

December 13, 2005

The Benicia City Council meets the 1st and 3rd Tuesday of each month at 7:30 p.m. in the Council Chambers. Copies of Council Agendas are available in the City Clerk's office at the end of the business day on the Wednesday before the Council meeting.

BENICIA CITY COUNCIL  
CITY COUNCIL CHAMBERS

## SPECIAL MEETING AGENDA

December 13, 2005

7:30 P.M.

- I. CALL TO ORDER:
  - A. ANNOUNCEMENT OF CLOSED SESSION (IF ANY)
- II. CLOSED SESSION:
  - A. NONE
- III. CONVENE OPEN SESSION:
  - A. ROLL CALL:
  - B. PLEDGE OF ALLEGIANCE
  - C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC
- IV. ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:
  - A. ANNOUNCEMENTS:
    - Announcement of action taken at Closed Session, if any.
    - Openings on Boards and Commissions:
      - Parks, Recreation & Cemetery Commission: 1 unexpired term
      - Planning Commission: 1 unexpired term
  - B. APPOINTMENTS:
  - C. PRESENTATIONS:
  - D. PROCLAMATIONS:
- V. ADOPTION OF AGENDA:
- VI. COMMUNICATIONS:
  1. WRITTEN
  2. PUBLIC COMMENT
- VII. CONSENT CALENDAR:
- VIII. PUBLIC HEARINGS:
- IX. UNFINISHED BUSINESS:
  - [Approval of modification to the application for Regional Measure 2 Funding for the Park/Industrial Intersection and Park-and-Ride Facility Project.](#) (Finance Director and Public Works Director)

The Park/Industrial Intersection and Park-and-Ride Facility Project is being modified to be constructed in two phases. The first phase includes constructing the bus stop for Fairfield/Suisun Transit System Solano Express Route 40 at a cost of \$175,000 and would be included in the 2005/06 FY budget. The second phase would include the construction of the park and ride lot and making improvements to the Park Road and Industrial Way intersection area. Phase 2 improvements will not proceed ahead at this time.

**Recommendation:** Adopt the resolution requesting the Metropolitan Transportation Commission allocate Regional Measure 2 Funding for the Park/Industrial Intersection and Park-and-Ride Facility Project, Phase I.

**X. NEW BUSINESS:**

**A. [Revisions to Rules of Procedure for the Conduct of City Council Meetings.](#) (City Attorney)**

The proposed revisions by Mayor Messina modify a number of sections of the Rules of Procedure, including the preparation and format of the agenda; opportunity for public comment at City Council Meetings; and the process for appointments to boards and commissions.

**Recommendation:** Adopt the resolution revising the Rules of Procedure for the Conduct at City Council Meetings.

**B. [First reading of an ordinance amending Section 2.04.010 \(Meeting Time and Place\) of Chapter 2.04 \(City Council\) of Title 2 \(Administration and Personnel\) of the Benicia Municipal Code.](#) (City Attorney)**

The proposed revisions to Section 2.04.010 (Meeting Time and Place) by Mayor Messina amend the start time of City Council meetings from 7:30 p.m. to 6:30 p.m.

**Recommendation:** Introduce the amended ordinance and schedule the second reading for the next regular City Council meeting.

**C. [First reading of an ordinance amending Section 2.52.030 \(Members - Term of Office\) of Chapter 2.52 \(Planning Commission\) of Title 2 \(Administration and Personnel\) of the Benicia Municipal Code.](#) (City Attorney)**

The proposed revisions by Mayor Messina modify Section 2.52.030 (Members - Term of Office) for Planning Commissioners, allowing a member to serve until a successor is appointed and qualifies, as well as eliminating the term limit.

**Recommendation:** Introduce the amended ordinance and schedule the second reading for the next regular City Council meeting.

**D. [Authorization of a six month extension of the Letter Agreement with the Valero Refining Company pertaining to the Utility Users Tax.](#) (Finance Director)**

The ten year Letter Agreement with Valero pertaining to the Utility Users Tax is set to expire on December 31, 2005. The attached resolution authorizes a six month extension of the agreement to June 30, 2006 to allow the City and Valero more time to develop a new agreement. In addition to the extension, the resolution temporarily increases Valero's annual tax from \$1 million to \$1.2 million and the new agreement amount, if higher, will be retroactive to January 1, 2006. If the new agreement is not completed in six months, Valero would pay the 4% UUT retroactively to January 1, 2006. As an alternative, the City Council could allow the agreement to expire and Valero would immediately begin paying a 4% UUT effective January 1, 2006. However, the proposed interim agreement provides for this same outcome if a long-term agreement is not reached within six months, including retroactive payments to January 1, 2006. <

**Recommendation: Adopt the resolution authorizing the six month extension of the Letter Agreement with the Valero Refining Company pertaining to the Utility Users Tax.**

- XI. REPORTS FROM CITY MANAGER:**
  - XII. REPORTS FROM CITY COUNCIL COMMITTEES:**
  - XIII. ADJOURNMENT:**
- 

### **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 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 City Council.**

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

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### **Disabled Access**

**In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact Diane O'Connell, 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.**

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### **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.

If you have difficulty accessing any of the City Council agenda items online, please contact Anne Cardwell in the City Manager's Office at (707)-746-4210 or [acardwell@ci.benicia.ca.us](mailto:acardwell@ci.benicia.ca.us).

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#### Downloading of reports from this agenda

Some agenda items have attached reports available for downloading from this web page. To view these reports, you must have the latest Adobe Acrobat reader installed in your web browser.

Click [here](#) to download the free Acrobat reader

 [IX-A\\_RM2.pdf](#)

 [X-A\\_Rules\\_of\\_Procedure.pdf](#)

 [X-B\\_Start\\_Time.pdf](#)

 [X-C\\_Planning\\_Commission\\_Ordinance.pdf](#)

 [X-D\\_UUT\\_report&reso.pdf](#)

**AGENDA ITEM  
CITY COUNCIL MEETING: DECEMBER 6, 2005  
UNFINISHED BUSINESS**

**DATE** : November 29, 2005

**TO** : City Manager

**FROM** : Finance Director  
Director of Public Works

**SUBJECT** : **MODIFICATION TO THE APPLICATION FOR REGIONAL MEASURE 2 FUNDING FOR THE PARK/INDUSTRIAL INTERSECTION AND PARK-AND-RIDE FACILITY PROJECT**

**RECOMMENDATION:**

City Council adopt the resolution requesting the Metropolitan Transportation Commission allocate Regional Measure 2 Funding for the Park/Industrial Intersection and Park-and-Ride Facility Project, Phase 1.

**EXECUTIVE SUMMARY:**

The Park/Industrial Intersection and Park-and-Ride Facility Project is being modified to be constructed in two phases. The first phase includes constructing the bus stop for Fairfield/Suisun Transit System Solano Express Route 40 at a cost of \$175,000 and would be included in the 2005/06 FY budget. The second phase would include the construction of the park and ride lot and making improvements to the Park Road and Industrial Way intersection area. Phase 2 improvements will not proceed ahead at this time.

**BUDGET INFORMATION:**

The Park/Industrial Intersection and Park-and-Ride Facility Project has been identified for RM2 funding under the Regional Express Bus North category. This project includes the following amounts allocated for Phase 1 in the 2005/06 FY:

<b><u>Project</u></b>	<b><u>2005/06 FY</u></b>
Park Rd./Industrial Road Park-N-Ride Bus Stop Project (Phase 1)	\$ 175,000

The City's local match for phases 1 and 2 are budgeted in the Traffic Mitigation Fund, Account Number 034-8705-9724.

**BACKGROUND:**

This project will provide a much needed transit stop for the existing Fairfield/Suisun Transit System Solano Express Route 40 service between Vacaville, Fairfield and Pleasant Hill BART Station. It will serve the Industrial Park with connecting Benicia Transit and Benicia Transit Dial-A-Ride service. The City is ready to proceed ahead with the first phase of this project which includes constructing the bus stop for Fairfield/Suisun Transit System Solano Express Route 40. Construction on the second phase is not yet scheduled and will include the installation of the park and ride lot and making improvements to the adjacent roadways and the intersection of Park Road and Industrial Way.

**Attachments:**

- [Resolution](#)
- [Attachment A: Regional Measure 2 - Initial Project Report \(IPR\) Revised](#)

cc: City Engineer

# **RESOLUTION**

**RESOLUTION NO. 05-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA SUBMITTING A MODIFICATION TO THE APPLICATION TO THE METROPOLITAN TRANSPORTATION COMMISSION FOR ALLOCATION OF REGIONAL MEASURE 2 FUNDING FOR THE PARK/INDUSTRIAL INTERSECTION AND PARK-AND-RIDE FACILITY PROJECT, PHASE I**

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

**WHEREAS**, the Metropolitan Transportation Commission (MTC) is responsible for funding projects eligible for Regional Measure 2 funds, pursuant to Streets and Highways Code Section 30914(c) and (d); and

**WHEREAS**, MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for Regional Measure 2 funding; and

**WHEREAS**, allocations to MTC must be submitted consistent with procedures and conditions as outlined in Regional Measure 2 Policy and Procedures; and

**WHEREAS**, City of Benicia is an eligible sponsor of transportation project(s) in Regional Measure 2, Regional Traffic Relief Plan funds; and

**WHEREAS**, the Park/Industrial Intersection Improvement and Park and Ride Facility is eligible for consideration in the Regional Traffic Relief Plan of Regional Measure 2, as identified in California Streets and Highways Code Section 30914(c) or (d); and

**WHEREAS**, the Regional Measure 2 allocation request, attached hereto in the Initial Project Report and incorporated herein as though set forth at length, lists the project, purpose, schedule, budget, expenditure and cash flow plan for which City of Benicia is requesting that MTC allocate Regional Measure 2 funds; and

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Benicia and its agents shall comply with the provisions of the Metropolitan Transportation Commission's Regional Measure 2 Policy Guidance (MTC Resolution No. 3636); and

**BE IT FURTHER RESOLVED**, that the City of Benicia certifies that the project is consistent with the Regional Transportation Plan (RTP); and

**BE IT FURTHER RESOLVED**, that the year of funding for any design, right-of-way and/or construction phases has taken into consideration the time necessary to obtain environmental clearance and permitting approval for the project; and

**BE IT FURTHER RESOLVED**, that the Regional Measure 2 phase or segment is fully funded, and results in an operable and useable segment; and

**BE IT FURTHER RESOLVED**, that City of Benicia approves the updated Initial Project Report, attached to this resolution; and

**BE IT FURTHER RESOLVED** that City of Benicia approves the cash flow plan, attached to this resolution; and

**BE IT FURTHER RESOLVED**, that City of Benicia has reviewed the project needs and has adequate staffing resources to deliver and complete the project within the schedule set forth in the updated Initial Project Report, attached to this resolution; and

**BE IT FURTHER RESOLVED**, that City of Benicia is an eligible sponsor of projects in the Regional Measure 2 Regional Traffic Relief Plan, Capital Program, in accordance with California Streets and Highways Code 30914(c); and

**BE IT FURTHER RESOLVED**, that City of Benicia is authorized to submit an application for Regional Measure 2 funds for Park/Industrial Intersection Improvement and Park and Ride Facility in accordance with California Streets and Highways Code 30914(c); and

**BE IT FURTHER RESOLVED**, that City of Benicia certifies that the projects and purposes for which RM2 funds are being requested is in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), and with the State Environmental Impact Report Guidelines (14 California Code of Regulations Section 15000 et seq.) and if relevant the National Environmental Policy Act (NEPA), 42 USC Section 4-1 et. seq. and the applicable regulations thereunder; and

**BE IT FURTHER RESOLVED**, that there is no legal impediment to City of Benicia making allocation requests for Regional Measure 2 funds; and

**BE IT FURTHER RESOLVED**, that there is no pending or threatened litigation which might in any way adversely affect the proposed project, or the ability of City of Benicia to deliver such project; and

**BE IT FURTHER RESOLVED** that City of Benicia indemnifies and holds harmless MTC, its Commissioners, representatives, agents, and employees from and against all claims, injury, suits, demands, liability, losses, damages, and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of City of Benicia, its officers, employees or agents, or subcontractors or any of them in connection with its performance of services under this allocation of RM2 funds. In addition to any other remedy authorized by law, so much of the funding due under this allocation of RM2 funds as shall reasonably be considered necessary by MTC may be retained until disposition has been made of any claim for damages, and

**BE IT FURTHER RESOLVED**, that City of Benicia shall, if any revenues or profits from any non-governmental use of property (or project) are collected, that those revenues or profits shall be used exclusively for the public transportation services for which the project was initially approved, either for capital improvements or maintenance and operational costs, otherwise the Metropolitan Transportation Commission is entitled to a proportionate share equal to MTC's percentage participation in the projects(s); and

**BE IT FURTHER RESOLVED**, that assets purchased with RM2 funds including facilities and equipment shall be used for the public transportation uses intended, and should said facilities and equipment cease to be operated or maintained for their intended public

transportation purposes for its useful life, that the Metropolitan Transportation Commission (MTC) shall be entitled to a present day value refund or credit (at MTC's option) based on MTC's share of the Fair Market Value of the said facilities and equipment at the time the public transportation uses ceased, which shall be paid back to MTC in the same proportion that Regional Measure 2 funds were originally used; and

**BE IT FURTHER RESOLVED**, that City of Benicia shall post on both ends of the construction site(s) at least two signs visible to the public stating that the Project is funded with Regional Measure 2 Toll Revenues; and

**BE IT FURTHER RESOLVED**, that City of Benicia authorizes its City Manager to execute and submit an allocation request for the (environmental/ design/ right-of-way/ construction) phase with MTC for Regional Measure 2 included in the project application attached to this resolution; and

**BE IT FURTHER RESOLVED**, that the City Manager is hereby delegated the authority to make non-substantive changes or minor amendments to the IPR as he/she deems appropriate; and

**BE IT FURTHER RESOLVED**, that a copy of this resolution shall be transmitted to MTC in conjunction with the filing of the City of Benicia application referenced herein.

\*\*\*\*\*

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 6th day of December, 2005 and adopted by the following vote:

Ayes:

Noes:

Absent:

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Steve Messina, Mayor

**ATTEST:**

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Lisa Wolfe, City Clerk

**AGENDA ITEM**  
**CITY COUNCIL MEETING: DECEMBER 6, 2005**  
**NEW BUSINESS**

**DATE** : November 25, 2005  
**TO** : City Council  
**FROM** : City Attorney  
**SUBJECT** : **REVISIONS TO RULES OF PROCEDURE FOR THE CONDUCT OF CITY COUNCIL MEETINGS**

**RECOMMENDATION:**

Adopt the resolution revising the Rules of Procedure for the Conduct of City Council Meetings.

**EXECUTIVE SUMMARY:**

The proposed revisions by Mayor Messina modify a number of sections of the Rules of Procedure, including the preparation and format of the agenda; opportunity for public comment at City Council Meetings; and the process for appointments to boards and commissions.

**Attachment:**

- ❑ [Draft Resolution](#)
- ❑ [Draft Resolution – Proposed changes highlighted](#)

# **DRAFT RESOLUTION**

**AGENDA ITEM  
CITY COUNCIL MEETING: DECEMBER 6, 2005  
NEW BUSINESS**

**DATE** : November 25, 2005

**TO** : City Council

**FROM** : City Attorney

**SUBJECT** : **PROPOSED ORDINANCE AMENDING SECTION 2.04.010  
(MEETING TIME AND PLACE) OF CHAPTER 2.04 (CITY  
COUNCIL) OF TITLE 2 (ADMINISTRATION AND PERSONNEL)  
OF THE BENICIA MUNICIPAL CODE**

**RECOMMENDATION:**

Mayor Messina requests that the City Council introduce the amended ordinance and schedule the second reading for the next regular City Council Meeting.

**EXECUTIVE SUMMARY:**

The proposed revisions to Section 2.04.010 (Meeting Time and Place) by Mayor Messina amend the start time of City Council meetings from 7:30 p.m. to 6:30 p.m.

**Attachment:**

- [Draft Ordinance](#)

**AGENDA ITEM  
CITY COUNCIL MEETING: DECEMBER 6, 2005  
NEW BUSINESS**

**DATE** : November 25, 2005

**TO** : City Council

**FROM** : City Attorney

**SUBJECT** : **PROPOSED ORDINANCE AMENDING SECTION 2.52.030  
(MEMBERS – TERM OF OFFICE) OF CHAPTER 2.52  
(PLANNING COMMISSION) OF TITLE 2 (ADMINISTRATION  
AND PERSONNEL) OF THE BENICIA MUNICIPAL CODE**

**RECOMMENDATION:**

Mayor Messina requests that the City Council introduce the amended ordinance and schedule the second reading for the next regular City Council Meeting.

**EXECUTIVE SUMMARY:**

The proposed revisions by Mayor Messina modify Section 2.52.030 (Members – Term of Office) for Planning Commissioners, allowing a member to serve until a successor is appointed and qualifies, as well as eliminating the term limit.

**Attachment:**

- [Draft Ordinance](#)

**AGENDA ITEM**  
**CITY COUNCIL MEETING: DECEMBER 6, 2005**  
**NEW BUSINESS**

**DATE** : November 30, 2005

**TO** : City Manager

**FROM** : Finance Director

**SUBJECT** : **AUTHORIZATION OF A SIX MONTH EXTENSION OF THE LETTER AGREEMENT WITH THE VALERO REFINING COMPANY PERTAINING TO THE UTILITY USERS TAX**

**RECOMMENDATION:**

Adopt the Resolution authorizing the six month extension of the Letter Agreement with the Valero Refining Company (Valero) pertaining to the Utility Users Tax (UUT).

**EXECUTIVE SUMMARY:**

The ten year Letter Agreement with Valero pertaining to the Utility Users Tax is set to expire on December 31, 2005. The attached resolution authorizes a six month extension of the agreement to June 30, 2006 to allow the City and Valero more time to develop a new agreement. In addition to the extension, the resolution temporarily increases Valero's annual tax from \$1 million to \$1.2 million and the new agreement amount, if higher, will be retroactive to January 1, 2006. If the new agreement is not completed in six months, Valero would pay the 4% UUT retroactively to January 1, 2006.

As an alternative, the City Council could allow the agreement to expire and Valero would immediately begin paying a 4% UUT effective January 1, 2006. However, the proposed interim agreement provides for this same outcome if a long-term agreement is not reached within six months, including retroactive payments to January 1, 2006.

**BUDGET INFORMATION:**

The City will receive an additional \$100,000 during the term of the six month extension. The current budget for FY 2005-06 is \$1.05 million, yielding an additional \$50,000 in FY 2005-06 through June 30, 2006. Once the agreement is final, the agreed upon amount, if higher will be paid retroactively from January 1, 2006.

**BACKGROUND:**

In February 1996, the City Council authorized a ten year agreement with the Exxon Company to have them pay \$900,000 per year for the first five years and \$1 million per year for the next five

in lieu of paying the 4% UUT. In June 2000, the Valero Refining Company inherited the agreement when they purchased the Refining and have been paying monthly since that time.

Staff began meeting with Valero representatives over the summer and developed several criteria that should be included in the next long-term agreement. The criteria included:

1. Annual adjustments linked to the Consumer Price Index or another suitable pricing index.
2. Consumption formulas should be considered to promote energy efficiency, guard against fluctuations in commodity prices, and encourage continued investment in plant and equipment.
3. Minimum and maximum payment limits should be established to protect both parties from market or consumption fluctuations.
4. Renegotiation clauses should be included to allow each party to reopen the agreement when specific events occur, such as plant expansion or contraction.

Armed with this information, staff and Chris Howe, Valero Manager of Community Relations and Governmental Affairs, began developing a new agreement. Unfortunately, we have not been able to complete the task prior to the expiration of the old agreement and Valero has requested that the City allow additional time in which to prepare the agreement. Staff is recommending an extension of six months in which to accomplish this goal.

During the interim six month period, Valero will begin paying the City \$100,000 per month. Once an agreement is reached, if the agreed upon amount is greater than the interim payment, Valero will pay the higher amount retroactively to January 1, 2006. If no agreement is reached prior to June 30, 2006 and the City has not agreed to further extensions, Valero would resort to paying the 4% UUT in accordance with the Ordinance, including retroactive payments to January 1, 2006. Using this approach, the City will not be disadvantaged by postponing the completion of the new agreement.

The attached Draft Letter Agreement from Valero contains the provisions recommended by staff above, with two minor differences. First, section 2B does not limit the minimum six month payment at \$100,000 once the final agreement is made retroactive. Secondly, the reversion to the 4% UUT if no agreement is reached is not referenced as being retroactive to January 1, 2006. Valero has indicated they would be open to accepting these changes when approved by the City Council.

An agreement benefits both the City and Valero. Each benefits by having predictable financial flows that are not subject to wide market fluctuations. Also, the long-term nature of the agreement allows for stability in long term planning and physical plant and equipment maintenance. For these reasons, staff recommends continued focus on developing the agreement.

As an alternative, the City Council could accept the expiration of the Letter Agreement and require Valero to begin paying the 4% UUT. Staff has made some preliminary estimates of the possible impact of this decision but is not ready to predict the change in our receipts at this time. There are also some outstanding issues relating to the metering of natural gas vs. co-generated

electricity that need to be completed in order to determine the appropriate application of our UUT Ordinance.

Prior Letter Agreement and Ensuing Draft Agreement

In February 1996, the City Council approved the Letter Agreement that established the UUT payments for the following 10 years. Within the letter, a clause referenced that a new agreement would be drafted setting out the elements listed in the letter, as well as, other provisions that appeared to be part of the previous five year agreement. The management of Exxon drafted the referenced agreement in May of 1996 but it was not approved by the City. However, because it references several of the issues that will be considered in the new agreement, Valero has requested that it be included as an exhibit in this staff report.

Consumer Price Index (CPI) History

The following chart references changes in the CPI since the adoption of the Letter Agreement in 1996 and allows one to see what the payment would be today if it was tied to changes in the CPI. If the first payment of \$900,000 is increased in each of the succeeding 9 years, the total amount would be \$1,177,950. If the second payment amount of \$1 million is increased in each of the succeeding 4 years, the total amount would be \$1,068,984.

<b>Consumer Price Index History</b>				
<b>Year</b>	<b>Annual CPI Factor</b>	<b>Annual CPI Percentage</b>	<b>Current Agreement First 5 Years</b>	<b>Current Agreement Last 5 Years</b>
(1)	(2)	(3)	(4)	(5)
<b>1996</b>	155.1	2.31%	\$ 900,000	
<b>1997</b>	160.4	3.42%	\$ 930,754	
<b>1998</b>	165.5	3.18%	\$ 960,348	
<b>1999</b>	172.5	4.23%	\$ 1,000,967	
<b>2000</b>	180.2	4.46%	\$ 1,045,648	
<b>2001</b>	189.9	5.38%	\$ 1,101,934	\$ 1,000,000
<b>2002</b>	193.0	1.63%	\$ 1,119,923	\$ 1,016,324
<b>2003</b>	196.4	1.76%	\$ 1,139,652	\$ 1,034,229
<b>2004</b>	198.8	1.22%	\$ 1,153,578	\$ 1,046,867
<b>2005*</b>	203.0	2.11%	\$ 1,177,950	\$ 1,068,984
* Thru August, 2005				
(1)	Calendar Year			
(2)	Annual Consumer Price Index			
(3)	Annual Percentage Change			
(4)	Current Agreement \$900,000 value inflated by CPI.			
(5)	Current Agreement \$1,000,000 value "inflated" by CPI.			

Attachments:

- ❑ [Resolution](#)
- ❑ Extension Request from Valero Refining Company – *if viewing online, a copy of this attachment is available from the City Clerk’s Office*
- ❑ [Copy of February 1996 Resolution and Letter Agreement](#)
- ❑ [Copy of May 31, 1996 Draft Agreement](#)

# **RESOLUTION**

**RESOLUTION NO. 05-\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA  
AUTHORIZING A SIX MONTH EXTENSION OF THE LETTER AGREEMENT  
PERTAINING TO THE UTILITY USERS TAX WITH THE VALERO REFINING  
COMPANY**

**WHEREAS**, the City of Benicia seeks to secure a long-term revenue stream from payment of the Utility Users Tax by Valero Refining Company; and

**WHEREAS**, the City of Benicia and Valero Refining Company have previously agreed to a ten year Letter Agreement that is set to expire on December 31, 2005; and

**WHEREAS**, the City Council has considered a six month extension of the Letter Agreement to allow for the development of a new long-term agreement; and

**WHEREAS**, Valero Refining Company has agreed to pay \$100,000 per month from January 1, 2006 through June 30, 2006 and will adjust the payment retroactively to the higher of \$100,000 per month or to the amount specified in the new agreement; and

**WHEREAS**, in the absence of a new agreement or further extensions of the Letter Agreement, Valero Refining Company has agreed to adjust the payment retroactively to January 1, 2006 to the higher of \$100,000 per month or to the amount indicated by the application of the Utility Users Tax Ordinance.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council of the City of Benicia hereby authorizes the City Manager to approve a six month extension of the February 1996 Letter Agreement with the Valero Refining Company, provided that specific references are made to the aforementioned considerations.

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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 6<sup>th</sup> day of December 2005, and adopted by the following vote:

Ayes:  
Noes:  
Absent:

\_\_\_\_\_  
Steve Messina, Mayor

Attest:

\_\_\_\_\_  
Lisa Wolfe, City Clerk

**Extension Request from  
Valero Refining Company**

**Copy of February 1996  
Resolution And Letter Agreement**  
(Attached as Prior Agreement. PDF if viewing online.)

**Copy of May 1996  
Prior Draft Agreement**

(Attached as Prior Draft Agreement. PDF if viewing online.)