assume reciprocal life of 50 years)	2.00%
Property Taxes Component	1.00%
Total Capitalization Rate	**13.12%**
Capitalization of Net Income (NOI ÷ Cap Rate)	$7,200 ÷ .1312 = $54,878
Current Assessed Value	$180,000
Current Property Taxes	$1,800
Assessed Value w/ Agreement	$55,000
Estimated Property Tax w/ Agreement	$550

Potential property tax reduction to property owner is $1,250.00 ($1,800 - $550)

The assessed value of property under an Agreement is recalculated each year by the County Assessor to reflect changes in income, expenses, interest rate, and amortization. Through the life of the Agreement, the tax savings to the property owner will increase as the market value assessment increases.

Estimated Gross Income: is determined by the rental income a property can potentially produce as determined by other comparable properties in the area. (multiplied by 12 months)

Expenses: utilities, insurance etc. (multiplied by 12 months)

Net Operating Income (NOI) equals the *gross income - expenses*.

Capitalization Rate:

Interest Component is determined by the State Board of Equalization and announced no later than September 1 of the year preceding the assessment year (the yield rate is equal to the effective rate on conventional mortgages as determined by the Federal Home Loan Bank Board, rounded to the nearest ¼ percent).

Historical Property Risk Component is 4% in the case of owner occupied single-family dwellings. In all other cases, the property risk component is 2%.

Amortization Component is a percentage equal to the reciprocal of the remaining life of the improvements. This can be determined by the information on the Solano County Assessor's Office website for each address. Simply calculate Land / Improvements.

Property Taxes Component is defined by the percentage of the estimated total tax rate applicable to the property for the assessment year times the assessment ratio. Contact the Assessor's Office for the official rate, it will be approximately 1%.

MILLS ACT PROGRAM
PROPERTY OWNER ANNUAL REPORT

Property Address: _____ Date: _____

Date contract entered into (month/year): _____

What were your tax savings this year? _____

What project(s) was completed this year? _____

_____

_____

What was the cost of the project(s)? _____

Based on the results of this project would you like to revise your Ten-Year Plan? _____

If so, how? _____

_____

Comments/ Suggestions: _____

_____

_____

(Attach additional sheets if necessary)

Name _____ Signature _____

For Office Use Only

Date Received: _____ Inspection Date: _____

Work Completed? _____ Staff Inspection Report Attached? _____

RECORDED AT THE REQUEST OF THE CITY OF BENICIA
WHEN RECORDED, RETURN TO:

CITY OF BENICIA
250 East L Street
Benicia, CA 94510
Attention: City Clerk

HISTORICAL PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of __(month) , (year)___ by and between the CITY OF BENICIA, a municipal corporation (hereinafter referred to as the "City"), and _____ (hereinafter referred to as the "Owners").

WITNESSETH

A. Recitals

1. California Government Code Sections 50280, et seq. allow cities the discretion to enter into contracts with the owners of qualified historical properties, as the term is defined by Government Code Section 50280.1, for the purpose of restricting development of its cultural and historic significance and continuing maintenance of the historical property;

2. Owners possess fee title in and to that certain real property, together with associate structures and improvements thereon, located at the street address _____ (hereinafter, shall be referred to as the "the Historical Property"). A legal description of the Property is attached hereto and incorporated herein by this reference as Exhibit A;

3. On _____, the City Council of the City of Benicia adopted Resolution No. _____ thereby declaring its intention to enter into this Historic Property Preservation Agreement.

4. City and Owners, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of cultural and historical significance of the Property and to qualify the Property for an assessment of valuation pursuant to the provisions of Article 1.9, Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

B. Agreement

NOW, THEREFORE, City and Owners, in consideration of the mutual promises, covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on _____ and shall remain in effect for a term of (10) years thereafter. Each year, upon the anniversary of the effective date of this Agreement (hereinafter "renewal date"), one (1) year shall automatically be added to the term of the Agreement, unless timely notice of nonrenewal, as provided in paragraph 2, is given. If either City or Owners serves notice to the other of nonrenewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.

2. Notice of Nonrenewal. If City or Owners desires in any year not to renew the Agreement, that party shall serve written notice of nonrenewal in advance of the annual renewal date of the contract as follows: (1) Owners must serve written notice of nonrenewal at least ninety (90) days prior to the renewal date or (2) City must serve written notice within sixty (60) days prior to the renewal date. Owners may make a written protest of the notice. City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice of nonrenewal to Owners.

3. Valuation of Historical Property. During the term of this Agreement, Owners are entitled to seek assessment of valuation of the Historical Property pursuant to the provisions of Article 1.9, Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

4. Standards for Historical Property. During the term of this Agreement, the Property shall be subject to the following conditions, requirements and restrictions:

a) Owners shall preserve and maintain the characteristics of cultural and historical significance of the Property in accordance to the Secretary of the Interiors Standards for Rehabilitation and the minimum maintenance standards, identified in Exhibit "B", attached hereto, which shall apply to the property throughout the term of this Agreement. New additions, exterior alterations, or related new construction shall comply with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings.

b) Owner shall make improvements to preserve the integrity of the Property. Attached hereto, marked as Exhibit "C", and incorporated herein by this reference, is a Schedule of Stabilization Measures that both City and Owner agree is necessary for the immediate preservation of the Property. Owner shall undertake these improvements in accordance with Exhibit "C".

c) Owner shall make improvements to bring the Property into good condition. Attached hereto, marked as Exhibit "D", and incorporated herein by this reference, is a list of work that both City and Owner agree is necessary to bring the Property into good condition.

   Owner shall undertake all improvements in accordance with Exhibit "D". If the schedule set out in Exhibit "D" is not complied with, then City will use the following process to determine whether the owner is making good faith progress on the schedule of work. Upon City's request, the Owner shall submit documentation of expenditures, made to accomplish the next highest priority improvement project for the property, within the last 24 months. The owner shall be determined to be in substantial compliance when the expenditures are equal to or greater than the property tax savings provided by the Property being in the Mills Act Program. This schedule set out in Exhibit "D" shall be revised to reflect the schedule change. The Community Development Director shall have the ability to administratively adjust the schedule timeline, in concurrence with the property owner, only by written recorded instrument executed by the parties hereto.

5. Inspections and Annual Reporting. Owner agrees to permit the periodic examination, by prior appointment, of the interior and exterior of the Historic Property by the County Assessor, the State Department of Parks and Recreation, the State Board of Equalization and the City as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement. Owner agrees to provide the City with a report as to the status of the Historic Property annually and when any improvements or changes have been made.

6. Provision of Information. Owners hereby agree to furnish City with any and all information requested by City which City deems necessary or advisable to determine compliance with the terms and provisions of this Agreement.

7. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Section 50285 may cancel this Agreement if it determines that Owners have breached any of the conditions of the Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines that Owners have failed to restore or rehabilitate the Historical Property in the manner specified in paragraph 4 of this Agreement.

In the event of cancellation, Owners shall be subject to payment of those cancellation fees set forth in California Government Code Sections 50280 et seq., described herein. Upon cancellation, Owners shall pay a cancellation fee of twelve and one-half percent (12 1/2%) of the current fair market value of the Historic Property at the time of cancellation, as determined by the county assessor as though the Historic Property were free of any restrictions pursuant to this Agreement.

8. Enforcement of Agreement. In lieu of any provisions to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default, under the provisions of this Agreement by Owners, City shall give written notice to Owners by registered or certified mail addressed to the address stated in the Agreement, and if such a violation is not corrected to the reasonable satisfaction of City within thirty (30) days thereafter, or if not corrected within such a reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days provided that acts to cure the breach or default may be commenced within (30) days and must thereafter be diligently pursued to completion by Owners, then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owners growing out of the terms of this Agreement, apply to any violation by Owners or apply for such other relief as may be appropriate.

9. Waiver. City does not waive any claim of default by Owners if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

10. Binding Effect of Agreement. Owners hereby subject the Historical Property described in Exhibit A hereto to the covenants, reservations and restrictions as set forth in this Agreement. City and Owners hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owners' successors and assigns in title or interest to the Historical Property.

    Each and every contract, deed or other instrument hereinafter executed, governing or conveying the Historical Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owners hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that it restricts development of the Historic Property. City and Owners hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the cultural and historic characteristics and significance of the Historic Property for the benefit of the public and Owners.

11. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below, or at any other address as may be later specified by the parties hereto.

City: City of Benicia
250 East L Street
Benicia, California 94510

Owners: _____
_____
_____
_____

12. General Provisions

a. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.

b. Owners agree to and shall hold City and its elected officials, officers, agents and employees harmless from liability for damage or claims which may arise from the direct or indirect use or operations of Owners or those of their contractor, subcontractor, agenda, employee or other person acting on his/her behalf which relates to the use, operation and maintenance of the Historic Property and from any injury to property caused by the restrictions on development of the Historical Property from application or enforcement of the City's Historical Preservation Ordinance or from the enforcement of this Agreement. Owners hereby agree to and shall defend the City and its elected officials, officers, agents and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owners' activities in connections with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historical Property.

c. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

d. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

e. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

f. This Agreement shall be constructed and governed in accordance with the laws of the State of California.

13. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause the Agreement to be recorded in the office of the County Recorder of the County of Solano.

14. Notice to State Office of Historic Preservation. The Owners or Agent of the Owners shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of the date of this Agreement.

15. Amendments. This Agreement may be amended, in whole or in part, only by written recorded instrument executed by the parties hereto.

IN WITNESS WHEREOF, City and Owners have executed this Agreement on the day and year first written above.

OWNER	CITY OF BENICIA
_____	_____
BY:	BY: City Manager
DATED:	DATED:
	APPROVED AS TO FORM
	_____
	City Attorney

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B

THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

The following Standards are to be applied to rehabilitation projects for the Property in a reasonable manner, taking into consideration economic and technical feasibility:

(1) The Property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

(2) The historic character of the Property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize the Property shall be avoided.

(3) The Property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

(4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

(5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize the historic property shall be preserved.

(6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.

(7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of the structure(s), if appropriate, shall be undertaken using the gentlest means possible.

(8) Significant archeological resources affected by this project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

(10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Please refer to the complete text for additional information.

Copied from The Secretary of the Interior's Standards for the Treatment of Historic Properties U. S. Department of the Interior, National Park Service, Weeks and Grimmer, 1995, pg. 62.

Minimum Property Maintenance:

As part of this agreement the Owners shall maintain all buildings, structures, yards and other improvements in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions (includes but does not limit to the following) are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls, and windows, broken windows, peeling exterior paint, broken structures;

2. Scrap lumber, junk, trash or debris;

3. Abandoned discarded or unused objects, equipment such as automobiles, automobile parts, furniture, appliances, containers, cans or similar items;

4. Stagnant water, including pools or spas, or open excavations;

5. Any device, decoration, design, structure, vegetation or landscape which is unsightly by reason of its height, condition or its inappropriate location;

6. Graffiti;

7. Incomplete exterior construction where no building inspections have been requested for 6 or more months, or for work which does not require a building permit, where there has been no significant progress for 90 days.

EXHIBIT C

Schedule of Stabilization and Rehabilitation Work

The City and Owners agree to the following schedule of Stabilization and /or Protection Measures to be undertaken by Owner pursuant to the Paragraph 4b or this Agreement. All work shall be down in conformance with Paragraph 4a.

	Project (s)	Schedule
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____
7.	_____	_____
8.	_____	_____
9.	_____	_____
10.	_____	_____

Work Item: The methods and materials for completing the above work items shall be subject to review and approval by the City prior to commencement of work. All work shall comply with the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings. Non-compliance with this requirement may constitute grounds for a termination of the Historic Property Contract by the City.

Completion Date: Work shall be completed by the specified date unless the Owner requests a change to a later completion date in writing and the City agrees to a later completion date. Non-compliance with this requirement may constitute grounds for a termination of the Historic Property Contract by the City.

EXHIBIT D
Architectural Rehabilitation and/or Restoration

The City and Owners agree to the following schedule of Rehabilitation and /or Restoration projects to undertaken by Owner pursuant to the Paragraph 4c or this Agreement. All work shall be down in conformance with Paragraph 4a.

Project (s)	Schedule
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____

Work Item: The methods and materials for completing the above work items shall be subject to review and approval by the City prior to commencement of work. All work shall comply with the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings. Non-compliance with this requirement may constitute grounds for a termination of the Historic Property Contract by the City.

Completion Date: Work shall be completed by the specified date unless the Owner requests a change to a later completion date in writing and the City agrees to a later completion date. Non-compliance with this requirement may constitute grounds for a termination of the Historic Property Contract by the City.

250 East L Street • Benicia, CA 94510 • (707) 746-4280 • Fax (707) 747-16378121

Public Works & Community Development Department

Planning Division

MILLS ACT CONTRACT APPLICATION

Application Due Date: June 30th

If approved, this application would require a historic building property owner to enter into a ten-year contract with the City (subject to annual renewal) for a reduction of property taxes in exchange for undertaking all rehabilitation, restoration or maintenance of the historic building in compliance with the Secretary of the Interior's Standards.

1. Property Information.

Address/location _____

APN(s) _____ Parcel area (sq. ft. or ac) _____

☐ Single-Family ☐ Multi-Family/Commercial ☐ Other _____

Year Built _____

Date of purchase of current owner _____

List all known prior alterations or additions to structure _____

_____

_____

2. Location.

Downtown Historic District ☐ Arsenal Historic District

Designation _____

3. Tax Assessment. (Please contact the Solano County Assessor's Office at (707) 748-6210 for information)

Current year: $ _____ Estimated with Contract: $ _____

Are property taxes paid to date? ☐ Yes ☐ No

4. Potential Structure/Property Improvements.

What is the general condition of the property? ☐ Excellent ☐ Good ☐ Fair ☐ Deteriorated

What type of work needs to be done? ☐ Stabilization ☐ Rehabilitation ☐ Maintenance

Please list improvements that will take place over the next ten years. See attached form.

5. Application Materials.

The following materials must be submitted along with this application form in order to process a Mills Act Contract application. See attached form.

For Staff Use: Application #(s) _____ Date Filed _____

Date Entered _____ Entered By _____ Receipt # _____ Total Fees Paid $ _____

Fee Breakdown _____

GP designation _____ Current zoning _____ Historical Dist./designation _____

6. Contact Information. Check the ☐ to indicate the primary contact.

☐ **Property Owner**

Name _____ Organization _____

Mailing address _____

Phone _____ Fax _____ E-mail _____

☐ **Applicant, if different from owner**

Name _____ Organization _____

Mailing address _____

Phone _____ Phone (2) _____

E-mail _____ Fax _____

7. Signatures. Applicant and Property Owner must sign. Both signature lines must be signed, even if the applicant and property owner are the same.

Applicant

HOLD HARMLESS/INDEMNIFICATION: As part of this application the applicant hereby agrees to defend, indemnify and hold harmless the City of Benicia, its Council, boards and commissions, officers, employees, volunteers and agents from any claim, action, or proceeding against the City of Benicia, its Council, boards and commissions, officers, employees, volunteers and agents, to attack, set aside, void or annul an approval or challenge a denial of the application or related decision, including environmental documents. The applicant's duty to defend, indemnify and hold harmless shall be subject to the City's promptly notifying the applicant of said claim, action or proceeding and the City's cooperation in the applicant's defense of said claims, actions or proceedings. The City of Benicia shall have the right to appear and defend its interests in any action through the City Attorney or outside counsel.

By signing below, I hereby certify that the application I am submitting, including all additional required information, is complete and accurate to the best of my knowledge. I understand that any misstatement or omission of the requested information or of any information subsequently requested may be grounds for rejecting the application, deeming the application incomplete, denying the application, suspending or revoking a permit issued on the basis of these or subsequent representations, or for the seeking of such other and further relief as may seem proper by the City of Benicia.

Applicant: _____ Date: _____

Property owner

By signing below, I hereby certify under penalty of perjury, that I am the owner of record of the property described herein and that I consent to the action requested herein. All other owners, lenders or other affected parties on the title to the property have been notified of the filing of this application. Further, I hereby authorize City of Benicia employees and officers to enter upon the subject property, as necessary to inspect the premises and process this application.

In order to facilitate the public review process, the City requires that property owners agree to allow any plans or drawings submitted as part of the application to be copied for members of the public. Property owner(s) hereby agree to allow the City to copy the plans or drawings for the limited purpose of facilitating the public review process.

Property owner: _____ Date: _____

NOTE: In addition to City and other government agency requirements, many development areas, particularly residential areas, are regulated by private agreements and/or private easements. Applicants should check project property descriptions, including title reports, to determine if such private contractual agreements ("CC&Rs") or easement descriptions impact the project proposal.

The City's issuance of a building or development permit does not indicate conformance to these private agreements.

DESIGNATION OF A REPRESENTATIVE FORM

Applicants or property owners who desire to authorize a representative or representatives to act on their behalf in conjunction with this application shall provide the following information:

Name of authorized representative(s): _____

Address of representative(s): _____

Phone number of representative(s): _____

The above named representative(s) is authorized as follows:

[ ] File any and all papers in conjunction with the application including the signing of the application. ____ (initial)

[ ] Speak on behalf of, or representing, the [choose owner and/or applicant and fill in blank] _____ at any staff meeting and/or public hearing. ____(initial)

[ ] Sign any and all papers on my behalf, with the exception of the application form. ____(initial)

This authorization is valid until revoked in writing and filed with the Community Development Department.

_____ _____

Owner/ Applicant (specify) **Date**

250 East L Street • Benicia, CA 94510 • (707) 746-4280 • Fax (707) 747-~~8121~~1637

Public Works & Community Development Department

Planning Division

Project Address: **Date:** **Planner:**
accepting application

For Applicant's Use	For Staff Use	Mills Act Application Checklist Please note: Your project planner may require additional information depending on the specifics of your project.	
		Application Form - Due by June 30th	Required
		Updated Historic Resources Inventory entry (State DPR Form 523), to be completed by a qualified historic preservation specialist	Required
		Work Plan, consisting of a description and schedule of work needed to stabilize or restore character defining features of the property, for the initial 10-year contract period. Check the box that most closely resembles your property: ❑ Building in good condition—no repair necessary, ongoing maintenance consistent with the Secretary of the Interior's Standards for Rehabilitation ❑ Building requires some rehabilitation work ❑ Building requires immediate work to preserve, stabilize, or protect resource	Requirement: • Work plan may be needed for unusual building details • Proposed work plan • Proposed work plan
		Legal Description of Property (Can be provided by Title Company)	Required
		Copy of Last Property Tax Bill	Required
		Filing Fee	$550
		Mailing Labels	Required (see Mailing Notice handout)
Supplemental Information: Your project planner may require one or more of the following items after your initial application submittal, depending on the condition of the property and nature of the proposed work.			
		Physical Inspection A physical inspection by City staff—building inspector, Fire Marshall, and/or planner—may be required	Dependent upon Property
		Architectural Historian Report At the applicant's expense, the City may retain an architectural historian, or restoration architect, to evaluate the applicant's proposal for consistency with the architectural, historic, or aesthetic integrity of the resource. The architectural historian shall review and make recommendations to the City to help ensure that the proposed work will not adversely affect the significant architectural features of the property, nor adversely affect the character or historic architectural or aesthetic interest or value of the cultural resource and its site.	Dependent upon Property

For Applicant's Use	For Staff Use	**Mills Act Application Checklist** Please note: Your project planner may require additional information depending on the specifics of your project.	
		Structural Pest Report	Dependent upon Property
		Roof Inspection Report	Dependent upon Property

IX.A.66

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 16, 2010
ACTION ITEM

DATE : November 4, 2010

TO : City Manager

FROM : Fire Chief

SUBJECT : **AWARD OF CONSTRUCTION CONTRACT FOR FIRE STATION 12 DORMITORY RENOVATION PROJECT**

RECOMMENDATION:
Adopt the resolution accepting the bids for the Fire Station 12 Dormitory Renovation Project awarding the construction contract to Calstroy Construction of San Francisco, California, in the amount of $150,000, and authorizing the City Manager to sign the contract on behalf of the City.

EXECUTIVE SUMMARY:
This Fire Station 12 Dormitory Renovation Project, located at 601 Hasting Drive, will create individual dorm rooms, rectifying existing gender privacy issues. Sufficient funds are available in the Facility Maintenance budget 113-9205-9426 to cover the proposed costs as per the adopted City Budget.

GENERAL PLAN:
Relevant Goals:
Goal 2.28 Improve and maintain public facilities and services

STRATEGIC PLAN:
Relevant Strategic Plan Issues and Strategies:

- Strategic Issue # 1: Protecting Community Health and Safety
  Strategy #1: Provide modern and functional public safety facilities
- Strategic Issue # 4: Preserving and Enhancing Infrastructure
  Strategy #1: Provide adequate funding for ongoing infrastructure needs

BUDGET INFORMATION:
The total cost of the Fire Station 12 Dormitory Renovation Project is $172,500, which includes construction, contingency, and construction management/engineering support services. Authorization of appropriation from Facility Maintenance budget 113-9205-9246, in which sufficient monies are available, is requested to cover these costs.

This leaves a fund balance of $47,7000. The intended use of the remaining funds is for other facility improvements consistent with the existing furnishings of Station 11. At a later date, we will provide Council with a new project scope and budget.

BACKGROUND:
Fire Station 12 opened in 1983 and has not been remodeled since. The facility has an open dorm design that does not address gender privacy issues.

The project consists of creating individual dorm rooms, the addition of an A.D.A. compliant restroom and parking, and the remodel of the community service/fire training room. The project schedule is 90 days with a potential start date of December 13, 2010. Notice to proceed will be issued after contract documents have been finalized.

On September 8, 2010, a total of 9 responsive bids were received for the Fire Station 12 Dormitory Renovation Project with the results summarized in the table below:

Bid Results:

RANK	*BIDDER'S NAME AND ADDRESS*	*Total BASE BID*
1	Calstroy	$150,000
2	CAL-BAY Construction	$169,437
3	H. Bray Construction	$181,975
4	Triton Construction Co.	$182,212
5	CF Contracting	$186,800
6	BRCO Construction	$189,000
7	American River Construction	$202,864
8	Cailin Construction	$209,400
9	GCCI Inc	$254,194

In accordance with the contract specifications, the construction contract should be awarded to the bidder submitting the lowest responsive responsible total base bid, which is Calstroy Construction.

Staff recommends that the construction contract be awarded to Calstroy Construction in the amount of $150,000.

Attachment:
- Proposed Resolution

RESOLUTION NO. 10-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING THE BIDS FOR THE FIRE STATION 12 DORMITORY RENOVATION PROJECT, AWARDING THE CONSTRUCTION CONTRACT TO CALSTROY CONSTRUCTION OF SAN FRANCISCO, CALIFORNIA, IN THE AMOUNT OF $ 150,000, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONSTRUCTION CONTRACT ON BEHALF OF THE CITY

WHEREAS, the City of Benicia's Fire Station 12 Dormitory Renovation Project was advertised for construction bids and 9 sealed bids were properly received and opened on September 9, 2010; and

WHEREAS, Calstroy Construction of San Francisco, California was the lowest, responsive, responsible bidder; and

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

WHEREAS, this project is categorically exempt under CEQA pursuant to Section 15301(a) of the CEQA guidelines as an existing facility in the State of California Environmental Quality Act where exterior and interior improvements are made, pursuant to the record of decision 10-PLN-00060.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby accepts the bids and awards the construction contract in the amount of $150,000 to Calstroy Construction of San Francisco, CA for the Fire Station 12 Dormitory Renovation Project.

BE IT FURTHER RESOLVED THAT the City Manager is hereby authorized to sign the construction 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 16th day of November, 2010, and adopted by the following vote.

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 16, 2010
ACTION ITEM

DATE : November 3, 2010

TO : City Manager

FROM : Finance Director

SUBJECT : **CONSIDERATION OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A JOINT POWERS AGREEMENT WITH THE CITY OF VALLEJO AND THE SOLANO TRANSPORTATION AUTHORITY FOR THE CONSOLIDATION OF VALLEJO TRANSIT AND BENICIA BREEZE FIXED ROUTE BUS AND PARATRANSIT SERVICES AND TO TAKE FURTHER IMPLEMENTING ACTIONS**

RECOMMENDATION:

Approve the Resolution authorizing the City Manager to execute a Joint Powers Agreement with the City of Vallejo and the Solano Transportation Authority (STA) to form a new joint powers agency for the consolidation of Vallejo Transit and Benicia Breeze fixed route bus and Paratransit services and authorizing the City Manager to execute documents and take further actions as may be necessary in order to accomplish the goals contemplated by the SolTrans Joint Powers Authority (JPA).

EXECUTIVE SUMMARY:

In October of 2009, the City Councils of Vallejo and Benicia adopted a resolution entering into a Memorandum of Understanding (MOU) between the two cities and the STA establishing a process to study the feasibility and implementation of a JPA for the consolidation of Vallejo Transit and Benicia Breeze fixed route bus and paratransit services. The MOU also established the Solano County Transit Coordinating Committee, a Management Committee and a Staff Working Committee whose purpose is to guide the consolidation process by formulating the JPA Agreement, the consolidated Budget and the Transition Plan. The Coordinating Committee members are Benicia Mayor Patterson, Vallejo Mayor Davis, Benicia Councilmember Ioakimedes, and Vallejo Councilmember Hannigan. The Management Committee consists of the Benicia and Vallejo City Managers and the STA's Executive Director. At the July 6, 2010 council meeting, staff presented the results of the group efforts and discussed the benefits and risks related to proceeding (or not) with this proposed JPA. The Vallejo City Council approved the consolidation of the two agencies on October 26, 2010, including approval of the JPA agreement and the Transition Plan, which are attached to the staff report.

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies:

- Strategic Issue #4: Preserving and Enhancing Infrastructure
  - Strategy #2: Increase use of mass transit
    - Action 2(d): Evaluate feasibility of merging transit services with Vallejo and STA

BUDGET INFORMATION:

There is no budget impact at this time. Revenues supporting the Benicia Breeze are derived from a special one-quarter sales tax, referred to as Transit Development Act (TDA) revenues. Creating the JPA will allow for cost reductions in the future as administrative staff are shared between the two agencies and routes are streamlined between the two cities.

SUMMARY OF JOINT POWERS AGREEMENT KEY TERMS:

The Joint Powers Agreement creates a new Agency, to be branded as *SolTrans*, pursuant to Cal. Gov. Code § 6500-6515. The agreement contains the following key provisions:

1. Provision of Services. SolTrans is to provide transit services in adherence to the 'Guiding Principles'. *(JPA Section 8)*

2. Parties to the JPA. The Member Agencies are Benicia, Vallejo and STA. The following entities are eligible to become 'Member Agencies' of SolTrans: Municipal corporations, the County of Solano, and any other public entity or 'public/private partnership' providing or proposed to provide transit in Solano County.*(JPA Section 6)* New members may join the JPA upon a 2/3 vote of the voting members. The STA would not normally vote but would participate in discussions, and has a role in consenting to a termination of the agreement. *(JPA Section 23)* The MTC is not a Member Agency, but as explained below, has a presence on the SolTrans Board.

3. Voting: The JPA provides that 2 voting directors would represent each City. In addition, one voting director who is the Solano County representative to the MTC also has a vote on the SolTrans board, making this a total of 5 voting directors (and one non-voting director: the STA representative). Any action requiring and affirmative vote by the SolTrans Board must include a 'yes' vote from at least one voting director of each voting member agency. *(JPA Section 10)*

4. Transfer of Assets. Upon approval of the agreement, each City would continue to operate the bus service until such time as SolTrans receives approval of its status as a qualified grantee by necessary grantors, including the Federal Transit

Administration (FTA). Once such grantee status is obtained, each City would transfer designated transit related assets, personal property, rolling stock and equipment to SolTrans unless, in Vallejo's case, the property cannot be transferred due to a lien or leasehold interest that is not released.*(JPA Section 4)*

5. Employees. The Board would hire an Executive Director and Legal Counsel who would serve at the pleasure of the Board.*(JPA Section 13)* Current City of Vallejo employees working in the Transportation Division would go to work for SolTrans. At the present time, there are two part-time employees working for the Benicia Breeze and neither will be assured a position with the new entity but may apply for open recruitments if they choose. *(JPA Section 5)*

6. Biennial Transit Service Plan. SolTrans would prepare a transit service plan every two years, which would show the levels of service to be provided, as well as hours, areas to be served and rates.*(JPA Section 21)*

7. Withdrawal from membership. Any member may withdraw from the JPA upon giving 180 days' notice of withdrawal. The withdrawal will not affect any voluntarily assumed debt of the withdrawing member agency. Upon withdrawal, there will be a withdrawal plan addressing the issue of compensation for assets originally contributed by the member agency. If a dispute arises regarding the level of compensation due to a withdrawing member, the matter would be resolved via alternative dispute resolution. *(JPA Section 24)*

8. Termination. The agreement may be terminate by a vote of 2/3 of the voting member agencies. Upon termination or dissolution and after payment of debts, surplus property in the possession of SolTrans will be returned to the respective Member Agencies, in proportion to the contributions made by each. ***(JPA Section 25)***

9. Financial Arrangements. The JPA plans to solicit requests for proposals to provide assistance for financial services. Each of the member agencies will be invited to apply. In addition, the JPA may need short-term financing when acquiring assets through "reimbursement only" grant funding. Benicia has funds that could be borrowed on a short-term basis, recognizing the funds advanced would be secured by the grant and earn interest at the prevailing portfolio earnings rate.

The Cities of Benicia and Vallejo are at a crossroads as transit operators. State legislation has created the San Francisco Bay Area Water Emergency Transportation Authority (WETA) which is scheduled to take over Vallejo's Baylink Ferry Service, subject to negotiation and approval of agreements governing property transfers. The ferry transfer to the WETA will significantly reduce Vallejo's stature as a regional Bay Area transit operator in competing for transit funding, increase the transit administrative cost for their remaining bus and paratransit service and potentially jeopardize the continued operation of Route 200 supplemental Baylink bus service.

The STA Board, in approving the 2007 Solano Transit Consolidation Study, directed their staff to implement the consolidation of all interregional fixed route bus services. These two actions, if implemented without any City of Vallejo governance, would significantly impact the continued viability and sustainability of Vallejo's local bus and paratransit services. If regional service is transferred to another operator, Vallejo will lose funding dedicated to regional service as well as a portion of its allocated Transportation Development Act (TDA) funding that supports the commuter service. Without these revenues, Vallejo will be hard pressed to provide the existing levels of local service.

The City of Benicia is also facing a TDA revenue shortfall for the third year in a row that is threatening to impact service levels further. The JPA will allow for several cost-saving measures to be implemented that will preserve current service levels, at a minimum.

During a Vallejo City Council presentation September 14, 2010, Vallejo staff indicated the Federal Transit Administration (FTA), Metropolitan Transportation Commission (MTC) and Solano Transportation Authority (STA)) have indicated their support for the JPA as it aligns with the region's transit sustainability goals and initiatives. (See the MTC letter Attachment D to this report.) Our funding partners have a vested interest in the success of consolidated services; staff believes they will help ensure this JPA succeeds. Overall, this JPA will improve the standing posture for regional transit funding for Vallejo, Benicia and, Solano County.

Major policy issues that need to be considered by the City Council include:

1. Should the City of Benicia continue providing bus and paratransit services or would it rather have another entity take over the responsibility of providing transit services?

2. Should the City of Benicia require a business plan or SRTP to prove the new JPA's viability prior to execution of the JPA agreement?

3. Are the City's interests (citizens, governing ability, transfer of assets, transit services,) adequately addressed and protected within the proposed JPA structure and language in the agreement?

4. Is the voting structure of the JPA agreement acceptable?

This report summarizes the policy questions for Council to consider, the issues and concerns raised, the goals and objectives of the JPA, the future of transit services in Benicia and Vallejo without consolidation and, in consideration of these issues, offers the staff recommendation to approve the JPA.

In addition to creating an agency whose primary focus is to provide the optimum level of transit services in Vallejo and Benicia, the consolidation will preserve the existing

synergy between Vallejo and Benicia's regional and local bus operations and relieve the Cities of transit funding responsibilities, ultimately protecting the City's General Fund.

BACKGROUND:

1. Should the City of Benicia continue providing bus and paratransit services or would it be more beneficial to have another entity take over the responsibility of providing transit services?

The JPA provides the City an opportunity to shape the future of transportation for Benicia and Vallejo residents as well as the County. It comes at a time when both transit agencies face challenges in funding current service levels and working through changes imposed by the State. If the JPA is approved, transition of ferry and bus service is expected to be coordinated with the WETA negotiations taking place over the remainder of the fiscal year and would help both cities stabilize transit services as transit revenues are projected to decline for several years.

Both TDA and farebox revenues are utilized to support the system administrative, operations, and maintenance costs. Reductions in these funds are now resulting in the local system's inability to cover these costs. With the loss of the Ferry service, Vallejo is losing a major portion of its base for fixed cost distribution, which is similar to what happened in Benicia when the Route 75 was transferred to Vallejo. Combining the administrative and maintenance functions of the two cities would increase the base for fixed cost distribution.

2. Should the City of Vallejo require a business plan or Short Range Transit Plan (SRTP) to prove the new JPA's financial viability prior to execution of the JPA?

Business Plan: Concerns have been raised over proceeding with the consolidation without a completed Business Plan or a SRTP. Over the past year a Transition Plan (See Attachment C) was prepared in lieu of the Business Plan. Additionally, it was decided that in lieu of a business plan, a joint SRTP between Benicia and Vallejo would be prepared. The SRTP is a planning document providing equal or greater detail than a typical business plan and will be completed by May 2011. The final preparation of the Business Plan will be completed immediately thereafter.

The new JPA will lead the preparation of the SRTP that will analyze the viability of consolidated bus and paratransit operations over the next 10 years. The SRTP will create goals and objectives, performance measures, service levels, as well as, capital and operating budgets and future capital needs. Since the SRTP must show that this JPA is financially capable of providing continued bus and paratransit service, it fulfills an important role of a Business Plan for transit agencies.

Pursuant to FTA requirements, financial viability and technical capacity are two of the five steps required of the JPA to become eligible as a transit grantee for federal, state and regional transit grant funding. More detailed information regarding the steps required to become a grantee can be found on page 15 of the Transition Plan. MTC, in

cooperation with the FTA Region IX office requires that public transit operators in the MTC region, which are FTA grantees, prepare and regularly update an SRTP. The Coordinating Committee has been successful in reserving funding of $90,000 from the MTC to prepare the SRTP, in the event both cities agree to form the JPA.

Projected Deficits: Financial projections contained in the Transition Plan were developed by simply adding existing budget projections together for Vallejo and Benicia. These projections show an annual operating deficit of approximately $2.7 million per year for the JPA. The SRTP will have to show how this deficit will be eliminated to prove that this JPA will be financially sustainable over the next 10 years.

Options that will be considered in the SRTP for balancing this deficit include renegotiating a consolidated operating contract with MV Transportation, reduced JPA staffing levels from 7 employees to 5.5 (a change from what was recommended in the initial Transition Plan), consolidation of all modes to one operations and maintenance facility at 1850 Broadway in Vallejo, fuel and maintenance savings realized from the purchase of new hybrid buses, service realignment and reductions and strategies to increase ridership. It should also be noted that revenue projections assume that none of the recently eliminated State revenue sources will be reinstated.

If this deficit cannot be mitigated to the satisfaction of the FTA and MTC then this JPA will not be certified as an eligible recipient for transit funding. If grantee status is not achieved, the member agencies will then have a choice to extend the transition period, or to vote to terminate the JPA. Both of these actions would be in advance of any official asset transfer.

3. Are the City's interests (citizens, governing ability, transfer of assets, transit services) adequately addressed and protected within the proposed JPA structure and language in the agreement?

Transfer of assets: The JPA language provides that no assets will officially transfer to Solano County Transit (SolTrans) until it has acquired 'grantee' status, thus showing financial viability and technical capacity to operate the bus service to the grantors. Additionally, one of the Vallejo's essential transit capital assets, the Broadway bus operations and maintenance facility, has been pledged as collateral on the City's 2000 Certificate of Participation debt through the year 2040. The asset is legally restricted from sale, transfer, or sublease to the proposed JPA without the approval from the bank letter of credit provider. Unfortunately, the City is currently in default on this debt issue and, until this asset is released, the City is not able to enter into an agreement to transfer this asset to the JPA

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During the transition period, the parties would explore and implement more informal use agreements pending the formal transfer of assets. Once grantee status has been achieved and everything is in place, the City Councils will be asked to review the final

SRTP and Business Plans and authorize the formal transfer of assets. The full list of designated assets is contained in Appendix B of the attached Transition Plan.

Proposed language in the JPA agreement mitigates some of the risk by ensuring that the transfer of assets and grants does not take place until the JPA proves its financial viability and becomes a qualified grantee. In the meantime, during the transition period bus operations will continue to be administered by the Cities of Benicia and Vallejo.

Staff would endeavor to establish temporary 'use' agreements without transferring title of assets until grantee status is obtained by the JPA. In the unlikely event that financial viability and grantee status is not attained, staff could administratively extend the transition period or obtain the consensus of voting members to terminate the agreement. Per the timeline contained in the appendix of the attached Transition Plan, the transition will take place incrementally.

4. Is the voting structure of the JPA acceptable?

Governance/Board Make up: The proposed JPA agreement envisions that the Board will have one non-voting member from STA, two voting members from each City and the fifth (tie-breaker) voting member being Solano County's MTC representative. A weighted-voting alternative, based on population, was presented to the Coordinating Committee at their October 1, 2010 meeting but was not recommended. The current language is:

> "All actions of the Board require the affirmative vote of a majority of the Voting Directors, which must include at least one affirmative vote of a Director representing each Voting Member Agency."

The language ensures that each Director's vote counts and that at least one Director from each member agency (Vallejo and Benicia) needs to vote in the affirmative for a JPA action to be approved. This gives both cities equal veto power in any decision of the Board. This encourages the Directors to work together to make decisions for the overall benefit of the passengers in the JPA service area.

OTHER ISSUES:

Impact to Existing Contractor/Contract Employees: MV Transportation is the contracted service provider for Vallejo Transit, Vallejo Runabout (ADA) and Benicia Breeze. With the creation of the JPA and consolidation, these contracts would be renegotiated and consolidated under one contract. Preliminary discussions with both the committee and the contractor have taken place to determine potential cost savings and structure alternatives. Consolidating service will not have an impact on transit employees dedicated to these services and the contractor has expressed support for the consolidation. In addition, three meetings have been held with MV supervisors, bus operators, and maintenance staff to keep them abreast of the process.

Federal Labor law 13(c) guarantees continuation of union contracts when transit agencies are acquired or consolidated. In general, this federal law keeps in place any existing labor bargaining agreements that cover both public and private transit employees when federal funds are used in consolidations or acquisitions.

As a general rule, Section 13(c) protects transit employees who may be affected by Federal transit funding and requires the continuation of collective bargaining rights, and protection of transit employees' wages, working conditions, pension benefits, seniority, vacation, sick and personal leave, travel passes, and other conditions of employment.

Staffing Levels/Administrative Cost: Concern has been raised regarding staffing levels and associated administrative costs relative to the ferry system that would be absorbed by bus and paratransit. Staffing levels must be adequate to meet the technical capacity requirements required of a federal grantee. Considering bus and paratransit operations alone, budgeted Benicia and Vallejo staffing is low in comparison to comparable agencies.

Vallejo transportation staff support ferry service through grants management, procurement, marketing and operational overlap between bus and ferry. The majority of staff time is dedicated to fixed route bus and paratransit service but the loss of the administrative cost transfer, from ferry to bus, must be addressed whether or not consolidation of the JPA occurs. As noted earlier in the report, in recognition of the funding challenges, the Transition Plan has been revised to reduce the JPA staffing levels from 7 FTE's to 5.5 FTE's.

Impact to Citizens/Riders: Participation in the JPA and the consolidation of transit services is expected to positively impact Benicia and Vallejo citizens and riders who will benefit from optimized transit service given the economies of scale (the opportunity for operational cost savings, improved funding leverage, etc), more seamless transit service between jurisdictions, integrated fare structure and direct access to a Board focused solely on transit issues.

RECOMMENDATION:

Approval of a resolution authorizing the City Manager to execute a Joint Powers Agreement with the City of Vallejo and Solano Transportation Authority for the consolidation of Vallejo Transit and Benicia Breeze Fixed Route bus and Paratransit services and take such further actions as may be necessary in order to accomplish the goals contemplated by the SolTrans JPA.

Attachments:

- Resolution
- Joint Powers Authority Agreement
- Updated Transition Plan

RESOLUTION NO. 10-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE CITY MANAGER TO EXECUTE A JOINT POWERS AGREEMENT WITH THE CITY OF VALLEJO AND THE SOLANO TRANSPORTATION AUTHORITY FOR THE CONSOLIDATION OF VALLEJO TRANSIT AND BENICIA BREEZE FIXED ROUTE BUS AND PARATRANSIT SERVICES AND TO TAKE FURTHER IMPLEMENTING ACTIONS

WHEREAS, the City Council approved the Strategic Plan on June 30, 2009 and identified a strategy for preserving and enhancing infrastructure through the increased use of mass transit, including the feasibility of merging transit services with Vallejo Transit; and

WHEREAS, the City Council has determined that substantial cost-savings and service enhancements can be realized from the merger of the two transit services; and

WHEREAS, Government Code Sections 6500-6515 permit two or more local public agencies, by agreement, to jointly exercise any power common to them and, thereby, authorizes the Members to enter into this Agreement; and

WHEREAS, in the performance of their essential governmental functions, Benicia and Vallejo each provide transit services within their respective municipal boundaries and to areas outside of said boundaries in order to perform or participate in intercity, regional transit services; and

WHEREAS, both the Metropolitan Transportation Commission on a regional basis and the Solano Transportation Authority on a countywide basis, who provide funding for the planning and operation of Vallejo and Benicia's bus and paratransit services, have made consolidation of transit services a priority for future sustainability of transit systems; and

WHEREAS, the Solano Transportation Authority will make a good faith effort to work in partnership with the Metropolitan Transportation Commission and the City to identify a potential funding source to repay the General Funds of both cities for their past contribution to Transportation Programs; and

WHEREAS, Vallejo and Benicia have the opportunity to provide transit and related services in a cooperative and coordinated manner, in order to best manage the public resources committed and necessary for delivery of such transit services; and

WHEREAS, the formation of SolTrans enables the Members to take advantage of the opportunities for more economical provision of transit services through economies of scale and to improve and expand the provision of a variety of transit services including, but not limited to, normal and customary intra-city bus transit, intercity transit, paratransit services, dial-a-ride, commuter and passenger ferries, and

connecting transit to other transportation providers such as BART and/or the Capitol Corridor commuter train in such manner and at such time as the Members may decide necessary and appropriate for public benefit; and

WHEREAS, the governing board of each Member has determined that it is in the Member's best interest, and in the public interest, that this Agreement be executed and they become Participating Members of SolTrans.

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

Section1. The City Manager is authorized to execute the Solano County Transit ("SolTrans") Joint Powers Agreement with the City of Benicia and the Solano Transportation Authority substantially in the form on file with the City Clerk's office and incorporated herein, subject to such clarifying changes and additions approved by the City Attorney.

Section 2. Further authorizes the City Manager to execute such further documents and take such further actions as may be necessary in order to accomplish the goals contemplated by the SolTrans Joint Powers Agreement, including, but not limited to, transferring the grant funds and designated personal and real property assets as listed in Appendix (B) and (C) of the SolTrans Transition Plan dated October 15, 2010 Attachment (C) to the staff report, subject to two conditions:

1) Submission to the City Councils of Benicia and Vallejo by SolTrans of satisfactory proof that it has acquired 'grantee' status from FTA and from MTC; and
2) The City Manager determination that such transfer is appropriate, considering that no asset which is subject to a lien or leasehold securing certificates of participation or other evidence of indebtedness issued by or on behalf of the City of Benicia or Vallejo may be transferred unless such lien or leasehold is duly released by the holders of such certificates of participation or other evidence of indebtedness.

*****

On motion of _____, seconded by _____, the above resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 16th day of November, 2010 and adopted by the following vote:

Ayes:
Noes:
Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

IX.C.12

SOLANO COUNTY TRANSIT ("SolTrans")

JOINT POWERS AGREEMENT

This Joint Powers Agreement is by and among the CITY OF BENICIA, a municipal corporation (hereinafter "BENICIA"), the City of Vallejo, a municipal corporation (hereinafter "VALLEJO"), and the SOLANO TRANSPORTATION AUTHORITY (hereafter "STA"), a joint powers agency and the congestion management agency for Solano County (hereinafter "STA"), which public entities (collectively "Members" or "Member Agencies") have entered into this Joint Powers Agreement ("Agreement") creating Solano County Transit hereinafter "SolTrans", a joint powers agency. All Members of SolTrans are public entities organized and operating under the laws of the State of California and each is a public agency as defined in California Government Code Section 6500.

RECITALS

A. Government Code Sections 6500-6515 permit two or more local public agencies, by agreement, to jointly exercise any power common to them and, thereby, authorizes the Members to enter into this Agreement.
B. In the performance of their essential governmental functions, Benicia and Vallejo each provide transit services within their respective municipal boundaries and to areas outside of said boundaries in order to perform or participate in intercity, regional transit services.
C. Among the responsibilities and transportation functions performed by STA, said agency provides planning, funding and management of intercity transit routes and paratransit services and, further, STA is eligible to act as a transit provider.
D. Public entities have the opportunity to provide transit and related services in a cooperative and coordinated manner, in order to best manage the public resources committed and necessary for delivery of such transit services.
E. The formation of SolTrans enables the Members to take advantage of the opportunities for more economical provision of transit services through economies of scale and to improve and expand the provision of a variety of transit services including, but not limited to, normal and customary intra-city bus transit, intercity transit, paratransit services, dial-a-ride, commuter and passenger ferries, and connecting transit to other transportation providers such as BART and/or the Capitol Corridor commuter train in such manner and at such time as the Members may decide necessary and appropriate for public benefit.
F. The governing board of each Member has determined that it is in the Member's best interest and in the public interest, that this Agreement be executed and they become Participating Members of SolTrans.

AGREEMENT

1. <u>Formation of Solano County Transit ("SolTrans").</u>
   Pursuant to Chapter 5, Division 7, Title 1 of the Government Code of the State of California (commencing with Section 6500) as amended from time to time, and commonly known as the Joint Powers Authority Law, the Members create a joint powers agency which is named Solano County Transit and may otherwise be referred to as "SolTrans" or such other acronym, brand or identifier as determined appropriate by the Board.

2. Parties to Agreement.
In mutual consideration of the promises herein, each Member certifies that it intends to, and does, contract with every other Member which is a signatory to this Agreement and, in addition, with such other Member as may be later added as provided in Section 23. Each Member also certifies that the deletion of any Member from this Agreement does not affect this Agreement or the remaining Members' intent to contract with the other Members then remaining.

3. Purpose.
SolTrans will be the agency created by the merger of the presently existing transit services in Benicia and Vallejo through this joint powers agreement. Upon execution of this Agreement, SolTrans will operate as a unified entity separate and apart from the originating Members.

4. Transfer of Assets; Succession to Existing Contracts.
Upon approval of this Agreement, the Members will endeavor to enter into use agreements with regards to the assets designated in the transition plan for the transition period which will be from date of execution of this Agreement until July 1, 2011. The transition period may be extended by mutual consent of the parties. Once SolTrans receives approval of its status as a qualified grantee by necessary grantors, including the Federal Transit Administration (FTA), Benicia and Vallejo will transfer, and SolTrans will receive, designated transit related assets, personal property, rolling stock and equipment of each presently operating transit service. Unless prohibited by law, SolTrans shall succeed to and undertake designated transit related agreements in place as set forth in the transition plan. Any debt of a Member to be assumed by SolTrans such as, but not limited to, funds advanced by Members to their transit system, shall be specifically set forth and described in the asset transfer inventory and/or transition plan; provided, that nothing in this agreement shall require transfer of any asset subject to a lien or leasehold securing certificates of participation or other evidence of indebtedness issued by or on behalf of any Member unless such lien or leasehold is duly released by the holders of such certificates of participation or other evidence of indebtedness.

5. Transit Employees.
To the degree allowed by law, or otherwise negotiated, existing transit employees of each Member Agency will become employees of SolTrans. Notwithstanding paragraph 22 of this Agreement (indemnification), SolTrans accepts responsibility for any claims arising due to such transfer of employment post formation of SolTrans, including, but not limited to, any Federal Section 13(c) claims or any employee association claims regarding changes in wages, benefits or working conditions.

6. Membership.
In addition to the originating members Benicia, Vallejo and STA, the following entities, or types of entities, are eligible for membership in SolTrans:
    a. Municipal corporations located within the County of Solano;
    b. The County of Solano; or
    c. Any other public entity or public/private partnership providing, or proposed to provide, transit in Solano County.

7. Limitation.
For purposes of California Government Code Section 6509, the powers of SolTrans shall

be exercised subject to the restrictions upon the manner of exercising such powers as are imposed upon the City of Benicia, a general law city. Should Benicia withdraw as a Member, then the powers of SolTrans shall be exercised subject to the restrictions upon the manner of exercising such powers as are imposed upon any other general law city which is then a Member and, if there be none, as are imposed upon STA.

8. Guiding Principles.
The following Principles are intended to guide SolTrans' provision of transit services:

   a. The Benicia Breeze and Vallejo Transit services were consolidated to streamline, simplify, and improve access for transit riders through enhanced service coverage, frequency, affordability, and mobility options contingent upon available funding. The consolidated service shall be responsible for coordinating transportation services in Benicia and Vallejo and to locations beyond the two cities such as Bay Area Rapid Transit (BART).
   b. Consolidated transit service is intended to improve standards for greenhouse gas emissions and energy reductions, reduce single-occupant vehicle miles traveled, thereby minimizing the carbon footprint of Benicia and Vallejo residents. A consolidated transit service will further the Benicia and Solano County Climate Action Plans greenhouse gas reduction targets.
   c. The Benicia Breeze and Vallejo Transit consolidation shall be consistent with the STA's Countywide Transportation Plan Transit Element to maximize the ability of Solano residents, workers, and visitors to reach destinations within, and adjacent to, Solano County, and to access regional transportation systems.
   d. The consolidated transit service shall be designed to be comparatively cost effective and efficient while considering the unique characteristics of each jurisdiction.
   e. The consolidation of services shall be managed in a public and transparent process to encourage participation by residents, stakeholders, and decision-makers in both communities.
   f. The consolidated transit service shall strive to maintain the continuity of current service provided by both jurisdictions, minimizing service disruptions and passenger inconveniences due to the transition. If possible, service levels shall be maintained or expanded.
   g. The consolidated transit service shall maximize opportunities for regional funding.

9. Powers.
SolTrans is authorized, in its own name, to do all acts necessary to fulfill the purposes of this Agreement including, but not limited to, each of the following:
   a. Make and enter into contracts;
   b. Incur debts, liabilities and obligations; provided that no debt, liability or obligation of SolTrans is a debt, liability or obligation of any Member except as separately agreed to by a Member agreeing to be so obligated;
   c. Acquire, own, lease, hold, construct, manage, maintain, operate, sell or otherwise dispose of real and personal property by appropriate means, excepting only eminent domain;
   d. Receive gifts, grants, contributions and donations of property, funds, services and other forms of assistance from any source including, but not limited to, special or general taxes and assessments;

e. Sue and be sued in its own name;
f. Employ officers, agents and employees;
g. Lease real or personal property as lessee and as lessor;
h. Receive, collect, invest and disburse moneys;
i. Issue revenue bonds or other forms of indebtedness, as provided by law;
j. Carry out other duties as required to accomplish other responsibilities as set forth in this Agreement;
k. Assign, delegate or contract with a Member or third party to perform any of these duties of the Board, including, but not limited to, acting as Executive Director for SolTrans;
l. Exercise all other powers necessary and proper to carry out the provisions of this Agreement;
m. Claim transit funds from state and federal sources;
n. These powers will be exercised in the manner provided by applicable law and as expressly set forth in this Agreement or reasonably inferred therefrom.

10. Board of Directors.
    a. The powers of SolTrans are vested in the Voting Members of its Board of Directors ("Board"). The initial Governing Board of SolTrans is comprised of five (5) voting directors and one (1) ex-officio, non-voting director as follows:
        1. Two Voting Directors from each Member Agency other than STA: Upon approval of this Joint Powers Agreement, the City Councils of Benicia and Vallejo will each appoint two Directors and one Alternate. When a Director is absent, the Alternate may act in his/her place. Each appointed and alternate Board member shall be a member of the governing body of the Member Agency that he or she represents and shall serve at the pleasure of such governing body.
        2. One Voting Director who shall be the Solano County representative to the Metropolitan Transportation Commission ("MTC"). In addition to the two Directors from each Member Agency, one additional Voting Director, who is the Solano County representative to the MTC shall be a Voting Director unless such Director is either a council member of one of the Member Agencies or a County Supervisor whose district includes all or part of any city which is a Member Agency. If no Director is so qualified or available, the remaining members of the SolTrans Board shall appoint a Voting Director who may, but need not be, the MTC representative notwithstanding his or her service as a member of the governing body of a Member Agency or as a County Supervisor whose district includes a Member Agency who shall serve until a new Solano County representative to MTC is appointed and is qualified to serve. Such process may include the appointment of the MTC representative from the aforementioned jurisdictions at the sole discretion of the remaining Voting Members of the JPA Board.
        3. One Non-Voting STA representative to participate as an ex officio Director. The STA Board will appoint the STA Representative which may be either a STA Board Director or staff. Notwithstanding any language to the contrary in this Agreement, the STA representative may participate in all discussions but shall have no vote in any action of the Board.
    b. All actions of the Board require the affirmative vote of a majority of the Voting Directors, which must include at least one affirmative vote of a

Director representing each Voting Member Agency.

c. Directors shall serve a term of two (2) years unless earlier removed or replaced by the appointing Member Agency in accordance with that Member Agency's procedures. A Voting Director is automatically removed if he or she is no longer an elected official or the Solano County representative to the MTC unless that Director is appointed by action of the remaining Directors pursuant to Section 10(a)(2) above, in which case, holding another elective or appointive office shall be a condition of service only if so provided in a resolution of the Board of SolTrans at the time he or she is appointed. Directors may serve any number of terms consistent with the appointment process of the Director's appointing governing body.
d. Directors and Alternates are eligible for a stipend of up to $100 per meeting with a maximum of one compensated meeting per month. The Board may authorize actual and necessary reimbursement of expenses incurred by Directors or Alternate Directors on behalf of SolTrans for which receipts are provided.
e. The Board may delegate certain powers to specified committees but may not delegate the power to amend the Bylaws of SolTrans, to approve the budget, to appoint the Executive Director, or to appoint the Director under 10(a)(2).
f. A majority of the voting Directors must be present to constitute a quorum for action on the business of the Board.
g. The Board shall establish by resolution the date, time and place for regular meetings which shall occur at a minimum of four (4) times per year. Special meetings may be called by the Chairperson or by a majority of the voting Directors then in office. All meetings of the Board shall be in conformance with the Ralph M. Brown Act (California Government Code sections 64950 et seq.).

11. Conflicts of Interest.

In accordance with state law, Directors and Officers are "public officials" within the meaning of the Political Reform Act of 1974, as amended, and its regulations, for purposes of financial disclosure, conflict of interest and other requirements of such Act and regulations. SolTrans shall adopt a conflicts of interest code in compliance with the Political Reform Act and all other applicable laws and regulations applicable to public officials, including, but not limited to, the restrictions on the acceptance or solicitation of contributions.

12. Committees.

The following committees are established:

a. Executive Management Committee. The Executive Management Committee periodically meets as necessary to assist in advising the employees or agents and the SolTrans Board, to review proposed budget items, service and fare adjustments, and to otherwise provide management assistance and oversight as necessary. The Executive Committee shall consist of the city manager or executive director, or chief administrative officer, or designee of each Member Agency.
b. Technical Advisory Committee. The Technical Advisory Committee will consist of staff representatives appointed by the city manager or executive director of the Member Agencies to coordinate with Agency staff on funding and service issues.
c. Public Advisory Committee. Each Member Agency will appoint three members

of the public with demonstrated expertise or special interest in, transit issues and who reside within the boundaries of the agencies that they represent to serve on a Public Advisory Committee (PAC). This will include representatives selected by each Member Agency. The PAC will serve as an advisory committee to the SolTrans Board and will review and comment to the SolTrans Board on the following matters:

i. Service and fare adjustments,
ii. Development of Short Range Transit Plans, and
iii. Review SolTrans' annual work plan.

d. Other Committees. The Board may create other committees from time to time as necessary and appropriate.

13. Officers and Employees.

a. The officers of SolTrans are the Board Chair, Vice-Chair, Executive Director, Legal Counsel, Chief Financial Officer/Treasurer, and Clerk to the Board. The positions of Chair and Vice-Chair shall be appointed by the members of the SolTrans Board from their membership. The Chair and Vice-Chair are Directors elected or appointed by the Board at its first meeting and serve the remainder of the year in which appointed and one additional year. Thereafter, terms for Chair and Vice-Chair are one year beginning January 1. The Chair and Vice Chair assume their office upon election by the SolTrans Board. If either the Chair or Vice-Chair ceases to be a director, the resulting vacancy will be filled at the next meeting of the Board.
b. The Board shall appoint an Executive Director and Legal Counsel to SolTrans who shall serve at the pleasure of the Board. The Executive Director shall be charged with managing the operations of SolTrans, subject to the authority and direction of the Board. The Executive Director shall have charge of, handle and have access to all property of SolTrans, shall appoint the SolTran's Chief Financial Officer and the Clerk, both of whom shall serve at the pleasure of the Executive Director. Pursuant to California Government Code section 6505.1, the Executive Director shall file an official bond in an amount determined by the Member Agencies, through the Board, which shall not be less than the smallest bond required of the chief financial officer, treasurer or other fiscal officer of each of the Member Agencies or, upon the approval of the SolTrans Board of Directors, satisfy this requirement pursuant to Government Code section 1463.
c. The appointment of a Chief Financial Officer/Treasurer shall be made no later than the second regular meeting of Board and in any event before SolTrans receives any funds or properties from any source. The Chief Financial Officer/Treasurer may be a designated member of SolTrans staff or appointed from one of the Member Agencies.
d. The Board may authorize reimbursement of expenses incurred by officers or employees on behalf of SolTrans.
e. The Board may create such other offices and appoint individuals to such offices it considers either necessary or convenient to carry out the purposes of this Agreement.

14. By-Laws

The SolTrans Board shall adopt bylaws as necessary and proper for the efficient and effective functioning of SolTrans.

15. Limitation on Liability of Members for Debts and Obligations of SolTrans.
Pursuant to Government Code section 6508.1, the debts, liabilities, and obligations of SolTrans do not constitute debts, liabilities, or obligations of any Member Agency. However, a Member may separately contract for or assume responsibility for specific debts, liabilities, or obligations of SolTrans.

16. Limitation of Financial Commitment. SolTrans shall not look to Member Agencies for financial contributions from their general fund, or any other fund, unless each Member Agency separately contracts for and agrees to otherwise set aside transit moneys as part of their annual budgetary process.

17. Fiscal Year.
The first fiscal year of SolTrans is the period from the date of this Agreement through June 30, 2011. Each subsequent fiscal year of SolTrans begins on July 1st and ends on June 30th unless the Board of Directors provides otherwise by resolution.

18. Budget.
The Board shall adopt a budget not later than sixty (60) days before the beginning of a fiscal year. In the Board's sole discretion, the budget may be an annual or multi-year budget.

19. Annual Audits and Audit Reports.
The Chief Financial Officer/Treasurer will cause an annual financial audit to be made by an independent certified public accountant with respect to all SolTrans receipts, disbursements, other transactions and entries into the books. A report of the financial audit will be filed as a public record with each Member. The audit will be filed no later than required by state law. SolTrans will pay the cost of the financial audit in the same manner as other administrative costs.

20. Establishment and Administration of Funds.
    a. The Chief Financial Officer/Treasurer shall be responsible for the strict accountability of all funds and reports of all receipts and disbursements. It will comply with the provisions of law relating to the establishment and administration of funds, particularly section 6505 of the California Government Code.
    b. The funds will be accounted for on a full accrual basis according to generally accepted accounting principles and applicable laws and regulations.
    c. The Chief Financial Officer/Treasurer will receive, invest, and disburse funds only in accordance with procedures established by the Board and in conformity with applicable state or federal law.
    d. Should SolTrans contract with a Member Agency for the provision of all or some financial services, the funds of SolTrans will be maintained in a separate account(s) from those of the Member Agency itself.

21. Bi-Annual Transit Service Plan. SolTrans shall cause to have prepared a Transit Service Plan every two years. A SRTP (Short Range Transit Plan) may be used to fulfill this requirement. The Plan shall contain the baseline levels of transit service to be provided and shall include days of service; hours of service, areas to be served, types of transit service to be provided and rates of passenger fares to be charged for said service. The Transit Service Plan shall be prepared and presented to the Board prior to December 1 of every odd numbered calendar year. The Board shall review said Plan and either approve

and adopt said plan as presented or approve and adopt said Plan with modifications. The Plan may be expanded, modified or reduced by the Board.

22. Indemnification.
    (a) SolTrans shall hold each member, its elective and appointive Boards, Commissions, officers, agents and employees, harmless from any liability for damage or claims for damage for any tort, personal injury, including death, as well as from claims from property damage which may arise from SolTran's employees, contractors, subcontractors, or agents' operation under this Agreement. SolTrans agrees to and shall defend each Member and its elective and appointive Boards, Commissions, officers, agents and employees from any suits or actions at law or equity for damages caused, or alleged to have been caused, by reason of any of the aforesaid operations that occur on or after the date of formation of SolTrans.
    (b) Each Member Agency shall indemnify SolTrans, its Boards, officers, agents and employees and the respective other Member Agencies, harmless from any liability for damage or claims for damage for any tort, personal injury, including death, as well as from claims from property damage which may arise from that Member Agency's employees, contractors, subcontractors or agent's operations occurring prior to the formation of SolTrans.

23. New Members.
    a. For the purpose of this section only, all Members admitted after the initial creation of SolTrans are New Members. Each New Member Agency of SolTrans shall appoint two Directors and one Alternate.
    b. A public entity meeting the criteria in Section 6 above may be admitted as a New Member upon a two-thirds (2/3) vote of the Voting Members of the Board and upon complying with all other requirements established by the Board and the Bylaws.
    c. Each applicant for membership as a New Member must pay all fees and expenses, if any, set by the Board in order to pay for the costs of adding the New Member and to address their participation in the ownership of SolTrans assets and liability for any debt of SolTrans upon approval as a New Member.

24. Withdrawal From Membership.
    Members may withdraw from SolTrans by filing a written notice of withdrawal with the Executive Director 180 days before the actual withdrawal. Such a withdrawal shall be effective on July 1st of the subsequent fiscal year after the 180 day period has passed following the filing of the withdrawal notice. The withdrawal of a Member Agency shall not in any way discharge, impair or modify voluntarily-assumed obligations of the withdrawn Member Agency in existence as of the date of the withdrawal. Withdrawal of a Member Agency shall not affect the remaining Member Agencies. A withdrawn Member Agency shall not be entitled to the return of any grant funds previously or historically allocated to it provided that SolTrans is the current grantee for those funds at the time of withdrawal. However, the return of assets previously contributed by the Member Agency to SolTrans shall be provided for in a withdrawal plan, prepared by SolTrans, to address return of funds or assets from SolTrans to a member opting to withdraw from SolTrans. Such withdrawal plan may include 1) the compensation for real property whose title has passed to SolTrans; 2) the purchase of a withdrawing Member's assets used by but not yet transferred to SolTrans; or 3) compensation for the depreciated value of assets or rolling stock transferred at the time of formation. SolTrans and the

Member Agency which proposes to withdraw will negotiate in good faith toward mutual agreement on a withdrawal plan to address return of funds or assets from SolTrans to the Member Agency and assignment of liabilities associated with those funds or assets to that Member Agency. In the event of a disagreement regarding the amount of compensation due for real property even after a reasonable period of good faith negotiations, the parties may resolve the matter via alternative dispute resolution or any other mutually acceptable means.

25. Termination and Distribution.
    a. This Agreement continues until terminated or SolTrans is dissolved.
    b. This Agreement may be terminated by the written consent of two-thirds (2/3) of the Member Agencies; provided, however, that this Agreement and SolTrans shall continue to exist after termination for the purpose of disposing of all claims, distribution or assets and all other functions necessary to conclude the obligations and affairs of SolTrans.
    c. At the termination of this agreement resulting in termination and dissolution of SolTrans, and after payment of debts, a dissolution plan shall be prepared by SolTrans and reviewed and approved by the Member Agencies to address the surplus property of SolTrans, both real and personal, including all funds on hand, after payment of all liabilities, costs, expenses, and charges validly incurred under this Agreement, shall be returned to the respective Member Agencies as nearly as possible in proportion to the contributions, if any, made by each.
    d. After termination or dissolution of SolTrans, any surplus money on deposit in any fund or account of SolTrans will be returned to the Member Agencies as required by law. The Board is vested with all powers of SolTrans for the purpose of concluding and dissolving the business affairs of the agency.

26. Notices.
    Notice to each Member under this Agreement is sufficient if mailed to the Member and separately to the Member's Directors to their respective addresses on file with SolTrans.

27. Prohibition Against Assignment.
    No Member may assign a right, claim, or interest it may have under this Agreement. No creditor, assignee or third party beneficiary of a Member has a right, claim or title to any part, share, interest, fund or asset of SolTrans. However, nothing in this section prevents SolTrans from assigning any interest or right it may have under this Agreement to a third party.

28. Amendments.
    This Agreement may be amended by the Members acting pursuant to a resolution of their respective governing bodies. A proposed amendment must be submitted to each Member at least thirty (30) days in advance of the date when the Member considers it. An amendment is to be effective upon execution unless otherwise designated.

29. Severability.
    If a portion, term, condition or provision of this Agreement is determined by a court to be illegal or in conflict with a law of the State of California, or is otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms, conditions and provisions is not affected.

30. Liability of SolTrans.
Subject to limitations thereon contained in any trust agreement or other documents pursuant to which financing of SolTrans is implemented, funds of SolTrans may be used to defend, indemnify, and hold harmless SolTrans, any Member Agency, any Director or Alternate, and any employee or officer of the agency for actions taken within the scope of their duties and acting on behalf of SolTrans.

31. Governing Law.
This Agreement will be governed by and construed in accordance with the laws of the State of California.

32. Counterparts.
This Agreement may be executed in several counterparts, each of which is an original and all of which constitutes but one and the same instrument.

33. Effective Date.
This Agreement becomes effective and SolTrans exists as a separate public entity when approved by the governing boards of the three original Members.

IN WITNESS WHEREOF, the parties, pursuant to resolutions of their respective governing boards, have caused this Agreement to be executed this ____day of _____, 2010

CITY OF BENICIA

By: _____
Jim Erickson, City Manager

APPROVED AS TO FORM

By: _____
Heather McLaughlin, City Attorney

CITY OF VALLEJO

By: _____
Phillip Batchelor, City Manager

By: _____
Fred Soley, City Attorney

SOLANO TRANSPORTATION AUTHORITY

By: _____
Daryl K. Halls, STA Executive Director

By: _____
Bernadette Curry, STA Legal Counsel

ATTACHMENT D

2010

Solano County Transit

SolTrans

DRAFT Transition Plan

(Approved by SolTrans Coordinating Committee June 23, 2010)

7/02/2010

IX.C.23

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Section 1: INTRODUCTION

1.1 Background

In 2005, the Solano Transportation Authority (STA) Board held a retreat to discuss a variety of policies and financial issues facing Solano County. One of the resulting action items directed STA staff to complete a comprehensive evaluation and consolidation study of Solano County's six transit operators. Currently each transit service is operated by a local City government.

To guide this effort, the STA Board adopted a set of four goals for the consolidation study:

1. To streamline transit service, simplifying and improve access to transit use for riders.
2. To achieve service efficiencies and economics.
3. To provide a central focus on transit service for the County.
4. To create a robust transit service to meet the growing transit needs of the County.

Over the next several years, the study was funded, a consultant retained (DKS Associates) and a countywide transit consolidation study was conducted. The study began with extensive outreach to a broad range of stakeholders, an analysis of existing services, funding trends, and potential opportunities for consolidation of multiple combinations or all of the six transit operators. In Phase II, six major consolidation options were presented and analyzed against criteria established by the STA Board. A Transit Consolidation Steering Committee, consisting of the full STA Board and all the City Managers/and County CAO, guided this effort. In May 2009, the Steering Committee reviewed the findings of Phase II, and forwarded several recommendations to the STA Board for action.

One of the Steering Committee's recommendations was the consolidation of Benicia and Vallejo Transit systems. In June 2009, the STA Board took action to move forward by recommending the consolidation of the Benicia and Vallejo Transit systems. This was with the concurrence of the Board members from these two jurisdictions.

During the course of the Transit Consolidation Study, both Benicia and Vallejo requested an assessment of their transit systems. A consultant, funded by the STA, conducted both assessments. Benicia's current local transit service structure was implemented after the assessment of the service in FY2008-09 and following the inauguration of SolanoExpress Rt. 78. The City of Benicia has operated the Benicia Breeze transit service for many years. It currently operates five routes, two shuttles, dial-a-ride, paratransit service and a taxi scrip program. The majority of service is local with some service to Diablo Valley College (DVC) and Sun Valley Mall in Contra Costa County as well as to Vallejo Medical Centers. The Benicia Breeze service uses a fleet of cutaway buses to deliver service Monday-Saturday. Benicia Breeze carried 80,000 passengers in FY2008-09.

The City of Vallejo has been operating bus service since the 1930's. Vallejo Transit currently operates seven local routes, three intercity routes, ADA paratransit service, and a taxi scrip program. In addition, the City of Vallejo operates the Baylink Ferry and its complementary bus service to San Francisco, Rt. 200. This ferry/Rt. 200 service is in the process of being transitioned to the Water Emergency Transit Authority (WETA) as directed by State legislation. Vallejo Transit has a fleet of approximately 70 large buses for fixed-route service includes 10

buses that are leased to Fairfield and Suisun Transit for Route 90 and 12 buses cutaways for paratransit service. Service is offered Monday-Saturday on all routes with limited service on Sundays. In FY2008-09, the Vallejo Transit bus system carried 1.8 million passengers.

Since the June 2009 STA Board action and recommendation that Benicia and Vallejo transit services be consolidated, the two cities have been actively working together with STA at the policy and staff levels. Meetings were held monthly from June 2009 through October 2009. A policy level committee (Coordinating Committee) guided the effort. The Mayors of Benicia and Vallejo and a councilmember from each City were the Committee members. Two other committees were established: Management Committee and a Working Group. The two City Managers and the STA Executive Director comprise the Management Committee and Benicia, Vallejo, and STA transit staffs and consultants comprise the Working Group.

By the Fall of 2009, the Coordinating Committee had prepared a Memorandum of Understanding (MOU) to guide the development a Joint Powers Agreement (JPA) which would operate the proposed combined transit service. The Coordinating Committee selected Solano County Transit (SolTrans) as the name for the new organization. A JPA was drafted, refined and approved by the Coordinating Committee in May 2010.

Benicia conducted public outreach in fall and winter of 2009/10 to explain the proposed consolidation and address any concerns. Public interest was minimal and issues raised were addressed.

A more extensive public outreach in both Benicia and Vallejo to address transit service issues will be as part of the process of developing the first joint Benicia/Vallejo Short Range Transit Plan (SRTP). This is discussed in further detail in Chapter 5

1.2 Purpose

The purpose of the Transition Plan is to provide the Coordinating Committee and City decision-makers with information on key issues related to governance, finances, organizational responsibilities, and service planning. It also provides a transition plan for the key functions of the agency. As such the Transition Plan will inform decisions about the formation of the consolidated agency and provides a roadmap for transitioning from two city operated transit services to an independent transit authority operated through a Joint Powers Agreement (JPA).

1.3 Transition Plan Organization

The Transition Plan is organized in six sections following this introductory section. A brief description of each section is provided below.

Structure and Governance – This section includes the principles guiding the consolidation, the Joint Powers Authority structure and membership, and discusses the establishment of by-laws for the new organization.

Financial Management – Presents the one-time and ongoing costs of consolidation, a draft 2010-11 budget for the consolidated agency, and ten-year budget outlook. This section provides a description of how the financial management functions will be organized and delivered. The recommended capital asset ownership is also discussed.

Organization and Human Resources Management – Presents the organization structure and staffing plan, a plan for transitioning existing employees to the new agency, and describes how the human resources and benefits administration function will be carried out. The development of human resources policies and procedures is also discussed.

Service Planning and Operations – This section discusses the development of the Short Range Transit Plan for the new agency and presents options for managing the transit operating contracts.

Capital Project Management – Addresses how capital projects will be managed for the new agency.

Other Issues – This section addresses the transition of ferry service to WETA and discusses the Downtown Bus Transfer Center Administration Building

Implementation Schedule – A schedule is provided for the key activities required to ensure that the new agency is fully functioning before the end of FY2010-11.

Section 2: STRUCTURE AND GOVERNANCE

The decision to consider consolidating Benicia Breeze and Vallejo Transit took place over several years, beginning with the initial recommendations contained in the Solano County Transit Consolidation Plan. An initial undertaking of the Cities of Benicia and Vallejo was to start with the establishment of a Memorandum of Understanding (MOU) laying out the intent of the two parties to work cooperatively toward consolidating under a formal Joint Powers Agreement (JPA). A key component of the MOU is the Guiding Principles that the Steering Committee developed early in the planning process.

2.1 Guiding Principles for Consolidation

The Coordinating Committee adopted the following guiding principles in July 2009, and incorporated these principles into the Memorandum of Understanding adopted by the City of Benicia, City of Vallejo, and STA Board.

1. The Benicia Breeze and Vallejo Transit services shall be consolidated to streamline, simplify, and improve access for transit riders through enhanced service coverage, frequency, affordability, and mobility options contingency upon available funding. The consolidated service shall be responsible for coordinating transportation services in Benicia and Vallejo and to locations beyond the two cities such as Bay Area Rapid Transit (BART).

2. Consolidated transit service provides an opportunity to improve standards for greenhouse gas emissions and energy reductions, reduce single-occupant vehicle miles traveled, thereby minimizing the carbon footprint of Benicia and Vallejo residents. A consolidated transit service will further the Benicia and Solano County Climate Action Plans greenhouse gas reduction targets.

3. The Benicia Breeze and Vallejo Transit service consolidation shall be consistent with the Countywide Transportation Plan Transit Element to maximize the ability of Solano residents, workers, and visitors to reach destinations within Solano County, and to access regional transportation systems.

4. The consolidated transit service shall be designed to be comparatively cost effective and efficient while considering the unique characteristics of each jurisdiction.

5. The consolidation of services shall be managed in a public and transparent process to encourage participation by residents, stakeholders, and decision-makers in both communities.

6. The consolidated transit service shall strive to maintain the continuity of current service provided by both jurisdictions, minimizing service disruptions and passenger

inconveniences due to the transition. If possible, service levels shall be maintained and expanded.

7. The consolidated transit service shall maximize opportunities for regional funding.

These principles will continue to be in effect as the agencies transition from city operated transit services to a consolidated transit agency operated through a Joint Powers Agreement.

2.2 Form of Governance

The Coordinating Committee opted to recommend a Joint Powers Authority as the form of governance of the new agency. The government Code of the State of California, Chapter 5, Division 7, title 1 commencing with Section 6500 permits two or more local public entities, by agreement, to jointly exercise any power common to them. This State law is commonly known as the Joint Powers Authority Law.

The City of Benicia, the City of Vallejo, and the Solano Transportation Authority are members of the Joint Powers Authority and each member agency will approve the Joint Powers Agreement to form Solano County Transit (SolTrans). New members may be added upon the approval of two-thirds of the Solano County Transit Board and with not less than one vote on the part of each then existing member agency.

2.3 Board Membership and Terms

The initial Governing Board of Solano County Transit will be comprised of five voting directors and one ex-officio, non-voting director. The Cities of Benicia and Vallejo will each appoint two directors and one alternate to be voting members of the Board. Each City's alternate shall vote only in the absence of one of the directors from their City. The STA Board will approve the ex-officio member. The directors and/or alternate director appointed by a member agency other than the Solano Transportation Authority must be an elected official and a member of the City Council or governing Board of the member agency. The fifth voting director shall be the Solano County representative to the Metropolitan Transportation Commission (MTC), unless such representative is from either Benicia or Vallejo City Councils or a Supervisorial representative from District 1 or District 2, in which case the fifth voting director shall be determined through a process to be established by the balance of the JPA Board.

Directors shall serve a term of two years unless removed by a vote of the remaining directors or replaced by the appointing member agency. Directors may serve any number of terms.

An Executive Management Committee, Technical Advisory Committee, and Citizen's Advisory Committee are established in the Joint Powers Agreement. The Board may create other committees from time to time as necessary and appropriate.

2.4 By-Laws and Policies and Procedures

The Solano County Transit Board shall adopt by-laws as necessary and proper for the efficient and effective functioning of the agency. The by-laws may establish among other things, the conditions for withdrawal of a member, the scheduling of Board meetings, quorum requirements, provisions for amending the by-laws, requirements for records and reports, and the conflict of interest code. The Board may amend the by-laws from time to time.

Section 3: FINANCIAL MANAGEMENT

In recent years, all California and Bay Area transit agencies have been operating within serious fiscal constraints due to the current economic conditions. Both Benicia Breeze and Vallejo Transit are facing funding shortfalls in the near term. As a consolidated agency, SolTrans will face similar revenue constraints, but will also have greater opportunity to improve the efficiency of its combined services and to take advantage of potential new funding sources and existing regional sources of funds. The financial impacts of consolidation, a draft FY2010-11 budget, financial management requirements and issues, and capital asset ownership are addressed in this section.

3.1 Financial Impacts of Consolidation

Consolidation of Benicia Breeze and Vallejo Transit provides opportunities for cost savings and will also result in new requirements and additional costs. The draft FY2010-11 budgets for both entities were reviewed and analyzed for purposes of identifying revenues available and estimated costs and cost savings that might be realized from the consolidation. Based on this review, a consolidated FY2010-11 budget was developed.

In general, the financial impacts of consolidation fall into two areas: one-time costs, and ongoing or recurring costs.

Ongoing Cost Impacts

A review of the two transit agencies' budgets indicated that certain administrative costs could be eliminated with consolidation, and other administrative costs may increase. Some Vallejo allocated administrative overhead costs were identified as potential reductions.

As an independent agency, and based on existing staffing, one additional staff position is recommended to meet the functional needs of the new agency. Initially, information technology, legal, and audit costs are expected to be greater than the current level of expenditure of the two transit agencies. The economies of scale experienced by the cities for these items are not expected to be achieved by the separate and independent agency. The amount of administrative savings in Vallejo overhead costs are projected to be greater than or equal to the anticipated increased administrative costs of the new agency.

Vallejo Transit and Benicia Breeze contract for fixed route and paratransit services with MV Transit. The contract between Benicia Breeze and MV Transit is not providing service as cost effectively as the contract between Vallejo Transit and MV Transit. Alternative contracting terms and structures are proposed to be examined to develop the most cost-effective means for operating the consolidated service. Savings are projected to be achieved through these contract alternatives. At this time, these savings are not reflected in the draft FY2010-11 budget for SolTrans, but will be addressed through future contract negotiations after the JPA is formed.

One-Time Costs

To initiate services as a new agency, there will be certain start-up costs and potential requirements to retire debt incurred previously by the two transit agencies. The one-time costs for SolTrans start up are estimated to be between the range of $1,248,500 - $1,486,500. These costs are presented separate from the annual FY2010-11 budget to provide a more accurate picture of the annual ongoing budget of the agency. It is recommended the new agency work with STA and the Metropolitan Transportation Commission (MTC) to seek regional funding to offset the one-time transitional costs and as such these revenues are not included in the FY2010-11 annual budget.

A summary of the estimated one-time expenses is provided below.

One-Time Expense	Low Estimate	High Estimate
• Debt Retirement *(To be substantiated with auditable documentation)*	$850,000	$850,000
• Office Relocation	$93,500	$167,000
• Re-Branding of new transit services	$195,000	$279,500
• Professional Services (legal, HR, etc.)	$110,000	$190,000
TOTAL	$1,248,500	$1,486,500

3.2 Draft FY2010-11 Budget and Financial Plan

A consolidated budget based on the draft budgets for Benicia Breeze and Vallejo Transit for FY2010-11 was developed and reviewed extensively by the Staff Working and Management Committees. The Summary Budget for FY2010-11 is shown in Appendix A.

Key assumptions used in developing the budget are:

- All transit revenues currently available to both transit systems will be dedicated to the new authority;
- Vallejo Ferry service will continue in local operation through FY2010-11;
- 7 full time staff positions (a combination of 5 existing positions at Vallejo Transit, 1 position at Benicia Breeze, and 1 new position) will serve SolTrans;
- Financial services, benefits administration, payroll, information technology and legal services will be provided through contracts;
- Existing transit operating service contracts will continue as currently structured. Potential savings will be reflected when options are fully assessed and implementation is imminent;
- Modest changes in transit service levels will be implemented, and expenses will be kept within budgeted revenues.

The FY2010-11 budget is balanced, and Transportation Development Act (TDA) reserves of $4.8 million are projected to be available at fiscal year end.

3.3 Ten Year Outlook

Using the FY2010-11 combined budget as a base, the costs and revenues were estimated for the ten year period ending in FY2018-19. Due to declines in TDA revenues, the elimination of State Transit Assistance funds (STAF) for a period, the uncertainties of when STAF funding might resume, and the exhaustion of American Recovery and Reinvestment Act (ARRA) federal economic stimulus funds, both Benicia Breeze and Vallejo Transit face annual operating deficits in the near term. Specifically, Benicia Breeze would be in a deficit position in FY2011-12 without cost cutting measures or new/increased revenues. Vallejo Transit has approximately $4.8 million in TDA reserves in FY2010-11. These TDA reserves have been generated by utilizing the one-time only ARRA funds first. Drawing down on those reserves over time would defer a deficit position until FY2012-13.

The potential for reducing operating service contract costs over the next year will have a positive impact on the SolTrans budget, and would likely avoid a deficit for the agency until FY2013-14 if no other measures were taken. By conducting a joint Short Range Transit Plan, it is recommended SolTrans evaluate all available revenue sources, fare structure, service levels and service delivery, and the capital plan for new agency over the next ten years.

An important goal of the Short Range Transit Plan (SRTP) process is to balance resources with expenditures through cost effective and equitable service provision. In addition, establishing reasonable operating reserves for SolTrans will be an important financial objective. The operating reserve will address unforeseen circumstances impacting costs or revenues and will allow for logical, well planned responses to changes in financial position. The SolTrans Board of Directors will need to establish a financial reserve policy including a minimum and maximum amount to be funded as well as processes and conditions for allocating reserve funds.

Findings from the draft FY2010-11 budget and initial ten year outlook indicate that:

- Some new/increased administrative costs of the consolidated transit agency are projected to be offset by administrative overhead savings;
- Opportunities exist for cost savings in operating service contracts;
- Regional and countywide funding for one-time consolidation costs need to be identified;
- Financial issues facing the consolidated agency are similar to those the two existing agencies would face independently if consolidation were not to occur; however opportunities to address this shortfall should be increased through consolidation
- Existing reserves will be exhausted and deficits are predicted to occur in 1 – 3 years without cost cutting measures or revenue enhancements.

3.4 Financial Management Services

The existing transit agencies are provided with a range of financial services from their respective cities. Both cities charge the transit operation with a share of the costs for providing those services. As proposed, the new joint powers agency will be independent of the operations of the

two cities and will need to establish an independent finance accounting section within the new agency. However, due to the size of the new agency, it is not cost effective for all finance functions to be initially performed "in-house"; rather, certain services will be best provided by others under contract to the new agency.

The SolTrans staffing plan recommends a Finance Manager who is responsible for performing the majority of the finance functions with minimal staff support within the agency. An in-house grants administrator will perform grants acquisition and management. The transit operating service contractors are responsible for fare collection, fare handling, and cash deposits of fares to the bank. The Finance Manager, however, will need to be supported with an accounting system, payroll processing, and other cash management services.

The Staff Working Committee considered alternatives for procuring financial services for SolTrans, including issuing a Request for Proposals (RFP) to the two cities and any other public entities that might be interested and capable of providing these services. Although the Cities of Benicia and Vallejo staff initially agreed that an RFP process was not necessary in the short term, and that Vallejo would provide accounting services and Benicia would provide cash for payments to be reimbursed with grant funds this approach was abandoned at the City of Vallejo's request. SolTrans will issue and RFP for these services and select a contractor for these services. The contract costs are estimated to be within the current budget for these items.

Accounting Services

The draft scope of services that will be needed by SolTrans includes the following:

1. Manage the general ledger, accounts payable, accounts receivable, and payroll of SolTrans using the City's accounting system.
2. Establish and maintain internal controls.
3. Maintain banking relationships required to carry out the services of this contract.
4. Support SolTrans in the preparation of annual financial statements.
5. Support SolTrans in the development of annual budgets.
6. Coordinate with SolTrans on payroll processing.
7. Provide regular financial reports as required by SolTrans, including monthly financial reports.
8. Establish an A-87 Indirect Cost Allocation plan for SolTrans, if needed.
9. Provide cash management for the JPA, including payments for operating and capital needs of the agency that are reimbursed by grants and other sources of funds.

Armored car services will be provided under a contract between SolTrans and a private provider, similar to the current practice with Vallejo Transit.

Procurement Management

As a Federal Transit Administration (FTA) grantee, SolTrans will need to meet FTA's procurement requirements. These requirements are significant and require specialized training and expertise to manage. As recommended by FTA, SolTrans should employ an experienced Procurement Manager responsible for this function.

3.5 Asset Ownership

Benicia Breeze and Vallejo Transit own assets typical of all transit agencies. The majority of these assets were procured with federal, State, or regional transit grant funds and are recommended to be transferred to the new agency. A summary of the assets to be transferred is shown below.

Currently Owned By Vallejo Transit	
Asset	**Location**
• 60 Transit Buses	1850 Broadway
• 10 Transit Buses	Leased to Fairfield and Suisun Transit
• 28 In-Bus Monitoring Cameras	
• 12 Paratransit Vans	3215 Sonoma Boulevard
• 8 Service Vehicles	1850 Broadway
• Admin/Maintenance Facility - Land, building - Paving, fencing, lighting - Vehicle washer - Bus Terminal - Maintenance equipment - Computer software	1850 Broadway
• Security Tower	York and Marin
• Security Tower	Curtola and Lemon
• Sereno Transit Center	Sereno Street
• Bus Shelter (400)	Various Bus Stops

Currently Owned By Benicia Breeze	
Asset	**Location**
7 Transit Buses	
• 10 Paratransit Vans	
• 1 Service Vehicle	
• Bus Shelters	Various Bus Stops

These assets will need to be transferred in accordance with the requirements of the grants with which they were funded. The asset transfers will be recorded in the accounting records and fixed asset inventories of both cities and SolTrans.

The Vallejo Station and the Downtown Bus Transfer Center are currently included as assets of the Public Works Department of the City of Vallejo. The Vallejo Station is under development and will serve bus and ferry riders. It is funded with a variety of sources of federal, State and regional funds. The Downtown Bus Transfer Center is under construction. Improvements to Curtola Park and Ride have been funded for development. The City of Vallejo is managing the development of these projects and is likely to operate and maintain the facilities. At this time, it is recommended that the Vallejo Station, the Downtown Bus Transfer Center, and Curtola Park and Ride remain as assets of the City of Vallejo. Transfer of the Downtown Bus Transfer Facility may be considered by SolTrans and the City of Vallejo in the future. Opportunities to generate revenue at these facilities for the purpose of covering maintenance or other transit costs should be reviewed.

3.6 Grantee Status

Both Benicia Breeze and Vallejo Transit are grantees of the Federal Transit Administration (FTA), Caltrans, and MTC. It is recommended that existing open grants with Benicia Breeze and Vallejo Transit will be transferred to SolTrans once the new JPA has gained status as a new grantee. Existing grants must be inventoried, those ready to be closed will be closed, and a determination on whether open grants will be transferred or will remain with the two cities will be made. Examples of grants that may remain with the cities include Vallejo Station grants, grants for projects (assets) that will remain with the cities, and grants that are within six months of completion and close out.

It is recommended that Vallejo, Benicia, and STA staff schedule a meeting with FTA Region IX to discuss the potential consolidation efforts transpiring between Vallejo and Benicia to update FTA and to receive guidance and recommendations of how to proceed.

There are five (5) basic steps in becoming a FTA grantee: Step 1: Demonstrate Legal Capacity; Step 2: Comply with Civil Rights; Step 3: Demonstrate Financial Capacity; Step 4: Demonstrate Technical Capacity; and Step 5: Transportation Electronic Award and

Management (TEAM). These steps can all be accomplished by the new JPA and are briefly described below.

1. **Demonstrate Legal Capacity**: Legal capacity is demonstrated by submitting an authorizing resolution to FTA which provides the basis for the new grantee mission and goals and develops the legal authority to specify the programs the grantee is eligible for federal funding. The legal counsel also certifies that the grantee will comply with federal regulations in the FTA Master Agreement.
2. **Comply with Civil Rights:** Benicia and Vallejo should already have signed policies statements assuring complaints with Title VI of the Civil Right Act of 1964. However, the two cities could have different procedures. For example, their public notification process and/or complaint process could be different between the two cities. The Board would need to select Benicia's or Vallejo procedures, or blend the two together. A new Disadvantaged Business Enterprise (DBE) Plan and Annual Goal would need to be established for the new entity along with Equal Employment Opportunity (EEO) plan.
3. **Demonstrate Financial Capacity:** Each new grantee must be capable of proving they can provide the local share portion of the projects they apply to FTA for. To demonstrate financial capacity, a three to five year financial profile is required for FTA and Region IX for approval.
4. **Demonstrating Technical Capacity:** This process is related to the Federal Certification and Assurances certified by legal counsel. There are 24 areas covered by the Triennial Review. The triennial review is one of the Federal Transit Administration's (FTA) management tools for examining grantee performance and adherence to current FTA requirements and policies. Mandated by Congress in 1982, the triennial review occurs once every three years. It examines how recipients meet statutory and administrative requirements, especially those that are included in the Annual Certifications and Assurances those grantees submit.

Benicia and Vallejo recent Triennial Review recommendations should be reviewed and the status of corrective implementation updated.

24 areas covered by triennial review by STA:

1. Legal
2. Financial
3. Technical
4. Satisfactory Continuing Control
5. Maintenance
6. Procurement
7. Disadvantaged Business Enterprise
8. Buy America
9. Debarment/ Suspension
10. Lobbying
11. Planning/Program of Projects
12. Title VI
13. Fare Increases and Major Service Reductions
14. Half Fare
15. Americans with Disabilities Act
16. Charter Bus
17. School Bus
18. National Transit Database
19. Safety and Security
20. Drug-Free Workplace
21. Drug and Alcohol Program
22. Equal Employment Opportunity
23. ITS Architecture
24. ARRA

In some of these areas, the manuals will need to be rewritten to replace the current city with the new entity name.

5. **Set up Transportation Electronic Award and Management (TEAM) accounts.** The new entity will need to complete forms to set up accounts for each person in the organization who will have access to TEAM and who will have access to Electronic Clearing House Operation (ECHO). TEAM web based program that is designed for grant management. In TEAM, the grantee will apply for grant and submit milestones reports to FTA. The ECHO system is the electronic reimbursement system set up for drawing down FTA funds after the funds have been expended. The funds are then wired to the grantee bank account within one to two business days. The new entity will also need a Data Universal Numbering System DUNS number to apply for FTA funding. This procedure takes up two to three weeks.

Section 4: ORGANIZATION AND HUMAN RESOURCES MANAGEMENT

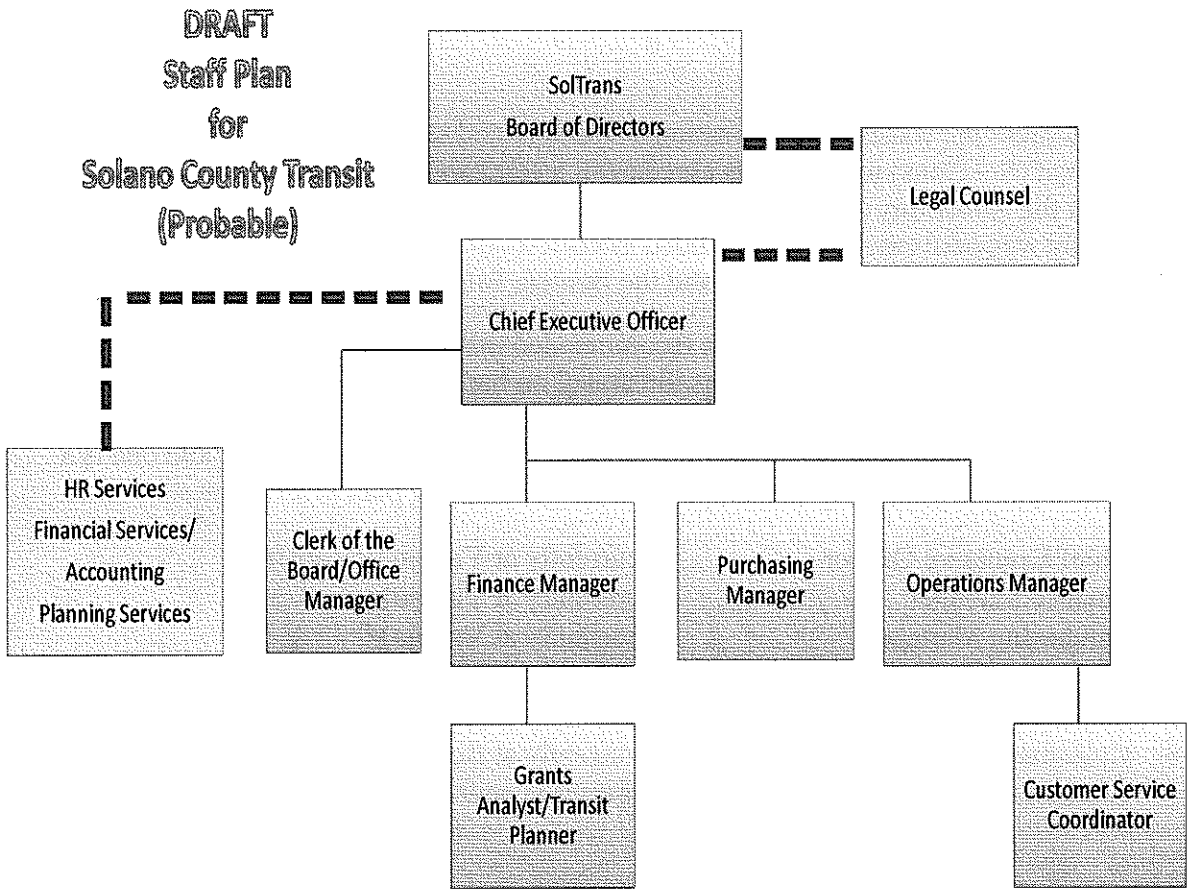
4.1 Organization and Staffing Plan

In order to address the issues of organizational structure and staffing for the proposed Solano County Transit (SolTrans) joint powers agreement, a comparison study was performed of transit properties in the North Bay and Contra Costa County of similar size and scope. A concurrent job analysis study was performed which included interviews of all incumbent staff and management of Vallejo City Transportation Division and the Benicia Breeze.

Based on the results of these studies, it is recommended that the consolidated agency be comprised initially of seven employees as illustrated on the attached Draft Staff Plan for SolanoCounty Transit. Of these seven, five represent the current positions at Vallejo City Transportation Division; one represents the current position at Benicia Breeze; and one is a proposed new position. More specifically, the proposed staffing plan is as follows:

- Chief Executive Officer (currently at Vallejo (vacant))
- Finance Manager (currently at Vallejo)
- Purchasing Manager (currently at Vallejo)
- Operations Manager (currently at Vallejo)
- Grants Analyst/Transit Planner (currently at Vallejo (vacant))
- Customer Service Coordinator (currently at Benicia Breeze(vacant))
- Clerk of the Board/Office Manager (proposed new position)

Initially, legal, financial and human resources services, and certain transit planning services are recommended to be provided through contractual agreements. These functions will report to the Chief Executive Officer and Board of Directors as depicted on the Draft Staff Plan. Over time, it is expected that SolTrans may bid out for some or all of these services. One of the first tasks of the JPA will be to confirm or modify the proposed staffing.


DRAFT
Staff Plan
for
Solano County Transit
(Probable)
SolTrans
Board of Directors
Legal Counsel
Chief Executive Officer
HR Services
Financial Services/
Accounting
Planning Services
Clerk of the
Board/Office
Manager
Finance Manager
Purchasing
Manager
Operations Manager
Grants
Analyst/Transit
Planner
Customer Service
Coordinator

4.2 Position Descriptions

Detailed Position Descriptions have been drafted for the proposed staffing plan described above. In some cases, the titles have been modified; however, the functional responsibilities remain similar to the incumbent positions. These Position Descriptions are subject to final review and approval by the SolTrans Board of Directors or its designee.

A Clerk of the Board/Office Manager position has been added to address the new function of the agency board administration. Organization of Board agendas and materials, serving as Clerk at the Board meetings, and compiling meeting minutes are some of the responsibilities of this position. In addition, this position will provide administrative management and support to the office.

4.3 Salaries and Benefits

A salary and benefits package for the seven proposed positions is being developed for approval by the new JPA. Three of the positions are currently filled by existing staff from the City of Vallejo. The intent is to cause no harm to any existing employees who transfer from the City of Vallejo to the SolTrans JPA. Although the details are not specified in this Transition Plan, the SolTrans salary and benefit package is intended to be equivalent to the existing actual salary and benefit package. This can be offered and accommodated in the proposed SolTrans budget.

4.4 Transfer of Existing Employees

Job descriptions have been drafted and will be approved by the new JPA before the transfer of existing employees. A salary range with a compensation package will be approved. It is recommended that an Executive Director be selected prior to the transitioning of employees to enable this individual to coordinate the application and selection process for the remaining staff. An interim Executive Director has been retained to help complete the transition and to facilitate the recruitment of the permanent Executive Director.

The SolTrans JPA will adopt a policy for transitioning existing employees of City of Benicia/Benicia Breeze and City of Vallejo/Vallejo Transit to the new JPA. The policy will be developed and implemented in coordination with the Cities of Benicia and Vallejo. The intent of the policy will be to transition employees with minimal disruption, equal employment opportunities considerations and consistency in policy administration. This policy will be utilized to transition staff with employee status at the Cities of Benicia and Vallejo that work to support transit operations at the time of the transition.

The SolTrans Board will approve the process and a policy for transitioning employees. It will identify an application process for existing employees only and a time period for acting on these applications. All existing employees will be required to complete an application for the position they are interested in transitioning to if they wish to be considered for a position with the new JPA. The new Executive Director will interview the incumbents and decide upon the appointments. Transitioning employees will be given notification in writing of the results of their application and interview. If they have been selected, their compensation package will be specified in the offer. This process is projected to be brief from beginning to end (approximately

a week). It will be concluded prior to recruitment to fill vacancies from outside applicants. New SolTrans employees will be subject to all personnel policies and procedures adopted by the JPA.

4.5 Provision of Human Resources Services

The Human Resources functions shall be contracted out on an as-needed basis. Such services shall include, but are not limited to, salary and benefits administration. Consultations and guidance on general human resources matters will be performed on an as-needed basis. SolTrans shall also have the option of obtaining consulting assistance and guidance on additional human resource issues, such as recruitment, hiring, accommodation, performance, discipline, and other personnel matters.

4.6 Human Resources Policies and Procedures

The SolTrans JPA will need to adopt Human Resources Policies and Procedures. These may be initially drawn from Policies and Procedures used by the member agencies. The areas that will need to be covered will include, but may not be limited to, the following subjects:

- Employment At Will
- Equal Employment Opportunity
- Americans with Disabilities
- Employment Eligibility and Registry
- Recruitment and Selection
- Introductory Period
- Job classification Administration
- Compensation Policy
- Performance Evaluation Program
- Personnel Records
- Hours of Work
- Alternative Work Weeks
- Overtime Pay
- Attendance & Tardiness
- Poor Performance and Discipline Issues
- Grievance Procedure
- Resignation/Termination
- Retirement and Social Security
- Health and Welfare Benefits
- Workers' Compensation
- Holidays
- Vacations and Management Leave
- Sick Leave
- Professional Training & Development
- Expense Reimbursement
- Security and Privacy
- Computer and Email Policy
- Safety and Workplace Violence
- Dress Code
- Driving Policy

Section 5: SERVICE PLANNING AND OPERATIONS

5.1 Existing Services

Benicia Breeze
The City of Benicia provides primarily local public transportation services. The City values and is committed to providing public transportation mobility to its residents and employers. The City provides four different services:

- Fixed Route Bus
- Dial-a-Ride
- Paratransit
- Subsidized Local and Intercity Taxi

Local flex route bus services are provided throughout Benicia. One fixed-route and a few weekly special shuttles connect Benicia to Contra Costa County at Sun Valley Mall and Diablo Community College in Pleasant Hill and to Vallejo medical facilities. The fleet consists of 17 vehicles and primarily cutaways are used on all services. In FY2009-10, Benicia Breeze is projected to carry 87,000 passenger trips. MV Transportation Inc. is the current contractor for all services except taxi. The current service contract's base terms expire June 30, 2011.

Dial-a-ride service operates on the flex routes during the midday, evenings, and Saturdays. Paratransit service connects Benicia residents to Vallejo for out of city trips.

The local (within Benicia and Vallejo city limits) taxi program provides a 50% fare subsidy to disabled and elderly persons age 65 or older for trips within the city limits. The Intercity ADA Taxi Scrip Program provides an 85% fare subsidy to ADA certified residents offering an alternative to traditional paratransit.

There have been no recent service changes and none are proposed at this time. The August 2009 Benicia Breeze schedule will be incorporated into the inventory of service at the initiation of the JPA

Vallejo Transit
The City of Vallejo provides a comprehensive mix of both local and regional public transportation services. The City's continued dedication to improving its transportation services have helped turn Vallejo into one of the most important regional transit hubs in the San Francisco Bay Area. The City provides four different services:

- Fixed Route Bus
- Demand Response Paratransit
- Subsidized Local and Intercity Taxi
- Ferry

Local bus service is provided throughout most of Vallejo. Regional bus service directly connects Vallejo to Benicia, Fairfield, and multiple locations in Contra Costa County at BART Stations

(El Cerrito del Norte, Pleasant Hill, and Walnut Creek). The fleet consists of 70 vehicles. In the last fiscal year, Vallejo Transit provided 1,658,505 passenger trips. Vallejo Citizens Transit Corporation (VCTC) a subsidiary of MV Transportation Inc. is the current contractor. The contract was awarded on February 5, 2008 for a period of three years, commencing on April 1, 2008 through March 31, 2011.

Demand response service utilizes 12 vehicles to provide complementary ADA paratransit within a ¾ mile corridor of the fixed route service area. In the last fiscal year, Vallejo RunAbout provided 28,783 passenger trips. MV Transportation is the current contractor and their initial contract term expires June 30, 2011.

The local subsidized taxi program provides a 40% fare subsidy to disabled and elderly persons age 65 or older for trips within the city limits. The Intercity ADA Taxi Scrip Program provides an 85% fare subsidy to ADA certified residents offering an alternative to traditional paratransit.

The City of Vallejo has been operating the Baylink Ferry service since 1986. The Baylink Ferry operates between Vallejo and San Francisco with complementary bus service on Rt. 200. The Ferry will not be part of the SolTrans JPA as State legislation has directed that the Baylink Ferry operation be transferred to the Water Emergency Transportation Authority (WETA). This will be discussed in further detail in Chapter 7 in this Transition Plan.

Vallejo Transit had considered plans to undertake a service change in Summer 2010 or later in the fiscal year. A service change proposal was reviewed by the SolTrans Coordinating Committee in May 2010. Public meetings would be held prior to a Vallejo City Council action for implementation that had been tentatively planned for August 2010 that is now planned for later in the fiscal year.

5.2 Status of Service Planning and Planning Studies

One of the first tasks of the new JPA will be to prepare a joint Short Range Transit Plan for the combined services. Vallejo Transit had been scheduled to complete a mini-SRTP to cover the Benicia/Vallejo service area in FY2010-11. The development of a full Benicia/Vallejo SRTP would be managed by the new JPA and be the first opportunity to review how services, fleets, and other capital can be combined to maximize cost efficiencies and streamline service for the public.

5.3 Operating Contract Opportunities

The staff has reviewed the operating contracts with MV. There are three contracts that cover the various services in Vallejo and Benicia. The City of Vallejo has two contracts; one providing fixed route services, the other providing RunAbout paratransit service. The City of Benicia has one contract covering all of its services. A comparison of key contract provisions between the three documents has been prepared. There are several options for the transition of these contracts to the JPA. A brief review of the options follows:

> Option 1: Roll the RunAbout and Benicia contracts into the Vallejo fixed route agreement. This option has been explored with City procurement staff and in a general

inquiry to Federal Transit Administration (FTA). The feedback from both sources is that this would constitute a cardinal change in the agreement for fixed route services and that FTA would require that the contract be rebid.

Option 2: Split the Benicia services between fixed route and paratransit and roll the respective portions into either the Vallejo fixed route agreement or the RunAbout agreement. This would align the services with the comparable Vallejo agreement. Both the Vallejo RunAbout and Benicia Breeze contracts envisioned the possible incorporation of the Vallejo and Benicia service when originally put out to bid. So certain provisions in the agreement set the stage for such consolidation. Adding the Benicia fixed route portion to the Vallejo fixed route contract would likely be an immaterial change not triggering an FTA requirement to rebid nor a renegotiation of the contract rate due to the relative size of the fixed route portion of the Benicia contract.

Option 3: Roll the entire Benicia contract into the RunAbout contract. This option would be based in part on the concept that the Benicia service pattern and approach is better suited and more like the RunAbout contract than it is the Vallejo fixed route service. Taking this approach would not involve any union implications if the service remains at the Bennett Street location currently shared by Vallejo RunAbout and Benicia Breeze as the only employees represented by a bargaining unit today are the Vallejo fixed route employees.

Option 4: Continue operating all three contracts separately but under the management of the JPA. All three agreements contain provisions allowing the assignment of the contracts to a new governmental agency if one is created. This would be a simple alternative and not require doing anything to the agreements at this time. This approach would not realize the benefits of consolidating to save cost.

The base terms of all three of the operating contracts expire in 2011. The Vallejo fixed route contract expires on March 31, 2011. The Vallejo RunAbout contract and the Benicia Breeze contracts both expire on June 30, 2011. If significant adjustments to the agreements and consequently the total operating cost cannot be achieved in negotiations with MV, the services could all be combined into a single RFP and a new solicitation could be conducted in anticipation of the contract expiration date of June 30, 2011. A three-month extension would have to be negotiated to extend the fixed route contract to the June 30 date.

The contracts have been reviewed and a comparison matrix prepared. The service contracts are expected to continue in their current form at the time of the SolTrans JPA formation. After SolTrans JPA staff has been established to oversee the contracts, the service contracts will be transferred to the JPA. Both of these actions are projected to occur in the Spring of 2011. The transfer could be done via simple reassignment as outlined in Option 4 above or Options 1, 2 or 3 may be the preferred approach by the new SolTrans JPA. This is recommended to be determined by the new JPA after it is formed.

Section 6: CAPITAL PROJECTS DELIVERY

6.1 Facilities

Benicia Breeze and Vallejo Transit are responsible for the construction of capital projects required to meet the transit system operating needs and for the purchase of bus and paratransit fleets (revenue vehicles), other vehicles and equipment. The new agency will have similar responsibilities.

As provided for in the Joint Powers Agreement and as described in Section 3 of this plan, the assets currently owned by the two agencies will be transferred to Solano County Transit. Maintenance of these capital assets will be the responsibility of the new agency.

The City of Vallejo Public Works Department is responsible for the design and construction of the Vallejo Station Intermodal Facility, a multimodal waterfront transportation facility intended to be the principal transit hub serving the City of Vallejo as well as providing a gateway to the North Bay and Solano County. Funded with a variety of transit capital funding sources, the station is currently under construction and is planned to be completed in 2011. The project will continue to be managed by the City of Vallejo while Vallejo Transit and Benicia Breeze transition to SolTrans. Once completed, agreements between the City and SolTrans for the asset ownership, leasing, management, operation and maintenance of the station will be needed.

Similarly, expansion plans for the Curtola Park and Ride Facility are currently under the management of the City of Vallejo Public Works Department. The project will continue to be managed by the City of Vallejo while the transit consolidation proceeds. Once complete, agreements will be needed between the City and SolTrans for the asset ownership, leasing, management, operation and maintenance of the facility.

Management of future construction projects undertaken by SolTrans will follow requirements of the funding agencies contributing to the project. For example, projects funded with Federal Transit Administration Authority funds must follow FTA guidelines including third party contracting guidelines. Future construction projects may involve contracts with the Cities in which the project is located for project management assistance, and or for other phases of project delivery.

6.2 Vehicle Procurements

Procurement of vehicles and equipment will be managed by SolTrans, and are not anticipated to require assistance from Benicia or Vallejo.

Section 7: OTHER ISSUES

7.1 WETA Transition

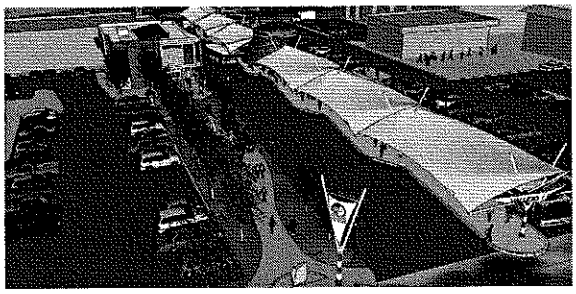
In addition to operating bus service, the City of Vallejo operates the Baylink Ferry Service. The Baylink Ferry operates seven days a week between Vallejo and San Francisco. Vallejo owns four ferryboats and operates a complementary bus route (Rt. 200). Rt. 200 serves only the two ferry terminals (Vallejo and San Francisco), uses the same fare instrument, and has a schedule integrated with the ferry schedule. Rt. 200 has also provided back-up when the ferry ridership is over capacity or when trips are cancelled typically for mechanical reasons. The ferry service is operated by contract with Blue and Gold and the Rt. 200 as part of the overall MV bus operations contract.

In 2007, the California State legislators approved SB 976 that directed that the Vallejo Baylink Ferry be one of two existing Bay Area ferry services to be transferred to the Water Emergency Transportation Authority (WETA). Follow-up legislation in 2008 (SB 1093) approved and further clarified this transition. The City of Vallejo has been in discussions with WETA since that time to coordinate the transfer of the service and related assets. The timing of the transfer is currently expected to occur January or June 2011. Until the service is transferred, the City of Vallejo will continue to operate the Baylink ferryboat and bus service. After the transfer of ferry service to WETA, it is expected that the Rt. 200 bus service will be contracted back to SolTrans with full cost recovery.

7.2 Downtown Vallejo Bus Transfer Center – Administration Building

The City of Vallejo is currently constructing the Downtown Bus Transfer Center. This facility will replace the York/Marin transfer location that had been the main transfer hub for many years. The new Downtown Bus Transfer Center will be a bus-only facility located between Santa Clara and Sacramento Streets in what had been parking lots behind retail and commercial buildings on Maine and Georgia Streets; it will be adjacent and connected to the future Vallejo Station.

Along with the multiple bus bays the transfer center will include a new 5,000 square foot, two-story Administration Building. The building will provide a breakroom for drivers, restrooms, a bus ticket sales outlet, and video security monitoring. The building has also been planned to house Vallejo Transit administrative staff on the second floor. There will be space for multiple offices, work area, and a conference room. There is adequate space for the proposed staffing for the new SolTrans organization.



Although a conference room will be located in the Admin Building, it will not be large enough for SolTrans Board meetings. It is recommended the JPA Board meetings be alternately held at the Benicia and Vallejo City Council Chambers.

Construction began on the Bus Transfer Center in Summer 2009 and is projected to conclude by Spring 2011. Once the building is complete, SolTrans staff is expected to be located there.

Section 8: IMPLEMENTATION SCHEDULE

Solano County Transit (SolTrans)
MAJOR MILESTONES

Action	Revised 6/21/10
Final Agreement Prepared	May 2010
Select Interim Executive Director for MOU/JPA	May 2010
Draft Transition Plan: per MOU (Draft JPA agreement, By-laws, etc.)	June 2010
JPA Agreement and Transition Plan Adopted by Jurisdictions	June/July/August 2010
Modest Service Adjustments Implemented by City of Vallejo (reviewed by Coordinating Committee)	FY2010-11
JPA Board Meets for First Time	September 2010
Recruitment of JPA Executive Director	September 2010 - January 2011
JPA Board enters into agreements (accounting, HR, legal, etc.)	September 2010 – December 2010
Develop Short Range Transit Plan (SRTP) and Capital Improvement Plan (CIP)	September 2010-April 2011
Transition of Staff to JPA Employment	April 1, 2011
Transition of Service Contracts to JPA	April 1, 2011
Adopt SRTP, CIP	April 2011
Service Changes Implemented by JPA	July – Sept 2011

APPENDIX A

BUDGET

FY 2010-11 Combined Solano County Transit Budget

Revenues

	Vallejo	Benicia	JPA
	FY2010/11		
	Revised	Projected	Proj Total
Bus Revenues			
Fares	$3,021,000	$50,000	$3,071,000
FTA Section 5307 Operating Assistance			-
FTA Section 5307 Preventive Maintenance			-
FTA ARRA Preventive Maintenance	1,339,813		1,339,813
FTA Section 5311 Non-Urbanized Area	180,000		180,000
FTA Section 5316 JARC	400,000		400,000
FTA Section 5317 NF			-
STAF Operating Assistance - Vallejo Rev Base			-
STAF Operating Assistance - Vallejo Prop 42			-
STAF Operating Assistance - Benicia Rev Base		18,245	18,245
STAF Operating Assistance - Benicia Prop 42			-
STAF Operating Assistance - Solano County Pop Base			-
STAF Lifeline	200,000		200,000
Regional Measure 2 (RM-2)	1,223,840		1,223,840
Transportation Development Act (TDA)	3,182,847	512,415	3,695,262
Intercity Funding Agreement	400,000	(65,660)	334,340
Bridge Toll AB 664 PM			-
Other revenues	20,500	10,000	30,500
Bus Revenues Subtotal	**9,968,000**	**525,000**	**10,493,000**
Ferry Revenues			
Fares	6,320,000		6,320,000
FTA Section 5307 Preventive Maintenance	1,000,000		1,000,000
Bridge Toll 2% Revenue Program	400,000		400,000
Bridge Toll 5% Unrestricted State Funds	1,300,000		1,300,000
Regional Measure 2 (RM-2)	2,740,500		2,740,500
One-time Solano County			-
Supplemental Regional Measure 2 (WETA) for Contingency	2,174,500		2,174,500
Transportation Development Act (TDA)			-
Transportation Development Act (TDA) One time			-
State Transit Assistance - One time			-
Terminal Leases	19,000		19,000
Transfer In, General Fund			-
Labor Day Weekend Service (BATA)			-
Other revenues	2,000		2,000
Ferry Revenues Subtotal	**13,956,000**	**-**	**13,956,000**
Paratransit Revenues			
Fares - Existing	118,000	13,000	131,000
FTA Section 5307 10% ADA set-aside	667,000		667,000
STAF Operating Assistance			-
Transportation Development Act (TDA)	359,000	404,000	763,000
Paratransit Revenues Subtotal	**1,144,000**	**417,000**	**1,561,000**
Taxi Scrip Revenues			
Taxi Coupon Sales - Local	138,000	3,735	141,735
Taxi Coupon Sales - Regional	15,000		15,000
Transportation Development Act (TDA)	108,000	7,265	115,265
Taxi Scrip Revenues Subtotal	**261,000**	**11,000**	**272,000**
FAREBOX REVENUES	9,597,000	66,735	9,678,735
FUNDING SOURCE REVENUES	15,732,000	886,265	16,603,265
Total, Revenues	**$25,329,000**	**$953,000**	**$26,282,000**

FY 2010-11 Combined Solano County Transit Budget

Expenditures

	Vallejo	Benicia	JPA
	FY2010/11		
	Revised	Projected	Proj Total
Bus Expenses			
Operating Contract	8,537,000	355,000	8,892,000
Fuel	1,777,000	57,000	1,834,000
Insurance costs	400,000		400,000
Security	136,000		136,000
Bus Facility Maintenance	62,000		62,000
Bus Maintenance		19,000	19,000
Utilities	32,000		32,000
Printing	13,000		13,000
Professional Services		6,000	6,000
Route 200: Transfer costs to WETA	(1,481,000)		(1,481,000)
Ferry Ticket Office Transfer to Ferry	(177,000)		(177,000)
General Administration - Ferry Absorb			-
General Administration - Bus	669,000	88,000	757,000
Bus Expenses Subtotal	**9,968,000**	**525,000**	**10,493,000**
Ferry Expenses			
Operating Contract	6,408,000		6,408,000
Professional Services	128,000		128,000
Fuel	4,518,000		4,518,000
Dry Docking	180,000		180,000
Security	68,000		68,000
Space Rental & Lease Dockage Fees	74,000		74,000
Building Maintenance	74,000		74,000
Utilities	106,000		106,000
Printing	14,000		14,000
Route 200 Costs	1,481,000		1,481,000
Ferry Ticket Office from Bus	177,000		177,000
General Administration	728,000		728,000
Ferry Expenses Subtotal	**13,956,000**	**-**	**13,956,000**
Paratransit Expenses			
Operating Contract - Existing	1,024,000	328,000	1,352,000
Fuel	44,000		44,000
Maintenace		45,000	45,000
Printing	9,000		9,000
General Administration	67,000	44,000	111,000
Paratransit Expenses Subtotal	**1,144,000**	**417,000**	**1,561,000**
Taxi Scrip Expenses			
Scrips Payments - Local	230,000	11,000	241,000
Scrips Payments - Regional	15,000		15,000
General Administration	16,000		16,000
Taxi Scrip Expenses Subtotal	**261,000**	**11,000**	**272,000**
OPERATING CONTRACT	9,561,000	683,000	10,244,000
OTHER EXPENSES	1,812,000	270,000	2,082,000
Total, Expenses	**$25,329,000**	**$953,000**	**$26,282,000**

City of Vallejo - Vallejo Transit

Ten Year - FY 2009/10 - FY 2018/19

Detailed Operating Revenue by Mode

	Vallejo	Benicia	JPA								
	FY2010/11			FY2011/12	FY2012/13	FY2013/14	FY2014/15	FY2015/16	FY2016/17	FY2017/18	FY2018/19
	Revised	Projected	Proj Total	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected
Bus Revenues											
Fares	$3,021,000	$50,000	$3,071,000	**$3,107,000**	**$3,143,000**	**$3,179,000**	**$3,216,000**	**$3,253,000**	**$3,291,000**	**$3,329,000**	**$3,368,000**
FTA Section 5307 Operating Assistance			-								
FTA Section 5307 Preventive Maintenance			-	250,000	250,000	250,000	250,000	250,000	250,000	250,000	250,000
FTA ARRA Preventive Maintenance	1,339,813		1,339,813								
FTA Section 5311 Non-Urbanized Area	180,000		180,000	180,000	180,000	180,000	180,000	180,000	180,000	180,000	180,000
FTA Section 5316 JARC	400,000		400,000								
FTA Section 5317 NF			-								
STAF Operating Assistance - Vallejo Rev Base			-			200,000	212,000	225,000	239,000	253,000	268,000
STAF Operating Assistance - Vallejo Prop 42			-			590,142	614,977	640,926	668,043	696,384	726,007
STAF Operating Assistance - Benicia Rev Base		18,245	18,245			14,399	15,270	16,194	17,174	18,213	19,315
STAF Operating Assistance - Benicia Prop 42			-			13,703	14,280	14,883	15,512	16,170	16,858
STAF Operating Assistance - Solano County Pop Base			-			420,113	445,629	472,416	500,610	531,356	563,810
STAF Lifeline	200,000		200,000								
Regional Measure 2 (RM-2)	1,223,840		1,223,840	1,223,840	1,223,840	1,223,840	1,223,840	1,223,840	1,223,840	1,223,840	1,223,840
Transportation Development Act (TDA)	3,182,847	512,415	3,695,262	6,306,460	6,026,083	4,073,558	4,333,803	4,610,760	4,903,439	5,214,906	5,545,291
Intercity Funding Agreement	400,000	(65,660)	334,340	344,000	354,000	365,000	376,000	387,000	399,000	411,000	423,000
Bridge Toll AB 664 PM			-								
Other revenues	20,500	10,000	30,500	21,100	21,700	22,400	23,100	23,800	24,500	25,200	26,000
Bus Revenues Subtotal	**9,968,000**	**525,000**	**10,493,000**	**11,432,400**	**11,198,623**	**10,532,155**	**10,904,899**	**11,297,819**	**11,712,118**	**12,149,069**	**12,610,121**
Ferry Revenues											
Fares	6,320,000		6,320,000								
FTA Section 5307 Preventive Maintenance	1,000,000		1,000,000								
Bridge Toll 2% Revenue Program	400,000		400,000								
Bridge Toll 5% Unrestricted State Funds	1,300,000		1,300,000								
Regional Measure 2 (RM-2)	2,740,500		2,740,500								
One-time Solano County			-								
Supplemental Regional Measure 2 (WETA) for Contingency	2,174,500		2,174,500								
Transportation Development Act (TDA)			-								
Transportation Development Act (TDA) One time			-								
State Transit Assistance - One time			-								
Terminal Leases	19,000		19,000								
Transfer In, General Fund			-								
Labor Day Weekend Service (BATA)			-								
Other revenues	2,000		2,000								
Ferry Revenues Subtotal	**13,956,000**	-	**13,956,000**	-	-	-	-	-	-	-	-
Paratransit Revenues											
Fares - Existing	118,000	13,000	131,000	**120,000**	**120,000**	**120,000**	**120,000**	**120,000**	**120,000**	**120,000**	**120,000**
FTA Section 5307 10% ADA set-aside	667,000		667,000	667,000	667,000	667,000	667,000	667,000	667,000	667,000	667,000
STAF Operating Assistance			-								
Transportation Development Act (TDA)	359,000	404,000	763,000	788,300	835,600	883,900	933,200	983,500	1,036,800	1,091,100	1,147,400
Paratransit Revenues Subtotal	**1,144,000**	**417,000**	**1,561,000**	**1,575,300**	**1,622,600**	**1,670,900**	**1,720,200**	**1,770,500**	**1,823,800**	**1,878,100**	**1,934,400**
Taxi Scrip Revenues											
Taxi Coupon Sales - Local	138,000	3,735	141,735	138,000	138,000	138,000	138,000	138,000	138,000	138,000	138,000
Taxi Coupon Sales - Regional	15,000		15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
Transportation Development Act (TDA)	108,000	7,265	115,265	119,000	119,000	119,000	119,000	119,000	119,000	119,000	119,000
Taxi Scrip Revenues Subtotal	**261,000**	**11,000**	**272,000**	**272,000**	**272,000**	**272,000**	**272,000**	**272,000**	**272,000**	**272,000**	**272,000**
FAREBOX REVENUES	9,597,000	66,735	9,678,735	3,365,000	3,401,000	3,437,000	3,474,000	3,511,000	3,549,000	3,587,000	3,626,000
FUNDING SOURCE REVENUES	15,732,000	886,265	16,603,265	9,914,700	9,692,223	9,038,055	9,423,099	9,829,319	10,258,918	10,712,169	11,190,521
Total, Revenues	**$25,329,000**	**$953,000**	**$26,282,000**	**$13,279,700**	**$13,093,223**	**$12,475,055**	**$12,897,099**	**$13,340,319**	**$13,807,918**	**$14,299,169**	**$14,816,521**
Net Annual Results											
Bus	-	-	-	-	(496,277)	(1,512,445)	(1,500,701)	(1,478,981)	(1,443,182)	(1,395,931)	(1,333,879)
Ferry	-	-	-	-	0	0	0	0	0	0	0
Paratransit	-	-	-	-	0	0	0	0	0	0	0
Taxi	-	-	-	-	0	0	0	0	0	0	0
	-	-	-	-	(496,277)	(1,512,445)	(1,500,701)	(1,478,981)	(1,443,182)	(1,395,931)	(1,333,879)
Transportation Development Act (TDA) Beginning Balance	**4,796,543**	**176,711**	**4,973,254**	**4,823,745**	**2,116,715**	**(80,300)**	**(80,300)**	**(80,300)**	**(80,300)**	**(80,300)**	**(80,300)**
Annual Revenue - Vallejo	3,790,551		3,790,551	3,795,795	4,028,556	4,274,545	4,534,513	4,809,254	5,099,609	5,406,465	5,730,759
Annual Revenue - Benicia		793,936	793,936	851,656	900,055	951,204	1,005,260	1,062,389	1,122,764	1,186,569	1,254,001
Add: Investment Income			-								
Use for Operations	(3,649,847)	(923,680)	(4,573,527)	(7,213,760)	(6,980,683)	(5,076,458)	(5,386,003)	(5,713,260)	(6,059,239)	(6,425,006)	(6,811,691)
Pass Thru to STA for Planning and Admin	(136,622)	(23,847)	(160,469)	(140,721)	(144,943)	(149,291)	(153,770)	(158,383)	(163,134)	(168,028)	(173,069)
Transportation Development Act (TDA) Ending Balance	**4,800,625**	**23,120**	**4,823,745**	**2,116,715**	**(80,300)**	**(80,300)**	**(80,300)**	**(80,300)**	**(80,300)**	**(80,300)**	**(80,300)**
Reserve				16%	-1%	-1%	-1%	-1%	-1%	-1%	0%

City of Vallejo - Vallejo Transit

Ten Year - FY 2009/10 - FY 2018/19

Detailed Operating Expenditure by Mode

	Vallejo	Benicia	-12% JPA	JPA	JPA	JPA	JPA	JPA	JPA	JPA	JPA
	FY2010/11			FY2011/12	FY2012/13	FY2013/14	FY2014/15	FY2015/16	FY2016/17	FY2017/18	FY2018/19
	Revised	Projected	Proj Total	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected
Bus Expenses											
Operating Contract	8,537,000	355,000	8,892,000	9,159,000	9,434,000	9,716,000	10,008,000	10,308,000	10,617,000	10,936,000	11,264,000
Fuel	1,777,000	57,000	1,834,000	1,870,000	1,929,000	1,987,000	2,046,000	2,105,000	2,163,000	2,222,000	2,280,000
Insurance costs	400,000		400,000	412,000	424,000	437,000	450,000	464,000	478,000	492,000	507,000
Security	136,000		136,000	140,100	144,300	148,600	153,100	157,700	162,400	167,300	172,300
Bus Facility Maintenance	62,000		62,000	63,900	65,800	67,800	69,800	71,900	74,100	76,300	78,600
Bus Maintenance		19,000	19,000	20,000	21,000	22,000	23,000	24,000	25,000	26,000	27,000
Utilities	32,000		32,000	33,000	34,000	35,000	36,100	37,200	38,300	39,400	40,600
Printing	13,000		13,000	13,400	13,800	14,200	14,600	15,000	15,500	16,000	16,500
Professional Services		6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000
Route 200: Transfer costs to WETA	(1,481,000)		(1,481,000)	(1,541,000)	(1,672,000)	(1,722,000)	(1,774,000)	(1,827,000)	(1,881,000)	(1,937,000)	(1,994,000)
Ferry Ticket Office Transfer to Ferry	(177,000)		(177,000)	(182,000)	(187,000)	(193,000)	(199,000)	(205,000)	(211,000)	(217,000)	(224,000)
General Administration - Ferry Absorb			-	750,000	773,000	796,000	820,000	845,000	870,000	896,000	923,000
General Administration - Bus	669,000	88,000	757,000	688,000	709,000	730,000	752,000	775,000	798,000	822,000	847,000
Bus Expenses Subtotal	**9,968,000**	**525,000**	**10,493,000**	**11,432,400**	**11,694,900**	**12,044,600**	**12,405,600**	**12,776,800**	**13,155,300**	**13,545,000**	**13,944,000**
Ferry Expenses											
Operating Contract	6,408,000		6,408,000								
Professional Services	128,000		128,000								
Fuel	4,518,000		4,518,000								
Dry Docking	180,000		180,000								
Security	68,000		68,000								
Space Rental & Lease Dockage Fees	74,000		74,000								
Building Maintenance	74,000		74,000								
Utilities	106,000		106,000								
Printing	14,000		14,000								
Route 200 Costs	1,481,000		1,481,000								
Ferry Ticket Office from Bus	177,000		177,000								
General Administration	728,000		728,000								
Ferry Expenses Subtotal	**13,956,000**	**-**	**13,956,000**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**
Paratransit Expenses											
Operating Contract - Existing	1,024,000	328,000	1,352,000	1,406,000	1,449,000	1,492,000	1,537,000	1,583,000	1,630,000	1,679,000	1,729,000
Fuel	44,000		44,000	45,000	46,000	48,000	49,000	50,000	52,000	53,000	55,000
Maintenace		45,000	45,000	46,000	47,000	48,000	49,000	50,000	52,000	54,000	56,000
Printing	9,000		9,000	9,300	9,600	9,900	10,200	10,500	10,800	11,100	11,400
General Administration	67,000	44,000	111,000	69,000	71,000	73,000	75,000	77,000	79,000	81,000	83,000
Paratransit Expenses Subtotal	**1,144,000**	**417,000**	**1,561,000**	**1,575,300**	**1,622,600**	**1,670,900**	**1,720,200**	**1,770,500**	**1,823,800**	**1,878,100**	**1,934,400**
Taxi Scrip Expenses											
Scrips Payments - Local	230,000	11,000	241,000	241,000	241,000	241,000	241,000	241,000	241,000	241,000	241,000
Scrips Payments - Regional	15,000		15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
General Administration	16,000		16,000	16,000	16,000	16,000	16,000	16,000	16,000	16,000	16,000
Taxi Scrip Expenses Subtotal	**261,000**	**11,000**	**272,000**	**272,000**	**272,000**	**272,000**	**272,000**	**272,000**	**272,000**	**272,000**	**272,000**
OPERATING CONTRACT	9,561,000	683,000	10,244,000	10,565,000	10,883,000	11,208,000	11,545,000	11,891,000	12,247,000	12,615,000	12,993,000
OTHER EXPENSES	1,812,000	270,000	2,082,000	2,714,700	2,706,500	2,779,500	2,852,800	2,928,300	3,004,100	3,080,100	3,157,400
Total, Expenses	**$25,329,000**	**$953,000**	**$26,282,000**	**$13,279,700**	**$13,589,500**	**$13,987,500**	**$14,397,800**	**$14,819,300**	**$15,251,100**	**$15,695,100**	**$16,150,400**
PROOF	-	-	-	-	-	-	-	-	-	-	-
Annual price per gallon	$3.14	$3.14	$3.14	$3.20	$3.30	$3.40	$3.50	$3.60	$3.70	$3.80	$3.90
Growth			5%	2%	3%	3%	3%	3%	3%	3%	3%
Fuel Annual Consumption (in gallons)											
Ferry	1,439,000		1,439,000	1,439,000	1,439,000	1,439,000	1,439,000	1,439,000	1,439,000	1,439,000	1,439,000
Bus	566,000	18,155	584,155	584,155	584,155	584,155	584,155	584,155	584,155	584,155	584,155
Paratransit	14,000	-	14,000	14,000	14,000	14,000	14,000	14,000	14,000	14,000	14,000
Total	**2,019,000**	**18,155**	**2,037,155**	**2,037,155**	**2,037,155**	**2,037,155**	**2,037,155**	**2,037,155**	**2,037,155**	**2,037,155**	**2,037,155**

Note: All other expenditures are projected to increase by 3% annually.

General Admiu costs	1,480,000	132,000	1,612,000	1,523,000	1,569,000	1,615,000	1,663,000	1,713,000	1,763,000	1,815,000	1,869,000
	-			-6%	3%	3%	3%	3%	3%	3%	3%

APPENDIX B

CAPITAL ASSETS

City of Benicia
Transit - Schedule of Capital Assets
As of June 30, 2009

Z:\My Documents\SolTrans SoCo Transit\Transition Plan\070210 Transition Plan\[(06) Appendix B Capital Assets Ben, transit capital assets (4).xls]Transit

Sys No	Ext	In Svc Date	Est Life	Acquired Value	Prior Accum Depn	Current Depreciation	Accum Depn
Class = Equipment							
002468	Fd Cutaway	09/26/95	07 00	12,616.75	12,616.75	0.00	12,616.75
002809	35' Gillig bus	05/22/00	12 00	266,525.39	180,856.52	22,210.45	203,066.97
002810	35' Gillig bus	05/22/00	12 00	266,525.39	180,856.52	22,210.45	203,066.97
002866	Gillig Phantom	09/22/00	12 00	267,397.00	172,693.87	22,283.08	194,976.95
002867	00 Veotura minivan	12/22/00	05 00	32,947.00	32,947.00	0.00	32,947.00
002992	00 Ventura minivan	02/22/01	05 00	32,895.84	32,895.84	0.00	32,895.84
002993	00 Ford cutaway	07/18/01	07 00	58,760.91	58,061.40	699.51	58,760.91
002994	00 Ford cutaway	07/19/00	07 00	59,527.25	59,527.25	0.00	59,527.25
003159	03 Toyota Prius	04/08/03	06 00	21,350.45	18,681.65	2,668.80	21,350.45
003254	DAR vehicle	06/30/04	05 00	2,080.00	1,664.00	416.00	2,080.00
003321	06 Eldorado Aerotech	11/30/05	05 00	51,374.49	26,543.49	10,274.90	36,818.39
003322	06 Eldorado Aerotech	11/30/05	05 00	51,374.50	26,543.49	10,274.90	36,818.39
003323	06 Eldorado Aerotech	11/30/05	05 00	51,374.49	26,543.49	10,274.90	36,818.39
003324	Bus fareboxes	12/30/05	05 00	30,230.57	15,115.28	6,046.11	21,161.39
003330	Farebox, decals, shelt	06/22/06	05 00	18,983.23	7,593.30	3,796.65	11,389.95
003364	07 Cutaway-starcraft	06/30/07	07 00	62,519.02	8,931.29	8,931.29	17,862.58
003452	08 Cutaway-starcraft	06/30/08	07 00	74,419.39	0.00	10,631.34	10,631.34
003454	Particulate traps	06/30/08	07 00	21,863.47	0.00	3,123.35	3,123.35
003455	Particulate traps	06/30/08	07 00	21,863.47	0.00	3,123.35	3,123.35
003456	Particulate traps	06/30/08	07 00	21,863.47	0.00	3,123.35	3,123.35
003457	Particulate traps	06/30/08	07 00	133,275.61	0.00	19,039.37	19,039.37
003458	Foothill bus-donated	06/30/08	07 00	25,829.91	0.00	3,689.99	3,689.99
003459	Foothill bus-donated	06/30/08	07 00	20,352.24	0.00	2,907.46	2,907.46
003460	Foothill bus-donated	06/30/08	07 00	3,234.03	0.00	462.01	462.01
003461	Foothill bus-donated	06/30/08	07 00	18,991.76	0.00	2,713.11	2,713.11
003462	Particulate traps	06/30/08	07 00	21,863.47	0.00	3,123.35	3,123.35
	Class = E			1,650,039.10	862,071.14	172,023.72	1,034,094.86
	Less disposals and transfers			0.00	0.00		0.00
	Count = 0						
	Net Subtotal			1,650,039.10	862,071.14	172,023.72	1,034,094.86
	Count = 26						
Class = Structure							
002558	Bus stops	06/30/97	05 00	5,000.00	5,000.00	0.00	5,000.00
	Class = S			5,000.00	5,000.00	0.00	5,000.00
	Less disposals and transfers			0.00	0.00		0.00
	Count = 0						
	Net Subtotal			5,000.00	5,000.00	0.00	5,000.00
	Count = 1						
	Division = TRANSIT			1,655,039.10	867,071.14	172,023.72	1,039,094.86
	Less disposals and transfers			0.00	0.00		0.00
	Count = 0						
	Net Subtotal			1,655,039.10	867,071.14	172,023.72	1,039,094.86
	Count = 27						

City of Vallejo
Transportation Division
Bus - Capital Assets Listing
Active
Current Fiscal Year 6/30/2009

IX.C.59

#	DESCRIPTION	USE	Vehicle ID No.	Serial Number / VIN	Manufacturer	Useful Life	Acq Date	Age	In need of Replace/ Rehab	Replace Year	Fed Share	Federal Grant No.	Local Share	Grant Name	LOCATION	Acquisition Cost	Cummulative Depreciation	Book Value
Transit Buses																		
1	1983 RTS's	Transit Bus	1018	1GOYT82JODV821653	GGT GMC / RTS	12	9/1/1983	26	YES		80%	CA-90-X989	20%	TDA/AB 664	1850 Broadway	128,194.77	80,121.72	48,073.05
2	1983 RTS's	Transit Bus	1027	1GOYT82J3DV821815	GGT GMC / RTS	12	9/1/1983	26	YES		80%	CA-90-X989	20%	TDA/AB 664	1850 Broadway	128,194.77	80,121.72	48,073.05
3	1983 RTS's	Transit Bus	1949	1GOYT82J7DV821651	GGT GMC / RTS	12	9/1/1983	26	YES		80%	CA-90-X989	20%	TDA/AB 664	1850 Broadway	128,194.77	80,121.72	48,073.05
4	1983 RTS's	Transit Bus	1063	1GOYT82J2DV821637	GGT GMC / RTS	12	11/1/1983	26	YES		80%	CA-90-X989	20%	TDA/AB 664	1850 Broadway	128,194.77	80,121.72	48,073.05
5	1983 RTS's	Transit Bus	1065	1GOYT82J2DV821606	GGT GMC / RTS	12	11/1/1983	26	YES		80%	CA-90-X989	20%	TDA/AB 664	1850 Broadway	128,194.77	80,121.72	48,073.05
6	1995 Transit Bus	Transit Bus	4313	A000181	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
7	1995 Transit Bus	Transit Bus	4314	A000182	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
8	1995 Transit Bus	Transit Bus	4315	A000183	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
9	1995 Transit Bus	Transit Bus	4316	A000184	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
10	1995 Transit Bus	Transit Bus	4317	A000185	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
11	1995 Transit Bus	Transit Bus	4318	A000186	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
12	1995 Transit Bus	Transit Bus	4319	A000187	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
13	1995 Transit Bus	Transit Bus	4320	A000188	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
14	1995 Transit Bus	Transit Bus	4321	A000189	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
15	1995 Transit Bus	Transit Bus	4322	A000190	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
16	1995 Transit Bus	Transit Bus	4401	A000191	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
17	1995 Transit Bus	Transit Bus	4402	A000192	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
18	1995 Transit Bus	Transit Bus	4403	A000193	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
19	1995 Transit Bus	Transit Bus	4404	A000194	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
20	1995 Transit Bus	Transit Bus	4405	A000195	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
21	1995 Transit Bus	Transit Bus	4406	A000196	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
22	1995 Transit Bus	Transit Bus	4407	A000197	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
23	1995 Transit Bus	Transit Bus	4408	A000198	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
24	1995 Transit Bus	Transit Bus	4409	A000199	Gillig Corp	12	3/1/1995	14	YES		80%	CA-90-X596	20%	TDA/AB 664	1850 Broadway	175,000.00	175,000.00	-
25	2001 Transit Bus	Transit Bus	4410	1VH5H3H2416501627	Orion Bus	12	10/1/2001	8		2013	80%	CA-90-X989	20%	TDA/AB 664	1850 Broadway	336,824.36	210,515.20	126,309.16
26	2001 Transit Bus	Transit Bus	4411	1VH5H3H2616501628	Orion Bus	12	10/1/2001	8		2013	80%	CA-90-X989	20%	TDA/AB 664	1850 Broadway	336,824.36	210,515.20	126,309.16
27	2001 Transit Bus	Transit Bus	4412	1VH5H3H2816501629	Orion Bus	12	10/1/2001	8		2013	80%	CA-90-X989	20%	TDA/AB 664	1850 Broadway	336,824.36	210,515.20	126,309.16
28	2001 Transit Bus	Transit Bus	4413	1VH5H3H2416501630	Orion Bus	12	10/1/2001	8		2013	80%	CA-90-X989	20%	TDA/AB 664	1850 Broadway	336,824.36	210,515.20	126,309.16
29	2001 Transit Bus	Transit Bus	4414	1VH5H3H2616501631	Orion Bus	12	10/1/2001	8		2013	80%	CA-90-X989	20%	TDA/AB 664	1850 Broadway	336,824.36	210,515.20	126,309.16
30	2001 Transit Bus	Transit Bus	4415	1VH5H3H2816501632	Orion Bus	12	10/1/2001	8		2013	80%	CA-90-X989	20%	TDA/AB 664	1850 Broadway	336,824.36	210,515.20	126,309.16
31	2001 Transit Bus	Transit Bus	4416	1VH5H3H2X16501633	Orion Bus	12	10/1/2001	8		2013	80%	CA-90-X989	20%	TDA/AB 664	1850 Broadway	336,824.36	210,515.20	126,309.16
32	2001 Transit Bus	Transit Bus	4417	1VH5H3H2116501634	Orion Bus	12	10/1/2001	8		2013	80%	CA-90-X989	20%	TDA/AB 664	1850 Broadway	336,824.36	210,515.20	126,309.16
33	1987 MCI TMC	Transit Bus	BL01	1TUFCH6AXHR006086	MCI	12	8/1/1987	22	YES		80%	CA-90-X989	20%	TDA/AB 664	1850 Broadway	121,346.36	75,841.45	45,504.91
34	1987 MCI TMC	Transit Bus	BL02	1TUFCH6A1HR006283	MCI	12	6/1/1987	22	YES		80%	CA-90-X989	20%	TDA/AB 664	1850 Broadway	121,346.36	75,841.45	45,504.91
35	1987 MCI TMC	Transit Bus	BL03	1TUFCH6A1HR006297	MCI	12	7/1/1987	22	YES		80%	CA-90-X989	20%	TDA/AB 664	1850 Broadway	121,346.36	75,841.45	45,504.91
36	2001 MCI	Transit Bus	BL04	IM8PDMPA71P053961	MCI	12	6/1/2001	8		2013	80%	CA-03-0547	20%	TDA/AB 664	1850 Broadway	410,712.00	290,921.00	119,791.00
37	2001 MCI	Transit Bus	BL05	IM8PDMPA91PO53962	MCI	12	6/1/2001	8		2013	80%	CA-03-0547	20%	TDA/AB 664	1850 Broadway	410,712.00	290,921.00	119,791.00
38	2001 MCI	Transit Bus	BL07	1M8PDMPA63P055607	Motor Coach Industries	12	6/1/2001	8		2013	80%	CA-03-0547	20%	TDA/AB 664	1850 Broadway	410,712.00	290,921.00	119,791.00
39	2003 MCI	Transit Bus	BL08	1M8PDMPA83P055608	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
40	2003 MCI	Transit Bus	BL09	1M8PDMPAX3P055609	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
41	2003 MCI	Transit Bus	BL10	1M8PDMPA63P055610	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
42	2003 MCI	Transit Bus	BL11	1M8PDMPA83P055611	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
43	2003 MCI	Transit Bus	BL12	1M8PDMPAX3P055612	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
44	2003 MCI	Transit Bus	BL13	1M8PDMPA13P055613	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
46	2003 MCI	Transit Bus	BL15	1M8PDMPA53P055615	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
47	2003 MCI	Transit Bus	BL16	1M8PDMPA73P055616	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
49	2003 MCI	Transit Bus	BL18	1M8PDMPA03P055618	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
50	2003 MCI	Transit Bus	BL19	1M8PDMPA23P055619	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
51	2003 MCI	Transit Bus	BL20	1M8PDMPA93P055620	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
52	2003 MCI	Transit Bus	BL21	1M8PDMPA03P055621	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
53	2003 MCI	Transit Bus	BL22	1M8PDMPA23P055622	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
54	2003 MCI	Transit Bus	BL23	1M8PDMPA43P055623	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
55	2003 MCI	Transit Bus	BL24	1M8PDMPA63P055624	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
56	2003 MCI	Transit Bus	BL25	1M8PDMPA83P055625	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
57	2003 MCI	Transit Bus	BL26	1M8PDMPAX3P055626	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
57	2003 MCI	Transit Bus	BL29	1M8PDMPAX3P055629	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
57	2003 MCI	Transit Bus	BL32	1M8PDMPAX3P055632	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
57	2003 MCI	Transit Bus	BL33	1M8PDMPAX3P055633	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
57	2003 MCI	Transit Bus	BL34	1M8PDMPAX3P055634	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
57	2003 MCI	Transit Bus	BL35	1M8PDMPAX3P055635	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	1850 Broadway	414,745.28	224,653.67	190,091.61
61	2003 MCI	Transit Bus	BL06	1M8PDMPA13P053963	MCI	12	12/20/2003	6		2016	80%	CA-03-0547	20%	TCRP/AB 664	Leased to Fairfield	414,745.28	224,653.67	190,091.61
62	2003 MCI	Transit Bus	BL14	1M8PDMPA13P055614	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	Leased to Fairfield	414,745.28	224,653.67	190,091.61
63	2003 MCI	Transit Bus	BL17	1M8PDMPA13P055617	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	Leased to Fairfield	414,745.28	224,653.67	190,091.61
64	2003 MCI	Transit Bus	BL27	1M8PDMPA13P055627	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	Leased to Fairfield	414,745.28	224,653.67	190,091.61
65	2003 MCI	Transit Bus	BL28	1M8PDMPA13P055628	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	Leased to Fairfield	414,745.28	224,653.67	190,091.61
66	2003 MCI	Transit Bus	BL30	1M8PDMPA13P055630	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	Leased to Fairfield	414,745.28	224,653.67	190,091.61
67	2003 MCI	Transit Bus	BL31	1M8PDMPA13P055631	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	Leased to Fairfield	414,745.28	224,653.67	190,091.61
68	2003 MCI	Transit Bus	BL36	1M8PDMPA13P055636	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	Leased to Fairfield	414,745.28	224,653.67	190,091.61
69	2003 MCI	Transit Bus	BL37	1M8PDMPA13P055637	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	Leased to Fairfield	414,745.28	224,653.67	190,091.61
70	2003 MCI	Transit Bus	BL39	1M8PDMPA13P055639	Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664	Leased to Fairfield	414,745.28	224,653.67	190,091.61
																21,528,592.77	13,698,934.99	7,829,657.78

City of Vallejo
Transportation Division
Bus - Capital Assets Listing
Active
Current Fiscal Year 6/30/2009

#	DESCRIPTION	USE	Vehicle ID No.	Serial No./ VIN	Manufacturer	Useful Life	Acq Date	Age	In need of Replace/ Rehab	Replace Year	Fed Share	Federal Grant No.	Local Share	Grant Name	LOCATION	Acquisition Cost	Cummulative Depreciation	Book Value
1	In-Bus Monitoring Camera System	Transit Bus	BL07		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
2	In-Bus Monitoring Camera System	Transit Bus	BL08		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
3	In-Bus Monitoring Camera System	Transit Bus	BL09		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
4	In-Bus Monitoring Camera System	Transit Bus	BL11		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
5	In-Bus Monitoring Camera System	Transit Bus	BL12		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
6	In-Bus Monitoring Camera System	Transit Bus	BL15		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
7	In-Bus Monitoring Camera System	Transit Bus	BL16		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
8	In-Bus Monitoring Camera System	Transit Bus	BL18		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
9	In-Bus Monitoring Camera System	Transit Bus	BL20		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
10	In-Bus Monitoring Camera System	Transit Bus	BL21		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
11	In-Bus Monitoring Camera System	Transit Bus	BL22		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
12	In-Bus Monitoring Camera System	Transit Bus	BL23		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
13	In-Bus Monitoring Camera System	Transit Bus	BL24		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
14	In-Bus Monitoring Camera System	Transit Bus	BL25		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
15	In-Bus Monitoring Camera System	Transit Bus	BL26		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
16	In-Bus Monitoring Camera System	Transit Bus	BL29		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
17	In-Bus Monitoring Camera System	Transit Bus	BL32		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
18	In-Bus Monitoring Camera System	Transit Bus	BL33		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
19	In-Bus Monitoring Camera System	Transit Bus	BL34		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
20	In-Bus Monitoring Camera System	Transit Bus	BL35		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
21	In-Bus Monitoring Camera System	Transit Bus	BL06		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
22	In-Bus Monitoring Camera System	Transit Bus	BL17		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
23	In-Bus Monitoring Camera System	Transit Bus	BL27		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
24	In-Bus Monitoring Camera System	Transit Bus	BL28		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
25	In-Bus Monitoring Camera System	Transit Bus	BL30		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
26	In-Bus Monitoring Camera System	Transit Bus	BL31		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
27	In-Bus Monitoring Camera System	Transit Bus	BL36		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.51	4,446.25	4,446.26
28	In-Bus Monitoring Camera System	Transit Bus	BL37		Motor Coach Industries	12	12/20/2003	6		2016	80%	CA-90-Y130	20%	TCRP/AB 664		8,892.47	4,446.20	4,446.27
																248,989.20	124,493.65	124,495.55

City of Vallejo
Transportation Division
Bus - Capital Assets Listing
Active
Current Fiscal Year 6/30/2009

#	DESCRIPTION	USE	Vehicle ID No.	Serial Number / VIN	Manufacturer	Useful Life	Acq Date	Age	In need of Replace/ Rehab	Replace Year	Fed Share	Federal Grant No.	Local Share	Grant Name	LOCATION	Acquisition Cost	Cummulative Depreciation	Book Value
Paratransit Vans																		
1	2006 Ford Van	Paratransit Van	1710	1FDXE45P56DA20691	El Dorado Bus Sales	7	6/20/2006	3		2012	80%	CA-90-Y327	20%	AB 664	3215 Sonoma	70,480.01	20,556.65	49,923.36
2	2006 Ford Van	Paratransit Van	1711	1FDXE45P56DA20690	El Dorado Bus Sales	7	6/20/2006	3		2012	80%	CA-90-Y327	20%	AB 664	3215 Sonoma	70,480.01	20,556.65	49,923.36
3	2006 Ford Van	Paratransit Van	1712	1FDXE45P56DA20689	El Dorado Bus Sales	7	6/20/2006	3		2012	80%	CA-90-Y327	20%	AB 664	3215 Sonoma	70,480.01	20,556.65	49,923.36
4	2001 Ford F350 Type 2	Paratransit Van	1701	1FDXE45S91HB03319	El Dorado Bus Sales	7	7/1/2001	8	YES		80%	CA-90-X989	20%	AB 664	3215 Sonoma Blvd	55,709.80	55,709.80	-
5	2001 Ford F350 Type 2	Paratransit Van	1702	1FDXE45S71HB03325	El Dorado Bus Sales	7	7/1/2001	8	YES		80%	CA-90-X989	20%	AB 664	3215 Sonoma Blvd	55,709.80	55,709.80	-
6	2001 Ford F350 Type 2	Paratransit Van	1703	1FDXE45S71HB03321	El Dorado Bus Sales	7	7/1/2001	8	YES		80%	CA-90-X989	20%	AB 664	3215 Sonoma Blvd	55,709.80	55,709.80	-
7	2001 Ford F350 Type 2	Paratransit Van	1704	1FDXE45S51HB03320	El Dorado Bus Sales	7	7/1/2001	8	YES		80%	CA-90-X989	20%	AB 664	3215 Sonoma Blvd	55,709.80	55,709.80	-
8	2001 Ford F350 Type 2	Paratransit Van	1705	1FDXE45S71HB03322	El Dorado Bus Sales	7	7/1/2001	8	YES		80%	CA-90-X989	20%	AB 664	3215 Sonoma Blvd	55,709.80	55,709.80	-
9	2001 Ford F350 Type 2	Paratransit Van	1706	1FDXE45S71HB03324	El Dorado Bus Sales	7	7/1/2001	8	YES		80%	CA-90-X989	20%	AB 664	3215 Sonoma Blvd	55,709.80	55,709.80	-
10	2001 Ford F350 Type 2	Paratransit Van	1707	1FDXE45S71HB03323	El Dorado Bus Sales	7	7/1/2001	8	YES		80%	CA-90-X989	20%	AB 664	3215 Sonoma Blvd	55,709.80	55,709.80	-
11	2001 Ford F350 Type 2	Paratransit Van	1708	1FDXE45S71HB03218	El Dorado Bus Sales	7	12/1/2001	8	YES		80%	CA-90-X989	20%	AB 664	3215 Sonoma Blvd	55,709.80	55,709.80	-
12	2001 Ford F350 Type 2	Paratransit Van	1709	1FDXE45S71HB03217	El Dorado Bus Sales	7	12/1/2001	8	YES		80%	CA-90-X989	20%	AB 664	3215 Sonoma Blvd	55,709.80	55,709.80	-
																712,828.23	563,058.15	149,770.08
Service Vehicles																		
1	1990 Ford Ranger	Staff Vehicle	107	1FTCR10TXLUC29270	Wilson-Cornelius Ford	5	8/1/90	19	YES		80%	CA-90-X358	20%	TDA/AB 664	1850 Broadway	9,476.00	9,476.00	-
2	1991 Ford F-Spr Dty	Service Truck	106	2FDLF47M4MCA06219	Wilson-Cornelius Ford	5	10/1/90	19	YES		80%	CA-90-X358	20%	TDA/AB 664	1850 Broadway	20,694.00	20,694.00	-
3	1997 Ford F-350	Service Truck	110	3FEJF37G5VMA33496	Wilson-Cornelius Ford	5	10/1/1997	12	YES		80%	CA-90-X358	20%	TDA/AB 664	1850 Broadway	20,694.00	20,694.00	-
4	2000 Ford Windstar	Supervisor Car	112	2FMZA514XYBB73355	Wilson-Cornelius Ford	5	5/7/2000	9	YES		80%	CA-90-X358	20%	TDA/AB 664	1850 Broadway	18,778.89	18,778.89	-
5	2001 Taurus	Supervisor Car	113	1FAFP55U01G173966	Wilson Cornelius Ford	5	5/1/2002	7	YES		80%	CA-90-Y083	20%	TDA/AB 664	1850 Broadway	15,518.54	15,518.54	-
6	2001 Taurus	Supervisor Car	114	1FAFP55U21G253104	Wilson Cornelius Ford	5	5/1/2002	7	YES		80%	CA-90-Y083	20%	TDA/AB 664	1850 Broadway	15,518.54	15,518.54	-
7	2002 Ford F150	Service Truck	115	1FTRF17242NB23034	Wilson Cornelius Ford	5	5/1/2002	7	YES		80%	CA-90-Y083	20%	TDA/AB 664	1850 Broadway	17,721.88	17,721.88	-
8	2005 Ford Taurus	Supervisor Car	117		Wilson Cornelius Ford	5	7/1/2005	4		2010	80%	CA-90-Y083	20%	TDA/AB 664	1850 Broadway	25,000.00	25,000.00	-
																143,401.65	143,401.65	-
Administration and Maintenance Facility Building																		
	Admin/Maint Fcity - Land	Adminis./Maint.			Land Asset	50	3/1/89	20		2039	80%	CA-09-0042, 0036	20%	TDA/AB 664	1850 Broadway	374,548.00		374,548.00
	Admin/Maint Fcity - Building	Adminis./Maint.			Amoroso Construction	50	3/1/89	20		2039	80%	CA-09-0042, 0036	20%	TDA/AB 664	1850 Broadway	1,033,000.00	493,544.42	539,455.58
	Admin/Maint Fcity - Vehicle Wash	Adminis./Maint.			Amoroso Construction	50	3/1/89	20		2039	80%	CA-09-0042, 0036	20%	TDA/AB 664	1850 Broadway	37,300.00	17,821.09	19,478.91
	Admin/Maint Fcity - Bus Terminal	Adminis./Maint.			Amoroso Construction	50	3/1/89	20		2039	80%	CA-09-0042, 0036	20%	TDA/AB 664	1850 Broadway	25,300.00	22,207.72	3,092.28
	Security Tower	Parking Lot			Amoroso Construction	45	3/1/1989	20		2034	80%	CA-09-0042, 0036	20%	TDA/AB 664	York & Marin Parking Lot	7,707.00	2,140.80	5,566.20
	Security Tower	Parking Lot			Amoroso Construction	45	3/1/1989	20		2034	80%	CA-09-0042, 0036	20%	TDA/AB 664	Curtola & Lemon Parking Lot	7,707.00	1,969.53	5,737.47
	Serenot Transit Center	Bus Station			Ghilotti Brothers	45	6/30/2006	3		2034	80%	CA-90-Y130, Y240	20%	STIP & AB 664	Sereno Street	1,778,835.89	39,529.62	1,739,306.27
	Lift Genie UPRI	Maintenance			Upright	5	1/1/1985	25	YES				100%	TDA	1850 Broadway	5,100.00	5,100.00	-
	Break Machine	Maintenance		1460	Bear	5	6/30/2005	4		2010			100%	TDA	1850 Broadway	5,800.00	5,091.10	708.90
	Fleet Maint. Sftwre	Office		A000161	Fleet Computing Inter	5	5/1/91	18	YES		80%	CA-90-X358	20%	TDA/AB 664	1850 Broadway	8,500.00	8,500.00	-
	Engine Retrofit	Transit Bus Engine			Cummins	3	6/30/2006	3		2009	80%	CA-90-Y130	20%	TDA/AB 664	1850 Broadway	638,257.89	638,257.89	-
	Trapeze Software	Scheduling			Trapeze Software Group	5	5/28/2004	5		2013			100%	STA	1850 Broadway	108,867.33	108,867.33	-
	Pressure Washer	Maintenance			O'Connell Jetting Systems	5	9/23/2008	1		2013	80%	CA-90-Y414	20%	Bridge Toll AB 664	1850 Broadway	8,624.38	862.44	7,761.94
	Tire Changer (Machine)	Maintenance			AM-PAC Tire Dist. Inc.	5	11/12/2008	1		2013	80%	CA-90-Y327	20%	Bridge Toll AB 664	1850 Broadway	8,202.01	820.20	7,381.81
	Repaint Bus Fleet (TPAINT)	Rolling Stock Rehab			Coach Specialties	2	6/30/2008	1		2010	80%	CA-90-Y199	20%	TDA & STAF	1850 Broadway	210,656.75	105,328.36	105,328.39
	Bus Signage (TSIGN)	Rolling Stock Rehab			Ron Silkscreen & Sign	2	6/30/2008	1		2010	80%	CA-90-Y199	20%	TDA & STAF	1850 Broadway	36,357.38	18,178.68	18,178.70
	GROUP OF PAVING/CURBING	Adminis./Maint. Rehab				20	10/11/1988	21	YES		80%	CA-09-0042, 0036	20%	TDA & STAF	1850 Broadway	219,000.00	219,000.00	-
	GROUP OF FENCING	Adminis./Maint. Rehab				20	10/11/1988	21	YES		80%	CA-09-0042, 0036	20%	TDA & STAF	1850 Broadway	15,400.00	15,400.00	-
	GROUP OF OUTDOOR LIGHTING	Adminis./Maint. Rehab				20	10/11/1988	21	YES		80%	CA-09-0042, 0036	20%	TDA & STAF	1850 Broadway	36,600.00	36,600.00	-
	GROUP OF PAVING/CURBING	Adminis./Maint. Rehab				20	10/11/1988	21	YES		80%	CA-09-0042, 0036	20%	TDA & STAF	1850 Broadway	297,000.00	200,475.00	96,525.00
	GROUP OF OUTDOOR LIGHTING	Adminis./Maint. Rehab				20	10/11/1988	21	YES		80%	CA-09-0042, 0036	20%	TDA & STAF	1850 Broadway	50,500.00	34,087.50	16,412.50
	Bus Shelter	Bus Stops			Tolar Manufacturing Co.	20	6/30/2009	0		2029	80%	CA-90-Y414	20%	Prop 1B	Bus Stop	5,677.00	141.93	5,535.08
	Bus Shelter	Bus Stops			Tolar Manufacturing Co.	20	6/30/2009	0		2029	80%	CA-90-Y414	20%	Prop 1B	Bus Stop	5,677.00	141.93	5,535.08
																4,924,617.61	1,974,065.51	2,950,552.10
																27,558,429.46	16,503,953.95	11,054,475.51

IX.C.61

IX.C.62

AGENDA ITEM
CITY COUNCIL MEETING: November 16, 2010
ACTION ITEM

DATE : November 9, 2010

TO : City Council

FROM : City Attorney

SUBJECT : **REPORT FROM THE ARSENAL SUBCOMMITTEE AND RECOMMENDATION FOR AWARD OF AN AGREEMENT FOR CONSULTING SERVICES FOR THE BENICIA ARSENAL PROJECT**

RECOMMENDATION:

(1) Adopt the Resolution approving an agreement with a firm to be named later for consulting services for the Benicia Arsenal investigation and potential cleanup project and authorizing the City Attorney to sign the contract on behalf of the City; and
(2) Place a standing item on the Council's agenda for a report on the Arsenal.

EXECUTIVE SUMMARY:

With the recent notification from the state Department of Toxic Substances Control that further investigation and remediation is needed for the Benicia Arsenal, the City issued a Request for Qualifications from legal and technical firms to provide the City support on the project. The Subcommittee will present their recommendation for the selected firm at the meeting. Sufficient funds are available in the City Attorney's budget to cover the initial costs of this agreement.

GENERAL PLAN:

Relevant General Plan Goals and Policies include:

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

explosive waste.

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

STRATEGIC PLAN:
Relevant Strategic Plan Goal:

- Strategic Issue #1: Protecting Community Health and Safety

BUDGET INFORMATION:
Sufficient funds are available in the City Attorney's budget for the initial stage of this project. Additional funds will have to be found if the project continues on a long-term basis.

BACKGROUND:
On October 25, 2010, the City issued a Request for Qualification for legal and technical support for the Benicia Arsenal project. A total of 16 firms responded. The Council Subcommittee met and reviewed the proposals and selected 7 firms to interview. Interviews are being conducted on November 10 and 11. Therefore, the name of the selected firm is not included in this report but will be submitted in a supplemental report.

The Subcommittee would like to have the consultant team on board to assist with the planned meetings with the Department of Justice on November 18 and 19.

Attachment:

- Proposed Resolution

RESOLUTION NO. 10 -

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

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

WHEREAS, seven firms were interviewed; and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby awards the agreement to _____ and authorizes the City Attorney to execute the agreement.

*****

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 16th day of November, 2010 and adopted by the following vote.

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

IX.D.4

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 16, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 4, 2010

TO : Mayor Patterson

FROM : City Manager

SUBJECT : **MAYORS' COMMITTEE MEETING**

The following information is provided for your committee report at the November 16, 2010 City Council meeting.

The Mayors' Committee meetings are held on the third Wednesday of each month at 6:30 pm. The last meeting was held on October 20, 2010 when the Mayor's Conference was hosted by the City of Benicia, a copy of the agenda for that meeting is attached.

The next Mayors' Committee meeting is on Wednesday, November 17, 2010. The agenda for that meeting is not yet available.

X.B.1.2

SOLANO COUNTY
MAYORS' CONFERENCE

Hosted by the City of Benicia

Sailor Jack's
123 First Street
Benicia, CA

Wednesday
October 20, 2010

6:00 PM Registration & Cocktails in the Courtyard
6:30 PM Dinner
7:00 Program

AGENDA

1. **Roll Call/Call to Order**

2. **Welcome by Mayor Pete Sanchez**

3. **Introductions**

4. **Public Comment**
   (Members of the public may address the Committee on matters not listed on the agenda, but within the jurisdiction of the Committee.)

5. **Enjoy Dinner (6:30 PM)**

6. **Guest Speakers**

   Solano County Supervisor Linda Seifert and Susan Dolan, Community Liaison for Solano County Child Welfare Services

7. **Adjournment**

X.B.1.4

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 16, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 2, 2010

TO : Mayor Patterson
Vice Mayor Schwartzman

FROM : City Attorney

SUBJECT : **ABAG COMMITTEE MEETING**

The following information is provided for your committee report at the November 16, 2010 council meeting:

- The 2010 Fall General Assembly was held on Thursday, October 21, 2010 in San Jose. A summary of the conference is attached.

Attachment:
- ABAG Fall General Assembly 2010 Highlights

X.B.2.2

View PowerPoint Presentation and Highlights from the ABAG Fall General Assembly on Jobs, the Economy and Sustainability

Posted Friday, October 22, 2010

View PowerPoint Presentation and Highlights from ABAG Fall General Assembly on Jobs, the Economy and Sustainability

Thursday, October 21, 2010

Bay Area's jobs, the economy and sustainability were the focus of elected officials and civic leaders attending the Association of Bay Area Governments' (ABAG) General Assembly at the San Jose Hilton. ABAG President and Union City Mayor Mark Green convened this timely discussion with San Jose Mayor Chuck Reed welcoming attendees with remarks about San Jose's sustainability efforts.

Conference keynote speakers included Jon Haveman, Founding Principal of Beacon Economics, and Jean Ross, Executive Director, California Budget Project. Dr. Haveman is considered one of California's leading experts on regional economies and local economic development. Jean Ross is an acclaimed expert on the budget, workforce, and other fiscal and economic policy issues.

A panel of elected officials and business leaders, including Redwood City Councilmember Rosanne Foust, President and CEO, SAMCEDA; Contra Costa County Supervisor John Gioia; San Jose Councilmember Sam Liccardo; and Russell Hancock, President and CEO, Joint Venture: Silicon Valley Network, critically examined sustainable development and the challenges of balancing jobs and housing for cities, counties, and business. Moderator Santa Clara County Supervisor and ABAG Past President Dave Cortese facilitated the panelist and attendee discussion of these sustainability and economic challenges.

X.B.2.3

X.B.2.4

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 16, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 5, 2010

TO : Vice Mayor Schwartzman
Council Member Campbell

FROM : Finance Director

SUBJECT : **FINANCE, AUDIT AND BUDGET COMMITTEE**

The following information is provided for your committee report at the Council meeting.

The FAB committee held a meeting on October 20, 2010 and I have attached a copy of the *Draft* minutes for your review. The next meeting will be held on **Wednesday, November 17, 2010 at 6 P.M.** in the Commission Room. The FAB has chosen the third Wednesday each month as the new regular meeting date, unless otherwise changed.

Attachment:

- *Draft* Minutes from October 20, 2010

X.B.3.2

FINANCE, AUDIT AND BUDGET COMMITTEE
***DRAFT* REGULAR MEETING MINUTES**
COMMISSION ROOM
October 20, 2010 - 6:00 PM

1. **Call to Order at 6:00 p.m.**
   Attended by Committee Chair Dennis Lowry, Board Members, Larry Grossman, Lee Wines; Council Member Tom Campbell; City Treasurer Teri Davena. Staff present - Finance Director Robert Sousa. Members of the public present – Michael Clark. Excused absence – Council Member Alan Schwartzman.

2. **Notice to the Public**

3. **Approval of Agenda**
   Approved by consensus.

4. **Approval of Minutes from the meeting held on September 24, 2010.**
   Committee meetings changed to a night meeting to be accessible to the public. Chair Lowry commented on Item 6 – Finance Director Sousa has fixed the PERS formula, but there are still 2 divisions over by $1,000. Finance Director Sousa has been asked by the City Manager to prepare a single page report showing the General Fund's $1.2 million shortfall.
   Approved by consensus.

5. **Review Long Range Calendar**
   The November meeting is scheduled on the 3rd Wednesday of the month due to the holidays. Chair Lowry to further explore availability of Commission Room for the 4th Thursdays of the month. Suggestion to hold off the Long Range Calendar and combine with #7.

6. **Review of Monthly Financial Report for September 30, 2010**
   Finance Director Sousa verified that there are no adjustments made to the report as a result of the budget cuts. Budget adjustments have been approved by the City Council on October 19, 2010, and these adjustments will be updated and reflected on the October report.

   There are 3 categories for budget adjustments:
   1. Carryover/encumbrance – project carryovers and purchase order carryovers that allow moving budget allocations from one year to the next.
   2. Non-discretionary items – City Manager authorized transfers form one division or department to another under the authority of the budget resolution or those items that should be recognized due to changes in revenue or expenditure amounts.
   3. Discretionary items – the budget items that are "optional in nature" and have to go to Council before implementation.

   Discussion was held regarding Human Resources division running over budget, as well as the high City Attorney's legal services being ongoing and not one-time costs. The Finance Director will review and make recommendations for budget adjustments in December. The cost/benefit of frozen positions compared to overtime costs were also discussed. Comment was made that during this economic downturn, expenditures should be lower than prior year's, but that is not the case. Current expenditures compared to last year's expenses are higher.

7. **Review of the FAB Mission, Duty and Structure Policy**
   The work program was reviewed and approved by members. It was recommended that the approved work program be brought to the City Council at the December meeting. The committee name will be changed from the Finance, Audit and Budget Committee to the Finance Committee, as approved by consensus.

8. **Previous Month Warrant Register Review for September 2010**
   The committee members questioned approximately 20 claims.

   Warrant registers approved by consensus.

9. **Public Comment**

10. **Adjournment –** 8:08 p.m.

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 16, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 4, 2010

TO : Mayor Patterson
Vice Mayor Schwartzman

FROM : City Manager

SUBJECT : **LEAGUE OF CALIFORNIA CITIES**

The following information is provided for your committee report at the November 16, 2010 City Council meeting.

The 2010 Legislative Briefings will be held in Sacramento, on November 16, 2010.

X.B.4.2

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 16, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 4, 2010

TO : Council Member Ioakimedes
Council Member Hughes

FROM : City Manager

SUBJECT : **CITY COUNCIL/SCHOOL BOARD LIAISON COMMITTEE**

The following information is provided for your committee report at the November 16, 2010 City Council meeting.

This committee meets quarterly in the Benicia Unified School District meeting room. A meeting was held on September 14, 2010, the minutes from that meeting are not currently available.

The next meeting is scheduled for Thursday, December 9, 2010 and the agenda is not yet available.

X.B.5.2

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 16, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE	:	November 5, 2010
TO	:	Mayor Patterson Vice Mayor Campbell
FROM	:	City Manager
SUBJECT	:	**SKY VALLEY OPEN SPACE COMMITTEE**

The following information is provided for your committee report at the November 16, 2010 Council meeting.

The Sky Valley Open Space Committee held a regular meeting on Wednesday, November 3, 2010. A proclamation in honor of Scott Shepard's service to the community was read and approved by the Committee. In addition, the newest member to the Committee, Jennifer Deal, was welcomed. There now remains just one vacancy for a citizen-at-large. The Committee also elected Craig Snider to serve as Chair and John Furtado to serve as Vice Chair.

The next meeting of the Sky Valley Committee is scheduled for Wednesday, February 2, 2011. The meeting will take place in the Commission Room, located at Benicia City Hall, 250 East "L" Street.

Attachments:

- Adopted Minutes of August 4, 2010
- Sky Valley Open Space Committee Meeting Schedule for 2011

X.B.6.2

BENICIA SKY VALLEY OPEN SPACE COMMITTEE
COMMISSION ROOM
MEETING MINUTES

Wednesday, August 4, 2010
7:00 P.M.

I. CALL TO ORDER

A. **Roll Call of Committee Members**

Present: Vice Chair Craig Snider, Members Tom Campbell, John Furtado, Jon Van Landschoot
Absent: Member Hughes, Chair Shepard
Staff present: Lisa Porras, Senior Planner
Brooke, O'Leary, Administrative Clerk

II. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Member Van Landschoot addressed the possible conflict resulting from his serving on both the Sky Valley Open Space Committee and Historic Preservation Review Commission. His Committee term limit was recently extended to January 2011. He will serve until that time and attend as a citizen after that.

III. PRESENTATIONS

None

IV. CONSENT CALENDAR

A. Minutes of June 16, 2010

On motion of Committee Member Furtado, seconded by Committee Member Campbell, the minutes were approved by a vote of the Committee.

V. REGULAR AGENDA ITEMS

A. Update from the California Rangeland Trust

Tina Batt, Bay Area Program Manager with the California Rangeland Trust, provided the Committee with an update. The City has retained the Trust for professional services for pursuit of conservation easements in the Sky Valley area. The first step will be to meet with the County for direction and to get up-to-date area property information. Ms. Batt also made a request of the Committee to market or heighten public awareness of

the landscape as a whole and not just the trail corridor. Lisa Porras, Senior Planner, mentioned the Tri-City and County Cooperative Planning Group is already working on that approach.

VI. COMMUNICATIONS FROM COMMITTEE MEMBERS

Committee Members Van Landschoot and Furtado expressed an interest in attending future Tri-City and County Cooperative Planning Group meetings. Lisa Porras, Senior Planner said she would add all Committee Members' names to the meeting notice list.

VII. COMMUNICATIONS FROM STAFF

Lisa Porras, Senior Planner, discussed the frequency of Committee meetings and wish to adhere to the set quarterly schedule. Ms. Porras asked the Committee for possible future agenda items. The members suggested the following:

1. Update from Solano Land Trust on Signature Properties parcel.
2. Update from California Rangeland Trust and concept map.
3. Update from Tri-City and County Cooperative Planning Group (perhaps make this standing item).
4. County appraisal.
5. Discuss funding sources and how-to for applying.
6. Determine potential project list.
7. Coastal Conservancy follow-up (perhaps ask Tina Batt with the California Rangeland Trust to pursue).

The Committee asked for a better map of the Sky Valley area. Ms. Porras will try to get something more detailed and up-to-date from the County.

VIII. ADJOURNMENT

On Motion of Committee Member Furtado, seconded by Committee Member Campbell, Vice Chair Snider adjourned the meeting at 8:00 p.m. The next regularly scheduled meeting of the Sky Valley Open Space Committee is November 3, 2010.

Public Works &
Community Development Department
MEMORANDUM

Date: October 28, 2010

To: Sky Valley Open Space Committee

From: Lisa Porras, Senior Planner

Re: 2011 Sky Valley Committee Meeting Schedule

The Sky Valley Committee meeting schedule is listed below for your reference and approval.

February 2, 2011
May 4, 2011
August 3, 2011
November 2, 2011

X.B.6.6

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 16, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 4, 2010

TO : Mayor Patterson
Council Member Campbell

FROM : City Manager

SUBJECT : **SOLANO EDC BOARD OF DIRECTORS**

The following information is provided for your committee report at the November 16, 2010 Council meeting.

The last Board of Directors meeting was held on Thursday, September 23, 2010. The agenda was previously issued. The minutes are not yet available.

The next Board of Directors meeting will be held on Thursday, November 18, 2010 at 9:00 am at Jelly Belly Candy Company. The agenda for that meeting is not yet available.

X.B.7.2

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 16, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 4, 2010

TO : Mayor Patterson
Council Member Ioakimedes

FROM : Director of Public Works and Community Development

SUBJECT : **SOLANO TRANSPORTATION AUTHORITY**

The following information is provided for your committee report at the November 16, 2010 City Council meeting.

A STA Board Meeting was held on Wednesday, October 13, 2010, and the minutes from that meeting are not yet available.

The next regular meeting of the STA Board is scheduled for December 8, 2010 at 6:00 p.m., Suisun City Hall Council Chambers, the agenda for that meeting is not currently available.

X.B.8.2

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 16, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 4, 2010

TO : Mayor Patterson
Vice Mayor Schwartzman

FROM : Director of Public Works and Community Development

SUBJECT : **SOLANO WATER AUTHORITY**

The following information is provided for your committee report at the November 16, 2010 City Council meeting.

The Solano Water Authority (SWA) Board of Directors held a meeting on October 14, 2010, the minutes from that meeting are not available. The meeting scheduled for November 11, 2010 was cancelled, and the next meeting is scheduled for December 9, 2010.

The SWA also has a Delta Committee that typically meets each month directly before the regular SWA meeting.

Attachment:

- Cancellation Notice

X.B.9.2

SOLANO COUNTY WATER AGENCY

ATTENTION!!

BOARD MEETING CANCELATION NOTICE!

The Solano County Water Agency's November 11 Board of Directors meeting has been ***canceled***.

Our next Board meeting will be taking place on Thursday, December 9 at the Solano Irrigation District Board Room at 6:30 pm.

Our next Executive Committee meeting will be taking place on Wednesday, December 1 at 6:00 pm via conference call.

A5.NovemberBOD.Cancelation.Notice.doc

P.O. Box 349 • 6040 Vaca Station Road, Building 84
Elmira, California 95625-0349
Phone (707) 451-6090 • FAX (707) 451-6099
www.scwa2.com

SOLANO WATER
• WASTE NOT • WANT NOT •

X.B.9.4

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 16, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 4, 2010

TO : Council Member Hughes
Council Member Ioakimedes

FROM : Director of Public Works and Community Development

SUBJECT : **TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY (TPBS) COMMITTEE**

The following is provided for your committee report at the November 16, 2010 Council meeting.

The Traffic, Pedestrian and Bicycle Safety (TPBS) Committee meets quarterly at 7:00 p.m. in the Commission Room at City Hall.

The October 21, 2010 meeting was cancelled. The next scheduled meeting is January 20, 2011 at 7:00 pm. The agenda for that meeting is being developed.

A special meeting was held on May 20, 2010, 7:00 pm, in the Commission Room. That meeting agenda is attached for your information.

The meeting minutes of the April 23 and May 6, 2009 special meetings (attached) are approved. The meeting minutes from the May 20, 2010 meeting are scheduled for approval at the next committee meeting.

Attachments:
- TPBS Committee minutes from April 23 and May 6, 2009 meetings
- TPBS Committee agenda from May 20, 2010 meeting

X.B.10.2

Approved May 20, 2010

MINUTES
CITY OF BENICIA
TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY (TPBS) COMMITTEE
Special Meeting
Thursday, April 23, 2009
7:00 pm

I. CALL TO ORDER -- Meeting called to order at 7:00 pm

1. Roll Call -- Committee Members Present:
   Council Member Mark Hughes (Chair), Vice-Mayor Tom Campbell, Director of Public Works Dan Schiada, City Engineer Michael Throne, Sgt. Frank Hartig, Police Department Traffic Division
   Staff Present: Senior Civil Engineer Mike Roberts, Administrative Secretary Kathy Trinque.
2. Pledge of Allegiance
3. Fundamental Rights Statement

II. APPROVAL OF MINUTES

Minutes for the November 6, 2008 special meeting were approved by a 5-0 vote of the Committee.

Chairman, Mark Hughes, due to the number of interested parties in the audience, changed the order of the agenda to move Item VI. 1. and 3. to after public comment.

III. PUBLIC COMMENT

1. Request to permit unrestricted use (i.e. 24 hr/day) of the East E Street Parking Lot and to keep the Kuhland Alley gate open at all times (Patrick M. Donaghue – Citizen).

Pat Donoghue stated his request to have the parking lot open because it benefits his business and tenants, helps take parking off of First Street. Wants the gate to be open 24/hours per day. Several other residents want the gate open. Requests that this item be placed on the agenda for the next meeting, but does not want to wait 3 months for the next scheduled meeting.

Mark H: Asked why this item was placed under public comment?

Dan S: I agreed to place it under public comment for the committee to hear, discuss and decide on this issue. We did not want to go through a formal public notification process if we are going to re-open this issue since it was already decided by this Committee a few years ago to close the gate. If there's a desire by this Committee to re-consider opening the gate, we need to re-schedule this under "action items" and notice the neighbors. Another issue was to allow parking 24/hours per day.

Mark H: I feel uncomfortable making a decision without neighborhood notice. We should put it on a future agenda to make a decision.

Frank H: I'm not in favor of the gate being open 24 hours/day because it creates problems with reckless driving and other enforcement issues.

Tom C: I wanted the gates closed at both ends, open during the day and closed at night. Would like to see ropes or barriers that divide the lot into smaller lots to discourage reckless driving.

Dan S: My opinion is that the E Street parking lot has 2 entrances, the main one from East E Street and one from Kuhland Alley. The lot is usable 24 hours/day. The alley allows another use. Staff has tried to compromise by closing the Kuhland Alley gate except for special events. Am strongly against changing the parking restrictions unless we decide to post it closed from 2:00 to 6:00 am to keep cars and recreational vehicles from camping there overnight. We can set a special meeting to hear this item.

Mark H: Let's schedule it before the next quarterly meeting.

Tom C: Asked Pat to come back with solutions/ideas to address reckless driving and other problems that come up with the gate being open.

Tom Campbell made the motion to place this item on a future TPBS Committee agenda for action. Seconded by Frank Hartig. Adopted by a 5-0 vote.

2. Other Public Comments:

Gretchen Burgess of Buena Vista St: At a recent public workshop, parking for the downtown came in #2 as a priority. Citizens want to re-claim this parking lot and open the gate. There are lots of potholes, but these are wonderful traffic calming measures.

Reiko McDonald of 1601 Bayview Cir: The handicap ramp on Military at East 2nd Street is not easy for handicapped people to push the pedestrian button (by Baskin Robbins).

Mike R: Offered to meet her at the site in the near future to look at this problem.

VI. ACTION ITEMS

1. East 2nd Street/Riverhill Drive Crosswalk (M. Roberts/F. Hartig)

Mike Roberts summarized the written report.

Frank Hartig reported on his investigation of the accident that occurred in February 2009. Regarding this accident, the pedestrian was intoxicated and did not use the crossing guard to cross the street, instead he stepped into the path of the vehicle that hit him. There were no injuries. The car was not speeding (determined after the investigation). The PD has worked additional enforcement at this location. No citations were issued as a result of the accident. Both pedestrians and vehicle drivers have to use due caution.

Mike Roberts: We made an effort to inform concerned residents and to look at the flashing warning lights currently in place. All were properly functioning. We need to recognize that 16,000 cars per day use this street. Staff is recommending that we upgrade this crosswalk to a high visibility crosswalk and pursue grant funds to install radar speed signs.

Mark H: It does appear that in this case the pedestrian was at fault.

Resident of Bayview Circle stated that she has observed near misses with crossing guards. Cars don't stop for pedestrians and kids are afraid to cross there. Need blinking lights at the crosswalk.

Judy Arrants of Riverview Terrace stated that she was worried when the new development was built, specifically about increased pedestrians crossing East 2nd Street. Need to do something there to make the crosswalk safer.

Larry Bennett of Riverview Terrace stated that he sees E 2nd Street as a dangerous entrance to town. Often has to turn right instead of left because the street is a race course. Wants the entire corridor addressed with speed bumps or something to slow the cars down. Photo traffic enforcement would help and change the truck route.

Pam Schutz of St. Augustine stated that she doesn't cross there because cars do not stop. There's too much traffic to turn left on East 2nd Street. The entire street needs to be looked at because commuters cut through town when the freeway traffic is stopped. No recommendation but this needs to be addressed.

Gretchen Burgess of Buena Vista stated that she loves ladder crosswalks and the yield to pedestrian signs like they have in Vallejo.

Mark H: Questions from the Committee?

Frank H: We have done some pedestrian stings at this intersection, which is a planned event. We were successful at this intersection. Red light cameras are expensive and we don't have quite enough traffic volume to justify the cost. PD has increased speed enforcement on this street and the vehicle speeds seemed to be OK.

Dan S: I like the ladder type crosswalk because it's helps to increase visibility for the pedestrian. Radar speed signs will also help with vehicle speed. Maybe we need to move the flashing signs closer to the crosswalk.

Michael T: The next step in the works is to add the radar speed signs, then we will make the crosswalks more visible. As the entrance to town it is designed to funnel traffic into the City. We have good site distance here. A ladder crosswalk should be a good improvement and moving the flashing signs with the addition of radar speed signs. We could look into relocating the lighted crosswalk from the high school. We will be salvaging the lights and could move them to this location, as funding allows. A longer

term solution is for a capital improvement project to improve this street, as a gateway entrance to the City.

Motion made by Dan Schiada to install a ladder-type crosswalk here, have staff report back at the next meeting on the grant application, move the BHS lighted crosswalk here and look at the funding and timing of this work.
Seconded by Michael Throne. Tom Campbell recused himself. Adopted by a 4-0 vote.

VI. 3. <u>On-street Parking on East 4th Street between East I and East J Street</u> (Mike Roberts). Mike summarized the written report and passed out exhibits to the committee and members of the public.

Michael Throne recused himself, due to a conflict of interest. Mike Roberts summarized the written report.

Elizabeth Lundberg of 926 East 4th Street passed out pictures of the area and reviewed them with the committee and the public.

Dan S asked what are the solutions you offer the committee?

Elizabeth Lundberg responded that she supports a parking permit program that excludes residents with parking lots; change the curb to emergency drop-off only; no parking on East I Street to East 5th Street. No parking on East J Street to St. Dominic's. Make East I and East J Streets one-way and add a stop sign on East I at East J Street.

Mark H: How many houses are there on East 4th Street in the 900 block?

Mike R: 2 houses.

Julie Peterson, Benicia Housing Authority Director stated that the 20 to 30% rationale is low. Casa de Villarasa tenants choose to park on the street, though the Housing Authority recommends that they use the lots. Residents still want the same right as other residents to park on the street. Submitted a petition from the senior housing complex.

Casa de Villarasa resident stated that he often prefers to park on the street because it's easier for him when he leaves for work and when it's dark. Mrs. Lundberg blocks the sidewalk with her car, then pedestrians have to walk in the street.

Two Casa de Villarasa residents stated that they want to be able to park on the street. Trucks option take up parking on both sides of the street. Wants cars parked where it's easier to see.

Priscilla Bernal stated that a loading zone from 9 to 5, Monday – Saturday would not help during church for the church congestion.

Comments from Tom & Mildred Donahue of 300 East I Street, read by Elizabeth Lund: stated that they are housebound and their visitors cannot find parking. Were assured that Casa de Villerasa residents would be required to park in the parking lot.

Julie Peterson stated that the Housing Authority is not aware of safety concerns on East 4th Street. The management has been in place for 23 years, enforcing the same rules. Some newer residents prefer to park on East 4th Street.

Mike R: I checked with the City Attorney's office and she confirmed that all residents are entitled to use street parking. Staff looked for a parking lot agreement with Casa de Villerasa and did not find one.

Dan S: Regarding the issue with the staircase off the southwest entry, the City looks at it from the standpoint that it met the code at the time it was built. Regarding inadequate handicap access, the Casa de Villerasa complex does have handicap access on site. These two streets are very narrow and in light of traffic calming, narrow streets actually help to keep vehicle speeds down. While parking can be inconvenient, it does help with this traffic calming concept. About the existing 15-minute zone, the intent is for loading and unloading. Maybe we can expand that zone.

Tom C: This is a neighborhood problem. If you expand zones and add no parking, it will reduce available parking spots.

Frank H: The Police Dept. met with the principal of St. Dominic's school to improve student drop-off safety next year. We will continue to work with them. We are trying to find a happy medium for everyone.

Dan: On J Street, on the St. Dominic church side, there were some signs put up, such as no parking, loading during school hours, which left parking open at other times for residents to park. We will continue to work with the schools in this area.

Mark H. We can't make everyone happy on this issue. I appreciate your issues and I understand the Casa de Villerasa residents' concerns also. We can explore some ideas tonight.

Tom C. I know that permit parking doesn't work because everyone here are residents.

Dan: I will offer a motion (we can't address request #1 on the petition) that the Police Dept. and Engineering staff work with St. Dominic's school to review their drop off and pick up activity and report back to the committee at the next meeting with a verbal status and offer some solutions. In addition, we ask the Casa de Villerasa management to encourage residents to use the parking lots and ask vendors to use the parking lots during their deliveries.

Seconded by Frank H and adopted by a 4-0 vote.

Elizabeth Lundberg requested that the Casa de Villerasa ask residents not to park in front of residents' homes.

VI. 2. Safe Routes to School Radar Speed Sign Grant Program (M. Throne)
Michael Throne summarized the written report.

Tom C. How much do these signs cost?

Michael: $8,000 each and crosswalks cost $3,000 to $5,000 each. According to the grant, we can only have two locations. We also need to buy a computer so we can re-program the signs as needed.

Tom C. Can we get more signs added to this grant?

Dan S: The criteria is 2 locations maximum. We can add a landing zone or bulb out on Southampton Road on the church side of the street.

Committee discussion.

Gretchen Burgess: Likes the idea of two locations, but wants signs on both sides of the street.

Motion made by Dan: To confirm the selection of the East 2nd Street corridor and Southampton Road corridor as appropriate Safe Routes to School sections for the placement of radar speed signs and direct staff to maximize the use of grant funds. Seconded by Michael Throne. Adopted by a 5-0 vote.

IV. VERBAL UPDATES

1. Safety enhancements on Drolette Drive near Mary Farmar Elementary School (M. Roberts).

Mike Roberts reviewed the requests we received from the Mary Farmar Elementary School staff. He distributed pictures to the committee.
The following improvements have been made since the last meeting:

- ✓ Bus pull-outs were converted back to employee parking.
- ✓ Old bus pull-outs became a new loading zone.
- ✓ No U-turn signs were installed on Drolette
- ✓ Extended the intersection lines at the nearby intersection.

Read e-mail received from Susan Sullivan, Principal, expressing her thanks to staff for their cooperation and installing the improvements to improve student safety on Drolette Way.

V. INFORMATION ITEMS

1. Benicia High School Signal and Entrance Circulation Improvement Project – Progress Report (Michael Throne)

Michael Throne summarized his written report. We are in process of finishing the final project design and plan to be out to bid next month. Award of contract could occur in June 09. We are on schedule for construction summer.

Mark H: If the road diet doesn't work, is it flexible enough that we could change it?

Michael T: It is not flexible, it's actually done with concrete.

Mike R: It might be interesting to have a mock-up done (with paint) to make sure it works, before school is out.

Mark H: Would ask staff to look into these options.

Committee discussion with Ron Wheat, Vice-principal at Benicia High School.
Ron asked if the City would also help them with traffic pattern flows both on and off campus.

2. Regional Signal Timing Program Grant (M. Throne)
Michael summarized the written report. We received a grant from MTC to interconnect/synchronize 2 sets of traffic signals -- one on the East 2nd Street corridor and the other on the Southampton Road/West 7th Street corridor. Does not include all the necessary funding, but will provide a technical consultant to do the work. The idea is that a car could leave the First/Military intersection and travel up East 2nd Street to the freeway without stopping. Will require working with CALTRANS because they own several of the signals.

VII. COMMUNICATION FROM STAFF

Michael Throne announced that Dan is retiring in July, before the next regularly scheduled meeting.

Dan S: This committee has to consider the challenge of working without a registered traffic engineer along with possible committee member changes. We'll include this item on the agenda of the next TPBS Committee meeting.

Adjourned at 9:25 pm.

Respectfully submitted,

Kathy Trinque
Administrative Secretary
Public Works Department

X.B.10.10

City of Benicia
TRAFFIC PEDESTRIAN &
BICYCLE SAFETY (TPBS) COMMITTEE

SPECIAL MEETING

City Hall – Commission Room
Thursday, May 20, 2010
7:00 pm

AGENDA

I. CALL TO ORDER
1. Pledge of Allegiance
2. Roll Call
3. Fundamental Rights Statement

II. APPROVAL OF MINUTES
- April 23, 2009 Special Meeting
- May 6, 2008 Special Meeting

III. PUBLIC COMMENT

IV. PRESENTATIONS:
1. Facilitating Public Participation (Open Government Commissioner, Claire McFadden).
2. Open Government. (City Attorney, Heather McLaughlin)
3. Solano Transportation Authority, Safe Routes to School Program (Sam Shelton, STA).

V. INFORMATIONAL ITEMS:
1. Public Works & Community Development Dept Staffing Update– Mike Roberts, Acting City Engineer
2. St. Dominic School Pick-up/Drop off Activity Report – Sgt. Hartig

VI. ACTION ITEMS
1. Meeting Calendar for 2010.
   Recommendation: The Committee review and approve the calendar for regularly scheduled TPBS meetings for the remainder of 2010.

VII. COMMUNICATION FROM STAFF

VIII. ADJOURNMENT

Public Participation

The Traffic Pedestrian and Bicycle Safety (TPBS) Committee welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The TPBS Committee allows speakers to speak on agendized and non-agendized matters under public comment. Comments are limited to no more than 5 minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the TPBS Committee.

Disabled Access

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

Meeting Procedures

All items listed on this agenda are for the TPBS Committee discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the TPBS Committee.

Public Records

The agenda packet for this meeting is available at the Public Works Department, City Clerk's Office and the Benicia Public Library during regular work hours. To the extent feasible, the packet is also available on the City's web page at *www.ci.benicia.ca.us* under the heading "Agendas and Minutes." If you wish to submit written information on an agenda item, please submit to the Public Works Director as soon as possible so that it may be distributed to the Committee.

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 16, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 5, 2010

TO : Mayor Patterson
Vice Mayor Campbell

FROM : City Manager

SUBJECT : **TRI-CITY AND COUNTY COOPERATIVE PLANNING GROUP**

The following information is provided for your committee report at the November 16, 2010 Council meeting.

No regular meetings have taken place since the last meeting on September 19, 2010. However, members from the group did participate in this year's fall tour that was held on October 9th.

The next scheduled meeting between the Governing Board and Citizens Advisory Committee will take place on Monday, December 13, 2010; location to be announced.

X.B.11.2

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 16, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 4, 2010

TO : Council Member Hughes

FROM : City Manager

SUBJECT : **VALERO COMMUNITY ADVISORY PANEL (CAP)**

The following information is provided for your committee report at the November 16, 2010 Council meeting.

The CAP meets quarterly at 6:30 p.m. at the refinery at 610 Industrial Way.

The next meeting date has not been scheduled.

X.B.12.2

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 16, 2010
COUNCIL MEMBER COMMITTEE REPORT

DATE : November 4, 2010

TO : Mayor Elizabeth Patterson
Council Member Mike Ioakimedes
Council Member Schwartzman

FROM : Youth Action Coalition

SUBJECT : **YOUTH ACTION COALITION**

The following information is provided for your committee report at the November 16, 2010 City Council meeting.

The next Benicia Youth Action Coalition meeting will be held on Wednesday, December 1, 3:30 p.m. in the Commission Room at City Hall. The agenda is not yet available. The minutes from the October meeting are not yet available.

October meeting highlights:

- Council votes 3-2 to support a No on Prop 19 position
- Concern over potential County budget cuts next year
- Substance Abuse Forums on local Cable start Nov. 4th
- Police conduct tobacco/alcohol compliancy checks
- BUSD special meeting on Nov. 9th to review Healthy Kids Survey
- Housing Authority reviewing Smoke Free Programs

X.B.13.2

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 16, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 4, 2010

TO : City Council

FROM : Mayor Patterson

SUBJECT : **ABAG/CAL FED TASK FORCE/BAY AREA WATER FORUM**

The following information is provided for your committee report at the November 16, 2010 City Council meeting.

The Bay Area Water Forum has moved to a quarterly meeting format for the 2010 year.

The last meeting was held on Monday, September 27, 2010, the agenda from that meeting is attached.

The next meting will be held on Monday, December 6, 2010. Meetings are from 10:00 a.m. to 12:30 p.m. at the State Coastal Conservancy, 11th floor conference room, 1330 Broadway at 13th Street, Oakland.

The topic for the next meeting is:

- Wetlands Restoration

X.B.14.2