BENICIA CITY COUNCIL
REGULAR MEETING AGENDA

City Council Chambers
November 18, 2014
6:00 PM

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

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

I. CALL TO ORDER (6:00 PM):

II. CLOSED SESSION (6:00 PM):

A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
(Subdivision (b) of Government Code Section 54947)
Title: City Attorney

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

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/PROCLAMATIONS/ APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS.

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

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

   Arts and Culture Commission
   1 unexpired term
   open until filled

   Human Services Board
   1 unexpired term
   open until filled

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

4. **Benicia Arsenal Update**

   Update from City Attorney

B. PROCLAMATIONS.

1. **IN RECOGNTION OF CITY OF BENICIA - A PURPLE HEART CITY**

C. APPOINTMENTS.

D. PRESENTATIONS.

1. **PRESENTATION OF A PLAQUE HONORING FORMER BENICIA HIGH SCHOOL TEACHERS/COACHES BARNEY CORRIGAN, GEORGE DROLETTE AND PHIL GOETTEL**

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 (7:30 PM):

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

A. APPROVAL OF THE MINUTES OF THE NOVEMBER 4, 2014 CITY COUNCIL MEETING. (City Clerk)

B. AWARD OF PLC REPLACEMENT PROJECT AND SCADA UPGRADES FOR WATER TREATMENT PLANT. (Public Works Director)

This PLC replacement project was identified in the 2012 Water System Master Plan. With the existing PLC being obsolete and at full capacity, a replacement PLC is necessary before future capital improvement projects (CIP) scheduled at the Water Treatment Plant (WTP) can be implemented. The SCADA system has also reached the end of its useful life, as deemed by the out-of-date software version the WTP is using and the need to replace the computer workstations where SCADA is programmed. The replacement of the PLC was scheduled to coincide with the upgrade of the SCADA system to save money.

Recommendation: Adopt a resolution accepting the bid for the Water Treatment Plant Programmable Logic Controller (PLC) Replacement Project, awarding the construction contract to Telstar Instruments, Inc. of Concord in the amount of $101,721, approving a sole source professional service contract with DST Controls in the amount of $148,331 for Supervisory Control and Data Acquisition (SCADA) system upgrades, and authorizing the City Manager to execute the contracts on behalf of the City.

C. REVIEW OF OCTOBER WATER REPORT. (Public Works Director)

Benicia customers are continuing to make impressive progress reducing water use and their efforts are acknowledged and appreciated. Benicia has reduced its water use by 19% since January compared to the same time frame in 2013, or 21.6% since March (which is after City Council implemented a community wide goal of voluntarily reducing water consumption by 20%).

Recommendation: Receive the City's water supply and usage update.

D. ACCEPTANCE OF WATER TREATMENT PLANT INFLUENT IMPROVEMENT PROJECT. (Public Works Director)

This project, located at the Water Treatment Plant, consisted of improvements to the metering, control and primary chemical treatment of the untreated water that allows for efficient treatment of the City's drinking water. The last step of the project requires formal acceptance by the City Council and filing of the Notice of Completion by the City Clerk, which allows the City to process the final payment to the contractor. The final construction cost is $422,803.97, which includes Change Order Nos. 1 through 4.

Recommendation: Adopt a resolution accepting the Water Treatment Plant Influent Improvement Project as complete, including approval of Change Order Nos. 1 through 4 authorizing the City Manager to sign the Notice of Completion and authorizing the City Clerk to file same with the Solano County Recorder.

E. MILLS ACT CONTRACTS FOR PROPERTIES AT 153 WEST G STREET AND 180 WEST H STREET. (Community Development Director)

The Mills Act Program, enacted by the State of California in 1972, encourages the restoration and preservation of qualified historic buildings through economic incentive and authorizes its implementation by local governments. In 2003, Council approved the City of Benicia Mills Act Program and assigned initial review and recommendation of Mills Act Contract applications to the Historic Preservation Review Commission (Resolution No. 03-12). The program incentive consists of an alternative method for determining lower property value for tax assessment purposes. The properties at 153 West G Street and 180 West H Street meet the eligibility requirements for the Mills Act Program.

Recommendation: Adopt resolutions directing the City Manager to execute a Mills Act contract with the owners of 153 West G Street and 180 West H Street. In addition, direct staff to bring forward a discussion item to evaluate the program for long-term sustainability before considering any additional contracts for 2015.

F. PURCHASE AND PLACEMENT OF RESTROOM FACILITY FOR THE DOWNTOWN LITTLE LEAGUE FIELDS. (Parks and Community Services Director)

The former restroom facility at the downtown little league fields was built in the 1970's and is not functioning. Presently, portable lavatories have been placed on site. To remedy this situation and maintain a permanent restroom facility at the park, staff is requesting authorization to purchase and install the new restroom facility.

Recommendation: Adopt a resolution authorizing the purchase and placement of a new restroom at the downtown little league fields in the amount of $76,792.98. This restroom facility is a replacement to the former restroom that was built in the 1970's.

G. APPROVE THE AGREEMENT BETWEEN THE CITY OF BENICIA AND POLICE MID MANAGERS. (Assistant City Manager)

The City recently concluded negotiations with the Police Mid Managers. The proposed agreement was ratified by the unit's members on October 28, 2014.

Recommendation: Adopt the resolution approving July 1, 2014 - June 30, 2016 Memorandum of Understanding (MOU) for Police Mid Managers and authorizing the City Manager to take the necessary administrative steps to implement the provisions of the agreement.

H. INTRODUCTION AND FIRST READING OF AN ORDINANCE FOR REASONABLE ACCOMMODATION. (Community Development Director)

The State and federal Fair Housing Laws require that local jurisdictions take action to make reasonable accommodation (modifications or exceptions) in their land use regulations and practices when such accommodation may be necessary to afford disabled persons an equal opportunity to housing. The draft ordinance has been prepared to add Chapter 17.132 Reasonable Accommodation to the Zoning Ordinance to implement California Government Code Section 65583 (c) (3) and the City's Housing Element by establishing procedures and regulations for the granting of reasonable accommodation for housing.

Recommendation: Conduct a first reading of the draft ordinance to amend Benicia Municipal Code Title 17 (Zoning Ordinance) and the Downtown Mixed Use Master Plan (Chapter 4 - Form Based Code) pertaining to reasonable accommodation after determining that the project is exempt from CEQA.

I. ADOPTING THE ORDINANCE TO JOIN COMMUNITY CHOICE AGGREGATION (CCA) - MARIN CLEAN ENERGY. (Community Development Director)

On November 4, 2014, the City Council reviewed independent reports prepared by MRW & Associates and Davis Wright Tremaine and concluded that the benefits of joining Marin Clean Energy (MCE) outweighed the risks. The City Council voted unanimously to adopt the enabling resolution and introduce the ordinance approving the MCE Joint Powers Agreement and authorizing the implementation of a Community Choice Aggregation (CCA) program. November 18th is the second reading of that ordinance.

Recommendation: Adopt the ordinance approving the Marin Clean Energy Joint Powers Agreement and authorizing the implementation of a Community Choice Aggregation program.

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

VIII. BUSINESS ITEMS (7:45 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. ADOPT THE 2015-2023 DRAFT HOUSING ELEMENT AND INITIAL STUDY/NEGATIVE DECLARATION. (Community Development Director)

One of the seven State-mandated General Plan elements, the Housing Element describes housing needs in Benicia and how City plans and regulations facilitate the development, improvement and preservation of housing for all economic segments of the community. The City adopted its first Housing Element in 1979 and has updated it periodically per State requirements. The Draft 2015-2023 Housing Element has been reviewed and pre-certified by the State Department of Housing and Community Development (HCD) subject to implementation of Senate Bill 2 (SB2). Implementation of SB2 requires an amendment to the Benicia Municipal Code to allow emergency shelters without any discretionary action.

Recommendation: Adopt the 2015-2023 Housing Element and the accompanying Initial Study/Negative Declaration.

B. INTRODUCTION AND FIRST READING OF AN ORDINANCE FOR TRANSITIONAL HOUSING, SUPPORTIVE HOUSING AND EMERGENCY HOMELESS SHELTERS. (Community Development Director)

The California Housing Accountability Act requires that local jurisdictions provide zoning that encourages and facilitates emergency shelters and limits the denial of transitional housing, supportive housing and emergency shelters in order to address the critical housing needs of homeless populations and individuals with special needs. The draft ordinance has been prepared in order to implement Government Code Section 65583 and Program 3.01 of the City's Housing Element by amending the Title 17 Zoning and Downtown Mixed Use Master Plan to permit transitional housing and supportive housing, and to amend the zoning ordinance to permit emergency homeless shelters, including addition of Chapter 17.70.390 Emergency Shelter.

Recommendation: Conduct the first reading of the draft ordinance to amend the Benicia Municipal Code Title 17 (Zoning Ordinance) and the Downtown Mixed Use Master Plan (Chapter 4 - Form Based Code) pertaining to transitional housing, supportive housing and emergency homeless shelters.

C. APPROVAL OF THE UPDATED TRAFFIC IMPACT FEE PROGRAM. (Public Works Director)

Revisions to the Citywide Traffic Impact Fee Program have been completed. This update calculates a new traffic impact base fee of $2,180 is necessary to sufficiently fund future roadway improvements to accommodate projected development in the City.

Recommendation: Adopt a resolution approving an update to the Citywide Traffic Impact Fee Program and authorizing associated fee adjustments.

D. CONSIDERATION OF WAIVING THE ATTORNEY-CLIENT PRIVILEGE FOR THE OPINION REGARDING MAYOR PATTERSON AND THE CRUDE BY RAIL PROJECT. (City Attorney)

The attorney-client privilege requires that the client waive the privilege. The State Bar rules provide that the client is the organization acting through its highest authorized representative. Thus, in this particular case, the client is the City acting through the City Council. Because the Council cannot take action unless a majority of its members agree, an individual council member cannot validly waive the privilege. Thus, this matter is agendized for your consideration.

Recommendation: Waive the attorney-client privilege on the memo regarding potential impermissible bias, Mayor Patterson and the Crude By Rail Project.

E. 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: December 17, 2014

2. **Association of Bay Area Governments (ABAG)**
   http://www.abag.ca.gov/.
   (Mayor Patterson and Council Member Strawbridge)
   Next Meeting Date: TBD

3. **Finance Committee.**
   (Vice Mayor Campbell and Council Member Strawbridge)
   Next Meeting Date: November 20, 2014

4. **League of California Cities.**
   (Mayor Patterson and Vice Mayor Campbell)
   Next Meeting Date: TBD

5. **School Liaison Committee.**
   (Council Members Strawbridge and Council Member Hughes)
   Next Meeting Date: December 4, 2014

6. **Sky Valley Open Space Committee.**
   (Vice Mayor Campbell and Council Member Schwartzman)
   Next Meeting Date: TBD

7. **Solano EDC Board of Directors.**
   (Mayor Patterson and Council Member Strawbridge)
   Next Meeting Date: December 11, 2014

8. **Solano Transportation Authority (STA).**
   http://www.sta.ca.gov/ (Mayor Patterson and Council Member Schwartzman)
   Next Meeting Date: December 10, 2014

9. **Solano Water Authority-Solano County Water Agency and Delta Committee.**
   http://www.scwa2.com/
   (Mayor Patterson and Council Member Hughes)
   Next Meeting Date: December 11, 2014

10. **Traffic, Pedestrian and Bicycle Safety Committee.**
    (Vice Mayor Campbell and Council Member Schwartzman)
    Next Meeting Date: January 15, 2015

11. **Tri-City and County Cooperative Planning Group.**
    (Mayor Patterson and Council Member Strawbridge)
    Next Meeting Date: December 8, 2014

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

13. **Youth Action Coalition.**
(Mayor Patterson, Council Member Strawbridge and Council Member Hughes)
Next Meeting Date: December 5, 2014

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

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

IX. ADJOURNMENT (9:30 PM):

Public Participation

The Benicia City Council welcomes public participation.

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

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

Disabled Access or special Needs

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

Meeting Procedures

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

description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the City Council.

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

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

Public Records

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

PROCLAMATION

IN RECOGNITION OF

CITY OF BENICIA

A Purple Heart City

WHEREAS, the City of Benicia in the state of California has always supported its military veteran population; and

WHEREAS, the Purple Heart is the oldest military decoration in present use and was initially created as the Badge of Military Merit by General George Washington in 1782; and

WHEREAS, the Purple Heart was the first American service award or decoration made available to the common soldier and is specifically awarded to members of the United States Armed Forces who have been wounded or paid the ultimate sacrifice in combat with a declared enemy of the United States of America; and

WHEREAS, the mission of the Military Order of the Purple Heart is to foster an environment of goodwill among the combat-wounded veteran members and their families, promote patriotism, support legislative initiatives, and most importantly – make sure we never forget; and

WHEREAS, the City of Benicia has many, highly decorated veterans including many Purple Heart recipients; and

WHEREAS, the City of Benicia appreciates the sacrifices our Purple Heart recipients made in defending our freedoms and believe it is important that we acknowledge them for their courage and show them the honor and support they have earned.

NOW, THEREFORE BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor of the City of Benicia on behalf of the City Council, do hereby proclaim the City of Benicia as a Purple Heart City and encourage the citizens of Benicia to show their appreciation for the sacrifices made in defending our freedoms, to acknowledge their courage, and to show them the honor and support they have earned.

_____

Elizabeth Patterson, Mayor
November 18, 2014

IV.B.1.2

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
November 04, 2014

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

I. CALL TO ORDER:

Mayor Patterson called the meeting to order at 8:03 p.m.

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL

Council Member Hughes was absent, in part due to recusing himself from the MCE membership item.

All other Council Members were present.

B. PLEDGE OF ALLEGIANCE

Stephanie Christansen led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC.

IV. ANNOUNCEMENTS/PROCLAMATIONS/APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS

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

2. Openings on Boards and Commissions:

Arts and Culture Commission
1 unexpired term
open until filled

Human Services Board
1 unexpired term
open until filled

3. **Mayor's Office Hours:**

B. PROCLAMATIONS

1. **In Recognition of Lifetime Achievement Award in the Arts for Manuel Neri**

2. **In Recognition of Lifetime Achievement Award in the Arts for Robert Arneson**

C. APPOINTMENTS

1. **Reappointment of John McGuire to the Parks, Recreation and Cemetery Commission for a full term ending July 31, 2018**

RESOLUTION 14-126 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF JOHN MCGUIRE TO THE BENICIA PARKS, RECREATION AND CEMETERY COMMISSION FOR A FOUR-YEAR TERM ENDING JULY 31, 2018

On motion of Mayor Patterson Council adopted Resolution 14-126, on roll call by the following vote:

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

2. **Reappointment of Kari Birdseye to the Human Services Board for a full term ending July 31, 2018**

RESOLUTION 14-127 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF KARI BIRDSEYE TO THE BENICIA HUMAN SERVICES BOARD FOR A FOUR-YEAR TERM ENDING JULY 31, 2018

On motion of Mayor Patterson Council adopted Resolution 14-127, on roll call by the following vote:

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

D. PRESENTATIONS

V. ADOPTION OF AGENDA:

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

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

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

2 items (copies on file).

B. PUBLIC COMMENT

1. Constance Beutel - Ms. Beutel spoke in support of United States Veterans and United States Military Personnel.
2. Leanne Cawley - Ms. Cawley discussed a program the Benicia Soroptimists started to help the women of Benicia.
3. Council Member Schwartzman - Council Member Schwartzman discussed the upcoming celebration for Veteran's Day at the local cemetery.

VII. CONSENT CALENDAR:

Vice Mayor Campbell disclosed expartè communications.

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

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

A. APPROVAL OF THE MINUTES OF THE OCTOBER 21, 2014 CITY COUNCIL MEETING

B. ACCEPTANCE OF THE GRANT DEED FOR THE BENICIA BUS HUB PROPERTY

RESOLUTION 14-128 - A RESOLUTION ACCEPTING A GRANT DEED FROM THE BARRAGAN'S FOR THE BENICIA BUS HUB PROJECT AND AUTHORIZING THE CITY MANAGER TO ACCEPT THE GRANT DEED ON BEHALF OF THE CITY AND TO EXECUTE ALL NECESSARY DOCUMENTS TO RECORD THE DEED AND COMPLETE THE ACQUISITION OF THE PROPERTY

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

VIII. BUSINESS ITEMS:

A. MCE MEMBERSHIP - INDEPENDENT ANALYSIS AND OPPORTUNITY TO JOIN

ORDINANCE 14- - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE MARIN CLEAN ENERGY JOINT POWERS AGREEMENT AND AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM

RESOLUTION 14-129 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA REQUESTING MEMBERSHIP IN MARIN CLEAN ENERGY

Alex Porteshawver, Climate Action Plan Coordinator, introduced the staff report.

Constance Beutel, Chair, Community Sustainability Commission, spoke in support of the proposed Marin Clean Energy (MCE) membership. She discussed the benefits of joining MCE.

Mayor Patterson disclosed expartè communications she had on this item.

Council Member Schwartzman and Dawn Weiscz, MCE, discussed the possibility of MCE's rates increasing and the effects that would have on people opting out.

Vice Mayor Campbell and Ms. Weiscz discussed how MCE would disclose their rates compared to other entities rates.

Council Member Schwartzman, Staff, and Ms. Weiscz discussed the City's solar sites and how that would be dealt with (net energy costs and credits). They also discussed the issue of PG&E's A6 tariff, procurement risks, rates for CARE users and low-income users, MCE's evaluation of its members, MCE's 'net open' position, and what would happen if MCE were to go out of business (re-entry fees to PG&E).

Vice Mayor Campbell and Ms. Weiscz discussed what Benicia's weighted vote would be at MCE (roughly 8%), what Valero might do with regards to MCE, PG&E's green program, what would happen if the City were to withdrawal as a Joint Powers Agreement (JPA) member, Power Charge Indifference Adjustment (PCIA) rates, wait times for customers who opt out and rejoin PG&E and the issue of fluctuating rates.

Public Comment:

1. Kathy Kerridge - Ms. Kerridge spoke in support of joining MCE.
2. Kathy Kerridge, on behalf of Dana Dean - Ms. Kerridge read Ms. Dean's letter (copy on file) in support of joining MCE.
3. Claire McFadden, Benicia Chamber of Commerce - Ms. McFadden read a letter from the Chamber of Commerce (copy on file) in opposition to joining MCE.
4. Jack Russell - Mr. Russell discussed the letter submitted by the Benicia Chamber of Commerce. He spoke in support of joining MCE.
5. Mary Frances Kelly Poh - Ms. Kelly Poh had questions on net energy metering, but spoke in support of joining MCE.
6. Rebecca Ramos - Ms. Ramos spoke in support of joining MCE.
7. Tony Shannon - Mr. Shannon spoke in support of joining MCE.
8. Marilyn Bardet - Ms. Bardet spoke in support of joining MCE.
9. Jim Stevens - Mr. Stevens spoke in support of joining MCE.
10. Ms. Morris - Ms. Morris spoke in support of joining MCE.
11. Ben Parsons - Mr. Parsons spoke in support of joining MCE.
12. Jon Van Landschoot - Mr. Van Landschoot spoke in support of joining MCE.
13. Sharon Maher - Ms. Maher spoke in support of joining MCE.

Mayor Patterson discussed the importance of reducing greenhouse gasses, the effects on structures, health, etc. She discussed the fact that the high school students were in tonight's audience, and the importance this issue has for them and their future. She discussed her support for approving this item.

Council Member Strawbridge discussed conversations she had with other cities that chose to go with and not to go with MCE. Tonight's comments were compelling. She discussed the importance of reducing the City's carbon footprint. She and Ms. Weiscz discussed MCE's involvement in overall counties. She assured the community that Council was being cautious and looking very hard at the issue.

Vice Mayor Campbell echoed Council Member Strawbridge's comments. He discussed his reasons for supporting joining MCE.

Council Member Schwartzman discussed his earlier questions regarding risks. He discussed his reasons for supporting joining MCE.

Mayor Patterson thanked everyone involved, including the citizens, for their efforts and participation regarding this issue.

On motion of Vice Mayor Campbell, seconded by Council Member Schwartzman, Council approved the above Introduction and First Reading of the MCE Ordinance, on roll call by the following vote:

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

On motion of Vice Mayor Campbell, seconded by Council Member Schwartzman, Council adopted Resolution 14-129, on roll call by the following vote:

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

IX. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 10:24 p.m.

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 18, 2014
CONSENT CALENDAR

DATE : November 6, 2014

TO : City Manager

FROM : Public Works Director

SUBJECT : **AWARD OF CONTRACTS FOR THE WATER TREATMENT PLANT PROGRAMMABLE LOGIC CONTROLLER (PLC) REPLACEMENT PROJECT AND SCADA SYSTEM UPGRADES**

RECOMMENDATION:
Adopt a resolution accepting the bid for the Water Treatment Plant Programmable Logic Controller (PLC) Replacement Project, awarding the construction contract to Telstar Instruments, Inc. of Concord in the amount of $101,721, approving a sole source professional service contract with DST Controls in the amount of $148,331 for Supervisory Control and Data Acquisition (SCADA) system upgrades, and authorizing the City Manager to execute the contracts on behalf of the City.

EXECUTIVE SUMMARY:
This PLC replacement project was identified in the 2012 Water System Master Plan. With the existing PLC being obsolete and at full capacity, a replacement PLC is necessary before future capital improvement projects (CIP) scheduled at the Water Treatment Plant (WTP) can be implemented. The SCADA system has also reached the end of its useful life, as deemed by the out-of-date software version the WTP is using and the need to replace the computer workstations where SCADA is programmed. The replacement of the PLC was scheduled to coincide with the upgrade of the SCADA system to save money.

BUDGET INFORMATION:
The total cost of the Water Treatment Plant (WTP) PLC Replacement Project and SCADA System Upgrades including computers is $270,224, and is comprised of the following:

1. Plant PLC Replacement Project: $111,893, which includes construction ($101,721) and construction contingency ($10,172);
2. SCADA Upgrades: $148,331; and
3. Computer replacement: $10,000.

Funding for this work will be 75% from Major Water Capital (Account No. 596-8259-9960) and 25% from Water Connection/Capacity Fund (Account No. 045-8045-9896) as this project will allow for future expansion of the WTP. The PLC project was included in the Fiscal Year 2013-14 budget and design began in that Fiscal Year. Carryover funds from Fiscal Year 2013-14 to Fiscal Year 2014-15 will be used to fund a portion of this project including design and construction management. A budget increase in the amount of $52,000 is requested - $39,000 (or 75%) from Fund 596 reserves to Account No. 596-8259-9960 (Major Water Capital) and $13,000 (or 25%) from Fund 045 reserves to Account No. 045-8045-9896 to cover the cost of the entire project. Sufficient funds are available in Fund 596 and Fund 045 reserves.

GENERAL PLAN:
Relevant General Plan Goal:

- Goal 2.28: Improve and maintain public facilities and services

STRATEGIC PLAN:
Relevant Strategic Plan Issues:

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

ENVIRONMENTAL REVIEW:
This project is Categorically Exempt per CEQA Section 15302 (c), which applies to replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity.

BACKGROUND:
The Programmable Logic Controller (PLC) is the heart or center of the Water Treatment Plant's (WTP) system control. It processes information from various sensors, meters, and gauges, adjusts valve position, paces chemical feed against flow rates, and provides data for the "human-machine interface" which is the Supervisory Control and Data Acquisition System (SCADA). The PLC and SCADA are technology to allow one operator to do the work that would require three operators that did not have the technology.

The existing PLC system at the WTP was installed in 1997, is obsolete, and is no longer supported by the manufacturer. Additionally, the existing PLC system has reached full capacity and more PLC capacity is required to accommodate integration of future CIPs at the WTP. The SCADA software was last upgraded from Fix 32 to iFix in 2008. The current version of iFix at the WTP is V.4.0 and the newest version is iFix 5.8. The software company no longer supports V.4.0. The SCADA computers were last replaced in 2008 and will require upgrade (at a cost of approximately $10,000) to Windows 7 operating system in order to run iFix 5.8.

It is recommended that the SCADA upgrade be performed by the WTP's System Control Service Provider, DST Controls of Benicia pursuant to a sole source contract. After a thorough selection process, including a Request for Proposal, DST was determined to be the most qualified to provide system control service and SCADA programming for the WTP. Because DST is certified as an iFix programmer and has the most in-depth understanding of the WTP's SCADA system, it makes sense to award this work to them on a sole source basis. Given DST's intimate knowledge of our system, they will be best able to perform the SCADA upgrade, which will include an enhanced failover mode that will allow the primary SCADA server to transfer to a backup server to keep the system running. Should the primary SCADA server fail, the backup SCADA server will automatically become the active server. This will prevent the primary server from being solely dependent as the SCADA communicator to the PLC.

A Notice to Contractors Inviting Bids was posted on the City's website for the PLC Replacement Project, advertised on a clearinghouse, and sent to six vendors. On October 16, 2014, one bid was received and opened for this project, as summarized below:

RANK	BIDDER'S NAME AND CITY	TOTAL BASE BID
1	Telstar Instruments, Inc. Concord	$101,721
--	*Engineer's Estimate*	*$123,420*

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 Telstar Instruments, Inc. of Concord. Staff recommends that the construction contract be awarded to Telstar Instruments, Inc. in the amount of $101,721.

Construction is anticipated to begin in December 2014 and end by May 2015.

Attachment:

- Proposed Resolution

VII.B.4

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING THE BID FOR THE WATER TREATMENT PLANT PROGRAMMABLE LOGIC CONTROLLER (PLC) REPLACEMENT PROJECT, AWARDING THE CONSTRUCTION CONTRACT TO TELSTAR INSTRUMENTS, INC. OF CONCORD IN THE AMOUNT OF $101,721, AWARDING A PROFESSIONAL SERVICE CONTRACT WITH DST CONTROLS OF BENICIA IN THE AMOUNT OF $148,331 FOR SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA) SYSTEM UPGRADES, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACTS ON BEHALF OF THE CITY

WHEREAS, the City of Benicia's Water Treatment Plant Programmable Logic Controller (PLC) Replacement Project was advertised for construction bids and one sealed bid was properly received and opened on October 16, 2014; and

WHEREAS, Telstar Instruments, Inc. of Concord was determined to be a responsive and responsible bidder submitting a bid in the amount of $101,721; and

WHEREAS, DST Controls of Benicia is the sole source SCADA programmer and submitted a proposal for the SCADA Upgrade Project in the amount of $148,331; and

WHEREAS, this project is categorically exempt pursuant to Section 15302 (c), which applies to replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby accepts the bid for the Water Treatment Plant Programmable Logic Controller (PLC) Replacement Project, awards the construction contract in the amount of $101,721 to Telstar Instruments, Inc., and approves the sole source professional service contract with DST Controls for the SCADA Upgrades in the amount of $148,331 (funded 75% 596-8259-9960 and 25% 045-8045-9896).

BE IT FURTHER RESOLVED THAT a budget increase in the amount of $52,000 is authorized - $39,000 (or 75%) from Fund 596 reserves to Account No. 596-8259-9960 (Major Water Capital) and $13,000 (or 25%) from Fund 045 reserves to Account No. 045-8045-9896 to cover the cost of the entire project.

* * * * *

On motion of Council Member , seconded by Council Member , the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 18th day of November, 2014, and adopted by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 18, 2014
CONSENT CALENDAR

DATE : November 7, 2014

TO : City Manager

FROM : Public Works Director

SUBJECT : **REVIEW OF OCTOBER WATER REPORT**

RECOMMENDATION:
Receive the City's water supply and usage update.

EXECUTIVE SUMMARY:
Benicia customers are continuing to make impressive progress reducing water use and their efforts are acknowledged and appreciated. Benicia has reduced its water use by 19% since January compared to the same time frame in 2013, or 21.6% since March (which is after City Council implemented a community wide goal of voluntarily reducing water consumption by 20%).

BUDGET INFORMATION:
No budget impacts are associated with this update.

GENERAL PLAN:
Relevant General Plan Goals:
- Overarching Goal of the General Plan: Sustainability
- Goal 2.36: Ensure an adequate water supply for current and future residents and businesses.

STRATEGIC PLAN:
Relevant Strategic Plan Issue and Strategy:
- Strategic Issue #1: Protecting Community Health and Safety
- Strategy #5: Promote community and personal health

BACKGROUND:
The drought conditions remain very serious. The City has taken a variety of actions in the short term to deal with the challenge. The Council implemented a citywide 20% voluntary reduction in water consumption, authorized water purchases to secure an adequate water supply, and adopted emergency outdoor watering restrictions. In addition, the City is managing its water supply to maximize the use of the allocated State Water Project water, conserve

Solano Project water that can be stored/banked in Lake Berryessa, maximize Lake Herman water storage and delivery, and make improvements to components of the water infrastructure to ensure reliability and redundancy. All of these efforts are intended to ensure, to the extent feasible, an adequate water supply through February 2016 if the drought continues.

The winter water restrictions, which began on October 16, limit watering by automatic sprinkler systems to Saturday or Sunday (customer choice) before 8 a.m. or after 7 p.m. until March 31. There are exceptions for hoses with a shut-off nozzle, drip irrigation, watering container plants and for watering turf at recreational areas.

City of Benicia customers are making impressive progress toward reducing their water use. The tables on the following pages show that Benicia has reduced its water use by 19% since January compared to the same timeframe in 2013, or 21.6% since March (which is after City Council implemented a community wide goal of voluntarily reducing water consumption by 20%). The statewide average in October was a 10% reduction. Table 3 shows that City-owned facilities have reduced water use by 37% since March.

Staff had been using 2012 as a base year to monitor and measure water conservation effort and year 2013 had also been shown as a comparison. Year 2012 was a typical water use year versus 2013 which was a more extreme dry year resulting in higher than average water consumption. The State has selected 2013 as a base year for measuring statewide progress. Staff will now start benchmarking water use to 2013 to be consistent with required reporting to the State, but will also show 2012 as a comparison.

Monthly reports were submitted to the State Water Resources Control Board. In September, per capita water use in Benicia was 146.1 gallons per day, which is near the median at 155th of 368 communities reporting.

MONTHLY WATER UPDATE

Table 1 and Graph 1 below show the water used since January 1, 2014.

Table 1
2014 Source Water Usage (acre-feet) through September 30

Month	State Water Project	Solano Project	Lake Herman	Total Used
January	779	0	14 (V)	**793**
February	320	229	79 (F)	**549**
March	0	454	294 (F)	**454**
April	737	310	280 (V)	**1,327**
May	765	78	167 (F)	**843**
June	788	172	99 (F)	**960**
July	794	396	63 (V)	**1,253**
August	743	106	147 (V)	**996**
September	750	0	219 (V)	**969**
October	749	0	135 (V)	**884**
Sub-Total	*6,425*	*1,745*	*858 (V)*	***9,028***

Lake Herman usage: "V" = water drawn down by Valero Refinery, "F" = lake is filling

Table 1 illustrates how much water has been purchased or used from the City's three source water supplies.

Lake Herman will provide approximately 1,100 AF of water supply by the end of the year to the Valero Oil Refinery. The Lake Herman column shows when Valero is drawing water out of Lake Herman (V) and when the City is filling the lake, the volume shows a positive value.

The Department of Water Resources released 5% (860-AF) Table A allocation of State Water Project water and this water was used during the months of September and October. The 245-AF of Yuba Accord/SWP water was used by September, along with the 1,000-AF of Mojave Water Agency-banked water.

In order to conserve the State Water Project carryover water supply into 2015, the WTP will switched to Solano Project on November 5 and will remain on this supply in to 2015.

Graph 1 shows the Treated Water Demand through October.

Graph 1
2014 Treated Water Demand Leaving the Water Treatment Plant (WTP)
in acre-feet (AF)

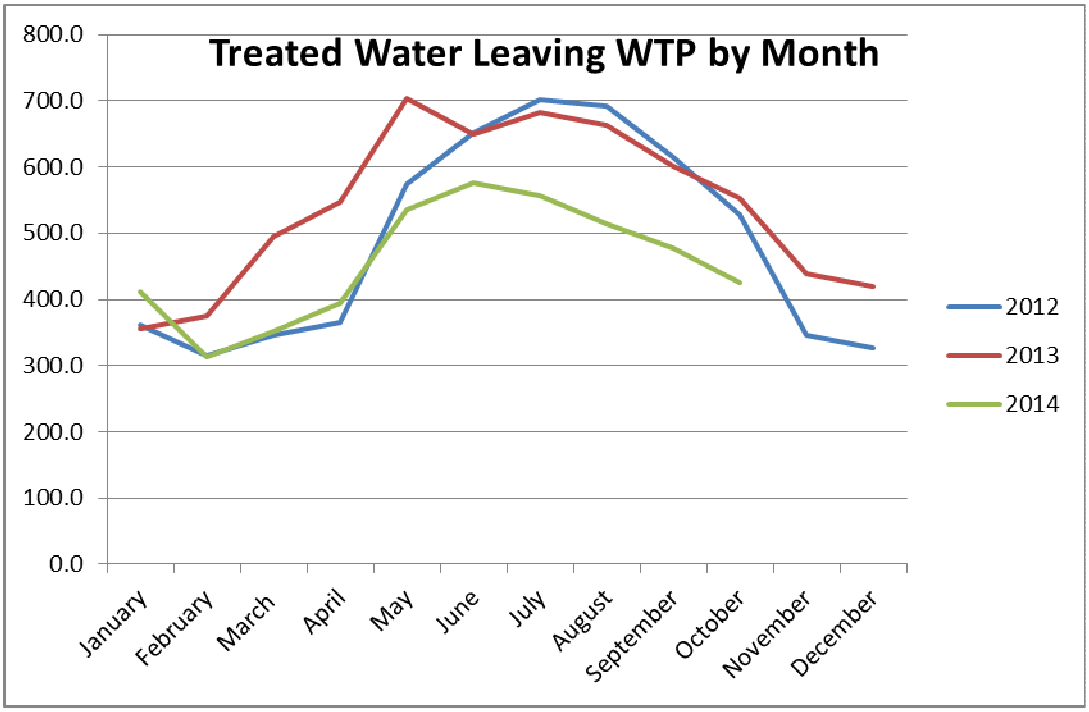

Table 2
Metered Water Use Since Call for Voluntary 20% Conservation
(in acre-feet)

Year	March	April	May	June	July	Aug	Sept	Oct	Sub-Total for 8 months	Total for year	20% Reduction
2012	273	228	303	423	475	584	554	503	3,343	4,481	896
2013	239	277	408	517	515	570	483	546	3,555	4,854	971
2014	217	224	285	357	435	445	356	403	2,722		

621 acre feet or 19% less was used in 2014 than 2012
833 acre feet or 23% less was used in 2014 than 2013

Graph 2
Cumulative Metered Water Use Since Call for Voluntary 20% Conservation

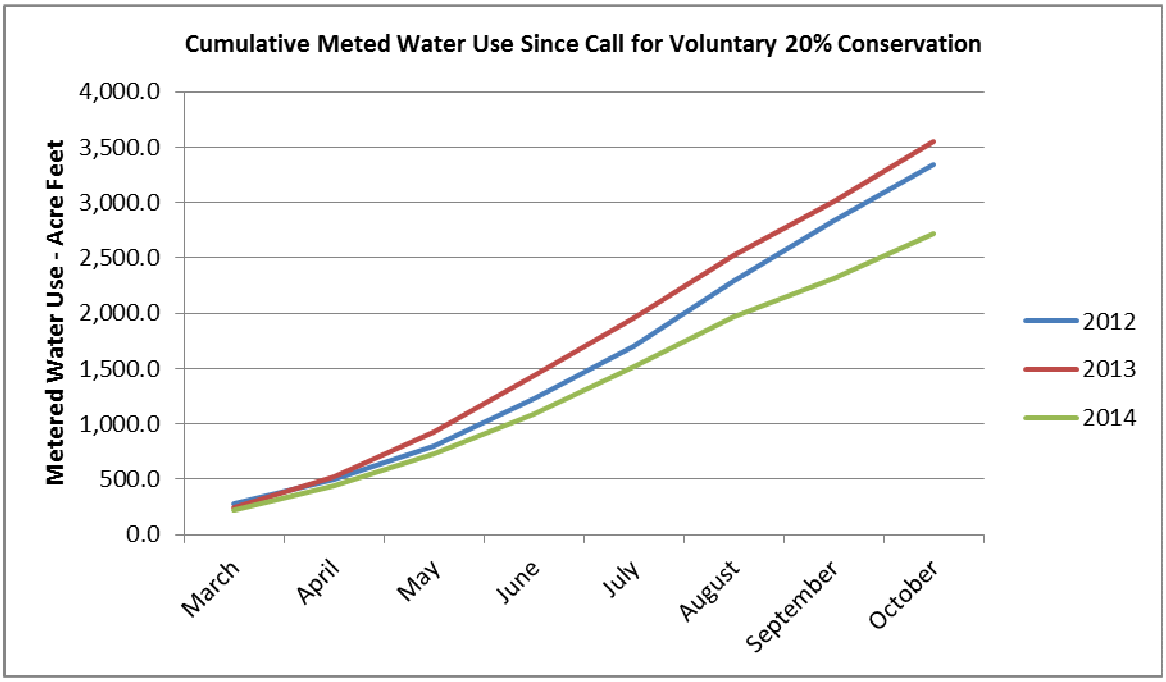

Table 3
City Facilities Metered Water Use
Since Call for Voluntary 20% Conservation
(in acre-feet)

Year	March through October Total City Facilities Water Use
2012	233
2013	263
2014	167

2014 Water Reduction Compared to 2012=29%
2014 Water Reduction Compared to 2013=37%

Table 4
Water Demand and Supply for 2014 and 2015
in acre-feet (AF)

Source Supply	**2014 Working Water Supply (AF)**	**2015 Working Water Supply (AF)**
State Water Project	10,319	3,761
Solano Project Water	10,797	11,362
Lake Herman	1,100	1,000
Total Supply	*22,216*	*16,123*
City Treated Water Demand	5,172	4,700
Valero Raw Water Demand	4,673	4,700
Total Demand	*9,845*	*9,400*

Table 4 demonstrates that the City will have approximately 22,216-AF of supply available between its three sources in 2014. This includes 2,000-AF of Solano Project water purchased from the City of Vacaville, which can be stored in Lake Berryessa until needed. The City also traded 1,000-AF of State Water Project to the City of Vallejo for 1,000-AF of Solano Project water in September while the Putah South Canal was being cleaned. This trade was advantageous for the City because it was an equal exchange (typically, Solano Project water is worth twice in value compared to State Water Project). The treated water demand within the City (residential, commercial, industrial, institutional) is projected to be 5,172-AF by the end of 2014, primarily due to community conservation efforts. As of October, Benicia citizens are conserving 20% more water than this same period in 2013. Valero raw water demand is projected to be 4,673-AF. The total demand by the City and Valero is projected to be 9,845-AF of water, which is a 7% reduction from the five year average of 10,583-AF.

The City will carry over approximately 3,761-AF of State Water Project and 11,362-AF of Solano Project water into 2015. With the additional availability of 1,000-AF of Lake Herman water each year, the City should have 16,123-AF of supply available in 2015. If the City continues to conserve at 20%, the total treated water demand will drop to 4,700-AF in 2015. Valero is also projected to use 4,700-AF in 2015. The total projected demand in 2015 may drop to 9,400-AF,

thus allowing the City to start 2016 with nearly 11,000-AF of water supply, enough water to provide both municipal and industrial demands for the City.

These projections are predicated on a committed 20% water conservation by the citizens and a 5% water conservation effort by the Valero Oil Refinery.

Solano County Turf Replacement Program Update

As reported in the October 21 staff report, the Solano County Water Agency (SCWA) Turf Replacement program has stopped accepting new applications because all available funds have been committed.

In addition to the $1 per square foot SCWA program, Benicia residents are eligible for an additional $1 per square foot, funded by a $100,000 allocation from the Community Sustainability Commission that was approved by the Council on July 15. Of that allocation, $24,345 has been paid to Benicia projects that received a Notice to Proceed after July 15, and an estimated $46,542 will be spent on projects currently in process.

SCWA staff plans to ask their Board of Directors to allocate additional funds to maintain the extremely popular turf replacement rebate program at their November or December meeting. If additional funding becomes available the additional Benicia rebate will be offered until those funds have been spent.

Benicia Partnership with WaterSmart

Benicia has been selected as the site for a year-long pilot program in partnership with WaterSmart Software (aka WaterInsight Program), which provides targeted water conservation information to customers. This pilot project is paid for by SCWA through $60,000 of state grant funds, and will involve no cost to the City of Benicia.

WaterSmart Software is a company that helps water utilities make it easier for their customers to conserve water. They have worked successfully with over 30 water agencies in at least four states, including Benicia neighbors such as Contra Costa Water District, Marin Water District, and EBMUD. The core of their program is to provide individualized water use information to increase customer awareness of household water use as compared to similar households. WaterSmart provides Home Water Reports and online platforms that use data analytics and behavioral science to deliver water consumption information, messaging and water saving recommendations tailored to each household.

In addition to customer water use data provided by City staff, WaterSmart also accesses publicly-available real estate information such as lot size and number

of bedrooms to craft targeted information for each customer and to create peer groups for comparison. Their messaging is based on behavioral psychology research that shows that using social norms is the most effective and positive way to influence water use behavior. In addition, the pilot project will provide customers access to an online portal with more information about their water use history, as well as water conservation methods and programs. It will also provide City staff with tools for hotline call management and analyzing customer data.

Since WaterSmart will be working with customer data, security is a concern. Earlier this year, WaterSmart's data security and confidentiality measures were subjected to a third-party audit, which determined that their web application was secured in a manner fully consistent with good practice as defined by the Open Web Application Security Project recommendations.

The pilot project involves a random selection of 5,000 Benicia homes, a little more than half of the single family residences, and began with a mailing of an introductory letter and a customer survey in late October. The next steps include training for City staff and sending the first Home Water Use reports for starting in November. Over the next year, each of the participating customers will receive 6 Home Water Use reports since water meters are read every other month. At the conclusion of the pilot project, Benicia and SCWA will receive a report detailing customer use of the resources provided, and tracking changes in customer water efficiency over time.

Other Outreach

WattzOn has been managing the Benicia Home Efficiency Program since 2010. Their goal is to decrease water and energy consumption. Funded by a grant with the Valero Good Neighbor Steering Committee Funds, this program provides free home water and energy audits for Benicia residents. For more information contact WattzOn at 800-314-5997 or info@wattzon.com.

In the beginning of November some residents received two notices on the same day concerning a home water use report– one from WaterSmart/WaterInsight (described in the section above) and one from WattzOn/Benicia Home Efficiency Program, which targeted the top 25% residential water use customers. Staff has met internally, and is working with WattzOn to combine communication efforts to improve water efficiency and customer service.

Additionally, as part of the City's water conservation partnership with Solano County Water Agency (SCWA), free home water audits are offered to residential customers in Benicia. For the past four years, SCWA sends a letter to the top 25% residential water users offering an audit. Participants can receive a hose nozzle,

low flow shower head, and/or faucet aerators. These letters are delivered at the end of May through the summer months. Depending on how the pilot program goes, staff will evaluate the continuation of this program.

VII.C.10

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 18, 2014
CONSENT CALENDAR

DATE : November 5, 2014

TO : City Manager

FROM : Public Works Director

SUBJECT : **ACCEPTANCE OF WATER TREATMENT PLANT INFLUENT IMPROVEMENT PROJECT**

RECOMMENDATION:
Adopt a resolution accepting the Water Treatment Plant Influent Improvement Project as complete, including approval of Change Order Nos. 1 through 4 authorizing the City Manager to sign the Notice of Completion and authorizing the City Clerk to file same with the Solano County Recorder.

EXECUTIVE SUMMARY:
This project, located at the Water Treatment Plant, consisted of improvements to the metering, control and primary chemical treatment of the untreated water that allows for efficient treatment of the City's drinking water. The last step of the project requires formal acceptance by the City Council and filing of the Notice of Completion by the City Clerk, which allows the City to process the final payment to the contractor. The final construction cost is $422,803.97, which includes Change Order Nos. 1 through 4.

STRATEGIC PLAN:
Relevant Strategic Plan Issue:
- Strategic Issue #1: Protecting Community Health and Safety

GENERAL PLAN:
Relevant General Plan Goals:
- Goal 2.28: Improve and maintain public facilities and services
- Goal 2.36: Ensure an adequate water supply for current and future residents and businesses.

BUDGET INFORMATION:
The Water Treatment Plant Influent Improvement Project has a budget and expenditures comprised of the following:

Project Budget

Construction Contract $413,350.00
Construction Contingency $41,335.00
Total Construction Budget $454,685.00

Project Expenditures

Original Construction Contract, per Resolution No. 13-98.....$413,350.00
Contract Change Order (CCO) Nos. 1-4 (staff approved).....$9,453.97

CCO Summary
CCO1: $3,105.00 for raising valve vault to accommodate magnetic flow meter.
CCO2: $18,954.50 for upgrading the 36" backup ring material to stainless steel from ductile iron to better prevent corrosion from the alum.
CCO3: <$13,475.00> credit for changing meter vault design.
CCO4: $869.47 for furnishing gate valve for flash mix room.

Final Construction Cost..... $422,803.97

The final construction cost is $422,803.97, which includes $9,453.97 for Change Order Nos. 1 through 4. The total change order amount represents a 2.3% cost increase from the original construction contract amount, which is within the normal range for construction projects. Sufficient funds are available in Account Nos. 596-8259-9960 (Water Major Capital Projects Fund) and 045-8045-9896 (Water Capital Connection Projects).

BACKGROUND:

Originally constructed in the early 1970's, the Water Treatment Plant (WTP) has undergone several expansions and improvement projects throughout the years. The WTP Influent Improvement Project upgraded the metering, control and primary chemical treatment of the raw water influent. This project consisted of the installation of a new 42-inch butterfly valve and electric actuator to modulate plant influent flows; installation of new flow meters to measure raw water, plant influent, sedimentation basin flows; and improvements to the existing chemical injection header pipe and other work within the flash mix structure.

The project has three important phases that affect the operational performance and mechanical integrity of the plant. Flow meters that were not included in the past two plant improvement projects will provide critical data regarding total water entering the plant, raw water being treated, and individual flow monitoring from each sedimentation basin. The primary flow control valve from 1971 was replaced with one that is engineered for current

plant operations. The chemical injection pipe that was corroding was replaced with a high-density polyethylene pipe that can withstand the corrosive effects of acid alum and chlorine solution. These improvements will make the plant more reliable, allow for continued maintenance of critical equipment, and provide the operator with real plant flow data throughout the influent and pre-treatment processes.

The contractor completed the Water Treatment Plant Influent Improvement Project to the satisfaction of the City. It is recommended, therefore, that Council accept this project as complete, including Change Order Nos. 1 through 4.

Attachments:

- Proposed Resolution
- Notice of Completion

VII.D.4

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING THE WATER TREATMENT PLANT INFLUENT IMPROVEMENT PROJECT AS COMPLETE, INCLUDING CHANGE ORDER NOS. 1 THROUGH 4, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

WHEREAS, by Resolution No. 13-98, City Council awarded the construction contract for the Water Treatment Plant Influent Improvement Project to Spiess Construction Company of Santa Maria in the amount of $413,350; and

WHEREAS, during the course of construction Contract Change Order Nos. 1 through 4 in the amount of $9,453.97 were necessary to construct the project properly; and

WHEREAS, Spiess Construction Company has completed the work in accordance with the plans and specifications and to the satisfaction of the City for a final construction cost of $422,803.97, including Change Order Nos. 1 through 4.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby accepts the Water Treatment Plant Influent Improvement Project as complete for a final construction cost of $422,803.97 (funded 41% 596-8259-9960 and 59% 045-8045-9896).

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

* * * * *

On motion of Council Member , seconded by Council Member , the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 18th day of November 2014, and adopted by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

Recorded at the request of:
CITY OF BENICIA

After recording return to:
CITY OF BENICIA
ATTN: PUBLIC WORKS DIRECTOR
250 EAST L STREET
BENICIA, CA 94510

NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN THAT:

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

   Water Treatment Plant Influent Improvement Project located at 100 Water Way, situated in the City of Benicia, County of Solano, State of California, (APN 0080-030-150)

   Nature of title as stated owner: In Fee.

2. A work of improvement known as the **Water Treatment Plant Influent Improvement Project** at the property described was completed in the amount of $422,803.97 and accepted by the City Council of the City of Benicia on November 18, 2014.

3. The name of the contractor for the improvement is **Spiess Construction Company of Santa Maria, California.**

CITY OF BENICIA

Dated: _____ By: _____
Brad Kilger, City Manager

Attest: _____
Lisa Wolfe, City Clerk

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

_____
Lisa Wolfe, City Clerk

VII.D.8

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 18, 2014
CONSENT CALENDAR

DATE : October 22, 2014

TO : City Council

FROM : City Manager

SUBJECT : **MILLS ACT CONTRACTS FOR PROPERTIES AT 153 WEST G STREET AND 180 WEST H STREET**

RECOMMENDATION:
Adopt resolutions directing the City Manager to execute a Mills Act contract with the owners of 153 West G Street and 180 West H Street. In addition, direct staff to bring forward a discussion item to evaluate the program for long-term sustainability before considering any additional contracts for 2015.

EXECUTIVE SUMMARY:
The Mills Act Program, enacted by the State of California in 1972, encourages the restoration and preservation of qualified historic buildings through economic incentive and authorizes its implementation by local governments. In 2003, Council approved the City of Benicia Mills Act Program and assigned initial review and recommendation of Mills Act Contract applications to the Historic Preservation Review Commission (Resolution No. 03-12). The program incentive consists of an alternative method for determining lower property value for tax assessment purposes. The properties at 153 West G Street and 180 West H Street meet the eligibility requirements for the Mills Act Program.

BUDGET INFORMATION:
An approved Mills Act Contract would reduce the property taxes paid by these property owners. The City receives approximately 26% of the property taxes collected on parcels in Benicia. The estimated total reduction in City revenue for the two proposed contracts is $1,725 annually. The City currently has 35 contracts that together resulted in an annual loss of revenue to the City of $31,815 in FY 2013/2014. All costs associated with the existing contracts, plus the proposed contracts, would fall within the $35,000 annually authorized by Council for Mills Act Program. See Background section on next page for additional information on budget impacts.

ENVIRONMENTAL ANALYSIS:
These projects are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15331, which applies to projects limited to the maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties. Mills Act Contracts require all work performed subsequent to entering into a contract be consistent with these standards.

GENERAL PLAN:
Mills Act Contacts are consistent with historic preservation goals established in General Plan Goal 3.1, to "Maintain and enhance Benicia's historic character." The reduction in property taxes helps property owners offset the cost of the requirements of the contact, including rehabilitation work and overall maintenance of the historic structure.

STRATEGIC PLAN:
There are no issues, strategies or actions related to preservation of private historic properties.

BACKGROUND:
In December 2007 the Council amended the Mills Act Program to allocate up to $35,000 annually toward the program (including staff costs). The City currently has 35 contracts with a total program annual cost of $31,585, which is inclusive of costs for annual inspection and reporting ($150 per contract). The estimated total loss of City revenue for FY 2015/2016 is shown in the following table.

	ANNUAL REVENUE LOSS	**ANNUAL INSPECTION COSTS**	**2015/2016 ESTIMATED COSTS**
35 Existing Contracts	$26,565 (2013)	$5,250 (2013)	$31,815
2 Proposed Contracts	$1,425 (2014 estimate)	$300 (2012)	$1,725
TOTAL:	**$27,990**	**$5,550**	**$33,540**

To determine the taxes for a Mills Act Contract property, the County Assessor uses the lower of the Base Property Value, Fair Market Value, or Mills Act Property Value. For all of the City's existing and proposed contracts, the Mills Act Property Value is the lesser.

The actual tax revenue lost each year to the City is based on the difference between the Mills Act Property Value and the Base Property Value ***or*** the difference between the Mills Act Property Value and the Fair Market Value. Using either the

Base Property Value or Fair Market Value is based on whichever of those two values are less. The specific value (Base Property Value or Fair Market) that applies to each property is bolded and highlighted in the attached Mills Act Program Costs summary.

The Solano County Assessor determines the Mills Act Property Value using the capitalization of income method. Essentially the method is based on how much income earning potential the property has. For example: For a single-family residence, the assessor will evaluate the amount of rental income a property could potentially earn subtracting expenses and factoring in the capitalization rate. Due to the fluctuation of property values and the changes in the rental market from year to year, the amount of city revenue loss changes slightly each year. This occurs regardless of whether or not new contracts are add to the program. Through the life of a contract, the tax savings to the property owner will increase as the base and market values assessment increases.

As a result, anticipating the exact year in which the city will reach or exceed the $35,000 threshold is very difficult. As the City nears the $35,000 threshold, the annual revenue loss and staff costs for implementation of the existing and proposed contracts may exceed the threshold in future years. Staff anticipates that approval of the two proposed contracts may be the last contracts approved under the current threshold for this fiscal year and recommends the City Council evaluate the program for long-term sustainability after considering the two contracts for this year and before considering any additional contracts for 2015.

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.

PROPOSED CONTRACTS:

153 West G Street

The property is a 1,071 square foot detached single story home which is identified in the City's adopted historic survey as one of three Queen Anne cottages situated adjacent to one another on West G Street, which are all identical in design and similar in detail. As noted on the historic survey, the building is in good condition and it retains its historic integrity. The building is described as a Queen Anne cottage with an L-shaped plan and raised foundation.

Since purchasing the property in 1991, the property owner has completed several maintenance and repair items to the interior and exterior of the home including roof replacement, exterior paint, plumbing and electrical upgrades,

insulation of the attic, replacement of front porch decking, fence replacement and installation of a historically appropriate front screen door.

There are several additional work items to be completed to restore the building's historic integrity. The proposed Architectural Rehabilitation Schedule (Exhibit C to the contract) outlines the timeframe for completion of these projects. At the Historic Preservation Review Commission's meeting of September 18, 2014, the Commission recommended that the applicant add a project to replace a non-historic kitchen garden window and suggested additional revisions to the work program for clarification. The applicant subsequently requested to add a work plan item for the replacement of a non-historic bedroom window and adjusted the schedule by one year to coincide with the timing of the tax benefit. All of these changes are reflected in the schedule below.

153 West G Street Architectural Rehabilitation Schedule *(EXHIBIT C OF DRAFT CONTRACT)*	**Year**
Replace non-historic aluminum bedroom window with a wood window that is compatible with the architecture of the home. (north façade)	2016
Replace the garden window in the kitchen with a traditional window that is appropriate to the architectural style of the building, subject to approval by Planning Division staff. (west façade)	2018
Replace the existing concrete walkway that presently allows water to the foundation. Install drainage to City standards for the downspouts immediately adjacent to the walkway. Proposed repair shall be evaluated by City staff (Building Inspection Division).	2020
Replace non-historic aluminum kitchen door with wood door, subject to Design Review approval by the Historic Preservation Review Commission. (north façade)	2022
Replace non-historic aluminum bathroom window with a wood window that is compatible with the architecture of the home. (west façade)	2023

180 West H Street

The property is a 1,412 square foot detached single story home that is identified in the City's adopted historic survey as Craftsman style bungalow. As noted on historic survey and site photographs, the building is in good condition and it retains its historic integrity though it has been altered from its original design through enclosure of the front porch and alteration of the front façade.

Since purchasing the property in 2013, the property owner has completed several restoration, maintenance and repair items to the interior and exterior of the home including replacing an aluminum window with a historically

appropriate double-hung wood window, interior remodel, waterproofing the basement entrance, electrical and plumbing work and garage maintenance.

There are several work items to be completed to improve the building's historic integrity. The proposed Architectural Rehabilitation Schedule (Exhibit C to the contract) outlines the timeframe for completion of these projects. At the Historic Preservation Review Commission's meeting of September 18, 2014, the Commission recommended that the applicant add projects to repair counter weights in the historic windows and replace non-historic windows, and suggested additional revisions to the work program for clarification. Following the meeting, it was determined that the building is covered in aluminum siding. The applicant subsequently agreed to additionally revise the work plan to remove the non-historic siding and expose the original wood lap siding beneath.

180 West H Street Architectural Rehabilitation Schedule *(EXHIBIT C OF DRAFT CONTRACT)*	**Year**
Replace the front door with a historically appropriate door subject to staff evaluation. If the door is determined to be original, it will not be replaced.	2015
Investigate the need and feasibility of cellar vents. Install as needed.	2015
Repair counter weights in double-hung windows.	2016
Replace front porch railings with historically appropriate railings subject to review by the Historic Preservation Review Commission.	2016
Replace non-original windows in the sunroom (non-original porch on east façade) with historically appropriate windows to match the original window.	2017
Restore fireplace for seismic security while maintaining the historical quality of the chimney	2018
Remove aluminum siding to expose original wood siding. Repair and repaint as necessary.	2019

Attachments:

- Draft Resolution for 153 West G Street
- Draft Resolution for 180 West H Street
- Draft Contract for 153 West G Street
- Draft Contract for 180 West H Street
- Historic Preservation Review Commission Minutes of September 18, 2014
- Historic Preservation Review Commission Resolution No. 14-9
- Historic Preservation Review Commission Resolution No. 14-10
- Mills Act Program Costs

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA DIRECTING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A MILLS ACT CONTRACT FOR 153 WEST G STREET IN THE CITY OF BENICIA (14PLN-00033)

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 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 Historic Preservation Review Commission at a regular meeting on September 18, 2014, considered public comment and recommended approval of the proposed Mills Act contract; and

WHEREAS, the City Council at a regular meeting on November 18, 2014, 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 as follows:

a) The Mills Act contracts for the specified properties are consistent with General Plan Goal 3.1 and General Plan Policy 3.1.6 because they will require that subsequent work on these properties is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and require that these properties be maintained.

b) The Mills Act contract for 153 West G Street will help preserve the listed historic resource 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 of the City Attorney, with the property owners of 153 West G Street.

* * * * *

On a motion of Council Member , seconded by Council Member , the above Resolution was adopted by the City Council of the City of Benicia at the regular meeting of said Council held on the 18th day of November, 2014, and adopted by the following vote:

Ayes:

Noes:

Absent:

Abstain:

_____
Elizabeth Patterson, Mayor

ATTEST:

_____
Lisa Wolfe, City Clerk

_____
Date

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA DIRECTING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A MILLS ACT CONTRACT FOR 180 WEST H STREET IN THE CITY OF BENICIA (14PLN-00040)

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 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 Historic Preservation Review Commission at a regular meeting on September 18, 2014, considered public comment and recommended approval of the proposed Mills Act contract; and

WHEREAS, the City Council at a regular meeting on November 18, 2014, 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 as follows:

a) The Mills Act contracts for the specified properties are consistent with General Plan Goal 3.1 and General Plan Policy 3.1.6 because they will require that subsequent work on these properties is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and require that these properties be maintained.

b) The Mills Act contract for 180 West H Street will help preserve the listed historic resource 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 of the City Attorney, with the property owners of 180 West H Street.

* * * * *

On a motion of Council Member , seconded by Council Member , the above Resolution was adopted by the City Council of the City of Benicia at the regular meeting of said Council held on the 18th day of November, 2014, and adopted by the following vote:

Ayes:

Noes:

Absent:

Abstain:

_____
Elizabeth Patterson, Mayor

ATTEST:

_____
Lisa Wolfe, City Clerk

_____
Date

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 December 2014, by and between the CITY OF BENICIA, a municipal corporation (hereinafter referred to as the "City"), and Aud Olsen (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 possesses fee title in and to that certain real property, together with associate structures and improvements thereon, located at the street address 153 West G 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 18, 2014 the City Council of the City of Benicia adopted Resolution No. 14- 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, 2015 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 Owner 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.

b) Owner shall make improvements to bring the Property into good condition. Attached hereto, marked as Exhibit "C", 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 "C". If the schedule set out in Exhibit "C" 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 "C" 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. Owner hereby agrees 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 Owner has 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 Owner has 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, Owner 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 subjects the Historical Property described in Exhibit A hereto to the covenants, reservations and restrictions as set forth in this Agreement. City and Owner 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 Owner's 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 Owner 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: Aud Olsen
153 West G 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 Owner's 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 Owner have executed this Agreement on the day and year first written above.

OWNER	CITY OF BENICIA
_____	_____
BY: Aud Olsen	BY: Brad Kilger, City Manager
DATED:	DATED:
	APPROVED AS TO FORM
	_____
	Heather McLaughlin, City Attorney

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

THAT PORTION OF LOT 10 IN BLOCK 20 OF THE CITY OF BENICIA, ACCORDING TO THE OFFICIAL MAP THEREOF MADE BY BENJAMIN W. BARLOW, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SOLANO COUNTY, CALIFORNIA, IN BOOK 1 OF MAPS, PAGE 124 PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTHERLY LINE OF "G" STREET AND THE SOUTHERLY LINE OF LOT NUMBER TEN (10) IN BLOCK TWENTY (20) DISTANT ON SAID NORTHERLY LINE OF "G" STREET, FORTY-SIX AND SIX INCHES WESTERLY FROM THE SOUTHEASTERLY CORNER OF SAID LOT TEN (10); THENCE AT RIGHT ANGLES NORTHERLY ONE-HUNDRED AND TWENTY-FIVE (125) FEET TO THE SOUTHERLY LINE OF AN ALLEY; THENCE WESTERLY ALONG THE SAID SOUTH LINE OF SAID ALLEY THIRTY-EIGHT FEET AND TEN INCHES; THENCE AT RIGHT ANGLES SOUTHERLY ONE HUNDRED AND TWENTY-FIVE (125) FEET TO THE NORTHERLY LINE OF "G" STREET; THENCE EASTERLY ALONG THE SAID NORTHERLY LINE OF "G" STREET THIRTY-EIGHT FEET AND TEN INCHES EASTERLY ALONG THE SAID NORTHERLY LINE OF "G" STREET THIRTY-EIGHT FEET AND TEN INCHES TO THE PLACE OF BEGINNING.

AP NO.: 089-113-160

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
Replace non-historic aluminum bedroom window with a wood window that is compatible with the architecture of the home. (north façade)	2016
Replace the garden window in the kitchen with a traditional window that is appropriate to the architectural style of the building, subject to approval by Planning Division staff. (west façade)	2018
Replace the existing concrete walkway that presently allows water to the foundation. Install drainage to City standards for the downspouts immediately adjacent to the walkway. Proposed repair shall be evaluated by City staff (Building Inspection Division).	2020
Replace non-historic aluminum kitchen door with wood door, subject to Design Review approval by the Historic Preservation Review Commission. (north façade)	2022
Replace non-historic aluminum bathroom window with a wood window that is compatible with the architecture of the home. (west façade)	2023

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.

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 December 2014, by and between the CITY OF BENICIA, a municipal corporation (hereinafter referred to as the "City"), and Larry and Kim Miller (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 possesses fee title in and to that certain real property, together with associate structures and improvements thereon, located at the street address 180 West H 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 18, 2014 the City Council of the City of Benicia adopted Resolution No. 14- 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, 2015 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 Owner 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.

c) Owner shall make improvements to bring the Property into good condition. Attached hereto, marked as Exhibit "C", 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 "C". If the schedule set out in Exhibit "C" 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 "C" 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 Owners' 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. Owner hereby agrees 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 Owner has 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 Owner has 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, Owner 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 subjects the Historical Property described in Exhibit A hereto to the covenants, reservations and restrictions as set forth in this Agreement. City and Owner 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 Owner's 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 Owner 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: Larry and Kim Miller
180 West H 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 Owner's 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.

OWNERS

_____

BY: Larry Miller
DATED:

_____

BY: Kim Miller
DATED:

CITY OF BENICIA

_____

BY: Brad Kilger, City Manager
DATED:

APPROVED AS TO FORM

_____

Heather McLaughlin, City Attorney

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

BEING A PARCEL OF LAND IN LOT 13, BLOCK 20, AS SHOWN AND DELINEATED ON THAT CERTAIN MAP ENTITLED, "MAP OF THE CITY OF BENICIA, SOLANO COUNTY, CALIFORNIA", APPEARING OF RECORD IN BOOK 1 OF MAPS, AT PAGE 124, SOLANO COUNTY RECORDS, BOUNDED AND PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT:

BEGINNING IN THE NORTHERLY BOUNDARY LINE OF SAID LOT 13, AT A POINT WHICH IS SOUTH 60 DEGREES EAST, 72.5 FEET, ALONG SAID NORTHERLY BOUNDARY LINE, FROM THE NORTHWEST CORNER OF SAID LOT; THENCE SOUTH 30 DEGREES WEST, 125 FEET; PARALLEL TO AND 72.5 FEET DISTANT, AT A RIGHT ANGLES EASTERLY FROM THE WEST BOUNDARY LINE OF SAID LOT, TO A POINT IN THE SOUTHERLY BOUNDARY LINE THEREOF; THENCE SOUTH 60 DEGREES EAST, 40 FEET, ALONG SAID SOUTHERLY BOUNDARY LINE, TO A POINT; THENCE NORTH 30 DEGREES EAST, 125 FEET, PARALLEL TO AND 112.5 FEET DISTANT, AT RIGHT ANGLES EASTERLY, FROM SAID WESTERLY BOUNDARY LINE, TO A POINT IN SAID NORTHERLY BOUNDARY LINE; THENCE NORTH 60 DEGREES WEST, 40 FEET, ALONG SAID NORTHERLY BOUNDARY LINE, TO THE PLACE OF BEGINNING.

APN: 0089-113-03

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 agree 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
Replace the front door with a historically appropriate door subject to staff evaluation. If the door is determined to be original, it will not be replaced.	2015
Investigate the need and feasibility of cellar vents. Install as needed.	2015
Repair counter weights in double-hung windows.	2016
Replace front porch railings with historically appropriate railings subject to review by the Historic Preservation Review Commission.	2016
Replace non-original windows in the sunroom (non-original porch on east façade) with historically appropriate windows to match the original window.	2017
Restore fireplace for seismic security while maintaining the historical quality of the chimney	2018
Remove aluminum siding to expose original wood siding. Repair and repaint as necessary.	2019

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.

VII.E.32

BENICIA HISTORIC PRESERVATION REVIEW COMMISSION
REGULAR MEETING MINUTES EXCERPT

City Hall Commission Room
Thursday, September 18, 2014
6:30 P.M.

* * *

V. REGULAR AGENDA ITEMS

B. MILLS ACT CONTRACT FOR 153 WEST G STREET, AFTER DETERMINATION THAT THE PROJECT IS EXEMPT FROM CEQA

14PLN-00033 Mills Act
153 West G Street
APN: 0089-113-16

Ms. Thorsen provided a brief presentation of the project.

The Commission asked various questions on the proposed work plan and the schedule.

Aud Olsen, presented the proposed work plan and provided additional details on the projects.

The Commission requested information on the windows, the property owner's history with the residence, the timeline, materials and style of the rear door.

Ryan Houseman requested clarification on the ability to re-order work plan items once the contract is approved.

Public comment closed.

The Commission discussed the timing of the work plan. Staff provided clarification on the development of a work plan and the process for conducting annual Mills Act inspections.

Staff provided additional detail on the property based on the historic

survey.

The Commission discussed the work plan and the timing of each item. They discussed starting the work plan in 2016, replacing the cement walkway, replacement of the aluminum window and rear door.

RESOLUTION NO. 14-9 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 153 WEST G STREET

On a motion of Commissioner McKee, seconded by Commissioner Haughey, the above Resolution was approved with the following changes:

1. Addition of a new work item in 2017 to replace the garden window with a traditional window appropriate to the architectural style of the building subject to approval by Planning Division staff.
2. Modify the 2019 work plan item to state "Replace the existing concrete walkway that presently allows water to the foundation. Install drainage to City standards for the downspouts immediately adjacent to the walkway. Proposed repair shall be evaluated by City Staff (Building Inspection Division)."
3. Modify the 2021 work plan items to add that the window replacement is subject to approval by Planning Division staff.
4. Modify the 2023 work plan item add that replacement of the rear door requires review and approval by the Historic Preservation Review Commission.

by the following vote:

Ayes:	Commissioners Haughey, McKee, von Studnitz, and Chair Delgado
Noes:	None
Absent:	Commissioner Trumbly
Abstain:	Commissioner Van Landschoot

Chair Delgado recessed the meeting for a 10-minute break at 7:39 p.m.

C. MILLS ACT CONTRACT FOR 180 WEST H STREET, AFTER DETERMINATION THAT THE PROJECT IS EXEMPT FROM CEQA
14PLN-00040 Mills Act
180 West H Street
APN: 0089-113-03

Ms. Thorsen provided a brief presentation on the project.

The property owner provided a presentation on the project and additional details on the house and the work plan items.

The Commission discussed the work plan including the windows and chimney repair.

No public comment.

The Commission discussed the work plan, specifically the replacement of the porch railings, the stair railings near the sidewalk, replacement of the front door, restoration of the chimney

RESOLUTION NO. 14-10 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 180 WEST H STREET

On a motion of Commissioner Haughey, seconded by Commissioner McKee, the above Resolution was approved with the following changes:

1. Add new work plan item in 2015 "Replace front door with historically appropriate door subject to staff evaluation".
2. Modify the 2016 work plan item to state "Replace front porch railings with historically appropriate railings subject to review by the Historic Preservation Review Commission".
3. Add new work plan item, "Replace non-original windows in the sunroom (non-original porch on east façade) with historically appropriate windows to match the existing original window".
4. Add new work plan item, "Repair the counter weights in the double-hung windows".

by the following vote:

Ayes:	Commissioners Haughey, McKee, von Studnitz, and Chair Delgado
Noes:	None
Absent:	Commissioner Trumbly
Abstain:	Commissioner Van Landschoot

VII.E.36

RESOLUTION NO. 14-9 (HPRC)

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 153 WEST G 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 153 West G 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 153 West G 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 18, 2014 considered the Mills Act contract application of Aud Olsen; and

WHEREAS, the Historic Preservation Review Commission reviewed the Draft Mills Act Contract and recommended work plan provided as 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 153 West G Street.

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

of Aud Olsen subject to the following revisions of Exhibit C, Work Plan:

1. Addition of a new work item in 2017 to replace the garden window with a traditional window appropriate to the architectural style of the building subject to approval by Planning Division staff.
2. Modify the 2019 work plan item to state "Replace the existing concrete walkway that presently allows water to the foundation. Install drainage to City standards for the downspouts immediately adjacent to the walkway. Proposed repair shall be evaluated by City Staff (Building Inspection Division)."
3. Modify the 2021 work plan items to add that the window replacement is subject to approval by Planning Division staff.
4. Modify the 2023 work plan item add that replacement of the rear door requires review and approval by the Historic Preservation Review Commission.

* * * * *

On motion of Commissioner McKee, seconded by Commissioner Haughey, the above Resolution was adopted at a regular meeting of the Historic Preservation Review Commission on September 18, 2014 by the following vote:

Ayes:	Commissioners Haughey, McKee, von Studnitz, and Chair Delgado
Noes:	None
Absent:	Commissioner Trumbly
Abstain:	Commissioner Van Landschoot

Luis Delgado
Historic Preservation Review Commission Chair

RESOLUTION NO. 14-10 (HPRC)

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 180 WEST H 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 180 West H 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 180 West H 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 18, 2014 considered the Mills Act contract application of Larry and Kim Miller; and

WHEREAS, the Historic Preservation Review Commission reviewed the Draft Mills Act Contract and recommended work plan provided as 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 applicants to continue to preserve and enhance a contributing building at 180 West H Street.

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

of Larry and Kim Miller subject to the following revisions of Exhibit C, Work Plan:

1. Add new work plan item in 2015 "Replace front door with historically appropriate door subject to staff evaluation".
2. Modify the 2016 work plan item to state "Replace front porch railings with historically appropriate railings subject to review by the Historic Preservation Review Commission".
3. Add new work plan item, "Replace non-original windows in the sunroom (non-original porch on east façade) with historically appropriate windows to match the existing original window".
4. Add new work plan item, "Repair the counter weights in the double-hung windows".

* * * * *

On motion of Commissioner Haughey, seconded by Commissioner McKee, the above Resolution was adopted at a regular meeting of the Historic Preservation Review Commission on September 18, 2014 by the following vote:

Ayes:	Commissioners Haughey, McKee, von Studnitz, and Chair Delgado
Noes:	None
Absent:	Commissioner Trumbly
Abstain:	Commissioner Van Landschoot

Luis Delgado
Historic Preservation Review Commission Chair

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 (as of Feb 2012)	PROPERTY TAX WITHOUT CONTRACT (1%)	CITY PROPERTY TAX REVENUE OF REASSESSED VALUE (26% OF PROPERTY TAX)	FAIR MARKET VALUE (as of Feb 2012)	PROPERTY TAX WITHOUT CONTRACT (1%)	CITY PROPERTY TAX REVENUE OF REASSESSED VALUE (26% OF PROPERTY TAX)	REASSESSED MILLS ACT PROPERTY VALUE (as of Feb 2012)	PROPERTY TAX WITH CONTRACT (1%)	CITY PROPERTY TAX REVENUE OF REASSESSED VALUE (26% OF PROPERTY TAX)	ESTIMATED TAX SAVINGS*	LOSS OF CITY REVENUE*
EXISTING CONTRACTS:												
245 West K Street** - **M**	11/07/90	$1,040,395	$10,403.95	$2,705	**$793,000**	$7,930	$2,062	$157,013	$1,570.13	$408.23	$6,360	$1,654
235 East L Street**	06/11/90	$676,111	$6,761	$1,758	**$613,000**	$6,130	$1,594	$228,691	$2,287	$595	$3,843	$999
230 West K Street	10/22/04	$513,394	$5,134	$1,335	**$791,000**	$7,910	$2,057	$131,688	$1,317	$342	$6,593	$1,714
121 West J Street - **M**	12/03/04	**$405,583**	$4,056	$1,055	$715,000	$7,150	$1,859	$193,652	$1,937	$503	$2,119	$551
185 East D Street - **M**	11/09/04	**$366,225**	$3,662	$952	$513,000	$5,130	$1,334	$111,429	$1,114	$290	$2,548	$662
251 West J Street - **M**	12/17/04	$287,671	$2,877	$748	**$332,000**	$3,320	$863	$95,545	$955	$248	$2,365	$615
401 First Street	10/15/04	**$1,040,114**	$10,401	$2,704	$1,390,000	$13,900	$3,614	$1,078,115	$10,781	$2,803	-$380	-$99
166 West H Street	12/17/04	$456,735	$4,567	$1,188	$439,000	$4,390	$1,141	$206,230	$2,062	$536	$2,505	$651
123 West D Street - **M**	12/27/05	$764,494	$7,645	$1,988	**$716,000**	$7,160	$1,862	$111,429	$1,114	$290	$6,046	$1,572
1063 Jefferson Street - **M**	05/24/05	**$463,010**	$4,630	$1,204	$1,000,000	$10,000	$2,600	$285,864	$2,859	$743	$1,771	$461
125 East I Street	12/20/06	$887,808	$8,878	$2,308	**$765,000**	$7,650	$1,989	$187,853	$1,879	$488	$5,771	$1,501
159 West G Street - **M**	10/30/06	$456,753	$4,568	$1,188	**$398,700**	$3,987	$1,037	$206,230	$2,062	$536	$1,925	$500
163 West J Street - **M**	10/30/06	$611,816	$6,118	$1,591	**$290,000**	$2,900	$754	$81,039	$810	$211	$2,090	$543
149 West G Street - **M**	10/30/06	$621,168	$6,212	$1,615	**$256,000**	$2,560	$666	$94,545	$945	$246	$1,615	$420
145 East I Street	10/30/06	$606,956	$6,070	$1,578	**$249,000**	$2,490	$647	$91,169	$912	$237	$1,578	$410
141 West H Street - **M**	12/18/07	$450,290	$4,503	$1,171	**$322,000**	$3,220	$837	$112,380	$1,124	$292	$2,096	$545
120 West D Street	12/18/07	**$375,242**	$3,752	$976	$301,242	$3,012	$783	$124,867	$1,249	$325	$2,504	$651
1025 West Second Street	12/18/07	$343,788	$3,438	$894	**$286,000**	$2,860	$744	$89,843	$898	$234	$1,962	$510
140 East G Street	12/18/07	**$706,726**	$7,067	$1,837	$679,000	$6,790	$1,765	$233,075	$2,331	$606	$4,737	$1,231
392-396 East H Street	12/18/07	$414,516	$4,145	$1,078	**$300,000**	$3,000	$780	$186,011	$1,860	$484	$1,140	$296
224 West I Street	12/18/07	$661,238	$6,612	$1,719	**$727,000**	$7,270	$1,890	$154,002	$1,540	$400	$5,730	$1,490
242 West I Street	12/18/07	$598,399	$5,984	$1,556	**$254,000**	$2,540	$660	$99,472	$995	$259	$1,545	$402
171 West H Street	12/18/07	$695,819	$6,958	$1,809	**$268,000**	$2,680	$697	$96,042	$960	$250	$1,720	$447
270 West H Street	12/18/07	$1,414,398	$14,144	$3,677	**$644,000**	$6,440	$1,674	$155,325	$1,553	$404	$4,887	$1,271
441 West J Street	12/18/07	$706,110	$7,061	$1,836	**$305,000**	$3,050	$793	$102,094	$1,021	$265	$2,029	$528
271 West J Street	12/02/08	$287,671	$2,877	$748	**$332,000**	$3,320	$863	$94,545	$945	$246	$2,375	$617
141 West F Street	12/02/08	$805,331	$8,053	$2,094	**$458,000**	$4,580	$1,191	$168,831	$1,688	$439	$2,892	$752
155 West J Street	12/02/08	$501,332	$5,013	$1,303	**$236,000**	$2,360	$614	$85,759	$858	$223	$1,502	$391
182 East I Street	12/09/09	$490,289	$4,903	$1,275	**$726,000**	$7,260	$1,888	$116,612	$1,166	$303	$6,094	$1,584
1101 West Second Street	12/09/09	**$409,272**	$4,093	$1,064	$777,000	$7,770	$2,020	$116,612	$1,166	$303	$2,927	$761
395 West J Street	12/20/10	$596,054	$5,961	$1,550	**$404,000**	$4,040	$1,050	$112,442	$1,124	$292	$2,916	$758
175 West H Street - **M**	11/27/12	**$242,500**	$2,425	$631	$350,000	$3,500	$910	$106,332	$1,063	$276	$1,362	$354
288 West J Street	12/05/12	**$313,803**	$3,138	$816	$375,000	$3,750	$975	$99,472	$995	$259	$2,143	$557
135 East J Street	11/27/12	$460,020	$4,600	$1,196	**$433,000**	$4,330	$1,126	$183,770	$1,838	$478	$2,492	$648
251 West G Street		$287,671	$2,877	$748	**$332,000**	$3,320	$863	$94,545	$945	$246	$2,375	$617
	TOTAL VALUE:	**$19,958,702**	**$199,587**	**$51,893**	**$17,769,942**	**$177,699**	**$46,202**	**$5,792,523**	**$57,925**	**$15,061**	**$102,174**	**$26,565**
EXISTING CONTRACTS ANNUAL COSTS:		($150 per contract for annual inspections)										$5,250
EXISTING CONTRACTS TOTAL:												**$31,815**
2014 CONTRACTS PROPOSED:												
153 West G Street		**$281,301**	$2,813	$731	$374,000	$3,740	$972	$102,103	$1,021	$265	$1,792	$466
180 West H Street		$494,000	$4,940	$1,284	**$494,000**	$4,940	$1,284	$125,159	$1,252	$325	$3,688	$959
	TOTAL VALUE:	**$775,301**	**$7,753**	**$2,016**	**$868,000**	**$8,680**	**$2,257**	**$227,262**	**$2,273**	**$591**	**$5,480**	**$1,425**
2015 CONTRACTS ANNUAL STAFF COSTS		($150 per contract for annual inspections)										$300
ONTRACTS TOTAL:												**$1,725**
ACTS TOTAL INCL. ANNUAL STAFF COSTS (EXISTING AND PROPOSED)												**$33,540**
											TOTAL:	**$33,540**

ıvings are estimates and subject to change annually

M - Exhbit B "Maintenance Only" contract

** Prior to 2003 City Council program authorization

City of Benicia Mills Act Program Property List

PROPERTY ADDRESS	DATE ENTERED INTO
245 West K Street** - **M**	11/07/90
235 East L Street**	06/11/90
230 West K Street	10/22/04
121 West J Street - **M**	12/03/04
185 East D Street - **M**	11/09/04
251 West J Street - **M**	12/17/04
401 First Street	10/15/04
166 West H Street	12/17/04
123 West D Street - **M**	12/27/05
1063 Jefferson Street - **M**	05/24/05
125 East I Street	12/20/06
159 West G Street - **M**	10/30/06
163 West J Street - **M**	10/30/06
149 West G Street - **M**	10/30/06
145 East I Street	10/30/06
141 West H Street - **M**	12/18/07
120 West D Street	12/18/07
1025 West Second Street	12/18/07
140 East G Street	12/18/07
392-396 East H Street	12/18/07
224 West I Street	12/18/07
242 West I Street	12/18/07
171 West H Street	12/18/07
270 West H Street	12/18/07
441 West J Street	12/18/07
271 West J Street	12/02/08
141 West F Street	12/02/08
155 West J Street	12/02/08
182 East I Street	12/09/09
1101 West Second Street	12/09/09
395 West J Street	12/20/10
175 West H Street - **M**	11/27/12
288 West J Street	12/05/12
135 East J Street	11/27/12
251 West G Street	12/10/14

M denotes 'maintenance only'

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 18, 2014
CONSENT CALENDAR

DATE : October 23, 2014

TO : City Manager

FROM : Parks and Community Services Director

SUBJECT : **PURCHASE AND PLACEMENT OF RESTROOM FACILITY FOR THE DOWNTOWN LITTLE LEAGUE FIELDS**

RECOMMENDATION:
Adopt a resolution authorizing the purchase and placement of a new restroom at the downtown little league fields in the amount of $76,792.98. This restroom facility is a replacement to the former restroom that was built in the 1970's.

EXECUTIVE SUMMARY:
The former restroom facility at the downtown little league fields was built in the 1970's and is not functioning. Presently, portable lavatories have been placed on site. To remedy this situation and maintain a permanent restroom facility at the park, staff is requesting authorization to purchase and install the new restroom facility.

BUDGET INFORMATION:
The cost to purchase and install the downtown restroom facility is $76,792.98. The funds for this project were approved by City Council in the adopted 2014-15 budget, in Account No. 113-9205-9625, Park Improvements.

STRATEGIC PLAN:
Relevant Strategic Plan Goals and Strategies:

- Strategic Issue 4: Preserving and Enhancing Infrastructure
  Strategy 4: Provide adequate funding for ongoing infrastructure needs

BACKGROUND:
On October 6, 2014 City staff received a NJPA price quote from CXT Incorporated in the amount of $76,792.98 to purchase and place a new restroom facility at the downtown little league fields. NJPA pricing is National Joint Powers Alliance. NJPA provides for competitively bid pricing and complies with the City's purchasing ordinance. Following City Council approval, construction of the restroom is anticipated to begin at the end of February 2015.

Attachment:

- Proposed Resolution

VII.F.2

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE PURCHASE AND PLACEMENT OF NEW RESTROOM FACILITY FOR THE DOWNTOWN LITTLE LEAGUE FIELDS IN THE AMOUNT OF $76,792.98 ALLOCATED FROM THE BUILDING MAINTENANCE FUND

WHEREAS, the former restroom facility at the downtown little league fields was built in 1970's; and

WHEREAS, it no longer functions; and

WHEREAS, portable lavatories have been placed on site; and

WHEREAS, the City desires to maintain a permanent restroom facility at the downtown little league fields; and

WHEREAS, the bid from CXT Incorporated was received as NJPA pricing in compliance with the City's purchasing ordinance; and

WHEREAS, there are sufficient funds available in the Building Maintenance Fund, Account Number: 113-9205-9625 for the purchase and installation of the new restroom.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Benicia approves the purchase and placement of a restroom facility for downtown little league fields in the amount of $76,792.98 appropriated from the Building Maintenance Fund Account.

*****

On motion of Council Member , seconded by Council Member , the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 18th day of November 2014 and adopted by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 18, 2014
CONSENT CALENDAR

DATE : October 30, 2014

TO : City Manager

FROM : Assistant City Manager

SUBJECT : **APPROVE THE AGREEMENT BETWEEN THE CITY OF BENICIA AND POLICE MID MANAGERS**

RECOMMENDATION:
Adopt the resolution approving July 1, 2014 - June 30, 2016 Memorandum of Understanding (MOU) for Police Mid Managers and authorizing the City Manager to take the necessary administrative steps to implement the provisions of the agreement.

EXECUTIVE SUMMARY:
The City recently concluded negotiations with the Police Mid Managers. The proposed agreement was ratified by the unit's members on October 28, 2014.

BUDGET INFORMATION:
With Council approval, the 2014-15 Budget will be amended to reflect a cost of approximately $8814. Sufficient reserves exist to cover the cost in the current budget. The estimated cost for 2015-16 is approximately $11,608.

STRATEGIC PLAN:
Relevant Strategic Plan Goals and Strategies:
- Strategy Issue #3: Strengthening Economic and Fiscal Conditions
  - Strategy #4: Manage City finances prudently

BACKGROUND:
In 2010 and 2011, City employees took structural reductions in compensation of approximately 10%, resulting in much needed savings for the City's budget. In subsequent years, due to continuing fiscal challenges, the majority of the City's bargaining units agreed to status quo one-year extensions with no salary increases.

In recognition of the City's ongoing efforts to address budget challenges and develop a Sustainable Community Services Strategy with the goal of a fiscally resilient organization, this agreement has minimal increases to leave time and pay, and no ongoing salary increases. This significantly limits the ongoing cost

impact to the City's budget.

Attachment:

- Resolution and Exhibit A (Amended MOU)

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE AGREEMENT BETWEEN THE CITY OF BENICIA AND POLICE MID MANAGERS

WHEREAS, the existing Memorandum of Understanding (MOU) between the City and Police Mid Managers which cover salaries and other conditions of employment expired on June 30, 2014; and

WHEREAS, the City has recently concluded negotiations with Police Mid Managers; and

WHEREAS, Police Mid Managers has agreed to the proposed amendments to their MOU as outlined in Exhibit A; and

WHEREAS, unless otherwise amended by the MOU language, as summarized in Exhibit A, all terms of the existing MOU shall remain in effect from July 1, 2014 – June 30, 2016; and

WHEREAS, with this action, the 2014-15 Budget will be amended to reflect a cost of approximately $8,814 for Police Mid Managers, and sufficient reserves exist to cover the cost in the current budget.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves the amendments to the agreement between the City of Benicia and Police Mid Managers.

BE IT FURTHER RESOLVED THAT the City Council of the City of Benicia authorizes the City Manager to take the necessary administrative steps to implement the provisions of the agreements and actions approved by this resolution.

****

On motion of Council Member , and seconded by Council Member , the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 18th day of November, 2014 and adopted by the following vote.

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

EXHIBIT A

VII.G.6

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, 2013~~ Upon Adoption – June 30, 2016

~~(amendments via Reso 10-157, 11-27/Ordinance 11-05; Reso 11-91; Reso 11-119/Ordinance 11-12, Reso 11-132~~
~~(extended to June 30, 2013 via Council Resolution 12-44)~~
~~Amendments and extension incorporated into this MOU~~

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

(note: see section II D – Deferred Comp for addition info)

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 July 2011, city no longer contributes to deferred compensation program on behalf of employees.

Prior to July 2011, the city contribution was 4%, except for a period of time between 2010 and 2011 (see Section IIA) During the time the city contributed any amount, the employee was required to contribute at least 1%.

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. MOU Leave for Fiscal Year 2014/2015 and 2015/16 Only

MOU Leave Sunsets June 30, 2016

Effective upon ratification by the association and City Council approval, employees shall accrue 32 hours of "MOU leave" per fiscal years 2014-15, and 2015-16. This MOU leave accrual shall cease effective June 30, 2016.

In fiscal year 2015-16, the City shall credit employees with the full fiscal year's accrual on the first full pay period following July 1 of the fiscal year.

Use of MOU Leave
Use of MOU Leave shall be subject to the same restrictions as vacation leave (e.g., pre-approval by supervisor).

Payout of MOU Leave
If any employee has not used his or her maximum of 32 hours MOU leave by December 20, 2014 for the 2014-2015 fiscal year any remaining balance shall be paid out at the employee's regular rate of pay in the December 31, 2014 paycheck. MOU leave shall not be carried forward into the next fiscal year.

If any employee has not used his or her maximum of 32 hours MOU leave by December 20, 2015 for the 2015-2016 fiscal year leave any remaining balance shall be paid out at the employee's regular rate of pay in the December 31, 2015 paycheck. MOU leave shall not be not carried forward into the next fiscal 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.

Holiday Closure Sunsets on June 30, 2016

The City agrees to the December holiday leave for 2014 and 2015 equivalent to four (4) working days for each year. There will be no City Manager days conferred during this time. This Holiday Closure leave shall be non-precedent setting, with the purpose of recognizing the cooperation of the POA in negotiating a three-year agreement. The City shall determine whether to institute a holiday closure for 2014 and/or 2015. If instituted, the holiday leaves for PD Mid will correspond with the days of the City's holiday closure. For those employees who are scheduled to work during the holiday closure, if instituted, the City will provide employees with the equivalent leave hours to be taken during the applicable fiscal year for which the leave was allocated.

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 January 1st of each year, employees may elect to convert unused Administrative Leave for cash for an amount up to 10.75 hours of his/her authorized Administrative Leave allowance. Payment for cash conversion shall be made by January 31st. Remaining administrative eave must be used by July 20th of each year.

(note: previously the allowable cashout amount was a maximum of 36 hours and the payment was made in June. As part of re-opener concession negotiations in 2011, the reduced cashout amount was agreed to.)

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~~$642
Employee plus One:	$~~1,184.75~~ $1,294
Employee plus Family:	$~~1,575.71~~ $1,730.20

Effective 7/1/2015, the city contributions towards medical premiums shall be a maximum up to the following contributions for any plan:

Employee:	$662
Employee plus One:	$1,344
Employee plus Family:	$1,805.20

~~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.~~

~~For fiscal year 2012-13, the parties agree that the City will continue to contribute the following amounts toward medical premiums:~~

~~Employee:~~	~~$622/month~~
~~Employee plus One:~~	~~$1,244/month~~
~~Employee plus Family:~~	~~$1,655.20/month~~

~~Additional Medical Contribution and Plan Design Changes: Effective July, 2011, a pre-tax deduction equivalent to the anticipated reduction of costs for this unit to move from a zero co pay plan to a $ 15.00 co-pay plan for the 2011-12 plan year. That deduction is:~~

~~In lieu or Employee:~~	~~$19.54/month~~
~~Employee + 1:~~	~~$39.07/month~~
~~Employee plus Family:~~	~~$52.64/month~~

~~Given that health care plan design change did not occur in 2011-12 to achieve the savings of the $15 co-pay plan, employees continue to make this pre-tax deduction toward health in order to achieve the equivalent amount of savings.~~

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 that all unit members shall participate in the ICMA VantageCare Retiree Health Savings Plan effective December 2010 (prior to December 2010, participation was optional). 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 shall 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

These hours will be subtracted from the employee sick leave balance at the time of contribution

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.

D. Pursuant to above paragraph B, the City's contract with Public Employees Retirement System (PERS) implemented a second tier retirement benefit option of 3% @ 55 and average three year compensation formula in accordance with Government Code § 21362.3 for new hires hired on or after June 1, 2011.

E. Employee Pick-up of Employer's Share of Retirement

Effective November 1, 2011, bargaining unit employees began contributing an additional 5.336% of pensionable compensation towards the employer's share of retirement via a pre-tax payroll contribution.

F. City will comply with all PEPRA laws for new hires after January 1, 2013 or non classic members as defined by CalPERS.

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, 2013~~3~~6. ~~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.~~

VII.G.18

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 18, 2014
CONSENT CALENDAR

DATE : October 17, 2014

TO : City Council

FROM : City Manager

SUBJECT : **INTRODUCTION AND FIRST READING OF AN ORDINANCE FOR REASONABLE ACCOMMODATION**

RECOMMENDATION:
Conduct a first reading of the draft ordinance to amend Benicia Municipal Code Title 17 (Zoning Ordinance) and the Downtown Mixed Use Master Plan (Chapter 4 - Form Based Code) pertaining to reasonable accommodation after determining that the project is exempt from CEQA.

EXECUTIVE SUMMARY:
The State and federal Fair Housing Laws require that local jurisdictions take action to make reasonable accommodation (modifications or exceptions) in their land use regulations and practices when such accommodation may be necessary to afford disabled persons an equal opportunity to housing. The draft ordinance has been prepared to add Chapter 17.132 Reasonable Accommodation to the Zoning Ordinance to implement California Government Code Section 65583 (c) (3) and the City's Housing Element by establishing procedures and regulations for the granting of reasonable accommodation for housing.

BUDGET INFORMATION:
The process to grant a reasonable accommodation is proposed to be a staff-level review by the Community Development Department. Section 17.132.100 of the Draft Ordinance states that *there shall be no fee imposed in connection with a request for reasonable accommodation under the provisions of this Chapter*. In keeping with the spirit of Fair Housing laws (to remove barriers to the enjoyment of housing by disabled persons), some cities do not assess an application fee to reasonable accommodation requests, as the fee itself may be a barrier to the applicant.

The fees charged by other cities throughout California for the processing of a request for reasonable accommodation varies. Examples are provided in Table 1 Reasonable Accommodation Fees.

Table 1 Reasonable Accommodation Fees

City	Fee
City of San Jose	$695
City of Pleasant Hill	$137 (Over the Counter)
	$274 (Public Hearing)
Rio Vista	Varies – the applicant is responsible for the billable rate of the review (contract City Attorney)
Concord	$146
San Rafael	$964
Larkspur	No fee
Oxnard	$789.60
Santa Ana	No fee
Glendale	$50

Staff recommends that Council not adopt an application fee until such a time when the City has processed enough applications to determine whether the process substantially impacts staff resources.

GENERAL PLAN:
Relevant General Plan Goals and Policies include:

- GOAL 3: Accommodate the housing needs to special population groups.
    - Policy 3.01 Facilitate the development of shelters for the homeless, transitional and supportive housing, housing for seniors, and housing for persons with physical, developmental, or mental disabilities.

STRATEGIC PLAN:
Relevant Strategic Plan Issues and Strategies:

- Issue #5: Maintain and Enhance a High Quality of Life
    - Strategy: Provide support to disadvantaged segments of the community.

ENVIRONMENTAL ANALYSIS:
The proposed amendment is exempt from the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), the "general rule" exemption that states that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is exempt from CEQA. The City has determined that the draft amendments to the Benicia Municipal Code and Downtown Mixed Use Master Plan establishing a procedure for persons with disabilities seeking equal access

to housing to request reasonable accommodation in the application of land use regulations, will not have an impact on the environment and therefore is exempt from CEQA under the general rule.

BACKGROUND:
Both the Federal Fair Housing Act and the Housing Act (Fair Housing Laws) prohibit discrimination in housing against individuals with disabilities. The laws require that cities take affirmative action to make reasonable accommodation (modifications or exceptions) in their land use regulations and practices when such accommodation may be necessary to afford disabled persons an equal opportunity to housing. State law (Government Code Section 65583) and the City's current and draft Housing Element require a review of City procedures and regulations for this purpose.

> **California Government Code Section 65583 (c)(3) states:**
> *The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing…In order to make adequate provision for the housing needs of all economic segments of the community, the program shall… Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.*

SUMMARY:
The intent of the proposed ordinance is to establish a formal procedure for persons with disabilities seeking equal access to housing to request reasonable accommodation in the application of the City's land use regulations and to establish criteria to be used when considering such requests. The City adopted this policy in the current Housing Element 2007-2014 Program 3.03 which states:

> ***Program 3.03***
> *Pursuant to the Fair Housing Amendments Act of 1988 and the requirements of Chapter 671, Statues of 2001 (Senate Bill 520), the City will adopt a reasonable accommodation ordinance addressing rules, policies, practices, and procedures that may be necessary to ensure equal access to housing for those with disabilities. The City will promote its reasonable accommodations procedures on its web site and with handouts at City Hall.*

This Program is also carried forward into the draft 2015-2023 Housing Element as Program 3.02.

Many jurisdictions in California have relied upon existing variance and/or conditional use permit procedures to handle requests for reasonable accommodation in place of establishing a specific review procedure. However, the criteria for granting or denying requests for reasonable accommodation made through a variance or conditional use permit process may be insufficient to justify the decision when judged in the light of the fair housing laws reasonable accommodation mandate.

The proposed ordinance addresses this concern by establishing an administrative procedure for persons with disabilities to request reasonable accommodation in the application of the City's land use regulations and relevant criteria. The proposed ordinance has been modeled from the State Department of Housing and Community Development's "model ordinance", other reasonable accommodation ordinances that have been adopted by other communities in California and the City's existing regulations. Provisions of the proposed ordinance are summarized below.

Request for Accommodation

A request for reasonable accommodation may be made by any person with a disability, or an authorized representative of a disabled person or a developer of disabled housing, when a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing- related facilities would eliminate regulatory barriers and provide an individual with a disability equal opportunity to housing of choice.

The types of reasonable accommodation requests that would be appropriate under the proposed ordinance could range from modifications or exceptions from site development standards such as yard setbacks or parking requirements. Examples of the types of requests that may be made are provided below.

- Example No. 1: Yard Setbacks
  Wheelchair ramps are classified as a structure under the California Building Code and must comply with applicable setback requirements. Under the proposed ordinance, a request could be made to allow for a modification or exception to the setback requirement to allow for construction of ramp.

- Example No. 2: Parking
  In the residential zoning districts required off-street parking cannot be located in the front or side yard setback areas. Under the proposed ordinance, a request could be made to allow for parking improvements

to be made within the front or side yard setback area to accommodate access to and use of a wheelchair ramp.

- Example No. 3: Lot Coverage
  In the single family zoning district the lot coverage for all structures over 30" in height is 40% of the lot area. Under the proposed ordinance, a request could be made to allow for an exception to the lot coverage to allow for the expansion of a home to accommodate a wheelchair ramp or elevator.

Review Procedure

Applications requesting reasonable accommodation will be reviewed by the Community Development Director (or designee). The applicant would submit the required application and provide the standard Planning Application information (name, number, address, etc.) as well as more detailed information on the requested accommodation such as the basis for the claim and the use of the property. The submittal requirements are set forth in Section 17.132.050 of the draft ordinance. Upon submittal of a complete application, the director or designee would issue a written decision documenting how the request does or does not meet the findings for approval provided in Section 17.132.070 listed below.

Approval Criteria (Section 17.132.070)

The proposed ordinance sets forth the following list of findings to be considered when reviewing a request for reasonable accommodation, all of which shall be required for approval:

A. The housing which is the subject of the request for reasonable accommodation will be used for an individual(s) with a disability protected under the Act.

B. The request for reasonable accommodation is necessary to make specific housing available to an individual(s) with a disability protected under the Act.

C. The requested reasonable accommodation does not impose an undue financial or administrative burden on the city.

D. The requested accommodation will not require a fundamental alteration of the zoning and building laws, policies and/or procedures of the City.

E. There are no other reasonable alternatives that would provide an equivalent level of benefit without requiring a modification or exception to the

city's applicable rules, standards and practices.

F. The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

Planning Commission Review/Recommendation

On October 9, 2014, the Planning Commission conducted a public hearing to review the draft ordinance. There was no public comment on the ordinance. The Commission voted unanimously to recommend approval of the ordinance as drafted.

Attachments:

- Planning Commission Resolution No. 14-16
- Draft Ordinance

RESOLUTION NO. 14-16 (PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL APPROVAL OF AMENDMENTS TO THE BENICIA MUNICIPAL CODE AND DOWNTOWN MIXED USE MASTER PLAN TO INCORPORATE REGULATIONS PERTAINING TO REASONABLE ACCOMMODATION

WHEREAS, the federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act (Fair Housing Laws) prohibit discrimination against individuals with disabilities in housing and require cities and counties take affirmative action to eliminate regulations and practices that deny housing opportunities to individuals with disabilities; and

WHEREAS, more specifically, Fair Housing Laws require that cities and counties provide individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use and zoning and building regulations, practices and procedures; and

WHEREAS, the State Attorney General's urges that all California cities and counties implement a fair housing reasonable accommodation procedure for their land use and zoning activities; and

WHEREAS, the Planning Commission at a regular meeting on October 9, 2014, conducted a hearing, heard public comment and reviewed the draft ordinance found it to be consistent with the Fair Housing Laws and the City's General Plan; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Benicia hereby recommends the City Council approve by Ordinance, an amendment to the Benicia Municipal Code and the Downtown Mixed Use Master Plan to incorporate regulations pertaining to reasonable accommodation.

BE IT FURTHER RESOLVED THAT the Planning Commission of the City of Benicia finds that:

a) The proposed amendment is exempt from the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), the "general rule" exemption that states that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is exempt from CEQA. The City has determined that the draft amendments to the Benicia Municipal Code and Downtown Mixed Use Master Plan establishing a procedure for persons with disabilities seeking equal access to housing to request reasonable accommodation in the application of land use regulations, will not have an impact on the environment and therefore is exempt from CEQA under the general rule.

On a motion of Commissioner Young, seconded by Commissioner Cohen-Grossman, the above Resolution was adopted by the Planning Commission of the City of Benicia at the regular meeting of said Commission held on the 9TH day of October 2014, and adopted by the following vote:

Ayes:	Commissioners Cohen-Grossman, Oakes, Sherry, Smith, Sprague, Young and Chair Dean
Noes:	None
Absent:	None
Abstain:	None

Donald Dean
Planning Commission Chair

CITY OF BENICIA

ORDINANCE NO. 14-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE BY ADDING CHAPTER 17.132 (REASONABLE ACCOMMODATION) AND AMENDING THE DOWNTOWN MIXED USE MASTER PLAN TO REFERENCE CHAPTER 17.132 (REASONABLE ACCOMMODATION)

WHEREAS, the Federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act prohibit discrimination against individuals with disabilities in housing and require cities and counties take affirmative action to eliminate regulations and practices that deny housing opportunities to individuals with disabilities; and

WHEREAS, more specifically, fair housing laws require that cities and counties provide individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use and zoning and building regulations, practices and procedures; and

WHEREAS, the State Attorney General urges that all California cities and counties implement a fair housing reasonable accommodation procedure for their land use and zoning activities; and

WHEREAS, the proposed ordinance would not have a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA) by the General Rule, CEQA Guidelines Section 15061(b)(3), that CEQA applies only to projects which have the potential for a causing a significant effect on the environment.

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

Section 1.

Title 17 (Zoning) of the Benicia Municipal Code is amended by adding Chapter 17.132 (Reasonable Accommodation) to read as follows:

Chapter 17.132
REASONABLE ACCOMMODATION

Sections:

17.132.010 Purpose and intent.
17.132.020 Applicability.
17.132.030 Definitions.
17.132.040 Requesting reasonable accommodation.

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17.132.050 Required information.
17.132.060 Reviewing authority; decision.
17.132.070 Required findings for reasonable accommodation.
17.132.080 Effective date; appeals.
17.132.090 Fee.

17.132.010. Purpose and intent.

The purpose of this Chapter is to provide a process for individuals with disabilities to make requests for reasonable accommodation in zoning and other land use regulations or rules, policies, practices, and/or procedures of the City. It is the intent of the City, pursuant to the Federal Fair Housing Act of 1988 and the California Fair Employment and Housing Act, to provide people with disabilities reasonable accommodation in rules, policies, practices and procedures to ensure equal access to housing and facilitate the development of housing for individuals with disabilities.

17.132.020 Applicability.

Reasonable accommodation in the land use and zoning context means providing individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use and zoning and building regulations, policies, practices and procedures, or even waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities. In order to make specific housing available to an individual with a disability, any person may request a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice. The provisions of this chapter apply to all zoning districts including overlay districts and all adopted local area and specific plans, and to Title 15, Building and Construction, regulations.

A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone what has a record of such impairment. This chapter applies only to those persons who are disabled as defined herein.

17.132.030 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as hereafter set out, unless it shall be apparent from the context that they have a different meaning.

“Act” means the Fair Housing Amendments Act of 1988.

“Applicant” means an individual making a request for reasonable accommodation pursuant to this Chapter.

“Disability” means, with respect to an individual, a medical, physical or mental impairment that limits one or more major life activities, as those terms are defined in California Government Code Section 12926; anyone who is regarded as having such a

condition or anyone who has a record of having such a condition. The term “disabled person” does not include a person who is currently using illegal substances, unless he or she has a separate disability.

17.132.040. Requesting reasonable accommodation.
A. In order to make specific housing available to an individual with a disability, applicant may request reasonable accommodation relating to the various land use, zoning, or rules, policies, practices, and/or procedures of the City. Such a request may include a modification or exception to the requirements for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers. A reasonable accommodation cannot waive a requirement for a use permit when otherwise required or result in approval of uses otherwise prohibited by the City’s land use and zoning regulations.

B. If an applicant needs assistance in making the request for reasonable accommodation or appealing a determination regarding reasonable accommodation, the community development director will provide the assistance necessary to ensure that the process is accessible to the applicant.

C. A request for reasonable accommodation in laws, rules, policies, practices and/or procedures may be filed on an application form provided by the Department at any time that the accommodation may be necessary to ensure equal access to housing.

D. A reasonable accommodation does not affect an applicant’s obligation to comply with other applicable regulations not at issue in the requested reasonable accommodation.

E. If the project for which the reasonable accommodation is being requested also requires some other discretionary approval (such as conditional use permit, architectural review, general plan amendment, zoning amendment, subdivision map), then the applicant shall submit the reasonable accommodation application first for a determination by the community development director, before proceeding with the other applications.

17.132.050. Required information.
A. The applicant shall submit a request for reasonable accommodation on a form provided by the planning division. The application shall include the following information:

1. The applicant’s name, address, telephone number, and e-mail address, if available;

2. Address of the property for which the request is being made;

3. The name and address of the property owner, and the owner’s written consent to the application;

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4. The current and proposed use of the property;

5. The basis for the claim under the Act, that the fair housing laws apply to the individual(s) with a disability and evidence supporting the claim, including the effects on the person's limitations as it relates to the request, which may be in the form of a letter from a medical doctor or other licensed healthcare professional, handicapped license, or other appropriate evidence;

6. Description of the requested accommodation, and the rule, policy, practice and/or procedure of the City for which the request for accommodation is being made;

7. Copies of memoranda, correspondence, pictures, site plans, floor plans, or background information reasonably necessary to reach a decision regarding the need for the accommodation; and

8. Such other relevant information as may be requested by the community development director as determined necessary to makes the findings required by BMC 17.132.070, so long as any request for information regarding the disability of the individuals benefited complies with the Act and the privacy rights of the individual(s) affected.

B. Any information identified by the applicant as confidential shall be retained by the City in a manner that respects the privacy rights of the individual with a disability and shall not be made available for public inspection.

17.132.060. Reviewing authority; decision.
A. Requests for reasonable accommodation shall be reviewed by the community development director or their designee.

B. The community development director or their designee shall issue a written decision on a request for reasonable accommodation and may either grant, grant with modification, or deny a request for reasonable accommodation in accordance with the required findings set forth in BMC Section 17.132.070.

17.132.070 Required findings for reasonable accommodation.
In making a determination regarding the reasonableness of a requested reasonable accommodation, the approving authority shall make the following findings:

A. The housing which is the subject of the request for reasonable accommodation will be used for an individual(s) with a disability protected under the Act.

B. The request for reasonable accommodation is necessary to make specific housing available to an individual(s) with a disability protected under the Act.

C. The requested reasonable accommodation does not impose an undue financial or administrative burden on the City.

D. The requested accommodation will not require a fundamental alteration of the zoning and building laws, policies and/or procedures of the City.

E. There are no other reasonable alternatives that would provide an equivalent level of benefit without requiring a modification or exception to the city's applicable rules, standards and practices.

F. The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

17.132.080 Effective date; appeals.
A. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth in BMC Chapter 1.44.

B. If an individual(s) needs assistance in filing an appeal on an adverse decision, the city will provide assistance to ensure that the appeals process is accessible.

C. The written decision of the community development director or their designee shall be final unless appealed.

D. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

17.132.100 Fee.
There shall be no fee imposed in connection with a request for reasonable accommodation under the provisions of this Chapter.

Section 2.

Downtown Mixed Use Master Plan, Chapter 4: Form Based Bodes is amended to add reference to Chapter 17.132 (Reasonable Accommodation) to read as follows:

Additional Standards for FBC Zones (page 4-25)

Other Requirements:
Reasonable Accommodation
Requests for Reasonable Accommodation shall be subject to Benicia Municipal Code Chapter 17.132

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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 Council Member , the foregoing Ordinance was introduced at a regular meeting of the City Council on the 18th day of November, 2014, and adopted at a regular meeting of the Council held on the day of 2014, by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

DRAFT

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 18, 2014
CONSENT CALENDAR

DATE : November 5, 2014

TO : City Council

FROM : Community Development Director

SUBJECT : **ADOPTING THE ORDINANCE TO JOIN COMMUNITY CHOICE AGGREGATION (CCA) - MARIN CLEAN ENERGY**

RECOMMENDATION:
Adopt the ordinance approving the Marin Clean Energy Joint Powers Agreement and authorizing the implementation of a Community Choice Aggregation program.

EXECUTIVE SUMMARY:
On November 4, 2014, the City Council reviewed independent reports prepared by MRW & Associates and Davis Wright Tremaine and concluded that the benefits of joining Marin Clean Energy (MCE) outweighed the risks. The City Council voted unanimously to adopt the enabling resolution and introduce the ordinance approving the MCE Joint Powers Agreement and authorizing the implementation of a Community Choice Aggregation (CCA) program. November 18th is the second reading of that ordinance.

BUDGET INFORMATION:
Joining Marin Clean Energy (MCE) requires no additional funding. Staff time needed to assist in facilitating community outreach and implementation of the CCA program is already included in the CAP Coordinator's 2014-15 work plan. Some additional staff time will be needed to support the CAP Coordinator in responding to community questions or attending any workshops during the opt-out phase. There will also be the need to provide staff support to Benicia's MCE board member if the City Council votes to join. It is believed that this support could be minimal if properly managed and MCE staff provides most of the needed support. Staff from the City of Richmond estimate that approximately two to four hours of staff time has been required per month once the program became fully operational.

ENVIRONMENTAL REVIEW:
The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable. City Staff, in consultation with the City Attorney, concluded that

potential environmental impacts are speculative in nature and require no further analysis at this time.

GENERAL PLAN:
The project supports the overarching Goal of the General Plan, which is Sustainability.

STRATEGIC PLAN:
Relevant Strategic Plan Issues and Strategies:

- Strategic Issue #2: Protecting and Enhancing the Environment
  - Strategy #1: Reduce greenhouse gas emissions and energy consumption
  - Strategy #3: Pursue and adopt sustainable practices

BACKGROUND:
Community Choice Aggregation (CCA) allows local governments to purchase and/or develop clean power on behalf of their residents, businesses, and municipal accounts. CCA is an energy supply model that works in partnership with Pacific Gas & Electric (PG&E) to deliver renewable electricity, maintain the energy grid, and provide customer service and billing.

As part of the Council approved Climate Action Plan (CAP) Coordinator Work Plan 14-15, the CAP Coordinator researched CCA programs and potential funding sources to complete a membership analysis required by Marin Clean Energy (MCE), the only existing CCA that Benicia could join at this time. MCE's analysis assesses the City's electrical load and determines whether MCE can provide service to the City without having a negative impact on its current customers. On June 17, 2014, the City Council allocated $18,000 in Valero Good Neighbor Steering Committee Settlement Agreement funds and authorized the City Manager to execute a contract with MCE. Council also requested that staff organize a Council Study Session so that the public and Council could learn more about CCAs in general. At the September 9, 2014 study session, Council directed staff to assess the need for further outside review of the pending MCE Membership Analysis.

Staff received the completed MCE analysis on September 10, 2014, which concluded that Benicia joining MCE would have a net beneficial impact on MCE's current customers and likely reduce near term electrical energy costs for Benicia residents and businesses. On October 7, 2014 the City Council directed staff to schedule a special Community Sustainability Commission meeting and request that the CSC allocate $30,000 from the Valero Good Neighbor Steering Committee Settlement Agreement funds to cover the cost of independent analyses prepared by MRW & Associates and Davis Wright Tremaine, LLP. The CSC did make this recommendation on October 14, 2014 and the analyses

were completed on October 22nd and 23rd.

On November 4, 2014, the Council reviewed these reports and determined that the benefits of joining MCE outweighed the risks and voted unanimously to adopt the enabling resolution and introduce the ordinance approving the Marin Clean Energy (MCE) Joint Powers Agreement and authorizing the implementation of a CCA program. Tonight is the second reading of that ordinance. The ordinance will take effect 30 days from the second reading.

Attachments:

- Marin Clean Energy Ordinance
- Marin Clean Energy Joint Powers Agreement (JPA)

VII.I.4

CITY OF BENICIA

ORDINANCE NO. 14-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE MARIN CLEAN ENERGY JOINT POWERS AGREEMENT AND AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM

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

Section 1. The City of Benicia has been actively investigating options to provide electric services to constituents within its service area with the intent of achieving greater local involvement over the provision of electric services and promoting competitive and renewable energy.

Section 2. On September 24, 2002, the Governor signed into law Assembly Bill 117 (Stat. 2002, ch. 838; see California Public Utilities Code section 366.2; hereinafter referred to as the "Act"), which authorizes any California city or county, whose governing body so elects, to combine the electricity load of its residents and businesses in a community-wide electricity aggregation program known as Community Choice Aggregation (CCA).

Section 3. The Act expressly authorizes participation in a CCA program through a joint powers agency, and on December 19, 2008, Marin Clean Energy (MCE), formerly known as the Marin Energy Authority, was established as a joint power authority pursuant to a Joint Powers Agreement, as amended from time to time.

Section 4. On February 2, 2010, the California Public Utilities Commission certified the "Implementation Plan" of MCE, confirming MCE's compliance with the requirements of the Act.

Section 5. In order to become a member of MCE, the Act requires the City to individually adopt an ordinance electing to implement a Community Choice Aggregation program within its jurisdiction by and through its participation in Marin Clean Energy.

Section 6. Based upon all of the above, the Council elects to implement a Community Choice Aggregation program within the City's jurisdiction by and through the City's participation in Marin Clean Energy. The President of the Board of Directors is hereby authorized to execute the MCE Joint Powers Agreement.

Section 7. This ordinance shall take effect and be in force 30 days after its adoption, and, before the expiration of 30 days after its passage, a summary of this ordinance shall be published once with the names of the members of the Council voting

for and against the same in the Benicia Herald, a newspaper of general circulation published in the City of Benicia.

****

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

Ayes:

Noes:

Absent:

Abstain:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

Marin Energy Authority
- Joint Powers Agreement -

Effective December 19, 2008
As amended by Amendment No. 1 dated December 3, 2009
As further amended by Amendment No. 2 dated March 4, 2010
As further amended by Amendment No. 3 dated May 6, 2010
As further amended by Amendment No. 4 dated December 1, 2011
As further amended by Amendment No. 5 dated July 5, 2012
As further amended by Amendment No. 6 dated September 5, 2013
As further amended by Amendment No. 7 dated December 5, 2013
As further amended by Amendment No. 8 dated September 4, 2014

Among The Following Parties:

City of Belvedere
Town of Corte Madera
Town of Fairfax
City of Larkspur
City of Mill Valley
City of Novato
City of Richmond
Town of Ross
Town of San Anselmo
City of San Pablo
City of San Rafael
City of Sausalito
Town of Tiburon
County of Marin
County of Napa

MARIN ENERGY AUTHORITY
JOINT POWERS AGREEMENT

This **Joint Powers Agreement** ("Agreement"), effective as of December 19, 2008, is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 et seq.) of the California Government Code relating to the joint exercise of powers among the parties set forth in Exhibit B ("Parties"). The term "Parties" shall also include an incorporated municipality or county added to this Agreement in accordance with Section 3.1.

RECITALS

1. The Parties are either incorporated municipalities or counties sharing various powers under California law, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and their inhabitants.

2. In 2006, the State Legislature adopted AB 32, the Global Warming Solutions Act, which mandates a reduction in greenhouse gas emissions in 2020 to 1990 levels. The California Air Resources Board is promulgating regulations to implement AB 32 which will require local government to develop programs to reduce greenhouse emissions.

3. The purposes for the Initial Participants (as such term is defined in Section 2.2 below) entering into this Agreement include addressing climate change by reducing energy related greenhouse gas emissions and securing energy supply and price stability, energy efficiencies and local economic benefits. It is the intent of this Agreement to promote the development and use of a wide range of renewable energy sources and energy efficiency programs, including but not limited to solar and wind energy production.

4. The Parties desire to establish a separate public agency, known as the Marin Energy Authority ("Authority"), under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) ("Act") in order to collectively study, promote, develop, conduct, operate, and manage energy programs.

5. The Initial Participants have each adopted an ordinance electing to implement through the Authority Community Choice Aggregation, an electric service enterprise agency available to cities and counties pursuant to California Public Utilities Code Section 366.2 ("CCA Program"). The first priority of the Authority will be the consideration of those actions necessary to implement the CCA Program. Regardless of whether or not Program Agreement 1 is approved and the CCA Program becomes operational, the parties intend for the Authority to continue to study, promote, develop, conduct, operate and manage other energy programs.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter set forth, it is agreed by and among the Parties as follows:

ARTICLE 1
CONTRACT DOCUMENTS

1.1 **Definitions**. Capitalized terms used in the Agreement shall have the meanings specified in Exhibit A, unless the context requires otherwise.

1.2 **Documents Included**. This Agreement consists of this document and the following exhibits, all of which are hereby incorporated into this Agreement.

Exhibit A:	Definitions
Exhibit B:	List of the Parties
Exhibit C:	Annual Energy Use
Exhibit D:	Voting Shares

1.3 **Revision of Exhibits**. The Parties agree that Exhibits B, C and D to this Agreement describe certain administrative matters that may be revised upon the approval of the Board, without such revision constituting an amendment to this Agreement, as described in Section 8.4. The Authority shall provide written notice to the Parties of the revision of any such exhibit.

ARTICLE 2
FORMATION OF MARIN ENERGY AUTHORITY

2.1 **Effective Date and Term**. This Agreement shall become effective and Marin Energy Authority shall exist as a separate public agency on the date this Agreement is executed by at least two Initial Participants after the adoption of the ordinances required by Public Utilities Code Section 366.2(c)(10). The Authority shall provide notice to the Parties of the Effective Date. The Authority shall continue to exist, and this Agreement shall be effective, until this Agreement is terminated in accordance with Section 7.4, subject to the rights of the Parties to withdraw from the Authority.

2.2 **Initial Participants**. During the first 180 days after the Effective Date, all other Initial Participants may become a Party by executing this Agreement and delivering an executed copy of this Agreement and a copy of the adopted ordinance required by Public Utilities Code Section 366.2(c)(10) to the Authority. Additional conditions, described in Section 3.1, may apply (i) to either an incorporated municipality or county desiring to become a Party and is not an Initial Participant and (ii) to Initial Participants that have not executed and delivered this Agreement within the time period described above.

2.3 **Formation**. There is formed as of the Effective Date a public agency named the Marin Energy Authority. Pursuant to Sections 6506 and 6507 of the Act, the Authority is a public agency separate from the Parties. The debts, liabilities or obligations of the Authority shall not be debts, liabilities or obligations of the individual Parties unless the governing board of a Party agrees in writing to assume any of the debts, liabilities or obligations of the Authority. A Party who has not agreed to assume an Authority debt, liability or obligation shall not be responsible in any way for such debt, liability or obligation even if a majority of the Parties agree to assume the debt, liability or obligation of the Authority. Notwithstanding Section 8.4 of this Agreement, this Section 2.3 may not be amended unless such amendment is approved by the governing board of each Party.

2.4 **Purpose**. The purpose of this Agreement is to establish an independent public agency in order to exercise powers common to each Party to study, promote, develop, conduct, operate, and manage energy and energy-related climate change programs, and to exercise all other powers necessary and incidental to accomplishing this purpose. Without limiting the generality of the foregoing, the Parties intend for this Agreement to be used as a contractual mechanism by which the Parties are authorized to participate as a group in the CCA Program, as further described in Section 5.1. The Parties intend that subsequent agreements shall define the terms and conditions associated with the actual implementation of the CCA Program and any other energy programs approved by the Authority.

2.5 **Powers**. The Authority shall have all powers common to the Parties and such additional powers accorded to it by law. The Authority is authorized, in its own name, to exercise all powers and do all acts necessary and proper to carry out the provisions of this Agreement and fulfill its purposes, including, but not limited to, each of the following:

2.5.1 make and enter into contracts;
2.5.2 employ agents and employees, including but not limited to an Executive Director;
2.5.3 acquire, contract, manage, maintain, and operate any buildings, works or improvements;
2.5.4 acquire by eminent domain, or otherwise, except as limited under Section 6508 of the Act, and to hold or dispose of any property;
2.5.5 lease any property;
2.5.6 sue and be sued in its own name;
2.5.7 incur debts, liabilities, and obligations, including but not limited to loans from private lending sources pursuant to its temporary borrowing powers such as Government Code Section 53850 et seq. and authority under the Act;
2.5.8 issue revenue bonds and other forms of indebtedness;
2.5.9 apply for, accept, and receive all licenses, permits, grants, loans or other aids from any federal, state or local public agency;

2.5.10 submit documentation and notices, register, and comply with orders, tariffs and agreements for the establishment and implementation of the CCA Program and other energy programs;

2.5.11 adopt rules, regulations, policies, bylaws and procedures governing the operation of the Authority ("Operating Rules and Regulations"); and

2.5.12 make and enter into service agreements relating to the provision of services necessary to plan, implement, operate and administer the CCA Program and other energy programs, including the acquisition of electric power supply and the provision of retail and regulatory support services.

2.6 **Limitation on Powers**. As required by Government Code Section 6509, the power of the Authority is subject to the restrictions upon the manner of exercising power possessed by the County of Marin.

2.7 **Compliance with Local Zoning and Building Laws**. Notwithstanding any other provisions of this Agreement or state law, any facilities, buildings or structures located, constructed or caused to be constructed by the Authority within the territory of the Authority shall comply with the General Plan, zoning and building laws of the local jurisdiction within which the facilities, buildings or structures are constructed.

ARTICLE 3
AUTHORITY PARTICIPATION

3.1 **Addition of Parties**. Subject to Section 2.2, relating to certain rights of Initial Participants, other incorporated municipalities and counties may become Parties upon (a) the adoption of a resolution by the governing body of such incorporated municipality or such county requesting that the incorporated municipality or county, as the case may be, become a member of the Authority, (b) the adoption, by an affirmative vote of the Board satisfying the requirements described in Section 4.9.1, of a resolution authorizing membership of the additional incorporated municipality or county, specifying the membership payment, if any, to be made by the additional incorporated municipality or county to reflect its pro rata share of organizational, planning and other pre-existing expenditures, and describing additional conditions, if any, associated with membership, (c) the adoption of an ordinance required by Public Utilities Code Section 366.2(c)(10) and execution of this Agreement and other necessary program agreements by the incorporated municipality or county, (d) payment of the membership payment, if any, and (e) satisfaction of any conditions established by the Board. Notwithstanding the foregoing, in the event the Authority decides to not implement a CCA Program, the requirement that an additional party adopt the ordinance required by Public Utilities Code Section 366.2(c)(10) shall not apply. Under such circumstance, the Board resolution authorizing membership of an additional incorporated municipality or county shall be adopted in accordance with the voting requirements of Section 4.10.

3.2 **Continuing Participation**. The Parties acknowledge that membership in the Authority may change by the addition and/or withdrawal or termination of Parties. The Parties agree to participate with such other Parties as may later be added, as described in Section 3.1. The Parties also agree that the withdrawal or termination of a Party shall not affect this Agreement or the remaining Parties' continuing obligations under this Agreement.

ARTICLE 4
GOVERNANCE AND INTERNAL ORGANIZATION

4.1 **Board of Directors**. The governing body of the Authority shall be a Board of Directors ("Board") consisting of one director for each Party appointed in accordance with Section 4.2.

4.2 **Appointment and Removal of Directors**. The Directors shall be appointed and may be removed as follows:

4.2.1 The governing body of each Party shall appoint and designate in writing one regular Director who shall be authorized to act for and on behalf of the Party on matters within the powers of the Authority. The governing body of each Party also shall appoint and designate in writing one alternate Director who may vote on matters when the regular Director is absent from a Board meeting. The person appointed and designated as the Director or the alternate Director shall be a member of the governing body of the Party.

4.2.2 The Operating Rules and Regulations, to be developed and approved by the Board in accordance with Section 2.5.11, shall specify the reasons for and process associated with the removal of an individual Director for cause. Notwithstanding the foregoing, no Party shall be deprived of its right to seat a Director on the Board and any such Party for which its Director and/or alternate Director has been removed may appoint a replacement.

4.3 **Terms of Office**. Each Director shall serve at the pleasure of the governing body of the Party that the Director represents, and may be removed as Director by such governing body at any time. If at any time a vacancy occurs on the Board, a replacement shall be appointed to fill the position of the previous Director in accordance with the provisions of Section 4.2 within 90 days of the date that such position becomes vacant.

4.4 **Quorum**. A majority of the Directors shall constitute a quorum, except that less than a quorum may adjourn from time to time in accordance with law.

4.5 **Powers and Function of the Board**. The Board shall conduct or authorize to be conducted all business and activities of the Authority, consistent with this Agreement, the Authority Documents, the Operating Rules and Regulations, and applicable law.

4.6 **Executive Committee**. The Board may establish an executive committee consisting of a smaller number of Directors. The Board may delegate to the executive committee such authority as the Board might otherwise exercise, subject to limitations placed on the Board's authority to delegate certain essential functions, as described in the Operating Rules and Regulations. The Board may not delegate to the Executive Committee or any other committee its authority under Section 2.5.11 to adopt and amend the Operating Rules and Regulations.

4.7 **Commissions, Boards and Committees**. The Board may establish any advisory commissions, boards and committees as the Board deems appropriate to assist the Board in carrying out its functions and implementing the CCA Program, other energy programs and the provisions of this Agreement.

4.8 **Director Compensation**. Compensation for work performed by Directors on behalf of the Authority shall be borne by the Party that appointed the Director. The Board, however, may adopt by resolution a policy relating to the reimbursement of expenses incurred by Directors.

4.9 **Board Voting Related to the CCA Program**.

4.9.1. To be effective, on all matters specifically related to the CCA Program, a vote of the Board shall consist of the following: (1) a majority of all Directors shall vote in the affirmative or such higher voting percentage expressly set forth in Sections 7.2 and 8.4 (the "percentage vote") and (2) the corresponding voting shares (as described in Section 4.9.2 and Exhibit D) of all such Directors voting in the affirmative shall exceed 50%, or such other higher voting shares percentage expressly set forth in Sections 7.2 and 8.4 (the "percentage voting shares"), provided that, in instances in which such other higher voting share percentage would result in any one Director having a voting share that equals or exceeds that which is necessary to disapprove the matter being voted on by the Board, at least one other Director shall be required to vote in the negative in order to disapprove such matter.

4.9.2. Unless otherwise stated herein, voting shares of the Directors shall be determined by combining the following: (1) an equal voting share for each Director determined in accordance with the formula detailed in Section 4.9.2.1, below; and (2) an additional voting share determined in accordance with the formula detailed in Section 4.9.2.2, below.

4.9.2.1 Pro Rata Voting Share. Each Director shall have an equal voting share as determined by the following formula: (1/total number of

Directors) multiplied by 50, and

4.9.2.2 Annual Energy Use Voting Share. Each Director shall have an additional voting share as determined by the following formula: (Annual Energy Use/Total Annual Energy) multiplied by 50, where (a) "Annual Energy Use" means, (i) with respect to the first 5 years following the Effective Date, the annual electricity usage, expressed in kilowatt hours ("kWhs"), within the Party's respective jurisdiction and (ii) with respect to the period after the fifth anniversary of the Effective Date, the annual electricity usage, expressed in kWhs, of accounts within a Party's respective jurisdiction that are served by the Authority and (b) "Total Annual Energy" means the sum of all Parties' Annual Energy Use. The initial values for Annual Energy use are designated in Exhibit C, and shall be adjusted annually as soon as reasonably practicable after January 1, but no later than March 1 of each year

4.9.2.3 The voting shares are set forth in Exhibit D. Exhibit D may be updated to reflect revised annual energy use amounts and any changes in the parties to the Agreement without amending the Agreement provided that the Board is provided a copy of the updated Exhibit D.

4.10 **Board Voting on General Administrative Matters and Programs Not Involving CCA.** Except as otherwise provided by this Agreement or the Operating Rules and Regulations, each member shall have one vote on general administrative matters, including but not limited to the adoption and amendment of the Operating Rules and Regulations, and energy programs not involving CCA. Action on these items shall be determined by a majority vote of the quorum present and voting on the item or such higher voting percentage expressly set forth in Sections 7.2 and 8.4.

4.11 **Board Voting on CCA Programs Not Involving CCA That Require Financial Contributions.** The approval of any program or other activity not involving CCA that requires financial contributions by individual Parties shall be approved only by a majority vote of the full membership of the Board subject to the right of any Party who votes against the program or activity to opt-out of such program or activity pursuant to this section. The Board shall provide at least 45 days prior written notice to each Party before it considers the program or activity for adoption at a Board meeting. Such notice shall be provided to the governing body and the chief administrative officer, city manager or town manager of each Party. The Board also shall provide written notice of such program or activity adoption to the above-described officials of each Party within 5 days after the Board adopts the program or activity. Any Party voting against the approval of a program or other activity of the Authority requiring financial contributions by individual Parties may elect to opt-out of participation in such program or activity by

providing written notice of this election to the Board within 30 days after the program or activity is approved by the Board. Upon timely exercising its opt-out election, a Party shall not have any financial obligation or any liability whatsoever for the conduct or operation of such program or activity.

4.12 **Meetings and Special Meetings of the Board**. The Board shall hold at least four regular meetings per year, but the Board may provide for the holding of regular meetings at more frequent intervals. The date, hour and place of each regular meeting shall be fixed by resolution or ordinance of the Board. Regular meetings may be adjourned to another meeting time. Special meetings of the Board may be called in accordance with the provisions of California Government Code Section 54956. Directors may participate in meetings telephonically, with full voting rights, only to the extent permitted by law. All meetings of the Board shall be conducted in accordance with the provisions of the Ralph M. Brown Act (California Government Code Section 54950 et seq.).

4.13 **Selection of Board Officers.**

4.13.1 **Chair and Vice Chair**. The Directors shall select, from among themselves, a Chair, who shall be the presiding officer of all Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The term of office of the Chair and Vice Chair shall continue for one year, but there shall be no limit on the number of terms held by either the Chair or Vice Chair. The office of either the Chair or Vice Chair shall be declared vacant and a new selection shall be made if: (a) the person serving dies, resigns, or the Party that the person represents removes the person as its representative on the Board or (b) the Party that he or she represents withdraws form the Authority pursuant to the provisions of this Agreement.

4.13.2 **Secretary**. The Board shall appoint a Secretary, who need not be a member of the Board, who shall be responsible for keeping the minutes of all meetings of the Board and all other official records of the Authority.

4.13.3 **Treasurer and Auditor**. The Board shall appoint a qualified person to act as the Treasurer and a qualified person to act as the Auditor, neither of whom needs to be a member of the Board. If the Board so designates, and in accordance with the provisions of applicable law, a qualified person may hold both the office of Treasurer and the office of Auditor of the Authority. Unless otherwise exempted from such requirement, the Authority shall cause an independent audit to be made by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act. The Treasurer shall act as the depositary of the Authority and have custody of all the money of the Authority, from whatever source, and as such, shall have all of the duties and responsibilities specified in Section 6505.5 of the Act. The Board may require the Treasurer and/or Auditor to

file with the Authority an official bond in an amount to be fixed by the Board, and if so requested the Authority shall pay the cost of premiums associated with the bond. The Treasurer shall report directly to the Board and shall comply with the requirements of treasurers of incorporated municipalities. The Board may transfer the responsibilities of Treasurer to any person or entity as the law may provide at the time. The duties and obligations of the Treasurer are further specified in Article 6.

4.14 **Administrative Services Provider.** The Board may appoint one or more administrative services providers to serve as the Authority's agent for planning, implementing, operating and administering the CCA Program, and any other program approved by the Board, in accordance with the provisions of a written agreement between the Authority and the appointed administrative services provider or providers that will be known as an Administrative Services Agreement. The Administrative Services Agreement shall set forth the terms and conditions by which the appointed administrative services provider shall perform or cause to be performed all tasks necessary for planning, implementing, operating and administering the CCA Program and other approved programs. The Administrative Services Agreement shall set forth the term of the Agreement and the circumstances under which the Administrative Services Agreement may be terminated by the Authority. This section shall not in any way be construed to limit the discretion of the Authority to hire its own employees to administer the CCA Program or any other program.

ARTICLE 5
IMPLEMENTATION ACTION AND AUTHORITY DOCUMENTS

5.1 **Preliminary Implementation of the CCA Program.**

5.1.1 **Enabling Ordinance**. Except as otherwise provided by Section 3.1, prior to the execution of this Agreement, each Party shall adopt an ordinance in accordance with Public Utilities Code Section 366.2(c)(10) for the purpose of specifying that the Party intends to implement a CCA Program by and through its participation in the Authority.

5.1.2 **Implementation Plan**. The Authority shall cause to be prepared an Implementation Plan meeting the requirements of Public Utilities Code Section 366.2 and any applicable Public Utilities Commission regulations as soon after the Effective Date as reasonably practicable. The Implementation Plan shall not be filed with the Public Utilities Commission until it is approved by the Board in the manner provided by Section 4.9.

5.1.3 Effect of Vote On Required Implementation Action. In the event that two or more Parties vote to approve Program Agreement 1 or any earlier action required for the implementation of the CCA Program ("Required Implementation Action"), but such vote is insufficient to approve the Required Implementation Action under Section 4.9, the following will occur:

5.1.3.1 The Parties voting against the Required Implementation Action shall no longer be a Party to this Agreement and this Agreement shall be terminated, without further notice, with respect to each of the Parties voting against the Required Implementation Action at the time this vote is final. The Board may take a provisional vote on a Required Implementation Action in order to initially determine the position of the Parties on the Required Implementation Action. A vote, specifically stated in the record of the Board meeting to be a provisional vote, shall not be considered a final vote with the consequences stated above. A Party who is terminated from this Agreement pursuant to this section shall be considered the same as a Party that voluntarily withdrew from the Agreement under Section 7.1.1.1.

5.1.3.2 After the termination of any Parties pursuant to Section 5.1.3.1, the remaining Parties to this Agreement shall be only the Parties who voted in favor of the Required Implementation Action.

5.1.4 Termination of CCA Program. Nothing contained in this Article or this Agreement shall be construed to limit the discretion of the Authority to terminate the implementation or operation of the CCA Program at any time in accordance with any applicable requirements of state law.

5.2 **Authority Documents**. The Parties acknowledge and agree that the affairs of the Authority will be implemented through various documents duly adopted by the Board through Board resolution, including but not necessarily limited to the Operating Rules and Regulations, the annual budget, and specified plans and policies defined as the Authority Documents by this Agreement. The Parties agree to abide by and comply with the terms and conditions of all such Authority Documents that may be adopted by the Board, subject to the Parties' right to withdraw from the Authority as described in Article 7.

ARTICLE 6
FINANCIAL PROVISIONS

6.1 **Fiscal Year**. The Authority's fiscal year shall be 12 months commencing July 1 and ending June 30. The fiscal year may be changed by Board resolution.

6.2 **Depository**.

6.2.1 All funds of the Authority shall be held in separate accounts in the name of the Authority and not commingled with funds of any Party or any other person or entity.

6.2.2 All funds of the Authority shall be strictly and separately accounted for, and regular reports shall be rendered of all receipts and disbursements, at least quarterly during the fiscal year. The books and records of the Authority shall be open to inspection by the Parties at all reasonable times. The Board shall contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the Authority, which shall be conducted in accordance with the requirements of Section 6505 of the Act.

6.2.3 All expenditures shall be made in accordance with the approved budget and upon the approval of any officer so authorized by the Board in accordance with its Operating Rules and Regulations. The Treasurer shall draw checks or warrants or make payments by other means for claims or disbursements not within an applicable budget only upon the prior approval of the Board.

6.3 **Budget and Recovery Costs**.

6.3.1 **Budget**. The initial budget shall be approved by the Board. The Board may revise the budget from time to time through an Authority Document as may be reasonably necessary to address contingencies and unexpected expenses. All subsequent budgets of the Authority shall be prepared and approved by the Board in accordance with the Operating Rules and Regulations.

6.3.2 **County Funding of Initial Costs**. The County of Marin shall fund the Initial Costs of the Authority in implementing the CCA Program in an amount not to exceed $500,000 unless a larger amount of funding is approved by the Board of Supervisors of the County**.** This funding shall be paid by the County at the times and in the amounts required by the Authority. In the event that the CCA Program becomes operational, these Initial Costs paid by the County of Marin shall be included in the customer charges for electric services as provided by Section 6.3.4 to the extent permitted by law, and the County of Marin shall be reimbursed from the

payment of such charges by customers of the Authority. The Authority may establish a reasonable time period over which such costs are recovered. In the event that the CCA Program does not become operational, the County of Marin shall not be entitled to any reimbursement of the Initial Costs it has paid from the Authority or any Party.

6.3.3 **CCA Program Costs**. The Parties desire that, to the extent reasonably practicable, all costs incurred by the Authority that are directly or indirectly attributable to the provision of electric services under the CCA Program, including the establishment and maintenance of various reserve and performance funds, shall be recovered through charges to CCA customers receiving such electric services.

6.3.4 **General Costs**. Costs that are not directly or indirectly attributable to the provision of electric services under the CCA Program, as determined by the Board, shall be defined as general costs. General costs shall be shared among the Parties on such basis as the Board shall determine pursuant to an Authority Document.

6.3.5 **Other Energy Program Costs**. Costs that are directly or indirectly attributable to energy programs approved by the Authority other than the CCA Program shall be shared among the Parties on such basis as the Board shall determine pursuant to an Authority Document.

ARTICLE 7
WITHDRAWAL AND TERMINATION

7.1 **Withdrawal**.

7.1.1 **General.**

7.1.1.1 Prior to the Authority's execution of Program Agreement 1, any Party may withdraw its membership in the Authority by giving no less than 30 days advance written notice of its election to do so, which notice shall be given to the Authority and each Party. To permit consideration by the governing body of each Party, the Authority shall provide a copy of the proposed Program Agreement 1 to each Party at least 90 days prior to the consideration of such agreement by the Board.

7.1.1.2 Subsequent to the Authority's execution of Program Agreement 1, a Party may withdraw its membership in the Authority, effective as of the beginning of the Authority's fiscal year, by giving no less than 6

months advance written notice of its election to do so, which notice shall be given to the Authority and each Party, and upon such other conditions as may be prescribed in Program Agreement 1.

7.1.2 **Amendment**. Notwithstanding Section 7.1.1, a Party may withdraw its membership in the Authority following an amendment to this Agreement in the manner provided by Section 8.4.

7.1.3 **Continuing Liability; Further Assurances**. A Party that withdraws its membership in the Authority may be subject to certain continuing liabilities, as described in Section 7.3. The withdrawing Party and the Authority shall execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from membership in the Authority. The Operating Rules and Regulations shall prescribe the rights if any of a withdrawn Party to continue to participate in those Board discussions and decisions affecting customers of the CCA Program that reside or do business within the jurisdiction of the Party.

7.2 **Involuntary Termination of a Party**. This Agreement may be terminated with respect to a Party for material non-compliance with provisions of this Agreement or the Authority Documents upon an affirmative vote of the Board in which the minimum percentage vote and percentage voting shares, as described in Section 4.9.1, shall be no less than 67%, excluding the vote and voting shares of the Party subject to possible termination. Prior to any vote to terminate this Agreement with respect to a Party, written notice of the proposed termination and the reason(s) for such termination shall be delivered to the Party whose termination is proposed at least 30 days prior to the regular Board meeting at which such matter shall first be discussed as an agenda item. The written notice of proposed termination shall specify the particular provisions of this Agreement or the Authority Documents that the Party has allegedly violated. The Party subject to possible termination shall have the opportunity at the next regular Board meeting to respond to any reasons and allegations that may be cited as a basis for termination prior to a vote regarding termination. A Party that has had its membership in the Authority terminated may be subject to certain continuing liabilities, as described in Section 7.3. In the event that the Authority decides to not implement the CCA Program, the minimum percentage vote of 67% shall be conducted in accordance with Section 4.10 rather than Section 4.9.1.

7.3 **Continuing Liability; Refund**. Upon a withdrawal or involuntary termination of a Party, the Party shall remain responsible for any claims, demands, damages, or liabilities arising from the Party's membership in the Authority through the date of its withdrawal or involuntary termination, it being agreed that the Party shall not be responsible for any claims, demands, damages, or liabilities arising after the date of the Party's withdrawal or involuntary termination. In addition, such

Party also shall be responsible for any costs or obligations associated with the Party's participation in any program in accordance with the provisions of any agreements relating to such program provided such costs or obligations were incurred prior to the withdrawal of the Party. The Authority may withhold funds otherwise owing to the Party or may require the Party to deposit sufficient funds with the Authority, as reasonably determined by the Authority, to cover the Party's liability for the costs described above. Any amount of the Party's funds held on deposit with the Authority above that which is required to pay any liabilities or obligations shall be returned to the Party.

7.4 **Mutual Termination**. This Agreement may be terminated by mutual agreement of all the Parties; provided, however, the foregoing shall not be construed as limiting the rights of a Party to withdraw its membership in the Authority, and thus terminate this Agreement with respect to such withdrawing Party, as described in Section 7.1.

7.5 **Disposition of Property upon Termination of Authority**. Upon termination of this Agreement as to all Parties, any surplus money or assets in possession of the Authority for use under this Agreement, after payment of all liabilities, costs, expenses, and charges incurred under this Agreement and under any program documents, shall be returned to the then-existing Parties in proportion to the contributions made by each.

ARTICLE 8
MISCELLANEOUS PROVISIONS

8.1 **Dispute Resolution**. The Parties and the Authority shall make reasonable efforts to settle all disputes arising out of or in connection with this Agreement. Should such efforts to settle a dispute, after reasonable efforts, fail, the dispute shall be settled by binding arbitration in accordance with policies and procedures established by the Board.

8.2 **Liability of Directors, Officers, and Employees**. The Directors, officers, and employees of the Authority shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. No current or former Director, officer, or employee will be responsible for any act or omission by another Director, officer, or employee. The Authority shall defend, indemnify and hold harmless the individual current and former Directors, officers, and employees for any acts or omissions in the scope of their employment or duties in the manner provided by Government Code Section 995 et seq. Nothing in this section shall be construed to limit the defenses

available under the law, to the Parties, the Authority, or its Directors, officers, or employees.

8.3 **Indemnification of Parties.** The Authority shall acquire such insurance coverage as is necessary to protect the interests of the Authority, the Parties and the public. The Authority shall defend, indemnify and hold harmless the Parties and each of their respective Board or Council members, officers, agents and employees, from any and all claims, losses, damages, costs, injuries and liabilities of every kind arising directly or indirectly from the conduct, activities, operations, acts, and omissions of the Authority under this Agreement.

8.4 **Amendment of this Agreement**. This Agreement may be amended by an affirmative vote of the Board in which the minimum percentage vote and percentage voting shares, as described in Section 4.9.1, shall be no less than 67%. The Authority shall provide written notice to all Parties of amendments to this Agreement, including the effective date of such amendments. A Party shall be deemed to have withdrawn its membership in the Authority effective immediately upon the vote of the Board approving an amendment to this Agreement if the Director representing such Party has provided notice to the other Directors immediately preceding the Board's vote of the Party's intention to withdraw its membership in the Authority should the amendment be approved by the Board. As described in Section 7.3, a Party that withdraws its membership in the Authority in accordance with the above-described procedure may be subject to continuing liabilities incurred prior to the Party's withdrawal. In the event that the Authority decides to not implement the CCA Program, the minimum percentage vote of 67% shall be conducted in accordance with Section 4.10 rather than Section 4.9.1.

8.5 **Assignment**. Except as otherwise expressly provided in this Agreement, the rights and duties of the Parties may not be assigned or delegated without the advance written consent of all of the other Parties, and any attempt to assign or delegate such rights or duties in contravention of this Section 8.5 shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Parties. This Section 8.5 does not prohibit a Party from entering into an independent agreement with another agency, person, or entity regarding the financing of that Party's contributions to the Authority, or the disposition of proceeds which that Party receives under this Agreement, so long as such independent agreement does not affect, or purport to affect, the rights and duties of the Authority or the Parties under this Agreement.

8.6 **Severability**. If one or more clauses, sentences, paragraphs or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, it is hereby agreed by the Parties, that the remainder of the Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provision shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.

8.7 **Further Assurances**. Each Party agrees to execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, to effectuate the purposes and intent of this Agreement.

8.8 **Execution by Counterparts**. This Agreement may be executed in any number of counterparts, and upon execution by all Parties, each executed counterpart shall have the same force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

8.9 **Parties to be Served Notice**. Any notice authorized or required to be given pursuant to this Agreement shall be validly given if served in writing either personally, by deposit in the United States mail, first class postage prepaid with return receipt requested, or by a recognized courier service. Notices given (a) personally or by courier service shall be conclusively deemed received at the time of delivery and receipt and (b) by mail shall be conclusively deemed given 48 hours after the deposit thereof (excluding Saturdays, Sundays and holidays) if the sender receives the return receipt. All notices shall be addressed to the office of the clerk or secretary of the Authority or Party, as the case may be, or such other person designated in writing by the Authority or Party. Notices given to one Party shall be copied to all other Parties. Notices given to the Authority shall be copied to all Parties.

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _____

Name: Thomas Cromwell

Title: Mayor

Date: December 8, 2008

Party: City of Belvedere

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _____

Name: Alexandra Cock

Title: Mayor

Date: December 6, 2011

Party: Town of Corte Madera

ATTEST

_____
Christine Green, Town Clerk

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: David Weinsoff

Name: David Weinsoff

Title: Mayor

Date: 2. 12. 09

Party: Town of Fairfax

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _____

Name: Larry Chu

Title: Mayor, Larkspur

Date: November 16, 2011

Party: CITY OF LARKSPUR

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: SMarshall

Name: Shawn E. Marshall

Title: Mayor

Date: December 2, 2008

Party: City of Mill Valley

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: Madeline R. Kellner

Name: Madeline R. Kellner

Title: Mayor

Date: October 7, 2011

Party: City of Novato

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority

By: _____

Name: Gayle McLaughlin

Title: Mayor

Date: 7/5/12

Party: City of Richmond

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _____

Name: Carla Small

Title: Mayor

Date: 11/16/11

Party: Town of Ross

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _____

Name: Peter Breen

Title: Mayor

Date: January 9, 2009

Party: Town of San Anselmo

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _____

Name: Paul V. Morris

Title: Mayor, City of San Pablo

Date: SEPT. 16, 2014

Party: City of San Pablo

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: Cyr N. Miller

Name: Cyr N. Miller

Title: Vice Mayor

Date: DECEMBER 1, 2008

Party: CITY OF SAN RAFAEL

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: Amy Belser

Name: Amy Belser

Title: Mayor

Date: November 18, 2008

Party: City of Sausalito

Attest:

Debbie Pagliaro
Deputy City Clerk

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _____

Name: ALICE FREDERICKS

Title: MAYOR

Date: 2/10/09

Party: TOWN OF TIBURON

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _____

Name: CHARLES F. McGLASHAN

Title: PRESIDENT, BD OF SUPERVISORS

Date: November 18 2008

Party: COUNTY OF MARIN

ARTICLE 9

Marin Clean Energy JPA Agreement

SIGNATURE

Amendment No. 8

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _____

Name: Mark Luce,

Title: Chairman, Napa County Board of Supervisors

Date: 7/22/14

Party: Napa County

Approved as to form:

_____ Date 7/21/14

Minh Tran,

County Counsel

Exhibit A

To the
Joint Powers Agreement
Marin Energy Authority

-Definitions-

"AB 117" means Assembly Bill 117 (Stat. 2002, ch. 838, codified at Public Utilities Code Section 366.2), which created CCA.

"Act" means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 *et seq*.)

"Administrative Services Agreement" means an agreement or agreements entered into after the Effective Date by the Authority with an entity that will perform tasks necessary for planning, implementing, operating and administering the CCA Program or any other energy programs adopted by the Authority.

"Agreement" means this Joint Powers Agreement.

"Annual Energy Use" has the meaning given in Section 4.9.2.2.

"Authority" means the Marin Energy Authority.

"Authority Document(s)" means document(s) duly adopted by the Board by resolution or motion implementing the powers, functions and activities of the Authority, including but not limited to the Operating Rules and Regulations, the annual budget, and plans and policies.

"Board" means the Board of Directors of the Authority.

"CCA" or "Community Choice Aggregation" means an electric service option available to cities and counties pursuant to Public Utilities Code Section 366.2.

"CCA Program" means the Authority's program relating to CCA that is principally described in Sections 2.4 and 5.1.

"Director" means a member of the Board of Directors representing a Party.

"Effective Date" means the date on which this Agreement shall become effective and the Marin Energy Authority shall exist as a separate public agency, as further described in Section 2.1.

“Implementation Plan” means the plan generally described in Section 5.1.2 of this Agreement that is required under Public Utilities Code Section 366.2 to be filed with the California Public Utilities Commission for the purpose of describing a proposed CCA Program.

“Initial Costs” means all costs incurred by the Authority relating to the establishment and initial operation of the Authority, such as the hiring of an Executive Director and any administrative staff, any required accounting, administrative, technical and legal services in support of the Authority’s initial activities or in support of the negotiation, preparation and approval of one or more Administrative Services Provider Agreements and Program Agreement 1. Administrative and operational costs incurred after the approval of Program Agreement 1 shall not be considered Initial Costs.

“Initial Participants” means, for the purpose of this Agreement, the signatories to this JPA as of May 5, 2010 including City of Belvedere, Town of Fairfax, City of Mill Valley, Town of San Anselmo, City of San Rafael, City of Sausalito, Town of Tiburon and County of Marin.

“Operating Rules and Regulations” means the rules, regulations, policies, bylaws and procedures governing the operation of the Authority.

“Parties” means, collectively, the signatories to this Agreement that have satisfied the conditions in Sections 2.2 or 3.2 such that it is considered a member of the Authority.

“Party” means, singularly, a signatory to this Agreement that has satisfied the conditions in Sections 2.2 or 3.2 such that it is considered a member of the Authority.

“Program Agreement 1” means the agreement that the Authority will enter into with an energy service provider that will provide the electricity to be distributed to customers participating in the CCA Program.

“Total Annual Energy” has the meaning given in Section 4.9.2.2.

Exhibit B

To the
Joint Powers Agreement
Marin Energy Authority

-List of the Parties-

City of Belvedere
Town of Corte Madera
Town of Fairfax
City of Larkspur
City of Mill Valley
City of Novato
City of Richmond
Town of Ross
Town of San Anselmo
City of San Pablo
City of San Rafael
City of Sausalito
Town of Tiburon
County of Marin
County of Napa

Exhibit C
To the
Joint Powers Agreement
Marin Clean Energy

- Annual Energy Use -

This Exhibit C is effective as of September 5, 2014.

Party	kWh (2012/2013*)
City of Belvedere	9,973,170
Town of Corte Madera	62,093,107
Town of Fairfax	24,700,647
City of Larkspur	63,174,199
City of Mill Valley	69,176,164
City of Novato	286,565,119
City of Richmond	581,012,267
Town of Ross	13,529,793
Town of San Anselmo	46,642,417
City of San Pablo	97,383,170
City of San Rafael	347,362,327
City of Sausalito	48,099,763
Town of Tiburon	40,913,144
County of Marin	330,023,521
County of Napa	348,095,521
Authority Total Energy Use	**2,368,744,329**

*Data Provided by PG&E

Exhibit D
To the
Joint Powers Agreement
Marin Clean Energy

- Voting Shares -

This Exhibit D is effective as of September 5, 2014.

Party	kWh (2012/2013*)	Section 4.9.2.1	Section 4.9.2.2	Voting Share
City of Belvedere	9,973,170	3.33%	0.21%	***3.54%***
Town of Corte Madera	62,093,107	3.33%	1.31%	***4.64%***
Town of Fairfax	24,700,647	3.33%	0.52%	***3.85%***
City of Larkspur	63,174,199	3.33%	1.33%	***4.67%***
City of Mill Valley	69,176,164	3.33%	1.46%	***4.79%***
City of Novato	286,565,119	3.33%	6.05%	***9.38%***
City of Richmond	581,012,267	3.33%	12.26%	***15.60%***
Town of Ross	13,529,793	3.33%	0.29%	***3.62%***
Town of San Anselmo	46,642,417	3.33%	0.98%	***4.32%***
City of San Pablo	97,383,170	3.33%	2.06%	***5.39%***
City of San Rafael	347,362,327	3.33%	7.33%	***10.67%***
City of Sausalito	48,099,763	3.33%	1.02%	***4.35%***
Town of Tiburon	40,913,144	3.33%	0.86%	***4.20%***
County of Marin	330,023,521	3.33%	6.97%	***10.30%***
County of Napa	348,095,521	3.33%	7.35%	***10.68%***
	2,368,744,329	**50.00%**	**50.00%**	***100.00%***

*Data Provided by PG&E

VII.I.44

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 18, 2014
BUSINESS ITEMS

DATE : October 21, 2014

TO : City Council

FROM : City Manager

SUBJECT : **ADOPT THE 2015-2023 DRAFT HOUSING ELEMENT AND INITIAL STUDY/NEGATIVE DECLARATION**

RECOMMENDATION:
Adopt the 2015-2023 Housing Element and the accompanying Initial Study/Negative Declaration.

EXECUTIVE SUMMARY:
One of the seven State-mandated General Plan elements, the Housing Element describes housing needs in Benicia and how City plans and regulations facilitate the development, improvement and preservation of housing for all economic segments of the community. The City adopted its first Housing Element in 1979 and has updated it periodically per State requirements. The Draft 2015-2023 Housing Element has been reviewed and pre-certified by the State Department of Housing and Community Development (HCD) subject to implementation of Senate Bill 2 (SB2). Implementation of SB2 requires an amendment to the Benicia Municipal Code to allow emergency shelters without any discretionary action.

BUDGET INFORMATION:
There are no impacts to the budget directly related to the adoption of the Housing Element. However, implementation of programs will require staff time and resources and may require additional funds for consultant support. The City will remain in conformance with the requirements of State law if it adopts the revised plan and if the revised Housing Element is certified by HCD within 120 calendar days of January 31, 2015 (or by May 31, 2015). Failure to have a certified Element by that deadline will require the City to update its Housing Element every five years which will create additional budget impacts.

ENVIRONMENTAL REVIEW:
In accordance with the California Environmental Quality Act (CEQA), an Initial Study was conducted to determine whether the Housing Element update could have a significant adverse effect on the environment. On the basis of that study, staff is recommending adoption of a Negative Declaration. The Initial Study/Negative Declaration (ISND) was filed with the State Clearinghouse and circulated for public comment from August 29, 2014 through September 29, 2014. One comment letter on the ISND was received by Law Offices of Dana

Dean. A copy of that letter as well as staff's response is attached to this report.

GENERAL PLAN:
The Housing Element is one of the seven State-mandated General Plan elements.

STRATEGIC PLAN:
The relevant Strategic Plan statements are:

- Issue 5: Maintain and Enhance a High Quality of Life
    - Strategy 5.5: Provide support to disadvantaged segments of the community
        - Action 5.5 (b): Facilitate construction of affordable housing per updated Housing Element

SUMMARY:
The City completed a comprehensive update to the City's Housing Element two years ago with the adoption of the 2007-2014 Housing Element in November 2012, which was certified by HCD in December, 2012. Because the 2007-2014 Element was adopted very late, it was necessary for staff to begin working on the 2015-2023 Housing Element almost immediately after adoption of the 2007-2014 Element. Since October 2013, staff and the City's consultant, Lisa Wise Consulting, have evaluated the existing 2007-2014 Housing Element to determine what changes were necessary for the creation of the Draft 2015-2023 Housing Element. City Staff also worked with local organizations, Benicia Housing Authority and Community Action Council, to gather information in preparation of the Draft Housing Element.

Because the City's existing Housing Element was recently adopted, staff is proposing only minor updates. The update must address the City's "fair share" of housing needs for the planning period as identified by the Association of Bay Area Governments, also known as the Regional Housing Needs Allocation (RHNA – see below for further discussion). The revised Draft Element incorporates current data such as income levels and mostly continues the programs from the 2007-2014 Housing Element with minor updates as needed.

The City hosted a public workshop on May 15, 2014, to solicit input on the Public Review Draft of the 2015-2023 Housing Element. The workshop consisted of a presentation by the Consultant on the requirements of a housing element and the City's progress toward meeting the Regional Housing Needs Allocation (RHNA). The presentation highlighted the changes in the Housing Element from the previous cycle, noting updated data and only minor changes to the implementation program. The majority of the persons in attendance were members of the Planning Commission and interested parties who participated in the 4th Cycle Housing Element update (2007-2014). In addition to outreach on the City's website, as well as distributing flyers at City Hall, the Public Library and

at the Farmer's Market, the City contacted local organizations, and 203 interested parties were contacted via email to participate in the workshop.

Pursuant to California Government Code Section 65585 (b), the City submitted the Public Review Draft 2015-2023 Housing Element to the State Department of Housing and Community Development (HCD) for a 60-day review. On July 21, 2014, HCD confirmed that the analyses fully addressed statutory requirements, including implementation of Senate Bill 2 (SB2), which would amend the Benicia Municipal Code to allow emergency shelters without requiring discretionary action. On June 12, 2014, the Planning Commission held a workshop to discuss the requirements of SB2. Based on the comments provided, staff prepared a draft ordinance and presented it to the Planning Commission on October 9, 2014, which staff is now bringing to the City Council for first reading of an ordinance.

Housing Allocation

During each statewide Housing Element update cycle, HCD and Association of Bay Area Governments (ABAG) establish a Regional Housing Needs Allocation (RHNA) for each city and county based on the number of dwelling units projected to be needed to support the region's growth in population and jobs. That need is then broken down into the needs of various income groups. The planning period for this Housing Element extends from January 31, 2015, to January 31, 2023 and Benicia's share is 327 units (see Table 2 below).

Table 2. State/ABAG Benicia Housing Requirement 2014-2022

Income Level	Required Units	Income Range
Very Low (0-50% of Median Household Income)	94	< $41,300
Low (51% - 80%)	54	$45,500-$65,000
Moderate (81% - 120%)	56	$69,350- $99,100
Above Moderate (120%+)	123	> $99,100
Total	**327**	

A common misconception is that the City must find a way to ensure these units are built. Instead, the City must show that there are sufficient sites under the City's policies and zoning to accommodate these units if the market exists to build them. HCD uses density as a measure of whether cities are allowing for sufficient units to meet the needs of lower income households. In other words, HCD looks to see whether a jurisdiction has allowed sufficient land at higher densities to permit enough relatively affordable units to be built within the community to meet the identified need.

The allocation for Benicia for the previous cycle reflected in the 2007-2014 Housing Element was 532. The allocation for Benicia in this Housing Element cycle (2014-2022) was reduced to 327 units. This means that Benicia will continue to be able to accommodate its State-required share of housing growth

without any changes to existing zoning.

Summary of Changes

In consideration of the comprehensive update to the City's Housing Element completed less than two years ago (adopted November 2012 and certified by HCD December 2012), staff is proposing only minor updates to the existing 2007-2014 Housing Element. The focus is on updating the information to current data such as income and housing allocation and continuing the programs from the 2007-2014 Housing Element with minor updates as needed.

Table 1 provides a summary of program changes from the 2007-2014 Housing Element and the 2015-2023 Draft Housing Element. The first column provides a complete list of programs from the 2007-2014 Housing Element. The second column provides the program numbers in the Draft 2015-2023 Housing Element. In most cases, the program number is the same in both the 2007-2014 Housing Element and Draft 2015-2023 Housing Element and that is reflected in the third column "Status of Changes." As noted in the table, in some cases the program number has changed due to the addition or deletion of a program under the same policy, but the language of the program remains the same:

Table 1. Summary of Program Changes

2007-2014 Housing Element Program No.	2015-2023 Housing Element Program No.	Status of Changes	Details
4.1 The Regulatory Environment			
1.01	1.01	no change	
1.02	1.02	no change	
1.03	1.03	Updated Timeframe	December 31, 2022
1.04	1.04	no change	
	1.05	*NEW PROGRAM*	Work with the Public Works Department (City's water and sewer provider) in order to ensure the availability and adequate capacity of water and wastewater systems to accommodate the housing needs during the planning period. Priority shall be granted to proposed developments that include housing affordable to lower-income households. In addition, the City will provide a copy of the Housing Element and any future amendments to the Public Works Department immediately after adoption.
1.05	1.06	no change	
1.06	1.07	no change	
1.07	1.08	no change	
1.08	1.09	Updated Timeframe	within two years of HE adoption

2007-2014 Housing Element Program No.	2015-2023 Housing Element Program No.	Status of Changes	Details
1.09	1.10	Updated Timeframe	December 31, 2022
1.10	1.11	Updated Timeframe	within three years of HE adoption
1.11	1.12	Updated Timeframe	December 31, 2022
1.12	1.13	no change	
4.2 Accommodating Housing Units			
2.01	2.01	Updated Timeframe	January 2018
2.02	2.02	no change	
2.03	2.03	no change	
2.04		DELETED	Amend the General Commercial (CG) zoning district to allow additional residential uses. Currently only live/work and group residential (with Use Permit) units are allowed in this zone.
2.05	2.04	Updated Timeframe	December 31, 2022
	2.05	*NEW PROGRAM*	The City will annually evaluate the sites inventory identifying the zoning, size, and number of vacant and underutilized parcels suitable for residential development for each income category. If the sites inventory indicates a shortage of available sites to accommodate the remaining RHNA for an income category, the City shall rezone sufficient sites with appropriate densities to accommodate its remaining RHNA for each income category. The City will develop and implement an ongoing formal evaluation procedure (project-by-project) of sites to accommodate its RHNA for lower-income households. If an approval of a development results in a reduction of site capacity below the residential capacity needed to accommodate the remaining RHNA, including for lower-income households, the City will identify and zone sufficient adequate sites to accommodate the shortfall of sites within six months of approval of the development causing the shortfall of sites.
2.06	2.06	Updated Timeframe	Annually, following HE adoption
2.07	2.07	no change	
4.3 Special Needs			
3.01	3.01	Modify language and update timeframe	Remove references to allowing emergency shelters by right in the RS, RM and RH zoning districts to allow flexibility in implementation. Update timeframe to the time of HE adoption

2007-2014 Housing Element Program No.	2015-2023 Housing Element Program No.	Status of Changes	Details
	3.02	*NEW PROGRAM*	The City will amend the Zoning Ordinance to define transitional and supportive housing as a residential use under Use Classifications, residential use types, which shall be subject to the same standards that apply to other housing use types in the same zoning district.
3.02	3.03	Updated Timeframe	within two years of HE adoption
3.03	3.04	no change	
3.04	3.05	no change	
3.05	3.06	no change	
3.06	3.07	no change	
	3.08	*NEW PROGRAM*	The City shall explore different models to encourage the creation of housing for persons with disabilities, including developmental disabilities. Such models could include the following: (a) coordinating with the North Bay Regional Center, North Bay Housing Coalition, and other local agencies to pursue funding to maintain housing affordability for persons with disabilities, including developmental disabilities; (b) encourage affordable housing projects to dedicate a percent of housing for disabled individuals; (c) assisting in providing housing services that educate, advocate, inform, and assist persons with disabilities to locate and maintain housing; and (e) assisting in the maintenance and repair of housing for persons with developmental disabilities.
4.4 Preserve and Maintain Housing Stock			
4.01	4.01	no change	
4.02		DELETED	Prepare standard specifications for seismic retrofitting of existing residential structures to assist property owners in meeting current seismic safety standards. The City of Benicia participated in the 2005 multi-jurisdictional Local Hazard Mitigation Plan, adopted in 2007. The 2010 Annex to the plan requires engineered plan sets for voluntary or mandatory soft-story seismic retrofits by private owners until a Standard Plan and Construction details become available. Seismic retrofitting will continue to be an eligible activity under the City's housing rehabilitation program. The City will promote its seismic retrofitting program through a distribution brochure at City Hall, other public locations, and on the City of Benicia's website.
4.03	4.02	no change	
4.04	4.03	Updated Timeframe	December 31, 2016
4.05	4.04	no change	
4.06	4.05	no change	

2007-2014 Housing Element Program No.	2015-2023 Housing Element Program No.	Status of Changes	Details
4.5 Equal Access			
5.01	5.01	no change	
5.02	5.02	Updated language to reflect the completion of the universal design brochure	The City will continue to provide brochures on universal design available at the planning counter in the Community Development Department. The City will also consider writing development standards to encourage use of universal design in home design.
4.6 Energy Efficiency & Water Conservation			
6.01	6.01	no change	
6.02	6.02	Updated to reflect status of program names and funding	
6.03	6.03	Updated to include additional outreach methods	To facilitate implementation, the City will make available, in the Community Development Department, brochures from PG&E and others that detail energy conservation measures for existing buildings, as well as new construction. The City will investigate more innovative outreach methods including social media and other online interfaces.
6.04		DELETED	The City shall establish regulations requiring the development of environmentally sustainable buildings. The Build It Green "GreenPoint Rated" certification system shall be used when possible or followed to the extent possible when certification isn't a realistic goal for a building. The GreenPoint Rated system can be applied to new and existing single-family and multi-family residential buildings. Possible targets include: • Investigate the possibility of achieving GreenPoint Rated certification for all affordable housing projects constructed in the City. Work with developers of affordable projects to achieve this goal. • Provide other cost savings incentives to developers or project proponents of projects that achieve GreenPoint Rated Certification both in new and existing affordable housing projects.
6.05	6.04	no change	

In addition to the program changes, the Draft 2015-2023 Housing Element includes updates to reflect current data such as income, housing allocation, permit fees, homeless population, and the breakdown of affordability levels of

units for each low-income development within the City. In addition, clarification was added on the regulations for residential development in the Arsenal Historic District, development of single-family residential on substandard lots and parcels located within the Downtown Mixed Use Master Plan area.

Public and HCD Comments:
The City received the following letters on the Draft 2015-2023 Housing Element:

1. Legal Services of Northern California, July 9, 2014
2. HCD, July 21, 2014
3. Dana Dean representing Amports, September 29, 2014
4. North Bay Housing Coalition, October 1, 2014

A copy of these letters and the City's response to both Legal Services of Northern California and Amports are attached to this report.

Comments on the Public Review Draft Housing Element provided during the public review process have been incorporated into the Public Hearing Draft 2015-2023 Housing Element attached to this report.

Planning Commission Review/Discussion:
On October 9, 2014, the Planning Commission held a public hearing to consider the draft Housing Element and associated Initial Study/Negative Declaration. The Planning Commission adopted Resolution No. 14-14 recommending the City Council adopt the Negative Declaration and Draft 2015-2023 Housing Element with minor changes to the Draft Housing Element by a 5-2 vote. Staff noted that the split vote was due to the Draft Housing Element's inclusion of parcels in the Lower Arsenal in the yield analysis for housing units to meet the City's RHNA. A copy of the Planning Commission draft meeting minutes and resolution are attached to this report.

Comments provided on the Draft Housing Element and Initial Study/Negative Declaration by the Planning Commission at the October 9 meeting as well as comments by the public since the release of the Public Hearing Draft Housing Element in August 2014 have been compiled. These changes have not yet been incorporated in to the Draft Housing Element and are attached as *Exhibit A: Proposed Changes to Initial Study/Negative Declaration and Exhibit B: Proposed Changes to Draft 2015-2023 Housing Element*. Upon approval by City Council, these changes will be incorporated into the final 2015-2023 Housing Element and submitted to the HCD for approval.

Attachments:
- Draft Resolution
- Public Hearing Draft Housing Element, 2015-2023, August 2014
    - Exhibit HE: Proposed Changes to Draft Housing Element 2015-2023

- Initial Study/Negative Declaration
    - Exhibit ND: Proposed changes to Initial Study/Negative Declaration
- Planning Commission Resolution No. 14-15
- Planning Commission October 9, 2014 Meeting, Draft Minutes (partial)
- Pre-Certification Letter from the State Department of Housing and Community Development, dated July 21, 2014
- Written Public Comment
    - Legal Services of Northern California letter, July 9, 2014
    - City's response to Legal Services of Northern California letter, September 17, 2014
    - Dana Dean representing Amports letter, September 29, 2014
    - City's response to Dana Dean, October 8, 2014
    - North Bay Housing Coalition letter, September

RESOLUTION NO. 14-

A RESOLUTION OF THE BENICIA CITY COUNCIL APPROVING THE ADOPTION OF AN INITIAL STUDY/NEGATIVE DECLARATION FOR THE 2015-2023 HOUSING ELEMENT AND THE 2015-2023 HOUSING ELEMENT

WHEREAS, the City of Benicia, in accordance with State Government Code Section 65580-65589.8, has prepared a Draft Housing Element for the 2015-2023 planning period subject to public review; and

WHEREAS, the City of Benicia completed a comprehensive update to the City's Housing Element completed less than two years ago in November 2012, resulting in only minor updates to the existing 2007-2014 Housing Element with a focus on updating it with current data such as income and housing allocation and continuing the programs from the 2007-2014 Housing Element with minor updates as needed; and

WHEREAS, the City held a public workshop on May 15, 2014 to review the Draft 2015-2023 Housing Element; and

WHEREAS, an Initial Study/Negative Declaration for the Draft 2015-2023 Housing Element was prepared and circulated for public review from August 29-September 29, 2014, consistent with the California Environmental Quality Act (CEQA); and

WHEREAS, on October 9, 2014, the Planning Commission held a public hearing and recommended that the City Council adopt the Negative Declaration and Draft 2015-2023 Housing Element; and

WHEREAS, the City Council, on November 18, 2014 held a public hearing and reviewed the proposed 2015-2023 Housing Element and associated Initial Study/Negative Declaration with modifications made thereto recommended by the Planning Commission, public testimony and planning staff.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia finds as follows:

1. Any development proposals resulting from the implementation of the Housing Element will be evaluated in accordance with Section 15002 (d) of CEQA. Prior to any new projects requiring Use Permit or Design Review approval, the City shall conduct project-specific environmental review to determine whether a project would cause any significant impacts and, where possible, to mitigate potential environmental impacts.

2. The Housing Element is one of the seven General Plan Elements mandated by the State of California, as required by Government Code Sections 65580-65589.8, to meet the existing and projected housing needs of all economic segments of Benicia's community.

3. California state law requires that the Housing Element consist of “identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, and scheduled programs for the preservation, improvement and development of housing.”

4. Having an adopted, State-certified Housing Element within 120 calendar days of January 31, 2015 is a key requirement in maintaining the eight year planning cycle pursuant to Senate Bill 375.

BE IT FURTHER RESOLVED THAT the City Council of the City of Benicia, based on the above findings, adopts the Initial Study/Negative Declaration for the 2015-2023 Housing Element as amended by Exhibit HE (Proposed Changes to Initial Study/Negative Declaration) and adopts the 2015-2023 Housing Element as amended by Exhibit ND (Proposed Changes to Draft 2015-2023 Housing Element*).*

*****

On motion of Council Member , seconded by Council Member , the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 18th day of November, 2014 and adopted by the following vote:

Ayes:

Noes:

Absent:

Abstain:

_____
Elizabeth Patterson, Mayor

_____
Lisa Wolfe, City Clerk

_____
Date

VIII.A.12

City of Benicia

Housing Element 2015 - 2023

Public Hearing Draft
August 2014

City of Benicia, 250 East L Street, Benicia, CA, 94510

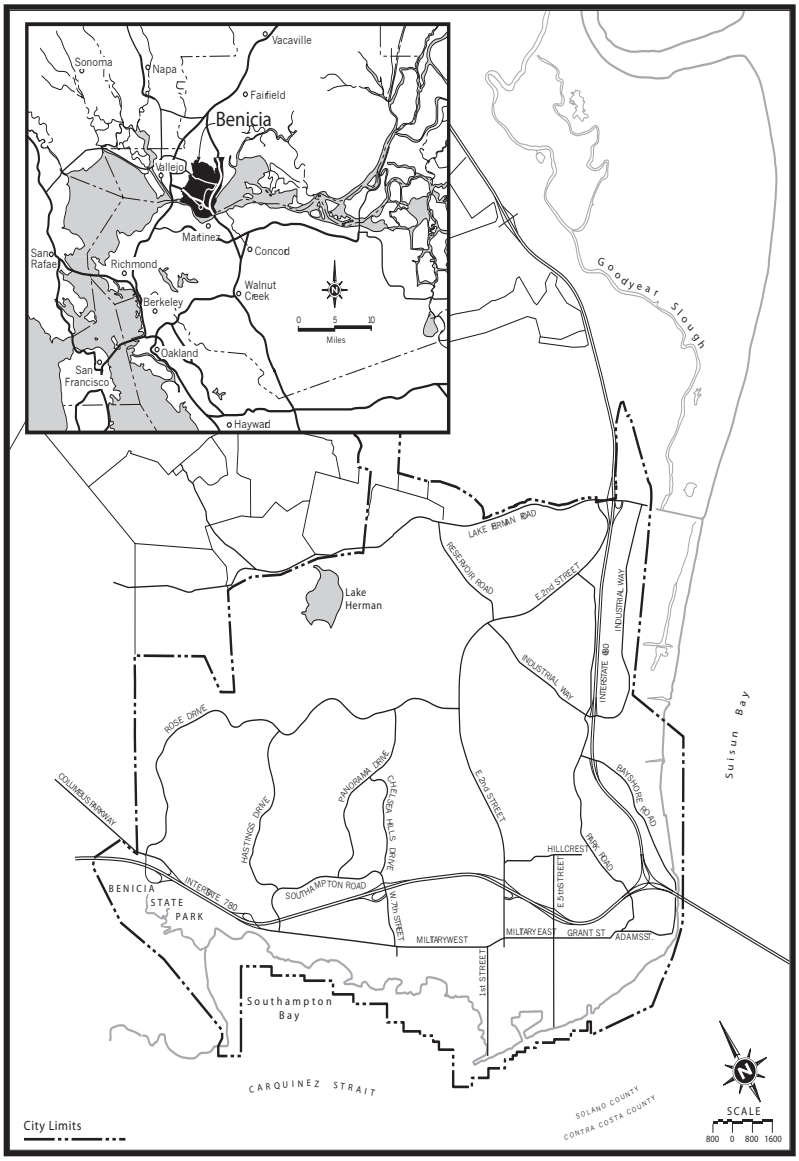
City of Benicia

Housing Element

2015 - 2023

Public Hearing Draft

August 2014



City of Benicia

250 East L Street

Benicia, CA 94510

Prepared by

Lisa Wise Consulting, Inc.

983 Osos Street

San Luis Obispo, CA, 93401

lisa wise consu

VIII.A.15

Acknowledgements

City Council

Elizabeth Patterson, Mayor

Tom Campbell, Vice Mayor

Mark Hughes

Alan Schwartzman

Christina Strawbridge

Planning Commission

Don Dean, Chair

Belinda Smith, Vice Chair

George Oakes, Sr.

Rod Sherry

Susan Cohen Grossman

Suzanne Sprague

Steve Young

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Brad Kilger, City Manager

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Amy Million, Principal Planner

Supporting Staff

Colleen Williams, Development Services Technician

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Acronyms Used in the Document

ABAG	Association of Bay Area Governments
ADA	Americans with Disabilities Act
AMI	Average Median Income
BEGIN	Building Equity and Growth in Neighborhoods
Benicia WTP	Benicia Water Treatment Plant
CAC	Community Action Council
CAP Solano	Community Action Partnership of Solano
CARB	California Air Resources Board
CDBG	Community Development Block Grant
CHFA	California Housing Finance Agency
CO	Office Commercial (zoning district)
COG	Council of Governments
CG	General Commercial (zoning district)
CW	Waterfront Commercial (zoning district)
DMUMP	Downtown Mixed Use Master Plan
ECHO	El Camino Homeless Organization
FMR	Fair Market Rent
GHG	Greenhouse Gas
GIS	Geographic Information System
HCD	Housing and Community Development
HUD	Housing and Urban Development
IL	Limited Industrial (zoning district)
MFI	Median Family Income
mgd	million gallons per day
MSA	Metropolitan Statistical Area
NBA	North Bay Aqueduct
NG-O	Neighborhood General – Open (zoning district)
OS	Open Space (zoning district)
PB	Parsons Brinckerhoff
PDA	Priority Development Area
PG&E	Pacific Gas & Electric
PSC	Putah South Canal
RH	High Density Residential (zoning district)
RHNA	Regional Housing Needs Allocation
RM	Medium Density Residential (zoning district)
RS	Single Family Residential (zoning district)
TC	Town Core (zoning district)
TC-O	Town Core – Open (zoning district)
UGB	Urban Growth Boundary
VNHS	Vallejo Neighborhood Housing Services
VPS	Voucher Payment Standard

VIII.A.22

Chapter 1
Introduction

The City of Benicia acknowledges that having a place to call home is an undeniable need shared by everyone. Whether owned or rented, housing should be available for everyone, from the student, busboy, single teacher, or parent, to the professional and the executive. In fact, administrative clerks, family counselors, engineering technicians, human resources assistants, librarians, lab technicians, maintenance custodians, police clerks, and wastewater operators are all existing City of Benicia job classifications whose salaries meet State definitions of "very-low" and "low" income levels. It is in the City's interest to ensure adequate housing is available for its workforce, but also available for households in the City whose salaries are below the City's median household income of $87,018 (2006-10 5 YR ACS).

California law recognizes the vital role local governments play in the supply and affordability of housing. Each local government in California is required to adopt a comprehensive, long-term General Plan for the physical development of the city or county. The Housing Element is one of the seven mandated elements of the General Plan. Housing Element law, first enacted in 1969, mandates that local governments adequately plan to meet the existing and projected housing needs of all economic segments of the community. The State Legislature has found that "the availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian family, including farmworkers, is a priority of the highest order." (Government Code §65580(a)).

The Housing Element establishes goals, policies, and programs to facilitate and encourage the provision of safe, adequate housing for its current and future residents of all income levels.

The purposes of the Housing Element are to:

1. Provide adequate housing sites;
2. Assist in the development of affordable housing;
3. Remove governmental and other constraints to housing development;
4. Promote equal housing opportunities; and
5. Encourage efficient use of land and energy resources in residential development.

The Housing Element differs from the other required elements, in that the State mandates that it analyze population and housing trends and include specific, detailed information on projected housing needs. Also, unlike other General Plan elements, the Housing Element must be submitted to the California Department of Housing and Community Development (HCD) for review and certification.

Until recently, the State had required Housing Elements to be updated every five years (Government Code Section §65588); however, this Housing Element update is of the first in the new eight-year cycle that coincides with Regional Transportation Plans in accordance with SB375, the "anti-sprawl" bill passed September 30, 2008.

This Chapter addresses the contents of the 2015-2023 Housing Element, Regional Housing Needs, data sources for the document, and consistency with the City's General Plan.

1.1 The City of Benicia 2015-2023 Housing Element

The planning period for this Housing Element extends from January 31, 2015, to January 31, 2023. The Housing Element consists of the following major components, as required by State law:

Public Participation (Chapter 2)

Public Participation is a key component in updating the Housing Element. The City's civic engagement strategy that was used to solicit participation by the community is outlined in Chapter 2. Materials and results from workshops and surveys are located in Appendix G.

Review of the Previous Housing Element (Chapter 3)

The City must review the actual results of the goals, policies, programs, and quantified objectives adopted in the previous Housing Element (for years 2007-2014) and analyze the differences between what was intended and what was achieved.

Program of Actions and Quantified Objectives (Chapter 4)

The City must develop housing programs that meet local housing goals and fulfill State requirements. The City must develop measurable objectives for construction of new housing and the rehabilitation and conservation of existing units by income category (i.e. very low, low, moderate, and above moderate) to make sure that both the existing and the projected housing needs are met, consistent with the City's share of the Regional Housing Needs Allocation (RHNA) that sets forth a specified number of new housing units that Benicia should plan for.

Assessment of Existing Housing Needs and Special Housing Needs (Appendices A and B)

Appendix A includes a community profile of population characteristics, household information, housing stock, tenure, and housing affordability. Affordable units at-risk of conversion to market-rate are also discussed in Appendix A. Appendix B discusses special housing needs for seniors, farmworkers, homeless, large households, and female-headed households. This includes designations of zones where emergency shelters will be allowed.

Housing Resources (Appendix C)

The City has summarized existing housing resources in Appendix C. These include organizations and programs related to affordable housing in Benicia.

Governmental and Non-governmental Constraints (Appendix D)

An assessment of governmental and non-governmental impediments to the development of housing for all income levels is included in this Appendix. This appendix also includes a discussion of energy conservation.

Site Inventory & Analysis (Appendices E and F)

The City must compile relevant information on the zoning, acreage, density ranges, availability of services, infrastructure, and dwelling unit capacity of sites that are suitable for residential development. This information can be found in Appendix E. A detailed list by parcel of vacant, constrained, and underutilized sites can be found in Appendix F.

1.2 Regional Housing Needs

State housing element law (Government Code § 65580 et. seq.) requires regional councils of government (COGs) to identify for each city and county its "fair share" of the Regional Housing Needs Allocation (RHNA) provided by the California Department of Housing and Community Development (HCD). The Association of Bay Area Governments (ABAG) is the COG for the nine-county Bay Area, which includes Solano County. ABAG adopted the RHNA in July 2013 for the period January 1, 2014 to October 31, 2022 (See Table 1.1). ABAG took into account several factors in preparing the RHNA, including projected households, job growth, regional income distribution, and location of public transit.

The RHNA for Benicia is shown in Table 1.1 below, whereby Benicia must have the appropriate zoning in place to allow 327 new units to be built through the year 2022. Therefore, the build-out projection anticipated in the General Plan will not be exceeded if this additional growth in housing were to occur. These numbers for Benicia are consistent with the population projections in the City's General Plan.

Table 1.1 City of Benicia Regional Housing Needs Allocation (RHNA), January 1, 2014 - October 31, 2022

	Very Low-Income	Low-Income	Moderate-Income	Above Moderate-Income	Total
Current Regional Housing Needs Allocation	94	54	56	123	327

Source: ABAG 2013

Definitions of Household Income

- Extremely Low Income: Incomes less than or equal to 30% of area median family income (MFI).
- Very Low-Income: Incomes between 31% and 50% of area median family income (MFI).
- Low-Income: Incomes between 51% and 80% of area median family income (MFI).
- Moderate-Income: Incomes between 81% and 120% of area median family income (MFI).

The number of new homes are split by income category based on the limits for very-low, low, moderate, and above-moderate income households established by the U.S. Department of Housing and Urban Development (HUD). Solano County's 2013 income limits are shown in Table 1.2.

Table 1.2 Solano County 2013 Income Limits

Income Categories	Persons Per Household				
	1	2	3	4	5
*Extremely Low-Income (<30% MFI**)	$17,400	$19,850	$22,350	$24,800	$26,800
Very Low-Income (30% - 50% MFI)	$28,950	$33,050	$37,200	$41,300	$44,650
Low-Income (50% - 80% MFI)	$45,500	$52,000	$58,500	$65,000	$70,200
Median Income	$57,800	$66,100	$74,350	$82,600	$89,200
Moderate-Income (80% - 120% MFI)	$69,350	$79,300	$89,200	$99,100	$107,050

* Defined in the California Health & Safety Code , §50106, and discussed in Appendix A

**MFI = Median Family Income (Area Median Income, adjusted for family size)

Source: HCD 2013

While not responsible for the actual construction of these units, Benicia is, however, responsible for creating a regulatory environment in which the private market could build these additional homes. This includes the creation, adoption, and implementation of City-wide goals, policies, programs, and zoning standards, along with economic incentives to facilitate the construction of a wide range of housing types.

1.3 Data Sources

Various information sources have been used to prepare the Housing Element Update, with 2000 and 2010 Census data representing the primary sources. Other sources used to update and supplement the Census data include population and demographic data from the Association of Bay Area Governments (ABAG) and housing market information for home sales, rents, and vacancies derived from the public domain. Public and non-profit agencies were consulted for data on special needs groups and services available. Departments at the City of Benicia, including Community Development and Public Works, provided information. For a complete listing of references see Appendix I.

1.4 General Plan Consistency

The Housing Element is one of the seven mandatory elements of the General Plan, which was last comprehensively updated by the City in 1999 (The Land Use Map was updated in 2005). For the General Plan to provide effective guidance on land use issues, the goals, policies and programs of each element must be internally consistent. This Housing Element builds upon the existing General Plan and is consistent with its policies. Consistency between the Housing Element and the General Plan will continue to be evaluated whenever an element of the General Plan is amended. During this process the City must ensure any amendments maintain consistency throughout the General Plan. Due to the passage of AB 162 relating to flood protection, the City may be required to amend the Safety and Conservation Elements of the General Plan. If amendments are needed the Housing Element will be amended to be consistent with the Safety and Conservation Elements.

1.5 Senate Bill 375, California's "Anti-Sprawl" Strategy

On September 30, 2008 California Governor signed into law Senate Bill 375, also known as the "anti-sprawl" bill aimed at reducing greenhouse gas emissions (GHG) from cars and trucks. Studies have shown that the single-largest source of GHGs in California results from driving. The goal is to reduce the amount of vehicle-miles traveled to work, school, professional services, or shopping for everyday needs. This new bill can lead to transformation throughout the State as communities begin to rethink how their neighborhoods can become more self-sufficient, walkable, with expanded transit options, such as convenient and rapid travel by bus or rail. SB375 will lead to:

- Regional GHG reduction targets for 2020 and 2035, set by the California Air Resources Board. Regional greenhouse gas emission reduction targets for the Bay Area call for a reduction of 7% from 2005 levels by 2020 and a reduction of 15% from 2005 levels by 2035.
- A regional plan, called the "Sustainable Communities Strategy", adopted by 2013 and led by the Association of Bay Area Governments (ABAG). This plan will guide how cities and counties throughout the Bay Area region can meet GHG reductions goals for cars and trucks through changes in land use patterns.

- Require the "Sustainable Communities Strategy" to become part of the Bay Area's Regional Transportation Plan, thereby linking transportation funding to land use.
- Adjust the schedule for Housing Elements updates from every 5 years to a new 8-year process. In addition, the Regional Housing Needs Allocation will need to align with the "Sustainable Communities Strategy", which means growth will be targeted towards transit rich areas (a process that ABAG has already begun to implement).
- Certain projects that are consistent with the "Sustainable Communities Strategy" could be eligible for exemption or streamlining under the California Environmental Quality Act (CEQA).

Although the identified targets, requirements and outcomes of SB375 are currently being developed, Benicia has the opportunity now to take a look at how and where the additional growth of 327 new homes through 2022 should occur. It will be important to site higher density housing in areas that are walkable, meaning new homes are in close proximity to services, schools, shops, and everyday needs, as well as bus transit. Some of the policies and programs in Chapter 4 aim to achieve these common goals shared by Benicia and the State through efforts to cut greenhouse gas emissions.

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Chapter 2
Public Participation

This Chapter presents the process undertaken by the City to receive public input and encourage public participation in the Housing Element update process.

2.1 Public Participation Process

The City solicited input from the public by organizing the following workshop and public hearings:

1. Public Workshop, May 15, 2014
2. Planning Commission Hearing, to be determined
3. City Council Hearing, to be determined

Public Workshop

On May 15, 2014 the City hosted a public workshop to solicit input on the Public Review Draft Housing Element. Notices of the public workshop were posted at the Benicia Library, on the Parks Department and City Hall bulletin boards, posted at the Community Development Department and Family Resource Center, and distributed at Farmers Market on May 1, 2014 and May 8, 2014.

The workshop consisted of a presentation by the Consultant on the requirements of a housing element and the City's progress toward meeting the Regional Housing Needs Allocation. The presentation highlighted the changes in the Housing Element from the previous cycle, noting updated data and only minor changes to the implementation program. The majority of the persons in attendance were members of the Planning Commission and interested parties who participated in the 4th Cycle Housing Element update. These stakeholders had time to review the Public Review Draft Housing Element prior to the May 15th meeting. The community in attendance had few comments, which included questions on the accuracy of the homelessness data, potential constraints to development in the Lower Arsenal, what is included as part of the water and sewer fees for residential development, and if the vacant land inventory map had been updated.

Following the workshop the City updated the Public Review Draft housing element to address the community comments. The revised Public Review Draft housing element was submitted to the State Department of Housing and Community Development for review on May 21, 2014.

Public Review

The Public Review Draft Housing Element was made available for public input and comment. Following the May 15, 2014 workshop the City received comments from the following persons/groups:

- Benicia Housing Authority
- Benicia Community Action Council
- Local land use and real estate attorney
- Legal Services of Northern California

Comments received include, but are not limited to, the following:

- Status of Housing Choice Voucher Program
- Update number of units in the Bay Ridge Apartments
- Updates to status of program implementation
- Physical and environmental constraints to development in the Lower Arsenal
- Thoroughness in the evaluation of the previous Housing Element

- Adequacy of sites identified to accommodate RHNA
- Assessment of governmental constraints to development, in particular the General Commercial zone and the Lower Arsenal
- Evaluation of units at risk of conversion
- Timing of Housing Element program implementation

In response to the comments and feedback received from the public and the State Department of Housing and Community Development following preliminary review, the City modified the draft housing element and performed additional analysis,such as, but not limited to:

- Fixed minor errors regarding number of units in affordable housing projects
- Performed additional analysis on conversion risk of Casa de Vilarrasa and determined no risk of conversion to market rate
- Provided additional information on status of implementation of the previous housing element programs, where additional information is available
- Elaborated on public participation during the housing element update process, listing comments received and organizations contacted
- Added section on 'availability of financing' to address other non-governmental constraints
- Added language on other constraints to development in the Lower Arsenal such as the proximity to industrial land uses or within former defense site and associated noise, dust, and light impacts

Planning Commission Hearing

To Be Completed

City Council Hearing

To Be Completed

2.2 Organizations Contacted

As part of the Housing Element update process, the following commissions/councils/organizations/groups were provided with electronic or printed copies of the draft document for review and/or invited to participate in the public workshop. In addition to the list of organizations, 203 interested parties were contacted via email to participate.

- Bay Area Air Quality Management District
- Benicia Community Action Council
- Benicia Housing Authority
- Children's Network of Solano County
- City of Benicia, City Council
- City of Benicia, Planning Commission
- City of Benicia, Unified School District
- City of Vallejo
- Kiwanis Club Benicia
- Local Agency Formation Commisson (LAFCO)
- Solano County Habitat for Humanity
- Solano County Planning Department

Chapter 3
Review of Previous Housing Element 2007-2014

This Chapter summarizes the progress made during the previous Housing Element's planning period (2007-2014) towards accomplishing the goals, policies, programs, and the Regional Housing Needs Allocation (RHNA).

3.1 Summary of Progress

Table 3.1 summarizes the City's previous RHNA for the period from January 2007 through December 2014 and the number of housing units built or approved during that planning period. From January 2007 through December 31, 2013, the City constructed or approved 161 units, which was less than the 532 unit total allocation. Five low income units were approved and built, all of which were second dwelling units.

The goals and policies of the previous element were found to be generally sufficient in covering the range of issues for a comprehensive Housing Element in Benicia. However, housing goals and policies have been restructured and revised to some extent to eliminate redundancy and to clarify the intent (unless stated otherwise, all programs have been carried forward).

This following section evaluates each program in the previous Housing Element and summarizes the status of implementation.

Table 3.1 Progress During Previous Planning Period, 2007-2014

Income Level	2007-2014 RHNA	Housing Built or Approved Since January 2007	Remainder of Housing Goals
Very Low	147	0	147
Low	99	5	94
Moderate	108	156	130
Above-Moderate	178		
Total	532	161	371

Source: City of Benicia

Institutional Framework

Program 1.01

Work with the Housing Authority to coordinate affordable housing activities and maintain good working relations with other non-profit housing providers by:

- Consulting with the Housing Authority throughout every update of the Housing Element and also every year during the annual review of the Housing Element. Specifically, strategize to ensure the City's programs and the Housing Authority's programs are complementary and maximize limited housing resources;
- Continue to share information and priorities between the City, the Housing Authority, and other non-profit housing providers;
- Update the inventory of vacant and opportunity sites twice a year in January and July and provide this inventory to non-profit housing providers; and
- Inform the Housing Authority about units produced by the Inclusionary Housing Ordinance (BMC 17.70.320) and other affordable projects.

Status of Program Implementation

The City and Housing Authority have shared information on meetings, agendas, and current projects throughout the planning period. The City has been responsive to Housing Authority needs and concerns. The City also consults with the Housing Authority during the annual review of the Housing Element. As part of the process the Housing Authority submits an annual status report to the City.

The City has not updated the inventory of vacant and opportunity sites biannually due to limited staffing resources.

Program 1.02

Continue to support the Benicia Housing Authority in their administration of the Section 8 housing voucher program that meets the needs of extremely low income households, and to apply for additional vouchers, as appropriate.

Status of Program Implementation

This is an ongoing effort between the City and the Benicia Housing Authority whereby the City provides support when eligible. This program will continue in the 2015-2023 Housing Element Update for implementation.

Program 1.03

Investigate the feasibility of joining a housing consortium to access a pooled source of funding for mortgage revenue bonds or mortgage credit certificates for the development of affordable housing and/or first-time homebuyer assistance. The City will investigate existing local consortiums and report to the City Council on the most appropriate consortium for Benicia based on cost, level of activity, and the potential for funding to benefit Benicia residents. The City is investigating the feasibility of a consortium, and will take the necessary legal, administrative, and financial steps to become a member. The City would consult with the Housing Authority for relevant data and support during the process.

Status of Program Implementation

The City began to investigate the feasiblity, however when staff resources were reduced this effort was placed on hold. This program has been continued to the 2015-2023 Housing Element and investigating the feasbility of joining a housing consortium will continue as part of new Element.

Program 1.04

The City will leverage financial resources and partner with the development community to assist first-time homebuyers with down payments. The City will apply for Community Development Block Grant (CDBG) funding annually for this purpose.

Status of Program Implementation

This is an ongoing effort and the City will continue to seek CDBG funding as eligbile. This program will continue in the 2015-2023 Housing Element Update for implementation.

Program 1.05

Provide information at City Hall, other public locations, and on the City's website (www.ci.benicia.ca.us) to promote private, State, and federal homebuyer assistance programs to the public.

Status of Program Implementation

Information is available on the City's website, City Hall and the Public Library. This program will continue in the 2015-2023 Housing Element Update for implementation.

Program 1.06

Provide pre-application technical assistance to affordable housing providers to determine project feasibility and address zoning compliance issues in the most cost-effective and expeditious manner possible.

Status of Program Implementation

Ongoing; Pre-application review of all development applications including those pertaining to housing is regularly provided and coordinated through Planning Division staff.

Program 1.07

Continue to educate the public on affordable housing through annual reporting to the Planning Commission and City Council. Current housing issues and recent accomplishments towards reaching the City's Quantified Objectives listed in the Housing Element will be addressed. This report will also serve as the annual report required by State law (§65400) for progress in implementing the City's General Plan, including the Housing Element. This report shall be sent to the Office of Planning and Research (OPR) annually in accordance with their due dates. Inform members of the public by publishing a notice in the local newspaper and by posting information on the City's website. Educational materials will be made available, as appropriate.

Status of Program Implementation

Ongoing; The Housing Element annual report is submitted within the General Plan annual report each year.

Program 1.08

Continue to amend the Zoning Ordinance to comply with changes in the State Density Bonus law (Government Code Section §65915) and develop an outreach program to ensure its successful implementation.

Status of Program Implementation

This program has not been implemented and will be continued in the 2015-2023 Housing Update.

Program 1.09

To encourage the development of second units, amend the Zoning Ordinance for second units (accessory dwelling units) and reduce fees. Modifications to City standards and procedures should include:

- Eliminate or reduce the 6,000 square foot minimum parcel size for second units outside the Historic Districts (for inside Historic Districts see Program 1.10);
- Allow units above or adjacent to the garage of a primary housing unit;
- Reduce parking standards for lots with second units. For example:
    - Allow exceptions to parking requirements for second units up to 400 square feet;
    - Allow for on-street parking spaces adjacent to the lot to count towards 50 percent of the parking requirement;
    - Eliminate the covered parking requirement for the primary residence, if an accessory dwelling unit is provided;
    - Allow one of the required parking spaces in the front or exterior yard setback; and
    - Allow tandem parking to meet the parking requirement for the primary residence and the accessory dwelling as long as both spaces are behind the front facade plane.
- Investigate additional reductions to sewer and water connection fees for second units; and
- Reduce or waive planning and building fees for affordable second units.

Status of Program Implementation

This program has not been implemented and will continue in the 2015-2023 Housing Update.

Program 1.10

To expedite the approval process for second units the City will investigate the feasibility of developing second unit prototype or model plans for homeowners to use. It may be determined that another prototype would be necessary for historic districts. Use of these plans would reduce costs to homeowners, decrease the time for the approval process, and, in historic districts, these plans would help ensure that preservation of the historic character is maintained. If such plans were approved for application in the historic districts, the City would consider reducing or eliminating the 6,000 square foot minimum parcel size in the R Zoning District within the historic districts.

Status of Program Implementation

Not yet completed. This program has not been implemented and will continued in the 2015-2023 Housing Element Update for implementation.

Program 1.11

Continue to reduce the cost of providing affordable housing by:

- Provide a fast-track processing procedure for projects with extremely low-, very low-, low- and moderate-income affordable housing units;
- Review annually, amend, and reduce to the extent feasible, the permit fee schedule as it affects small, efficient, and compact (e.g. 600 to 750 square feet) housing types;
- Defer, waive, or reduce certain development fees, portions of fees, or combinations of fees for the affordable portion of any project; and
- Amend the Benicia Municipal Code to include language directing the City Council to consider waiving or reducing fees when a project provides affordable housing units.
- Investigate revising or reducing parking requirements for affordable housing projects. Also investigate setting parking maximums.

Status of Program Implementation

The City has an informal policy to fast-track the processing of projects with affordable housing. The City's Master Fee Schedule allows the Community Development Director to determine an appropriate fee or fee reduction when conditions exist to warrant such action. With the adoption of the Downtown Mixed Use Master Plan in 2007, the parking requirement for residential development in downtown was reduced. The City is still reviewing the possibility of a revision to the parking requirements for affordable housing projects in the downtown and other areas of the City. This program will continue in the 2015-2023 Housing Element Update for implementation.

Program 1.12

The City will provide, when possible, developer incentives such as expedited permit processing and fee deferrals for units that are affordable to lower income households. Priority for receiving incentives will be given to units constructed for extremely low-income households. Benicia will promote these incentives to developers on the City's website (www.ci.benicia.ca.us) and during the application process.

Status of Program Implementation

The Community Development Department and Economic Development Division works closely with the development community. This is an ongoing effort subject to the specifics of individual development proposals. This program will continue in the 2015-2023 Housing Element Update for implementation.

Accommodating Housing Units

Program 2.01

The City adopted an Inclusionary Housing Ordinance in 2000. There have not been many new developments with 10 units or more to generate a significant number of affordable units. No funds have been collected from in-lieu fees.

The City shall evaluate the inclusionary ordinance and consider changes that: (1) revise the current requirement for City Council approval of an in-lieu alternative to construction of inclusionary units if it is found to pose a constraint to residential project development, (2) consider additional incentives or regulatory concessions for developers to facilitate compliance with the inclusionary ordinance, (3) encourage the production of affordable housing onsite by providing development incentives to make onsite construction more feasible, (4) increase the range of affordability levels by including moderate with very-low and low, (5) provide City discretion to require onsite construction, (6) investigate extending the income categories served by the inclusionary requirements to extremely low income households, (7) investigate the feasibility of reducing the minimum unit requirement to be less than 10 new units, and (8) evaluate the impacts of the inclusionary ordinance on the feasibility of development in combination with other City regulatory requirements.

The City will engage the development community during the evaluation process.

Status of Program Implementation

This program has not been implemented and will continue in the 2015-2023 Housing Element Update for implementation.

Program 2.02

As part of its next General Plan update, the City shall establish efficient land use and development patterns that conserve resources, such as fuel, water and land, and allow for higher-density development in the vicinity of major transit nodes, set forth pedestrian-oriented development patterns, and preserve open space areas. The update should comply with SB375 goals to reduce vehicle miles traveled and greenhouse gas emissions from driving as related to land use patterns. In addition, the updated Plan should strive for consistency with the Sustainable Communities Strategy known as Plan Bay Area set forth by ABAG. These strategies are intended to reduce energy consumption, increase walkability and access to transit and services, reduce automobile trips, and conserve land and water resources.

Status of Program Implementation

The City adopted the Climate Action Plan in 2009 which established the community goal to reduce greenhouse gas emissions 10% below 2000 levels by year 2020. This program will be further implemented as part of the City's next General Plan update.

Program 2.03

Establish a housing trust fund to be funded by inclusionary in-lieu fees and other sources, as appropriate. This fund will be used to support affordable housing activities such as an equity share program, site acquisition, write down of land costs, subsidization of rents and mortgages, site improvements, and the provision of collateral for development loans.

Status of Program Implementation

The housing trust fund has been established and its maintenance is ongoing. This program has been updated and will continue in the 2015-2023 Housing Element Update for implementation.

Program 2.04

Amend the General Commercial (CG) zoning district to allow additional residential uses. Currently only live/work and group residential (with Use Permit) units are allowed in this zone.

Status of Program Implementation

Use regulations in the CG zone do not present a constraint to accommodate affordable housing. This program is being deleted.

Program 2.05

Consider implementing an affordable housing linkage fee on nonresidential development to support the development of workforce housing. This ordinance should consider alternatives to paying the fee such as construction of housing on-site, construction of housing off-site, and dedication of land for housing.

Status of Program Implementation

This program has not been implemented and will continue in the 2015-2023 Housing Element Update for implementation.

Program 2.06

The City will monitor available funding sources and activities to pursue based on competitive funding considerations, the funding cycles of various State and federal sources, and housing provider interest. The City will contact these funding sources to make sure they are on all pertinent distribution lists for funding opportunities. The City will keep these funding sources updated on appropriate contact persons at the City.

Status of Program Implementation

The City continues to monitor available funding sources and updates the contact information as necessary. This is an ongoing effort. This program will continue in the 2015-2023 Housing Element Update for implementation.

Program 2.07

Consult with and apply for financial assistance from the FOCUS program of ABAG for any project within the Priority Development Area, including but not limited to the Solano Square and Senior Center neighborhood retrofit and opportunity site projects. Identify implementation and funding strategies for the Employment Investment Area PDA at Lake Herman Road and HWY 680, including assistance offered by ABAG, MTC, and One Bay Area Grant and any other sources to secure funding to prepare a plan and implementing document (e.g. concept plan with accompanying development regulations via Zoning Ordinance Update or form-base code) including plans for a new intermodal transit facility.

Status of Program Implementation

In 2013, the City received a $250K One Bay Area Grant (OBAG) for the development of a traffic circulation plan for the Benicia Northern Gateway Employment Investment Area PDA. The City continues to seek funding opportunities for the Downtown PDA. This program has been updated and revised in Chapter 4 as Program 2.06 and will continue to be implemented as opportunities arise.

Special Needs

Program 3.01

Amend the Zoning Ordinance to comply with Senate Bill 2 under the "Housing Accountability Act" to permit emergency shelters without a use permit or other discretionary permits in the RS, RM, and RH zoning districts. Altogether, these zones have 76 vacant parcels, approximately 18 acres. Emergency shelters, which shall be defined under Use Classifications, residential use types, will be allowed by right in these zones to allow for either future development, redevelopment or conversion of sites in these districts. The amendment will also address transitional and supportive housing, which shall be defined as a residential use under Use Classifications, residential use types, and subject to the same standards that apply to other housing types in the RS, RM, and RH zoning districts. The amendment to the Zoning Ordinance for Emergency Shelters shall also set standards for the following:

Location Standards:

- Develop incentives to encourage site selection in close proximity of public transit, supportive services, and commercial services; and,
- Requirement limiting proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.

Operation Standards:

- Maximum number of beds or persons permitted to be served nightly;
- Off-street parking based on demonstrated need; standards shall not require more parking for emergency shelters than for other residential uses within the same zone;
- The location of exterior and interior on-site waiting and client intake areas, e.g. measures to avoid queues of individuals outside proposed facility;
- Provision of on-site management;
- Length of stay;
- Hours of operation
- External lighting
- Provision of security for the proper operation and management of a proposed facility; and
- Compliance with county and State health and safety requirements for food, medical, and other supportive services provided on-site.

The purpose of these standards are to encourage and facilitate homeless shelters through clear and unambiguous guidelines for the application review process, the basis for approval, and the terms and conditions of approval.

The City will solicit input from local service providers (e.g., Community Action Council) in the preparation and adoption of the amendment to the Zoning Ordinance to ensure that development standards and permit processing procedures will not impede the approval and/or development of emergency, transitional, or supportive housing. The City has selected the RS, RM, and RH Zoning Districts due to an availability of vacant or underutilized sites under these zones that could accommodate at least one facility.

Status of Program Implementation

The City is evaluating the potential for creating an overlay district or a text amendment focusing on the RS, RM, RH, CO and CG zoning districts. Those zoning districts were selected due their presently allowable uses and availability of vacant or underutilized sites under these zones that could accommodate at least one facility. This program has been updated and revised in Chapter 4.

Program 3.02

Pursuant to the Fair Housing Amendments Act of 1988 and the requirements of Chapter 671, Statues of 2001 (Senate Bill 520), the City will adopt a reasonable accommodation ordinance addressing rules, policies, practices and procedures that may be necessary to ensure equal access to housing for those with disabilities. The City will promote its reasonable accommodations procedures on its web site and with handouts at City Hall.

Status of Program Implementation

The City has prepared a draft reasonable accommodation ordinance. The program will be continued into the next Housing Element for ordinance adoption.

Program 3.03

The City will assist the CAC in promoting the availability of resources by posting notifications on the City's website (www.ci.benicia.ca.us). The CAC is part of County-wide consortium of community service groups who join together in applying for applicable State and federal funds for their organizations. They have found this collaborative approach, supported by their respective governmental jurisdictions, much more successful than if each individual agency applied for funds.

Status of Program Implementation

The City has engaged CAC and Benicia Housing Authority on promoting their services on the City's website and will continue to provide information as requested. This program will continue in the 2015-2023 Housing Element Update for implementation.

Program 3.04

Continue to refer persons in need of transitional housing assistance to the CAC. Meet annually with the CAC to determine the need for transitional housing facilities.

Status of Program Implementation

Ongoing; The City will continue to work with the CAC to identify housing needs and ensure that social services are provided.

Program 3.05

The City will provide for needed social services in all City funded affordable housing projects. These services should address the needs of single mothers and families and could include childcare, counseling, and education. If necessary, the zoning ordinance will be amended to allow these uses at these project locations.

Status of Program Implementation

This program has been updated and will continue in the 2015-2023 Housing Element Update for implementation.

Program 3.06

Facilitate the establishment of shared housing in Benicia to bring together persons with special housing needs, including single parents and elderly persons, to share living accommodations and housing costs. The City will facilitate shared housing by continuing to permit such housing and associated supportive services under the Zoning Ordinance and consider applying for private, state, or federal funding for a proposed shared housing project or program, when an eligible project is submitted to the City.

Status of Program Implementation

This will continue in the 2015-2023 Housing Element Update for implementation.

Preserve and Maintain Housing Stock

Program 4.01

Work with the State to expand the use of existing Housing Rehabilitation Loan Program funds to other uses such as assistance to first time home buyers and funding to establish a transitional shelter in Benicia. The existing Rehabilitation Loan Program should also be maintained, and available to qualified applicants, including for historic preservation purposes. In addition, announce the availability of such funds through noticing on the City's website, local government access channel, through several display ads, advertisements at the Benicia Library and at the Planning Counter. Also, create and provide flyers to the Community Action Council, Benicia Housing Authority, and other affordable housing affiliates.

Status of Program Implementation

Ongoing; Able to maintain the program, but do not have the resources to expand it.

Program 4.02

Prepare standard specifications for seismic retrofitting of existing residential structures to assist property owners in meeting current seismic safety standards. The City of Benicia participated in the 2005 multi-jurisdictional Local Hazard Mitigation Plan, adopted in 2007. The 2010 Annex to the plan requires engineered plan sets for voluntary or mandatory soft-story seismic retrofits by private owners until a Standard Plan and Construction details become available. Seismic retrofitting will continue to be an eligible activity under the City's housing rehabilitation program. The City will promote its seismic retrofitting program through a distribution brochure at City Hall, other public locations, and on the City of Benicia's website (www.ci.benicia.ca.us).

Status of Program Implementation

Completed; Plans available at the Community Development Department counter and website. Not carried forward in next Housing Element.

Program 4.03

Continue to implement procedures applicable to inclusionary for-sale units, such as the resale control mechanism, equity recapture, qualifications for subsequent buyers, and other relevant issues that are not listed in the inclusionary housing ordinance, to ensure ongoing affordability.

Status of Program Implementation

Ongoing.

Program 4.04

Contact the owners of the mobile home parks to determine future plans and the feasibility of continuing mobile home park use. The City will work with the owners to ensure maintenance, upkeep, and compliance with State regulations. If appropriate, the City will assist the owner in accessing State or federal funds for improvements to substandard or dilapidated parks and units or in converting the park to resident ownership. Maintaining affordable units in mobile homes parks will be a priority of the City.

The City will also continue to implement its mobile home park conversion ordinance to ensure that any conversion of a mobile home park is preceded with adequate notice and relocation assistance. A relocation plan must be submitted to the Planning Commission for approval as part of the application for conversion.

Status of Program Implementation

This program has not been implemented and no contact with the owners has been made. This program will be continued to the 2015-2023 Housing Element Update for implementation.

Program 4.05

As new projects, code enforcement actions, and other opportunities arise, the City will investigate ways to meet its housing needs through rehabilitation and preservation of existing units.

Status of Program Implementation

This is an ongoing effort subject to the specifics of individual development proposals. This program will continue in the 2015-2023 Housing Element Update for implementation.

Program 4.06

The City will maintain a record of any units rehabilitated and made affordable or converted to affordable and include the data in their annual report to HCD.

Status of Program Implementation

Ongoing. The City maintains a record and reports this information as part of the annual report.

Equal Access

Program 5.01

Implement the complaint referral process for those persons who believe they have been denied access to housing because of their race, religion, sex, marital status, ancestry, national origin, color, or disability, family status, sexual orientation, source of income, or political affiliation. The City will educate selected staff in the Community Development, City Attorney, and City Manager departments on responding to complaints received regarding potential claims of housing discrimination. The selected personnel will be given a typed handout detailing the process for someone with a complaint and the agencies that should be contacted regarding a claim: Solano County District Attorney's office, California Department of Fair Employment and Housing, San Francisco Department of Housing and Urban Development Office of Fair Housing, Legal Services of Northern California (Solano County Vallejo office), and ECHO (non-profit housing advocacy group). The City Attorney's office will be notified and a log maintained of all complaints received. Information regarding the housing discrimination complaint referral process is made available by the Benicia Housing Authority and CAC to their clients. This information is available on the City's website (www.ci.benicia.ca.us). The City will maintain a supply of complaint forms and informational brochures at City Hall.

Status of Program Implementation

Ongoing. The City Attorney's office manages this program and maintains this information in their office and on the City's website.

Program 5.02

The City will have brochures on universal design available at the planning counter in the Community Development Department. The City will also consider writing development standards to encourage use of universal design in home design.

Status of Program Implementation

Completed universal design brochures available at the Community Development Department as of April 2013. Program to be carried forward, City will continue to provide brochures and consider writing development standards to encourage use of universal design in home design.

Energy Efficiency & Conservation

Program 6.01

The City will continue to implement the California Green Building Standards Code, 2010 edition (adopted by reference in 2010 by City Council Ordinance 10-05), which applies to residential additions of 600 sq. ft. or more, or when a project's value exceeds $20,000. The City will pursue additional green building standards beyond the State's minimum requirements.

Status of Program Implementation

Beginning in 2008, the Community Development Department initiated new efforts to educate and bring awareness to the public about the long-term benefits of employing green building techniques, energy efficient construction methods, and use of sustainable materials.

Brochures are available at the Community Development Department counter at City Hall.

The State Energy Code was updated in 2010 and is enforced by the Building Division for all new and remodel residential projects.

The City adopted, by reference, the California Green Building Standards Code, 2010 edition (Ordinance 10-05), with amendments for residential additions of 600 sq. ft. or more, or for when a project's value exceeds $20,000. The City will continue to evaluate additional green building standards beyond the State's minimum requirements.

Program 6.02

Continue to implement the Home Efficiency Program and Solar Rebate Program, both of which were initiated by the Sustainability Commission who is charged with implementing the City's Climate Action Plan. These programs will educate and bring awareness to the public about the long-term benefits of energy conservation and efficiency in housing.

Status of Program Implementation

All funds ($100,000) were allocated for a Residential Solar Incentive Program. The City has issued 34 rebates ($3,000 each). The City continues to seek additional funds for the incentive program. Benicia Home Efficiency program will continue through Summer 2015. In addition, the City is in the process of expanding the PACE financing district to include residential in addition to commercial to provide for clean energy and water conservation upgrades. The City also coordinates with and supports Solano County water programs.

Program 6.03

To facilitate implementation, the City will make available, in the Community Development Department, brochures from PG&E and others that detail energy conservation measures for existing buildings, as well as new construction.

Status of Program Implementation

Ongoing; Brochures are available at the Community Development Department public counter in City Hall.

Program 6.04

The City shall establish regulations requiring the development of environmentally sustainable buildings. The Build It Green "GreenPoint Rated" certification system shall be used when possible or followed to the extent possible when certification isn't a realistic goal for a building. The GreenPoint Rated system can be applied to new and existing single-family and multi-family residential buildings. Possible targets include:

- Investigate the possibility of achieving GreenPoint Rated certification for all affordable housing projects constructed in the City. Work with developers of affordable projects to achieve this goal.
- Provide other cost savings incentives to developers or project proponents of projects that achieve GreenPoint Rated Certification both in new and existing affordable housing projects.

Status of Program Implementation

This program has been deleted.

Program 6.05

Continue to provide public education on energy efficiency and sustainable materials through the use of display boards, and locate them near the Planning and Building Counter and throughout City Hall.

Status of Program Implementation

There is a display on the wall near the Community Development Counter to educate the public on energy efficiency and sustainable design. There is also a water conservation board in City Hall outside the main entrance to the Community Development Department.

Chapter 4
Goals, Policies, & Programs

The fundamental components of a Housing Element include a statement of the community's goals and policies relative to the maintenance, improvement, and development of housing. This Chapter sets forth goals, policies, and implementation programs to achieve the City's objective of providing a wide range of housing choices affordable to all segments of the community.

Goals represent the ideal future end relative to housing needs. Policies are statements to guide decision-making regarding housing issues and provide a link between the goals and programs. Programs are actions the City will take to implement the policies in order to achieve the goals. Some of the programs include quantified targets e.g. the number of housing units that are expected to be constructed, conserved, or rehabilitated through implementation of programs through 2023. These targets represent measurable outcomes, which can be used to evaluate the success of the Housing Element in the future.

Each program has an associated timeline for completion. The State requires programs that will: make sites available through zoning, assist in the development of affordable housing, remove government constraints, conserve and preserve existing housing in the city, and promote equal opportunity for housing. The programs also cite which City department or division is responsible for implementation.

While most of the efforts will be initiated shortly after adoption of the Housing Element, full implementation and the intended results will take much longer to realize.

The City will annually evaluate the progress and effectiveness of these efforts in accordance with State law. The City's efforts to increase affordable housing should be viewed as long term, ongoing, and dynamic.

4.1 The Regulatory Environment

GOAL 1: BENICIA SHALL BE AN ACTIVE LEADER IN ATTAINING THE GOALS OF THE CITY'S HOUSING ELEMENT.

Policy 1.01 To the extent possible and within the City's control, the City shall facilitate the production of housing that is affordable to people with a wide range of incomes.

Program 1.01

Work with the Housing Authority to coordinate affordable housing activities and maintain good working relations with other non-profit housing providers by:

- Consulting with the Housing Authority during the update of the Housing Element and the annual review of the Housing Element. Specifically, strategize to ensure the City's programs and the Housing Authority's programs are complementary and maximize limited housing resources;
- Continuing to share information and priorities between the City, the Housing Authority, and other non-profit housing providers;
- Updating the inventory of vacant and opportunity sites once a year in January and July and providing this inventory to non-profit housing providers; and
- Informing the Housing Authority about units produced by the Inclusionary Housing Ordinance (BMC 17.70.320) and other affordable projects.

Funding Source:	General Fund
Responsible Agency:	Community Development Department and Housing Authority
Timeframe:	Ongoing
Quantified Objective:	5 units

Program 1.02

Continue to support the Benicia Housing Authority in the administration of the Section 8 housing voucher program and apply for additional vouchers, as appropriate.

Funding Source:	HUD Section 8
Responsible Agency:	City Council, Community Development Department, and Housing Authority
Timeframe:	Ongoing, when eligible
Quantified Objective:	5 units

Program 1.03

Investigate the feasibility of joining a housing consortium to access a pooled source of funding for mortgage revenue bonds or mortgage credit certificates for the development of affordable housing and/or first-time homebuyer assistance. The City will investigate existing local consortiums and report to the City Council on the most appropriate consortium for Benicia based on cost, level of activity, and the potential for funding to benefit Benicia residents. Assuming the City identifies an appropriate consortium, Benicia will take the necessary legal, administrative, and financial steps to become a member. The City would consult with the Housing Authority for relevant data and support during the process.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	by December 31, 2022
Quantified Objective:	n/a

Program 1.04

The City will explore how to leverage financial resources and partner with the development community to assist first-time homebuyers with down payments. The City will apply for Community Development Block Grant (CDBG) funding annually for this purpose.

Funding Source:	General Fund, CDBG,and Building Equity and Growth in Neighborhoods (BEGIN) Program (provides down payment assistance for first-time homebuyers).
Responsible Agency:	Community Development and Finance Departments
Timeframe:	Apply for CDBG funding annually; Ongoing
Quantified Objective:	Dependant on available funding

Program 1.05 (new)

Work with the Public Works Department (City's water and sewer provider) in order to ensure the availability and adequate capacity of water and wastewater systems to accommodate the housing needs during the planning period. Priority shall be granted to proposed developments that include housing affordable to lower-income households. In addition, the City will provide a copy of the Housing Element and any future amendments to the Public Works Department immediately after adoption.

Funding Source:	General Fund
Responsible Agency:	Community Development Department and Public Works Department
Timeframe:	Ongoing
Quantified Objective:	n/a

Program 1.06

Provide information at City Hall, other public locations, and on the City's website (www.ci.benicia.ca.us) to promote private, State, and federal homebuyer assistance programs to the public.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	Ongoing
Quantified Objective:	n/a

Policy 1.02 The City will expedite the review of residential development proposals that include affordable housing units.

Program 1.07

Provide pre-application technical assistance to affordable housing providers to determine project feasibility and address zoning compliance issues in the most cost-effective and expeditious manner possible.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	Ongoing
Quantified Objective:	n/a

Policy 1.03 Educate the public on affordable housing topics and solicit public participation by all economic segments of the community to implement the Housing Element.

Program 1.08

Continue to educate the public on affordable housing through annual reporting to the Planning Commission and City Council. Current housing issues and recent accomplishments towards reaching the City's Quantified Objectives listed in the Housing Element will be addressed. This report will also serve as the annual report required by State law (§65400) for progress in implementing the City's General Plan, including the Housing Element. This report shall be sent to the Office of Planning and Research (OPR) annually in accordance with their due dates. Inform members of the public by publishing a notice in the local newspaper and by posting information on the City's website. Educational materials will be made available, as appropriate.

Funding Source:	General Fund
Responsible Agency:	City Council, Planning Commission, and Community Development Department
Timeframe:	Annually, one month prior to OPR's due date.
Quantified Objective:	n/a

Policy 1.04 The City will review and revise regulatory standards necessary to comply with State housing law.

Program 1.09

Amend the Zoning Ordinance to comply with changes in the State Density Bonus law (Government Code Section §65915) and develop an outreach program to ensure its successful implementation.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	Any amendments will be completed within two years of Housing Element adoption. Outreach program will be initiated within three years of Housing Element adoption.
Quantified Objective:	5 units

Program 1.10

To encourage the development of second units, amend the Zoning Ordinance for second units (accessory dwelling units) and reduce fees. Modifications to City standards and procedures should include:

- Eliminate or reduce the 6,000 square foot minimum parcel size for second units outside the Historic Districts (for inside Historic Districts see Program 1.11);
- Allow units above or adjacent to the garage of a primary housing unit;
- Reduce parking standards for lots with second units. For example:
  - Allow exceptions to parking requirements for second units up to 400 square feet;
  - Allow for on-street parking spaces adjacent to the lot to count towards 50 percent of the parking requirement;
  - Eliminate the covered parking requirement for the primary residence, if an accessory dwelling unit is provided;
  - Allow one of the required parking spaces in the front or exterior yard setback; and
  - Allow tandem parking to meet the parking requirement for the primary residence and the accessory dwelling as long as both spaces are behind the front facade plane.
- Investigate additional reductions to sewer and water connection fees for second units; and
- Reduce or waive planning and building fees for affordable second units.

Funding Source:	General Fund
Responsible Agency:	Community Development, Public Works, and Finance Departments; and City Council
Timeframe:	by December 31, 2022
Quantified Objective:	10 units

Program 1.11

To expedite the approval process for second units, the City will investigate the feasibility of developing second unit prototype or model plans for homeowners to use. It may be determined that another prototype would be necessary for historic districts. Use of these plans would reduce costs to homeowners, decrease the time for the approval process, and, in historic districts, help ensure preservation of the historic character is maintained. If such plans were approved for application in the historic districts, the City should consider reducing or eliminating the 6,000 square foot minimum parcel size in the R Zoning District.

Funding Source:	General Fund
Responsible Agency:	City Council and Community Development Department
Timeframe:	Within three years of Housing Element adoption.
Quantified Objective:	n/a

Policy 1.05 The City will continue to provide incentives for affordable housing.

Program 1.12

Continue to reduce the cost of providing affordable housing:

- Provide a fast-track processing procedure for projects with extremely low-, very low-, low- and moderate-income affordable housing units;
- Review annually, amend, and reduce to the extent feasible, the permit fee schedule as it affects small, efficient, and compact (e.g. 600 to 750 square feet) housing types;
- Defer, waive, or reduce certain development fees, portions of fees, or combinations of fees for the affordable portion of any project; and
- Amend the Benicia Municipal Code to include language directing the City Council to consider waiving or reducing fees when a project provides affordable housing units.
- Investigate revising or reducing parking requirements for affordable housing projects. Also investigate setting parking maximums.

Funding Source:	General Fund
Responsible Agency:	City Council and Community Development Department
Timeframe:	Ongoing; amend Benicia Municipal Code, Chapter 1.20 by December 31, 2022.
Quantified Objective:	n/a

Program 1.13

The City will provide, when possible, developer incentives such as expedited permit processing and fee deferrals for units that are affordable to lower income households. Priority for receiving incentives will be given to units constructed for extremely low-income households. Benicia will promote these incentives to developers on the City's website (www.ci.benicia.ca.us) and during the application process.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	Ongoing
Quantified Objective:	20 extremely low, very low, or low-income units

4.2 Accommodating Housing Units

GOAL 2: HAVE AN ADEQUATE SUPPLY AND MIX OF HOUSING TYPES TO MEET EXISTING AND FUTURE HOUSING NEEDS. FUTURE DEVELOPMENT IN THE CITY WILL ADHERE TO EFFICIENT LAND USE PATTERNS PLACING HOUSING NEAR TRANSIT AND SERVICES.

Policy 2.01 Require affordable housing in residential developments under the inclusionary housing program.

Policy 2.02 Require decision makers to give equal preference to onsite construction of inclusionary housing units and all other in-lieu alternative options.

Program 2.01

The City adopted an Inclusionary Housing Ordinance in 2000. There have not been many new developments with 10 units or more to generate a significant number of affordable units. No funds have been collected from in-lieu fees.

The City shall evaluate the inclusionary ordinance and consider changes that: (1) revise the current requirement for City Council approval of an in-lieu alternative to construction of inclusionary units if it is found to pose a constraint to residential project development, (2) consider additional incentives or regulatory concessions for developers to facilitate compliance with the inclusionary ordinance, (3) encourage the production of affordable housing onsite by providing development incentives to make onsite construction more feasible, (4) increase the range of affordability levels by including moderate with very-low and low, (5) provide City discretion to require onsite construction, (6) investigate extending the income categories served by the inclusionary requirements to extremely low income households, (7) investigate the feasibility of reducing the minimum unit requirement to be less than 10 new units, and (8) evaluate the impacts of the inclusionary ordinance on the feasibility of development in combination with other City regulatory requirements.

The City will engage the development community during the evaluation process.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	Complete evaluation of the Inclusionary Housing Ordinance by January 2018
Quantified Objective:	20 units

Policy 2.03 Maintain an adequate supply of residential land in appropriate land use designations and zoning categories to accommodate the City's regional housing needs allocation.

Policy 2.04 Disperse affordable housing throughout the City to avoid concentration in any one part of the City.

Program 2.02

As part of its next General Plan update, the City shall establish efficient land use and development patterns that conserve resources, such as fuel, water and land, and allow for higher-density development in the vicinity of major transit nodes, set forth pedestrian-oriented development patterns, and preserve open space areas. The update should comply with SB375 goals to reduce vehicle miles traveled and greenhouse gas emissions from driving as related to land use patterns. In addition, the updated Plan should strive for consistency with the Sustainable Communities Strategy known as Plan Bay Area set forth by ABAG. These strategies are intended to reduce energy consumption, increase walkability and access to transit and services, reduce automobile trips, and conserve land and water resources.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	During the next comprehensive update of Benicia's General Plan.
Quantified Objective:	n/a

Program 2.03

Maintain a housing trust fund to be funded by inclusionary in-lieu fees and other sources, as appropriate. This fund will be used to support affordable housing activities, such as an equity share program, site acquisition, write down of land costs, subsidization of rents and mortgages, site improvements, and the provision of collateral for development loans.

Funding Source:	General Fund
Responsible Agency:	City Council, Planning Commission, Community Development Department, Economic Development Manager, and Housing Authority
Timeframe:	Ongoing
Quantified Objective:	n/a

Program 2.04

Consider implementing an affordable housing linkage fee on nonresidential development to support the development of workforce housing. This ordinance should consider alternatives to paying the fee such as construction of housing on-site, construction of housing off-site, and dedication of land for housing.

Funding Source:	General Fund
Responsible Agency:	Community Development Department and Economic Development Manager
Timeframe:	by December 31, 2022
Quantified Objective:	15 units

Program 2.05 [new]

The City will annually evaluate the sites inventory identifying the zoning, size, and number of vacant and underutilized parcels suitable for residential development for each income category. If the sites inventory indicates a shortage of available sites to accommodate the remaining RHNA for an income category, the City shall rezone sufficient sites with appropriate densities to accommodate its remaining RHNA for each income category.

The City will develop and implement an ongoing formal evaluation procedure (project-by-project) of sites to accommodate its RHNA for lower-income households. If an approval of a development results in a reduction of site capacity below the residential capacity needed to accommodate the remaining RHNA, including for lower-income households, the City will identify and zone sufficient adequate sites to accommodate the shortfall of sites within six months of approval of the development causing the shortfall of sites.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	Annually update the sites inventory in conjunction with Government Code Section 65400 Housing Element Annual Reports. Develop evaluation procedure of sites to accommodate lower income households to comply with Government Code Section 65863 within one year of Housing Element Adoption.
Quantified Objective:	n/a

Policy 2.05 Seek appropriate private, local, State, and federal funding to subsidize costs of housing for extremely low-, very low-, low-, and moderate-income households in Benicia.

Policy 2.06 Encourage the development of second- and third-story residential units in along First Street in downtown Benicia.

Program 2.06

The City will monitor available funding sources and activities to pursue based on competitive funding considerations, the funding cycles of various State and federal sources, and housing provider interest. The City will contact these funding sources to make sure they are on all pertinent distribution lists for funding opportunities. The City will keep these funding sources updated on appropriate contact persons at the City.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	Annually, following Housing Element Adoption
Quantified Objective:	n/a

Policy 2.07 The City of Benicia will work with the Association of Bay Area Governments (ABAG) to create a regional development pattern that is compact and connected and encourages future population and housing in areas near transit. Future growth in the City of Benicia will be targeted towards Priority Development Areas (PDAs) within City limits, where a diversity of housing, jobs, activities, and services are present to meet the daily needs of residents. The map of the PDAs can be found in Appendix H.

Program 2.07

Consult with and apply for financial assistance from the FOCUS program of ABAG for projects within the Downtown Priority Development Area, including but not limited to the Solano Square and Senior Center neighborhood retrofit and opportunity site projects.

Funding Source:	General Fund and ABAG
Responsible Agency:	Community Development Department
Timeframe:	Ongoing as funding opportunities arise
Quantified Objective:	n/a

4.3 Special Needs

GOAL 3: ACCOMMODATE THE HOUSING NEEDS OF SPECIAL POPULATION GROUPS.

Policy 3.01 Facilitate the development of shelters for the homeless, transitional and supportive housing, housing for seniors, and housing for persons with physical, developmental, or mental disabilities.

Program 3.01

Amend the Zoning Ordinance to comply with Senate Bill 2 under the "Housing Accountability Act" to permit emergency shelters without a use permit or other discretionary permits in at least one zoning district or on one site. Emergency shelters, which shall be defined under Use Classifications, residential use types, will be allowed by right to allow for either future development, redevelopment or conversion of an existing site. The amendment to the Zoning Ordinance for Emergency Shelters may also set standards for the following:

- Maximum number of beds or persons permitted to be served nightly;
- Off-street parking based on demonstrated need; standards shall not require more parking for emergency shelters than for other residential uses within the same zone;
- The location of exterior and interior on-site waiting and client intake areas, e.g. measures to avoid queues of individuals outside proposed facility;
- Provision of on-site management;
- Length of stay;
- Hours of operation;
- External lighting;
- Provision of security for the proper operation and management of a proposed facility; and
- Compliance with county and State health and safety requirements for food, medical, and other supportive services provided on-site.

The purpose of these standards are to encourage and facilitate homeless shelters through clear and unambiguous guidelines for the application review process, the basis for approval, and the terms and conditions of approval.

The City will solicit input from local service providers (e.g., Community Action Council) in the preparation and adoption of the amendment to the Zoning Ordinance to ensure that development standards and permit processing procedures will not impede the approval and/or development of emergency, transitional, or supportive housing.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	At the time of adoption of the Housing Element
Quantified Objective:	n/a

Program 3.02

The City will amend the Zoning Ordinance to define transitional and supportive housing as a residential use under Use Classifications, residential use types, which shall subject to the same standards that apply to other housing use types in the same zoning district.

Funding Source:	General Fund
Responsible Agency:	Community Development Department,
Timeframe:	At the time of adoption of the Housing Element
Quantified Objective:	n/a

Program 3.03

Pursuant to the Fair Housing Amendments Act of 1988 and the requirements of Chapter 671, Statues of 2001 (Senate Bill 520), the City will adopt a reasonable accommodation ordinance addressing rules, policies, practices, and procedures that may be necessary to ensure equal access to housing for those with disabilities. The City will promote its reasonable accommodations procedures on its web site and with handouts at City Hall.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	Within 2 years of adoption of Housing Element
Quantified Objective:	n/a

Policy 3.02 Support Solano County and the Community Action Council (CAC) in applying for funds to maintain adequate local and County facilities for homeless persons through letters of support signed by the City Manager and continuance of an annual allocation from the City's budget.

Program 3.04

The City will assist the CAC in promoting the availability of resources by posting notifications on the City's website (www.ci.benicia.ca.us). The CAC is part of County-wide consortium of community service groups who join together in applying for applicable State and federal funds for their organizations. They have found this collaborative approach, supported by their respective governmental jurisdictions, much more successful than if each individual agency applied for funds.

Funding Source:	General Fund and Stewart B. McKinney Homeless Program (a federal law that created funding for homeless assistance programs)
Responsible Agency:	Community Development and Finance Departments, City Manager, and Community Action Council
Timeframe:	Ongoing
Quantified Objective:	n/a

Policy 3.03 Work with the Benicia Community Action Council (CAC) and the Benicia Housing Authority to facilitate programs to assist special needs groups in Benicia.

Program 3.05

Continue to refer persons in need of transitional housing assistance to the CAC. Meet annually with the CAC to determine the need for transitional housing facilities.

Funding Source:	General Fund
Responsible Agency:	Community Development Department and Community Action Council
Timeframe:	Meet annually; ongoing
Quantified Objective:	n/a

Policy 3.04 To the extent feasible the City will support development of housing serving large families and female-headed households.

Program 3.06

The City will provide for needed social services in all City funded affordable housing projects. These services should address the needs of single mothers and families and could include childcare, counseling, and education. If necessary, the zoning ordinance will be amended to allow these uses at these project locations.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	Ongoing
Quantified Objective:	n/a

Program 3.07

Facilitate the establishment of shared housing in Benicia to bring together persons with special housing needs, including single parents and elderly persons, to share living accommodations and housing costs. The City will facilitate shared housing by continuing to permit such housing and associated supportive services under the Zoning Ordinance and consider applying for private, State, or federal funding for a proposed shared housing project or program, when an eligible project is submitted to the City.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	Ongoing
Quantified Objective:	n/a

4.4 Preserve and Maintain Housing Stock

GOAL 4: HOMES IN BENICIA ARE PRESERVED AND WELL-MAINTAINED.

Policy 4.01 Apply for private, State, and federal funding assistance to rehabilitate homes where needed.

Program 4.01

Work with the State to expand the use of existing Housing Rehabilitation Loan Program funds to other uses such as assistance to first time home buyers and funding to establish a transitional shelter in Benicia. The existing Rehabilitation Loan Program should also be maintained, and available to qualified applicants, including for historic preservation purposes. In addition, announce the availability of such funds through noticing on the City's website, local government access channel, through several display ads, advertisements at the Benicia Library and at the Planning Counter. Also, create and provide flyers to the Community Action Council, Benicia Housing Authority, and other affordable housing affiliates.

Funding Source:	CDBG funds, California Self-Help Housing Program, and CHFA funds
Responsible Agency:	City Manager, Community Development Department, and Non-Profit Developer(s).
Timeframe:	Annually review existing available resources and apply, as needed, for additional state funding
Quantified Objective:	15 units rehabilitated

Policy 4.02 Limit the conversion of residential structures to non-residential uses and affordable units to market-rate.

Program 4.02

Continue to implement procedures applicable to inclusionary for-sale units, such as the resale control mechanism, equity recapture, qualifications for subsequent buyers, and other relevant issues that are not listed in the inclusionary housing ordinance, to ensure ongoing affordability.

Funding Source:	General Fund
Responsible Agency:	City Manager and Community Development Department
Timeframe:	Ongoing
Quantified Objective:	n/a

Program 4.03 [new]

The City will work with the Benicia Housing Authority to prevent conversion of affordable housing to market rate for any and all properties leased or operated by the Housing Authority. The City will take all necessary steps to ensure projects remain affordable, including the use of available financial resources to restructure federally assisted preservation projects, where feasible, in order to preserve and/or extend affordability, and prior to affordability expiration date, identify funding sources for at-risk preservation, rehabilitation, and acquisition and pursue these funding sources at the federal, State, or local levels to preserve at-risk units on a project-by-project basis.

Funding Source:	General Fund
Responsible Agency:	Community Development Department.
Timeframe:	Ongoing
Quantified Objective:	n/a

Policy 4.03 Strongly encourage continued upkeep of existing economically viable mobile home parks, and work with the state to ensure regulatory compliance.

Program 4.04

Contact the owners of the mobile home parks to determine future plans and the feasibility of continuing mobile home park use. The City will work with the owners to ensure maintenance, upkeep, and compliance with State regulations. If appropriate, the City will assist the owner in accessing State or federal funds for improvements to substandard or dilapidated parks and units or in converting the park to resident ownership. Maintaining affordable units in mobile homes parks will be a priority of the City.

The City will also continue to implement its mobile home park conversion ordinance to ensure that any conversion of a mobile home park is preceded with adequate notice and relocation assistance. A relocation plan must be submitted to the Planning Commission for approval as part of the application for conversion.

Funding Source:	General Fund
Responsible Agency:	Community Development Department and HCD.
Timeframe:	Contact owners by December 31, 2016
Quantified Objective:	10 units

Policy 4.04 Pursuant to state law (recognizing limited allowed circumstances) the City will count existing units toward meeting their regional housing need. The City may take credit for existing units that will be: (1) substantially rehabilitated, (2) converted from non-affordable to affordable (multifamily rental housing of 4 or more units), or (3) preserved at affordable housing costs to low or very low-income households.

Program 4.05

As new projects, code enforcement actions, and other opportunities arise, the City will investigate ways to meet its housing needs through rehabilitation and preservation of existing units.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	Ongoing
Quantified Objective:	n/a

Program 4.06

The City will maintain a record of any units rehabilitated and made affordable or converted to affordable and include the data in their annual report to HCD.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	Ongoing and annually, every April
Quantified Objective:	n/a

4.5 Equal Access

GOAL 5: ENSURE EQUAL HOUSING OPPORTUNITIES FOR ALL PERSONS IN BENICIA REGARDLESS OF RACE, RELIGION, SEX, MARITAL STATUS, ANCESTRY, NATIONAL ORIGIN, COLOR, DISABILITY, FAMILY STATUS, SEXUAL ORIENTATION, POLITICAL AFFILIATION, OR SOURCE OF INCOME.

Policy 5.01 Continue to provide a point of contact for referral of discrimination complaints.

Program 5.01

Implement the complaint referral process for those persons who believe they have been denied access to housing because of their race, religion, sex, marital status, ancestry, national origin, color, or disability, family status, sexual orientation, source of income, or political affiliation. The City will educate selected staff in the Community Development, City Attorney, and City Manager departments on responding to complaints received regarding potential claims of housing discrimination. The selected personnel will be given a typed handout detailing the process for someone with a complaint and the agencies that should be contacted regarding a claim: Solano County District Attorney's office, California Department of Fair Employment and Housing, San Francisco Department of Housing and Urban Development Office of Fair Housing, Legal Services of Northern California (Solano County Vallejo office), and ECHO (non-profit housing advocacy group). The City Attorney's office will be notified and a log maintained of all complaints received. Information regarding the housing discrimination complaint referral

process is made available by the Benicia Housing Authority and CAC to their clients. This information is available on the City's website (www.ci.benicia.ca.us). The City will maintain a supply of complaint forms and informational brochures at City Hall.

Funding Source:	General Fund and CDBG Funds
Responsible Agency:	Community Development Department
Timeframe:	Ongoing
Quantified Objective:	n/a

Policy 5.02 The City shall work with homebuilders to encourage universal design in new construction and remodels. Universal design is based on the understanding that throughout life, people may experience changes in their abilities. The goal of universal design is to design environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.

Program 5.02

The City will continue to provide brochures on universal design available at the planning counter in the Community Development Department. The City will also consider writing development standards to encourage use of universal design in home design.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	Ongoing
Quantified Objective:	n/a

4.6 Energy Efficiency & Water Conservation

GOAL 6: HOUSING IN BENICIA IS ENERGY EFFICIENT.

Policy 6.01 Enforce State requirements for energy conservation in new residential projects and encourage residential developers to employ additional energy conservation measures with respect to siting of buildings, landscaping, and solar access.

Program 6.01

The City will continue to implement the California Green Building Standards Code, 2013 edition (adopted by reference in 2013 by City Council Ordinance 13-14), which applies to residential additions of 600 sq. ft. or more, or when a project's value exceeds $20,000. The City will evaluate additional green building standards beyond the State's minimum requirements.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	Ongoing.
Quantified Objective:	n/a

Policy 6.02 Enforce the California Energy Commission energy efficiency requirements in new housing and encourage the installation of energy saving devices in pre-1975 housing.

Program 6.02

Continue to implement the Benicia Home Efficiency Program and Residential Solar Rebate Program, both of which were approved by the Sustainability Commission who assists with implementing the City's Climate Action Plan. These programs will educate and bring awareness to the public about the long-term benefits of energy conservation and efficiency in housing and encourages the installation of renewable energy which reduces greenhouse gas emissions.

Funding Source:	Good Neighbor Steering Committee Settlement Agreement
Responsible Agency:	Community Development Department
Timeframe:	Benicia Home Efficiency Program through 2016. Residential Solar Rebate Program needs additional financing: Ongoing
Quantified Objective:	n/a

Program 6.03

To facilitate implementation, the City will make available, in the Community Development Department, brochures from PG&E and others that detail energy conservation measures for existing buildings, as well as new construction. The City will investigate more innovative outreach methods including social media and other online interfaces.

Funding Source: General Fund

Responsible Agency: Community Development Department

Timeframe: Ongoing

Quantified Objective: n/a

Policy 6.03 Encourage green building design standards in new construction and redevelopment to achieve increased energy conservation.

Program 6.04

Continue to provide public education on green building certification, energy efficiency, and sustainable materials through the use of display boards, and locate them near the Planning and Building Counter and throughout City Hall.

Funding Source: General Fund

Responsible Agency: Community Development Department

Timeframe: Ongoing

Quantified Objective: n/a

4.7 Summary of Quantified Objectives

Table 4.1 summarizes the quantified objectives for all the above programs. The City anticipates that 79 units will be provided by new construction through program implementation (Programs 1.09, 1.10, 1.13, 2.01, and 2.05), and an additional 20 units will be rehabilitated or conserved through program implementation (Programs 4.01 and 4.04). All of the remaining programs listed below in Table 4.1 would also contribute to meeting the RHNA to provide additional affordable housing in Benicia.

Table 4.1 Summary of Quantified Objectives

	Income Categories					
Remaining Regional Housing Needs Allocation	Extremely Low	Very Low	Low	Moderate	Above-Moderate	Total
	(subset of very low)	94	54	56	123	327
Programs						
New Construction						
1.01	0	0	5	0	0	5
1.02	0	5	0	0	0	5
1.09	1	1	3	0	0	5
1.10	0	0	2	8	0	10
1.13	4	6	10	0	0	20
2.01	0	5	5	10	0	20
2.05	0	5	5	5	0	15
New Construction Subtotal	**5**	**22**	**30**	**23**	**0**	**79**
Rehabilitation/Preservation						
4.01	0	5	5	5	0	15
4.04	0	0	0	5	0	5
Total	**5**	**27**	**35**	**33**	**0**	**99**

Source: City of Benicia

Appendix A
Existing Housing Needs

This section addresses existing housing needs, employment, and housing characteristics within the community. The analysis includes a description of population, employment, household incomes, housing stock, and comparisons with the surrounding region. Comparisons are made with Solano County and Suisun City. Suisun City was selected as a relatively comparable jurisdiction in terms of size and community issues within Solano County. These comparisons provide a frame of reference for statistics in the City of Benicia. The following subsections are included in this Appendix:

- Age Distribution
- Race/Ethnicity
- Employment by Industry
- Civilian Labor Force
- Household Growth Trends
- Households by Tenure
- Households by Income
- Overpayment
- Overcrowding
- Extremely Low Income Housing Needs
- Housing Unit and Property Conditions
- Age of Housing Stock
- Cost of Housing
- Housing Units by Type
- Occupancy/Vacancy
- Assisted Housing Developments At-Risk for Conversion
- Affordability

Population

Table A.1 depicts the population increase in the City of Benicia, Suisun City, and Solano County between 2000 and 2010. The City grew by 0.5 percent between 2000 and 2010. The growth in nearby Suisun City was higher between 2000 and 2010 at 7.6%. Growth in Solano County between 2000 and 2010 was 4.8% (0.48 percent average annual growth).

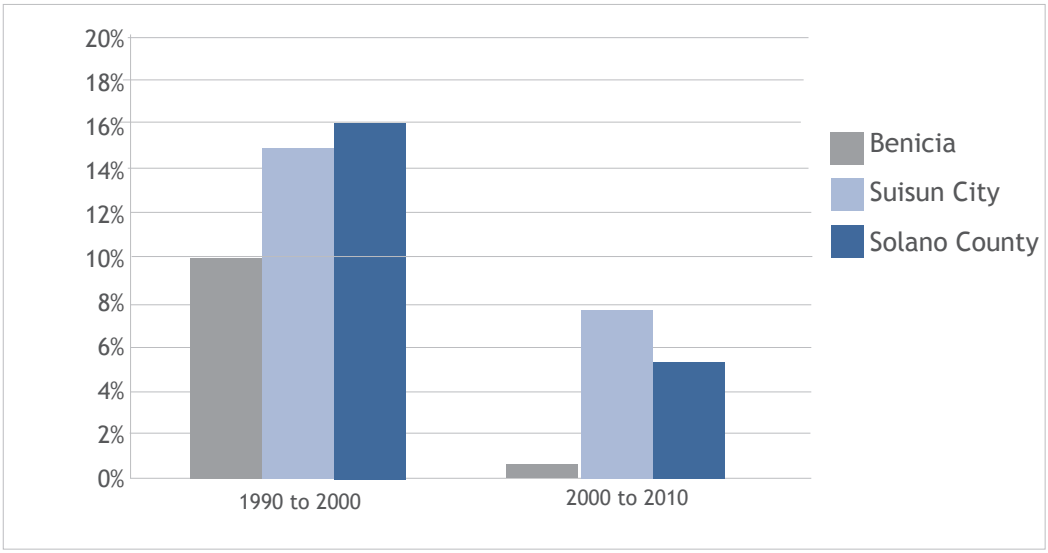
Table A.1 Population Growth Trends, 2000-2010

	2000		2010	
	Number	% Increase	Number	% Increase
Benicia	26,865	*10%*	26,997	*0.5%*
Suisun City	26,118	*15%*	28,111	*7.6%*
Solano County	394,542	*16%*	413,344	*4.8%*

Source: U.S. Census 2000 and 2010

Figure A.1 below displays the comparison in percentage increase in population for the three jurisdictions discussed above from 1990 to 2000 and 2000 to 2010.

Figure A.1 Percentage Population Growth Comparison

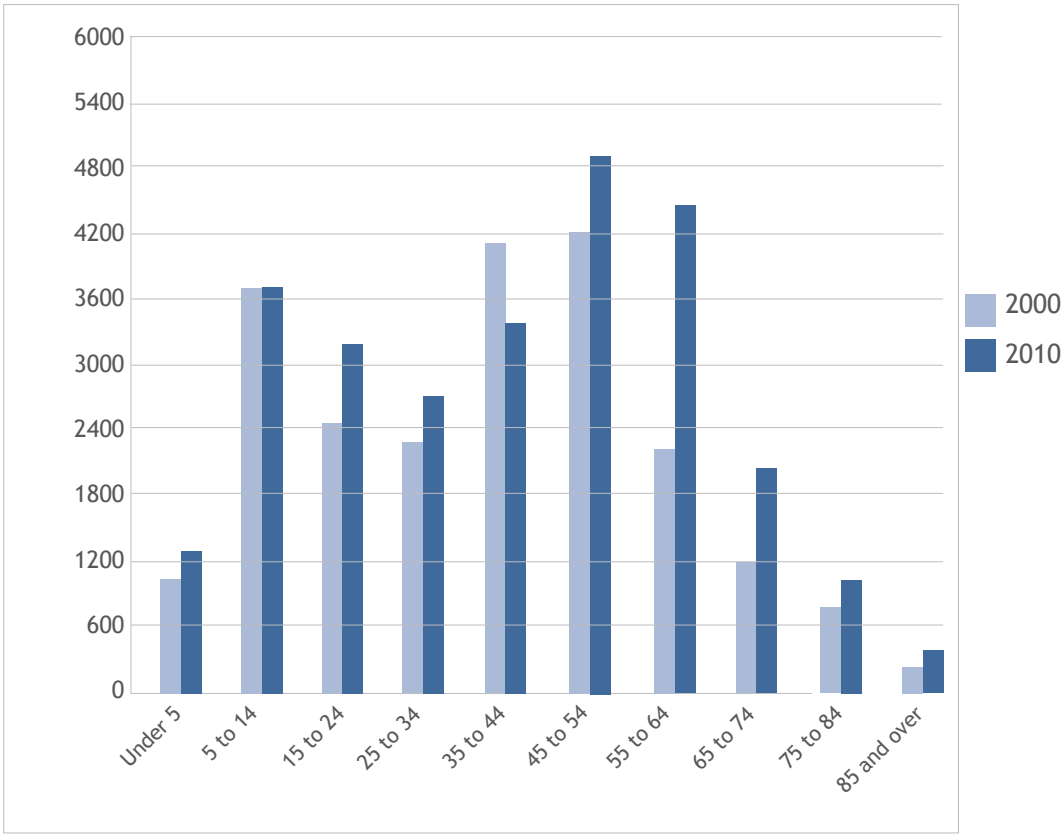


Source: U.S. Census 1990 ,2000, and 2010

Age Distribution

Figure A.2 identifies the change in age distribution between 2000 and 2010. The age groups with the biggest increases between 2000 and 2010 were the 55 to 64 and 65 to 74 age groups. The 35 to 44 age group was the only age group to decrease between 2000 and 2010.

Figure A.2 Age Distribution: Benicia, 2000 - 2010



Source: U.S. Census 1990, 2000, and 2010

Race/Ethnicity

In 2010, the majority of the City's population was white (72.5 percent). By ethnicity, the population was twelve percent Hispanic or Latino (see Table A.2).

Table A.2 City of Benicia: Race/Ethnicity, 2010

Race	All Ages	
Total Population (Race)	26,997	100%
White	19,568	72.5%
Asian	2,989	11%
Other	895	3.3%
Native Hawaiian and other Pacific Islander	102	0.4%
Two or more races	1,798	6.7%
Ethnicity	**All Ages**	
Total Population (Ethnicity)	26,997	100%
Hispanic or Latino (of any race)	3,248	12%
Not Hispanic or Latino	23,749	88%

Source: U.S. Census, 2010

Employment by Industry

According to the 2010 Census, the City had 14,279 persons employed (See Table A.3). The three largest industry sections were education, health, and social services (22.5 percent), retail trade (9.7%), and professional, scientific, management, administrative, and waste management services (9.4% percent).

Table A.4 below identifies the major employers in the City in 2008. They include Valero Refining Company, Institutional Financing Service, and Bio-Rad Laboratories. According to the County Business Patterns Study, there are 11,908 jobs in Benicia.

Table A.3 City of Benicia: Employment by Industry, 2010

Profession	Number	Percent
Educational, health and social services	3,208	22.5%
Retail trade	1,382	9.7%
Professional, scientific, management, administrative, and waste management services	1,338	9.4%
Arts, entertainment, recreation, accommodation and food services	1,268	8.9%
Manufacturing	1,247	8.7%
Construction	1,134	7.9%
Finance, insurance, real estate and rental and leasing	956	6.7%
Other services (except public administration)	900	6.3%
Wholesale trade	687	4.8%
Public administration	677	4.7%
Transportation and warehousing, and utilities	537	3.8%
Information	541	3.8%
Agriculture, forestry, fishing and hunting, and mining	404	2.8%
Total	14,279	100%

Source: U.S. Census, 2010

Table A.4 City of Benicia: Major Employers, 2008

Employer	Number of Employees	Type of Business
1. City of Benicia	223	Government
2. Valero Refining Company	480	Petroleum Refining
3. Institutional Financing Service	170	Sale of Gift Items to Schools
4. Bio-Rad Laboratories	168	Manufacture Hematology Products
5. Radiator Express Warehouse	147	Distributor of Radiators
6. Coca-Cola Bottling Company	142	Soft Drink Delivery
7. The Pepsi Bottling Group	134	Soft Drink Manufacturing
8. Dunlop Manufacturing	130	Manuf./Dist. Musical Accessories
9. Henry Wine Group	116	Import/Distribute Wine Spirits
10. APS West Coast Inc.	115	Operate Port of Benicia
11. Cytosport	109	Dietary Sport & Nutrition Products

Source: City of Benicia, Economic Development Division

Civilian Labor Force

Table A.5 identifies the number of residents in the civilian labor force. As of 2010, of the 15,306 residents in the City who fall into this category, 14,279 (93 percent) were employed. This percentage is similar to Suisun City but greater than the County.

Table A.5 Civilian Labor Force, 2010

County/City	Civilian Labor Force	Employed	Percent Employed
Benicia	15,306	14,279	93%
Suisun City	15,106	13,640	90%
Solano County	208,718	180,913	87%

Source: U.S. Census, 2010

Household Growth Trends

The U.S. Census defines a household as persons occupying a housing unit for their residence. Between 1990 and 2000, there was a 12 percent increase (1,117) in the number of households, from 9,208 to 10,325. However, household growth slowed to 3.5%, between 2000 and 2010 (see Table A.6). Household size can also be a determinant of household growth trends. Between 2000 and 2010 the average household size in Solano County increased from 2.8 persons per household to 2.9 persons per household. The average household size for the City decreased slightly, from 2.60 to 2.52 persons per household.

Table A.6 City of Benicia: Household Growth Trends, 1990, 2000, & 2010

Year	Avg Household Size	Households	Numerical Change	Percent Change
2000	2.60	10,325	1,117	12%
2010	2.52	10,686	361	3.5%

Source: U.S. Census, 1990, 2000 & 2010

Households by Tenure

Tenure refers to the distinction between owner-occupied and renter-occupied units. The ratio between owner and renter households remained steady from 2000 to 2010.

Table A.7 City of Benicia: Households by Tenure, 2000 & 2010

	2000		2010	
	Number	Percent	Number	Percent
Owner	7,300	71%	7,536	70.5%
Renter	3,025	29%	3,150	29.5%
Total	10,325	100%	10,686	100%

Source: U.S. Census, 2000 and 2010

Households by Income

Table A.8 below provides the median household income for California, Solano County, Benicia, and Suisun City in 2000 and 2010. According to the U.S. Census, the median household income in the City increased from $67,617 to $83,476 (23.5 percent increase) from 2000 to 2010. Comparatively, the median household income for the State was $60,016.

Table A.8 Median Household Income, 2000 & 2010

Year	2000	2010
State of California	$47,493	$60,016
Solano County	$54,099	$63,384
Benicia	$67,617	$83,476
Suisun City	$60,848	$71,435

Source: U.S. Census, 2000 and 2010

Table A.9 below depicts the distribution of income for Benicia, Suisun City, and Solano County. As of 2010, 41 percent, or 4,394 households in the City had a combined income of $100,000 or more.

Table A.9 Households by Income, 2010

City/County	$0 - $24,999		$25,000 - $44,999		$45,000 - $99,999		$100,000 +		Total
Benicia	1,103	10%	1,840	17%	3,477	32%	4,394	41%	10,814
Suisun City	920	11%	1,721	20%	3,684	42%	2,378	27%	8,703
Solano County	23,701	17%	28,201	20%	49,813	36%	38,487	27%	140,202

Source: U.S. Census, 2010

Overpayment

Overpayment is defined as paying more than 30 percent of household income on housing costs, including utilities. In 2010, approximately 47 percent (2,745 households) of owner-occupied households in the City were overpaying for housing and 43 percent (1,465 households) of renter-occupied households were overpaying for housing (See Table A.10 below).

Table A.10 City of Benicia: Overpayment: Owner-Occupied Units, 2010

Owner Costs as a Percentage of Household Income	Number of Households	Percentage	Renter Costs as a Percentage of Household Income	Number of Households	Percentage
Less than 20 percent	1,751	30.3%	Less than 20 percent	1,015	29.9%
20 to 24.9 percent	671	11.6%	20 to 24.9 percent	428	12.6%
25 to 29.9 percent	620	10.7%	25 to 29.9 percent	493	14.5%
30 to 34.9 percent	447	7.7%	30 to 34.9 percent	248	7.3%
35 percent or more	2,298	39.7%	35 percent or more	1,217	35.8%
Subtotal	5,787		Subtotal	3,401	

Note: Each of the income range categories do not include a number for "not computed", and therefore the numbers under each percent range do not add up to total households number.

Source: U.S. Census, 2010

Overcrowding

Overcrowding is defined by the U.S. Census as a household occupied by more than one person per room. In 2010, 0.7 percent of all occupied housing units were overcrowded (see Table A.11 below).

Overcrowding is linked to a decreased quality of life for the occupants and can add stress to the physical condition of the dwelling. Additionally, overcrowding is identified as being linked to overpayment for housing, where the high cost of housing forces families into smaller units.

Table A.11 City of Benicia: Overcrowded Households, 2010

Occupied Units	Number	Percent
1.00 or less occupants per room	10,836	99.3%
1.01 to 1.50 occupants per room	74	0.7%
1.50 or more occupants per room	6	0.1%
Total Occupied Units:	10,916	100%

Source: ACS 2006-2010 5-Year Estimates

Extremely Low Income Housing Needs

Extremely low-income households earn 30 percent or less of the median household income. Of the 10,325 households in the City, 575 renters and 290 owners (about 8 percent of all households) have household incomes less than 30 percent of the median income. As Table A.12 illustrates, these households have a high percentage of housing problems and a greater cost burden than other households (See Tables A.9 and A.10 for comparison). The RHNA for Benicia estimates 94 very low income housing units will need to be constructed between 2015 and 2022. Based on State law methodology, the City estimates that 50 percent of its very low-income housing allocation are extremely low-income households. Therefore, it is projected that 47 households will be extremely low-income.

Table A.12 City of Benicia: Housing Problems for All Households CHAS[1] Data Book

	Renters	Percent Renters	Owners	Percent Owners	Total ELI Households	Percent Total ELI Households
Household Income <=30% MFI	575	100%	290	100%	865	100%
Percent with any housing problems	575	100%	260	89.7%	835	96.5%
Percent Housing Cost Burden >30%	495	86.1%	260	89.7%	755	87.3%
Percent Housing Cost Burden >50%	415	72.2%	230	79.3%	645	74.6%

[1]CHAS stands for Comprehensive Housing Affordability Strategy

Source: CHAS Databook 2006-2010

Housing Unit and Property Conditions

A City-wide housing conditions survey was conducted by Parsons Brinckerhoff (PB) in April 2002 as part of the previous Housing Element update. The exterior housing condition of each unit was evaluated based upon State Housing and Community Development (HCD) adopted criteria, which rates the condition of the foundation, roofing, siding, windows, and doors. The April 2002 study focused on single-family, multi-family, and mobile home parks in specific areas that were selected by City staff as having less than standard housing conditions. Results of the survey are in Table A.13. The City's housing stock is generally in very good condition, with the exception of one mobile home park with trailers in need or replacement or rehabilitation.

Housing conditions have not changed substantially since the survey was completed, and therefore, a new survey was not deemed necessary for this cycle. In addition, the City has several ongoing programs to help address the need for rehabilitation and repair of lower income units.

Table A.13 City of Benicia: 2002 Survey Breakdown by Type of Substandard Housing Unit

	Single-Family	Multi-Family	Mobile Home/ Trailers	TOTAL	Percent of Total Housing Units (2000)
Minor	67	52	35	154	1%
Moderate	31	28	0	59	<1%
Substantial	1	0	0	1	<.01%
Dilapidated	4	0	54	58	<1%
Total Substandard	103	80	89	272	2%
Percent of Total HU (2000)	1%	<1%	<1%	2%	

Source: Parsons Brinckerhoff (PB), Housing Conditions Survey, 2002

Age of Housing Stock

The majority (55%) of housing in the City was built between 1970 and 1989 (see Table A.14). According to the 2010 Census, about 16 percent of the housing stock has been built since 1990.

Table A.14 City of Benicia: Age of Housing Stock, 2010

Units	Number	Percent
Built 2000 to 2005 or later	737	6%
Built 1990 to 1999	1,214	10%
Built 1980 to 1989	3,247	27%
Built 1970 to 1979	3,243	28%
Built 1960 to 1969	812	7%
Built 1950 to 1959	783	7%
Built 1940 to 1949	788	7%
Built 1939 or earlier	893	8%
Total	11,717	100%

Source: U.S. Census, 2010

Cost of Housing

According to the 2010 Census, the median rent in the City was $1,271 per month while the average home value was $464,100. These numbers were higher than the County, which had an average rent of $1,211 per month and an average home value of $321,000. Suisun City's rents were higher than both the County and the City at $1,369 per month. However, the average home value was significantly lower at $278,400 (see Table A.15 below).

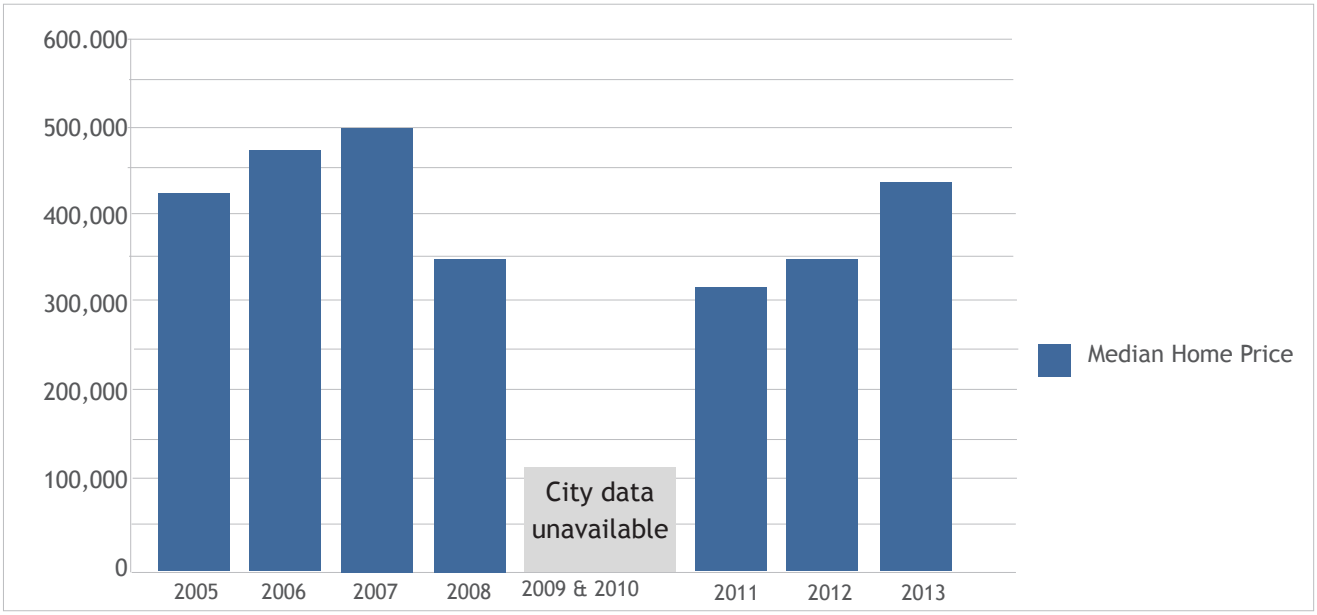
Table A.15 Median Owner-Value/Gross Rent, 2000 & 2010

County/City	Median Gross Rent, 2000	Median Gross Rent, 2010	Percent Increase	Median Owner-Value, 2000	Median Owner-Value, 2010	Percent Increase
Benicia	$892	$1,271	42.5%	$263,100	$464,100	76.4%
Suisun City	$870	$1,369	57.4%	$161,100	$278,400	72.8%
Solano County	$797	$1,211	53.9%	$174,900	$321,000	83.5%

Source: U.S. Census, 2000 and 2010

More recent figures show that the median home price peaked in 2007 at approximately $500,000. Between 2007 and 2008, the median price for a home in the City dropped over 28 percent from $500,000 to 360,000 (see Figure A.3). However, both Suisun City and Solano County saw larger drops in home prices. Suisun City suffered a 42 percent drop in median home prices between 2007 and 2008, from $395,000 to $229,000. Solano County saw a 37 percent decrease in median home prices from $416,000 to $262,000 between 2007 and 2008. Home prices have been gradually increasing in Benicia since 2008, with a 26% percent increase between 2012 and 2013.

Figure A.3 City of Benicia: Median Home Prices



Source: California Association of Realtors; MDA Dataquick Dqnews.com 2013

Housing Units by Type

Table A.16 identifies the makeup of the City's housing stock, which is largely made up of single-family detached residences (64 percent). the percent of multi-family units with 5 or more units has remained relatively constant between 2000 and 2010.

Table A.16 City of Benicia: Housing Units by Type, 2000 & 2010

	2000		2010	
1, detached	6,815	65%	7,520	64%
1, attached	1,045	10%	892	8%
2	208	2%	216	12%
3 or 4	708	7%	1204	
5 to 9	429	14%	1049	14%
10 to 19	281		337	
20 to 49	301		284	
50 or more	439			
Mobile home or trailer	317	3%	183	2%
Other	9	0.1%	32	0.2%
Total	10,552	100%	11,717	100%

Source: U.S. Census, Department of Finance E-5 Report, U.S. Census 2010

Occupancy/Vacancy

As of 2010, approximately 92 percent (10,814 units) of the total 11,717 units in the City were identified as occupied. Table A.17 below depicts the number of vacant units by type. Most of the 620 vacant units (57.8 percent) were categorized as for rent or for sale.

Table A.17 Vacant Units by Type, 2010

	Benicia	Percent of Total
Vacant Units	86	<1%
For Rent	207	33.4%
For Sale	151	24.4%
Rented or sold, not occupied	49	7.9%
For seasonal, recreational, or occasional use	64	10.3%
For migrant workers	0	0.0%
Other vacant	149	24.0%
Total Vacant	620	2.0%

Source: U.S. Census, 2010

Assisted Housing Developments At-Risk for Conversion

This section evaluates whether the City's affordable housing is at-risk of converting to market rates through the year 2023 pursuant to State law (Section 65583 (a)(9)(D)). Assisted housing developments, or at-risk units, are defined as multi-family rental housing complexes that receive governmental assistance. The following properties fall under this definition and are listed below in Table A.18.

Table A.18 Affordable Housing, Multi-Family Rental

Name of Projects	Address	Target Level	Assisted Units	Expiration Date	Type of Conversion Risk
Capitol Heights Apts. **087-021-080**	28 Riverhill Dr.	Very Low	39 ELI 17 VLI 8 LI 8 M/AM **Total: 75**	Owned by the Housing Authority; no expiration date	Age/maintenance; rehabilitated 1993; stable until 2032
Casa de Vilarrasa Senior Housing Apts. **089-061-140/150**	383 East I St. 921 East 4th St.	Very Low	30 ELI 22 VLI 14 LI 14 M/AM **Total: 80**	2045	Restriction Expiration
Bay Ridge Apts. **086-410-210**	1061 Rose Dr.	Very Low/ Low	14 ELI 20 VLI 12 LI 4 M/AM **Total: 50**	2034	Restriction Expiration
Burgess Point Apts. **087-021-470**	91 Riverview Terrace	Very Low/ Low	20 ELI 15 LI 4 Vacant 17 M/AM Total: 56	2034	Restriction Expiration
TOTAL UNITS			**261**		

Notes:
ELI = Extremely Low Income VLI = Very Low Income
LI = Low Income M/AM = Moderate/ Above Moderate Income
Source: City of Benicia

Information on each affordable housing project was obtained through deed restrictions and agreements. As evident, there are no units that are at-risk of converting to market rates units during this housing element cycle (2015-2023) or within the next 10 years.

Affordability

To estimate and plan for the supply of affordable housing, the Department of Housing and Community Development (HCD) defines four income groups based on a percentage of the county median family income (MFI). For 2013, the MFI for Solano County was $82,600 for a family of four. The income groups are defined as follows:

- Very Low-Income: 30 to 50 percent of MFI;
- Low-Income: 51 to 80 percent of MFI;
- Moderate-Income: 81 to 120 percent of MFI; and
- Above Moderate-Income: greater than 120 percent of MFI.

Housing affordability in Benicia can be inferred by comparing the cost of owning or renting a home with the income levels of households of different sizes. Table A.19 shows the maximum annual income for households in the very low-, low-, and moderate-income groups based on MFI and household size. It also shows the maximum affordable monthly rental payment and the maximum affordable mortgage based on the standard of allocating no more than 30 percent (as established by HUD) of monthly household income to housing costs (including utilities, taxes, and insurance).

Homes prices at the 2013 Benicia median of $445,00 (See Figure A.3) are out of the range of households earning a moderate-income or less.

Very Low Income Households

The maximum affordable home price ranges from $85,439 to $116,623 for very low-income households or an estimated range from $649 to $883 in monthly rent (including utilities). As a result, very low-income households cannot afford to purchase a single-family home, as the median price for a house in November 2013 was $445,000. With the exception of very small apartments, and mobile home rentals, very low-income households are also unable to afford the cost of virtually all apartment rentals in the City without assuming a high housing cost burden (greater than 30% of income). According to the U.S. Census, the median gross rent in Benicia in 2010 was $1,271.

Low Income Households

The maximum affordable home price ranges from $138,734 to $193,013 for low-income households or an estimated range from $1,063 to $1,475 in monthly rent (including utilities). As a result, the majority of single-family homes are out of reach for low-income households, but they could afford some rental units.

Moderate Income Households

The maximum affordable home price ranges from $217,332 to $305,366 for moderate-income households or an estimated range from $1,659 to $2,328 in monthly rent (including utilities). As a result, moderate-income households can afford some single-family homes in the City and many rental units.

Table A.19 Solano County: Affordability

	HCD Income Limits		Monthly Housing Costs		Maximum Affordable Price	
	Max. Annual Income	Affordable Total Payment	Utilities	Taxes & Ins. (for ownership)	To Own	Monthly Rental
Income Group						
Very Low						
One Person	$28,950	$724	$75	$137	$85,439	$649
Two Person	$33,050	$826	$100	$152	$95,760	$726
Three Person	$37,200	$930	$125	$168	$106,296	$805
Four Person	$41,300	$1,033	$150	$183	$116,623	$883
Low						
One Person	$45,500	$1,138	$75	$231	$138,734	$1,063
Two Person	$52,000	$1,300	$100	$260	$156,808	$1,200
Three Person	$58,500	$1,463	$125	$289	$174,882	$1,338
Four Person	65,000	$1,625	$150	$318	$193,013	$1,475
Moderate						
One Person	$69,350	$1,734	$75	$356	$217,332	$1,659
Two Person	$79,300	$1,983	$100	$403	$246,797	$1,883
Three Person	$89,200	$2,230	$125	$450	$276,110	$2,105
Four Person	$99,100	$2,478	$150	$497	$305,366	$2,328

Notes:

1 Utility costs assumed at $75 per month for one person households and an additional $25 for each additional person.

2 Property taxes and insurance are based on averages for the region.

3 Total affordable mortgage based on an annual six percent interest rate, 30-year mortgage, and monthly payment equal to 30 percent of income (after utilities, taxes, and insurance). Even though interest rates are at historic lows (four to five percent) for a 30-year conventional mortgage, six percent was used as a more conservative estimate over time.

4 Monthly affordable rent based on 30 percent of income less estimated utilities costs.

Source: HCD Income Limits 2013, Lisa Wise Consulting, Inc., 2013

Appendix B
Special Housing Needs

This section provides an analysis of special needs groups, which is defined as persons with disabilities, elderly, large families, female head of households, farmworkers, and families or persons in need of emergency shelter. Individuals falling into these categories are often faced with a higher cost of living or have trouble accessing goods and services. By identifying individuals in these categories, appropriate programs can be developed to assist in providing adequate housing for this segment of Benicia's citizenry.

Persons with Disabilities

According to the U.S. Census, a disability is a long-lasting physical, mental, or emotional condition. This condition can make it difficult for a person to conduct activities such as walking, climbing stairs, dressing, bathing, learning, or remembering. This condition can also impede a person from being able to venture outside the home alone or to work at a job or business.

Housing needs for those with disabilities vary depending on the severity of the disability type. Many persons with disabilities live in their own home, in an independent situation, or with other family members. While figures provided by the Census provide useful information regarding the population of persons with disabilities, not all disabilities require the need for accessible (based on Americans with Disabilities Act (ADA) standards) or low-income housing. The U.S. Census collects data for several categories of disability. These categories are defined below:

General disabilities:

- Sensory disability: Blindness, deafness, or a severe vision or hearing impairment.
- Physical disability: A condition that substantially limits one or more basic physical activities such as walking, climbing stairs, reaching, lifting, or carrying.

Disabilities lasting six months or more:

- Mental disability: Difficulty learning, remembering, or concentrating.
- Self-care disability: Difficulty dressing, bathing, or getting around inside the home.
- Going outside of home disability: Difficulty going outside the home alone to shop or visit a doctors office.
- Employment disability: Difficulty working at a job or business.

As of 2010, there were 4,011 persons in the City with a disability (See Table B.1). This is about 9.3 percent of the total civilian non-institutionalized population (26,890). Of disabled residents, 27 percent have a sensory disability, 29 percent have a physical disability, 13 percent have a mental disability, 7 percent have a self-care disability, and 24 percent have a go-outside-home disability.

Table B.1 City of Benicia: Disability by Type, 2010

Age Group	Number	Percent
Total Disabilities for Ages 5-64	**1,933**	**48%**
Sensory (hearing, vision)	1,092	
Physical (ambulatory)	1,157	
Mental (cognitive)	502	
Self-Care difficulty	296	
Go-outside-home (independent living facility)	964	
Total Disabilities for Ages 65 and Over	**2,057**	**51%**
Sensory (hearing, vision)	511	
Physical (ambulatory)	523	
Mental (cognitive)	371	
Self-Care difficulty	102	
Go-outside-home (independent living facility)	426	
Total Persons Estimated with Disabilities	**4,011**	**100%**

Note: Persons may be counted for having more than one disability

Source: U.S. Census, 2010

Persons with physical disabilities generally require accessibility modifications to housing such as: wheelchair ramps, elevators or lifts, wide doorways, accessible cabinetry, modified fixtures and appliances, etc. If the disability prevents the person from operating a vehicle, then proximity to services and access to public transportation are also important. People with severe physical or mental disabilities may also require supportive housing, nursing facilities, or care facilities. If the physical disability prevents individuals from working or limits their income, then the ability to meet the cost of housing and the costs of modifications becomes more difficult. Many persons with disabilities rely solely on Social Security Income, which is insufficient for market rate housing.

The State requires that those with disabilities receive opportunities for reasonable accommodation for housing opportunities. An analysis of housing constraints for residents with disabilities is included under the constraints discussion in Appendix D.

A growing number of architects and developers are integrating Universal Design principles into their projects to increase the accessibility of the built environment. The intent of Universal Design is to simplify design and construction by making products, communications, and the built environment more usable by as many people as possible without the need for adaptation or specialized design. New construction could increase the opportunities in housing and employment for everyone by applying these principles, in addition to the regulations specified in the Americans with Disabilities Act (ADA). The following are the seven principles of universal design as outlined by the Center for Universal Design:

- Equitable Use: The design is useful and marketable to people with diverse abilities.
- Flexibility in Use: The design accommodates a wide range of individual preferences and abilities.
- Simple and Intuitive: Use of the design is easy to understand, regardless of the user's experience, knowledge, language skills, or current concentration level.
- Perceptible Information: The design communicates necessary information effectively to the user, regardless of ambient conditions or the user's sensory abilities.
- Tolerance for Error: The design minimizes hazards and the adverse consequences of accidental or unintended action.
- Low Physical Effort: The design can be used efficiently and comfortably with minimum fatigue.
- Size and Space for Approach and Use: Appropriate size and space is provided for approach, reach, manipulation, and use regardless of user's body size, posture, or mobility.

Persons with Developmental Disabilities

According to Section 4512 of the Welfare and Institutions Code a "Developmental disability" means a disability that originates before an individual attains age 18 years, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual which includes mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, but shall not include other handicapping conditions that are solely physical in nature.

Many persons with developmental disabilities can live and work independently within a conventional housing environment. Individuals with more severe developmental disabilities require a group living environment where supervision is provided. The most severely affected individuals may require an institutional environment where medical attention and physical therapy are provided. Because developmental disabilities exist before adulthood, the first issue in supportive housing for the persons with developmental disabilities is transition from the person's living situation as a child to an appropriate level of independence as an adult.

The State Department of Developmental Services (DDS) currently provides community-based services to approximately 243,000 persons with developmental disabilities and their families through a statewide system of 21 regional centers, four developmental centers, and two community-based facilities. North Bay Regional Center (NBRC) is one of 21 regional centers in the State of California that provides point of entry to services for people with developmental disabilities who reside in Napa, Solano, and Sonoma Counties. NBRC is a private, non-profit community agency that contracts with local businesses to offer a wide range of services to individuals with developmental disabilities and their families. As of 2013, NBRC served approximately 7,700 people in their three-county area. Table B.2 shows the number of individuals served by NBRC in the 94510 zip code, the City of Benicia.

There are a number of housing types appropriate for people living with a development disability: rent subsidized homes, licensed and unlicensed single-family homes, inclusionary housing, Section 8 vouchers, special programs for home purchase, HUD housing, and SB 962 homes. The design of housing-accessibility modifications, proximity to services and transit, and availability of group living opportunities represent the types of considerations important in serving this need group. Incorporating 'barrier-free' design in all, new multifamily housing (as required by California and Federal Fair Housing laws) is especially important to provide the widest range of choices for disabled residents. Special consideration should also be given to affordability of housing, as people with disabilities may be living on a fixed income.

Table B.2 Number of Persons with Developmental Disability by Age, 2013

Zip Code	0-14 Years	15-22 Years	23-54 Years	55-65 Years	65+ Years	Total
94510	58	28	40	9	0	135

Note: The zip code 94510 exceedes the boundaries of the city limits.
Source: North Bay Regional Center, 2013

Elderly

Senior households are included in those with special housing needs due to the likelihood of limited income, physical disabilities, or higher health care costs.

The special needs of seniors can by met through congregate care, rent subsidies, shared housing, and housing rehabilitation assistance. For the frail or disabled elderly, housing with architectural design features that accommodate disabilities can help extend the ability to live independently. In addition, seniors with mobility/ self-care limitations benefit from transportation options.

As of the 2010 Census, there were 2,199 senior households in the City comprised of 1,825 (83 percent) owners and 375 (17 percent) renters. (See Table B.3). According to the 2007-2011 American Community Survey (ACS), 756 (37 percent) of senior 65 years and over live alone. The ACS also estimates there were 200 elderly living below the poverty level, defined as 50 percent and below of area median income. This figure represents 6 percent of the total senior population.

Table B.3 City of Benicia: Tenure by Age of Householder, 2010

Householder Age	Owners		Renters		Total	
	Number	Percent	Number	Percent	Number	Percent
65-74 years	1,100	60.0%	188	50.3%	1,288	58.6%
75 plus years	725	40.0%	186	49.7%	911	41.4%
Total	1,825	100%	374	100%	2,199	100%

Source: U.S. Census, 2010

Table B.4 City of Benicia: Elderly Households by Income Level, 2007-2011

Income Level	Elderly Householders	Percent
Under $30,000	426	21%
$30,000 to $49,999	514	25%
$50,000 to $49,999	374	18%
$75,000 to $99,999	294	14%
More than $100,000	457	22%
Total	2,065	100%

Source:2007-2011 ACS (5 year estimates)

Table B.5 City of Benicia: Elderly Population Below Poverty, 2007-2011

	Number	Percent
Total 65 years and over	3,262	100%
Below poverty	200	6.13%

Source: 2007-2011 ACS (5 year estimates)

The following services and programs are available to seniors residing in Benicia:

Benicia Senior Center- 187 East L Street Benicia

- Meals on Wheels – Free Lunch
- Tele-care- calls seniors who live alone to check on them
- Health Insurance Counseling and Advocacy Program
- Sol Trans – free shuttle to/from Senior Center

Benicia Community Action Council

- Senior Meal Program- meal delivery
- Senior Meal Site – 600 + meals supplied per month
- Emergency transportation to medical appointments legal referrals, income tax preparation assistance, board and care referrals, home visits, and Senior Santa at Christmas

Existing residential care facilities and licensed assisted living facilities:

- Benicia Angel's Home 1 Inc - 458 Mills Dr. – Capacity 6
- Benicia Angel's Home 2 Inc- 116 Carlisle Way - Capacity 6
- JenSteph Home Care - 736 Anita Circle – Capacity 6
- Benicia Loving Care Home - 948 Rose Drive – Capacity 6
- Benicia Loving Care Home 2 - 234 Military East - Capacity 3
- Golden Age Care Home - 539 Hastings Drive – Capacity 5

Large Households

California Department of Housing and Community Development (HCD) identifies large households as those having five or more persons. The 2010 Census illustrates that there are 933 large households in Benicia (approximately nine percent of 10,916 occupied housing units) (See Table B.6). Within this category, 68 households earn less than 50 percent of the area median income and are under the poverty level (See Table B.7)

Of the 10,916 occupied units within the City, 3,512 (32 percent) have four or more bedrooms (See Table B.8). While units with four or more bedrooms are available within the City, less than 10 percent (261 units) are rental units compared to 50 percent for all two-bedroom units. With limited rental options and nearly 30 percent of large households renting, affordability and overcrowding are still issues for many families.

Table B.6 City of Benicia: Tenure by Household Size, 2010

	1-4 Persons		5+ Persons		Total	Percent Large Households
	Number	Percent	Number	Percent		
Owner	6,874	70%	662	71%	7,536	8.8%
Renter	2,879	30%	271	29%	3,150	8.6%
Total	9,753	100%	933	100%	10,686	8.7%

Source: U.S. Census 2010

Table B.7 City of Benicia: Median Household Income by Household Size, 2007 - 2011

	1 person household	2 person household	3 person household	4 person household	5 person household	6 person household	7+ person households
Median Household Income	$48,929	$91,216	$113,689	$111,630	$128,237	$124,750	$157,250

Source: 2007-2011 ACS (5 year estimates)

Table B.8 City of Benicia: Exiting Household Stock Number by Bedrooms and Tenure 2010

Bedroom Type	Owner Households		Renter Households	
	Number	Percent	Number	Percent
0 Br	0	0%	158	5%
1 Br	140	2%	729	23%
2 Br	1,340	17%	1,297	41%
3 Br	3,015	39%	725	23%
4 Br	2,687	35%	261	8%
5+ Br	564	7%	0	0%
Total	7,746	100%	3,170	100%

Source: U.S. Census, 2010

Female-Headed Households

Table B.9 identifies total households, family households, and female-headed households with no husband present. In 2010, 69.4 percent (7,419) of households were family households, with and 1,271 (11.9 percent) female headed households with no husband present. Approximately 59 percent (755) of female headed households had children under the age of 18 living in the household.

Female-headed households have unique housing needs due to a single source of income and greater cost burden. More female-headed households live below the poverty line than other family type which emphasizes their need for affordable housing. The U.S. Census estimates 13.2 percent of single parent female headed households in Benicia are living below the poverty line, 10 percent higher than family households.

Table B.9 City of Benicia: Female-Headed Households, 2010

Household Type	Number	Percent of Households
Total Households	**10,686**	**100%**
Non-Family Households	3,267	30.5%
Family Households	7,419	69.4%
Female Headed Households- no husband present	1,271	11.9%
With Children Under 18	755	7.1%
Percent Family Households Below Poverty Level	n/a	3.8%
Percent Female Householder Family Below Poverty Level	n/a	13.2%
Source: US Census, 2010 and ACS 2006-2010 5-Year Estimates		

Homeless/Emergency Shelters, and Transitional, and Supportive Housing

According to Benicia Community Action Council (CAC), there are at least 43 homeless in the City as of April 2014, including 7 individuals and 21 families. The closest CAC operated transitional facility is located in Vallejo, 13 miles away. The Community Action Partnership of Solano (CAP Solano) conducted a "point-in-time" survey in January 2014, and found there were approximately 1,227 homeless people in Solano County in 2013 with 11 in the City of Benicia (see Table B.10).

Senate Bill 2, Local Planning and Approval for Emergency Shelters and Transitional and Supportive Housing, became effective January 1, 2008. This bill sets requirements in place to encourage and facilitate emergency shelters and transitional and supportive housing to address the critical needs of homeless populations and persons with special needs. To be consistent with the requirements of this bill, Benicia will:

- Identify at least one zoning district where emergency shelters will be permitted by right and not need approval of a Use Permit or other discretionary action.
- Treat transitional and supportive housing as residential uses and make them subject to the same standards that apply to other residential uses of the same type in the same zone.

Table B.10 Homelessness in Solano County, 2013

	Survey	Observed	Total	Percentage
Benicia	5	6	11	0.90%
Dixon	24	7	31	2.53%
Fairfield	244	56	300	24.45%
Vallejo	222	420	642	52.32%
Vacaville	121	109	230	18.74%
Rio Vista	-	13	13	1.06%
Total	**616**	**611**	**1227**	**100%**
Source: CAP Solano, 2013				

Program 3.01 (Chapter 4) fulfills this requirement by directing the City, at the time of adopting this Housing Element, to amend the Zoning Ordinance by allowing emergency shelters by right in at least one zoning district focusing on the RS, RM, RH, CO, and CG zoning districts or by the creation of a new overlay district. Transitional Housing and Supportive Housing will also be allowed as part of the amendment (See Program 3.02).

At present, the RS and RH zoning districts contain almost 18 acres of vacant land on 76 sites ranging from 4,356 to 37,500 square feet that is physically suitable for development, with the higher density sites located closest to bus routes and services for everyday needs. The CO and CG zoning districts contain over 50 acres of vacant land. The RS, RM, and RH zones are primarily residential, but do allow other uses by right such as small family day care and residential care, while convalescent homes, religious facilities, schools, and adult and child day care centers are allowed with a Use Permit. Residential use types in the RS zone consist of single-family detached structures and second dwelling units; the RM zone generally consists of duplexes, townhomes, condominiums, clustered housing, apartments, and mobile home parks; and, the RH zone allows a greater density of 15 to 21 units per acre to increase housing opportunities by permitting more housing to be built on single parcel, such as the existing apartments at Burgess Point and senior housing at Casa De Vilarrasa. The CG primarily focuses on commercial, but allows work/live units by right. Other residential use types such as Group Residential is allowed with a Use Permit. The CO zoning district allowed single-family residential and multi-family residential use types by right above the ground floor.

As discussed in Appendix D, Constraints, the vacant land in the RS, RM, RH, CO and CG zoning districts is located in urbanized areas where the natural environment has already been altered. Development of these parcels would be considered infill and not likely to impact the sensitive plant and animal species identified primarily in areas north of Lake Herman Road. However, should any sites contain sensitive plant and animal species, compliance with all environmental regulations consistent with the California Environmental Quality Act (CEQA) for habitat protection shall be required.

Farmworkers

According to the Solano County Department of Agriculture, the County ranked 27th in the State for agricultural production in 2009. Total agricultural production totaled over $251 million in 2009, and over $259 million in 2010.

Although the majority of the County is located within the State's primary agriculture region, Benicia is located within the urbanized bay area and does not possess large areas of agricultural land. The closest agricultural region, Western Hills, is located two miles north of the City. As of the 2010 Census, only 404 out of 14,279 (2.8%) residents in the City were working within the agricultural sector. Accordingly, farmworker housing needs are not a significant issue for Benicia.

VIII.A.78

Appendix C
Housing Resources

C.1 Housing Assistance

The City of Benicia offers a housing rehabilitation loan program funded by Community Development Block Grants (CDBG). The City of Benicia does not have a Redevelopment Agency, and therefore, did not have a housing set-aside balance to fund housing related programs and activities. A proposal was put forward by the City Manager's Office in the mid-1980s, which was initially supported by the City Council, to form such an agency in Benicia. The motivation behind the formation of the agency had been to create a financing mechanism to purchase and fund properties within the downtown and industrial park improvement project areas. Initially it appeared there was adequate community interest to support such a measure; however, as time went on a citizen's group against the creation of a redevelopment agency initiated a ballot measure (1988) to prohibit the formation of the agency. The City Council at the time concluded that it was not judicious to proceed with formation of the agency in light of such strong public opposition. Since then, the idea was dropped. In December, 2011 the California Supreme Court upheld the State's decision to abolish more than 400 redevelopment agencies across the state to help close a budget gap. Redevelopment agencies had been authorized by law since 1945.

The Benicia Housing Authority administers housing choice vouchers and public housing including senior housing.

Funding for these programs is provided through: CDBG revolving loan fund monies, Section 8 vouchers, and U.S. Department of Housing and Urban Development (HUD) subsidies. The Benicia Housing Authority also has a Security Deposit Loan Program where persons moving into a housing unit can obtain a loan for up to $1,000, with no interest, to be paid back within 18 months, that covers a portion of the initial cost of the security deposit.

Housing Rehabilitation Loan Program

The City of Benicia's Housing Rehabilitation Program was, until recently, administered by Vallejo Neighborhood Housing Services (VNHS). This program is funded through a revolving loan fund that receives monies from CDBG grants. Eligible applicants include:

- Low-and very low-income homeowners (income eligibility is based on the annual Solano County median income for a family of four), and
- Landlords who will rent to low- and very low-income tenants for a period of not less than five years.

Loans are given for a period of 20 years. The amount of the loan is based on the value of the house. Interest payments are deferred for lower income or disabled homeowners, while landlords pay four percent interest.

Housing Choice Voucher Program

The Housing Authority operates the Housing Choice Voucher Program in Benicia with financial assistance from HUD. The program provides subsidies to low-, very low-, and extremely low-income tenants renting privately-owned dwellings. Currently, this program has authorized funding to assist 348 households, of which 57 percent are extremely low income households, 27 percent very-low income households, and 14 percent are low-income households. Assisted tenants generally pay 30 percent of their income towards the total cost of rent and utilities and the voucher covers the difference between the tenant contribution and the total cost of rent and utilities. The Housing Authority inspects the units annually to ensure that the assisted tenants are living in decent, safe, and sanitary dwellings.

The market rent plus average utility costs for the dwelling must be less than the Voucher Payment Standard Schedule (VPS) for the number of bedrooms in the dwelling (see below for a discussion of Voucher Payment Standards). In some cases the tenant family may rent a dwelling unit that costs more than the VPS schedule, but in that case they must pay the overage which cannot increase their contribution above 40 percent of their income. Participation in the program is voluntary on the part of tenants and landlords. The Housing Authority provides preference in admission to the program to veterans, persons with disabilities, families with a head of household or spouse who works or attends school or a training program, victims of federally declared disasters, and persons who already live or work in Benicia. There are approximately 500 families signed up on a four-year waitlist to receive vouchers in Benicia.

Section 8 Home Ownership Program

The Benicia Housing Authority utilizes some of its HUD funding for the Housing Choice Voucher Program to also assist low-income first-time home buyers in Benicia. The Authority subsidizes the costs of home ownership expenses in the same fashion that it subsidizes rental costs. The purchasing family must work or be disabled, meet income standards, and complete a home buyer training course before purchasing a home. They are expected to contribute at least 30 percent of their adjusted income towards home ownership expenses. The Housing Authority then pays the difference between those expenses, up to the applicable Voucher Payment Standard amount and the home buyer's contribution. Buyers find their own homes and their own financing, but the Authority must approve both for the family to qualify for Section 8 assistance. Home buyer expenses that are eligible for assistance include mortgage principle and interest, property taxes, insurance, utilities, maintenance and replacement reserve allowances, and condominium home owner association dues, if applicable. According to the Housing Authority, this program has helped at least 12 low-income families purchase a home in the City thus far. Due to the cost of housing in Benicia, the purchase of a single-family home is difficult with the help of Section 8 homeownership vouchers, unless it is tied to a specific affordable project.

Public Housing Program

The Benicia Housing Authority owns or manages the following affordable housing developments:

Capitol Heights Public Housing
Location: Riverhill Drive and Bayview Circle
Units: 75
Constructed: 1954
Current deed restriction expires: N/A (this development is a federal project owned by the Benicia Housing Authority)

Casa de Vilarrasa I Senior Housing
Location: 383 East I Street
Units: 40
Constructed: 1984
Current deed restriction expires: 2045

Casa de Vilarrasa II Senior Housing
Location: 921 East 4th Street
Units: 40
Constructed: 1986
Current deed restriction expires: 2045

Bay Ridge Apartments
Location: Rose Drive at Cambridge Drive
Units: 50

Constructed: 2003
Current deed restriction expires: 2034

Burgess Point Apartments
Location: 91 Riverview Terrace
Units: 56
Constructed: 2003
Current deed restriction expires: 2034

The 75-unit Capitol Heights development consists of one-, two-, three-, and four-bedroom units built in 1953 and completely remodeled in the 1990s. Six of the units were remodeled with accessibility features. Admission is limited to families with gross family incomes of 80 percent or less of Solano County's median income. Rent is limited to 30 percent of family income, and the Authority receives federal subsidies to make up the difference between its rent roll and the total costs of operating and maintaining the project. The same preferences listed above for admission to the Housing Voucher program also extend to the public housing program. The Capitol Heights units are very popular and vacancies are limited.

The Housing Authority manages the 50-unit Bay Ridge Apartments and the 56-units at Burgess Point Apartments both built in 2003. The Bay Ridge development was not funded by the Inclusionary Housing Ordinance; however, four of the units were mitigation for the Harbor Walk project, which was subject to the Inclusionary Housing Ordinance. Fifty of the Bay Ridge units were mitigation for the Tourtelot development. The Tourtelot project pre-dated the inclusionary ordinance, but the developer agreed to construct affordable units as part of their agreement with the City.

Senior Housing

The Benicia Housing Authority manages under a master lease 80 units of senior housing in the Casa de Vilarrasa development. All the Casa de Vilarrasa units have one-bedroom apartments and tenants have access to spacious lobby areas and a community room. The State of California subsidizes 52 of the 80 units through the Rental Housing Construction Program. Casa de Vilarrasa was built in two phases in 1984 and 1986. The project was refinanced in 2005 when the City authorized a loan of approximately $1.4 million to fund rehabilitation, with additional loan funds received in 2010, for a total loan amount of over $1.7 million. The project will remain affordable until 2045. Tenants in the State subsidized units typically pay 25 percent of their income towards the total cost of rent and utilities.

C.2 Voucher Payment Standards

In order to control the costs of the Housing Choice Voucher program, the federal government sets limits on the amount of subsidy that may be provided to any participating family. The chief mechanism for controlling costs is the rule regarding establishment of Voucher Payment Standards. Each year, on or about October 1, HUD publishes Fair Market Rents (FMRs) for every Metropolitan Statistical Area (MSA) and Non-metropolitan county in the United States. The FMRs for any housing market area are HUD's determination of the 40th percentile rent (or 50th percentile rent in certain high-cost areas) for standard quality rental units occupied by recent movers in that market area by bedroom size. The purpose of HUD publishing FMRs is to ensure that a reasonable number of rental units are available for rent to tenants participating in the Housing Choice Voucher program while limiting program costs to the cost of renting modestly priced housing units.

C.3 Financial Resources

Many State of California programs exist to provide cities, communities, and counties financial assistance in the development, preservation, and rehabilitation of units for workforce housing. The Department of Housing and Community Development identifies and provides detailed information on the grants and loans available for affordable and workforce housing, which include:

Affordable Housing Innovation Program:

This program provides grants or loans to fund the development or preservation of workforce housing.

Building Equity and Growth in Neighborhoods Program:

Provides grants and loans to first-time low and moderate-income buyers.

www.hcd.ca.gov/fa/begin

CalHome Program:

Provides grants and loans to very-low income homeowners.

www.hcd.ca.gov/fa/calhome

Emergency Housing and Assistance Program Capital Development:

Provides deferred payment loans for capital development activities for: emergency shelters, transitional housing, and safe havens.

www.hcd.ca.gov/fa/ehap/ehapcd.html

Emergency Housing and Assistance Program Operating Facility Grants:

Provides grants for: emergency shelters, transitional housing, and supportive services for homeless individuals and families.

www.hcd.ca.gov/fa/ehap/

Enterprise Zone Program:

Provides incentives such as sales tax credits and operation deductions for business investment.

www.hcd.ca.gov/fa/cdbg/ez/#EZ

Federal Emergency Shelter Grant Program:

Provides grants to fund emergency shelters and transitional housing for the homeless.

www.hud.gov/offices/cpd/homeless/programs/esg/

Governor's Homeless Initiative:

Provides loans for the development of supportive housing for homeless residents who suffer from severe mental illness.

www.hcd.ca.gov/fa/ghi

HOME Investment Partnerships Program:

Provides cities, counties, and nonprofit organizations with grants and low-interest loans to develop and preserve workforce housing.

www.hud.gov/offices/cpd/affordablehousing/programs/home/

Housing Assistance Program:

Provides grants to assist housing payments for extremely-low to very-low-income housing.

www.hcd.ca.gov/fa/hap

Joe Serna, Jr. Farmworker Housing Grant Program:

Provides grants and loans to finance the construction, repair, and purchase of rental units for farmworker housing.

www.hcd.ca.gov/fa/fwhg

Multifamily Housing Program:

Provides deferred payment loans to fund the construction, repair, and purchase of permanent and rental units for supportive housing. This includes housing for low-income residents with disabilities, or those who are at risk of homelessness.

www.hcd.ca.gov/fa/mhp

Office of Migrant Services:

Provides grants to assist in seasonal rental housing and support for migrant farmworker families.

www.hcd.ca.gov/fa/oms

Predevelopment Loan Program:

Provides short-term loans for financing low-income housing projects.

www.hcd.ca.gov/fa/pdlp

State CDBG Program Economic Development Allocation, Over the Counter Component:

Provides grants to create or sustain jobs for rural low-income workers.

www.hcd.ca.gov/fa/cdbg/econdev.html

State CDBG Program General, Native American, and Colonias Allocations:

Provides grants to fund housing, capital improvement, and community projects that benefit lower-income residents in rural communities.

www.hcd.ca.gov/fa/cdbg/gennatamcol.html

Appendix D
Constraints

State housing law requires the City to review both governmental and non-governmental constraints to the construction of affordable housing in order to remove and/or mitigate potentially negative effects. This Section analyzes constraints to housing production and, where necessary, provides recommendations to remove or minimize their impacts.

D.1 Local Government Constraints

Local policies and regulations can affect the quantity and type of residential development. Since governmental actions can constrain the development and the affordability of housing, State law requires the housing element to "address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing" (Government Code Section 65583(c)(3)).

The City's primary policies and regulations that affect residential development and housing affordability include: the Zoning Ordinance, the General Plan, the Arsenal Historic Conservation Plan, the Downtown Historic Conservation Plan, the Downtown Mixed Use Master Plan, development processing procedures and fees, on and off-site improvement requirements, and building codes. In addition to a review of these policies and regulations, an analysis of governmental constraints on housing production for persons with disabilities is included in this section.

D.1.1. Zoning Ordinance

The Zoning Ordinance includes three residential zoning districts, four commercial districts, one industrial district, one open space district, and four form-based districts that allow residential development. The maximum residential density allowed is 21 units per acre.

These districts are addressed below, followed by specific development regulations for accessory dwelling units and emergency shelter. Tables D.1 and D.2 show the types of permits necessary for residential uses in the City.

a) Single-Family Residential (RS) District

The RS district makes up 75 percent of all residential zone districts. Duplexes, triplexes and fourplexes existing as of July 1, 1977, are allowed to remain, but all new residential development must be single-family dwellings or approved accessory structures. Second units, referred to as accessory dwelling units, are permitted by right in the RS district, subject to specific development standards identified in Section 17.70.060.D (see Table D.5). The maximum allowable density is 7 units per acre. The RS district is consistent with and implements the Residential, Low Density land use designation of the General Plan.

b) Medium-Density Residential (RM) District

The RM district makes up 16 percent of all residential zoning districts. Housing types include duplexes, new townhouses, and clustered housing. Second units (accessory dwelling units) are permitted by right in the RM district, subject to specific development standards identified in Section 17.70.060.D (see Table D.5). The

maximum allowable density is 14 units per acre. The RM zoning district is consistent with and implements the Residential, Medium Density land use designation of the General Plan.

c) High-Density Residential (RH) District

The RH district makes up just 9 percent of all residential zoning districts. Housing types include apartments and townhouses. Second units (accessory dwelling units) are permitted by right in the RH district, subject to specific development standards identified in Section 17.70.060.D (see Table D.5). The maximum allowable density is 21 units per acre. The RH zoning district is consistent with and implements the High Density Residential land use designation of the General Plan.

d) Community Commercial (CC) District

The CC district is applied to areas appropriate for businesses serving the daily needs of nearby residential areas. The zone establishes development standards that prevent adverse effects on residential uses adjoining the CC district. In addition to commercial uses, live/work quarters and second story single- and multi-family residential are permitted in the CC district. General day care and residential care are allowed with a use permit. The CC district implements the Community Commercial land use designation of the General Plan.

e) Commercial Office (CO) District

The CO district allows/includes offices of residential scale and residential development that is protected from the more intense levels of activity associated with retail commercial development. Second story single- and multi-family residential are permitted in the CO district. General day care and residential care are allowed with a use permit. The CO district implements the Business and Professional Office land use designation of the General Plan.

f) General Commercial (CG) District

The CG district is applied to areas appropriate for the full range of retail and service businesses, including businesses not permitted in other commercial districts because they attract heavy vehicular traffic or have certain adverse impacts. In addition to commercial uses, live/work quarters are permitted in the CG district. Group residential is allowed with a use permit. The CG district is consistent with and implements the General Commercial land use designation of the General Plan.

g) Waterfront Commercial (CW) District

The CW district is applied to areas appropriate for waterfront-related development around the Benicia marina and along the shoreline. In addition to commercial uses, live/work quarters and multi-family residential are permitted in the CW district. Residential care, limited is also permitted by right in this district. The CW district is consistent with and implements the Waterfront Commercial land use designation of the General Plan.

h) Limited Industrial (IL) District

The IL district is applied to areas appropriate for business and commercial services and light manufacturing. In addition live/work quarters are allowed with a use permit in the IL district. General day care is allowed with a use permit. The IL district implements the limited industrial land use designation of the General Plan.

i) Open Space (OS) District

The OS district is applied to areas appropriate for large public or private sites. In addition to open space uses, single-family residential is permitted in the OS district inside the urban growth boundary. Residential is limited to one dwelling unit and one accessory dwelling unit per parcel. The OS district implements the Open Space land use designation of the General Plan.

j) Form-Based Zones/Downtown

Land use regulations and development standards for the downtown are regulated by the Downtown Mixed-Use Master Plan. The Downtown Mixed Use Master Plan sets forth five form-based zoning districts that are designed to ensure that mixed-use development is compatible with and contributes to the character of the street, the downtown, and adjoining neighborhoods (see Table D.2). These zones implement the Mixed Use Downtown land use designation of the General Plan.

Residential development is allowed in four zoning districts in the Downtown. In the Town Core (TC) and the Town Core Open (TC-O) residential is allowed on the upper floors, and on the ground floor behind a street fronting

commercial use. In the Neighborhood General (NG) and Neighborhood General Open (NG-O) residential is allowed on both the ground and upper floors. Additionally, second units (e.g. accessory dwelling units) are allowed in these four zone districts.

Table D.1 Zoning Districts Permitting Residential Uses

Residential Uses	Zoning District								
	RS	RM	RH	CC	CO	CG	CW	IL	OS
Single-Family	P	P	P	P[1]	P[1]	—	P[1]	—	P
Multifamily	—	P	P	P[1]	P[1]	—	P	—	—
Group Residential	—	UP	UP	—	—	UP	—	—	—
Live/Work Unit	—	—	—	P	—	P	P	UP	—
Day Care, General (9 or more children)	UP	UP	UP	UP[2]	UP[2]	—	UP[2]	UP	—
Day Care, Limited (8 or fewer children)	P	P	P	—	—	—	P	—	—
Residential Care, General, 7 or more clients	—	UP	UP	UP	UP	—	—	—	—
Residential Care, Limited, 6 or fewer clients	P	P	P	—	—	—	P	—	—
Accessory Dwelling Unit	P	P	P	—	—	—	—	—	P
Mobile Homes and Manufactured Housing	P	P	P	—	—	—	—	—	—
Emergency Shelter[5]	—	—	—	—	—	—	—	—	—
Transitional Housing[5]	—	—	—	—	—	—	—	—	—

Notes:

P: Permitted

UP: Use Permit Required

—: Not allowed

1. Not permitted on ground level.

2. Planning Commission use permit required, except that the community development director may approve use permits for large family day care homes caring for 7 to 12 children, as defined in Chapter 3.4 of the California Health and Safety Code.

3. Permitted only if there is a single-family dwelling on the lot and site meets standards from Section 17.70.060.D

4. Not permitted on lands outside urban growth boundary. On lands inside the urban growth boundary, limited to one primary dwelling unit and one accessory dwelling unit per site.

5. Emergency shelters and transitional housing are not specifically identified as permitted in any particular zone, however Subsection 17.08.020.M of Zoning Ordinance states: In the administration of its zoning and land use policies regarding homeless shelters, transitional housing, supportive housing or other housing designed to assist homeless persons or persons with special needs, the City shall comply with all applicable state and federal fair housing laws. Program 3.01 has been developed to address State law and allow emergency shelters in at least one zoning district by right or with the development or an overlay district, and transitional/supportive housing as residential uses subject to the same.

Source: City of Benicia Zoning Ordinance (last updated 2013)

Table D.2 Downtown Mixed Use Master Plan Zoning Districts Permitting Residential Uses

Residential Uses	Formed-Based Code Zoning District			
	TC	TC-O	NG	NG-O
Live/Work Unit	—	P	P	P
Mixed-use project residential component	P[1]	P[1]	P	P
Dwelling: Single family	—	—	P	P
Dwelling: Multi-family-Rowhouse	P[1]	P[1]	—	—
Dwelling: Multi-family-Duplex	P[1]	P[1]	P	P
Dwelling: Multi-family-Triplex	P[1]	P[1]	—	—
Dwelling: Multi-family Fourplex	P[1]	P	—	—
Ancillary Building	P	P	P	P
Residential Care, 7 or more clients	P[1]	UP	—	UP
Residential Care, 6 or fewer clients	P[1]	MUP	—	MUP
Day care center: Child or Adult	P[1]	MUP	MUP	MUP
Day care center: Large Family (7 to 14 children)	P[1]	UP	UP	UP
Day care center: Small Family (8 or fewer children)	P[1]	P	P	P
Mobile Homes and Manufactured Housing	—	—	—	—
Emergency Shelter[2]	—	—	—	—
Transitional Housing[3]	—	—	—	—

Notes:

P: Permitted

MUP: Minor Use Permit Required - staff review only

UP: Use Permit Required

—: Use not allowed

1. Allowed only on upper floors or behind ground floor use (except along the waterfront).

2. Not specifically identified as permitted in any particular zone, however Subsection 17.08.020.M of Zoning Ordinance states: In the administration of its zoning and land use policies regarding homeless shelters, transitional housing, supportive housing or other housing designed to assist homeless persons or persons with special needs, the City shall comply with all applicable state and federal fair housing laws. (see Programs 3.01 and 3.02).

Source: City of Benicia Downtown Mixed Use Master Plan, 2007

Development Standards

Table D.3 provides development standards for the residential districts. Table D.4 provides development standards for the Downtown Mixed Use Master Plan Zoning Districts. As discussed in Appendix E, the yield analysis shows that Benicia's current zoning development standards and General Plan requirements allow for development of residential densities reflected in the General Plan and Zoning Ordinance. The combination of height limits, lot coverage, setbacks, parking, landscaping and other standards provide no impediment to development. However, to encourage the development of second units, the City has proposed Program 1.10 to reduce the minimum lot size requirement for residential accessory dwelling units in the RS Zoning district.

Table D.3 Residential Zoning District Development Standards

	Zoning District		
	RS	RM	RH
Site Area per Unit	6,000 sf	3,000 sf	2,000 sf
With density bonus for:			
Low- or Moderate-Income Housing	4,800 sf	2,400 sf	1,600 sf
Elderly Housing	—	2,000 sf	1,300 sf
Low-Income Elderly Housing	—	1,500 sf	1,000 sf
Minimum Site Area	6,000 sf[1]	6,000 sf[1]	7,500 sf[1]
Minimum Site Width	60 ft.	60 ft.	60 ft.
Setbacks			
Front	20 ft.	20 ft.	20 ft.
Side	5 ft.	6 ft.; 10 ft. (avg.)	6 ft.; 10 ft. (avg.)
Corner Side	10 ft.	15 ft.	15 ft.
Rear	15 ft.	15 ft.	15 ft.
Maximum Height	30 ft.	35 ft.	35 ft.
Maximum Coverage	40%	45%	50%
Parking Required	SF - 2 spaces including 1 covered/unit MF Studios - 1.2 spaces/unit MF 1-2 bedroom - 1.5 spaces/unit MF 3 or more bedrooms - 2.0 spaces/unit		
Permitted Uses	SF	SF/MF	SF/MF

Notes:

SF = Single-family dwelling

MF = Multifamily dwelling

1. Uses requiring a use permit have a minimum of 12,000 sf

Notes from Zoning Ordinance:

(H) In the RM and RH districts, the average yard width shall be 10 feet, and the minimum width six feet.

(R) Reduction of Lot Width. In an RS district, the community development director may approve a tentative parcel map containing up to four lots, and the planning commission may approve a tentative subdivision with five or more lots, with lot widths of less than 60 feet, but not less than 50 feet, if the following criteria are met:

(1) The applicant shall provide documented evidence to the planning commission or community development director that property within 300 feet of the original parcel is developed or subdivided; and

(2) The applicant shall provide documented evidence of the existing lot width of properties within 300 feet of the original parcel. Minimum lot width of new parcels shall be the average of all lot widths within the 300 feet comparison area, or at least 50 feet wide, whichever is greater; and

(3) The applicant must show that the land falls naturally into a pattern of lots containing less than 60-foot lot widths; and

(4) Flag lots shall comply with subsection (S) of this section, Flag Lots; and

(5) The reduction of lot width will not be detrimental to the public welfare nor injurious to other property in the vicinity; and

(6) The planning commission or community development director must be satisfied that the applicant has not sold or transferred land, or taken any other steps to create the artificial result that the lot or lots will not meet the 60-foot lot width requirement.

The planning commission or community development director may attach additional requirements to the subdivision to ensure that the reduction in lot width is not injurious to property or detrimental to the public welfare, such as by providing for adequate distance between buildings and between driveways. The criteria above shall be incorporated into the findings of approval for any such subdivision.

(S) Flag Logs. A tentative parcel map with four or fewer lots that contains up to two flag lots in the RS district may be approved, if the following criteria are met:

(1) Parcel map and flag lot configuration shall require planning commission review and approval;

(2) The original parcel's shape, location or topography creates areas that could be developed with a residence that would not front on public streets;

(3) The portion of the lot providing the access corridor shall not be counted towards meeting minimum lot size requirements for the flag lot:

(4) Flag lot shall have a minimum street frontage of 25 feet;

(5) Driveway accessing flag lot shall be paved with a minimum 16-foot width to access one lot;

(6) Up to two lots may be accessed via one access driveway, provided the street frontage is increased to 30 feet and the paved driveway is increased to 19 feet;

(7) Width of lot shall measure at least 60 feet where the access corridor ends;

(8) Side and rear yard setbacks for flag lot and adjoining lots shall be measured from the access corridor;

(9) Front yard setback for flag lots shall be measured from where the access corridor ends;

(10) The community development director shall be satisfied the applicant has not sold or transferred land, or taken any other steps to create the artificial result that the original parcel is shaped irregularly; and

(11) Further subdivision of flag lots shall not be allowed.

The planning commission may attach additional requirements to the parcel map to ensure that the creation of a flag lot is not injurious to property or detrimental to the public welfare. The criteria above shall be incorporated into the findings of approval for any such subdivision.

Source: City of Benicia Zoning Ordinance (last updated 2013)

Table D.4 Downtown Mixed Use Master Plan Area Development Standards

	Zoning District			
	TC	TC-O	NG	NG-O
Build To Line (BTL) (Distance from Property Line)				
Front	0 ft.	0 ft.	20 ft.[1]	
Side Street	0 ft.	–	10 ft.	
Rear, Accessory Building	–	–	5 ft.	
Setbacks				
Side	0 ft.	3 ft.	4 ft. one side & 8 ft. other	
Rear	8 ft. Adjacent to NG Zone 5 ft. Adjacent to any other Zone		40 ft. Main Building[2]	35 ft. Main Building[2]
Building Form				
Primary Street Facade to BTL	80% min	80% min	50% min	
Side Street Facade to BTL	30% min	N/A	30% min	
Maximum Lot Width	125 ft.	75 ft.	50 ft.	
Maximum Lot Depth	100 ft.	150 ft.	150 ft.	
Height				
Maximum Height[3]	40 ft. (2.5 stories)	25 ft. (2.5 stories)	30 ft. (2.5 stories)	
Minimum Height	22 ft.	16 ft.	–	
Parking Required (residential uses)	1 space/unit .5 space/studio unit		.5 space/studio unit 1-2 bedroom unit 1 space/unit 3+ bedroom unit 1 space plus .5 space/ bedroom over 2	

1. May be reduced to meet furthest back adjacent Build to Line if adjacent Build to Line if adjacent Build Line is less than 20 feet from property line.

2. Setback shall be measured from 120 feet from front property line if no alley adjoins the property.

3. Half story is calculated as 50% of the floor area of the floor below.

Source: City of Benicia Downtown Mixed Use Master Plan, 2007

Accessory Dwelling Units/Second Units

To encourage establishment of second units on existing developed lots, State law requires cities and counties to either adopt an ordinance based on standards set out in the law authorizing creation of second units in residentially-zoned areas, or where no ordinance has been adopted, to allow second units if they meet standards set out in the State law. The State requires ministerial consideration of second-unit applications. Local governments are precluded from prohibiting second units in residentially zoned areas unless they make specific findings.

Second units can be an important source of affordable housing since they are typically smaller in scale than primary units and they do not have direct land costs. Second units can also provide supplemental income to the homeowner, thus allowing the elderly to remain in their homes or moderate-income families to afford houses.

The City adopted Section 17.70.060 (Accessory dwelling units) which permits accessory dwellings through an administrative process. According to the Zoning Ordinance, one accessory dwelling unit per parcel is permitted by right in all residential districts (RS, RM, and RH) on lots with a single-family dwelling, subject to specific design and development standards.

Table D.5 sets out the design and development standards for accessory dwelling units in the City of Benicia. Table D.6 provides these standards for areas within the Downtown Mixed Used Master Plan Area. These standards do not conflict with State law governing second units. The City has received input that current fees, the minimum parcel size required for a second unit, and other standards are a constraint to developing second units in the City. Program 1.10 is intended to address these constraints.

Emergency Shelters, Transitional, and Supportive Housing

In compliance with Chapter 633 of Statutes 2007 (SB 2), jurisdictions are required to permit emergency shelters without discretionary permits, and transitional and supportive housing are to be considered residential uses subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. The City of Benicia does not specifically zone for emergency shelters, transitional housing, or supportive housing. Benicia Municipal Code Section 17.08.020.M states:

Table D.5 Accessory Dwelling Unit Standards

Standard	Second Unit
Permit	Permitted by right in residential districts
Lot size	Minimum 6,000 sf
Lot coverage	Same as primary unit requirements
Unit size	< or equal to 800 sf
Max Height	12 ft. wall (15 ft. for a pitched roof) No second story, other than unfinished storage area
Rental of unit	May be rented, although not required
Setbacks	Units not permitted in a required yard or court except if a rear yard is adjacent to an alley and a 4 ft. setback for a vehicle entrance to a covered parking structure is maintained. A 6 ft. distance from any existing dwelling shall be maintained. A 10 ft. distance shall be maintained in the DMUMP area.
Parking	A minimum of three off-street parking spaces shall be required for a lot containing an accessory dwelling. One parking space, which is not required to be covered, shall serve the accessory unit. The accessory dwelling unit parking space shall not be placed within the required front yard setback unless, at the discretion of the Community Development Director or designee, there is no other reasonable place for the additional parking space to be located and appropriate landscaping is provided.

Source: City of Benicia Zoning Ordinance (last updated 2013)

Table D.6 Downtown Mixed Use Master Plan Area Accessory Dwelling Unit Standards

	Zoning District			
	TC	TC-O	NG	NG-O
Building Depth	na	na	28' max.	
Building Footprint	na	na	700 sf. max	1000 sf. max
Maximum Height	2 stories & 25'		1.5 stories & 15'	

Source: City of Benicia Downtown Mixed Use Master Plan, 2007

In the administration of its zoning and land use policies regarding homeless shelters, transitional housing, supportive housing or other housing designed to assist homeless persons or persons with special needs, the City shall comply with all applicable state and federal fair housing laws.

The purpose of Program 3.01 and Program 3.02 is to comply with SB 2, the "Fair Share Zoning" law, and amend the Zoning Ordinance at time of the adoption of the Housing Element

D.1.2. General Plan

The City of Benicia General Plan was adopted in 1999. The Community Development and Sustainability Chapter of the 1999 General Plan designates the following land use categories: residential, commercial, mixed use, industrial, parks/open space, and public/quasi-public. The General Plan designates land for residential use in three residential categories, two mixed-use categories, and five commercial categories.

Table D.7 lists the 1999 General Plan Land Use Designations that allow residential uses. The residential densities described in the Table are in dwelling units per net acre. A net acre is the actual area of a given property, exclusive of street rights-of-way.

Urban Growth Boundary

Adopted in 1999, Benicia's General Plan set forth the overarching goal of sustainable development, implemented in part with an urban growth boundary (UGB). The purpose of this boundary was to direct growth into areas south of Lake Herman Road and within City limits where services and infrastructure could be provided cost effectively. Conversely, the UGB was also set into place to prevent outward urban sprawl and the invasion of agricultural and ecologically sensitive land in an effort to protect the rural quality of lands north of Lake Herman Road. The boundary is coterminous with Benicia's City Limit Line; lands located to the north are under the jurisdiction of Solano County.

In 2003, the purpose and intent of the UGB was strengthened with an affirmative citizen vote on Measure K, clarifying that no urban development requiring municipal services was allowed beyond the UGB, and that no development of any kind in that area could be served with City water or sewer; policies also strengthened the City's resolve to promote compact urban development. Measure K resulted in an amendment to the General Plan consisting of four new policies (General Plan, Chapter 2, Policies 2.1.5 through 2.1.8), some of which outline exceptions from the requirement in order to comply with housing needs.

Growth management tools, such as Benicia's UGB, aspire to ensure that new development is well-planned, provides necessary infrastructure, and directs housing in close proximity to basic everyday needs such as schools, jobs, transit, and services. An unintended consequence of UGBs is the restriction of housing opportunities. However, as mentioned previously,

Table D.7 Existing General Plan Land Use Designations and Corresponding Zoning Districts

Land Use Designation	Corresponding Zoning District	Density Range (units/net acre)/ Floor to Area Ratio (FAR)	Percent of Land Area in City
Residential			
Low Density	RS	0.1-7	23% (1,301 acres)
Medium Density	RM	8-14	5% (283 acres)
High Density	RH	15-21	3% (149 acres)
Mixed Use			
Downtown	TC, TC-O, NG, NG-O	2.0	1.7% (88 acres)
Lower Arsenal	PD, GD, IG	2.0	1% (50 acres)
Commercial			
Community	CC	1.2	0.08% (4.3 acres)
Waterfront	CW	0.8 - 1.2	0.39% (22 acres)
Business and Professional Office	CO	0.8 - 1.2	0.28% (16 acres
General	CG	1.2	2.71% (153 acres)
Downtown	TC, TC-O, NG, NG-O	2.0 - 2.4	0.42% (24 acres)

Source: City of Benicia General Plan Land Use Element, 2007

the UGB shares the same boundary with City limits. Benicia is also landlocked on its southerly and easterly border by waters of the Carquinez Strait and Suisun Bay, respectively. Areas north of the boundary are designated Agriculture with a Resource Protection Overlay by Solano County. Most of this land is used for grazing and Solano County zoning regulations require a minimum parcel size of 20 acres.

Nevertheless, Measure K's Policy 2.1.8 allows an amendment to the UBG under three exceptions:

Exception I - Takings. The City Council may amend the Urban Growth Boundary if it finds, by at least a four-fifths vote and based on substantial evidence in the record, that:

(1) The application of the Urban Growth Boundary policies would constitute an unconstitutional taking of a landowner's property; and

(2) The amendment and associated land use designation will allow additional land uses only as necessary to avoid said unconstitutional taking of the landowner's property.

Exception II - Housing Supply. The City may grant an exception from the requirements of the Initiative where it determines that doing so is necessary to comply with State law governing the provision of housing. The City may do so only if it first makes each of the following findings based on substantial evidence in the record:

(1) A specific provision of State law requires the City to accommodate the proposed housing; and

(2) No feasible alternative exists that would allow for the required units to be built without siting some or all of them outside the Urban Growth Boundary.

Exception III - Reorganization. The General Plan may be reorganized, readopted in different text and/or format, and individual provisions may be renumbered or reordered, in the course of ongoing updates of the General Plan in accordance with the requirements of state law, but Land Use Element policies relating to the Urban Growth Boundary shall continue to be included in the General Plan until December 31, 2023, unless earlier repealed or amended pursuant to the procedures set forth above or by the voters of the City.

Benicia's UBG was not designed to be uncompromising by inadvertently preventing the City from meeting its housing needs. To facilitate growth towards existing urban development and infrastructure, this Housing Element includes programs that promote infill; these include Program 1.09 that requires the City to comply with State Density Bonus Law and Program 1.10 requiring the City to reduce fees and modify standards for second units to facilitate and encourage increased development. Amending the UBG has not been necessary because such policies help projects achieve greater efficiency of land use through higher densities.

The UGB has a net effect of reducing development potential on open space lands beyond the UGB while directing growth to lands within the boundary. At the same time, this re-direction has a positive environmental impact, in that, open space lands outside the UGB are protected. Although this could limit the amount of land that is available to develop for residential use, the environmental and qualitative benefits to the community surpass any potential development constraints. Yet, as described in Appendix E, the yield analysis shows that even with Benicia's UGB in place the City can still accommodate its regional housing needs allocation for the 2015-2023 cycle, and moreover, anticipated housing needs allocations for the future housing element cycle.

Establishing a system that encourages development where infrastructure currently exists (through infill development or adaptive reuse) results in reduced cost associated with residential development. The implementation of the UGB does not constrain residential development, but rather it directs residential growth to already urbanized areas. This growth management tool helps to promote more compact, contiguous urban development that is consistent with California's Global Warming Solutions Act and SB375 in efforts to reduce greenhouse gas emissions through efficient land use planning.

D.1.3. Development Processing Procedures and Fees

Government policies and ordinances regulating development affect the availability and cost of new housing. Although land use controls have the greatest direct impact, development approval procedures and fees can affect housing costs as well.

Permit and Development Fees

The City collects fees to help cover the costs of permit processing, inspections, and environmental review. Fees charged for building permits are based on the construction values prescribed by the California Building Code. The City also collects development impact fees in accordance with California Government Code Sections 66000-66025 for the provision of services such as roads, signals, parks, sewer, water and storm drains. These fees are generally assessed on the size and number of units in a residential development and collected at the beginning of the approval process. The fees collected include those for the County as well as the City. The fees collected by the City do not exceed the City's costs for providing these services.

Tables D.8 shows the current planning and building permit fees for residential development.

Table D.8 Planning and Development Fees

Fee Category	Fee Amount	
Planning Fees		
Planned Development	$3,025[1]	
Use Permit - Commission (Residential projects up to 6 units)	$1,800	
Use Permit - Commission (Residential projects 7-20 units)	$2,275	
Use Permit - Commission (Residential projects 21+ units)	$2,730	
Use Permit - Staff	$1,275	
Variance	$1,500 - $1,750	
Design Review	$300 - $1,750	
Accessory Dwelling Unit - Administrative Permit	$175	
Building Permit Review	$50	
Environmental Review		
Exemption from CEQA (filed)	$250	
Initial Study	$1,300	
Negative Declaration	$300	
Mitigated Negative Declaration	$600	
Environmental Impact Report	Fee determined on a case-by-case basis	
State Fish & Game Dept Fee - EIR	$3,030	
Subdivision Applications		
Parcel Map - Minor Subdivision	$2,375	
Tentative Map	$3,250[3]	
Lot Line Adjustment	$500	
Parcel Merger	$350	
Impact Fees	**Single Family**	**Multifamily**
Traffic	$1,029/du	$550 - $591/du
Park Dedication Fee	$6,127/du	$4,083 - $5,310/du
Capital License Fee	$1,029	$549
Sewer Connection	$7,620/du	
Water Connection[2]	$7,757/du	
School Impact Fee	$2.97/sf	
Solano County Public Facilities Fee	$7,309	$6,914
Library Book Fee	$235/du	

Note:

1. Fee increases with project size
2. Additional Meters (irrigation, etc.) have additional fee
3. Fee increases by number of units/lots

Source: City of Benicia Master Fee Schedule, 2013

Table D.9 Typical Fees for a New Unit

Fee Category	Fee Amount	
	Single-Family[2]	Multi-Family[3]
Plan Review Fee[1]	$1,643	$4,827
Building Standards Fee[4]	$17	$42
Building Inspection	$2,511	$7,85
Electric / Mechanical / Plumbing / Fire Sprinkler	$1,310	$5,256
Planning Review Fee	$50	$50
SMIP Residential Fee[4]	$42	$96
Storm Water	$100	$600
Plan Retention[5]	$60	$120
Capitol License	$1,096	$3,294
Library	$235	$1,410
Park Dedication	$6,127	$24,498
Sewer Capacity	$7,620	$45,720
Solano County[4]	$7,309	$41,484
Traffic Impact	$1,029	$3,546
Water Capacity	$7,757	$46,542
School Impact[4]	$8,910	$14,256
Total Estimated Fees	$45,960	$199,336
Total Estimated Fees per Unit	$45,962	$33,223

Note:

1. Based on job valuation (labor and material cost)
2. Based on one 3,000 square foot single-family unit
3. Based on six 800 square foot multi-family units
4. Not controlled by the City

Source: City of Benicia, 2013

Table D.9 shows the typical fees for new single-family and multi-family development. As shown In Table D.8 above, the fees are either an established flat rate or based on unit size or number of units.

Table D.10 shows the relationship between estimated development impact fees to the overall housing development cost. The fees for the development of single-family units do not represent a significant portion of overall development cost. However, the fees for the development of multi-family units do represent a substantial portion of construction costs, 26% of which are County fees. This is an indication that fees may pose a constraint on the development of multifamily housing.

The City does not have a formal procedure for expedited review or waiver of fees for affordable housing projects, but does give authority to the Community Development Director to reduce fees. Program 1.12 in Chapter 4 requires that the City amend the Benicia Municipal Code to include language permitting the City Council to consider waiving or reducing fees for Capital License Fee, Traffic Impact Fees, Park Dedication Fees, and Building Inspection Fees.

Table D.10 Proportion of Fee in Overall Development Cost for a Typical Residential Development

Development Cost for a Typical Unit		
	Single-Family	Multi-Family[2]
Total estimated fees per unit	$45,962	$33,223
Typical estimated cost of development per unit[1]	$415,735	$160,000
Estimated proportion of fee cost to overall development cost per unit	11%	20%

Note:

1. Valuation (labor and material cost).
2. County Impact Fees are approximately 26% of the fee for Multi-Family Units

Source: City of Benicia, 2013

Planning Permit Procedures

The City's Zoning Ordinance and Downtown Mixed Use Master Plan regulate the residential types that are permitted, permitted with a use permit, permitted with a Planned Development or prohibited in each zoning district. With the exception to design review requirements, permitted uses are allowed without discretionary review upon verification that the project complies with all applicable development regulations. Use permits are subject to approval by the Planning Commission (unless appealed). The findings associated with a use permit are that the project is consistent with the Zoning Ordinance, consistent with the General Plan, not detrimental to the health, safety and welfare of the public, and compatible with its surroundings. Table D. 11 provides a list of each housing category in the City and its associated permitting process.

Table D.11 Housing Types Permitted by Zoning District

	Zoning Ordinance							Downtown Mixed Use Master Plan			
Residential Use Category	RS, Single Family Residential	RM, Medium Density Residential	RH, High Density Residential	CC, Community Commercial	CO, Office Commercial	CG, General Commercial	CW, Waterfront Commercial	TC, Town Core	TC-O, Town Core Open	NG, Neighborhood General	NG-O, Neighborhood General Open
Single Family [2]	P	P	P	P[3]	P[3]	—	P[3]	P [1]	P	P	P
Multi-Family [2]	—	P	P	P[3]	P[3]	—	P	Use Classification in the Zoning Ordinance only			
Multi-Family Duplex	Use classifications in the Downtown Mixed Use Master Plan only							P [1]	P	P	P
Multi-Family Triplex								P [1]	P	—	—
Multi-Family Fourplex								P [1]	P	—	—
Group Residential	—	U	U	—	—	U	—	Use Classification in the Zoning Ordinance only			
Residential Care < 6	P	P	P	—	—	—	P	P [1]	MUP	—	MUP
Residential Care > 7	—	U	U	U	U	—	—	P [1]	U	—	U
Manufactured Home Parks > 4 acres	PD	PD	PD	PD	PD	PD	PD	—	—	—	—
Accessory Dwelling Units	P	P	P	P[4]	P[4]	P[4]	P[4]	P	P	P	P
Live/Work	—	—	—	P	—	P	P	—	P	—	P

P= Permitted U= Use Permit MUP= Minor Use Permit (staff level) PD= Planned Development

1 = Allowed only on upper floors or behind ground floor use

2 = This classification includes mobile home and factory-built housing

3 = Allowed only on upper floors

4 = Allowed on lots with a single-family residence

Source: City of Benicia Zoning Ordinance and Downtown Mixed Use Master Plan, 2012

The development review and permit process provides the necessary tools to evaluate and approve new development applications that are consistent with the goals and policies of the General Plan and consistent with the purposes of the Zoning Ordinance. Procedures for processing permits differ based on the permits type. The following procedures are common to the City's permitting process:

1. Pre-application meeting with City staff
2. Filing of application and fees
3. Initial application review – completeness check (30-day review; Government Code 65943)
4. Environmental Review (20 days to 1 year)
5. Staff Report and recommendation
6. Permit approval or disapproval

Table D.12 displays a general overview of typical timelines for approvals and permits. These timelines are similar to other jurisdictions in the Bay Area.

Table D.13 displays the typical timelines for new residential construction projects. All new residential projects, except single-family homes located outside of the (H) Historic Overlay Districts and accessory dwelling units, are subject to design review. Single-family residences located outside of the H Historic Overlay Districts and accessory dwelling units are ministerial and permitted through the building permit process.

Design Review Procedures

The City's Design Review procedures are primarily defined by whether or not the proposed project is located within one of the City's two historic districts. Most projects inside the (H) Historic Overlay Districts and multi-family projects greater than 2,500 square feet outside the (H) Historic Overlay District, which exception to the IL, IG and IW zoning districts, are subject to design review approval by the Historic Preservation Review Commission. Single-family residences outside of the historic districts are exempt from design review, as are accessory dwelling units outside the Historic Overlay Districts. Design guidelines for the (H) Historic Overlay Districts are established by the adopted conservation plans for the relative historic districts. These guidelines focus on compatibility through materials, development patterns and architectural design. All development regulations are established by the Zoning Ordinance and Downtown Mixed Use Master Plan.

Table D.12 Timelines for Permit Procedures

Application Type	Estimated Approval Time Period
Residential Design Review (Single- and Multifamily projects)	4 - 6 weeks (Single-family staff review) 9-12 weeks (Historic Preservation Review Commission)
Multifamily Project	9-12 weeks (Historic Preservation Review Commission)
Variances	6 - 8 weeks (Zoning Administrator or Planning Commission)
Projects with Environmental Review	12-17 weeks Negative Declaration (Planning Commission)
Rezone[1]	12 -18 weeks (Planning Commission/City Council)
General Plan Amendment	12-17 weeks Negative Declaration or exempt (Planning Commission/City Council)
Lot Line Adjustment	4-6 weeks (staff review)
Parcel Map	6-8 weeks (staff review)
Subdivision Map (Project)	12 weeks (Planning Commission)
Conditional Use Permit	7 - 10 weeks (Planning Commission)
Temporary Use Permit	3 weeks (staff review)

Notes:

1. Rezonings run concurrently with a General Plan amendment.

Source: City of Benicia, 2013

Review Authority

Projects may require review by more than one review body. For the majority of design review applications, staff will provide a recommendation to the Historic Preservation Review Commission, which has the authority to take final action. For other development projects such as use permits, variances, and development plans the authority is divided among the Community Development Director, Planning Commission, and City Council. Table D.14 lists the review authority for various applications in the City of Benicia.

Table D.13 Housing Types Permitted by Zoning District

PERMIT PROCESSING PROCEDURES [1] FOR RESIDENTIAL, NEW CONSTRUCTION		
TASK	**TIMELINE**	**NOTES**
PRE-APPLICATION		
Pre-Application meeting with Staff		Initial review and evaluation
FORMAL APPLICATION SUBMITTAL	**WEEK 1-4**	
Submittal of application and fees	WEEK 1	
Initial application review for completeness (30-day review per Gov. Code 65943)	WEEK 1-4	Review of application and what information is needed
PREPARATION OF STAFF REPORT	**WEEK 5-7**	For Historic Preservation Review Commission, if design review approval is required
PUBLIC HEARING PROCESS	WEEK 8-12	
Public notification (10-days)	WEEK 9-10	500 foot radius mailing list
Historic Preservation Review Commission Hearing	WEEK 10	
Final action and appeal period	WEEK 12	
Issuance of final action letter	WEEK 12	
ENVIRONMENTAL REVIEW		
If required, environmental review would take place within Weeks 5-13 of the timeline postponing preparation of the Historic Preservation Review Commission staff report approximately 7 weeks.		
ENVIRONMENTAL REVIEW	**WEEK 5-13**	Studies and/or revisions are incorporated into the negative declaration
Preparation of Initial Study	WEEK 5-9	If a consultant is required, an additional 2-4 weeks is added for consultant selection
Distribution and review of negative declaration	WEEK 9	
Public review period	WEEK 10-13	Either a 21 day or 30 day review is required
FOR PLANNED DEVELOPMENTS, REZONING, USE PERMITS, AMENDMENTS, VARIANCES & MAJOR SUBDIVISIONS		
For major projects, Planning Commission and/or City Council approval is required.		
MAJOR PROJECTS	**WEEK 13-23**	
PREPARATION OF STAFF REPORT	**WEEK 13-15**	For Planning Commission- Approval of a Planned Development Plan and recommendation of Rezoning and General Plan Amendments
Public notification (10-days)	WEEK 15-17	500 foot radius mailing list
Planning Commission Hearing	WEEK 17	
Issuance of final action letter	WEEK 18	
PREPARATION OF STAFF REPORT	**WEEK 18-20**	For City Council- Approval of a rezoning, General Plan Amendments and Major Subdivisions
Public notification (10-days)	WEEK 20-22	500 foot radius mailing list
City Council Meeting	WEEK 22	
Issuance of final action letter	WEEK 23	
BUILDING PERMIT PROCESS	WEEK 23-35	
Submittal of building permit application and plans	WEEK 23	Submittal of plan check fees and City's review for compliance with approval
First plan check comments	WEEK 26-28	Providing all City's comments
Resubmittal of permit plans	WEEK 29-31	Addressing City's comments
Building permit issuance	WEEK 31-34	Submittal of remaining fees (impact and inspection fees)

Notes:

1 = Except for single-family residences located outside of the H Historic Overlay District and accessory dwelling units

Source: City of Benicia, 2013

Table D.14 Review Authority

	Role of Review Authority[1]			
Type of Decision	Director, or Zoning Administrator	Historic Preservation Review Commission	Planning Commission	City Council
Zoning Permit	Decision	—	—	Appeal
Use Permit	Recommend	—	Decision	Appeal
Variance	Recommend[2]	—	Decision	Appeal
Design Review[3]	Recommend	Decision	Appeal	Appeal
Design Review in I Districts	Decision	Appeal	Appeal	Appeal
Development Plan Review	Decision	—	Appeal	Appeal
Development Agreement	Recommend	—	Recommend	Decision
Amendments	Recommend	—	Recommend	Decision

Notes:

1. "Recommend" means that the review authority makes a recommendation to a higher decision-making body; "Decision" means that the review authority makes the final decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals to the decision of an earlier decision-making body.

2. Director has review authority over variances related to single-family residences.

3. Non Single-Family projects in the RM, RH, C, OS, PS, PD less than 2,500 square feet and in the H overlay districts.

Source: City of Benicia Zoning Ordinance (last updated 2013)

D.1.4. Inclusionary Housing

In 2000, the City adopted an Inclusionary Housing Ordinance (Benicia Municipal Code Section 17.70.320). Its implementation resulted in the construction of four housing units during the previous planning period. The regulations in this section are intended to lead to the development of housing for very low and low-income households.

Onsite Construction of Inclusionary Units

Any residential development of 10 for-sale units or more is required to build 10 percent of the units as affordable to these income categories or, if allowed come to an agreement with the City to choose an in-lieu alternative (described in the subsequent section below). Construction of the inclusionary units as part of the project is preferred. The inclusionary units must be for-sale owner-occupied units. Rental units are only allowed as inclusionary units when receiving financial assistance from the City, financial assistance of a type specified in the City's density bonus ordinance, or where the developer of the rental units voluntarily agrees to restrict rents to affordable. Restrictions must be put in place to maintain the inclusionary units' affordability for at least 30 years. Inclusionary units must be constructed at the same time or earlier than the market-rate units (unless alternate phasing is approved by the City Council) and inclusionary units must be physically distributed throughout the project site, rather than concentrated in one area. Additionally, the design of and number of bedrooms in the inclusionary units must be comparable to that of the market-rate units as detailed in Subsection 17.70.320.D.3 of the Benicia Municipal Code.

A written agreement between the City and the developer is required to ensure compliance with Section 17.70.320. The agreement must include details about the timing of construction of the inclusionary units or the in-lieu alternative (payment of in-lieu fee, dedication of developable land, or another in-lieu proposal acceptable to the City Council), the number of inclusionary units, the term of affordability, provision for the City's income certification and screening of potential purchasers, a resale control agreement, and/or affordable rental restriction agreement (as applicable), as well as any other information required by the City for the purposes of ensuring compliance with the ordinance. Allowances and incentives are available for projects with inclusionary units including density bonus, fee waiver or reduction, modification of development standards, and technical assistance from the City on applying for financial subsidy programs.

In-Lieu Alternative Options

Developers may apply to choose an in-lieu alternative of equivalent value to constructing all or part of the required inclusionary units onsite. Developers of projects with inclusionary units have the option with City Council approval:

- To transfer credit for inclusionary units constructed at one location in the City to another location in the City;
- To apply credits for inclusionary units constructed by the developer in the City that exceed the number of units that the developer is required to construct as per the inclusionary ordinance (known as "extra

unit credits") and to transfer these credits to another development in the City constructed by the same developer or their affiliate;

- To transfer these extra unit credits to third party developers to be applied to their development;
- To build inclusionary accessory dwelling units in single-family detached unit developments;
- To pay an in-lieu fee, or
- To donate a suitable amount of land.

Approval Process for In-Lieu Alternative Options

In-lieu alternatives to onsite construction of inclusionary units require discretionary approval by the City Council as part of the entitlement process. This process has not been found to increase application processing times to more than timeframes typical for new residential developments in Benicia. The developer is required to submit information with their application supporting their selected in-lieu alternative option, how it supports creation of affordable housing in the City, and why it is a more feasible choice for their project than onsite unit construction.

Due to the required discretionary approval for an in-lieu alternative the applicant is provided a lower level of certainty regarding timing of application processing and whether their project will be approved as proposed. To address potential constraints associated with uncertainty, City staff are available to review applications during the design phase and assist developers in exploring options and alternatives to arrive at a project that is agreeable to the developer and the City. The Planning Division staff encourages applicants who wish to explore an in-lieu alternative to meet with staff early in the design process to minimize the amount of time spent in determining a feasible alternative.

Since the Inclusionary Housing Ordinance was adopted one project has applied for an in-lieu alternative to onsite construction. The Olson Company, developer of the mixed-use Harbor Walk project on First Street was required to provide four very low- and low-income inclusionary units as part of the development. The developer found it challenging to construct the inclusionary units on the First Street site. Pacific Bay Homes, the developer of the Bay Ridge apartment project on the north side of Highway 780 constructed eight excess inclusionary units and had "extra unit credits" available. The Olson Company was able to purchase four of the extra unit credits from Pacific Bay Homes to satisfy their inclusionary housing requirements offsite. The agreement finalized between the Olson Company and the City was satisfactory to both parties and provided additional affordable housing units in Benicia.

Evaluation

Establishment of these regulations has increased the supply of affordable housing in Benicia. Increased flexibility during the review process and with City application and development fees is intended to offset increased cost and time required to meet the requirements of this inclusionary section of the Zoning Ordinance. Policy 2.02 is proposed to create additional certainty for developers wishing to exercise the option to choose an in-lieu alternative to construction of onsite inclusionary units. Program 2.01 is proposed to evaluate the effectiveness of these regulations to date and work towards providing more affordable housing through inclusionary requirements while minimizing negative impacts to housing developers.

D.1.5. Density Bonus

The City's Affordable Housing Density Bonus requirements (Zoning Ordinance Section 17.70.270) implement the State's Density Bonus Law and supports inclusionary housing. The purpose of the affordable housing density bonus is to expand housing opportunities for very low, low, and moderate-income persons throughout the City.

Residential projects of five or more units may qualify for a density bonus over the maximum allowable base density of the district. A density bonus of 20 percent is granted to projects that have 5 percent of the total units set aside for very low-income households. The density bonus can be incrementally increased with each one percent of very low-income units above the 5 percent, to a maximum density bonus of 35 percent. A similar scale is granted for projects that include low-income units or moderate-income units. Table D.15 summarizes the application of the City's density bonus program.

Developer concessions or incentives are granted for a residential project that meets the criteria for a density bonus projects. Incentives granted by the City include, but are not limited to, flexibility in development,

Table D.15 Application of Density Bonus Program

Very Low-Income Units		Low-Income Units		Moderate-Income Units	
% Very Low-Income Unit	Permitted % Density Bonus	% Low-Income Units[1]	Permitted % Density Bonus[2]	% Moderate-Income Condo/ PUD Units[1]	Permitted % Density Bonus[3]
5	20	10	20	10	5
6	22.5	11	21.5	11	6
7	25	12	23	20	15
8	27.5	14	26	25	20
9	30	16	29	30	25
10	32.5	18	32	35	30
11	35	20	35	40	35
35% Max Density Bonus		35% Max Density Bonus		35% Max Density Bonus	

Note:

1. Not all options for number of units are displayed. Table 10.70.270 in Section 17.70.270 of the Zoning Ordinance has the complete application.

2. A 1.5 percent density bonus granted.

3. A 1 percent density bonus granted.

Source: City of Benicia Zoning Ordinance, 2013

architectural or zoning standards, approval of mixed-use zoning in conjunction with the housing project, or other regulatory incentives or concessions proposed by the City or developer. The City allows for up to three concessions or incentives on an individual project, based on Planning Commission approval.

SB 1818 amended the State density bonus program (Government Code 65915) and became effective on January 1, 2005. Under SB 1818 applicants are eligible for an innovative new land donation density bonus, which allows for land donations within 1/4 mile of a project if the applicant demonstrates to the City that building the requisite number of affordable units onsite is infeasible and there is an identified source of funding for the very low income units. SB 1818 also limits parking requirements that may be imposed by the Zoning Ordinance's parking standards. AB 2280 was passed in September 2008, and most notably the bill amends the timing for density bonus requests, clarifies density bonus requirements for senior housing, and institutes a 10 percent across the board increase in the percentage of affordable units that must be included in a project to qualify for incentives based on Planning Commission or City Council approval. Program 1.09 updates the density bonus ordinance for compliance with recent changes in State law.

D.1.6. Historic Preservation

To promote the conservation, preservation, protection and enhancement of Benicia's historical and architecturally significant structures, the City adopted a Historic Overlay District (H) as part of the Benicia Zoning Ordinance in 1987. Accompanying Conservation Plans are intended to deter demolition, alteration, or neglect of historic resources through design review.

Two required Conservation Plans have been prepared to implement the Historic Overlay District ordinance: the Downtown Historic Conservation Plan (1990, amended 1992, 2005, 2008, and 2009) and the Arsenal Historic Conservation Plan (1993). The Conservation Plans provide design guidelines for new development and alterations within Historic Districts. The Benicia Arsenal has been officially recognized at the federal level since 1975 when four distinct historic areas were identified and placed on the National Register of Historic Places, and at the state level with its designation as State Historical Landmark No. 176. The intent of the Arsenal Historic Conservation Plan is to reinforce the area's designation and safeguard the historic integrity of the district and historic structures.

Given the quality of Benicia's historical and architecturally significant structures, and the

contribution of these structures to the image and quality of life in Benicia, the historic preservation policies and regulations are reasonable and appropriate. Regulations are limited to two areas in Benicia, and as such, these regulations do not pose an unreasonable constraint to residential development in the City of Benicia. However, the City does acknowledge

D.1.7. Design Review

In Benicia, design review is required for all multifamily projects. In the Historic Overlay District design review is required for all residential projects that involve demolition, construction, or change in exterior.

According to Benicia's Zoning Ordinance, Design Review is intended to implement General Plan polices. Therefore, the purposes of these procedures and requirements are to:

1. Ensure location and configuration of structures are visually harmonious with their sites and with surrounding sites and structures;
2. Ensure architectural design of structures, their materials and colors are visually harmonious with surrounding development, the natural landforms, and vegetation;
3. Provide a functional, efficient, and attractive site design that is sensitive to existing uses in the area and to the topography and conditions of the site; and
4. Ensure that new development is consistent with specific design guidelines developed for use within the community, where applicable, and to any specific plan or planned development plan.

Projects undergoing design review are evaluated for architectural design, building massing, and appropriate scale to the surroundings and community. Proposed projects are required to submit a fully dimensional site plan, including but not limited to, proposed structures, driveways, walks, walls, fences and open spaces, property lines, right-of-way lines, etc. Architectural drawings and a landscaping plan is also required. The project must be consistent with the General Plan, and in compliance with any applicable design guidelines and/or adopted design review policies.

Based on an analysis of evidence and documentation, Benicia's design review process does not act as a constraint to the development of affordable housing. Both Administrative Design Review and the Historic Preservation Review Commission review are done within an acceptable timeframe. Additionally, design review is often conducted concurrently with other processing procedures to further streamline the development permit process.

D.1.8. On and Off Site Improvement Requirements

Generally, the developer passes on site and off site improvement costs to the homebuyer as part of the final cost of the home. To reduce housing costs, the City attempts to require only those improvements that are deemed necessary to maintain public health, safety, and welfare and those that are required by law, such as water and sewer fees.

Benicia requires the installation of certain on site and off site improvements to ensure the safety and livability of its residential neighborhoods. On site improvements are regulated by the Subdivision Ordinance and through standard engineering specifications, and applicable provisions of the Benicia Municipal Code. On site improvements typically include required off-street parking, curbs, and utilities, as well as amenities such as landscaping, fencing, streetlights, and park facilities. Off site improvements typically include the following (some of which are regulated by other agencies):

- Road improvements, including construction of sections of roadway, medians, bridges, sidewalks, bicycle lanes, and lighting.
- Drainage improvements, including improvement to sections of channel, culverts, swales, and pond areas.
- Wastewater collection and treatment.
- Water systems improvements, including lines, storage tanks, and treatment plants.
- Public facilities for fire (Benicia Fire Department), school (Benicia Unified School District), and recreation (Benicia Parks and Community Services).

The site improvements that are under the jurisdiction of the City of Benicia have specific requirements, which are discussed below:

Street Improvements

Street improvement requirements are regulated by the Benicia Engineering Design Standards (see Table D.16).

Table D.16 Street Improvement Requirements

Street Types	Right of Way
Major Arterial (Truck Route)	100 ft.
Major Arterial	84 ft.
Minor Arterial	60 ft.[1]
Collector	49 ft.[1]
Local	45 ft.[1]
Cul-de-Sac	41 ft.[1]
Alley	20 ft.

Note:

1. Plus a 10-ft. Public Service Easement on each side.

Source: City of Benicia Engineering Design Standards, 1992

a. General

Local streets are the primary streets used to support localized traffic and movement within residential areas. Collector streets are generally two lanes wide and serve most residential districts. Collectors connect local streets to minor and major arterials. Arterial streets link residential districts with the highway system.

b. Sidewalks and Curbs

Sidewalks are to be 4 feet wide in residential areas and a handicapped ramp is required at each intersection curb return (Benicia Engineering Design Standards, 1992).

c. Landscaping

Minimum site landscaping and required planting areas are established in Section 17.70.190 of the Zoning Ordinance. A minimum percent site landscaping is required in most zones. The required landscaping percentages for each zone allowing residential development are as follows:

RS 35%

RM 30%

RH 30%

CC 20%

CO 20%

CG 10%

CW 20%

IL 10%

d. Parking

The City has provisions to reduce parking where less need is demonstrated. The Zoning Ordinance allows for collective provision of parking that serves more than one use of a site. A Use Permit may be granted that waives all or some of the provisions of basic requirements for off-street parking and loading. The Planning Commission may also reduce parking for other uses provided that the findings are made that the parking demand is less than the required number of spaces (Zoning Ordinance Chapter 17.74).

Table D.17 provides parking standards by use type.

D.1.9. Building Codes

While local regulations and fees increase housing costs, some building and housing regulations and fees are mandated by State law to protect the health, safety, and welfare of the community or to protect existing residents from financial or environmental impacts.

Benicia enforces the California Building Code, as established by State law, which sets standards for residential and other structures. No local amendments have been made to the codes that would significantly increase housing costs. Building codes are enforced on a per complaint basis.

D.1.10. Governmental Constraints on Housing Production for Persons with Disabilities

As part of the governmental constraints analysis, State law calls for the analysis of potential and actual constraints upon the development, maintenance and improvement of housing for persons with disabilities. Table D.18 reviews not only the Zoning Ordinance, but also land use policies, permitting practices, and building codes to ensure compliance with State and federal fair housing laws. Where necessary, the City proposes new policies or programs to remove constraints.

No governmental constraints to development of housing for disabled persons were identified within the City. Additionally, the City proposes program 3.03 to adopt a reasonable accommodation ordinance addressing rules, policies, practices, and procedures that may be necessary to ensure equal access to housing for persons with disabilities. The City is currently working on the ordinance and anticipates adoption of the ordinance in the Fall of 2014.

Table D.17 Parking Requirements by Use Type

Land Use Type: Residential Uses	Vehicle Spaces Required	
Districts in the Benicia Zoning Ordinance		
Single-family	2 including 1 covered space/unit	
Multifamily Residential Studio units One or two bedroom units Three or more bedrooms	 1.2 spaces per unit 1.5 spaces per unit 2.0 spaces per unit At least one space per unit shall be covered	
Group Residential	1 per 2 beds; plus 1 per 100 sf used for assembly	
Live/Work Unit	1 per unit	
Day Care, General	1 per 7 children; maximum enrollment based on maximum occupancy load	
Residential Care, 7 or more clients	1 per 3 beds; plus additional specified by use permit	
Residential Care, 6 or fewer clients	1 per 3 beds	
Senior Citizens' Housing	0.5 spaces per unit	
Downtown Districts		
	TC and TC-O	NG and NG-O
Residential Uses	.5 space per studio unit 1 space per unit	.5 space per studio unit 1-2 bedroom unit: 1 space per unit 3+ bedroom unit: 1 space plus .5 space per bedroom over 2

Source: City of Benicia Zoning Ordinance (last updated 2008) and City of Benicia Downtown Mixed Use Master Plan, 2007

There are no special permits or requirements for homes or development for disabled persons in zones where the use would be otherwise permitted.

The City permits by right residential care homes of up to six persons in all residential areas. Occupancy of the residential care homes is not restricted to exclude protected categories such as persons with disabilities. The City also allows the siting of residential care homes of seven or more with approval of a use permit in the RM, RH, CC, and CO districts. Through the defined requirements for approval of these residential care homes greater certainty is provided to the applicant and less impediments to fair housing choice exist for disabled or other persons with special needs.

D.2 Non-governmental Constraints

The availability and cost of housing is strongly influenced by market factors over which local governments have little or no control. Nonetheless, State law requires that the Housing Element contain a general assessment of these constraints. This assessment can serve as the basis for actions to offset the effects of such constraints. The primary non-governmental constraints to the development of new housing in Benicia are land costs, construction costs, and environmental constraints.

D.2.1. Land Costs

Costs associated with the acquisition of land include both the market price of raw land and the cost of holding the property throughout the development process. These costs can account for over half of

Table D.18 Constraints on Housing for Persons with Disabilities

Overarching and General	
Does the City have a process for persons with disabilities to make requests for reasonable accommodation?	The City does not have a reasonable accommodation ordinance but it is currently in progress and will be adopted by Fall 2014. The City works with applicants with accommodation needs.
Has the City made efforts to remove constraints on housing for persons with disabilities?	There are no special permits or requirements for homes or development for disabled persons. In most cases, these developments are a permitted use, making them the simplest projects.
Does the City assist in meeting identified needs?	Yes
Zoning and Land Use	
Has the City reviewed all its zoning laws, policies, and practices for compliance with fair housing law?	Yes, the City has reviewed the land use regulations and practices to ensure compliance with fair housing laws. (Note: The General Plan and Zoning Ordinance were deemed in compliance with State laws at the time of adoption.)
Are residential parking standards for persons with disabilities different from other parking standards?	Section 17.74.020 of the City Zoning Ordinance (Handicapped Parking) mandates the provision of disabled parking spaces in accordance with Chapter 2-71 of Title 24 of the California Administrative Code. The Planning Commission can reduce parking requirements if a proposal can demonstrate a reduced parking need.
Does the City have a policy or program for the reduction of parking requirements for special needs housing if a proponent can demonstrate a reduced parking need?	Section 17.74.020 of the City Zoning Ordinance (Handicapped Parking) mandates the provision of disabled parking spaces in accordance with Chapter 2-71 of Title 24 of the California Administrative Code. The Planning Commission can reduce parking requirements if a proposal can demonstrate a reduced parking need.
Does the locality restrict the siting of group homes?	No. Residential care homes of up to 6 are permitted by right in residential districts. Only residential care homes of 7 or more require approval of a use permit (in RM, RH, CC, and CO districts).
What zones allow group homes other than those allowed by State law? Are group homes over six persons allowed?	Residential care homes are allowed in the CW district in addition to the residential districts. Residential care homes of 7 or more are permitted with a use permit in the RM, RH, CC, and CO districts.
Does the City have occupancy standards in the zoning code that apply specifically to unrelated adults and not to families?	No. Section 17.12.020 provides a definition of family. "Family" means two or more persons living together as a single housekeeping unit in a dwelling unit; provided, that this shall not exclude the renting of rooms in a dwelling unit as permitted by district regulations. Per Section 17.24.020 E (RS, RM and RH regulations), Rooms in a dwelling unit may be rented for occupancy by not more than three persons who are not members of a single houskeeping unit ; provided, that not more than two bedrooms shall be rented in each unit.
Does the land use element regulate the siting of special needs housing in relationship to one another?	No. There is no minimum distance required between two or more special needs housing.
Permits and Processing	
How does the City process a request to retrofit homes for accessibility?	The City does not have a reasonable accommodation ordinance, it is in progress to be completed Fall 2014. The City works with applicants with accommodation needs.
Does the City allow group homes with six or fewer persons by right in single-family zones?	Yes.

Does the City have a set of particular conditions or use restrictions for group homes with greater than six persons?	Residential care homes of 7 or more are permitted in special districts with a Use Permit, which establishes conditions.
What kind of community input does the City allow for the approval of group homes?	Residential care homes of 6 or less clients are allowed with over the counter review in the RS, RM, and RH districts. Administrative review is a routine land use approval that involves staff checking to ensure that zoning requirements will be satisfied. Facilities with 7 or more residents that require a Use Permit undergo more review and are open to more input from the Community. The Use Permit provides the public with an opportunity to review the project and express their concerns in a public hearing.
Does the City have particular conditions for group homes that will be providing services on site?	No, the City does not have special standards for group homes providing services on site.
Building Codes	
Has the locality adopted the International Building Code?	The State of California has adopted the International Building Code with amendments specific to California. The City adopted the 2010 California Building Code. More information can be found in Title/Chapter 15 of the Benicia Municipal Code.
Has the City adopted any universal design element into the code?	The City will encourage the incorporation of universal design in new construction through the implementation of this Housing Element. The City created a pamphlet on Universal Design that is available at the Community Development public counter in City Hall.
Does the City provide reasonable accommodation for persons with disabilities in the enforcement of building codes and the issuance of building permits?	The City does not have a reasonable accommodation ordinance but it is currently in progress and will be adopted by Fall 2014. The City works with applicants with accommodation needs.

Source: City of Benicia. Notes: 1. Benicia Zoning Ordinance refers to "group homes" per the state law definition, as residential care homes.

the final sales prices of new homes in very small developments and in areas where land is scarce. Among the variables affecting the cost of land are its location, amenities, the availability and proximity of public services, and financing arrangements. Recent listings for unimproved parcels in all areas of Benicia ranged from $384,600 to $2.3 million per acre. There are a greater number of vacant lots available in the unincorporated areas of the County near Benicia.

D.2.2. Construction Costs

Construction costs vary widely depending on the type, size, and amenities of the development. According to the California Homebuilding Foundation, formerly the Construction Industry Research Board, construction costs for typical single-family residential buildings average $125 per square foot; however, construction costs can run as high as $250 or more per square foot on lots with steep slopes or other environmental constraints.

D.2.3. Availability of Financing

The availability of financing affects the ability to purchase or improve homes. In the Benicia area, 743 loan applications for home purchase or improvements were received in 2012, of which 464 were conventional loans. Of the 464 conventional loan applications, 422 were for home purchase and 42 were for home improvements. Only 9.5 percent of the 464 conventional loans were denied, 14 percent were withdrawn or not accepted by applicant, and 55.4 percent were approved and accepted.

There were 279 applications for government assisted home purchase or improvement loans (VA, FHA, FSA/RHS) in 2012. Of these, 131, or 47 percent of government assisted loans were approved and accepted by the applicant. (See Table D.19 for the breakdown of loan applications by type, purpose and outcome.)

Table D.19 Constraints on Housing for Persons with Disabilities

	Number	Percent
Type of Loan		
Total	743	100.0%
Conventional	464	62.4%
Government assisted	279	37.6%
FHA-insured	221	79.2%
VA-guaranteed	58[1]	20.8%
Loan Purpose		
Conventional	464	100.0%
Home purchase	422	90.9%
Home improvement	42	9.1%%
Government assisted	279	100.0%
Home purchase	273	97.8%
Home improvement	6[1]	2.2%
Loan Outcome		
Conventional	464	100.0%
Approved and accepted	257	55.4%
Denied	44	9.5%
Withdrawn or not accepted	65	14.0%
Closed/Incomplete	13	2.8%
Purchased by institution	85	18.3%
Government assisted	279	100.0%
Approved and accepted	131	47.0%
Denied	24	8.6%
Withdrawn or not accepted	29	10.4%
Closed/Incomplete	1	0.4%
Purchased by institution	94	33.7%

Source: Consumer Financial Protection Bureau, 2012

Most (70 percent) of the applicants for government assisted loans had an annual income equivalent to or greater than the County median income of $82,600 in 2012. Similarly, over 66.4 percent of conventional loan applicants earned greater than the County median income. Of all originated loans, 30.7 percent were awarded and accepted by applicants with less than median household income.

D.2.4. Environmental and Physical Constraints

The following potential physical and environmental constraints may affect development regulated by the City of Benicia by limiting the development potential and/or adding mitigation costs to a project:

Environmental Constraints

A cover of non-native grassland and property landscaping dominates vegetation within the City. However, four sensitive plant communities are known to occur in Benicia:

- Northern Coastal Salt Marsh and Coastal Brackish Marsh
- Coast Live Oak Woodland
- Valley Needlegrass Grassland
- Willow Riparian Forest and Willow Scrub

Four special status plant species are known to occur in Benicia: soft bird's beak, Delta tule pea, Suisun marsh aster. and Congdon's tar plant. The City also protects unique vegetation communities that support sensitive species, including the Golden Violet populations and eucalyptus groves.

Because the City recognizes the importance of trees for their contribution to community character and environmental health, specific regulations for the removal and maintenance of trees have been established in the Zoning Ordinance (Chapter 12.24 Trees and Street Trees). Any action on specific Protected Trees, which includes California Native Trees and heritage trees, requires a tree removal or pruning permit. The requirement for a permit acts as a tool to enhance the residential environment and ensure the preservation of a natural setting.

Although native vegetation within the City has been substantially altered, the marshlands and tracts of undeveloped land provide habitat for a diverse selection of resident and migrant wildlife. Seven special status animal species are known to occur in Benicia: the calliope silverspot butterfly, golden eagle, salt marsh harvest mouse, Suisun shrew, Suisun song sparrow, California clapper rail, and California black rail. Barriers to wildlife movement and migration and the removal of raptor nesting sites are to be avoided in future development. The occurrence of any of these species on a site could pose constraints to a housing project.

The majority of the sites that have been identified to accommodate the RHNA are located in areas of the City where the natural environment has already been altered. Nevertheless, these vacant and underutilized parcels could contain sensitive plant and animal species. Therefore, any development that is proposed on these sites shall be required to comply with all environmental regulations consistent with the

California Environmental Quality Act (CEQA) for habitat protection.

Protecting the City's environmental resources will result in increased cost to the developer, however the benefit of mitigating environmental impacts exceeds the cost that will be imposed on the developer.

Physical Constraints

Several physical constraints may occur in the City. Parcels with steep slopes may have constraints associated with landslide hazards. Landslides are relatively rare in the developed portions of the City, as compared to in the hilly, undeveloped areas of the City. Stationary noise sources near potential sites for development may pose constraints. For example, traffic on I-680 and I-780 exceed acceptable noise levels. Housing may be limited within 500 feet of I-680 and I-780 under CEQA, due to the health hazards of siting sensitive uses near urban roads with over 100,000 vehicles per day unless appropriate mitigation can be identified and implemented. Operational noise sources near potential sites for development may pose constraints as well; such as noisy industrial or commercial sites. Specifically with regard to properties in the lower aresnal, their proximity to industrial land uses and their locations within a former defense site may pose constraints. Noise, light, dust, and other aesthetic impacts due to the properties proximity to industrial uses and a 24-hour, tide-driven port may act as constraints.

Low-lying areas of the City are subject to flooding during a 100-year storm (See Figures I.A through I.D). The last severe flooding, and associated economic loss, occurred in 1986. The City has adopted management plans to assist in the prevention and mitigation of loss associated with flooding and stormwater infrastructure. The Watershed Storm Drainage System Plan was adopted/completed in June 1982. The Stormwater Management Plan was completed in 2003/4 and is updated annually. Improvements associated with the implementation of these plans have significantly reduced flooding occurrences.

Since adoption of the 1982 and 2003/4 plans, the City has completed over 40 storm drainage improvement projects. Included in these improvements projects are the I & I Project and the Marina Area Storm Drain Project.

D.3 Energy Conservation

Maximizing energy efficiency and incorporating energy conservation and green building features into new and existing buildings can help reduce housing costs for homeowners and renters. Reduced dependence on automobiles can result from compact development in an urban setting that provides walkability and proximity to transit and services. Additionally, maximizing energy efficiency helps reduce greenhouse gas emissions. State legislation (AB 32 and SB 375), require local governments to implement measures that cut greenhouse gas emissions attributable to land use decisions. The Housing Element programs can support energy efficiency that benefits both the market and helps to reduce greenhouse gas emissions by:

- Establishing a more compact urban core, bringing residents close to work and services, therefore reducing automobile trips and greenhouse gas emissions.
- Implementing passive solar construction techniques that require solar orientation, thermal massing, and other energy efficient design techniques.
- Encouraging water and space heating by solar energy.

Executive Order S-E-05, signed by Governor Schwarzenegger on June 1, 2005, set into action the first steps in establishing greenhouse gas emission reduction targets in California. This was followed by the California Global Warming Solutions Act (AB 32) in 2007, which required the California Air Resources Board (CARB) to establish reduction measures.

The City of Benicia facilitates energy conservation via:

- Application of State residential building standards that establish energy performance criteria for new residential buildings (Title 24 of the California Administrative Code).
- The City's adopted Climate Action Plan (CAP), which guides greenhouse gas reductions in compliance with AB 32 and SB 375. The following are included in the CAP:
    - Adoption of the Build It Green "GreenPoint Rated" certification system for residential buildings.
    - Promotion of local green building projects.

- Adoption of Build it Green's home remodel standards.
- Conducting energy audits.
- Providing rebates for energy efficiency through partnerships with local utility providers (PG&E's existing rebate program is described below).
- Decreasing or banning wood burning.
- Promoting use of compact fluorescent lightbulbs.

Pacific Gas and Electric (PG&E) provides a variety of energy conservation services for residents and several other energy assistance programs for lower income households. These programs include the Energy Watch Partnerships and the Community Investment Program.

The Energy Watch Partnerships help residents lower their energy bills and promote cleaner energy production. Through Energy Watch Partnerships PG&E has extended the reach of effectiveness of energy efficiency programs and provided information about demand responses programs, renewable energy, and self-generation opportunities.

The Community Investment Program gives millions of dollars each year to non-profit organizations to support environmental and energy sustainability. Projects that are funded include residential and community solar energy distribution projects, public education projects, and energy efficiency programs. The goal is to ensure that 75 percent of the dollars assist underserved communities, which includes low income households, people with disabilities, and seniors.

PG&E also offers rebates for energy efficient home appliances and remodeling. Residents can apply for a variety of rebates that make it more affordable in the short term to save energy and money in the long term. Rebates are available for cooling and heating equipment, lighting, seasonal appliances and remodeling (cool roofs, insulation, water heaters). These opportunities are available to all income levels and housing types.

Energy Consumption

Residential water heating and space heating/cooling are major sources of energy consumption. With the application of energy efficient design and the use of solar power systems, these sources can be operated on a much more efficient and sustainable manner.

By encouraging solar energy technology for residential heating/cooling in both retrofits and new construction the City can play a major role in energy conservation. There are two distinct approaches to solar heating, active and passive:

- Active systems use mechanical equipment to collect and transport heat, such as a roof plate collector system used in solar water and space heaters.
- Passive systems use certain types of building materials to absorb solar energy and can transmit that energy later, without mechanization.

The best method to encourage use of these solar systems for heating and cooling is to not restrict their use in the zoning and building ordinances and to require subdivision layouts that facilitate solar use.

Residential water heating can be made more energy efficient through the application of solar water heating technologies. Solar water heating uses the sun to heat water, which is then stored for later use; a conventional water heater is needed only as a back up. By cutting the amount of natural gas needed to heat water 50-75 percent per building, solar water heating systems can lower energy bills and reduce greenhouse gas emissions. The City has the opportunity to implement solar technologies with the help of recent legislation. The Solar Water Heating and Efficiency Act of 2007 (AB 1470) has proposed to create a $250 million ten-year program to provide consumer rebates for solar water heating systems.

Greenhouse Gas Emissions

Emissions from human activities such as electricity production and automobiles have elevated the concentration of greenhouse gases in the atmosphere. Examples of greenhouse gases include carbon dioxide, methane, nitrous oxide, and hydrofluorocarbons. The increased consumption of fossil fuels (wood, coal, gasoline, etc.) has substantially increased atmospheric levels of greenhouse gases. New housing development may contribute to greenhouse gas emissions, but careful site planning and design, and the selection of environmentally friendly building materials and equipment can significantly reduce these emission levels.

There are significant areas where Benicia can do more to encourage energy conservation in new and existing residential development to reduce the demand on

energy production. There are a variety of energy efficiency and greenhouse gas emission reduction strategies available that can be integrated into land use decisions related to housing.

The City seeks to help minimize the percentage of household income that must be dedicated to energy costs as well as minimize the production of greenhouse gases. Programs have been included to incorporate newly adopted state energy efficiency standards and to encourage alternative energy efficient technologies.

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Appendix E
Sites Inventory & Analysis

E.1 Land Inventory

State law emphasizes the importance of an adequate land supply by requiring each housing element to identify " ...sites...to facilitate and encourage the development of a variety of types of housing for all income levels . . ." (Government Code Section 65583(c)(1)). To provide for new housing, enough land must be zoned to allow for the construction of a variety of housing at densities that will satisfy the objectives of the housing element. The land must also have access to appropriate public services, such as water, sewage treatment, storm drainage, and roads.

E.1.1. Vacant Land

The City's land inventory was developed using the Solano County Geographic Information System (GIS) database. As shown in Table E.1, there are 99 vacant parcels on approximately 78 acres suitable for residential development that have the capacity to accommodate almost 600 additional homes (see also Figures E.1.A and E.1.B, and Appendix F for the complete list of parcels by Assessor Parcel Number.)

To meet the very low and low income RHNA, the State Department of Housing and Community Development requires land zoned at a minimum of 20 units per acre. Accordingly, 148 units must be met on land that is zoned with a minimum of 20 units per acre. There is one site in the TC zoning district that can accommodate 50 units; one site in the RH zoning district that can accommodate 9 units; four sites in the CO zoning district that can accommodate 153 units; and one underutilized site in the downtown that can accommodate 40 units. Altogether, these sites could accommodate 252 units in the very low and low income RHNA categories (See Table E.2 and discussion of these sites in Section E.1.2, below).

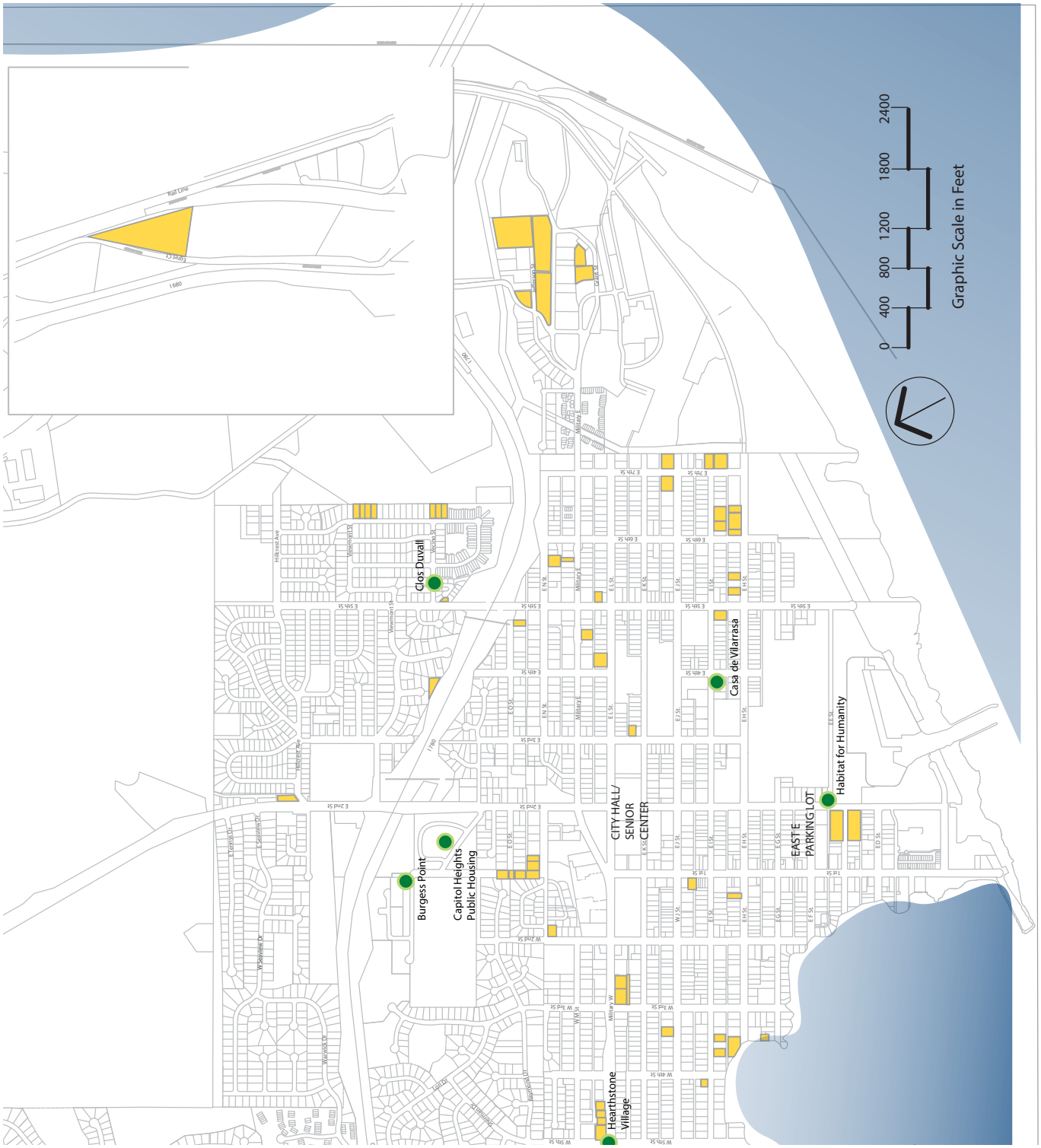
With enough vacant land that could provide for 594 new units including land to accommodate 252 high density units, Benicia's Regional Housing Needs Allocation (RHNA) of 327 new units can be met. (See Table E.3).

E.1.2. Vacant Sites Yield Analysis for Very Low and Low Income RHNA Requirements

To ensure the City could meet the very low and low income RHNA requirement of 148 affordable units, the City conducted a yield analysis using seven housing development sites in the City of Benicia. Each of the sites analyzed is currently vacant with

Figure E. 1.A City of Benicia (West) Vacant Land and Opportunity Sites

Figure E. 1.B City of Benicia (East) Vacant Land and Opportunity Sites



LEGEND:

- EXISTING AFFORDABLE HOUSING PROJECT
- Vacant Buildable Sites

Table E.1 City of Benicia: Vacant Land Inventory

Zone	Acres	GP Designation	# of Parcels	Max Units/Acre	Max Units	Infrastructure
RS (Single Family Res)	18.94	Low Density Residential	81	7	128	Yes
Subtotal Low Density	18.94		81		128	
RH (High Density Res)	0.43	High Density Residential	1	21	9	Yes
CO (Office Commercial)	7.84	Business and Professional Office	5	21	165	Yes
CG (General Commercial)	48.14	Commercial General	7	21	233	Yes
TC (Town Core)	1.81	Commercial Downtown	2	29.9	54	Yes
TC-O (Town Core Open)	0.25	Downtown Mixed Use	2	21	5	Yes
Subtotal High Density	58.47		17		467	
Total[1]	77.41		98	-	594	

Source: Solano County GIS with input from the City of Benicia

Notes:

1. City policy on rounding states any fraction of a unit (less than 0.50)may be disregarded and any fraction of a unit (greater than or equal to 0.50) shall be rounded up to the next whole number. Total reflects City's policy on rounding fraction of units.

Table E.2 Very-Low and Low-Income Sites Yields

Zoning	Acres	# of Parcels	Max Units/Acre	Existing Use	Realistic Unit Capacity
RH (High Density Res)	0.43	1	21	Vacant	9
TC (Town Core)	1.67	1	29.9	Vacant	50
TC (Town Core)	1 useable 2.71 total*	1	21	Retail	40
CO (Office Commercial)	7.29	4	21	Vacant	153
				Total Units	252

Notes:

Detailed information about each site is located in Table E.4

Table E.3 City of Benicia: Meeting the RHNA Analysis

	Very Low-Income	Low-Income	Moderate-Income	Above Moderate-Income	Total
Regional Housing Needs Allocation	94	54	56	123	327
Estimated Units Accommodated by Vacant Land	252[1]		342		594[2]
Estimate Units Accommodated by Second Units	3		0		3
Remaining Units to be Accommodated	**0**	**0**	**0**	**0**	**0**

Source: City of Benicia 2013, ABAG 2013

Notes:

1. Realistic capacity of high-density sites, see Table E.2
2. Realistic capacity of vacant land inventory, see Table E.1

the exception of one underutilized site. These sites are detailed in Figure E.2 and Tables E.4 and E.5.

The potential residential yield of these sites produces 252 units, which meets the needs for City of Benicia's below market rate RHNA. The potential yield if the maximum state density bonuses (35% of maximum allowable density) were used on all sites is 346 dwelling units. Current market and economic conditions may not be conducive to residential or other development, but the City of Benicia's General Plan and Zoning standards are not an impediment to the production of these units at the required densities.

Land Use Controls and Development Standards (Including Height)

Land Use Controls are not an impediment to achieving the housing needed to support the yield capacity. Benicia's discretionary track record and zoning support the minimum densities required by the State. No residential units or projects have been denied by the City of Benicia in the current RHNA reporti ng period.

The combination of development standards that define the areas available for housing program include:

- Lot coverage
- Parking
- Height/Stories
- Setbacks
- Landscaping
- Density

The analysis created for each site factors each of these requirements in order to generate a "development envelope." The development envelope establishes floor areas that are then factored into dwelling unit and circulation space calculations. Assumptions for the size of the dwelling units are taken into account and applied to the developable areas.

The yield analysis showed that Benicia's current Zoning development standards and General Plan requirements allow for the development of the residential densities reflected in the General Plan and Zoning Ordinance. In addition, the Town Core Zoning District with the application of the form-based code, allows even greater potential densities than the City's other zoning districts.

As stated above, the combination of Benicia's height limits, minimum lot size, lot coverage, setbacks, parking, landscaping and other standards provide no impediment to development. Benicia's height limits allow for 3-story structures with a height limit of 35 feet in height in the RH Zoning District and 40 feet or 2.5 stories in the Town Core Zoning District. Half

Table E.4 High Density Site Analysis- Site Location

Site	Site APN	Lot Area (acres)	Zoning	Dev Type	Existing Use	Dwelling Unit Yield	Dwellings w/ Density Bonus
1.	88-124-130	0.43	RH	Residential	Vacant	9	12
2.	89-371-030 89-372-090	1.67	Town Core	Residential over retail	Vacant	50	68
3.	80-150-390	0.55	Office Commercial	Residential over retail	Vacant	11	15
4.	80-150-380	3.65	Office Commercial	Residential over retail	Vacant	77	107
5.	80-150-400	1.48	Office Commercial	Residential over retail	Vacant	31	43
6.	80-150-410	1.61	Office Commercial	Residential over retail	Vacant	34	47
7.	89-244-050	1 usable 2.71 total*	Town Core	Residential over retail	Retail	40	54
*The majority of the parcel is underwater in the Carquinez Strait. The developable land area is what is calculated for the purpose of this exercise. The project reflected in this yield analysis is consistent with the required zoning development standards.					Total Units	252	346

Source: City of Benicia, 2014

(.5) stories are allowed to have the height of the full story with 50% of the total floor area of the story directly underneath. Benicia has adopted procedures for development on substandard lots. Benicia Municipal Code 17.70.130 allows for development of lots 2,500 square feet or more subject to same yard and density requirements as a standard lot. In R districts, the City may allow a 10 percent reduction of required interior side yard width and 20 percent reduction of required street side yard width.

Housing Opportunity Sites' Yields

Table E.5 summarizes the seven sites selected for this study. For each site the table provides lot area, Zoning and General Plan designations, and housing unit yields and densities with and without State density bonuses. As described in the summary section of this Appendix, the actual potential yield is 252 dwelling units if no State density bonus is utilized. The potential yield if the maximum state density bonuses (35% of maximum allowable density) were used on all sites is 346 dwelling units.

Site Selection Methodology

Sites for the yield analysis have been selected based on land availability and capacity. The methodology utilized to choose these sites consisted of two elements. The first element was vacant sites. The second element was high density underutilized sites with at least one acre of developable space. Larger vacant sites are anticipated to generate the most housing in Benicia, as projects are likely better able to achieve cost efficiencies for development.

The first six sites that are identified are vacant. The last site (Site No. 7) is the only "underutilized" site chosen for this analysis. This site is included because it is located in the Town Core and is proximal to transit and services. This site is underutilized, with a one story building which does not occupy the entire parcel, and has substantial development opportunity to expand both horizontally and vertically. The northern portion of the site is vacant and located adjacent to an existing mixed-use development. The RHNA is met without this site.

Table E.5 High Density Sites Analysis- Site Density

Site	Lot Area (acre)	Zoning District and Density Allowed	General Plan Designation and Density	Potential Yield (DUs)	Potential Density (DUs/Ac)	Potential Yield w/Density Bonus	Potential Density w/ Density Bonus (DUs/Ac)
1.	0.43	RH, High Density Residential 15-21 DU/acre	High Density Residential 15-21 DU/Acre	9	21	12	25.5
2.	1.67	Town Core Form-Based	DMUMP	50	29.9	62	37
3.	0.55	Office Commercial 15-21 DU/Acre	Mixed Use/Lower Arsenal 15-21 DU/Acre	11	21	14	25
4.	3.65	Office Commercial 15-21 DU/Acre	Mixed Use/Lower Arsenal 15-21 DU/Acre	77	21	106	29
5.	1.48	Office Commercial 15-21 DU/Acre	Mixed Use/Lower Arsenal 15-21 DU/Acre	31	21	43	29
6.	1.61	Office Commercial 15-21 DU/Acre	Mixed Use/Lower Arsenal 15-21 DU/Acre	34	21	47	29
7.	1	Town Core Form-Based	DMUMP	40	40	56	56
TOTAL YIELD and AVERAGE DENSITY				252 DUs	24.5 DUs/Ac	346 DUs	48.6 DUs/Ac

Source: City of Benicia, 2014

The Residential High Density (RH) Zoning District and companion General Plan Land Use Designation allows for a density range of 15-21 dwelling units per acre. That equates to a residential density of approximately one dwelling unit per 2,000 square feet of site area. The RH district is the base zoning district for some of the sites, while on the other mixed-use sites, zones such as CG (General Commercial) and CO (Commercial Office), Benicia's Zoning Ordinance requires utilization of the RH standards for the residential component of a mixed use development.

Because the RH (High Density Residential) is companion zoning to other zoning districts as well as a standalone district, Benicia's zoning provides land use flexibility in support of housing development.

The General Commercial (CG) and Office Commercial (CO) zones allow residential dwelling units in certain circumstances. Although ground floor uses in the CO are restricted to office uses, the residential standards for second and third floors allow for the densities represented in the RH District, and as yielded in the sites analysis. The purpose of the RH zoning district is as follows:

> *RH High-Density Residential District. To provide opportunities for an intensive form of residential development, including apartments and townhouses with relatively high land coverage, at appropriate locations in the vicinity of First Street, along the waterfront, and near convenience commercial nodes at Southampton Road, East Fifth Street and West Seventh Street. (Ord. 87-4 N.S., 1987). (City of Benicia Zoning Ordinance)*

Site Locations

There are two distinct sub areas that are the primary contributors of potential housing stock in Benicia: Downtown and the Lower Arsenal Historic District. One other housing opportunity site is adjacent to the Downtown and is zoned high density residential (See Figure E.2).

Generally speaking these sites are located south of Interstate 780 in areas of Benicia that are proximal to schools, services, jobs, and transit. The Downtown has been designated a Priority Development Area by the Association of Bay Area Governments.

The Arsenal area does not have quite the same accessibility to services as the Downtown, but is still within walking distance to most, schools, services, full service grocery, civic center, jobs, and transit. The Downtown is the historic city center so it does not have the same level of available (vacant) sites as the Arsenal.

Downtown

The Downtown represents the oldest developed areas of Benicia in general, and is characterized by a strong mix of residential, retail, and professional office uses. The land use pattern is represented by historically smaller lots with smaller structures dating back to the mid to late 1800's. A few sites within the boundary are currently vacant. Two sites (Sites No. 2 and 7) within the Downtown are represented in this study.

The Downtown Area has a full range of commercial services for area residents. This includes professional services such as doctors and dentists, as well as retail services such as full service grocery and dining establishments. All of these uses are well within walking distance (1/2 mile) of the two housing sites that have been studied.

Downtown area land use and development requirements are prescribed by the Downtown Mixed-Use Master Plan (DMUMP), which was adopted in 2007.

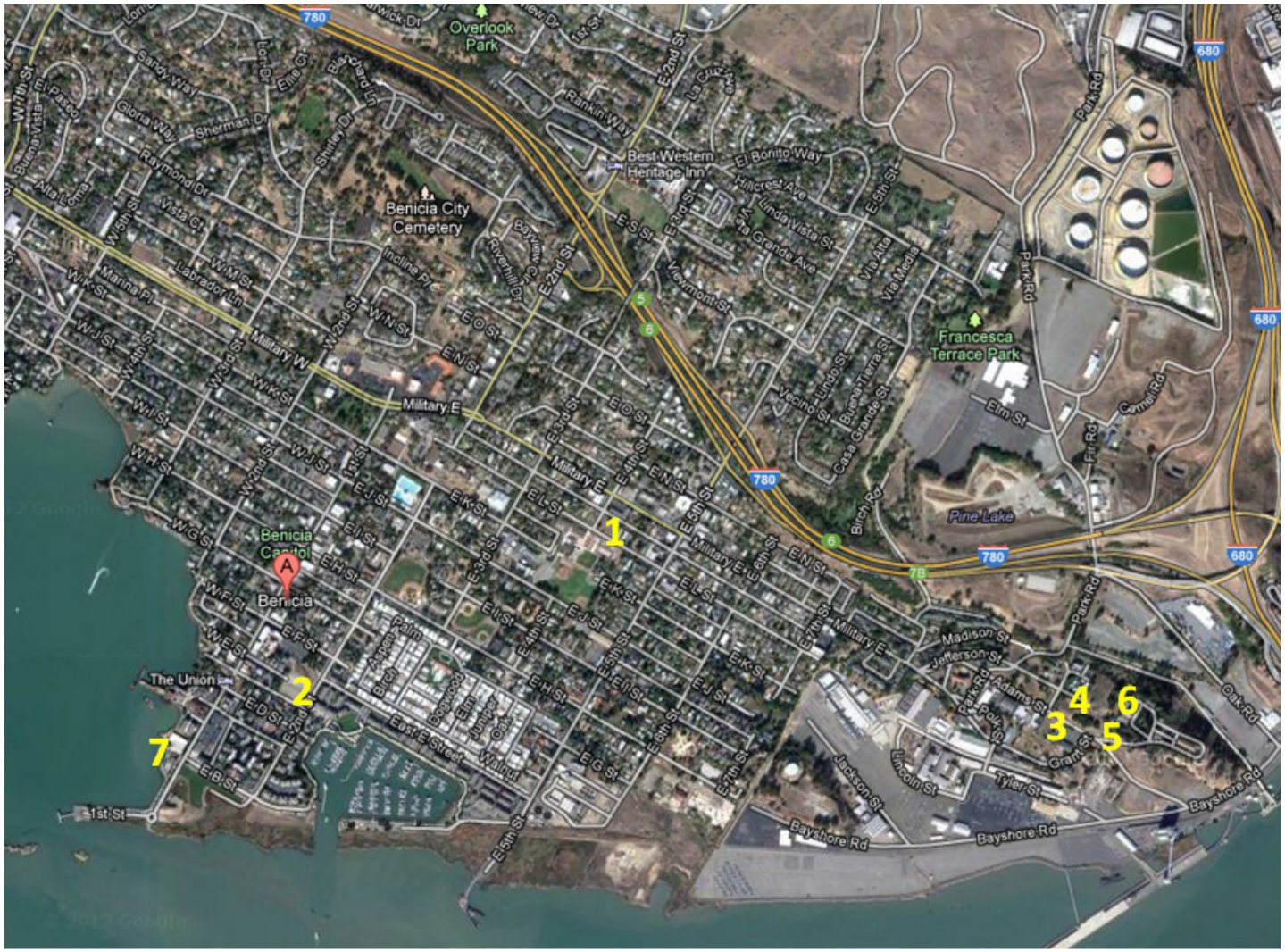
> The Downtown Mixed Use Master Plan identifies improvements along First Street that are organized in a series of nodes that include new projects in the pipeline, suggested new building initiatives, and coordinated renovations of existing structures, as well as new and improved open spaces. These recommendations seek to respond to the project area's historic fabric as well as capitalize on existing amenities, including public buildings and institutions (such as the former Capitol) and access and views of the Carquinez Strait (DMUMP, 3-3).

And

> By encouraging intensified ground-floor retail, the City should support the development of second and third-story office and residential uses along First Street, creating additional opportunities for office uses to transition from ground-floor spaces (DMUMP, 3-3).

The DMUMP is a form-based code. That means that development densities and intensities are prescribed by standards relevant to height, lot coverage, landscaping, parking and other factors. There is neither a General Plan Residential Density nor a zoning density prescribed

Figure E. 2 City of Benicia Housing Opportunity Sites



LEGEND

1. APN 088-124-130
18,750 sf (.43 acres)

2. APNs 089-371-030/90
72,745 sf (1.67 acres)

3. APN 080-150-390
23,958 sf (0.55 acres)

4. APN 080-150-380
158,994 sf (3.65 acres)

5. APN 080-150-400
64,469 sf (1.48 acres)

6. APN 080-150-410
70,132 sf (1.61 acres)

7. APN 089-244-050
118,048 sf (2.71 acres)

for the Town Core portions of the DMUMP, which is the underlying zoning designation for the two sites within the Downtown. While ground floor commercial is required in the TC zone, residential uses are permitted on the ground floor, so far as a commercial use occupies the street fronting portion of the ground floor. In addition, there are no prescriptions in Benicia's development standards relevant to unit sizes or mixed based on bedrooms or other features. As a result the form-based code allows densities to be achieved that exceed those set for other parts of the City, such the Residential High Density zone.

Benicia Arsenal

The Benicia Arsenal was decommissioned from United States military use in 1964. The Benicia Arsenal has been officially recognized at the federal level since 1975 when four distinct historic areas were identified and placed on the National Register of Historic Places, and at the state level with its designation as State Historical Landmark No. 176.

In 1987, the City enacted a provision within its zoning ordinance for a special historic overlay district that could be combined with any underlying zoning district. The Arsenal area's zoning designations and development standards are prescribed by the Zoning Ordinance. The Arsenal is divided into several distinct areas by the General Plan Land Use Diagram. The Lower Arsenal generally comprises the land and buildings centered on the former main administrative areas and core buildings of the Arsenal.

All of the vacant Arsenal sites analyzed in this study (Sites No. 3, 4, 5, and 6) are located within the Lower Arsenal and subject to additional review under the Arsenal Historic Conservation Plan. None of these sites are located within the DTSC site, and do not face environmental constraints.

Vacant lands within the Lower Arsenal can be developed with a variety of office and commercial uses, with residential floors above. Special care must be taken with regard to the potential for historic resource issues and land use compatibility issues such as those involving noise, light, dust, odor, and other aesthetic impacts given their proximity to industrial properties, including the Port. All of the sites analyzed within the Lower Arsenal are vacant, as discussed previously. So, although care must be taken in the site planning and design of new structures, no existing historic structures would be impacted.

The Lower Arsenal is proximal to the Downtown area (seven blocks) and just eight blocks from full service grocery stores, elementary schools, and other services. The Civic Center area, with City Hall, parks, main library, and recreation centers, is just six blocks away.

Other Sites

The only site not located within either the Lower Arsenal or the Downtown is Site No. 1. This site has land use and development regulations prescribed by the Zoning Ordinance. The lot is located within the RH (Residential High Density) zoning district. See description and purposes of the RH zoning district under Site Selection Methodology, above.

The site is proximal to the Downtown area (three blocks) and just three blocks from a full service grocery store and other services. The Civic Center area and City Hall, parks, main library, and recreation centers, are within two blocks of the site.

E.1.1.3 Second Unit Potential

The Benicia Zoning Ordinance allows second units by right in all residential zoning districts on lots 6,000 sq ft or larger. There are a total of 68 vacant parcels in these zones that could accommodate 68 additional units. Additionally, all developed residential parcels greater than 6,000 sq ft that do not have a second unit are potential sites for additional development.

Three permits for second units have been approved between 2007 and 2013. There is no history of denial for second units. Based on historic trends, it is assumed that 5 additional second units will be permitted during the 2015-2023 planning period. The maximum size of second units can be 800 square feet. Maintaining trends of an average $1.43/square foot for apartment rentals in Benicia, these units would be affordable to very-low and low-income households.

E.1.1.4. Transit/Transportation Access

Benicia and the downtown in particular are fortunate to have good bus transit service. Figure E.4 is from the Solano County Transit Authority (SolTrans). The map shows Route 78, which originates in Downtown Vallejo at the Ferry Terminal and provides access to BART in Walnut Creek and Pleasant Hill. The second map, Figure E.5, depicts ADA paratransit service areas.

Figure E. 3 Solano County Transit Authority Route 78

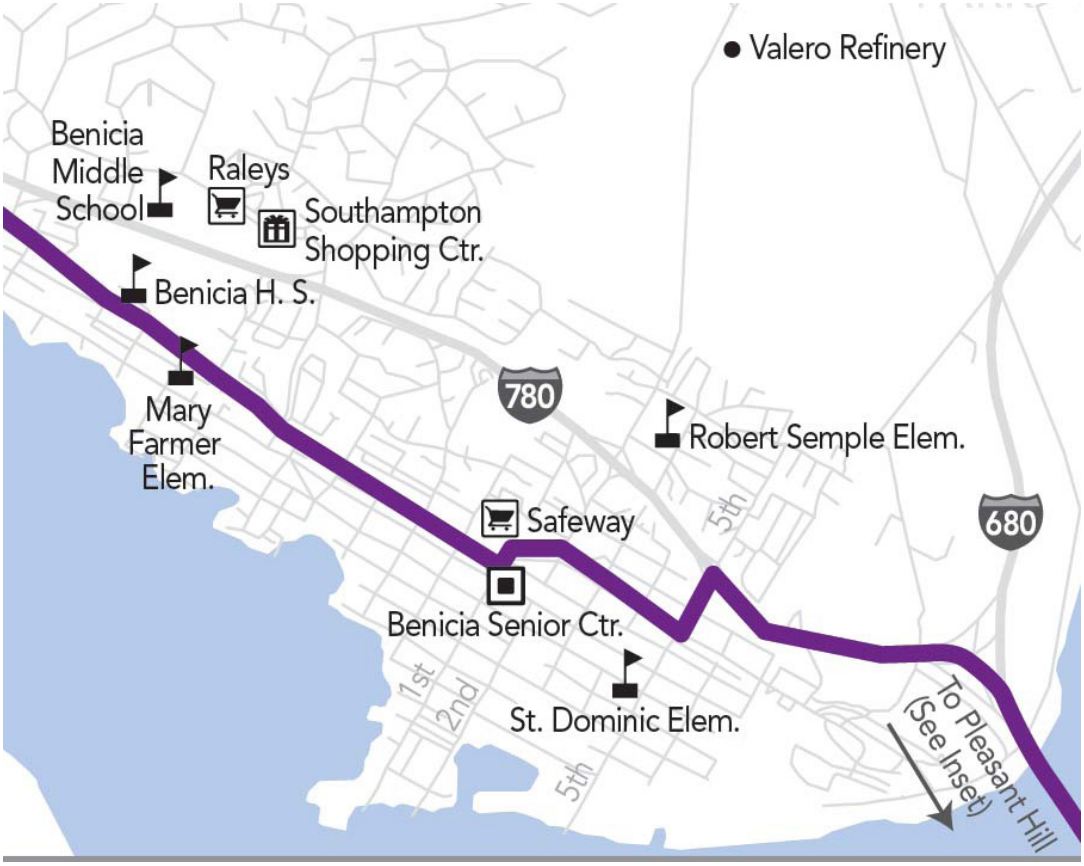


Figure E. 4 City of Benicia Transit ADA Complementary Paratransit Service Area

E.2 Infrastructure Capacity

The proximity, availability, and capacity of infrastructure helps to determine the suitability of water and sewer service available to accommodate the housing needs during the planning period. The current infrastructure capacity is sufficient to accommodate the 2015-2023 RHNA. If, at some future date, capacity becomes a limiting factor for development in Benicia, priority will be given to affordable housing projects in obtaining sewer and water permits.

Wastewater Treatment

The City's sewer plant, located along the Carquinez Strait, has a design capacity of 4.5 million gallons per day (mgd).

Water System

The City's drinking water supply originates from three sources: the State Water Project via the North Bay Aqueduct (NBA) (primary source), the Solano Water Project via the Putah South Canal (PSC) (alternate source), and Lake Herman (emergency source). The average flow of water treated at the Benicia Water Treatment Plant (WTP) in 2012 was 6.6 mgd with a peak of 10.5 mgd in July. The Benicia WTP has a hydraulic capacity of 12 mgd.

Appendix F

Vacant and Opportunity Sites

Table F.1 Vacant Land Inventory

APN	Square Feet	Acres	Zoning	GP Land Use	Max density allowed	Max du/ acre	Existing Use	Infra-structure capacity
Single Family Residential (RS)								
86041140	9,200	0.21	RS	RLD	7	1.48	Vacant	Yes
86041230	7,065	0.16	RS	RLD	7	1.14	Vacant	Yes
86046280	9,375	0.22	RS	RLD	7	1.54	Vacant	Yes
86047040	36,750	0.84	RS	RLD	7	5.91	Vacant	Yes
86050030	7,120	0.16	RS	RLD	7	1.12	Vacant	Yes
86050040	6,000	0.13	RS	RLD	7	0.91	Vacant	Yes
86062060	37,500	0.86	RS	RLD	7	6.03	Vacant	Yes
86091740	8,530	0.20	RS	RLD	7	1.37	Vacant	Yes
86091760	6,442	0.15	RS	RLD	7	1.04	Vacant	Yes
86092050	3,125	0.07	RS	RLD	7	0.50	Vacant	Yes
86382010	9,583	0.22	RS	RLD	7	1.54	Vacant	Yes
87044180	8,435	0.19	RS	RLD	7	1.36	Vacant	Yes
87070520	8,971	0.21	RS	RLD	7	1.44	Vacant	Yes
87070530	13,687	0.31	RS	RLD	7	2.20	Vacant	Yes
87072050	5,199	0.12	RS	RLD	7	0.84	Vacant	Yes
87072060	5,891	0.14	RS	RLD	7	0.95	Vacant	Yes
87073270	12,275	0.28	RS	RLD	7	1.97	Vacant	Yes
87074150	12,500	0.29	RS	RLD	7	2.01	Vacant	Yes
87074160	6,250	0.14	RS	RLD	7	1.00	Vacant	Yes
87093190	21,766	0.50	RS	RLD	7	3.50	Vacant	Yes
87112130	18,750	0.43	RS	RLD	7	3.01	Vacant	Yes
87112160	9,147	0.21	RS	RLD	7	1.47	Vacant	Yes
87112170	6,969	0.16	RS	RLD	7	1.12	Vacant	Yes
87112180	7,840	0.18	RS	RLD	7	1.26	Vacant	Yes
87134370	18,750	0.43	RS	RLD	7	3.01	Vacant	Yes
87134510	5,662	0.13	RS	RLD	7	0.91	Vacant	Yes
87134660	3,148	0.07	RS	RLD	7	0.51	Vacant	Yes
87134670	3,750	0.09	RS	RLD	7	0.60	Vacant	Yes
87142300	6,250	0.14	RS	RLD	7	1.00	Vacant	Yes
87142320	6,250	0.14	RS	RLD	7	1.00	Vacant	Yes
87154100	9,375	0.22	RS	RLD	7	1.51	Vacant	Yes
87161010	15,750	0.36	RS	RLD	7	2.53	Vacant	Yes
87161140	2,900	0.07	RS	RLD	7	0.47	Vacant	Yes
87161150	2,900	0.07	RS	RLD	7	0.47	Vacant	Yes
87161220	16,900	0.39	RS	RLD	7	2.72	Vacant	Yes
87200220	7,235	0.17	RS	RLD	7	1.16	Vacant	Yes
87553090	6,168	0.14	RS	RLD	7	0.99	Vacant	Yes
88012500	14,855	0.34	RS	RLD	7	2.39	Vacant	Yes
88032140	7,405	0.17	RS	RLD	7	1.19	Vacant	Yes
88083310	7,405	0.17	RS	RLD	7	1.19	Vacant	Yes
88092150	6,250	0.14	RS	RLD	7	1.00	Vacant	Yes
88124040	11,055	0.25	RS	RLD	7	1.78	Vacant	Yes
88131070	6,875	0.16	RS	RLD	7	1.10	Vacant	Yes

Table F.1 Vacant Land Inventory

APN	Square Feet	Acres	Zoning	GP Land Use	Max density allowed	Max du/ acre	Existing Use	Infra-structure capacity
88131210	6,750	0.15	RS	RLD	7	1.08	Vacant	Yes
88131240	5,130	0.12	RS	RLD	7	0.82	Vacant	Yes
88151160	5,662	0.13	RS	RLD	7	0.91	Vacant	Yes
88164050	18,750	0.43	RS	RLD	7	3.01	Vacant	Yes
88166020	18,750	0.43	RS	RLD	7	3.01	Vacant	Yes
88182320	14,201	0.33	RS	RLD	7	2.28	Vacant	Yes
88215040	8,276	0.19	RS	RLD	7	1.33	Vacant	Yes
88215050	8,276	0.19	RS	RLD	7	1.33	Vacant	Yes
88215060	8,276	0.19	RS	RLD	7	1.33	Vacant	Yes
88215070	8,276	0.19	RS	RLD	7	1.33	Vacant	Yes
88224020	9,147	0.21	RS	RLD	7	1.47	Vacant	Yes
88224030	9,147	0.21	RS	RLD	7	1.47	Vacant	Yes
88230050	3,795	0.09	RS	RLD	7	0.61	Vacant	Yes
89012310	6,375	0.15	RS	RLD	7	1.02	Vacant	Yes
89021150	6,250	0.14	RS	RLD	7	1.00	Vacant	Yes
89021190	6,750	0.15	RS	RLD	7	1.08	Vacant	Yes
89021290	10,813	0.25	RS	RLD	7	1.74	Vacant	Yes
89021300	9,868	0.23	RS	RLD	7	1.59	Vacant	Yes
89031130	5,320	0.12	RS	RLD	7	0.85	Vacant	Yes
89032220	680	0.02	RS	RLD	7	0.11	Vacant	Yes
89034020	9,375	0.22	RS	RLD	7	1.51	Vacant	Yes
89034040	9,375	0.22	RS	RLD	7	1.51	Vacant	Yes
89034100	25,500	0.59	RS	RLD	7	4.10	Vacant	Yes
89072150	9,147	0.21	RS	RLD	7	1.47	Vacant	Yes
89072170	9,375	0.22	RS	RLD	7	1.51	Vacant	Yes
89072020	12,500	0.29	RS	RLD	7	2.01	Vacant	Yes
89074030	18,750	0.43	RS	RLD	7	3.01	Vacant	Yes
89074080	9,375	0.22	RS	RLD	7	1.51	Vacant	Yes
89074090	21,875	0.50	RS	RLD	7	3.52	Vacant	Yes
89074100	6,250	0.14	RS	RLD	7	1.00	Vacant	Yes
89076010	18,750	0.43	RS	RLD	7	3.01	Vacant	Yes
89076090	14,810	0.34	RS	RLD	7	2.38	Vacant	Yes
89092410	10,790	0.25	RS	RLD	7	1.73	Vacant	Yes
89092680	7,405	0.17	RS	RLD	7	1.19	Vacant	Yes
89092690	8,276	0.19	RS	RLD	7	1.33	Vacant	Yes
89092710	4,356	0.10	RS	RLD	7	0.70	Vacant	Yes
89092800	14,861	0.34	RS	RLD	7	2.39	Vacant	Yes
89103230	5,662	0.13	RS	RLD	7	0.91	Vacant	Yes
Subtotal	**824,177**	**18.94**				**128**		
High Density Residential (RH)								
88124130	18,750	0.43	RH	RHD	21	9	Vacant	Yes
RH Total	18,750	0.43				9		
Office Commercial (CO)								
80150390	23,958	0.55	CO	OC	21	11	Vacant	Yes

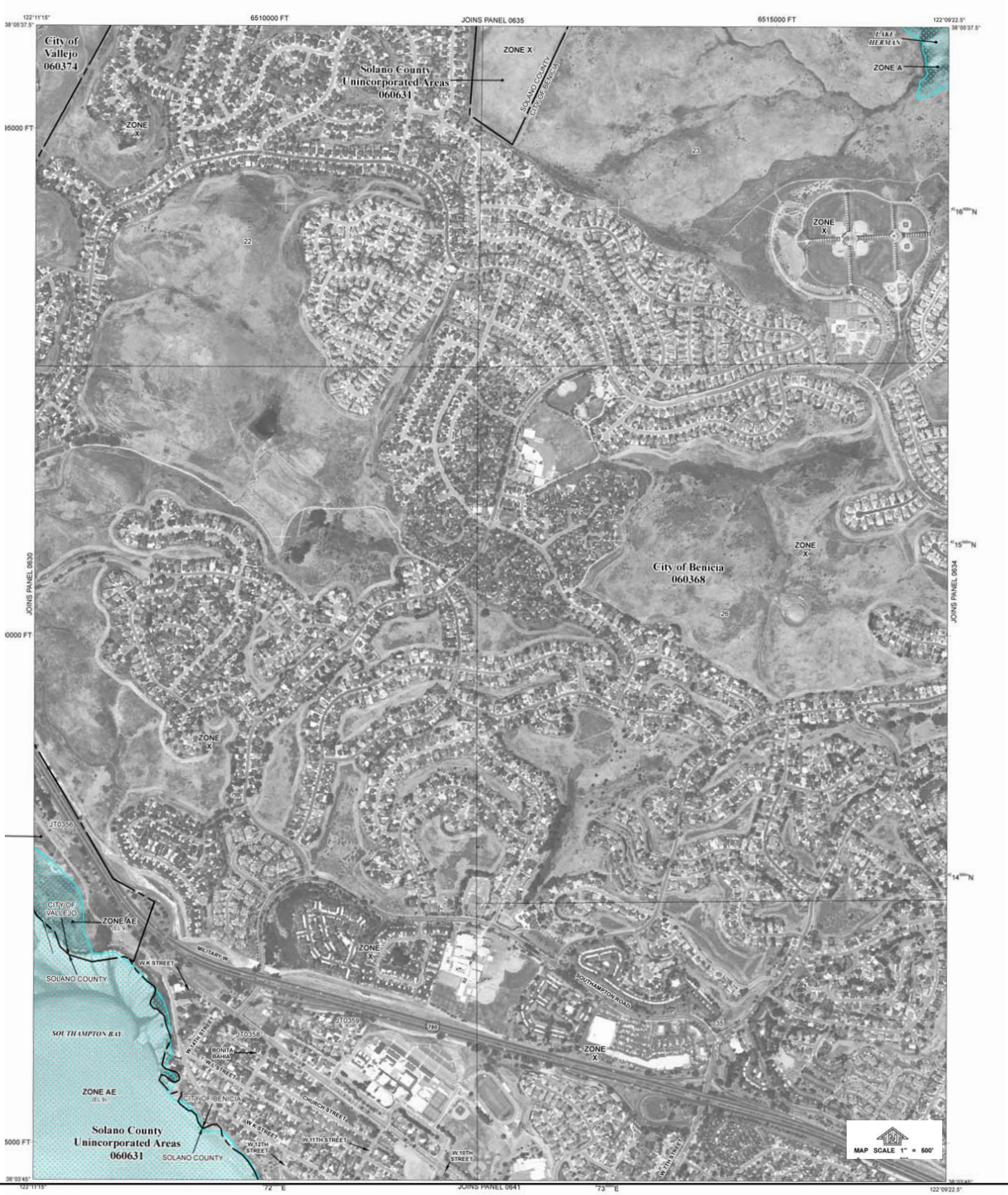
Table F.1 Vacant Land Inventory

APN	Square Feet	Acres	Zoning	GP Land Use	Max density allowed	Max du/ acre	Existing Use	Infra-structure capacity
80150380	158,994	3.65	CO	OC	21	77	Vacant	Yes
80150400	64,469	1.48	CO	OC	21	31	Vacant	Yes
80150410	70,132	1.61	CO	OC	21	34	Vacant	Yes
80150010	23,958	0.55	CO	OC	21	12	Vacant	Yes
CO Total	341,511	7.84				165		
General Commercial (CG)								
80150320	30,927	0.71	CG	OC	21	14.91	Vacant	Yes
80150330	22,215	0.51	CG	OC	21	10.71	Vacant	Yes
88092150	6,250	0.14	CG	GC	21	2.94	Vacant	Yes
79020360	107,593	2.47	CG	CG	21	51.87	Vacant	Yes
88124040	11,055	0.25	CG	GC	21	5.25	Vacant	Yes
87200090	16,678	0.38	CG	GC	21	8.04	Vacant	Yes
80030100	1,902,700	43.68	CG	GC	21	140	Vacant	Yes
*Note: The City of Benicia expects 140 units could be built on these sites through the year 2040, consistent with the city's Employment Investment Area/Priority Development Area and the Plan Bay Area Sustainable Communities Strategy.								
CG Total	2,097,418	48.14				233		
Town Core (TC)								
89043100	6,300	0.14	TC	Commercial Downtown	29.9	4	Vacant	Yes
89371030 89372090	35,321 37,500	0.86 0.81	TC	Commercial Downtown	29.9	50	Vacant	Yes
TC Total	79,121	1.81				54		
Town Core Open (TC-O)								
89044320	5,000	0.11	TC-O	Downtown Mixed Use	21	2.41	Vacant	Yes
89044330	6,250	0.14	TC-O	Downtown Mixed Use	21	3.01	Vacant	Yes
TC-O Total	11,250	0.25				5		
Vacant Buildable Sites Total	**3,372,227**	**77.41**				**594**		

Appendix G
Flood Hazard Map

The following pages contain official maps that the Federal Emergency Management Agency (FEMA) has delineated as both special hazard areas and the risk premium zones applicable to Benicia.

Figure G.A Benicia Flood Hazard Map



Flood Hazard Map

Special Flood Hazard Area. Subject to inundation by the 100 year flood.The flood has a 1% chance of being equaled or exceeded in any given year. Includes zones A, AE, AH, AO, AR, A99, V and VE.

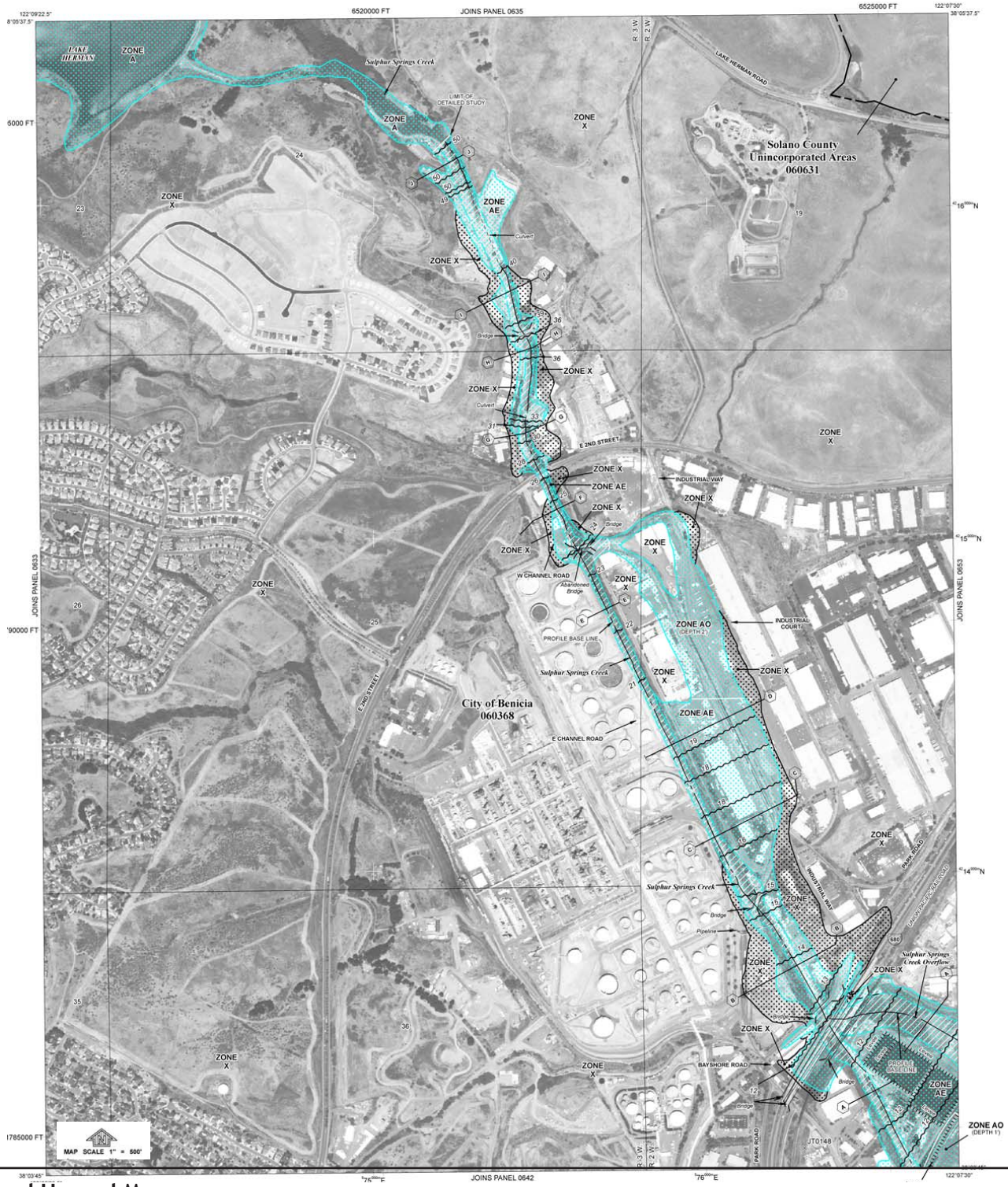
Other Flood Areas. Areas of .2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; ad areas protected by levees from the 100-year flood.

Flood Plain Boundary

Undetermined Area. Areas where flood hazards are undetermined, but possible. [FEMA Zone D]

Floodway Area in Zone AE Where the floodway is the channel of a stream plus any adjacent floodplain

Figure G.B Benicia Flood Hazard Map



Flood Hazard Map

Special Flood Hazard Area. Subject to inundation by the 100 year flood. The flood has a 1% chance of being equaled or exceeded in any given year. Includes zones A, AE, AH, AO, AR, A99, V and VE.

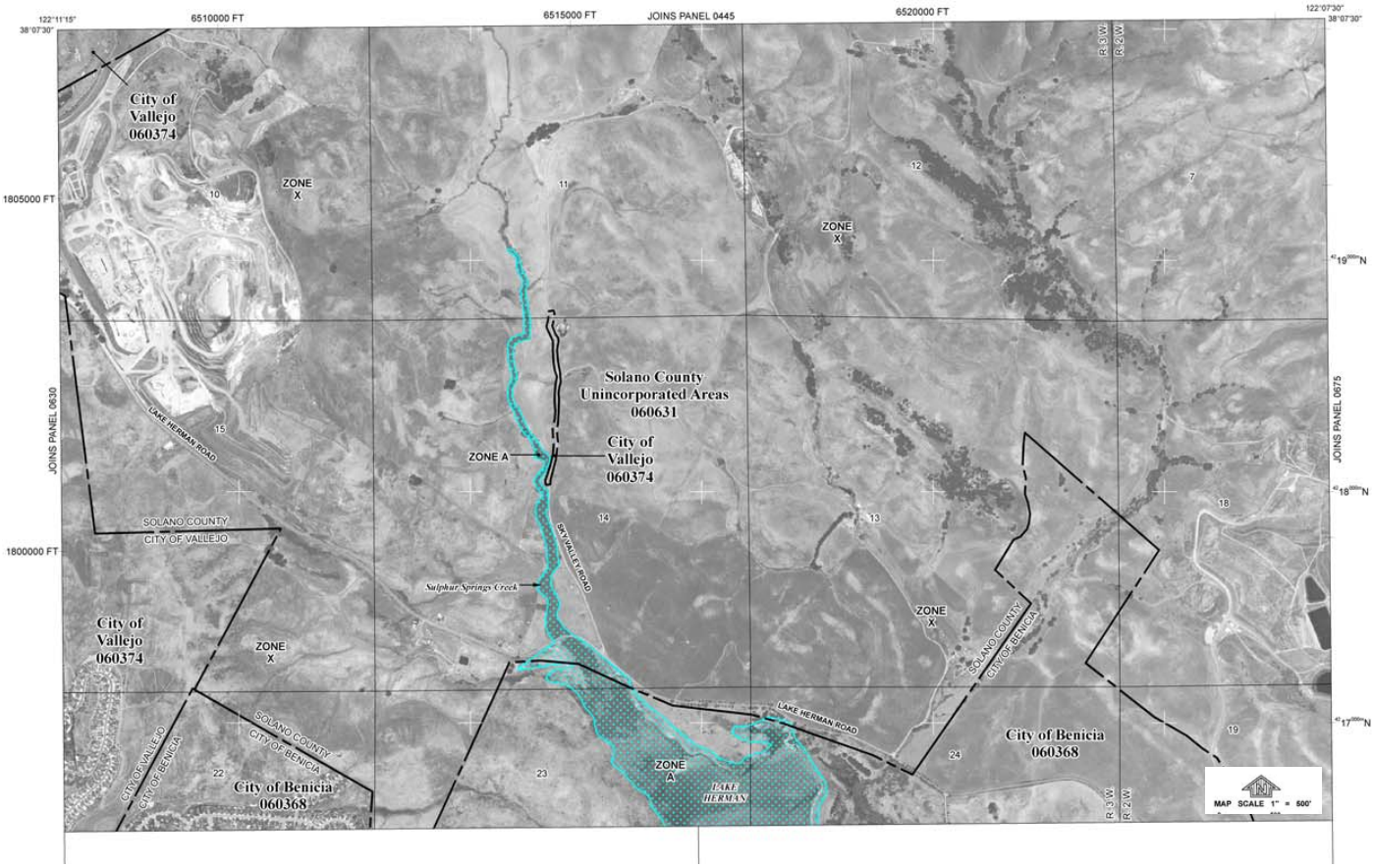
Other Flood Areas. Areas of .2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; ad areas protected by levees from the 100-year flood.

Flood Plain Boundary

Undetermined Area. Areas where flood hazards are undetermined, but possible. [FEMA Zone D]

Floodway Area in Zone AE Where the floodway is the channel of a stream plus any adjacent floodplain

Figure G.C Benicia Flood Hazard Map



Flood Hazard Map

Special Flood Hazard Area. Subject to inundation by the 100 year flood. The flood has a 1% chance of being equaled or exceeded in any given year. Includes zones A, AE, AH, AO, AR, A99, V and VE.

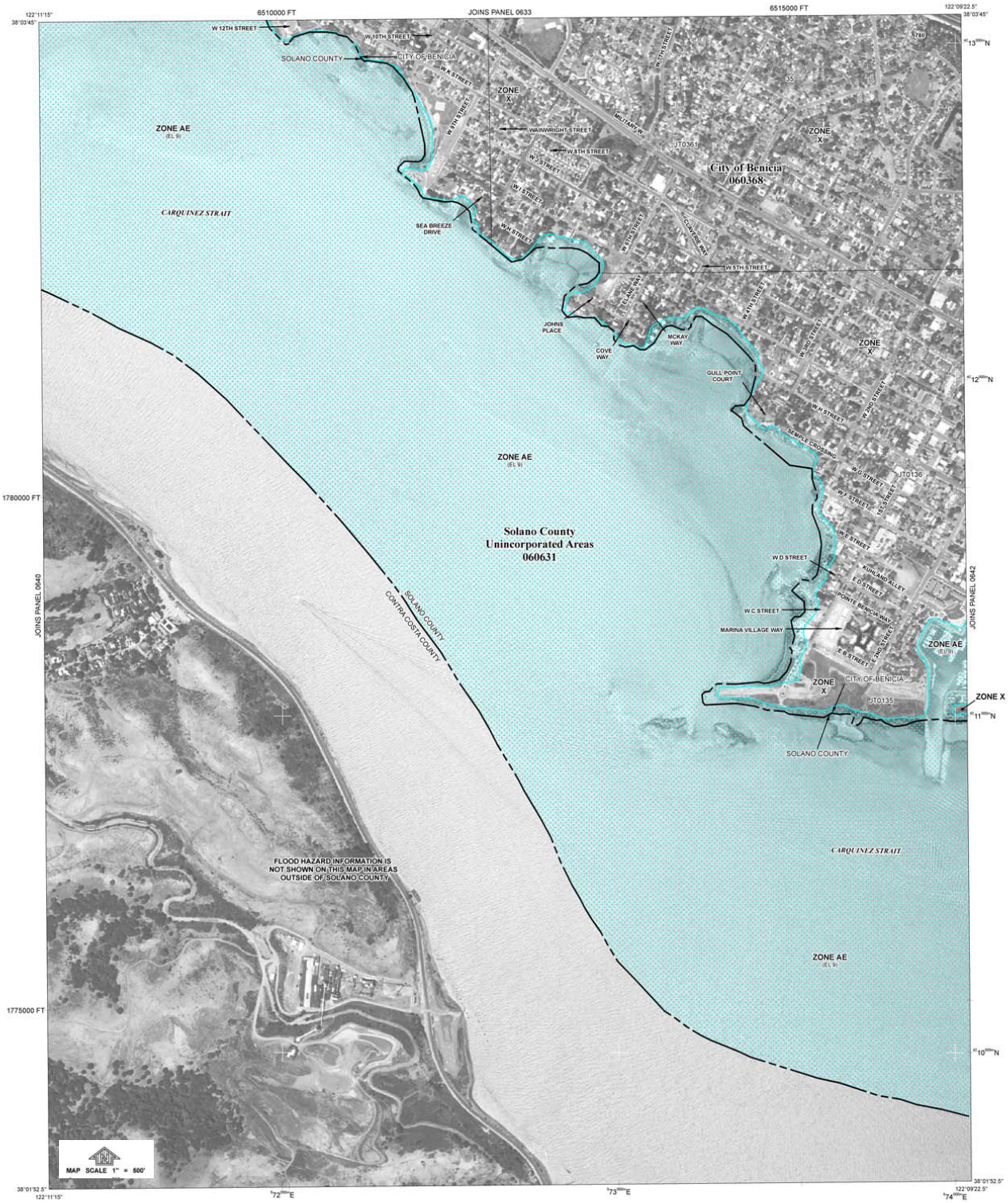
Other Flood Areas. Areas of .2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; ad areas protected by levees from the 100-year flood.

Flood Plain Boundary

Undetermined Area. Areas where flood hazards are undetermined, but possible. [FEMA Zone D]

Floodway Area in Zone AE Where the floodway is the channel of a stream plus any adjacent floodplain

Figure G.D Benicia Flood Hazard Map



Flood Hazard Map

Special Flood Hazard Area. Subject to inundation by the 100 year flood. The flood has a 1% chance of being equaled or exceeded in any given year. Includes zones A, AE, AH, AO, AR, A99, V and VE.

Other Flood Areas. Areas of .2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; ad areas protected by levees from the 100-year flood.

Flood Plain Boundary

Undetermined Area. Areas where flood hazards are undetermined, but possible. [FEMA Zone D]

Floodway Area in Zone AE Where the floodway is the channel of a stream plus any adjacent floodplain

Figure G.E Benicia Flood Hazard Map

Flood Hazard Map

Special Flood Hazard Area. Subject to inundation by the 100 year flood. The flood has a 1% chance of being equaled or exceeded in any given year. Includes zones A, AE, AH, AO, AR, A99, V and VE.

Other Flood Areas. Areas of .2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; ad areas protected by levees from the 100-year flood.

Flood Plain Boundary

Undetermined Area. Areas where flood hazards are undetermined, but possible. [FEMA Zone D]

Floodway Area in Zone AE Where the floodway is the channel of a stream plus any adjacent floodplain

Appendix H
Arsenal Historic Areas

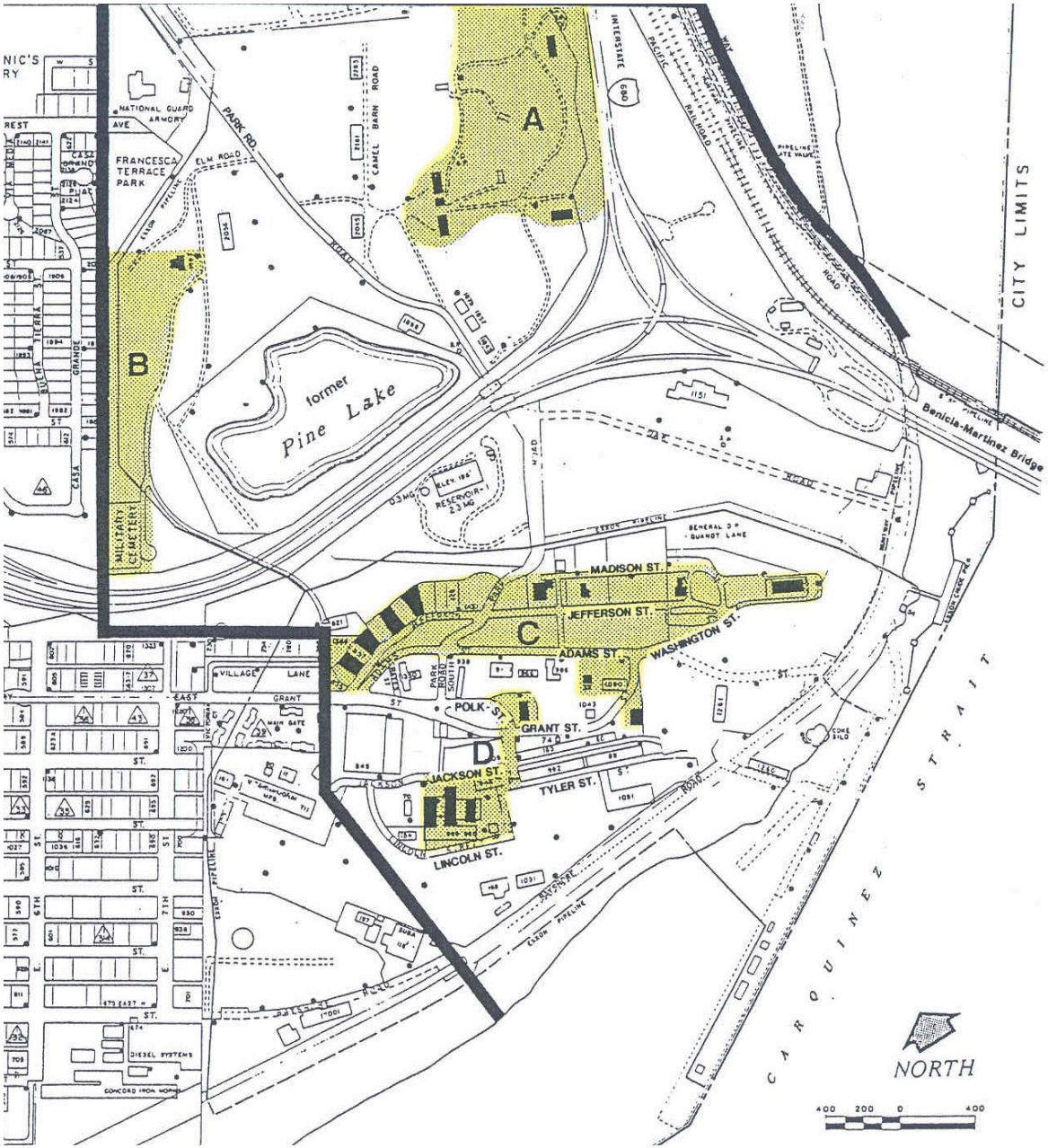


Figure 2

National Register Historic Districts and Properties of the Benicia Arsenal

LEGEND

- Arsenal Park Historic District Boundary
- National Register District
- Building Listed on the National Register

These four districts were listed on the National Register of Historic Places in 1975.

Appendix I
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United States, Americans with Disabilities Act (ADA), 1990

United States Census Bureau, 1990 Census Summary File

United States Census Bureau, 2000 Census Summary File

United States Census Bureau, 2010 Census Summary File

United States, Department of Housing and Urban Development (HUD)

United States, Department of Housing and Urban Development (HUD), State of the Cities Data Systems (SOSDS) Comprehensive Housing Affordability Strategy (CHAS), retrieved from http://socds.huduser.org/

LWC

VIII.A.138

Acknowledgements
Commissioner Oakes, Vice Chair

Page 30 – Program 4.01
Replace "transitional shelter" with "transitional housing"

Page 43
Add the following new Policy and Program:

Policy 3.05
The City shall encourage housing development that meets the special needs of disabled persons, including developmentally disabled individuals, and ensure that multiple family developments comply with the handicapped provisions of the California Building Code and Americans with Disabilities Act (ADA).

Program 3.08
The City shall explore different models to encourage the creation of housing for persons with disabilities, including developmental disabilities. Such models could include the following: (a) coordinating with the North Bay Regional Center, North Bay Housing Coalition, and other local agencies to pursue funding to maintain housing affordability for persons with disabilities, including developmental disabilities; (b) encourage affordable housing projects to dedicate a percent of housing for disabled individuals; (c) assisting in providing housing services that educate, advocate, inform, and assist persons with disabilities to locate and maintain housing; and (e) assisting in the maintenance and repair of housing for persons with developmental disabilities.

Funding Source:	General Fund
Responsible Agency:	Community Development Department
Timeframe:	Ongoing.
Quantified Objective:	n/a

Page 95 – Physical Constraints (first paragraph, last sent.)
Strike "aesthetic" from list of impacts.
Noise, light, dust and other ~~aesthetic~~ impacts due…

Correct Typo- "Specifically with regard to properties in the lower ***arsenal***, their proximity to industrial land uses and their locations within a former defense site may pose constraints.

Page 103- Land Use Controls and Development Standards
Remove space in word "reporting"

Page 109- Wastewater Treatment
Replace entire paragraph with the following:

Wastewater throughout the City is collected and transported to the wastewater treatment plant (WWTP) via 23 sewage lift stations and approximately 150 miles of collection system piping. The City's WWTP treats and discharges the wastewater to the Carquinez Strait. The WWTP has a present treatment capacity rating of 4.5 million gallons per day (mgd) dry weather flow. On average the City's plant treats 2.0 to 2.5 mgd.

Page 107 – Appendix E
All of the vacant Arsenal sites analyzed in this study (Sites No. 3, 4, 5, and 6) are located within the Lower Arsenal and subject to additional review under the Arsenal Historic Conservation Plan and the Secretary of the Interior Standards. Sites within the Lower Arsenal have been identified by the Department of Toxic Substance Control (DTSC) as potentially contaminated. None of these sites analyzed in this study (Site No. 3, 4, 5 and 6) are located within the DTSC site, and therefore do not face hazardous materials ~~environmental~~ constraints associated with identified contamination.

Misc.
Change all references from "live/work" to "work/live" per City Council Ordinance No. 13-15 (Industrial Zoning Text Amendment), unless specially quoting the text of the General Plan.

THE CITY OF BENICIA CALIFORNIA	**INITIAL STUDY/NEGATIVE DECLARATION**

PROJECT INFORMATION

Project Title:	City of Benicia Housing Element 2015-2023
Lead Agency Name and Address:	City of Benicia 250 East L Street Benicia, CA 94510
Project Location:	City of Benicia
Project Sponsor's Name and Address:	City of Benicia 250 East L Street, Benicia CA 94510
General Plan Designation:	Because the project applies to all land in the City, it encompasses multiple Benicia General Plan designations
Zoning:	Because the project applies to all land in the City, it encompasses multiple Benicia zoning designations
Assessor's Parcel No.	N/A
Contact Person:	Amy Million, Principal Planner
Phone Number:	707-746-4280
Date Prepared:	August 27, 2014

PROJECT DESCRIPTION

The project is to update the Housing Element of the City of Benicia General Plan as required by Government Code Sections 65580 – 65589.8. The Housing Element is a comprehensive statement by the City describing the housing needs of Benicia and how the City's plans, policies, programs and regulations facilitate the development, improvement and preservation of housing for all economic segments of the community. The Housing Element is one of the seven General Plan Elements mandated by the State of California, as required in Government Code Sections 65580 to 65589.8. State law requires that the Housing Element consist of "identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, and scheduled programs for the preservation, improvement and development of housing." The Housing Element sets forth the City's strategy for enhancing and preserving the housing stock, for expanding housing opportunities for various economic segments, and along with the Land Use Element, provides policy guidance for decision making related to housing. State law also requires regular updates of the Housing Element. Until the passage of SB 375 in 2008, Housing Elements were expected to be updated every five years. SB 375 requires Housing Element updates to coincide with the eight year cycles of regional plans focused on reducing greenhouse gases through regional land use and transportation plans. State law also requires that Housing Elements be reviewed and certified as meeting State requirements by the Department of Housing and Community Development (HCD). The 2015-2023 Housing Element will supersede the 2007-2014 Housing Element certified by HCD in December 2012.

HCD projects statewide housing needs and allocates those needs to each regional government in the State. For the City of Benicia, the regional agency is the Association of Bay Area Governments (ABAG). After consultation with ABAG, HCD provided the regional need to ABAG, which then distributed the Regional Housing Needs Assessment (RHNA) to the counties and cities within the ABAG region. ABAG allocates housing production goals for each jurisdiction primarily based on their "fair-share" of the region's population growth, which is outlined in the 2014-2022 San Francisco Bay Area Housing Needs Plan. Of the 187,990 housing units allocated to ABAG for this planning period, Benicia will need to accommodate 327 units. One of the primary purposes of the Housing Element update is to demonstrate the City's ability to accommodate residential development to meet the RHNA. According to the 2014-2022 Regional Housing Needs Allocation Plan, Benicia will need to accommodate 94 very low-income, 54 low-income, 56 moderate-income, and 123 above moderate-income housing units (327 units total). It is important to emphasize that the City of Benicia does not build housing. While the City can provide incentives and assist with the development of affordable housing to the degree that resources are available, the City is dependent on the private and non-profit sectors to meet the housing needs identified in the Housing Element. Between 2000 and 2010, the City of Benicia grew by 361 households, or an annual average amount of 36 households per year, relative to the estimated need of 41 new households per year between 2015 and 2023.

The Draft 2015-2023 Housing Element identified sufficient existing land zoned at various densities to accommodate the City's Regional Housing Needs Allocation of 327 dwelling units. The development of 327 dwelling units would not exceed the City's existing growth or capacity anticipated in the 1999 General Plan, Benicia's long-term guide for growth. The population growth estimated for this Housing Element is consistent with the growth estimated in the Benicia 1999 General Plan. The 1996 and 1998 population projections from the Association of Bay Area Governments (ABAG) estimated the total population of Benicia by 2015 to reach 28,600 (1998 Draft General Plan EIR p. 38 Table 5). ABAG's 2013 population projections estimate Benicia's population at 27,600 in 2015, or 1000 people less than the projections for the 1999 General Plan. ABAG's 2013 population projections through 2025 anticipate that Benicia's population will increase an average of 140 people every year between 2015 and 2023, reaching a population

of 28,720 people in 2023, very close to the number anticipated in the analysis of impacts for the 1998 General Plan Environmental Impact Report (EIR).

The environmental impacts of the level of development expected and allowed for under the City's 1999 General Plan were evaluated in the Benicia General Plan EIR, (Draft EIR, January, 1998; Final EIR, April, 1998), certified by the City Council on June 15, 1999 (Resolution No. 99-70). That EIR found no significant environmental impacts from expected development after mitigation.

The 2015-2023 Housing Element is a policy document: it sets forth policies and strategies for accommodating the City's housing needs. The Element identifies sites where there is capacity for development to occur to meet identified housing needs consistent with the General Plan and current zoning. This Negative Declaration does not evaluate the site-specific impacts of any development. Development could occur on identified sites or on other sites within the City, and it would be speculative to assume that development to meet housing needs will occur on only those sites identified in the Housing Element. Residential development on the identified opportunity sites or most other sites in the City will require entitlement and appropriate environmental review that will address site-specific impacts.

The Draft 2015-2023 Housing Element includes certain new measures to be implemented. This Initial Study/Negative Declaration (IS/ND) evaluates the foreseeable impacts of those measures as described below.

Program 1.09 State Density Bonus law

Density bonus provisions of State law are intended to encourage the provision of housing affordable to low and moderate income households. While a density-bonus project might permit a somewhat higher density on a particular site, it would not necessarily increase the overall level of development within the community. Given past development levels, it is highly unlikely that density bonus provisions would affect the conclusions in the General Plan EIR. It would be speculative to assume that any particular site will be developed using Density Bonus provisions, and site-specific environmental review is required at the time of application for entitlement. Therefore, no significant impacts are expected from the implementation of this ordinance beyond those addressed in the General Plan EIR.

Program 1.10 accessory dwelling units and
Program 1.11 accessory dwelling units (reduction in parcel size requirements)

The proposal is to modify existing zoning regulations to more easily allow accessory dwelling units in the community. It would be speculative to make any assumptions regarding the number or location of such units, and no site or area specific environmental assessment has therefore been done. Based on past applications, it can be assumed that such units will be scattered throughout neighborhoods and will not be of sufficient number to effect the conclusions of the General Plan EIR.

Program 1.12 Fee reduction or waiver

The proposed program would identify affordable housing projects specifically as eligible for application fee reduction or waiver. This process is currently stated in more general terms in the City's Master Fee Schedule.

Program 3.01 Emergency Shelters and Transitional & Supportive Housing

The proposed Program would allow for Emergency Shelters and Transitional and Supportive housing to be allowed by right, as required by State law. No specific sites or zoning

designations have been identified for this by-right use, so any evaluation of environmental affects is speculative and premature.

Program 3.02 Reasonable Accommodations

The proposed program would implement federal and state law to provide equal access to housing for people with disabilities. This law addresses the design of housing rather than the amount and therefore is unlikely to have an impact on the environment. As the specific changes are not yet identified, it would be speculative to evaluate the environmental affects, if any, of this program.

ENVIRONMENTAL SETTING

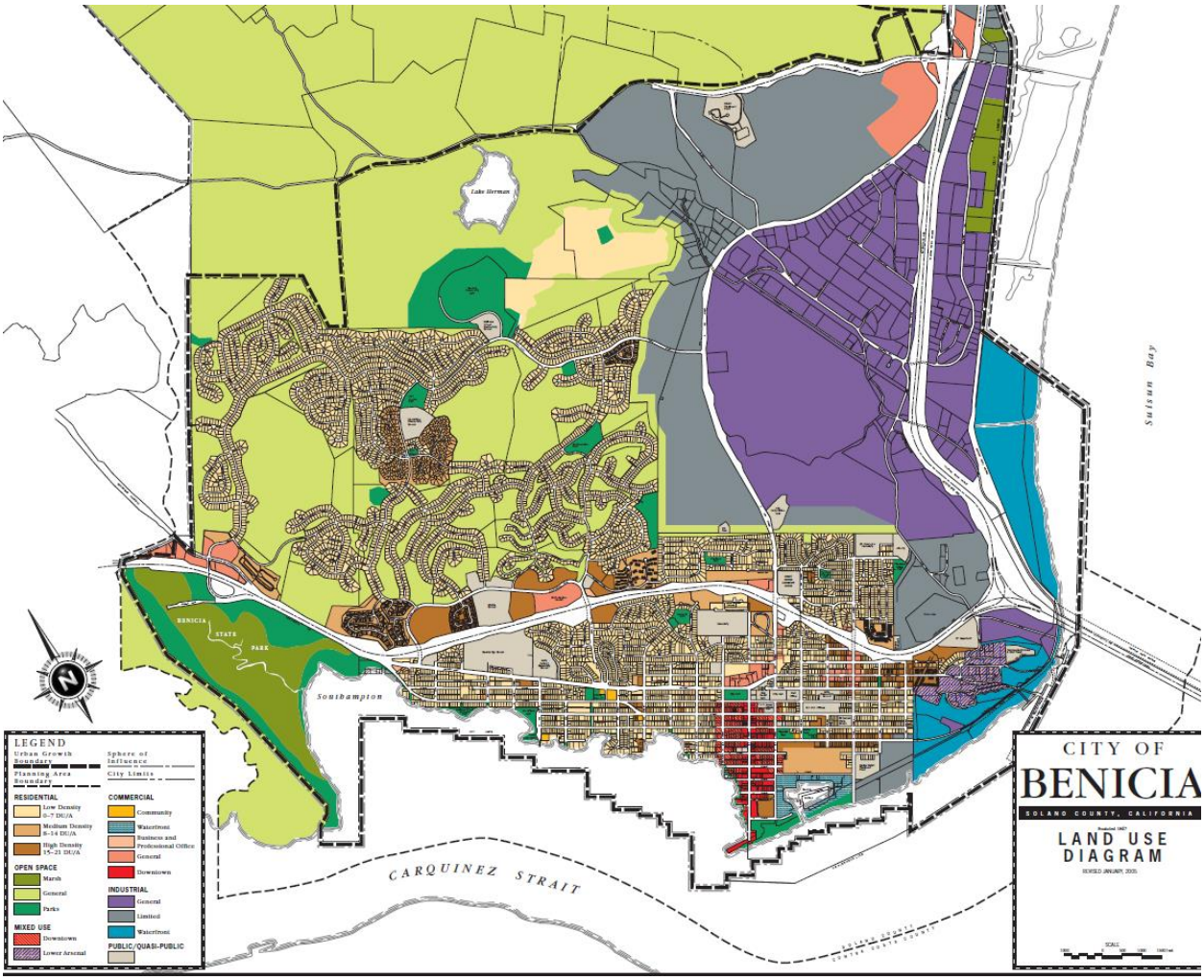
The City of Benicia is approximately 35 miles northeast of San Francisco and 57 miles southwest of Sacramento. It lies on the north shore of the Carquinez Strait where the combined flows of the Sacramento and San Joaquin rivers have cut a deep gorge through the coast range. The City is built on a peninsula that reaches south from the main body of Solano County and creates a prominent bend in the Carquinez Strait. From this peninsula, highway and railroad bridges span the Strait to connect Benicia with Contra Costa County. Views from Benicia encompass the Strait, the foothills of northern Contra Costa County and Mt. Diablo in the distance.

The City is made up primarily of rolling hills, rising to an elevation of 1,160 feet. On the west boundary, Sulphur Springs Mountain reaches to an elevation of approximately 950 feet. Two major drainages, Sulphur Springs Creek to the west and Paddy Creek to the east, run approximately north-south through the City. The flow from Sulphur Springs Creek is contained by Lake Herman before being joined by Paddy Creek and before continuing southeast into the Benicia Industrial Park and finally the Bay. The rolling hills reach almost to the shoreline; very little of Benicia is flat. On the southern margins of the City the land slopes gently down to the Carquinez Strait where most of the older residential areas and the Downtown are located (Figure 1 General Plan Land Use Map). The eastern city limits are bordered by the marshlands of Suisun Bay. Relatively flat areas adjacent to the marshes provide sites for industry. At the southwestern boundary of the City, another flat, marshy area has been preserved as the Benicia State Recreation Area.

Population/Housing/Employment

As of the 2010 census, the City's population 26,997 composed of 10,686 households. Other census data found 11,717 housing units, of which 64 percent were single family attached, 8 percent single family attached, 12 percent 2-4 unit attached, 14 percent multi-family and 2 percent mobile homes. There were 15,306 people in the civilian labor force in 2010, and 14,279 jobs located within the City (Public Hearing Draft 2015-2023 Housing Element, Appendix 1).

FIGURE 1. GENERAL PLAN LAND USE MAP.



ENVIRONMENTAL CHECKLIST

The Project's potential level of impact is indicated as follows:

Potentially Significant	Potentially significant environmental impacts.
Potentially Significant and Mitigable	Potentially significant impacts which can be mitigated to less than significant levels.
Less than Significant	Impacts which are considered less than significant and do not require mitigation.
No Impact	No impacts related to the project.

Environmental Factors Potentially Affected

None of the environmental factors would be potentially affected by this project. The environmental factors below are discussed in this document.

	1. Aesthetics			10. Land Use and Planning
	2. Agricultural Resources			11. Mineral Resources
	3. Air Quality			12. Noise
	4. Biological Resources			13. Population and Housing
	5. Cultural Resources			14. Public Services
	6. Geology and Soils			15. Recreation
	7. Greenhouse Gas Emissions			16. Transportation and Circulation
	8. Hazards/Hazardous Materials			17. Utilities and Service Systems
	9. Hydrology and Water Quality			18. Mandatory Findings of Significance

DETERMINATION: The City of Benicia Planning Department

On the basis of this initial evaluation:

☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☐ I find that although the proposed project could have a significant effect on the environment there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature | Date

Amy Million, Principal Planner

PURPOSE OF THIS INITIAL STUDY

This Initial Study has been prepared consistent with CEQA Guidelines Section 15063, to determine if the project, as proposed, may have a significant effect upon the environment. Based upon the findings contained within this report, the Initial Study will be used in support of the preparation of a negative declaration.

EVALUATION OF ENVIRONMENTAL IMPACTS

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on project-specific screening analysis).

2) All answers must take into account the whole action involved, including offsite as well as onsite, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Potentially Significant Unless Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

    a) Earlier Analysis Used. Identify and state where they are available for review.

    b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

    c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures, which were incorporated or refined from the earlier document and the

extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) The explanation of each issue should identify:

   a) The significance criteria or threshold, if any, used to evaluate each question; and

   b) The mitigation measure identified, if any, to reduce the impacts to a less than significance.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS. Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☒
d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?	☐	☐	☐	☒

Aesthetics Impact Discussion:

1(a). No Impact: The City of Benicia 1999 General Plan EIR identified Benicia's scenic vistas as one of the City's defining elements (General Plan EIR, page 103). The General Plan therefore included several policies and programs designed to mitigate the impacts of development on scenic vistas, including a requirement for design review of most development projects. As a result of those programs and policies, the General Plan EIR found no significant impacts from the development proposed under the Plan. Housing developed under the 2015-2023 Housing Element will be subject to those policies and programs and therefore should have no significant effect on the scenic vistas within the City of Benicia. .

1(b). No Impact: The City of Benicia 1999 General Plan named three principle scenic routes: Interstate Freeway (I) 780 between Glen Cove Road and the Benicia-Martinez Bridge; I-680 between Morrow Lane and the Benicia-Martinez Bridge; and Lake Herman Road. No

additional scenic routes have been identified since the adoption of the 1999 General Plan and its EIR, and the General Plan EIR found that policies and programs in the General Plan would mitigate any potentially significant impacts to scenic resources within a scenic highway (Draft General Plan EIR, pages 106-108). As the 2015-2023 Housing Element is consistent with the growth expected in the General Plan, and its policies, such as requirements for design review, continue to apply, no impacts on scenic resources in a scenic highway are expected from adoption of the 2015-2023 Housing Element.

1(c-d). No Impact: The proposed Housing Element is a policy document and does not allow for any specific development. Potential impacts from light and glare, or on the visual character of a particular site, are site-specific impacts that can only be evaluated on a site by site basis. As the location of development cannot be predicted with any certainty, any assessment of these impacts is premature and speculative. Zoning Ordinance Sections § 17.74.170 and § 17.70.240(D)(2) specifies lighting standards for all new exterior lighting. Prior to approval of any new projects within the City requiring Use Permit or Design Review approval, the City shall conduct project-specific environmental review to determine whether the project would cause any significant impacts and, where possible, to mitigate potential environmental impacts.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
II. AGRICULTURE AND FORESTRY RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert prime farmland, unique farmland, or farmland of statewide importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
c) Involve other changes in the existing environment, which, due to their location or nature could result in conversion of farmland, to non-agricultural use?	☐	☐	☐	☒

Agricultural Resources Impact Discussion:

2(a-c). No Impact: The proposed 2015-2023 Housing Element encourages the development on infill parcels within the City limits of Benicia consistent with the General Plan. No

prime, unique or farmlands of statewide importance are located within the City of Benicia, and while existing zoning may allow for limited farming in some districts, there are no parcels within the City's boundary exclusively zoned for farmland or agricultural uses. The City's General Plan contains policies that protect open space and land that may be suitable for agricultural production, including a policy that preserves the rangeland north of Lake Herman Road (Policy 3.18.1). Since no impacts to agricultural resources are anticipated no mitigation measures are proposed.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
III. AIR QUALITY. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☒
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☒
d) Exposure of sensitive receptors to substantial pollution concentrations (emissions from direct, indirect, mobile and stationary sources)?	☐	☐	☐	☒
e) Create objectionable smoke, ash, dust or odors affecting a substantial number of people?	☐	☐	☐	☒

Air Quality Impact Discussion:

Setting:

The most recently adopted air quality plan for the San Francisco Bay Area is the Bay Area 2010 Clean Air Plan (2010 CAP). The 2010 CAP is an update to the Bay Area Air Quality Management District's (BAAQMD) 2005 Ozone Strategy to comply with State air quality planning requirements. The 2010 CAP also serves as a multi-pollutant air quality plan to protect public health and the climate. The 2010 CAP control strategy includes revised, updated, and new measures in the three traditional control measure categories, including stationary source measures, mobile source measures, and transportation control measures. In addition, the 2010 CAP identifies two new categories of control measures, including land use and local impact measures, and energy and climate measures (BAAQMD, 2010).

BAAQMD recommends that the agency approving a project where an air quality plan consistency determination is required analyze the project with respect to the following questions: 1) does the project support the primary goals of the air quality plan; 2) does the project include applicable control measures from the air quality plan; and 3) does the project disrupt or hinder implementation of any 2010 CAP control measures? If all the questions are concluded in the affirmative, BAAQMD considers the project consistent with air quality plans prepared for the Bay Area (BAAQMD, 2012). Any project that would not support the 2010 CAP goals would not be considered consistent with the 2010 CAP, and if approval of the project would not result in significant and unavoidable air quality impacts after the application of mitigation, then the project would be considered consistent with the 2010 CAP.

3(a). No Impact: The air quality impacts resulting from the anticipated growth and development of the City were addressed in the 1998 EIR for the Benicia General Plan. No new or increased impact will increase beyond what is already anticipated in the 1999 General Plan as a result of the Housing Element. The City's General Plan is in conformance with the Clean Air Plan. The proposed Housing Element is consistent with the City's General Plan and as a result the project would not conflict with implementation of the Clean Air Plan. The proposed Project would support the primary goals of the 2010 CAP and it would not disrupt or hinder implementation of any 2010 CAP control measures. Therefore, there would be no impact associated with conflicting or obstructing implementation of the applicable air quality plan.

3(b-c). No Impact: In 1998, the Bay Area recorded excesses of the national one-hour standard on 8 days and excesses of the state standard on 29 days. In 2000, excesses of the national one-hour ozone standard were recorded on 3 days and excesses of the State standard were recorded on 12 days. To comply with state air quality standards for ozone, BAAQMD prepared the Clean Air Plan for the Bay Area in 1991 and that plan has been updated every three years since, with the latest update in 2010. The City's General Plan is in conformance with the Clean Air Plan. The proposed Housing Element is consistent with the City's General Plan; as a result, the project would not conflict with implementation of the Clean Air Plan. The 2012 Housing Element Update does not propose any additional development not anticipated by the 1999 General Plan. Adopting the updated Housing Element will not by itself violate any air quality standard or result in a cumulatively considerable net increase of any criteria pollutant. Air quality impacts resulting from the anticipated growth and development of the City were addressed in the 1998 EIR for the Benicia General Plan.

3(d). No Impact: The 2015-2023 Housing Element Update identified numerous sites throughout the City where in-fill could occur, but does not propose any site-specific new development. Adopting the updated Housing Element will not by itself expose sensitive receptors to substantial pollutant concentrations. No new or increased impact as a result of the Housing Element will result beyond what is already anticipated in the 1999 General Plan. Depending on the attributes of each individual development proposal, future development will be subject to additional environmental review and compliance with all applicable policies related to air quality, pollutant concentrations, and sensitive receptor exposure.

3(e). No Impact: Housing is not a use that can be anticipated to generate objectionable odors affecting a substantial number of people.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
IV. BIOLOGICAL RESOURCES. Would the project:				
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of fish and Game or U.S. Fish and Wildlife service?	☐	☐	☐	☒
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☒
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?	☐	☐	☐	☒

Biological Resources Impact Discussion:

4(a). No Impact: The 1998 City of Benicia General Plan EIR found that several plant and animal species with special-status have been recorded or are suspected to occur in the southern Solano County area and Benicia vicinity. Several of these have been reported in the City, and most of these are associated with tidal marshland habitat. A number of the natural communities in the City have a high inventory priority with the California Natural Diversity Database (CNDDB) due to rarity and threats, and are considered sensitive resources.

The Open Space and Conservation of Resources section in Chapter 3 (Community Identity) of the 1999 Benicia General Plan focuses on habitat protection in order to protect these species through numerous goals, policies, and programs. Impacts on such species either directly or through habitat modifications resulting from the anticipated growth and development of the City were addressed in the City of Benicia 1998 General Plan EIR. That EIR found that the policies and programs in the General Plan fully mitigated any impacts on biological resources. The Housing Element Update would encourage residential development on infill sites consistent with the General Plan, and subject to the policies and programs in the General Plan to mitigate the impacts of development on threatened species. Adoption of The Housing Element would not, in itself cause significant effects on species or habitat identified as a threatened, endangered, candidate, sensitive, or special status. Depending on the attributes of each individual development proposal, future development will be subject to additional environmental review and compliance with all applicable policies related to any biological resources identified as a candidate, sensitive, or special status species.

4(b). No Impact: The goals and policies in the Open Space and Conservation of Resources section of the 1999 Benicia General Plan protect wetlands, habitat for special-status species, native vegetation, wildlife habitat, and movement corridors Additional biological and wetland assessments would be required as part of environmental review of proposed developments, as called for in Policy 3.19.1 and Program 3.19.A of the General Plan. Where sensitive resources are encountered, adequate mitigation would be required through avoidance, minimization, or replacement as called for in numerous policies and programs in the 1999 Benicia General Plan. Impacts to any riparian habitat or other sensitive natural communities resulting from the anticipated growth and development of the City were addressed in the EIR for the City of Benicia 1998 General Plan. That EIR found that the General Plan's policies and programs fully mitigated any significant impacts on biological resources, and the policies and programs continue to apply. No new or increased impacts will result from adopting the Housing Element beyond those already anticipated in the 1999 General Plan.

4(c). No Impact: The City of Benicia has numerous wetlands listed in the National Wetland inventory including: the intertidal and subtidal estuarine along Carquinez Strait and Suisun Bay; tidal and lower perennial riverine along the lower stretches of Sulphur Springs Creek through the Valero Benicia Refinery; limnetic lacustrine and emergent, scrub-scrub, and forested palustrine associated with Lake Herman; emergent, scrub-scrub, and forested palustrine along the various streams and larger drainages; and unconsolidated bottom palustrine at the scattered stock ponds in the City. The Zoning Ordinance and Open Space and Conservation of Resources section of the 1999 General Plan both have measures that protect waterways. Since no impacts to biological resources are anticipated beyond those identified in the City of Benicia 1998 General Plan EIR, no mitigation measures are proposed. Adopting the updated Housing Element will not by itself have a substantial effect on any federally protected wetlands.

4(d). No Impact: All impacts resulting from the anticipated growth and development within the City were addressed in the City of Benicia 1998 General Plan EIR. The General Plan EIR did not find any significant impacts related to substantial interference with the movement of any native resident or migratory fish or wildlife species, with established native resident or migratory wildlife corridors, or that would impede the use of native wildlife nursery sites. Adopting the Housing Element will not result in new or increased impacts beyond those already anticipated in the 1999 General Plan. Depending on the attributes of each individual development proposal, future development will be subject to additional environmental review and compliance with all applicable policies related to any wildlife species.

4(e). No Impact: Adopting the updated Housing Element will not conflict with any local policies or ordinances protecting biological resources. Local policies and ordinances designed to protect biological resources were drafted in response to identified environmental impacts at full build-out as discussed in the 1998 EIR for the City of Benicia General Plan. Adopting the updated Housing Element will not change or conflict with any of the existing local policies or ordinances protecting biological resources.

4(f). No Impact: There are no approved regional or state habitat conservation plans that apply within the City of Benicia. The City's Open Space and Conservation of Resources Element of its General Plan addresses development impacts to plant and animal habitat and the 1998 EIR for that General Plan found that due to the policies incorporated in the General Plan, there would be no significant impact on habitat. Future development within the City will be subject to the policies of the Open Space and Conservation of Resources section and environmental review as required by CEQA.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in ? 15064.5?	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to ? 15064.5?	☐	☐	☐	☒
c) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☐	☐
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒

Cultural Resources Impact Discussion:

5(a). No Impact: Adopting the Housing Element will not by itself cause a substantial adverse change in the significance of a historical resource within the City of Benicia. Impacts on historical resources resulting from the anticipated growth and development of the City or from the removal, modification or demolition of existing residences were addressed in the 1998 General Plan EIR. Mitigation measures integrated into the various elements of the General Plan in the form of goals, policies, and implementation measures will reduce all significant impacts to a level of less than significant. The Zoning Ordinance protects historical resources by implementing a Historic Overlay Zone to protect historic or architecturally significant buildings within the most historic portions of the City. As outlined in Appendix E of the Draft Housing Element and more specifically on pages 95-97, the locations of the sites for the yield analysis are primarily located within the Downtown Historic District or the Arsenal Historic District. Developments within these areas are subject to the Downtown Historic Conservation Plan and Arsenal Historic Conservation Plan, respectively. In addition, four areas of the Arsenal Historic District are listed on the National Register of Historic Places. Depending on the attributes of each

individual development proposal, future development will be subject to additional environmental review, development standards and compliance with all applicable policies related to any historical resources including the adopted conservation plans and the Secretary of the Interior Standards.

5(b). No Impact: Adopting the Housing Element will not by itself cause a substantial adverse change in the significance of an archaeological resource. The 1999 General Plan includes several policies related to protection of archaeological resources which will continue to apply to future development projects. Adopting the Housing Element will not result in new or increased impacts on archaeological resources. Depending on the attributes of each individual development proposal, future development will be subject to additional environmental review and compliance with all applicable policies related to any archaeological resources.

5(c). Does not apply. No unique paleontological resource or site or unique geologic features have been identified within the city limits of the City of Benicia.

5(d). No Impact: Adopting the Housing Element will not by itself disturb any human remains, including those interred outside of formal cemeteries. The 1998 General Plan EIR found that there may be sites in the City where prehistoric burials may have occurred, but no sites have been confirmed. While the City of Benicia does not have specific policies in relation to the discovery of human remains, the State's Health and Safety code (Section 7050.5-7055), that applies within the City, has clear procedures that require excavation stop, the coroner called, and, if such remains are found to be Native American, the appropriate Native American organization be contacted to address those remains in a respectful manner. As there are no specific archaeological sites identified as holding human remains within the City, and that State law applies should they be inadvertently uncovered during development excavation, no further mitigation is needed and there is no impact from the adoption of the Housing Element.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
VI. GEOLOGY AND SOILS. Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death, involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☒	☐
ii) Strong seismic ground shaking?	☐	☐	☐	☒
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒
iv) Landslides?	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☒
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☐

Setting

Within Benicia, the most significant geologic hazards are those associated with landslides, debris flows, and ground shaking during earthquakes. Other significant geologic hazards include the potential for settlement of structures constructed on filled bay land, expansive soils, cut and fill slopes, and flooding.

The City of Benicia lies within a seismically active region. The principal faults in the area are capable of generating large earthquakes that could produce strong to violent ground shaking in Benicia. The Green Valley fault is the only active fault known in the City. An earthquake on the Green Valley fault is likely to cause fault rupture. The risk of fault rupture elsewhere in the City is very low.

Within Benicia, the areas most at risk from liquefaction are along the Bay margin and in the flat-lying valley bottoms, in areas underlain by Bay Mud or Alluvium. Figure 4-2 of the Benicia 1999 General Plan shows areas with potential liquefaction hazard. Although liquefaction often causes severe damage to structures, structural collapse is uncommon. The risk to public safety from liquefaction, therefore, is relatively low. Structures can be protected from liquefaction through the use of special foundations.

Landslides are significant geologic hazards in the City. Since the 1906 San Francisco earthquake, damage from landslides has far exceeded that from earthquakes. Landslides are relatively rare in the developed portions of Benicia, but are numerous in the hilly, undeveloped areas. A map of the landslides in the City is shown on the Landslide Map, Plate 2 of the Public Safety Background Report for the Benicia General Plan, February 28, 1996. Another reference is the Department of Mines and Geology Open File Report 86-17 "Landslide Hazards in the Benicia Valley Area". In addition to liquefaction hazards, Figure 4-2 of the City's General Plan also shows areas with potential landslide hazard. Landslides can cause extensive damage to buildings,

roadways, or other facilities located in the path of the landslide, and often result in large property losses. Because landslides are slow moving, people are rarely injured or killed. Landslides often result from poorly placed or poorly drained fill.

The California Building Code (CBC) adopted by jurisdictions in California (including the City of Benicia) has responded to the earthquake and other geological hazards in California with requirements that provide minimum life-safety standards for new construction.

Geology and Soils Impact Discussion:

6(a). Less Than Significant Impact: Adoption of the Housing Element encourages additional housing in an area prone to geological risks, especially from earthquakes. The 1999 Benicia General Plan included several policies to minimize that risk and in combination with the application of the CBC will ensure that new buildings provide adequate life safety protection to residents. While geologic risks cannot be fully mitigated, the 1998 General Plan EIR found no significant impacts from geologic hazards. Each new development project will be subject to site-specific assessments of geologic conditions pursuant to the UBC and General Plan policies.

6(b). No Impact: The Housing Element is a policy document. Soil erosion is a site specific impact requiring site-specific mitigations. While the Draft Housing Element identifies sites that are potentially available for housing, housing could be developed in other locations in the city and it would be speculative and premature to assume where development will occur. State and local regulations and the Building Code all require appropriate mitigation of development related soil erosion impacts. Therefore, there is no impact from adoption of the Housing Element.

6(c). No Impact: The Housing Element is a policy document. While it identifies sites that are potentially available for housing, it would be speculative and premature to assume where development will occur. Site specific assessments of whether a proposed development is subject to landslide, lateral spreading, subsidence, liquefaction or collapse would occur at the time of project entitlement. General Plan policies and CBC requirements will ensure that any mitigations needed to address such risk are imposed. The 1998 General Plan EIR found that with the application of General Plan policies, there were no significant impacts from such geologic conditions. No new or increased impacts will result above what is already anticipated in the existing environmental documents as a result of adopting the Housing Element. Depending on the attributes of each individual development proposal, future development will be subject to additional environmental review and compliance with all applicable policies related to landslides, lateral spreading, subsidence, liquefaction and collapse.

6(d). No Impact: The Housing Element is a policy document. While it identifies sites that are potentially available for housing, it would be speculative and premature to assume where development will occur. Site specific assessments of whether a proposed development is subject to expansive soils would occur at the time of project entitlement. General Plan policies and UBC requirements will ensure that any mitigations needed to address expansive soils are imposed. The 1998 General Plan EIR found that with the application of General Plan policies that still apply, there were no significant impacts from such geologic conditions. Any housing developed as a result of the Housing Element would be subject to all existing City development standards and will be subject to further environmental review and soils analysis.

6(e). Does not apply. Sites available for development are within the City's Urban Growth Boundary in urbanized locations where adequate sewer facilities are available. Septic systems

are generally not permitted within the city boundary, and so the adequacy of soils for septic systems or alternative wastewater disposal does not apply.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
VII. GREENHOUSE GAS EMISSIONS. Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐

Setting:

Unlike the pollutants that may have regional and/or local effects, project-generated Greenhouse Gas (GHG) emissions do not directly produce local or regional impacts, but may contribute to an impact on global climate change. Individual projects contribute relatively small amounts of GHG that, when added to all other GHG producing activities around the world, result in global increases in these emissions. Local or regional environmental effects may occur if the climate is changed. Therefore, a project produces an indirect localized and regional environmental impact from its contribution of GHG and the subsequent change in global climate. To address the threat of global climate change, the California legislature passed Assembly Bill 32 in 2006, requiring that the state reduce greenhouse gas (GHG) emissions to 1990 levels by 2020. Senate Bill 375 passed in 2012 addresses two major sources of GHG, transportation and land use, by requiring that regional agencies prepare plans to encourage growth within existing cities, and programs and policies to reduce the number of vehicle miles traveled. Local governments are expected to address this plan and are given incentives and assessed certain penalties in relation to their conformance with the plan.

In response to these legislative actions and the community's concerns with the impacts of climate change, the City of Benicia was one of the first cities in the State to adopt a Climate Action Plan (CAP) setting forth the strategies it intends to follow to reduce GHG emissions. These strategies include education and public outreach, energy production, transportation and land use, buildings, industrial and commercial, water and wastewater, solid waste, and parks and open space.

Greenhouse Gas Emissions Impact Discussion:

7(a-b). Less Than Significant Impact: The City's CAP plan found that a very small percentage (6%) of GHG emissions in the community was generated by its residential stock. The Housing Element sets forth a housing need of 327 units over the next 8 years. Should that total need be met, the City's housing stock would be increased by less than 3 percent. The GHG emissions associated with this level of development would therefore at most increase community wide GHG emissions by less than 2 tenths of one percent. However, the actual increase will be less because new units are subject to much more stringent energy conservation measures than existing housing, including increased requirements for insulation, energy efficient lighting, and appliances. The Housing Element also includes programs that support the implementation of

the Climate Action Plan and reinforces its overall mission. Housing Element Policy 6.01 and 6.02 have been updated and continued to the 2015-2023 Housing Element to enforce the California Energy Commission energy efficiency requirements and to address global climate change. In addition, Policy 6.03 and 6.04 require public outreach and education on energy conservation. The Housing Element focuses on accommodating very low and low-income units on multi-family development sites, with the regional bus route connecting residents with the Vallejo Ferry Terminal, the Pleasant Hill and Walnut Creek BART stations, and the Martinez Amtrak station. For the reasons cited above, the Housing Element will have a less than significant impact on GHG emissions and is consistent with the City's Climate Action Plan. Depending on the attributes of each individual development proposal, future development will be subject to additional environmental review and compliance with all applicable strategies and implementation actions in Climate Action Plan. The Housing Element is consistent with the Climate Action Plan, and will help move the City toward the goals established through AB 32 and SB 375.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
VIII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?	☐	☐	☐	☒
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code §65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e) For a project located within an airport land use plan area or, where such a plan has not been adopted, within two miles of a public airport or a public use airport, would the project result in a safety hazard for people residing or working in the City?	☐	☐	☐	☒
f) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
g) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒

Hazards/Hazardous Materials Impact Discussion:

8(a-c). No Impact: The Housing Element is a policy document related to the provision of housing in the community. Residential uses are not involved in the creation, emission or transport of a significant amount of hazardous materials.

8(d). No Impact: The Department of Toxic Substances Control (DTCS) maintains a hazardous-waste and substances sites list (Cortese List). No sites in Benicia are listed on the DTSC list. A search of other hazardous materials sites on the Cortese list maintained by the California Environmental Protection Agency (CalEPA Geotracker) identifies 77 sites in the City of Benicia. The type of sites included in this list are leaking underground storage tanks sites (LUST), land disposal sites, military sites, permitted underground storage tanks facilities (UST), and DTSC cleanup sites.

The majority of the sites identified in the yields analysis are located in the Benicia Arsenal, a former defense site. None of the development opportunity sites identified in the Housing Element are identified as having toxic substances on-site. Any project proposed in the City would have to conform to any applicable adopted local or State codes that regulate public health and safety, such as the California Residential, Building, Plumbing, Electrical, or Mechanical Codes. Therefore, adoption of the Housing Element would not result in a significant impact. Depending on the attributes of each individual development proposal, future development will be subject to additional environmental review and compliance with all applicable policies related to hazards or hazardous material.

8(e). No Impact: Does not apply as Benicia is not within 2 miles of an airport and there is no airport land use plan.

8(f). No Impact: The Housing Element encourages development of housing consistent with the City's 1999 General Plan. The General Plan addresses emergency response and evacuation routes. Because the Housing Element is consistent with the General Plan, adoption of the Housing Element would not impair implementation of, or physically interfere with the emergency response plan or emergency evacuation plan.

8(g). No Impact: The City's jurisdiction includes extensive open space (primarily grassland). Residential and industrial uses occur in proximity to these open space areas, posing potential fire safety problems. Figure 4-4 of the 1999 Benicia General Plan shows that a large portion of the City includes potential fire hazards. To address fire prevention in open space areas, the Fire Department administers a vegetation control program. The Housing Element is largely devoted to encouraging moderate and higher density development in infill locations within the City. None of the opportunity sites identified in the Element are in the urban/rural interface where wildland fires are most likely to occur. However, it is not possible to know at this time the exact

location of development that may occur under the Housing Element. The 1998 General Plan EIR found that Policies in the 1999 General Plan addressed the issue of the wildland/urban interface (1998 General Plan DEIR, page 47) and that there was no impact from development consistent with the General Plan.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
IX. HYDROLOGY AND WATER QUALITY. Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒
c) Substantially alter the existing drainage pattern on the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off-site?	☐	☐	☐	☒
d) Substantially alter the existing drainage pattern on the site or area, including through the alteration of the course of a stream or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?	☐	☐	☐	☒
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☒
f) Otherwise substantially degrade water quality?	☐	☐	☐	☒
g) Place housing within a 100-year flood hazard area as mapped on a federal flood hazard boundary or flood insurance rate map or other flood hazard delineation map?	☐	☐	☒	☐

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☒	☐
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☒	☐
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☒	☐

Setting:

The Flood Insurance Study and Flood Insurance Rate Maps (FIRM) prepared in 2009 by the Federal Emergency Management Agency (FEMA) identify areas in Benicia subject to flooding during a 100-year storm. These flood zones, as identified in Figures 1.A through 1.E in Appendix 1 of the Housing Element, consists of several low-lying areas: (1) the lands flanking the shoreline surrounding Lake Herman; (2) the lower reaches of the Sulphur Springs Creek Watershed downstream of Lake Herman; (3) the lands flanking the Benicia shoreline east of East 3rd Street; and (4) the wetlands associated with Benicia State Park on Southampton Bay. A "100-year storm" means that in any year there is one chance out of 100 for a serious flood to occur.

Hydrology and Water Quality Impact Discussion:

9(a and f,). No Impact: The Housing Element is consistent with development projections expected under the 1999 General Plan. The 1998 General Plan EIR found that the General Plan included policies and programs addressing potential water quality impacts such that development consistent with the General Plan would have no significant impacts on water quality (Draft EIR, page 130). Similarly, the 1998 General Plan EIR found that there was adequate wastewater treatment facilities to accommodate expected growth under the General Plan. Therefore, no impacts on water quality or wastewater discharge requirements are expected.

9 (b). No Impact: As described in the 1998 General Plan Draft EIR (page 51), the City of Benicia does not use groundwater to meet its residential water needs. As further described in the 1998 General Plan EIR, development under the plan is not expected to have a significant impact on groundwater supplies or quality (page 127).

9(c). No Impact: Development allowed under the City's General Plan does not involve alteration of the course of a stream or river. The opportunity sites identified in the Draft Housing Element are infill sites with existing drainage facilities and development of those sites will not substantially alter existing area drainage patterns. To the degree that development occurs in other parts of the City, erosion or siltation resulting from growth and development were addressed in the 1998 Benicia General Plan EIR. Standard measures integrated into the 1999 General Plan in the form of goals, policies, and implementation measures will reduce the severity of potential impacts. No new or increased impacts as a result of the Housing Element will result beyond what is already anticipated in the existing environmental documents. Depending on

the attributes of each individual development proposal, future development will be subject to additional environmental review and compliance with all applicable policies related to drainage patterns and erosion or siltation.

9(d). No Impact: Impacts on drainage patterns and surface runoff from the anticipated growth and development of the City have been addressed in the 1998 Benicia General Plan EIR. Standard measures integrated into the General Plan in the form of goals, policies, and implementation measures will reduce the severity of potential impacts. Depending on the attributes of each individual development proposal, future development will be subject to additional environmental review and compliance with all applicable policies related to drainage patterns and surface runoff.

9(e). No Impact: Issues associated with runoff water resulting from the anticipated growth and development within the City were addressed in the 1998 Benicia General Plan EIR (page 130)and subsequent environmental documents amending the 1999 General Plan. Standard measures integrated into the General Plan in the form of goals, policies, and implementation will reduce the severity of potential impacts. Depending on the attributes of each individual development proposal, future development will be subject to additional environmental review and compliance with applicable policies and regulations related to erosion and stormwater run-off.

9(g-j). Less Than Significant Impact: The 1999 Benicia General Plan indicates that portions of the City are located within a 100-year flood hazard area. Since adoption of the 1982 and 1989 Stormwater Master Plans, the City has completed over 40 storm drainage improvement projects. These improvements have significantly reduced the flooding that formerly occurred in Benicia. Residential development under the Housing Element could be located within a 100- year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map. However, because the locations of development cannot be determined, it would be premature and speculative to assess the potential impacts of development consistent with the Housing Element. Policies and programs in the General Plan, and the requirements of the California Building Code ensure that flood risks are mitigated at the time of development. Future development will be subject to additional environmental review and compliance with all applicable policies and regulations regarding flood protection, hydrology, and water quality.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
X. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?	☐	☐	☐	☒
b) Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☐

Land Use and Planning Impact Discussion:

10(a-b). No Impact: Adopting the Housing Element will not divide an established community. As required by State law, the Housing Element is designed to address the forecasted housing needs for the City of Benicia for the planning period. It is consistent with all documents and plans for the purpose of regulating land use and avoiding or mitigating environmental effects, particularly the City of Benicia 1999 General Plan and Zoning Ordinance. Impacts resulting from the anticipated growth and development of the City were addressed in the 1998 Benicia General Plan EIR. Programs in the Housing Element that propose amendments to the Zoning Ordinance are intended to comply with State Housing Element Law and to promote housing opportunities. No new or increased impacts as a result of the Housing Element will result above what is already anticipated in the existing environmental documents.

Appendix D (Constraints) of the Draft Housing Element outlines the physical and environmental constraints associated with the locations of the sites for the yield analysis which are located within the area formerly occupied by the Benicia Arsenal. Operational noise sources near potential sites for development may pose constraints as well; such as noisy industrial or commercial sites. Land use compatibility issues or proximity to existing commercial and industrial uses may act as constraints. With regard to properties within the lower arsenal, their location within a former defense site may pose constraints. Depending on the attributes of these future planning efforts, additional environmental review will be completed.

10 (c). Does Not Apply. Adoption of the Housing Element would not conflict with any habitat conservation plan or natural community conservation plans because there are no such plans within the City of Benicia.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XI. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

Mineral Resources Impact Discussion:

11(a-b). No Impact: As a policy document, the Housing Element itself will not result in the loss of availability of a known mineral resource or of a locally important mineral resource recovery site. The 1999 Benicia General Plan identifies one mineral resource area within the City that is required to be protected and preserved for extraction, and is shown in Figure 3-4 of the General Plan. No additional sites have been subsequently identified. Issues associated with mineral resource loss from the anticipated growth and development within the City was addressed in the 1998 General Plan EIR. Standard measures integrated into the General Plan in the form of goals, policies, and implementation measures will reduce the severity of potential impacts. Depending on the attributes of each individual development proposal, future development will be subject to additional environmental review and compliance with all applicable policies related to mineral resources.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XII. NOISE. Would the project result in:				
a) Expose people to, or generate, noise levels exceeding established standards in the local general plan, coastal plan, noise ordinance or other applicable standards of other agencies?	☐	☐	☐	☒
b) Expose persons to or generate excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒
c) Cause a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
d) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people to excessive noise levels?	☐	☐	☐	☐

Noise Impact Discussion:

12(a). No Impact: The 1998 EIR for the General Plan found that with the application of General Plan policies there would be no significant impacts from noise on development consistent with the General Plan (1998 General Plan DEIR page 159) . As noted in that EIR, there are sites within the City that are affected more by noise than others. Because the location of new residential development under the Housing Element cannot be predicted with any level of certainty, it would be speculative and premature to estimate noise levels for any site-specific development. At the time of entitlement, environmental review would be conducted and existing City policies regarding noise would be applied.

12(b). No Impact: Adopting the updated Housing Element will not by itself result in exposure of persons to or generation of excessive groundborne noise levels. Impacts (present and future) associated with noise and vibrations were addressed in the 1998 Benicia General Plan EIR. Mitigation measures, integrated into the General Plan in the form of goals, policies, and programs, will reduce all significant impacts to a level of less than significant. All future development will be subject to site-specific environmental studies as determined appropriate by the City and will comply with all City policies and regulations related to noise.

12(c). No Impact: Adopting the updated Housing Element will not by itself result in a substantial permanent increase in ambient noise levels in the City above levels existing without the project. Impacts (present and future) associated with noise and vibrations were addressed in the EIR for the General Plan. Mitigation measures, integrated into the General Plan in the form of goals, policies, and programs, will reduce all significant impacts to a level of less than significant. All future development will be subject to site-specific environmental studies as determined appropriate by the City and will comply with all City policies and regulations related to noise.

12(d). Does not apply. The project is not located within an airport plan area, nor is it within two miles of a public or public use airport.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. POPULATION AND HOUSING. Would the project:				
a) Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	☐	☐	☒	☐
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

Population and Housing Impact Discussion:

13(a). Less Than Significant Impact: The Housing Element addresses how the City will meet its forecast housing needs. By identifying opportunity sites and removing perceived barriers to housing development, it is intended to encourage the housing development necessary to meet that need. If the 327 units of planned growth occurs over the next 8 years, it would increase the housing supply in the city by less than 3 percent – or less than one half of one percent per year. This is clearly not "substantial growth" and is consistent with the growth anticipated and planned for by the 1999 General Plan. Therefore, the impact of this growth is less than significant.

13(b-c). No Impact: The Housing Element has identified sufficient sites within the City that are not currently developed with housing so that the projected need can be accommodated without displacing existing housing or people. As noted in section 13(a), even if some new housing were to occur on sites with existing housing, the amount of growth is very small and would not displace "substantial numbers" of existing housing or people. One of the key goals of the Housing Element is to meet the housing needs of current low and very low income residents. Implementation of the Housing Element should therefore have a beneficial impact on people who are currently displaced or having difficulty finding housing in Benicia.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XIV. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:				
a) Fire protection?	☐	☐	☒	☐
b) Police protection?	☐	☐	☒	☐
c) Schools?	☐	☐	☒	☐
d) Parks or other recreational facilities?	☐	☐	☒	☐
e) Other governmental services?	☐	☐	☒	☐

Setting:

The City of Benicia is a full service municipality providing all municipal services with the exception of schools. Schools are provided by the Benicia Unified School District. A public services charge has been established and is described within the Benicia Municipal Code Sections § 13.08 and § 13.52. Public facility fees, or development impact fees, have been established to mitigate the impacts caused by new development throughout Benicia. Development impact fees are necessary in order to finance required public facilities and service improvements and to pay for new development's fair share of the costs of the required public facilities and service improvements.

Public Services Impact Discussion:

14(a-e). Less than Significant Impact: Impacts associated with new fire protection facilities anticipated from the growth and development of the City were addressed in the 1998 EIR for the Benicia General Plan. According to the 1998 EIR on the General Plan, the policies and programs included in the 1999 General Plan and the mitigations adopted with the General Plan reduced all impacts of public services to less than significant levels. The Housing Element projects a need of 327 units over eight years, or growth in the number of housing units in the city of less than one half of one percent per year. Depending on the attributes of each individual development proposal, future development will be subject to additional environmental review and compliance with all applicable policies related to Public services.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XV. RECREATION.				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☒	☐
b) Does the project include recreational facilities, or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	☐	☐	☐	☒

Recreation Impact Discussion:

15(a). Less Than Significant Impact: Adopting the Housing Element will not by itself result in an increase in use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of facilities would occur or be accelerated. Impacts to existing recreational facilities resulting from population growth were addressed in the 1998 EIR for the Benicia General Plan. Mitigation measures have been integrated into the 1999 General Plan in the form of goals, policies, and implementation measures to reduce all significant impacts to less-than-significant levels. Depending on the attributes of each individual development proposal, future development will be subject to additional environmental review and compliance with all applicable policies related to recreational facilities.

15(b). No impact: The Housing Element does not have provisions or requirements for the construction or expansion of recreational facilities. However, impacts associated with the construction or expansion of recreational facilities in response to population growth has been addressed in the 1998 EIR for the Benicia General Plan. Mitigation measures were integrated into the 1999 General Plan in the form of goals, policies, and implementation measures to reduce all significant impacts to levels of less than significant. Depending on the attributes of each individual development proposal, future development will be subject to additional environmental review and compliance with all applicable policies related to recreational facilities.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XVI. TRANSPORTATION AND CIRCULATION. Would the project:				
a) Cause an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system (i.e. result in a substantial increase in either the number of vehicle trips, the volume to capacity ration on roads, or congestion at intersections)?	☐	☐	☒	☐
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒
d) Substantially increase hazards due to a design feature (e.g. limited sight visibility, sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?	☐	☐	☐	☒
e) Result in inadequate emergency access?	☐	☐	☐	☒
f) Result in inadequate parking capacity?	☐	☐	☐	☒
g) Conflict with adopted policies supporting alternative transportation (e.g. bus turnouts, bicycle racks)?				

Transportation and Circulation Impact Discussion:

16(a). Less than Significant Impact: Adopting the Housing Element will not by itself cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system. Increases in traffic resulting from the anticipated growth and development of the City have been addressed in the 1998 EIR for the Benicia General Plan. The 2015-2023 Housing Element is consistent with 1999 General Plan projections. Over the next 8 years, if the projected need were to be met, the City's residential stock would grow a total of less than 3 percent. The localized traffic impacts of any new residential development will be addressed in separate site-specific studies. Mitigation measures have been integrated into the 1999 General Plan in the form of goals, policies, and implementation measures to reduce all significant impacts to a level of less than significant.

16(b). No Impact: Adopting the Housing Element will not by itself cause traffic levels to

exceed, either individually or cumulatively, a level of service standard established by the County congestion management agency for designated roads or highways. Impacts resulting from the anticipated growth and development of the City on the level of service for roads or highways were addressed in the 1998 EIR for the Benicia General Plan. Mitigation measures have been integrated into the 1999 General Plan in the form of goals, policies, and mitigation measures to reduce all significant impacts to a level of less than significant. The traffic impacts of any new residential development will be addressed in separate site-specific studies.

16(c). No Impact: Adoption of the Housing Element will not have any impact on air traffic patterns, given the nature and location of the anticipated residential development outside of the established airport flight pattern.

16(d). No Impact: Adoption of the Housing Element, a policy document, does not involve construction or physical design. Therefore, there are no anticipated impacts associated with hazards due to transportation-related design features or incompatible uses.

16(e). No Impact: Adoption of the Housing Element, a policy document, does not involve construction or physical design. No implementation measure or policy of the element would result in the construction of residential units that could result in inadequate emergency access.

16(f). No Impact: The Housing Element includes some policies and programs that could result in changes to City regulations for off-street parking. However, no program or policy of the element would result in the construction of residential units that could significantly affect parking capacity.

16(g). No Impact: None of the policies or implementation measures contained in the updated Housing Element conflict with adopted policies, plans, or programs supporting alternative modes of transportation (e.g., bus turnouts, bicycle racks).

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XVII. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒
e) Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand, in addition to the provider's existing commitments?	☐	☐	☐	☒
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒
g) Comply with federal, state and local statutes and regulations related to solid waste?	☐	☐	☐	☒

Setting

Sewer and water service are provided by the City of Benicia which contracts with Republic Services for the provision of solid waste pick up and disposal. Electricity and natural gas is provided by PG&E.

Utilities and Service Systems Impact Discussion:

17(a). No Impact: Impact of full residential build-out on wastewater treatment requirements was addressed in the 1998 EIR for the Benicia General Plan. Mitigation measures have been integrated into the 1999 General Plan in the form of goals, policies, and implementation measures to reduce all significant impacts to a level of less than significant.

17(b). No Impact: The 1998 General Plan EIR found that with already approved or planned modifications to the wastewater treatment facility and with already approved contracts for delivery of water, the city could accommodate the growth expected under the General Plan. The EIR found that the policies and programs incorporated in the General Plan reduced all significant impacts to a level of less than significant.

17(c). No Impact: The amount of housing proposed to be accommodated under the Housing Element is consistent with the growth projections of the 1999 General Plan. The General Plan EIR found that the policies and programs of the General Plan would ensure that the storm water requirements of the city were met and found no significant impacts on water quality. It would be speculative and premature to predict the location of development that may occur under the Housing Element. There may be specific locations in the City where stormwater improvements will be needed to mitigate the impacts of such new development. However, the environmental impacts of such improvements cannot be predicted or estimated at this time and will be fully reviewed at the time of project entitlement, or at such time as the stormwater improvement is proposed.

17(d). No Impact: The continued and anticipated population growth projected in the element is consistent with the Land Use Element of the 1999 General Plan and all other elements. Impacts related to future water supplies were addressed in the 1998 EIR for the General Plan. Mitigation measures have been integrated into the General Plan in the form of goals, policies, and implementation measures to reduce all significant impacts to a level of less than significant.

17(e). No Impact: A Housing Element, as a policy document, is not a development project and does not require a determination by the wastewater treatment provider regarding the adequate capacity of the facility to serve the projected demand of the project. The continued and anticipated population growth projected in the element is consistent with the Land Use Element of the 1999 General Plan and all other elements. Impacts related to the adequacy or capacity of wastewater treatment providers to serve the anticipated population growth was addressed in the 1998 EIR for the General Plan. Mitigation measures have been integrated into the General Plan in the form of goals, policies, and implementation measures to reduce all significant impacts to a level of less than significant.

17(f). No Impact: The City's solid waste disposal needs are addressed through contracts with an independent waste disposal company that contracts with various landfill sites near Benicia to address its solid waste disposal needs. The very small increment of growth proposed to be accommodated under the Housing Element will not have a significant impact on the City's waste stream and the City's current contract for solid waste disposal with Republic Services is in place until June 30, 2021.

17(g). No Impact: The City and its waste disposal contractor must and do comply with State and Federal regulations related to the disposal of solid waste. Residential developments are not required to individually comply with federal and state statutes. Local waste disposal regulations are applied through City regulations and ordinances and compliance monitoring.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE Does the Project:				
a) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wild-life population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of rare or endangered plants or animals, or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☒
b) Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐
c) Have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒

18(a). No Impact: Adoption of the Housing Element does not by itself have the potential to create the impacts listed here. The Element identifies programs to satisfy the City's Regional Housing Needs Allocation and meet the housing needs of all economic segments of the community. It does not approve any specific project or result in any physical change. The housing that may be constructed pursuant to the implementation of the Housing Element would be located within the urban boundaries of the City of Benicia. The impacts listed in "a" above were analyzed and considered in the 1999 General Plan and 1998 General Plan EIR. Policies in the General Plan have specifically been drafted to minimize the potential for the impacts described above, and instead actively promote resource conservation and habitat protection. As a result, development on existing lands within the City's urban growth boundary City will have minimal impacts on habitat. The Housing Element would also have less than significant impacts on historic and prehistoric resources. Its policies in connection with the City's other policy documents strongly support the conservation of Benicia's older homes and historic housing stock.

18(b). Less Than Significant Impact: The cumulative impacts of development on the City's housing sites were analyzed as part of the 1999 General Plan and its 1998 General Plan EIR. No new or increased impacts would occur as a result of adopting the 2015-2023 Housing Element. The General Plan's transportation, air quality, water quality, and sustainability policies, in particular, acknowledge and respond to the cumulative effects of local and regional growth.

18(c). No Impact: Adoption of the Housing Element would not cause substantial adverse direct or indirect effects on human beings. The Element is a policy document intended to enhance housing opportunities in the City over the next 8 years. It will have beneficial impacts on human beings related to meeting the shelter needs of low and very low income households and persons with special needs. Its policies and actions would have no adverse effect on others in the community who do not meet these criteria.

III. INFORMATION SOURCES:

1999 City of Benicia General Plan

1998 City of Benicia General Plan EIR

2014 City of Benicia Zoning Ordinance

Association of Bay Area Governments Plan Bay Area 2013 Projections

State of California Cortese List website http://www.dtsc.ca.gov/SiteCleanup/Cortese_List.cfm

Bay Area Air Quality Management District, Bay Area 2010 Clean Air Plan

Flood Insurance Study and Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency (FEMA), 2009

2010 Census www.census.gov

Attachments:

Appendix A: Public Hearing Draft Housing Element 2015-2023, August 2014

VIII.A.178

Page 21- Hazards and Hazardous Materials
Change the text as follows:

8(d). No Impact: The Department of Toxic Substances Control (DTCS) maintains a hazardous-waste and substances sites list (Cortese List). ~~No~~ Two sites in Benicia are listed on the DTSC list: 946 Tyler Street and 750 Jackson Street. A search of other hazardous materials sites on the Cortese list maintained by the California Environmental Protection Agency (CalEPA Geotracker) identifies 77 sites in the City of Benicia. The type of sites included in this list are leaking underground storage tanks sites (LUST), land disposal sites, military sites, permitted underground storage tanks facilities (UST), and DTSC cleanup sites.

The majority of the sites identified in the yields analysis[1] are located in the Benicia Arsenal, a former defense site. None of the development opportunity sites identified in the Housing Element are identified by DTSC as having toxic substances on-site. Any project proposed in the City would have to conform to any applicable adopted local or State codes that regulate public health and safety, such as the California Residential, Building, Plumbing, Electrical, or Mechanical Codes. Therefore, adoption of the Housing Element would not result in a significant impact. Depending on the attributes of each individual development proposal, future development will be subject to additional environmental review and compliance with all applicable policies related to hazards or hazardous material.

[1] Yields Analysis as described in Appendix E of the 215-2023 Draft Housing Element. See p. 99. E.1.2. Vacant Sites Yield Analysis for Very Low and Low Income RHNA Requirements

VIII.A.180

RESOLUTION NO. 14-14 (PC)

A RESOLUTION OF THE BENICIA PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN INITIAL STUDY/NEGATIVE DECLARATION FOR THE 2015-2023 HOUSING ELEMENT AND THE 2015-2023 HOUSING ELEMENT

WHEREAS, the City of Benicia, in accordance with State Government Code Section 65580-65589.8, has prepared a Draft Housing Element for the 2015-2023 planning period subject to public review; and

WHEREAS, the City of Benicia completed a comprehensive update to the City's Housing Element completed less than two years ago in November 2012, resulting in only minor updates to the existing 2007-2014 Housing Element with a focus on updating it with current data such as income and housing allocation and continuing the programs from the 2007-2014 Housing Element with minor updates as needed; and

WHEREAS, the City held a public workshop on May 15, 2014 to review the Draft 2015-2023 Housing Element; and

WHEREAS, an Initial Study/Negative Declaration for the Draft 2015-2023 Housing Element was prepared and circulated for public review from August 29-September 29, 2014, consistent with the California Environmental Quality Act (CEQA).

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Benicia hereby recommends the following modification to the Draft 2015-2023 Housing Element:

1. Pg. 95 – Physical Constraints. Strike "aesthetic" from list of impacts
2. Pg. 107 – Issue re: DTSC site. Replace "environmental constraints" with "hazardous materials" and remove "Arsenal Historic Conservation Plan" and replace with "Secretary of the Interior Standards"
3. Pg. 109 – Add information on wastewater capacity similar to the data provided for the "Water System"
4. Add Policy 3.05 and Program 3.08 regarding North Bay Housing Coalition request
5. For new Policy 3.05 - Remove "all new"

BE IT FURTHER RESOLVED THAT the Planning Commission of the City of Benicia hereby recommends that the City Council adopt both the Initial Study/Negative Declaration for the 2015-2023 Housing Element and the 2015-2023 Housing Element, based on the following facts and findings:

1. Any development proposals resulting from the implementation of the Housing Element will be evaluated in accordance with Section 15002 (d) of CEQA. Prior to any new projects requiring Use Permit or Design Review approval, the City shall conduct project-specific environmental review to determine whether a

project would cause any significant impacts and, where possible, to mitigate potential environmental impacts.

2. The Housing Element is one of the seven General Plan Elements mandated by the State of California, as required by Government Code Sections 65580-65589.8, to meet the existing and projected housing needs of all economic segments of Benicia's community.

3. California State law requires that the Housing Element consist of "identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, and scheduled programs for the preservation, improvement and development of housing."

4. Having an adopted, State-certified Housing Element within 120 calendar days of January 31, 2015 is a key requirement in maintaining the eight year planning cycle pursuant to Senate Bill 375.

On motion of Commissioner Oakes, seconded by Commissioner Cohen-Grossman, the above Resolution was adopted by the Planning Commission of the City of Benicia at a regular meeting of said Commission held on the 9th day of October, 2014 and adopted by the following vote:

Ayes:	Commissioners Cohen-Grossman, Oakes, Sherry, Sprague, and Chair Dean
Noes:	Commissioners Smith and Young
Absent:	None
Abstain:	None

Donald Dean
Planning Commission Chair

DRAFT

BENICIA PLANNING COMMISSION

REGULAR MEETING MINUTES EXCERPT

City Hall Council Chambers
Thursday October 9, 2014
7:00 P.M.

* * *

V. REGULAR AGENDA ITEMS

B. PUBLIC HEARING FOR REVIEW AND RECOMMEDATION FOR CITY COUNCIL APPROVAL OF THE INITIAL STUDY/NEGATIVE DECLARATION ON THE 2015-2023 DRAFT HOUSING ELEMENT AND ADOPTION OF THE 2015-2023 DRAFT HOUSING ELEMENT

Amy Million, Principal Planner, introduced Lisa Wise, Consultant, who gave a presentation. She reviewed the following:

- Housing Element Requirements
- Regional Housing Needs Allocation (RHNA)
- Response to HCD Review
- Response to Public Input
- Overview of Housing Element and Key Programs
- Next Steps

Amy Million, Principal Planner, noted that two letters were received after the meeting packets were distributed. The letters, along with staff responses and recommendations were reviewed.

Commissioners discussed current affordable housing programs with staff. There are currently 8 properties either owned or managed by the Benicia Housing Authority. It was noted that the numbering of the report was confusing. Comments were made regarding the Community Action Council and the Benicia Housing Authority, and their ability to provide assistance.

There was a question regarding recommending changes to the Housing Element. Staff stated that the document could be revised prior to sending to City Council.

The public hearing was opened.

Ron Miska, All-Points Petroleum – He questioned if SB2 is the primary driver of this. It was confirmed that the update to the Housing Element is to comply with State Law. SB2 is just one part of that, which requires identifying a site. He does not believe there's enough information to make a decision on this.

Dana Dean, representing Amports - She would like the City to respect the General Plan with respect to buffers between residential and industrial uses. The Arsenal sites are an issue. She does not think that the Negative Declaration is appropriate.

Jasmin Powell, Business Owner – Does not agree with residential in the Arsenal or the Industrial Park.

Phil Garrett, BIPA – Does not support residential in the Industrial Park.

The public hearing was closed.

Commissioners discussed the issue of constraints and the feasibility of constructing on identified sites. Staff noted that if the City could not accommodate the RHNA numbers, the City would have to rezone properties to accommodate additional units. Staff noted that the Lower Arsenal is designated for Mixed-Use Commercial, Industrial, and Residential in the General Plan. The mobile home parks were not considered. A comment was made that the Arsenal Historic Conservation Plan is outdated and should not be used as guidance.

Word changes suggested were as follows:

1. Pg. 95 – Physical Constraints. Strike "aesthetic" from list of impacts
2. Pg. 107 – Issue re: DTSC site. Replace "environmental constraints" with "hazardous materials". Amy noted memo, dated October 8, 2014, outlined changes to Pg. 107.
3. Pg. 107 - Remove "Arsenal Historic Conservation Plan" and replace with "Secretary of the Interior Standards". Staff suggested using both wording.
4. Pg. 109 – Add information on wastewater capacity similar to the data provided for the "Water System"
5. Add Policy 3.05 and Program 3.08 regarding North Bay Housing Coalition request.

6. New Policy 3.05 - Remove "all new".

Commissioner Smith stated that she does not think residential is appropriate in the Lower Arsenal, and if included, she will vote no. Commissioner Sherry also noted he did not think this was appropriate. Staff noted that single-family and multi-family are currently allowed.

RESOLUTION NO. 14-14 OF THE BENICIA PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN INITIAL STUDY/NEGATIVE DECLARATION FOR THE 2015-2023 HOUSING ELEMENT AND THE 2015-2023 HOUSING ELEMENT

On motion of Commissioner Oakes, seconded by Commissioner Cohen-Grossman, the above resolution was adopted, as amended, by the following vote:

Ayes:	Commissioners Cohen-Grossman, Oakes, Sherry, Sprague, and Chair Dean
Noes:	Commissioners Smith and Young
Absent:	None
Abstain:	None

A recess was called at 9:20 p.m. The meeting was reconvened at 9:30 p.m.

VIII.A.186

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov

July 21, 2014

Ms. Amy Million, Principal Planner
Community Development Department
City of Benicia
250 East L Street
Benicia, CA 94510

Dear Ms. Million:

RE: City of Benicia's 5th Cycle (2015-2023) Draft Housing Element

Thank you for submitting Benicia's draft element update that was received for review on May 23, 2014, along with additional revisions received on July 14, 2014. Pursuant to Government Code (GC) Section 65585(b), the Department is reporting the results of its review. Our review was facilitated by a telephone conversation on June 9, 2014 with you and the City's consultants Ms. Lisa Wise, AICP, and Ms. Kathryn Slama, Associate Planner, both with Lisa Wise Consulting. In addition, the Department considered comments from Legal Services of Northern California pursuant to GC Section 65585(c).

The draft housing element meets most of the statutory requirements of State housing element law (GC, Article 10.6). The Department cannot find the element in full compliance until the City amends its zoning ordinance to permit year-round emergency shelters without discretionary action pursuant to GC Section 65583(a)(4)(A) as amended by Senate Bill 2 (Chapter 633, Statutes of 2007). Program 3.01, identified in the previous element, committed the City to amend the zoning ordinance to permit emergency shelters in the RS, RM, and RH zones without discretionary action within one year from adoption of the 4th cycle housing element. As noted in the current element on page 19, Program 3.01 has not been implemented. The draft housing element will comply with housing element law once the City has completed these zoning amendments and submitted the adopted element to the Department pursuant to GC Section 65585(g).

To remain on an eight year planning cycle, pursuant to Senate Bill 375 (Chapter 728, Statutes of 2008) the City must adopt its housing element within 120 calendar days from the statutory due date of January 31, 2015 for ABAG localities. If adopted after this date, GC Section 65588(e)(4) requires the housing element be revised every four years until adopting at least two consecutive revisions by the statutory deadline. For more information on housing element adoption requirements, please visit our Department's website at: http://www.hcd.ca.gov/hpd/hrc/plan/he/he_review_adoptionsteps110812.pdf.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate.

The Department appreciates your efforts and dedication in preparation of the housing element and looks forward to receiving Benicia's adopted housing element. If you have any questions or need additional technical assistance, please contact Jess Negrete, of our staff, at (916) 263-7437.

Sincerely,

Glen A. Campora
Assistant Deputy Director

Legal Services of NORTHERN CALIFORNIA

Solano County Office
1810 Capitol Street
Vallejo, CA 94590
Phone: (707) 643-0054
Fax: (707) 643-0144
Toll Free: (800) 270-7252
vallejo-office@lsnc.net

July 7, 2014

Amy Million
Benicia Community Development Department
250 East L Street
Benicia, CA 94510

Re: City of Benicia Draft 2015-2023 Housing Element – Current Review in Process

Dear Ms. Million,

Legal Services of Northern California (LSNC) submits these comments regarding the City of Benicia's Draft Housing Element, which is currently in review by the Department of Housing and Community Development (HCD). We are pleased that the City is updating its Housing Element. However, the City's submission of the current Draft to HCD for formal review is premature. The Draft has not been adequately updated in several respects. The City also failed to provide for or consider public participation in updating critical components of the element. Unfortunately, its failure to include public participation in preparing the Draft contributed to submission of a Draft Element that is deficient in several respects, as discussed below.

1. **Inadequate Public Participation.**

Government Code section 65583(c)(8) requires local governments to make a diligent effort to achieve public participation of all economic segments of the community in developing the Housing Element. *See also* HCD's Building Blocks for Effective Housing Elements. The City must describe its outreach efforts to all economic segments of the community, any meetings or workshops that were held, appropriate languages used for notices, lists of invitees, general comments received and how those comments were incorporated into the draft element.

The Draft's chapter on public participation is blank, with the exception of three pictures that represent public participants from the last Housing Element. To our knowledge, the City has held only one workshop and no public hearings to provide the community with an opportunity to participate in the development of the Current Draft. It appears that this workshop is the only one planned. *See* Draft at p. 7. The City also fails to describe any outreach efforts in preparing the Draft; omits a description of the nature and purpose of the purported public workshop; does not include a list of all persons or organizations the City invited to participate or consulted; and does not summarize any public comments received or the City's responses thereto. The City also fails to indicate when it intends to present the Current Draft to the Planning Commission and City Council for approval; it apparently will do this at some point *after* HCD completes its review. *Id.* This also deprives HCD of the benefit of the community's input.

The City's one attempt to involve the public was insufficient. The notice for a May 15 workshop stated that the staff is proposing only minor updates, and advised that staff will continue the programs from the previous element.[1] The notice of the workshop also limits the topics under discussion. As a result, the community is effectively deprived of giving any input regarding the City's evaluation of its 2008-13 Housing Element, current housing needs and resources, the proposed inventory and suitability of sites to accommodate the City's new RHNA, current constraints to the development of affordable housing, or the goals, policies, and programs to be implemented within the new planning period. There is no indication that any comments were received, or if so, that they were addressed in the Draft Element.

Nevertheless, the City submitted the incomplete Draft to HCD for formal review. Because formal review would be premature, HCD should reject the Draft and require the City to make a diligent effort to involve the public in making further revisions to the Draft.

1. Inadequate Review of Previous Housing Element.

The purpose of reviewing the prior housing element is for the City to evaluate its goals, policies, and programs for the *last* planning period and assess its progress in achieving those goals. *See* Govt. C. §65588(a). The City's review of its prior housing element raises several concerns. *See* Ch. 3 at pp. 11-26.

First, the City acknowledges that it failed to implement a host of housing element programs, including: Programs 1.01 [update inventory of sites]; 1.08 [amend zoning ordinance to comply with State Density Bonus law]; 1.09 [amend zoning ordinance and reduce fees for second units]; 1.10 [develop a prototype for development of second units]; 1.11 [reduce cost of affordable housing development]; 2.01 [evaluate inclusionary zoning ordinance with respect to its application and lack of in-lieu fees]; 2.04 [amend General Commercial (GC) district to allow residential uses]; 3.01 [amend zoning ordinance to comply with SB 2 requirements to permit the development of homeless shelters, transitional housing, and supportive housing]; 3.02 [adopt reasonable accommodation ordinance]; 3.06 [amend zoning ordinance to permit shared housing]; and 4.04 [mobile home park preservation efforts]. It then failed to explain why so many programs were simply ignored for an entire housing element period. The purpose of this part of the analysis is to evaluate the *effectiveness* of the City's prior programs so as to better inform the current Draft Housing Element goals, policies, and programs. The effectiveness of programs cannot be seriously evaluated when those programs have not been carried out. Simply continuing the same "unimplemented programs" in the new housing element, without a serious commitment to actually and promptly implement them, will not further the City's stated housing goals.

Further, and contrary to its public notice that it will continue its policies and programs from the last housing element, the City unilaterally decided to discontinue some programs. For example, the Current Draft proposes to eliminate Program 2.04 – a program that required the City to

[1] *See* the City of Benicia's affordable housing website at: http://www.ci.benicia.ca.us/index.asp?Type=B_BASIC&SEC=%7B3CFAC7E4-95DB-42B9-A7AA-BA4BFEC66B04%7D

rezone the GC district to expand residential uses. Yet, as discussed below, the City continues to rely on this district to identify sites for affordable housing. The City should not discontinue any housing element programs until it engages the public in a meaningful dialogue regarding its past and future goals, policies, and programs.

Finally, the City should provide a better explanation as to the status of programs that it has partially implemented and/or that it maintains are "ongoing." Comprehensive reporting is important because the policies and programs for the next housing element period should be informed by the City's *actual* accomplishments. By comparison, the City provided substantial reporting on the Energy Efficiency & Conservation programs. The Draft Element includes many beneficial housing programs. Reporting on the issues encountered in implementation during the last housing element period will give the City an opportunity to resolve those issues and ensure prompt implementation of its programs in the new Housing Element period.

The City cannot excuse its incomplete analysis with the late date by which the last Element was formally approved. Indeed, the City reports on other actions that occurred within the 2007-2014 term, even where they took place prior to HCD's 2012 approval.

2. Incomplete Reporting for Low Income and At-Risk Units

The City does a good job of identifying the many subsidized developments that exist in Benicia. *See* Draft, pp. 49, 60-61. The analysis does not, however, specify the income levels served by these developments. Instead, all developments are reported as "low income." *Id.* The analysis should include a breakdown of the affordability levels of the units for each development, *i.e.*, how many extremely low income, very low income, low income, and moderate income units exist at each development. This will better assist the City in identifying existing resources that assist it in addressing the housing needs of all economic segments of the community. To the extent any of these units are subject to a low or moderate risk of conversion now or in the future, it is critical to specify the actual affordability levels of the units to ensure strong preservation policies and programs are in place to conserve these units.

Finally, the City reports that Casa de Vilarrassa, one of two Senior Housing Apartments, will be up for review in 2024, immediately after the end of the 2015-2023 Housing Element period. Though not required for reporting in this Element, it would be prudent to include a program to monitor and reach out to the owner to extend the use before the next Housing Element is due. Although Benicia's last housing element was due in 2009, it was not adopted until 2012. Without a program in place, such a gap in the completion and adoption of the next Housing Element would jeopardize the City's ability to preserve these units.

3. Incomplete Analysis of Regulatory Constraints.

The Draft's analysis of regulatory constraints is insufficient under the Housing Element Law and HCD's Building Blocks. *See* Draft Element, Appendix D. The following constraints exemplify the City's failure to thoroughly identify and analyze potential constraints to the development of affordable housing.

a. *SB 2 Compliance*. The City acknowledges that it failed to zone for emergency shelters or transitional and supportive housing *anywhere* within city limits as required by SB 2 and its own Municipal Code. *See* Appendix D, Table D.1, n. 5. This section must explicitly recognize that the City's failure to comply with SB 2 or Municipal Code §17.08.020.M constitutes a basic constraint on the development of emergency shelters, transitional housing, and supportive housing. Although the Draft Element includes Program 3.01 to purportedly address this constraint, the City failed to implement that same program during the last planning period. Moreover, the constraints analysis is ambiguous as to whether or not the program will actually mitigate or eliminate the constraint. The City indicates, for example, that it will finally take action to allow emergency shelters, but how it will do so – "by allowing by right emergency shelters in at least one zone" *or* with the "development [of] an overlay zone" – is unclear. Appendix D, Table D.1, n. 5. Moreover, the proposed new Program 3.01 indicates that the City expects to create an "overlay zone" by the fall 2014. Effective January 1, 2008, SB 2 explicitly requires cities and counties to zone at least one suitable zone for emergency shelters, not to create an "overlay zone." The City is currently violating the law and should explain in its constraints analysis how the use of an alternative overlay zone will substantially comply with state law.

b. *Reasonable Accommodations Procedure*. The City's lack of a reasonable accommodations procedure is a similarly obvious constraint on the development of housing for persons with disabilities, but again the Draft Element fails to recognize as much. To the contrary, it concludes that "[n]o governmental constraints to development of housing for disabled persons were identified within the City." *See* Appendix D at §D.1.10. It then acknowledges, however, that the City has no reasonable accommodation ordinance and is in the process of drafting one. *See* Table D-18. The lack of a reasonable accommodations ordinance must be acknowledged as a constraint and the Draft Element should describe the basic elements of the ordinance that has been drafted in order to evaluate whether it will actually eliminate the constraint.

c. *Development Standards that Constrain Multifamily Housing Development.* Appendix D also fails to analyze development standards that may constrain multifamily housing "by zoning category," as required by HCD. The section usefully includes tables of development standards for residential and Town Core zoning districts, but it does not include any development standards for multifamily development in commercial districts. The City then summarily declares that *all* zoning categories' "combination of height limits, lot coverage, setbacks, parking, landscaping and other standards provide no impediment to development." Draft Element at p. 67. This is inadequate because the City ignores the constraints unique to particular zoning districts. For example, Town Core zoning only allows for up to 1.5 floors of multifamily residential development due to its combination of a ground-floor commercial requirement and a 2.5 floor height limitation. Similarly, several commercial zones' limited FARs of 1.2 and 0.8 may constrain mixed-use and residential development. By failing to adequately analyze the potential constraints posed by its development standards, the City also fails to include programs that may be necessary to mitigate or eliminate those constraints.

d. *Design Review and Historic Preservation.* Appendix D should also provide more information on Benicia's design review and historic preservation requirements, both of which

may constrain multifamily housing development. For example, the section briefly mentions that all development in the Arsenal Historic District must follow a conservation plan from 1993, but then fails to provide details on that plan's various requirements. The 1993 plan does not provide any design guidance on high density multifamily or mixed-use residential development. This lack of guidance, in and of itself, likely discourages developers of multifamily housing from even beginning the development process within a historic district.

e. *Environmental Constraints.* Appendix D also ignores a major environmental constraint on housing development in parts of Benicia: environmental contamination from former military and industrial use. The draft should provide an update of the City's efforts to determine whether vacant sites, especially sites in the Lower Arsenal area, contain environmental contamination that would need to be remediated before housing could be developed. It should also analyze if many of its identified housing sites, located next to Benicia's extensive and successful port and industries, would be subject to environmental constraints associated with nearby industrial operation.

f. *Urban Growth Boundary*. The City acknowledges that its Urban Growth Boundary "could limit the amount of land that is available to develop for residential use," but concludes that it will not prevent the City from accommodating its regional housing needs allocation for the 2015-2023 planning period. Appendix D at. p. 72. We respectfully disagree. As we next discuss, the City's site inventory and analysis does not demonstrate that the City has sufficient sites to accommodate its RHNA. Therefore, the UGB must be analyzed as a constraint to the City's ability to accommodate its RHNA, and a program should be included to eliminate that constraint.

4. Inadequate Site Inventory.

The Draft fails to demonstrate that the City has sufficient sites that are suitable and available to meet its 2015-2023 RHNA. First, the draft does not sufficiently describe how its identified sites can meet the City's low- and very low-income RHNA. There are substantial questions about the availability and suitability of these sites. They have potentially substantial development limitations: small lot sizes, possible environmental hazards, historic district review that lacks guidelines, restrictive height limitations, restrictions on ground-floor residential development, and pre-existing uses and permit applications. Second, the City's moderate and above-moderate site inventory contains a number of problems. As discussed below, over half of these sites could not support *any* residential development pursuant to the City's own development standards. In fact, our analysis indicates that the City has not identified sufficient sites that are suitable and available to meet the City's RHNA, as shown in Table 1 and detailed below.

Table 1. RHNA Units That Are Not Accommodated in the Draft Element.

	Very Low-Income	Low-Income	Moderate-Income	Above Moderate-Income
Regional Housing Needs Allocation	94	54	56	123
Draft's Estimated Accommodated Units	252		348	

Actual Estimated Accommodated Units	3 - 127[2]	0[3]	101[4]
Deficit of RHNA Units that Must Be Accommodated in an Adequate Sites Program	**21 - 148**	**56**	**22**

a. *Low- and Very Low-Income Sites.* Several of the City's high density Downtown sites appear promising for low- and very low-income housing development.[5] However, in order to meet the site inventory requirements of §65583.2, the City must provide more information.

First, under §65583.2(b)(3), the City must describe the existing use of Site 7 and more clearly justify its inclusion in the site inventory. The site is home to "Tannery Row," a recently revitalized historic building with at least a half-dozen commercial tenants. The site does not appear to be underutilized. As such, its redevelopment is exceedingly unlikely in the next decade.

The remaining three Downtown sites are all less than one acre in size.[6] Affordable housing development on these sites may not be realistic or feasible. In order to count Sites 1 and 2 towards meeting its low- and very low-income RHNA, the City must analyze development trends on small sites. It must also consider local incentives for lot consolidation and any regulatory restrictions that may pose additional constraints on small sites. The City should provide examples of similar high-density and affordable small-lot development to justify the inclusion of these sites in its site inventory. It should also estimate the dwelling unit yield for each site by taking into account all of its land use requirements, rather than exclusively multiplying out its minimum site area per unit in each zoning area – especially on such small sites.[7]

For example, Site 2's Town Core zoning combines restrictive height limits and exclusive ground-floor commercial zoning, which together only allow for a maximum of 1.5 floors of multifamily residential use. This could create serious impediments to affordable housing development – especially because the site is surrounded by exclusively residential development, posing the question of the viability of mixed-use development. Similarly, Site 1's extensive parking requirements may not fit on such a small site, especially when analyzed with corner lot setback standards, maximum coverage standards, and landscaping requirements.

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[2] Calculated by including estimated units from additional dwelling units plus Sites 1, 2, 5, and 6 in Table E.4. Although even these sites have problems, they may be able to accommodate lower-income development once they are more fully justified because they (a) are vacant and/or underutilized and (b) are actually available for lower-income development (e.g., landowners are not actively pursuing permits for market-rate development on site).

[3] The inventory in Appendix F fails to identify any sites that would accommodate moderate-income units, as separate from sites that would accommodate above moderate-income units.

[4] Calculated by eliminating "fractional" houses from the single-family residential inventory, eliminating General Commercial sites from the inventory, and eliminating sites under half an acre from the inventory, as described in more detail below.

[5] These sites include Site 1 (88-124-130), Site 2 (89-371-030 and 89-372-090), and Site 7 (89-244-050).

[6] Site 1 is 0.43 acres, the first portion of Site 2 (89-371-030) is 0.81 acres, and the second portion of Site 2 (89-372-090) is 0.86 acres.

[7] These comments on small sites are not restricted to Site 1. The City should conduct this analysis with regard to Sites 1, 2, and 3, as well as all sites under one acre that are identified for multifamily development in Appendix F on page 104.

The high density sites located in the City's Lower Arsenal District also require additional information to justify their inclusion in the City's site inventory.[8] The City's Arsenal District has long been thought to contain leftover environmental contaminants from the military's century-long use of the district. While the City has commendably worked hard in recent years, in coordination with the Department of Toxic Substance Control, to confront potential environmental contamination in this area, its Draft Element fails to address this potential constraint on the construction of affordable housing on all four sites in the Arsenal District. The sites' location within the Lower Arsenal Historic District, combined with their requirement of mixed-use development, creates an additional regulatory constraint that warrants further analysis. All four sites would be subject to design review under the City's Historic District Conservation Plan. The Plan includes a number of restrictions: tree removal limitations, sight line preservation requirements, limitations on the use of retention walls on hilly sites, and suggestions of small building modules. Most problematically, the City does not have any objective design standards for mixed-use development in its conservation plan, though that is the only form of residential development currently allowed on the site under its Office Commercial zoning. Without any objective design standards for mixed-use affordable housing development the sites are unlikely to support development of housing that would meet the City's low- and very low-income RHNA.

Finally, Sites 3 and 4 (80-150-390 and 80-150-380) appear to already have a pending permit application for development as a market-rate assisted living center for seniors. It also appears that the application has already successfully survived appeals by several neighbors. Given the current status of these sites, the City should explain how they are actually available for affordable housing development. If the owner of the site has already applied for a residential use that will not be affordable to very low- and low-income residents, the City must identify other sites that are actually available to meet its very low- and low-income RHNA.

b. *Moderate and Above-Moderate Income Sites.* We also have a number of concerns with the remainder of the City's site inventory. First, the City's identification of many vacant sites in the City above and beyond its RHNA is commendable. However, its inclusion of seven sites zoned General Commercial (GC) is perplexing.[9] Draft Element at p. 104. These sites would reportedly allow 21 units per acre, and together account for 233.72 units of the inventory's calculated 599.18 units. Yet the City's existing zoning does not allow multifamily residential development in GC districts. *Id.* at p. 65. In fact, the City does not even allow single-family development in GC districts, and it has deleted Program 2.04 from its current Housing Element that would have allowed residential uses in GC zones had this program ever been implemented. *Id.* at p. 18. The City should either update its housing element programs and zoning code to match its proposed site inventory, by actually allowing 21 units per acre on the site, or it should remove these seven sites and their projected 233 units from its vacant land inventory.

Second, the inventory includes a number of small sites that would not support any residential development due to the City's development standards. At least 17 sites in the single-family residential section of the inventory are smaller than 6,250 square feet. Therefore, they would not

[8] These sites include Site 3 (80-150-390), Site 4 (80-150-380), Site 5 (80-150-400), and Site 6 (80-150-410).
[9] These sites include 80-150-320, 80-150-330, 88-092-150, 79-020-360, 88-124-040, 87-200-090, and 80-030-100.

support *any* single- or multi-family residential development under the City's land use standards.[10] These sites should be removed from the site inventory.

Third, the City's estimate of the number of units that might be accommodated on the sites included in its inventory is seriously flawed. By simply multiplying the maximum allowable density for each site by the site's acreage, and then summing up all "fractional" housing units, the inventory artificially inflates the number of housing units that could be built on the City's vacant sites. Instead, to accurately reflect the City's zoning restrictions, each number in the "Max du/acre" column must be rounded down to the nearest whole number. For example, the first site 86041140 should be noted to permit 1 dwelling unit, rather than 1.48 dwelling units, and the fourth site 86047040 should be noted to permit 5 dwelling units rather than 5.91. These edits—which actually reflect the development envelope of each identified site—should result in the single-family residential inventory adding up to 101 units rather than 132.4.

Unless and until the City can accurately address the above concerns, its inventory of sites reflects that it has a deficit of sites to accommodate its full RHNA. Accordingly, it also may need to include an adequate sites program to accommodate that deficit. It also will need to address whether the Urban Growth Boundary impedes its ability to identify and/or make adequate sites available to accommodate its RHNA.

5. Incomplete Planning for Goals, Policies & Programs.

The policies and programs must be updated and expanded to address the City's current needs, resources, and identified constraints. It also must identify the specific actions the City will take to achieve its goals and when. The Draft fails to meet these requirements, and HCD should reject it as incomplete.

a. *General Program Comments*. We are particularly concerned with the Draft's lack of specific dates to implement its programs, and the inordinate delay proposed for implementing many of its programs until the end of the Housing Element period. The City fails to include specific dates for many programs, including 1.01 [*supra*, at 2], 1.04 [assisting first-time homebuyers with down-payments], 1.06 [updating website with homebuyer assistance information], 1.09 [*supra*, at 2], 1.11 [*supra*, at 2], 1.13 [developer incentives]; 2.03 [Maintaining residential land to accommodate zoning needs]; 3.03 [reasonable accommodation Ordinance]; 4.01 [expansion of Housing Rehabilitation Loan Program], 4.02 [limit residential conversion]; and 5.01 [complaint referral process for equal housing opportunities]. Further, except for one or two statutorily required programs, the City extends its time to perform several programs for many years in the future. Given the number of beneficial programs that exist and that the City failed to implement during the last Housing Element period, it should expedite performance not extend it. For example, the City proposes to not implement Programs 1.03 [housing consortium for pooled funding], 1.05 [utility availability], 1.12 [incentives for affordable housing]; and 2.04 [consider affordable housing fee] until the very end of the new Housing Element period. To be effective in achieving the City's goals, its programs should be

[10] These sites include 86-050-040, 86-092-050, 87-072-050, 87-072-060, 87-134-510, 87-134-660, 87-134-670, 87-161-140, 87-161-150, 87-553-090, 88-131-240, 88-151-160, 88-230-050, 89-031-130, 89-032-220, 89-092-710, and 89-103-230.

implemented *early* in the new Housing Element period, not another seven to eight years down the line. Finally, the Draft indicates in many cases that the City's "actions" will be "ongoing." Yet, its actions for many programs were not "ongoing" during the last Housing Element period, and in fact, were not performed at all. As discussed above, the City proposed to implement a number of good programs in the last Element, but then failed to do so.[11]

The delays in implementation no doubt contributed to the lack of success in promoting the construction of low- and extremely low-income housing. *See* Draft p. 11. For example, the City has an existing policy to encourage development of Second Units (Program 1.10), but implementation is not scheduled until the end of 2022 – nearly the end of the Housing Element period. The same is true for programs related to Affordable Housing. *See, e.g.*, Program1.12. The City also identifies specific funding sources, but does not demonstrate a firm commitment to implementation, such as when it will apply for CDBG funds. *See* Draft, p. 35. It should commit to annually apply for specific affordable housing funds and should include specific dates when those applications will be prepared and submitted. Notably, the City provided specific goals and timelines for implementation of its Energy Efficiency programs in the last Element, and it appears to have successfully implemented many of those programs and achieved its goals. It should do the same for affordable housing programs in the new Housing Element cycle.

b. *Comments re Specific Programs*.

(i) *Density Bonus.*

The City cannot delay implementation of its program to amend its zoning ordinance to comply with the state Density Bonus Law. California Government Code §§ 65915 – 65918. The Density Bonus Law requires local governments to provide specific incentives and concessions to promote the development of affordable housing and senior housing through a density bonus ordinance. These ordinances must provide significant incentives (increased density, reduced parking, and the like) to encourage the development of lower income housing, and to make such developments economically feasible.

Although the City appears to have a density bonus ordinance (M.C. §17.70.270), it has failed to implement Program 1.08 of its last Housing Element to amend its ordinance to fully comply with state Density Bonus Law. And, it proposes to further delay implementation of this program (see Proposed Program 1.09) for another two years from adoption of the new Housing Element. Despite the economic slump in recent years, development in Benicia is strong. During the past Housing Element period, development of more than 50% of the RHNA for moderate and above-moderate income housing occurred. *See* Draft, Table 3.1, p. 11. During the same period, however, *no* very low income housing was produced, and only five low income housing units were developed, against a RHNA of 147 and 99 respectively. Implementation of Program 1.09 must be a high priority. It should be implemented and *completed* very early in the new Housing

[11] For example, the City failed to implement the permitting requirement under SB 2. The previous element established a goal of completing the requirement by 2011. The present plan proposes to implement the policy change in conjunction with the Element. The Element does not explain, however, the reason for delay, and why the previous delay will no longer be an issue.

Element period to ensure that incentives and concessions are in place throughout the new Housing Element period that will encourage development of critically needed lower income housing.

(ii) *Affordable Housing Programs RHNA.*

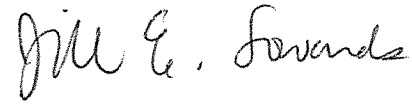
The City has appropriately identified quantified objectives for extremely low income housing. It cannot hope to achieve this goal unless it prioritizes and actually implements the many beneficial programs already proposed (*i.e.*, incentives such as fee deferrals, waivers, expedited permit processing, in-lieu fees, a reduced threshold for the size of developments to which its inclusionary zoning ordinance applies, and financing support)) early in the Housing Element period. Actual and prompt implementation of these programs will assist the City in actually trying to achieve its lower income housing goals during the new planning period.

6. Inadequate Summary of Quantified Objectives.

The Draft's analysis of Quantified Objectives is incomplete. First, the City failed to include a quantified objective for *preservation* of existing affordable units. *See* Draft, Table 4.1, p. 38. Second, the City must explain the method by which it determined its quantified objectives. The new RHNA is admittedly lower than the City's RHNA for the last Housing Element period (327 versus 532). During the last Housing Element period, however, the City established a goal of producing 371 units. See Draft Element at p. 11. It has significantly reduced that goal to only 84 units for the new Housing Element. The quantified objective of 84 is keyed to particular programs, but without any explanation as to the basis for the City's significantly reduced estimate of units that might reasonably be produced. For example, the City projects only 10 units created through rehabilitation under Program 4.01 for very low- and low-income residents. Similarly, only 20 units total are projected for low-income units over the entire Housing Element period. Given the current upswing in the economy and the housing market, the City should reassess its ability to better promote the development of housing that is affordable to its most vulnerable communities. Finally, there are discrepancies within the reporting. Program 1.13 projects the development of 20 extremely low-, very low- and low-income units, but the Quantified Objectives analysis identifies only 17 units for the same program. *Id.* at pp. 31, 38. These discrepancies should be corrected.

We thank you for the opportunity to comment on the Draft Housing Element and look forward to the City's response to our comments. Thank you for your consideration.

Sincerely,



Jill E. Sowards
Staff Attorney, Legal Services of Northern California

Cc: Jess Negrete, Department of Housing and Community Development

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September 17, 2014

Legal Services of Northern California
Attn: Jill Sanders
1810 Capitol Street
Vallejo, CA 94590

RE: Response to July 7, 20014 Letter on Benicia Draft 2015-2023 Housing Element

Dear Ms. Sanders,

Thank you for your interest in the City's 2015-2023 Housing Element. This letter is in response to your comment letter dated July 7, 2014. The following responses directly correspond to the subject heading in your July 7 letter.

1. Inadequate Public Participation.
   The 2015-2023 Housing Element Public Hearing Draft dated August 2014, Chapter 2 has been updated to accurately reflect the community outreach and public participation on the draft element to date. Please refer to pages 17-18.

   The City will continue to accept and consider public comments on the Draft 2015-2023 Housing Element until adoption by the City Council which is tentatively scheduled for November 18, 2014.

1. Inadequate Review of Previous Housing Element.
   Additional language was added to Chapter 3 to provide more detail on the implementation of the programs of the 2007-2014 Housing Element. Please refer to pages 19-34.

2. Incomplete Reporting for Low Income and At-Risk Units.
   Information on the breakdown of the affordability levels of the units for each development was provided by Benicia Housing Authority and included in Table A.18 of page 57 of the 2015-2023 Public Hearing Draft Housing Element.

3. Incomplete Analysis of Regulatory Constraints.
   a. SB2 Compliance.
      On June 12, 2014, the Planning Commission held a public workshop to discuss the implementation of Program 3.01 of the 2007-2014 Housing Element (Programs 3.01 and 3.02 of the Draft 2015-2023 Housing Element)

ELIZABETH PATTERSON, *Mayor*
Members of the City Council
TOM CAMPBELL, *Vice Mayor* . ALAN M. SCHWARTZMAN . MARK C. HUGHES . CHRISTINA STRAWBRIDGE

BRAD KILGER, *City Manager*
KENNETH C. PAULK, *City Treasurer*
LISA WOLFE, *City Clerk*

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for an amendment to the Zoning Ordinance to specify regulations for Emergency Shelters and Transitional and Supportive Housing. The City has completed a draft of an ordinance for emergency shelters, transitional housing and supportive housing which will be considered by the Planning Commission on October 9, 2014 for a recommendation to City Council.

b. Reasonable Accommodations Procedure.
The draft ordinance will be considered by the Planning Commission on October 9, 2014 for a recommendation to City Council.

c. Development Standards that Constrain Multifamily Housing Development.
The Notes on Tables D. 2, D. 3 and D. 4 (p. 74-77) indicate any constraints unique to the zoning district. As clarification, the zoning districts within the Downtown Mixed Use Master Plan allow residential on all floors. The constraint in the Town Core district is that residential on the ground floor is only allowed behind the commercial use. In addition, a clarification on the calculation of a half story was added to Table D.4 Note 3. "Half story is calculated as 50% of the floor area of the floor below."

d. Design Review and Historic Preservation.
The Conservation Plans for the Downtown and Arsenal are intended to provide design guidelines and the design review process for their respective plan areas. The plans address design criteria by building type in general use terms, thereby focusing on the building form, not the use. The guidelines for new construction are determined by the sub-district in which it is located (p. 53 Chapter 6).

e. Environmental Constraints.
None of the sites analyzed for the yields analysis are located within an area of the Benicia Arsenal identified as subject to toxic hazard by the Department of Toxic Substances Control (DTSC) that could constrain development and therefore do not face that environmental constraint. This information on the sites in the Benicia Arsenal was added to Appendix E (p. 107).With regard to port operations, p. 95 of Appendix E states: "Specifically with regard to properties in the lower arsenal, their proximity to industrial land uses and their locations within a former defense site may pose constraints. Noise, light, dust, and other aesthetic impacts due to the properties proximity to industrial uses and a 24-hour, tide-driven port may act as constraints."

f. Urban Growth Boundary.
To ensure the City could meet the very low and low income RHNA requirement of 148 affordable units, the City conducted a yield analysis using seven housing development sites in the City of Benicia. The potential residential yield of these sites produces 252 units, which meets the needs for City of Benicia's below market rate RHNA. All of the sites identified are within

the City's growth boundary at shown in Table. E.4 on p. 103. Therefore, there is no need to further analyze the Urban Growth Boundary.

4. Inadequate Site Inventory.
   a. Low- and Very Low-Income Sites.
      The 2015-2023 Draft Housing Element was revised to add Program 2.05 to monitor the sites identified to meet the City's RHNA for development (p. 40). The new program states, "The City will annually evaluate the sites inventory identifying the zoning, size, and number of vacant and underutilized parcels suitable for residential development for each income category. If the sites inventory indicates a shortage of available sites to accommodate the remaining RHNA for an income category, the City shall rezone sufficient sites with appropriate densities to accommodate its remaining RHNA for each income category.

      The City will develop and implement an ongoing formal evaluation procedure (project-by-project) of sites to accommodate its RHNA for lower-income households. If an approval of a development results in a reduction of site capacity below the residential capacity needed to accommodate the remaining RHNA, including for lower-income households, the City will identify and zone sufficient adequate sites to accommodate the shortfall of sites within six months of approval of the development causing the shortfall of sites."

      Additional information on Site 7 (Tannery Building parcel) was added to Appendix E: "This site is underutilized, with a one story building which does not occupy the entire parcel, and has substantial development opportunity to expand both horizontally and vertically. The northern portion of the site is vacant and located adjacent to an existing mixed-use development. The RHNA is met without this site." (p. 104)

   b. Moderate and Above-Moderate Income Sites.
      Work/Live is a permitted residential land use within the General Commercial zoning district. The site inventory reflects this use.

      With regard to development on substandard sized lots, Benicia Municipal Code 17.70.130 allows for development of lots 2,500 square feet or more subject to same yard and density requirements as a standard lot. In R districts, the City may allow a 10 percent reduction of required interior side yard width and 20 percent reduction of required street side yard width. This information was added to Appendix E (p. 104).

      The City's practice on "fractional" housing units is as follows:
      .5 or greater, round up to nearest whole number
      .49 or less, round down to lowest whole number

5. Incomplete Planning for Goals, Policies & Programs.
   a. General Program Comments.
      It is the City's intent to be realistic about its ability to implement programs and the timing associated with accomplishing each task. The specific dates identified to implement each program are a targeted deadline and they will be implemented as resources allow. The City anticipates the early adoption of the 2015-2023 Housing Element in the planning cycle will support the City's efforts to implement the programs earlier in the Housing Element period.

   b. Comments re Specific Programs.
      i. Density Bonus.
         The City has experiences very low residential development for the past 5 years. The last years of strong residential development were 2006-2010 with the construction of Harbor Walk Development (2006), 221 First Street (2007) and the final build out of Water's End (2010). Due to the economic slump, it is anticipated that the development pattern over the next several years will continue to be slow. As mentioned, it is the City's intent to be realistic about its ability to implement programs and the timing associated with accomplishing each task. Implementation of Program 1.09 Density Bonus will be initiated within the first half of the 2015-2023 Housing Element's planning period.

      ii. Affordable Housing Programs RHNA.
         Your comment is noted. As previously stated, it is the City's intent to be realistic about its ability to implement programs and the timing associated with accomplishing each task. The specific dates identified to implement each program are a targeted deadline and they will be implemented as resources allow. The City anticipates the early adoption of the 2015-2023 Housing Element in the planning cycle will support the City's efforts to implement the programs earlier in the Housing Element period.

6. Inadequate Summary of Qualified Objectives.
   Table 4.1 (p.46) of the 2015-2023 Draft Housing Element has been updated to reflect all the applicable programs and units associated with each program.

Again, thank you for your comments on the Public Review Draft of the 2015-2023 Housing Element. Enclosed is a copy of the Public Hearing Draft dated August 2014 for your reference. If you have any additional questions or comments, please contact me at amilion@ci.benicia.ca.us or 707-746-4372.

Regards,

Amy E. Million
Principal Planner

Encl. Public Hearing Draft 2015-2023 Housing Element dated August 2014

Cc: Heather McLaughlin, City Attorney

VIII.A.204

Law Offices of
DANA DEAN

Dana Dean
Amber Kemble *Of Counsel*
Venus Viloria Berdan *Associate*

283 East H Street
Benicia, California 94510
p 707.747-5206 ▪ f 707.747-5209

Real Estate ▪ Land Use

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SEP 29 2014
CITY OF BENICIA
COMMUNITY DEVELOPMENT

September 29, 2014

City of Benicia
Community Development Department
Attention: Amy Million
250 East L Street
Benicia, California 94510

Via Hand Delivery

Re: Comments on Draft Housing Element, 2015-2023 and the Initial Study/Proposed Negative Declaration

Dear Ms. Million:

I am submitting these comments on behalf of Amports, Inc. ["Amports"] with regards to the City of Benicia's Draft Housing Element, 2015-2023 ["Draft Housing Element"] and the Initial Study/proposed Negative Declaration which are scheduled for the Planning Commission and City Council's consideration and for public hearing soon.

At the outset, we would like to thank the City and its staff for their efforts in preparing the Draft Housing Element and in encouraging public participation throughout the process. The City's review and careful consideration of public comments is greatly appreciated, especially as the City and staff have responded to and incorporated public comments and feedback by conducting further analysis and making revisions to the Draft Housing Element.

After reviewing the current version of the Draft Housing Element and the accompanying Initial Study/Negative Declaration, we have concluded that there are several issues and areas of concern that need to be addressed as the Planning Commission and City Council prepare to consider the Draft Housing Element and proposed Negative Declaration for approval and adoption. Below is a discussion on these issues and concerns.

Properties in the Arsenal should be removed from the list of vacant housing sites specified to meet the City's Regional Housing Needs Allocation

Several parcels located in the Benicia Arsenal ["Arsenal Properties"] have been included in the list of sites available to meet the City's housing needs, with at least four of them

having been designated as opportunity sites/high density sites.[1] However, given the constraints that properties in the Arsenal are subject to, including land use compatibility issues, these Arsenal Properties should be removed from the list of possible housing sites.

Please note that this issue is not new and is actually a continuing discussion as the City had previously acknowledged the possibility of removing the Arsenal Properties from the City's inventory of available housing sites during the City's review of the current Housing Element (2007-2014) back in 2012. Due to extreme time constraints in which the City was facing state deadlines to review and approve the Draft Housing Element for the 2007-2014 cycle, this issue was set aside with the understanding that these less desirable units would be removed as the Association of Bay Area Governments (ABAG) numbers were revised downward under the new cycle.

More specifically, when the current Housing Element (2007-2014) was being reviewed by the Planning Commission and City Council in 2012, our office initially brought up the issue of removing these same Arsenal Properties from the list of available, vacant housing sites based on concerns over the incompatibility of adjacent industrial land uses and inconsistency with the General Plan.[2] As seen below, our concerns over these issues remain as we still believe that the Arsenal Properties should not be designated in the Draft Housing Element as available vacant, housing sites.

In general, allowing the Arsenal Properties to be considered as available vacant, housing sites violates several of the City's General Plan goals, programs, and policies, including those pertaining to incompatibility of uses, Port operations, noise, etc. such as:

> General Plan Goal 2.6: Attract and retain a balance of different kinds of industrial uses to Benicia.
>
> General Plan Policy 2.6.5: Establish and maintain a land buffer between industrial/commercial uses and existing and future residential uses for reasons of health, safety, and quality of life.
>
> General Plan Goal 2.8: Maintain the viability of the Port now and in the future to benefit the City of Benicia.
>
> General Plan Policy 2.8.1: Avoid encroachment by future incompatible uses...

---

[1] *See* Draft Housing Element, Appendix E: Tables E.4 and E.5; Figure E.1.B, Figure E.2; and Appendix F., Table F.1 Vacant Land Inventory.

[2] While we understand that the Draft Housing Element is a policy document that sets forth policies and strategies for accommodating the City's housing needs, it important to note that allowing unrestrained housing is inconsistent with the General Plan and would be in violation of CEQA.

> General Plan Goal 2.11: Encourage the retention and continued evolution of the lower Arsenal into a historic/cultural/commercial/industrial center of mutually compatible uses.
>
> General Plan Goal 4.23: Reduce or eliminate the effects of excessive noise.

Moreover, the City will need *200 less* housing units for the next time period covered under the Draft Housing Element: January 1, 2014 - October 31, 2022.[3] Since the City does not need as many new housing units and because of the number of constraints attached to them, then the Arsenal Properties should be the first set of properties to be removed from the list of available housing sites. In fact, this same issue was acknowledged on the record during the review of the current Housing Element when former Community Development Director Charlie Knox indicated during the October 11, 2012 Planning Commission meeting his willingness to recommend that the Arsenal Properties be removed from the Housing Element since the City's required housing numbers have gone down substantially and the Arsenal Properties are constrained. Therefore, it makes sense to remove the Arsenal Properties as they are no longer needed in the City's housing inventory.

In any case, regardless of whether the City's housing requirements have decreased, properties in the Arsenal still should not be included in the City's vacant land inventory as potential housing sites considering the multitude of constraints these properties face due to their proximity to adjacent industrial land uses and the Port and because of their location in a former defense site. In the very least, the multitude of constraints should be accurately assessed and described in the representations made to the State of California regarding site availability.

Clarification is needed for the discussion on physical constraints in the Draft Housing Element because of the potential for misinterpretation

In the section on Physical Constraints in the Draft Housing Element, the discussion regarding constraints on properties in the Lower Arsenal might be misconstrued considering the sentence structure and language used:

> Operational noise sources near potential sites for development may pose constraints as well; such as noisy industrial or commercial sites. Specifically with regard to properties in the lower aresnal, their proximity to industrial land uses and their locations within a former defense site may pose constraints. Noise,

[3] Specifically, the current Housing Element (2007-2014) indicates that the City's Regional Housing Needs Allocation (RHNA) was at **532** for the January 1, 2007 - June 30, 2014 time period while the Draft Housing Element states that the RHNA would only be **327** for January 1, 2014 - October 31, 2022.

> light, dust, and other aesthetic impacts due to the properties proximity to industrial uses and a 24-hour, tide-driven port may act as constraints.[4]

The first sentence above beginning with "[o]perational noise sources..." and the use of the word "[s]pecifically" makes it seem as if this discussion of the properties in the Lower Arsenal (including reference to their proximity to industrial land uses and being within a former defense site) is limited to noise constraint/operational noise issues despite the next sentence discussing light, dust, and other aesthetic impacts.

In other words, it appears as if the land use compatibility constraints based on these properties' proximity to industrial land uses and being located within a former defense site is diminished and/or not effectively addressed or acknowledged. This can be remedied by removing the word "specifically" from the second sentence above so that it seems that constraints for the Lower Arsenal properties are broader than just noise and operational noise sources.

More information is needed to explain and provide context for the statement indicating that none of the Arsenal Sites are located within "the DTSC site" and "do not face environmental constraints"

In the Draft Housing Element's section discussing the Benicia Arsenal in Appendix E. Sites Inventory and Analysis, it states:

> All of the vacant Arsenal sites analyzed in this study (Sites No. 3, 4, 5, and 6) are located within the Lower Arsenal and subject to additional review under the Arsenal Historic Conservation Plan. None of these sites are located within the DTSC site, and do not face environmental constraints.[5]

However, "the DTSC site" is not defined and there is no other reference to "the DTSC site" in the rest of the Draft Housing Element to explain this reference. Therefore, the significance of the statement that none of the sites are located within "the DTSC site" cannot even be adequately assessed or comprehended without the context, background information, and/or definition of "the DTSC site".

Furthermore, if "the DTSC site" is meant to refer to the properties that are subject to the two recent Imminent and Substantial Endangerment Determination and Remedial Action orders issued by the California Department of Toxic Substances Control ["2014 DTSC Orders[6]"], or even if it is meant to refer to any site included on the list of

---

[4] *See* Draft Housing Element, Appendix D, Section D.2.4 Environmental and Physical Constraints, page 95.

[5] *See* Draft Housing Element, Appendix E. Sites Inventory and Analysis, subsection "Benicia Arsenal" p. 107.

[6] The June 24, 2014 Imminent and Substantial Endangerment Determination and Remedial Action orders issued by the DTSC regarding two sites in the Arsenal: (1) four parcels encompassing various addresses on

hazardous materials sites compiled by the DTSC pursuant to Government Code §65962.5 (as discussed in the Initial Study[7]), then the statement that the four Arsenal sites referenced above and discussed in the Draft Housing Element "do not face environmental constraints" is not accurate.

Please note that while the four Arsenal sites referenced above are not specifically listed or subject to the 2014 DTSC Orders or currently included in the DTSC's list of hazardous materials sites, it does not mean that these sites do not face environmental constraints. These four Arsenal sites designated in the Draft Housing Element may face environmental constraints based on, among other things, their proximity and their being located north or northwest and upgradient to the two sites subject to the 2014 DTSC Orders. In the discussion on public health and/or environmental risk, the 2014 DTSC Orders even specifically mention the proposal to "increase residential occupancy of the Lower Arsenal at nearby parcels in the highlands", which would encompass the four Arsenal sites designated in the Draft Housing Element.[8] It should be noted that while the 2014 DTSC Orders may state that it is unlikely or less likely that "groundwater contamination could affect the residential areas as groundwater flows in a southerly direction", other hazardous substances and contamination (e.g., in soil and indoor air) have been found throughout the Arsenal.[9] Because of their proximity to the two sites subject to the 2014 DTSC Orders and the overall history of contamination found in the Arsenal, it is premature to declare that the four Arsenal sites designated in the Draft Housing Element do *not* face environmental constraints.

Also, because there are various environmental and physical constraints that may affect development on these four Arsenal sites as discussed above and as detailed in the Draft Housing Element's discussion on Constraints in Section D.2.4 on pages 94 to 95, the statement that they do not face environmental constraints is misleading and inconsistent with what has been said throughout the Draft Housing Element.

References to physical constraints need to be included in discussions on Homeless/Emergency Shelters, and Transitional, and Supportive Housing

In the Draft Housing Element's section on Special Housing Needs in Appendix B, the discussion of the environmental and physical constraints for development of parcels designated as vacant housing sites, including for emergency shelters and transitional

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Tyler, Lincoln and Jackson Street, sometimes collectively referred to as "945 Tyler Street" and (2) one parcel with addresses of 711 and 750 Jackson Street.

[7] *See* Initial Study/Negative Declaration for City of Benicia Housing Element, 2015-2023, p. 21, 8(d) which states: "The Department of Toxic Substances Control (DTCS) maintains a hazardous-waste and substances sites list (Cortese List). No sites in Benicia are listed on the DTSC list..."

[8] *See* 2014 DTSC Orders, Section 2.7 Public Health and/or Environmental Risk (on page 5 for order regarding 711/750 Jackson Street and page 8 for order regarding 945 Tyler Street).

[9] Quote is from the 2014 DTSC Orders, Section 2.7 Public Health and/or Environmental Risk (on page 5 for order regarding 711/750 Jackson Street and page 8 for order regarding 945 Tyler Street).

and supportive housing, is limited to only constraints dealing with sensitive plant and animal species. In order to be consistent with the discussion of environmental and physical constraints set forth in Appendix D. Constraints, other constraints should be mentioned in this section too.[10]

Considering this, the following sentence should also be added to the last paragraph of the Appendix B's subsection "Homeless/ Emergency Shelters, and Transitional, and Supportive Housing" on page 65:

> Further, there are additional constraints associated with development of some of these parcels, including environmental and physical constraints including noise, light, odor, dust, and other aesthetic impacts resulting from some of the parcels' proximity to industrial uses, including an active industrial port, and/or their location within a Former Defense Site.

This same reference to environmental and physical constraints on development of parcels should also be included in any other discussion in the Draft Housing Element regarding its Programs 3.01 and 3.02, which pertain to amending the City's Zoning Ordinance: (1) to comply with the "Housing Accountability Act" to permit emergency shelters without a use permit or other discretionary permit in at least one zoning district or on one site and (2) to define transitional and supportive housing as a residential use under Use Classifications, residential use types, subject to the same standards that apply to other housing use types in the same zoning district.[11] Because these programs discuss providing for emergency shelters to be allowed by right and for emergency shelters and transitional and supporting housing to be defined and classified as residential use, the same environmental and physical constraints need to be acknowledged regarding development for these purposes.

All references to "live/work" in the Draft Housing Element should be changed to "work/live" pursuant to the City's Ordinance 13-15

On December 3, 2013, the City voted to amend certain sections of the City's Zoning Ordinance (Title 17 of the Benicia Municipal Code) by changing all references of "live/work" to "work/live" so that the Zoning Ordinance would be consistent with the Building Code (Title 15), which includes its own Work/Live Occupancy Code.

Throughout the Draft Housing Element, "live/work" is still used and needs to changed to "work/live" in order to be consistent with the Benicia Municipal Code and to avoid confusion.

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[10] Section D.2.4 Environmental and Physical Constraints discusses the physical constraints of landslides, noise, light, dust, etc. (*See* Draft Housing Element, Appendix D, Section D.2.4 Environmental and Physical Constraints, pages 94-95.)

[11] *See* Draft Housing Element, Chapter 4: Goals, Policies, & Programs, p. 41-42.

The Initial Study's discussion on land use and planning impacts is incomplete

While the Initial Study in its section on Land Use and Planning Impact mentions that Appendix D of the Draft Housing Element outlines the physical and environmental constraints associated with properties located in the Benicia Arsenal, the discussion in that section seems to focus on constraints related to noise sources and then broadly touches upon constraints stemming from land use compatibility issues, proximity to existing commercial and industrial uses, and location with a former defense site.[12]

In order to be more comprehensive and consistent with the Draft Housing Element, this section in the Initial Study should set forth other known specific constraints for the Arsenal Properties as discussed in the "Physical Constraints" section of the Draft Housing Element by adding the following sentence:

> Noise, light, dust, and other aesthetic impacts due to the properties proximity to industrial uses and a 24-hour, tide-driven port may act as constraints.[13]

The Noise Impact Discussion in the Initial Study does not specifically set forth the issue of constraints related to operational noise sources and noise impacts due to proximity to industrial uses and a 24-hour, tide-driven port

The section on Noise Impact in the Initial Study generally states that "[t]he 1998 EIR for the General Plan found that with the application of General Plan policies there would be no significant impacts from noise on development consistent with the General Plan..." and that "there are sites within the City that are affected more by noise than others."[14] In addition, this section discusses how present and future impacts associated with noise and vibrations were addressed in the 1998 Benicia General Plan EIR, that "[m]itigation measures, integrated into the General Plan in the form of goals, policies, and programs, will reduce all significant impacts to a level of less than significant., and that "[a]ll future development will be subject to site-specific environmental studies as determined appropriate by the City and will comply with all City policies and regulations related to noise."[15]

However, the noise impact discussion in the Initial Study does not seem to be complete or consistent with the Draft Housing Element or other portions of the Initial Study. As discussed above, some of the properties designated as available housing sites in the Draft Housing Element face physical constraints related to noise impacts due to their

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[12] *See* Initial Study/Negative Declaration for City of Benicia Housing Element, 2015-2023, p. 25.
[13] *See* Draft Housing Element, Appendix D, Section D.2.4 Environmental and Physical Constraints, page 95.
[14] *See* Initial Study/Negative Declaration for City of Benicia Housing Element, 2015-2023, p. 27.
[15] *Ibid.*

proximity to industrial and commercial uses and/or a 24-hour, tide-driven port. Therefore, this important factor related to noise impact should also be mentioned in the discussion on noise impacts in the Initial Study because it has been acknowledged and specifically examined in the Draft Housing Element.

Also, another section in the Initial Study, the Land Use and Planning Impacts Discussion, explains how "operational noise sources near potential sites for development may pose constraints as well; such as noisy industrial or commercial sites." With this statement already in the Initial Study, it would also make sense to include it in this specific Noise Impact Discussion.

The Initial Study also does not acknowledge the constraints dealing with light, glare, and dust in its discussion on aesthetics and air quality impacts

Although the Draft Housing Element indicates that some housing sites located in the Arsenal face specific physical constraints including noise, light, dust, and other aesthetic impacts due to their proximity to industrial uses and a 24-hour, tide-driven port as indicated above, these constraints are not adequately discussed in the Initial Study.[16]

For example, in the Aesthetics Impact Discussion, it states that "[p]otential impacts from light and glare, or on the visual character of a particular site, are site-specific impacts that can only be evaluated on a site by site basis."[17] Also, in the Air Quality Impact Discussion, dust and odor are not mentioned as specific constraints on development on certain properties. There are comments in this section that "[a]dopting the updated Housing Element will not by itself expose sensitive receptors to substantial pollutant concentrations" and that "[h]ousing is not a use that can be anticipated to generate objectionable odors affecting a substantial number of people."[18] However, these comments do not set forth the physical and environmental constraints as discussed in the Draft Housing Element.

The Initial Study's Hazards/Hazardous Materials Impact Discussion is insufficient and not completely accurate

In the subsection addressing the impacts of being located on a site included on a list of hazardous materials sites compiled pursuant to Government Code §65962.5, there is a discussion on how

[16] *See* Draft Housing Element, Appendix D, Section D.2.4 Environmental and Physical Constraints, page 95.
[17] *See* Initial Study/Negative Declaration for City of Benicia Housing Element, 2015-2023, p. 10.
[18] *See* Initial Study/Negative Declaration for City of Benicia Housing Element, 2015-2023, p. 12.

> the Department of Toxic Substances Control's [DTSC] maintains a hazardous-waste and substances sites list (Cortese List). No sites in Benicia are listed on the DTSC Hazardous Waste and substances site list."[19]

This statement is not accurate because there are two *active* sites in Benicia that are on the DTSC's Cortese List: the sites which are subject to the recent 2014 DTSC Orders as discussed in detail above.[20]

This section also needs to include more information to provide context and background information for the next two statements:

> The majority of the sites identified in the yields analysis are located in the Benicia Arsenal, a former defense site. None of the development opportunity sites identified in the Housing Element are identified as having toxic substances on-site.

Readers of the Initial Study may not understand or know what is meant by the references to "sites identified in the yields analysis" and to "development opportunity sites".[21] Therefore, it would be difficult to determine the relevance and significance of these statements in this section in the Initial Study.

Also, the statement that none of the development opportunity sites are identified as having toxic substances on-site may be misleading. As explained in detail above, the extent of possible contamination may extend to beyond the sites that are subject to the 2014 DTSC Orders and that are listed on the DTSC's Cortese list.

Conclusion

We would like to thank the City and its Staff again for providing the opportunity for the public to get involved in the process of reviewing and commenting on the Draft Housing Element and Initial Study. It is our hope that the concerns and issues that we raised above will be addressed so that the Planning Commission and City Council will have sufficient and consistent information to carefully review and consider such matters before making its final determination on the Draft Housing Element and proposed

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[19] *See* Initial Study/Negative Declaration for City of Benicia Housing Element, 2015-2023, p. 21.
[20] On its website, DTSC designates these two sites on its list as "Benicia Arsenal, Area I, Building 165" and "Benicia Arsenal, Area I, Building 50 Series Complex". *See* DTSC's Hazardous Waste and substances site list-Site Cleanup (Cortese List) which can be accessed on DTSC's website at: www.dtsc.ca.gov/SiteCleanup/Cortese_List.cfm.
[21] It should be noted that the phrase "yield analysis" is also used throughout the Initial Study in other sections, without explanation or description. For example, in the discussion on Land Use and Planning Impacts on page 27 of the Initial Study, it states: "Appendix D (Constraints) of the Draft Housing Element outlines the physical and environmental constraints associated with the locations of the sites for the yield analysis which are located within the area formerly occupied by the Benicia Arsenal." Any other reference in the Initial Study to such "yield analysis" should also be explained and defined.

Negative Declaration. Moreover, this thorough process of carefully reviewing the Draft Housing Element and of revising it accordingly indicates that the City acknowledges the importance of providing accurate representations to the State regarding our City's housing needs.

Respectfully submitted,

DANA DEAN
DD/vvb

THE CITY OF BENICIA CALIFORNIA
A SESQUICENTENNIAL CITY 1847 ★ 1997

CITY HALL • 250 EAST L STREET • BENICIA, CA 94510 • (707) 746-4200 • FAX (707) 747-8120

October 8, 2014

Law Offices of Dana Dean
Attn: Dana Dean
283 East H Street
Benicia, CA 94510

RE: Response to September 29, 2014 Letter on Benicia Draft 2015-2023 Housing Element and Initial Study/Negative Declaration

Dear Ms. Dean,

Thank you for your interest in the City's 2015-2023 Housing Element. This letter is in response to your comment letter sent on behalf of Amports dated September 29, 2014. The following responses directly correspond to the subject heading (bold) in your September 29 letter.

Properties in the Arsenal should be removed from the list of vacant housing sites specified to meet the city's Regional Housing Needs Allocation

The four sites (Site No. 3, 4, 5 and 6) in the Arsenal area were previously identified in the 2007-2014 Housing Element because they are vacant and are located within an existing zoning district that allows housing. The existing Office Commercial zoning designation allows for the development of both single-family residential and multi-family residential above the ground floor as a "by right" use with design review approval. The Benicia Arsenal is a mixed use area consisting of a variety of land uses including residential, commercial and industrial which is consistent with the Lower Arsenal Mixed Use land use designation in the General Plan as stated below:

> *Lower Arsenal Mixed Use*
> *This category includes residential, live/work, office, retail, public and quasi-public, and limited industrial uses. The purpose of this category is to continue to encourage a mix of compatible uses in areas of the Lower Arsenal; to promote the upgrading of existing buildings, and the preservation and adaptive reuse of historic buildings; and to allow new, compatible buildings to house mixed use.* (General Plan p. 28)

With the development of residential uses in the Office Commercial zoning district

ELIZABETH PATTERSON, *Mayor*
Members of the City Council
TOM CAMPBELL, *Vice Mayor* . ALAN M. SCHWARTZMAN . MARK C. HUGHES . CHRISTINA STRAWBRIDGE

BRAD KILGER, *City Manager*
KENNETH C. PAULK, *City Treasurer*
LISA WOLFE, *City Clerk*

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limited to floors above the ground floor, any development with a residential component is required to be mixed use. The environmental constraints associated with the development of these parcels are identified in the Draft 2015-2023 Housing Element and Initial Study Negative Declaration (ISND).

The City's reduction in the Regional Needs Housing Allocation from 532 units to 327 units does not make any site identified in the Housing Element ineligible or unnecessary. The City is required to analyze all potential land to accommodate housing including both vacant and underutilized parcels. Removing the four sites identified in the yields analysis in the Lower Arsenal would not be consistent with the purpose of the Housing Element nor would it change their level of residential development viability.

Clarification is needed for the discussion on physical constraints in the Draft Housing Element because of the potential for misinterpretation

Your comment is noted. No changes are proposed.

More information is needed to explain and provide context for the statement indicating that none of the Arsenal Sites are located within "the DTSC site" and "do not face environmental constraints"

The reference to DTSC should be clarified for context in Appendix E of the Draft 2015-2023 Housing Element (p. 107). The following additional language shown as underlined will be presented to the Planning Commission on October 9, 2014 for their consideration:

All of the vacant Arsenal sites analyzed in this study (Sites No. 3, 4, 5, and 6) are located within the Lower Arsenal and subject to additional review under the Arsenal Historic Conservation Plan. <u>Sites within the Lower Arsenal have been identified by the Department of Toxic Substance Control (DTSC) as potentially contaminated.</u> None of these sites analyzed in this study (Site No. 3, 4, 5 and 6) are located within the DTSC site, and <u>therefore</u> do not face environmental constraints <u>associated with identified contamination.</u>

References to physical constraints need to be included in discussions on Homeless/Emergency Shelters, and Transitional, and Supportive Housing

The Draft 2015-2023 Housing Element adequately discusses the environmental and physical constraints associated with the development of housing in the Lower Arsenal in several areas including both Appendix D: Constraints and Appendix E: Sites inventory and Analysis. Emergency Shelters and Transitional and Supportive Housing may be an allowed use by right in various zoning districts throughout the City; however, their location with the Lower Arsenal will require discretionary design review approval and therefore subject to additional environmental review under CEQA. The City is required to identify land to accommodate an emergency shelter

without any discretionary review. Therefore, parcels within the Lower Arsenal will not be included as meeting the State's minimum requirements.

All references to "live/work" in the Draft Housing Element should be changed to "work/live" pursuant to the City's Ordinance 13-15

Your comment is noted and all references will be changed to "work/live".

The Initial Study's discussion on land use and planning impacts is incomplete

The Noise Impact Discussion in the Initial Study does not specifically set forth the issue of constraints related to operational noise sources and noise impacts due to proximity to industrial uses and a 24-hour, tide-drive port

The Initial Study also does not acknowledge the constrains dealing with light, glare and dust in its discussion on aesthetics and air quality impacts

You made several comments regarding additions to the Initial Study that reference potential impacts of the environment on the project. However, the purpose of CEQA is to protect the environment from proposed projects, not to protect proposed projects from the environment.[1] Consequently, no changes are proposed.

The Initial Study's Hazards/Hazardous Materials Impact Discussion is insufficient and not completely accurate

The following statement: "No sites in Benicia are listed on the DTSC Hazardous Waste and substances site list." has been changed to reflect the two sites (946 Tyler Street and 750 Jackson Street) listed by DTSC as active.

Clarification on the term "yields analysis" used in the Draft 2015-2023 Housing Element has been added to the ISND for consideration by the Planning Commission on October 9, 2014.

Again, thank you for your comments on the Draft 2015-2023 Housing Element and Initial Study Negative Declaration. Enclosed is a copy of the memo to the Planning Commission in response to your comments. If you have any additional questions or comments, please contact me at amilion@ci.benicia.ca.us or 707-746-4372.

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[1] See, *Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455 (EIR not required to address the impact of sea level rise on the project); *South Orange County Wastewater Authority v. City of Dana Point* (2011)196 Cal.App.4th 1604 (Court rejected arguments that a negative declaration should have evaluated odor and noise impacts from an existing sewage treatment plant on new residents of a proposed project); *City of Long Beach v. Los Angeles Unified School District* (2009) 176 Cal.App.4th 889 (EIR for a new school was not required to address the impacts of emissions from nearby freeways on staff and students).

Regards,

Amy E. Million
Principal Planner

Encl. Planning Commission Memo dated October 8, 2014 (without attachments)

Cc: Heather McLaughlin, City Attorney

North Bay Housing Coalition, Inc.

Creating affordable housing for persons with developmental disabilities

1436 Second Street #178
Napa, CA 94559

RECEIVED
OCT 01 2014
CITY OF BENICIA
COMMUNITY DEVELOPMENT

September 29, 2014

City of Benicia Planning Department
250 East L Street
Benicia, CA 94510

RE: Housing Element

Dear Sirs/Mesdames:

This letter is to advise the City of Benicia of the struggles a person with developmental disabilities face in finding housing that is affordable in the community.

A person with a "developmentally disability" is defined as a disability that develops before a person reaches adulthood, at the age of 18. It is usually expected to continue indefinitely after age 18. These disabilities include intellectual disabilities/mental retardation, Cerebral Palsy, Epilepsy, and Autism.

According to the North Bay Regional Center, there are 266 individuals with developmental disabilities in Benicia.

We are writing in regards to the requirements of the California Senate Bill 812, Chapter 507, Statutes of 2010 (SB 812-Ashburn). As you know, special needs groups spend an exorbitant proportion of their income to find housing and many end up being discriminated due to their circumstances and needs. To address this issue, SB 812 requires that housing elements include an analysis of the disabled with an evaluation of the special housing needs of persons with developmental disabilities. This analysis includes an estimation of the number of people with developmental disabilities in a jurisdiction, an assessment of the housing need and a discussion of potential resources.

707.289.7000 707.676.8613 fax www.northbayhousingcoalition.org

Persons with developmental disabilities are faced with financial hardships when searching for housing. It is essential to provide affordable, accessible, and ideally independent housing in integrated communities. The biggest barrier for finding housing to live independently is lack of financial resources. It is important for those with developmental disabilities to live in stable long term and independent housing, such as renting homes, apartments, mobile homes, or duplexes at affordable rents.

According to the Technical Assistance Collaborative (TAC) of the Priced Out Study of 2012 a person receiving Supplemental Security Income (SSI) in California had to pay 104% of their monthly income to rent a fairly modest one-bedroom unit. This has been a 35% increase from what it was in 1998 at 69%. The average annual income level for individuals receiving SSI is $8,714. This is 30% below the 2012 national federal poverty level of $11,170. Those who have successfully found housing are usually living in dangerous neighborhoods, a very moderate unit, sometimes with roommates who do not have disabilities, and are using all SSI income to pay rent each month leaving no money to buy groceries, transportation, clothing, and other necessities.

TAC had a few suggestions for policies that could aid in providing sufficient housing for people with developmental disabilities. Most policies would require funding to prevent homelessness, as well as funding for 4.6 million subsidies in Housing Urban Development (HUD). These rent subsidies include programs like privately owned HUD properties with Section 8 contracted units as well as Housing Choice Vouchers, and deferral housing units. Limitations are affecting these necessary programs to assist households with low-income individuals with developmental disabilities. The funding issue affects close to 65,000 vouchers for people with disabilities. Funding for the Public Housing Agency has been reduced making it difficult to run programs that aim at transitioning individuals with disabilities from institutions to the community. A third policy suggestion would be expanding housing opportunities for individuals receiving SSI with the assistance of the National Housing Trust Fund (NHTF). 90% of the funds go to very low income households and will protect, preserve and rehabilitate housing units. 75% of funds must be appropriated to benefit low income housing units. The NHTF would be an ideal program that would benefit individuals dependent on SSI payments.

The mission at North Bay Housing Coalition is to address housing needs of people with developmental disabilities, by accurately reflecting the magnitude of the housing needs of populations from city to city.

We must account for various critical factors such as inclusionary placements, reasonable accommodation that include safe neighborhoods, close proximity to daily needs, and financing and site identification.

In order to address and assist the housing needs for citizens with developmental disabilities, we would like to encourage the city to implement programs to outreach with the North Bay Regional Center and North Bay Housing Coalition as well as encourage landlords and other housing providers to select a portion of new affordable housing developments for persons with developmental disabilities.

Thank you very much for your effort and support in meeting the housing needs of persons with developmental disabilities in the City of Benicia.

Sincerely,

Mary Eble

Mary Eble
Executive Director

VIII.A.222

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 18, 2014
BUSINESS ITEMS

DATE : October 23, 2014

TO : City Council

FROM : City Manager

SUBJECT : **INTRODUCTION AND FIRST READING OF AN ORDINANCE FOR TRANSITIONAL HOUSING, SUPPORTIVE HOUSING AND EMERGENCY HOMELESS SHELTERS**

RECOMMENDATION:
Conduct the first reading of the draft ordinance to amend the Benicia Municipal Code Title 17 (Zoning Ordinance) and the Downtown Mixed Use Master Plan (Chapter 4 - Form Based Code) pertaining to transitional housing, supportive housing and emergency homeless shelters.

EXECUTIVE SUMMARY:
The California Housing Accountability Act requires that local jurisdictions provide zoning that encourages and facilitates emergency shelters and limits the denial of transitional housing, supportive housing and emergency shelters in order to address the critical housing needs of homeless populations and individuals with special needs. The draft ordinance has been prepared in order to implement Government Code Section 65583 and Program 3.01 of the City's Housing Element by amending the Title 17 Zoning and Downtown Mixed Use Master Plan to permit transitional housing and supportive housing, and to amend the zoning ordinance to permit emergency homeless shelters, including addition of Chapter 17.70.390 Emergency Shelter.

BUDGET INFORMATION:
There are no direct impacts to the budget associated with this project. The costs to the City to implement the zoning text amendments would be minimal. For projects which involve a discretionary approval, such as Design Review or Use Permit, process and fees are already established and will be assessed accordingly.

ENVIRONMENTAL ANALYSIS:
The Benicia Municipal Code (BMC) provides that the City shall comply with state and federal law "in administration of zoning and land use policies regarding homeless shelters, transitional housing, supportive housing or other housing designed to assist homeless persons or persons with special needs" (BMC Section

17.08.020.M). Transitional and supportive housing are not currently distinguished in the zoning ordinance from other types of housing. The proposed ordinance provides additional regulations and operational requirements that are not currently specified within the BMC, in accordance with and in order to implement state law. There are no unusual circumstances surrounding the proposed regulations, or the properties to which they would apply, which would result in the possibility that the activity would have a significant effect on the environment.

The proposed amendment is exempt from the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), the "general rule" exemption, which states that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is exempt from CEQA. The City has determined that the project, which amends the Benicia Municipal Code and Downtown Mixed Use Master Plan to establish transitional housing and supportive housing as residential use permitted in zoning districts which presently allow similar uses, and to establish emergency shelter as a public and semipublic use permitted within ¼ mile of Military East and Military West excluding open space, single-family and downtown zones, and within the areas zoned General Commercial and Office Commercial that lie within ¼ mile of Adams Street in the Arsenal District, will not have a significant effect on the environment. The zoning amendment merely provides clarification of where the subject uses are permitted. Further, implementation of the proposed ordinance was evaluated in the course of environmental review for the 2007-2014 Housing Element and the 2015-2023 Housing Element and was found to have no significant impact.

The proposed amendments are additionally exempt pursuant to the CEQA Guidelines Section 15301, Existing Facilities. Given the limited supply of vacant land within the city, emergency shelters, transitional housing and supportive housing are generally expected to utilize existing facilities or to be constructed in areas where necessary public services and facilities are provided and the surrounding area is not environmentally sensitive. Any new construction would be subject to standard building and zoning regulations applicable to other structures in the same zoning district and of the same size, except that emergency shelters would be subject to standards set forth in the zoning ordinance amendments that are designed to prevent impacts to surrounding properties. The proposed regulations would not modify requirements for compliance with the Downtown or Arsenal Historic Conservation Plans. No project is proposed for a site subject to listing in accordance with Section 65962.5 of the California Government Code, located within a flood plain, or along a state scenic highway.

GENERAL PLAN:
Relevant General Plan Goals and Policies include:

- GOAL 3: Accommodate the housing needs of special population groups
  - Policy 3.01 Facilitate the development of shelters for the homeless, transitional and supportive housing, housing for seniors, and housing for persons with physical, developmental, or mental disabilities.

STRATEGIC PLAN:
Relevant Strategic Plan Issue and Strategy include:

- Issue #5: Maintain and Enhance a High Quality of Life
  - Strategy: Provide support to disadvantaged segments of the community.

BACKGROUND:
In 2007, the California Legislature passed Senate Bill (SB) 2 under the Housing Accountability Act to ensure that local zoning encourages and facilitates emergency shelters and limits the denial of transitional housing, supportive housing and emergency shelters in order to address critical housing needs. The Act, which is incorporated into Government Code Sections 65583 and 65589.5, is intended to address the critical needs of homeless populations and individuals with special needs and includes two key requirements which are incorporated into the 2007-2014 Housing Element as Program 3.01, and are the subject the proposed zoning text amendment:

1. Transitional housing and supportive housing
2. Emergency Shelters

State law does not require the City to construct an emergency shelter and no shelter is currently proposed.

The Draft 2015-2023 Housing Element carries forward Program 3.01 from the 2007-2014 Housing Element. Adoption of the zoning amendments is required prior to receiving State certification of the 2015-2023 draft Housing Element.

<u>Planning Commission Review/Action</u>
On June 12, 2014, the Planning Commission held a workshop to create a preliminary framework of the draft ordinance including the application process, submittal requirements and development standards for the implementation of Senate Bill 2. On October 9, 2014, the Planning Commission held a public hearing on the draft ordinance. During the workshop and hearing, the Planning Commission discussed parking requirements, land use compatibility, availability of supportive services, local need for shelter, and the applicability of Design

Review. Following the public hearing on October 9, the Planning Commission adopted Resolution No. 14-16 recommending approval of the draft Ordinance subject to revisions (discussed in the Summary, below).

SUMMARY:

Transitional and Supportive Housing

To comply with state law, transitional and supportive housing must be permitted in all districts that allow residential uses and shall be subject only to those restrictions that apply to residential dwellings of the same type in the same zone.

> *State Definitions (Heath and Safety Code Section 50675):*
> "Transitional housing" *means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.*
>
> "Supportive housing" *means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.*

The proposed zoning amendment authorizes transitional housing and supportive housing to the extent that other residential uses are permitted within the same district, as summarized in Table 1 below.

Table 1: Proposed Zoning for Transitional and Supportive Housing

Zoning District		Permitted	Additional Regulation
RS	Single-Family Residential	P	
RM	Medium-Density Residential	P	
RH	High-Density Residential	P	
CC	Community Commercial	L1	L1 - Not permitted on ground level.
CO	Commercial Office	L1	L-1 Not permitted on ground level.
CW	Waterfront Commercial	L21	L21 - Single dwelling unit not permitted on ground level.
OS	Open Space	P	One primary dwelling unit permitted.
TC	Town Core	P[2]	[2] - Above first floor.
TC-O	Town Core – Open	P	
NG	Neighborhood General	P	
NG-O	Neighborhood General - Open	P	

Transitional and supportive housing use classifications will be defined through amendments to BMC Section 17.16.030 (Residential use classifications), consistent with the definitions in state law.

Emergency Shelters

In order to comply with SB2, the City is required to modify the Zoning Ordinance to identify at least one zone to permit emergency shelters without a conditional use permit or other discretionary action.

> *State Definition (Health and Safety Code Section 50801(e))*
> "*Emergency shelter*" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

State law limits a community's ability to establish standards except that it can regulate the following:

- Maximum number of beds or persons permitted to be served nightly
- Off-street parking based on demonstrated need
- The location of exterior and interior waiting and client intake areas
- On-site management
- Proximity to other emergency shelters (up to 300' separation)
- Length of stay
- Lighting
- Security during hours of operation

The City is required to identify a zone or zones where emergency shelters are allowed as a permitted use. Uses that are designated as "permitted" in the Zoning Ordinance do not require a Use Permit in order to operate. The number or type of zones a city chooses to identify is not regulated by the law. The City complies with the law by demonstrating that the zone or zones selected by the City identify provide sufficient opportunity to establish a facility or facilities that meet the City's need.

The "City's need" for emergency shelters is determined based upon the most recently adopted Housing Element. According to the Benicia Community Action Council (CAC), which is a local organization that serves the homeless, there are at least 43 homeless persons in Benicia as of April 2014, including 7 individuals and 21 families (see draft 2015-2023 Housing Element, Appendix B). Based on review of other facilities in Solano and Napa Counties, it is estimated that approximately 0.5 acre of land would be necessary to build a 43 bed shelter. The City's need could be met through the establishment of one facility providing 43 beds or a combination of smaller facilities providing a total of 43 beds.

The proposed ordinance designates "Emergency Shelter" as a new land use classification in Chapter 17.16 of the Zoning Ordinance and would be permitted in the areas or districts identified in Table 2 below. Emergency shelters outside of the Arsenal Historic District would be exempt from Design Review. Once the City's local need for emergency shelters is met, additional beds or emergency shelters would be permitted subject to Design Review as applicable (e.g., new construction or exterior alteration) and only upon approval of a Use Permit[1].

Table 2 identifies the areas or zoning districts proposed for allowing emergency shelters as stated in proposed Section 17.70.390 B of the draft ordinance. As stated, it is imperative to demonstrate that the areas or zoning districts identified in the draft ordinance have sufficient opportunity to establish an emergency shelter. As such, a summary of the number and size of vacant parcels within each area is provided. In addition to vacant parcel, existing buildings may also be converted into emergency shelters.

Table 2: Proposed Zoning for Emergency Shelters

Location	Vacant Parcels
Within ¼ mile of East Military Street and West Military Street, between West K Street and East 7th Street, excluding the RS Single Family Residential District, the OS Open Space District, and lands within the Downtown Mixed Use Master Plan Zoning Districts	5 parcels (0.12 to 0.43 acres)
Within ¼ mile of Adams Street, excluding all districts except the CO Office Commercial and CG General Commercial Districts	7 parcels (0.50 to 3.65 acres)

The proposed text amendment would designate adequate land for a single shelter while also allowing for a smaller facility to be converted or adapted to emergency shelter. According to the Benicia Community Action Council (CAC), a five bedroom residential-style structure could provide accommodations for nine clients at a time.

[1] Per Government Code Section 65589.5(d), the City may deny a conditional use permit for an emergency shelter only if makes at least one of the following findings based on substantial evidence: (1) the City has adopted a housing element in compliance with state law and has met or exceeded the need for emergency shelter as identified in Government Code Section 65583(a)(7); (2) the emergency shelter would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the impact without rendering the development financially infeasible; (3) denial of the project or imposition of conditions is required to comply with a specific state or federal law; (4) the emergency shelter is proposed on land zoned for agriculture or resource preservation; (5) the emergency shelter is inconsistent with the jurisdiction's zoning ordinance and general plan land use designation, and the jurisdiction has adopted a housing element in substantial compliance with state housing law.

Planning Commission Review/Recommendation

On October 9, 2014 the Planning Commission conducted a public hearing to consider the proposed ordinance. During the hearing, three individuals spoke in opposition to allowing emergency shelters in the Limited Industrial (IL) district including representatives from the Benicia Industrial Park Association and Amports. The primary concern was in regard to land use compatibility of homeless shelters in the industrial park and the lower arsenal.

The consensus of the Planning Commission was that the IL district is an incompatible location for emergency shelters in terms of land use. However, Commissioners recognized that state law requires zoning of adequate land for establishment of an emergency shelter to meet the City's need without any discretionary review. Due to the fact that the IL district was the only location identified in the draft ordinance where such a facility could be constructed without Design Review approval, the Commission discussed exempting design review for emergency shelters located along the Military East and Military West corridor, outside of a historic district. Commissioner Sherry suggested that the design review exemption apply only up to the point at which the City's need for emergency shelter is met. This suggestion was not carried forward into the motion. Commissioner Sherry has provided a letter requesting the City Council consider adding a sunset clause to the design review exemption after the City's need has been met. A copy of this letter is attached.

The Planning Commission approved Resolution No. 14-15 recommending the draft ordinance with amendments to eliminate Limited Industrial (IL) as a zone for emergency shelters, remove Design Review requirements for emergency shelters in otherwise eligible zones, except the historic district, and to include City-owned property (approved 4-3). The rationale for including City-owned property was not expressly described. Dissenting Commissions did not articulate the basis of their opposition, though Commissioner Smith stated her opposition to residential uses in the Lower Arsenal.

Evaluation of Planning Commission Recommendation

The Planning Commission's recommendation to remove the Limited Industrial District as a location for emergency shelters has been incorporated into the proposed ordinance.

The recommendation to exempt emergency shelter from Design Review has also been incorporated. In addition, staff supports placing a sunset clause on the Design Review exemption as suggested in Commissioner Sherry's letter. The proposed ordinance exempts emergency shelter from Design Review up to the point at which the City's need for emergency shelter has been met. Similar to single-family homes, the exemption would not apply in a historic district (Arsenal

or Downtown Historic District). Applications for emergency shelter that exceed the City's need would be subject to Design Review as applicable in Chapter 17.108 BMC (i.e., new construction or exterior alteration). Design Review is a valuable tool to ensure compatibility of design, materials, and colors with surrounding development. Consistent with the Commission's recommendation, staff would not support exempting Design Review in the historic districts as this would have potentially significant impact on the historic integrity of the district. In order to consider exempting Design Review in the historic districts, additional environmental review on the zoning text amendment would be required.

Staff also evaluated the Commission's recommendation regarding City-owned properties to determine the feasibility of emergency shelters on these lands throughout the community. The majority of City-owned land is held in open space or parks, improved with historic buildings or community facilities, or underwater in the Carquinez Strait. One vacant parcel is located at East Fourth Street and East L Street, zoned High Density Residential (RH), and would permit an emergency shelter under the proposed ordinance as it falls within ¼ mile of Military East. The City additionally owns two rental homes – one located within the Lake Herman Recreation Area and one at 356 East I Street. Staff does not recommend that the proposed ordinance extend to the Lake Herman site, as it is remote and unlikely to provide adequate access to supportive services. The property at 356 East I Street falls outside of the ¼ mile overlay for emergency shelter and is zoned Single-Family Residential (RS). As proposed in the ordinance, it could be adapted for supportive or transitional housing as a permitted use. Both supportive and transitional housing serve homeless, extremely low income and/or special needs populations. Therefore, modifying the ordinance to incorporate this additional parcel would not substantially increase the City's compliance with the state requirements to encourage housing for homeless individuals and is not recommended.

Attachments:

- Draft Ordinance
- Planning Commission Resolution No 14-15
- Planning Commission Minutes of June 12, 2014
- Planning Commission Minutes of October 9, 2014
- Letter from Commissioner Sherry, October 23, 2014
- HCD memo on SB2, April 10, 2013

CITY OF BENICIA

ORDINANCE NO. 14-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING TITLE 17 (ZONING) BY ADDING A DEFINITION (TARGET POPULATIONS) TO SECTION 17.12.030 (DEFINITIONS) OF CHAPTER 17.12, ADDING NEW USE CLASSIFICATIONS TO SECTIONS 17.16.030 AND 17.16.040 (SUPPORTIVE HOUSING,TRANSITIONAL HOUSING, AND EMERGENCY SHELTER, RESPECTIVELY) OF CHAPTER 17.16, AMENDING SECTION 17.24.020 (RS, RM, AND RH DISTRICTS-LAND USE REGULATIONS) OF CHAPTER 17.24 (RESIDENTIAL DISTRICTS) TO ADD THE NEW LAND USE CLASSIFICATIONS (EMERGENCY SHELTER, SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING), AMENDING SECTION 17.28.020 (CC, CO, CG, AND CW DISTRICTS – LAND USE REGULATIONS) OF CHAPTER 17.28 TO ADD A NEW LAND USE CLASSIFICATION (EMERGENCY SHELTER), AMENDING SECTION 17.36.030 (LAND USE REGULATIONS) OF CHAPTER 17.36 TO ADD NEW LAND USE CLASSIFICATIONS (SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING), AMENDING SECTION 17.40.030 (LAND USE REGULATIONS) OF CHAPTER 17.40 TO ADD NEW LAND USE CLASSIFICATION (EMERGENCY SHELTER), ADDING SECTION 17.70.390 (EMERGENCY SHELTER) TO CHAPTER 17.70 (SITE REGULATIONS), AMENDING SECTION 17.46.010 (SCHEDULE S-1, SUMMARY OF LAND USE REGULATIONS), AMENDING SECTION 17.74.030 (OFF-STREET PARKING AND LOADING REGULATIONS) TO ESTABLISH PARKING STANDARDS FOR SUPPORTIVE HOUSING, TRANSITIONAL HOUSING, AND EMERGENCY SHELTERS, AMENDING SECTION 17.108.020 REGARDING DESIGN REVIEW FOR EMERGENCY SHELTERS, AND AMENDING THE DOWNTOWN MIXED USE MASTER PLAN, CHAPTER 4: FORM BASED CODES, TO DEFINE AND ADD SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING AS PERMITTED USE CLASSIFICATIONS IN ALL DOWNTOWN DISTRICTS

WHEREAS, State Senate Bill 2, the California Housing Accountability Act, was enacted by the State of California in 2007 to clarify and strengthen housing element law to ensure zoning encourages and facilitates emergency shelters and limits the denial of emergency shelters and transitional and supportive housing in order to address critical housing needs; and

WHEREAS, pursuant to Senate Bill 2, local jurisdictions must amend zoning as necessary to establish a ministerial process for approving emergency shelters and transitional and supportive housing; and

WHEREAS, Benicia Municipal Code (BMC) Section 17.08.020.M provides that the City of Benicia will comply with all applicable state and federal laws in administration of its zoning and land use policies for homeless shelters, transitional housing,

supportive housing, and other housing designed to assist homeless persons or persons with special needs; and

WHEREAS, according to the Benicia Community Action Council (CAC), there are at least 43 homeless persons in the City as of April 2014, including 7 individuals and 21 families, as stated in the draft 2015-2023 Housing Element, Appendix B; and

WHEREAS, the proposed ordinance provides zoning adequate to meet or exceed the needs for emergency shelter as demonstrated in the draft 2015-2023 Housing Element; and

WHEREAS, adoption of an ordinance for transitional housing, supportive housing and emergency shelters, identified as Program 3.01 in the 2007-2014 Housing Element and the draft 2015-2023 Housing Element, has been included in environmental review for the housing element. A Negative Declaration was adopted for the 2007-2014 Housing Element and 2015-2023 Housing Element; and

WHEREAS, the ordinance would allow transitional housing, supportive housing and emergency shelters as required by State law, but does not designate specific sites for such uses; therefore, any evaluation of environmental effects would be speculative and premature; and

WHEREAS, the proposed amendments to Title 17 of the BMC are exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Sections 15061(b)(3) and 15301 because:

- The proposed ordinance establishes regulations for emergency shelters and transitional and supportive housing in accordance with and to implement the requirements of state law; and

- Emergency shelters would generally be expected to utilize existing facilities with no new construction likely to occur. Any new construction would be subject to the standard building and zoning applicable to other structures in the same zoning district and of the same size. Further, all emergency shelters would be subject to standards set forth in the zoning ordinance amendments, which are designed to prevent impacts to surrounding properties; and

- Transitional housing and supportive housing, although permitted, are not currently distinguished in the zoning ordinance from other types of housing and the proposed zoning amendment merely provides clarification of that fact. It can therefore be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant effect on the environment.

WHEREAS, on October 9, 2014, the Planning Commission conducted a duly noticed public hearing on the draft ordinance, received public testimony, and recommended City Council approval of the zoning text amendments; and

WHEREAS, on November 18, 2014, the City Council conducted a duly noticed public hearing on the draft ordinance, received public testimony, and provided comments on the proposed amendments.

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

Section 1.

The definition "Target population" is added to Section 17.12.030 (Definitions) of Title 17 (Zoning) to read as follows:

"Target population" means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 commencing with Section 4500 of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals existing from institutional settings, veterans, and homeless people.

Section 2.

Section 17.16.030 (Residential use classifications) of Chapter 17.16 (Use Classification) of Title 17 (Zoning) is amended to add the following use classifications:

H. Supportive housing. Housing with no limit on length of stay that is occupied by the target population and is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. The dwelling type is of the same type as that found within the zoning district.

I. Transitional housing. Buildings configured as rental housing developments but operated under program requirements that require the termination of assistance and recirculation of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. The dwelling type is of the same type as that found within the zoning district.

Section 3.

Section 17.16.040 (Public and semipublic use classifications) of Chapter 17.16 (Use Classifications) of Title 17 (Zoning) is amended to add the following use classification in alphabetical order:

Emergency Shelter. Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay. Such a facility may have individual rooms, but does not have individual dwelling units.

Section 4.

Section 17.24.020 (RS, RM and RH districts – Land use regulations) of Chapter 17.24 (Residential Districts) of Title 17 (Zoning) is amended to add the Supportive Housing, Transitional Housing, Emergency Shelter and note L-4 as follows:

RS, RM and RH Districts: Land Use Regulations

P – Permitted
U – Use Permit
L – Limited (See "Additional Use Regulations")
– – Not Permitted

	RS	RM	RH	Additional Regulations
Residential				
Supportive Housing	P	P	P	
Transitional Housing	P	P	P	
Public and Semipublic				
Emergency Shelter	-	L4	-	

L-4 See BMC 17.70.390, Emergency Shelter.

Section 5.

Section 17.28.020 (CC, CO, CG, and CW districts – Land use regulations) of Chapter 17.28 (C Commercial Districts) of Title 17 (Zoning) is amended to add Supportive Housing and Transitional Housing, Emergency Shelter and notes L-20 and L-21 as follows:

CC, CO, CG and CW Districts: Land Use Regulations

P – Permitted
U – Use Permit
L – Limited (See "Additional Use Regulations")
– – Not Permitted

	CC	CO	CG	CW	Additional Regulations
Residential					
Supportive Housing	L1	L1	-	L21	
Transitional Housing	L1	L1	-	L21	
Public and Semipublic					
Emergency Shelter	-	L20	L20	-	

L-20 See BMC 17.70.390, Emergency Shelter.

L-21 Not permitted on ground level for a single dwelling unit.

Section 6.

Section 17.36.030 (Land use regulations) of Chapter 17.36 (OS Open Space) of Title 17 (Zoning) is amended to add Transitional and Supportive Housing as follows:

OS District: Land Use Regulations

P – Permitted
U – Use Permit
L – Limited (See "Additional Use Regulations")
– – Not Permitted

	OS	Additional Regulations
Residential		
Supportive Housing	P	(A)
Transitional Housing	P	(A)

Section 7.

Section 17.40.030 (Land use regulations) of Chapter 17.40 (PS Public and Semipublic District) of Title 17 (Zoning) is amended to add Emergency and note L-2 as follows:

PS District: Land Use Regulations

P – Permitted
U – Use Permit
L – Limited (See "Additional Use Regulations")
– – Not Permitted

	PS	Additional Regulations
Public and Semipublic		
Emergency Shelter	L2	

L-2 See BMC 17.70.390, Emergency Shelter.

Section 8.

Section 17.46.010 (Schedule S-1) of Chapter 17.46 (Use Regulations Summary) of Title 17 (Zoning) is amended to add Supportive Housing, Transitional Housing, Emergency Shelter and notes L-48 and L-49 as follows:

Schedule S-1: Summary of Land Use Regulations								P – Permitted U – Use Permit L – Limited (See "Additional Use Regulations") – – Not Permitted					
	RS	RM	RH	CC	CO	CG	CW	IL	IG	IW	IP	OS	PS
Residential													
Supportive Housing	P	P	P	L1	L1	-	L49	-	-	-	-	P	-
Transitional Housing	P	P	P	L1	L1	-	L49	-	-	-	-	P	-
Public and Semipublic													
Emergency Shelter	-	L48	-	-	L48	L48	-	-	-	-	-	-	L48

L-48 See BMC 17.70.390, Emergency Shelter

L-49 Not permitted on ground level for a single dwelling unit.

Section 9.

Chapter 17.70 (Site Regulations) of Title 17 (Zoning) is amended to add Section 17.70.390 (Emergency Shelter) to read as follows:

17.70.390 Emergency shelter.

A. Purpose. This section is intended to implement California Government Code Section 65583 by establishing standards to permit emergency shelter facilities for homeless persons or families.

B. Zoning. An emergency shelter is a permitted use in the following areas and districts, except as provided in subsection (C) of this section:

1. Within ¼ mile of East Military Street and West Military Street, between West K Street and East 7th Street, excluding the RS Single Family Residential District, the OS Open Space District, and lands within the Downtown Mixed Use Master Plan Zoning Districts;

2. Within ¼ mile of Adams Street, excluding all districts except CO Office Commercial and CG General Commercial Districts; and

C. Use Permit. Once the City's local need for emergency shelter is provided through capacity in existing local facilities, supportive housing units, and/or multi-jurisdictional agreements in accordance with Government Code Section 65583, any additional beds or emergency shelters will be permitted only on approval of a use permit. The local need for emergency shelters shall be determined based upon the most recently adopted Housing Element or in accordance with Government Code Section 65583.

D. Design Review. Once the City's local need for emergency shelter is provided through capacity in existing local facilities, supportive housing units, and/or multi-jurisdictional agreements in accordance with Government Code Section 65583, any facility that involves new construction or exterior alterations and additions shall be subject to Design Review as provided in Chapter 17.108.

E. Administrative Review. Except as provided in subsections (C) and (D) of this section, emergency shelters shall be reviewed by the community development director or designee as follows:

1. An emergency shelter shall be approved upon finding that the proposed project conforms to the requirements of this title, including Design Review as required by Chapter 17.108, as well as the standards of subsection (E) of this section.

2. Approval or denial of an emergency shelter shall be noticed to the applicant in a "letter of action." If the application is denied, the letter shall state wherein the project did not meet the standards of this section.

3. Approval of an emergency shelter shall expire two years from the date of approval unless made valid by construction or occupancy of the facility. The director may grant a maximum one-year extension of the two-year approval period.

F. Standards.

1. Proximity to other emergency shelters. Emergency shelters shall be located at least 300 feet apart as measured from closest property lines.

2. Site Improvements. Site landscaping, exterior lighting and parking facilities shall comply with the provisions of Chapters 17.70 and 17.74 BMC.

3. Outdoor facilities. Outdoor recreational facilities shall be enclosed by a fence or a natural barrier (e.g., hedge). If smoking is allowed on-site, there shall be a designated outside smoking area and the facility shall conform to the provisions of Chapter 9.06 BMC. Outdoor telephone facilities are not permitted.

4. Length of stay. The length of stay per individual shall not exceed six (6) months.

5. Shelter capacity. The maximum permitted capacity of an emergency shelter shall be equivalent to the homeless census identified in the most recent adopted Housing Element, less any emergency shelter capacity currently provided within the City. However, the Community Development Director may increase the permitted capacity to serve homeless individuals based upon updated data that is compiled or verified by a qualified individual or community organization, if the data demonstrates an increase in the City's homeless population. Any proposed shelter that exceeds the permitted capacity shall require a Use Permit in accordance with BMC 17.70.390.C.

6. On-site waiting and intake areas. Client waiting and intake areas shall be screened or enclosed, and clients shall not be allowed to form a queue outside the facility. Hours of client intake shall be posted.

7. Support facilities. The following facilities shall be provided for the exclusive use of residents and staff:

    a. Shower and restroom facilities.

    b. Food preparation and/or dining.

    c. Laundry.

    d. Secure storage for personal belongings.

The facility may also provide recreation, computer, counseling, child day care or other support facilities as appropriate based upon the demonstrated need of the client population.

8. Management plan. The applicant shall provide a management plan that includes the following components:

    a. Homeless outreach plan.

    b. Client intake and check-out procedures.

    c. Description of supportive services that will be provided.

    d. Identification of management personnel and designation of a 24-hour contact person. Facility management and security must be provided on-site during hours of operation. Contact information for manager and/or a designated contact person authorized to act on behalf of the manager shall be posted both inside and outside the facility for emergency purposes.

    e. Description of neighborhood outreach and communication strategies.

    f. Staff training program.

    g. Clear operational standards and rules (e.g., standards governing expulsions, designated meal times, and lights-out) necessary to ensure compatibility with surrounding uses, including those applicable to use or possession of controlled substances, the use or possession of alcohol, and loitering.

    h. Site upkeep and maintenance, including provisions to ensure that the site is maintained free of litter and debris.

    i. A statement that the provider will not require participation by clients in any religious or philosophical ritual, service meeting or rite as a condition of eligibility.

Section 10.

Section 17.74.030 (Off-street parking and loading required) of Chapter 17.74 (Off-Street Parking and Loading Regulations) of Title 17 (Zoning) is amended to add the following parking standards:

Use Classifications	Off-Street Parking Spaces: Schedule A
Residential	
Supportive Housing	Single-Family Residential Projects are subject to Single Family Residential Use parking requirements Multi-Family Residential Projects are subject to Multi-Family Residential Use parking requirements
Transitional Housing	Single-Family Residential Projects are subject to Single Family Residential Use parking requirements Multi-Family Residential Projects are subject to Multi-Family Residential Use parking requirements
Public and Semipublic	
Emergency Shelters	1 per 5 beds

Section 11.
Section 17.108.020 (Applicability) of Chapter 17.108 (Design Review) of Title 17 (Zoning) is amended to address Design Review for emergency shelter:

A. In an H Historic Overlay District. Design approval shall be required prior to issuance of a zoning permit for all projects that involve demolition, construction, or changes in exterior colors or materials, except signs.

B. In All Other Districts. Design approval shall be required prior to issuance of a zoning permit for all projects in all other zones that involve new construction or exterior alterations and additions, except single-family residences and related accessory buildings, buildings in the IL, IG, IW, and IP districts that are less than 50,000 square feet, emergency shelters subject to BMC 17.70.390, and signs.

Section 12.
The Downtown Mixed Use Master Plan, Chapter 4: Form Based Codes, is amended to add the following paragraph:

Administration (page 4-2)
In administration of this Form-Based Code, the City shall comply with all applicable state and federal fair housing laws, including, but not limited to, applicable provisions of the Federal Fair Housing Act, 42 U.S.C. Section 3601, et seq. as amended by the Fair Housing Amendments Act, the Americans with Disabilities Act, 42 U.S.C. Section 12117, the California Fair Employment and Housing Act, Government Code Section 12950 et seq., the Unruh Act, Civil Code Section 51 and Government Code Sections 65008 and 65589.5.

Section 13.
The Downtown Mixed Use Master Plan, Chapter 4: Form Based Codes, Town Core Standards, is amended to add Supportive and Transitional Housing as follows:

Table 4.1: Town Core (TC) Zone Allowed Land Uses and Permit Requirements (page 4-8)

Land Use Type[1]	Permit Required
Residential	
Supportive Housing	P[2]
Transitional Housing	P[2]

End Notes
[1] A definition of each listed use type is in the Glossary.
[2] Allowed only on upper floors or behind ground floor use.

Section 14.

The Downtown Mixed Use Master Plan, Chapter 4: Form Based Codes, Town Core-Open Standards, is amended to add Supportive and Transitional Housing as follows:

Table 4.2: Town Core-Open (TC-O) Zone Allowed Land Uses and Permit Requirements (page 4-14)

Land Use Type[1]	Permit Required
Residential	
Supportive Housing	P
Transitional Housing	P

Section 15.

The Downtown Mixed Use Master Plan, Chapter 4: Form Based Codes, Neighborhood General Standards, is amended to add Supportive and Transitional Housing as follows:

Table 4.4: Neighborhood General (NG) Zone Allowed Land Uses and Permit Requirements (page 4-20)

Land Use Type[1]	Permit Required
Residential	
Supportive Housing	P
Transitional Housing	P

Section 16.
The Downtown Mixed Use Master Plan, Chapter 4: Form Based Codes, Neighborhood General-Open Standards, is amended to add Supportive and Transitional Housing as follows:

Table 4.5: Neighborhood General (NG-O) Zone Allowed Land Uses and Permit Requirements (page 4-24)

Land Use Type[1]	Permit Required
Residential	
Supportive Housing	P
Transitional Housing	P

Section 17.
Downtown Mixed Use Master Plan, Chapter 4: Form Based Codes, Glossary, is amended to add the following definitions:

Supportive Housing: Housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. The dwelling type is of the same type as that found within the zoning district.

Transitional Housing: Buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. The dwelling type is of the same type as that found within the zoning district.

Section 18.

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 18th day of November, 2014, and adopted at a regular meeting of the Council held on the day of 2014, by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

VIII.B.22

RESOLUTION NO. 14-15 (PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL APPROVAL OF AMENDMENTS TO THE BENICIA MUNICIPAL CODE AND DOWNTOWN MIXED USE MASTER PLAN TO INCORPORATE REGULATIONS PERTAINING TO TRANSITIONAL HOUSING, SUPPORTIVE HOUSING, AND EMERGENCY HOMELESS SHELTERS

WHEREAS, State Senate Bill 2, the California Housing Accountability Act, was enacted by the State of California in 2007 to clarify and strengthen housing element law to ensure zoning encourages and facilitates emergency shelters and limits the denial of emergency shelters and transitional and supportive housing in order to address critical housing needs; and

WHEREAS, pursuant to Senate Bill 2, local jurisdictions must amend zoning as necessary to establish a ministerial process for approving emergency shelters and transitional and supportive housing; and

WHEREAS, Benicia Municipal Code (BMC) Section 17.08.020.M provides that the City of Benicia will comply with all applicable state and federal laws in administration of its zoning and land use policies for homeless shelters, transitional housing, supportive housing, and other housing designed to assist homeless persons or persons with special needs; and

WHEREAS, according to the Benicia Community Action Council (CAC), there are at least 43 homeless persons in the City as of April 2014, including 7 individuals and 21 families, as stated in the draft 2015-2023 Housing Element, Appendix B; and

WHEREAS, the proposed ordinance provides zoning adequate to meet or exceed the needs for emergency shelter as demonstrated in the draft 2015-2023 Housing Element; and

WHEREAS, the ordinance would allow transitional housing, supportive housing and emergency shelters as required by State law, but does not designate specific sites for such uses; therefore, any evaluation of environmental effects would be speculative and premature; and

WHEREAS, the Planning Commission at a regular meeting on October 9, 2014, conducted a hearing, heard public comment and reviewed the draft ordinance found it to be consistent with the California Government Code and the City's General Plan; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Benicia hereby recommends the City Council approve by Ordinance, an amendment to the Benicia Municipal Code and the Downtown Mixed Use Master Plan to incorporate regulations pertaining to reasonable accommodation with the following recommended changes:

1. Eliminate Limited Industrial (IL) as a site for Emergency Shelters
2. Remove Design Review requirement for Emergency Shelters in otherwise eligible zones, except historic district
3. Include City-owned property

BE IT FURTHER RESOLVED THAT the Planning Commission of the City of Benicia finds that the proposed amendments to Title 17 of the BMC are exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Sections 15061(b)(3) and 15301 because:

a) The proposed ordinance establishes regulations for emergency shelters and transitional and supportive housing in accordance with and to implement the requirements of state law; and

b) Emergency shelters would generally be expected to utilize existing facilities with no new construction likely to occur. Any new construction would be subject to the standard building and zoning applicable to other structures in the same zoning district and of the same size. Further, all emergency shelters would be subject to standards set forth in the zoning ordinance amendments, which are designed to prevent impacts to surrounding properties; and

c) Transitional housing and supportive housing, although permitted, are not currently distinguished in the zoning ordinance from other types of housing and the proposed zoning amendment merely provides clarification of that fact. It can therefore be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant effect on the environment.

On a motion of Commissioner Young, seconded by Commissioner Oakes, the above Resolution was adopted by the Planning Commission of the City of Benicia at the regular meeting of said Commission held on the 9TH day of October 2014, and adopted by the following vote:

Ayes:	Commissioners Oakes, Sherry, Sprague, and Young
Noes:	Commissioners Cohen-Grossman, Smith, and Chair Dean
Absent:	None
Abstain:	None

Donald Dean
Planning Commission Chair

BENICIA PLANNING COMMISSION

REGULAR MEETING MINUTES EXCERPT

City Hall Council Chambers
Thursday June 12, 2014
7:00 P.M.

* * *

VI. REGULAR AGENDA ITEMS

B. WORKSHOP – EMERGENCY SHELTERS, SUPPORTIVE HOUSING AND TRANSITIONAL SHELTER ORDINANCE

Ms. Million gave a Power Point presentation on the draft ordinance, outlined next steps, tentative schedule, and tasks for the Planning Commission.

The Commission discussed the location of the existing transitional and supportive housing facilities in the City. They made comment with regard to the proposed Military East overlay and noted the East 6th Street park, the child care center and the number of liquor stores in that corridor. They also commented on the proposed parking requirement, the contents of the management plan and the approach of other communities.

Dana Dean 283 East H Street, representing AMPORTS, spoke on General Plan inconsistencies with locating residential uses in industrial zones and the need for CEQA review.

The public comment was closed.

The Commission asked staff questions regarding the needs and resources assessment and provided comments on transportation.

Ms. Million and Ms. Kaufman responded to inquiries from the Commission on various topics including potential locations, zoning districts, overlay districts, homeless population census information, proximity to transportation locations, affordable housing requirements in relation to emergency shelters, and defining shelters as a residential use.

Commission provided direction to staff to focus on areas of existing transportation (bus routes) with a new overlay district.

DRAFT

BENICIA PLANNING COMMISSION

REGULAR MEETING MINUTES EXCERPT

City Hall Council Chambers
Thursday October 9, 2014
7:00 P.M.

* * *

V. REGULAR AGENDA ITEMS

C. A ZONING TEXT AMENDMENT TO INCORPORATE REGULATIONS PERTAINING TO TRANSITIONAL HOUSING, SUPPORTIVE HOUSING AND EMERGENCY HOMELESS SHELTERS; AFTER A DETERMINATION THAT THE TEXT AMENDMENT IS EXEMPT FROM CEQA

Suzanne Thorsen, Associate Planner, gave an overview of the proposed text amendment. This text amendment complies with Housing Element Program 3.01 and Senate Bill 2, the Housing Accountability Act.

Commissioner Sherry noted ex-parte communication with the Benicia Industrial Park Association and City staff.

Staff noted that outside of the Industrial Park, development of an emergency shelter would require design review, which is a discretionary action. State law requires that adequate zones be designated to permit an emergency shelter without any discretionary approval.

Parking was discussed. Staff proposes a parking standard of 1 per 5 beds, which is consistent with the standard adopted by many jurisdictions in the region. The size of the parcels was discussed, as well as re-use or conversion of existing buildings. The size of shelters in other jurisdictions was discussed.

The public hearing was opened.

Jasmin Powell, BIPA – As President of BIPA, she does not support residential use in the Industrial Park. Cited concerns about safety, land use compatibility and the appropriate location for emergency shelters in relation to the downtown. Would like to see residential and industrial uses kept separate.

Phil Garrett, BIPA – Cited concerns about compatibility of residential uses in the Industrial Park and expressed opposition to proposed zoning for emergency shelters in the Limited Industrial District. He would like to protect the Industrial Park as an asset.

Dana Dean, representing Amports – She commented on the CEQA exemption. She believes traffic, noise, and the inconsistency with the General Plan will create significant impacts. She noted this differs from other jurisdictions because our General Plan requires buffers from compatible uses.

Kat Wellman, Contract Attorney, noted that CEQA requires the City to evaluate the impact of the project on the environment, not the environment on the project. She noted that the General Plan designates the Lower Arsenal as mixed-use, which allows residential.

Ron Miska, All-Points Petroleum – He has fought to protect the Industrial Park and does not want to see residential uses allowed.

The public hearing was closed.

Kat Wellman, Contract Attorney, noted that the compatibility of industrial uses and emergency shelters is a land use issue, not a CEQA issue.

Commissioners discussed the text amendment. The requirement for design review outside of the Limited Industrial District was discussed. Use of federal funds for shelters was discussed, as this may affect the likelihood of a shelter being constructed in the Industrial Park.

A suggestion was made to exempt design review until the need for emergency shelter has been met and to remove Limited Industrial (IL) from the text amendment. Commission would like to consider making emergency shelters permitted on city-owned property. There was a comment about existing churches in the Industrial Park providing shelter for the homeless. There was discussion on eliminating the Lower Arsenal. Recommended changes to the text amendment were as follows:

1. Eliminate Limited Industrial (IL) as a site for Emergency Shelters
2. Remove Design Review requirement for Emergency Shelters in otherwise eligible zones, except historic district
3. Include City-owned property

RESOLUTION NO. 14-15 OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL APPROVAL OF AMENDMENTS TO THE BENICIA MUNICIPAL CODE AND DOWNTOWN MIXED USE MASTER PLAN TO INCORPORATE REGULATIONS PERTAINING TO TRANSITIONAL HOUSING, SUPPORTIVE HOUSING, AND EMERGENCY HOMELESS SHELTERS

On motion of Commissioner Young, seconded by Commissioner Oakes, the above resolution was adopted, with amendments noted above, by the following vote:

Ayes:	Commissioners Oakes, Sherry, Sprague, and Young
Noes:	Commissioners Cohen-Grossman, Smith, and Chair Dean
Absent:	None
Abstain:	None

VIII.B.30

Cullen-Sherry & Associates, Inc.
CIVIL ENGINEERING – SURVEYING

October 23, 2014

Benicia City Council

250 East L Street

Benicia, CA 94510

Regarding zoning text amendment pertaining to emergency homeless shelters.

Dear Mayor Patterson & Counsel Members,

As you know, the Benicia Planning Commission approved a motion that Benicia City Council approved zoning text amendments to allow emergency homeless shelters without design review (excepting the RS and DTMUMP districts) along a ¼ mile band each side of the Military corridor. As I recall, the discussion, amongst the Commissioners, on the item was to waive the design review of a facility until the identified homeless needs were met. The City of Benicia would then reinstate the design review process for any additional proposed facilities. This detail did not make it into the motion. The motion was made and voted on at 11:00 PM after several hours of discussion. I believe that the Commission agreed that a sunset of the "no design review" was a good idea but were too fatigued to pick up on the fact that it was not included in the motion. I obviously was…

Please consider adding a sunset clause to allow the City of Benicia to enforce design review of emergency homeless shelters once we have sufficient facilities to meet our Benicia homeless needs.

Sincerely,

Rod Sherry

Planning Commissioner

P.O. Box 591 • 1090 Adams St. Suite A • Benicia, CA 94510 • www.csa-engineers.com • Tel 707-745-3219 • Fax 707-

VIII.B.32

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
1800 Third Street, Suite 430
P. O. Box 952053
Sacramento, CA 94252-2053
(916) 323-3177
FAX (916) 327-2643

MEMORANDUM

Updated: April 10, 2013

DATE: May 7, 2008

TO: Planning Directors and Interested Parties

.

FROM: Cathy E. Creswell, Deputy Director
Division of Housing Policy Development

SUBJECT: **Senate Bill 2 -- Legislation Effective January 1, 2008:**
Local Planning and Approval for Emergency Shelters and Transitional and Supportive Housing

Chapter 633, Statutes of 2007 (SB 2) clarifies and strengthens housing element law to ensure zoning encourages and facilitates emergency shelters and limits the denial of emergency shelters and transitional and supportive housing under the Housing Accountability Act. The law will facilitate efforts to address the critical needs of homeless populations and persons with special needs throughout all communities in California. Generally, SB 2 amends housing element law regarding planning and approval for emergency shelters and transitional and supportive housing as follows:

Planning (Government Code Section 65583)

- At least one zone shall be identified to permit emergency shelters without a conditional use permit or other discretionary action.
- Sufficient capacity must be identified to accommodate the need for emergency shelters and at least one year-round emergency shelter.
- Existing or proposed permit procedures, development and management standards must be objective and encourage and facilitate the development of or conversion to emergency shelters.
- Emergency shelters shall only be subject to development and management standards that apply to residential or commercial within the same zone.
- Written and objective standards may be applied as specified in statute, including maximum number of beds, provision of onsite management, length of stay and security.
- Includes flexibility for jurisdictions to meet zoning requirements with existing ordinances or demonstrate the need for emergency shelters can be accommodated in existing shelters or through a multi-jurisdictional agreement.

- Transitional and supportive housing shall be considered a residential use and only subject to those restrictions that apply to other residential uses of the same type in the same zone.

Local Approval (Government Code Section 65589.5: Housing Accountability Act)

- Limits denial of emergency shelters, transitional housing or supportive housing by requiring specific findings.
- Some findings shall not be utilized if new planning requirements of SB 2 are not met; such as identifying a zone without a conditional use permit,

Attached is a briefing paper informing local governments of SB 2, providing assistance in evaluating these new provisions to effectively implement this important new State law; in addition to a copy of the legislation. Electronic copies of these can be found on the Department's website at ***www.hcd.ca.gov*** or the Senate's website at ***www.senate.ca.gov***. You may also obtain copies of published bills from the Legislative Bill Room by calling (916) 445-2323. If you have any questions, or seek additional technical assistance, please contact Paul McDougall, HPD Manager, at (916) 445-4728.

Attachments

Chapter 633, Statutes of 2007
(Senate Bill 2)

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Introduction

Homeless Needs

Homelessness in California is a continuing and growing crisis. On any given day, there are at least 361,000 homeless individuals in California – or 1.1 percent of the State's total population. Of this number, two-thirds are estimated to be single adults, while the other third are families. Some 30 percent of California's homeless – 108,000 – are so-called "chronic" homeless who have been homeless for six months or more. This population tends to be comprised of single adults who face such obstacles as mental illness, substance abuse problems and chronic physical health problems or disabilities that prevent them from working. Homeless individuals and families are without permanent housing largely because of a lack of affordable housing, often compounded by limited education or skills, mental illness and substance abuse issues, domestic violence and the lack of family or other support networks.[1]

California's homelessness crisis demands the effective involvement of both the public and private sectors. A housing element can be an effective and powerful tool in combating homelessness. Passage of SB 2 strengthened the law to increase its effectiveness in addressing the needs of California's homeless population. The upcoming housing element update presents an important opportunity to make ending homelessness a critical priority.

Purpose and Objectives of SB 2

The framework of SB 2 resulted from a collaborative effort by key stakeholders including housing and homeless advocates and providers, local governments, planners, and the building industry. SB 2 strengthens existing housing element requirements to provide the opportunity for the development of emergency shelters and transitional and supportive housing. SB 2 ensures zoning, development and management standards and permit procedures encourage emergency shelters while allowing flexibility for existing local strategies and cooperative efforts.

SB 2 focuses on the impacts of zoning requirements on the development of emergency shelters. While the new statute requires that every local government zone for the development of emergency shelters, it does not restrict how local governments allocate resources to address local priority needs. For example, nothing in SB 2 prohibits communities from also adopting a "Housing First" strategy to provide homeless persons with housing immediately and then providing services as needed.

[1] *Governor's Interagency Task Force on Homelessness, Progress Report and Work Plan for 2003*. Health and Human Services Agency and Business, Transportation and Housing Agency, December 2002

Section 1

Planning

(Government Code Section 65583)

Identifying and Analyzing Needs and Resources

Current law, Government Code Section 65583(a)(7), requires an identification and analysis of the needs of homeless persons and families. The analysis is an essential component of an effective housing element; however data sources can be limited and vary in estimates of need. As a result, an analysis should consider a variety of data sources and include proactive outreach with service providers to examine the degree and characteristics of homeless needs in the community and surrounding communities. A thorough analysis includes:

- An estimate or count of the daily average number of persons lacking shelter. Wherever possible, and to better describe the characteristics of needs, this figure could be divided into single males, single females and families (one or more adults with children) as the needs of each subgroup differ significantly.

- As local data or other existing sources permit (see list below), a description of the percentage of the homeless population who are mentally ill, developmentally disabled, veterans, runaway or emancipated foster youth, substance abusers, survivors of domestic violence, and other subpopulations of homeless considered significant by the jurisdiction.

- An inventory of the resources available within the community including shelters, transitional housing and supportive housing units by type. The analysis should estimate the number and type of existing shelter beds, and units of transitional and supportive housing available.

- Assess the degree of unmet homeless needs, including the extent of need for emergency shelters. As part of this analysis, SB 2 now clarifies the need assessment for emergency shelters must consider seasonal and year-round need. In recognition of local efforts to encourage supportive housing, SB 2 allows jurisdictions with 10 Year Plans to End Chronic Homelessness to reduce the need for emergency shelters by the number of supportive housing units identified in an adopted 10-year plan **and** that are either vacant or funding has been identified to allow construction in the housing element planning period.

Resources to identify and analyze homeless needs, include:

- Consolidated plans
- Continuum of care plans
- 10 Year Plans to End Chronic Homelessness
- Interagency Council on Homelessness, Guide to Developing Plans and Examples (*http://www.ich.gov/slocal/index.html*)

- Local service providers such as continuum of care providers, local homeless shelter and service providers, food programs, operators of transitional housing programs, local drug and alcohol program service providers, county mental health and social service departments, local Salvation Army, Goodwill Industries, churches and schools, and
- 15 countywide Designated Local Boards certified by the Department's Emergency Housing and Assistance Program (http://www.hcd.ca.gov/fa/ehap/cntys-with-dlb.html).

Identifying Zoning for Emergency Shelters

Prior to enactment of SB 2, housing element law required local governments to identify zoning to encourage and facilitate the development of emergency shelters. SB 2 strengthened these requirements. Most prominently, housing element law now requires the identification of a zone(s) where emergency shelters are permitted without a conditional use permit or other discretionary action. To address this requirement, a local government may amend an existing zoning district, establish a new zoning district or establish an overlay zone for existing zoning districts. For example, some communities may amend one or more existing commercial zoning districts to allow emergency shelters without discretionary approval. The zone(s) must provide sufficient opportunities for new emergency shelters in the planning period to meet the need identified in the analysis and must in any case accommodate at least one year-round emergency shelter (see more detailed discussion below).

Cloverfield Services Center – Emergency Shelter by OPCC in Santa Monica, CA
Photo courtesy of OPCC in Santa Monica

When identifying a zone or analyzing an existing zone for emergency shelters, the element should address the compatibility and suitability of the zone. The element should consider what other uses are permitted in the zone and whether the zone is suitable for residential or emergency shelters. For example, an industrial zone with heavy manufacturing may have environmental conditions rendering it unsuitable for residential or shelter uses. In some localities, manufacturing or industrial zones may be in transition, where older industrial uses are redeveloping to residential, office or commercial. Transitioning zones may be compatible

with residential uses and suitable for emergency shelters. Also, a commercial zone allowing residential or residential compatible services (i.e., social services, offices) would be suitable for shelters. For example, Sacramento County permits emergency shelters in its commercial zone along with other residential uses and uses such as retail that are compatible with residential.

SB 2 clarifies existing law by requiring zoning identified for emergency shelters to include sufficient capacity to accommodate the need. The identified zone(s) must have sufficient capacity, when taken as a whole, to meet the need for shelters identified in the housing element, and have a realistic potential for development or reuse opportunities in the planning period. Further, capacity for emergency shelters must be suitable and available and account for physical features (flooding, seismic hazards, chemical contamination, other environmental constraints, and slope instability or erosion) and location (proximity to transit, job centers, and public and community services). The element should also address available acreage (vacant or underutilized) and the realistic capacity for emergency shelters in the zone. For example, if a jurisdiction identifies the public institution zoning district as the zone where emergency shelters will be allowed without a conditional use permit, the element should demonstrate sufficient acreage within the zoning district that could accommodate the actual development of an emergency shelter. The element could also discuss the potential for reuse or conversion of existing buildings to emergency shelters.

SB 2 ensures that each local government shares the responsibility to provide opportunities for the development of emergency shelters. Regardless of the extent of need identified in the element, local governments must provide zoning to allow at least one year round emergency shelter, unless the need for emergency shelters is accommodated through existing shelters or a multi-jurisdictional agreement (see discussion below). This is especially important given the fact that the homeless population is not always visible in the community; is sometimes transitory; data resources are frequently inadequate and the availability and adequacy of services and programs vary significantly by community and can impact the homeless count.

If a local government's existing zoning does not allow emergency shelters without a conditional use permit or other discretionary action, the housing element must include a program to identify a specific zone(s) and amend the zoning code *within one year of adoption of the housing element* (65583(a)(4)). The only exceptions permitted to the non-discretionary zoning requirement are where a jurisdiction demonstrates their homeless needs can be accommodated in existing shelters; or where the jurisdiction meets all of its need through a multi-jurisdictional agreement (discussed in later sections).

Where a local government has identified a zone and sufficient capacity to encourage emergency shelters consistent with the provisions of SB 2, a local government may also identify additional zones for the development of emergency shelters that require a conditional use permit.

Permitting Emergency Shelters without Discretionary Action

To comply with SB 2, localities must have or adopt a zoning classification that permits emergency shelters in a non-discretionary manner (localities may however apply development standards pursuant to Section 65583(a)(4)). In such zones, permitted uses, development standards and permit procedures must include*:*

- Objective development standards that encourage and facilitate the approval of emergency shelters.
- Decision-making criteria such as standards that do not require discretionary judgment.
- Standards that do not render emergency shelters infeasible, and only address the use as an emergency shelter, not the perceived characteristics of potential occupants.

Requiring a variance, minor use permit, special use permit or any other discretionary process does not constitute a non-discretionary process. However, local governments may apply non-discretionary design review standards.

Emergency Shelter – Jackson, California
Photo courtesy of Amador-Tuolumne Community Action

A local government should not require public notice of its consideration of emergency shelter proposals unless it provides public notice of other non-discretionary actions. For example, if a local government permits new construction of a single-family residence without discretionary action and public notice is not given for these applications, then a local government should employ the same procedures for emergency shelter applications. The appropriate point for public comment and discretionary action is when zoning is being amended or adopted for emergency shelters, not on a project-by-project basis.

Development Standards to Encourage and Facilitate Emergency Shelters

SB 2 requires that emergency shelters only be subject to those development and management standards that apply to residential or commercial use within the same zone, except the local government may apply certain objective standards discussed on the next page (Government Code Section 65583(a)(4)). For example, a light commercial zone might permit a range of wholesaler, service repair and business services subject to buildable area and lot area requirements. In this case, the emergency shelter may be subject only to the same buildable area and lot area requirements. The same zone might permit residential uses subject to certain development standard (i.e., lot area, heights, and setbacks) requirements. In this case, emergency shelters should only be subject to the same development standards.

To demonstrate that processing procedures and standards are objective and encourage and facilitate development of emergency shelters, the housing element must address how:

- zoning explicitly allows the use (meaning the use is specifically described in the zoning code);
- development standards and permit procedures do not render the use infeasible;
- zoning, development and management standards, permit procedures and other applicable land-use regulations promote the use through objective; and predictable standards.

SB 2 allows flexibility for local governments to apply written, objective development and management standards for emergency shelters as described in statue and below.

- The maximum number of beds or persons permitted to be served nightly by the facility.
- Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.
- The size and location of exterior and interior on-site waiting and client intake areas.
- The provision of on-site management.
- The proximity to other emergency shelters provided that emergency shelters are not required to be more than 300 feet apart.
- The length of stay.
- Lighting.
- Security during hours that the emergency shelter is in operation.

These standards must be designed to encourage and facilitate the development of, or conversion to, an emergency shelter. For example, a standard establishing the maximum number of beds should act to encourage the development of an emergency shelter; local governments should establish flexible ranges for hours of operation; length of stay provision should be consistent with financing programs or statutory definitions limiting occupancy to six months (Health and Safety Code Section 50801) and should not unduly impair shelter operations. Appropriate management standards are reasonable and limited to ensure the operation and maintenance of the property.

Encouraging Multi-Jurisdictional Cooperation and Coordination

SB 2 recognizes and encourages multi-jurisdictional coordination by allowing local governments to satisfy all or part of their obligation to zone for emergency shelters by adopting and implementing a multi-jurisdictional agreement, with a maximum of two adjacent communities. The agreement must commit the participating jurisdictions to develop at least one year-round shelter within two years of the beginning of the housing element planning period. For example, jurisdictions in Southern California Association of Governments (SCAG) region with a statutory due date of June 30, 2008 would need to ensure the development of shelter(s) by June 30, 2010. To utilize this provision, local governments must adopt an agreement that allocates a portion of the new shelter capacity to each jurisdiction as credit towards the jurisdiction's emergency shelter need. The housing element for each participating local government must describe how the capacity was allocated. In addition, the housing element of each participating jurisdiction must describe:

- How the joint facility will address the local governments need for emergency shelters.
- The local government's contribution for both the development and ongoing operation and management of the shelter.
- The amount and source of the funding to be contributed to the shelter.
- How the aggregate capacity claimed by all of the participating jurisdictions does not exceed the actual capacity of the shelter facility.

If the local government can demonstrate that the multi-jurisdictional agreement can accommodate the jurisdiction's need for emergency shelter, the jurisdiction is authorized to comply with the zoning requirements for emergency shelters by identifying a zone(s) where new emergency shelters are allowed with a conditional use permit.

Quinn Cottages, Transitional Housing in Sacramento, CA
Photo courtesy of Cottage Housing, Inc.

Existing Ordinances and Existing Shelters that Accommodate Need

Existing Ordinances Permitting Emergency Shelters

Hendley Circle Apartments – Supportive SRO Housing in Burbank
Photo courtesy of Burbank Housing

Many local governments have a record of effective actions to address the homeless needs in their community. SB 2 recognizes and provides flexibility for jurisdictions that have already adopted an ordinance(s) that complies with the new zoning requirements. For those local governments with existing ordinances and zoning consistent with requirements of SB 2, no further action will be required to identify zones available for emergency shelters. The housing element must however, describe how the existing ordinance, policies and standards are consistent with the requirements of SB 2.

Existing Shelters That Accommodate the Need for Emergency Shelters

Local governments that can demonstrate, to the satisfaction of the Department, the existence of one or more emergency shelters either within the jurisdiction or pursuant to a multi-jurisdictional agreement that can accommodate the need for emergency shelters identified in the housing element may comply with the zoning requirements of SB 2 by identifying a zone(s) where new emergency shelters are allowed with a conditional use permit. To demonstrate homeless needs can be accommodated in existing shelters, an element must at minimum list existing shelters including the total number of beds and the number vacant. The analysis should support and document the estimate of vacant beds and must consider seasonal fluctuations in the need for emergency shelters.

Transitional and Supportive Housing

Transitional housing is defined in Section 50675.2 of the Health & Safety Code as rental housing for stays of at least six months but where the units are re-circulated to another program recipient after a set period. Transitional housing may be designated for a homeless individual or family transitioning to permanent housing. This housing can take several forms,

such as single family or multifamily units, and may include supportive services to allow individuals to gain necessary life skills in support of independent living. *Supportive housing* as defined at Section 50675.14 of the Health & Safety Code has no limit on the length of stay, is linked to onsite or offsite services, and is occupied by a target population as defined in Health & Safety Code Section 53260. Services typically include assistance designed to meet the needs of the target population in retaining housing, living and working in the community, and/or improving health and may include case management, mental health treatment, and life skills.

The housing element must demonstrate that transitional housing and supportive housing are permitted as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone (Government Code Section 65583(a)(5)). In other words, transitional housing and supportive housing are permitted in all zones allowing residential uses and are not subject to any restrictions (e.g., occupancy limit) not imposed on similar dwellings (e.g., single family home, apartments) in the same zone in which the transitional housing and supportive housing is located. For example, transitional housing located in an apartment building in a multifamily zone is permitted in the same manner as an apartment building in the same zone and supportive housing located in a single family home in a single family zone is permitted in the same manner as a single family home in the same zone.

If jurisdictions do not explicitly permit transitional and supportive housing as previously described, the element must include a program to ensure zoning treats transitional and supportive housing as a residential use, subject only to those restrictions on residential uses contained in the same type of structure.

Housing Element Policies and Programs

Gish Apartments – Supportive Housing, San Jose, CA
Photo courtesy of First Community Housing and Bernard Andre

Effective programs reflect the results of the local housing need analyses, identification of available resources, including land and financing, and the mitigation of identified governmental and nongovernmental constraints. Programs consist of specific action steps the locality will take to implement its policies and achieve goals and objectives. Programs must include a specific timeframe for implementation, identify the agencies or officials responsible for implementation, and describe the jurisdiction's specific role in implementation.

Where a jurisdiction does not provide an analysis demonstrating compliance with the provisions of SB 2 through existing zoning, the element must have a program(s) to address the results of that analysis. For example, if the element does not identify an existing zone to

permit emergency shelters without a conditional use permit or other discretionary action, the element must include a program to establish the appropriate zoning, unless the jurisdiction has satisfied its needs through existing emergency shelters or a multi-jurisdictional agreement. If development and management standards do not encourage and facilitate emergency shelters or zoning does not treat transitional and supportive housing as a residential use, the element must include a program(s) to amend existing zoning or processing requirements to comply with SB 2.

Programs to address the requirements of SB 2 for emergency shelters must be implemented within one year of adoption of the housing element. Programs to address requirements for transitional and supportive housing should be implemented early in the planning period. Further, since the program for emergency shelters must be implemented within one year of adoption, the housing element should provide analysis to support and assure effective implementation of the program. For example, the analysis should examine the suitability of zones to be included in the program and whether sufficient and suitable capacity is available. The same type of analysis could evaluate development and management standards that will be considered as part of establishing or amending zoning. This analysis should demonstrate the necessary commitment to ensure zoning, permit procedures and development standards encourage and facilitate emergency shelters.

******* UPDATED*******

Please be aware, if the adopted housing element from the previous cycle (4th cycle) included a program to address the requirements of SB 2 for emergency shelters, and the required timeframe has lapsed, the Department will not be able to find future housing elements in compliance until the required rezoning is complete and the element is amended to reflect that rezoning.

Timing: When SB 2 Applies

In accordance with Government Code Section 65583(e), any draft housing element submitted to the Department after March 31, 2008 will be required to comply with SB 2.

Section 2

Local Approval

(Government Code Section 65589.5)

The Housing Accountability Act

To promote predictability for the development of housing affordable to lower- and moderate-income households, the Housing Accountability Act (Government Code Section 65589.5) prohibits a jurisdiction from disapproving a housing development project, including housing for farmworkers and for very low-, low-, or moderate-income households, or conditioning approval in a manner that renders the project infeasible for development for the use of very low-, low-, or moderate-income households, including through the use of design review standards, unless it makes at least one of five specific written findings based on substantial evidence in the record (Government Code Section 65589.5).

SB 2 adds emergency shelters to the list of uses protected under the Housing Accountability Act. In addition, SB 2 clarifies that the definition of a housing development project includes transitional or supportive housing (see Attachment 1: SB 2 - changes are underlined).

Zoning Inconsistency

Pursuant to the Housing Accountability Act, a local government is prohibited from making the finding regarding zoning and general plan inconsistency (Section 65589.5(d)(5)) to disapprove a development if the jurisdiction identified the site in its general plan (e.g., housing or land-use element) as appropriate for residential use at the density proposed or failed to identify adequate sites to accommodate its share of the regional housing need for all income groups. In addition to extending these provisions to emergency shelters and transitional housing, SB 2 prohibits the use of the zoning and general plan inconsistency finding to disapprove an emergency shelter if the jurisdictions have:

- not identified a zone(s) where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit,
- not demonstrated the identified zone(s) include sufficient capacity to accommodate the need for emergency shelter, or
- not demonstrated the identified zone(s) can accommodate at least one emergency shelter.

This provision applies to any site identified in any element of the general plan for industrial, commercial, or multifamily residential uses. In any court action, the burden of proof is on the local jurisdiction to demonstrate its housing element satisfies the above requirements of SB 2.

Attachment 1

Statutory Changes to Housing Element Law *(underline version)*

Attachment 1

Changes to State Housing Element Law
Chapter 633, Statutes of 2007 (SB 2)

(changes indicated in strikeouts and underlines)

65582. As used in this article, the following definitions apply:
(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.
(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.
(c) "Department" means the Department of Housing and Community Development.
(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.
(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.
(f) "Supportive housing" has the same meaning as defined in subdivision (b) of Section 50675.14 of the Health and Safety Code.
(g) "Transitional housing" has the same meaning as defined in subdivision (h) of Section 50675.2 of the Health and Safety Code.

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, ~~and~~ mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:
(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:
(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.
(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.
(4) (A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:
(i) The maximum number of beds or persons permitted to be served nightly by the facility.
(ii) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.
(iii) The size and location of exterior and interior onsite waiting and client intake areas.
(iv) The provision of onsite management.
(v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.
(vi) The length of stay.
(vii) Lighting.
(viii) Security during hours that the emergency shelter is in operation.
(B) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).
(C) A local government that can demonstrate to the satisfaction of the department the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate that jurisdiction's need for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.
(D) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zones for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.
(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in

the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph Transitional housing and supportive housing shall be (5considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(67) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter. The need for emergency shelter shall be (7assessed based on annual and seasonal need. The need for emergency shelter may be reduced by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period.

(8) An analysis of opportunities for energy conservation with respect to residential development.

(89) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.
(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.
(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.
(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and ~~the~~ the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:
(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.
(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.
(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.
(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.
(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.
(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.
(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (~~8~~9) of subdivision (a).
The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (~~8~~9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.
(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.
(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.
(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit towards its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.
(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:
(A) How the joint facility will meet the jurisdiction's emergency shelter need.
(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.
(C) The amount and source of the funding that the jurisdiction contributes to the facility.
(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.
(e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:
(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, ~~where~~when a city, county, or city and county submits a ~~first~~ draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, ~~where~~when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

Housing Accountability Act

65589.5. (a) The Legislature finds and declares all of the following:
(1) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California. (2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.
(3) Among the consequences of those actions are discrimination against low income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.
(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.
(b) It is the policy of the state that a local government not reject or make infeasible housing developments, including emergency shelters, that contribute to meeting the ~~housing~~ need determined pursuant to this article without a thorough analysis of the economic, social, and Environmental effects of the action and without complying with subdivision (d).
(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.
(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate- income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:
(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional

housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderateincome households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

~~(c) This section does not relieve the local agency~~ (C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). ~~This~~Neither shall anything in this section ~~also does not~~be construed to relieve the local agency ~~local agency~~ from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) ~~This~~(1) Nothing in this section ~~does not~~shall be construed to prohibit a local agency from requiring the development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development ~~project. This~~. (2) Nothing in this section ~~does not~~shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of ~~either~~ any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.
(C) Transitional housing or supportive housing.
(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.
(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.
(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:
(A) Votes on a proposed housing development project application and the application is disapproved.
(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.
(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.
(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.
(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.
(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in ~~paragraph~~ subdivision (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.
(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of

preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

Attachment 2

Definitions

Attachment 2

Definitions

Emergency Shelters (Health and Safety Code Section 50801(e)

"Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

Transitional Housing (Health and Safety Code Section 50675.2)(h)

"Transitional housing" and "transitional housing development" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.

Supportive Housing (Health and Safety Code 50675.14(b))

Housing with no limit on length of stay, that is occupied by the target population as defined in subdivision (d) of Section 53260, and that is linked to on- or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

Target Population Definition per HSC 53260(d)

(d) "Target population" means adults with low-income having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with *Section 4500) of the Welfare and Institutions Code*) and may, among other populations, include families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, or homeless people.

Attachment 3

Helpful Links

Attachment 3

Helpful Links

National Alliance to End Homelessness

http://www.endhomelessness.org/section/tools/tenyearplan

Interagency Council on Homelessness

http://www.ich.gov/

Interagency Council on Homelessness, Guide to Developing Plans and Examples

http://www.ich.gov/slocal/index.html

U.S. Department of Health and Human Services, Homelessness Resource Center

http://www.nrchmi.samhsa.gov/(X(1)S(axpyp555dhn54z45qhpgvnj4))/Default.aspx?AspxAutoDetectCookieSupport=1

The National Coalition for the Homeless – Local Resources in California

http://www.nationalhomeless.org/resources/local/california.html

HCD Selected Bibliography on Homeless Issues

http://www.hcd.ca.gov/hpd/biblio.html

Building Blocks for Effective Housing Elements
(links to funding resources, data, policy and research on homelessness)

http://www.hcd.ca.gov/hpd/housing_element/index.html

VIII.B.66

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 18, 2014
BUSINESS ITEMS

DATE : November 12, 2014

TO : City Manager

FROM : Public Works Director

SUBJECT : **APPROVAL OF THE UPDATED TRAFFIC IMPACT FEE PROGRAM**

RECOMMENDATION:
Adopt a resolution approving an update to the Citywide Traffic Impact Fee Program and authorizing associated fee adjustments.

EXECUTIVE SUMMARY:
Revisions to the Citywide Traffic Impact Fee Program have been completed. This update calculates a new traffic impact base fee of $2,180 is necessary to sufficiently fund future roadway improvements to accommodate projected development in the City.

BUDGET INFORMATION:
Implementing the adjusted fee rates is anticipated to generate $29.0 million over a 20-year period. The new base fee amount of $2,180 is a modest increase from the current fee of $1,858 and will be adjusted annually based upon a construction cost index.

ENVIRONMENTAL REVIEW:
Updating of the Transportation Impact Fee is a funding mechanism not subject to environmental review pursuant to CEQA guideline 15378 therefore, no CEQA action is necessary. Environmental review of individual projects to be funded by impact fee funds would occur at the time of approval of the projects for construction.

GENERAL PLAN:
Relevant General Plan Goals:
- Goal 2.17: Provide an efficient, reliable, and convenient transit system
- Goal 2.28: Improve and maintain public facilities and services

STRATEGIC PLAN:
Relevant Strategic Plan Issues:
- Strategic Issue #4: Preserving and Enhancing Infrastructure
- Strategy #2: Increase use of mass transit

BACKGROUND:
In 1992, the City of Benicia adopted a Citywide Traffic Fee (TIF) Program which established the authority for imposing and charging a citywide fee to fund future roadway and intersection improvements necessary to accommodate projected development in the City. Shortly thereafter, the City established the original base fee of $1,040 per P.M. peak hour trip generated by development. In 2002 the City Council established a new reduced base fee amount of $1,019 which was subsequently increased by Council in 2008 to $1,858, which is the current fee in effect.

The Draft 2014 Citywide Traffic Impact Fee Update was recently completed (copy attached). Based upon projects identified in the General Plan and projections using recent traffic counts, the Update identifies seven intersection projects (Pg.16) and 8 roadway projects (Pg.17) that will need to be constructed at buildout (Year 2035) to mitigate new development for a total cost of $29.0 million (Pg. 21). Development of current vacant land, given their associated uses, will generate a total of 12,894 new trips (Pg.7). The Update calculates the new base rate of $2,180 (Pg. 25) by subtracting the current Traffic Impact Fee account balance ($939,511) from the total cost of improvements needed ($29.0 million) and then dividing by the total number of new trips attributable to development (12,894 peak P.M. trips).

As in 2008, projects identified in the 2007 Benicia Business Park EIR (Pg. 19) are not included in the fee study calculations. The requirement for the Benicia Business Park to construct those improvements independently of the traffic impact fee program is triggered by the direct and immediate impacts that development will have on the transportation network and the need to mitigate those impacts under the California Environmental Quality Act and the General Plan.

Each of the development projects participating in the traffic impact fee study would not likely trigger the need for mitigation individually, as is the case for the Benicia Business Park, but cumulatively would require the improvements identified in the Citywide district. Since the Benicia Business Park is in the Citywide district too, it will also participate in funding the fee study improvements. It should be noted that while the Benicia Business Park project as scoped in the EIR did not move forward, it represents the likely impacts should that project or a similar project proceed in the future. The traffic impact fee program will be updated again in approximately 5 years and any new developments or assumptions can be incorporated into the fee study at that time.

The Traffic Impact Fee Update also includes $100,000 for the Benicia Industrial Park Bus Hub, $1,000,000 for traffic calming, and $200,000 to update the circulation element of the General Plan.

Attachments:

- Proposed Resolution with Exhibit A
- Attachment A: Citywide Traffic Impact Fee Update, July 2014

VIII.c.4

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE UPDATE TO THE TRAFFIC IMPACT FEE PROGRAM AND AUTHORIZING ASSOCIATED FEE ADJUSTMENTS

WHEREAS, the City Council of the City of Benicia adopted Ordinance No. 92-6 creating and establishing the authority for imposing and charging a Citywide Traffic Impact Mitigation Fee, herein referred to as the "Fee"; and

WHEREAS, the City Council of the City of Benicia adopted Resolution No. 92-34 on March 3, 1992, which established the Traffic Impact Mitigation Fee in accordance with the traffic study prepared by Omni-Means, Ltd., and dated January 1992 with modified Table 4 and Table 5; and

WHEREAS, the City Council of the City of Benicia adopted Resolution No. 02-65 on May 7, 2002, which established an Update to the Traffic Impact Mitigation Fee in accordance with the traffic study prepared by Omni-Means, Ltd., and dated July 2001 with modified Table 4; and

WHEREAS, the City Council of the City of Benicia adopted Resolution No. 08-20 on March 18, 2008 which established an Update to the Traffic Impact Mitigation Fee in accordance with the requirements contained in AB 1600, and at a Public Hearing on that date, reviewed the Traffic Impact Fee Program as outlined in the Citywide Traffic Impact Fee Program Update report prepared by Omni-Means, Ltd. and dated February 2008; and

WHEREAS, in accordance with the requirements contained in AB1600, a review of the Citywide Traffic Impact Fee Program was performed and is outlined in the 2014 Citywide Traffic Impact Fee Update report prepared by Omni-means, Ltd. and dated October 2014; and

WHEREAS, notices of this hearing were sent to those who requested such notice; and

WHEREAS, in accordance with the requirements of AB 1600, this review is being conducted at a public hearing to enable interested parties to review and comment on said review.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the City Council has reviewed the ***2014 Citywide Traffic Impact Fee Program Update*** and finds that the project descriptions and cost estimates are a reasonable basis for calculating and imposing the traffic impact fee.

BE IT FURTHER RESOLVED that the projects and methodology identified in the update are consistent with the General Plan.

BE IT FURTHER RESOLVED that the update is categorically exempt from environmental review pursuant to the California Environmental Quality Act Guidelines sections 15061(b)(3), 15262, and 15306 as the intent of the update and proposed fees is to provide a means of mitigating potential environmental impacts.

BE IT FUTHER RESOLVED that the review of the Traffic Impact Fee Program outlined in the ***2014 Citywide Traffic Impact Fee Program Update*** report, prepared by Omni-Means, Ltd. and dated October 2014 is hereby approved and that the fees shall be increased to a traffic fee base rate of $2,180 per PM trip for fiscal year 2014/15 commencing on January 18, 2015 or no sooner than sixty (60) days subsequent to adoption of this Resolution incorporating Table 12 of the update attached hereto as Exhibit A.

BE IT FURTHER RESOLVED THAT the automatic annual adjustment of the Traffic Impact Mitigation Fee, authorized per Resolution No. 92-34 and revised per Resolution No. 94-116, shall continue to occur on each successive July 1 with the adjustment based upon the Engineering News Record Construction Cost Index (CCI) for the San Francisco Bay Area or its successor. The Finance Director shall compute the percentage difference between the CCI on July 1 of each year and the CCI for the previous July 1. The Finance Director shall then adjust by such percentage the fee set forth in this Resolution. The adjustment amount shall be rounded to the nearest dollar and these amounts shall constitute the fees authorized by Chapter 5.38 of the Benicia Municipal Code and first established by Resolution No. 92-34. Should the CCI be revised or discontinued, the Finance Director shall use the revised index or a comparable index as approved by the City Council for determining fluctuations in the cost of development. It is found and determined that the cost of constructing and installing the facilities for which the subject is being assessed are likely to increase over time. Therefore, it is reasonable to include in this fee resolution a provision to increase such fees consistent with the proportionate increase in the cost of providing such facilities. In this connection, it is found and determined that the CCI is an accurate and well-accepted standard by which the industry measures increases in construction costs and the CCI is properly applied to the increases in costs incurred in installing, developing and constructing the transportation facilities to be funded with the fee assessed hereunder.

* * * * *

On motion of Council Member , seconded by Council Member , the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 18th day of November, 2014, and adopted by the following vote:

Ayes:
Noes:
Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

VIII.C.8

TABLE 12:
TRIP RATES AND TRAFFIC FEES FOR VARIOUS LAND USES

Land Use[1]	Unit[2]	PM Peak Hour Trip Rate per Unit[3]	Commercial Use Trip Reduction[5]	Traffic Fee per Unit
RESIDENTIAL LAND USES				
Single Family	D.U.	1.00	-	$ 2,180
Low-Rise Townhouse/Condo	D.U.	0.78	-	$ 1,700
Apartment	D.U.	0.62	-	$ 1,352
Accessory Dwelling[4]	D.U.	0.31	-	$ 676
LODGING				
Hotel	Room	0.60	-	$ 1,308
COMMERCIAL[5]				
Shopping Center[6]	KSF	3.71	50%	$ 4,044
Supermarket	KSF	9.48	50%	$ 10,333
Convenience Store	KSF	34.57	50%	$ 37,681
Sit-Down Restaurant	KSF	7.49	50%	$ 8,164
High-Turnover Sit-Down Rest./Deli	KSF	9.85	50%	$ 10,737
Fast-Food Restaurant	KSF	32.65	50%	$ 35,589
Bank (with Drive-Through)	KSF	24.30	50%	$ 26,487
Drug Store/Pharmacy	KSF	9.91	50%	$ 10,802
Service Station/Mart	FSP	13.87	50%	$ 15,118
Quick-Lube Vehicle Shop	FSP	5.19	50%	$ 5,657
Hardware/Paint Store	KSF	4.84	50%	$ 5,276
Day Care Facility	STU	0.81	50%	$ 883
OFFICE				
General Office	KSF	1.49	-	$ 3,248
Medical Office	KSF	3.57	-	$ 7,783
INDUSTRIAL				
Light Industrial	KSF	0.97	-	$ 2,115
Warehousing	KSF	0.32	-	$ 698
Self-Storage Units	UNIT	0.02	-	$ 44

Notes:
1. This table represents a listing of most potential development in the City of Benicia. For any development proposal not on this list, the ITE Trip Generation Manual should be used to establish the development's PM peak hour trip generation and resulting TIF assessment.
2. D.U. = Dwelling Unit; KSF = 1,000 Square Feet; FSP = Fueling or Service Position; STU = Student.
3. Trip generation rates obtained from ITE Trip Generation Manual 9th Edition.
4. An accessory dwelling represents a small (less than 800 sq.ft.) apartment type unit accessory to a single family dwelling. It is assumed that this type of unit would generate traffic at one-half the standard apartment rate.
5. The calculated fee for the commercial uses reflects a 50% reduction to account for the fact that about one-half of commercial trips are either pass-by trips or trips to/from residential units.
6. The trip rate (and resulting TIF) reflect an average sized shopping center. For a specific development proposal, the ITE trip equation for shopping centers should be used.

VIII.C.10

2014 Citywide Traffic Impact Fee Update

Prepared for:

City of Benicia

Prepared by:

omni · means
ENGINEERS · PLANNERS

2014 CITYWIDE TRAFFIC IMPACT FEE UPDATE

PREPARED FOR:
CITY OF BENICIA
250 EAST L STREET
BENICIA, CA 94510

PREPARED BY:
OMNI-MEANS, LTD.
ENGINEERS & PLANNERS
943 RESERVE DRIVE, SUITE 100
ROSEVILLE, CA 95678
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OCTOBER 2014

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VIII.C.12

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INTRODUCTION

This report presents the analysis and findings necessary to update the City of Benicia's Traffic Impact Fee (TIF). The City of Benicia last performed a comprehensive update to the City TIF program and its associated fees in February 2008.[1] This report is intended to provide an overview of the impact fee update methodologies. The fees presented in the report represent the highest level of fees that could be legally adopted based upon State law mandated nexus requirements. Lower fees could ultimately be adopted by removing transportation projects from the fee program and/or funding these projects from other sources.

PURPOSE OF THE STUDY

The primary purposed of this report is to bring the City's 2008 TIF up to date to reflect current development and market conditions. At the time of the last fee update's preparation, growth forecasts for the region and within the City were aggressive. Since then, an economic recession and changes in land use development patterns have slowed growth to levels significantly below those initially projected at that time. Concurrently, construction and material costs have also changed. Based on discussions with City Engineering staff, the needed infrastructure initially determined to be required to support the aggressive forecasts may not be realistically necessary given the changes in market conditions and current growth forecasts.

As such, the City commissioned Omni-Means in June 2013 to perform an update to the TIF, to re-evaluate the improvement needs of the City acknowledging current market trends, and to update improvement costs to reflect current industry costs. The update will ensure fair, adequate and timely funding for necessary improvements. The calculated impact fees are consistent with the nexus requirements of the Mitigation Fee Act, as set forth in Sections 66000 et seq. of the California Government Code. The Mitigation Fee Act was enacted by the California State legislature in 1987 and requires that all public agencies satisfy the following requirements when establishing, increasing, or imposing a fee as a condition of approval for a development project:

- Identify the purpose of the fee;
- Identify the use to which the fee will be put;
- Determine that there is a reasonable relationship between the fee's use and the type of development on which the fee is imposed;
- Determine how there is a reasonable relationship between the need for the public facility and the type of development on which the fee is imposed; and,
- Determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

The "reasonable relationship" test was supplemented by a test of "rough proportionality" in the 1994 United State Supreme Court decision *Dolan v. City of Tigard*. In this decision, the Court ruled that, when a public agency requires an exaction from new development, the agency cannot rely solely on a general, qualitative relationship between a land use and required facility but must make a finding that the exaction is related to the proportional impact of that land use. The Court specifically stated in its opinion that "no precise mathematical calculation is required, but the city must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development." This decision effectively added an additional finding that there is a rough proportionality between the amount of the fee and the impact of the development on which the fee is imposed.

As required by Government Code Section 66000 et seq. and subsequent court rulings, this report will show that a reasonable relationship exists between the calculated fee amounts and development land uses on which

[1] Omni-Means. *2007 Update – Benicia Citywide Traffic Impact Fee Program*. City of Benicia, February, 2008.

they are imposed. Additionally, it will be demonstrated that a rough proportionality exists between the impact of a land use on a facility and amount of the fee imposed on it.

The traffic fees calculated in this report will fund the full cost of the planned traffic facilities, less the costs required for payment or dedication by property owners. Bond financing through a Community Finance District (CFD) is not required because the traffic fee will fund the full cost of the planned facilities. Improvements identified in the Benicia Business Park EIR[2] as mitigation measures for the proposed project are not included in the TIF and will be fully developer-funded.

A continuing premise of the TIF program is that on a citywide basis, traffic improvements will be most important on the major streets. While collector and local streets also serve important travel needs, the major street network is critical in providing the basic transportation network for the City. Thus, this updated TIF has again focused on the major streets and key intersections and interchanges along the major streets.

[2] LSA Assocaties. *Benicia Business Park EIR.* City of Benicia, December, 2007.

OVERVIEW OF EXISTING TRAFFIC IMPACT FEE

In 2008, Omni-Means prepared the *2007 Update – Benicia Citywide Traffic Impact Fee Program* report for the City of Benicia. The proposed fees developed in the report were adopted by the City through Resolution No. 08-20.

2007 GROWTH ASSUMPTIONS

The 2007 TIF update (referenced above) contained a description of the land use assumptions used as the basis of calculating impact fees. Future development potential was inventoried by City staff from the City's General Plan and the Benicia Business Park project proposal. Projected land uses were further refined through discussions with City Engineering staff. The result of this process was a compilation of the PM peak hour traffic that will be generated by all new development citywide. This calculation yielded a total citywide PM peak hour increase of about 19,701 vehicle trips, summarized in Table 1.

TABLE 1:
2007 TIF UPDATE FUTURE LAND USE ASSUMPTIONS

Vacant Industrial Land:		
• 302.9 acres @ 70% FAR = 9,236,027 sq.ft. @ 0.98/1,000	=	9,051 PM trips
Vacant Industrial Land Assuming Partial Development:		
• 289 acres @ 20% FAR(2) = 2,517,768 sq.ft. @ 0.98/1,000	=	2,467 PM trips
Underutilized Industrial Land Assuming Infill Development:		
• 204.3 acres @ 20% FAR(3) = 1,779,862 sq.ft. @ 0.98/1,000	=	1,744 PM trips
Vacant Retail Commercial Land:		
• 2.47 acres @ 50% FAR = 53,797 sq.ft. @ ITE equation(4)	=	208 PM trips
Vacant Office Commercial Land:		
• 6.3 acres @ 50% FAR = 137,214 sq.ft. @ 1.49/1,000	=	204 PM trips
Assumed Downtown Residential Infill Development:		
• 100 units @ 0.78/unit	=	78 PM trips
Benicia Business Park Development:		
• Trip generation from *Benicia Business Park EIR*(5)	=	5,949 PM trips
TOTAL CITYWIDE TRIP GENERATION	**=**	**19,701 PM trips**

(1) Except as noted, the FAR ratios reflect the maximum coverage factors allowed by the General Plan.
(2) This parcel, located west of east 2nd Street opposite the Valero refinery is assumed to have limited development potential (20% FAR).
(3) Currently underutilized industrial lands are projected to have some limited infill development potential (20% FAR).
(4) The gross retail trip calculation was reduced by 50% to account for a typical retail "pass-by" trip factor.
(5) The gross trip calculation in the EIR was adjusted to account for a typical 50% retail "pass-by" trip factor being applied to the project's retail development component.

2007 TRANSPORTATION IMPROVEMENT NEEDS

The 2007 TIF Update identified transportation improvements on the basis of several sources. These sources included the City's General Plan, traffic studies prepared prior to the 2007 TIF update, and discussions with and direction from City staff at the time. The various improvement recommendations were reviewed in the field and refined as a part of that effort.

The basic factor involved in the need for improvements is the expected growth in traffic volumes. In Benicia, future growth primarily reflects employment and industrial developments expected to occur in the northeastern part of the City, as well as some residential and commercial infill. While different types of development land uses will be located in specific areas of the City, development traffic will have citywide effects. Thus, traffic improvements will be needed on a citywide basis to serve the overall traffic growth from development.

Table 2 contains a description of the roadway improvement projects contained in the existing fee program. Table 2 contains a description of the intersection improvement projects contained in the existing fee program. More detailed cost estimate breakdowns are available in the *2007 Update – Benicia Citywide Traffic Impact Fee Program* report.

TABLE 2:
2007 TIF UPDATE ROADWAY IMPROVEMENT NEEDS

Roadway Improvements		Cost Estimate
East 5th Street	Widen/restripe East 5th Street to three lanes (two through lanes and a center lane/median) between the I-780 westbound ramps and Military East	$250,000
New Roadway	Construct a new north-south two-lane connector road east of I-680 between Bayshore Road and Industrial Way (includes traffic signals at the I-680 ramp intersections with Bayshore and Industrial)	$6,900,000
Park Road	Widen Park Road from two to four lanes between Sulphur Springs Creek and Industrial Way	$960,000
New Roadway	Construct a new two-lane east-west arterial street between East 2nd Street and Park Road	$5,860,000
Park Road	Widen/realign Park Road (retain two-lane width) between Adams Street and the new east-west connector street	$1,274,000
Industrial Way	Widen Industrial Way from two to four lanes between East 2nd Street and the I-680 Northbound On-Ramp	$3,640,000
Military West	Widen/restripe Military West to three lanes (two through lanes and a center lane/median) between West 2nd Street and West 5th Street	$635,000
New Pedestrian/Bicycle Bridge	Construct a new pedestrian/bicycle bridge across I-780 between the Benicia Middle School off Southampton Road and Benicia High School off Military West	$600,000
Columbus Parkway	Widen Columbus Parkway at Rose Drive to accommodate a second westbound through lane	$200,000
Traffic Calming	Implement traffic calming/circulation improvements/signalization at Benicia High School	$650,000
Total Costs Plus 25% Contingency:		**$26,211,250**

TABLE 3:
2007 TIF UPDATE INTERSECTION IMPROVEMENT NEEDS

Intersection Improvements		Cost Estimate
Columbus / Rose	Widen/restripe northbound and eastbound approaches and widen State Park Road bridge over I-780	$1,332,000
Southhampton / Hastings	Install signal and widen/restripe southbound approach	$355,000
Southhampton / Chelsea Hills	Widen/restripe northbound, southbound and westbound approaches	$18,000
West 7th / I-780 Westbound Ramps	Widen/restripe all approaches	$505,000
West 7th / I-780 Eastbound Ramps	Widen/restripe northbound and southbound approaches	$68,000
East 2nd / Military East	Widen/restripe southbound, eastbound and westbound approaches and coordinate with other signals between Military East and I-780 westbound ramps	$795,000
East 5th / I-780 Westbound Ramps	Install signal and widen/restripe all approaches	$355,000
East 5th / I-780 Eastbound Ramps	Install signal and widen/restripe all approaches	$355,000
East 5th / Military East	Widen/restripe all approaches	$1,140,000
West 7th / Military West	Improve signal controls or construct a roundabout intersection	$1,000,000
Total Costs Plus 25% Contingency:		**$7,403.75**

2007 TRAFFIC IMPACT FEES

Methodologies used to calculate City transportation impact fees are documented in the *2007 Update – Benicia Citywide Traffic Impact Fee Program* report. This report provides a detailed description of the methodologies used to calculate these impact fees, by dividing total TIP Update program costs (Tables 2 and 3) by the estimated PM peak hour trip generation of future development (Table 1). Recommended fees by land use type contained in the report are summarized in Table 4. Table 5 presents examples of fees by development type, presented in the 2007 TIF Update.

TABLE 4:
2007 TIF UPDATE TRAFFIC IMPACT FEE CALCULATIONS

CONSTRUCTION COST SUMMARY			
Intersection Improvement Costs		$	7,403,750
Roadway Improvement Costs		$	26,211,250
	Improvement Cost Total	*$*	*33,615,000*
- Less Existing TIF Funds		$	(2,000,000)
- Less Benicia Business Park Contribution (5,949 trips x $1,019 per trip)		$	(6,062,031)
TOTAL NET TIF PROGRAM COST		$	25,552,969
TIF PROGRAM COST			
PER PM PEAK HOUR TRIP	= $25,552,969 / 13,752 trips =	$	1,858

TABLE 5:
2007 TIF UPDATE TRAFFIC IMPACT FEE BY USE

LAND USE	PM PEAK TRIP RATE[1]	TRAFFIC FEE
Residential:		
Single Family	1.01/D.U.	$1,877/D.U.
Low-Rise Townhouse/Condo	0.78/D.U.	$1,449/D.U.
Apartment	0.62/D.U	$1,152/D.U.
Accessory Dwelling	0.31/D.U.[2]	$576/D.U.
Commercial:[3]		
Shopping Center	3.75/1,000 sq.ft.[4]	$3,484/1,000 sq.ft.
Supermarket	10.45/1,000 sq.ft.	$9,708/1,000 sq.ft.
Convenience Store	34.57/1,000 sq.ft.	$32,116/1,000 sq.ft.
Sit-Down Restaurant	7.49/1,000 sq.ft	$6,958/1,000 sq.ft.
High-Turnover Sit-Down Rest./Deli	10.92/1,000 sq.ft.	$10,145/1,000 sq.ft.
Fast-Food Restaurant	34.64/1,000 sq.ft.	$32,181/1,000 sq.ft.
Bank (with drive-through)	45.74/1,000 sq.ft.	$42,492/1,000 sq.ft.
Drug Store/Pharmacy	8.62/1,000 sq.ft.	$8,008/1,000 sq.ft.
Service Station/Mart	13.38/fueling position	$12,430/fueling position
Quick-Lube Vehicle Shop	5.19/service position	$4,822/service position
Hardware/Paint Store	4.84/1,000 sq.ft.	$4,496/1,000 sq.ft.
Day Care Facility	0.82/student	$762/student
Office:		
General Office	1.49/1,000 sq.ft.	$2,768/1,000 sq.ft.
Medical Office	3.72/1,000 sq.ft.	$6,912/1,000 sq.ft.
Industrial:		
Light Industrial	0.98/1,000 sq.ft.	$1,821/1,000 sq.ft.
Warehousing	0.47/1,000 sq.ft.	$873/1,000 sq.ft.
Self-Storage Units	0.03/unit	$56/unit

(1) Institute of Transportation Engineers (ITE), *Trip Generation – 7th Edition*, 2003. This table represents a listing of most potential development in the City of Benicia. For any development proposal not on this list, the ITE document should be used to establish the development's PM peak hour trip generation and resulting TIF assessment.

(2) An accessory dwelling represents a small (less than 800 sq.ft.) apartment type unit accessory to a single family dwelling. It is assumed that this type of unit would generate traffic at one-half the standard apartment rate.

(3) The calculated fee for the commercial uses reflects a 50% reduction to account for the fact that about one-half of commercial trips are either pass-by trips or trips to/from residential units.

(4) The trip rate (and resulting TIF) reflect an average sized shopping center. For a specific development proposal, the ITE trip equation for shopping centers should be used.

BUILDOUT GROWTH PROJECTIONS

This section provides an overview of future growth projections, updated for 2014, associated with buildout of the City's remaining developable lands. An inventory of remaining development is required in order to forecast future traffic conditions, and subsequently identify citywide transportation improvements required to support the forecasted traffic growth. The remaining development inventory will also be used to calculate the traffic impact fees later in the report.

FUTURE DEVELOPMENT POTENTIAL

Future development potential was inventoried by City staff from the City's General Plan and current or recent development proposals such as the Benicia Business Park. The need for citywide traffic improvements is linked with the traffic growth generated by these developments. Future land uses were refined through discussions with City staff, and are presented in Table 6.

TABLE 6:2014 TIF UPDATE BUILDOUT GROWTH PROJECTIONS

Vacant/Underutilized Land	Acres	Residential Density or Floor Area Ratio[1]	Units or KSF (1,000 S.F.)	ITE Category	PM Trip Rate per Unit	Trips
Single Family Residential	19.5	6,000	142	ITE 210 - Single Family Detached Housing	1	142
Medium Density Residential	0.5	3,000	8	ITE 210 - Single Family Detached Housing	1	8
Office Commercial	9	0.5	197	ITE 710 - General Office Building	1.49	294
General Commercial	44.5	0.5	970	ITE 820 - Shopping Center[2]	3.71	1,799
Town Core	2	0.5	44	ITE 820 - Shopping Center[2]	3.71	82
Town Core - Open	0.5	0.5	11	ITE 820 - Shopping Center[2]	3.71	20
Industrial	73.5	0.7	2,242	ITE 110 - General Light Industrial	0.97	2,175
Industrial (Partial Development)[3]	430	0.1	1,874	ITE 110 - General Light Industrial	0.97	1,818
Industrial (Infill)[3]	60	0.2	523	ITE 110 - General Light Industrial	0.97	507
West Coast Builders (Seeno)[4]	493	Obtained from Benicia Business Park EIR				5,949
Assumed Residential Infill	N/A	N/A	100	ITE 210 - Single Family Detached Housing	1	100
					Total New Trip Ends	**12,894**

Notes:
1) Except as noted, the densities selected reflect the coverage factors included in the City's General Plan and Zoning Code.
2) The gross retail trip calculation was reduced by 50% to account for a typical retail "pass-by" trip factor.
3) Currently underutilized and/or "buffer" industrial lands are projected to have limited development potential.
4) The gross trip calculation in the EIR was adjusted to account for a typical 50% retail "pass-by" trip factor being applied to the project's retail development component.

As presented in Table 6, 12,894 new PM peak hour trips are expected to be generated by vacant or underutilized lands at buildout of the City's General Plan. This is just under 7,000 fewer new PM peak hour trips than were estimated at building in the 2007 TIF Update.

BUILDOUT TRANSPORTATION NEEDS

In order to obtain a comprehensive understanding of the existing transportation system, land development and other background information pertaining to existing and future growth and travel within and through the City, available transportation and land-use information was collected within the City. The data collection efforts included the following:

- The adopted City General Plan documents and other recent traffic/circulation studies completed for the City of Benicia were reviewed.

- A field survey and evaluation of existing travel, traffic and circulation conditions was completed by Omni-Means staff.

- Traffic count data and existing capacity configurations were also collected at critical intersections throughout the City. Readily available traffic count data were also reviewed from various sources including Caltrans published traffic count data and miscellaneous traffic count data that City staff were able to provide.

- Digital mapping/drawing files, Geographic Information systems (GIS) based land-use data files, aerial photographs and other types of digital and hard-copy data that were readily available from the City were also obtained and reviewed as part of the data collection efforts.

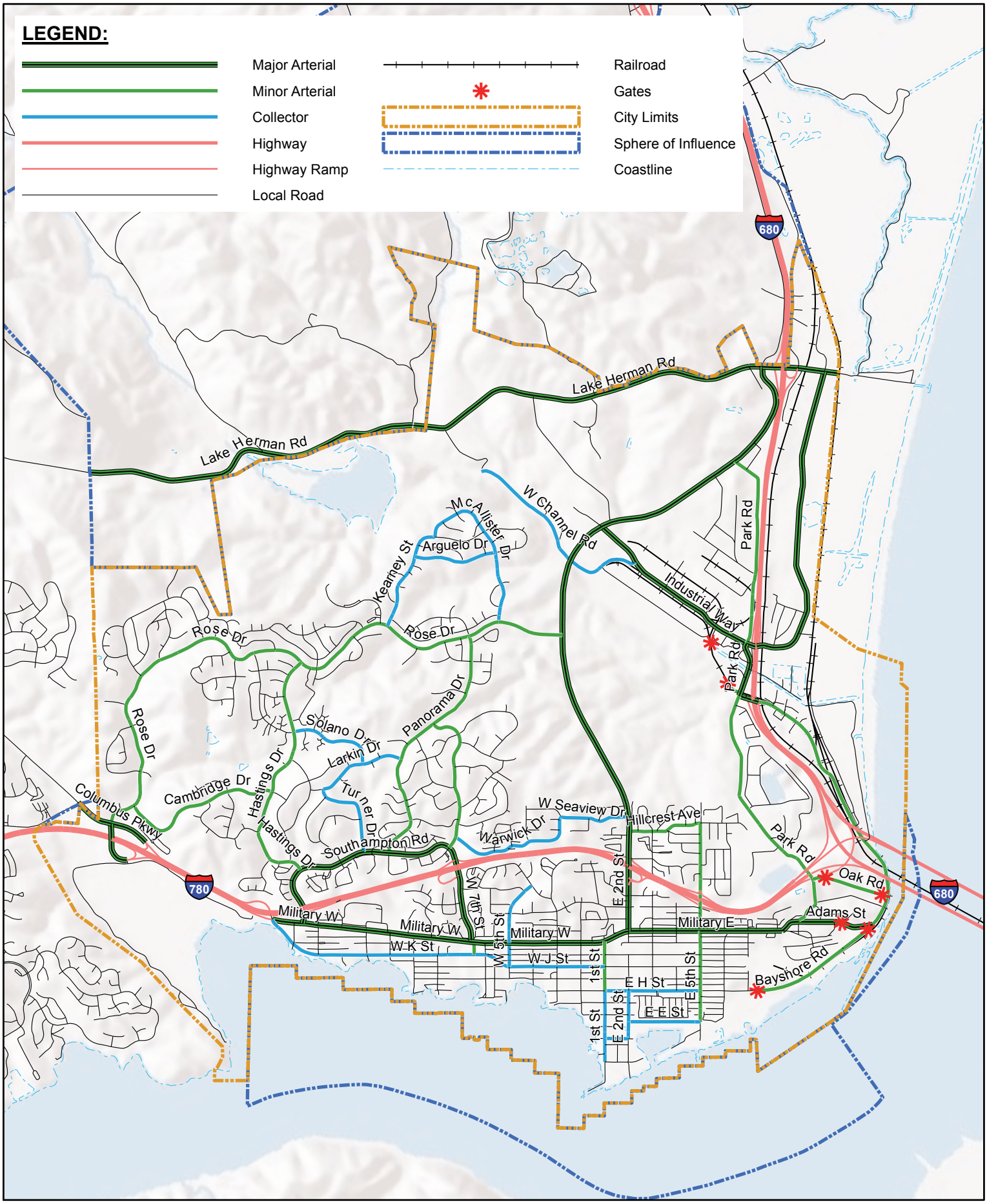
- City of Benicia Housing Element 2007-14 Appendix E: Sites Inventory and Analysis.

Figure 1 illustrates the City of Benicia's General Plan Street Classification, as well as the City Limits and boundary.

Data Collection

New traffic counts were collected at critical study locations throughout the City of Benicia in January of 2014. The new traffic counts were collected at all previously identified intersection improvement locations identified in the 2007 TIF Update (Table 3) in order to quantify any changes in baseline conditions between the time of that study's preparation and current conditions. Figure 2 presents a map of the City's circulation system with numbered intersections denoting traffic data collection points.

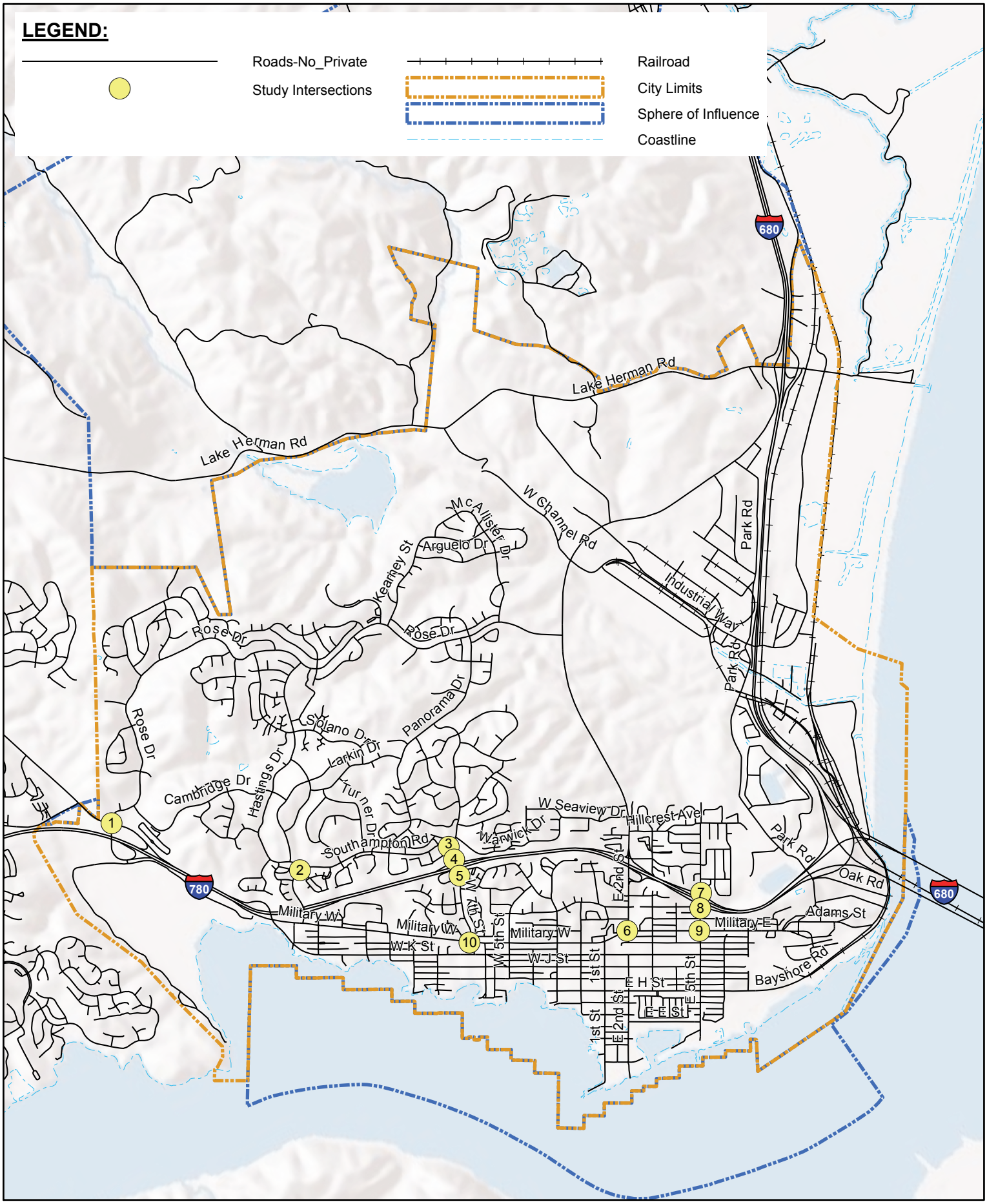
Figure 3 presents existing intersection lane geometrics at all study intersections and Figure 4 presents existing intersection turning movements at all study intersections.



City of Benicia Traffic Impact Fee Update

Figure 1

General Plan Street Classifications



City of Benicia Traffic Impact Fee Update

Figure 2

VIII.C.24 tersection Locations

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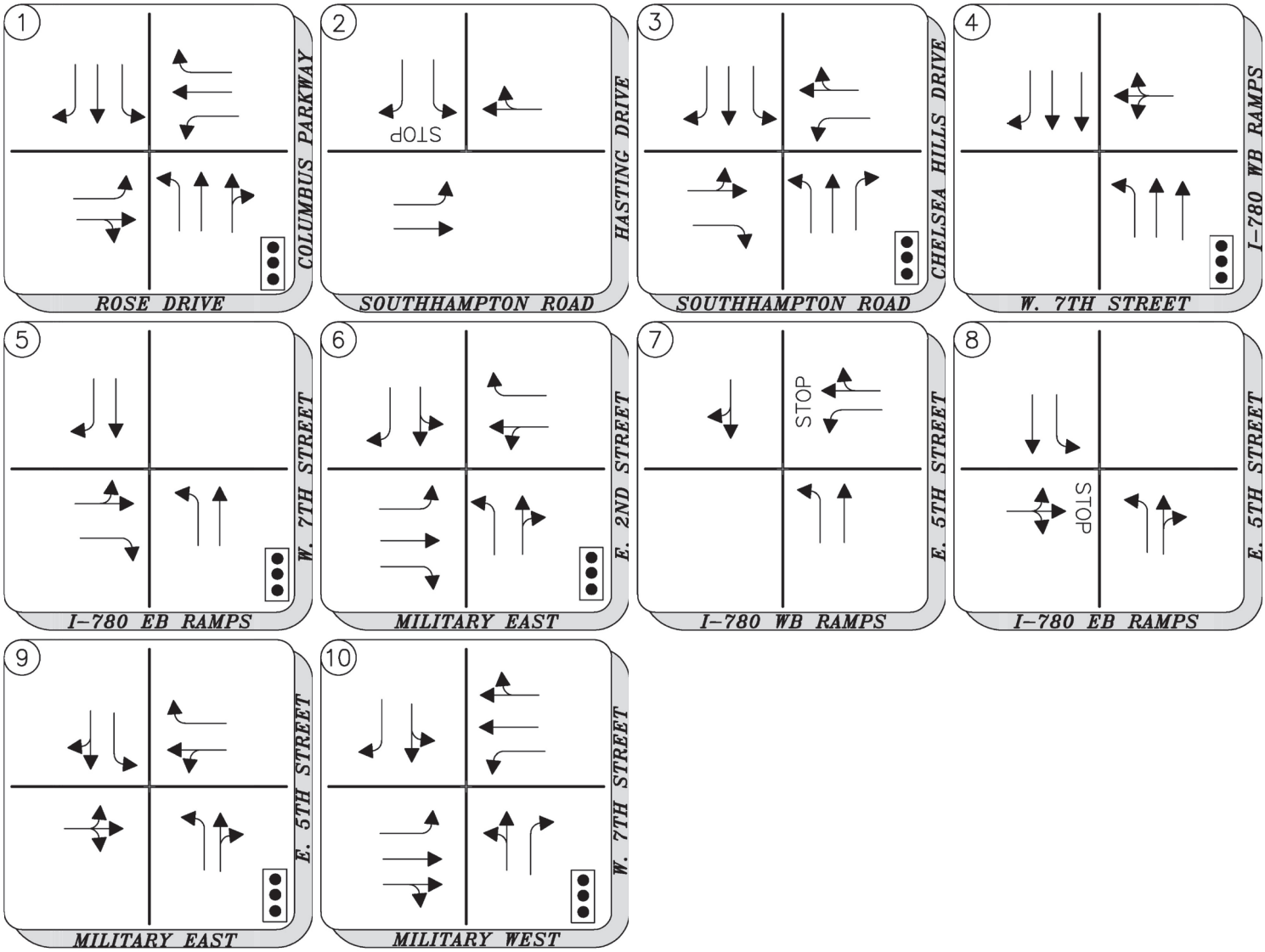
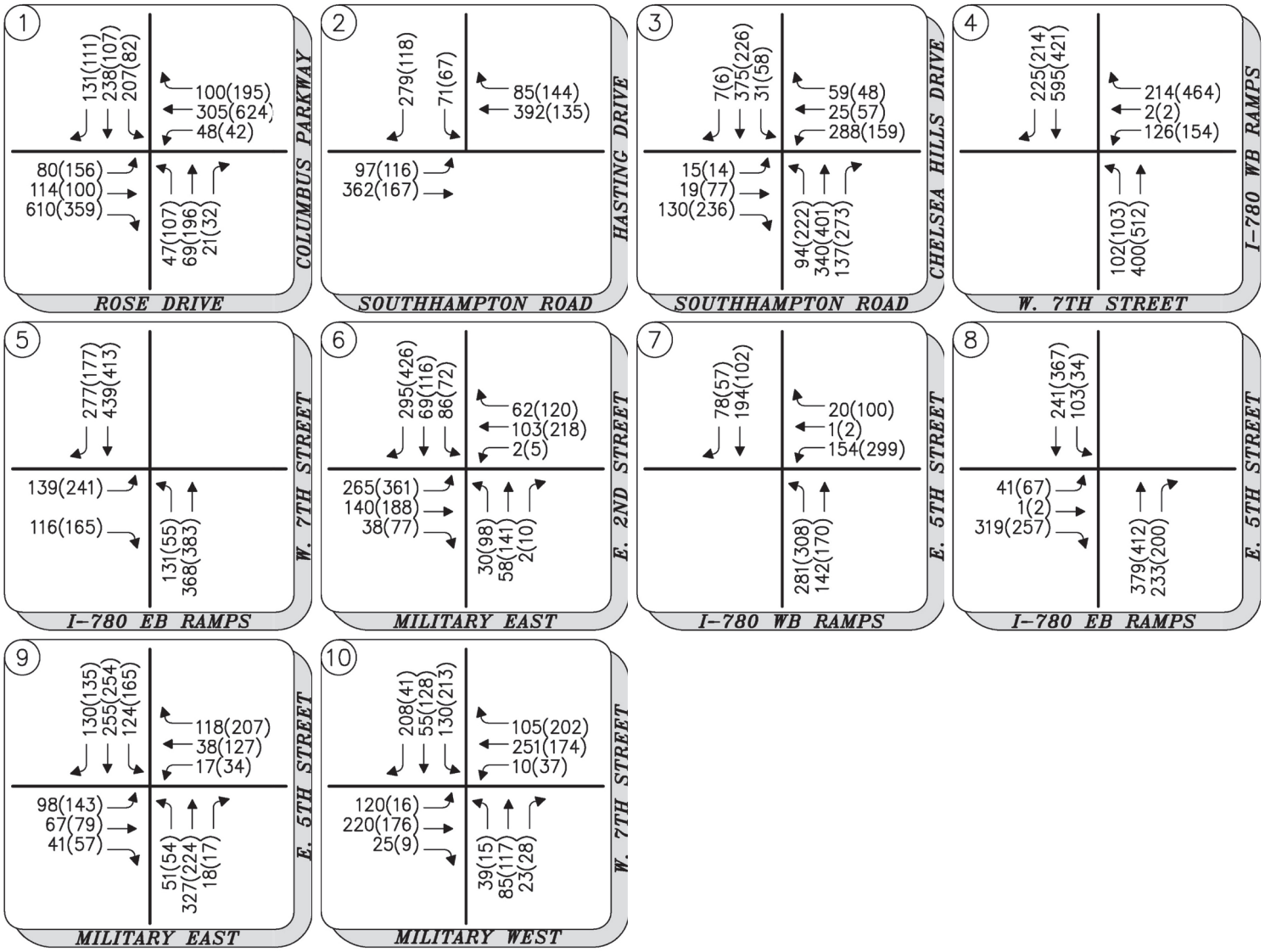


City of Benicia Traffic Impact Fee Update

Figure 3

Existing Lane Geometrics & Control



City of Benicia Traffic Impact Fee Update

Figure 4

VIII.C.26 Peak Hour Volume

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EXISTING TRAFFIC CONDITIONS

Existing traffic conditions were simulated using the existing intersection lane geometrics (Figure 3) and existing traffic volumes (Figure 4) collected in January 2014. Consistent with City standards, Circular 212 methodologies were implemented using the Traffix software to analyze traffic operations at signalized intersections. Unsignalized intersections were analyzed using HCM-2000 methodologies, also implemented using the Traffix software. Table 7 presents the existing intersection LOS results.

TABLE 7:
EXISTING INTERSECTION TRAFFIC OPERATIONS

#	Intersection	Control Type[1,2]	Target LOS	AM Peak Hour			PM Peak Hour		
				Delay	LOS	Warrant Met?[3]	Delay	LOS	Warrant Met?[3]
1	Columbus Parkway/Rose Dr.	Signal	D	0.79	C	-	0.63	B	-
2	Southhampton Road/Hastings Dr.	TWSC	D	20.3	C	-	12.0	B	-
3	Southhampton Road/Chelsea Hills Rd	Signal	D	0.73	C	-	0.66	B	-
4	W. Seventh St/I-780 WB Ramps	Signal	D	0.55	A	-	0.71	B	-
5	W. Seventh St/I-780 EB Ramps	Signal	D	0.55	A	-	0.54	A	-
6	E. Second St/Military East	Signal	D	0.60	A	-	0.86	D	-
7	**E. Fifth St/I-780 WB Ramps**	**TWSC**	**D**	**99.2**	**F**	**No**	**220.6**	**F**	**Yes**
8	**E. Fifth St/I-780 EB Ramps**	**TWSC**	**D**	**41.5**	**E**	**Yes**	**41.1**	**E**	**Yes**
9	E. Fifth St/Military East	Signal	D	0.63	B	-	0.61	A	-
10	W. Seventh St/Military West	Signal	D	0.58	A	-	0.53	A	-

Notes:
Signal Level-of-Service using Circular 212 Method and Stop-Control using HCM 2000
1. TWSC = Two Way Stop Control
2. LOS = Delay based on worst minor street approach for TWSC intersections
3. Warrant = Based on California MUTCD Warrant 3

As presented in Table 7, the East Fifth Street intersections with the I-780 ramp terminals are operating at unacceptable LOS during both the AM and PM peak hours. These intersections are included in the existing traffic impact fee program.

CUMULATIVE (BUILDOUT) TRAFFIC OPERATIONS

In order to develop cumulative (buildout) traffic volumes, Omni-Means reviewed methodologies used in recent traffic studies, in addition to growth forecasts from the Solano Transportation Authority (STA) Travel Demand Model, and historical growth rates, as calculated from available Caltrans traffic data in addition to observed changes based on traffic counts collected in 1993 and in 2014. The following is a summary of the findings of this review:

- Based on a review of traffic counts collected in 1993 and in 2014, at all study intersections, no observable growth rate could be calculated. On average, traffic in fact decreased at an annual rate of -0.27%. The only growth in total intersection volume observed between these two years occurred at the intersections of Columbus Parkway / Rose Drive and E. Second Street / Military East, which increased at annual rates of 0.36% and 0.15% respectively.

- Based on a review of Caltrans AADT data from 1993 to 2012 (latest available year), area traffic on State Routes 680 and 780 grew on average at an annual growth rate of 0.82%. I-680 grew most, at an annual growth rate of 1.26%, followed by I-780 at E. 2nd Street (0.98% annual) and I-780 at Columbus Parkway (0.30% annual)

- Based on a review of the STA Travel Demand Model, between model years 2010 and 2030, area roadways are projected to grow by 3.43% annual during the AM peak hour and 3.02% annual during the PM peak hour. However, the model projects an array of growth in the area that varies

between negative to moderate growth depending on study area. The northeastern industrial area is expected to see the highest amount of growth, while growth in the downtown area (where the TIF study intersections are located) is expected to be negative to mild.

- Based on review of recent traffic studies performed in the area, the *Transportation Impact Analysis for the Benicia Bus Hub Project* (W-Trans, September 2013) used an annual growth rate of 1.6%. Similarly, the *Draft Transportation Impact Analysis Report Valero Benicia Refinery Crude by Rail Project* (Fehr & Peers, May 2013) used an annual growth rate of 1.5% at all study locations, citing a similar lack of growth in observed traffic volumes, noting that the STA model projections were too high, and noting the similar 1.6% growth rate used in the *Benicia Business Park FEIR*.

Having reviewed all available data sources, Omni-Means concurs with the conclusion that the STA model forecasts are overstated relative to the relatively small amount of land use development growth forecasted by the City. Many of the increases in traffic observed in the STA model appear to be due to cut through traffic, in which instances travelers on interregional facilities such as I-680 and I-780 are exiting the freeways, using City streets, and reentering the freeways further downstream. This is likely caused by saturated freeway conditions in the capacity-constrained model, which in turn diverts traffic to the less congested City streets where possible prior to returning to the freeways. However, this trip-diverting behavior created by the model is unrealistic and has not been confirmed in any other sources of local data.

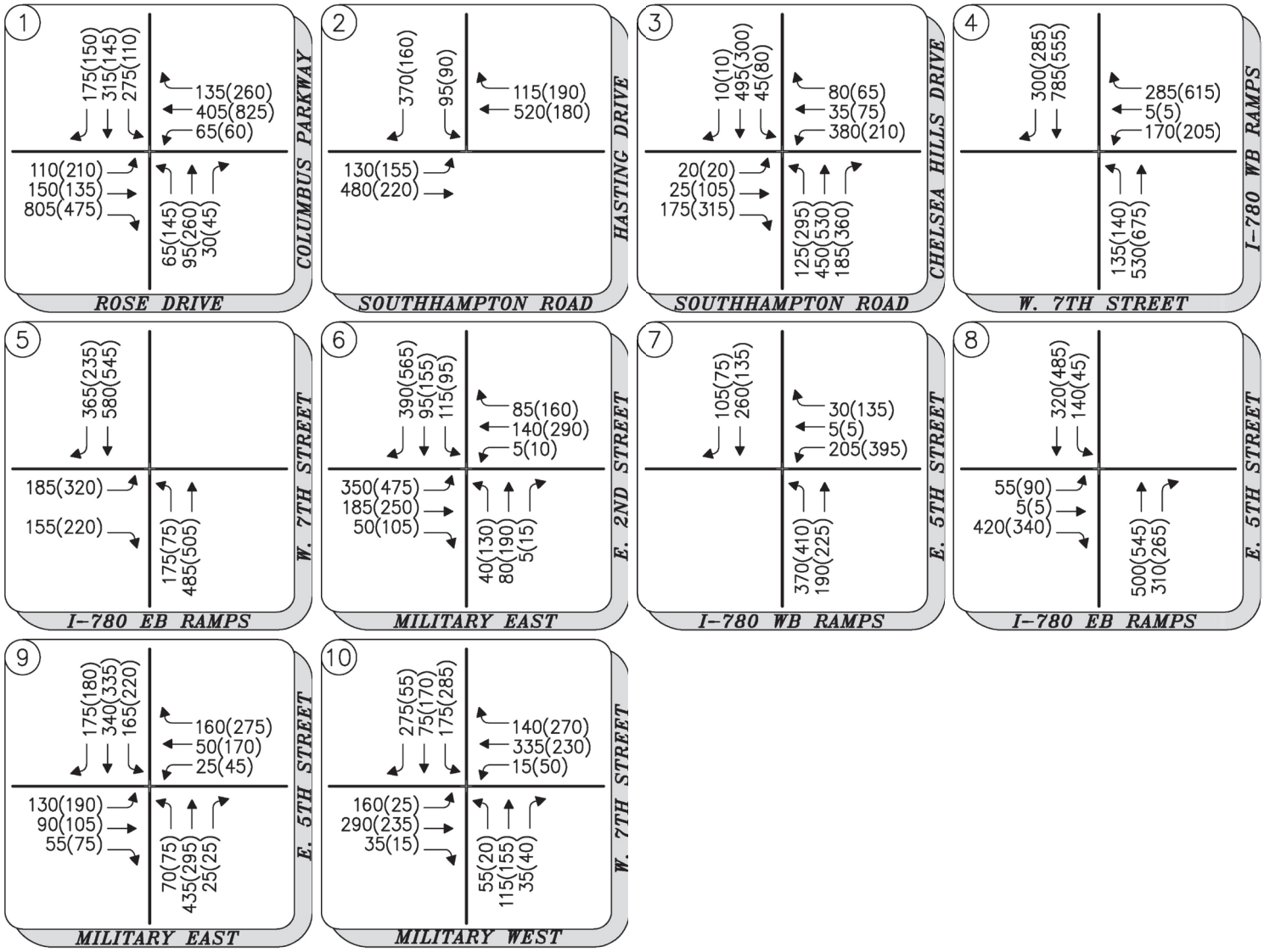
For the reasons described above, Omni-Means therefore assumed a 1.5% annual growth rate on all study intersections for the purposes of this study. Figure 5 presents the buildout (Year 2035) intersection traffic volumes. Buildout intersection traffic operations are presented in Table 8.

TABLE 8:
BUILDOUT INTERSECTION TRAFFIC OPERATIONS

#	Intersection	Control Type[1,2]	Target LOS	AM Peak Hour			PM Peak Hour		
				Delay	LOS	Warrant Met?[3]	Delay	LOS	Warrant Met?[3]
1	**Columbus Parkway/Rose Dr.**	**Signal**	**D**	**0.97**	**E**	**-**	0.84	D	-
2	**Southhampton Road/Hastings Dr.**	**TWSC**	**D**	**49.9**	**E**	**Yes**	15.0	B	**No**
3	**Southhampton Road/Chelsea Hills Rd**	**Signal**	**D**	**0.94**	**E**	**-**	0.88	D	-
4	**W. Seventh St/I-780 WB Ramps**	**Signal**	**D**	0.74	C	-	**0.95**	**E**	-
5	W. Seventh St/I-780 EB Ramps	Signal	D	0.72	C	-	0.72	C	-
6	**E. Second St/Military East**	**Signal**	**D**	0.74	C	-	**1.14**	**F**	-
7	**E. Fifth St/I-780 WB Ramps**	**TWSC**	**D**	**392.5**	**F**	**Yes**	**825.6**	**F**	**Yes**
8	**E. Fifth St/I-780 EB Ramps**	**TWSC**	**D**	**114.6**	**F**	**Yes**	**199.8**	**F**	**Yes**
9	E. Fifth St/Military East	Signal	D	0.67	B	-	0.76	C	-
10	W. Seventh St/Military West	Signal	D	0.64	B	-	0.71	B	-

Notes:
Signal Level-of-Service using Circular 212 Method and Stop-Control using HCM 2000
1. TWSC = Two Way Stop Control
2. LOS = Delay based on worst minor street approach for TWSC intersections
3. Warrant = Based on California MUTCD Warrant 3

As presented in Table 8, seven (7) intersections are projected to operate at unacceptable LOS under buildout conditions during the AM and/or PM peak hour. The intersections of Columbus Parkway / Rose Drive, Southhampton Road / Hastings Road, and Southhampton Road / Chelsea Hills Road are all projected to operate at LOS E during the AM peak hour. The intersections of W. Seventh Street / I-780 WB Ramps and E. Second Street / Military East are projected to operate at LOS E and F during the PM peak hours respectively. Lastly, the intersections of E. Fifth Street and I-780 WB Ramps and EB Ramps are both projected to operate at LOS F during both peak hour conditions.



City of Benicia Traffic Impact Fee Update

Figure 5

Buildout Peak Hour Volume

INTERSECTION IMPROVEMENTS IDENTIFICATION

As part of this task to update the 2007 TIF, Omni-Means was charged with re-evaluating the necessity for many of the previously included improvements. As noted in Table 8, all of the study intersections are not projected to fail, and therefore intersection improvements are not required at all locations. Table 9 presents cumulative (buildout) intersection traffic operations following the construction of the following proposed improvements:

Columbus Parkway / Rose Drive

Modify traffic signal to allow eastbound right turns to overlap with northbound left turns and to accommodate revised geometrics for westbound Columbus Drive (see related roadway improvement). This improvement will not yield LOS D conditions or better, but will significantly enhance operations at the intersection. Based on field observations and discussions with the City, it has been determined that the extent of existing development on parcels adjacent to the intersection will make further widening economically infeasible. In order to achieve acceptable LOS, a second eastbound right turn lane would be required, which would necessitate widening of the bridge over I-780 in order to provide a corresponding receiving lane.

Southhampton Road / Hastings Drive

Signalize intersection. This intersection meets traffic signal warrants during the AM peak hour and will operate acceptably following signalization.

Southhampton Road / Chelsea Hills Drive

No improvements are proposed at this intersection, despite the projected LOS E operations during the AM peak hour. Based on field observations and discussions with the City, it has been determined that the extent of existing development on parcels adjacent to the intersection will make further widening undesirable. In order to achieve acceptable LOS, additional northbound and southbound through lanes would be required, which would necessitate widening Southhampton Road north of and south of the intersection in order to provide corresponding receiving lanes.

W. Seventh Street / I-780 WB Ramps

Construct a westbound left turn pocket. The westbound (I-780 off-ramp) approach of the intersection currently has a single lane. A dedicated westbound left turn pocket will provide acceptable LOS operations under cumulative conditions.

E. Second Street / Military East

Restripe intersection to include a dedicated westbound left turn pocket and modify traffic signal to include protected eastbound and westbound left turn movements as well as a southbound right turn overlap phase. With these improvements, the intersection operations will improve from LOS F to LOS E during the PM peak hour. Based on field observations and discussions with the City, it has been determined that the extent of existing development on parcels adjacent to the intersection will make further widening economically infeasible. In order to achieve acceptable LOS, an additional southbound right turn lane, or a “free” southbound right turn lane, would be required.

E. Fifth Street / I-780 WB Ramps

Signalize intersection and widen westbound approach to accommodate a dedicated left turn pocket. Construct this improvement in conjunction with signalization and improvement of the E. Fifth Street/ I-780 EB Ramps intersection. This improvement will provide acceptable LOS operations under cumulative conditions.

E. Fifth Street / I-780 EB Ramps

Signalize intersection and widen northbound approach to accommodate a dedicated right turn pocket. Construct this improvement in conjunction with signalization and improvement of the E. Fifth Street/ I-780 WB Ramps intersection. This improvement will provide acceptable LOS operations under cumulative conditions.

W. Seventh Street / Military West[3]

Construct a modern roundabout at this location. This improvement will combine the closely-spaced West 7th Street and Military West intersection with the adjacent West 7th Street and Carolina Drive/Buena Vista intersection.

TABLE 9:
IMPROVED CUMULATIVE INTERSECTION TRAFFIC OPERATIONS

#	Intersection	Control Type[1,2]	Target LOS	AM Peak Hour			PM Peak Hour		
				Delay	LOS	Warrant Met?[3]	Delay	LOS	Warrant Met?[3]
1	**Columbus Parkway/Rose Dr.**	**Signal**	**D**	**0.95**	**E**	-	0.87	D	-
2	Southhampton Road/Hastings Dr.	Signal	D	0.87	D	-	0.50	A	-
3	**Southhampton/Chelsea Hill Rd**	**Signal**	**D**	**0.93**	**E**	-	0.88	D	-
4	W. Seventh St/I-780 WB Ramps	Signal	D	0.61	A	-	0.79	C	-
5	W. Seventh St/I-780 EB Ramps	Signal	D	0.72	C	-	0.72	C	-
6	**E. Second St/Military East**	**Signal**	**D**	0.62	B	-	**0.93**	**E**	-
7	E. Fifth St/I-780 WB Ramps	Signal	D	0.72	C	-	0.77	C	-
8	E. Fifth St/I-780 EB Ramps	Signal	D	0.85	D	-	0.78	C	-
9	E. Fifth St/Military East	Signal	D	0.67	B	-	0.76	C	-
10	W. Seventh St/Military West	RNDBT	D	ROUNDABOUT DESIGN TO BE DETERMINED					

Notes:
Signal Level-of-Service using Circular 212 Method and Stop-Control using HCM 2000
1. TWSC = Two Way Stop Control
2. LOS = Delay based on worst minor street approach for TWSC intersections
3. Warrant = Based on California MUTCD Warrant 3

ROADWAY IMPROVEMENTS IDENTIFICATION

Roadway improvements have been identified based on feasibility observations made in the field and in consultation with the City. These improvements have been identified as necessary to support further development in the City and are all included in the existing fee program. New cost estimates have been developed in order to reflect current unit cost information.

New Roadway (Bayshore Road to Industrial Way)

Improve connectivity between the I-680 ramps at Bayshore Road and Industrial Way by constructing a new one-way connector between the I-680 northbound off-ramp at Bayshore Road and the I-680 northbound on-ramp at Industrial Way. Restripe, improve, and signalize the four (4) I-680 ramp terminal intersections, and the intersections of Park Road / Industrial Way and Park Road / Bayshore Road. Two (2) of the six (6) intersection signalization and improvement projects will not be included in the fee program as they are the responsibility of the Benicia Business Park (Park Road / Industrial Way and Park Road / Bayshore Road).

[3] Intersection LOS analysis performed in *Traffix* software using Circular 212 methodology did not identify a future LOS deficiency at this intersection. However, the design of the intersection, including the presence of a very closely spaced intersection immediately adjacent, will create a safety deficiency with the addition of traffic generated by future development.

Note: This project should be constructed in conjunction with or with thought given to the proposed improvements to Park Road and Industrial Way, also included in the fee program, to ensure consistency between these plans and the proposed alignments and configurations proposed in those improvements.

Park Road (Sulphur Springs Creek to Industrial Way)
Realign and reconstruct this segment of Park Road, maintaining the three-lane cross section, in conjunction with the New Roadway (Bayshore Road to Industrial Way) and Industrial Way (East 2nd Street to I-680 northbound on-ramp) improvement projects. This improvement will be partially funded by the Benicia Industrial Bus Hub project.

New Roadway (E. Second Street to Park Road)
Construct a new two-lane east-west arterial street between E. Second Street and Park Road

Park Road (Oak Road to New Roadway)
Widen Park Road (retain two-lane width) between Oak Road and the new east-west connector street to include 4' bike lanes (except under bridge section where widening is infeasible).

Industrial Way (E. Second Street to I-680 NB On-Ramp)
Widen Industrial Way to a three-lane cross section, providing left turn access where necessary at major driveways along this roadway segment.

Military West (W. Third Street to W. Fourth Street)
Restripe existing shoulder and stripe a two-way left turn lane from W. Third Street to about 450 west of W. Third Street for improved access to adjacent development.

Columbus Parkway (Rose Drive to I-780 WB Off-Ramp)
Widen Columbus Parkway at Rose Drive to accommodate a second westbound through lane. Extend culvert at creek to accommodate widening and relocate electrical vaults.

BENICIA INDUSTRIAL PARK BUS HUB PROJECT
The proposed Benicia Industrial Bus Hub project would realign Park Road at the intersection of Bayshore Road and install new bus pullouts, sidewalks, and shelters. The project would include the construction of 46 paved parking stalls, drop-off and pick-up area, lighting landscaping, and other amenities on the adjacent one (1) acre parcel at the southeast corner of the Park Road / Industrial Way intersection. The City's TIF will include a local share contribution towards the cost of this project.

FREEWAY IMPROVEMENTS
It has been assumed that major construction of freeway interchanges will be accomplished through independent efforts coordinated between the City, Solano Transportation Authority and Caltrans. Freeway interchange problems reflect current design deficiencies, and it would be inappropriate for future development to pay for "corrections" in these designs. Thus, the improvement of interchanges should be the responsibility of Caltrans. It is recognized however that due to funding limitations, Caltrans reconstruction of the interchanges could be delayed for many years. With the likely delays, it would be appropriate for the City fee to address particular operational needs at specific interchanges. Therefore, certain intersection modifications and signalization have been recommended at the freeway ramp locations listed above.

BENICIA BUSINESS PARK IMPROVEMENTS

In addition to citywide improvements included in the TIF program, a number of improvement projects have been identified as being directly related to the Benicia Business Park development in the EIR prepared for the project.[4] These improvement projects are not included in the Citywide TIF update and are as follows:

Roadway Improvements

- Widen Industrial Way to four lanes between East 2nd Street and the Business Park access;
- Construct a new two-lane Industrial Way connection between the Business Park access and Lake Herman Road (Reservoir Road would be abandoned);
- Widen East 2nd Street to four lanes (with a median) between Industrial Way and Lake Herman Road;
- Widen Lake Herman Road to four lanes between Benicia Business Park access (A Boulevard) to I-680.

Intersection Improvements

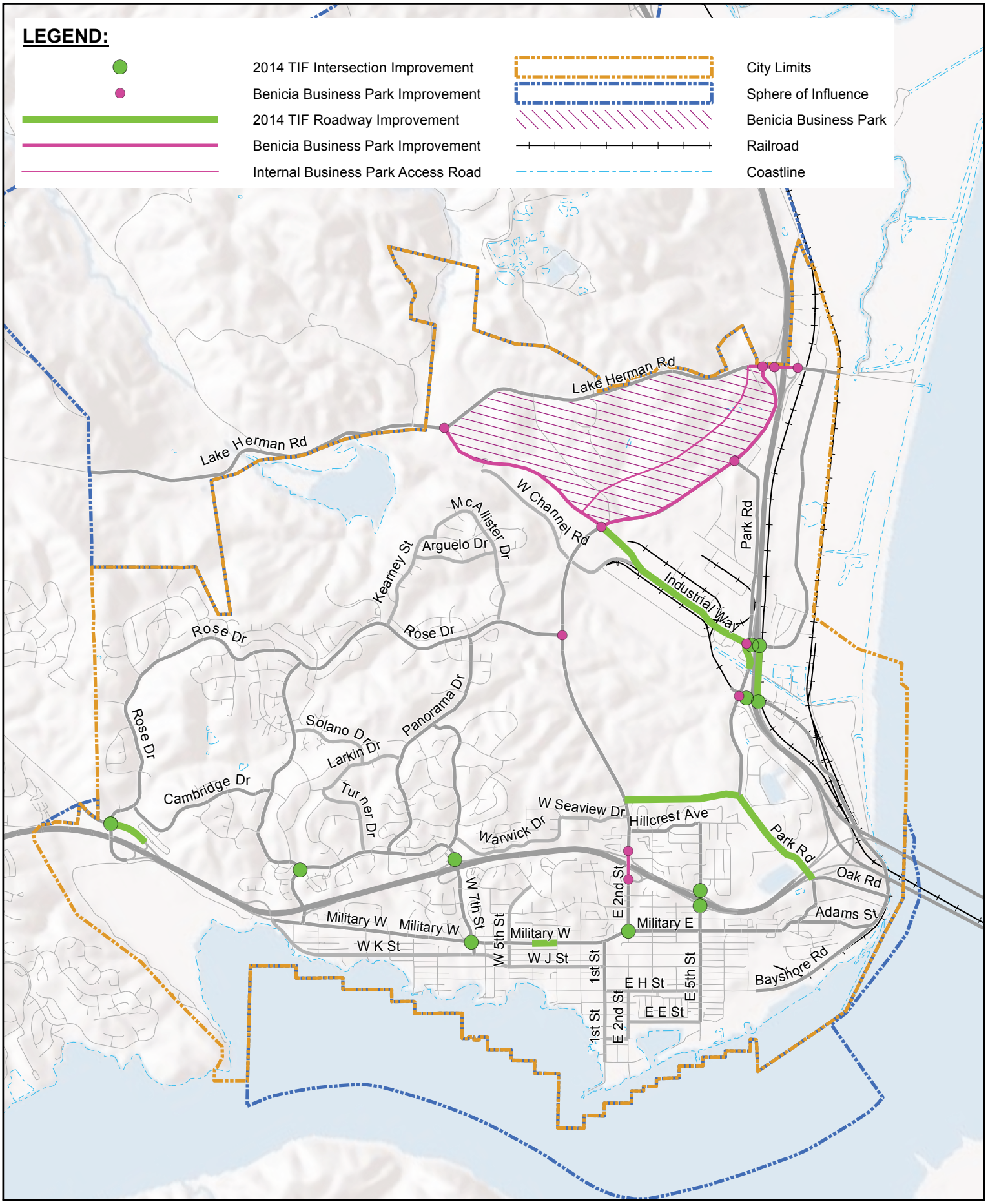
-East 2nd/Park Road/BBP Access:	▪ install signal and widen/restripe all approaches;
-East 2nd/Industrial Way:	▪ widen/restripe southbound, eastbound and westbound approaches;
-East 2nd/Rose Drive:	▪ widen/restripe southbound, northbound and eastbound approaches;
-East 2nd/I-780 WB Ramps:	▪ widen/restripe northbound and southbound approaches;
-East 2nd/I-780 EB Ramps:	▪ widen/restripe westbound approach;
-Lake Herman Road/Industrial Way:	▪ install signal;
-Lake Herman Road/East 2nd:	▪ install signal and widen/restripe northbound, eastbound, and westbound approaches;
-Lake Herman Road/I-680 SB Ramps:	▪ install signal and widen/restripe westbound approach;
-Lake Herman Road/I-680 NB Ramps:	▪ install signal and widen/restripe northbound, eastbound, and westbound approaches;
-Park Road/Bayshore Road:	▪ widen/restripe westbound and southbound approaches;
-Park Road/Industrial Way:	▪ install signal.

These improvements will be the responsibility of the Benicia Business Park development and are not included in the TIF program.

CITYWIDE TIF IMPROVEMENT SUMMARY

Figure 6 presents a map of all the proposed citywide TIF improvements, including intersection improvement locations and roadway improvement and new roadway construction locations as described in the previous sections. Figure 6 also presents the Benicia Business Park improvements that are not included in the citywide TIF program.

[4] LSA Associates, Benicia Business Park FEIR, Transportation and Circulation, page 220, January 2007.



City of Benicia Traffic Impact Fee Update

Figure 6

VIII.C.34 Improvement Locations

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ENGINEERS · PLANNERS

TRAFFIC IMPACT FEE IMPROVEMENT COST ESTIMATES

In preparing the preliminary cost estimates for all of the proposed TIF projects, a unit cost sheet was prepared. The unit cost sheet provides an average unit cost per item based on reliable sources and previous recent projects that will give the most accurate total cost for each estimate. The main source used for the creation of the unit cost sheet is the latest version of the Contract Cost Data provided by The State of California Department of Transportation, Caltrans. In addition, recent roadway project bid summary results were also used to determine the unit costs.

Table 10 presents a summary of the cost estimates for the identified intersection and roadway TIF improvements. Detailed unit cost spreadsheets and cost estimate worksheets are provided in the Appendix.

TABLE 10:
2014 TIF IMPROVEMENT COST ESTIMATES

Facility Name	From	To	Intersection	Estimated Total Construction Cost
Roadway Projects				
New Roadway[1]	Bayshore Road	Industrial Way		**$16,347,474**
Park Road[1]	Sulphur Springs Creek	Industrial Way		
New Roadway	East 2nd Street	Park Road		**$3,570,000**
Park Road	Oak Drive	New Roadway		**$280,000**
Industrial Way	East 2nd Street	I-680 NB Off-Ramp		**$1,100,000**
Military West	West 2nd Street	West 5th Street		**$20,870**
Columbus Parkway	Rose Drive	I-780 WB Off-Ramp		**$706,550**
Columbus Parkway[2]	Rose Drive	City Limits		**$150,000**
Intersection Projects				
Rose Drive			Columbus Parkway	**$316,250**
Hastings Drive			Southampton Roadd	**$490,500**
West 7th Street			I-780 Westbound Ramps	**$198,600**
East 2nd Street			Military East	**$154,800**
East 5th Street			I-780 Westbound Ramps	**$683,200**
East 5th Street			I-780 Eastbound Ramps	**$731,340**
West 7th Street			Military West	**$2,800,000**
Other Projects				
Benicia Industrial Park Bus Hub Local Contribution				**$100,000**
Citywide Traffic Calming Plan & Physical Improvements				**$1,000,000**
General Plan Circulation Element Update				**$200,000**
Administration and Update of Fee Program				**$200,000**
			Total Cost of TIF Improvements:	**$29,049,584**

Notes:
1) These projects are combined as a single cost estimate and assume $2,900,000 RTIF contribution per City direction. Cost estimate includes funding for the signalization of four (4) I-680 ramp terminal intersections.
2) Assumes balance funded by adjacent development, per City direction.

As presented in Table 10, a total of just under $30 million in improvements has been identified in this TIF update.

TRAFFIC IMPACT FEE UPDATE CALCULATION METHODOLOGY

Following is a detailed discussion of these nexus findings relative to the updated City of Benicia traffic impact fees.

IDENTIFY THE PURPOSE OF THE FEE

The purpose of the traffic fee is to fund improvements to the City's traffic circulation system.

IDENTIFY THE USE OF THE FEE

Fee revenue will be used to fund the expansion of existing traffic facilities and to construct new facilities that are required to provide and maintain adequate multi-modal traffic circulation within the City. The transportation facilities that will be required are identified in the City's Capital Improvement Program, which is presented in this report.

REASONABLE RELATIONSHIP BETWEEN FEE'S USE AND THE TYPE OF DEVELOPMENT

Development of remaining vacant land in the City, which is zoned for residential and nonresidential land uses, will place increasing demand on the City's transportation system and create a need to expand the capacity of the City's circulation system. Traffic fees imposed on new residential and nonresidential land uses will be used to fund the expansion and improvement of the City's circulation system and thereby meet the increased demand placed by these development types. Residents and employees utilize the City's circulation system at different rates depending on the land use type. These rates are quantified in the Institute of Transportation Engineers Trip Generation manual through the assignment of trips generated by different land use types.

REASONABLE RELATIONSHIP BETWEEN THE NEED FOR THE FACILITY AND THE TYPE OF DEVELOPMENT

Development within the City will create new residents and employees who will use the City's transportation system. The additional demand placed on the existing facilities from new residents and employees will require the City to expand and upgrade existing facilities as well as construct new facilities to handle the increased demand. Traffic fee revenue from new development will be used to fund a portion of the construction costs associated with these facilities.

REASONABLE RELATIONSHIP BETWEEN THE AMOUNT OF THE FEE AND THE COST OF THE PUBLIC FACILITY OR PORTION ATTRIBUTABLE TO THE DEVELOPMENT

As stated in Section I, various findings must be made to ensure that there is a reasonable relationship or a rough proportionality between the amount of the fee and the cost of the public facility or portion attributable to new development. Although the U.S. Supreme Court specifically stated, "no precise mathematical calculation is required...," an analysis should be presented in enough detail to demonstrate that logical, thorough consideration was applied in the process of determining the fee levied on new development. The relationship between the amount of the fee and the portion of the facility and cost attributable to the development type is based on the average daily trip rates assigned to each specific land use category, as shown in the ITE Trip Generation manual. The amount of average daily trips generated by each land use type, as assigned by the ITE, establishes the usage or demand for traffic facilities and can therefore be used to quantify a proportionate traffic fee.

There are several generally accepted methodologies used to determine fees for new development. The choice of methodology used depends on the type of facility for which a fee is being calculated. Some approaches, for example, look at existing standards and apply these standards on an incremental basis to new development. This approach is commonly used to determine the need for additional parks or government buildings. For transportation facilities, however, the most common approach used to calculate fees is the plan-based methodology. The following section provides a brief discussion of this methodology.

PLAN-BASED METHODOLOGY

The plan-based methodology is used for facilities that must be designed based on future demand projections and the geographic location of anticipated growth. The need for road improvements depends on the projected number of trips that must be accommodated from development occurring in a growth area, in this case the City Limits. The need for roadways and other transportation facilities does not increase proportionately for each residential unit or non-residential acre developed in an area. Existing facilities, geographic constraints, and current levels of service must be considered to identify future facility needs. Therefore, to develop a facilities plan for transportation improvements, a projection of the amount and location of future development is required. Steps to calculate the traffic fee under the plan-based methodology are as follows:

Step 1	Identify the area of benefit and the land uses within the area of benefit based on a timeline or projection of development
Step 2	Determine the transportation facilities and improvements to existing facilities needed to adequately meet the demand placed on the transportation system from land uses within the area of benefit
Step 3	Estimate the gross cost of facilities needed to serve projected growth; the costs of facilities needed to correct existing deficiencies in the transportation system cannot be included in the total cost
Step 4	Subtract revenues available from existing fee funds or alternative funding sources - this step will determine the total net facilities cost to be funded through traffic fee revenue
Step 5	Assign average daily trip rates generated by each land use category; the trip rates will be used to allocate the total net facilities cost
Step 6	Determine the total projected trips that will be generated by future development in the area of benefit by multiplying the expected future development by the respective average daily trip rates
Step 7	Distribute the total net facilities cost to each land use type based on the distribution of total trips generated by future development
Step 8	Divide the total costs distributed to each land use category by the expected number of units in that category at build out to determine the fee per unit for each land use category
Step 9	Subtract credits, if any, for TIF facilities already funded, to arrive at a net impact fee

The traffic fees calculated in this 2014 TCIP Update will fund a portion of the costs associated with the planned transportation facilities. Other funding sources include revenue required to be paid or dedicated by property owners or grants from state and federal sources.

AREA OF BENEFIT

The selected Area of Benefit for the 2014 TIF Update is based on future development within the City of Benicia (Figure 1). The selection for one Area of Benefit was based on a "system approach" that all transportation facilities are necessary to provide the required system capacity. New development will be required to pay for and share this benefit. The Citywide 2014 TIF identifies all required transportation facilities in the City that are needed to provide logical local and regional connectivity to complete the Citywide circulation system. The costs of all transportation facilities within the City of Benicia were used to calculate the City TIF.

2014 TRAFFIC IMPACT FEES

The total cost of transportation improvements included in the TIF, to support buildout of the City's General Plan, is just over $30 million. This amount does not include improvements to be funded by new development, including the BBP project, or contributions from the Solano County Regional Traffic Impact Fee.

As with the 2007 TIF update fee calculation presented in Table 4, fee costs per land use designation are based on a cost per PM peak hour trip. In 2007, the cost per PM peak hour trip was calculated to be $1,858. This cost is determined by dividing the total cost of the fee program, minus the balance of currently collected fees in the City's TIF fund, by the amount new PM peak hour trips estimated to be generated by buildout of remaining land uses.

Table 11 presents the calculation of the cost per PM peak hour that will be used to determine the impact fee per unit for individual land uses.

TABLE 11:
COST PER PM PEAK HOUR TRIP CALCULATION

Description	Amount
Total TCIP Improvement Costs	$29,049,584
Existing TIF Account Balance	*$ 1,029,000*
Amount to be collected by new TIF	$ 28,020,584
Buildout PM Peak Hour Trips Generated	12,894
Cost per PM Peak Hour Trip	**$ 2,173**

As presented in Table 11, based on total cost of citywide improvements, minus the existing City TIF fund balance, divided by the total added PM peak hour trips upon buildout, the cost per new PM peak hour trip to fund the fee program has been calculated to be $2,17.3. Table 12 presents the calculation of resulting impact fees per individual land use.

TABLE 12:
TRIP RATES AND TRAFFIC FEES FOR VARIOUS LAND USES

Land Use[1]	Unit[2]	PM Peak Hour Trip Rate per Unit[3]	Commercial Use Trip Reduction[5]	Traffic Fee per Unit
RESIDENTIAL LAND USES				
Single Family	D.U.	1.00	-	$ 2,173
Low-Rise Townhouse/Condo	D.U.	0.78	-	$ 1,695
Apartment	D.U.	0.62	-	$ 1,347
Accessory Dwelling[4]	D.U.	0.31	-	$ 674
LODGING				
Hotel	Room	0.60	-	$ 1,304
COMMERCIAL[5]				
Shopping Center[6]	KSF	3.71	50%	$ 4,031
Supermarket	KSF	9.48	50%	$ 10,300
Convenience Store	KSF	34.57	50%	$ 37,560
Sit-Down Restaurant	KSF	7.49	50%	$ 8,138
High-Turnover Sit-Down Rest./Deli	KSF	9.85	50%	$ 10,702
Fast-Food Restaurant	KSF	32.65	50%	$ 35,474
Bank (with Drive-Through)	KSF	24.30	50%	$ 26,402
Drug Store/Pharmacy	KSF	9.91	50%	$ 10,767
Service Station/Mart	FSP	13.87	50%	$ 15,070
Quick-Lube Vehicle Shop	FSP	5.19	50%	$ 5,639
Hardware/Paint Store	KSF	4.84	50%	$ 5,259
Day Care Facility	STU	0.81	50%	$ 880
OFFICE				
General Office	KSF	1.49	-	$ 3,238
Medical Office	KSF	3.57	-	$ 7,758
INDUSTRIAL				
Light Industrial	KSF	0.97	-	$ 2,108
Warehousing	KSF	0.32	-	$ 695
Self-Storage Units	UNIT	0.02	-	$ 43

Notes:
1. This table represents a listing of most potential development in the City of Benicia. For any development proposal not on this list, the ITE Trip Generation Manual should be used to establish the development's PM peak hour trip generation and resulting TIF assessment.
2. D.U. = Dwelling Unit; KSF = 1,000 Square Feet; FSP = Fueling or Service Position; STU = Student.
3. Trip generation rates obtained from ITE Trip Generation Manual 9th Edition.
4. An accessory dwelling represents a small (less than 800 sq.ft.) apartment type unit accessory to a single family dwelling. It is assumed that this type of unit would generate traffic at one-half the standard apartment rate.
5. The calculated fee for the commercial uses reflects a 50% reduction to account for the fact that about one-half of commercial trips are either pass-by trips or trips to/from residential units.
6. The trip rate (and resulting TIF) reflect an average sized shopping center. For a specific development proposal, the ITE trip equation for shopping centers should be used.

FEE COMPARISONS

Average fees across the United States, across California, and current fees in nearby agencies have been reviewed for comparison purposes and are presented in Table 13. Average national and statewide fees were obtained from *National Impact Fee Survey: 2012* and *National Impact Fee Survey: 2008*, both prepared by Duncan Associates.

TABLE 13:
TRAFFIC FEE PROGRAM COMPARISONS

Jurisdiction	Single Family (1 DU)	Multi Family (1 DU)	Retail (1 KSF)	Office (1 KSF)	Industrial (1 KSF)
United States Average 2008	$ 3,077	$ 2,095	$ 5,237	$ 3,381	$ 2,067
United States Average 2012	$ 3,228	$ 2,202	$ 5,685	$ 3,430	$ 2,076
California Average 2008	$ 5,267	$ 3,538	$ 8,840	$ 6,244	$ 3,641
California Average 2012	$ 6,348	$ 4,236	$ 11,000	$ 7,030	$ 3,930
City of American Canyon	$ 3,954	$ 2,600	$ 3,510	$ 3,510	$ 2,020
City of Concord	$ 3,251	$ 2,624	$ 8,810	$ 7,040	$ 2,980
City of Martinez	$ 2,221	$ 1,528	$ 2,230	$ 1,810	$ 990
City of Pleasant Hill	$ 2,109	$ 1,691	$ 5,453	$ 4,636	$ 1,710
City of Vallejo	$ 5,732	$ 3,224	$ 2,770	$ 2,542	$ 1,420
City of Walnut Creek	$ 2,535	$ 1,479	$ 5,290	$ 4,230	$ 4,771
Proposed City of Benicia	***$ 2,173***	***$ 1,347***	***$ 4,031***	***$ 3,238***	***$ 2,108***
Existing City of Benicia	*$ 1,877*	*$ 1,152*	*$ 3,484*	*$ 2,768*	*$ 1,821*

Notes: DU = dwelling unit; KSF = 1,000 square feet

As presented in Table 13, the proposed traffic impact fees for the City of Benicia are slightly higher than the existing fees. The proposed fees, however, are lower than recent nationwide and statewide averages for similar programs. The proposed fees are also generally lower than most of those currently in place in nearby jurisdictions in Solano and Contra Costa counties.

TRAFFIC IMPACT FEE IMPLEMENTATION & ADMINISTRATION

According to California Government Code, prior to levying a new fee or increasing an existing fee, an agency must hold at least one open and public meeting. At least 10 days prior to this meeting, the agency must make data on infrastructure costs and funding sources available to the public. Notice of the time and place of the meeting, and a general explanation of the matter, are to be published in accordance with Section 6062(a) of the Government Code, which states that publication of notice shall occur, for 10 days in a newspaper regularly published once a week or more.

The updated traffic fees should be adopted through a City ordinance or resolution. Any future increases to the fees resulting from annual inflation or minor adjustments could be adopted annually by resolution. Once the updated traffic fees are adopted by the City Council, they shall become effective no sooner than sixty days later, unless an urgency measure is adopted. An urgency measure is an interim authorization that waives the sixty-day waiting period and allows the new fees to be collected immediately if a finding of a current and immediate threat to the public health, welfare, and safety can be demonstrated. The interim authorization requires a four-fifths vote of the City council and stays in effect for thirty days; no more than two extensions of the authorization can be granted.

ANNUAL ADMINISTRATIVE DUTIES

The Government Code requires the City to report every year and every fifth year certain financial information regarding the fees. The City must make available within 180 days after the last day of each fiscal year the following information for the prior fiscal year:

(a) A brief description of the type of fee in the account or fund
(b) The amount of the fee
(c) The beginning and ending balance in the account or fund
(d) The amount of the fee collected and the interest earned
(e) An identification of each public improvement for which fees were expended and the amount of expenditures
(f) An identification of an approximate date by which time construction on the improvement will commence if it is determined that sufficient funds exist to complete the project
(g) A description of each interfund transfer or loan made from the account and when it will be repaid
(h) Identification of any refunds made once it is determined that sufficient monies have been collected to fund all fee-related projects

The City must make this information available for public review and must also present it at the next regularly scheduled public meeting not less than 15 days after this information is made available to the public.

For the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, the City must make the following findings with respect to any remaining funds in the fee account, regardless of whether those funds are committed or uncommitted:

(1) Identify the purpose to which the fee is to be put
(2) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged
(3) Identify all sources and amounts of funding anticipated to complete financing any incomplete improvements
(4) Designate the approximate dates on which funding in item (3) above is expected to be deposited into the fee account

As with the annual disclosure, the five-year report must be made public within 180 days after the end of the City's fiscal year and must be reviewed at the next regularly scheduled public meeting. These findings must be made by the City otherwise the law requires that the City refund the money to the then current record owners of the development projects on a prorated basis.

INTERFUND TRANSFERS

It is recommended that the City adopt a policy that will allow for the transfer of fee revenues between fee funds. This will provide greater funding flexibility and facilitate the timely phasing of improvements by allowing fees to be combined and used as necessary. All interfund transfers must be repaid with interest.

INFLATION ADJUSTMENTS

All fees calculated in this 2014 TIF Report are reflected in year 2014 dollars. These fees should be adjusted in future years to reflect revised facility standards, receipt of additional funding from alternative sources (i.e., state or federal grants), revised replacement costs, or changes in demographics or the City's land use plan. In addition to such periodic adjustments, the fees should be inflated each year by a predetermined index, such as the Engineering News Record 20-City Construction Cost Index.

FEE CREDITS OR REIMBURSEMENTS

The City will provide fee credits or possibly reimbursements to developers who dedicate land or construct facilities that are shown in the 2014 TIF as being fee-funded. Fee credits or reimbursements may be provided up to the cost of the improvement, as shown in the 2014 TIF, subject to periodic inflation adjustments, or the actual cost paid by the developer, whichever is lower. For construction cost overruns, only that amount shown in the 2014 TIF, subject to periodic inflation adjustments, should be credited or reimbursed. The City will evaluate the appropriate fee credit or reimbursement based on the value of the dedication or improvement. Credits or reimbursements may be repaid based on the priority of the capital improvements, as determined by the City. In some cases, repayment for constructed facilities that have low priority may be postponed. Fee credits and reimbursements will be determined by the City on a case-by-case basis.

PROJECT COSTS

Actual costs for a particular project may be more or less than the fee portion calculated for that project. It is expected that on average, the amount collected will be appropriate for financing the planned projects. Fee adjustments will need to be made during periodic updates to the 2014 TIF for differences based on actual costs incurred on project work completed and revised cost estimates for remaining projects.

APPENDIX

AGENDA ITEM
CITY COUNCIL MEETING DATE - NOVEMBER 18, 2014
BUSINESS ITEMS

DATE : October 22, 2014

TO : City Council

FROM : City Attorney

SUBJECT : **CONSIDERATION OF WAIVING THE ATTORNEY-CLIENT PRIVILEGE FOR THE OPINION REGARDING MAYOR PATTERSON AND THE CRUDE BY RAIL PROJECT**

RECOMMENDATION:
Waive the attorney-client privilege on the memo regarding potential impermissible bias, Mayor Patterson and the Crude By Rail Project.

EXECUTIVE SUMMARY:
The attorney-client privilege requires that the client waive the privilege. The State Bar rules provide that the client is the organization acting through its highest authorized representative. Thus, in this particular case, the client is the City acting through the City Council. Because the Council cannot take action unless a majority of its members agree, an individual council member cannot validly waive the privilege. Thus, this matter is agendized for your consideration.

BUDGET INFORMATION:
The opinion of outside counsel cost $2,664.

GENERAL PLAN:
N/A

STRATEGIC PLAN:
N/A

BACKGROUND:
The United States Supreme Court has recognized that "[t]he attorney-client privilege is the oldest of the privileges for confidential communications known to the common law. 8 J. Wigmore, Evidence § 2290 (McNaughton rev. 1961). Its purpose is to encourage full and frank communication between attorneys and their clients and thereby promote broader public interests in the observance of law and administration of justice. The privilege recognizes that sound legal advice or advocacy serves public ends and that such advice or advocacy depends upon the lawyer's being fully informed by the client." Upjohn Co. v. U.S.

(1981) 449 U.S. 383, 389. The attorney-client privilege protects most private discussions between an attorney and her client as well as confidential oral or written advice provided by the attorney.

In California, the attorney-client privilege is governed by the California Business and Professions Code, the California Evidence Code and the State Bar Rules. California Evidence Code Section 954 states the attorney-client privilege as follows:

> "Subject to Section 912 and except as otherwise provided in this article, the client, whether or not a party, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between client and lawyer if the privilege is claimed by:
>
> (a) The holder of the privilege;
>
> (b) A person who is authorized to claim the privilege by the holder of the privilege; or
>
> (c) The person who was the lawyer at the time of the confidential communication, but such person may not claim the privilege if there is no holder of the privilege in existence or if he is otherwise instructed by a person authorized to permit disclosure.
>
> The relationship of attorney and client shall exist between a law corporation as defined in Article 10 (commencing with Section 6160) of Chapter 4 of Division 3 of the Business and Professions Code and the persons to whom it renders professional services, as well as between such persons and members of the State Bar employed by such corporation to render services to such persons. The word "persons" as used in this subdivision includes partnerships, corporations, limited liability companies, associations and other groups and entities."

Additionally, the California Court of Appeals noted in a case involving the City of San Francisco that "… state law establishes that the [attorney client] privilege's protection of the confidentiality of written attorney-client communications is fundamental to the attorney-client relationship, in the public sector as well as in the private sector, and is vital to the effective administration of justice." St. Croix v. Superior Court (2014) 228 Cal.App.4th 434, 443. (Emphasis added.)

The City of Benicia is a municipal corporation and so is covered by the definition of "persons." Thus, the attorney-client privilege exists between a municipal corporation and its attorney or attorneys. Figuring out who is "the holder of the privilege" is, perhaps, easier when the client is an individual person. It can be a little harder to determine who is "the holder of the privilege" when the "person" is a partnership, corporation, limited liability companies, associations and other groups and entities. The question becomes who is the client for the purposes of

waiving the attorney-client privilege when the client is the City?

The State Bar rules provide that the client is the organization acting through its highest authorized representative.[1] Thus, in this particular case, the client is the City acting through the City Council.[2] Because the Council cannot take action unless a majority of its members agree, an individual council member cannot validly waive the privilege.

The City Council directed that the legal opinion from outside counsel Mike Jenkins be agendized so that the City Council may consider waiving the attorney-client privilege and make the opinion public. This opinion was prepared under the attorney-client privilege because of the potential for litigation on the Crude By Rail project from many sources.

Removing the attorney-client privilege will make this document public and available to anyone. Because of the disclosure of the crux of the opinion to the public already, I do not believe the memo contains any information that would give away a legal strategy or put the City in a worse legal position. Perhaps by disclosing the opinion it will be easier for the public to more fully understand the situation. The attorney-client privilege allows a lawyer to provide advice to a client in confidence. It allows the lawyer to indicate the weak points as well as the strong points of a client's case or plan of action. It allows a client to consider ways to make the client's case more resistance to a lawsuit. Providing legal advice in public may not always be the best for a client since it could indicate the weakness of the client's position and allow another to take advantage of the client's weakness.

Waiver of the attorney-client privilege for the sole purpose of releasing the written opinion of Mike Jenkins is a decision that only the City Council can make. It is, therefore, agendized for your consideration and direction.

- "When an Elected Official Feels Passionately…" League of California Cities Article

---

[1] State Bar Rule 3-600 states in part: "In representing an organization, a member shall conform his or her representation to the concept that the client is the organization itself, acting through its highest authorized officer, employee, body, or constituent overseeing the particular engagement." Rule 3-600 is also the rule that makes it impossible for the city attorney to advise individual Council Members and requires the advice to be to the Council as a whole or at the direction of the Council.

[2] In other cases it may be the City Manager or other employees or Boards or Commissions.

VIII.D.4

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When an Elected Official Feels Passionately About An Issue: Fair Process Requirements in Adjudicative Decision-Making

When an Elected Official Feels Passionately About An Issue: Fair Process Requirements in Adjudicative Decision-Making

QUESTION

I am extremely upset. When I ran for office, one of my campaign promises was to do whatever I could to get adult entertainment establishments shut down in our area.

I have been an outspoken critic of the negative effects these businesses have on neighborhoods and I'm involved in national groups that conduct research to help local officials keep such establishments out of their communities.

When I receive information from such groups, I pass it along to my fellow elected officials. I have also encouraged my colleagues to check out the kind of activity that occurs around adult entertainment businesses by driving past existing establishments.

A permit for a new adult entertainment business is coming before us. Knowing of my interest in this area, the local newspaper interviewed me about the upcoming meeting, and I indicated I would never vote to issue the permit. Our agency counsel is now advising me that I cannot participate. She also learned about my efforts to bring my colleagues up to speed on these issues and has advised me to stop this immediately.

I can't believe this. Is there really a problem here?

ANSWER

There certainly could be. Your agency counsel is concerned that, if you were to participate in the hearing, the decision could be successfully challenged because of a perception that you would not be a fair decision-maker. She may also be concerned about decision-makers receiving what is called "ex parte" information outside the scope of the public hearing and potential open meetings law violations. Let's take a look at the law in this area.

The Multiple Roles of Local Agency Decision-Makers Legislative Acts

Local elected officials are frequently asked to perform multiple functions. Sometimes they are asked to serve as legislative bodies when they enact policies that apply to everyone in the community (or at least a significant segment).

An example of a legislative act would be adopting an ordinance that regulates all sexually oriented businesses in a community. Certain baseline fair process requirements apply, of course. However, the standards that decision-makers need to be concerned about tend to emphasize the effects of the ordinance rather than the process by which it was adopted. For example, with adult business ordinances, the courts will usually look at whether the ordinance impermissibly treads on constitutional protections for free expression.

Of course, every governmental action is subject to certain minimum fair and open process requirements. There are certain procedural requirements for how ordinances are adopted.[1] Another source of procedural requirements is in the Brown Act and relates to open and public decision-making. [2]

Your agency's attorney may be concerned that by circulating materials to your colleagues outside a meeting, you are trying to develop a collective concurrence on the adult entertainment issue outside an open and publicized meeting. In advising you to discontinue this practice, your agency counsel is trying to protect any decision your agency makes from being subject to a Brown Act challenge.

Adjudicative Acts

Sometimes local officials are asked to play more of a judge-like role (also referred to as an "adjudicative" or "quasi-judicial" role). This occurs when officials determine how already-adopted policies apply in a given situation. Examples include applications for permits like the one coming before your decision-making body. Presumably you will be determining whether the permit application complies with your agency's requirements.

When agency officials act in an adjudicative capacity, people such as the permit applicant have certain rights to fair processes.[3] These fair hearing requirements may not always rise to the level of constitutional protections related to due process,[4] but violating them can nonetheless invalidate the decision.

Why is this? One of the traditions of American democracy is to balance notions of majority rule with individual rights. Fair process protections are not intended to dictate the outcome of a decision-making process. They are, however, intended to ensure that decision-makers fairly apply policies to individual situations and base their decisions on a fair interpretation of the facts. Fairness, as this column has emphasized before, is a key ethical value.

In the local agency context, the fair hearing requirements are not as strict as those used in a court.[5] They do, however, constrain decision-makers' activities in significant ways.

Fair Process Concerns

When decision-makers are making adjudicative decisions, fairness requires that the hearing occur before a reasonably impartial, noninvolved decision-maker. This is because of the important role such hearings play in determining the specific rights and responsibilities of individuals and businesses.[7]

What this means is that decision-makers cannot be biased[8] and courts will examine an agency's procedures to ensure that the process has been fundamentally fair.

What kinds of issues can be a problem? Decision-makers cannot:

- Have a personal interest in the decision's outcome;
- Be strongly biased against or in favor of one set of parties in the proceeding;
- Have undisclosed or unalterable notions relating to the facts relevant to the decision; or
- Be potentially unfairly influenced by staff who may play both an advocacy and advisory role before the agency.

There also can be issues related to the demeanor of decision-makers at the hearing.

When the issue is one of decision-maker bias, rest assured that someone wanting to challenge a decision because of such bias must produce concrete facts showing bias or an impermissible probability of bias.[9] In fact, courts generally ask whether there is an unacceptable probability that decision-makers who have power over their claims are actually [illegible].[10]

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As an official who wants to participate in the decision and have the decision upheld, you need to avoid actions that would cause someone to question whether there's an "unacceptable probability" that you cannot be fair.

Personal Interest in a Decision's Outcome

Having a financial interest in a decision, of course, creates an impermissible financial interest under the state's political reform laws, which usually require that you not participate in any way in a decision.[11] However, decision-makers should also consult with their agency counsel when they would be personally affected by a decision in other ways.

For example, an appellate court found that an elected official should not have participated in a decision on a permit application when there was evidence that the reason for his opposition to the project was that the project would block his apartment's ocean view.[12]

The elected official was a month-to-month tenant, so he did not have a disqualifying financial interest in property under the state's financial conflict-of-interest laws. The court nonetheless set aside the denial of the permit on the theory that there was evidence that the elected official could not be fair in applying the agency's standards to the application because of the project's effect on his residence.

Sometimes bias results from processes a local agency uses, not anything specific to an individual decision-maker. This issue arose in a county's effort to revoke a massage parlor's permit for impermissible activities. The operator challenged the fairness of the hearing before paid administrative hearing officers.[13] The court found that the county's practice of selecting and paying such hearing officers on an ad hoc basis created an impermissible prospect of bias in the hearing officer. Because the officers' income from future adjudicative work depended entirely on the government's goodwill, the court found that there was an objective risk that the officers would be tempted to favor the county's position.

Party Bias

A strong animosity about a permit applicant based on conduct that occurred outside the hearing can be the basis of a claim of impermissible bias. Conversely, a strong personal loyalty toward a party could bias an official as well.[14]

A variation on this theme occurred in a case involving the dismissal of a police chief by the city council. The chief's position was civil-service protected, which meant that certain procedural protections applied. The court concluded that certain members of the city council could not serve as fair adjudicators of whether the chief's dismissal was warranted.

The court noted that the council members became "personally embroiled" in the controversy when the civil service commission determined that most of the charges made by city council members were unfounded. The court noted that this situation naturally created a situation in which the council members would seek vindication of their position.[15] This created an actual probability of bias that disqualified the council as a decision-maker on the issue of the chief's tenure with the city.

So far, the courts have rejected claims that receiving campaign contributions create an impermissible form of bias in favor of a party, but they have not ruled out the possibility.[16] This is a situation where it is wise to remember that the law creates a floor for ethical conduct, not a ceiling. When a major campaign contributor or very close friend comes before your decision-making body, a good question to ask yourself is whether a reasonable person in the com munity would question your ability to be fair. This gets to the issue of the public's trust in your leadership and integrity, above and beyond the minimum requirements of the law.

Factual Bias and Ex Parte Communications Issues

Often the role of an adjudicative decision- maker involves determining certain facts and whether those facts meet standards set by law or local policy. Therefore, the process by which decision-makers reach factual conclusions is an important part of the fairness of any process.

A fair process issue can arise when decision-makers receive information outside the public hearing. For example, such an issue arose when members of a civil service board received evidence outside the administrative hearing and also had conversations with the independent medical examiners and employee's physician outside the hearing.

Attorneys often refer to such information as "ex parte" because it occurs outside the hearing and typically from one side only ("from one side only" is a loose translation of the Latin term ex parte). The court found that receiving information outside the hearing was unfair, because the decision-makers based their decision upon information that not all parties were aware of and therefore had no opportunity to challenge.[17]

Similarly, assertions related to facts should be made by those who are at the hearing, so the underpinnings of such assertions can be explored (a variation on prohibiting "hearsay" evidence).[18] When an official receives information outside the hearing, this kind of information testing is less like ly to occur -- and if a decision is based on this kind of

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information, the decision is more vulnerable to challenge in court.

This issue of factual bias is why providing information to your colleagues about adult businesses and encouraging them to perform their own investigations by doing site visits can create fair process issues. Many agency counsel will advise decision- makers to disclose any information they have received that may be relevant to their decision on the record at the hearing, so all parties have the opportunity to respond to that information.

Evidence that one has prejudged the facts of a situation can also be a problem, which may be why your agency counsel is concerned about the statement you made to the newspaper.

In another case, a court concluded that a planning commissioner had pre-judged an issue when the applicant presented evidence that the commissioner ghostwrote an article that was critical of a project in a neighborhood newsletter.[20] According to the court, this action indicated that the commissioner could not reasonably be an impartial, noninvolved decision-maker. As a result, the court invalidated the planning commission's decision disapproving the project.

While it is inadvisable to make statements about how you will decide an adjudicative matter once in office, there may be an exception for statements made during a campaign.[21] Thus the fact that you made campaign promises may not, in and of itself, disqualify you from participating in the hearing.

You do want to avoid any further statements that would suggest that you cannot be a fair decision-maker, however. Accordingly, you could say to the newspaper or your constituents something along the lines of, "As you know, I am concerned about the impacts of adult businesses in our community. However, as required by the law, I look at every situation presented on a case-by-case basis, waiting to see all of the facts before I cast my vote." And you should in fact do so.

The "Dual Role" Fair Process Issue

In some situations, staff's role in an adjudicatory proceeding can create a basis for a due process challenge.

For example, in one case an adult entertainment business applied to the city for renewal of its regulatory permit. The court concluded the business owner's due process rights were violated because the assistant city attorney who made the initial decision to deny the renewal application subsequently acted as legal adviser to the hearing officer reviewing that denial.[22]

Another case involved a personnel action. An employee appealed his termination before a city personnel board; the board upheld the termination. An appellate court concluded that the employee's rights were violated because the deputy city attorney, who represented the city before the personnel board, had also acted as counsel for the personnel board on other occasions. Although there was no evidence the attorney acted in a dual role in this case (in other words, the attorney did not act as both prosecutor for the city and legal adviser for the personnel board on the particular termination matter), the attorney's ongoing relationship with the personnel board "[gave] the appearance of bias and unfairness and suggest[ed] the probability of his influence on the [b]oard." [23]

The League's City Attorneys Department has analyzed these issues carefully in a paper that is available through its data base. In the short term, however, these cases underscore how far courts will take principles of fairness in at least some kinds of adjudicative proceedings.

Other Fair Process Concerns

Another fair process issue that arose in one jurisdiction is whether decision-makers were truly paying attention at the hearing.[24] As the appellate court noted, a fundamental principle of due process is "he who decides must hear."[25] It also implicates ethical values relating to respect, even when one disagrees with a position being advocated.

The case involved an appeal of a zoning administrator's decision to loosen certain restrictions imposed on adult business operators. The adult business videotaped the hearing, which showed decision-makers talking with each other, talking on cell phones and otherwise not paying attention to either side that was speaking. The court concluded that the inattentiveness of decision-makers during the hearing prevented them from satisfying fair process principles and overturned the decision.[26]

Although this decision cannot be used as precedent in other cases, the appellate court's negative reaction suggests that inattentiveness is both a poor decision-making and legal strategy. Certainly a permit applicant who feels disrespectfully treated is more likely to challenge a decision.

Conclusion

What is a person who is passionate about an issue to do? Making sure that your agency's policies (adopted legislatively)

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reflect your and your colleagues' views on what best serves the community's interests is an important first step -- even before one is placed in the adjudicative role of determining how these policies apply in a given situation. If these standards are up to date, it should be possible for you to fairly apply them to the facts before you and reach a result that you feel good about.

Of course, such policies are subject to the constraints of constitutional protections and other state and federal law requirements. These constraints can keep your policies from going as far as you would like. The reality is that any decision that violates someone's legally protected rights won't get you very far.

As a decision-maker, however, you need to decide what is more important to you: being able to sound off on issues you care about or being able to participate in adjudicative decisions that involve those issues. If you want to participate in making these decisions, Shakespeare may have it right: Discretion can indeed be the better part of valor. Reserving judgment until the hearing, fairly evaluating the information presented at the hearing and then making an honest determination whether certain standards have or have not been met is truly the best approach -- both legally and ethically.

The Difference Between Legislative and Adjudicative Decision-Making

When an elected official acts in a *legislative* capacity, his or her decision-making is less constrained. For example, when one acts in a legislative capacity, one can review information submitted by interested parties and conduct one's own investigation; [27] investigating and determining facts as a basis for legislation is acceptable. [28] Also, courts generally won't inquire into what evidence was or was not examined or relied on by an elected official in reaching his or her decision.[29]

Best Practices for Avoiding Lawsuits [head]

An Institute for Local Government (ILG) publication offers helpful advice to local agency officials who want to avoid litigation associated with land use decision-making. Titled *An Ounce of Prevention: Best Practices for Making Informed Land Use Decisions*, the publication offers practical advice on how local agencies can engage in decision-making practices that both promote the public's trust and minimize the likelihood of getting sued.

Ounce of Prevention is available online at www.ca-ilg.org/ounce or in hard copy from CityBooks at (916) 658-8257. ILG is deeply grateful for the financial support from the Public Entity Risk Institute and the Meyers Nave firm that made this publication possible.

Footnotes:

1. See Cal. Gov't Code §§ 25121 (county ordinance adoption procedures), 36932 and following (city ordinance adoption procedures).

2. *See* Cal. Gov't Code § 54950 and following. *See also* "The ABCs of Open Government Laws" published by the Institute for Local Government and available at www.ca-ilg.org/abc.

3. Cal. Gov't Code § 1094.5. *See also* ***Nasha L.L.C. v. City of Los Angeles,*** 125 Cal. App. 4th 470, 482, 22 Cal. Rptr. 3d 772, 780 (2d Dist. 2004).

4. *Breakzone Billiards v. City of Torrance*, 81 Cal. App. 4th 1205, 1223-24, 97 Cal. Rptr. 2d 467, 483 (2000) ("While Code of Civil Procedure section 1094.5 mandates that an applicant for a CUP receive a fair hearing (*Applebaum v. Board of Directors* (1980) 104 Cal. App. 3d 648, 657-658, 163 Cal. Rptr. 831), it does not automatically follow that the federal due process clause is always implicated.")

5. *See Mathews v. Eldridg* e, 424 U.S. 319, 334-35, 96 S. Ct. 893, 902-03 (1976) (observing that due process is flexible and calls for such procedural protections as a particular situation demands). *See also Binkley v. City of Long Beach,* 16 Cal. App. 4th 1795, 1807, 20 Cal. Rptr. 2d 903, 909-10 (1993).

6. *Gai v. City of Selma,* 68 Cal. App. 4th 213, 219, 79 Cal. Rptr. 2d 910, 913 (1998), *cited in* ***Nasha,*** 125 Cal. App. 4th at 483, 22 Cal. Rptr. 3d at 780.

7. Nightlife Partners, Ltd. v. City of Beverly Hills , 108 Cal. App. 4th 81, 90, 133 Cal. Rptr. 2d 234, 242 (2003).

8. *Breakzone Billiards v. City of Torrance*, 81 Cal. App. 4th 1205, 1234 n. 23, 97 Cal. Rptr. 2d 467, 490 n. 23 (2000).

9. *Breakzone*, 81 Cal. App. 4th at 1237, 97 Cal.Rptr.2d 467 (noting that bias and prejudice are never implied and must be established by clear averments)

10. *Breakzone,* 81 Cal. App. 4th at 1236, 97 Cal. Rptr. 2d at 492.

11. *See* Cal. Gov't Code § 87100 and following.

12. *See Clark v. City of Hermosa Beach,* 48 Cal. App. 4th 1152, 1172-73, 56 Cal. Rptr. 2d 223 (2d Dist. 1996) (finding common law bias).

13. *Haas v. County of San Bernardino*, 27 Cal. 4th 1017, 119 Cal. Rptr. 2d 341 (2002).

14. *See Breakzone*, 81 Cal. App. 4th at 1234 n.23, 97 Cal. Rptr. 2d at 490 n. 23.

15. *Mennig v. City Council* , 86 Cal. App. 3d 341, 351, 150 Cal. Rptr. 207, 213 (1978).

16. *See Woodland Hills Residents Assn., Inc. v. City Council,* 26 Cal. 3d 938, 944-946, 164 Cal. Rptr. 255, 255 (1980) (rejecting a contention that the fair hearing mandate of Code of Civil Procedure section 1094.5 means that city council members who receive campaign contributions from parties having a financial interest in a matter before a city council are disqualified in perpetuity from considering and voting on a matter affecting a campaign contributor). *See also Breakzone,* 81 Cal. App. 4th at 1226-29, 97 Cal. Rptr. 2d at 484-87 (finding that campaign contributions received from landlord of party seeking permit modification more than 12 months prior to hearing did not deprive applicant of fair hearing).

17. *English v. City of Long Beach,* 35 Cal. 2d 155, 157, 217 P. 2d 22, 24 (1950) (adjudicative body's acting on information of which parties were not apprised and which they had no opportunity to controvert amounts to a denial of a hearing).

18. ***Desert Turf Club v. Board of Sup'rs of Riverside County*** , 141 Cal. App. 2d 446, 455 296 P. 2d 882, 887-8 (1956).

19. *See E.W.A.P., Inc. v. City of Los Angeles,* 56 Cal. App. 4th 310, 325, 65 Cal. Rptr. 2d 325, 334 (1997).

20. ***Nasha,*** 125 Cal. App. 4th at 483-84, 22 Cal. Rptr. 3d at 780-81.

21. *City of Fairfield v. Superior Court*, 14 Cal.3d 768, 537 P.2d 375, 382-83, 122 Cal. Rptr. 543, 549-551 (1975) (noting that it would be contrary to democratic principles to disqualify those who made pre-election statements).

22. *Nightlife Partners, Ltd. v. City of Beverly Hills* , 108 Cal.App.4th 81, 97-98, 133 Cal. Rptr. 2d 234, 248 (2003).

23. *Quintero v City of Santa Ana* , 114 Cal. App. 4th 810, 814, 7 Cal. Rptr. 3d 896, 899 (2003).

24. ***Lacy Street Hospitality Service, Inc. v. City of Los Angeles ,*** 125 Cal. App. 4th 526 , 22 Cal. Rptr. 3d 805 (2 Dist. 2004), *decertified from publication* June 15, 2005.

25. *Vollstedt v. City of Stockton,* 220 Cal. App. 3d 265, 276, 269 Cal. Rptr. 404 (1990).

26. Lacy, citing *Haas v. County of San Bernardino,* 27 Cal. 4th 1017, 1024, 119 Cal. Rptr. 2d 341 (2002) ("due process requires fair adjudicators in administrative tribunals"); *Henderling v. Carleson,* 36 Cal. App. 3d 561, 566, 111 Cal. Rptr. 612 (1974) (takes as a given that administrative decision-maker listens at hearing), *disapproved on another point by Frink v. Prod,* 31 Cal. 3d 166, 180, 181 Cal. Rptr. 893 (1982); *Chalfin v. Chalfin,* 121 Cal. App. 2d 229, 233, 263 P.2d 16 (1953) (fact finder must listen to the evidence before making a decision).

27. *See, e* .g., *Siller v. Board of Supervisors,* 58 Cal. 2d 479, 484, 25 Cal. Rptr. 73, 76 (1962) (supervisor may view project site and rely on personal knowledge in voting on project application).

28. *City Council of the City of Santa Barbara v. Superior Court ,* 179 Cal. App.2d 389, 393 , 3 Cal. Rptr. 796, 798-99 (2d Dist. 1960).

29. *Southern Cal. Underground Contractors, Inc. v. City of San Diego,* 108 Cal. App. 4th 533, 548, 133 Cal. Rptr. 2d 527, 538-39 (4th Dist. 2003) .

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2014
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 6, 2014

TO : Mayor Patterson

FROM : City Manager

SUBJECT : **MAYORS' COMMITTEE MEETING**

The following information is provided for your committee report at the November 18, 2014 City Council meeting.

The Mayors' Committee meetings are held quarterly in Benicia. The next meeting is scheduled for December 17, 2014.

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AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2014
COUNCIL MEMBER COMMITTEE REPORTS

DATE : October 30, 2014

TO : Mayor Patterson
Council Member Strawbridge

FROM : City Attorney

SUBJECT : **ABAG COMMITTEE MEETINGS**

The following information is provided for your committee report at the November 18, 2014 Council meeting.

- The draft minutes are not yet available for the Spring 2014 General Assembly.
- The date for the next Spring Assembly has not yet been announced.

VIII.E.2.2

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2014
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 7, 2014

TO : Council Member Campbell
Council Member Strawbridge

FROM : Assistant City Manager

SUBJECT : **FINANCE COMMITTEE REPORT**

The following information is provided for your committee report at the November 18, 2014 Council meeting.

The last Finance Committee meeting was held on October 31, 2014; draft minutes for the meeting are attached for your review. The Committee has approved changing meetings to Thursdays instead of Fridays. The next regular meeting will be on Thursday, November 20, 2014 at 9:00 a.m.

Attachment:
- October 31, 2014 Draft Meeting Minutes

VIII.E.3.2

FINANCE COMMITTEE
SPECIAL MEETING AGENDA
COMMISSION ROOM
October 31, 2014 - 8:00AM

1. **Call to Order at 8:03 AM**

2. **Roll Call**
   Attended by Chairperson Michael Clarke; Vice-chairperson Chris Carvalho; Committee Members: Kathy Griffin, Alan Nadritch, John Potter; Council Members: Tom Campbell, Christina Strawbridge; City Treasurer Kenneth Paulk
   Staff present: City Manager Brad Kilger, Finance Director Karin Schnaider

3. **Pledge of Allegiance**

4. **Notice to the Public**
   A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to the Commission Room per Section 4.04.030 of City of Benicia Ordinance No. 05-6 (Open Government Ordinance).

5. **ACTION ITEMS**

   A. Approval of Agenda
   Committee member Potter asked that changing the day as well as the time be considered as part of the item 5D.
   The committee approved the amended agenda of October 31, 2014.
   Ayes: Clarke, Griffin, Nadritch, Potter
   Noes: (None)
   Abstain: (None)

   B. Approval of minutes for meeting held on September 26, 2014
   Began with a discussion as to if the City Treasurer is a voting member. Committee Chair Clarke detailed that while changes had been considered no formal action has been considered by the City Council, currently the Treasurer is not a voting member. Committee member John Potter asked the City Treasurer be added as an excused absence and that the minutes reflect that Vice-chair Chris Carvalho is indeed the Vice-chair and not the Co-chair.
   Committee Member Nadritch stated that he would abstain has he hadn't attended the meeting.
   The committee approved the minutes of August 22, 2014 as amended.
   Ayes: Carvalho, Clarke, Griffin, Potter
   Noes: (None)
   Abstain: Nadritch

   C. Review and Approval of September 30, 2014 Investment Report
   Commission members received the Investment Report from Carlos Oblites, Director at PFM Asset Management LLC (PFM), the City's investment manager. He informed the Committee that rates are on the rise, and while the nominal change is slight, the percentage change is large. As such future returns will be higher. However, this has inverse relationship on the current investments in bonds which lose value as yields increase.

   The first quarter total return was a loss of about $5,800. Realized return was positive, nearly $60,000. However, due to the reduction in market value (an unrealized loss) of existing investments, the total return was a loss. The process of recording an unrealized

loss or gain is known as “mark to market” is required by GASB 31.

Council Member Campbell asked if there was a way to change the City’s investment strategy to make it more profitable. He suggested including stock market investment. Chairperson Clark noted that the City is very restricted, by law, on what products the City is allowed to include in its portfolio. Committee member Potter asked if Council Member Campbell meant to change the City’s investment policy. Council Member Campbell replied that he would like for the Committee to look at changing the policy to increase return.

Mr. Oblites replied that they were directed to be conservative by CA government code and that the City’s current investment policy already followed the limits set by state law. He felt that the only method allowed by law would be to extend duration which makes the City more susceptible to loss in a rising rate environment. He added that in addition to being restricted to bond like investments in US entities; duration is only allowed to go up to 5 years. He reiterated that the law prevents municipalities from doing anything else and that the City’s policy was not demonstratively more restrictive than the law. Mr. Oblites was asked by the Committee if the portfolio considered increasing its commitment to corporate notes by increasing its share of the portfolio from 28% to 30%. Mr. Oblites replied that it was being considered and added that the portfolio share for negotiable certificates of deposit which have similar characteristics had been increased. He also noted that for the last six years the City’s yield on two year Treasury bond had been less than 1%.

He added that while the Fed was still committed to keeping short term rates low by keeping the federal funds target rate (bank borrowing rate) low, longer duration bonds were seeing yield increases. He quantified that longer term rates are affected more than that rate including: estimated inflation, estimated market growth and quantitative easing. He noted that the Feds quantitative easing program had ended earlier in the month. He added that the “conventional wisdom” was that the short term rate would not be changed until next summer.

Committee member Potter asked if Mr. Oblites would recommend changing the current allocation. Mr. Oblites replied that his suggestion was keeping portfolio as it was, adding that it was an actively managed portfolio and would change as PFM determined opportunity for greater return. He also shared that US agency bonds were trending lower with a lower yield spread to treasury bonds which made it a less useful asset resulting in a reduction in the City portfolio.

Council Member Strawbridge observed that while the City was prohibited from investing in foreign bonds, there were bonds from companies with obvious foreign names. Mr. Oblites replied that those bonds were from foreign companies who had set up US domiciled branches and the bonds were from those branches.

Vice-chair Carvalho asked about PFM’s fee structure. Mr. Obiltes replied that it was .1% for the first 25 million and .08% on the next 25 million. At the City’s current holdings, this was approximately $27,000 a year.

Council Member Campbell asked if there was anything that could be done to increase earnings as he rarely recalled even in the “good years” returns being higher than inflation.

Mr. Oblites reiterated that by law there was little the City could do. He offered at the next quarterly review to provide details on what was allowed by law and how the City was invested. He added that PFM was providing active management to maximize return within the City’s constraints.

City Treasurer Paulk inquired if all municipalities in California were in the same boat and if so was anyone doing something to improve return.
Mr. Oblites answered, that all municipalities were in the same position as the City.
Council Member Campbell asked that the next meeting describe the parameters of how the City was invested vs how it could be invested.

Committee member Nadritch commented that when he had been Finance Director, the investment strategy had been done in house with minimal effort. He felt generally that the value added by active management was not equal to the cost.

Committee Chair Clarke asked that the parameter discussion scheduled for the next meeting include a risk vs return analysis of the City taking its portfolio to maximum risk that the state allows. Following this, the committee approved September 30, 2014 investment report for forwarding to the City Council.
Ayes: Carvalho, Clarke, Griffin, Nadritch, Potter
Noes: (None)
Abstain: (None)

D. Change in regular meeting time and day

The committee reviewed changing the regular meeting date and time. First changing the time was considered with no objections to moving the meeting to 9 am. Then, Committee Member Potter noting a large number of absences in the minutes and asked that the Committee consider changing the meeting day to Thursday to help increase attendance.
The committee approved changing the regular meeting time to the fourth Thursday at 9 am.
Ayes: Carvalho, Clarke, Griffin, Nadritch, Potter
Noes: (None)
Abstain: (None)

6. DISCUSSION ITEMS

A. Review Warrant Register for the Month of September 2014

There were no questions on the September register.

B. Review All-Funds Summary Quarterly (Q1) 2015 Reports

Finance Director Schnaider presented the first quarterly report. Committee members were given the reports generated by the City's financial system which are same as those given to department directors. She noted that generally first quarter revenue is missing as the majority of revenue for most funds doesn't appear in until December. In particular, the surcharge for the Water Fund, having just been enacted, has yet to produce any revenue. However, departmental expenditures, which tend to be smooth, were between 23 and 27% of budget at the end of the first quarter.

Finance Director Schnaider informed the Committee that for Internal Service Funds (IFS) the opposite was the case. Most costs to an ISF were earlier in the fiscal year but repayment by the other funds was evenly spread over the year.

City Treasurer Paulk asked if the water surcharge was large enough. City Manager Kilger replied that the surcharge was large enough to cover costs so long as the drought was only two years, but that the City would continue to evaluate as the drought continue. Finance Director Schnaider added that staff believed that water usage had permanently changed, and as a result staff was currently taking a broader look at future costs and revenues. She expected that costs would be calculated by January and then in March and June the City would begin to look at expected future revenue. City Manager Kilger

added that similar to how the recession had change General Fund revenue expectations forever, he expected that the drought would do the same for the Water and Wastewater funds.

Committee member Clarke asked that the General Fund Fourth Quarter report from Fiscal Year 2013-2014 also be distributed. Finance Director Schnaider thus passed out an unaudited, General Fund report for year-end 06/30/2014. The format of the report was similar to the first quarterly reports. She then noted that last year's expected surplus would help to fund the current fiscal year's expected deficit, reducing the effect of FY 2014-15 impact on reserves. City Manager Kilger emphasized that this was not a change from the 10 year forecast and that staff was still working to reduce costs.

Vice-chair Carvalho asked if the reports had to denote values to the cent and Finance Director Schnaider replied that as the reports would serve multiple purposes the precision would remain.

Council Member Strawbridge asked about the line item for Unitary Tax. Finance Director Schnaider replied that staff would report on what this line item referred to.

Council Member Strawbridge then asked about the state of the property tax appeals. Finance Director Schnaider replied that the County remained vague on timeframe and expected valuation but continued to escrow funds.

Council Member Strawbridge next remarked that the new reports were easier to read and included all the funds, but asked for a comparison to the previous year. Finance Director Schnaider replied that this was possible for mid-year and year end, but cautioned that due to the changes for the cost allocation plan, determining trends would be more difficult.

Committee member Griffin asked if all of the departmental charges were related to the cost allocation plan. Finance Director Schnaider answered that in the presented report, the departmental charges were *all* expenses by the department charged to the particular fund, which included but was not limited to the cost allocation plan.

C. Finance Committee Work Plan

Committee reviewed and discussed progress of FY 2013-15 Work Plan.

Finance Director Schnaider informed the Committee on Item 6 – User Fee Study. She shared that it had been put on hold to complete cost allocation plan. Until completed the City could not calculate the actual cost of services provided. Once completed, a policy for cost recovery will be developed with the aid of the Committee and presented to Council.

A joint meeting with Council to discuss Item 6- Citywide User Fees; Item 4 - 10 year Forecasting; and Item 8 – FY 2015-2017 Biennial Budget Preparation is tentatively planned for January.

It was noted that for Item 7 - GASB 54 requirements needed to be adopted formally.

Finance Director Schnaider's next topic was enterprise resource product (ERP). She informed the committee that the request for proposal (RFP) was scheduled for spring 2015. She added that staff was in the process of identifying and mapping processes. She added that in this preparation work is vital, but long, and that implementation is very quick. This is due to the fact that once started, delays in implementation can be very costly. She expected that a timeline would be prepared in January.

Committee Chair Clarke asked if the Committee could help with or review the RFP while maintain a high level overview. Finance Director Schnaider answered that they could.

Next was the CAFR which Finance Director Schnaider informed the Committee would be available for study in January. Vice-Chair Carvalho asked that the Committee repeat training on reading a CAFR training though less thoroughly than before. Finance Director Schnaider stated that she believed the training could take about a half an hour to an hour. Committee Chair Clarke observed that a separate meeting for CAFR training could be scheduled if needed.

Council Member Strawbridge then asked about the status of the Marina Fund. Finance Director Schnaider replied that Finance staff was working on a draft report of the financial concerns. City Manager Kilger added that as this was a multi-departmental issue, he had placed the Parks' department Management Analyst Victor Randall as the project manager.

Committee Member Nadritch asked for an update on the Industrial Park Bus Hub project. City Manager Kilger replied that the City had been working with Solano Transit Authority (STA) and together had been in negotiations with property owner and have concluded those successfully. Further, the budget for the work was being refined.

7. **Public Comment -** none

8. **Committee Member Comment**
   As part of the Committee decision to move their meeting day and time, the next meeting, scheduled for November 21st was moved to the 20th at 9 am. Further, the meeting scheduled for December 19th was moved to December 18th at 9 am.

9. **Adjournment – 9:31 am**

VIII.E.3.8

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2014
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 6, 2014

TO : Mayor Patterson
Vice Mayor Campbell

FROM : City Manager

SUBJECT : **LEAGUE OF CALIFORNIA CITIES**

The following information is provided for your committee report at the November 18, 2014 City Council meeting.

The next North Bay Division General Membership Meeting is TBD.

VIII.E.4.2

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2014
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 6, 2014

TO : Council Member Hughes
Council Member Strawbridge

FROM : City Manager

SUBJECT : **CITY COUNCIL/SCHOOL BOARD LIAISON COMMITTEE**

The following information is provided for your committee report at the November 18, 2014 City Council meeting.

This committee meets quarterly at the Benicia Community Center located at 370 East L Street. The next scheduled meeting is December 4, 2014 at 8:30 a.m. at the Community Center, and the agenda for that meeting is not yet available.

VIII.E.5.2

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2014
COUNCIL MEMBER COMMITTEE REPORTS

DATE	:	October 31, 2014
TO	:	Vice Mayor Campbell Council Member Schwartzman
FROM	:	City Manager
SUBJECT	:	**SKY VALLEY OPEN SPACE COMMITTEE**

The following information is provided for your committee report at the November 18, 2014 Council meeting.

The meetings of the Committee are now scheduled on an as-needed basis. At this time, the next meeting date is unknown.

VIII.E.6.2

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2014
COUNCIL MEMBER COMMITTEE REPORTS

DATE : October 30, 2014

TO : Mayor Patterson
Council Member Strawbridge

FROM : City Manager

SUBJECT : **SOLANO EDC BOARD OF DIRECTORS**

The following information is provided for your committee report at the November 18, 2014 Council meeting.

The agenda for the Board of Directors meeting held on September 11, 2014 was previously issued and the minutes are not yet available.

The agenda for the Board of Directors meeting held on Thursday, November 13, 2014 at 9:00 a.m. at Jelly Belly Candy Company were not available.

VIII.E.7.2

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2014
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 6, 2014

TO : Mayor Patterson
Council Member Schwartzman

FROM : Director of Public Works

SUBJECT : **SOLANO TRANSPORTATION AUTHORITY**

The following information is provided for your committee report at the November 18, 2014 City Council meeting.

The Minutes from the October 8, 2014 Regular Board meeting are not yet available. The next regular meeting will be on December 10, 2014 at Suisun City Hall and the agenda for that meeting is unavailable.

VIII.E.8.2

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2014
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 6, 2014

TO : Mayor Patterson
Council Member Hughes

FROM : Director of Public Works

SUBJECT : **SOLANO COUNTY WATER AGENCY**

The following information is provided for your committee report at the November 18, 2014 City Council meeting.

The draft minutes of the October 9, 2014 meeting are attached. The agenda for the regular meeting on November 13, 2014 is attached. The next meeting is scheduled for December 11, 2014.

Attachments:
- Draft minutes of the October 9, 2014 regular meeting
- Agenda for November 13, 2014 regular meeting

VIII.E.9.2

SOLANO COUNTY WATER AGENCY

BOARD OF DIRECTORS MEETING MINUTES

MEETING DATE: October 9, 2014

The Solano County Water Agency Board of Directors met this evening at the Solano County Water Agency. Present were:

Mayor Jack Batchelor, City of Dixon
Mayor Harry Price, City of Fairfield
Mayor Elizabeth Patterson, City of Benicia
Mayor Steve Hardy, City of Vacaville
Mayor Osby Davis, City of Vallejo
Mayor Pete Sanchez, City of Suisun City
Supervisor Hannigan, Solano County District 1
Supervisor Spering, Solano County District 3
Supervisor John Vasquez, Solano County District 4
Director J. D. Kluge, Solano Irrigation District
Manager Don Holdener, Maine Prairie Water District
Director Dale Crossley, Reclamation District 2068

CALL TO ORDER

The meeting was called to order at 6:35 P.M. by Chairman Price.

APPROVAL OF AGENDA

On a motion by Mayor Batchelor and a second by Mayor Patterson the Board unanimously approved the agenda.

PUBLIC COMMENT

There were no public comments.

CONSENT ITEMS

On a motion by Mayor Batchelor and a second by Supervisor Hannigan the Board unanimously approved Consent Items A through E.

(A) Minutes
(B) Expenditure Approvals
(C) Authorize Purchase Order to Procure a Portable Bulkhead for Putah Diversion Dam Maintenance
(D) 2014/2015 Quagga/Zebra Mussel Infestation Prevention Fee Grant Program
(E) Authorize Agreement with CDM Smith for the NBA Capacity Reclamation Project-Phase 2

BOARD MEMBER REPORTS

There were no Board Member reports.

GENERAL MANAGER'S REPORT

There were no additions to the General Manager's written report.

BUDGET PROJECTIONS AND RESERVE FUND POLICY

During approval of the budget last June, the Board requested staff to develop multi-year budget projections and a more detailed Reserve Fund Policy. Manager Okita showed a proposed format for the budget projections. The Board agreed with the format and requested that when the budget is presented the format include different scenarios of key variables such as property tax rates and inflation rates. Manager Okita reviewed the

changes to the Reserve Fund Policy. On a motion by Mayor Patterson and second by Supervisor Spering the Board unanimously approved the proposed format for budget projections to be used for future budgets. On a motion by Mayor Patterson and a second by Mayor Batchelor the Board unanimously approved the proposed modifications to the Reserve Fund Policy.

DELTA ISSUES

No reports were given.

RECRUITMENT FOR GENERAL MANAGER POSITION

On a motion by Mayor Batchelor with a second by Supervisor Vasquez the Board unanimously authorized staff to issue a Request for Proposals to executive search companies for recruitment of a new General Manager. On a motion by Supervisor Vasquez with a second by Supervisor Spering the Board unanimously directed the SCWA Executive Committee to screen proposals and make a recommendation to the Board on an executive search company for a decision at a future Board meeting. The Board commended Manager Okita for 25 years of service to the Agency.

TIME AND PLACE OF NEXT MEETING

The next regularly scheduled meeting will be Thursday, November 13, 2014 at 6:30 P.M. at the SCWA offices in the Monticello Room located at the Solano County Water Agency offices.

ADJOURNMENT

This meeting of the Solano County Water Agency Board of Directors was adjourned at 6:57 P.M.

_____
David B. Okita, General Manager
and Secretary to the Board of Directors of the
Solano County Water Agency

SOLANO COUNTY WATER AGENCY

BOARD OF DIRECTORS:

Chair:
Mayor Harry Price
City of Fairfield

Vice Chair:
Director Dale Crossley
Reclamation District No. 2068

Mayor Jack Batchelor
City of Dixon

Mayor Osby Davis
City of Vallejo

Supervisor Erin Hannigan
Solano County District 1

Mayor Steve Hardy
City of Vacaville

Director John D. Kluge
Solano Irrigation District

Mayor Elizabeth Patterson
City of Benicia

Mayor Norm Richardson
City of Rio Vista

Director Gene Robben
Maine Prairie Water District

Mayor Pete Sanchez
City of Suisun City

Supervisor Linda Seifert
Solano County District 2

Supervisor Jim Spering
Solano County District 3

Supervisor Skip Thomson
Solano County District 5

Supervisor John Vasquez
Solano County District 4

GENERAL MANAGER:

David Okita, PE
Solano County Water Agency

BOARD OF DIRECTORS MEETING

DATE: **Thursday, November 13, 2014**

TIME: **6:30 p.m. (Note: There is a CCCC meeting this month)**

PLACE: **Berryessa Room**
Solano County Water Agency Office
810 Vaca Valley Parkway, Suite 203
Vacaville

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **APPROVAL OF AGENDA**

4. **PUBLIC COMMENT**

   Limited to 5 minutes for any one item not scheduled on the Agenda.

5. **CONSENT ITEMS**

   (A) Minutes: Approval of the Minutes of the Board of Directors meeting of October 9, 2014 is recommended.

   (B) Expenditure Approvals: Approval of the October checking account register is recommended.

   (C) Rio Vista Flood Control Study: Authorize General Manager to execute an agreement with Wood Rodgers to develop a pre-feasibility study for flood protection for the City of Rio Vista. Contract amount is not to exceed $50,700.

   (D) Amendment to Dry Year Water Purchase Agreement with Yuba County Water Agency: Authorize the General Manager to execute Amendment No. 5 to the participation agreement for the Department of Water Resources Dry Year Water Purchase Program with the Yuba County Water Agency, costing approximately $2,150 per year for three years.

810 Vaca Valley Parkway, Suite 203
Vacaville, California 95688
Phone (707) 451-6090 • FAX (707) 451-6099
www.scwa2.com

SOLANO WATER
WASTE NOT • WANT NOT

(E) Amendment to Aquatic Pesticide Compliance Agreement with Blankenship and Associates: Authorize the General Manager to execute Amendment No. 1 to the Aquatic Pesticide Compliance Agreement with Blankenship and Associates. Increase in contract amount of $3,100 to $52,600.

6. BOARD MEMBER REPORTS

RECOMMENDATION: For information only.

7. GENERAL MANAGER'S REPORT

RECOMMENDATION: For information only.

8. DELTA COORDINATION WORKING GROUP

RECOMMENDATIONS:

1. Rename the Delta Coordination Working Group as the Water Policy Committee with the understanding that the charge of the new Committee is broader than Delta issues.
2. Chairman to appoint a Chair of the new Committee and seek (up to seven) Board member to serve on the Committee.
3. The Committee is to include local agency staff and can include Napa County representatives.

9. EXECUTIVE SEARCH

RECOMMENDATION: Authorize General Manager to execute an agreement with an Executive Search company for the General Manager position.

10. DELTA ISSUES

RECOMMENDATION: Hear report from Supervisor Thomson on the activities of the Delta Counties Coalition and the Delta Protection Commission.

11. TIME AND PLACE OF NEXT MEETING

Thursday, December 11, 2014 at 6:30 p.m. at the SCWA offices.

The Full Board of Directors packet with background materials for each agenda item can be viewed on the Agency's website at www.scwa2.com.

Any materials related to items on this agenda distributed to the Board of Directors of Solano County Water Agency less than 72 hours before the public meeting are available for public inspection at the Agency's offices located at the following address: 810 Vaca Valley Parkway, Suite 203, Vacaville, CA 95688. Upon request, these materials may be made available in an alternative format to persons with disabilities.

Nov.2014.bod.agd

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2014
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 12, 2014

TO : Vice Mayor Campbell
Council Member Schwartzman

FROM : Principal Engineer

SUBJECT : **TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY (TPBS) COMMITTEE**

The following is provided as your committee report for the November 18, 2014 City Council meeting.

The TPBS Committee held their regular meeting on October 16, 2014 (agenda and draft minutes attached).

The next regular meeting is scheduled for January 15, 2015.

Attachments:
- October 16 Agenda
- October 16 Draft Minutes

VIII.E.10.2

City of Benicia
TRAFFIC PEDESTRIAN &
BICYCLE SAFETY (TPBS) COMMITTEE

REGULAR MEETING

City Hall – Commission Room
Thursday, October 16, 2014
7:00 pm

AGENDA

I. CALL TO ORDER
1. Roll Call
2. Pledge of Allegiance
3. Fundamental Rights Statement

II. APPROVAL OF MINUTES
1. September 4, 2014 -- Special Meeting

III. PUBLIC COMMENTS

IV. VERBAL STAFF UPDATES (5 minutes)
1. Status update on request for speed limit reductions in West Manor neighborhood and on Military West between W. 2nd and First Street.
2. Status update of traffic calming requests (3 locations) and striping on East 5th Street/St. Dominic's School from the September 4 TPBS Committee Meeting.

V. ACTION ITEMS (45 minutes)
1. ***All-way stop request at West 4th and West K Streets*** – receive public input and recommend approval to install all-way stop.
2. ***Military West and West 7th Street Intersection Feasibility Study*** – receive public input and recommend approval for staff to commission a study to look at feasibility of enhancing safety and improving circulation.
3. ***Rescission of recommendation to install a marked crosswalk and ramp on West West K at West 7th Street*** – receive public input and recommend Committee rescind the former action to install marked crosswalk.
4. ***2015 TPBS Committee Meeting Schedule*** – discuss meeting criteria, frequency and adopt 2015 meeting schedule.

VI. 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 Dan Pincetich, 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.

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 City Clerk'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 Clerk's Office located at 250 East L Street, Benicia, or at the meeting held in the Commission Room. If you wish to submit written information on an agenda item, please submit to Kathy Trinque, Recording Secretary, as soon as possible so that it may be distributed to the TPBS Committee members.

DRAFT
Minutes
CITY OF BENICIA
TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY (TPBS) COMMITTEE
Regular Meeting
Thursday, October 16, 2014
7:00 p.m.

I. Call to Order.

Meeting called to order at 7:01 p.m.

1. Roll Call:

   Committee Members Present:

   Committee Chair, Vice-Mayor Tom Campbell
   Council Member, Alan Schwartzman
   Police Lt. Frank Hartig
   Public Works Director/City Engineer, Graham Wadsworth
   Principal Civil Engineer, Mike Roberts

   Absent: None

   Staff Present: Kathy Trinque, Recording Secretary

2. Fundamental Rights Statement

3. Pledge of Allegiance

II. Approval of September 4, 2014 Meeting Minutes.

A motion to adopt the minutes was made by Mike Roberts, seconded by Council Member Schwartzman and approved by a 4-0 vote (Graham Wadsworth abstained).

III. Public Comments: none.

IV. Verbal Staff Updates

1. ***Status update on request for speed limit reductions in West Manor neighborhood and on Military West between West 2nd and First Street.***

   Mike Roberts reviewed Ms. Burgess's concerns about speeding in this neighborhood from the September 4, 2014 meeting. The City has started traffic counts to collect speed data – once collected the data will be analyzed and reviewed to see if reducing the speed limit is justified.

2. ***Status update of traffic calming requests (3 locations) and striping on East 5th Street/St. Dominic's School, from the September 4 TPBS Committee Meeting.***

Mike Roberts reviewed the actions from the September 4 meeting when traffic calming on East E Street (E 2nd to E 5th), West K Street (at West 4th St) and on Panorama (Tustin to Chelsea Hills) was approved. The traffic calming work is currently out to bid. Once the bids are received and costs reviewed, the City will proceed with installation. Mr. Roberts also read a letter dated September 26, 2014 from the Portside Village Homeowners Association thanking the City and supporting the traffic calming work on East E Street.

Mr. Roberts introduced and welcomed Graham Wadsworth, the City's recently hired Public Works Director/City Engineer, to the Committee and members of the public.

V. Action Items

1. All-way stop request at West 4th and West K Streets

Mr. Roberts provided a brief overview from the staff report provided. Based on public input at the September 4, 2014 meeting, staff has re-evaluated the all-way stop request at West K and West 4th Streets and is now recommending the stop sign be included with the traffic calming plan.

Residents in the immediate area were notified and written comments were received from:

Heather Pierini of 430 West K Street – Letter is in favor of stop sign.
Dan Hoover, of 360 West K Street – Letter is in favor of slowing traffic
Pat Donoghue of 390 West K Street – Letter is opposed to stop sign installation.

Mr. Roberts presented staff's recent review of the intersection stating that when traveling north on West 4th Street and looking west, it is difficult to see on-coming traffic due to a sight distance problem from cars parked in front of 410 West K Street. The only way to improve the site distance is to paint red curb along the front of the 410 West K residence, thus creating a hardship for that resident.

Mr. Roberts stated that there were no reported accidents at this location, but residents have reported that cars parked along West K Street have had their mirrors hit. No citations have been issued at this location and traffic counts indicate 500 to 600 cars traveling through each day.

The Committee discussed various options including:

- Reducing the 165 feet of length of red curb proposed to be painted from the intersection to the residence at 410 West K Street.
- Installing the stop sign and not painting red curb – ask resident not to park their white truck at the intersection.
- Installing traffic calming and wait to install stop sign.

- Restricting parking on West K Street to the south side only and shift the centerline over.

Public Comments:

Jill Ray of 486 West K Street, stated that this street is busy from 7:30 to 8:30 am, in the late afternoon/evening and on weekend nights. She is not sure a stop sign will help. She does not want parking restricted in front of 410 West K Street.

An unidentified resident asked the committee not to make the street wider because it will increase speeders. Also spoke in favor of the all-way stop sign.

Bob Knobloch of 350 West K Street, spoke in favor of an all-way stop sign because the hill creates a blind spot at this intersection. He also stated that Marina Place residents park on the north side of West K Street – so restricting parking on this side reduces their parking space.

Gee Han Chua of 365 West K Street spoke in favor of an all-way stop sign because he does not think that speed spiking will occur at this location, he wants the traffic discouraged from using West K Street and it may encourage traffic to use West J Street instead.

Pat Donaghue of 390 West K Street stated that he is opposed to the all-way stop sign because stop signs don't control speeding – they cause increased noise and pollution from emissions. There have been no accidents at this corner and no close calls. Similar issues exist at other intersections in the City. He finished his statement by reading from the California Manual on Uniform Traffic Control Devices for Streets and Highways on use of traffic control devices. He would like to see traffic calming measures installed instead of a stop sign.

Tony Shannon of 28 Buena Vista stated opposition to the all-way stop sign because stop signs don't slow cars down.

The Committee reviewed the traffic calming measures already approved and the possibility of asking the adjacent resident not to park their vehicle at this intersection. The traffic calming improvements are currently out to bid and can be installed in about a month. The Committee also discussed installing a sign to re-direct through traffic to West J Street and asking residents to use yard signs provided by the City.

A motion was made by Council Member Schwartzman and seconded by Mike Roberts to move forward with installation of the traffic calming plan improvements (approved at the September 4, 2014 meeting) and bring this item back to the TPBS Committee in two meetings to review how it is working and to evaluate what further measures are needed. It was adopted by a 5-0 vote.

2. Military West and West 7th Street Intersection Feasibility Study

Mike Roberts reviewed the staff report and request received from Ms. Gretchen Burgess.

Ms. Burgess's email explained that the issue is that cars turning north from Military West onto West 7th Street are turning into the pedestrians at the crosswalk, creating a safety concern for pedestrians because there is not a dedicated left-turn phase at the signal. Also West 7th Street southbound cars continue to run through the red light at Carolina/Buena Vista.

Staff is recommending that a comprehensive study be done to evaluate and recommend a solution to this complex intersection. Over the past several years, the City has installed a series of improvements: (1) additional electronic pedestrian signage, (2) high visibility crosswalks and (3) added louvers to the signal heads to eliminate confusion.

Staff recommends hiring a traffic engineering expert to evaluate the entire intersection and address safety concerns and use computer modeling so that the City knows exactly what the outcome of each option will be before additional dollars are spent at this location.

Lt. Hartig explained that enforcement is difficult at this location – citations cannot be written by PD unless an officer witnesses a violation. If a resident witnesses the violation then they are required to provide proof of the violation and sign the citation. The traffic violation is that the vehicles are impeding traffic.

Committee discussed their observations and various options for this intersection.

Public Comments:

Tony Shannon, of 28 Buena Vista, spoke on behalf of Gretchen Burgess, who could not attend. He stated that this problem has been going on for a decade. The intersection is difficult to cross safely. The pedestrian signs are not working to keep pedestrians safe because cars from Military West still cross into the crosswalk when pedestrians are present. He likes the idea of delaying the timing when vehicles can turn left – after pedestrians have crossed. He also supports upgrading the signal controller so both delay and additional phases can be used. Also, vehicles are still "blowing through" the red lights on West 7th Street at Buena Vista and Carolina Drive.

Maximillian Burgess, of 28 Buena Vista, spoke in favor of installing an observation camera at the intersection and that the glare from the sun in the morning is a problem because drivers can't see the pedestrians. He also would like to see a school crossing guard.

A motion was made by Council Member Schwartzman and seconded by Lt. Hartig to recommend a comprehensive intersection study and bring back preliminary results to the Committee at the next meeting. This motion was adopted by a 5-0 vote.

3. <u>Rescission of recommendation to install a marked crosswalk and ramp on West K at West 7th Street.</u>

Mr. Roberts provided a review of this item, which was previously heard and discussed at the September 4, 2014 meeting. At that meeting a consensus was reached that the marked crosswalk installation should not proceed. Rescinding the prior recommendation needed to be formally noticed and then acted upon at the next meeting.

The individual who requested installation of the ramp and crosswalk is no longer interested in pursuing this request. The adjacent property owners are adamantly against the crosswalk because it would reduce their street parking and, if it were to proceed, their only recourse would be to appeal the decision to City Council. City funding for new ramps is limited and other worthy locations will be requested in this fiscal year.

<u>Public Comments:</u>

Tony Shannon, resident of 28 Buena Vista, spoke in favor of having a marked crosswalk at this location. He stated that he has seen cars "blow through" this intersection and pedestrians step out from between parked cars, so it's not safe for pedestrians.

Sarah Ingles, resident of 634 West K Street, spoke in favor of rescinding the decision to install a marked crosswalk and ramp at this location. She stated that few pedestrians cross here because there are marked crosswalks at other nearby locations, such as W 6th Street or at the Park.

Yvette Mitchell, resident of 640 West K Street, spoke in favor of rescinding the decision to install a marked crosswalk and ramp at this location. The stop sign at West K and West 7th Streets works well to stop cars. There is little foot traffic here since pedestrians cross at the park.

A motion was made by Council Member Schwartzman and seconded by Mike Roberts to rescind the decision to install a marked crosswalk and ramps at this location and was adopted by a 5-0 vote.

4. <u>2015 TPBS Committee Meeting Schedule</u>

Mr. Roberts presented this item. The Committee held a discussion about when the Committee meets, how and why special meetings are scheduled and how the Committee is functioning.

Councilmember Schwartzman stated that he would like to see meetings held quarterly and if items come up in between regular meetings, staff should wait until the next regular meeting to agendize them. The Committee, by consensus agreed that if there are no items to agendize, a regular meeting can be cancelled.

A motion to adopt the 2015 Meeting Schedule as presented was made by Council Member Schwartzman and seconded by Lt. Hartig. The motion was adopted by consensus.

Meeting was adjourned at 9:10 pm.

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2014
COUNCIL MEMBER COMMITTEE REPORTS

DATE : October 31, 2014

TO : Mayor Patterson
Council Member Strawbridge

FROM : City Manager

SUBJECT : **TRI-CITY AND COUNTY COOPERATIVE PLANNING GROUP "SOLANO OPEN SPACE"**

The following information is provided for your committee report at the November 18, 2014 Council meeting.

The next regularly scheduled meeting is on December 8, 2014.

VIII.E.11.2

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2014
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 6, 2014

TO : Mayor Patterson
Council Member Hughes

FROM : City Manager

SUBJECT : **VALERO COMMUNITY ADVISORY PANEL (CAP)**

The following information is provided for your committee report at the November 18, 2014 Council meeting.

The CAP meets quarterly at 6:30 p.m. at the refinery at 610 Industrial Way. The next meeting is TBD.

VIII.E.12.2

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2014
COUNCIL MEMBER COMMITTEE REPORT

DATE : November 6, 2014

TO : Mayor Elizabeth Patterson
Council Member Christina Strawbridge
Council Member Mark Hughes

FROM : Youth Action Coalition

SUBJECT : **YOUTH ACTION COALITION**

Budget and Scope of Work negotiations with Solano County HSS on the RFP for FY 14-15 and 15-16 were completed. The final contract is being prepared for submission to Solano County Board of Supervisors.

The subject of development of a Retail Tobacco License was discussed with a plan being in its initial stages. Counsel was provided on what would be required.

The discussion on marijuana use by youth continued, with focus on the importance of prevention efforts to educate and inform youth to make good choices.

Members were updated on Red Ribbon Week, scheduled for October 23-31, activities and plans.

Recruitment efforts are underway to fill vacancies where there is low representation—parents, youth, and community members.

The next meeting will be on December 5, 2014.

VIII.E.13.2

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2014
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 6, 2014

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 18, 2014 City Council meeting.

The Bay Area Water Forum's last meeting was held on March 26, 2012.

This was the last meeting of the Bay Area Water Forum for 2012, due to a lack of funding.

VIII.E.14.2

AGENDA ITEM
CITY COUNCIL MEETING: NOVEMBER 18, 2014
COUNCIL MEMBER COMMITTEE REPORTS

DATE : November 7, 2014

TO : Mayor Patterson
Council Member Hughes
Council Member Schwartzman

FROM : Assistant City Manager

SUBJECT : **SOLANO COUNTY TRANSIT (SolTrans) BOARD MEETING**

The following information is provided for your committee report at the November 18, 2014 Council meeting.

The Solano County Transit (SolTrans) Joint Powers Authority held a regular meeting on October 16, 2014 in the City of Benicia Council Chambers. The Executive Report for the October 16, 2014 meeting is attached.

The next regular meeting of the SolTrans Board is scheduled for Thursday, November 20, 2014 at 4:00 p.m. and will be held in the City of Vallejo Council Chambers. The Agenda and Executive Report for this meeting were not available as of the date of this report.

Attachment:
- October 16, 2014 Executive Report

VIII.E.15.2

AGENDA ITEM 5
BOARD MEETING DATE: OCTOBER 16, 2014

SolTrans
Solano County Transit

TO: BOARD OF DIRECTORS
PRESENTER: MONA BABAUTA, EXECUTIVE DIRECTOR
SUBJECT: EXECUTIVE DIRECTOR'S REPORT
ACTION: INFORMATIONAL

The following provides an overview of more significant issues addressed by your staff since the September 18, 2014 Board meeting:

FINANCE AND ADMINISTRATION:

- SolTrans Curtola Park and Ride Hub: At this time, the west side of the lot is being improved, which includes the transit center and approximately 300 parking spots. Weekly construction updates may be found here: http://www.soltransride.com/planning/soltrans-curtola-park-ride-hub/weekly-construction-updates/. More info on the overall project may be found here: http://www.soltransride.com/planning/soltrans-curtola-park-ride-hub/.

  Concurrent with the construction process, staff is working closely with STA staff to navigate through CalTrans' process for relinquishing land to SolTrans. One of the requirements in doing so is to complete a Project Initiation Document (PID) for the Curtola project. As a result, on October 8th, STA approved an amendment to their FY 2014-15 3-Year Project Initiation Document Work Plan to include the SolTrans Curtola Park and Ride Hub. (The cost of completing a PID is still unknown at this time.)

- Public Private Partnership (P3) Process: Staff issued a RFQ on September 26th for soliciting statements of qualifications from private firms that can potentially operate and maintain the future SolTrans Curtola Park and Ride Hub through a "public-private partnership." Statements are due on October 23rd, and Board action on any next steps may be sought in November 2014. You may see the RFQ here: http://www.soltransride.com/wp-content/uploads/2012/06/RFQ-for-Curtola-OandM.pdf.

- Transit Operations & Maintenance Facility at 1850 Broadway: This project is very important for staff productivity and morale, as well as for operational efficiency, and we are now prepared to ask the Board to approve a contract award for construction under Agenda Item 7f.

- Human Resources Update: To fill current vacancies, we are hiring two temporary Analysts through Bolt Staffing to assist with projects in the Planning/Operations and Finance/ Administration divisions. In the next couple of months; however, I will be working with our Human Resources consultant to re-issue recruitment materials for both Analyst I and II positions, as well as to begin the hiring process for a permanent Planning and Operations Manager.

- Funding Agreement with Cal Maritime: We are working closely with the California Maritime Academy to finalize a funding agreement to continue 1) operating Route 3 to the entrance of the campus, and 2) providing free rides for Cal Maritime students and employees with a university-issued ID card for the period of September 1, 2014 through August 30, 2015. A second meeting on this matter occurred on October 9th, and Board authority to negotiate a final agreement with Legal Counsel approval is being sought under Agenda Item 7e

- Year-End Financial Audit: Brown Armstrong completed its on-site work as part of our annual fiscal year-end financial audit process. We hope to have the final audited financial statements for the November 2014 Board meeting.

- TDA Triennial Performance Audit: Staff met with MTC staff and the audit team, Pierlott and Associates, LLC, on October 7th. Over the next couple of months, staff will be working closely with the auditors to assess SolTrans' performance and data collection practices as mandated by State TDA law. A final report is expected to be completed by Spring 2015.

- Ladders of Opportunity Grant Application Outcome: SolTrans submitted a $2 Million grant application to the Federal Transit Administration (FTA) in August 2014 through their Ladders of Opportunity Grant Program. This funding would have been used to build a Compressed Natural Gas (CNG) fueling station, which is a pre-requisite for acquiring CNG vehicles to replace the aging Solano Express bus fleet. Unfortunately, SolTrans was not included on FTA's list of awardees: http://www.fta.dot.gov/grants/15926_16153.html

  Staff is now in the process of reevaluating its funding resources and assembling a potential funding plan for building the fueling facility. A recommendation to the Board will be presented in the coming months to allow staff to proceed with replacing buses, and to ensure that federal earmarks (tied to alternative-fueled vehicles) are not lost.

- Coordinated Short Range Transit Plan (SRTP): STA has agreed to take the lead in developing a coordinated SRTP that will cover MTC's SRTP planning requirements for SolTrans, Fairfield and Suisun Transit (FAST), Dixon Readi-Ride, and the Rio Vista Delta Breeze. Staff will be working closely with STA on this document, which is due to MTC by Spring of 2015.

OPERATIONS:

- Benicia Lunch Shuttle: A lunch shuttle is being planned and marketed for a luncheon at the Benicia Senior Center on October 22nd. This is being done in response to significant requests from Benicia seniors and their advocates. The "fixed route" shuttle may be an effective way to meet public demand, as well as more efficiently transport luncheon attendees at a lower cost to SolTrans and for riders (fixed route senior fare is $0.85 versus the $2 on Dial-a-Ride). Therefore, staff will be monitoring the performance of this shuttle service and intends to continue it through the end of the year on a promotional basis. Staff will return to the Board by early next year if longer-term plans for the shuttle's continuation should be considered.

- Benicia Senior Fare on General Public Dial-a-Ride: Staff is proposing a discounted senior fare on the GP DAR system in Benicia to improve productivity during the mid-day and on Saturdays when there is currently excess and unused capacity on the system. More information may be found under Agenda Item 10.

- Clipper: The Clipper universal fare system that will allow Solano County transit users to travel seamlessly throughout the Bay Area is on track to be delivered before the end of this year. A soft launch is expected to occur in October 2014, and a hard launch is planned for the first week of November 2014. As key milestones are achieved, the Board will be kept informed.

- AVL Contract Being Negotiated: Staff is in the process of negotiating the contract with Avail Technologies for the implementation of an Automatic Vehicle Location (AVL) System.

- System Analysis and Restructuring Project and Connectivity to Solano County Courthouse: This project is reaching its final stages before potentially implementing system enhancements in January 2015. As part of our public participation plan, a public hearing is being held during this October Board meeting to allow for final public comments before the Board is asked to approve the final set of service enhancements. More information may be found under Agenda Item 9.

  It should also be noted that, as part of this project, staff will be looking at ways to tweak the Route 85 schedule to improve connectivity with services provided by FAST to/from the Solano County Courthouse in downtown Fairfield.

- Exploration of Potential Service on Mare Island: I toured the planned transit facilities on Mare Island with Lennar officials and Supervisor Seifert on October 3rd. Significant interest continues to be communicated by Mare Island employers, employees, and residents to expand service to the Island, and staff continues to analyze the necessary financial resources and infrastructure improvements to meet this interest. The meeting was fruitful and the potential for exploring funding partnerships was discussed. As significant developments occur on this issue, the Board will be kept informed.

EXTERNAL AFFAIRS:

- MTC's 2014 "Excellence in Motion" Awards Ceremony on October 22, 2014: SolTrans is being honored with a Merit Award from MTC for the Agency's creation by the Cities of Benicia and Vallejo and the Solano Transportation Authority, resulting in a sustainable public transit system for South Solano County that is making great strides in implementing projects and programs that will raise the level and quality of service for citizens in the coming months/years. More information on MTC's awards program may be found here: http://www.mtc.ca.gov/about_mtc/awards/

- Waterfront Weekend Community Shuttle and Promotion: SolTrans provided a free community shuttle (Attachment A) on October 4th that was open to the general public to allow individuals to explore Vallejo's historic landmarks, museums, and art studios on Mare Island and in downtown Vallejo. Overall, the shuttle carried approximately 100 people, which was a relatively good turn-out for a first time event. Additionally, SolTrans offered free rides for individuals on the local fixed-route system who presented a coupon to allow for increased connectivity to/from the Waterfront festivities on October 4th.

- Solano Transportation Authority (STA) Annual Awards Ceremony: SolTrans staff will be attending this event on November 12th. SolTrans will also assist STA in transporting attendees to the event site, and while on the bus, STA staff will take the opportunity to

introduce aspects of their newly implemented Mobility Management and Travel Training Programs.

- Presentations: I delivered presentations to the Vallejo Chamber of Commerce's Government Affairs Committee on October 2nd and the Solano Transportation Authority Board of Directors on October 8th. Both presentations may be found as Attachments B and C. I also presented at Benicia's Tourism Committee on September 18th.

  Furthermore, I am scheduled to deliver a presentation to the Benicia Friendship Club on January 29, 2015 at noon.

- Community Outreach Events: SolTrans participated in the following event:
  - "Fabulous at 50 or Better": Staff participated in the annual health fair hosted by Vallejo's Senior Center on Saturday, September 27th.

- State and National Committee Meetings: I will be participating in the upcoming conferences/committee meetings:
  - American Public Transportation Association (APTA): I will be attending APTA's Small Operations Committee on Sunday, October 12th, in Houston. I am then scheduled to stay and attend the Annual Meeting and Expo, which is a triennial event that will showcase the latest technology and information in the transit industry, from 10/12 through 10/15.
  - California Transit Association (CTA): As a member of CTA's Executive Committee, I will be attending a meeting on Tuesday, November 11th, in Monterey. The following day, I will be speaking during a session entitled, "Community Involvement and Public Participation," which is part of CTA's Annual Fall Conference.

Attachments:

A. Waterfront Weekend Community Shuttle
B. Presentation to Vallejo Chamber of Commerce's Government Affairs Committee
C. Presentation to STA Board of Directors on the SolTrans Curtola Park and Ride Hub
D. List of Acronyms

SolTrans Community Shuttle

Free Shuttle to Explore Mare Island and Downtown Vallejo

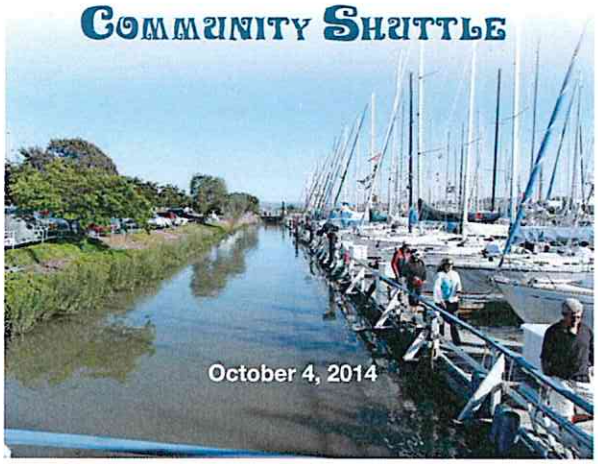
SolTrans

SPECIAL EVENT BUS ROUTE

Vallejo Waterfront Weekend

Community Shuttle

Leave the driving to SolTrans as you focus on enjoying Vallejo's historical landmarks, museums, art studios and other attractions on Mare Island and in historic Downtown Vallejo! The **FREE Community Shuttle** operates on 15-minute service and will allow you to jump off and on the bus at designated bus stops. Volunteers will be available to provide information about the sites that are along the route, and to increase the fun as you learn about our wonderful City!



SolTrans

311 Sacramento Street
Vallejo, CA
Questions: (707) 648-4666
Information: www.soltransride.com

Waterfront Weekend Community Shuttle Schedule

1 VALLEJO TRANSIT CENTER (VTC)	2 * FERRY BUILDING	3 MARINA	4 PEOPLE'S GARDEN	5 ST. PETER'S CHAPEL	6 MARE ISLAND MUSEUM	7 ** COAL SHED STUDIOS	8 NAVAL & HISTORICAL MUSEUM	1 VTC
9:45	9:47	9:48	9:55	9:56	10:00	10:01	10:08	10:10
10:00	10:02	10:03	10:10	10:11	10:15	10:16	10:23	10:25
10:15	10:17	10:18	10:25	10:26	10:30	10:31	10:38	10:40
10:30	10:32	10:33	10:40	10:41	10:45	10:46	10:53	10:55
10:45	10:47	10:48	10:55	10:56	11:00	11:01	11:08	11:10
11:00	11:02	11:03	11:10	11:11	11:15	11:16	11:23	11:25
11:15	11:17	11:18	11:25	11:26	11:30	11:31	11:38	11:40
11:30	11:32	11:33	11:40	11:41	11:45	11:46	11:53	11:55
11:45	11:47	11:48	11:55	11:56	12:00 PM	12:01 PM	12:08 PM	12:10 PM
12:00 PM	12:02 PM	12:03 PM	12:10 PM	12:11 PM	12:15 PM	12:16 PM	12:23 PM	12:25 PM
LUNCH BREAK -- NO SERVICE PROVIDED (12:25 - 12:59 PM)								
1:00 PM	1:02 PM	1:03 PM	1:10 PM	1:11 PM	1:15 PM	1:16 PM	1:23 PM	1:25 PM
1:15 PM	1:17 PM	1:18 PM	1:25 PM	1:26 PM	1:30 PM	1:31 PM	1:38 PM	1:40 PM
1:30 PM	1:32 PM	1:33 PM	1:40 PM	1:41 PM	1:45 PM	1:46 PM	1:53 PM	1:55 PM
1:45 PM	1:47 PM	1:48 PM	1:55 PM	1:56 PM	2:00 PM	2:01 PM	2:08 PM	2:10 PM
2:00 PM	2:02 PM	2:03 PM	2:10 PM	2:11 PM	2:15 PM	2:16 PM	2:23 PM	2:25 PM
2:15 PM	2:17 PM	2:18 PM	2:25 PM	2:26 PM	2:30 PM	2:31 PM	2:38 PM	2:40 PM
2:30 PM	2:32 PM	2:33 PM	2:40 PM	2:41 PM	2:45 PM	2:46 PM	2:53 PM	2:55 PM
2:45 PM	2:47 PM	2:48 PM	2:55 PM	2:56 PM	3:00 PM	3:01 PM	3:08 PM	3:10 PM
3:00 PM	3:02 PM	3:03 PM	3:10 PM	3:11 PM	3:15 PM	3:16 PM	3:23 PM	3:25 PM
3:15 PM	3:17 PM	3:18 PM	3:25 PM	3:26 PM	3:30 PM	3:31 PM	3:38 PM	3:40 PM
3:30 PM	3:32 PM	3:33 PM	3:40 PM	3:41 PM	3:45 PM	3:46 PM	3:53 PM	3:55 PM
3:45 PM	3:47 PM	3:48 PM	3:55 PM	3:56 PM	4:00 PM	4:01 PM	4:08 PM	4:10 PM
4:00 PM	4:02 PM	4:03 PM	4:10 PM	4:11 PM	4:15 PM	4:16 PM	4:23 PM	4:25 PM

Gold Highlighted Times: Drop-off Only. Will continue to Ferry Building upon request before going out of service.

* Bus will stop at Yacht Club after the Ferry Building upon request only.

** Bus will serve the Marina stop on the way to the Naval & Historical Museum after departing the Coal Shed Studios.

Times above are approximate (given traffic conditions and road closures) and indicate departure times from bus stops.

For details about events, locations and times during this fun weekend, go to www.vallejowaterfrontweekend.com

SolTrans

SPECIAL EVENT BUS ROUTE

Vallejo Waterfront Weekend Community Shuttle

October 4, 2014

Daytime Events, Saturday, Oct. 4

Farmers Market: **8am - 2pm**
Georgia St. (Sacramento to Sonoma Blvd)
Whale Boat Regatta: **8am - 6pm**
Mare Island Strait
Classic Car Show: **9am - 6pm**
Georgia St. (Santa Clara to Sacramento)
Celebrity Dunk Tank: **10am - 5pm**
Waterfront Lawn
GVRD Children's Expo: **11am - 5pm**
Waterfront Lawn
Waterfront Paddle Fest: **begins at noon**
Near Vik's Wheelhouse
Chili Cook-off: **noon - 3pm**
Vallejo Yacht Club
Live Music (6 Groups): **noon - 4pm**
Vallejo Yacht Club
Songs & Dances: **begins at 1pm**
K Library

Special Event Bus Route and Stops

- Section 1: Vallejo Transit Center to Mare Island
- Section 2: Mare Island to Downtown & Museum
- Section 2: Return to Vallejo Transit Center
- ☆ Outlined Stars indicate bus stops that are served upon request by a passenger

ATTACHMENT B
Agenda Item 5

SOLANO COUNTY TRANSIT (SOLTRANS) OVERVIEW

Presented to: The Vallejo Chamber of Commerce
on October 2, 2014
by Mona A. Babauta, Executive Director

SolTrans

VIII.E.15.9

WHO WE ARE

- Joint Powers Authority created in November 2010
- Member Agencies: Cities of Vallejo and Benicia, Solano Transportation Authority (STA)
- Assumed Transit Services in July 2011
- 6-member Board of Directors: 2 Representatives from each City, STA Representative, Metropolitan Transportation Commission (MTC) Representative
- Largest Transit Operator in Solano County

SolTrans

VIII.E.15.10

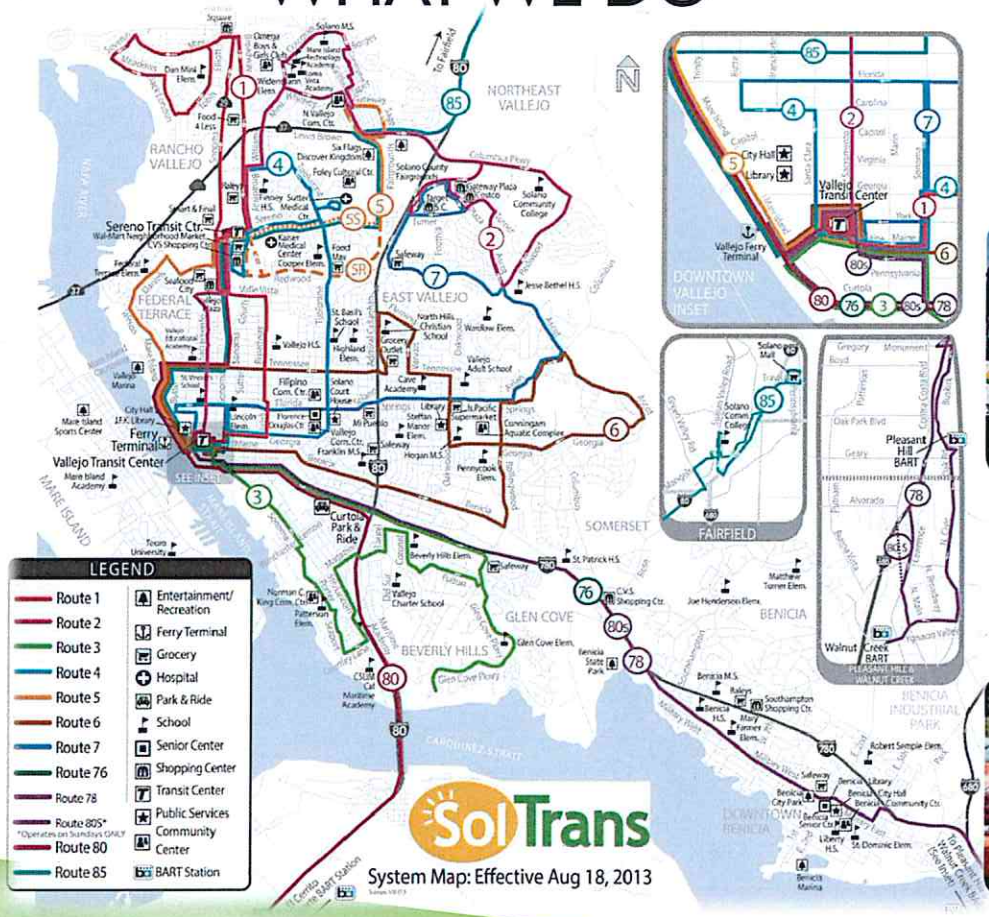
WHO WE SERVE

- Professionals going to/from Jobs
- Shoppers
- Students
- Commuters traveling to/from BART Stations in the Bay Area and San Francisco
- Seniors & People with Disabilities
- Families and individuals of various income ranges
- Other Discretionary Riders
  - Environmentally-conscious individuals
  - Budget-conscious individuals

SolTrans

VIII.E.15.11

WHAT WE DO



SolTrans

VIII.E.15.12

HOW WE'RE PERFORMING—RIDERSHIP

FY 2012-13 Actual Ridership: 1,357,680

FY 2013-14 Year-End Ridership: 1,438,104

Year-over-Year Change:

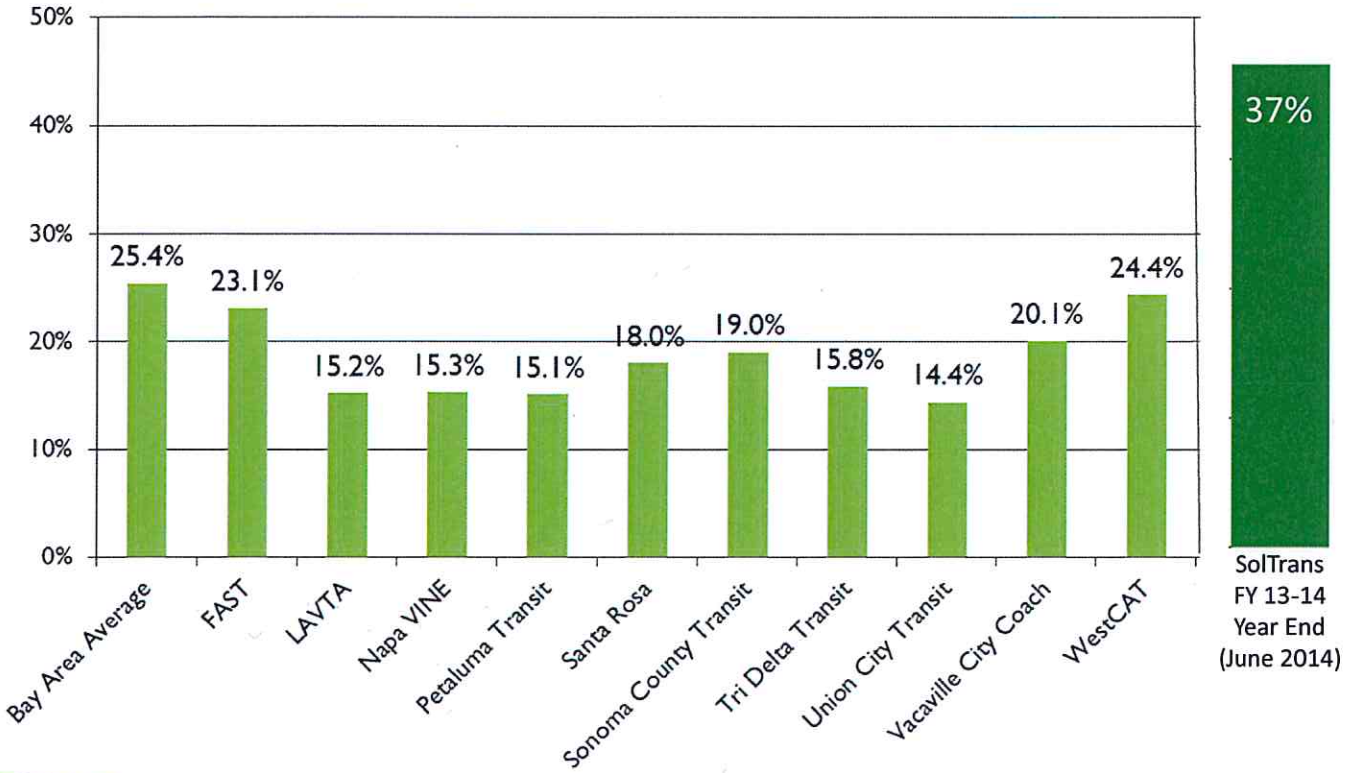
Ridership Increase: 80,424

% Increase: 5.9%

SolTrans

HOW WE'RE PERFORMING--FAREBOX RECOVERY*

Fixed Route Farebox Recovery = % of fixed route operating expenses financed with passenger fares.



*Figures from similar-sized operators from MTC's June 2013 Statistical Summary of Bay Area Operators

SolTrans

Looking Forward to FY 2014-15

SOLTRANS TECHNOLOGIES

Being Implemented This Year

Security cameras
Feel more secure when you ride – DONE!

Google Transit
National Platform for Trip Planning- DONE!

AVL Technology
Know when the bus is coming in Real Time

Clipper
Seamless travel throughout Bay Area with pre-loaded fare card.

Also Pursuing CNG Technology:

SolTrans

VIII.E.15.16

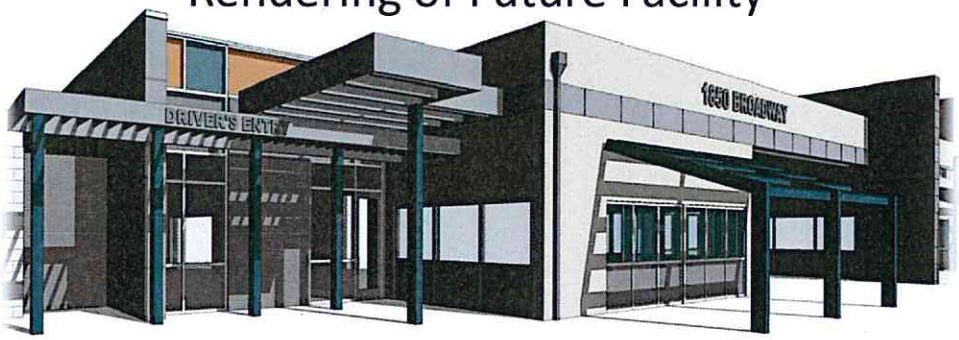
SOLTRANS CURTOLA PARK AND RIDE HUB

SolTrans

OPERATIONS & MAINTENANCE FACILITY

Current Building

Rendering of Future Facility



SolTrans

SYSTEM EVALUATION & RESTRUCTURING PROJECT

Objectives:

- Identify the agency's strengths and areas for improvement
- Make recommendations to:
  - Increase ridership
  - Improve efficiency
  - Shorten travel times and increase efficiency
  - Improve on-time performance
- Increased ridership and efficiency = Greater competitiveness for performance-based grant funds & revenues → More & Better Service
- More and Better Service → helps facilitate job growth, civic engagement, social awareness, and economic activity.
- More and Better Service → helps get people out of their cars and their isolated environments to increase community involvement and efforts to increase public safety and public health.

SolTrans

PERFORMANCE-BASED & COMPETITIVE GRANTS (EXAMPLES)

- MTC's Transit Performance Initiative (TPI)
- Federal Small Transit Intensive Cities (STIC)
- State Transportation Development Act (TDA) – System Performance is audited every 3 years
- State Cap & Trade Funding
- Federal Ladders of Opportunity (for CNG Facility) – Performance and service levels in helping low-income access the middle class is considered.

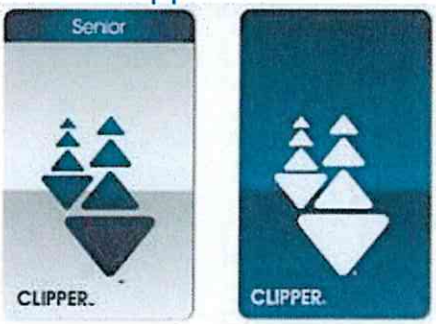
These funding sources could impact $3.9 million to $6 million coming to SolTrans in the next 2 years.

SolTrans

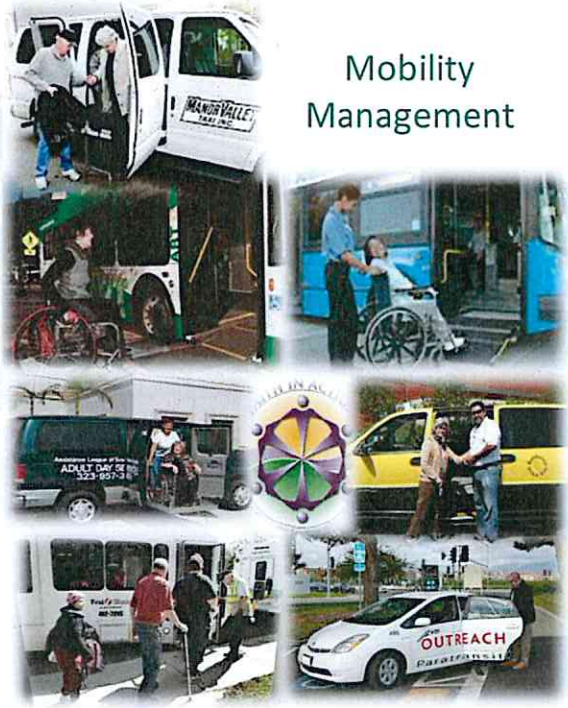
REGIONAL PARTNERSHIPS

Public-Private Partnerships

Clipper Card



Mobility Management



Regional Trip Planning & Signage

511

Your Bay Area travel guide.

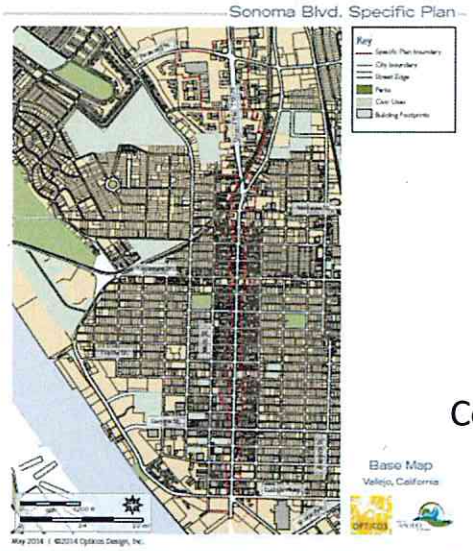
Coordinated Service Planning -Joint Procurements-Grant Coordination-Other Joint Efforts

SolTrans ⟷ FAST ⟷ CITY COACH ⟷ DIXON READI-RIDE CALL 678-5020 TO RESERVE YOUR RIDE ⟷ DELTA BREEZE

SolTrans

LOCAL PARTNERSHIPS

Senior Center Health Fair



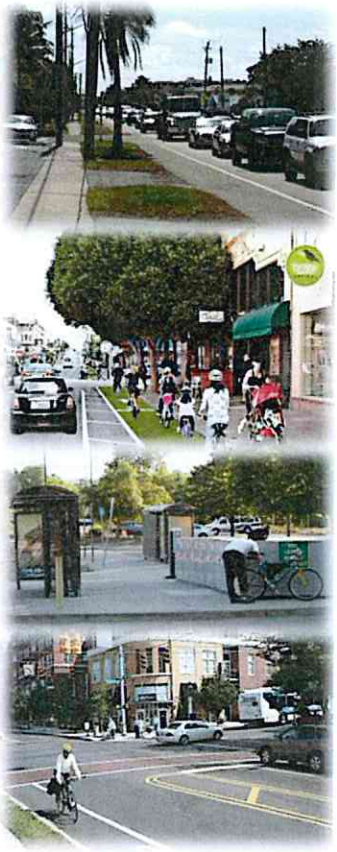
Community Enhancements

Earth Day Outreach

Community Celebrations

VIII.E.15.22

A HEALTHY, SYNERGISTIC TRANSPORTATION NETWORK—SOLTRANS' ROLE



- SolTrans can help create funding opportunities for other elements of South Solano County's Transportation System
  - Help attract funding for bicycle and pedestrian facilities/amenities -- All transit riders are, at some point on their trip, either a pedestrian or bicyclist.
  - Help attract federal, state and regional funding for corridors that support transit and the concept of "complete streets."
  - Help attract funding for regional transportation facilities (i.e. SolTrans Curtola Park and Ride Hub that also supports carpoolers, vanpoolers and provide support facilities for bicyclists)
  - Help attract funding for transit oriented development/priority development areas such as the Benicia Industrial Park PDA

SolTrans

QUESTIONS?

THANK YOU FOR YOUR TIME!

VIII.E.15.24

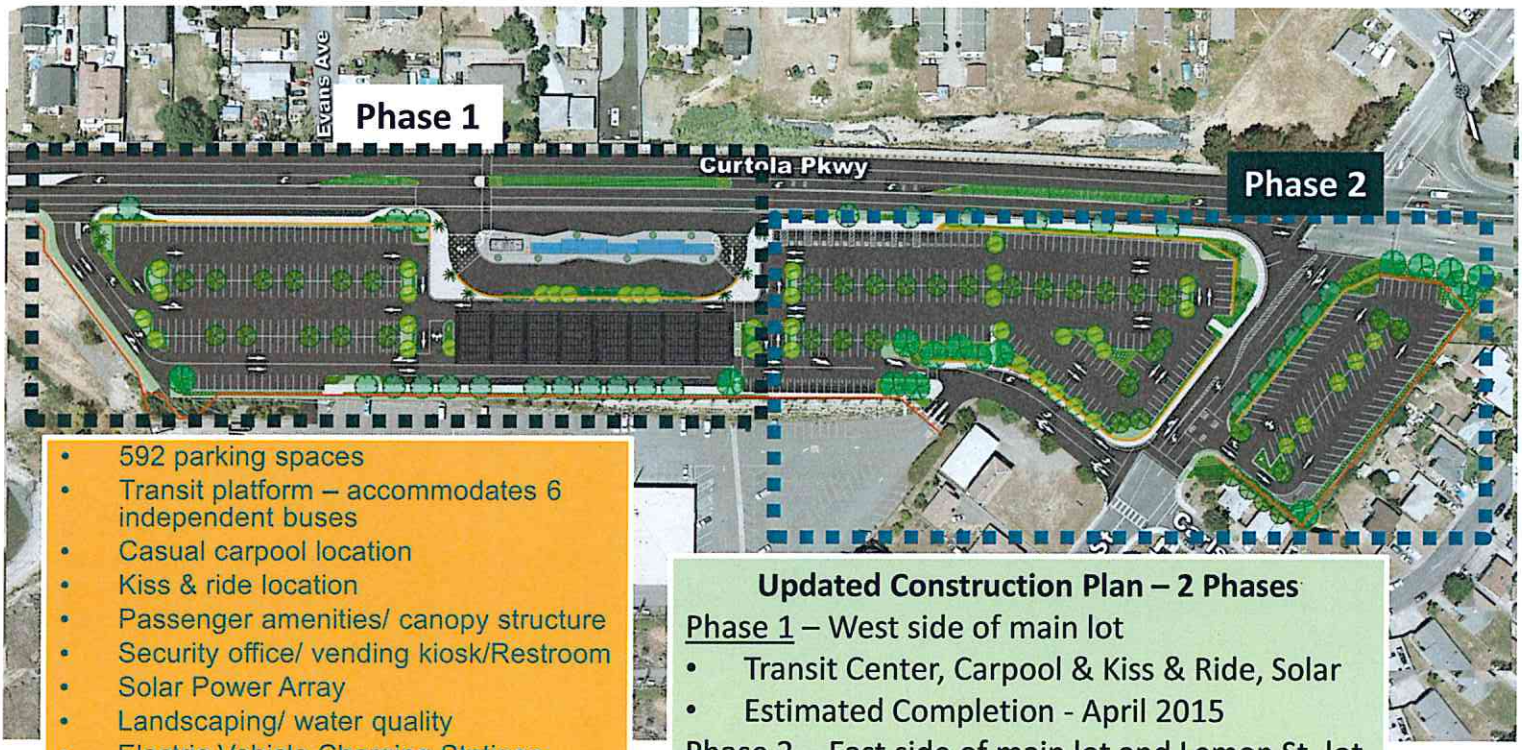
ATTACHMENT C
Agenda Item 5

CURTOLA PARK & RIDE HUB PROJECT STATUS UPDATE PRESENTATION

Presented to: The Solano Transportation Authority Board
on October 8, 2014
By: Mona Babauta, SolTrans Executive Director

SolTrans

CURTOLA PARK AND RIDE SITE LAYOUT



- 592 parking spaces
- Transit platform – accommodates 6 independent buses
- Casual carpool location
- Kiss & ride location
- Passenger amenities/ canopy structure
- Security office/ vending kiosk/Restroom
- Solar Power Array
- Landscaping/ water quality
- Electric Vehicle Charging Stations

Updated Construction Plan – 2 Phases

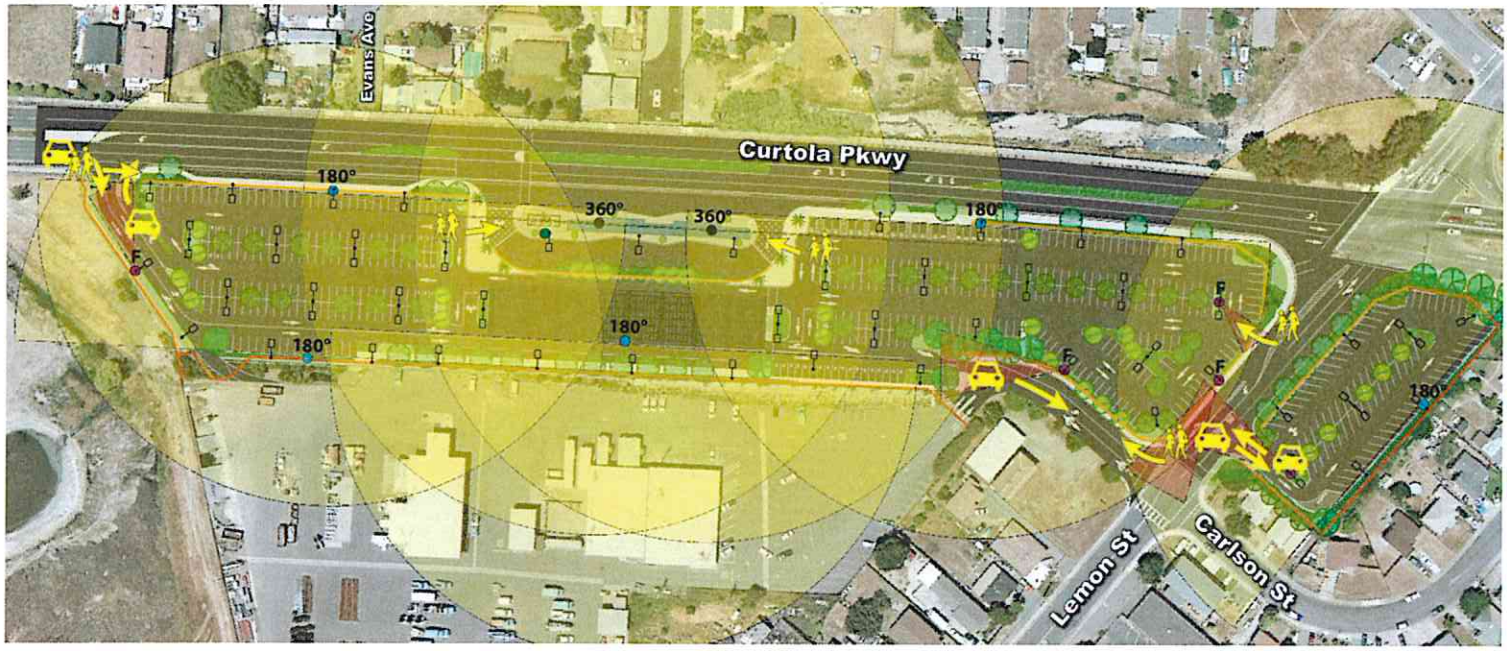
Phase 1 – West side of main lot
- Transit Center, Carpool & Kiss & Ride, Solar
- Estimated Completion - April 2015

Phase 2 - East side of main lot and Lemon St. lot
- Electric Charging Stations
- Estimated Completion – October 2015

SolTrans

GATEWAY SIGNAGE

IMPROVED SECURITY COVERAGE



NEW TRANSIT CENTER

SolTrans

CUSTOMER SERVICE & VENDOR SPACE

SolTrans

CONSTRUCTION PROGRESS

CONSTRUCTION PROGRESS

CONSTRUCTION PROGRESS

CONSTRUCTION PROGRESS

Questions?

COMING SOON

STA Solano Transportation Authority

SolTrans

Regional Measure 2 BRIDGE TOLLS

SOLTRANS CURTOLA
PARK & RIDE HUB PROJECT

FOR PROJECT INFO GO TO WWW.SOLTRANSRIDE.COM

Caltrans

City of VALLEJO California

Thank You!

SolTrans

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VIII.E.15.36

SolTrans
Solano County Transit

SOLTRANS ACRONYMS LIST OF TRANSPORTATION TERMS

Last Updated: June 11, 2014

A	
ADA	Americans with Disabilities Act
APC	Automatic Passenger Counter
AVL	Automatic Vehicle Location System
AVO	Average Vehicle Occupancy
B	
BAFO	Best and Final Offer
BART	Bay Area Rapid Transit
C	
CalEMA	California Emergency Management Agency
CALTRANS	California Department of Transportation
CAM	Cost Allocation Model
CARB	California Air Resources Board
CBA	Collective Bargaining Agreement
CCC	Contra Costa County Connections
CHP	California Highway Patrol
CMAQ	Congestion Mitigation & Air Quality Program
COV	City of Vallejo
CTC	California Transportation Commission
CTSGP	California Transit Security Grant Program
CTAF	California Transit Assistance Fund
D	
DAR	Dial-a-Ride
DBE	Disadvantaged Business Enterprise
DOT	Department of Transportation
E & F	
FAST	Fairfield and Suisun Transit
FHWA	Federal Highway Administration
FTA	Federal Transit Administration
FY	Fiscal Year
G, H, I, & J	
GFI	Gen-fare Industries Farebox
GP	General Public (as in GP Dial-a-Ride)
GPS	Global Positioning System
HOV	High Occupancy Vehicle
IFB	Invitation for Bid
IPR	Initial Project Report
ITF	Intercity Transit Funding
JARC	Job Access Reverse Commute
JPA	Joint Powers Authority
L & M	
MAP-21	Century Moving Ahead for Progress in the 21st Century
MCI	Motor Coach Industries
MOU	Memorandum of Understanding
MOV	Multiple Occupant Vehicle
MPO	Metropolitan Planning Organization
MTC	Metropolitan Transportation Commission
N, O, & P	
NTD	National Transit Database
OBAG	One Bay Area Grant
PAC	Public Advisory Committee
PCC	Paratransit Coordinating Council
PDT	Project Development Team
PDWG	Project Development Working Group
PNR	Park & Ride
PPP (3P)	Public Private Partnership
PTAC	Partnership Technical Advisory Committee
R & S	
RFP	Request for Proposals
RM2	Regional Measure 2 Funds
RVH	Revenue Vehicle Hours
RVM	Revenue Vehicle Miles
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
SNCI	Solano Napa Commuter Information
SR2T	Safe Routes to Transit
SRTP	Short Range Transit Plan
STA	Solano Transportation Authority
STAF	State Transit Assistance Fund
STIP	State Transportation Improvement Program
STP	Surface Transportation Program
T	
TAC	Technical Advisory Committee
TCP	Transit Capital Priorities
TDA	Transportation Development Act
TIF	Transportation Investment Fund
TIP	Transportation Improvement Program
TLC	Transportation for Livable Communities
TMA	Transportation Management Association
TMP	Transportation Management Plan
TMS	Transportation Management System
U, V, W, Y	
UA	Urbanized Area
VMT	Vehicle Miles Traveled
VTC	Vallejo Transit Center
WETA	Water Emergency Transportation Authority
YTD	Year to Date

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