



**SPECIAL AND REGULAR MEETINGS OF THE  
SONOMA CITY COUNCIL  
&  
CONCURRENT REGULAR MEETING OF SONOMA  
CITY COUNCIL AS THE SUCCESSOR AGENCY TO  
THE DISSOLVED SONOMA COMMUNITY  
DEVELOPMENT AGENCY**

City Council  
Joanne Sanders, Mayor  
Ken Brown, Mayor Pro Tem  
Steve Barbose  
Laurie Gallian  
Tom Rouse

**February 22, 2012  
5:30 – 7:00 P.M. Special Meeting  
7:00 P.M. – Regular Meetings**

**Community Meeting Room  
177 First Street West, Sonoma CA 95476**

Be Courteous - **TURN OFF** your cell phones and pagers while the meeting is in session.

**5:30 – 7:00 P.M. – PENSION REFORM STUDY SESSION**

**SS-1:** Pensions Study Session (City Manager/Assistant City Manager)

**7:00 P.M. – REGULAR CONCURRENT MEETINGS**

**CALL TO ORDER & PLEDGE OF ALLEGIANCE  
ROLL CALL** (Rouse, Brown, Gallian, Barbose, Sanders)

**1. COMMENTS FROM THE PUBLIC**

*At this time, members of the public may comment on any item not appearing on the agenda. It is recommended that you keep your comments to three minutes or less. Under State Law, matters presented under this item cannot be discussed or acted upon by the City Council at this time. For items appearing on the agenda, the public will be invited to make comments at the time the item comes up for Council consideration. Upon being acknowledged by the Mayor, please step to the podium and speak into the microphone. Begin by stating and spelling your name.*

**2. COUNCILMEMBERS' COMMENTS AND ANNOUNCEMENTS**

**Item 2A:** Councilmembers' Comments and Announcements

**3. CITY MANAGER COMMENTS AND ANNOUNCEMENTS INCLUDING ANNOUNCEMENTS FROM SUCCESSOR AGENCY STAFF**

**4. PRESENTATIONS**

**Item 4A:** Proclamation declaring March 2012 as Big Read Sonoma County Month.

**5. CONSENT CALENDAR/AGENDA ORDER – CITY COUNCIL**

*All items listed on the Consent Calendar are considered to be routine and will be acted upon by a single motion. There will be no separate discussion of these items unless members of the Council, staff, or public request specific items to be removed for separate action. At this time Council may decide to change the order of the agenda.*

- Item 5A:** **Waive Further reading and Authorize Introduction and/or Adoption of Ordinances by Title Only.** (Standard procedural action - no backup information provided)
- Item 5B:** **Approval of the Minutes of the November 21, 2011, December 5, 2011, and February 6, 2012 City Council / CDA Meetings.**  
Staff Recommendation: Approve the minutes.
- Item 5C:** **Approve the Assignment, Novation and Consent Agreement with GHD Inc. and Winzler & Kelly Consulting Engineers for City Engineering Services.**  
(City Manager)  
Staff Recommendation: Approve the Agreement with GHD Inc. and Winzler & Kelly Consulting Engineers and authorize City Manager to execute the agreement.
- Item 5D:** **Approval of Fee Agreement Letter with Rutan & Tucker LLP as Special Counsel to the City of Sonoma.** (City Manager)  
Staff Recommendation: Approve Agreement and authorize City Manager to execute the agreement.
- Item 5E:** **Ratification Action of City Council from January 18, 2012 by approving the Resolution for a Refuse Rate Increase and Related Program Elements.** (Assistant City Manager/City Attorney)  
Staff Recommendation: Approve resolution ratifying action from January 18, 2012.
- Item 5F:** **Adoption of Amendments to the Sonoma Municipal Code Establishing New and Modified Regulations Addressing Live Music Performances and Special Events.**  
(Planning Director)  
Staff Recommendation: Adopt the music license/special events ordinance, as previously amended by the City Council.
- Item 5G:** **Resolution Designating the City of Sonoma as Co-Applicant and Authorizing the Sonoma Ecology Center (SEC) to Apply for a Sonoma County Agricultural Preservation and Open Space District Grant for Improvements to Sonoma Garden Park.** (Planning Director)  
Staff Recommendation: Adopt resolution authorizing the SEC to proceed with an application for the District's 2012 Matching Grant Program with the City designated as co-applicant.
- Item 5H:** **Adoption of a Resolution Adopting Rosenberg's Rules of Order for Official, Noticed, Public Meetings of the City Planning Commission, Design Review Commission, Community Services and Environment Commission and Cultural and Fine Arts Commission.** (City Manager)  
Staff Recommendation: Adopt resolution.
- Item 5I:** **Approval of City Co-Sponsorship of a Customer Service Training Event, partnering with the Sonoma Valley Visitors Bureau, at No Cost to the City.**  
(City Manager)  
Staff Recommendation: Approval of no-cost co-sponsorship, allowing the City of Sonoma logo to be used on promotional materials.

**6. CONSENT CALENDAR/AGENDA ORDER – CITY COUNCIL AS SUCCESSOR AGENCY**

*All items listed on the Consent Calendar are considered to be routine and will be acted upon by a single motion. There will be no separate discussion of these items unless members of the Council, staff, or public request specific items to be removed for separate action. At this time Council may decide to change the order of the agenda.*

**Item 6A:** Approval of the Minutes of the November 21, 2011, December 5, 2011, and February 6, 2012 City Council / CDA Meetings.  
Staff Recommendation: Approve the minutes.

**Item 6B:** Approval of Fee Agreement Letter with Rutan & Tucker LP as Special Counsel to the City of Sonoma as Successor Agency. (City Manager)  
Staff Recommendation: Approve Agreement and authorize City Manager to execute the agreement.

**7. PUBLIC HEARING**

**Item 7A:** Public Hearing and Discussion, Consideration and Possible Adoption of Resolution Establishing a Fee for Newsrack Permits. (Economic Development Manager/City Manager)  
Staff Recommendation: Hold public hearing and adopt Resolution establishing a new fee for newsrack permits.

**8. REGULAR CALENDAR – CITY COUNCIL**

*(Matters requiring discussion and/or action by the Council)*

**Item 8A:** Mid-Year Budget Review – FY 2011-12. (Assistant City Manager)  
Staff Recommendation: Accept report.

**Item 8B:** Discussion, Consideration and Possible Direction to Staff Regarding City Budget Following the Dissolution of Redevelopment and Loss of Redevelopment funding as of February 1, 2012, including Consideration of Revenue Enhancement Options. (City Manager/Assistant City Manager)  
Staff Recommendation: Discuss, consider and provide direction to staff regarding budget and revenue options.

**Item 8C:** Discussion, Consideration and Possible Action Authorizing the Mayor to Sign a Letter of Support on Behalf of the City Council for the Reintroduction of HR 192, The Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act (Woolsey), Requested by Mayor Pro Tem Brown. (City Manager)  
Staff Recommendation: Council discretion.

**9. REGULAR CALENDAR – CITY COUNCIL AS SUCCESSOR AGENCY TO DISSOLVED SONOMA COMMUNITY DEVELOPMENT AGENCY**

*(Matters requiring discussion and/or action by the Council)*

No items scheduled.

**10. COMMENTS FROM THE PUBLIC**

**11. COUNCILMEMBERS' REPORTS AND FINAL REMARKS**

**Item 11A:** Reports Regarding Committee Activities.

**Item 11B:** Final Councilmembers' Remarks.

**12. PUBLIC COMMENTS REGARDING CLOSED SESSION**

*Public testimony on closed session item(s) only.*

**13. CLOSED SESSION**

**Item 13A:** **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**, pursuant to Government Code §54956.8. Property: Sebastiani Theater, 476 First Street East, Sonoma. Agency Negotiators: Councilmember Barbose, City Attorney Walter & City Manager Kelly. Negotiating Parties: Sebastiani Building Investors, Inc. Under Negotiation: Price and terms of lease.

**14. RECONVENE IN OPEN SESSION & REPORT ON CLOSED SESSION**

**15. ADJOURNMENT**

I do hereby certify that a copy of the foregoing agenda was posted on the City Hall bulletin board on February 17, 2012.

ROBIN EVANS, DEPUTY CITY CLERK

***Copies of all staff reports and documents subject to disclosure that relate to any item of business referred to on the agenda are available for public inspection the Monday before each regularly scheduled meeting at City Hall, located at No. 1 The Plaza, Sonoma CA. Any documents subject to disclosure that are provided to all, or a majority of all, of the members of the City Council regarding any item on this agenda after the agenda has been distributed will be made available for inspection at the City Clerk's office, No. 1 The Plaza, Sonoma CA during regular business hours.***

***If you challenge the action 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 on the agenda, or in written correspondence delivered to the City Clerk, at or prior to the public hearing.***

***In accordance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk (707) 933-2216. Notification 48-hours before the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.***



City of Sonoma  
**City Council**  
**Agenda Item Summary**

City Council Agenda Item: **SS-1**

Meeting Date: **2/22/12**

---

**Department**

Administration

**Staff Contact**

Linda Kelly, City Manager

Carol Giovanatto, Assistant City Manager

---

**Agenda Item Title**

Pensions Study Session

---

**Summary**

In August 2011, Council directed a Study Session be held on the issue of Public Employee Pension Reform. Due to the significant workload related to redevelopment dissolution, the work study session was delayed until February. Staff has worked diligently to identify presenters and issues for this work study in order to give the Council a balanced presentation. The study session will be structured as follows:

1. Presentation by Barbara Ware, CalPERS Actuarial
2. Staff review of Governor Browns proposed 12-point pension reform legislation
3. Staff presentation on Pension Obligation Bonds

---

**Recommended Council Action**

Review and discussion.

---

**Alternative Actions**

---

**Financial Impact**

N/A

---

**Environmental Review**

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

**Status**

- Approved/Certified
- No Action Required
- Action Requested

---

**Attachments:**

Governor Brown's 12-point proposed pension reform legislation

Informational report – Pension Obligation Bond

Pension Reform Action Plan, City Manager's Department of the League, June 10, 2011

CalPERS Publication – Elected Officials Handbook on Employee Pensions

---

**cc:**

---



## **Twelve Point Pension Reform Plan**

October 27, 2011

The pension reform plan I am proposing will apply to all California state, local, school and other public employers, new public employees, and current employees as legally permissible. It also will begin to reduce the taxpayer burden for state retiree health care costs and will put California on a more sustainable path to providing fair public retirement benefits.

### **1. Equal Sharing of Pension Costs: All Employees and Employers**

While many public employees make some contribution to their retirement – state employees contribute at least 8 percent of their salaries – some make none. Their employers pay the full amount of the annual cost of their pension benefits. The funding of annual normal pension costs should be shared equally by employees and employers.

My plan will require that all new and current employees transition to a contribution level of at least 50 percent of the annual cost of their pension benefits. Given the different levels of employee contributions, the move to a contribution level of at least 50 percent will be phased in at a pace that takes into account current contribution levels, current contracts and the collective bargaining process.

Regardless of pacing, this change delivers real near-term savings to public employers, who will see their share of annual employee pension costs decline.

### **2. “Hybrid” Risk-Sharing Pension Plan: New Employees**

Most public employers provide employees with a defined benefit pension plan. The employer (and ultimately the taxpayer) guarantees annual pension benefits and bears all of the risk of investment losses under those plans. Most private sector employers, and some public employers, offer only 401(k)-type defined contribution plans that place the entire risk of loss on investments on employees and deliver no guaranteed benefit.

I believe that all public employees should have a pension plan that strikes a fair balance between a guaranteed benefit and a benefit subject to investment risk. The “hybrid” plan I am proposing will include a reduced defined benefit component and a defined contribution component that will be managed professionally to reduce the risk of employee investment loss. The hybrid plan will combine those two components with Social Security and envisions payment of an annual retirement benefit that replaces 75 percent of an employee’s salary. That 75 percent target will

be based on a full career of 30 years for safety employees, and 35 years for non-safety employees. The defined benefit component, the defined contribution component, and Social Security should make up roughly equal portions of the targeted retirement income level. For employees who don't participate in Social Security, the goal will be that the defined benefit component will make up two-thirds, and the defined contribution component will make up the remaining one-third, of the targeted retirement benefit.

The State Department of Finance will study and design hybrid plans for safety and non-safety employees, and will fashion a cap on the defined benefit portion of the plans to ensure that employers do not bear an unreasonable liability for high-income earners.

### 3. Increase Retirement Ages: New Employees

Over time, enriched retirement formulas have allowed employees to retire at ever-earlier ages. Many non-safety employees may now retire at age 55, and many safety employees may retire at age 50, with full retirement benefits. As a consequence, employers have been required to pay for benefits over longer and longer periods of time.

The retirement age for non-safety workers in 1932, when the state created its retirement system, was 65. The retirement age for a state highway patrol officer in 1935 was 60. The life expectancy of a twenty-year old who began working at that time was mid-to-late 60s, meaning that life expectancy beyond retirement was a relatively short period of time. Now with a growing life expectancy, pensions will pay out not just for a few years, but for several decades, requiring public employers to pay pension benefits over much longer periods of time. Under current conditions, many years can separate retirement age from the age when an employee actually stops working. No one anticipated that retirement benefits would be paid to those working second careers.

We have to align retirement ages with actual working years and life expectancy. Under my plan, all new public employees will work to a later age to qualify for full retirement benefits. For most new employees, retirement ages will be set at the Social Security retirement age, which is now 67. The retirement age for new safety employees will be less than 67, but commensurate with the ability of those employees to perform their jobs in a way that protects public safety.

Raising the retirement age will reduce the amount of time retirement benefits must be paid and will significantly reduce retiree health care premium costs. Employees will have fewer, if any, years between retirement and reaching the age of Medicare eligibility, when a substantial portion of retiree health care costs shift to the federal government under Medicare.

### 4. Require Three-Year Final Compensation to Stop Spiking: New Employees

Pension benefits for some public employees are still calculated based on a single year of "final compensation." That one-year rule encourages games and gimmicks in the last year of employment that artificially increase the compensation used to determine pension benefits. My plan will require that final compensation be defined, as it is now for new state employees, as the highest average annual compensation over a three-year period.

#### 5. Calculate Benefits Based on Regular, Recurring Pay to Stop Spiking: New Employees

Where not controlled, pension benefits can be manipulated by supplementing salaries with special bonuses, unused vacation time, excessive overtime and other pay perks. My plan will require that compensation be defined as the normal rate of base pay, excluding special bonuses, unplanned overtime, payouts for unused vacation or sick leave, and other pay perks.

#### 6. Limit Post-Retirement Employment: All Employees

Retirement with a pension should not translate into retiring on a Friday, returning to full-time work the following Monday, and collecting a pension and a salary. Retired employees often have experience that can deliver real value to public employers, though, so striking a reasonable balance in limiting post-retirement employment is appropriate. Most employees who retire from state service, and from other CalPERS member agencies, are currently limited to working 960 hours per year for a public employer, and do not earn any additional retirement benefits for that work. My plan will limit all employees who retire from public service to working 960 hours or 120 days per year for a public employer. It also will prohibit all retired employees who serve on public boards and commissions from earning any retirement benefits for that service.

#### 7. Felons Forfeit Pension Benefits: All Employees

Although infrequent, recent examples of public officials committing crimes in the course of their public duties have exposed the difficulty of cutting off pension benefits those officials earned during the course of that criminal conduct. My plan will require that public officials and employees forfeit pension and related benefits if they are convicted of a felony in carrying out official duties, in seeking an elected office or appointment, or in connection with obtaining salary or pension benefits.

#### 8. Prohibit Retroactive Pension Increases: All Employees

In the past, a number of public employers applied pension benefit enhancements like earlier retirement and increased benefit amounts to work already performed by current employees and retirees. Of course, neither employee nor employer pension contributions for those past years of work accounted for those increased benefits. As a result, billions of dollars in unfunded liabilities continue to plague the system. My plan will ban this irresponsible practice.

#### 9. Prohibit Pension Holidays: All Employees and Employers

During the boom years on Wall Street, when unsustainable investment returns supported “fully-funded” pension plans, many public employers stopped making annual pension contributions and gave employees a similar pass. The failure to make annual contributions left pension plans in a significantly weakened position following the recent market collapse. My plan will prohibit all employers from suspending employer and/or employee contributions necessary to fund annual pension costs.

## 10. Prohibit Purchases of Service Credit: All Employees

Many pension systems allow employees to buy “airtime,” additional retirement service credit for time not actually worked. When an employee buys airtime, the public employer assumes the full risk of delivering retirement income based on those years of purchased service credit. Pensions are intended to provide retirement stability for time actually worked. Employers, and ultimately taxpayers, should not bear the burden of guaranteeing the additional employee investment risk that comes with airtime purchases. My plan will prohibit them.

## 11. Increase Pension Board Independence and Expertise

In the past, the lack of independence and financial sophistication on public retirement boards has contributed to unaffordable pension benefit increases. Retirement boards need members with real independence and sophistication to ensure that retirement funds deliver promised retirement benefits over the long haul without exposing taxpayers to large unfunded liabilities.

As a starting point, my plan will add two independent, public members with financial expertise to the CalPERS Board. “Independence” means that neither the board member nor anyone in the board member’s family, who is a CalPERS member, is eligible to receive a pension from the CalPERS system, is a member of an organization that represents employees eligible to or who receive a pension from the CalPERS system, or has any material financial interest in an entity that contracts with CalPERS. My plan also will replace the State Personnel Board representative on the CalPERS board with the Director of the California Department of Finance.

True independence and expertise may require more. And while my plan starts with changes to the CalPERS board, government entities that control other public retirement boards should make similar changes to those boards to achieve greater independence and greater sophistication.

## 12. Reduce Retiree Health Care Costs: State Employees

The state and the nation have seen the costs of health care skyrocket. The state’s retiree health care premium costs have increased by more than 60 percent in the last five years and will almost double over ten years. This approach has to change.

My plan will reduce the taxpayer burden for health care premium costs by requiring more state service to become eligible for health care benefits at retirement. New state employees will be required to work for 15 years to become eligible for the state to pay a portion of their retiree health care premiums. They will be required to work for 25 years to become eligible for the maximum state contribution to those premiums. My plan also will change the anomaly of retirees paying less for health care premiums than current employees.

Contrary to current practice, rules requiring all retirees to look to Medicare to the fullest extent possible when they become eligible will be fully enforced.

Local governments should make similar changes.

---

## CITY OF SONOMA PENSION OBLIGATION

Since 1968, the City has contracted with the California Public Employees Retirement System (CalPERS) to provide retirement benefits for all full-time sworn public safety employees (Safety Plan) and for all other full-time employees (Miscellaneous Plan).

As part of the contract, the City is obligated to pay any unfunded accrued actuarial liability (UAAL). This is the amount by which CalPERS is short of the amount that will be necessary, to pay benefits already earned by current and former employees covered by CalPERS. In 2003 CalPERS created a risk pooling approach for smaller agencies [less than 100 employees] to reduce the volatility of employer contribution rates. The City's UAAL is placed in a "side fund" to amortize each agency's June 30, 2003 unfunded liability over a fixed term at a fixed interest rate. The "side fund" is credited on an annual basis with the actuarial investment return assumption determined by CalPERS which is currently 7.75%. When the actual investment earnings of CalPERS fails to meet the projected 7.75% the unrecognized earnings are posted as a loss.

Current CalPERS data reflects the City's unfunded liability by category as follows:

Safety/Police	\$ 431,219
Safety/Fire	\$1,676,768
Miscellaneous	<u>\$ 886,908</u>
	\$ 2,994,895

Both Safety classifications have been suspended due to the outsourcing of Police and Fire Services. The unfunded liability has been frozen since the City contracted the service to the Sheriff's Department. CalPERS has billed the City for an amortized paydown of the liability since 2005 at approximately \$100,000 per year. The UAAL for the Safety/Police category should be eliminated in approximately 4 years. This will be the same process that will be undertaken with the Safety/Fire classification for liability up to the effective date of the Contract for Fire Services with Valley of the Moon Fire District. While the base will be frozen and no further liability incurred, an annual payment will be required to be made by the City to pay down the UAAL for Fire employees.

## PENSION OBLIGATION BONDS

A method of fulfilling the City's existing obligation to CalPERS in a more cost-effective manner is for the City to issue pension obligation bonds [POBs] at a lower interest rate than the current obligation to CalPERS. This does not create a new obligation for the City, rather refinances an existing obligation to CalPERS in much the same manner as other City bonds. The POBs would pay off the "side fund" and therefore would not be subject to the investment losses realized by CalPERS. For informational purposes only, staff contacted a financial management firm to determine the estimated calculation for issuance of POB's by the City of Sonoma. A summary of the information is shown in the chart below based on a 10-year amortization schedule.

SIDE FUND PAY-OFF	\$2,994,895
COST OF ISSUANCE OF BONDS [COI]	\$96,105
INTEREST COST/RATE	5.70%
TOTAL FINANCING [SIDE FUND + COI]	\$3,091,000
TOTAL SAVINGS OVER 10 YEAR PERIOD	\$292,605
AVERAGE SAVINGS PER YEAR	\$29,260

These are estimated amounts and subject to change based on market conditions at the time of pricing. The cost of issuance is normally included in the total financing so no out of pocket expense is incurred.

**POB ISSUANCE PROCEDURES:** Issuance of pension bonds requires an additional step in the normal bonding process called a “validation process” in the local Superior Court. The City Council provides authorization to issue the bonds and then files the court action of validation. This validation requires publicly noticing the City’s intent to issue bonds to refund its existing CalPERS obligation. If there is no challenge the validation is ratified by the Superior Court typically within 90 days of filing and the bonding process can continue.

There are pros/con arguments to be made when considering the issuance of POBs. The following table reflects the major areas:

<b>PRO</b>	<b>CON</b>
Interest rate is less than CalPERS rate. Savings are realized through lower interest rate	CalPERS rate is an adjustable rate obligation. CalPERS could lower assumption.
10-year amortization period establishes the savings opportunity	POBs are subject to market conditions. An increase in interest rates prior to issuance of bonds would reduce savings to City.
UAAL is frozen at refinancing; CalPERS obligation defeased	CalPERS investments could should show a higher investment rate than POB’s based on investment portfolio.
Creates cash flow annual savings	Cost to issue POB’s estimated at approximately \$100,000

**PENSION REFORM ACTION PLAN**  
**City Manager's Department**  
**June 10, 2011**

This report to the League of California Cities Employee Relations and Revenue and Taxation Policy Committees and the Board of Directors is designed to address the League's 2011 Strategic Goal related to Pension Sustainability by providing information and recommendations that may be of assistance toward meeting the competing challenges of maintaining high-quality public services while providing fair and reasonable pensions for employees.

**THE PROBLEM**

Pension costs for many California municipalities continue to increase, threatening the delivery of basic public services, compromising general fund budgets, and indeed, posing a long-term fiscal challenge to the State itself. A former CalPERS actuary warned that by 2014 it will be common for local governments to budget 50% of a police officer's salary, 40% of a fire fighter's salary and 25% of a miscellaneous employee's salary for their pensions; contributions that are fiscally unsustainable. Many cities face 25% or more increases in pension contribution costs in the next three years and those rates are likely to remain high for a decade or more.

Causes of the problem include:

1. Large losses on pension investments due to the Great Recession.
2. Enhanced benefit formulas granted after 1999 (SB400/AB616).
3. Increased life span of retired employees.

**A PRINCIPLED APPROACH**

Public retirement systems should provide fair benefits for career employees, and:

1. Recognize the value of attracting and retaining high performing public employees to design and deliver vital public services to local communities.
2. Recognize and support the value of a dependable, sustainable, employer provided Defined Benefits Plan (DBP) for career employees; supplemented with other retirement options including personal savings (e.g. 457 Plan).
3. Public pension costs should be shared by employees and employers (taxpayers).
4. Be portable across all public agencies to sustain a competent cadre of California public servants.

**STAGES OF A SOLUTION**

Many of the steps below can, are, and should be taken locally and immediately, as part of the collective bargaining process to move local pension costs in a more sustainable direction. Further, State action is necessary to return the PERS (or other state-authorized pension systems) to a more sustainable framework. Many of the actions below are and will be presented to the State Legislature for enactment. We believe the League of California Cities should engage the unions, Legislature, and Governor in the legislative process to formally change the structure of

PERS thus protecting the fiscal integrity of cities and PERS retirement for public employees. This could include jointly sponsoring an initiative if legislative change is insufficient.

### **ACTIONS CITIES CAN AND ARE TAKING NOW AT THE COLLECTIVE BARGAINING TABLE TO REDUCE COSTS**

1. Have employees pay the employee's share of PERS costs: 7-8% for miscellaneous employees and 8-9% for safety employees.
2. Provide a two-tier retirement system with new hires being placed in a reduced benefit tier.
3. Allow employees to pick-up a portion of the employer's PERS costs up to PERS limits through negotiation to better share the normal costs of pensions.
4. Base final retirement salary on the three highest years worked.
5. Eliminate the PERS contract option of including Employer Paid Member Contribution (EPMC) in the calculation of an employee's base pay for retirement purposes.

A City Managers Department survey in February 2011 indicates one in five cities responding to the survey have implemented a second tier for new hires. Further, the majority of cities surveyed (61%) are currently negotiating pension reforms.

### **ACTIONS NEEDED FROM THE STATE TO RESTORE THE SUSTAINABILITY OF PENSION PROGRAMS**

Courts have held that current and former local government employees have rights to the pensions promised them at hiring. As such, the following recommendations most likely would not pertain to former employees or the prospective benefits of current employees.

A Defined Benefit Plan is the most effective vehicle to accumulate and distribute pension benefits and is the preferred retirement system for municipal employees. According to staff of the National Institute of Retirement Security, dollar for dollar, a Defined Benefit Plan yields considerably more (46%) retirement savings than a Defined Contribution Plan.

The subsequent action items can be considered individually or in combination to improve the sustainability of PERS, thus, re-designing a system that will contribute to safeguarding public pensions. The following recommendations, with support from labor, would level the field on a statewide basis and lead to a maintainable PERS for public employees.

1. Repeal SB400/AB616 returning to more sustainable PERS benefit formulas of 2% at 60 for miscellaneous employees and 2% at 55 for safety employees.
2. Have PERS provide more formula choices with lower benefit local options.
3. Base final retirement salary on three highest paid years worked.
4. Prohibit enhancing the second tier pension formulas for twenty years.
5. Calculate benefits only on base salary eliminating all "spiking." No overtime, vacation or sick leave included in the pension calculation.
6. Eliminating the purchase of "air time" (purchase of time not served).

7. Eliminate the availability of Employer Paid Member Contribution (EPMC).
8. Require employees to pay the employees share of PERS (e.g. 7-8% for miscellaneous employees and 8-9% for safety employees.)
9. Remove caps on the percentages employees can pay for the total cost of PERS programs.
  
10. Give Government agencies through the collective bargaining process the option to extend retirement ages for miscellaneous employees up to social security retirement ages. Seek minimum (floor) retirement age of 60 for miscellaneous employees and 55 for safety employees before earning full retirement benefits.
11. Prohibit retroactive pension increases.
12. Meet any retirement needs for part-time employees with alternatives to a Defined Benefit Plan.
13. Delete the 1,000 hours rule for part-time employee mandatory enrollment in CalPERS.
14. Prohibit employees and employers from taking contribution “holidays.”
15. Provide employers with a hybrid pension system option that caps the Defined Benefit PERS pension at an annual maximum retiree benefit equal to 70% of the retiring employees’ eligible base pay (determined by averaging the 3 highest year’s pay) and supplement the DBP with a risk managed PERS defined contribution plan. A DCP should integrate with a DBP not, as some pension revision plans suggest, substitute for it.

#### **ADDITIONAL STEPS THAT APPEAR NECESSARY TO RESTORE PERS TO SUSTAINABILITY AND PROVIDE TRANSPARENCY**

1. Pension sustainability cannot be fully achieved without addressing the benefits of both current and future employees. After a detailed legal review and to the extent permitted by federal and state law, a well-designed State Constitutional Amendment is needed for prospective retirement formula reductions and incremental retirement age increases for current employees to guarantee their already accrued earned benefits, while making the plan sustainable, affordable and market competitive on a going-forward basis. The amendment should also include a risk-managed PERS Defined Contribution Plan for public agencies.
2. The PERS Board needs to be restructured with a substantial increase in independent public members (preferably with financial expertise) to ensure greater representation of tax payer interests with regard to public pension decisions.
3. Set uniform standards and definitions for disability benefits and evaluate the level of benefit that is considered as tax exempt. The tax exempt portion should either be eliminated or allowed on a proportional basis to the severity of the disability.
4. If the above reforms prove unfeasible or ineffective, consider a standard public employee pension system where one benefit level is offered to every employee as a further option to restore sustainability to PERS.
5. While not addressed in this paper, Other Post-Employment Benefits (OPEB), such as retiree health care, represents another unfunded liability for many local agencies and must be addressed through comprehensive reform measures.

6. Develop a program with the State to ensure that pension programs offered by localities are fully transparent, and that professional actuarial evaluations of unfunded components of OPEB's and Pension Plans are completed.
7. To the extent permitted by federal and state law prohibit payment of pension benefits to a public employee convicted of a felony related to fraudulently enhancing those benefits.

While pension reform is a primary fiscal challenge facing local agencies, it represents but one of several financial challenges that, when combined, represent a "Perfect Storm" that is leading to the insidious erosion of fiscal solvency of local governments. While some changes may take years, delay in dealing with the problem, only makes the situation worse.



# Local Elected Official Toolkit

Pension Funding and Retiree Health Benefits Funding

March 2011

---

# LOCAL ELECTED OFFICIAL TOOLKIT

---

PENSION FUNDING & RETIREE HEALTH BENEFITS FUNDING



MARCH 2011

# TABLE OF CONTENTS

---

<b>ABOUT CALPERS .....</b>	<b>3</b>
<b>OVERVIEW .....</b>	<b>3</b>
CalPERS Mission .....	3
Board of Administration .....	3
Quick Facts About the CalPERS Defined Benefit Plan .....	4
<b>RETIREMENT.....</b>	<b>5</b>
Funded Status of Retirement Plans by Member Category.....	5
<b>INVESTMENTS .....</b>	<b>6</b>
History of Solid Returns.....	6
A Landmark Asset Allocation Plan.....	7
<b>CALPERS SUPPLEMENTAL INCOME PLANS.....</b>	<b>8</b>
CalPERS Supplemental Income 457 Plan.....	8
Supplemental Contributions Plan (SCP) .....	8
State Peace Officers’ & Firefighters’ (POFF) Supplemental Plan.....	8
<b>HEALTH BENEFITS PROGRAM.....</b>	<b>9</b>
<b>CALIFORNIA EMPLOYERS’ RETIREE BENEFIT TRUST (CERBT).....</b>	<b>10</b>
<b>RETIREMENT PLANS.....</b>	<b>11</b>
<b>CALPERS RETIREMENT PLANS.....</b>	<b>11</b>
<b>HOW DEFINED BENEFIT AND DEFINED CONTRIBUTION PLANS DIFFER .....</b>	<b>12</b>
<b>HUMAN RESOURCE MANAGEMENT TOOLS .....</b>	<b>13</b>
How do DB pension plans benefit <i>recruitment</i> ? .....	13
How do DB pension plans benefit <i>retention</i> ? .....	13
How do the DB pension plans benefit attrition during economic downturns?.....	13
<b>DESCRIPTION OF CALPERS DB PLAN BENEFITS .....</b>	<b>14</b>
Service Retirement Benefits.....	14
Disability and Industrial Disability Retirement Benefits.....	14
Survivor Benefits .....	14
Eligibility for Benefits .....	15
Coordination with Social Security Benefits .....	15
<b>ECONOMIC IMPACT OF CALPERS DB PLAN .....</b>	<b>16</b>
Economic Impact of CalPERS on the California Economy .....	16
Economic Impact of Providing Retirement Security for Workers .....	16
<b>FUNDING RETIREMENT BENEFITS .....</b>	<b>17</b>
<b>ACTUARIAL FUNDING BASICS.....</b>	<b>17</b>
What is an actuarially sound retirement system?.....	17
What do pension actuaries do? .....	17
What is an actuarial valuation?.....	17
What is the basic actuarial funding equation?.....	18
How does the funding of the retirement system work? .....	18
How is the employer contribution rate determined? .....	18
What is the Funded Status? What does it represent? .....	19
What is done to minimize volatility in pension costs? .....	20
What is the role of the CalPERS Board of Administration? .....	20
What can be expected of pension costs in the near future? .....	20
How can employers reduce their pension costs?.....	21
<b>SAMPLE ACTUARIAL VALUATIONS .....</b>	<b>22</b>
Non-Pooled Agency.....	23
Pooled Agency.....	26
<b>UNDERSTANDING PENSION DISCOUNT RATES AND LIABILITIES .....</b>	<b>30</b>
Governmental Accounting Standards Board.....	30
“Risk-Free” Discount Rate as Assumed Rate of Return on Investment.....	30
Should Public Pensions Use a “Risk-Free” Discount Rate? .....	30
CalPERS Evaluates the Assumed Investment Rate of Return .....	31
<b>FUNDING RETIREE HEALTH BENEFITS.....</b>	<b>32</b>

Retiree Healthcare Cost .....	32
California Employers' Retiree Benefit Trust .....	32
Low Cost Management .....	33
Investment Management.....	33
Asset Allocation Strategies.....	34
<b>CONTRACTING FOR BENEFITS .....</b>	<b>35</b>
<b>THINGS TO CONSIDER WHEN CONTRACTING FOR, OR AMENDING YOUR CALPERS DB PLAN .....</b>	<b>35</b>
Government Finance Officers Association (GFOA) Recommended Considerations .....	35
Suggested Questions.....	36
<b>CONTRACTING FOR, OR AMENDING CALPERS DB PLAN BENEFITS AND EMPLOYER RESPONSIBILITIES .....</b>	<b>37</b>
Contracting or Amending Benefits.....	37
Employer Responsibilities .....	39
<b>CONTRACTING FOR OTHER BENEFITS .....</b>	<b>40</b>
Health Benefits.....	40
CalPERS Supplemental Income 457 Plan.....	40
California Employers' Retiree Benefit Trust Fund (CERBT) .....	40
<b>CONTACT CALPERS.....</b>	<b>41</b>

# ABOUT CalPERS

---

## OVERVIEW

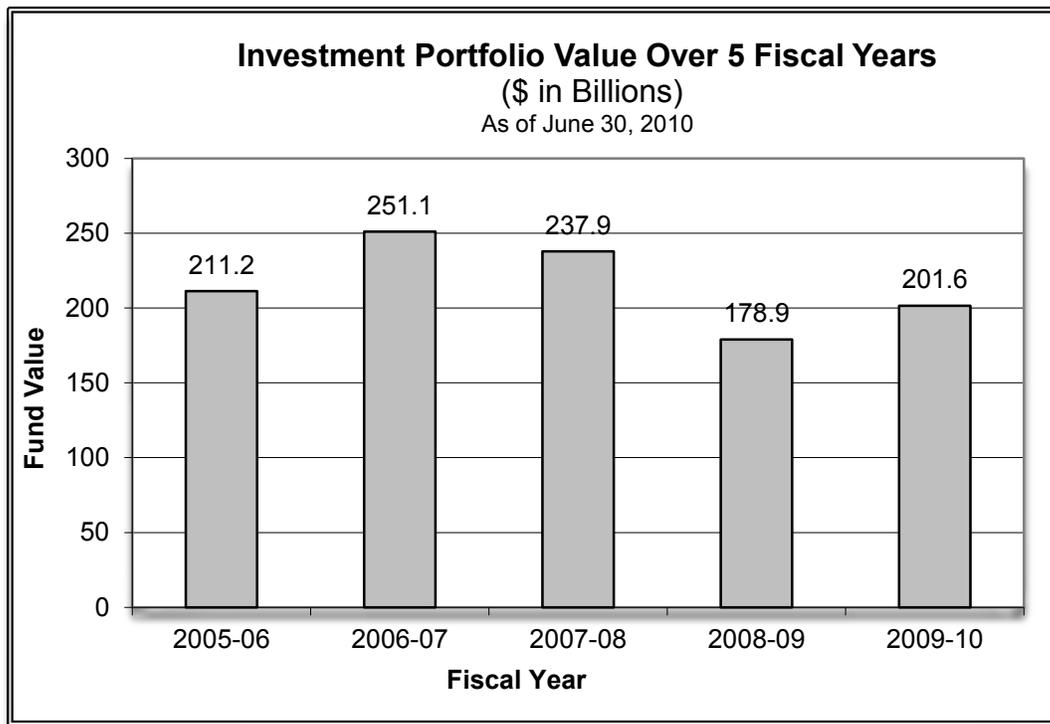
The California Public Employees' Retirement System (CalPERS) is the nation's largest state public pension fund with assets of approximately \$226 billion as of December 31, 2010. Headquartered in Sacramento, California, CalPERS administers retirement and health benefits for more than 1.6 million State and local public employees, retirees and their families. CalPERS serves the State of California and more than 3,000 contracting public agencies and school districts.

## CalPERS MISSION

CalPERS mission is to advance the financial and health security for all who participate in the System. CalPERS fulfills this mission by creating and maintaining an environment that produces responsiveness to all those CalPERS serves.

## BOARD OF ADMINISTRATION

CalPERS is administered by a 13-member Board of Administration that is representative of our constituents. The Board consists of six member-elected, three appointed, and four ex officio members. The Board has a fiduciary responsibility to maximize investment returns and minimize employer contributions. The California Constitution was amended in 1992 to provide the CalPERS Board with exclusive authority for the System's administration and investment of assets.



In addition to the CalPERS defined benefit plan (CalPERS DB Plan) and health program, we also administer the CalPERS Supplemental Income 457 Plan, the Supplemental Contributions Program, the State Peace Officers' and Firefighters' Supplemental Plan, the California Employers' Retiree Benefit Trust, the CalPERS Long-Term Care Program, the Judges' Retirement System, the Judges' Retirement System II, and the Legislators' Retirement System. However, this toolkit focuses on the funding of the CalPERS DB Plan and the funding of retiree health benefits.

## **QUICK FACTS ABOUT THE CalPERS DEFINED BENEFIT PLAN**

(As of June 30, 2010)

Active and inactive members.....	1,116,044
Retirees, survivors, and beneficiaries.....	513,623
Total.....	1,629,667
Annual benefits paid.....	\$13 Billion
Annual health premiums paid.....	\$6 Billion
Annual return on investments.....	13.3%
(for FY ending June 30, 2010)	
Average monthly service retirement benefit (All members).....	\$2,220
Average monthly service retirement benefit for school members (Misc.) .....	\$1,193
Average years of service at retirement for school members (Misc.).....	16.8
Average monthly retirement benefit for State members (Misc.).....	\$2,500
Average years of service at retirement for State members (Misc.) .....	23.1
Average monthly retirement benefit for public agency members (Misc.).....	\$2,363
Average years of service at retirement for public agency members (Misc.).....	20.0
Current CalPERS administrative budget.....	\$331 million
Number of employees.....	2,317

## RETIREMENT

CalPERS administers a defined benefit retirement plan, commonly referred to as a pension plan. Benefits are based on a member’s years of service, age, and highest one-year or three-year average compensation. In addition, benefits are provided for disability and death, with payments in some cases going to survivors or beneficiaries of eligible members. We administer several defined benefit formulas for various classes of State employees, one for classified school employees, and one or more formulas for over 1,500 other public agencies. The CalPERS membership is divided approximately in thirds among current and retired employees of the State, public school districts, and participating local public agencies.

### CalPERS Membership Profile

(as of June 30, 2010)

State employees.....31%  
 School employees.....38%  
 Local public agency employees.....31%

CalPERS pension plans have three sources of funding: employee contributions, employer contributions, and investment earnings.

Each year, CalPERS actuaries calculate a funded status – the ratio of assets to liabilities for each retirement plan. The funded ratios vary from year to year but are expected to approach 100 percent over the long term, assuming all actuarial assumptions are met. A funded status of 100 percent means if all members were to retire today, CalPERS would have 100 percent of the funds needed to pay benefits. However, many CalPERS members work full careers and will not be retiring for another 10, 20 or 30 years. Therefore, it is not necessary to keep the system 100 percent funded at all times. As pension plan administrators, CalPERS continuously monitors the funded status and makes necessary adjustments to ensure the long-term financial health of the system.

### FUNDED STATUS OF RETIREMENT PLANS BY MEMBER CATEGORY

MEMBER CATEGORY	6/30/04	6/30/05	6/30/06	6/30/07	6/30/08	6/30/09
<b>STATE</b>	82.9%	85.5%	88.6%	96.6%	84.9%	58.4%
<b>SCHOOL</b>	91.4%	96.2%	98.7%	107.8%	93.8%	65.0%
<b>PUBLIC AGENCY</b>	87.6%	90.2%	92.7%	102.0%	89.6%	60.0%

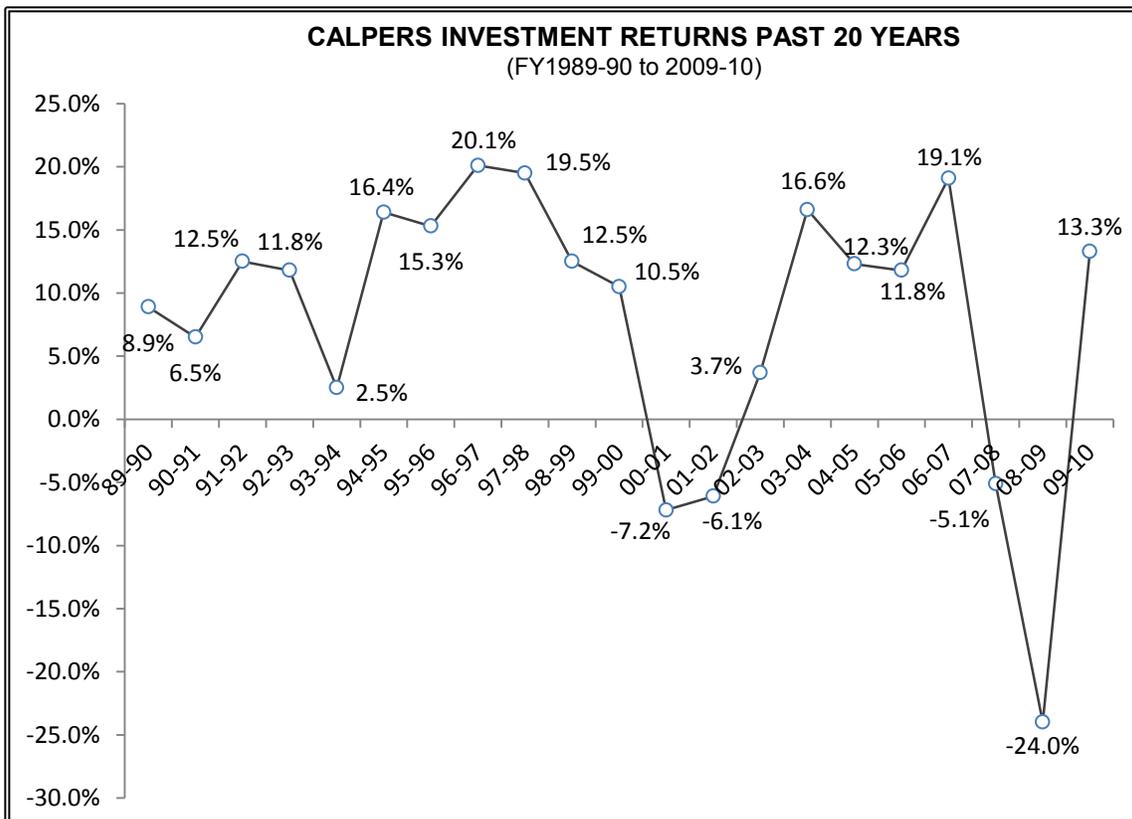
## INVESTMENTS

The CalPERS Investment Office manages the investments of the largest state public pension fund in the United States. CalPERS invests in a broad mix of asset classes that include public stocks and private equity, real estate, bonds, hedge funds, venture capital, commodities, infrastructure and forest land. As a global investor, CalPERS invests in more than 9,000 public companies in more than 40 countries.

The System's investment portfolio is managed by professional investment staff, sometimes partnering with some of the best informed professionals in the financial industry. Our Chief Investment Officer has sole authority to negotiate and execute investments and reports directly to the CalPERS Board of Administration. The Board establishes asset allocation strategies, investment policies and risk-tolerance levels. Historically, about 65 to 75 percent of CalPERS benefit payments come from investment earnings. The remainder comes from contributions by employers and active employees.

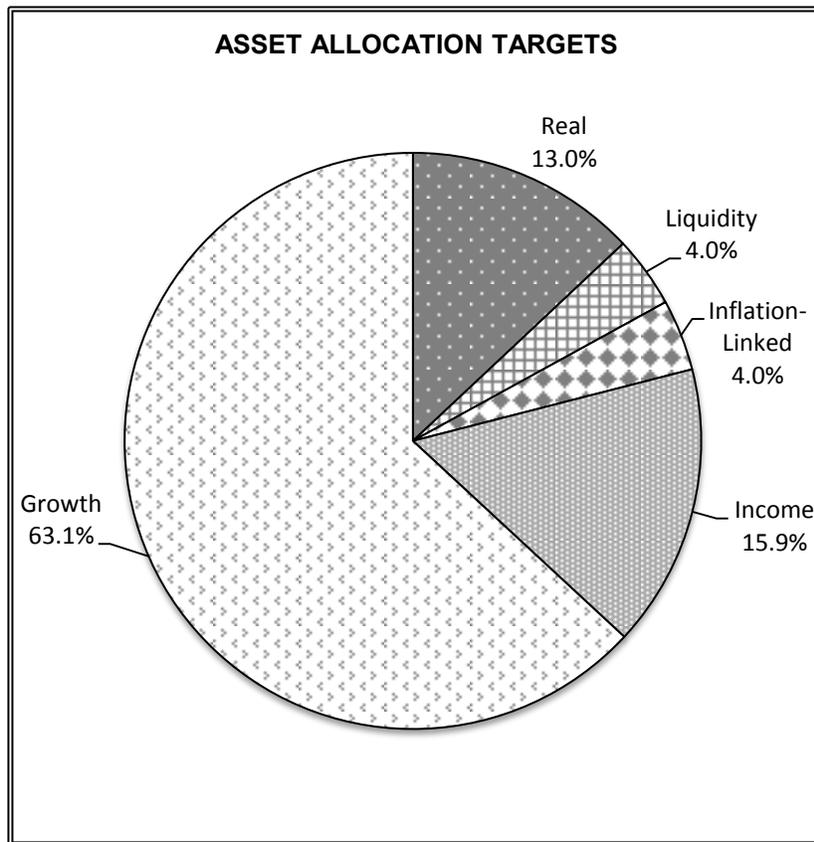
### HISTORY OF SOLID RETURNS

CalPERS has a long history of solid, risk-adjusted returns, recording gains in 21 of the last 25 years. In 17 of those years the returns were greater than 10 percent. Over the past 20 years, CalPERS has earned an average annual investment return of 7.9 percent. From 1988 to 2010, CalPERS has generated an annual average return of 8.6 percent.



## A LANDMARK ASSET ALLOCATION PLAN

In December 2010, the CalPERS Board adopted an innovative asset allocation strategy to better reflect varying market conditions, effective July 2011. The new allocation plan places CalPERS assets in five major groups according to how they are expected to perform in high- or low-growth markets and the prevailing inflation environment. The new asset groups are *Liquidity*, *Growth*, *Income*, *Real*, and *Inflation-Linked*. There is no specific timeline for deploying funds under the new allocation because specific investment transactions will depend partly on market trends and opportunities.



## **CalPERS SUPPLEMENTAL INCOME PLANS**

CalPERS administers three supplemental income retirement savings plans:

- CalPERS Supplemental Income 457 Plan
- Supplemental Contributions Plan (SCP)
- Peace Officers' & Firefighters' (POFF) Supplemental Plan

### **CalPERS SUPPLEMENTAL INCOME 457 PLAN**

The CalPERS Supplemental Income 457 Plan is a deferred compensation retirement savings plan that public agency and school employers may adopt and offer to their employees to help them reach their retirement income goals. It is a way for participants to defer a portion of their pre-tax salary into their choice of a variety of investment options. Participants may change their contribution amount, transfer funds among a variety of investment options, or change contribution allocation percentages designated to each option. This plan allows both the amount contributed and the amount earned on the investment to be protected from income tax until the money is taken out during retirement or separation from the employer.

The 457 plan supplements the traditional pension plan offered by CalPERS. All California public agencies and school districts, including agencies that do not currently contract with CalPERS for retirement benefits, may adopt the 457 plan for the benefit of their employees.

### **SUPPLEMENTAL CONTRIBUTIONS PLAN (SCP)**

The Supplemental Contributions Plan is an after-tax supplemental contributions program available to State employees, and members of the Judges' Retirement System I and II. SCP participants may make periodic cash contributions or after-tax payroll deductions. Participants may change their contribution amount and allocation, and transfer account balances among a variety of investment options. SCP allows participants to voluntarily invest after-tax contributions into an account where all earnings grow tax-deferred until the participant begins to take withdrawals in retirement or upon separation from all State employment. Upon distribution, members only pay taxes on the pre-tax earnings.

### **STATE PEACE OFFICERS' & FIREFIGHTERS' (POFF) SUPPLEMENTAL PLAN**

The State Peace Officers' & Firefighters' (POFF) Supplemental Plan is an employer-provided retirement benefit negotiated between the State of California and certain employee groups. The contributions are invested by CalPERS and credited to each participant's account along with any net earnings. The balance of the account is available to POFF participants only at retirement or upon permanent separation from all State employment.

## HEALTH BENEFITS PROGRAM

For many years, the CalPERS Health Benefits Program has focused on reining in the drivers of health insurance premium costs by leveraging our purchasing power; providing quality, comprehensive benefits; and enhancing the value of member benefits.

CalPERS manages health benefits for more than 1.3 million active and retired State and local government public employees and their family members. CalPERS is the largest purchaser of public employee health benefits in California, and the second largest public purchaser in the nation after the federal government. In 2010, CalPERS spent more than \$6 billion to purchase health benefits. Currently, CalPERS offers three Health Maintenance Organization (HMO) plans:

- Blue Shield of California Access +
- Blue Shield of California NetValue
- Kaiser Permanente

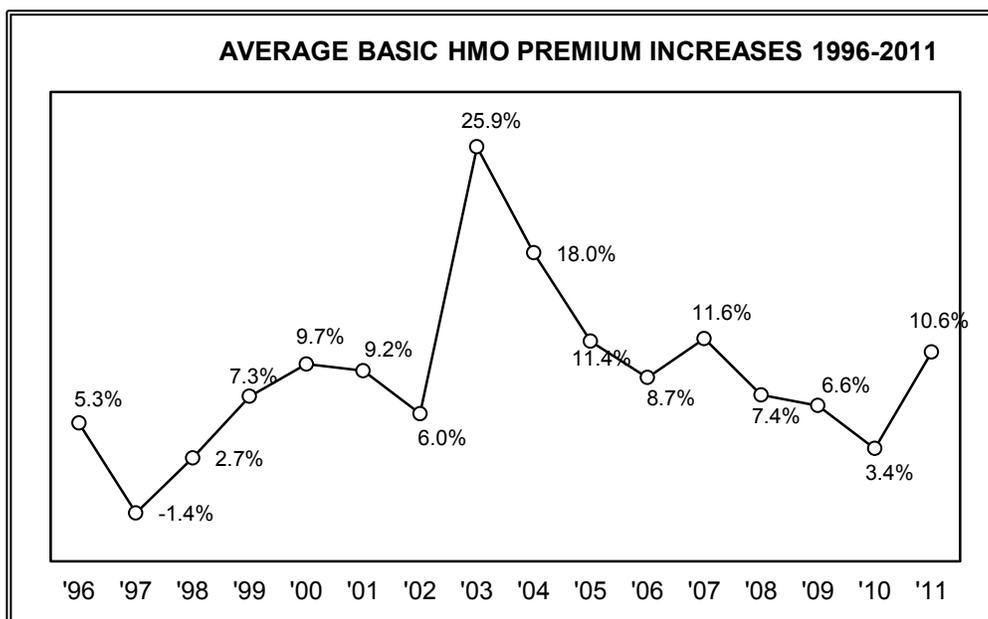
CalPERS also offers three self-funded Preferred Provider Organization (PPO) plans administered by Anthem Blue Cross:

- PERS Select
- PERS Choice
- PERSCare

In addition, CalPERS offers three health plans for specific employee association members:

- California Association of Highway Patrolmen Health Benefits Trust (CAHP)
- California Correctional Peace Officers Association (CCPOA)
- Peace Officers Research Association of California (PORAC)

The chart below depicts the average rate of increase in the basic HMO premium from 1996-2011.



## **CALIFORNIA EMPLOYERS' RETIREE BENEFIT TRUST (CERBT)**

The purpose of the CalPERS CERBT Fund (the Fund) is to provide California government employers with a trust through which they can prefund retiree health insurance benefits and other post-employment benefits. The investment objective of the Fund is to seek favorable returns that reflect the broad investment performance of the financial markets through moderate capital appreciation and reasonable investment income. The Fund provides opportunities for long-term growth of capital balanced with stable income, and utilizes the concept of diversification through asset allocation. It is designed to carry a lower level of volatility risk than a portfolio consisting entirely of common stocks.

# RETIREMENT PLANS

---

## CalPERS RETIREMENT PLANS

CalPERS administers a traditional defined benefit plan, often referred to as a pension plan, as the primary retirement plan for members, and three supplemental income plans that are available to various State and local government employers and their employees.

The defined benefit pension plan provides guaranteed lifetime retirement income based on a predetermined formula that includes an employee's age at retirement, length of service, and highest one-year or three-year average compensation. A CalPERS pension provides employees with a predictable monthly retirement benefit.

CalPERS also offers three supplemental income plans, which are intended to supplement the primary defined benefit pension plan. These supplemental plans are called defined contribution plans. Defined contribution plans do not provide a guaranteed benefit. Plan benefits are determined by the amount contributed by the member, and in some cases the employer, and investment earnings. Below is a brief description of the three CalPERS supplemental income plans.

- *CalPERS Supplemental Income 457 Plan* - A deferred compensation plan for employees of public agency and school districts that contract with CalPERS for this plan.
- *Supplemental Contributions Plan* - A federally tax-qualified defined contribution plan managed by CalPERS that is available to State employees. Participants make contributions on an after-tax basis.
- *State Peace Officers' & Firefighters' Supplemental Plan* - A money purchase plan available only to certain State employees who bargained for this supplemental plan.

Note: The California Department of Personnel Administration (DPA) administers additional tax-deferred savings plans for most State of California employees, including employees of the Legislature, Judicial and California State University (CSU) systems.

## HOW DEFINED BENEFIT AND DEFINED CONTRIBUTION PLANS DIFFER

CHARACTERISTICS & FEATURES	DEFINED BENEFIT (DB) PLANS	DEFINED CONTRIBUTION (DC) PLANS
<b>DEFINITION</b>	Provides a guaranteed lifetime retirement income based on a predetermined formula (age at retirement, years of service, and final compensation).	Provides a non-guaranteed individual retirement account for each employee based on employee and/or employer contributions, plus or minus any investment gains or losses.
<b>EMPLOYER CONTRIBUTIONS</b>	Employer contributions vary from year to year and are determined actuarially.	Employer contributions are fixed and not subject to market fluctuation. Some DC plans feature only employer contributions or employee contributions, while others may allow both employer and employee contributions.
<b>EMPLOYEE CONTRIBUTIONS</b>	Most governmental DB plans require employee contributions.	Many DC plans do not require employee contributions although employees may voluntarily contribute.
<b>INVESTMENT MANAGEMENT</b>	Professionally managed by plan administrator.	Typically managed by the individual.
<b>INVESTMENT RETURNS</b>	DB plans typically have better investment returns due to economies of scale and professional management. DB plans are able to weather the storm of a bad economy by using long-term investment strategies.	DC plans put the responsibility of investment management on the individual with no guarantee that a benefit will be available upon retirement during economic downturns.
<b>INVESTMENT RISKS</b>	Employers bear the risk of investment losses and benefit from investment gains.	Employees bear the risk of investment losses and benefit from investment gains.
<b>LONGEVITY/MORTALITY RISK (OUTLIVE ASSETS)</b>	Employers and employees benefit from varied mortality rates among large pools of members. DB plans are able to plan for the average life expectancy of a group. DB plans endure across generations and can invest in well-diversified portfolios.	Individuals have finite life spans, thus they cannot take advantage of longevity risk pooling. Individuals must plan for the maximum life expectancy to avoid outliving one's assets.
<b>LEAKAGE OF PLAN ASSETS</b>	Typically do not allow loans or hardship withdrawals.	Typically allows loans and hardship withdrawals.
<b>PORTABILITY</b>	DB plans can allow for portability with reciprocity agreements between other public plans and purchases of prior service.	DC plans offer portability by being transferrable from one employer to another.
<b>RECRUITMENT TOOL</b>	May appeal to employees who prefer stability in employment and guaranteed retirement benefits.	May appeal to employees who prefer employment mobility and want to transfer their retirement plan from one employer to another.
<b>RETENTION TOOL</b>	Rewards longevity and loyalty because benefits increase as the number of years worked increase.	Due to portability, employees may move from employer to employer with ease.
<b>ATTRITION TOOL</b>	Retirement benefit and features may be designed to encourage attrition when decreasing the workforce is necessary in lieu of layoff.	Decreasing workforce size can only be accomplished with layoff.
<b>COST OF LIVING ADJUSTMENTS (COLAS)</b>	DB plans can be designed to include cost of living adjustments.	DC plans do not adjust for inflation.
<b>DISABILITY BENEFITS</b>	Most DB plans provide a monthly disability retirement benefit as an ancillary benefit.	Most DC plans do not provide disability retirement benefits.
<b>SURVIVOR BENEFITS</b>	Most DB plans provide an option for survivor benefits to ensure that spouses and other named beneficiaries receive a monthly benefit upon the member's death.	DC plans typically do not provide an option for survivor benefits. The balance in the individual's account is all beneficiaries and survivors are entitled to.
<b>ADMINISTRATIVE COSTS</b>	DB plans usually cost less to administer than DC plans. The size of DB plans creates an economy of scale that lowers the cost of administration.	Administrative costs of DC plans are typically higher than DB plans because DC plans are individually maintained accounts. Administrative fees are typically passed on to the employee.

# HUMAN RESOURCE MANAGEMENT TOOLS

Defined benefit pension plans can provide employers with recruitment, retention and attrition tools.

## How do DB pension plans benefit *recruitment*?

- The retirement security provided by a DB pension plan, along with salary and other benefits, is often a strong consideration of employees searching for employment.
- A recent Towers Watson survey of 9,080 full-time U.S. employees at nongovernment organizations shows that one-third of employees at companies that sponsor a DB plan cite pension benefits as an important factor in their decision to work for their current employer, compared to only one-fifth of those at organizations that offer only a 401(k)-style defined contribution (DC) plan<sup>1</sup>.
- DB plans often provide cost-effective disability benefits, which are especially important to safety personnel such as policeman and firefighters.

## How do DB pension plans benefit *retention*?

- Once an employee has worked a number of years toward a vested, guaranteed life-time pension benefit, they often choose to stay with the employer to collect their benefit at retirement. This results in employee loyalty<sup>2</sup>.
- Employee retention can reduce training costs and increase institutional knowledge.
- A recent study found that almost three in five (59%) employees at organizations that sponsor a DB plan cite their pension plan as an important reason for deciding to stay with their current employer, compared to only 32 percent of workers who have a DC plan.

## How do the DB pension plans benefit attrition during economic downturns?

- The CalPERS DB plan also offers a plan feature called “the Golden Handshake,” which facilitates attrition during challenging budget times. By providing an incentive for older workers who are typically more highly paid to retire, employers can generate salary savings by hiring younger workers at lower wages, or employers can decide not to fill a retiree’s vacated position.
- DB plans can be designed to encourage attrition for safety workers by providing benefit formulas that encourage early retirement.

---

<sup>1</sup> Towers Watson. “Research & Ideas.” *Retirement Attitudes: Part III: Attraction and Retention*, December 2010. <http://www.towerswatson.com/assets/pdf/2717/Towers-Watson-Retirement-Pt3-Attitudes.pdf>.

<sup>2</sup> Beth Almeida. “State of Connecticut: Office of Policy and Management.” *DB Pensions: the Real Deal*, The Journal of Pension Benefits, July 2010. [http://www.ct.gov/opm/lib/opm/secretary/opeb/db\\_pensions\\_the\\_real\\_deal.pdf](http://www.ct.gov/opm/lib/opm/secretary/opeb/db_pensions_the_real_deal.pdf), p 6.

# **DESCRIPTION OF CalPERS DB PLAN BENEFITS**

## **SERVICE RETIREMENT BENEFITS**

- CalPERS offers a defined benefit retirement plan that provide benefits that are based on a defined formula.
- The retirement formula for each member generally depends on their employer, the classification of their employment, and when they began employment.
- For example, currently a common service retirement formula for public agency miscellaneous members and State miscellaneous members is the 2 percent at 55 formula, which provides 2 percent of the member's highest average compensation for each year of service at age 55. Therefore, a member retiring at age 55 with 25 years of service will receive 50 percent ( $2\% \times 25 = 50$ ) of his or her highest annual average compensation.
- Members may retire earlier or later than the normal retirement age. In the above example, members who retire between age 55 and 50 receive progressively less than 2 percent of the highest average pay for each year of service. The percentage increases above 2 percent if the employee retires after age 55, up to 2.418 percent at age 63 for public agency miscellaneous members and up to 2.5 percent for State miscellaneous members. Note: For State miscellaneous members, recent pension reforms changed the formula for new members to 2% at 60.

## **DISABILITY AND INDUSTRIAL DISABILITY RETIREMENT BENEFITS**

- Members who are vested can be retired for disability if they cannot perform their job duties permanently or for a prolonged period for their current employer.
- Generally, it is calculated as a percentage of their compensation.
- If the disability of industrial or safety members results from job-related illnesses or injuries, members are paid an industrial disability benefit of 50 percent of the their highest annual compensation, which is not subject to federal or state income taxes.
- Industrial or safety members who reach minimum retirement age can receive an industrial disability allowance greater than 50 percent, but that additional amount is subject to taxation.

## **SURVIVOR BENEFITS**

- In the event of a member's death, a variety of benefits may be paid depending on their employer, type of job performed, whether they died on the job or under other circumstances, and whether they were eligible to retire or already retired.
- For those who are not retired, their named beneficiary is typically eligible to receive one or more of the following benefits: a lump sum payment of the member's retirement contributions plus interest, up to six months' salary, or an ongoing monthly allowance.

- At retirement members have the option to provide an ongoing monthly allowance for their named beneficiary based on an actuarial reduction of their retirement allowance.

### **ELIGIBILITY FOR BENEFITS**

- Generally, employees are mandatory participants in CalPERS if they work at least half-time in a position that is eligible for CalPERS membership. Employers may choose to contract for optional membership for employees that work less than half-time.
- Most members become vested after five years of service. Once a member is vested, they become eligible to receive a retirement benefit upon reaching retirement age.
- Members of CalPERS' State second tier plan must have 10 years of service to be vested.
- CalPERS also has "reciprocity" agreements with many California public retirement systems. Reciprocity agreements allow public employees to move from one retirement system to another without loss of benefits, using their highest average compensation and age at retirement for benefit calculations of reciprocal retirement plans.
- Under certain circumstances, some elected officials are eligible to elect optional membership into the system.

### **COORDINATION WITH SOCIAL SECURITY BENEFITS**

- Approximately two-thirds of CalPERS members participate in retirement plans that are coordinated with Social Security and are therefore eligible to receive Social Security benefits in addition to their CalPERS pension.
- In addition to CalPERS contributions, the employee and employer must each contribute to Social Security 6.2 percent of salary above a set amount to pay for these benefits.
- The remaining one-third of CalPERS members that participate in an uncoordinated plan (generally safety members) do not contribute to Social Security and are not eligible to receive Social Security retirement, or death and disability benefits.

# **ECONOMIC IMPACT OF CalPERS DB PLAN**

## **Economic Impact of CalPERS on the California Economy**

CalPERS investments, pension benefits, and health benefits provide a considerable boost to the California economy. According to economic impact studies conducted by researchers at California State University, Sacramento, CalPERS programs in 2006 generated nearly \$35 billion in economic activity statewide.

- In 2006, CalPERS investments in California generated more than \$15 billion in economic activity supporting 124,000 jobs with a payroll of \$5.1 billion and producing \$864 million in state and local tax revenues.
- CalPERS pension benefits generated \$11.8 billion in economic activity, supporting 78,000 jobs with a payroll of \$2.7 billion and producing \$778 million in state and local tax revenues.
- CalPERS health benefit payments generated \$7.6 billion in economic activity, supporting 51,000 jobs with a payroll of \$2.8 billion and producing \$371 million in state and local tax revenues.

For fiscal year ending June 30, 2010, nearly 506,000 retirees received benefits totaling \$12.97 billion, most of which went back into the California economy stimulating further economic activity, such as consumer spending, job creation and government tax revenues.

## **Economic Impact of Providing Retirement Security for Workers**

During an economic recession, CalPERS pensions, as well as other public and private pensions, can provide a stabilizing force for the California economy.

- Pensions provide retirement security to workers, which reduces the cost of social service programs for the elderly and disabled, resulting in savings to taxpayers.
- Providing retirement security to older workers benefits the state economy because older workers can afford to retire, thus leaving jobs available for younger workers. This leads to less unemployment and lower expenses for unemployment insurance benefits.

# FUNDING RETIREMENT BENEFITS

---

## ACTUARIAL FUNDING BASICS

### What is an actuarially sound retirement system?

- An actuarially sound retirement system is a retirement plan that contains sufficient funds to pay future obligations, by receiving contributions from employees and the employer, which are invested. The funds grow over time, and are used to pay future benefits.

### What do pension actuaries do?

- Pension actuaries estimate how much money must be contributed to a pension plan each year in order to pay the benefits that will become due in the future. This is done through analysis of the financial consequence of risk. Actuaries use mathematics, statistics, and financial theory to study uncertain future events, particularly those of concern to insurance and pension programs.
- For example, pension actuaries analyze probabilities related to the demographics of pension plan members (i.e., the likelihood of retirement, disability, and death) and economic factors that may affect the value of benefits or the value of assets held in a pension plan's trust (e.g., investment return rate, inflation rate, and rate of salary increases). Pension actuaries determine the value of pension benefits and work with employers to devise strategies for funding the cost of the benefits.

### What is an actuarial valuation?

- Actuaries produce annual actuarial reports called *actuarial valuations*.
- These valuations are done as of a specific point in time each year either on a calendar year basis or fiscal year basis. At CalPERS, actuarial valuations are done on a fiscal year basis, as of June 30<sup>th</sup> each year.
- An actuarial valuation is a financial examination at a specific point in time of a pension plan to determine whether contributions and investment earnings are being accumulated at the rate sufficient to provide the funds to pay promised pensions when they are due.
- The valuation reports provide employers with their retirement plan's funded status, contribution rate, and annual required contribution to maintain sound funding over the long term, if all actuarial assumptions are met.
- Actuarial valuations can assist decision makers achieve equity across generations of taxpayers, by funding the employees' benefits while they are rendering service, so that the cost of the benefits is incurred by the taxpayers receiving services from those employees.
- At CalPERS, all annual actuarial valuation reports with a valuation date of June 30, 2009 or later include an investment return sensitivity analysis. The sensitivity analysis included in each report helps display the potential investment risk to the employer contribution rates. The goal of the investment return sensitivity analysis is to be more transparent and provide additional information to all employers to better help them budget for future years.

- CalPERS has in-house actuarial staff to produce actuarial valuations and contracts with an actuarial consultant to conduct independent parallel valuations. Any discrepancies are noted and recommendations may be offered. If the work is found to be valid, the consultant may certify the results of actuarial valuations performed by the CalPERS Actuarial Office.

### **What is the basic actuarial funding equation?**

- The basic funding equation is:  

$$\text{Contributions} + \text{Investment Returns} = \text{Benefits} + \text{Expenses}$$
This equation provides the foundation for understanding how prefunded pension (or other post-employment benefit) plans are funded.

### **How does the funding of the retirement system work?**

- Employer and employee contributions flow into a trust fund that is dedicated for the purpose of paying benefits. Those contributions are invested and earn investment returns. Benefits and expenses are paid out of the fund. Any increase in benefits will ultimately require a corresponding increase in contributions or investment returns or both.
- Pension fund assets are invested in stocks, bonds, real estate, and other investments, which means the values of the assets are constantly fluctuating. In good economic times, investment values typically go up. In bad economic times, investment values typically go down. CalPERS' long-term assumed rate of return is 7.75 percent.
- Pension plans are prefunded. The advantage of prefunding is that over time the majority of benefit costs are paid by investment returns rather than by contributions from the employer or employees. Historically, about 65 percent to 75 percent of CalPERS benefits are paid from investment earnings.
- For most public pension plans, including CalPERS, prefunding of benefits is done over a level percentage of payroll to help employers budget for the future and strive for inter-generational equity. This funding method is called the "Entry-Age Normal" Funding Method.

### **How is the employer contribution rate determined?**

- Information about the plan benefit provisions and demographics along with actuarial assumptions are used to determine expected future benefit payments. These actuarial assumptions include the age when members are expected to retire, how long members are expected to live and economic factors that may affect the value of benefits or the value of assets held in a pension plan's trust fund (e.g., investment return rate, inflation rate, and rate of salary increases).
- These expected future benefit payments are then "discounted" back in today's dollars using the expected investment return rate to obtain what is called the present value of future benefits (PVB).
- If the system has assets equal to the PVB, and all actuarial assumptions come true, no additional contributions are needed to provide future benefits for current active and retired members - even taking into account future service and salary increases for active members. The actuarial methods and funding policies

determine how much of the PVB should be contributed in the current year and future years so that, together with existing assets, the entire PVB will be funded.

- PVB can be broken into two pieces:
  - 1) Actuarial Accrued Liability (AAL) – the cost of the benefits earned by members on the date of the valuation.
  - 2) Present Value of Future Contributions – value of all expected contributions in today's dollars.
- Each year, the valuation measures current costs of the benefits employees in the plan have earned to date. The cost is compared to the assets in the plan. If the costs are greater than the assets, the difference is called the Unfunded Actuarial Liability.
- At CalPERS, rates are comprised of two components. An annual premium that funds the benefits earned over the coming year and an amortized payment, which is determined by the amount of unfunded liability the plan may have. In theory, if a plan's experience is exactly as the actuary has predicted, there will never be an unfunded liability. However, in practice, short term experience is always different from assumptions made. Differences in the plan's experience are called gains and losses.
- The unfunded liability is the amount of accrued pension liabilities that exceed assets. The unfunded liability figure is not the same as a conventional debt that must be paid off to be eliminated. It is an abstract accounting number that can go up or down significantly over a relatively short period of time, depending on the state of the overall economy and the health of the financial markets.
- Asset Smoothing Method: For most public pension plans, including CalPERS, the plan's investment gains and losses are spread, or "smoothed," over a period of time in order to minimize short term, year-to-year contribution rate fluctuations. Actuaries accomplish this smoothing by assigning a market-related value to a plan's assets for purposes of determining contribution requirements. This value is called the actuarial value of assets (AVA) or, more commonly, the "smoothed value" of assets.

### **What is the Funded Status? What does it represent?**

- The funded status of a plan is the ratio of the plan's costs to the plan's available assets on the date of the annual valuation.
- When comparing the plan's cost to its assets on a market value basis, the percentage will give you a general idea of the relative health of the plan.
- It is important not to focus too much on the funded status of a plan at any single point in time because the funded status can go up or down significantly over a relatively short period of time depending on the overall health of the economy. What is more important is to look at how a plan got to their current funded status rather than what the funded status is on a particular date. A lower funded status was expected as a result of the deep recession and bear market in 2008 and 2009. Along the same lines, plans were expected to be overfunded in 2000 as a result of the bull market and very strong economy in the late 1990s. What matters is understanding how the plan got to that situation and what the situation tells you about whether or not the plan is being properly prefunded.

- A funded ratio of 100 percent means the plan has all of the assets required to pay benefits if all plan members were to retire today. However, most plan members will not be retiring for another 10, 20, 30 years or more. Therefore, it is not necessary to be at 100 percent funding at all times, although the goal is to be near 100 percent over the long term. At any given time, the funded ratio will likely be under or over 100 percent.
- It is also important to understand that future hires do not impact a plan's funded status. Since new plan entrants have no prior service, they have no costs or assets associated with them.

### **What is done to minimize volatility in pension costs?**

- The most common way to minimize volatility in pension cost is the use of an asset smoothing method as previously described.
- The gains and losses described earlier are typically amortized over extended periods of time to minimize volatility in cost and also because these gains and losses are expected to cancel one another over time.
- CalPERS also created risk-sharing pools in 2005 in order to minimize volatility in pension costs for smaller employers. These risk pools spread demographic gains and losses across all small plans that offer the same benefit formula. With a larger sample of data exposed, experience is easier to predict. This helps to keep the rates for smaller employers more stable.
- For most public pension plans, including CalPERS, prefunding of the benefits is achieved by contributions that represent a relatively level percentage of payroll, which minimizes volatility in pension costs.

### **What is the role of the CalPERS Board of Administration?**

- In California, retirement system boards have the responsibility to set actuarial methods and assumptions, and to determine contribution policy, while the actuary's role is to make recommendations to the board in these areas.
- The actuarial assumptions and funding policies adopted by the board determine expected costs and when the costs are paid. Changes in those assumptions or policies can increase or decrease the current contribution requirements. It is important to remember that the ultimate cost of the plan will depend only on the plan's actual experience, regardless of what was assumed would happen.

### **What can be expected of pension costs in the near future?**

- The best way to determine where future costs are headed is to look at recent investment returns. For example, the return earned in the 2008-2009 fiscal year has a direct impact on the rates set for the 2011-2012 fiscal year. The greater the difference realized between the actual rate of return and the expected rate return, the more volatility you will see in pension contribution rates.
- Demographic experience from year to year also impacts future rates. Unexpected salary increases, early retirements, disabilities and deaths are just a few events that cause pension rates to fluctuate. At CalPERS, the experience realized in one fiscal year affects the employer contribution rate two years into the future for public agency plans; one year in the future for State and school plans. For example,

experience analyzed during the 2008-2009 fiscal year affects public agency rates for the 2011-2012 fiscal year.

### **How can employers reduce their pension costs?**

There are a few options available to reduce employer pension costs. These options are outlined below.

- 1) Transfer more of the pension contribution costs to employees. The savings under this option would be immediate. There are two ways to do this.
  - a) If the employer pays for part of the employees' share by resolution, the employer can bargain with employee groups to lower the percentage the agency will pay for the employees' portion. Employers may check with the CalPERS Contracts Unit to see if the employer paid member contribution resolution needs to be updated.
  - b) The employer can contract for a benefit called cost sharing. This benefit allows members to "share" in the cost of any amendment or "upgrade" the agency has implemented since first contracting with CalPERS. If employers are interested in this option they can contact the Contracts Specialist.
  
- 2) Offer *new* employees a lower set of benefits. Doing so will produce future savings, but not in the short-term. This is to be viewed as a long-term savings goal. Since the lower benefits will only be in effect for *new* employees, the employer will have to wait until new employees replace current employees, and the workforce is composed mostly of new employees in order to realize the full savings. At CalPERS, we call these lower-benefit plans *second tiers*.

Second tier options include lowering benefit formulas or removing certain optional benefit upgrades from the employer's CalPERS contract. Below is a list of such upgrades that could be removed.

- One Year Final Compensation
- Employer Paid Member Contributions (by Contract Amendment)
- Post-Retirement Survivor Allowance
- 3%, 4%, or 5% Annual Cost of Living Allowance
- Industrial Disability Retirement for Local Miscellaneous Members
- Improved Industrial Disability Retirement Allowance

## **SAMPLE ACTUARIAL VALUATIONS**

In the following section, you will find two sample actuarial valuation documents created with fictitious agency information. One is for a non-pooled agency and one is for a pooled agency. The intent is to show a summary of the important elements in the annual valuation. Each sample has call-out boxes that describe key information.

For the non-pooled agency, the sample valuation shows the current employer contribution rate, the projected rates for the following two fiscal years, the annual required contribution commonly referred to as the “ARC,” the funded status of the plan, and a sensitivity analysis of projected rates based on five different investment return scenarios.

For the pooled agency, the sample valuation shows the current employer contribution rate, the projected rate for the following year, the pool’s base employer rate, the employer contribution rate, the side fund balance, the estimated pool’s base employer rate, the next year’s estimated pool’s base employer rate, and a sensitivity analysis of projected rates based on five different investment return scenarios.

# NON-POOLED AGENCY



**Actuarial Office**  
P.O. Box 1494  
Sacramento, CA 95812-1494  
TTY for Speech and Hearing Impaired - (916) 795-3240  
(888) CalPERS (or 888-225-7377) FAX (916) 795-3005

October 2010

**SAMPLE  
VALUATION  
NON-POOLED  
AGENCY**

## MISCELLANEOUS PLAN OF THE CITY OF XYZ (EMPLOYER # 999) Annual Valuation Report as of June 30, 2009

Dear Employer,

As an attachment to this letter, you will find a copy of the June 30, 2009 actuarial valuation report of your pension plan. This report contains important actuarial information about your pension plan at CalPERS. Your CalPERS staff actuary is available to discuss the report with you.

### Changes Since the Prior Year's Valuation

The CalPERS Board of Administration adopted updated actuarial assumptions to be used beginning with the June 30, 2009 valuation. In addition, a temporary modification to our method of determining the actuarial value of assets and amortizing gains and losses has been implemented for the valuations as of June 30, 2009 through June 30, 2011. Finally, a cash flow analysis has been added to our process. If such an analysis indicates that funding progress will not be adequate, an additional contribution will be required.

There may also be changes specific to your plan such as contract amendments and funding changes.

Further descriptions of changes are included in the "Highlights and Executive Summary" section and in Appendix A, "Statement of Actuarial Data, Methods and Assumptions." The effect of the changes on your rate is included in the "Reconciliation of Required Employer Contributions."

### Future Contribution Rates

The exhibit below displays the required employer contribution rate and Superfunded status for 2011/2012 along with estimates of the contribution rate for 2012/2013 and 2013/2014 and the probable Superfunded status for 2012/2013. The estimated rate for 2012/2013 is based solely on a projection of the investment return for fiscal 2009/2010, namely 11.0%. The estimated rate for 2013/2014 uses the valuation assumption of 7.75% as the investment return for fiscal 2010/2011. See Appendix D, "Investment Return Sensitivity Analysis", for rate projections under a variety of investment return scenarios. Please disregard any projections that we may have provided to you in the past.

Fiscal Year	Employer Contribution Rate	Superfunded?
2011/2012	10.916%	NO
2012/2013	11.9% (projected)	NO
2013/2014	15.0% (projected)	N/A

**Employer  
Contribution  
Rates for 3  
Fiscal Years**

Member contributions (whether paid by the employer or the employee) are in addition to the above rates.

The estimates for 2012/2013 and 2013/2014 also assume that there are no future amendments and no liability gains or losses (such as larger than expected pay increases, more retirements than expected, etc.). **This is a very important assumption because these gains and losses do occur and can have a significant impact on your contribution rate.** Even for the largest plans, such gains and losses often cause a change in the employer's contribution rate of one or two percent and may be even larger in some less common instances. These gains and losses cannot be predicted in advance so the projected employer contribution rates are just estimates. Your actual rate for 2012/2013 will be provided in next year's report.

**SAMPLE  
 VALUATION  
 NON-POOLED  
 AGENCY**

**Purpose of the Report**

This report presents the results of the June 30, 2009 actuarial valuation of the MISCELLANEOUS PLAN OF THE CITY OF XYZ of the California Public Employees' Retirement System (CalPERS). The valuation was prepared by the Plan Actuary in order to:

- set forth the actuarial assets and accrued liabilities of this plan as of June 30, 2009;
- certify that the actuarially required employer contribution rate of this plan for the fiscal year July 1, 2011 through June 30, 2012 is 10.916%;
- provide actuarial information as of June 30, 2009 to the CalPERS Board of Administration and other interested parties; and
- provide pension information as of June 30, 2009 to be used in financial reports subject to Governmental Accounting Standards Board (GASB) Statement Number 27 for a Single Employer Defined Benefit Pension Plan.

Use of this report for other purposes may be inappropriate.

**Required Contributions**

	<b>Fiscal Year 2010/2011</b>	<b>Fiscal Year 2011/2012</b>
<b>Required Employer Contributions</b>		
Employer Contribution Required (in Projected Dollars)		
Payment for Normal Cost	\$923,350	\$973,153
Payment on the Amortization Bases	74,903	392,228
Total (not less than zero)	\$998,253	\$1,365,381
Annual Lump Sum Prepayment Option*	\$961,683	\$1,315,362
Employer Contribution Required (Percentage of Payroll)		
Payment for Normal Cost	8.193%	7.780%
Payment on the Amortization Bases	0.665%	3.136%
Total (not less than zero)	8.858%	10.916%

**Annual  
 Required  
 Contributions**

**Funded Status**

	<b>June 30, 2008</b>	<b>June 30, 2009</b>
Present Value of Projected Benefits	\$78,480,772	\$85,595,993
Entry Age Normal Accrued Liability	\$65,694,605	\$72,490,523
Actuarial Value of Assets (AVA)	64,544,444	67,086,985
Unfunded Liability	\$1,150,161	\$5,403,538
Market Value of Assets (MVA)	\$65,973,630	\$49,045,698
Funded Status (on an MVA basis)	100.4%	67.7%
<b>Superfunded Status</b>	No	No

**Funded  
 Status –  
 Overall Health  
 of the Fund**

\* Payment **must be** received by CalPERS between July 1 and July 15.

**SAMPLE VALUATION  
 NON-POOLED  
 AGENCY**

**Investment Return Sensitivity Analysis**

The investment return realized during a fiscal year first affects the contribution rate for the fiscal year two years later. Specifically, the investment return for 2009-2010 will first be reflected in the June 30, 2010 actuarial valuation that will be used to set the 2012-2013 employer contribution rates and 2010-2011 investment return will first be reflected in the June 30, 2011 actuarial valuation that will be used to set the 2013-2014 employer contribution rates.

In July 2010, the investment return for fiscal year 2009-2010 was announced to be 11.4%. Note that this return is before administrative expenses and also does not reflect final investment return information for real estate and private equities. The final return information for these two asset classes is expected to be available later in October. The preliminary 11.4% return for the 2009-2010 fiscal year is good news as it would help reduce the impact of the -24% return in 2008-2009 and the impact of the three year phase in adopted by the Board in June 2009. For purposes of projecting future employer rates, we are assuming an 11% investment return for fiscal year 2009-2010.

Based on an 11% investment return for fiscal year 2009-2010 and assuming that all other actuarial assumptions will be realized and that no further changes to assumptions, contributions, benefits, or funding will occur between now and the beginning of the fiscal year 2012-2013, the effect on the 2012-2013 Employer Rate is as follows:

<b>Estimated 2012-2013 Employer Rate</b>	<b>Estimated Increase in Employer Rate between 2011-2012 and 2012-2013</b>
11.9%	1.0%

As part of this report, a sensitivity analysis was performed to determine the effects of various investment returns during fiscal year 2010-2011 on the 2013-2014 employer rates. Once again, the projected 2013-2014 rate increases assume that all other actuarial assumptions will be realized and that no further changes to assumptions, contributions, benefits, or funding will occur between now and the beginning of fiscal year 2013-2014.

Five different 2010-2011 investment return scenarios were selected.

- The first scenario is what one would expect if the markets were to give us a 5<sup>th</sup> percentile return. The 5<sup>th</sup> percentile return corresponds to a -11% return for the 2010-2011 fiscal year.
- The second scenario is what one would expect if the markets were to give us a 25<sup>th</sup> percentile return. The 25<sup>th</sup> percentile return corresponds to a 0% return for the 2010-2011 fiscal year.
- The third scenario assumed the return for 2010-2011 would be our assumed 7.75% investment return which represents about a 47<sup>th</sup> percentile event.
- The fourth scenario is what one would expect if the markets were to give us a 75<sup>th</sup> percentile return. The 75<sup>th</sup> percentile return corresponds to a 16% return for the 2010-2011 fiscal year.
- Finally, the last scenario is what one would expect if the markets were to give us a 95<sup>th</sup> percentile return. The 95<sup>th</sup> percentile return corresponds to a 27% return for the 2010-2011 fiscal year.

The table below shows the estimated 2013-2014 contribution rate and the estimated increase over the 2012-2013 rate for your plan under the five different scenarios.

<b>2010-2011 Investment Return Scenario</b>	<b>Estimated 2013-2014 Employer Rate</b>	<b>Estimated Increase in Employer Rate between 2012-2013 and 2013-2014</b>
-11%	21.2%	9.3%
0%	17.6%	5.7%
7.75%	15.0%	3.1%
16%	12.4%	0.5%
27%	12.2%	0.3%

**Projected rates under 5 different investment return scenarios**

# POOLED AGENCY



**Actuarial Office**  
P.O. Box 1494  
Sacramento, CA 95812-1494  
TTY for Speech and Hearing Impaired - (916) 795-3240  
(888) CalPERS (or 888-225-7377) FAX (916) 795-3005

**SAMPLE  
VALUATION  
POOLED  
AGENCY**

October 2010

**MISCELLANEOUS PLAN OF THE CITY OF XYZ (EMPLOYER # 9999)  
Annual Valuation Report as of June 30, 2009**

Dear Employer,

Enclosed please find a copy of the June 30, 2009 actuarial valuation report of your pension plan. Since your plan had less than 100 active members in at least one valuation since June 30, 2003, it is required to participate in a risk pool. The following valuation report has been separated into two sections:

- Section 1 contains specific information for your plan, including the development of your pooled employer contribution rate; and,
- Section 2 contains the Risk Pool Actuarial Valuation appropriate to your plan, as of June 30, 2009.

This report contains important actuarial information about your pension plan at CalPERS. Your CalPERS staff actuary is available to discuss the actuarial report with you.

### Changes Since the Prior Valuation

The CalPERS' Board of Administration adopted updated actuarial assumptions to be used beginning with the June 30, 2009 valuation. In addition, a temporary modification to our method of determining the actuarial value of assets and amortizing gains and losses has been implemented for the valuations as of June 30, 2009 through June 30, 2011. Finally, a cash flow analysis has been added to our process. If such an analysis indicates that funding progress will not be adequate, an additional contribution will be required.

There may also be changes specific to your plan such as contract amendments and funding changes.

Further descriptions of changes are included in the Section 2 "Highlights and Executive Summary" section and in Appendix A, "Statement of Actuarial Data, Methods and Assumptions."

### Future Contribution Rates

The exhibit below displays the required employer contribution rate and Superfunded status for 2011/2012 along with an estimate of the contribution rate and Superfunded status for 2012/2013. The estimated rate for 2012/2013 is based on a projection of the most recent information we have available, including an estimate of the investment return for fiscal 2009/2010, namely 11.0%. See Section 2 Appendix E, "Investment Return Sensitivity Analysis", for increase in 2013/2014 rate projections under a variety of investment return scenarios for the Risk Pool's portion of your rate. Please disregard any projections that we may have provided to you in the past.

Fiscal Year	Employer Contribution Rate	Superfunded?
2011/2012	4.519%	No
2012/2013	5.0% (projected)	No

**Employer  
Contribution Rates  
for 2 Fiscal Years**

Member contributions (whether paid by the employer or the employee) are in addition to the above rates.

**SECTION 1 – PLAN SPECIFIC INFORMATION FOR THE MISCELLANEOUS PLAN OF THE CITY OF XYZ**

**SAMPLE VALUATION POOLED AGENCY**

**Purpose of Section 1**

Section 1 of this report was prepared by the Plan Actuary in order to:

- Certify that the actuarially required employer contribution rate of the MISCELLANEOUS PLAN of the CITY XYZ for the fiscal year July 1, 2011 through June 30, 2012 is 4.519%;
- Set forth the plan's Employer Side Fund as of June 30, 2009;
- Provide pension information as of June 30, 2009 to be used in financial reports subject to Governmental Accounting Standards Board (GASB) Statement Number 27.

This section was prepared in order to provide actuarial information as of June 30, 2009 to the CalPERS Board of Administration and other interested parties

Use of this report for other purposes may be inappropriate.

**Required Employer Contributions**

	<b>Fiscal Year 2010/11</b>	<b>Fiscal Year 2011/12</b>
Employer Contribution Required (in Projected Dollars)		
Risk Pool's Net Employer Normal Cost	\$143,684	\$144,833
Risk Pool's Payment on Amortization Bases	13,644	34,964
Surcharge for Class 1 Benefits		
a) FAC 1	9,449	9,801
b) 5% COLA	21,553	21,657
Phase out of Normal Cost Difference	0	0
Amortization of Side Fund	(122,103)	(126,071)
<b>Total Employer Contribution</b>	<b>\$66,227</b>	<b>\$85,184</b>
<b>Annual Lump Sum Prepayment Option*</b>	<b>\$63,801</b>	<b>\$82,063</b>
Projected Payroll for the Contribution Fiscal Year	\$1,856,382	\$1,884,863
Employer Contribution Required (Percentage of Payroll)		
Risk Pool's Net Employer Normal Cost	7.740%	7.684%
Risk Pool's Payment on Amortization Bases	0.735%	1.855%
Surcharge for Class 1 Benefits		
a) FAC 1	0.509%	0.520%
b) 5% COLA	1.161%	1.149%
Phase out of Normal Cost Difference	0.000%	0.000%
Amortization of Side Fund	(6.577%)	(6.689%)
<b>Total Employer Contribution</b>	<b>3.568%</b>	<b>4.519%</b>

**Pool's Base Employer Rate for FY 2011/12 is 7.684% + 1.855% = 9.539%**

**The Employer Contribution Rate for FY 2011/12 after adding in Class 1 Benefits Surcharge and Phase Out of Normal Cost Difference and subtracting Amortization of Side Fund**

Appendix C of Section 2 of this report contains a list of Class 1 benefits and corresponding surcharges for each benefit.

Risk pooling was implemented as of June 30, 2003. The normal cost difference was scheduled to be phased out over a five year period. The phase out of normal cost difference began at 100% for the first year, and was incrementally reduced by 20% of the original normal cost difference for each subsequent year.

\*Payment must be received by CalPERS between July 1 and July 15.

## APPENDIX E

### Employer Side Fund

# SAMPLE VALUATION POOLED AGENCY

At the time of joining a risk pool, a side fund was created to account for the difference between the funded status of the pool and the funded status of your plan. The side fund for your plan as of the June 30, 2009 valuation is shown in the following table.

Your side fund will be credited, on an annual basis, with the actuarial investment return assumption. This assumption is currently 7.75%. A positive side fund will cause your required employer contribution rate to be reduced by the Amortization of Side Fund shown above in Required Employer Contributions. A negative side fund will cause your required employer contribution rate to be increased by the Amortization of Side Fund. In the absence of subsequent contract amendments or funding changes, the side fund will disappear at the end of the amortization period shown below.

#### Employer Side Fund Reconciliation

	June 30, 2008	June 30, 2009
Side Fund as of valuation date*	\$989,552	\$947,350
Adjustments	0	0
Side Fund Payment	(114,537)	(118,260)
Side Fund one year later	\$947,350	\$898,013
Adjustments	0	0
Side Fund Payment	(118,260)	(122,103)
Side Fund two years later	\$898,013	\$840,863
Amortization Period	9	8
Side Fund Payment during last year	\$ (122,103)	\$ (126,071)

2011 Side Fund

\* If your agency employed vouchers in fiscal year 2008/2009 to pay employee contributions, the June 30, 2009 Side Fund amount has been adjusted by a like amount without any further adjustment to the Side Fund's amortization period. Similarly, the Side Fund has been adjusted for the increase in liability from any recently adopted Class 1 or Class 2 contract amendments. Also, the Side Fund may be adjusted or eliminated due to recent lump sum payments. Contract amendments and lump sum payments may result in an adjustment to the Side Fund amortization period.

### Superfunded Status

	June 30, 2008	June 30, 2009
<b>Is the plan Superfunded?</b>	No	No
[Yes if Assets exceed PVB, No otherwise]		

### Summary of Participant Data

Below is a table showing a summary of the active member data for your plan upon which this valuation is based:

	June 30, 2008	June 30, 2009
Projected Payroll for Contribution Purposes	\$ 1,856,382	\$ 1,884,863
Number of Members		
Active	28	27
Transferred	12	11
Separated	11	11
Retired	23	24

# SAMPLE VALUATION POOLED

## APPENDIX E

### Investment Return Sensitivity Analysis

The investment return realized during a fiscal year first affects the contribution rate for the fiscal year two years later. Specifically, the investment return for 2009-2010 will first be reflected in the June 30, 2010 actuarial valuation that will be used to set the 2012-2013 employer contribution rates and 2010-2011 investment return will first be reflected in the June 30, 2011 actuarial valuation that will be used to set the 2013-2014 employer contribution rates.

In July 2010, the investment return for fiscal year 2009-2010 was announced to be 11.4%. Note that this return is before administrative expenses and also does not reflect final investment return information for real estate and private equities. The final return information for these two asset classes is expected to be available later in October. The preliminary 11.4% return for the 2009-2010 fiscal year is good news as it would help reduce the impact of the -24% return in 2008-2009 and the impact of the three year phase in adopted by the Board in June 2009. For purposes of projecting future employer rates, we are assuming an 11% investment return for fiscal year 2009-2010.

Based on an 11% investment return for fiscal year 2009-2010 and assuming that all other actuarial assumptions will be realized and that no further changes to assumptions, contributions, benefits, or funding will occur between now and the beginning of the fiscal year 2012-2013, the effect on the 2012-2013 Employer Rate is as follows:

Rate before additional surcharge and + or - amortization of side fund and phase out of normal cost difference	Estimated 2012-2013 Pool's Base Employer Rate	Estimated Increase in Pool's Base Employer Rate between 2011-2012 and 2012-2013
	10.0%	0.4%

As part of this report, a sensitivity analysis was performed to determine the effects of various investment returns during fiscal year 2010-2011 on the 2013-2014 employer rates. Once again, the projected 2013-2014 rate increases assume that all other actuarial assumptions will be realized and that no further changes to assumptions, contributions, benefits, or funding will occur between now and the beginning of fiscal year 2013-2014.

Five different 2010-2011 investment return scenarios were selected.

- The first scenario is what one would expect if the markets were to give us a 5<sup>th</sup> percentile return. The 5<sup>th</sup> percentile return corresponds to a -11% return for the 2010-2011 fiscal year.
- The second scenario is what one would expect if the markets were to give us a 25<sup>th</sup> percentile return. The 25<sup>th</sup> percentile return corresponds to a 0% return for the 2010-2011 fiscal year.
- The third scenario assumed the return for 2010-2011 would be our assumed 7.75% investment return which represents about a 47<sup>th</sup> percentile event.
- The fourth scenario is what one would expect if the markets were to give us a 75<sup>th</sup> percentile return. The 75<sup>th</sup> percentile return corresponds to a 16% return for the 2010-2011 fiscal year.
- Finally, the last scenario is what one would expect if the markets were to give us a 95<sup>th</sup> percentile return. The 95<sup>th</sup> percentile return corresponds to a 27% return for the 2010-2011 fiscal year.

The table below shows the estimated 2013-2014 contribution rate and the estimated increase over the 2012-2013 rate for your plan under the five different scenarios.

2010-2011 Investment Return Scenario	Estimated 2013-2014 Pool's Base Employer Rate	Estimated Increase in Pool's Base Employer Rate between 2012-2013 and 2013-2014
-11%	16.0%	6.0%
0%	13.6%	3.6%
7.75%	11.9%	1.9%
16%	10.3%	0.3%
27%	10.2%	0.2%

**Projected base employer rate under 5 different investment return scenarios**

The rates shown on this page are the Pool's Base Employer Rates. This is the Pool's Net Normal Cost (excluding surcharges for Class 1 Benefits) plus the payment of the pool's amortization bases.

# UNDERSTANDING PENSION DISCOUNT RATES AND LIABILITIES

## Governmental Accounting Standards Board

- CalPERS complies with the accounting standards of the Governmental Accounting Standards Board (GASB) to calculate the unfunded liability of its pension plans. GASB is a non-profit organization that formulates accounting standards for state and local governments. GASB standards are not law but are accounting principles that improve the relevance of financial reporting.

## “Risk-Free” Discount Rate as Assumed Rate of Return on Investment

- Recent media coverage of public pension liabilities includes the debate over whether public pension liabilities should be measured using a lower assumed rate of return on investment such as a “risk-free” discount rate.
- The “risk-free” discount rate is commonly used to calculate a plan’s settlement cost in the private sector should a plan terminate due to a company bankruptcy, acquisition, or freezing of the pension plan. This measure of liabilities is known as the Market Value of Liabilities (MVL).
- MVL is the methodology promoted by a field of study known as financial economics. MVL is based on a corporate finance model<sup>3</sup>.
- In the private sector, corporate accounting standards are guided by the Financial Accounting Standards Board (FASB) which requires corporate pensions to calculate and disclose their MVL.

## Should Public Pensions Use a “Risk-Free” Discount Rate?

- Some argue that a “risk free” discount rate should be used to value public pension liabilities because the benefits promised to employees are guaranteed and “risk free.”
- If public pension plans use a “risk-free” discount rate to project liabilities, the liabilities would increase based on the assumption that the plan would earn a low rate of return on investments; thereby, increasing costs to employers.
- If pension plans utilized an investment strategy that solely invests in risk-free assets, billions of dollars in potential investment income would be left on the table. It has been demonstrated over time that pension funds can earn a premium over the risk-free rate by investing in a diversified portfolio with an acceptable level of risk. These earnings have historically financed the majority of pension liabilities rather than financing through employer contributions which can impact taxpayers. Historically, about 65 to 75 percent of CalPERS pension fund revenues come from investment returns, not taxpayers or workers.
- CalPERS believes discount rate assumptions should be left to GASB and professional actuarial organizations.
- GASB and actuarial standards of practice do not require public pension systems to use a “risk-free” discount rate. The recommended discount rate

---

<sup>3</sup> Keith Brainard, *NASRA White Paper: Public Pensions and Market Value of Liabilities*, July 21, 2008, Pages 1-2

assumption is the investment return that one can realistically expect over the long term from a pension fund's investment strategy.

- CalPERS complies with GASB and current actuarial standards by using a discount rate assumption that is in line with its expected long-term investment return.
- Fuel was added to this debate when a few recent studies concluded that CalPERS pension liabilities were much higher than reported because these studies used a "risk-free" discount rate of about 4% as the assumed investment rate of return to produce the inflated liability figure.
- Using a "risk-free" discount rate would be appropriate if the assets of pension funds were invested only in low-yielding Treasury securities, but most pension fund investment portfolios are much more diversified and earn higher returns than Treasury securities alone.

### **CalPERS Evaluates the Assumed Investment Rate of Return**

- CalPERS periodically re-evaluates its assumed investment rate of return for possible changes.
- The most recent CalPERS asset allocation and liability review began in March 2010 and ended in March 2011.
- These reviews are periodic top-to-bottom reviews of our asset allocation and our investment return assumptions.
- Part of this effort includes reaching out to a wide-ranging group of experts with varied opinions through a series of open, honest discussions that underscore CalPERS commitment to transparency and openness. These meetings are open to the public.

CalPERS serves as an honest broker of information and works to ensure that information about our system and public pensions is accurate and factual.

# **FUNDING RETIREE HEALTH BENEFITS**

---

## **RETIREE HEALTHCARE COST**

There has been increased attention on how to pay for retiree health insurance benefits; concerns about the solvency of the Medicare program; an expanding population of elderly people who are living longer; enhanced and more expensive treatments for acute and chronic medical conditions of the elderly; and, the rapidly growing cost of promised retiree health benefits.

Since 2006, accounting standards created by the Governmental Accounting Standards Board (GASB) require public employers to measure and to report the future cost of Other Post-Employment Benefits (OPEB), including retiree health benefits promised to their employees. The OPEB accounting standards are similar to the pension accounting standards with which the CalPERS pension plan complies. At that time, a cost-effective statewide OPEB prefunding program for public employers did not exist.

Effective January 2009, a new State law (G.C. Section 7507), based on recommendations by a post-employment benefit commission established by the governor, required public employers to prepare and publicly disclose an actuarial cost analysis when considering changes to retirement benefits or OPEB.

## **CALIFORNIA EMPLOYERS' RETIREE BENEFIT TRUST**

Anticipating these developments, and having observed that public employers lacked a cost-effective vehicle to prefund retiree health benefits, the CalPERS Board launched the California Employers' Retiree Benefit Trust (CERBT) program in 2007.

The purpose of the CERBT is to provide California government employers with a trust through which they can prefund retiree health insurance and other post-employment benefit costs. CalPERS' goal is to ensure the sustainability of the CalPERS pension and health benefit systems. Prefunding, paying for benefits as they are earned, investing the payments, and using both investment returns and the contributions to fund retiree benefits, ensures greater sustainability of benefits.

California public employers can prefund retiree health benefits through the CERBT program in the same manner that employers prefund pension benefits through the CalPERS Public Employees' Retirement Fund (PERF). The CERBT program has grown quickly since it began operation in 2007. In its first three years of operation, 258 California public agency employers contributed more than \$1.3 billion to the trust fund to prefund the future benefits of over 185,000 Californians. Since the inception of the program, the CERBT has grown into the largest multiple public employer OPEB trust in the nation.

The CERBT program's success is due to a number of factors:

- CalPERS record of excellent long-term investment management
- Uncomplicated, low cost program administration
- Continuous efforts to improve CERBT services

- Technical assistance in compliance and reporting
- Effective employer and member education about the importance of pre-funding

### NUMBER OF EMPLOYERS CONTRACTED

As of June 30, 2010

TYPE OF EMPLOYER	NUMBER CONTRACTED
CITIES	79
COUNTIES	11
COURTS	3
SCHOOLS & COUNTY OFFICES	23
SPECIAL DISTRICTS	143
STATE OF CALIFORNIA	1

### NUMBER OF COVERED LIVES

As of June 30, 2010

EMPLOYEE STATUS	MISCELLANEOUS	SAFETY
ACTIVE	107,206	23,503
RETIRED	42,308	14,857
TOTALS	149,514	38,360

### LOW COST MANAGEMENT

The CERBT program receives voluntary contributions from employers and invests those contributions in public market securities. The contributions and the investment returns are held in a trust fund dedicated exclusively to paying for OPEB promised by employers to their retired employees.

Although accounted for by individual employer, the assets held in trust by the CERBT are pooled in order to broaden investment opportunity and to minimize cost. CalPERS investment staff manage CERBT investments. The CalPERS Board sets the investment policy and asset allocation of the CERBT.

CERBT management fees have been low, less than 0.1 percent of trust assets in each of the first three years of operation. CERBT management cost is paid by participating employers; the management cost will vary from year to year.

### INVESTMENT MANAGEMENT

The investment objective of the CERBT is to seek favorable returns that reflect the broad investment performance of the financial markets through capital appreciation and investment income. The CERBT provides opportunities for long-term growth of capital balanced with stable income. It utilizes the concept of diversification through asset allocation. It is designed to carry a lower level of risk than a portfolio consisting entirely of common stocks.

## ASSET ALLOCATION STRATEGIES

In March 2011, the CalPERS Board of Administration approved three asset allocation strategies. These three strategies allow employers to match the level of funding risk to the characteristics of their OPEB plan. This asset allocation policy mix is effective for OPEB cost reports (actuarial valuations and Alternative Measurement Method reports) dated after June 15, 2011. The chart below shows the three asset allocation strategies.

<b>ASSET CLASSIFICATION</b>	<b>ASSET ALLOCATION 1</b>	<b>ASSET ALLOCATION 2</b>	<b>ASSET ALLOCATION 3</b>
<b>GLOBAL EQUITY</b>	66.0%	50.1%	31.6%
<b>U.S. NOMINAL BONDS</b>	18.0%	23.9%	42.4%
<b>GLOBAL REAL ESTATE</b>	8.0%	8.0%	8.0%
<b>INFLATION LINKED BONDS</b>	5.0%	15.0%	15.0%
<b>COMMODITIES</b>	3.0%	3.0%	3.0%
<b>TOTALS</b>	100.0%	100.0%	100.0%

# CONTRACTING FOR BENEFITS

---

## THINGS TO CONSIDER WHEN CONTRACTING FOR, OR AMENDING YOUR CalPERS DB PLAN

When employers are considering contracting for the CalPERS DB Plan or amending their current plan, we recommend that the agency consider the following:

- *Your Objective* – Why are you interested in providing retirement benefits? Do you want a tool that promotes recruitment and retention efforts? Do you want a retirement plan that can provide incentives for encouraging employee attrition during difficult periods? Do you want the plan to be the primary income replacement vehicle in retirement? If your answer to any of these questions is yes, you may want to consider the CalPERS Defined Benefit Plan.
- *Cost* – Request an actuarial valuation to identify the cost of the plan. Pay close attention to optional benefits which may increase your cost.
- *Intended Income Replacement Level* – Generally, experts recommend an income replacement level of 70 to 90 percent of income depending on various factors including benefit coordination with Social Security, income level, age and marital status.<sup>4</sup>

Note: Both State and public agency benefit formula and other contract option amendments generally occur as a result of the collective bargaining process between represented employee groups and the employer.

### Government Finance Officers Association (GFOA) Recommended Considerations<sup>5</sup>

CalPERS supports some key GFOA recommendations on essential design elements that pension administrators and finance professionals should consider. Some applicable GFOA recommendations are outlined below.

1. Key plan design considerations should include:
  - The desired amount of the benefits to be provided by the plan. This may be identified as the intended income replacement level in retirement. Consideration may include future purchasing power retention for retirees through the use of other post retirement benefit adjustments, such as cost of living adjustments (COLAs).
  - Components of the formula to achieve desired benefits (benefit percentage, years of service and final average compensation).
2. Funding considerations. Funding sustainability is vital to the functioning of a DB plan. A plan must be funded in a sustainable manner to ensure its long-term viability and fiscal integrity. Plan sponsors should consider the following:

---

<sup>4</sup> Almeida, B., Forna, W.B., *A Better Bang for the Buck*, National Institute on Retirement Security, August 2008

<sup>5</sup> Government Finance Officers Association, *Best Practice: Essential Design Elements of Defined Benefit Retirement Plans (2008)(COBRA)*, February 22, 2008

- Understand the key components associated with the cost of the plan, which are determined through actuarial analysis.
- Ensure manageable funding mechanisms are in place to meet the desired benefit levels. Determine the cost-sharing strategy between the employer and employees, specifically if employee contributions will be participatory. Investment returns on pension fund assets are also an important part of the funding structure.
- Have all benefit enhancements actuarially valued before they can be approved in order to ensure a complete understanding of their long-term financial impacts.

### **Suggested Questions**

As an elected official, below are some questions you may want to ask management about a new defined benefit plan or a current defined benefit plan.

1. What is the typical pension benefit a career employee will receive from the pension plan? What percentage of income does this replace?
2. Are our employees covered by Social Security? If so, what percentage of income will the combined total of retirement benefit and social security benefit replace?
3. What percentage of salary do employees pay toward their pension benefits?
4. How much do we pay toward pension benefits? What percentage of salary is this?
5. How do the retirement benefits we provide our employees compare with the retirement benefits other public employers provide their employees?
6. How well funded is our plan?
7. How much can alternative plan designs, such as second tier, reduce our costs now and in the future?

# **CONTRACTING FOR, OR AMENDING CalPERS DB PLAN BENEFITS AND EMPLOYER RESPONSIBILITIES**

## **CONTRACTING OR AMENDING BENEFITS**

A potential CalPERS contracting employer must be a public agency as defined by the California Public Employees' Retirement Law (PERL) which states:

*"Public agency' means any city, county, district, other local authority or public body of or within this state."*

Agencies can provide retirement benefits for two general categories, Miscellaneous and Safety. Contracts vary depending upon the member categories covered, the formula the agency elects to provide, and the optional benefit provisions selected from the group of approximately 50 benefits. These optional benefits may be provided at the time the original contract is established or they may be added later through the contract amendment process.

If an agency is eligible to contract with CalPERS, they can contact us to obtain an initial packet that includes an Agency Questionnaire, Optional Benefits Listings, Summary of Major Provisions, and copies of applicable benefits and publications. If they choose to contract with CalPERS for retirement benefits, an actuarial valuation, or cost analysis, is completed based on the benefits they have selected. The contract process takes several months to complete, and the cost of the plan to the agency is a percentage of the total member payroll as determined by the actuarial valuation. In addition, there are administrative fees for initially contracting and prior service calculations. There is also a fee for the actuarial valuation.

Public agencies may include various contract options in their retirement plan or plans. They may have a miscellaneous plan for employees who are not in a hazardous occupation, and one or more safety plans for police, firefighters, peace officers, and other safety employees.

Statutes require some features of public agency plans; others are optional. For example, a public agency must decide which of several possible service retirement formulas to provide.

The agency must also select whether to:

- Calculate retirement benefits using the highest one or three years of compensation
- Provide service credit for unused sick leave
- Permit employees to purchase various military or other forms of service credit
- Permit industrial disability retirement for miscellaneous members
- Offer the maximum cost of living adjustment

The agency must also determine the amount of the lump sum death benefit for retired members and the level of benefits to provide to survivors of employees not covered by Social Security.

Most CalPERS employers are in a “risk pool.” Risk pooling consists of pooling assets and liabilities across employers to produce large risk-sharing pools that will dramatically reduce or eliminate the large fluctuations in the employer’s contribution rate caused by unexpected demographic events. The CalPERS Board is authorized to create risk pools for public agencies and mandate participation for all plans with less than 100 active members. Plans are assigned to risk pools based on their service retirement formula.

Each pool is required by statute to contain the following benefits:

- Credit for Unused Sick Leave
- Public Service Credit for Periods of Layoffs
- Public Service Credit for Peace Corps or AmeriCorps: VISTA Service
- Public Service Credit for Service Rendered to a Nonprofit Corporation
- Military Service Credit as Public Service
- Military Service Credit for Retired Persons
- Local System Service Credit Included in Basic Death Benefit
- Pre-Retirement Option 2W Death Benefit

All other optional benefits are available to employers participating in risk pools. Optional benefits are allowed to vary within the same pool, but an employer contracting for a more expensive optional benefit will be required to pay a surcharge in addition to the pool’s rate.

Some additional optional benefits include, but are not limited to:

- Credit for Local Retirement System Service After Contract Date
- Two Years Additional Service Credit
- Public Service Credit for Periods of Layoff
- Employees Sharing Cost of Additional Benefits
- Post-Retirement Survivor Allowance
- Optional Membership for Part-Time Employees

Changes to contracting public agency benefits involve certain requirements which include, among other things, making changes public before the agency establishes or amends their contract with CalPERS through a public vote of their governing board. Benefit formula and other contract option changes generally occur as a result of the collective bargaining process between employee groups and the employer. A change in employee contribution rates must be approved by employees during a secret ballot election. Amendments that impair the vested rights of employees, such as a reduction in benefits without a concurrent comparable improvement in other benefits, are not permitted. CalPERS provides an estimated cost of contract amendments or benefit formula changes to employers that are considering changes.

## **EMPLOYER RESPONSIBILITIES**

Once an agency has entered into a contract for retirement benefits with CalPERS, they have a number of responsibilities to fulfill, such as:

- Enroll eligible employees timely upon qualification for membership, follow membership rules and maintain changes to employment status throughout each employee's career.
- Report compensation and contributions accurately and timely, and provide payment to CalPERS promptly.
- Be transparent, and be knowledgeable of the contract and changes in the laws that may affect your contract. For example, you should be aware that you are required to make salary schedules publicly available.
- Comply with all of the provisions of the California Public Employees' Retirement Law (PERL). Every employer receives a copy of the PERL from CalPERS each year as it is updated.

CalPERS routinely conducts employer reviews to ensure that our contracting employers are in compliance with their responsibilities. Failure to comply with any of the employer responsibilities can result in administrative fees charged to the employer. Extended failure to comply with employer responsibilities can result in termination of the contract between CalPERS and the agency, and can affect employees' benefits.

## **CONTRACTING FOR OTHER BENEFITS**

### **HEALTH BENEFITS**

The Public Employees' Medical and Hospital Care Act (PEMHCA) mandates the CalPERS Health benefits program. To contract for the CalPERS health benefits program, employers are required to meet eligibility criteria established by PEMHCA. The agency must meet the definition of a qualified employer. Eligible employers include cities, counties, school districts, and special districts. The employer must provide a retirement system for employees funded wholly or in part by public funds to which the employer makes contributions on behalf of the employee. In addition, the employer must offer all eligible active and retired employees the opportunity to enroll in the CalPERS Health Benefits Program and provide an employer contribution toward health benefits for both active and retired employees.

For information on how to contract for benefits, go to the employer section of the CalPERS website at [www.calpers.ca.gov](http://www.calpers.ca.gov) or call (916)795-1233.

### **CalPERS SUPPLEMENTAL INCOME 457 PLAN**

The CalPERS Supplemental Income 457 Plan is open to all California public agencies and school districts. To adopt the plan, public agencies and schools may visit the Plan Employer web site at [www.calpers-sip.com](http://www.calpers-sip.com), to obtain a CalPERS 457 Plan Adoption Kit; or contact the CalPERS 457 Plan Employer Information Line toll-free (800) 696-3907.

### **CALIFORNIA EMPLOYERS' RETIREE BENEFIT TRUST FUND (CERBT)**

The California Employers' Retiree Benefit Trust (CERBT) Fund is open to all California government employers. The CERBT services include: investment management, low cost, compliant GASB 45 reporting, and simple administrative procedures. To obtain more information on contracting for the program, please visit the employer section of the CalPERS website at [www.calpers.ca.gov](http://www.calpers.ca.gov) under the employer tab, click on *Employer Information*, then *GASB 45 and the California Employers' Retiree Benefit Trust Fund*.

For assistance with the contracting process and submission requirements, or to request forms and instructions by mail, send an email to [CORE4U@calpers.ca.gov](mailto:CORE4U@calpers.ca.gov) or contact the CalPERS Employer Contact Center toll-free at 888 CalPERS (or 888-225-7377).

# CONTACT CalPERS

---

**Contact us online:** [www.calpers.ca.gov](http://www.calpers.ca.gov)  
 CalPERS Phone Numbers

You can reach us at the phone numbers shown below, Monday through Friday, 8:00 a.m. to 5:00 p.m. (CalPERS offices are closed on State and federal holidays.)

BUSINESS AREA	PHONE NUMBERS
<b>CalPERS CUSTOMER CONTACT CENTER</b>	<b>888 CalPERS</b> (or <b>888-225-7377</b> ) TTY: (916) 795-3240
<b>CalPERS BOARD OF ADMINISTRATION</b>	(916) 795-3829
<b>CalPERS EXECUTIVE STAFF</b>	(916) 795-3829
<b>CalPERS SUPPLEMENTAL INCOME 457 PLAN</b>	
CUSTOMER SERVICE	(800) 260-0659
EMPLOYER SERVICE	(800) 696-3907
<b>CalPERS LONG-TERM CARE PROGRAM</b>	
CUSTOMER SERVICE	(800) 982-1775
EMPLOYER SERVICE	(800) 845-8427
<b>PERSCARE / PERS CHOICE HEALTH PLANS</b>	(877) 737-7776
<b>JUDGES', JUDGES' II &amp; LEGISLATORS' RETIREMENT SYSTEMS</b>	(916) 795-3688
<b>CalPERS SUPPLEMENTAL CONTRIBUTIONS PLAN</b>	(877) 564-2022
<b>STATE PEACE OFFICERS' &amp; FIREFIGHTERS' (POFF) SUPPLEMENTAL PLAN</b>	(888) 600-POFF(7633)



**City of Sonoma  
City Council**  
Agenda Item Summary

**City Council Agenda Item: 4A**

**Meeting Date: 02/22/2012**

---

**Department**

Administration

**Staff Contact**

Gay Johann, City Clerk

---

**Agenda Item Title**

Proclamation declaring March 2012 as Big Read Sonoma County Month.

---

**Summary**

Cheryl Scholar, Director of Community Engagement and Volunteer Manager, KRCB North Bay Public Media requested a proclamation declaring March 2012 as Big Read Sonoma County Month.

KRCB, a service of Northern California Public Media and the Sonoma County Public Library System have joined the efforts of the National Endowment for the Arts to restore reading to the center of American life by bringing The Big Read—a program of the National Endowment for the Arts in partnership with Arts Midwest—to Sonoma County residents during the month of March 2012 choosing *Bless Me, Ultima* as the featured book in Big Read, Sonoma County.

In keeping with City practice, the representatives have been asked to keep the total length of their follow-up comments and/or announcements to not more than 10 minutes.

---

**Recommended Council Action**

Mayor Sanders to present the proclamation.

---

**Alternative Actions**

Council discretion.

---

**Financial Impact**

n/a

---

**Environmental Review**

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

**Status**

- Approved/Certified
  - No Action Required
  - Action Requested
- 

**Attachments:**

1. Proclamation
- 

Copy via email: Cheryl Scholar

# City of Sonoma



## Proclamation

### Big Read Sonoma County Month

**WHEREAS**, literate, informed citizens are essential to the productivity of our nation and the survival of our democratic institutions; and

**WHEREAS**, reading connects us to other people and opens the door for greater understanding of the diversity of cultures making up our society; and

**WHEREAS**, reading has been shown to be an irreplaceable activity in developing productive and active adults as well a healthy communities; and

**WHEREAS**, every concerned group of citizens, including writers, publishers, teachers, journalists, librarians, and legislators has a role to play in ensuring that the importance of literacy and reading is kept at the forefront of our endeavors to enhance and improve the quality of American life; and

**WHEREAS**, KRCB, a service of Northern California Public Media and the Sonoma County Public Library System have joined the efforts of the National Endowment for the Arts to restore reading to the center of American life by bringing The Big Read—a program of the National Endowment for the Arts in partnership with Arts Midwest—to Sonoma County residents during the month of March 2012 choosing *Bless Me, Ultima* as the featured book in Big Read, Sonoma County; and

**WHEREAS**, KRCB and the National Endowment for the Arts are calling upon all governmental bodies in Sonoma County to endorse and declare March 2012, as Big Read, Sonoma County month to show their support of the importance of reading and the cultural arts in American life.

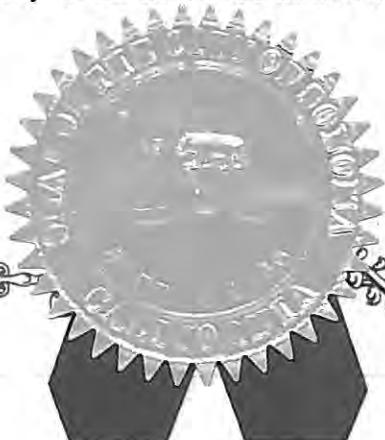
**NOW, THEREFORE**, I, Joanne Sanders, Mayor of the City of Sonoma, do hereby proclaim the Month of March 2012

### BIG READ SONOMA COUNTY

in the City of Sonoma and urge every adult and child to pick up a book and read and to participate in the Big Read activities planned throughout the community.

**IN WITNESS WHEREOF**, I have hereunto set my hand and cause the Seal of the City of Sonoma to be affixed this 22<sup>nd</sup> day of February 2012.

\_\_\_\_\_  
JOANNE SANDERS, MAYOR





City of Sonoma  
**City Council**  
Agenda Item Summary

City Council Agenda Item: 5B

Meeting Date: 02/22/2012

---

**Department**

Administration

**Staff Contact**

Gay Johann, City Clerk

---

**Agenda Item Title**

Approval of the Minutes of the November 21, 2011, December 5, 2011, and February 6, 2012 City Council/CDA Meetings.

---

**Summary**

The minutes have been prepared for Council review and approval.

---

**Recommended Council Action**

Approve the minutes.

---

**Alternative Actions**

Correct or amend the minutes prior to approval.

---

**Financial Impact**

N/A

---

**Environmental Review**

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

**Status**

- Approved/Certified
  - No Action Required
  - Action Requested
- 

**Attachments:**

Minutes

---

---

This Page Intentionally Left Blank



*Concurrent Meetings Of*  
**SONOMA CITY COUNCIL**  
*(regular)*  
**COMMUNITY DEVELOPMENT AGENCY**  
*(special)*  
*Community Meeting Room, 177 First Street West*  
**November 21, 2011**  
**5:00 p.m. Closed Session**  
**6:00 p.m. Regular Session**

City Council  
Laurie Gallian, Mayor  
Joanne Sanders, Mayor Pro Tem  
Steve Barbose  
Ken Brown  
Tom Rouse

\*\*\*\*

**MINUTES**

**CLOSED SESSION**

**1. CALL TO ORDER**

At 5:00 p.m. Mayor Gallian called the meeting to order. No one from the public was present to provide public testimony on closed session items. The Council recessed into closed session with all members present. City Manager Kelly was present for the entire closed session. Assistant City Manager Giovanatto and Jack Hughes were present for Closed Session Item 2A. City Attorney Walter was present for Closed Session Items 2B, 2C and 2D.

**2. CLOSED SESSION**

- A: CONFERENCE WITH LABOR NEGOTIATORS**, pursuant to Government Code §54957.6. Agency designated representatives: Jack Hughes, City Manager Kelly, and Assistant City Manager Giovanatto. Employee Organization: Sonoma Professional Firefighters Association.
- B: CONFERENCE WITH REAL PROPERTY NEGOTIATORS**. Property: Old Fire Station, 32 Patten Street, Sonoma. Agency Negotiator: City Manager Linda Kelly and Planning Director Goodison. Negotiating Parties: Foothill Partners. Under Negotiation: Price and terms of payment. Pursuant to Government Code §54956.8.
- C: CONFERENCE WITH REAL PROPERTY NEGOTIATORS**. Property: A portion of a paper street identified as an extension of Lomita Ave adjacent to 18661 Lomita Avenue. Agency Negotiator: City Manager Linda Kelly, City Attorney Jeff Walter, and Planning Director David Goodison. Negotiating Parties: Steven and Holly Kyle. Under Negotiation: Price and terms of payment. Pursuant to Government Code §54956.8.
- D: CONFERENCE WITH REAL PROPERTY NEGOTIATORS**, pursuant to Government Code §54956.8. Property: Sebastiani Theater, 476 First Street East, Sonoma. Agency Negotiators: Councilmember Steve Barbose & City Attorney Walter. Negotiating Parties: Sebastiani Building Investors, Inc. Under Negotiation: Price and terms of lease.

**REGULAR SESSION**

The City Council reconvened in open session and Mayor Gallian called the meeting to order at 6:10 p.m. Richard Dale led the Pledge of Allegiance.

PRESENT: Mayor Gallian and Councilmembers Barbose, Brown, and Rouse & Sanders  
ABSENT: None

ALSO PRESENT: City Manager Kelly, City Clerk Johann, City Attorney Walter and Planning Director Goodison.

61

**REPORT ON CLOSED SESSION**

Mayor Gallian announced that the Council had provided direction to staff and would continue discussion of Closed Session Item 2B at the end of the regular meeting.

**1. COMMENTS FROM THE PUBLIC**

Herb Golenpaul inquired if Council had given any consideration to his prior request that the City provide drinking water to Rancho de Sonoma residents.

Dusty Wroten requested that the City Council revise the City's policy regarding removal of items placed on graves.

City Manager Kelly responded to Mr. Golenpaul that it was the park owner's responsibility to provide water for the Rancho de Sonoma residents. In response to Ms. Wroten, Kelly stated that City employees had only removed broken glass and leaves from the gravesites.

**2. COUNCILMEMBERS' REPORTS, COMMENTS AND ANNOUNCEMENTS**

**Item 2A: Councilmembers' Comments and Announcements**

Cm. Rouse commented that City employees were doing their job by cleaning up the cemetery.

Mayor Gallian reported participation as a judge for the forensic debates at Sonoma Valley High School. She also attended the Sassarini School Election Day, and addressed the social studies class at Adele Harrison regarding her role as the Mayor.

Cm. Barbose reported that he presided over the Trial of the Big Bad Wolf and attended the reception in honor of 2011 Treasure Artist Dennis Zieminski.

**Item 2B: Reports Regarding Committee Activities**

Cm. Barbose reported on the meetings of the Sonoma County Waste Management Authority, Solid Waste Advisory Group, Ad Hoc Formula Store, and the Fire JPA Transition Team.

Cm. Sanders reported that the Library Committee had announced that the library remodel project was ahead of schedule and they expressed their appreciation to Building Official Wirick for his assistance.

Cm. Rouse reported on the Ad Hoc Formula Store and the Cemetery Subcommittee meetings.

Cm. Brown reported on the Fire JPA Transition Team meeting.

Mayor Gallian reported on the Water Advisory, Sonoma Disaster Council, the Transportation Authority, Cemetery Subcommittee, Cultural and Fine Arts Commission, and the Design Review Commission meetings.

**3. CITY MANAGER COMMENTS AND ANNOUNCEMENTS**

City Manager Kelly announced that nominations for Alcalde would be received through Wednesday November 23, 2011.

**4. PRESENTATIONS**

**Item 4A: Proclamation declaring the day after Thanksgiving, November 25, 2011, as "Shop Sonoma Day"**

Mayor Gallian read aloud the proclamation declaring November 25, 2011 Shop Sonoma Day and presented it to Economic Development Manager Laurie Decker. Ms. Decker reported on various holiday promotions and activities sponsored by the Sonoma Valley Chamber of Commerce and its members.

**Item 4B: Dining Out For Life 10<sup>th</sup> Anniversary Proclamation**

Mayor Gallian read aloud the proclamation declaring December 2, 2011 as Dining Out For Life Day and recognizing the tenth year of participation in the event by Food For Thought (FFT) Sonoma County Aids Bank. Don Spradlin, Development Director of FFT thanked the Council for its support and spoke about their mission and ongoing activities.

**Item 4C: Presentation of Sonoma County Community Choice Aggregation Feasibility Study, "Sonoma Clean Power," Cordel Stillman, Sonoma County Water Agency**

Mayor Gallian stated that because her husband was employed by PG&E, she would recuse herself from consideration of this item. She stepped down from the dais and left the room. Cordel Stillman, Deputy Chief Engineer for the Sonoma County Water Agency, reported that on October 18, 2011, the Sonoma County Board of Supervisors voted to move forward with studying the implementation of Community Choice Aggregation (CCA) in the County and asked him to communicate the results of the final feasibility study with all the cities. He provided background and other information regarding the program and reported that the study indicated that implementation of CCA would significantly reduce greenhouse gas emissions, create local jobs, and have a substantial positive effect on the local economy. Clm. Barbose stated he hoped they would be able to quantify the economic benefits of the program. Clm. Sanders thanked Mr. Stillman and stated she would like to see a report in everyday language that the average person could understand.

**5. CONSENT CALENDAR/AGENDA ORDER**

**Item 5A: Waive Further reading and Authorize Introduction and/or Adoption of Ordinances by Title Only.**

**Item 5B: Request by Sonoma Valley Chamber of Commerce for City-subsidized use of the Sonoma Valley Veterans Memorial Building on March 15, 2012.**

Approved subject to applicant's compliance with the City's standard insurance requirements.

It was moved by Clm. Barbose, seconded by Clm. Rouse to approve the consent Calendar and Agenda Order. The motion carried unanimously.

<b>6. PUBLIC HEARINGS</b>
---------------------------

**Item 6A: Discussion, consideration, and possible action on a General Plan/Sphere of Influence amendment, Zoning Map amendment, and Prezoning (including environmental review) of two parcels within the Montini Preserve (APNs 127-051-105 and 127-051-106).**

Planning Director Goodison reported that the Council previously adopted a resolution of intent expressing the City's commitment to work with the Open Space District on the transfer of ownership of the Montini Preserve and directed staff to proceed with a General Plan amendment, zoning map amendment and environmental review associated with amending the sphere of influence to encompass the two parcels (of a total of six) of the Preserve that currently lie outside of the boundaries. He stated that the Planning Commission had reviewed and approved the proposed amendments.

Mayor Gallian opened the public hearing. Richard Dale, Sonoma Ecology Center (SEC), stated that they were very committed to helping with the program and preservation of the property.

Mark Newhouser, SEC Restoration Manager, addressed some of the issues related to SEC's proposal to provide long-term maintenance of the preserve. He stated that weed management was very important and that if not addressed up front, would cost more later on. He said that available science indicated that allowing domestic animals on the trail could deter the use of the property by wild animals. Their scent markings and the presence of dogs would spook wildlife. He added that SEC realized it was important for people to have a place to walk their dogs; however, they did not support allowing dogs on the trail.

David Cook expressed his support for moving ahead. Seeing there were no additional persons wanting to comment; Mayor Gallian closed the public hearing.

It was moved by Clm. Sanders, seconded by Clm. Barbose, to adopt the resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SONOMA ADOPTING FINDINGS OF NEGATIVE DECLARATION WITH REGARD TO THE AMENDMENT OF THE COMMUNITY DEVELOPMENT ELEMENT OF THE 2020 GENERAL PLAN, THE CORRESPONDING AMENDMENT OF THE ZONING MAP, AND THE PREZONING OF APNs 127-051-105 AND 127-051-106 WITH THE DESIGNATION OF "PARK/OPEN SPACE". The motion carried unanimously. (Res. No. 36-2011)

It was moved by Clm. Sanders, seconded by Clm. Barbose, to adopt the resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SONOMA AMENDING THE COMMUNITY DEVELOPMENT ELEMENT OF THE 2020 GENERAL PLAN BY REVISING THE SPHERE OF INFLUENCE TO ENCOMPASS APNS 127-051-105 AND 127-051-106 AND ASSIGNING THESE PARCELS THE GENERAL PLAN LAND USE DESIGNATION OF "PARK/OPEN SPACE OVERLAY". The motion carried unanimously. (Res. No. 37-2011)

It was moved by Clm. Sanders, seconded by Clm. Barbose, to introduce the ordinance entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONOMA AMENDING THE ZONING MAP TO CONFORM WITH THE 2020 GENERAL PLAN BY REVISING THE SPHERE OF INFLUENCE TO ENCOMPASS THE PARCELS DESIGNATED BY APNs 127-051-105 AND

127-051-106 AND PREZONING SAID PARCELS TO THE GENERAL PLAN DESIGNATION OF "PARK/OPEN SPACE". The motion carried unanimously.

**7. REGULAR CALENDAR**

**Item 7A: Continued discussion, consideration and possible action on a request to establish a collaboration between a nonprofit and the City to establish a Mayor's Office of Protocol.**

City Manager Kelly reported that, at the request of Mayor Gallian, Council considered a request to establish a collaboration to establish a Mayor's Office of Protocol (Office) on September 7, 2011 and continued the discussion to allow further time for consideration of the proposal. She stated that she, Mayor Gallian and Clerk Johann met with Sherri Ferris, CEO of Protocol Professionals, Inc. to discuss the functions, benefits and costs of the proposal and that Ms. Ferris would like to present a revised proposal.

Cllm. Barbose inquired if staff had evaluated what additional staff time would be required to facilitate the proposal. City Manager Kelly stated it would depend on the parameters established and whether the Council wanted to cede authority for preparation of correspondence and other material to the Office or have staff provide oversight. Attorney Walter said it would be difficult to determine the impact on his time but noted that the Council's correspondence policy would need to be revised. He stated that staff could easily perform the tasks included in the proposal and noted that the proposed non-profit would be run by a board and the protocol employees would have to answer to them.

Sherri Ferris reported several instances involving international visitors that had occurred the past year that in her opinion could have had better outcomes if protocol had been involved. She stated that under her new proposal, the Office would be funded through formation of a 501c3 "Sonoma Host Committee" and that she was only requesting seed money from the City. She went on to explain the need for the Office and provided additional detail on her experience and the services to be provided.

Cllm. Barbose stated he was concerned that the Office would send correspondence on behalf of the City but did not report to the Council. Ms. Ferris responded the Office would be accountable to the City.

Mayor Gallian stated that as the Mayor it was important to have the best protocol available when meeting with international visitors.

Mayor Gallian invited comments from the public. Robert Felder stated that Sonoma was a small town with a reputation of being more laid back and he did not think the City should change to accommodate this request. He said the program would not come without costs whether in the form of seed money from the City or by taking it away from other non-profits.

Kay Hensley questioned if other cities the size of Sonoma had an Office and stated that if there was a proven financial benefit, the proposal should be considered.

Ms. Ferris stated she was thinking of asking the City for a \$5,000 loan which would serve as the seed money. She said it was hard to find statistics on what size cities had Offices.

Clm. Rouse stated he was still not in favor of this proposal. He felt that the services could be useful on an as-needed basis. Clm. Barbose agreed. He said the City would benefit from the services occasionally but he did not support the proposal. Clm. Barbose suggested that Ms. Ferris create a business and provide advice to the Visitor's Bureau, Chamber of Commerce, etc. on an as-needed basis.

It was moved by Clm. Sanders, seconded by Clm. Brown, that Ms. Ferris consider Council's comments and come back with another proposal in the future. Councilmembers Rouse and Barbose questioned the need to discuss the matter again. Mayor Gallian stated that creation of a Mayor's Office of Protocol was off the table, but the Council could have a future discussion regarding use of protocol services. The motion carried three to two, Rouse and Barbose dissented.

**RECESS:** The meeting recessed from 8:35 to 8:45 p.m.

**Item 7B: Discussion, consideration and possible direction to staff regarding community swimming pool and review of prior swimming pool feasibility studies.**

City Manager Kelly reported that Council discussed the status of the City Council goal of a community swimming pool on October 3, 2011 and carried the matter over for continued discussion when Clm. Rouse was present. She noted the presence of School Superintendent Louann Carlomagno. Ms. Carlomagno stated that the school district understood that if the City were to participate in construction of a pool on school property, it would want public access. She said they needed to know if and when the City was ready to make a decision regarding the ongoing maintenance costs.

Clm. Barbose stated that the City needed updated cost estimates for both construction and operation before moving ahead. Clm. Rouse stated he was surprised this topic was back before the Council. He reported that a group of community members had joined forces to come up with a plan. He suggested the City Council develop questions to be posed to the group and let them come back with some preliminary numbers.

Mayor Gallian invited comments from the public. Paul Favaro, representing Citizens United for a Sonoma Pool (CUSP), stated they were gathering all available information and previous studies to analyze and would come back with a proposal for a more targeted feasibility study. He stated they were trying to get more community involvement and planned to conduct a town hall meeting in the near future. Mr. Favaro stated they planned to study successful pool programs and would further explore a partnership with the school district.

John Kelly stated the three issues needing to be addressed were location, construction costs, and operations. He said that the neighborhoods around the High School were already impacted by a high volume of traffic.

David Cook stated his support for moving ahead with a pool project.

Clm. Brown stated that he and Clm. Rouse were participating with the CUSP group.

Clm. Sanders expressed her frustration regarding the amount of time this issue had drug on. She stated she would support a pool at the High School.

666

It was moved by Clm. Barbose, seconded by Clm. Sanders, to request CUSP to move forward with the goal of reporting back to Council in three months; to have the City Manager serve as the liaison between CUSP and the School District; and to authorize staff to spend more than an hour on the subject. At the suggestion of Clm. Rouse, the motion was amended to state that the matter would be revisited at the first meeting in March. The motion carried unanimously.

Noting that it was almost 10:00 p.m. Clm. Sanders moved to skip over the remaining agenda items except for public comments and move into closed session. The motion was seconded by Clm. Brown and carried unanimously.

**Item 7C:      Discussion, consideration, and possible adoption of a resolution establishing a fee waiver policy.**

**Item 7D:      Discussion, consideration and possible action regarding rules of procedure for City Commissions and Committees, requested by Mayor Gallian and Councilmember Brown.**

**8.      COMMENTS FROM THE PUBLIC**

Herb Golenpaul stated that the new bike lanes were working out real well.

**9.      COUNCILMEMBERS' FINAL REMARKS - None**

**RECONVENE IN CLOSED SESSION**

Mayor Sanders announced that the City Council would meet in closed session to continue discussion of Closed Session Item 2B as shown on the agenda. She invited comments from the public. There were no comments from the public.

At 9:55 p.m. the City Council convened in Closed Session. They reconvened in open session at 10:25 p.m. and Mayor Sanders announced that they had provided direction to staff.

**10.     ADJOURNMENT**

The meeting was adjourned at 10:26 p.m.

I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the Sonoma City Council on the      day of      2012.

\_\_\_\_\_  
Gay Johann, MMC  
City Clerk

67

This Page Intentionally Left Blank



*Concurrent Meetings Of*  
**SONOMA CITY COUNCIL**  
*(regular)*  
**COMMUNITY DEVELOPMENT AGENCY**  
*(special)*  
*Community Meeting Room, 177 First Street West*  
**December 5, 2011**  
**5:30 p.m. Closed Session**  
**6:00 p.m. Regular Session**

City Council  
Laurie Gallian, Mayor  
Joanne Sanders, Mayor Pro Tem  
Steve Barbose  
Ken Brown  
Tom Rouse

**MINUTES**

**CLOSED SESSION**

At 5:00 p.m. Mayor Gallian called the meeting to order. No one from the public was present to provide public testimony on closed session items. The Council recessed into closed session with all members present. City Manager Kelly, Assistant City Manager Giovanatto and Jack Hughes were also present.

**CONFERENCE WITH LABOR NEGOTIATORS**, pursuant to Government Code §54957.6. Agency designated representatives: Jack Hughes, City Manager Kelly, and Assistant City Manager Giovanatto. Employee Organization: Sonoma Professional Firefighters Association.

**REGULAR SESSION**

The City Council reconvened in open session and Mayor Gallian called the meeting to order at 6:05 p.m. Tom Anderson led the Pledge of Allegiance.

PRESENT: Mayor Gallian and Councilmembers Barbose, Brown, and Sanders

ABSENT: Rouse

ALSO PRESENT: City Manager Kelly, City Clerk Johann, Assistant City Attorney Nebb and Planning Director Goodison.

**REPORT ON CLOSED SESSION**

Mayor Gallian announced that the Council had provided direction to staff.

**1. COMMENTS FROM THE PUBLIC**

Jean Markson Artson thanked the City Councilmembers for the wonderful job they had done this past year.

City Historian George McKale announced there would be special activities planned to mark the 100<sup>th</sup> anniversary of the establishment of Fort Ross.

Ed Kenney stated that people who donated money to Jim Parks for the Veteran's Cemetery never received a receipt and that the cemetery flag should not be flown under the American flag.

Hans Jenkins suggested naming a portion of the bike path in honor of Ig Vella.

**2. COUNCILMEMBERS' REPORTS, COMMENTS AND ANNOUNCEMENTS**

**Item 2A: Councilmembers' Comments and Announcements**

Clm. Brown announced he would be holding office hours at City Hall on Tuesdays at 1:00.

Clm. Sanders announced that she spoke at the annual Visitor Bureau luncheon honoring their volunteers.

Mayor Gallian reported planning for an upcoming visit from the Consul General of the Ukraine.

**Item 2B: Reports Regarding Committee Activities**

Clm. Barbose reported on the North Bay Watershed Association meeting.

Clm. Sanders reported on the Library Advisory Committee meeting.

Mayor Gallian reported on the League of California Cities Executive Board meeting. She expressed gratitude to the American Legion for making her an honorary member.

**3. CITY MANAGER COMMENTS AND ANNOUNCEMENTS - None**

**4. PRESENTATIONS - None Scheduled**

**5. CONSENT CALENDAR/AGENDA ORDER**

- Item 5A: Waive Further reading and Authorize Introduction and/or Adoption of Ordinances by Title Only.**
- Item 5B: Approval and ratification of the reappointment of Tom Anderson to the Design Review Commission for a four-year term.**
- Item 5C: Approval of the Minutes of the November 2 and November 7, 2011 City Council Meetings.**
- Item 5D: Approve the Notice of Completion for Fryer Creek Bike Path Repair Project No. 1114 constructed by John Benward Company, Inc. and Direct the City Clerk to File the Document.**
- Item 5E: Approve the Notice of Completion for the France Street Rehabilitation Project No. 1009 Constructed by Ghilotti Construction Company and Direct the City Clerk to File the Document.**
- Item 5F: Approve the Notice of Completion for the Leveroni Road/Fifth Street West Rehabilitation Project No. 1107 Constructed by Ghilotti Construction Company and Direct the City Clerk to File the Document.**
- Item 5G: Adoption of an ordinance amending the Zoning Map and rezoning two parcels within the Montini Preserve (APNs 127-051-105 and 127-051-106).**
- Item 5H: Approve changes to terms and conditions of employment for the Memorandum of Understanding with Sonoma Employees' Association (SEIU Local 1021) for the period November 1, 2011 through December 31, 2012. Removed from Consent, see below.**
- Item 5I: Approve agreement with Mr. and Mrs. Steven Kyle to sell them approximately 22,000 square feet of real property located on Lomita**

**Avenue in the County of Sonoma, being a portion of APN #127-072-014.  
(Res. No. 39-2011)**

Clm. Sanders removed the November 7, 2011 minutes from 5C and requested that the City Clerk revisit the recording of the meeting and include additional Council comments regarding the sale of a business and ground for revoking a permit for Agenda Item 7A – a proposal to introduce amendments to the Sonoma Municipal Code establishing new and modified regulations addressing live music performances and special events.

Herb Golenpaul removed 5H. It was moved by Clm. Barbose, seconded by Clm. Brown, to approve the Consent Calendar except for the November 7, 2011 minutes and 5H. The motion carried unanimously.

**Item 5H:      Approve changes to terms and conditions of employment for the Memorandum of Understanding with Sonoma Employees' Association (SEIU Local 1021) for the period November 1, 2011 through December 31, 2012**

Herb Golenpaul stated that City employees had a good deal. Mayor Gallian pointed out that the employees would begin paying 4% of their pension costs. It was moved by Clm. Rouse, seconded by Clm. Barbose, to approve the MOU with SEIU Local 1021. The motion carried unanimously.

**6.      PUBLIC HEARINGS – None Scheduled**

**7.      REGULAR CALENDAR**

**Item 7A:      Selection of Mayor and Mayor Pro Tempore.**

It was moved by Clm. Brown, seconded by Clm. Barbose, to appoint Clm. Sanders as the Mayor. The motion carried unanimously.

The following persons spoke in favor of Clm. Sanders being appointed Mayor: Jennifer Irving, Lynn Marie deVincent, Ed Kenney, Morgan Sanders and David Cook. David Cook and Jeanne Markson Artson thanked Mayor Gallian for her service.

It was moved by Clm. Barbose, seconded by Clm. Sanders, to appoint Clm. Brown the Mayor Pro Tem. The motion carried unanimously. Herb Golenpaul and Jennifer Irving spoke positively regarding the selection of Clm. Brown to serve as Mayor Pro Tem.

Mayor Sanders presented the ceremonial engraved gavel to outgoing Mayor Gallian and thanked her for her service. Mayor Gallian thanked City staff and City residents for their support throughout the year.

**RECESS:** The meeting recessed from 7:10 - 7:15 p.m.

The City Council reconvened at the dais in a new seating arrangement and with Mayor Sanders as the new Mayor.

**Item 7B: Discussion, consideration, and possible adoption of a resolution establishing a fee waiver policy.**

Planning Director Goodison provided the background and details of this item. He explained that the policy, which would apply only to applications for planning permits, certain development approvals, and building permits, was intended to establish a consistent and transparent process for evaluating fee waiver requests.

Mayor Sanders invited comments from the public. Herb Golenpaul inquired what amount could be waived. Goodison responded the amount of relief was capped at \$1,500.

Richard Dale, Sonoma Ecology Center, stated that based on their previous involvement with projects, he felt that permit fees were not always an efficient use of public funds.

It was moved by Clm. Rouse, seconded by Clm. Barbose, to adopt the resolution entitled A Resolution of the City Council of the City of Sonoma Establishing a Policy for the Waiver of Fees in Exceptional Situations for Planning and Development Permits and For Building Permits. The motion carried unanimously. (Res. No. 40-2011)

**Item 7C: Discussion, consideration and possible action regarding rules of procedure for City Commissions and Committees, requested by Mayor Gallian and Councilmember Brown.**

Clm. Gallian stated that, after attending meetings of various commissions that observed different methods of decorum; she felt citizens could be confused regarding their ability to participate in the meetings. She said there should be standing rules for commissions.

The public comment period was opened and closed with none being received. Councilmembers briefly discussed the pros and cons and Clm. Rouse stated he was not sure additional rules were necessary. City Manager Kelly stated that if Council wanted to proceed, direction should be given to staff to bring the matter back for formal adoption. By majority consensus of Council, it was so directed.

**Item 7D: Discussion, consideration and possible action regarding the City's participation in the Empowerment Institute's Cool American City Challenge, requested by Mayor Gallian.**

City Manager Kelly provided background information. Clm. Gallian reported that David Gershon of the Empowerment Institute first introduced the program at an October 31, 2011 meeting of the Community Services and Environment Commission. Mr. Gershon wanted to implement the program in three communities in the U.S. that would become Challenge Cities and was considering the Sonoma Valley as one of the three. The proposal included a requirement that the City would provide administration services and representation on a financing team for fund raising purposes. It would also need approval and support by the County as well as the City. Clm. Gallian stated she was looking to see if there was support among the Councilmembers for City participation in the program.

Clm. Barbose expressed concern regarding the amount of staff time that could be required and what would happen if the fund raising goals were not met.

Mayor Sanders invited comments from the public. Herb Golenpaul questioned if there would be any value to the City and stated the City should not join.

Ed Clay, member of Transition Sonoma Valley, spoke in favor of the proposal and offered his services.

Richard Dale, Sonoma Ecology Center, and Tim Boeve also spoke in favor of the proposal.

David Cook said he agreed with Mr. Golenpaul.

CIm. Gallian and Barbose both commented on the benefits that would be gained by the proposal but agreed the City should not be the lead agency. Councilmembers Rouse and Brown also agreed that there were other priorities for the City at the present time.

Mayor Sanders summarized Council comments by stating that the City was not to be the lead agency and City staff would not provide administration or conduct fund raising activities. CIm. Barbose added that the City welcomed our community's participation but the program should be administered by Transition Sonoma Valley and the Sonoma Ecology Center. City Manager Kelly stated she would pass along Council's direction to Mr. Gershon.

**8. COMMENTS FROM THE PUBLIC**

Herb Golenpaul inquired about the status of the new water connection for Rancho de Sonoma. City Manager Kelly responded the park owner was reviewing the bids that week.

Tom Anderson thanked the City Council for reappointing him to the Design Review Commission and congratulated Mayor Sanders.

Sheana Davis thanked CIm. Gallian for a fabulous year as Sonoma's Mayor.

**9. COUNCILMEMBERS' FINAL REMARKS**

CIm. Brown reported attendance at the annual Blessing of the Olives and stated he would bring back the issue of the Creche on the Plaza next year.

CIm. Barbose thanked CIm. Gallian for her year of service as Mayor and commented on the scores of events that she attended.

CIm. Gallian thanked staff for all their support.

Mayor Sanders stated that due to family obligations, she could not fill the shoes of the former Mayor by attending all the meetings and with appearances but she planned to use the role of Mayor Pro Tem as it was intended to be used and that she and CIm. Brown would make sure all the bases were covered. She added that she would be devoting Wednesdays to tend to City matters.

**10. ADJOURNMENT**

The meeting was adjourned at 8:35 p.m.

## DRAFT MINUTES

I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the Sonoma City Council on the      day of      2012.

---

Gay Johann, MMC  
City Clerk



**SPECIAL AND REGULAR MEETINGS OF THE  
SONOMA CITY COUNCIL  
&  
CONCURRENT SPECIAL MEETING OF  
SONOMA CITY COUNCIL AS THE SUCCESSOR  
AGENCY TO THE DISSOLVED SONOMA  
COMMUNITY DEVELOPMENT AGENCY**

City Council  
Joanne Sanders, Mayor  
Ken Brown, Mayor Pro Tem  
Steve Barbose  
Laurie Gallian  
Tom Rouse

February 6, 2012  
5:30 P.M.

**5:30 – 6:00 P.M. – SPECIAL JOINT MEETING WITH THE SONOMA VALLEY HEALTH CARE DISTRICT**

A joint meeting of the Sonoma City Council and the Sonoma Valley Health Care District held in the Emergency Operations Center, 177 First Street West, Sonoma CA 95476. Present were Mayor Sanders and Councilmembers Brown, Barbose, Gallian and Rouse; Chair Peter Hohurst and Boardmembers Nevins, Carruth, Boerum, and Agrimonti. Also present: City Manager Kelly and City Clerk Johann; Chief Executive Officer Mather.

**a. Hospital updates Council on Vision and Master Facility Plan**

Mayor Sanders called the meeting to order. Chair Hohurst described the \$30 million plan for refurbishing the 83-bed hospital to make it seismically safe before the state-mandated deadline of March 2013. He said the plans call for an approximately 9,000-square-foot, two story, stone and stucco addition to the west wing of the existing hospital, just north of the current main entrance and within the on-site parking area. The addition will house a new surgical unit, a triage station and a new emergency department all of which will make the hospital seismically sound while enabling staff to better treat its existing patient base. Hohurst added the project would assist in recruiting new doctors to the area.

The public comment period was opened and closed with none received.

**b. Hospital updates Council on Operations and need for Parcel Tax**

Mr. Hohurst reported that they were conducting an all-mail ballot election asking the voters to extend a \$195 parcel tax to cover operating costs; the third time the hospital had sought public assistance in a decade. He said the five-year extension was necessary for the hospital to stay afloat with the funds going toward salaries, operating expenses and billing costs.

Mayor Sanders invited comments from the public. Joanne Hurley stated that as a widow, she would not support the proposed parcel tax. She stated that she paid \$600 a year for her three small lots which was more than a small winery would have to pay. She asked the Board to come up with an alternate plan to raise the needed funds.

Mayor Sanders inquired what would happen if the parcel tax was not approved by the voters. Hohurst responded that if it was a close election, they would place it back on the June ballot. Ms. Mather added that they would be required to reduce services.

**c. Current services for Senior Citizens including potential opportunities for partnering**

Ms. Mather reported they had launched a program with emphasis on healthcare for seniors and were planning a new "Active Aging" series of classes on balance, mental acuity, nutrition and home safety. They were finalizing plans for a new Medically Oriented Gym for seniors and staff members, which would work in tandem with their cardio-rehab service. They have been visiting and listening to the needs of local retirement communities, and have been sending out doctors and others to speak with seniors.

Cm. Brown asked if the hospital would be interested in partnering for a community swimming pool. Mayor Sanders added that pools were frequently used for therapy. Cm. Gallian suggested a wellness program and increased outreach to the community in relation to health and nutrition.

Mayor Sanders thanked the hospital for agreeing to be a medicine disposal site and commented that more work needed to be done to provide for disposal of controlled substances.

The public comment period was opened and closed with none received.

**d. Comments from Councilmembers and Board Members**

Cm. Brown inquired how it was going with their providing treatment for Napa State Hospital patients. Ms. Mather stated that they treat about twenty-seven patients a month and have had no violence-related issues. Cm. Gallian stated that the hospital could expand its cafeteria's services to the public and possibly to the schools. Ms. Mather pointed out that they scored 100% in quality measures and 86.5% in patient satisfaction.

The public comment period was opened and closed with none received.

The meeting was adjourned at 6:25 p.m.

**6:00 P.M. – CONCURRENT REGULAR MEETING OF SONOMA CITY COUNCIL AND SPECIAL MEETING OF THE SONOMA CITY COUNCIL AS SUCCESSOR AGENCY TO THE DISSOLVED SONOMA COMMUNITY DEVELOPMENT AGENCY**

Concurrent meetings held in the Community Meeting Room, 175 First Street West, Sonoma CA 95476.

**OPENING**

Mayor Sanders called the meeting to order at 6:30 p.m. A. J., Helen and Anne Riebli-Appleman led the pledge of allegiance.

PRESENT: Mayor Sanders and Councilmembers Barbose, Brown, Gallian, and Rouse  
ABSENT: None

ALSO PRESENT: City Manager Kelly, City Clerk Johann, City Attorney Walter and Planning Director Goodison.

**1. COMMENTS FROM THE PUBLIC**

Herb Golenpaul suggested that the City be the first to declare a moratorium on spending.

76

Deirdre Sheerin, invited everyone to an open community forum regarding the Sweetwater Spectrum development to be held February 8, 2012.

**2. COUNCILMEMBERS' COMMENTS AND ANNOUNCEMENTS**

**Item 2A: Councilmembers' Comments and Announcements**

Cm. Brown requested that the issue of water conservation be on a future agenda. He dedicated the meeting in the memory of Anna Mae 'Penny' Stallings and Jack Kellner.

Cm. Barbose reported attendance at a presentation regarding the Sonoma Gran Fondo bicycle event scheduled to take place May 12, 2012. He said they anticipate up to two thousand attendees.

Cm. Gallian stated she would participate in the Junior Gran Fondo and reported attendance at the Grange Breakfast, Relay for Life Kickoff, and an event at which Assemblymember Michael Allen spoke.

Mayor Sanders announced a vacancy on the Countywide Bicycle and Pedestrian Committee and complimented Police Chief Sackett for getting the word out quickly to residents regarding the recent attempted kidnapping.

**3. CITY MANAGER COMMENTS AND ANNOUNCEMENTS INCLUDING ANNOUNCEMENTS FROM SUCCESSOR AGENCY STAFF**

City Manager Kelly announced that the Council's next regular meeting would be February 22, a Wednesday, due to the President's day holiday. The meeting would begin with a Pension study session scheduled from five to seven and the regular meeting would begin at seven. Staff was planning a mid-year budget review and a review of budget and revenue options in the new post redevelopment property tax scheme. City Manager Kelly announced that in accordance with the new law, staff had set up a Successor Agency webpage which was linked on the City's homepage.

**4. PRESENTATIONS**

**Item 4A: Recognition of Anne Appleman's service on the Design Review Commission**

Mayor Sanders thanked Anne Appleman for her service on the Design Review Commission and presented her a certificate of appreciation.

**Item 4B: Recognition of Sarah Summers' service on the Community Services and Environment Commission**

Mayor Sanders stated that Sarah Summers, a Sonoma Valley High School student, was to be commended for her service on the Community Service and Environment Commission. Noting that Ms. Summers was not present, Mayor Sanders asked the City Clerk to forward the certificate of appreciation to her.

**Item 4C: Presentation by Sonoma Valley Dog Owners and Guardians (SVDOG) regarding recommendations for changes to dog policies and practices**

Bob Edwards, SVDOG, stated that at the suggestion of the City Council, they and Pets Lifeline held a public meeting to gather ideas from interested members of the public relating to the City's dog policies and practices. Their broad objectives included creation of effective, efficient, fair and humane procedures for reporting, investigating and responding to specific concerns and complaints about dogs which may present a danger to public safety; promotion of canine health, safety and well-being by expanding affordable volunteer spay/neuter programs; and making the City of Sonoma more dog friendly by improving opportunities for canine socialization and exercise.

Nancy King announced various programs offered by Pets Lifeline and stated the group recommended exploration of the City contracting with Pets Lifeline to perform the dog licensing function. She said this would reduce the City's costs and provide additional income for Pets Lifeline to promote its voluntary low-cost spay neuter programs. They also recommended making dog license applications available at veterinarian and other dog-related businesses; offering life time licenses at a higher fee; declaring a one-time license amnesty program; waiving the first year initial license fee for intact dogs if owner agrees to spay/neuter; providing online licensing and registration; and where permitted by State law, increasing fines for licensing and other dog-related violations.

Ellen Brantley spoke in support of the proposals made by Mr. Edwards and the importance of dog socialization.

Bob Edwards concluded his comments by asking the Council to consider adoption of an ordinance similar to Healdsburg's; to label the City as a "No-Kill" City, and to raise the allowable number of dogs to four. He said his group would be willing to assist with implementation of any of the proposals.

Clm. Barbose thanked SVDOG and Pets Lifeline for putting together the proposal and stated he would like the Council to consider adopting an ordinance similar to Healdsburg's. He said he would also like to hear from Chief Sackett at some time in the future on whether any of the proposals for outsourcing would save the City money.

Clm. Gallian asked what "no-kill City" meant. Mr. Edwards stated it was a public relations thing and noted the City did not put down many dogs.

Police Chief Sackett thanked the group for bringing forth the ideas with a reasonable approach. He explained the City's practice in dealing with strays and stated that animals were rarely put down.

**5. CONSENT CALENDAR/AGENDA ORDER – CITY COUNCIL**

**Item 5A: Waive Further reading and Authorize Introduction and/or Adoption of Ordinances by Title Only.**

**Item 5B: Approval of the Minutes of the November 7, 2011, December 19, 2011 and the January 18, 2012 City Council / CDA Meetings. (Dec. 19 minutes removed for separate consideration, see below)**

**Item 5C:** Ratification Action of City Council from January 18, 2012 by approving the Resolution for a Refuse Rate Increase and Related Program Elements.  
(Removed from consent, see below)

**Item 5D:** Approval of application by Destination Races for temporary use of City streets for the Napa to Sonoma Wine Country Half Marathon on Sunday, July 15, 2012.

**Item 5E:** Adoption of an ordinance to regulate the placement, appearance, number, size and servicing of newsracks on the public rights-of-way.

**Item 5F:** Adoption of a resolution of the City Council of the City of Sonoma and the City Council as Successor Agency establishing the regular meetings of the City Council for the 2012 calendar year. (Removed from consent, see below)

Clm. Barbose removed the December 19, 2011 minutes from 5B. Herb Golenpaul removed 5C. City Manager Kelly removed 5F. It was moved by Clm. Rouse, seconded by Clm. Gallian, to approve the items remaining on the Consent Calendar. The motion carried unanimously.

**Item 5B:** Approval of the December 19, 2011 Minutes

Clm. Barbose presented proposed revisions to the December 19, 2011 minutes. Clm. Gallian stated she would like it added that the City Council decided that the representatives for the Sonoma Valley Fire and Rescue Authority Oversight Committee would be the Mayor and Mayor Pro Tem. There were no comments by the public. It was moved by Clm. Barbose, seconded by Clm. Brown, to approve the minutes as amended. The motion carried unanimously

**Item 5C:** Ratification Action of City Council from January 18, 2012 by approving the Resolution for a Refuse Rate Increase and Related Program Elements.

Herb Golenpaul stated that he called the garbage company and was told that the residential rates were the same as the commercial. Clm. Barbose responded they were not the same and there must have been some miscommunication. Attorney Walter stated that the rate structure provided in the agenda packet did not look complete and he recommended the item be carried over so that it could be clarified.

**Item 5F:** Adoption of a resolution of the City Council of the City of Sonoma and the City Council as Successor Agency establishing the regular meetings of the City Council for the 2012 calendar year.

City Manager Kelly reported one change to the meeting calendar to clarify that the February 22, 2012 meeting would begin at 7:00 p.m. She said this would apply to the Successor Agency meeting calendar too. It was moved by Clm. Gallian, seconded by Clm. Rouse, to approve adopt the resolution as amended. The motion carried unanimously. (Res. No. 09-2012)

**6. CONSENT CALENDAR/AGENDA ORDER – CITY COUNCIL AS SUCCESSOR AGENCY**

**Item 6A:** Approval of the Minutes of the November 7, 2011, December 19, 2011 and the January 18, 2012 City Council / CDA Meetings.

**Item 6B: Adoption of a resolution of the City Council of the City of Sonoma and the City Council as Successor Agency establishing the regular meetings of the City Council for the 2012 calendar year.**

Clm. Gallian removed both items for separate discussion. She moved, and Clm. Brown seconded, to approve Item 6A as amended in Item 5B above. The motion carried unanimously.

It was moved by Clm. Gallian, seconded by Clm. Barbose, to approve Item 6B with the same amendment as 5F above. The motion carried unanimously.

**7. PUBLIC HEARING**

**Item 7A: Continued discussion, consideration and possible introduction of amendments to the Sonoma Municipal Code establishing new and modified regulations addressing live music performances and special events.**

Planning Director Goodison reported that the draft ordinance had been revised to address Council's concerns expressed at the November 7, 2011 meeting which were: 1) The Council felt there should be greater certainty with respect to the issuance of a music license for a successor business; and 2) The second finding associated with the revocation of a Music Venue License was too open-ended. He reported that in consultation with the City Attorney, revisions were developed to address the concerns, which were subsequently reviewed and approved by the Planning Commission.

Clm. Barbose suggested that section 5.34.090A be reworded as follows. *"There was no pattern of substantiated violations associated with the Music Venue as operated by the predecessor business, operator, and/or licensee; and"*

Clm. Barbose asked where for-profit wedding venues fit in. Goodison responded that to be an ongoing operation it would need a use permit and the facility would have to be located within a commercial or mixed use zoning district with a large lot size. He read a portion of the applicable section 19.54.030, Temporary Use Permits, Section B5: *"Special Events. The rental or other use of property by third parties for weddings, receptions, private parties, music performances, and similar events may be approved in any zoning district provided that they do not continue for more than one day and do not occur more often than two times per year."*

Mayor Sanders expressed concern that adequate notice might not be given and a permit would lapse. Goodison stated that staff would build the noticing into their processes. Sanders suggested adding a window of opportunity for the renewal process.

The public comment period was opened and closed with none received.

It was moved by Clm. Barbose, seconded by Clm. Gallian, to introduce the ordinance amending Section 5.34 of the Sonoma Municipal Code with the revisions suggested by Council (reword section 5.34.090A and to add a grace period that does not result in forfeiture if staff failed to send notification of the need to renew the permit). Attorney Walter suggested the following language: *"Notwithstanding the foregoing, said License shall not expire unless the City has given written notice to the licensee of the date of expiration and the licensee fails to renew the License within thirty (30) days of receipt of said notice."* The motion carried unanimously.

**8. REGULAR CALENDAR – CITY COUNCIL**

**Item 8A: Discussion, consideration and possible action on a proposal to amend the Municipal Code by creating a permit process for street performers.**

Planning Director Goodison reported that the Cultural and Fine Arts Commission (CFAC) had, at Council's request, considered the proposal to amend the Municipal Code by creating a permit process for street performers. He said the Commission voted unanimously to recommend that the Council not pursue preparation of an ordinance. The Commission felt that although the activity was currently unregulated, there did not seem to be any problems raised by street musicians that could not be addressed under existing regulations.

Cm. Brown inquired if input from the Chamber and Visitor's Bureau had been received. Goodison responded that the matter had been referred to the Economic Development Steering Committee but not a lot of feedback from the business community had been received.

Cm. Barbose inquired what would happen if someone complained about a person standing in front of the Sebastiani Theater playing a guitar with the empty case on the sidewalk. Goodison stated that if a complaint was received, the Police Department would respond. Cm. Brown added that someone could not do that without permission from the property owner.

Mayor Sanders invited comments from the public. Herb Golenpaul commented that you could not allow just any kind of artist or speaker or foul language or anything not appropriate for children.

Council reached a unanimous concurrence to accept the CFAC recommendation and revisit the matter in the future if needed.

**Item 8B: Discussion, consideration and possible action providing direction to the Mayor regarding the City's vote on appointments by the City Selection Committee at their February 9, 2012 meeting.**

City Manager Kelly reported that the City Selection Committee, at its February 9, 2012 meeting, would take action to appoint a representative to the RAN Board and to submit a name to ABAG as a nominee for the S.F. Bay Conservation and Development Commission. Mayor Sanders stated that she was unable to attend the meeting and agreed to authorize Cm. Gallian to vote in her place. It was moved by Cm. Barbose, seconded by Cm. Gallian, to support Jake Mackenzie (RAN Board) and Teresa Barrett (ABAG Commission). The motion carried unanimously.

**9. REGULAR CALENDAR – CITY COUNCIL AS SUCCESSOR AGENCY TO DISSOLVED SONOMA COMMUNITY DEVELOPMENT AGENCY**

No items scheduled.

**10. COMMENTS FROM THE PUBLIC**

Herb Golenpaul stated that the budget had a lot of money going to "other" and he would like an explanation of what "other" was and how employee salaries were budgeted. Mayor Sanders stated that staff would put together the information.

Clm. Barbose questioned when Council would be making recommendations on what actions should be taken as a result of the budget deficit the City would be facing.

**11. COUNCILMEMBERS' REPORTS AND FINAL REMARKS**

**Item 11A: Reports Regarding Committee Activities.**

Clm. Brown reported on the SVCAC and Facilities Committee meetings.

Clm. Barbose reported on the Waste Management and the Waste Advisory Group meetings.

Clm. Gallian reported on the Water Agency and Transportation Agency meetings and the upcoming Cittaslow meeting.

**Item 11B: Final Councilmembers' Remarks.**

Clm. Brown reported a successful meeting of Citizens United for a Swimming Pool (CUSP).

Clm. Brown said he hoped CUSP was looking at operational expenses and noted the closing of the swimming pool in Fort Bragg. He announced he had volunteered to be on the board of the Sonoma Valley Parks committee.

Clm. Gallian stated that the Transportation Commission discussed the potential loss of the Safe Routes to School funding.

Mayor Sanders stated she received a resident petition opposed to demolition of the Maysonave Cottage and that it would take someone voting in the majority to bring the matter back for further Council consideration. Referring to the lack of maintenance on the Cottage, she stated that government should abide by its own rules.

**12. ADJOURNMENT**

The meeting was adjourned at 8:35 p.m. in the memory of Anna Mae 'Penny' Stallings and Jack Kellner.

I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the Sonoma City Council on the        day of        2012.

\_\_\_\_\_  
Gay Johann, MMC  
City Clerk



*City of Sonoma*  
**City Council**  
**Agenda Item Summary**

**City Council Agenda Item: 5C**

**Meeting Date: 02/22/2012**

---

**Department**

Administration

**Staff Contact**

Linda Kelly, City Manager

---

**Agenda Item Title**

Approve the Assignment, Novation and Consent Agreement with GHD Inc. and Winzler & Kelly Consulting Engineers for City Engineering Services

---

**Summary**

The contract with Winzler & Kelly Consulting Engineers for City engineering services was executed by the City on August 2, 2006. On October 4, 2011 Winzler & Kelly merged with GHD and as of January 1, 2012, Winzler & Kelly has formally changed their name to GHD Inc. GHD is a global engineering firm with approximately 6,000 employees worldwide. With this merger, the City has access to an international network of engineers, architects and environmental scientists but will still maintain its streamlined, high quality service with the same engineers that currently serve the City. The office where the services for the City will remain in Santa Rosa. No other substantive change, other than the company's name change, is expected. The City Attorney has reviewed and approved the agreement as to form.

---

**Recommended Council Action**

Approve the Agreement with GHD Inc. and Winzler & Kelly Consulting Engineers and authorize City Manager to execute the agreement.

---

**Alternative Actions**

None.

---

**Financial Impact**

The compensation terms of the original master agreement will remain the same.

---

**Environmental Review**

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

**Status**

- Approved/Certified
  - No Action Required
  - Action Requested
- 

**Attachments:** Assignment, Novation and Consent Agreement



3 February 2012

Linda Kelly  
City Manager  
City of Sonoma  
No. 1 The Plaza  
Sonoma, CA 95476

Dear Linda:

Attached are completed Assignment, Novation and Consent agreements, signed by Winzler & Kelly and by GHD Inc. Please execute each and return one completed copy to me for our files. We have included updated insurance certificates from our new carrier ACE, as well as a W-9 Form for federal tax identification.

Our invoices will remain in the same format that you are accustomed to, except for our new name and logo. I encourage you to change our name and my email address within your contact databases to reflect this change. We will be able to receive emails and postal deliveries as Winzler & Kelly through at least 2012, but eventually that will cease to occur. If there is anything we can do to assist the City with this transition, please let me know.

Sincerely,  
GHD Inc.

A handwritten signature in blue ink that reads "Toni Bertolero". The signature is fluid and cursive, with a long horizontal stroke at the end.

Toni Bertolero  
Senior Project Manager  
toni.bertolero@ghd.com

Attachments: Assignment, Novation, and Consent agreements  
Insurance Certificates  
W-9 Form

## ASSIGNMENT, NOVATION AND CONSENT AGREEMENT

This ASSIGNMENT, NOVATION AND CONSENT AGREEMENT is made as of the \_\_\_\_ day of \_\_\_\_\_ (“Agreement”) by and among Winzler & Kelly Consulting Engineers, with an address of 495 Tesconi Circle, Santa Rosa, CA 95401, (“Assignor”), GHD Inc., a California Corporation, with an address of 2235 Mercury Way, Suite 150, Santa Rosa, CA 95407 (“Assignee”), and City of Sonoma, a municipality (“City”).

WHEREAS, Assignor and City entered into an agreement for city engineering services on August 2, 2006 (the “Contract”); and

WHEREAS, Assignor, Assignor’s parent (GHD Group Pty Ltd), and Assignee (whose parent is also GHD Group Pty Ltd) have entered into an agreement whereby Assignor is to be merged with and into Assignee, who will be the surviving corporation from the merger; and

WHEREAS, Assignee wishes to acquire the Contract and to continue to provide such Services to City in accordance with the terms and conditions of the Contract; and

WHEREAS, City is willing to release Assignor from the obligations under the Contract and to consent to Assignee assuming such obligations under the Contract; and

WHEREAS, Assignee and Assignor desire to substitute Assignee in place of Assignor with respect to the Contract and the City is willing to consent to such substitution on the terms and conditions set forth by this Agreement;

NOW, THEREFORE, in consideration of the premises hereto and the mutual covenants and agreements herein set forth, the parties agree as follows:

1. Assignor does hereby assign, transfer, and convey to the Assignee as of January 1, 2012 (the “Effective Date”) all of Assignor’s title, right, obligations, liabilities (including but not limited to liability for Assignor’s professional errors and omissions) and interest in, to and under the said Contract.
2. Assignee hereby accepts such assignment of the Contract as of the Effective Date, and agrees to assume all of Assignor’s duties, liabilities (including but not limited to liability for Assignor’s professional errors and omissions) and obligations in, to and under the Contract from and after the Effective Date. Without limiting the generality of the foregoing, Assignee hereby assumes full and complete responsibility for the payment, discharge and satisfaction of any and all claims, damages, injuries, expenses (including attorneys’ and experts’ fees), costs, and liabilities of any sort arising out of Assignor’s errors, acts, omissions and performance under the Contract prior to January 1, 2012.
3. City further consents to the substitution and novation of Assignee in place and instead of Assignor from and after the Effective Date.
4. City and Assignee each consent to fully release Assignor from any and all obligations, responsibilities, and duties under the Contract from and after the Effective Date.

5. Assignor agrees that it shall cooperate with Assignee in effectuating an orderly transition of the City's information to the Assignee in order for Assignee to fulfill its obligations, responsibilities, and duties under the Contract from and after the Effective Date.

6. Assignee agrees to indemnify City and Assignor subject to the terms of the Contract from any and all claims, actions, judgments, liabilities (including professional negligence and errors or omissions), proceedings and costs, including reasonable attorneys' fees, expert witness fees, and other costs of defense and damages, arising out of, connected with, or related to any acts or omissions of the Assignee or Assignor while performing hereunder or under the Contract, or under any separate purchase order, Task Order, or similar order authorized by the City under the Contract before, from, or after the Effective Date.

7. Upon Assignee's execution of the Agreement, Assignee shall provide City proof of insurance coverage's in full compliance with Section 15 of the Contract from and after the Effective Date.

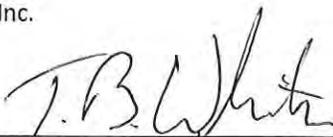
8. Assignee may not assign any right or obligation pursuant to this Agreement without the written consent of the City.

9. This Agreement constitutes the entire agreement concerning the assignment between the parties and it may not be modified, altered or amended other than in writing executed by the party sought to be charged thereby.

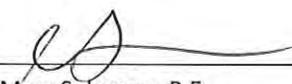
10. This Agreement may be executed in faxed counterparts, and in such event, the counterpart signatures shall be assembled and shall together constitute a complete agreement.

IN WITNESS WHEREOF, THE PARTIES ACKNOWLEDGE THAT THEY HAVE READ THE ASSIGNMENT, NOVATION AND CONSENT, UNDERSTAND IT AND AGREE TO BE BOUND BY ITS TERMS. EACH PARTY HAS FULL POWER AND AUTHORITY TO ENTER INTO AND PERFORM THIS ASSIGNMENT, NOVATION AND CONSENT, AND THE PERSON SIGNING THIS ASSIGNMENT, NOVATION AND CONSENT ON BEHALF OF EACH HAS BEEN PROPERLY AUTHORIZED AND EMPOWERED TO ENTER INTO THIS ASSIGNMENT, NOVATION AND CONSENT.

GHD Inc.

By:   
Name: Theodore B. Whiton, P.E.  
Title: Operations Manager

Winzler & Kelly

By:   
Name: Marc Solomon, P.E.  
Title: Region Managing Principal

City of Sonoma

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



# CERTIFICATE OF LIABILITY INSURANCE

OP ID: VF

DATE (MM/DD/YYYY)

01/03/12

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER <b>BPIA Business Professional Insurance Associates</b> 1519 South B Street San Mateo, CA 94402 Virginia Fontana	650-341-4484 650-341-4465	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS: PRODUCER CUSTOMER ID #: <b>GHDIN-1</b>	FAX (A/C, No):
INSURED <b>GHD Inc.</b> Winzler & Kelly 2235 Mercury Way, #150 Santa Rosa, CA 95407	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : <b>Federal Insurance Company</b>		<b>20281</b>
	INSURER B : <b>Wausau Underwriters Ins. Co.</b>		<b>26042</b>
	INSURER C : <b>St. Paul Travelers</b>		<b>29696</b>
	INSURER D :		
	INSURER E :		
	INSURER F :		

**COVERAGES**

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/>		3582-60-28 WUC	05/01/11	05/01/12	EACH OCCURRENCE	\$ 1,000,000
		DAMAGE TO RENTED PREMISES (Ea occurrence)				\$ 1,000,000	
						MED EXP (Any one person)	\$ 10,000
						PERSONAL & ADV INJURY	\$ 1,000,000
						GENERAL AGGREGATE	\$ 2,000,000
						PRODUCTS - COMP/OP AGG	\$ 2,000,000
						Emp Ben.	\$ 1,000,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		ASJ-Z91-456841-021	05/01/11	05/01/12	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
		BODILY INJURY (Per person)				\$	
		BODILY INJURY (Per accident)				\$	
		PROPERTY DAMAGE (Per accident)				\$	
						\$	
C	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE		QK09401249	05/01/11	05/01/12	EACH OCCURRENCE	\$ 5,000,000
		AGGREGATE				\$ 5,000,000	
						\$	
	DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 10,000						\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y <input type="checkbox"/> N N/A	WCJ-Z91-456841-011	05/01/11	05/01/12	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	OTHER
		E.L. EACH ACCIDENT				\$ 1,000,000	
		E.L. DISEASE - EA EMPLOYEE				\$ 1,000,000	
		E.L. DISEASE - POLICY LIMIT				\$ 1,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

REF: On-call Services. GENERAL/AUTOMOBILE LIABILITY ADDITIONAL INSURED:

The City of Sonoma, its employees, officers, agents and contractors.  
Primary insurance and severability of interests apply per policy form.**CERTIFICATE HOLDER****CANCELLATION**

City of Sonoma  
Attn: Milenka Bates  
No. 1 - The Plaza  
Sonoma, CA 95476-9000

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Virginia J Fontana*

© 1988-2009 ACORD CORPORATION. All rights reserved.

# NOTEPAD

INSURED'S NAME GHD Inc.

GHDIN-1  
OP ID: VF

PAGE 2  
DATE 01/03/12

## Named Insureds:

GHD Inc.  
GHD, Inc.  
GHD Consulting Engineers, LLC  
DBA: Stearns & Wheeler  
DBA: GHD Consulting Engineers, PLLC  
GHD Consulting Inc.  
GHD Environmental Services Inc.  
DBA: GHD, America  
GHD/Winzler & Kelly (Coverage for Winzler & Kelly added eff. 12-30-11)

Coverage is Primary and non-contributory.

Severability of interest applies.

Separation of Insured's applies per General Liability

form 80-02-2000 04-01

Waiver of Subrogation applies to Workers Compensation and General Liability policies.

Additional Insured applies to General Liability and Auto Liability.

XCU, Pollution, and Professional Liability Coverage Excluded.



## Request for Taxpayer Identification Number and Certification

**Give Form to the  
 requester. Do not  
 send to the IRS.**

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above <b>GHD INC.</b>	
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input checked="" type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶ _____	
	Address (number, street, and apt. or suite no.) <b>2235 Mercury Way, Suite 150</b>	Requester's name and address (optional) <b>City of Sonoma</b>
	City, state, and ZIP code <b>Santa Rosa, CA 95407</b>	<b>#1 The Plaza</b> <b>Sonoma, CA 95476</b>
List account number(s) here (optional)		

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

<b>Social security number</b>	
[ ] [ ] [ ] - [ ] [ ] - [ ] [ ] [ ] [ ]	
<b>Employer identification number</b>	
9 8 - 0 4 2 5 9 3 5	

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

<b>Sign Here</b>	Signature of U.S. person	Date ▶ <u>02/01/2012</u>
------------------	--------------------------	--------------------------

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.



City of Sonoma  
**City Council**  
**Agenda Item Summary**

City Council Agenda Item: 5D

Meeting Date: 2/22/12

---

**Department**

Administration

**Staff Contact**

Linda Kelly, City Manager

---

**Agenda Item Title**

Approval of Fee Agreement Letter with Rutan & Tucker LLP as Special Counsel to the City of Sonoma

---

**Summary**

Since 1996, Rutan & Tucker has provided legal counsel for the Sonoma Community Development Agency (CDA). In transitioning to the Successor Agency and the numerous issues to be worked out and implemented with respect to AB1X 26, staff recommends that Rutan & Tucker be retained as special counsel to the City of Sonoma to assist with these redevelopment dissolution and Successor Agency issues. The attached fee agreement would memorialize the retention of Rutan & Tucker as special counsel to the City. This agreement is presented for approval on both City and Successor Agency consent calendars.

---

**Recommended Council Action**

Approve Agreement and authorize City Manager to execute the agreement.

---

**Alternative Actions**

None.

---

**Financial Impact**

The hourly rate would remain the same as current, \$215 per hour.

---

**Environmental Review**

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

**Status**

- Approved/Certified
  - No Action Required
  - Action Requested
- 

**Attachments:**

Fee Agreement Letter

---

cc:

---

February 2, 2012

**VIA ELECTRONIC MAIL**

Linda Kelly  
City Manager  
City of Sonoma  
#1 The Plaza  
Sonoma, CA 95476

Re: Retention of Rutan & Tucker, LLP as Special Counsel to the City of Sonoma

Dear Linda:

Pursuant to our telephone discussion a couple of days ago, I am providing this Fee Agreement letter to memorialize the retention of Rutan & Tucker, LLP as Special Counsel to the City of Sonoma. Although AB1x26 is not entirely clear on the subject, we want to make sure we have a fee agreement in place with the City of Sonoma [in addition to the fee agreement we have with the Sonoma Community Development Agency (“CDA”)] so that we may continue to advise the City (including in its capacity as Successor Agency to the dissolved CDA) on matters the City may refer to us for legal advice and counsel. ***The same hourly rate as currently existing—\$215 per hour—would continue to apply.***

Because the City (as distinct from the CDA) is considered a new client of our firm, we are required by California law to have a written fee agreement letter with the City to cover the work. This letter, together with the attached Statement of Engagement Terms and Billing Practices (“Statement”) incorporated herein, serves as that agreement. Please review both this letter and the attached Statement as they contain important terms and conditions, including an arbitration provision and general waiver pertaining to Rutan & Tucker’s continuing or future representation of *other* clients whose matters, or positions taken, may adversely affect your interests or positions. This fee agreement letter covers all preliminary work we have already performed, as well as future services we will perform. No retainer will be required.

This Fee Agreement with the City is substantially similar to the fee agreement with the CDA, a copy of which is attached (“CDA Fee Agreement”). The CDA Fee Agreement consists of the original fee letter dated April 18, 1996, as amended by amendments dated June 1, 2001, December 4, 2002, November 3, 2004, and April, 20, 2007. Among the changes are a standard arbitration provision as well as the bolded paragraph below our firm requires in fee agreements which states, in essence, that Rutan & Tucker may have current or future clients with interests adverse to the interests of the City but ***not*** in matters where we are representing the City. Another change is that our charges for reimbursable items such as photocopying and so forth,

Linda Kelly  
February 2, 2012  
Page 2

and for paralegals, may change without notice as of each January 1<sup>st</sup>. No changes to the rates charged by attorneys may change without the City's written consent.

The remainder of this Fee Agreement contains our standard language.

With respect to the monthly billing of legal fees, normally the hourly rate to be charged depends on the rate of the attorney working on the matter (in general, our rates for attorney time depend on the seniority of the attorney and range from approximately \$245 per hour to approximately \$650 per hour). I will be the attorney in the office providing the services and responsible for the account. My current rate is \$410 per hour. ***Notwithstanding the above, the rate to be charged to the City for attorney time shall be \$215 per hour and shall not increase without the City's written consent.*** Rates for paralegals in our office range from approximately \$175-\$215 per hour and rates for document clerks in our office range from approximately \$60-\$120 per hour. The rates for paralegals and document clerks may increase as of January 1<sup>st</sup> of each year without notice.

Because we are a large law firm with many clients, our firm requires that fee agreements contain a general waiver with respect to our representation of other clients. Therefore, please note that the attached Statement, incorporated herein, includes the following provision:

***Representation in Other Matters. We are a large law firm with many attorneys and have more than one office. We represent many business entities in varied industries, individuals, and government entities with varied interests in many different locales. It is possible that during the time we are representing your interests in the matter or matters for which you have retained us, you may become involved in transactions and/or disputes in which your interests are adverse to those of one or more of the firm's present or future clients. Therefore, as a condition to our undertaking this engagement, you have agreed that our Firm may continue to represent, or may undertake in the future to represent, other existing or new clients in any matter, other than a matter in which we represent you, which may adversely affect you or your interests. We agree, however, that your prospective consent to conflicting representation contained in the preceding sentence shall not apply in any instances where as a result of our representation of you we have obtained confidential information of a non-public nature which would be material to our employment by any such other existing or new clients, except as may otherwise be waived by a conflict of interest waiver. Thus, by signing this fee agreement letter, you knowingly waive any actual or apparent conflict of interest resulting from such adverse representation. You should be aware of your right to seek independent legal advice regarding the nature and effect of the foregoing waiver and consent.***

Your signature on this letter will confirm that you have read and understand the matters set forth herein and in the attached Statement, including the waiver set forth above. You should

Linda Kelly  
February 2, 2012  
Page 3

be aware of your right to obtain independent legal counsel concerning entering into this fee agreement (we suggest you review this fee agreement with your City Attorney, Jeff Walter).

If the foregoing correctly sets forth our mutual understanding, please sign and date this fee agreement below and return this entire letter agreement, including the attached Statement, to me.

If you have any questions concerning this fee agreement letter please do not hesitate to contact me.

Very truly yours,

RUTAN & TUCKER, LLP



Dan Slater

Enclosure

**AGREED AND ACCEPTED:**

**CITY OF SONOMA**

**By:** \_\_\_\_\_

\_\_\_\_\_  
**Date**

***[STATEMENT COMMENCES ON FOLLOWING PAGE]***

Linda Kelly  
February 2, 2012  
Page 4

**RUTAN & TUCKER, LLP**  
Attorneys at Law

STATEMENT OF ENGAGEMENT TERMS  
AND BILLING PRACTICES

*In the event of any conflict between the terms of this Statement and the terms set forth in the fee agreement cover letter to which this Statement is attached, the terms of the letter shall apply.*

Fees. Our general policy is to calculate fees for legal services on the basis of a range of hourly billing rates for each lawyer and legal assistant engaged in providing such services, multiplied by the number of hours (or fractions thereof, in increments of one-tenth of one hour) devoted to the rendering of such services by each such lawyer or legal assistant. In serving the client we attempt to utilize those lawyers and legal assistants having the legal knowledge and level of experience required in order to achieve the client's objective. The selection of those lawyers and legal assistants who will render services will be made by the lawyer having overall supervisory responsibility for each engagement, taking into consideration the nature of the engagement, the degree of legal experience and knowledge required in order to achieve the client's objectives, the availability of lawyers and legal assistants to work on the engagement and their hourly billing rates. A range of hourly billing rates is determined for each of our lawyers and legal assistants on the basis of that person's seniority and experience or area of practice. The hourly billing rates may be adjusted annually, usually as of January 1. We do not generally send any notice of a change in hourly rates, other than as reflected in the bills themselves. If you would like to receive a revised range of rates at any time, we will provide you with an updated schedule upon request. The hourly billing rates for attorneys in our office range from \$240 to \$650 per hour.

Representation in Other Matters. We are a large law firm with many attorneys and have more than one office. We represent many business entities in varied industries, individuals, and government entities with varied interests in many different locales. It is possible that during the time we are representing your interests in the matter or matters for which you have retained us, you may become involved in transactions and/or disputes in which your interests are adverse to those of one or more of the firm's present or future clients. Therefore, as a condition to our undertaking this engagement, you have agreed that our Firm may continue to represent, or may undertake in the future to represent, other existing or new clients in any matter, other than a matter in which we represent you, which may adversely affect you or your interests. We agree, however, that your prospective consent to conflicting representation contained in the preceding sentence shall not apply in any instances where as a result of our representation of you we have obtained confidential information of a non-public nature which would be material to our

Linda Kelly  
February 2, 2012  
Page 5

employment by any such other existing or new clients, except as otherwise may be waived by a conflict of interest waiver. Thus, by signing this fee agreement letter, you knowingly waive any actual or apparent conflict of interest resulting from such adverse representation. You should be aware of your right to seek independent legal advice regarding the nature and effect of the foregoing waiver and consent.

Termination of Engagement. You may terminate our engagement with or without cause at any time on written notice to us. Termination of our services will not affect your responsibility to pay for legal services rendered and all expenses and other charges incurred up to the date when we receive notice of termination, and for any further work required of us in order to facilitate an orderly turnover of matters in process at the time of termination.

We may terminate our engagement for any of the reasons permitted under and in accordance with the requirements of the California Rules of Professional Conduct, including, without limitation, your failure to pay our bills, misrepresentations of (or failure to disclose) any material facts, action taken contrary to our advice, or any other conduct or situation that in our judgment impairs an effective attorney-client relationship between us or presents conflicts with our professional responsibilities. Other grounds for termination our representation are set forth in Rule 3-700 of the California Rules of Professional Conduct, a copy of which we will provide you on request. We may request a stipulation executed by you allowing us to withdraw as your attorney in any judicial, arbitration or similar proceedings, subject to our compliance with the California Rules of Professional Conduct, in which even you agree in advance to our withdrawal.

Our attorney-client relationship will also terminate when a matter for which our Firm was hired has been completed, whether or not our bill to you for services has been rendered or paid. Upon termination of our relationship, neither you nor the Firm has a duty to accept new engagements or to continue representation in any matters unless mutually agreed in writing.

Future Representation. In the event our engagement necessitates that we prepare an agreement which provides for ongoing rights and obligations on your part, a dispute concerning the interpretation or enforceability of that agreement may subsequently arise after our engagement has been terminated. In the absence of our express written agreement, you may not assume that the Firm will continue to be free to represent you in a future dispute concerning such agreement.

Retention of Files. Generally, we keep each client's legal files for seven years after we close the file. After seven years, we are entitled to destroy those files unless the client tells us otherwise. If you want us to keep your files for a longer period of time, please tell us.

Linda Kelly  
February 2, 2012  
Page 6

Errors and Omissions. This Firm maintains errors and omissions insurance coverage applicable to the services to be rendered hereunder. This coverage complies with the requirements of California Business and Professions Code sections 6147(a)(6) and 6148(a)(4).

Arbitration of Disputes. By signing and returning the engagement letter, you agree that should any dispute arise out of or relate to this agreement, our relationship, any billing statements forwarded to you, or our services, including but not limited to any alleged claims for legal malpractice, breach of fiduciary duty, breach of contract or other claim against the Firm for any alleged inadequacy of such services, all such disputes will be resolved by submission to final and binding arbitration in <sup>SONOMA</sup>~~Orange~~ County, California before a retired judge or justice. By agreeing to arbitrate, you waive any right to a court or jury trial. If we are unable to agree on a retired judge or justice, each party will name on retired judge or justice and the two named persons will select a neutral judge or justice who will act as the sole arbitrator.

Arbitration is, as you likely know, a process by which both parties to a dispute agree to submit the matter to a retired judge or other arbitrator who has expertise in the area and to abide by the arbitrator's decision, instead of litigating in court. In arbitration, there is no right to a trial by jury and the arbitrator's legal and factual determinations are generally not subject to appellate review. Arbitration rules of evidence and procedure are often less formal and rigid than in a court trial. Arbitration usually results in a decision much more quickly than proceedings in court, and the attorneys' fees and other costs incurred by both sides are usually substantially less.

Both the United States Supreme Court and California Supreme Court have endorsed arbitration as an accepted and favored method of resolving disputes, because it is economical and expeditious. Arbitration is also less acrimonious and more confidential than traditional litigation and is, therefore, particularly suited to resolution of disputes between attorneys and their clients.

**Your agreement to arbitrate disputes is not a condition of our agreeing to represent you, and if you do not wish to agree to arbitrate, you should advise me before signing the copy of this letter.** You are free to discuss the advisability of arbitration with us or your independent counsel or any of your other advisors and to ask any questions which you have.

The parties shall be entitled to take discovery in accordance with the provisions of the California Code of Civil Procedure, but either party may request that the arbitrator limit the amount or scope of such discovery, and in determining whether to do so, the arbitrator shall balance the need for the discovery against the parties' mutual desire to resolve disputes expeditiously and inexpensively.

Under California law, you have the right, if you desire, to request arbitration of any fee dispute before an arbitrator or panel of arbitrators selected by a local bar association or the State Bar ("Bar Arbitration") and a trial *de novo* in court if dissatisfied with the result. If you do

Linda Kelly  
February 2, 2012  
Page 7

request a Bar Arbitration, the law provides that evidence of any claim of malpractice or professional misconduct is admissible only concerning the fees or costs in dispute and that the Bar Arbitrators shall not award any affirmative relief in the form of damages, offset or otherwise on account of such claim. By signing this Agreement, you agree that if a Bar Arbitration is conducted, that Bar Arbitration or any trial *de novo* in Court thereafter shall determine only the issue of the amount of fees properly chargeable to you, if any, and that such Bar Arbitration or trial *de novo* in Court thereafter shall have no effect on the provisions set forth above which require arbitration before a retired judge or justice of any claims for affirmative relief based on alleged professional malpractice, errors or omissions, breach of conduct, breach of fiduciary duty, fraud or violation of any statute. Any such claims shall be solely determined by a retired judge or justice in an arbitration without regard to the result of any Bar Arbitration or trial *de novo* thereafter.

You are urged to discuss the advisability of arbitration with the Firm or your independent counsel or any of your other advisors and to ask any questions which you have. Your execution and delivery of the engagement letter will confirm that you have either obtained independent legal advice with respect to the binding arbitration clause, or you have decided to enter into this engagement without seeking such advice.

Charges. Our statements to our clients are normally rendered on a monthly basis, and ordinarily include certain charges other than fees for legal services. These charges may include third-party expenses (such as filings fees, courier and messenger charges, court reporters and travel/mileage) and internal expenses (such as document copying costs, long distance telephone charges, computer-assisted research costs and similar out-of-pocket expenses). Clients may be asked to pay larger third-party invoices directly or provide us with an advance payment of such costs. Other third-party expenses will be added to our bills with no markup.

Outcomes. We have made no representations, promises or guarantees to you regarding the outcome of your matter. Any comments about the outcome of your matter at any time during the performance of services do not constitute promises, guarantees, or assurances, as to the outcome of your matter.

Applicable Law. Our attorney-client relationship will be governed by California law, including the California Rules of Professional Conduct.

[end]



Pamela Gibson  
April 18, 1996  
Page 2

the legal services to the Agency. Rates for paralegals in our office range from approximately \$75 per hour to \$110 per hour. Should there be any change to these rates to be effective after December 31, 1996, I will discuss such change with you in advance. No retainer will be required.

In addition to the above fees, you will also be responsible for payment of all out-of-pocket expenses incurred, such as reproduction of documents; messenger and other delivery fees; postage; travel expenses, including mileage at \$.025 per mile for automobile travel, parking, tolls, and also including air fare, car rental, hotels, and meals for authorized out-of-area travel; long distance telephone calls; computer-assisted research; text editing; clerical staff overtime required to meet client-imposed deadlines; filing fees; investigator fees; expert witness fees; etc. These costs will be itemized on the monthly bills.

In the event any statement remains unpaid for more than thirty (30) days after receipt, interest thereon at the rate of ten percent (10%) per annum may be due and payable from the date of the statement until the date of ultimate payment of the statement and all accrued interest.

Pursuant to California Business and Professions Code Section 6148, our fee agreements are required to inform you of our errors and omissions/professional liability insurance coverage. Rutan & Tucker is self-insured for the amount of \$500,000 and is insured up to \$15,000,000 over above that amount.

Lastly, as of April 1, 1996, Rutan & Tucker became registered as a limited liability partnership ("LLP") pursuant to the LLP law, Senate Bill 513. The LLP law protects individual partners from personal liability for most partnership debts. A partner in an LLP is not personally liable for debts chargeable to the partnership or attributable to the conduct of his or her partners, although each partner remains liable for his or her own acts, errors, and omissions, including malpractice. All assets of the partnership are still subject to all partnership liabilities.

In accordance with the new LLP law, R&T is required to provide security for claims against it. R&T will continue to maintain an insurance policy covering claims based on acts, errors, and omissions arising out of its practice of law.

Registration as an LLP will have no effect on the nature or quality of the legal services that R&T provides. Should you have

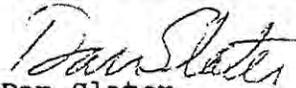
Pamela Gibson  
April 18, 1996  
Page 3

any questions or concerns about LLP status, or any issue regarding our representation, please contact me or Jeff Oderman, our Managing Partner.

If this agreement meets your approval, please sign and date this letter in the space provided below, and return it to me in the envelope provided. A copy of this letter is enclosed for your files. Thank you for the opportunity to be of service to the Sonoma Community Development Agency.

Very truly yours,

RUTAN & TUCKER, LLP

  
Dan Slater

\* \* \*

AGREED AND ACCEPTED:

SONOMA COMMUNITY DEVELOPMENT AGENCY

By:   
Pamela Gibson  
Executive Director

Date: May 1, 1996

# RUTAN & TUCKER

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS  
611 ANTON BOULEVARD, FOURTEENTH FLOOR  
COSTA MESA, CALIFORNIA 92626-1931  
DIRECT ALL MAIL TO: POST OFFICE BOX 1950  
COSTA MESA, CALIFORNIA 92628-1950  
TELEPHONE 714-641-5100 FACSIMILE 714-546-9035  
INTERNET ADDRESS www.rutan.com

Direct Dial: (714) 641-3437  
E-mail: dslater@rutan.com

A.W. RUTAN (1930-1972) JAMES B. TUCKER SR. (1888-1950)

JAMES R. MOORE\*  
PAUL FREDERIC MARK  
RICHARD A. CURNUTT  
LEONARD A. HAMPEL  
JOHN F. HURLBUT, JR.  
MICHAEL W. JAMALI  
SILVIO W. DAHL, JR.  
THEODORE J. WALLACE, JR.\*  
GILBERT N. KRUGER  
JOSEPH D. CARROLL  
RICHARD P. SIMS  
JAMES R. DONALD  
ROBERT C. BRAUN  
THOMAS S. SALINGER\*  
DAVID C. LARSEN\*  
CLIFFORD E. TREDEN  
MICHAEL D. RUBIN  
IRA C. RYAN\*  
JEFFREY M. QUERMAN  
STAN WOIWOST  
ROBERT S. BOWEN  
MARCYA A. FORSYTH  
WILLIAM M. MARTICORENA  
JAMES L. MORRIS  
WILLIAM J. CAPLAN

MICHAEL T. HORNAK  
PHILIP D. KOHN  
JOEL D. KUPERBERG  
STEVEN A. NICHOLS  
THOMAS G. BROCKINGTON  
ERIDIKI (WICH) DALLAS  
RANDALL M. BARBUSH  
MARY M. GREEN  
GREGG AMBER  
MICHAEL T. SHIZER  
THOMAS J. CRANE  
MARK B. FRAZER  
PENILOPE PARNES  
AL. KATHLEEN JENSON  
DUKE F. WAILQUIM  
RICHARD G. MONTVIDEO  
LORI SARNER SMITH  
ERNEST W. KLATTE, III  
KIM D. THOMPSON  
AYNE TAYLOR KATLE  
DAVID B. COSEGROVE  
FRANK VAN LIGTEN  
STEPHEN A. ELLIS  
MATTHEW K. ROSS  
JEFFREY WELTHILLIE

ROBERT D. OWEN  
ADAM N. VOLBERT  
JEFFREY A. GOLDFARB  
F. KEVIN BRAZIL  
LARRY H. MILLER  
L. SKI HARRISON  
LARRY A. CERUTTI  
CAROL D. CARY  
PATRICK D. McALLA  
RICHARD K. HOWELL  
JAMES S. WILSON\*  
DAVID H. HOGGNER  
A. PATRICK MURDO  
S. DANIEL HARBOTTLE  
PAUL J. SIEGERS  
JOSEPH L. MAGA, III  
FRANCO C. KILGER  
KENT M. CLAYTON  
DAN SLATER  
MARK BUDENISER  
STEVEN J. GOOD  
DOUGLAS J. DENNINGTON  
TREG A. JULIANDER  
TODD O. LITVIN  
KEKKA S. CARLSON

CRISTY LOMINZO PARKER  
JEFFREY T. MELCHING  
SEAN P. LARRELL  
MARLENE MOSE JURGENSEN  
APRIL LEE WALTER  
KAREN LIZABETH WALTER  
NATALIE SIBBALD DUNDAS  
ALISON M. BARBAROSH  
JOHN W. HAMILTON JR.  
JOHN A. RAMIREZ  
LYNN LOSCHIN  
PHILIP J. BLANCHARD  
TERENCE J. CALLAGHER  
DEJA M. HEMINGWAY  
JULIE W. RUSSE  
DENISE L. MESSER  
W. ANDREW MOORE  
CHARLES A. DAVENPORT, III  
JULIE L. DREV  
RICHARD D. ARKO  
MARK M. MALOYOS  
NIKKI NGUYEN  
JEFF C. RISHER  
JENNIFER S. ANDERSON  
JOHN T. BRADLEY

BILL H. HIRSE  
ALEXSON LEMONINI-BUI  
KAREN L. KLATING  
CHYI G. CHEN  
T. LAN NGUYEN  
ISA V. NICHOLAS  
JENNIFER L. O'HILLIN  
MARK J. AUSTIN  
AMY J. HALL  
JENNIFER L. YOKO SABA  
TRACEY M. QUACH  
NICOLE F. QUINTANA  
MELISSA S. FORTES  
ROBERT H. MARCUREAU

OF COUNSEL  
EDWARD D. SYRESMA, JR.  
DAVID J. GARIBALDI, III  
A PROFESSIONAL  
CORPORATION

June 1, 2001

Pamela Gibson, Executive Director  
Sonoma Community Development Agency  
#1 The Plaza  
Sonoma, CA 95476

Re: Amendment to Fee Agreement

Dear Pam:

This letter amends the Fee Agreement between the Sonoma Community Development Agency and Rutan & Tucker, LLP, dated April 18, 1996. Effective July 1, 2001, and continuing to December 31, 2001, our hourly rate will be \$160 per hour. Effective January 1, 2002, our hourly rate will be \$165 per hour. These increases are the first since 1996. Please also note that since 1996 the mileage rate for automobile travel has increased to \$.31 per mile (to date, I do not think we have billed the Agency for any mileage) and our hourly paralegal rates have increased and range from approximately \$90 per hour to approximately \$140 per hour (mileage and paralegal rates may increase from time to time without notice). Please approve this amendment to the Fee Agreement by signing in the space below and returning this original to me in the enclosed reply envelope. A copy of this letter is enclosed for your file. Thank you.

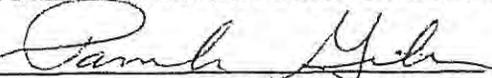
Very truly yours,

RUTAN & TUCKER, LLP

  
Dan Slater

Encl.

APPROVED:  
SONOMA COMMUNITY DEVELOPMENT AGENCY

By:   
Pamela Gibson, Executive Director

RECEIVED  
JUN 04 2001  
CITY OF SONOMA

# RUTAN & TUCKER

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS  
611 ANTON BOULEVARD, FOURTEENTH FLOOR  
COSTA MESA, CALIFORNIA 92626-1931  
DIRECT ALL MAIL TO: POST OFFICE BOX 1950  
COSTA MESA, CALIFORNIA 92628-1950  
TELEPHONE 714-641-5100 FACSIMILE 714-546-9035  
INTERNET ADDRESS [www.rutan.com](http://www.rutan.com)  
Direct Dial: (714) 641-3437  
E-mail: [dslater@rutan.com](mailto:dslater@rutan.com)

A. W. RUTAN (1880-1972) JAMES B. TUCKER SR. (1868-1950)

JAMES R. MOORE\*  
PAUL FREDERIC MARY  
RICHARD A. CURNUTT  
JOHN B. HUKIBUT JR.  
MICHAEL W. IMBELL  
MILFORD W. DAHL JR.  
\*THEODORE J. WALLACE JR.\*  
JOSEPH D. CARUTH  
RICHARD F. SIMS  
JAMES B. O'NEAL  
ROBERT C. BRAUN  
THOMAS S. SALINGER\*  
DAVID L. LARSEN\*  
CLIFFORD E. FRIEDEN  
MICHAEL D. RUBIN  
IRA G. RIVIN\*  
JEFFREY M. ODEKMAN  
STAN WOLCOTT  
ROBERT S. BOWEN  
MARCIA A. FOSZYTH  
WILLIAM M. MARTICORENA  
JAMES L. MORRIS  
MICHAEL T. HORNACE  
PHILIP D. KOHN  
JOIC D. AUPFRBERG  
STEVEN A. NICHOLS

THOMAS O. BROCKINGTON  
EVKIDRI VICKI DALLAS  
RANDALL M. BABBUSH  
MARY M. GRIEN  
GREGG AMBER  
MICHAEL F. BRIZER  
THOMAS J. CRANE  
MARK B. FRAZIER  
PENILOPE PARMES  
M. KATHERINE JENSON  
DUKE F. WAHLQUIST  
RICHARD G. MONTEVIDEO  
LORI SARNER SHIHI  
ERNEST W. KLATTE, III  
SAM D. THOMPSON  
JAMES TAYLOR KACER  
DAVID B. TONGROVE  
HANS VAN LIGTEN  
STEPHEN A. ELLIS  
JEFFREY WEIHEIMER  
ROBERT O. OWEN  
ADAM N. VOLKERT  
JEFFREY A. GOEDFAR  
I. KEVIN BRAZIL  
LAVNE H. MELTZER  
L. JIM HARRISON

LARRY A. CIRUTTI  
CAROL D. CARTY  
PATRICK D. MICALLA  
RICHARD K. HOWELL  
JAMES S. WISSE\*  
DAVID H. HOCHNER  
A. PATRICK ALLNOZ  
ROBERT D. FISH  
S. DANIEL HARBOTTLE  
PAUL J. SIEVIES  
JOSEPH L. MAGA, III  
KRAIG C. KILGER  
KENT M. CLAYTON  
STEVEN J. GOON  
DOUGLAS J. DENNINGTON  
MARTIN W. TAYLOR  
DAN SLATER  
MARK J. HAYNE  
RONALD P. OINES  
MARK BUDENSKY  
TREG A. JULANDER  
TODD O. LITVIN  
KERRA S. CARLSON  
CRISTY LOHMEZD PARKER  
JEFFREY T. SHECHING  
DAVID J. ZOETEMEY

MARLENE POSE JUROFENSEN  
APRIL LEE WALTER  
KAREN ELIZABETH WALTER  
NATALIE SIBBALD GUNDAS  
JOHN W. HAMILTON, JR.  
JOHN A. RAMIREZ  
\*PHILIP J. BLANCHARD  
LEONET J. CALLAGHER  
PAUL G. CASTOR  
DEJAN M. HIEHINCHAY  
DENISE L. MUESTER  
W. ANDREW AIOOKE  
CHARLES A. DAVENPORT, III  
RICHARD D. ARKO  
MARK A. MALOVS  
NIKI NGUYEN  
SANDRA P. THOMPSON  
JENNIFER S. ANDERSON  
JOHN T. BRADLEY  
ALISON LEAMONG-BUI  
KAREN L. KEATING  
T. LAN NGUYEN  
ISA NICHOLSON  
MARK J. AUSTIN  
ROBERT H. MARCUREAU  
STEVEN W. BURT

NOAM I. DUZMAN  
MICHAEL MUESTER  
CARISSA K. PEREZ  
ANDREW E. AINSWORTH  
SETH L. HANSON  
ALEJANDRO S. ANGELO  
ANTHONY L. BEAUMON  
THOMAS W. FREED  
ARDON O. HANSEN  
DANSON D. MUEHLHEFF  
LONA LAYMON  
LATHIRINK M. OH  
POORNIMA JAYAPRAKASH  
  
OF COUNSEL  
LEONARD A. HANFEL  
EDWARD D. SYBESMA, JR.  
SENATOR DIKE AL KERVAN  
DANNI CARIBALDI, III  
WILLIAM T. CAPLAN  
  
\*A PROFESSIONAL CORPORATION  
\*\*PATENT AGENT

December 4, 2002

RECEIVED  
DEC 06 2002  
CITY OF SONOMA

Mike Fuson  
Executive Director  
Sonoma Community Development Agency  
Sonoma City Hall  
#1 The Plaza  
Sonoma, CA 95476

Re: Notice of Fee Increase

Dear Mike:

We began representing the Sonoma Community Development Agency in April 1996 and at that time our billing rate to the Agency was \$150 per hour. It remained at that rate for the next nearly *five years*, when a two-step increase took effect, to \$160 per hour as of January 1, 2001, and to \$165 per hour as of July 1, 2001. Our rate has remained at \$165 per hour for last year and one-half.

We have reviewed our billing rates in light of our expenses and the seniority of the attorneys working on Agency matters, and have determined that a rate increase of \$10 per hour, effective January 1, 2003, is warranted. Thus, I wanted to alert you in advance that we intend to increase our billing rate to the Agency as of 1/1/03 to \$175 per hour. Based on the original rate of \$150 per hour in 1996 and the increase to \$175 per hour as of 1/1/03, the increase from the original rate to the new rate is equivalent to about a 2.5% annual increase over that period.

We trust that you understand our need, from time to time, to raise our billing rate charged to the Agency. We will continue to provide the Agency with the responsive service that you and Mary Neilan have come to expect, and we look forward to continuing our association with the Agency.

*I would appreciate your acknowledging acceptance of the rate increase by signing and dating in the space below and returning this letter to me.* A reply envelope is enclosed for your convenience.

Mike Fuson  
December 4, 2002  
Page 2

If you have any questions concerning this rate increase, please do not hesitate to contact me. Thanks.

Very truly yours,

RUTAN & TUCKER, LLP



Dan Slater

ACCEPTED:

SONOMA COMMUNITY DEVELOPMENT AGENCY

By:   
Mike Fuson  
Executive Director

Date: 12/19/02



611 ANTON BOULEVARD, FOURTEENTH FLOOR  
COSTA MESA, CALIFORNIA 92626-1931  
DIRECT ALL MAIL TO: POST OFFICE BOX 1950  
COSTA MESA, CALIFORNIA 92628-1950  
TELEPHONE 714-641-5100 FACSIMILE 714-546-9035  
INTERNET ADDRESS [www.rutan.com](http://www.rutan.com)

ORANGE COUNTY  
SILICON VALLEY  
(408) 289-8777

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS



Dan Slater  
Direct Dial: (714) 641-3437  
E-mail: [dslater@rutan.com](mailto:dslater@rutan.com)

November 3, 2004

Mike Fuson, Executive Director  
Sonoma Community Development Agency  
Sonoma City Hall  
#1 The Plaza  
Sonoma, CA 95476

Re: Notice of Fee Increase

Dear Mike:

We have reviewed our billing rates in light of our expenses and the seniority of the attorneys working on Agency matters, and have determined that a rate increase of \$10 per hour, effective January 1, 2005, is warranted. Thus, I wanted to alert you in advance that we intend to increase our billing rate to the Agency as of 1/1/05 from \$175/hr to \$185/hr. The current rate of \$175/hr has been in effect for the last two years. We trust that you understand our need, from time to time, to raise our billing rate charged to the Agency. The new rate is the lowest hourly fee charged to any of our redevelopment agency clients. We will continue to provide the Agency with the responsive service that you have come to expect, and we look forward to continuing our association with the Agency.

*I would appreciate your acknowledging acceptance of the rate increase by signing and dating in the space below and returning this letter to me.* A reply envelope is enclosed for your convenience. If you have any questions concerning this rate increase, please do not hesitate to contact me. Thanks.

Very truly yours,

RUTAN & TUCKER, LLP

Dan Slater

**ACCEPTED:**  
**SONOMA COMMUNITY DEVELOPMENT AGENCY**

By:   
Mike Fuson, Executive Director

Date: 12/17/04

April 20, 2007

VIA ELECTRONIC MAIL

Mike Fuson  
Executive Director  
Sonoma Community Development Agency  
#1 The Plaza  
Sonoma, CA 95476

Re: Fee Increase

Dear Mike:

Following up on my February 8, 2007 email to you and our discussion during my trip last month to the City, this letter confirms that our legal fees to the Sonoma Community Development Agency/City of Sonoma will be adjusted as follows:

- For time billed commencing April 1, 2007, the hourly rate will be \$195.
- For time billed commencing July 1, 2007, the hourly rate will be \$200.
- For time billed commencing January 1, 2008, the hourly rate will be \$215.

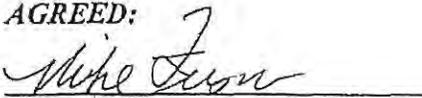
Please confirm your agreement by signing below and returning this letter to me. Thanks again for your cooperation.

Very truly yours,

RUTAN & TUCKER, LLP

  
Dan Slater

AGREED:



Mike Fuson,  
Executive Director, Sonoma Community Development Agency &  
City Manager, City of Sonoma

Date: 4/23/07



**City of Sonoma  
City Council  
Agenda Item Summary**

**City Council Agenda Item: 5E**

**Meeting Date: 2-22-2012**

---

**Department**

Administration

**Staff Contact**

Assistant City Manager/ City Attorney

---

**Agenda Item Title**

Ratification Action of City Council from January 18, 2012 by approving the Resolution for a Refuse Rate Increase and Related Program Elements

---

**Summary**

At the Public Hearing held on January 18, 2012, the City Council considered a rate increase proposal submitted by the City's franchise Refuse Hauler, Sonoma Garbage Company, Inc. [SGC] for the 2012 annual period.

Following review and consideration of the item and receiving public testimony, the Council unanimously approved the rate increase and related elements as follows:

- (1) a Refuse Rate Adjustment and Certain Program Modifications for 2011-2012 with City Franchisee Sonoma Garbage Company, Inc. ("SGC");
- (2) Fourth Amendment to Contract (Franchise Agreement with SGC); and
- (3) Indemnification Agreements with Keller Canyon and Redwood Landfills

Based on the approvals, the City Attorney has prepared the necessary resolution incorporating all the elements of the action.

---

**Recommended Council Action**

Approve resolution ratifying action from January 18, 2012.

---

**Alternative Actions**

Request additional information.

---

**Financial Impact**

Potential increase in Franchise Tax revenue

---

**Attachments**

Resolution  
Fourth Amendment to Contract with Sonoma Garbage Collectors, Inc.

---

**cc:**

Sonoma Garbage Collectors

---

---

**CITY OF SONOMA**  
**RESOLUTION NO. \_\_\_\_ - 2012**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
SONOMA APPROVING REFUSE RATE ADJUSTMENTS  
AND FOURTH AMENDMENT TO FRANCHISE AGREEMENT**

WHEREAS, the City of Sonoma has a franchise agreement with Sonoma Garbage Collectors, Inc., to perform solid waste collection services in the City of Sonoma; and

WHEREAS, pursuant to said agreement, Sonoma Garbage Collectors, Inc. ("SGC") is entitled to seek certain adjustments in the rates it charges its customers for such services; and

WHEREAS, it is in the best interests of the City that said agreement be amended in certain respects; and

WHEREAS, SGC has made application for adjustments in the rates it charges to its customers to become effective January 1, 2012; and

WHEREAS, based on the financial data submitted by SGC, the increased services SGC is agreeable to providing, and other considerations appropriately factored into analyzing SGC's rate adjustment application, rate adjustments are justified:

NOW, THEREFORE, the City Council of the City of Sonoma resolves as follows:

For the reasons specified in the staff report (and attachments) submitted to the City Council at its meeting on January 18, 2012, pertinent to SGC's request for refuse rate adjustments, effective January 1, 2012, the rates that SGC charges its residential customers may be increased 4.5% and the rates SGC charges its commercial customers may be increased 7.55%. The rates for the various services provided by SGC as approved herein are set forth in **Exhibit A** incorporated herein by this reference.

BE IT FURTHER RESOLVED that the Fourth Amendment to Contract, a true and correct copy of which is attached hereto as **Exhibit B**, is approved and the City Manager is authorized to execute same on behalf of the City.

ADOPTED this 22nd day of February, 2012, by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Joanne Sanders, Mayor

ATTEST:

\_\_\_\_\_  
Gay Johann, City Clerk

Effective January 1, 2012

Monthly Rates for Weekly Curbside Pick-up

<b>Service Level</b>	<b>Adopted Rates effective January 2012</b>
<b>Residential</b>	
<b>Rate for refuse collection once each week</b>	
20 gallon can	7.29
32 gallon can	11.95
64 gallon can	25.94
90 gallon can	39.80
<b>Commercial</b>	
<b>Rate for bin collection once each week</b>	
2 cubic yard bin	154.35
3 cubic yard bin	231.32
4 cubic yard bin	308.69
<b>Rate each pickup for refuse bins on a variable pickup schedule</b>	
Each 2 cy bin	35.78
Each 3 cy bin	53.68
Each 4 cy bin	71.57
<b>Debris Box</b>	
Debris Box 20 yd (includes 2 tons of waste)	402.38
Debris Box 30 yd (includes 3 tons of waste)	540.42

An additional charge of \$10 per month for each bin will be applied to bin service. Bin service includes curbside collection of food scraps and green waste, up to two additional containers (32, 64, or 94 gal.) provided. Waste in debris boxes above the included quantity will be charged at the prevailing Sonoma County waste disposal rate.

## EXHIBIT B

### FOURTH AMENDMENT TO CONTRACT

This fourth amendment is executed at Sonoma, California on January 18, 2012, by and between the City of Sonoma, a municipal corporation, ("City") and Sonoma Garbage Collectors, a California corporation, ("Contractor").

#### RECITALS

WHEREAS, City entered into a contract on October 19, 1994 with John D. Curotto, Margaret Curotto, and John D. Curotto, Jr. (Sonoma Garbage Collectors) for the exclusive right to collect and remove garbage and rubbish within the City. Said contract has been amended three times (collectively, the October 19, 1994, agreement and its three amendments shall be referred to as the "Contract"); and

WHEREAS, on November 18, 2002, the City consented to an assignment of the Contract from John D. Curotto, Margaret Curotto, and John D. Curotto, Jr. (Sonoma Garbage Collectors) to Sonoma Garbage Collectors, a California corporation; and

WHEREAS, Section 13 of the Contract provides that Contractor shall dispose of all garbage and rubbish Contractor collects in the City at the County of Sonoma transfer station in the Sonoma Valley; and

WHEREAS, by Resolution No. 47-2010, City acknowledged that Contractor intended to redirect up to fifty percent (50%) of the garbage and rubbish waste stream Contractor collects in City ("City's waste stream") to an alternative collection site other than the County of Sonoma transfer station. Contractor has informed the City that this alternative collection site will be located outside of Sonoma County and shall not be a disposal site owned and/or operated by the County of Sonoma ("Non-Sonoma County Waste Facility"); and

WHEREAS, City is a member of the Sonoma County Waste Management Agency, a joint powers agency comprised of the nine incorporated cities in Sonoma County and the County of Sonoma, ("Agency"); and

WHEREAS, funding for the Agency is partially derived from a surcharge ("Agency surcharge fee") on the tip fee charged for the disposal of garbage and rubbish at the County of Sonoma transfer station; and

WHEREAS, as a result of Resolution No. 47-2010, and Contractor's redirection of up to fifty percent (50%) of the City's waste stream to a collection site outside of Sonoma County, Agency will not be paid Agency surcharge fees that Agency would have received had Contractor deposited all of the City's waste stream at the County of Sonoma transfer station; and

WHEREAS, in order to reimburse Agency for the monies it will not be paid as a result of Contractor's redirection of the City's waste stream as acknowledged by Resolution No. 47-2010, City and Agency entered into an Agency Surcharge Agreement ("Surcharge Agreement") through which the City agreed to pay the Agency an amount equal to the number of tons of City's waste stream Contractor delivers to a Non-Sonoma County Waste Facility multiplied by the then current per-ton Agency surcharge fee, plus the Agency's legal fees incurred in drafting, negotiating and implementing said Surcharge Agreement. A copy of the Agency Surcharge Agreement is attached hereto as Exhibit A and made a part hereof; and

WHEREAS, Contractor has agreed to reimburse City for any amounts it must pay the Agency pursuant to the Surcharge Agreement; and

WHEREAS, Contractor initiated a pilot program for a one year period for food scraps collection from commercial establishments located in the City on a voluntary basis and at no additional charge to the City or the participating commercial establishments.

NOW, THEREFORE, City and Contractor agree as follows:

Section 1. Section 13 of the Contract is amended to read as follows:

Contractor agrees that he will dispose of all garbage and rubbish at a place satisfactory to the City, and until further notice, the County of Sonoma transfer station in the Sonoma Valley is designated as the place of disposal.

*Notwithstanding the foregoing, however, for the period covered by Section 27 of this Contract, Contractor retains the right to, in the exercise of its sole discretion, divert up to fifty percent (50%) of the garbage and rubbish Contractor collects in City to a place of disposal other than the County of Sonoma transfer station in the Sonoma Valley. This place of disposal may be located outside of Sonoma County and shall be referred to as the "Non-Sonoma County Waste Facility".*

Section 2. Section 26.E is added to the Contract to read as follows:

Commencing on January 1, 2011, and continuing through January 1, 2012, Contractor initiated and conducted a pilot program collecting food scraps from commercial establishments located in the downtown area of the City on a voluntary basis and at no additional charge to the City or the participating commercial establishments. Without cost to the City or the participating commercial establishments, among other things, the Contractor provided collection bins or containers for each participant, established pick up schedules, cooperated with the affected establishments in implementing the program, collected the bins or containers, advertised the availability and details of the program to each commercial establishment located in the affected area, and disposed of the food scraps through a composting program consistent with the terms of the Contract. Commencing on January 2, 2012 and continuing until terminated by mutual agreement of the parties hereto, Contractor shall continue offering said food scrap collection program to all commercial establishments located within the City's corporate boundaries desirous of participating in it. At the end of each quarter during which this program is in effect,

Contractor shall submit to the City a written report briefly describing the program, the number and identity of the establishments participating in it, whether the program has met the Contractor's and the City's' objectives, what steps the Contractor is intending to implement to improve the program, and any other information that, in his/her reasonable judgment, the City Manager deems necessary.

Section 3. Section 27 shall be added to the Contract to read as follows:

27. AGENCY SURCHARGE AGREEMENT BETWEEN CITY AND SONOMA COUNTY WASTE MANAGEMENT AGENCY ("AGENCY")
- A. Contractor hereby agrees to reimburse City for all of the costs, fees and charges the City is obligated to pay the Agency in accordance with the Surcharge Agreement.
  - B. By the 15<sup>th</sup> day of each month, Contractor shall report to City in writing, in the form and manner required by City, the amount of garbage and rubbish Contractor deposited during the preceding month at the County of Sonoma transfer station in the Sonoma Valley and the amount of garbage and rubbish Contractor deposited during the preceding month at Out of County Waste Facilities. In said report, the Contractor shall specify the address and location of each Out of County Waste Facility utilized during the preceding month. The City may require the Contractor to verify the information the Contractor discloses in these monthly reports and, if so, the Contractor, at its sole cost, shall provide that verification to the City in the manner and by the date specified by the City.
  - C. When City receives a monthly invoice from Agency of the amount City is required to pay Agency pursuant to the Surcharge Agreement, City shall promptly mail, fax, e-mail or personally deliver a copy of the invoice to Contractor.
  - D. Contractor shall pay to City the full amount of the invoice within five (5) calendar days of the date the City mailed, faxed, e-mailed or personally delivered the Agency invoice to the Contractor.
  - E. The parties shall, in good faith, attempt to resolve any dispute arising out of the parties' performance under this Section 27 by mediation prior to commencing litigation, using the procedures set forth in Section 14 of the Surcharge Agreement. The parties shall mutually agree upon the mediator and shall divide the costs of medication equally.
  - F. Any failure by Contractor to comply with the terms and conditions of this Section 27 shall be deemed by City to be a breach of the Contract and City may terminate the Contract in accordance with Section 20 of the Contract.

- G. The terms of this Section 27 shall be effective from December 1, 2010 and continue until November 30, 2012 ("Effective Period") unless the Agency Surcharge Agreement is (i) extended by the City and Agency in which case the Effective Period shall likewise be extended or (ii) terminated before the end of the Effective Period by either the City or Agency in accordance with Section 4 of the Agency Surcharge Agreement, in which case this Section 27 shall automatically be terminated at the same time.

Section 4. Section 28 shall be added to the Contract to read as follows:

#### HAZARDOUS WASTE INDEMNIFICATION

Contractor shall indemnify, defend with counsel selected by City, protect and hold harmless City, its officers, agents and employees (collectively, "Indemnitees") from and against all claims, damages (including special, consequential, natural resources and punitive damages), injuries, costs (including any and all response, remediation and removal costs), losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses (including attorneys' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) (collectively, "Damages"), of any kind whatsoever paid, incurred or suffered by, or asserted against, Indemnitees, arising from, or attributable to the acts or omissions of Contractor or its officers, directors, employees or agents, whether or not negligent or otherwise culpable, in connection with, related to, or attributable to: (i) any operations, repair, clean-up or detoxification, or preparation and implementation of any removal, remedial, response, closure, post-closure or other plan (regardless of whether undertaken due to governmental action) concerning any Hazardous Waste, Hazardous Materials, Hazardous Substances or Toxic Materials or Substances (collectively, "Hazardous Waste") (as those terms may be defined in any law, regulation or code) at any place where Contractor transports, processes, stores or disposes of solid waste, garbage, recyclables, green waste or rubbish collected under this Agreement and/or (ii) Hazardous Waste relating in any way to Contractor's performance of this Agreement. This indemnity afforded Indemnitees shall only be limited to exclude coverage for intentional wrongful acts and active negligence of Indemnitees. The foregoing indemnity is intended to operate as an agreement pursuant to section 107(e) of CERCLA, 42 U.S.C. § 9607(e), and California Health & Safety Code § 25364, to defend, protect, hold harmless and indemnify City from liability. The foregoing indemnity shall not apply to Damages arising out of the operation of waste facilities owned or operated by the County of Sonoma to which Contractor transports garbage and rubbish generated in the City. This provision shall survive the termination of this Agreement.

Section 5. Section 29 shall be added to the Contract to read as follows:

#### EXAMINATION OF RECORDS

A. Contractor shall maintain a proper set of books and records in accordance with generally accepted accounting principles, accurately reflecting the business done by it under this Agreement.

B. Contractor shall maintain all records relating to the services provided hereunder, including customer lists, billing records, maps, AB 939 records, and written customer complaints, for the full term of this Agreement, and for an additional period of not less than three (3) years, or for any longer period required by law. City or its agent(s) shall have the right, upon ten (10) business days' advance notice, to inspect all maps, AB 939 records, Contractor's books and records, written customer complaints, and other like materials of Contractor that reasonably relate to Contractor's compliance with the provisions of this Agreement. Such records shall be made available to City at Contractor's regular place of business, but in no event outside the County of Sonoma. Contractor shall further maintain and make available to City records as to number of customers, total and by type, route maps, service records, tonnage disposal and collection records and other materials and operating statistics in such manner and in such detail as City may require.

C. Should any examination or audit of Contractor's records reveal an underpayment of any fee required under this Agreement, the amount of such underpayment shall become due and payable to City not later than thirty (30) days after written notice of such underpayment is sent to Contractor by City.

D. Should any examination or audit of Contractor's records reveal an underpayment or under-reporting to City of more than three percent (3%) of the correct amount owed or the correct amount being reported, respectively, Contractor shall reimburse City for the entire cost of City's audit or examination within thirty (30) days of demand therefor, and, with respect to the situation where the audit reveals an underpayment to the City, in addition to paying the amount of the underpayment as provided above, Contractor shall also reimburse City for the entire cost of City's audit or examination within thirty (30) days of demand therefor, and said cost shall not be recoverable through rate setting. Notwithstanding the foregoing, in the event said examination or audit reveals an underpayment to the City of \$2,000 or less, then Contractor shall pay to the City two times the amount of the underpayment, plus 50% of the cost of the City's audit or examination, which said sums Contractor shall pay to the City within thirty (30) days of demand therefor, and said payments shall not be recoverable through rate setting. Should any examination or audit of Contractor's records reveal an overpayment by Contractor of any fee required under this Agreement, the amount of such overpayment shall be credited against the next quarterly installment of the Franchise Fee, or, if this Agreement has terminated, shall be promptly refunded to Contractor.

E. (1) The information required by this Section 29 shall pertain to Contractor's operations covered and regulated by this Agreement, and nothing contained herein shall require Contractor to provide City with information pertaining to Contractor's operations that are not regulated by City, except in conformance with this Section 29.

(2) City or its agents may examine Contractor's books, records and financial statements pertaining to operations not regulated by City for the sole purpose of gathering information necessary to allow City to ascertain whether income, expenses, assets and liabilities are reasonable or reasonably and consistently allocated among operations regulated by City and those not regulated by City. Contractor shall obtain City's written approval prior to any substantial change of its method of segregating its financial records between City-regulated and non-City-regulated operations.

(3) Without limiting Section 29.H., information gained from examination of records pertaining to operations not regulated by City shall be treated by City and its agents as confidential information, and Contractor may require City and its agents to execute a confidentiality agreement as a condition for receipt of such information.

(4) For review of books and other financial records necessary to verify Contractor's income, expense, assets and liabilities, "agent" means an independent Certified Public Accountant, public accountancy firm or designated City employee. For all other information or records, including the results of financial verification, "agency" means any consultant designated by City or City employees.

F. Nothing in this Section 29 shall prevent City from allowing public access to City records as required by the California Government Code, and in the event any dispute arises as to legally required public access to information provided by Contractor under the terms of this Agreement, City shall in its discretion provide public access to said information according to law, or tender the defense of any claims made against City concerning said information to Contractor. Prior to releasing any information pursuant to this Section 29.F, City shall make a good-faith effort to notify Contractor of the intended release.

G. Upon reasonable notice or as otherwise agreed herein, and at those times designated by City, Contractor shall supply to City lists of the names of all customers of Contractor who are provided any service by Contractor within the Franchise Area. At the same or other time, City may request and Contractor shall provide information specifying each customer's address, type of service provided to each customer, the number and type of authorized solid waste, garbage and/or rubbish containers used by or provided to each customer, whether and which customers are believed to be violating this Agreement, any mandatory subscription ordinance, or any other provision of the law that City, in its

sound discretion, reasonably requires to monitor implementation of this Agreement or discharge City's responsibilities under the law.

H. City shall treat all information concerning Contractor or Contractor's operations or customers to which it has access under this Section 29, or which it receives as part of the rate-making process ("Contractor Information") in accordance with the California Public Records Act (Government Code §§ 6250 et seq.) (for the purposes of this Section 29.H, the "Act"). To the extent permitted by law, including any available exemptions under the Act that have been determined by the City within its reasonable discretion, City shall keep all Contractor Information strictly confidential and shall not disclose any Contractor Information to any person requesting the information.

Section 6. Section 30 shall be added to the Contract to read as follows:

#### GENERAL INDEMNIFICATION

A. Contractor shall defend, with counsel reasonably acceptable to City, and indemnify City from and against, any and all liabilities, costs, claims and damages that are caused by Contractor's failure to comply (i) with applicable federal, state and local laws,

statutes, ordinances, codes, rules and regulations, and the orders and decrees of all courts or administrative bodies or tribunals in any manner in effect during the term of this Agreement and affecting the performance of this Agreement, as they may from time to time be amended, including without limitation CERCLA, 42 U.S.C. §§ 9601, et seq., the RCRA, 42 U.S.C. §§ 6901, et seq., the California Integrated Waste Management Act of 1989, and all other applicable laws of the State of California and the County of Sonoma or (ii) with any other section of this Agreement.

B. Contractor shall protect, defend with counsel reasonably acceptable to City, indemnify and hold harmless City and its officers, employees and agents from and against, any and all losses, liabilities, fines, penalties, claims, damages, or judgments, including attorney's fees (collectively "losses"), arising out of or resulting in any way from (i) Contractor's exercise of the franchise, or (ii) City's grant of the franchise to Contractor, or (iii) any services provided by Contractor pursuant to the terms of this Agreement. The obligations of Contractor in the foregoing sentence shall not apply to losses that are due to the sole negligence or willful misconduct of City or its officers, employees, agents or contractors, or to Contractor taking or not taking action at the direction of City, over the written objection of Contractor. For purposes of this Section 30.B, Contractor shall not be considered a "contractor" of City.

C. In addition, Contractor shall release and defend, with counsel reasonably acceptable to City, indemnify and hold City harmless from and against, any and all litigation and claims, damages and liabilities arising therefrom, brought to enforce or to challenge this Agreement and/or Contractor's exclusive rights granted hereunder, including any alleged violation by City and/or Contractor of any federal, state or municipal law, statute or constitutional provision, or other cause. Notwithstanding the foregoing, Contractor's obligations under this Section 30.C extend only to actions brought against or by persons or entities not parties to this Agreement.

D. Without limiting Section 30.A and in addition thereto, Contractor shall defend, with counsel reasonably acceptable to City, indemnify and hold City harmless from and against, any and all fines, penalties and assessments levied against or threatened to be levied against City for City's failure to meet the requirements of AB 939, its amendments or any successor legislation or all rules and regulations promulgated thereunder if said failure is caused by Contractor, or its failure to comply with this Agreement or Contractor's failure to comply with applicable laws, rules or regulations, including failing to timely supply to City the reports and information required by City in order to comply with AB 939.

E. Notwithstanding anything stated to the contrary by Section 30.D, the obligations of Contractor to indemnify City under Section 30.D shall be subject to the provisions of Public Resources Code section 40059.1, as it may be amended or modified. It is the intent of the parties that this paragraph be construed to not be inconsistent with state law and be construed in a manner that this indemnification obligation be applied to the fullest extent permitted by law.

F. This Section 30 shall survive termination of this Agreement.

Section 7. All other terms and conditions of the Contract not expressly amended herein shall continue in full force and effect.

Section 8. The Recitals are incorporated into this Agreement.

CITY OF SONOMA

CONTRACTOR

\_\_\_\_\_  
Linda Kelly, City Manager

\_\_\_\_\_  
John D. Curotto, Jr., President

ATTEST:

\_\_\_\_\_  
Gay Johann, City Clerk

APPROVED AS TO FORM

JEFFREY A. WALTER

City Attorney



*City of Sonoma*  
**City Council/CDA**  
**Agenda Item Summary**

**City Council Agenda Item: 5F**

**Meeting Date: 2/22/12**

---

**Department**

Planning and Community Services

**Staff Contact**

David Goodison, Planning Director

---

**Agenda Item Title**

Adoption of amendments to the Sonoma Municipal Code establishing new and modified regulations addressing live music performances and special events.

---

**Summary**

Over the last twelve months, the Planning Commission has engaged in an evaluation of the Development Code provisions pertaining to live music and special events. At its meeting of November 7, 2011, the City Council held its first review draft revisions to the Municipal Code recommended by the Planning Commission to better address these activities. In the course of that review, two areas of concern were identified: 1) the Council felt that there should be greater certainty with respect to the issuance of a music license for a successor business when no substantial changes were proposed with respect to the operation of the music venue; and 2) the Council was concerned that the findings associated with the revocation of a Music Venue License were too open-ended. In consultation with the City Attorney, revisions were developed to address these concerns that were reviewed by the Planning Commission at its meetings of December 12, 2011 and January 12, 2012. At the January meeting, the Planning Commission voted unanimously to forward the amended ordinance to the City Council.

When the City Council reviewed the revised ordinance at its meeting of February 6, 2012, the Council voted unanimously to introduce the ordinance, with specified amendments.

---

**Recommended Council Action**

Adopt the music license/special events ordinance, as previously amended by the City Council.

---

**Alternative Actions**

N.A.

---

**Financial Impact**

This ordinance has been developed as part of the normal work effort of the Planning Department.

---

**Environmental Review**

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

**Status**

- Approved/Certified
  - No Action Required
  - Action Requested
- 

**Attachments:**

Ordinance as first read

---

cc: Music License mailing list

---

# CITY OF SONOMA

## ORDINANCE NO. XX - 2012

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONOMA  
AMENDING TITLE 5 AND TITLE 19 OF THE SONOMA MUNICIPAL CODE BY  
ESTABLISHING A LICENSING PROCESS FOR LIVE MUSIC VENUES AND BY  
AMENDING ZONING REGULATIONS PERTAINING TO THE REGULATION OF  
MUSIC VENUES AND OF SPECIAL EVENTS

The City Council of the City of Sonoma does ordain as follows:

**Section 1.** Music Venue Licensing (Title 5).

Chapter 5.34, “Music Venue” licensing is hereby established added to the Sonoma Municipal Code to read as set forth in Exhibit “A”.

**Section 2.** Amendments to “Zones and Allowable Uses” (Title 19, Division II) of the Sonoma Municipal Code.

A. Table 2-2 is amended to add “Music Venue” and “Special Event Venue” and delete “Restaurant with live music” as follows:

<i>Allowed Uses and Permit Requirements for Commercial Zoning Districts</i>	<i>Permit Required by District</i>		<i>P</i>	<i>Use Permitted</i>
			<i>UP</i>	<i>Use Permit required</i>
			<i>L</i>	<i>License required</i>
			—	<i>Use not allowed</i>
<i>Land Use</i>	<i>C</i>	<i>CG</i>	<i>Specific Use Regulations</i>	
<i>Music Venue</i>	<u><i>L</i></u>	<u><i>L</i></u>	<u><i>SMC 5.34</i></u>	
<i>Special Event Venue</i>	<u><i>UP</i></u>	<u><i>UP</i></u>		
<del><i>Restaurant, with live music</i></del>	<del><i>UP</i></del>	<del><i>UP</i></del>		

B. Table 2-3 is amended to add “Music Venue” and “Special Event Venue” and to delete “Nightclubs and Bars” and “Restaurant with live music”, as follows:

<i>Allowed Uses and Permit Requirements for Commercial Zoning Districts</i>	<i>Permit Required by District</i>		<i>P</i>	<i>Use Permitted</i>
			<i>UP</i>	<i>Use Permit required</i>
			<i>L</i>	<i>License required</i>
			—	<i>Use not allowed</i>
<i>Land Use</i>	<i>MX</i>		<i>Specific Use Regulations</i>	
<del><i>Nightclubs and Bars</i></del>	<del><i>UP</i></del>			
<i>Music Venue</i>	<u><i>L</i></u>		<u><i>SMC 5.34</i></u>	
<i>Special Event Venue (9)</i>	<u><i>UP</i></u>			
<del><i>Restaurant, with live music</i></del>	<del><i>UP</i></del>			

*(9) On sites of one acre in size or larger.*

**Section 3.** Amendments to “Special Use Standards” (Title 19, Division IV) of the Sonoma Municipal Code.

Section 19.50.040.1.1.c (Home Occupations) is hereby amended to read as follows:

*I.2 Examples of prohibited home occupation uses. The following are examples of nonresidential uses that are not incidental to or compatible with residential activities, and are therefore prohibited as home occupations:*

*c. Dance or night clubs and music venues;*

**Section 4.** Amendments to “Special Use Standards” (Title 19, Article IV).

Section 19.50.050.F.2.d (Live/Work) is hereby amended to read as follows:

*F.2 Examples of prohibited uses. The following are examples of uses that are not compatible with residential activities, and are therefore prohibited as within Live/Work developments:*

*d. Dance or night clubs and music venues;*

**Section 5.** Amendments to “Planning Permit Procedures” (Title 19, Division V) of the Sonoma Municipal Code.

Section 19.54.030 (Temporary Use Permits) is hereby amended in its entirety to read as set forth in Exhibit “B”.

**Section 6.** Amendments to “Definitions” (Title 19, Division VIII) of the Sonoma Municipal Code.

Section 19.92.020 (Definitions of Specialized Terms and Phrases) is hereby amended to include the following definitions:

A. Special Event

*Special Event. The rental or other use of a property by a third-party for an activity such as a wedding, reception, retreat, conference, fund-raising event or musical performance.*

B. Special Events Venue

*Special Events Venue. A building, building complex, and/or outdoor area used to regularly accommodate events such as weddings, receptions, retreats, conferences, fund-raising events, and musical performances, including the rental of the venue to third parties for such purposes. A special events venue may be a stand-alone use or may be associated with another use such as a hotel.*

**Section 7.** Exemption from Environmental Review.

The amendments to the Municipal Code effected by this ordinance are exempt from environmental review pursuant to Section (b)(3) of title 14 of the California Code of Regulations, as it can be determined with certainty that there is no possibility that establishing more restrictive regulations on music venues and special events may have a significant effect on the environment.

**Section 8.** Effective Date.

This ordinance shall become effective thirty (30) days from and after the date of its passage.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Sonoma this XX day of XX 2012.

\_\_\_\_\_  
Joanne Sanders, Mayor

ATTEST:

\_\_\_\_\_  
Gay Johann, City Clerk

State of California    )  
County of Sonoma     )  
City of Sonoma        )

I, Gay Johann, City Clerk of the City of Sonoma, do hereby certify that the foregoing ordinance was adopted on XXX, 2012 by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Gay Johann, City Clerk

## **Chapter 5.34 Music Venue Licensing**

### **5.34.010 Purpose.**

Music Venue Licenses are intended to provide uniform and comprehensive regulations to ensure that live music performances are conducted in a manner that is compatible with adjacent land uses. The procedures of this Chapter provide for the review of the location, design, configuration, and potential impacts of the Music Venue to be licensed, to evaluate the compatibility of the proposed activity with surrounding uses and the suitability of the activity to the site.

### **5.34.020 Music Venue Defined.**

Music Venue. For the purpose of this chapter, a "Music Venue" shall be defined as follows: A building, building complex, and/or an indoor or outdoor area used to accommodate musical performances, including live music, the presentation of music played on sound equipment operated by the owner or by an employee, an agent or a contractor of the venue commonly known as a "disc jockey" or "DJ", and karaoke. A Music Venue may be a stand-alone use or may be associated with another use such as a restaurant. "Nightclubs and Bars", "Special Event Venues", and "Winery Accessory Uses" as defined and regulated in Title 19 of the Municipal Code shall not be considered Music Venues and shall not be regulated by this Chapter.

### **5.34.030 License Requirement.**

No person shall operate a Music Venue within the city limits without a valid Music Venue License, except on those properties for which a use permit was issued allowing music performances prior to the adoption of this Chapter and in accordance with any applicable conditions.

### **5.34.040 Applicability.**

A Music Venue License may only be granted within those zoning districts identified in Title 19, Division II (Zones and Allowable Uses) as allowing Music Venues, subject to the approval of a License in compliance with the provisions of this Chapter.

### **5.34.050 Application Requirements.**

An application for a Music Venue License shall be filed and processed in compliance with SMC 19.52 Applications: Filing and Processing. In addition to the requirements specified in SMC 19.52, the submittal of a management plan shall be required that fully describes the operation of the proposed music venue, including hours of operation, placement of stage areas, proposed amplification (if any), noise buffering, days and hours of music performances, security arrangements, annual reporting to the City in accordance with SMC 5.34.130, and controls for ensuring compliance with this Chapter and the SMC and compatibility of the proposed activity with surrounding uses.

### **5.34.060 Application Review, Notice and Hearing.**

Each Music Venue License application shall be analyzed by the City Planner to ensure that the application is consistent with the purpose and intent of this Chapter and shall be circulated for comment to other City Departments as necessary. The Planning Commission shall conduct a public hearing on an application for a Music Venue License. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with [Chapter 19.88 \(Public Hearings\)](#).

### **5.34.070 Findings, decision.**

Following a public hearing, the Planning Commission may approve or disapprove an application for

a Music Venue License. The Planning Commission shall record the decision and the findings upon which the decision is based. The Planning Commission may approve a Music Venue License only if the Planning Commission first finds that:

- A. The proposed Music Venue License is consistent with the General Plan and the Development Code (SMC Chapter 19);
- B. The nature, scale and operating characteristics of the proposed Music Venue are compatible with the existing and future land uses in the vicinity; and
- C. When implemented, the management plan sufficiently assures ongoing compliance with hours of operation, security, noise control, and all other conditions that may be attached to the License.

#### **5.34.080 Conditions of approval.**

In approving a Music Venue License, the Planning Commission may adopt any conditions of approval deemed necessary to achieve consistency with the General Plan and any applicable Specific Plan, compliance with the provisions and purposes of this Chapter and any applicable provisions of the Development Code, and the protection of the public health, safety, and/or welfare.

#### **5.34.090 Change of Ownership.**

While the approval of a new music license is required under this Chapter upon a change in control of the ownership of a Music Venue or change in control of the ownership of the licensee, such approval shall not be unreasonably withheld by the Planning Commission, as long as the Commission makes the following findings, based on substantial evidence in the record:

- A. There was no pattern of violations associated with the Music Venue as operated by the predecessor business, operator, and/or licensee; and
- B. No substantial changes are proposed by the proposed, new licensee with respect to: 1) the nature, scale and operating characteristics of the music venue, and 2) the previously-approved management plan, unless those changes are necessary to remedy problems or shortcomings of the previous licensee's management plan and/or operations; and
- C. The proposed new licensee possesses the resources, background and qualifications to comply with the previously-approved management plan (as may be amended by the Commission) and this Chapter; and
- D. There is no evidence that the proposed new licensee has violated the material terms and conditions of any permit, license or entitlement relevant to the operation of a music venue and previously granted to the proposed new licensee by any public agency.

#### **5.34.100 Expiration.**

A Music Venue License shall be exercised (namely, the activity or one of the activities for which the license was granted actually takes place) within six months from the final date of approval or the License shall become void, unless an extension is approved in compliance with SMC Chapter 19.56-- Permit Implementation, Time Limits, Extensions.

#### **5.34.110 Initial Review.**

Once a Music Venue License has been approved, the Planning Commission shall review the license within one year of it being exercised for compliance with conditions and a re-evaluation of its compatibility with adjoining uses. The Planning Commission shall conduct a public hearing on the initial review of a Music Venue License. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with [Chapter 19.88 \(Public Hearings\)](#). Following a public hearing, the Planning Commission may extend the Music License or it may terminate the Music Venue License, based on consideration of the findings set forth in Section 5.34.120. The Planning Commission shall record the decision and the findings upon which the decision is based. In renewing

a Music Venue License, the Planning Commission may amend the conditions of approval as deemed necessary to achieve consistency with the General Plan, compliance with the provisions and purposes of the this Chapter, Development Code, and the protection of the public health, safety, and welfare.

#### **5.34.120 Review and Termination.**

A Music Venue License may be reviewed and terminated by the Planning Commission in a public hearing at any time, subject to the notice requirements set forth in Chapter 19.88 (Public Hearings). A Music Venue License may be terminated by the Planning Commission based on any of the following findings, supported by substantial evidence in the record:

- A. The licensee has failed to comply with the conditions of approval attached to the Music Venue License, the management plan made part of the Music Venue License or any other regulations applicable to the activity authorized by the Music Venue License; or
- B. The findings set forth in Section 5.34.070 can no longer be made with respect to the Music Venue or the manner in which the Music Venue has been or is being operated, based on specific evidence in the record that demonstrates that the Music Venue is having significant adverse effects on the health, safety, or welfare of residences and/or businesses in its vicinity; or
- C. The licensee made misrepresentations in its application for a Music Venue License or otherwise failed to disclose thereon facts material to the decision whether or not to grant the Music Venue License to the licensee.

#### **5.34.130 Term and Renewal.**

A Music Venue License is valid for one year, after which it expires if not renewed prior to the completion of the one-year term. Following the initial Planning Commission review required under section 5.34.110, the annual renewal of a Music Venue license shall be processed administratively and shall not be subject to a public hearing requirement, provided that staff finds that the applicant is in compliance with the conditions of approval associated with the license and all other requirements of this Chapter. Otherwise, the renewal of the license shall be referred to the Planning Commission for review, subject to the notice requirements set forth in Chapter 19.88 (Public Hearings). Notwithstanding the foregoing, said License shall not expire unless the City has given written notice to the licensee of the date of expiration and the licensee fails to renew the License within thirty (30) days of receipt of said notice.

#### **5.34.140 Licenses not Transferrable.**

A Music Venue License is personal to the person or entity to whom or to which it is granted. Only the licensee is permitted to engage in the activities described in the license and those activities may only occur on or at the premises described in the License. A Music Venue License may not be transferred and is not transferrable, except as specifically provided for in Section 5.34.090 (Change of Ownership). For purposes of this Chapter, “transfer” shall also include a change in control of the ownership of any entity to which a Music Venue License is granted. For purposes of this Chapter, “control” shall mean the ownership, directly or indirectly, of at least twenty-five percent (25%) of the voting securities of, or possession of the right to vote, in the ordinary direction of its affairs, of at least twenty-five (25%) of the voting interest in, any person or entity.

#### **5.34.150 Fees.**

Fees for an application for a Music Venue License and for the renewal of a Music Venue License shall be as established by the City Council, and amended from time-to-time, through the adoption of a Resolution.



### 19.54.030--Temporary Use Permits

- A. *Purpose.* A Temporary Use Permit allows short-term activities that might not meet the normal development or use standards of the applicable zoning district, but may be acceptable because of their temporary nature. In addition, a Temporary Use Permit may be granted by the Planning Commission in order to test the compatibility of a conditionally-allowed use.
- B. *Permitted temporary uses.* The following temporary uses may be permitted in any zoning district (except as otherwise stated below) subject to the issuance of a Temporary Use Permit. Uses that do not fall within the categories defined below shall instead comply with the use and development restrictions and permit requirements that otherwise apply to the property, in compliance with Division II (Community Design).
1. Construction yards. Off-site contractors' construction yards in conjunction with an approved construction project.
  2. Seasonal sales lots and activities. Christmas tree sales lots or the sale of other seasonal products, haunted houses, along with temporary residence/security trailers. A permit shall not be required when the sales are in conjunction with an established commercial business holding a valid business license, provided the activity does not consume more than 15 percent of the total parking spaces on the site and does not impair emergency vehicle access.
  3. Festivals ~~Special events~~ on private property. Carnivals, circuses, festivals, ethnic celebrations, and other similar special events on private property may be approved in mixed use, wine production, and commercial zoning districts provided that they do not continue for more than five consecutive days, and do not occur more often than four times per year. These uses shall also comply with any requirements of other City departments.
  4. Temporary offices and work trailers. A trailer, coach or mobile home as a temporary office facility, or work site for employees of a business:
    - a. During construction or remodeling of a permanent commercial or industrial structure or residential development when a valid building permit is in force; or
    - b. Upon demonstration by the applicant that this temporary facility is a short-term necessity while a permanent facility is being obtained or constructed.
  5. Special Events. The rental or other use of property by third parties for weddings, receptions, private parties, music performances, and similar events may be approved in any zoning district provided that they do not continue for more than one day and do not occur more often than two times per year. These uses shall also comply with any requirements of other City departments. The requirement for a Temporary Use Permit shall not apply to special events conducted in accordance with applicable conditions of approval within an approved Special Events Venue or other site for which a use permit for the same or substantially similar special events has previously been issued.
  6. Similar temporary uses. Similar temporary uses to those specified above which, in the opinion of the City Planner, are compatible with the zoning district and surrounding land uses.
  7. Trial Use. At its discretion, the Planning Commission may approve a Temporary Use Permit in order to verify the compatibility of a proposed Conditional Use. This allowance shall not apply to applications involving new structures or building modifications for which a building permit is required.

- C. *Duration.* A Temporary Use Permit may be granted for up to one year. An extension, not to exceed one year, may be authorized by the Planning Commission, subject to the findings set forth in subsection J, below through Conditional Use Permit approval. The extension of a Temporary Use Permit by the Planning Commission shall be subject to the public notice and hearing requirements set forth in Chapter 19.88 (Public Hearings).
- D. *Temporary uses regulated by other provisions of the Municipal Code.* The following temporary uses are subject to the referenced Municipal Code provisions instead of the requirements of this Section:
1. Location filming. Location filming is subject to the provisions of Chapter 7.40 of the Municipal Code.
  2. City Parks and Playing Fields. The use of City parks, playing fields and other City-owned property is subject to the provisions of Section 9.12.280 of the Municipal Code.
  3. Parades. Parades on City streets are subject to the provisions of Chapter 12.20.030 of the Municipal Code.
- E. *Development standards.* Standards for structure setbacks, heights, floor areas, parking and other structure and property development standards that apply to the type of use or the zoning district of the site may be applied to temporary uses, as deemed appropriate by the review authority.
- F. *Application requirements.* A Temporary Use Permit application shall be filed with the Planning Department. The application shall be accompanied by the following:
1. Illustrations. Sketches or drawings of sufficient size and clarity to show without further explanation the following: size and location of the property, location of adjacent streets, location and size of all structures on the site, location of structures on adjacent lots, location and number of parking spaces, and location of any temporary fences, signs, or structures to be installed as part of the temporary use;
  2. Statement of operations. Letter describing the hours of operation, days that the temporary use will be on the site, number of people staffing the use during operation, anticipated number of people using the facility during commercial operation, and other information about the operation of the use that pertains to the impact of the use on the community or on adjacent uses; and
  3. Notice to abutting property owners. ~~For uses proposed to last more than 30 consecutive days per calendar year,~~ the applicant shall be responsible for providing notice to abutting property owners of the proposed use. This notice shall describe the proposed use, including dates and times of operation.
- G. *Administrative Approval.* At the discretion of the City Planner, an application for a Temporary Use Permit may be approved administratively, except for “Trial Uses” and any activity of more than one year in duration.
- H. *Referral to Planning Commission.* At the discretion of the City Planner, a Temporary Use Permit may be referred to the Planning Commission for a hearing and decision.
- I. *Project review, notice and hearing.* Each Temporary Use Permit application shall be analyzed by the City Planner to ensure that the application is complete and proposes a use that is consistent with the purpose and intent of this Section and shall be circulated to other City Departments and outside agencies as applicable. For a Temporary Use Permit application or extension that is subject to the review of the Planning Commission, the Planning Commission shall conduct a public hearing. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with [Chapter 19.88 \(Public Hearings\)](#).

J. Findings, decision. A Temporary Use Permit may be approved, modified, conditioned, or disapproved by the review authority (City Planner or Planning Commission, as applicable). The review authority may approve or conditionally approve a Temporary Use Permit application, only if all the following findings are made:

1. That the establishment, maintenance or operation of the temporary use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use; ~~and~~
2. The temporary use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and
3. The temporary use does not involve the construction of new permanent structures for which a building permit is required.

In making these determinations, the review authority shall take into consideration the limited duration of the proposed use.

K. Conditions of approval. In approving an application for a Temporary Use Permit, the review authority may impose conditions deemed necessary to ensure that the permit will be in compliance with the findings required by Subsection J, above.

L. Condition of site following temporary use. Each site occupied by a temporary use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used in compliance with the provisions of this Development Code. A bond may be required prior to initiation of the use to ensure cleanup after the use is finished.

M. Revocation. A Temporary Use Permit may be revoked by the City Planner at any time for failure to comply with the conditions of approval, this section, or the SMC.

N. Temporary Use Permits Not Transferrable. A Temporary Use Permit granted in compliance with this Section and all of the rights and privileges granted thereunder are restricted to and operate only in favor only of the applicant and shall not be transferable upon a change of ownership or tenancy of the site that was the subject of the permit application.



*City of Sonoma*  
**City Council**  
**Agenda Item Summary**

**City Council Agenda Item: 5G**

**Meeting Date: 02/22/2012**

---

**Department**

Planning

**Staff Contact**

David Goodison, Planning Director

---

**Agenda Item Title**

Resolution Designating the City of Sonoma as Co-Applicant and Authorizing the Sonoma Ecology Center to Apply for a Sonoma County Agricultural Preservation and Open Space District Grant for Improvements to Sonoma Garden Park.

---

**Summary**

In 2009, the Council authorized submittal of a matching grant application to the Sonoma County Agricultural Preservation and Open Space District (District), in partnership with the Sonoma Ecology Center (SEC). The purpose of the grant was to provide funding to assist the SEC in the implementation of the Sonoma Garden Park Master Plan. This grant application included the concept of placing a conservation easement on the property in order to protect its open space values. The grant application was subsequently approved by the District in the amount of \$119,763, subject to the development and execution of a conservation easement and a grant agreement, which were adopted by the City Council on October 3, 2011.

At this time, the Sonoma Ecology Center is proposing to submit a \$175,000 grant application for the Open Space District's 2012 Matching Grant Program. The matching grant program offers one-to-one matching grants for projects that provide local open space, community recreation, or public access opportunities. The SEC intends to use the grant funding to help fund a second phase of improvements at the Sonoma Garden Park to implement the approved Master Plan, including the completion of the ADA path system, improvements to the straw bale barn, and a variety of other projects. The SEC is requesting that the City Council adopt a resolution authorizing the SEC to proceed with an application for the District's 2012 Matching Grant Program with the City designated as co-applicant pursuant to the grant application guidelines.

---

**Recommended Council Action**

Adopt the draft resolution authorizing the SEC to proceed with an application for the District's 2012 Matching Grant Program with the City designated as co-applicant.

---

**Alternative Actions**

1. Make modifications to the draft resolution and authorize the SEC to proceed with the grant application in accordance with the modified resolution.
  2. Do not authorize the City's designation as co-applicant on the grant application.
- 

**Financial Impact**

The SEC will be responsible for paying for all costs associated with filing the grant application as well as securing all matching funds (\$175,000) for the grant. There is no financial commitment on the part of the City through adoption of the resolution, which expressly places the responsibility for providing the match on the SEC. There may incidental financial impacts to the City associated with the grant application. As an example, the City would need to review any amendments to the Master Plan that potentially associated with improvements funded by the grant. However, the City would have this type of responsibility whether or not the SEC applies for this grant.

---

**Attachments:**

1. Letter of request from the SEC
  2. Draft Resolution
- 

**cc:**

Mark Newhouser, Sonoma Ecology Center



# SONOMA ECOLOGY CENTER

*Celebrating Our Twentieth Anniversary!*

City of Sonoma  
No. 1 The Plaza  
Sonoma, CA 95476

February 3, 2012

Re: Consent calendar request – Request for City of Sonoma to be co-applicant on grant proposal

To Whom it May Concern,

The Sonoma Ecology Center (SEC) requests that the City of Sonoma (City) be co-applicant on a second grant proposal for the Sonoma County Agricultural and Open Space District (SCAPOSD) Matching Grant Program to fund additional infrastructure and access improvements to the Sonoma Garden Park (SGP). The proposal is due February 24, 2012.

Progress on the first grant awarded to SEC from the Matching Grant Program is transforming the Garden Park with remarkable improvements, including the current phase of ADA accessible pathways completed; the greenhouse and shade structure near completion; the entry garden and parking lot improvements design submitted to the City for review; the straw bale barn improvements on schedule; and electrical wiring completed at the barn in preparation for a service connection from PGE.

The proposed second phase of improvements will include additional ADA pathway construction, new signs for the garden, electric and gas for the greenhouse, structural improvements to the historic storage barn, windows for the barn, and other improvements.

Since the conservation easement for the property was established prior to the first funded project, preparation requirements for City of Sonoma staff will be minimal for the second proposal. SEC is prepared to complete and submit the proposal upon review by City staff.

The Grant program includes a 1:1 matching funds requirement, so we are identifying all sources of cost share, including maintenance and operations expenses, SEC staff labor, community volunteers, other grant sources and in-kind donations. SEC will work with City of Sonoma staff to identify any existing or planned funding allocations for the Park from the City that will help us to meet matching funds requirements, such as the funds allocated for demolition of the old Bond barn, which may be used to match proposed improvements to the property.

The draft list of proposed improvements follows.

#### SCAPOSD Matching Grant Program

#### Sonoma Garden Park Infrastructure Improvements, Phase 2 Proposal - Scope of Work

- Complete ADA paths for garden
- Install ADA signs and directional arrows at appropriate locations
- Install information boxes along pathways

Watershed Station & Mailing Address • P.O. Box 1486, Eldridge, CA 95431 • (707) 996-0712  
Plaza Office • 20 East Spain St., Sonoma, CA 95476 • (707) 996-9744 • fax (707) 996-2452  
info@sonomaecologycenter.org • www.sonomaecologycenter.org



## SONOMA ECOLOGY CENTER

*Celebrating Our Twentieth Anniversary!*

- Install a second ADA accessible water fountain along path
- Install ADA accessible sink
- Install windows in straw bale barn
- Install new community garden tool shed
- Repair historic barn for equipment storage.
- Install electrical and gas in greenhouse
- Install SCAPOSD conservation easement sign (as required)
- Modify or install new entry sign(s) on street and at pedestrian entry
- Design and install updated informational materials for the existing kiosk, including map of site, hours of operation, workshop schedule, volunteer days, etc.
- Design and install nursery sign
- Expand native plant demonstration garden near nursery, install an interpretive sign, and install plant identification signs
- Install photovoltaic panels on barn

To the best of our knowledge, all proposed activities fall within the existing SGP Master Plan and are subject to review and acceptance by City staff. Other needed improvements, such as a bathroom, will be addressed in the SGP Master Plan amendment process and future proposals.

SEC looks forward to partnering with the City of Sonoma. Please contact me if you have any questions regarding this request.

Regards,

A handwritten signature in black ink, appearing to read "Mark Newhouser".

Mark Newhouser  
Restoration and Sonoma Garden Park  
Program Manager

# CITY OF SONOMA

## RESOLUTION NO.

### A RESOLUTION OF THE SONOMA CITY COUNCIL DESIGNATING THE CITY OF SONOMA AS CO-APPLICANT AND AUTHORIZING THE SONOMA ECOLOGY CENTER TO APPLY FOR A SONOMA COUNTY AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT GRANT FOR IMPROVEMENTS TO SONOMA GARDEN PARK

WHEREAS, in 1977, the City of Sonoma received the property known as the Bond Farm through a bequest by Pauline Bond; and

WHEREAS, under the terms of the bequest, the property must be used for park and recreational purposes; and

WHEREAS, beginning in 1993, the property has been leased to the Sonoma Ecology Center and operated as a community garden known as Sonoma Garden Park; and

WHEREAS, in order to clearly define the allowed use and improvement of the property, to address code requirements, to ensure neighborhood compatibility and to provide for its logical and orderly development, the City Council, by Resolution 01-2006, adopted a Master Plan for the property; and

WHEREAS, in 2009, the Sonoma Ecology Center, in partnership with the City of Sonoma, submitted a grant application to the Sonoma County Agricultural Preservation and Open Space District's 2009 Matching Grant Program to help fund the first phase of various improvements at the Sonoma Garden Park in accordance with the approved Master Plan; and

WHEREAS, this grant application was approved in the amount of \$119,763, subject to the recordation of a conservation easement on the property; and

WHEREAS, the Sonoma Ecology Center is desirous of submitting a grant application to the Sonoma County Agricultural Preservation and Open Space District's 2012 Matching Grant Program in the amount of \$175,000 to help fund the second phase of various improvements at the Sonoma Garden Park in accordance with the approved Master Plan; and

WHEREAS, the Sonoma County Agricultural Preservation and Open Space District's 2012 Matching Grant Program requires the owner of property eligible for grant funds be listed as a co-applicant on the grant application; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Sonoma hereby authorizes the Sonoma Ecology Center to file a grant application, with the City designated as co-applicant, for the Sonoma County Agricultural Preservation and Open Space District's 2012 Matching Grant Program; and

BE IT FURTHER RESOLVED that the Sonoma Ecology Center shall have the responsibility of funding all costs associated with the grant application, including the provision of any required matching funds.

PASSED AND ADOPTED by the City Council of the City of Sonoma at a regular meeting held on the XX day of February 2012, by the following vote:

AYES:  
NOES:  
ABSENT:

---

Joanne Sanders, Mayor

ATTEST:

---

Gay Johann, CMC  
City Clerk



City of Sonoma  
**City Council**  
**Agenda Item Summary**

City Council Agenda Item: 5H

Meeting Date: 2/22/12

---

**Department**

Administration

**Staff Contact**

Linda Kelly, City Manager

---

**Agenda Item Title**

Adoption of a Resolution adopting Rosenberg's Rules of Order for official, noticed, public meetings of the City Planning Commission, Design Review Commission, Community Services and Environment Commission and Cultural and Fine Arts Commission

---

**Summary**

At the City Council meeting of December 5, 2011, the City Council reached a majority consensus to adopt Mayor Pro Tem Brown's and Councilmember Gallian's suggestion that the recently adopted Rosenberg's Rules of Order apply to the City's Commissions. Attached is a resolution which would implement this procedure.

---

**Recommended Council Action**

Adopt resolution.

---

**Alternative Actions**

Introduce amendments to resolution, defer action or decline to adopt.

---

**Financial Impact**

None.

---

**Environmental Review**

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

**Status**

- Approved/Certified
  - No Action Required
  - Action Requested
- 

**Attachments:**

Resolution

---

cc:

---

**CITY OF SONOMA  
RESOLUTION NO. \_\_\_\_ - 2012**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SONOMA  
ADOPTING ROSENBERG'S RULES OF ORDER FOR OFFICIAL,  
NOTICED, PUBLIC MEETINGS OF THE CITY PLANNING COMMISSION, DESIGN  
REVIEW COMMISSION, COMMUNITY SERVICES AND ENVIRONMENT  
COMMISSION AND CULTURAL AND FINE ARTS COMMISSION**

**Whereas**, the City Council of the City of Sonoma and the various commissions appointed by the City Council to conduct City business must consider, at public meetings, many matters which vitally affect the interest of the citizens of Sonoma; and

**Whereas**, the City Council has determined that it is both necessary and desirable that these meetings be conducted in a manner that permits the due consideration of the item on the agenda and provides an opportunity for public input relating to the item; and

**Whereas**, at its meeting of July 6, 2011, the City Council of the City of Sonoma adopted Resolution No. 23-2011, a Resolution of the City Council of the City of Sonoma Adopting Rosenberg's Rules of Order for Official Noticed Public Meetings of the City Council; and

**Whereas**, after application of said rules of order to City Council meetings for a six month period, the Council has determined that said rules of order are desirable for application to all City Commissions so that they may conduct meetings in an orderly fashion with rules that establish order, are easy to understand and which enforce the will of the majority while protecting the rights of the minority; and

**Whereas**, it is the purpose of this resolution to provide for the orderly and expeditious conduct of meetings of City Commissions in a manner which will give adequate consideration to and afford a reasonable opportunity for Commission and public discussion; and

**Whereas**, a City Council has broad authority to establish boards and commissions and prescribe their powers and duties, including the adoption of rules, procedures or standards concerning the proceedings and order of business of City Commission meetings; and

**Whereas**, pursuant to Government Code Section 65102 the City Council has the authority to adopt rules, procedures or standards concerning the proceedings and order of business of City Planning Commission meetings.

**Now, Therefore, Be It Resolved** that the City Council of the City of Sonoma approves and adopts Rosenberg's Rules of Order in its present form and as may be amended from time to time, for the conduct of meetings of the City Planning Commission, Design Review Commission, Community Services and Environment Commission and Cultural and Fine Arts Commission in the form attached hereto as Exhibit "A" and incorporated herein by reference.

PASSED, APPROVED AND ADOPTED this 22nd day of February 2012 by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Joanne Sanders, Mayor

ATTEST:

\_\_\_\_\_  
Gay Johann, City Clerk

# Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century

by Dave Rosenberg

rules, because the chair, for all intents and purposes, makes the final ruling on the rules. In fact, all decisions by the chair are final unless overruled by the governing body itself.

Because the chair conducts the meeting, it is common courtesy for the chair to take a less active role than other members of the body in debates and discussions. This does *not* mean that the chair should not participate in the debate or discussion. On the contrary, as a member of the body, the chair has full rights to participate in debates, discussions and decision-making. The chair should, however, strive to be the last to speak at the discussion and debate stage, and should not make or second a motion unless he or she is convinced that no other member of the body will do so.

## The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, published agenda; informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon road map for the meeting. And each agenda item can be handled by the chair in the following basic format.

First, the chair should clearly announce the agenda item number and should clearly state what the subject is. The chair should then announce the format that will be followed.

Second, following that agenda format, the chair should invite the appropriate people to report on the item, including any recommendation they might have. The appropriate person may be the chair, a member of the governing body,

## The Chairperson Should Take a Back Seat During Discussions

While all members of the governing body should know and understand the rules of parliamentary procedure, it is the chairperson (chair) who is charged with applying the rules of conduct. The chair should be well versed in those

a staff person, or a committee chair charged with providing information about the agenda item.

Third, the chair should ask members of the body if they have any technical questions for clarification. At this point, members of the governing body may ask clarifying questions to the people who reported on the item, and they should be given time to respond.

Fourth, the chair should invite public comments or, if appropriate at a formal meeting, open the meeting to public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of each public speaker. At the conclusion of the public comments, the chair should announce that public input has concluded (or that the public hearing, as the case may be, is closed).

Fifth, the chair should invite a motion from the governing body members. The chair should announce the name of the member who makes the motion.

Sixth, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member who seconds the motion. It is normally good practice for a motion to require a second before proceeding with it, to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and a vote on the motion even when there is no second. This is a matter left to the discretion of the chair.

Seventh, if the motion is made and seconded, the chair should make sure everyone understands the motion. This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

Eighth, the chair should now invite discussion of the motion by the members of the governing body. If there is no desired discussion or the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or a very brief discussion, the vote should proceed immediately, and there is no need to repeat the motion. If there has been substantial discussion, it is normally best to make sure everyone understands the motion by repeating it.

---

Debate on policy is healthy; debate on personalities is not. The chair has the right to cut off discussion that is too personal, too loud or too crude.

---

Ninth, the chair takes a vote. Simply asking for the "ayes" and then the "nays" is normally sufficient. If members of the body do not vote, then they "abstain." Unless the rules of the body provide otherwise or unless a super-majority is required (as delineated later in these rules), a simple majority determines whether the motion passes or is defeated.

Tenth, the chair should announce the result of the vote and should announce what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members, if any, who voted in the minority on the motion. This announcement might take the following form: "The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring 10 days' notice for all future meetings of this governing body."

### Motions in General

Motions are the vehicles for decision-making. It is usually best to have a motion before the governing body prior to discussing an agenda item, to help everyone focus on the motion before them.

Motions are made in a simple two-step process. First, the chair recognizes the member. Second, the member makes a motion by preceding the member's desired approach with the words: "I move ..." A typical motion might be: "I move that we give 10 days' notice in the future for all our meetings."

The chair usually initiates the motion by:

1. Inviting the members to make a motion: "A motion at this time would be in order."

2. Suggesting a motion to the members: "A motion would be in order that we give 10-days' notice in the future for all our meetings."
3. Making the motion.

As noted, the chair has every right as a member of the body to make a motion, but normally should do so only if he or she wishes a motion to be made but no other member seems willing to do so.

### The Three Basic Motions

Three motions are the most common:

1. **The basic motion.** The basic motion is the one that puts forward a decision for consideration. A basic motion might be: "I move that we create a five-member committee to plan and put on our annual fundraiser."
2. **The motion to amend.** If a member wants to change a basic motion that is under discussion, he or she would move to amend it. A motion to amend might be: "I move that we amend the motion to have a 10-member committee." A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

3. The substitute motion. If a member wants to completely do away with the basic motion under discussion and put a new motion before the governing body, he or she would "move a substitute motion." A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year."

Motions to amend and substitute motions are often confused. But they are quite different, and so is their effect, if passed.

A motion to amend seeks to retain the basic motion on the floor, but to modify it in some way.

A substitute motion seeks to throw out the basic motion on the floor and substitute a new and different motion for it.

The decision as to whether a motion is really a motion to amend or a substitute motion is left to the chair. So that if a member makes what that member calls a motion to amend, but the chair determines it is really a substitute motion, the chair's designation governs.

#### When Multiple Motions Are Before The Governing Body

Up to three motions may be on the floor simultaneously. The chair may reject a fourth motion until the three that are on the floor have been resolved.

When two or three motions are on the floor (after motions and seconds) at the same time, the *first* vote should be on the *last* motion made. So, for example, assume the first motion is a basic "motion to have a five-member committee to plan and put on our annual fundraiser." During the discussion of this motion, a member might make a second motion to "amend the main motion to have a 10-member committee, not a five-member committee, to plan and put on our annual fundraiser." And perhaps, during that discussion, a member makes yet a third motion as a "substitute motion that we not have an annual fundraiser this year." The proper procedure would be as follows.

First, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passes*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be complete. No vote would be taken on the first or second motions. On the other hand, if the substitute motion (the third motion) *failed*, the chair would proceed to consideration of the second (now the last) motion on the floor, the motion to amend.

If the substitute motion failed, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would now move to consider the main motion (the first motion) *as amended*. If the motion to amend failed, the chair would now move to consider the main motion (the first motion) in its original format, not amended.

Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee) or, if amended, would be in its amended format (10-member committee). And the question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

#### To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are *not* debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

**A motion to adjourn.** This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. This motion requires a simple majority vote.

**A motion to recess.** This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess, which may range from a few minutes to an hour. It requires a simple majority vote.

**A motion to fix the time to adjourn.** This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: "I move we adjourn this meeting at midnight." It requires a simple majority vote.

**A motion to table.** This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to

be placed on "hold." The motion may contain a specific time in which the item can come back to the body: "I move we table this item until our regular meeting in October." Or the motion may contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

**A motion to limit debate.** The most common form of this motion is to say: "I move the previous question" or "I move the question" or "I call for the question." When a member of the body makes such a motion, the member is really saying: "I've had enough debate. Let's get on with the vote." When such a motion is made, the chair should ask for a second to the motion, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body. Note that a motion to limit debate could include a time limit. For example: "I move we limit debate on this agenda item to 15 minutes." Even in this format, the

motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

#### Majority and Super-Majority Votes

In a democracy, decisions are made with a simple majority vote. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means

the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions occur when the body is taking an action that effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super-majority) to pass:

**Motion to limit debate.** Whether a member says, "I move the previous question," "I move the question," "I call for the question" or "I move to limit debate," it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

**Motion to close nominations.** When choosing officers of the body, such as the chair, nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers, and it requires a two-thirds vote to pass.

**Motion to object to the consideration of a question.** Normally, such a motion is unnecessary, because the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

**Motion to suspend the rules.** This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to sus-

pend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

#### The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself: the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to reconsider is made.

A motion to reconsider requires a majority vote to pass, but there are two special rules that apply only to the motion to reconsider.

First is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon or at the very next meeting of the body. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted *in the majority* on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body may second the motion). If a member who voted *in the minority* seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of the minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

### Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. And at the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every

---

It is usually best to have a motion before the governing body prior to discussing an agenda item to help everyone focus.

---

lege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person's ability to hear.

**Order.** The proper interruption would be: "Point of order." Again, the chair would ask the interrupter to "state your point." Appropriate points of order

**Withdraw a motion.** During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focus on the item and the policy in question, not on the personalities of the members of the body. Debate on policy is healthy; debate on personalities is not. The chair has the right to cut off discussion that is too personal, too loud or too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body. Can a member of the body interrupt the speaker? The general rule is no. There are, however, exceptions. A speaker may be interrupted for the following reasons:

**Privilege.** The proper interruption would be: "Point of privilege." The chair would then ask the interrupter to "state your point." Appropriate points of privi-

relate to anything that would not be considered appropriate conduct of the meeting; for example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

**Appeal.** If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

**Call for orders of the day.** This is simply another way of saying, "Let's return to the agenda." If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair's determination may be appealed.



City of Sonoma  
**City Council**  
**Agenda Item Summary**

**City Council Agenda Item:**

**Meeting Date: 2/22/12**

---

**Department**

Administration

**Staff Contact**

Linda Kelly, City Manager

---

**Agenda Item Title**

Approval of City co-sponsorship of a customer service training event, partnering with the Sonoma Valley Visitors Bureau, at no cost to the City

---

**Summary**

The attached summary provides information regarding a special customer service training with author Bryan Williams, to be hosted at MacArthur Place. The Sonoma Valley Chamber of Commerce and the Sonoma Valley Vintners and Growers have also been invited by the Bureau to co-sponsor the event. The event (two sessions – morning and afternoon) will take place on April 5, 2012, hosted by MacArthur Place Inn & Spa.

---

**Recommended Council Action**

Approval of no-cost co-sponsorship, allowing the City of Sonoma logo to be used on promotional materials.

---

**Alternative Actions**

Decline to co-sponsor.

---

**Financial Impact**

None. Participants will receive the complementary training at no charge. City staff may participate in the sessions.

---

**Environmental Review**

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

**Status**

- Approved/Certified
  - No Action Required
  - Action Requested
- 

**Attachments:**

Information sheet from Sonoma Valley Visitors Bureau

---

**cc:** Wendy Peterson, Executive Direction, SVVB, via email

---

## SONOMA VALLEY VISITORS BUREAU

We'd like to invite the City of Sonoma, Chamber and SVVGA to partner with the Sonoma Valley Visitors Bureau as we offer a special customer service training with Bryan Williams, author of the of *Engaging Service, 22 Ways to become a Service Superstar*. Bill Blum/MacArthur Place and the SVVB have been implementing this program for the past year, with great success!

Bryan Williams will be coming to Sonoma and has offered to conduct 2 complimentary training sessions for the business community. We thought it would be exciting to have our organizations involved in the outreach, and to have our City leadership/staff and Boards participate in the program.

Below are the details, and the SVVB will prepare all creative, flyers, e-blasts, press release, etc. and would like your permission to have having your organization listed in the documents-- "in partnership with". The marketing of the event will begin on February 27th.

Thanks for your consideration,

Wendy  
Wendy Peterson | Executive Director  
Sonoma Valley Visitors Bureau

Sonoma Valley Visitors Bureau  
in partnership with  
The City of Sonoma  
Sonoma Valley Chamber of Commerce | Sonoma Valley Vintners & Growers Alliance

Sonoma Index Tribune, Sonoma Valley Sun  
Hosted by MacArthur Place Inn & Spa  
7 Principles to Fully Engage Your Customers  
When: Thursday April 5, 2012  
Time: 8:30am -11:30am or 2pm-5pm  
Venue: MacArthur Place Inn & Spa

Options for call to action:

Regardless of your industry, as long as you have customers, this training is for you!

Learn the 7 principles to fully engage your customers ~ and you will increase customer satisfaction, customer loyalty and employee morale!

No Matter what industry you are in, learn how to increase customer satisfaction, customer loyalty and employee motivation.

Join us at MacArthur Place Inn & Spa on Thursday April 5 and learn about the 7 principles to fully engage your customers, presently by Bryan K Williams formerly the Global Corporate Director of Training for The Ritz Carlton company. Over the last few years, Byran has worked with over 100 organizations worldwide.

When: Thursday April 5, 2012

Time: 8:30am -11:30am or 2-5pm

Venue: MacArthur Place Inn & Spa



**City of Sonoma**  
**City Council/Successor Agency**  
Agenda Item Summary

**City Council Agenda Item: 6A**

**Meeting Date: 02/22/2012**

---

**Department**

Administration

**Staff Contact**

Gay Johann, City Clerk

---

**Agenda Item Title**

Approval of the portions of the Minutes of the November 21, 2011, December 5, 2011, and February 6, 2012 City Council / CDA Meetings pertaining to the Successor Agency.

---

**Summary**

The minutes have been prepared for Council review and approval.

---

**Recommended Council Action**

Approve the minutes.

---

**Alternative Actions**

Correct or amend the minutes prior to approval.

---

**Financial Impact**

N/A

---

**Environmental Review**

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

**Status**

- Approved/Certified
- No Action Required
- Action Requested

---

**Attachments:**

See Agenda Item 5B for minutes

---



City of Sonoma  
**City Council**  
*as Successor Agency*  
**Agenda Item Summary**

City Council Agenda Item: 6B

Meeting Date: 2/22/12

---

**Department**

Administration

**Staff Contact**

Linda Kelly, City Manager

---

**Agenda Item Title**

Approval of Fee Agreement Letter with Rutan & Tucker LLP as Special Counsel to the City of Sonoma as Successor Agency

---

**Summary**

Since 1996, Rutan & Tucker has provided legal counsel for the Sonoma Community Development Agency (CDA). In transitioning to the Successor Agency and the numerous issues to be worked out and implemented with respect to AB1X 26, staff recommends that Rutan & Tucker be retained as special counsel to the City of Sonoma to assist with these redevelopment dissolution and Successor Agency issues. The attached fee agreement would memorialize the retention of Rutan & Tucker as special counsel to the City of Sonoma as Successor Agency to the dissolved Sonoma Community Development Agency. This agreement is presented for approval on both City and Successor Agency consent calendars.

---

**Recommended Council Action**

Approve Agreement and authorize City Manager to execute the agreement.

---

**Alternative Actions**

None.

---

**Financial Impact**

The hourly rate would remain the same as current, \$215 per hour.

---

**Environmental Review**

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

**Status**

- Approved/Certified
- No Action Required
- Action Requested

---

**Attachments:**

Fee Agreement Letter

---

**cc:**

---

February 2, 2012

**VIA ELECTRONIC MAIL**

Linda Kelly  
City Manager  
City of Sonoma  
#1 The Plaza  
Sonoma, CA 95476

Re: Retention of Rutan & Tucker, LLP as Special Counsel to the City of Sonoma

Dear Linda:

Pursuant to our telephone discussion a couple of days ago, I am providing this Fee Agreement letter to memorialize the retention of Rutan & Tucker, LLP as Special Counsel to the City of Sonoma. Although AB1x26 is not entirely clear on the subject, we want to make sure we have a fee agreement in place with the City of Sonoma [in addition to the fee agreement we have with the Sonoma Community Development Agency (“CDA”)] so that we may continue to advise the City (including in its capacity as Successor Agency to the dissolved CDA) on matters the City may refer to us for legal advice and counsel. ***The same hourly rate as currently existing—\$215 per hour—would continue to apply.***

Because the City (as distinct from the CDA) is considered a new client of our firm, we are required by California law to have a written fee agreement letter with the City to cover the work. This letter, together with the attached Statement of Engagement Terms and Billing Practices (“Statement”) incorporated herein, serves as that agreement. Please review both this letter and the attached Statement as they contain important terms and conditions, including an arbitration provision and general waiver pertaining to Rutan & Tucker’s continuing or future representation of *other* clients whose matters, or positions taken, may adversely affect your interests or positions. This fee agreement letter covers all preliminary work we have already performed, as well as future services we will perform. No retainer will be required.

This Fee Agreement with the City is substantially similar to the fee agreement with the CDA, a copy of which is attached (“CDA Fee Agreement”). The CDA Fee Agreement consists of the original fee letter dated April 18, 1996, as amended by amendments dated June 1, 2001, December 4, 2002, November 3, 2004, and April, 20, 2007. Among the changes are a standard arbitration provision as well as the bolded paragraph below our firm requires in fee agreements which states, in essence, that Rutan & Tucker may have current or future clients with interests adverse to the interests of the City but ***not*** in matters where we are representing the City. Another change is that our charges for reimbursable items such as photocopying and so forth,

Linda Kelly  
February 2, 2012  
Page 2

and for paralegals, may change without notice as of each January 1<sup>st</sup>. No changes to the rates charged by attorneys may change without the City's written consent.

The remainder of this Fee Agreement contains our standard language.

With respect to the monthly billing of legal fees, normally the hourly rate to be charged depends on the rate of the attorney working on the matter (in general, our rates for attorney time depend on the seniority of the attorney and range from approximately \$245 per hour to approximately \$650 per hour). I will be the attorney in the office providing the services and responsible for the account. My current rate is \$410 per hour. *Notwithstanding the above, the rate to be charged to the City for attorney time shall be \$215 per hour and shall not increase without the City's written consent.* Rates for paralegals in our office range from approximately \$175-\$215 per hour and rates for document clerks in our office range from approximately \$60-\$120 per hour. The rates for paralegals and document clerks may increase as of January 1<sup>st</sup> of each year without notice.

Because we are a large law firm with many clients, our firm requires that fee agreements contain a general waiver with respect to our representation of other clients. Therefore, please note that the attached Statement, incorporated herein, includes the following provision:

***Representation in Other Matters. We are a large law firm with many attorneys and have more than one office. We represent many business entities in varied industries, individuals, and government entities with varied interests in many different locales. It is possible that during the time we are representing your interests in the matter or matters for which you have retained us, you may become involved in transactions and/or disputes in which your interests are adverse to those of one or more of the firm's present or future clients. Therefore, as a condition to our undertaking this engagement, you have agreed that our Firm may continue to represent, or may undertake in the future to represent, other existing or new clients in any matter, other than a matter in which we represent you, which may adversely affect you or your interests. We agree, however, that your prospective consent to conflicting representation contained in the preceding sentence shall not apply in any instances where as a result of our representation of you we have obtained confidential information of a non-public nature which would be material to our employment by any such other existing or new clients, except as may otherwise be waived by a conflict of interest waiver. Thus, by signing this fee agreement letter, you knowingly waive any actual or apparent conflict of interest resulting from such adverse representation. You should be aware of your right to seek independent legal advice regarding the nature and effect of the foregoing waiver and consent.***

Your signature on this letter will confirm that you have read and understand the matters set forth herein and in the attached Statement, including the waiver set forth above. You should

Linda Kelly  
February 2, 2012  
Page 3

be aware of your right to obtain independent legal counsel concerning entering into this fee agreement (we suggest you review this fee agreement with your City Attorney, Jeff Walter).

If the foregoing correctly sets forth our mutual understanding, please sign and date this fee agreement below and return this entire letter agreement, including the attached Statement, to me.

If you have any questions concerning this fee agreement letter please do not hesitate to contact me.

Very truly yours,

RUTAN & TUCKER, LLP



Dan Slater

Enclosure

**AGREED AND ACCEPTED:**

**CITY OF SONOMA**

**By:** \_\_\_\_\_

\_\_\_\_\_  
**Date**

***[STATEMENT COMMENCES ON FOLLOWING PAGE]***

Linda Kelly  
February 2, 2012  
Page 4

**RUTAN & TUCKER, LLP**  
Attorneys at Law

STATEMENT OF ENGAGEMENT TERMS  
AND BILLING PRACTICES

*In the event of any conflict between the terms of this Statement and the terms set forth in the fee agreement cover letter to which this Statement is attached, the terms of the letter shall apply.*

Fees. Our general policy is to calculate fees for legal services on the basis of a range of hourly billing rates for each lawyer and legal assistant engaged in providing such services, multiplied by the number of hours (or fractions thereof, in increments of one-tenth of one hour) devoted to the rendering of such services by each such lawyer or legal assistant. In serving the client we attempt to utilize those lawyers and legal assistants having the legal knowledge and level of experience required in order to achieve the client's objective. The selection of those lawyers and legal assistants who will render services will be made by the lawyer having overall supervisory responsibility for each engagement, taking into consideration the nature of the engagement, the degree of legal experience and knowledge required in order to achieve the client's objectives, the availability of lawyers and legal assistants to work on the engagement and their hourly billing rates. A range of hourly billing rates is determined for each of our lawyers and legal assistants on the basis of that person's seniority and experience or area of practice. The hourly billing rates may be adjusted annually, usually as of January 1. We do not generally send any notice of a change in hourly rates, other than as reflected in the bills themselves. If you would like to receive a revised range of rates at any time, we will provide you with an updated schedule upon request. The hourly billing rates for attorneys in our office range from \$240 to \$650 per hour.

Representation in Other Matters. We are a large law firm with many attorneys and have more than one office. We represent many business entities in varied industries, individuals, and government entities with varied interests in many different locales. It is possible that during the time we are representing your interests in the matter or matters for which you have retained us, you may become involved in transactions and/or disputes in which your interests are adverse to those of one or more of the firm's present or future clients. Therefore, as a condition to our undertaking this engagement, you have agreed that our Firm may continue to represent, or may undertake in the future to represent, other existing or new clients in any matter, other than a matter in which we represent you, which may adversely affect you or your interests. We agree, however, that your prospective consent to conflicting representation contained in the preceding sentence shall not apply in any instances where as a result of our representation of you we have obtained confidential information of a non-public nature which would be material to our

Linda Kelly  
February 2, 2012  
Page 5

employment by any such other existing or new clients, except as otherwise may be waived by a conflict of interest waiver. Thus, by signing this fee agreement letter, you knowingly waive any actual or apparent conflict of interest resulting from such adverse representation. You should be aware of your right to seek independent legal advice regarding the nature and effect of the foregoing waiver and consent.

Termination of Engagement. You may terminate our engagement with or without cause at any time on written notice to us. Termination of our services will not affect your responsibility to pay for legal services rendered and all expenses and other charges incurred up to the date when we receive notice of termination, and for any further work required of us in order to facilitate an orderly turnover of matters in process at the time of termination.

We may terminate our engagement for any of the reasons permitted under and in accordance with the requirements of the California Rules of Professional Conduct, including, without limitation, your failure to pay our bills, misrepresentations of (or failure to disclose) any material facts, action taken contrary to our advice, or any other conduct or situation that in our judgment impairs an effective attorney-client relationship between us or presents conflicts with our professional responsibilities. Other grounds for termination our representation are set forth in Rule 3-700 of the California Rules of Professional Conduct, a copy of which we will provide you on request. We may request a stipulation executed by you allowing us to withdraw as your attorney in any judicial, arbitration or similar proceedings, subject to our compliance with the California Rules of Professional Conduct, in which even you agree in advance to our withdrawal.

Our attorney-client relationship will also terminate when a matter for which our Firm was hired has been completed, whether or not our bill to you for services has been rendered or paid. Upon termination of our relationship, neither you nor the Firm has a duty to accept new engagements or to continue representation in any matters unless mutually agreed in writing.

Future Representation. In the event our engagement necessitates that we prepare an agreement which provides for ongoing rights and obligations on your part, a dispute concerning the interpretation or enforceability of that agreement may subsequently arise after our engagement has been terminated. In the absence of our express written agreement, you may not assume that the Firm will continue to be free to represent you in a future dispute concerning such agreement.

Retention of Files. Generally, we keep each client's legal files for seven years after we close the file. After seven years, we are entitled to destroy those files unless the client tells us otherwise. If you want us to keep your files for a longer period of time, please tell us.

Linda Kelly  
February 2, 2012  
Page 6

Errors and Omissions. This Firm maintains errors and omissions insurance coverage applicable to the services to be rendered hereunder. This coverage complies with the requirements of California Business and Professions Code sections 6147(a)(6) and 6148(a)(4).

Arbitration of Disputes. By signing and returning the engagement letter, you agree that should any dispute arise out of or relate to this agreement, our relationship, any billing statements forwarded to you, or our services, including but not limited to any alleged claims for legal malpractice, breach of fiduciary duty, breach of contract or other claim against the Firm for any alleged inadequacy of such services, all such disputes will be resolved by submission to final and binding arbitration in <sup>SONOMA</sup>~~Orange~~ County, California before a retired judge or justice. By agreeing to arbitrate, you waive any right to a court or jury trial. If we are unable to agree on a retired judge or justice, each party will name on retired judge or justice and the two named persons will select a neutral judge or justice who will act as the sole arbitrator.

Arbitration is, as you likely know, a process by which both parties to a dispute agree to submit the matter to a retired judge or other arbitrator who has expertise in the area and to abide by the arbitrator's decision, instead of litigating in court. In arbitration, there is no right to a trial by jury and the arbitrator's legal and factual determinations are generally not subject to appellate review. Arbitration rules of evidence and procedure are often less formal and rigid than in a court trial. Arbitration usually results in a decision much more quickly than proceedings in court, and the attorneys' fees and other costs incurred by both sides are usually substantially less.

Both the United States Supreme Court and California Supreme Court have endorsed arbitration as an accepted and favored method of resolving disputes, because it is economical and expeditious. Arbitration is also less acrimonious and more confidential than traditional litigation and is, therefore, particularly suited to resolution of disputes between attorneys and their clients.

**Your agreement to arbitrate disputes is not a condition of our agreeing to represent you, and if you do not wish to agree to arbitrate, you should advise me before signing the copy of this letter.** You are free to discuss the advisability of arbitration with us or your independent counsel or any of your other advisors and to ask any questions which you have.

The parties shall be entitled to take discovery in accordance with the provisions of the California Code of Civil Procedure, but either party may request that the arbitrator limit the amount or scope of such discovery, and in determining whether to do so, the arbitrator shall balance the need for the discovery against the parties' mutual desire to resolve disputes expeditiously and inexpensively.

Under California law, you have the right, if you desire, to request arbitration of any fee dispute before an arbitrator or panel of arbitrators selected by a local bar association or the State Bar ("Bar Arbitration") and a trial *de novo* in court if dissatisfied with the result. If you do

Linda Kelly  
February 2, 2012  
Page 7

request a Bar Arbitration, the law provides that evidence of any claim of malpractice or professional misconduct is admissible only concerning the fees or costs in dispute and that the Bar Arbitrators shall not award any affirmative relief in the form of damages, offset or otherwise on account of such claim. By signing this Agreement, you agree that if a Bar Arbitration is conducted, that Bar Arbitration or any trial *de novo* in Court thereafter shall determine only the issue of the amount of fees properly chargeable to you, if any, and that such Bar Arbitration or trial *de novo* in Court thereafter shall have no effect on the provisions set forth above which require arbitration before a retired judge or justice of any claims for affirmative relief based on alleged professional malpractice, errors or omissions, breach of conduct, breach of fiduciary duty, fraud or violation of any statute. Any such claims shall be solely determined by a retired judge or justice in an arbitration without regard to the result of any Bar Arbitration or trial *de novo* thereafter.

You are urged to discuss the advisability of arbitration with the Firm or your independent counsel or any of your other advisors and to ask any questions which you have. Your execution and delivery of the engagement letter will confirm that you have either obtained independent legal advice with respect to the binding arbitration clause, or you have decided to enter into this engagement without seeking such advice.

Charges. Our statements to our clients are normally rendered on a monthly basis, and ordinarily include certain charges other than fees for legal services. These charges may include third-party expenses (such as filings fees, courier and messenger charges, court reporters and travel/mileage) and internal expenses (such as document copying costs, long distance telephone charges, computer-assisted research costs and similar out-of-pocket expenses). Clients may be asked to pay larger third-party invoices directly or provide us with an advance payment of such costs. Other third-party expenses will be added to our bills with no markup.

Outcomes. We have made no representations, promises or guarantees to you regarding the outcome of your matter. Any comments about the outcome of your matter at any time during the performance of services do not constitute promises, guarantees, or assurances, as to the outcome of your matter.

Applicable Law. Our attorney-client relationship will be governed by California law, including the California Rules of Professional Conduct.

[end]



Pamela Gibson  
April 18, 1996  
Page 2

the legal services to the Agency. Rates for paralegals in our office range from approximately \$75 per hour to \$110 per hour. Should there be any change to these rates to be effective after December 31, 1996, I will discuss such change with you in advance. No retainer will be required.

In addition to the above fees, you will also be responsible for payment of all out-of-pocket expenses incurred, such as reproduction of documents; messenger and other delivery fees; postage; travel expenses, including mileage at \$.025 per mile for automobile travel, parking, tolls, and also including air fare, car rental, hotels, and meals for authorized out-of-area travel; long distance telephone calls; computer-assisted research; text editing; clerical staff overtime required to meet client-imposed deadlines; filing fees; investigator fees; expert witness fees; etc. These costs will be itemized on the monthly bills.

In the event any statement remains unpaid for more than thirty (30) days after receipt, interest thereon at the rate of ten percent (10%) per annum may be due and payable from the date of the statement until the date of ultimate payment of the statement and all accrued interest.

Pursuant to California Business and Professions Code Section 6148, our fee agreements are required to inform you of our errors and omissions/professional liability insurance coverage. Rutan & Tucker is self-insured for the amount of \$500,000 and is insured up to \$15,000,000 over above that amount.

Lastly, as of April 1, 1996, Rutan & Tucker became registered as a limited liability partnership ("LLP") pursuant to the LLP law, Senate Bill 513. The LLP law protects individual partners from personal liability for most partnership debts. A partner in an LLP is not personally liable for debts chargeable to the partnership or attributable to the conduct of his or her partners, although each partner remains liable for his or her own acts, errors, and omissions, including malpractice. All assets of the partnership are still subject to all partnership liabilities.

In accordance with the new LLP law, R&T is required to provide security for claims against it. R&T will continue to maintain an insurance policy covering claims based on acts, errors, and omissions arising out of its practice of law.

Registration as an LLP will have no effect on the nature or quality of the legal services that R&T provides. Should you have

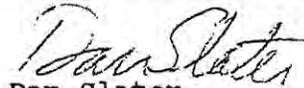
Pamela Gibson  
April 18, 1996  
Page 3

any questions or concerns about LLP status, or any issue regarding our representation, please contact me or Jeff Oderman, our Managing Partner.

If this agreement meets your approval, please sign and date this letter in the space provided below, and return it to me in the envelope provided. A copy of this letter is enclosed for your files. Thank you for the opportunity to be of service to the Sonoma Community Development Agency.

Very truly yours,

RUTAN & TUCKER, LLP

  
Dan Slater

\* \* \*

AGREED AND ACCEPTED:

SONOMA COMMUNITY DEVELOPMENT AGENCY

By:   
Pamela Gibson  
Executive Director

Date: May 1, 1996

# RUTAN & TUCKER

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS  
611 ANTON BOULEVARD, FOURTEENTH FLOOR  
COSTA MESA, CALIFORNIA 92626-1931  
DIRECT ALL MAIL TO: POST OFFICE BOX 1950  
COSTA MESA, CALIFORNIA 92628-1950  
TELEPHONE 714-641-5100 FACSIMILE 714-546-9035  
INTERNET ADDRESS www.rutan.com

Direct Dial: (714) 641-3437  
E-mail: dslater@rutan.com

A.W. RUTAN (1930-1972) JAMES B. TUCKER SR. (1888-1950)

JAMES R. MOORE\*  
PAUL FREDERIC MARK  
RICHARD A. CURNUTT  
LEONARD A. HAMPEL  
JOHN F. HURLBUT, JR.  
MICHAEL W. JAMALI  
SILVIO W. DAHL, JR.  
THEODORE J. WALLACE, JR.\*  
GILBERT N. KRUGER  
JOSEPH D. CARROLL  
RICHARD P. SIMS  
JAMES R. DONALD  
ROBERT C. BRAUN  
THOMAS S. SALINGER\*  
DAVID C. LARSEN\*  
CLIFFORD E. TREDEN  
MICHAEL D. RUBIN  
IRA C. RYAN\*  
JEFFREY M. QUERMAN  
STAN WOIWOST  
ROBERT S. BOWEN  
MARCYA A. FORSYTH  
WILLIAM M. MARTICORENA  
JAMES L. MORRIS  
WILLIAM J. CAPLAN

MICHAEL T. HORNAK  
PHILIP D. KOHN  
JOEL D. KUPERBERG  
STEVEN A. NICHOLS  
THOMAS G. BROCKINGTON  
ERIDIKI (WICH) DALLAS  
RANDALL M. BARBUSH  
MARY M. GREEN  
GREGG AMBER  
MICHAEL T. SHEER  
THOMAS J. CRANE  
MARK B. FRAZER  
PENILOPE PARNES  
AL. KATHLEEN JENSON  
DAKE F. WAILQUIM  
RICHARD G. MONTVIDEO  
LORI SARNER SMITH  
ERNEST W. KLATTE, III  
KIM D. THOMPSON  
AYNE TAYLOR KATLE  
DAVID B. COSEGOVE  
FRANK VAN LIGTEN  
STEPHEN A. ELLIS  
MATTHEW K. ROSS  
JEFFREY WELTHILLIE

ROBERT O. OWEN  
ADAM N. VOLBERT  
JEFFREY A. GOLDFARB  
F. KEVIN BRAZIL  
LARRY H. MILLER  
L. SKI HARRISON  
LARRY A. CERUTTI  
CAROL D. CARY  
PATRICK D. McCALLA  
RICHARD K. HOWELL  
JAMES S. WILSON\*  
DAVID H. HOGGNER  
A. PATRICK MURDO  
S. DANIEL HARBOTTLE  
PAUL J. SIEVERS  
JOSEPH L. MAGA, III  
FRANCO C. KILGER  
KENT M. CLAYTON  
DAN SLATER  
MARK BUDENISER  
STEVEN J. GOOD  
DOUGLAS J. DENNINGTON  
TREG A. JULIANDER  
TODD O. LITFIN  
KEKKA S. CARLSON

CRISTY LOMINZO PARKER  
JEFFREY T. MELCHING  
SEAN P. LARRELL  
MARLENE MOSE JURGENSEN  
APRIL LEE WALTER  
KAREN LIZABETH WALTER  
NATALIE SIBBALD DUNDAS  
ALISON M. BARBAROSH  
JOHN W. HAMILTON JR.  
JOHN A. RAMIREZ  
LYNN LOSCHIN  
PHILIP J. BLANCHARD  
TERENCE J. CALLAGHER  
DEJA M. HEMINGWAY  
JULIE W. RUSSE  
DENISE L. MESSER  
W. ANDREW MOORE  
CHARLES A. DAVENPORT, III  
JULIE L. DREV  
RICHARD D. ARKO  
MARK M. MALOVSOS  
NIKKI NGUYEN  
JEFF C. RISHER  
JENNIFER S. ANDERSON  
JOHN T. BRADLEY

BILL H. HIRSE  
ALEXSON LEMONNI-BUI  
KAREN L. KLATING  
CHYI G. CHEN  
T. LAN NGUYEN  
ISA V. NICHOLAS  
JENNIFER L. O'HILLIN  
MARK J. AUSTIN  
AMY J. HALL  
JENNIFER L. YOKO SABA  
TRACEY M. QUACH  
NICOLE F. QUINTANA  
MELISSA S. FORTES  
ROBERT H. MARCUREAU  
  
JIC COUNSEL  
EDWARD D. SYRESMA, JR.  
DAVID J. GARIBALDI, III  
  
A PROFESSIONAL  
CORPORATION

June 1, 2001

Pamela Gibson, Executive Director  
Sonoma Community Development Agency  
#1 The Plaza  
Sonoma, CA 95476

Re: Amendment to Fee Agreement

Dear Pam:

This letter amends the Fee Agreement between the Sonoma Community Development Agency and Rutan & Tucker, LLP, dated April 18, 1996. Effective July 1, 2001, and continuing to December 31, 2001, our hourly rate will be \$160 per hour. Effective January 1, 2002, our hourly rate will be \$165 per hour. These increases are the first since 1996. Please also note that since 1996 the mileage rate for automobile travel has increased to \$.31 per mile (to date, I do not think we have billed the Agency for any mileage) and our hourly paralegal rates have increased and range from approximately \$90 per hour to approximately \$140 per hour (mileage and paralegal rates may increase from time to time without notice). Please approve this amendment to the Fee Agreement by signing in the space below and returning this original to me in the enclosed reply envelope. A copy of this letter is enclosed for your file. Thank you.

Very truly yours,

RUTAN & TUCKER, LLP

  
Dan Slater

Encl.

APPROVED:  
SONOMA COMMUNITY DEVELOPMENT AGENCY

By:   
Pamela Gibson, Executive Director

RECEIVED  
JUN 04 2001  
CITY OF SONOMA

# RUTAN & TUCKER

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS  
611 ANTON BOULEVARD, FOURTEENTH FLOOR  
COSTA MESA, CALIFORNIA 92626-1931  
DIRECT ALL MAIL TO: POST OFFICE BOX 1950  
COSTA MESA, CALIFORNIA 92628-1950  
TELEPHONE 714-641-5100 FACSIMILE 714-546-9035  
INTERNET ADDRESS [www.rutan.com](http://www.rutan.com)  
Direct Dial: (714) 641-3437  
E-mail: [dslater@rutan.com](mailto:dslater@rutan.com)

A. W. RUTAN (1880-1972) JAMES B. TUCKER SR. (1868-1950)

JAMES R. MOORE\*  
PAUL FREDERIC MARY  
RICHARD A. CURNUTT  
JOHN B. HUKIBUT JR.  
MICHAEL W. IMBELL  
MILFORD W. DAHL JR.  
\*THEODORE J. WALLACE JR.\*  
JOSEPH D. CARUTH  
RICHARD F. SIMS  
JAMES B. O'NEAL  
ROBERT C. BRAUN  
THOMAS S. SALINGER\*  
DAVID L. LARSEN\*  
CLIFFORD E. FRIEDEN  
MICHAEL D. RUBIN  
IRA G. RIVIN\*  
JEFFREY M. ODEKMAN  
STAN WOLCOTT  
ROBERT S. BOWYER  
MARCIA A. FOSZYTH  
WILLIAM M. MARTICORENA  
JAMES L. MORRIS  
MICHAEL T. HORNACE  
PHILIP D. KOHN  
JOIC D. AUPFRBERG  
STEVEN A. NICHOLS

THOMAS O. BROCKINGTON  
EVKIDRI VICKI DALLAS  
RANDALL M. BABBUSH  
MARY M. GRIEN  
GREGG AMBER  
MICHAEL F. STYZER  
THOMAS J. CRANE  
MARK B. FRAZIER  
PENILOPE PARMES  
M. KATHERINE JENSON  
DUKE F. WAHLQUIST  
RICHARD G. MONTEVIDEO  
LORI SARNER SHIHI  
ERNEST W. KLATTE, III  
SAM D. THOMPSON  
JAMES TAYLOR KACER  
DAVID B. LONGROVE  
HANS VAN LIGTEN  
STEPHEN A. ELLIS  
JEFFREY WEIHEIMER  
ROBERT O. OWEN  
ADAM N. VOLKERT  
JEFFREY A. GOEDFAR  
I. KEVIN BRAZIL  
LAVNE H. MELTZER  
L. JIM HARRISON

LARRY A. CIRUTTI  
CAROL D. CARTY  
PATRICK D. MICALLA  
RICHARD K. HOWELL  
JAMES S. WISSE\*  
DAVID H. HOCHNER  
A. PATRICK ALLNOZ  
ROBERT D. FISH  
S. DANIEL HARBOTTLE  
PAUL J. SIEVIES  
JOSEPH L. MAGA, III  
KRAIG C. KILGER  
KENT M. CLAYTON  
STEVEN J. GOON  
DOUGLAS J. DENNINGTON  
MARTIN W. TAYLOR  
DAN SLATER  
MARK J. HAYNE  
RONALD P. OINES  
MARK BUDENSKY  
TREG A. JULANDER  
TODD O. LITVIN  
KERRA S. CARLSON  
CRISTY LOMINZO PARKER  
JEFFREY T. SHECHING  
DAVID J. ZOETEMEYER

MARLENE POSE JUROFENSEN  
APRIL LEE WALTER  
KAREN ELIZABETH WALTER  
NATALIE SIBBALD GUNDAS  
JOHN W. HAMILTON, JR.  
JOHN A. RAMIREZ  
\*PHILIP J. BLANCHARD  
TERENCE J. GALLAGHER  
PAUL G. CASTOR  
DEJAN M. HIEHINCHAY  
DENISE L. MUESTER  
W. ANDREW AIOOKE  
CHARLES A. DAVENPORT, III  
RICHARD D. ARKO  
MARK A. MALOVS  
NIKI NGUYEN  
SANDRA P. THOMPSON  
JENNIFER S. ANDERSON  
JOHN T. BRADLEY  
ALISON LEAMONG-BUI  
KAREN L. KEATING  
T. LAN NGUYEN  
ISA NICHOLSON  
MARK J. AUSTIN  
ROBERT H. MARCEAU  
STEVEN W. BURT

NOAM I. DUZMAN  
MICHAEL MUESTER  
CARISSA K. PEREZ  
ANDREW E. AINSWORTH  
SETH L. HANSON  
ALEJANDRO S. ANGELO  
ANTHONY L. BEAUMON  
THOMAS W. FREED  
ARDON O. HANSEN  
DANSON D. MUEHLHEFF  
LONA LAYMON  
LATHIRINK M. OH  
POORNIMA JAYAPRAKASH  
  
OF COUNSEL  
LEONARD A. HANFEL  
EDWARD D. SYBESMA, JR.  
SENATOR DIJK AL KERNAN  
DANNI CARIBALDI, III  
WILLIAM T. CAPLAN  
  
\*A PROFESSIONAL CORPORATION  
\*\*PATENT AGENT

December 4, 2002

RECEIVED  
DEC 06 2002  
CITY OF SONOMA

Mike Fuson  
Executive Director  
Sonoma Community Development Agency  
Sonoma City Hall  
#1 The Plaza  
Sonoma, CA 95476

Re: Notice of Fee Increase

Dear Mike:

We began representing the Sonoma Community Development Agency in April 1996 and at that time our billing rate to the Agency was \$150 per hour. It remained at that rate for the next nearly *five years*, when a two-step increase took effect, to \$160 per hour as of January 1, 2001, and to \$165 per hour as of July 1, 2001. Our rate has remained at \$165 per hour for last year and one-half.

We have reviewed our billing rates in light of our expenses and the seniority of the attorneys working on Agency matters, and have determined that a rate increase of \$10 per hour, effective January 1, 2003, is warranted. Thus, I wanted to alert you in advance that we intend to increase our billing rate to the Agency as of 1/1/03 to \$175 per hour. Based on the original rate of \$150 per hour in 1996 and the increase to \$175 per hour as of 1/1/03, the increase from the original rate to the new rate is equivalent to about a 2.5% annual increase over that period.

We trust that you understand our need, from time to time, to raise our billing rate charged to the Agency. We will continue to provide the Agency with the responsive service that you and Mary Neilan have come to expect, and we look forward to continuing our association with the Agency.

*I would appreciate your acknowledging acceptance of the rate increase by signing and dating in the space below and returning this letter to me.* A reply envelope is enclosed for your convenience.

Mike Fuson

December 4, 2002

Page 2

If you have any questions concerning this rate increase, please do not hesitate to contact me. Thanks.

Very truly yours,

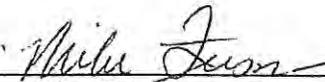
RUTAN & TUCKER, LLP



Dan Slater

ACCEPTED:

SONOMA COMMUNITY DEVELOPMENT AGENCY

By:   
Mike Fuson  
Executive Director

Date: 12/19/02



611 ANTON BOULEVARD, FOURTEENTH FLOOR  
COSTA MESA, CALIFORNIA 92626-1931  
DIRECT ALL MAIL TO: POST OFFICE BOX 1950  
COSTA MESA, CALIFORNIA 92628-1950  
TELEPHONE 714-641-5100 FACSIMILE 714-546-9035  
INTERNET ADDRESS www.rutan.com

ORANGE COUNTY  
SILICON VALLEY  
(408) 289-8777

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS



Dan Slater  
Direct Dial: (714) 641-3437  
E-mail: dslater@rutan.com

November 3, 2004

Mike Fuson, Executive Director  
Sonoma Community Development Agency  
Sonoma City Hall  
#1 The Plaza  
Sonoma, CA 95476

Re: Notice of Fee Increase

Dear Mike:

We have reviewed our billing rates in light of our expenses and the seniority of the attorneys working on Agency matters, and have determined that a rate increase of \$10 per hour, effective January 1, 2005, is warranted. Thus, I wanted to alert you in advance that we intend to increase our billing rate to the Agency as of 1/1/05 from \$175/hr to \$185/hr. The current rate of \$175/hr has been in effect for the last two years. We trust that you understand our need, from time to time, to raise our billing rate charged to the Agency. The new rate is the lowest hourly fee charged to any of our redevelopment agency clients. We will continue to provide the Agency with the responsive service that you have come to expect, and we look forward to continuing our association with the Agency.

*I would appreciate your acknowledging acceptance of the rate increase by signing and dating in the space below and returning this letter to me. A reply envelope is enclosed for your convenience. If you have any questions concerning this rate increase, please do not hesitate to contact me. Thanks.*

Very truly yours,

RUTAN & TUCKER, LLP

*Dan Slater*  
Dan Slater

**ACCEPTED:**  
**SONOMA COMMUNITY DEVELOPMENT AGENCY**

By: *Mike Fuson*  
Mike Fuson, Executive Director

Date: 12/17/04

April 20, 2007

VIA ELECTRONIC MAIL

Mike Fuson  
Executive Director  
Sonoma Community Development Agency  
#1 The Plaza  
Sonoma, CA 95476

Re: Fee Increase

Dear Mike:

Following up on my February 8, 2007 email to you and our discussion during my trip last month to the City, this letter confirms that our legal fees to the Sonoma Community Development Agency/City of Sonoma will be adjusted as follows:

- For time billed commencing April 1, 2007, the hourly rate will be \$195.
- For time billed commencing July 1, 2007, the hourly rate will be \$200.
- For time billed commencing January 1, 2008, the hourly rate will be \$215.

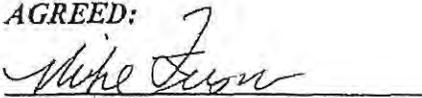
Please confirm your agreement by signing below and returning this letter to me. Thanks again for your cooperation.

Very truly yours,

RUTAN & TUCKER, LLP

  
Dan Slater

AGREED:



Mike Fuson,  
Executive Director, Sonoma Community Development Agency &  
City Manager, City of Sonoma

Date: 4/23/07



City of Sonoma  
City Council  
Agenda Item Summary

City Council Agenda Item: 7A

Meeting Date: 02/22/2012

---

**Department**

Administration

**Staff Contact**

Laurie Decker, Economic Development Manager

Linda Kelly, City Manager

---

**Agenda Item Title**

Public Hearing and discussion, consideration and possible adoption of Resolution establishing a Fee for Newsrack Permits

---

**Summary**

On February 6, 2012, the City Council adopted an ordinance to regulate the placement, appearance, number, size, and servicing of newsracks in the public right-of-way. Section 12.24.040 (D) of the ordinance allows that "an administrative fee may be imposed where such a fee is imposed merely to defray the expenses of administering constitutional regulation of newsracks and shall be strictly limited to the actual cost of administering such constitutional regulatory scheme. A fee may only be set subsequent to a hearing by the City Council to determine said actual cost. Written findings setting forth the basis of the fee shall be sent to all distributors."

Staff has determined that a newsrack fee of \$132.29 will cover the staff costs and associated overhead for administrative and field inspection duties associated with processing a newsrack permit. If more than three racks are included in a permit application, an additional fee of \$31.39 would apply for each additional rack to cover the additional inspection time required.

The City's Newsrack Ordinance provides that certain existing newsracks, which have been determined to meet the criteria established in the City's 1990 Newspaper Rack Policy for both Design and Location, shall be exempt from certain requirements of the application, and that the administrative fee for these racks shall be waived, but that all other permit application requirements apply.

Written findings setting the basis of the newsrack permit fee have been mailed to all publishers and distributors of existing racks for which staff was able to locate a mailing address.

---

**Recommended Council Action**

Hold public hearing and adopt Resolution establishing a new fee for newsrack permits.

---

**Alternative Actions**

Reschedule public hearing. .

---

**Financial Impact**

Staff time associated with issuing permits is offset by the administrative fee charged. In the current fiscal year, estimated permit revenue is \$1,500, with lower revenue in future years. Although the ordinance specifies that the cost of removal and storage of noncompliant newsracks shall be borne by the permittee, there may be some costs this year associated with removal and disposal of existing racks that do not apply for permits, or for abandoned racks where the permittee has gone out of business.

---

**Environmental Review**

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

**Status**

- Approved/Certified
  - No Action Required
  - Action Requested
- 

**Attachments:**

Fee Resolution

Fee Calculation

Newsrack letter

Newsrack Ordinance No. 01-2012

---

**cc:**

---

# CITY OF SONOMA

RESOLUTION NO. xx - 2012

## RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SONOMA ESTABLISHING A NEW USER FEE FOR NEWSRACK PERMITS

WHEREAS, California Constitution, Article XI, Section 7 grants to cities the power to engage in regulatory activities for which they may charge a fee for reimbursement of costs, and

WHEREAS, California Constitution, Article XIII B, Section 8 and Government Code Section 39001 provide general authority for charging fees for specific services, and

WHEREAS, various other sections of the California Constitution and Government Code provide authority for the collection of specific fees and charges, and

WHEREAS, the City of Sonoma charges fees for services and for reimbursement of regulatory activities, and

WHEREAS, on February 6, 2012 the City Council adopted Ordinance No. 01-2012 establishing a Newsrack Ordinance for the City of Sonoma, and in doing so, authorized a fee to recover the costs of administering regulation of newsracks, and

WHEREAS, the City Council of the City of Sonoma held a duly noticed Public Hearing to provide public input and review concerning adjustments in fees and charges.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Sonoma hereby:

1. Enacts certain new fees and charges, which appear as an attachment to this resolution.
2. Finds and determines that the fees and charges set forth in attachments hereto do not exceed the reasonable costs of providing the services for which the fee is charged or the estimated amount required to provide the service for which the fee or charge is levied.
3. States that the fees set forth in the attachments hereto shall become effective March 7, 2012.

PASSED AND ADOPTED as a resolution of the City Council of the City of Sonoma at their regular meeting held on the 22nd day of February, 2012 by the following vote:

Ayes:  
Noes:  
Absent:

\_\_\_\_\_  
Joanne Sanders, Mayor

ATTEST:

\_\_\_\_\_  
Gay Johann, City Clerk

# Public Works

---

**FEE COST WORKSHEET**

---

NUMBER PW-02

**SERVICE:** Public Works Newsrack Permit & Inspection Fee**SERVICE:** Hourly rate for staff time and expenses associated with issuing Newsrack Permit and Public Works conducting initial site inspections and associated document review, recordkeeping and travel time.**SERVICE:** Allocation of Salary and Expenses based on an hourly rate. Hourly rate covers up to 3 newsracks. Based on hourly rate for MWIII, there is an additional fee of \$31.39 for each additional rack received as part of the same permit application. 16% of the Total Salary is added to this fee for the purpose of recovering costs to maintain the City's Standard Plans.

---

**CALCULATION OF FEE**

---

	Hour	Rate	
<b>Salaries:</b> Administration Ass't	0.5	\$27.55	\$13.78
PW Insp. (MW III)	1	\$35.23	\$35.23
		<b>Total Salary</b>	<b>\$49.01</b>
<b>Benefits:</b>	38.89%		\$19.06
<b>Operating Expenses:</b>	23.38%		\$11.46
<b>Overhead:</b>	56.39%		\$27.63
<b>Update fee</b>		16%	\$7.84
<b>Fixed Asse</b> Equipment	24.78%		\$12.14
Buildings	10.52%		\$5.16
		<b>Total</b>	<b>\$132.29</b>

Fee of \$132.29 is for up to 3 newsracks per permit application.  
Additional fee of \$31.39 applies for each additional rack  
received as part of same permit application.

# City of Sonoma

No. 1 The Plaza  
Sonoma California 95476-6690  
Phone (707) 938-3681 Fax (707) 938-8775  
E-Mail: cityhall@sonomacity.org



## City of Sonoma Newsrack Ordinance

February 9, 2012

The City of Sonoma has adopted an ordinance to regulate the placement, installation, maintenance, and operation of newsracks in the public right-of-way, while protecting constitutional rights related to distribution of information through the use of newsracks. The newsrack ordinance builds upon the City's existing (1990) administrative policy regarding newsracks, which it will replace. We appreciate the input received from the publishing community in the development of this ordinance. A copy of the new ordinance is enclosed.

As provided for in the ordinance, a permit fee to defray the expenses of administering the newsrack regulations is being proposed. This fee may only be set subsequent to a hearing by the City Council. **A public hearing to consider approval of this fee has been scheduled for the City Council meeting of Wednesday, February 22<sup>nd</sup> at 7:00 p.m.** Findings setting forth the basis of the fee are attached. The full agenda and staff reports for the City Council meeting will be posted on the City's website, [www.sonomacity.org](http://www.sonomacity.org), at least two days prior to the meeting.

The effective date of the newsrack ordinance is March 7, 2012. Applications for newsrack permits may be filed on or after this date, using a form that will be made available on the City's website or by contacting City Hall at (707) 938-3681. We anticipate that the permit form will be available at least ten days prior to the effective date of the ordinance. Please note that the permit application will require a copy of a certificate of comprehensive general liability insurance in the amount of \$1 million naming the City of Sonoma as additional insured.

Existing newsracks, specifically identified in an inventory conducted prior to the adoption of the ordinance (attached), are deemed to have a newsrack permit for a period of three months from the effective date of the ordinance, at which time a new newsrack permit must be filed. Please note that those newsrack identified with asterisks have been determined to meet the criteria for both Design and Placement provided in the City of Sonoma's January 1, 1990 Newspaper Rack Policy, and the ordinance provides for a more streamlined permit process for these newsracks.

Please refer to the attached materials for additional information regarding the new regulations. If you have specific questions, please contact the project coordinator, Laurie Decker, at (707) 327-7338.

Thank you.

Linda Kelly  
City Manager

### Attachments:

1. City of Sonoma Newsrack Ordinance
2. Inventory of Existing Newsracks
3. Written Findings setting forth basis of Newsrack Fee

# CITY OF SONOMA

ORDINANCE NO. 01 - 2012

## AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONOMA AMENDING TITLE 12 OF THE SONOMA MUNICIPAL CODE BY ADDING A SECTION REGULATING NEWSRACKS

THE CITY COUNCIL OF THE CITY OF SONOMA DOES ORDAIN AS FOLLOWS:

### Section 1. Findings

A. Findings. The City Council of the City of Sonoma finds and declares that:

1. The uncontrolled placement and maintenance of newsracks in the public right-of-way can constitute a threat to public health, safety and welfare by interfering with and obstructing the use of the public rights-of-way and by offending community aesthetic sensibilities and adversely affecting tourism which is one of the major sources of economic viability of the community.

2. The City Council recognizes, however, that the use of such rights-of-way is so historically associated with the sale and distribution of newspapers and news periodicals that access to those areas for such purposes should not be absolutely denied. The City Council further finds that these strong and competing interests require a reasonable accommodation which can be satisfactorily achieved only through the means of this chapter, which is designed to accommodate such interests by regulating the place and manner of using such newsracks.

B. Purpose. The purpose of this chapter is to promote the public health, safety and welfare through the regulation of placement, appearance, number, size and servicing of newsracks on the public rights-of-way so as to:

1. Protect the right to distribute information protected by the United States and California Constitutions, through the use of newsracks.

2. Provide for pedestrian and driving safety and convenience.

3. Ensure no unreasonable interference with the flow of pedestrian or vehicular traffic, including but not limited to ingress into or egress from any place of business or residence, from the street to the sidewalk, or from parked vehicles to the sidewalk.

4. Provide reasonable access for the use and maintenance of sidewalks, poles, posts, traffic signs and signals, hydrants, mail boxes, and similar appurtenances, and access to locations used for public transportation purposes.

5. Reduce visual blight on the public rights-of-way, encourage well-designed and aesthetically compatible newsracks and protect the aesthetics and value of surrounding properties.

6. Reduce exposure of the City to personal injury or property damage claims and litigation.

C. Preservation of Constitutional Rights. It is not the intent of this chapter to in any way discriminate against, regulate, or interfere with the publication, circulation, distribution, or dissemination of any printed material that is constitutionally protected.

**Section 2.** Chapter 12.24, Newsracks, is added to read as follows:

## **Chapter 12.24**

### **NEWSRACKS**

#### **Sections:**

12.24.010	Purpose and Intent
12.24.020	Definitions
12.24.030	General Provisions
12.24.040	Permit Required
12.24.050	Standards for the Placement, Installation, Maintenance and Operation of Newsracks
12.24.060	Removal and Hearing
12.24.070	Notices
12.24.080	Applicability
12.24.090	Abandoned Newsracks
12.24.100	Severability
12.24.110	Enforcement Authority
12.24.120	Appeals and Judicial Review
12.24.010	Purpose and Intent.

#### **12.24.020 Definitions.**

As used in this chapter, unless the context otherwise clearly indicates, the following words and phrases shall be construed as defined in this section:

"Block" shall mean one side of a street between two consecutive intersections.

"City Manager" shall mean the City Manager or his or her designee.

"Director of Public Works" shall mean the Director of the Public Works Department or his or her designee.

"Double-slotted newsracks" shall mean single newsracks containing separate provisions for two tabloid-style (vertically formatted) publications, where each side has a separate coin slot, merchandise receptacles, or places where the publications are dispersed. A double-slotted newsrack shall be considered one newsrack, cabinet, or compartment for purposes of this chapter.

"Modular newsracks" shall mean an attached group of two or more newsracks supported by a pedestal.

"Newsrack" shall mean any self-service or coin-operated box, container, storage unit or other dispenser installed, used, or maintained for the display and sale or free distribution of newspapers, news periodicals, commercial handbills, or other publications.

"Newsrack permit" shall mean a permit which was issued under this chapter of the Sonoma Municipal Code.

"Person" shall mean any person or persons, or entity, including but not limited to, a corporation, partnership, unincorporated association, or joint venture.

#### **12.24.030 General Provisions.**

A. Roadway and Driveway Prohibition. No person shall install, use, or maintain any newsrack which projects onto, into, or over, or which rests, wholly or in part, upon any part of the roadway of any public street, or upon any driveway.

B. Parkway Prohibition. No person shall install, use, or maintain any newsrack on a parkway, planter strip, or similar area designated for landscaping in a public right-of-way.

C. Sidewalk Restrictions. No person shall install, use, or maintain any newsrack which in whole or in part rests upon, in, or over any public sidewalk in any manner inconsistent with or in violation of the provisions of this chapter.

#### **12.24.040 Permit Required.**

A. No person shall install, use or maintain any newsrack which in whole or in part rests upon, in, or over any public sidewalk without a newsrack permit from the Public Works Department as required in this chapter.

B. The newsracks which are specifically identified in Exhibit "A" attached to the ordinance codified in this chapter are deemed to have a newsrack permit for a period of three months from the effective date of this chapter, at which time a new newsrack permit must be filed as provided in this chapter.

C. Applications for a new newsrack permit may be filed on or after the effective date of the ordinance codified in this chapter. Applications shall be filed with the Director of Public Works upon a form provided by the Public Works Department for that purpose and shall include the following information:

1. The name, address, and telephone number of the applicant;
2. The address and telephone number of a responsible person whom the City may notify or contact at any reasonable time concerning the applicant's newsracks;
3. The number of proposed newsracks and the names and frequency of publications to be contained in each newsrack, including any existing newsracks;
4. Type or brand of newsrack, including a photograph and a description of the newsrack and supporting structure;
5. A site plan showing the exact location of each newsrack and supporting structure, and sufficient information to determine that the location complies with SMC 12.24.050;
6. Such application shall also contain a statement that the applicant will, in consideration of being issued a newsrack permit for the use of space, be responsible for any damage or repairs caused by the installation, maintenance or removal of any newsrack and

agree to indemnify and hold harmless the City of Sonoma, its officers and employees from any loss, liability, or damage, including expenses and costs, for bodily or personal injury, and for property damage sustained by any person caused by the installation, use, or maintenance of the applicant's newsrack within the City of Sonoma.

7. Such application shall also include a copy of the policy or a certificate of the comprehensive general liability insurance policy in the amount prescribed by city council resolution to protect against personal injury and property damages and not more than the amount required for other obstructions on City property. Such insurance shall name on the policy or by endorsement as insured the city of Sonoma, its officers, employees and agents. Insurance coverage must be maintained for the duration of the newsrack placement. Proof of insurance coverage as specified in this subsection must be verified by the city prior to issuance of a newsrack permit.

D. An administrative fee may be imposed where such a fee is imposed merely to defray the expenses of administering constitutional regulation of newsracks and shall be strictly limited to the actual cost of administering such constitutional regulatory scheme. A fee may only be set subsequent to a hearing by the City Council to determine said actual cost. Written findings setting forth the basis of the fee shall be sent to all distributors.

E. Existing newsracks which have been determined to meet the criteria for both Design and Placement provided in the City of Sonoma's January 1, 1990 Newspaper Rack Policy are so indicated by an asterisk in Attachment A. These newsracks are exempt from the application requirements in sections C(4) (type and brand of newsrack) and C(5) (site plan) of this section, and the administrative fee for their application shall be waived. All other application requirements apply. Applications for these newsracks that are complete and consistent with the provisions of this chapter, and are filed within 3 months of the effective date of this chapter, shall be approved.

F. Except as otherwise provided in section (E), applications for new newsrack permits which are complete, consistent with the provisions of this chapter, and for locations at which space for one or more newsracks is available shall be approved on a first-come, first-serve basis.

G. Applications for a new newsrack location may be denied if there is a vacant and available newsrack in an existing modular newsrack on the same block.

H. At the request of the applicant, an application for a new newsrack permit which is complete and consistent with the provisions of this chapter, but for a location at which space for a new newsrack is not available, shall be placed on a waiting list. If the requested location becomes available, the applicant will be notified according to its placement on the waiting list and a newsrack permit shall be issued; provided that the newsrack complies with the provisions of this chapter. Said applicant shall have fifteen (15) days after the mailing of the notification letter to obtain a newsrack permit for the space by notifying the Director of Public Works in writing and by paying the newsrack permit fee. Failure to obtain a newsrack permit within this period shall be deemed a withdrawal of the application.

I. If a newsrack permit is denied, in whole or in part, the Director of Public Works shall notify the applicant in writing within ten (10) business days of the decision explaining the reasons for the denial.

J. The applicant may appeal the denial of a newsrack permit pursuant to SMC12.24.120.

K. A newsrack permittee may not assign its permits to another of its publication(s).

**12.24.050 Standards for the Placement, Installation, Maintenance and Operation of Newsracks.**

Any newsrack which in whole or in part rests upon, in, or over any public sidewalk shall comply with all of the following standards:

A. Placement and Total Numbers.

1. No newsrack shall be chained, bolted, or otherwise attached to any property not owned by the permittee of the newsrack. For newsracks located in the public right-of-way, the pedestal shall be securely bolted to the sidewalk or a concrete footing under pavers, tiles, or similar surfaces as the case may be; provided that the permittee of the newsrack restores the sidewalk, pavers, tiles or similar surfaces to their original condition upon removal of the newsrack.

2. Where there are two or more newsracks in one location, newsracks shall be clustered into modular newsracks subject to the following conditions and limitations:

a. Modular newsracks shall be designed in such a manner as to utilize two rows with an equal number of compartments in each row.

b. No modular newsrack shall contain more than eight newsracks.

3. No newsrack may be installed within 200 feet of another single or modular newsrack on the same block except as specifically provided elsewhere in this chapter, including without limitation SMC 12.24.040(B) and subsection (A)(4) of this section.

4. Any person, publication or agency may apply for a variance from the 200-foot separation requirement of subsections (A)(3) of this section. A variance may be granted by the Director of Public Works if the applicant can establish that the variance would not violate (a) SMC 12.24.010, Purpose and Intent, or (b) subsection (B) of this section, Location. The applicant can appeal the denial of a variance pursuant to SMC 12.24.120.

B. Location. Other than those existing newsracks identified under section 12.24.040 (E), no newsrack shall be installed, used, or maintained:

1. When such site or location is used for public utility purposes, public transportation purposes, or other governmental use.

2. When such newsrack unreasonably interferes with or impedes ingress or egress to or from any business, residence or legally parked or stopped vehicle or the use of poles, posts, traffic signs or signals, hydrants, mailboxes, or other objects at or near the location.

3. Within 15 feet of the curb ramp of any street intersection, or in any location that interferes with or impairs the vision of operators of vehicles at street intersections.

4. Within 5 feet of any of the following: fire hydrant, emergency call box or other emergency facility, any marked crosswalk not at an intersection, any driveway or midblock curb

ramp, any area designated by curb markings or signage to be handicapped parking, bus stop sign pole, or existing Plaza Periphery Business Wayfinding Signs.

5. With the back to the roadway along the curb, if located within 2 feet from any curb where marked parking is parallel to the sidewalk.

6. Within 18 inches from trees and other vegetation installed in permanent planters in the public right-of-way, tree wells, supporting posts for covered walkways or canopies, or other similar elements at or near the location.

7. So as to obstruct, shield, or block a window of any business or residence where such newsrack is located within 6 feet from the face of the building on which the window is located.

8. At any location which creates less than a 4-foot wide path of travel as required by Title 24 of the California Code of Regulations and the Americans with Disabilities Act.

9. At any location in front of a State Park of California, Sonoma City Hall or on the sidewalks on either the interior perimeter or crossing within the Sonoma Plaza.

C. Dimensions and Design.

1. Each newsrack shall be a pedestal-mounted and stackable, of metal construction, and of a style that is either the KJ-50 as manufactured by K-Jack, or the Traditional 49-16 as manufactured by Sho-Rack, or substantially similar thereto.

2. The color of any newsrack shall be brown; identified as "brown" or "federal brown" (as manufactured by "Sho-Rack"). An alternative color may be allowed by the Director of Public Works; provided that the alternative color is complementary to the surroundings.

3. No single or modular newsrack shall exceed 58 inches in height measured from the surface of the sidewalk or ground to the top surface of the newsrack, or 20 inches in depth.

4. Use of double-slotted newsracks is encouraged for smaller, vertically formatted publications.

5. All units in modular racks shall open in the same direction.

D. Maintenance. Every newsrack shall be maintained by the permittee in a clean and neat condition free from dents, cracks, corrosion, rust, graffiti, dirt, or grease; chipped, discolored or peeling paint; information flyers or stickers that are not the property of the newsrack permittee; broken, cracked, or misshapen parts; and similar conditions that detract from the aesthetic quality of the commercial area. The newsrack shall be in working order at all times or locked in a closed position. Upon removal of a newsrack, the right-of-way shall be restored to its original condition prior to installation of the newsrack.

E. Advertising. Newsracks shall carry no advertising or public notices, other than a logo or similar information identifying the newspaper or publication, covering no more than 50% of the back and/or sides of the newsrack. No logos or similar information identifying the newspaper shall be allowed on the tops of the newsracks.

F. Identification. The address and telephone number of a responsible person who may be contacted at any time concerning the newsrack shall be displayed on the front of the newsrack

in such manner as to be readily visible and readable to a prospective customer. The size of the identifying information shall not exceed 12 square inches.

#### **12.24.060 Removal and Hearing.**

In addition to any enforcement remedies available to the City as set forth in this code, any newsrack and the publications therein installed, or maintained in violation of this chapter may be removed by the City subject to the notice and appeal procedures set forth in this section.

A. Notice of Violation. If at any time it is determined by the Director of Public Works that any newsrack is in violation of the requirements of this chapter, a written "notice of violation" shall be mailed to the permittee of the newsrack, and posted on the newsrack, or if no identification is displayed on the newsrack, merely posted on the newsrack. The notice shall state the violation or violations which constitute the basis of the notice, the City's intent to revoke the newsrack permit and to remove the newsrack if the violation is not corrected or a hearing has not been requested within 15 days of the date of the mailing or posting of the notice of violation.

B. Hearing. A timely request for a hearing shall stay any removal of the newsrack. The request for a hearing shall be in writing, shall state the basis thereof, and shall be filed with the City Clerk. The hearing shall take place before the City Manager within 15 calendar days of the request. The hearing shall be informal, but oral and written evidence may be given the Director of Public Works and the permittee. The City Manager shall issue a written decision within 10 calendar days of the hearing. If the City Manager finds that the newsrack is in violation of this chapter and the violation is not corrected within 10 calendar days after the written decision is mailed to the permittee, the newsrack permit may be revoked and the newsrack and any publications therein, if not a modular newsrack, may be summarily removed. The newsrack permittee may appeal the City Manager's determination pursuant to SMC 12.24.120. A timely appeal to the City Council shall stay the summary removal of the newsrack.

C. Removal. Any newsrack which is not brought into compliance with this chapter within 15 days after notice of violation has been posted on the newsrack if no hearing or appeal is requested pursuant to subsection (B) of this section or 12.24.120 shall be removed by the Director of Public Works and stored in a convenient place. The cost of removal and storage shall be borne by the permittee.

D. Notification of Removal. The Director of Public Works shall notify the permittee of the removal by mailing a "notice of removal" to the last known address of the permittee if any, or to the address displayed on the newsrack. Such notice shall be mailed within five (5) business days after removal of the newsrack and shall state: (1) the date the newsrack was removed; (2) the reasons for the removal; and (3) the locations of and procedure for claiming the newsrack.

E. Release. Any newsrack removed and stored pursuant to these provisions shall be released thereof within six (6) months after the mailing of the written "notice of removal" upon satisfactory proof of authority to claim the newsrack and payment of an impoundment fee in an amount equal to the reasonable cost to the City of removing and storing the newsrack. If such newsrack remains unclaimed after this 6-month period, it shall be deemed to be unclaimed property and may be disposed of by the City.

F. Removal in Exigent Circumstances. In the case of any newsrack which, in violation of the provisions of this chapter, creates an immediate danger to the health, safety or welfare of the public, such newsrack may be summarily removed and stored in a convenient location so as to eliminate the danger to the health, safety and welfare of the public. The Director of Public

Works shall notify the permittee of the removal by mailing a "notice of removal" to the last known address of the permittee. Such notice shall be mailed within five (5) business days after the removal of the newsrack and shall contain the same information as set forth in subsection (D) of this section. The permittee of the newsrack may request a hearing pursuant to the procedures of subsection (B) of this section for a determination of whether the newsrack was legally placed and, therefore, improperly seized. If the City Manager determines that the seizure was improper, the City Manager shall order the newsrack released and reinstalled by the City with no charge to the permittee.

#### **12.24.070 Notices.**

Unless otherwise stated, notices required pursuant to the provision of this chapter shall be given in writing by United States Certified Mail, Return Receipt Requested, addressed to the person to be notified at his or her last known address. The giving of notice under this chapter shall be deemed to have occurred as of the date of deposit in the United States Mail.

#### **12.24.080 Applicability.**

The provisions of this chapter shall apply to all newsracks within public rights-of-way, whether installed and maintained prior to or after the effective date of any of the provisions herein.

#### **12.24.090 Abandoned Newsracks.**

A newsrack shall be deemed abandoned when no printed material of the type listed on the permit is contained therein for a period of more than thirty (30) consecutive days, or contains only outdated issues for more than thirty (30) consecutive days. If the Director of Public Works determines that no printed material of the type listed on the permit is contained in a newsrack for a period of more than thirty (30) consecutive days, or contains only outdated issues for more than thirty (30) consecutive days, the Director of Public Works shall mail to the newsrack permittee and post on the newsrack a notice stating his or her finding that the newsrack has been abandoned. If the newsrack permittee does not respond in writing to the Director of Public Works with a statement of intention not to abandon the newsrack within ten (10) days of the mailing and posting of said notice, the newsrack permit shall be deemed revoked and the Director of Public Works may summarily impound such newsrack, and shall mail a notice of removal as set forth in SMC 12.24.060(D). If the newsrack permittee timely provides a statement of intention not to abandon the newsrack, and there is not printed material contained in the newsrack for more than thirty (30) consecutive days thereafter, or contains only outdated issues for thirty (30) consecutive days, the newsrack permit shall be deemed revoked, and the Director of Public Works (1) may, without first mailing or posting notice of abandonment, summarily impound such newsrack, (2) shall mail a notice of removal as set forth in SMC 12.24.060(D), and (3) shall determine whether a newsrack permit should be issued to an applicant on the waiting list, if one exists for the site, in accordance with SMC 12.24.040(F).

#### **12.24.100 Severability.**

Each phrase, clause, sentence, section, and provision of this chapter is hereby declared to be severable. Therefore, if any phrase, clause, sentence, section, or provision of this chapter or application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other phrase, clause, sentence, section, provision, or application of this chapter.

**12.24.110 Enforcement Authority.**

Except as specifically provided herein, the provisions of this chapter shall be enforced by the City Manager or his or her designee.

**12.24.120 Appeals and Judicial Review.**

Unless otherwise provided herein, any person who is aggrieved by a determination made pursuant to SMC 12.24.040(G), 12.24.050(A)5, or 12.24.060 shall have ten (15) calendar days within which to appeal the decision to the City Council in accordance with the appeals provisions of this code. Any appeal of a newsrack permit or variance denial under this chapter shall be set for a public hearing before the City Council.

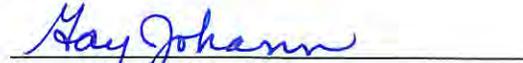
Section 3. Effective Date.

This ordinance shall become effective thirty (30) days from and after the date of its passage.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Sonoma this 6<sup>th</sup> day of February 2012.

  
\_\_\_\_\_  
Joanne Sanders, Mayor

ATTEST:

  
\_\_\_\_\_  
Gay Johann, City Clerk

State of California )  
County of Sonoma )  
City of Sonoma )

I, Gay Johann, City Clerk of the City of Sonoma, do hereby certify that the foregoing ordinance was adopted on the 6<sup>th</sup> day of January 2012 by the following vote:

AYES: Barbose, Rouse, Brown, Gallian, Sanders  
NOES: None  
ABSENT: None

  
\_\_\_\_\_  
Gay Johann, City Clerk

Attachment A

**Newsrack Inventory: Existing (as of December 12, 2011)**

<i>Rack Location</i>	<i>Publication Name(s)</i>	<i>Type of Rack</i>	<i>Contains current publications?</i>	<i>Meets City's 1990 Design &amp; Placement guidelines?</i>
E. Napa St., 100 block (midblock)	Sonoma Index-Tribune	Single/stand-alone	Yes	No (design)
E. Napa St., 100 block (midblock)	Sonoma Sun	Single/stand-alone	Yes	Yes (if fully bolted)
1st St E, Plaza (northern)	S.F. Chronicle	Modular, 8 (4x2)	Yes	Yes
1st St E, Plaza (northern)	Press Democrat	Modular, 8 (4x2)	Yes	Yes
1st St E, Plaza (northern)	Sonoma Sun	Modular, 8 (4x2)	Yes	Yes
1st St E, Plaza (northern)	Homes & Land Mag of North Bay	Modular, 8 (4x2)	Yes but of SC Gazette	Yes
1st St E, Plaza (northern)	Wall Street Journal	Modular, 8 (4x2)	Yes	Yes
1st St E, Plaza (northern)	S.F. Chronicle	Modular, 8 (4x2)	No	Yes
1st St E, Plaza (northern)	USA Today	Modular, 8 (4x2)	Yes	Yes
1st St E, Plaza (northern)	Homes & Land Magazine	Modular, 8 (4x2)	No	Yes
1st St E, Plaza (northern)	Sonoma Index-Tribune	Single/stand-alone	Yes	Yes
1st St E, Plaza (northern)	Wine Country Weekly (RE Reader)	Single/stand-alone	No	No (design)
1st St E, Plaza (northern)	The Real Estate Book	Single/stand-alone	No	No (design)
1st St E, Plaza (northern)	Distinctive Properties	Single/stand-alone	Yes	No (design)
1st St E, Plaza (northern)	Distinctive Properties	Single/stand-alone	Yes	No (design)
1st St E, Plaza (southern)	Wine Country This Week	Single/stand-alone	Yes	No (design)
1st St E, Plaza (southern)	Sonoma Family Life	Single/stand-alone	Yes	No (design)
1st St E, Plaza (southern)	The Real Estate Book	Single/stand-alone	No	No (design)
1st St E, Plaza (southern)	Wine Country Weekly	Single/stand-alone	No	No (design)
1st St E, Plaza (southern)	Homes & Land Mag of North Bay	Single/stand-alone	Yes, also Golf Guide	No (design)
1st St E, Plaza (southern)	Sonoma Index-Tribune	Single/stand-alone	Yes	Yes (if fully bolted)
1st St E, Plaza (southern)	Sonoma Sun	Single/stand-alone	Yes	Yes
1st St E, Plaza (southern)	S.F. Chronicle	Modular, 2 (1x2)	Yes	Yes
1st St E, Plaza (southern)	Press Democrat	Modular, 2 (1x2)	Yes	Yes
1st St E, Plaza (southern)	Sonoma County Gazette	Single/stand-alone	Yes	No (design)
Spain St., Plaza (midblock)	Sonoma County Gazette	Single/stand-alone	No	No (design)
Spain St., Plaza (midblock)	Northern Calif. Bohemian	Single/stand-alone	Yes	No (design)
Spain St., Plaza (midblock)	No Name	Modular, 2 (1x2)	No	Yes
Spain St., Plaza (midblock)	Bingo Bugle	Modular, 2 (1x2)	No	Yes

Spain St., Plaza (midblock)	* Sonoma Index-Tribune	Single/stand-alone	Yes	Yes	No (design)
Spain St., Plaza (midblock)	Sonoma Sun	Modular, 2 (1x2)	Yes	Yes	No (design)
Spain St., Plaza (midblock)	Homes & Land Mag of North Bay	Modular, 2 (1x2)	Yes	Yes	Yes
Spain St., Plaza (midblock)	S.F. Chronicle	Modular, 2 (1x2)	Yes	Yes	Yes
Spain St., Plaza (midblock)	S.F. Chronicle	Modular, 2 (1x2)	No	No	Yes
Spain St., Plaza (midblock)	Press Democrat	Modular, 2 (1x2)	Yes	Yes	Yes
Spain St., Plaza (midblock)	Wine Country Weekly	Single/stand-alone	No	No	Yes
Spain St., Plaza (near 1st St. W)	Sonoma Sun	Single/stand-alone	Yes	Yes	Yes
Spain St., Plaza (near 1st St. W)	S.F. Chronicle	Modular, 6 (3x2)	No	Yes	Yes
Spain St., Plaza (near 1st St. W)	Sonoma Index-Tribune	Modular, 6 (3x2)	Yes	Yes	Yes
Spain St., Plaza (near 1st St. W)	S.F. Examiner	Modular, 6 (3x2)	Yes, but of Eel River Reporter	Yes	Yes
Spain St., Plaza (near 1st St. W)	Marin Independent-Journal	Modular, 6 (3x2)	No	Yes	Yes
Spain St., Plaza (near 1st St. W)	Press Democrat	Modular, 6 (3x2)	Yes	Yes	Yes
Spain St., Plaza (near 1st St. W)	Homes & Land Mag of North Bay	Modular, 6 (3x2)	Yes	Yes	Yes
Spain St., Plaza (near 1st St. W)	HomesMagazine.com	Single/stand-alone	Yes, but of Studio Discov Tour	No (design)	No (design)
1st St. W, Plaza (midblock)	Sonoma County Gazette	Single/stand-alone	Yes	No (design)	No (design)
1st St. W, Plaza (midblock)	Sonoma Index-Tribune	Single/stand-alone	Yes	Yes (if fully bolted)	Yes (if fully bolted)
1st St. W, Plaza (midblock)	Press Democrat	Single/stand-alone	Yes	Yes	Yes
1st St. W, Plaza (midblock)	Sonoma Sun	Single/stand-alone	Yes	No (design)	No (design)
1st St. W, Plaza (midblock)	HomesMagazine.com	Single/stand-alone	No	No (design)	No (design)
1st St. W, Plaza (midblock)	The Real Estate Book	Single/stand-alone	No	No (design)	No (design)
1st St. W, Plaza (midblock)	NorcalVineyards.com	Single/stand-alone	No	No (design)	No (design)
1st St. W, just south of Plaza	Wine Country Weekly	Single/stand-alone	No	No (design)	No (design)
1st St. W, just south of Plaza	HomesMagazine.com	Single/stand-alone	No	No (design)	No (design)
1st St. W, just south of Plaza	The Real Estate Book	Single/stand-alone	Yes	No (design)	No (design)
1st St. W, just south of Plaza	Sonoma Sun	Single/stand-alone	Yes	Yes	Yes
1st St. W, just south of Plaza	Press Democrat	Single/stand-alone	No	No (design)	No (design)
1st St. W, just south of Plaza	Homes & Land Mag of North Bay	Modular, 2 (1x2)	Yes	No (design)	No (design)
1st St. W, just south of Plaza	Homes & Land Mag of North Bay	Modular, 2 (1x2)	Yes	No (design)	No (design)
Broadway, east side, south of Plaza	Real Estate Sonoma County	Modular, 4 (2x2)	No	Yes	Yes
Broadway, east side, south of Plaza	Sonoma County Gazette	Modular, 4 (2x2)	No	Yes	Yes
Broadway, east side, south of Plaza	Wine Country Weekly	Modular, 4 (2x2)	No	Yes	Yes
Broadway, east side, south of Plaza	Sonoma Sun	Modular, 4 (2x2)	Yes	Yes (note: faces curb)	Yes (note: faces curb)
Broadway, east side, south of Plaza	Sonoma County Independent	Modular, 2 (1x2)	No	Yes	Yes

Broadway, east side, south of Plaza	*	Homes & Land Mag of North Bay	Modular, 2 (1x2)	Yes	Yes
100 block W. Napa St, midblock		Sonoma Sun	Single/stand-alone	Yes	No, (placement - too close to driveway)
100 block W. Napa St, by gas stn		Wine Country Weekly (RE Reader)	Single/stand-alone	Yes	No (design)
100 block W. Napa St, by gas stn		Homes & Land Mag of North Bay	Single/stand-alone	Yes, also Golf Guide	No (design)
100 block W. Napa St, by gas stn		Auto Mart Diablo Dealer	Single/stand-alone	No, trash filled	No (design)
100 block W. Napa St, by gas stn		HomesMagazine.com	Single/stand-alone	No, trash filled	No (design)
2nd St. West, near Andrieux	*	Press Democrat	Single/stand-alone	No	Yes
7th St. West, near Spain		Sonoma Sun	Single/stand-alone	Yes	No (placement - too close to corner ramp)
Broadway, sidewalk at Post Office		Sonoma Family Life	Single/stand-alone	Yes	No (design)
Broadway, sidewalk at Post Office		La Voz; Mendocino Travelers Guide	Modular, 3 (1x3)	Yes	No (design)
Broadway, sidewalk at Post Office		Menus from Mendo.; Real Est Guide	Modular, 3 (1x3)	Yes	No (design)
Broadway, sidewalk at Post Office		Mendo. Art Ctr; Studio Discov. Tour	Modular, 3 (1x3)	Yes	No (design)
Broadway, sidewalk at Post Office		Wine Country Weekly (RE Reader)	Single/stand-alone	No	No (design)
Broadway, sidewalk at Post Office		Bingo Bugle	Single/stand-alone	No	No (design)
Broadway, sidewalk at Post Office		Northern Calif. Bohemian/Independent	Single/stand-alone	Yes	No (design)
Broadway, sidewalk at Post Office		HomesMagazine.com	Single/stand-alone	No	No (design)
Broadway, sidewalk at Post Office		Auto Mart Diablo Dealer	Single/stand-alone	No	No (design)
Broadway, sidewalk at Post Office		No name	Modular, 2 (1x2)	No	No (design)
Broadway, sidewalk at Post Office		Homes & Land Mag of North Bay	Single/stand-alone	Yes	No (design)
Broadway, sidewalk at Post Office		The Real Estate Book	Single/stand-alone	Yes	No (design)
Broadway, sidewalk at Post Office		Auto Weekly	Single/stand-alone	No	No (design)
Broadway, sidewalk at Post Office		Distinctive Properties	Single/stand-alone	Yes	No (design)



City of Sonoma  
**City Council**  
**Agenda Item Summary**

City Council Agenda Item: 8A

Meeting Date: 2/22/12

---

**Department**

Administration

**Staff Contact**

Carol Giovanatto, Assistant City Manager

---

**Agenda Item Title**

Midyear Budget Review – FY 2011-12

---

**Summary**

The City has reached the mid-point in the FY 2011-12 operating budget. Staff will present a summary status report on the City's major funds.

---

**Recommended Council Action**

Accept report.

---

**Alternative Actions**

Request additional information.

---

**Financial Impact**

N/A

---

**Environmental Review**

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

**Status**

- Approved/Certified
- No Action Required
- Action Requested

---

**Attachments:**

Midyear Budget Report

---

**cc:**

---

## CITY OF SONOMA

### MIDYEAR BUDGET REPORT FOR MAJOR FUNDS IN THE CITY'S ACCOUNTING STRUCTURE FY 2011-12

The mid-year Budget Report summarizes the activities of the major City funds, including Redevelopment, but is not meant to be inclusive of all finance-related transactions. It is intended to provide the Council and the public with an overview of the state of the City's general fiscal condition.

#### GENERAL FUND FINANCIAL CONDITION

The midyear position of the General Fund reflects a deficit of \$567,400 but should be viewed as typical due to the timing of revenue receipts and is comparable to the prior year. For reference, last year at this time, the midyear deficit was \$580,410. As anticipated in the 2011-12 Budget, major revenues are showing a slow recovery but are still slightly behind the same timeframe as the prior year. While property tax was received in December, it is slightly lower than received in the prior year. All indications are that this position will recover in the second half of the fiscal year but General Fund reserves [\$49,508] will be required per the adopted budget. This will be amplified by the transfer of redevelopment expenses into the General Fund after February 1<sup>st</sup>. Staff has calculated this additional cost to be approximately \$89,000 per month which will require drawdown on reserves of approximately \$445,000. This drawdown on reserves may be reduced by [1] Administrative fee due the Successor Agency [unknown at this time when these funds will be allocated to the City], and [2] property tax share of former tax increment [exact amount still to be determined]. With the costs that will become obligations of the General Fund, there will be a critical need to find additional sources of revenue to enable the City to continue to deliver the current level of public services.

Overall, revenues received are at 41% of budget and expenditures are at 47% of budget at midyear.

#### GENERAL FUND REVENUE TRENDS FOR TOP PERFORMERS AT MIDYEAR

The following is a brief overview of the major revenue sources at mid-year:

- **Transient Occupancy Tax**– TOT collections reflect a 51% collection rate. In comparison to prior year, revenue is up approximately 10% amounting to \$98,100.

- **Property Tax**– Property tax revenue is lower than the December 2010 remittance. The property tax share released in December is based on the amount of property tax actually collected. Under the Teeter plan, the cities are made whole on or before yearend.
- **Sales Tax**– At midyear, sales tax collections are well below the midyear mark at 29%. This percentage is comparable to prior year and is due to the delay of State release of funding.
- **Vehicle License Fees/VLF Swap SB 1096** – Vehicle License Fees (VLF) are collected by the Department of Motor Vehicles and disbursed by the State Controller to the City. Collections are at 50% of budget at midyear.
- **Business License Tax** – Business License revenues are at 104% of budget and is reflecting a 13% increase over prior year.

## **OTHER GENERAL FUND REVENUE SOURCES–**

There are some revenue sources that had been hit hard in recent years due to the general state of the economy but are showing a strong recovery. At mid-year 2012, these revenues are showing a significant gain over the prior year. These sources are discussed briefly as follows:

**Building-Related Revenues** – Building-related revenue includes Building Inspection and Plan Check fees. At midyear the City has received \$212,695 as compared to midyear 2011 which posted revenue of \$117,696 an overall 55% gain.

**Real Estate Transfer Tax**– Real Estate Transfer Tax is calculated on real estate transactions occurring within the City limits of Sonoma. The rate is \$.55 per \$1,000 of cash value and is the maximum rate allowable by State law. Real Estate Transfer Tax is at 50% of budget at midyear compared to the prior year which reflected 37%.

---

## **GENERAL FUND EXPENDITURES**

Department managers and employees continue to be diligent in managing their individual departmental expenditures. There is no significant deviation from budget.

---

## **GAS TAX SPECIAL REVENUE FUND [STREETS]**

Special Revenue Funds are dedicated funds for specific purposes/projects and their uses are legally restricted. The revenues are earmarked for direct program costs and project expenditures. Expenditures are driven by project and workload rather than the precise period of the fiscal year. Gas Tax revenues are derived from fuel surcharge taxes. Uses of these funds are strictly regulated by the State Board of Equalization to be utilized solely for travel way purposes.

Gas Tax Revenue represents minimal distribution of tax revenues [30%] due to the State delaying payments. Should the delayed payments continue through the end of the year, an inter-fund loan may be necessary from the General Fund to cover operational shortfalls.

---

## **ENTERPRISE FUNDS- Cemetery & Water**

The City maintains two Enterprise Funds (Water and Cemetery). By definition, Enterprise Funds are *"to account for operations that are financed and operated in a manner similar to private business enterprise-where the intent of the governing body is that the costs of providing goods or services are financed or recovered primarily through user charges."* Each individual fund is discussed below.

### **CEMETERY FUND**

The Cemetery Fund accounts for maintenance and operation of the Mountain, Valley, and Veterans' cemeteries. Operational revenues are generated through site sales, burial costs, and miscellaneous lettering charges. Expenditures from the funds result from activities related to burials, maintenance of existing plots and landscaping, brush clearing, weed abatement, litter, and utilities.

Cemetery operations continue to remain in a deficit position, with expenditures exceeding revenues by (\$90,923) at midyear. The fund is projected to end the 2012 fiscal year in a deficit position adding to the existing debt. At midyear, the Cemetery Fund deficit has grown to -\$1.577 million.

---

### **WATER OPERATIONS FUND**

The Water Utility provides for the maintenance and operation of the City's water distribution system. Water supplied to Sonoma customers is wholesale-purchased through an agreement with the Sonoma County Water Agency [SCWA] augmented in part by City wells. Funding for the Water Utility is derived from user fees and charges. The Water Operations Fund reflects a positive balance position at mid-year with revenue exceeding expenditures by \$313,387.



City of Sonoma  
**City Council**  
**Agenda Item Summary**

City Council Agenda Item: 8B

Meeting Date: 2/22/12

**Department**

Administration

**Staff Contact**

Linda Kelly, City Manager

Carol Giovanatto, Assistant City Manager

**Agenda Item Title**

Discussion, consideration and possible direction to staff regarding City budget following the dissolution of redevelopment and loss of redevelopment funding as of February 1, 2012, including consideration of revenue enhancement options

**Summary**

The City's economic success formula over the past 28 years included the resources of the Sonoma Community Development Agency (CDA). With the dissolution of redevelopment through the December 29, 2011 State Supreme Court decision, the City is faced with a post-CDA budget scenario and needs to consider funding and budget reduction alternatives. The City is in a new era and must develop a new financial model to continue to serve its community and meet government mandates. This new financial model should be considered as time-critical since continuing the current level of public services [post-redevelopment] requires a significant drawdown on General Fund reserves on a monthly basis to the tune of \$89,000 per month. This amount is derived from the fact that the City has not yet received the \$250,000 minimum Successor Agency payment nor the new property tax share. The City's reserves cannot fill this gap indefinitely.

It was previously reported to the City Council on January 12, 2012 that the minimum estimated annual revenue shortfall in the General Fund (revenues versus expenses) under the new post-redevelopment property tax scheme is \$493,096. This was a preliminary number and took into account the following factors:

- The new General Fund property tax revenue (HdL Coren and Cone preliminary estimate of \$330,000 annually starting in FY 2012-13, barring any legal challenges forestalling the process, and pending the County Auditor-Controller's verification of the amounts and the County Auditor-Controller's schedule for the distribution of proceeds).
- The minimum administrative payment of \$250,000 to the City as the Successor Agency to the dissolved Sonoma Community Development Agency (CDA).
- The loss of annual redevelopment tax increment utilized for administrative, personnel costs, overhead, and internal services transfers that support City services and infrastructure.

It was noted at that time that this is a "soft" number since, if certain former CDA funded contracts were invalidated, and the City Council determined to fund these contracts from the General Fund, the estimated General Fund budget shortfall would increase.

The Assistant City Manager has prepared a pro-forma budget (attached) detailing the line budget items immediately impacted by the loss of CDA funding. The newly revised minimum estimated annual shortfall in the General Fund (revenues versus expenses) is \$434,926. The amount decreased slightly as staff learns more about AB1X 26 and its implementation/interpretation by the various agencies such as the State Department of Finance, State Controller and County Auditor-Controller, and in specific, what expenses should be listed on the Enforceable Obligation Payment Schedule (EOPS). It is still unclear as to when the County Auditor-Controller will calculate potential property tax increases. This calculation will be dependent on the review of the Recognized Obligation Payment Schedule (ROPS) and the determination of the Oversight Board.

Attached is a Deficit Scenario worksheet showing the range of possible deficits based on certain assumptions. Also attached is a memo provided to the Council from the City Manager on January 27, 2012, recommending a local sales tax election and a Tourism Improvement District (TID).

191

The public (Herb Golenpaul) and Council requested that the City's salary schedule be placed in this packet. It is attached. Note that all positions in the CalPERS retirement system are paying 4% of their salary as a pension contribution.

---

**Recommended Council Action**

Discuss, consider and provide direction to staff regarding budget and revenue options.

---

**Alternative Actions**

Council discretion.

---

**Financial Impact**

The attachments explain the financial impacts based on factors known at the present time.

---

**Environmental Review**

**Status**

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

- Approved/Certified
- No Action Required
- Action Requested

---

**Attachments:**

- Pro Forma Post-redevelopment Budget
- Deficit Scenario Worksheet
- Memo to the City Council, January 27, 2012
- City of Sonoma General Fund – Major Revenue Sources
- TOT and BIA tax comparison chart
- Revenue Topic discussions held at the Budget Committee
- Public Works Memo
- EOPS - Enforceable Obligation Payment Schedule adopted 1/30/12
- City Salary Schedule
- "Sales tax keeps Cotati in black", *Press-Democrat* 2/17/12

---

**cc:**

---

Entity: Format: Year:	100 - GENERAL FUND BUDGET ADOPTED Fy2012	Entity: Format: Year:	291-46001 - CDA - HOUSING - LMI BUDGET ADOPTED Fy2012	Entity: Format: Year:	391-53001 - CDA - ADMIN BUDGET ADOPTED Fy2012	Entity: Format: Year:	391-53008 - CDA - ECONOMIC DEV BUDGET ADOPTED Fy2012	GENERAL FUND BUDGET [PRO-FORMA]
	2012 BUDGET							
	30010 TAXES - SECURED				30010 TAXES - SECURED - ESTIMATED			3,004,000
	30011 TAXES - UNSECURED							84,875
	30015 TAXES - HOPTR							25,360
	30016 COUNTY COLLECTION FEE				30016 COUNTY COLLECTION FEE			(44,000)
	30017 ERAF (STATE TRSFRR)							(1,169,000)
	30020 SALES TAXES - SAFETY							105,000
	30021 SALES AND USE TAXES							2,140,000
	30023 VLF SWAP-SB1095							750,000
	30030 TRANSIENT OCCUPANCY TAX							2,330,000
	30031 FRANCHISE TAXES							374,000
	30040 BUSINESS LICENSE							290,000
	30060 PROPERTY TRANS TAX							60,000
	30102 ZONING FEES							27,000
	30104 SALES OF PUBLICATIONS							1,000
	30105 MICROGRAPHICS FEES							4,800
	30108 STRONG MOTION FEES (CITY)							100
	30111 FIRE PLAN CHECK FEE							7,500
	30112 BUILDING PLAN CHECK FEE							115,000
	30114 ENGINEER PLAN CHECK FEE							30,000
	30115 BUILDING INSPECTION/PROCESSING							100,000
	30117 ENGINEERING INSPECTION/PROCESS							2,000
	30118 PLANNING FEES							3,000
	30119 TRAINING FEES							4,400
	30201 ANIMAL LICENSE							9,500
	30208 ENCROACHMENT							35,000
	30301 PARKING FINES							45,000
	30302 CRIMINAL FINES							700
	30303 VEHICLE CODE FINES							28,000
	30307 CHP - SONOMA							2,500
	30308 SONOMA P/C 33%							200
	30310 TRAFFIC VIOLATOR SCHOOL							4,500
	30600 INTEREST INCOME							160,000
	30701 RENTAL INCOME				30701 RENTAL INCOME			50,000
	30702 PARK RESERVATION							15,000
	30703 MOBILE HOME PARK ADM							10,200
	30800 FILMING PERMIT FEE							3,000
	31001 INV IN-LIEU							60,950
	31105 TRAFFIC CONGESTION RELIEF							82,000
	31405 YCMI FINANCE AGMT							67,000
	31502 POLICE SERVICES				SUCCESSOR AGENCY ADMIN ALLOWA			250,000
	31503 ANIMAL SERVICES							35,000
								1,000
								330,000
								(5,445)
								27,000
								250,000





This Page Intentionally Left Blank

## DEFICIT SCENARIO WORKSHEET

All revenue assumptions in each scenario estimate the new property tax to the General Fund at \$330,000 and the new minimum Successor Agency administrative payment at \$250,000.\*

Scenario	Cumulative General Fund Deficit	Enforceable Obligation Payment Schedule (EOPS) Assumptions
1	\$434,926	All programs and contracts listed on EOPS will be upheld by Oversight Board (with exception of City-Agency Cooperative Agreements). This number presumes: a. The City General Fund will start funding the graffiti abatement program. b. The City will pay SOS Shelter utility payments from the General Fund. c. The General Fund will fund the Sebastiani Theater lease and utilities [sanitation]. d. The City will continue to fund its internal services funds in line with historical policy and practice even in the absence of CDA. e. The City will not off-set any special events venue fees such as the Jazz festival and the Film Festival from the General Fund. f. The City will not fund Economic Development programs including façade grants and business loans.
2	\$499,926	SV Economic Development Partnership agreement is invalidated by Oversight Board (OB) or the State of California and City Council funds program at same rate as current from General Fund (\$65,000) (contract expires July 2012).
3	\$717,926	#2 above plus the SV Visitors Bureau contract is invalidated by OB or the State (\$218,000) and the City Council funds program at same rate as current from General Fund.
4	\$747,926	#2 and 3 above plus the Sonoma Overnight Shelter contract is invalidated by OB or the State (\$30,000) and the City Council funds program at same rate as current from General Fund.
5	\$877,926	All of the above plus the City Attorney and Special Counsel agreements for Successor Agency support are invalidated by OB or the State (\$130,000) and the City Council funds program at same rate as current from General Fund.
6	\$887,926	All of the above plus the Auditor contract for the Successor Agency is invalidated by OB or the State (\$10,000) and the City Council funds program at same rate as current from General Fund.
7	\$987,926	All of the above plus the Agreement with the Sonoma Community Center (\$100,000 per year for five years) is invalidated by OB or the State and the City Council funds program at same rate as current from General Fund.
8	\$1,787,926	All of the above plus the City Council decides to spend the same average amount on road repair when CDA funds were available. <b><i>This amount averaged \$800,000 annually.</i></b>

\*It is unknown at this time when the new administrative payment of \$250,000 will be made to the City as the Successor Agency.

This Page Intentionally Left Blank

## City of Sonoma Memorandum

January 27, 2012

To: Mayor Sanders and Councilmembers

From: Linda Kelly, City Manager

Subject: **Preliminary Proposal – Post-Redevelopment Budget and Revenue Recommendation**

### November 2, 2011 Revenue Workshop

At the revenue study session, staff stated that we would come back to Council regarding the City's revenue outlook once the redevelopment question were settled by the Supreme Court. We explained in the November 2<sup>nd</sup> staff report the future revenue requirements of the City, which included providing for unmet funding needs and underfunded services such as:

1. Restoring City to full staffing
2. Rebuilding City reserves
3. Cemetery Operations deficit
4. Public Works – Parks, Streets maintenance
5. Public Works – Infrastructure funding needs once 2011 CDA TAB Bond funding sunsets
6. Stormwater Mandates pending which would require more staffing to implement and monitor; consider adopting stormwater fees to recoup costs
7. Future Swimming Pool – if City is lead agency, need a source to meet projected operating deficit
8. Nonprofit recreational and community services programs, and public art – subject to General Fund status

Clearly, the City has had and continues to have unmet needs, with or without redevelopment.

### Current Situation

As you are aware, in the wake of the death of redevelopment, cities are left to pick up the pieces. Sonoma is in a better position than many but we still have the important task to plan for the future.

The revenue shortfall to fill has been identified by staff as approximately \$500,000. This is an *unaudited figure* as it relies on our fiscal consultant's analysis, as the County Auditor-Controller has not yet released post-AB1X26 property tax distribution estimates. Equally important to the accuracy of this estimate is how "enforceable obligations" will be defined under the statute, and which contracts will be upheld by the Oversight Board. Thus, the \$500,000 deficit is preliminary and could

be higher or lower. If we elect to retain housing, unless a legislative solution is found for a long-term ongoing funding source for housing, the former housing administration functions of the CDA will need to be subsidized by the General Fund.

### **What we don't know**

So, what we don't know is how the Oversight Board will treat our existing contractual obligations. We don't know how the unencumbered bond funds will be considered. We don't know if an ongoing housing funding source will be provided through the State Legislature. We don't know if a Legislative substitute for economic development funding will emerge in the post-AB1X26 era.

### **What we do know**

What we know is that waiting for the State to provide us with solutions is not a viable alternative given their own budget crisis. What we know is that with the loss of a key component of our revenue success formula, we cannot expect to continue business as usual.

We also know that Governor Brown's latest plan includes taking a 1/2 cent sales tax increase to the voters on the November 2012 ballot.

What we also know is that we do not want to lose our economic development program in its entirety and our ability to fully meet the needs of our community.

### **Future Direction**

In this climate of uncertainty, preliminary estimates, and the uncharted waters of the post-AB1X26 era, it is difficult to plan for the future.

If we do nothing, while our General Fund revenues are on the upswing (TOT, sales and building fees), we still have no dedicated funding source for capital projects, economic development, and our current unmet needs.

We are still left with a gap in our budget even if revenues continue on the upswing. We are not fully funding our current programs at the present time. We face the option of cutting services in the short-term and seeking to restore them later, or aggressively seeking a revenue solution sooner than later. Our budget cuts over the past four years as a means to deal with the effects of the Great Recession have left the organization lean. Any further cuts would be to the "bones" of the organization and would have serious service impacts.

In order to retain and preserve core and community services, support our tourist economic engine, plan for the future and position the City for a sustainable future, I am putting forth an option on the table for you to react to.

**Part I: Local Sales Tax**

Taking into consideration the Budget Committee’s 2010 discussions, the Tourism Improvement District discussions of the Summer of 2011, and the Fall 2011 revenue study session feedback, I propose the following two-pronged strategy:

Take to the voters a ¼ cent sales tax measure. The soonest this could be placed on a ballot is for the June 5, 2012 primary election (the deadline is March 9 to submit resolution for inclusion on ballot). The next election is the November 6, 2012 general election (the deadline is August 10 to submit resolution for inclusion on ballot). Note that the Governor’s sales tax proposal is planned to be on this ballot. A general sales tax measure (not earmarked for a special purpose) would need a majority vote (over 50%) of the electorate to pass. To place such a measure on a non-Councilmember election ballot would require a unanimous vote of the Council and a declaration of fiscal emergency. Under the law, cities have wide discretion in declaring such an emergency and of all emergencies contemplated, the end of redevelopment would make a real case.

As explained to the Budget Committee in 2010, our sales tax consultant has estimated that a ¼ cent sales tax increase would net in the range of \$504,000 - \$552,000 annually in General Fund revenue to the City. This would fill our budget gap and allow us to plan for the future, but it would still require a lean organization. It is hoped that the improving general economy will continue to positively impact all of our revenue streams. A new ¼ cent sales tax along with an improving economy could be one path to forestall fiscal distress and service reduction. It would give us an option to continue funding the Economic Development Partnership if the Partnership is not upheld by the Oversight Board.

Here is some food for thought regarding sales taxes.

Sales taxes in Sonoma County:

<b>Jurisdiction</b>	<b>Local Rate</b>	<b>Total Sales Tax</b>
Cotati	½ cent	8.5%
Rohnert Park	½ cent	8.5%
Santa Rosa	¼ cent (Measure O) ¼ cent (Measure P)	8.5%
Sebastopol	¼ cent	8.25%
<b>Sonoma</b>		<b>8%</b>
<b>Sonoma County/Sonoma Valley</b>		<b>8%</b>

The impact of a local sales tax on purchases is as follows. The cost of \$100 worth of taxable merchandise would go from a tax of \$8 to a tax of \$8.25. The cost of a \$4.00 fancy coffee drink would go from \$4.32 to \$4.33. A quarter-cent sales tax is a minimal impact on the average family’s pocket book, including those on fixed incomes.

Sales tax is captured from both residents and non-residents shopping within City limits. It is fair to say that Santa Rosa’s 8.5% sales tax rate does not dissuade people from patronizing Santa Rosa’s

201

merchants. The City has a high tourist sales tax capture rate as well as capturing sales from residents in the unincorporated Valley who shop in City limits.

If the Governor's sales tax is approved, an additional .5% would be added on to all sales taxes.

### **Part II: Local TID**

Tourism is our lifeblood and will be for the future. At the Council meetings where a TOT increase was discussed along with a TID, there was some apprehension regarding enacting both and increasing the local lodging tax to a combined 14%.

A 2% TID would provide a means to fuel the tourism economic engine, with the private sector taking the lead in how the funds are spent.

If and after a local sales tax were to be passed, the Council should approve a 2% TID. This would provide approximately \$400,000+ for marketing of overnight stays in the City limits. More overnight stays increases the total amount of TOT generated. In addition, if the contract with the Visitors Bureau is not upheld by the Oversight Board, the TID Board should be tasked with funding the Visitors Bureau. This would remove the Visitors Bureau operations from becoming a General Fund expense.

This proposal would still leave the door open for a future TOT increase at a later date if needed.

The next impact of a 2% TID would place Sonoma at a 12% room tax/fee combination, still competitive and less than Napa County.

### **Conclusion**

The City of Sonoma has not "overtaxed" our residents. The City does not currently have a local sales tax, any City parcel taxes, any utility user's taxes, nor general obligation bonds secured by property taxes. A minimal local sales tax would not be a burden on the average resident.

The City has reduced its General Fund expenditures by approximately 12% over the past four years, and continues to seek cost-effective ways of partnering for savings such as the employee pension concessions and the new contract with VOM Fire District. The City is not alone in its fiscal situation, and yet through planning and strategy we have not had to raise taxes on our residents and visitors throughout the extended recession.

I am open to Councilmember suggestions regarding revenue enhancement and I would like to place this matter, including your ideas on this topic, on a future City Council agenda.

Please let me know if you have any questions.

**City of Sonoma General Fund – Major Revenue Sources**

Revenue Source	Description	Estimated Revenue for FY 2011-12	Can be increased? Are there restrictions? Other comments.
1 Property tax, secured, unsecured and supplemental	The base allocation from the County. Formula set by State law.	\$2,789,680	No – the base allocation is set by State law.
2 Transient Occupancy Tax	10% tax on overnight stays not exceeding 30 days.	\$2,330,000	Yes – can be increased through an election. Has not been increased since 1992.
3 Sales tax	1 cent on every purchase of a taxable item in City limits; set by State law.  Starting in 2004, the city sales tax share was “reduced” by 0.25% to repay state fiscal recovery bonds. Cities and counties are reimbursed dollar for dollar with additional property tax. This arrangement is known as the “triple flip” and will last about 10 years until the State bonds are repaid.	\$2,140,000	Yes – can be increased through an election. Increase can be in increments of ¼ cents and cannot exceed 2 percent.
4 Emergency Medical Services fee for service – Ambulance Billings	Fee for service – emergency ambulance service. Billings to Medicare, insurance and private pay.	\$1,770,000	Cannot exceed cost of providing service.
5 Property tax in-lieu of VLF (Vehicle License Fees) SB 1096	When the State needed more money as a dedicated revenue source, they took some Vehicle License Fee revenue away from cities (since it is more stable) and backfilled it with more property tax to cities. This new property tax share comes as the result of the 2004 agreement that brought Prop. 1A to the ballot.	\$750,000	No – State formula. Grows with change in gross assessed valuation of taxable property in previous year.

**City of Sonoma General Fund – Major Revenue Sources**

6	Franchise fees – Garbage, Cable, Gas and Electric	Franchise fees are payments received from electric, gas, telephone, and cable providers within City limits. Payments are made in exchange for each provider's use of public right-of-way to conduct their business within the City	\$374,000	Yes – Subject to negotiation. Typically, a higher franchise fee can result in higher rates for customers if implemented as a pass-through.
7	Business License tax	Tax on businesses that operate in City.	\$290,000	Yes, through an election – it is set by ordinance. Has not been increased since 1970.
8	Building Permits (includes Building, Planning, Zoning, Fire fees)	Recovery of costs related to processing and assisting residents, businesses and contractors with building activities. Includes site visits to perform inspections.	\$294,800	Yes – but cannot exceed actual City cost to provide the service and is set by ordinance. Fee schedule has not been adjusted since 2008.
9	Interest earnings – bank account and pooled investment of reserves, and temporarily "idle" general funds	Interest earned by City money in bank accounts, short-term investments and the Local Agency Investment Fund (LAIF).	\$160,000	Principles of investment must be guided by safety, liquidity and yield, (in that order) per the City's investment policy.
10	½ cent sales tax – Prop. 172 for Public Safety	Enacted by Prop 172 in 1994 and requires that the proceeds be diverted from the State to counties and cities on an ongoing basis for use in funding public safety programs. Counties are primary beneficiaries of Prop 172. Cities currently receive 5% to 6.1% of the total revenue generated by the tax. (Set by formula; not a straight ½ of our current sales tax.)	\$105,000	No – not locally. Takes a statewide election to change.
11	Citizens Options for Public Safety (COPS) grant	Federal/State grant to cities to enhance police protection.	\$100,000	Must be used on public safety. This is an annual grant from the State.
12	Real property transfer tax	Tax on each real estate purchase at the rate of \$0.275 for each \$500 of sale price or fractional part thereof.	\$60,000	Yes – can be increased through an election. Has not been adjusted since 1967.

204

Transient Occupancy Tax and  
 Business Improvement Tax  
 Comparison Chart  
 November 2011

City	County	TOT Rate	TID/BIA Rate	City BIA	TOTAL Tax
American Canyon	Napa County	12%	2% of gross room rental revenue	N/A	14%
Calistoga	Napa County	12%	2% of gross room rental revenue	N/A	14%
St. Helena	Napa County	12%	2% of gross room rental revenue	N/A	14%
Yountville	Napa County	12%	2% of gross room rental revenue	N/A	14%
Napa	Napa County	12%	2% of gross room rental revenue	N/A	14%
Unincorporated Areas	Napa County	12%	2% of gross room rental revenue	N/A	14%
Cloverdale	Sonoma County	10%	2% of gross room rental revenue	N/A	12%
Cotati	Sonoma County	10%	2% of gross room rental revenue	N/A	12%
Healdsburg	Sonoma County	12%	N/A	N/A	12%
Petaluma	Sonoma County	10%	2% of gross room rental revenue	N/A	12%
Rohnert Park	Sonoma County	12%	2% of gross room rental revenue	N/A	14%
Santa Rosa	Sonoma County	9%	2% of gross room rental revenue	3%	14%
Sebastopol	Sonoma County	10%	2% of gross room rental revenue	N/A	12%
<b>Sonoma</b>	<b>Sonoma County</b>	<b>10%</b>	<b>N/A</b>	<b>N/A</b>	<b>10%</b>
Windsor	Sonoma County	12%	2% of gross room rental revenue	N/A	14%
Unincorporated Areas	Sonoma County	9%	2% of gross room rental revenue	N/A	11%

Revenue Topic Discussions held at the Budget Committee

*Meetings held October 2009 – May 2010*

1. Seek full cost recovery in user fees
2. Sonoma County Business Improvement Area (BIA)
3. Sales tax increase
4. Parking meters in Downtown
5. Transient Occupancy Tax (TOT) increase
6. Economic Development Program – business attraction and retention efforts



## MEMO

TO: Linda Kelly, City Manager

FROM: Milenka Bates, Public Works Director

DATE: February 13, 2012

SUBJECT: CDA Tax Allocation Bond (TAB) – Budget Update

### Background

The City sold bonds and TAB monies were issued on March 2011 for \$16 million. Of that total amount, \$7.5 million was for Public Works Capital Improvement Projects (see attachment A). The bond requirement was to use the bond monies within three years, or that the project would be substantially complete by March 2014. In accordance with the bond covenants, this means that all project expenditures must be completed by the end of the fiscal year, or June 2014.

In this regard, Public Works had developed a 3-year plan to design and construct the projects listed on the TAB project list. The original budgets were based on preliminary project estimates and as projects were being designed, updated cost estimates were prepared and TAB project scopes and budgets were modified on an ongoing basis so that the \$7.5M total budget would not be exceeded.

When the City recently received the notice from the State Department of Finance that redevelopment Tax Allocation Bond-funded projects could not proceed unless previously committed through a contract, work was allowed to continue on existing construction and design contracts for TAB projects but work was not authorized to commence on new design and new construction contracts for projects on the list.

The next section discusses the status of the projects including how much has already been authorized as of January 31, 2012.

### Discussion

The projects listed on the *CDA-TAB Projects Budget Update* table lists the projects differently than the original TAB project list (see Attachment B). When the 3-year plan was developed, it made sense for TAB projects to be “grouped” together so that the design and construction of the project could be performed more efficiently.

Attachment B also identifies potential funding sources should TAB funding be eliminated altogether. A discussion of those potential funding sources follows.

**Special Projects:** This source is from the City's General Fund. Historically it has been used for one-time projects, emergency work, grant matches and off-set debt such as the Cemetery loan.

**Grants for Roadway Improvements:** Roadway grants are typically available through the Federal government and come with significant administration and environmental requirements. Typically these grant funds add an additional 30 percent to the costs (and more for smaller projects) and add 2-3 times as much time for review of environmental and design documents. A listing of grants that are available on an annual basis follows.

- TDA grants (Transportation Development Act Article 3) are small grant amounts available to the City on an annual basis and can be used for pedestrian and bicycle facilities. In FY 2012/13 the City would be eligible to receive \$6,000.
- TE (Transportation Enhancement) grants are Federal grants and are competitive. They are administered by Caltrans and can be used for local streets and road (LSR) rehabilitation but only for arterials and collection streets (such as Napa Road). Residential streets with lower traffic volumes (such as Este Madera) are not eligible. The amount that may be available to the City to receive in FY 2012/13 is \$200,000. Minimum local match is 12 percent.
- State Routes to School (Federal) grants are highly competitive and are administered by Caltrans. The maximum amount that the City could receive in FY 2012/13 is \$450,000. Minimum local match is 10 percent.
- Measure M at the amount of approximately \$60,000 per year is available to the City and can be used for street rehabilitation. The City has saved its Measure M funds over the years and has approximately \$250,000 accumulated. Este Madera project has been slated to use Measure M and Water Utility funds for late spring, summer construction.
- HSIP grants are federal grants and are for road safety projects that can be designed and constructed expeditiously. Typically these grants are small amounts with a minimum 10 percent local match and are highly competitive. (Leveroni/Broadway turn signal)
- TFCA (Transportation Fund for Clean Air) grants are federal grants and are for projects that reduce air emissions. Typically these grants are small amounts with a minimum 10 percent local match and are highly competitive.
- CMAQ (Congestion Mitigation and Air Quality) grants are federal grants and are for projects that reduce traffic congestion and improve air quality and are highly competitive.
- BTA (Bicycle Transportation Account) grants are State grants and are for projects that improve safety and convenience for bicycle commuters and are highly competitive.

**Gas Tax:** The City receives approximately \$200,000 per year in gas tax revenue. The funds are used for maintenance of street lighting, traffic signs and markings, and for general street maintenance performed by the Public Works Department. Gas tax funds are already committed to street maintenance and there is no additional funding available for capital projects. ***The City has an obligation to show an effort of maintenance to continue to receive these funds.***

**New Taxes:** Other than grant funding, Measure M or Gas Tax, there is no additional funding available for street rehabilitation and transportation projects. In the past, CDA funding was used for projects, in conjunction with the Water Fund where water trenches (due to water line replacement) would require street repaving. The City could consider a tax such as a local sales tax or TOT increase to partially generate capital improvement funding and for street rehabilitation.

## **Conclusion**

Clearly, the loss of redevelopment tax increment and the current inability to use the 2011 Tax Allocation Bond proceeds has placed the City in a vulnerable position with respect to the condition of its roads and infrastructure. In order to prevent further decay and compound the road maintenance issue (which will become more costly to fix the more the roads become deteriorated), a funding strategy needs to be found.

Over the past five years, the City has spent an average of \$4.5 Million on its roads. This void will be felt immediately as most road and infrastructure projects are unable to proceed.

## **Recommendations**

For the current project list, the following recommendations are:

1. Continue to hold off on new design and construction contracts until the State makes a final determination on the disposition of TAB monies.
2. Continue to pursue grant opportunities for the streets on the list and for the amounts shown (Attachment B).
3. Continue to coordinate with the Sonoma County Transportation Agency (SCTA) and member cities to discuss regional funding opportunities that would largely fund local streets and road maintenance. Currently Measure M mainly funds Highway 101 improvements with very little set aside for local streets and roads.
4. If revenues permit, fund slurry seal maintenance from the General Fund at the amount of \$100,000 as requested in previous years to extend the life of streets before they become significantly damaged. 80 percent of the City's street network is in good or fair condition. The City spends most of its capital improvement funds on the 20 percent of its streets that are in poor or very poor condition. By investing in the 80 percentile, future costs could be controlled by performing not increasing the amount of streets in poor or very poor condition.

### Attachments:

- Attachment A – TAB project list
- Attachment B - TAB project update table

List of CDA Tax Allocation Bond Projects

Project Name	From:	To:	Project Cost
30 Napa Road Rehabilitation			\$700,000
31 France Street			\$404,000
Citywide Pavement Mgmt/Sidewalk/ADA/Storm Drain			
Project Breakdown:			
1 Leveroni	Broadway	Hiking path	\$173,000
2 Second Street West	West Napa	West Spain	\$54,000
3 Spain Street	Second St West	First Street West	
4 First Street West	344 First West	Hiking path	\$49,000
4 Fryer Creek Drive	Hiking path	Newcomb	\$74,000
5 Oregon Street	e/o Sixth West	Fifth West	\$47,000
6 Seventh Street West	Studley	West Napa	\$35,000
7 Third Street West	Arroyo	Bettencourt	\$37,000
8 Church Street	Fifth West	Fourth West	\$71,000
9 Curtin Lane	Seventh West	601 Curtin Ln	\$230,000
10 Newcomb Street	w/o Fryer Creek	Broadway	\$133,000
11 Malet Street	First West	Broadway	\$24,000
12 Fifth Street West	West MacArthur	175' south	\$97,000
14 Curtin Lane	601 Curtin Ln	Fifth West	\$190,000
15 Hayes Street	Where widens	Bettencourt	\$59,000
16 Fourth Street West	Bettencourt	Andrieux	\$97,000
17 Harrington Drive	440 Harrington	Manor Drive	\$91,000
18 Patten Street	Broadway	Austin	\$63,500
19 Fifth Street West	175' s/o W MacArthur	Harrington	\$220,000
20 Barrachi Way	Perkins	Bachero	\$87,000
21 Broadway	MacArthur	Napa Road	\$500,000
ADA ramps, sidewalks			\$549,100
22 Nathanson Creek Outfall	France Street	Nathanson Creek	\$50,000
23 West MacArthur Culvert TBD	Third Street West	Fryer Creek	\$450,000
24 Fryer Creek Bypass TBD	Bettencourt	Arroya Way	\$1,220,000
25 Robinson Road SD Impr. TBD	Robinson		\$570,000
<i>Subtotal</i>			
26 Bikeway Improvements-Fryer Creek Bridge			\$5,170,600
27 Leveroni & Broadway Turn Lane/Signal Improvements			\$300,000
28 Comprehensive Bike Lane and Signage			\$200,000
29 Chase Street Bridge Reconstruction			\$175,000
			<u>\$550,000</u>
<b>TAB Projects Total for Streets/Sidewalks/Bikeways/Storm Drain</b>			<b>\$7,499,600</b>

CDA-TAB Projects Budget Update

TAB NO.	PROJECT NAME AND TYPE <sup>1</sup>	ESTIMATED COMPLETION DATE <sup>2</sup>	AMOUNT AUTHORIZED <sup>3</sup> (\$)	ESTIMATED COST TO COMPLETE <sup>4</sup> (depreciated) (\$)	TOTAL PROJECT BUDGET (\$)	ALT. FUNDING SOURCE(S)	COMMENTS
<b>Projects under contract or completed</b>							
7, 5, 16	3 <sup>rd</sup> W/4thW/Hayes Pavement Rehab (D,C)	March 2012	349,478	0	349,478	N/A	Construction substantially complete
1, 12	Leveroni, Fifth W Pavement Rehab (D,C)	Completed Dec 2011	565,063	0	565,063	N/A	TFCA Grant \$20,000; amount shown is local share. Construction complete
27	Leveroni, Broadway turn-lane signal [Local Share] (D,C)	Oct 2012	32,872	33,467	66,339	Special Projects (GF)	HSIP grant \$133,870; amount shown is local share
28	Comprehensive Bike Lane & Signage [Local Share] (D,C)	March 2012	59,565	0	59,565	Special Projects (GF)	TFCA grant \$133,542; amount shown is local share
31, 32	France St Pavement Rehab (D,C)	Completed Dec 2011	563,736	0	563,736	N/A	Construction complete
2, 3, 18	2ndW, 1 <sup>st</sup> W, Church, Patten, WSpain Pavement Rehab (D)	June 2012	55,730	599,060	654,790	Special Projects Reserves, New tax	Design only; Hold on bidding and construction until further notice
26	Bikeway Impr- Fryer Creek Bike/Ped Bridge (D)	June 2012	140,198	211,502	351,700	Special Projects Reserves, New tax	Design only; Hold on bidding and construction until further notice
9, 14, 17	Curtin Ln, Harrington Dr Rehab (D)	June 2012	57,935	404,180	462,115	Special Projects Reserves, New tax	Design only; Hold on bidding and construction until further notice
30	Napa Road Rehab (D)	June 2012	76,700	706,860	783,560	Measure M+Water Fund; LSR grant+Water Fund	Design only; Hold on bidding and construction until further notice; currently Measure M set aside for Este Madera but Council can choose to use for Napa Rd. instead
29	Chase St Bridge-Reconstruction [Local Share] (D)	Dec-12	47,112	264,563	311,675	Special Projects Reserves, New tax	HBRR grant for Design (PE) \$215,791.88. Total HBRR grant \$1,464,065; amount shown is local share 11.47%. Design only; Hold on bidding and construction until further notice
	Subtotal		1,922,092	2,235,949	4,158,041		
<b>Projects not under contract</b>							
11, 21	Broadway Rehab	TBD	0	0	0		Project cancelled.
4, 10	Fryer Creek, Newcomb, Malet Pavement Rehab	TBD	0	456,691	456,691	Special Projects Reserves, New tax	
5, 6, 20	Oregon, 7thW, Studley, Barrachi, Palou, Fano	TBD	0	882,648	882,648	Special Projects Reserves, New tax	Paolu and Fano will be paid with Tax Incremental \$85,260.00
21, 23, 24, 25	Broadway, E MacArthur Storm Drain and W MacArthur culvert	TBD	0	1,523,342	1,523,342	Zone 3A, Prop 84 grant	Grants for local storm drain projects are limited and highly competitive.
	Subtotal		0	2,862,681	2,862,681		
	Total (All Projects)		1,922,092	5,098,630	7,020,722		
	City Administration <sup>5</sup>				479,278		
	Total (All Projects + City Administration)				7,500,000		

Footnotes:

- 1 Type is either Design contract (D) or construction contract (C); Each roadway project includes ADA ramps in project area.
- 2 Estimated date the design and/or construction contract will be completed.
- 3 Contract amounts currently authorized for design and/or construction, including contract change orders (est.).
- 4 Estimated costs for change orders that are anticipated in design and/or construction to complete the project beyond authorized amount (amount "in jeopardy").
- 5 City administration plus cost for program management of CDA-TAB Capital Improvement Program.

This Page Intentionally Left Blank

**ENFORCEABLE OBLIGATION PAYMENT SCHEDULE**  
Per AB 26 - Section 34167 and 34169 (f)

Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month - 2012												TOTAL	
					January	February	March	April	May	June	July	August	September	October	November	December		
1) 2003 Tax Allocation Bond	Bank of New York	Portion of Bonds issue to fund non-housing projects	\$ 13,804,000.00	954,127.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	954,127.00	\$ 1,908,254.00
2) 2010 Tax Allocation Bond	Bank of New York	Portion of Bonds issue to fund housing projects	3,451,000.00	238,532.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	238,532.00	\$ 477,064.00
3) 2010 Tax Allocation Bond	Bank of New York	Portion of Bonds issue to fund non-housing projects	11,951,656.00	744,866.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	744,866.00	\$ 1,489,732.00
4) 2011 Tax Allocation Bond	Bank of New York	Portion of Bonds issue to fund non-housing projects	2,890,389.00	198,217.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	198,217.00	\$ 396,434.00
5) 2011 Tax Allocation Bond	Bank of New York	Portion of Bonds issue to fund non-housing projects	13,646,000.00	1,243,440.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,243,440.00	\$ 2,486,880.00
6) 2011 Tax Allocation Bond	Bank of New York	Portion of Bonds issue to fund housing projects	1,450,000.00	169,560.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	169,560.00	\$ 339,120.00
7) City of Sonoma 1993 BEFA COP financing	Municipal Finance Corporation	Percentage of financing (37%) for Carnegie Library upgrade in 1993	83,950.00	41,781.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	41,781.00	\$ 83,562.00
8) Nevada Bureau of State Lands	Sonoma Valley Visitors Bureau	Contract for Marketing & Promotion	218,000.00	18,167.00	18,167.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	18,167.00	\$ 36,334.00
9) Construction Pmts within Project Area	Various Contractors	Local Capital projects funded through Tax Increment	831,870.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	831,870.00	\$ 1,663,740.00
10) Cooperative Funding Agreement dated March 2011 for Americans With Disabilities Act (ADA) Capital Improvement. Pmts within Project Area	Various Contractors	Local Capital projects funded through Tax Increment	200,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	200,000.00	\$ 400,000.00
11) Shasta Pmts within Project Area	Various Contractors	Local Capital projects funded through Tax Increment	70,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	70,000.00	\$ 140,000.00
12) Parking Improvement Pmts within Project Area	Various Contractors	Local Capital projects funded through Tax Increment	85,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	85,000.00	\$ 170,000.00
13) Administration (Non-Housing)	City of Sonoma	Support of Agency duties including staff services, administration, fiscal reporting, operations	548,234.00	45,695.17	45,695.17	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	45,695.17	\$ 91,390.34
14) Economic Development Administration	City of Sonoma	Local business assistance and development program; costs for signage, equipment, personnel for graffiti removal and education in project area	413,500.00	34,458.00	34,458.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	34,458.00	\$ 68,916.00
15) Agreement to Acquire Historic Preservation Easement and Governance	City of Sonoma	Costs for signage, equipment, personnel for graffiti removal and education in project area	60,000.00	5,000.00	5,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	5,000.00	\$ 10,000.00
17) City of Sonoma Funding Agreement entered into on 08/2009	Sonoma Community Center	Acquisition of Historic Preservation Easement	500,000.00	50,000.00	50,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50,000.00	\$ 100,000.00
18) 2010 SERAF Loan Payment due to Housing Fund	Municipal Finance Corporation	Clean Renewable Energy Bonds (CREBS)	939,250.00	72,250.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	72,250.00	\$ 144,500.00
19) Administration (Housing)	Community Development Agency	Agency team from LMI fund for payment of 2010 SERAF Payment	1,920,016.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$ 0.00
20) Emergency/Homesless Shelter (Housing)	Sonoma Overnight Shelter	Support of Agency duties including staff services, administration, fiscal reporting, operations	280,728.00	59,535.00	59,535.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	59,535.00	\$ 119,070.00
21) Village Green II Low Income Housing USDA Loan	United States Department of Agriculture	Affordable Senior Housing Project purchased in 2005 to maintain affordability	799,203.00	4,054.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	4,054.00	\$ 8,108.00
22) Village Green II Low Income Housing Exchange Bank Loan	Exchange Bank	Affordable Senior Housing Project purchased in 2005 to maintain affordability	2,070,950.00	136,961.00	11,413.00	11,413.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	11,413.00	\$ 22,826.00
23) Economic Development Program	City of Sonoma	Memorandum of Understanding between three parties: Sonoma Valley Chamber of Commerce and County Community Development Agency and Sonoma Community Development Agency	69,960.00	5,780.00	5,780.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	5,780.00	\$ 11,560.00
24) Rutan and Tucker	Rutan and Tucker	Legal counsel for Successor Agency	6,900.00	8,333.33	8,333.33	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	8,333.33	\$ 16,666.66
25) Jeffrey A. Walker, a Professional Law Corporation	Jeffrey A. Walker, a Professional Law Corporation	Legal counsel for Successor Agency	11,900.43	5,000.00	5,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	5,000.00	\$ 10,000.00
26) C. G. Uhlenberg	C. G. Uhlenberg	Auditing services for Successor Agency	10,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$ 0.00
27) Conestoga-Rovers Associates	Conestoga-Rovers Associates	Auditing services for former Sonoma Community Development Agency	27,800.00	2,316.66	2,316.66	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,316.66	\$ 4,633.32
28) Terra West Advisors, Inc.	Terra West Advisors, Inc.	Underground Storage Tank monitoring of 32 Pattern property owned by former Sonoma Community Development Agency	148,250.00	3,900.00	3,900.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	3,900.00	\$ 7,800.00
29) Capital Construction Projects within Project Area	Various Contractors	Affordable Housing Consultant	12,195,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$ 0.00
30) 2011 Tax Allocation Bond	Bank of New York	Process, including \$800,000 for Sebastiant Theater renovation (See Attachment A)	1,450,000.00	500,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	500,000.00	\$ 1,000,000.00
31) Affordable Housing Projects within project area	Various Contractors	Portion of bond proceeds to fund housing projects	104,448.00	500,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	500,000.00	\$ 1,000,000.00
32) Sonoma Community Development Agency	Sonoma Community Center	Low/Moderate Housing projects	2,000,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$ 0.00
33) Administrative Allowance for Successor Agency	City of Sonoma	Development and Rehabilitation of Historic Building in Project Area	250,000.00	250,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	250,000.00	\$ 500,000.00
Totals - This Page		Duties of Successor Agency	\$ 72,190,130.68	\$ 241,370.16	\$ 204,889.16	\$ 1,152,139.16	\$ 1,152,139.16	\$ 483,089.16	\$ 896,839.16	\$ 3,052,210.16	\$ 10,639,025.58	\$ 20,154,044.33	\$ 20,154,044.33	\$ 10,639,025.58	\$ 3,052,210.16	\$ 483,089.16	\$ 896,839.16	\$ 20,154,044.33
Grand total - All Pages			\$ 72,190,130.68	\$ 241,370.16	\$ 204,889.16	\$ 1,152,139.16	\$ 1,152,139.16	\$ 483,089.16	\$ 896,839.16	\$ 3,052,210.16	\$ 10,639,025.58	\$ 20,154,044.33	\$ 20,154,044.33	\$ 10,639,025.58	\$ 3,052,210.16	\$ 483,089.16	\$ 896,839.16	\$ 20,154,044.33

Note: The amounts shown are approximations and may be higher or lower. The amounts shown for each month are also approximations and may be higher or lower within a particular month.  
Note: June 2012 invoices payable are approximations and may be higher or lower.  
SEE ATTACHMENT A 2011 CDA TAB PROJECTS



Exhibit B  
City of Sonoma  
**Assignments of Classifications to the Salary Schedule**  
Effective June 18, 2010

	Steps					Effective Date
	A	B	C	D	E	
<b><u>General</u></b>						
Administrative Clerk	3,269	3,432	3,604	3,784	3,973	6/18/2010
Administrative Assistant	3,844	4,036	4,238	4,450	4,672	6/18/2010
Accounting Technician	4,202	4,412	4,633	4,864	5,108	6/18/2010
Management Analyst	4,202	4,412	4,633	4,864	5,108	6/18/2010
Maintenance Worker I	3,505	3,680	3,864	4,057	4,260	6/18/2010
MWI ( New Series effective 7-1-07)	3,476	3,650	3,832	4,024	4,225	6/18/2010
Maintenance Worker II	3,832	4,024	4,225	4,436	4,658	6/18/2010
Maintenance Worker III	4,458	4,681	4,915	5,161	5,419	6/18/2010
Maintenance Worker III - Foreman	4,680	4,914	5,160	5,418	5,689	6/18/2010
Water Operations Supervisor	4,916	5,162	5,420	5,691	5,975	6/18/2010
Building Inspector	5,368	5,636	5,918	6,214	6,525	6/18/2010
Assistant Planner	4,975	5,224	5,485	5,759	6,047	6/18/2010
Associate Planner	5,876	6,170	6,478	6,802	7,142	6/18/2010
Plans Examiner	5,785	6,074	6,378	6,697	7,032	6/18/2010
Youth and Family Services Supervisor	4,202	4,412	4,633	4,864	5,108	6/18/2010
<b><u>Administrative/Management</u></b>						
Assistant City Manager	8,474	8,898	9,343	9,810	10,300	6/20/2008
Public Works Director	7,913	8,309	8,724	9,160	9,618	6/20/2008
Planning and Community Services Director	7,913	8,309	8,724	9,160	9,618	6/20/2008
Administrative Services Manager	5,137	5,394	5,664	5,947	6,244	6/20/2008
Development Services Director	7,913	8,309	8,724	9,160	9,618	6/20/2008
City Clerk/Assist To City Manager	5,899	6,194	6,504	6,829	7,170	6/20/2008
Accountant	4,810	5,051	5,303	5,568	5,847	6/20/2008
Senior Planner	6,058	6,361	6,679	7,013	7,364	6/20/2008
City Manager/Exec. Dir. CDA	12,050					1/22/2008
<b><u>Part Time</u> (Part-Time rates are stated per hour)</b>						
Parks Maintenance Worker	15.38					6/18/2010
Living Wage	15.38					6/18/2010

# Sales tax keeps Cotati in black

Cost-cutting, temporary sales tax hike spell third straight year of balanced budgets

By JEREMY HAY

THE PRESS DEMOCRAT

Rising sales tax revenues continue to brighten Cotati's budget picture, which already was showing improvement since hitting a low in 2009.

City officials, in a midyear review of the \$4.5 million budget, predicted Wednesday that Cotati will take in \$281,485 more than it will spend this year. That would leave it with \$614,749 in cash at the end of the budget year June 30.

If the projections hold, Cotati would have a balanced budget for a third straight year. In 2009, the city had a \$530,000 general fund deficit.

Cost-cutting measures, including staff pay concessions, reduced the red ink. A voter-approved half-cent sales tax has also been key to the city digging out of its fiscal hole.

This year, revenues from Measure A, which was passed in 2010, are projected to hit \$737,000. That's \$250,000 more than was projected last July.

It was estimated the tax would bring in \$600,000 to \$800,000 a year.

Mayor Susan Harvey said the city must still take steps to ensure its progress outlasts the sales tax, which is set to expire in three years.

"We will need to continue to make sure we're staffed correctly and that we have things in place to improve economic development," Harvey said.

The city's Measure A campaign focused on preserving the Police Department, which had shrunk from

14 sworn personnel in 2008 to 10 in 2010 — the same level it is today.

She said a decision whether to hire more officers lies with the police chief.

"That will be really dependent on recommendations made by the chief," Harvey said. "That's sort of his job, to do that. It's not really ours as a council to determine what that mix should be."

Cotati Police Chief Michael Parish and City Manager Dianne Thompson responded in a joint email.

"By currently using reserve officers and strengthening our reserve program, we are able to maintain adequate staffing levels. We have also adjusted shift schedules for maximum patrol coverage," Parish said.

You can reach Staff Writer Jeremy Hay at 531-5212 or [jeremy.hay@pressdemocrat.com](mailto:jeremy.hay@pressdemocrat.com).



City of Sonoma  
**City Council**  
**Agenda Item Summary**

City Council Agenda Item: 8C

Meeting Date: 2/22/12

---

**Department**

Administration

**Staff Contact**

Linda Kelly, City Manager

---

**Agenda Item Title**

Discussion, consideration and possible action authorizing the Mayor to sign a letter of support on behalf of the City Council for the reintroduction of HR 192, The Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act (Woolsey), requested by Mayor Pro Tem Brown

---

**Summary**

Mayor Pro Tem Brown is requesting Council authorization for a letter of support for HR 192. Congresswoman Woolsey's Office notes that in 2005, Sonoma endorsed Rep. Woolsey's bill, the Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act.

The Congresswoman's Office further notes that this legislation would expand the boundaries of the two sanctuaries off the Marin coast up through Sonoma and southern Mendocino to Pt. Arena. The bill would offer significant protection for our vital coastline (the current runs south to Marin) and is widely supported by local elected officials, sport and commercial fishing groups (e.g., Pacific Coast Federation of Fishermen's Associations), environmental groups, etc.

This bill passed the House a few years ago but stalled in the Senate.

---

**Recommended Council Action**

Council discretion.

---

**Alternative Actions**

Council discretion.

---

**Financial Impact**

None.

---

**Environmental Review**

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

**Status**

- Approved/Certified
  - No Action Required
  - Action Requested
- 

**Attachments:**

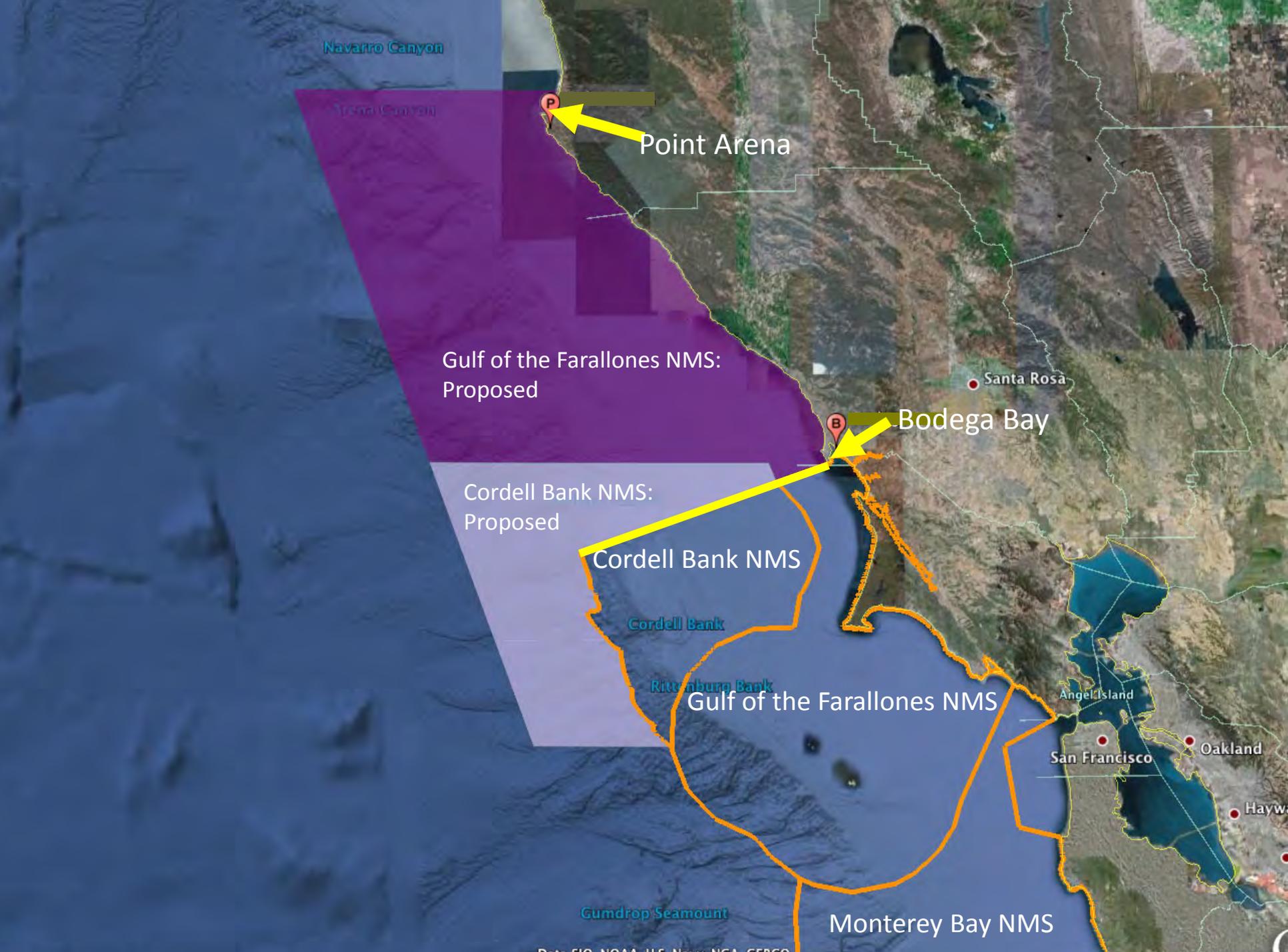
Marine Sanctuary Expansion Map  
Marine Sanctuary Bill Summary  
Sample letter of support  
Bill Summary and Status

---

cc: Wendy Friefeld, District Director, Office of Congresswoman Lynn Woolsey, via email

---

---



Navarro Canyon

Tono Canyon

Point Arena

Gulf of the Farallones NMS:  
Proposed

Santa Rosa

Bodega Bay

Cordell Bank NMS:  
Proposed

Cordell Bank NMS

Cordell Bank

Rittenburg Bank

Gulf of the Farallones NMS

Angel Island

San Francisco

Oakland

Hayward

Gumdrop Seamount

Monterey Bay NMS

# The Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act

**Purpose:** To protect the rich biological life in the coastal waters and estuaries of Sonoma and southern Mendocino Counties, California. These marine environments support high levels of biological diversity exceeding the biological productivity of tropical rain forests.

While the Northern California coast just south of Bodega Head is protected by the Gulf of the Farallones and the Cordell Bank National Marine Sanctuaries, the biologically productive Sonoma and southern Mendocino Coast deserve protection from oil spills and land-based pollution. The bill would also extend protection to the rich estuaries of the Russian and Gualala Rivers.

The bill would adjust the boundary of the two existing sanctuaries north and westward. The westward adjustment will take the sanctuaries out into deeper water making it more difficult to extract oil from the ocean floor. The northern adjustment for Cordell Bank will add an area called the Bodega Canyon, the vortex for much of the nutrient-rich upwelling along this coast. Moving the boundary of the Gulf of the Farallones northward would bring it just past Point Arena in Mendocino.

National Marine Sanctuaries are designated in areas that have special biological significance. The Sonoma and southern Mendocino Coast is one of the most biologically productive regions in the world. It is within one of the four coastal upwelling zones on the planet, comprising only 1 percent of the ocean, but producing 20 percent of the world's fish. Nutrient-rich water rises from deeper levels to replace the surface water that has drifted away, and these nutrients support the large fish population found in this area. Additionally, the coastal estuaries are important passages for endangered salmon and steelhead, essential haulouts for seals and sea lions, and prolific nurseries for hundreds of aquatic species.

This bill does not add any additional regulations to fishing. That will be left to the State of California, which has jurisdiction in state waters, and to the Pacific Fisheries Management Council, which already has federal jurisdiction.

By protecting the Sonoma and southern Mendocino coast and estuaries, the bill will protect the Bodega Marine Laboratory investment in marine

research, jobs that are dependent on a tourist economy. And, because the bill will protect fish habitat, it will protect the livelihoods of fishermen.

The Honorable Lynn Woolsey  
United States House of Representatives  
1101 College Ave., #200  
Santa Rosa, CA 95404

Re: Support for HR 192

Dear Congresswoman Woolsey:

The \_\_\_\_\_ is committed to protecting the unique and rich array of marine resources along our coast. This letter is to confirm my/our support of the reintroduction of HR 192 (S. 179), The Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act.

The expansion of the boundaries places no additional restrictions on the fishing community, does not conflict with existing or future regulation from the California Department of Fish and Game, and does not interfere with vessel traffic lanes. In addition, the expansion helps maintain important commercial and sport fishing enterprises as well as helps to protect local jobs, existing oyster operations and native fisheries. It both safeguards and enhances our extremely valuable tourism industry and the vital ocean and fisheries research conducted by the **University of California's Bodega Marine Laboratory**.

This bill would extend these sanctuaries north and westward to protect the Sonoma and **southern Mendocino Coast's natural beauty and significant bio-diversity**. These waters will protect the California Upwelling Ecosystem (CUE), one of only four major coastal upwelling systems on Earth, the only such system in the United States, comprising only 1 percent of the **ocean but producing 20 percent of the world's fish**. **Not only is this region** one of the most **important 'natural laboratories' in the world, its coastal estuaries are critical passages for** endangered salmon and steelhead, essential haulouts for seals and sea lions, and prolific nurseries for hundreds, perhaps thousands, of aquatic species.

I/we am/are pleased to give this bill a clear endorsement and look forward to helping ensure its passage into law.

Sincerely,

Cc:

The Honorable Barbara Boxer  
The Honorable Dianne Feinstein  
The Honorable Doc Hastings, Chair, House Natural Resources Committee  
The Honorable Edward J. Markey, Ranking Member  
The Honorable John D. Rockefeller, Chair, Senate Committee on Commerce, Science, and Transportation  
The Honorable Kay Bailey Hutchison, Ranking Member

The Library of Congress > THOMAS Home > Bills, Resolutions > Search Results

**Bill Summary & Status**  
**112th Congress (2011 - 2012)**  
**H.R.192**  
**All Information**

[NEW SEARCH](#) | [HOME](#) | [HELP](#)

[Back to Bill Summary and Status](#)

**H.R.192**

**Latest Title:** Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act

**Sponsor:** [Rep Woolsey, Lynn C.](#) [CA-6] (introduced 1/5/2011) [Cosponsors](#) (53)

**Related Bills:** [S.179](#)

**Latest Major Action:** 1/26/2011 Referred to House subcommittee. Status: Referred to the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs.

Jump to: [Summary](#), [Major Actions](#), [All Actions](#), [Titles](#), [Cosponsors](#), [Committees](#), [Related Bill Details](#), [Amendments](#)

**SUMMARY AS OF:**

1/5/2011--Introduced.

Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act - Declares that it is U.S. policy to protect and preserve living and other resources of the Gulf of the Farallones National Marine Sanctuary (Farallones NMS) and Cordell Bank National Marine Sanctuary (Cordell Bank NMS) marine environments.

Makes certain adjustments to expand the boundaries of the Farallones NMS and the Cordell NMS.

Prohibits the issuance of a lease or permit authorizing mineral or hydrocarbon exploration, development, production, or transportation by pipeline within the boundaries of the sanctuaries, as modified by this Act.

Directs the Secretary of Commerce to complete: (1) a draft supplemental management plan for each of the sanctuaries that focuses on management in the areas added by this Act; and (2) a revised management plan for each of the sanctuaries.

Directs the Secretary to carry out an assessment of necessary revisions to the regulations for the sanctuaries, including considering regulations regarding the deposit or release of introduced species and the alteration of stream and river drainage into the sanctuaries.

**MAJOR ACTIONS:**

\*\*\*NONE\*\*\*

**ALL ACTIONS:**

**1/5/2011:**

Referred to the House Committee on Natural Resources.

**1/26/2011:**

Referred to the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs.

**TITLE(S):** *(italics indicate a title for a portion of a bill)*

- **SHORT TITLE(S) AS INTRODUCED:**  
Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act
- **OFFICIAL TITLE AS INTRODUCED:**  
To expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary, and for other purposes.

**COSPONSORS(53), ALPHABETICAL** [followed by Cosponsors withdrawn]: (Sort: [by date](#))

[Rep Bass, Karen](#) [CA-33] - 2/8/2011  
[Rep Berman, Howard L.](#) [CA-28] - 1/7/2011  
[Rep Blumenauer, Earl](#) [OR-3] - 9/14/2011  
[Rep Capps, Lois](#) [CA-23] - 1/7/2011  
[Rep Cardoza, Dennis A.](#) [CA-18] - 2/8/2011  
[Rep Christensen, Donna M.](#) [VI] - 1/7/2011  
[Rep Chu, Judy](#) [CA-32] - 2/8/2011  
[Rep Connolly, Gerald E. "Gerry"](#) [VA-11] - 2/3/2012  
[Rep Conyers, John, Jr.](#) [MI-14] - 2/2/2012  
[Rep Davis, Susan A.](#) [CA-53] - 2/8/2011  
[Rep DeGette, Diana](#) [CO-1] - 2/2/2012  
[Rep Ellison, Keith](#) [MN-5] - 2/8/2011  
[Rep Eshoo, Anna G.](#) [CA-14] - 1/19/2011  
[Rep Farr, Sam](#) [CA-17] - 1/7/2011  
[Rep Filner, Bob](#) [CA-51] - 2/8/2011  
[Rep Grijalva, Raul M.](#) [AZ-7] - 1/26/2011  
[Rep Gutierrez, Luis V.](#) [IL-4] - 2/2/2012  
[Rep Hahn, Janice](#) [CA-36] - 2/2/2012  
[Rep Harman, Jane](#) [CA-36] - 2/8/2011  
[Rep Hastings, Alcee L.](#) [FL-23] - 1/26/2011

[Rep Hinchey, Maurice D.](#) [NY-22] - 1/7/2011  
[Rep Hirono, Mazie K.](#) [HI-2] - 1/26/2011  
[Rep Holt, Rush D.](#) [NJ-12] - 2/8/2012  
[Rep Honda, Michael M.](#) [CA-15] - 1/7/2011  
[Rep Jackson Lee, Sheila](#) [TX-18] - 1/26/2011  
[Rep Jackson, Jesse L., Jr.](#) [IL-2] - 2/3/2012  
[Rep Lee, Barbara](#) [CA-9] - 1/7/2011  
[Rep Lofgren, Zoe](#) [CA-16] - 1/7/2011  
[Rep Maloney, Carolyn B.](#) [NY-14] - 2/6/2012  
[Rep Markey, Edward J.](#) [MA-7] - 3/29/2011  
[Rep Matsui, Doris O.](#) [CA-5] - 2/8/2011  
[Rep McDermott, Jim](#) [WA-7] - 2/8/2011  
[Rep McIntyre, Mike](#) [NC-7] - 1/18/2011  
[Rep McNerney, Jerry](#) [CA-11] - 1/26/2011  
[Rep Miller, George](#) [CA-7] - 1/7/2011  
[Rep Napolitano, Grace F.](#) [CA-38] - 1/7/2011  
[Rep Olver, John W.](#) [MA-1] - 3/17/2011  
[Rep Ouigley, Mike](#) [IL-5] - 2/7/2012  
[Rep Rangel, Charles B.](#) [NY-15] - 2/3/2012  
[Rep Richardson, Laura](#) [CA-37] - 1/7/2011  
[Rep Rothman, Steven R.](#) [NJ-9] - 2/6/2012  
[Rep Roybal-Allard, Lucille](#) [CA-34] - 2/8/2011  
[Rep Sablan, Gregorio Kilili Camacho](#) [MP] - 9/7/2011  
[Rep Sanchez, Linda T.](#) [CA-39] - 2/8/2011  
[Rep Sanchez, Loretta](#) [CA-47] - 2/8/2011  
[Rep Schiff, Adam B.](#) [CA-29] - 1/7/2011  
[Rep Sherman, Brad](#) [CA-27] - 2/8/2011  
[Rep Speier, Jackie](#) [CA-12] - 1/7/2011  
[Rep Stark, Fortney Pete](#) [CA-13] - 1/7/2011  
[Rep Thompson, Mike](#) [CA-1] - 1/5/2011  
[Rep Visclosky, Peter J.](#) [IN-1] - 2/8/2011  
[Rep Waters, Maxine](#) [CA-35] - 2/8/2011  
[Rep Waxman, Henry A.](#) [CA-30] - 2/8/2011

**COMMITTEE(S):**

<b>Committee/Subcommittee:</b>	<b>Activity:</b>
<a href="#">House Natural Resources</a>	Referral, In Committee
<a href="#">Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs</a>	Referral

**RELATED BILL DETAILS: (additional related bills may be identified in Status)**

<b>Bill:</b>	<b>Relationship:</b>
<a href="#">S.179</a>	Related bill identified by CRS

**AMENDMENT(S):**

\*\*\*NONE\*\*\*

Stay Connected with the Library [All ways to connect](#) »

Find us on



Subscribe & Comment

[RSS & E-Mail](#) [Blogs](#)

Download & Play

[Podcasts](#) [Webcasts](#) [iTunes U](#)

[About](#) | [Press](#) | [Site Map](#) | [Contact](#) | [Accessibility](#) | [Legal](#) | [External Link Disclaimer](#) | [USA.gov](#)

Speech Enabled



City of Sonoma  
City Council  
Agenda Item Summary

**Agenda Item:** 11A  
**Meeting Date:** 2/22/2012

<b>Department</b> Administration	<b>Staff Contact</b> Mayor and Council Members
-------------------------------------	---

**Agenda Item Title**

Council Members Report on Committee Activities.

**Summary**

Council members will report on activities, if any, of the various committees to which they are assigned.

MAYOR SANDERS	MPT. BROWN	CLM. BARBOSE	CLM. GALLIAN	CLM. ROUSE
ABAG Alternate	AB939 Local Task Force	City Facilities Committee	ABAG Delegate	City Audit Committee
Community Dev. Agency Loan Subcommittee	Cemetery Subcommittee	Community Dev. Agency Loan Subcommittee, Alt.	Cemetery Subcommittee	Community Dev. Agency Loan Subcommittee
LOCC North Bay Division Liaison, Alternate	Cittaslow Sonoma Valley Advisory Council, Alt.	Community Choice Aggregation Focus Grp.	Cittaslow Sonoma Valley Advisory Council	LOCC North Bay Division Liaison
Sonoma County Mayors & Clm. Assoc. BOD	City Facilities Committee	North Bay Watershed Association	City Audit Committee	Sonoma County M & C Assoc. Legislative Committee, Alt.
Sonoma County M & C Assoc. Legislative Committee	Sonoma Community Center Subcommittee	Sonoma Community Center Subcommittee	Sonoma County Transportation Authority	Sonoma Valley Citizens Advisory Comm. Alt.
Sonoma Disaster Council	Sonoma County Health Action, Alternate	Sonoma County Transportation Authority, Alt.	(SCTA) Regional Climate Protection Authority	S.V. Economic Development Steering Committee, Alt.
Sonoma Housing Corporation	Sonoma County Mayors & Clm. Assoc. BOD	(SCTA) Regional Climate Protection Authority, Alt.	LOCC North Bay Division, LOCC E-Board, Alternate (M & C Appointment)	
S.V.C. Sanitation District BOD	Sonoma Disaster Council, Alternate	Sonoma County Waste Management Agency	Sonoma County/City Solid Waste Advisory Group (SWAG), Alt.	
S.V. Economic Development Steering Committee	Sonoma Housing Corporation	Sonoma County/City Solid Waste Advisory Group (SWAG)	Sonoma County Ag Preservation and Open Space Advisory Committee (M & C Appointment)	
S.V. Fire & Rescue Authority Oversight Committee	S. V. Citizens Advisory Commission	VOM Water District Ad Hoc Committee	VOM Water District Ad Hoc Committee	
S. V. Library Advisory Committee	S.V.C. Sanitation District BOD, Alt.	Water Advisory Committee, Alternate	Water Advisory Committee	
	S.V. Fire & Rescue Authority Oversight Committee			
	S. V. Library Advisory Committee, Alternate			
	Substance Abuse Prevention Coalition			

**Recommended Council Action – Receive Reports**

**Attachments:** None