

CITY OF SANTA CRUZ
809 Center Street
Santa Cruz, California 95060



JOINT CITY COUNCIL - REDEVELOPMENT AGENCY AGENDA

Regular Meeting

June 08, 2010

1:30 P.M. CLOSED LITIGATION SESSION, COURTYARD CONFERENCE
ROOM

3:00 P.M. CONSENT, GENERAL BUSINESS AND PUBLIC HEARINGS, ORAL
COMMUNICATIONS, COUNCIL CHAMBERS

Note: There will be no 7:00 p.m. session.

Written correspondence and telephone calls received after 5:00 p.m. on Monday preceding a Council meeting may not have time to reach Councilmembers, nor be read by them prior to consideration of an item. Please make any communication to Councilmembers regarding Council meeting items prior to 5:00 p.m. Monday.

Council meetings are cablecast on Comcast Channel 25.

Written material for every item listed in the open sessions is available for review at the Central Branch Library Reference Desk.

Time limits set by Council Policy are guidelines. Unless otherwise specified, procedures for all items, except those approved in one motion on the Consent Agenda, are:

- Oral staff report
- Public comment - 2 minutes each; maximum total time may be established by the Presiding Officer at the beginning of the item
- Council/Agency deliberation and action

Closed Litigation Session
1:30 PM

At 1:30 p.m., the Presiding Officer will open the City Council and Redevelopment Agency Closed Litigation sessions in a public meeting in the Courtyard Conference Room, for the purpose of announcing the agenda; thereafter the meeting will be closed to the public.

A. Labor Negotiations (Government Code §54956.6).

Lisa Sullivan—Negotiator

- Employee Organizations—
1. Police Management
 2. Police Officers' Association
 3. SEIU—All Units
 4. Operating Engineers-Supervisors
 5. Operating Engineers-Managers

B. Conference With Legal Counsel—Existing Litigation (Government Code §54956.9).

1. Community Water Coalition v. Santa Cruz County LAFCO, et al.
Santa Cruz County Superior Court Case No. CV 167407.
2. Regents of the University of California v. City of Santa Cruz, et al.
Santa Cruz County Superior Court Case No. CV 155136.
3. Regents of the University of California v. City of Santa Cruz, et al.
Santa Cruz County Superior Court Case No. CV 155995.
4. City of Santa Cruz v. UCSC (LRDP/EIR), Santa Cruz County Superior Court
Case No. CV 155571.
5. City of Santa Cruz v. UCSC (Biomedical Building – CEQA), Santa Cruz
County Superior Court Case No. CV 156366.

C. Conference with Legal Counsel – Liability Claims (Government Code §54956.95)

1. Claimant: Bogard Construction
2. Claimant: California State Automobile Association (Navarro)
3. Claimant: Gabrielle Ravina and Hayden Hull
4. Claimant: Yacht Harbor Cove Homeowners Association

Claims Against: City of Santa Cruz

An oral report will be presented in the 3:00 p.m. Session (item 20).

**Joint City Council/Redevelopment Agency
3:00 PM**

- * Call to Order
- * Roll Call
- * Pledge of Allegiance
- * Presentation - Santa Cruz Metropolitan Transit District Proposed Route Reductions
- * Spotlight on City Services - City Website Award and Highlights
- * Presentation - 2010 Business Community Affairs Survey
- * Presiding Officer's Announcements
- * Statements of Disqualification
- * Additions and Deletions
- * Joint City Council/Redevelopment Agency Oral Communications - 30 Minutes

Consent Agenda

1. Minutes of the May 25, 2010 Regular City Council Meeting. (CC)
Motion to approve as submitted.
2. Minutes of the May 25, 2010 Regular Redevelopment Agency Meeting. (CC)
Motion to approve as submitted.
3. Application for a State BEGIN Program Grant for First Time Homebuyers at 605 Pacific Avenue. (ED)

Resolution authorizing the City Manager to submit an application to the California State Department of Housing and Community Development (HCD) for funding under the Building Equity and Growth in Neighborhoods (BEGIN) Program; to execute a standard agreement with HCD if selected for BEGIN Program funding and any amendments thereto; to prepare and execute any related documents in forms acceptable to the city attorney necessary to participate in the BEGIN Program; and to accept and appropriate such grant funds as may be awarded under the BEGIN Program.

Consent Agenda (continued)

4. Year End Budget Adjustments for the Department of Economic Development and Redevelopment. (ED)

Redevelopment Agency resolution appropriating funds and amending the Agency's FY 2010 budget in the following amounts: 1) increasing \$280,000 in Merged Project Area pass through payments and increase of \$10,000 in Eastside project area pass through payments; 2) increasing \$625 in project expenses related to two Owner Participation Agreements due to slightly higher than budgeted tax increment generated by the projects; 3) \$1,520 for arbitrage rebate calculation fees for the Agency tax allocation bonds; 4) \$7,500 to fund an increase in the expenses for the Eastside parking lot; and 5) increasing \$11,040 in public art transfers and fees to fund liabilities related to current year project expenditures.

City Council resolution appropriating funds and amending the Departments FY 2010 budget in the amount of \$1,660,000 of additional funding awarded by NOAA for the Monterey Bay National Marine Sanctuary Visitor Center.

5. General Obligation Refunding Bonds - Tax Rate Authorization. (FN)

Resolution setting the tax rate for FY 2011 with respect to the City's General Obligation Refunding Bonds.

6. Liability Claims Filed Against City of Santa Cruz. (HR)

Motion to reject liability claims a) Bogard Construction, b) California State Automobile Association, c) Gabrielle Ravina and Hayden Hull, and d) Yacht Harbor Cove Homeowners Association, based upon staff investigation.

7. Transportation and Public Works Commission Bylaws. (PW)

Motion to adopt the Transportation and Public Works Commission (TPWC) Bylaws.

8. Safe Routes to School Grant Application — Gault School Sidewalk Infill Project. (PW)

Resolution authorizing the City Manager to submit a grant application to the State of California Safe Routes to School Program for the Gault School Sidewalk Infill Project.

Consent Agenda (continued)

9. AB2766 Grant Applications – Seaside Company Bike Parking Program and Bay/High Roundabout Phase 2. (PW)

Resolution authorizing the City Manager to submit two grant applications to the Monterey Bay Unified Air Pollution Control District AB2766 Program.

10. Lee Street Underpass Lighting Project (c401014) - Budget Adjustment. (PW)

Resolution amending the FY 2011 budget to appropriate funds in the amount of \$20,400 from the City-Wide Transportation Impact Fee Account for the Lee Street Underpass Lighting Project.

11. Courtyard Commons (605 Pacific Avenue) – Tract No. 1554 – Approve Final Map. (PW)

Resolution approving the Final Map for Courtyard Commons (605 Pacific Avenue) – Tract No. 1554, and authorizing and directing the City Manager to execute the Subdivision Agreement with Easy Access Builders, Santa Cruz CA, contingent on the execution of an Affordable Housing Agreement with the current owners.

12. Protection of the Public Lands and Waterways of Big Sur – Resolution supporting H.R. 4040. (CN)

Resolution supporting H.R. 4040, the Big Sur Forest Service Management Unit Act of 2009, urging the bill's passage, and directing the transmittal of the resolution to Congressman Farr, Senators Boxer and Feinstein, and President Obama.

End Consent Agenda**Public Hearings**

13. Ordinance No. 2010-11 - Revisions to Santa Cruz Municipal Code Chapter 16.16, Water Efficient Landscaping. (WT)

Final adoption of Ordinance No. 2010-11.

Public Hearings (continued)

14. Ordinance No. 2010-12 - Water Shortage Regulations and Restrictions. (WT)

Final adoption of Ordinance No. 2010-12.

15. Parking and Business Improvement Area Assessments for FY 2011. (FN)

Resolution adopting the FY 2011 Parking and Business Improvement Area annual plan and levying the business improvement assessments for FY 2011.

16. Tannery Arts Center – Digital Media Center - Phase Two – Bid Protest. (ED)

Redevelopment Agency motion to deny/overrule the bid protest received on May 17, 2010 from Carpenters Union Local 505 concerning the Notice of Intent to Award the contract for the Tannery Arts Center – Digital Media Center - Phase Two to Douglas Ross Construction, Inc. (Palo Alto, CA) in the amount of \$4,247,098 and direct the Executive Director to proceed with the award of the contract to the lowest bidder, Douglas Ross Construction, Inc.

17. Emergency Ordinance to Amend Chapter 9.37 to Prohibit the Intensification of Use of Premises Where Loud or Unruly Gatherings have Taken Place. (PL)

Introduction and final adoption of an emergency ordinance adding Section 9.37.055 to the Santa Cruz Municipal Code prohibiting the intensification of use of premises where loud or unruly gatherings have taken place.

Motion acknowledging the Environmental Determination for an exemption.

General Business

18. Park Pacific, LLC Owner Participation Agreement and Predevelopment Loan. (ED)

Redevelopment Agency Resolution amending the FY 2010 budget to appropriate an amount of \$220,000 for a predevelopment loan to Park Pacific, LLC.

Redevelopment Agency Resolution authorizing and directing the Executive Director to enter into an Owner Participation Agreement which includes a loan agreement with Park Pacific, LLC in an amount of \$220,000 to fund certain predevelopment costs associated with a mixed-use project to be developed between 1547-1549 Pacific Avenue and 1110 Cedar Street and to execute such documents as may be necessary to carry out the Owner Participation Agreement and Loan in forms approved by the Agency Attorney.

General Business (continued)

19. Council Meeting Calendar

That the City Council review the meeting calendar attached to the agenda and revise as necessary.

20. City Attorney Oral Report on Closed Session. (See Page 2.)

21. Council Memberships in City Groups and Outside Agencies.

The Presiding Officer will provide Councilmembers with the opportunity to update Council and the public regarding City Groups and Outside Agencies.

Adjournment — The Redevelopment Agency will adjourn from the regularly scheduled meeting of June 8, 2010 to the next regularly scheduled meeting on June 22, 2010, for a closed litigation session at 1:30 p.m., in the Courtyard Conference Room, followed by open sessions at the approximate hours of 3:00 p.m. and 7:00 p.m. in Council Chambers.

Adjournment — The City Council will adjourn from the regularly scheduled meeting of June 8, 2010, to a Special Closed Personnel Session on Wednesday, June 9, 2010 at 10:30 a.m. in the City Manager’s Conference Room. The next regularly scheduled meeting will be on June 22, 2010, for a closed litigation session at 1:30 p.m., in the Courtyard Conference Room, followed by open sessions at the approximate hours of 3:00 p.m. and 7:00 p.m. in Council Chambers.

Note: The Council Chambers will be closed ten minutes after the meeting is adjourned.

Advisory Body Appointments

The following positions are vacant. Council will make appointments at a future meeting.

Sister Cities Committee	One (1) opening
-------------------------	-----------------

Public Hearing: If, in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.

Any person seeking to challenge a City Council decision made as a result of a proceeding in which, by law, a hearing is required to be given, evidence is required to be taken, and the discretion in the determination of facts is vested in the City Council, shall be required to commence that action either 60 days or 90 days following the date on which the decision becomes final as provided in Code of Civil Procedure Section 1094.6. Please refer to code of Civil Procedure 1094.6 to determine how to calculate when a decision becomes "final." The 60-day rule applies to all public hearings conducted pursuant to the City's Zoning Ordinance, Title 24, Santa Cruz Municipal Code. The 90-day rule applies to all other public hearings.

City Council Agenda Legislative History Addendum

No information was submitted.

City staff is responsible for providing the City Clerk with such documentation and information for the Legislative History Addendum. The information will be on file in the City Clerk's Department.

The Addendum is a listing of information specific to City Council business, but which does not appear on a Council meeting agenda. Such entities would include, but not be limited to:

Court decisions

Coastal Commission Appeals of City Council actions

Closed Session Agreements/Settlements, which are public record

Association of Monterey Bay Area Governments

Local Agency Formation Commission

ADDENDUM TO CITY COUNCIL AGENDA – JUNE 8, 2010
INFORMATION ITEMS PREVIOUSLY DISTRIBUTED TO CITY COUNCILMEMBERS
(Copies available in the Central Branch Library at the Reference Desk)

City Clerk

Resignation of Tiffany Roth from the Sister Cities
Committee - 5/12/10 (CC FYI 114)

Resignation of Connie Wilson from the Santa Cruz City
Transportation Commission - 5/12/10 (CC FYI 115)

Resignation of Deanna Sessums from the Santa
Cruz City Transportation Commission - 5/12/10
(CC FYI 116)

Planning Department

General Plan Consistency with the 2011–2013 Capital
Improvement Program - 5/26/10 (PL FYI 024)

ADDENDUM TO CITY COUNCIL AGENDA – JUNE 8, 2010
MAYOR'S PROCLAMATIONS

1. Proclaiming May 23, 2010 as “Vive Oaxaca and Its Indigenous Communities Day” and encouraging all citizens to join in honoring the Oaxacan and Indigenous Communities in Santa Cruz for their cultures and contributions to the people of the Santa Cruz community and recognizing the organization Vive Oaxaca and Its Indigenous Communities as an established organization.
2. Proclaiming the week of May 17–23, 2010 as “National Public Works Week” and urging all citizens and civic organizations to join in acquainting ourselves with the issues involved in providing our public works and recognizing the contributions which public works employees make every day to our health, safety, comfort, and quality of life.
3. Honoring the Watsonville-Santa Cruz Chapter of the Japanese American Citizens League on this 6th day of June 2010 and commending it for its fierce defense of the civil rights of all people.
4. Honoring Bill McCabe on this 6th day of June 2010 for his contributions to the Santa Cruz community and expressing strong support for his important work.
5. Honoring Supervisor Mark Stone on this 6th day of June 2010 for his contributions to the Santa Cruz community and expressing strong support for his important work.
6. Honoring Jim Hayes on this 6th day of June 2010 for his contributions to the Santa Cruz community and expressing strong support for his important work.

MINUTES ARE UNOFFICIAL UNTIL APPROVED BY COUNCIL

CITY OF SANTA CRUZ
809 Center Street
Santa Cruz, California 95060

**MINUTES OF A REGULAR JOINT CITY COUNCIL/
REDEVELOPMENT AGENCY MEETING**

May 25, 2010

1:30 PM SESSION

Mayor Rotkin opened the Closed Litigation Session at 1:40 p.m. in a public session in the Courtyard Conference Room, for the purpose of announcing the agenda and for considering public testimony. No members of the public were present.

Council closed the session to the public at 1:41 p.m. All Councilmembers were present except Vice Mayor Coonerty. (See pages 1180 through 1181 for a report on closed session.)

3:00 PM SESSION

Mayor/Chair Rotkin called the meeting to order at 3:08 p.m. in the Council Chambers.

Roll Call

Present: Councilmembers/Members Lane, Mathews, Beiers, Madrigal, Robinson; Mayor/Chair Rotkin.

Absent: Vice Mayor/Vice Chair Coonerty.

Staff: Assistant City Manager M. Bernal, City Attorney J. Barisone, Director of Economic Development and Redevelopment B. Lipscomb, Director of Finance J. Dilles, Chief of Fire R. Oliver, Director of Planning and Community Development J. Rebagliati, Director of Public Works M. Dettle, Chief of Operations K. Van Der Maaten, Chief Building Official J. Ancic, Assistant Director of Water L. Almond, Water Conservation Manager T. Goddard, Green Building Specialist J. Fullerton, Deputy City Clerk T. Graves.

1176
JOINT CITY COUNCIL/
REDEVELOPMENT AGENCY MEETING
MAY 25, 2010
3:00 P.M. SESSION

Pledge of Allegiance

Introduction of New Employees - Director of Finance J. Dilles introduced Account Clerk I Summer Lange; Director of Public Works M. Dettle introduced Parking Attendants Orlando Corea and Lilian Lane, Laboratory Technician Michelle Courtroul, Environmental Compliance Inspector Dave Martin, Chemist I Jennie Munster, Parking Facility Maintenance Assistant Raul Salgado, and Parking Enforcement Officer Sharon Smith; Assistant Director of Water L. Almond introduced Utility Service Representatives Valerie Cock and Kyle Petersen.

Presentation - Recognition of the County Emergency Medical Services Lifesaving Awards Presented to Captain Dan Walters and Fire Engineer and Rescue Swimmer Lono Barnes by Mayor Rotkin and Chief of Fire R. Oliver.

Presentation - Project Homeless Connect, presented by Samantha Green and Kimberly Lacrosse.

Presentation - Green Building Awards, presented by Mayor Rotkin, Chief Building Official J. Ancic and Green Building Specialist J. Fullerton to the owners and designers of 110 Los Ondas Court, 145 Scenic Street, and 1234 West Cliff Drive.

Presentation - 2009 Tourism Research Results, presented by Maggie Ivy, Santa Cruz County Conference and Visitors Council.

Presentation - Mayor's Proclamation Recognizing May 17-23, 2010 as National Public Works Week, accepted by Director of Public Works M. Dettle and Chief of Operations K. Van Der Maaten.

Presiding Officer's Announcements

Statements of Disqualification – None.

Additions and Deletions – Item 8 was deleted.

JOINT CITY COUNCIL/
REDEVELOPMENT AGENCY MEETING
MAY 25, 2010
3:00 P.M. SESSION

Joint City Council/Redevelopment Agency Oral Communications

Marilyn Garrett spoke about the dangers of Smart Meters and urged voters to oppose Proposition 16.

Doris Henry spoke on behalf of workers represented by SEIU.

David Maruska spoke on behalf of workers represented by SEIU.

Rene Belling spoke on behalf of workers represented by SEIU.

Ted Rossiter spoke on behalf of workers represented by SEIU.

Bob Costanza spoke on behalf of workers represented by SEIU.

Michelle Redford spoke on behalf of workers represented by SEIU.

Cathy Escobar spoke on behalf of workers represented by SEIU.

Pat Kittle spoke about immigration and growth,

Robert Blume spoke on behalf of workers represented by SEIU.

For the record, Mayor Rotkin stated that he is unaware of any major change that may be proposed in the way the City manages its employees.

Mike Tomasi spoke about freedom and civil rights.

Lynn Robinson spoke about recent articles in the *Sentinel*, and showed the amount of toxic trash she picked up in a 45-minute period in one area.

Consent Agenda

Item 8 was deleted.

Action

Councilmember/Member Madrigal moved, seconded by Mayor/Chair Rotkin, to approve the remaining items on the Consent Agenda. The motion carried unanimously (Councilmember/Member Coonerty absent).

1. Minutes of the May 4, 2010 Special and May 11, 2010 Regular City Council Meetings. (CC)

Motion carried to approve as submitted.

Consent Agenda (continued)

2. Minutes of the May 11, 2010 Regular Redevelopment Agency Meeting.
(CC)

Motion carried to approve as submitted.

3. Nickelodeon Theatres, Inc. Loan for Del Mar Theatre Equipment Upgrades. (ED)

Redevelopment Agency Resolution No. 1483 was adopted amending the FY 2010 budget to appropriate an amount up to \$150,000 for a loan to Nickelodeon Theatres, Inc.

Redevelopment Agency Resolution No. 1484 was adopted authorizing and directing the Executive Director to enter into a loan agreement in a form approved by the Agency Attorney with Nickelodeon Theatres, Inc. in an amount up to \$150,000 to fund theatre equipment upgrades and to execute such documents as may be necessary to carry out the loan.

4. Water Street Sewer Project (c400914) – Authorization to Advertise. (PW)

Motion carried to approve the plans and specifications for the Water Street Sewer Project and authorize staff to advertise for bids. The City Manager is hereby authorized and directed to execute the contract as authorized by Resolution No. NS-27,563.

5. San Lorenzo River Flood Control and Environmental Restoration Project (p520002) – Vegetation Variance Request and Agreement. (PW)

Motion carried to authorize the City Manager to sign a Corps of Engineers Vegetation Variance Request and Agreement for the San Lorenzo River Flood Control and Environmental Restoration Project.

6. Encroachment Permit for 207 Church Street Building Corner Encroachment into City Right-of-Way. (PW)

Resolution No. NS-28,208 was adopted granting an encroachment permit for 207 Church Street building corner encroachment into City right-of-way at Church St. and Cedar St.

JOINT CITY COUNCIL/
REDEVELOPMENT AGENCY MEETING
MAY 25, 2010
3:00 P.M. SESSION

Consent Agenda (continued)

7. Safe Routes to School - Alternate Adjacent Routes to Mission Street/SR1 (c400921) – Contract Change Order and Notice of Completion. (PW)

Motion carried to ratify Contract Change Order No. 1 and accept the work completed by BDS Construction Inc., Chowchilla, CA, as completed per the plans and specifications and authorize the filing of the Notice of Completion for the Safe Routes to School - Alternate Adjacent Routes to Mission Street/SR1 (c400921).

8. Courtyard Commons (605 Pacific Avenue) – Tract No. 1554 – Approve Final Map. (PW)

This item was deleted.

End Consent Agenda

Councilmember Mathews left the meeting.

General Business

9. Revisions to Santa Cruz Municipal Code Chapter 16.16, Water Efficient Landscaping. (WT)

Water Conservation Manager T. Goddard presented an oral report and responded to Council's questions.

SPEAKING FROM THE FLOOR EXPRESSING OPPOSITION AND/OR CONCERNS:

Mike Tomasi

Action

Councilmember Lane moved, seconded by Councilmember Beiers, to introduce Ordinance No. 2010-11 for publication repealing Chapter 16.16 and adding a new Chapter 16.16 to the Santa Cruz Municipal Code pertaining to water efficient landscaping, and amending a portion of Section 16.16.030 to read as follows: The director shall be responsible for assuring that all applicants for new, increased, or modified water service shall comply with the standards set forth in this chapter wherever water service is provided by the City as a condition of receiving water service. The motion carried unanimously (Councilmember Mathews and Vice Mayor Coonerty absent).

General Business (continued)

10. Water Shortage Regulations and Restrictions. (WT)

Water Conservation Manager T. Goddard presented an oral report and responded to Council's questions.

Action

Councilmember Robinson moved, seconded by Councilmember Beiers, to introduce Ordinance No. 2010-12 for publication repealing Ordinance No. 2009-14 and adding a new Chapter 16.01 to the Santa Cruz Municipal Code. The motion carried unanimously (Councilmember Mathews and Vice Mayor Coonerty absent).

11. Council Meeting Calendar

That the City Council reviewed the meeting calendar attached to the agenda and revised as necessary.

12. City Attorney Oral Report on Closed Session.

A. Labor Negotiations (Government Code §54956.6).

Lisa Sullivan—Negotiator

- | | | |
|-------------------------|----|---------------------------------|
| Employee Organizations— | 1. | Police Management |
| | 2. | Police Officers' Association |
| | 3. | SEIU—All Units |
| | 4. | Operating Engineers-Supervisors |
| | 5. | Operating Engineers-Managers |

Council received status reports and instructed the negotiator.

B. Real Property (Government Code §54956.8).

212 Church Street Property Disposition Negotiation
Bonnie Lipscomb-City Negotiator

Council received a status report and instructed the negotiator.

JOINT CITY COUNCIL/
REDEVELOPMENT AGENCY MEETING
MAY 25, 2010
3:00 P.M. SESSION

General Business (continued)

12. City Attorney Oral Report on Closed Session (continued).
- C. Conference With Legal Counsel—Existing Litigation (Government Code §54956.9).
1. Smith v. City of Santa Cruz, Santa Cruz Superior Court Case No. CV166699.
 2. Save the Plastic Bag Coalition v. City of Manhattan Beach, California Supreme Court Case No. S180720 (Request for Amicus Curiae Assistance).

Council received status reports and instructed the City Attorney.

13. Council Memberships in City Groups and Outside Agencies.

The Presiding Officer provided Councilmembers with the opportunity to update Council and the public regarding City Groups and Outside Agencies.

Adjournment — At 5:16 p.m., the Redevelopment Agency adjourned from the regularly scheduled meeting of May 25, 2010 to the next regularly scheduled meeting on June 8, 2010, for a closed litigation session at 1:30 p.m., in the Courtyard Conference Room, followed by open sessions at the approximate hours of 3:00 p.m. and 7:00 p.m. in Council Chambers.

Adjournment — At 5:16 p.m., the City Council adjourned from the regularly scheduled meeting of May 25, 2010, to a Special Meeting of June 7, 2010 in the City Council Chambers at 8:30 a.m., for consideration of the FY 2011 Budget. The next regularly scheduled meeting will be on June 8, 2010, for a closed litigation session at 1:30 p.m., in the Courtyard Conference Room, followed by open sessions at the approximate hours of 3:00 p.m. and 7:00 p.m. in Council Chambers.

Respectfully submitted

Tom Graves
Deputy City Clerk

Approved

Michael Rotkin
Mayor

MINUTES ARE UNOFFICIAL UNTIL APPROVED BY COUNCIL

CITY OF SANTA CRUZ
809 Center Street
Santa Cruz, California 95060

MINUTES OF A REGULAR REDEVELOPMENT AGENCY MEETING

May 25, 2010

3:00 PM SESSION

Mayor/Chair Rotkin called the meeting to order at 3:08 p.m. in the Council Chambers.

Roll Call

Present: Councilmembers/Members Lane, Mathews, Beiers, Madrigal, Robinson; Mayor/Chair Rotkin.

Absent: Vice Mayor/Vice Chair Coonerty.

Staff: Assistant City Manager M. Bernal, City Attorney J. Barisone, Director of Economic Development and Redevelopment B. Lipscomb, Director of Finance J. Dilles, Chief of Fire R. Oliver, Director of Planning and Community Development J. Rebagliati, Director of Public Works M. Dettle, Chief of Operations K. Van Der Maaten, Chief Building Official J. Ancic, Assistant Director of Water L. Almond, Water Conservation Manager T. Goddard, Green Building Specialist J. Fullerton, Deputy City Clerk T. Graves.

Pledge of Allegiance

Introduction of New Employees - Director of Finance J. Dilles introduced Account Clerk I Summer Lange; Director of Public Works M. Dettle introduced Parking Attendants Orlando Corea and Lilian Lane, Laboratory Technician Michelle Courtroul, Environmental Compliance Inspector Dave Martin, Chemist I Jennie Munster, Parking Facility Maintenance Assistant Raul Salgado, and Parking Enforcement Officer Sharon Smith; Assistant Director of Water L. Almond introduced Utility Service Representatives Valerie Cock and Kyle Petersen.

Presentation - Recognition of the County Emergency Medical Services Lifesaving Awards Presented to Captain Dan Walters and Fire Engineer and Rescue Swimmer Lono Barnes by Mayor Rotkin and Chief of Fire R. Oliver.

Presentation - Project Homeless Connect, presented by Samantha Green and Kimberly Lacrosse.

REDEVELOPMENT AGENCY MEETING
MAY 25, 2010
3:00 P.M. SESSION

Presentation - Green Building Awards, presented by Mayor Rotkin, Chief Building Official J. Ancic and Green Building Specialist J. Fullerton to the owners and designers of 110 Los Ondas Court, 145 Scenic Street, and 1234 West Cliff Drive.

Presentation - 2009 Tourism Research Results, presented by Maggie Ivy, Santa Cruz County Conference and Visitors Council.

Presentation - Mayor's Proclamation Recognizing May 17-23, 2010 as National Public Works Week, accepted by Director of Public Works M. Dettle and Chief of Operations K. Van Der Maaten.

Presiding Officer's Announcements

Statements of Disqualification – None.

Additions and Deletions – Item 8 was deleted.

Joint City Council/Redevelopment Agency Oral Communications

Marilyn Garrett spoke about the dangers of Smart Meters and urged voters to oppose Proposition 16.

Doris Henry spoke on behalf of workers represented by SEIU.

David Maruska spoke on behalf of workers represented by SEIU.

Rene Belling spoke on behalf of workers represented by SEIU.

Ted Rossiter spoke on behalf of workers represented by SEIU.

Bob Costanza spoke on behalf of workers represented by SEIU.

Michelle Redford spoke on behalf of workers represented by SEIU.

Cathy Escobar spoke on behalf of workers represented by SEIU.

Pat Kittle spoke about immigration and growth,

Robert Blume spoke on behalf of workers represented by SEIU.

For the record, Mayor Rotkin stated that he is unaware of any major change that may be proposed in the way the City manages its employees.

REDEVELOPMENT AGENCY MEETING
MAY 25, 2010
3:00 P.M. SESSION

**Joint City Council/Redevelopment Agency Oral Communications
(continued)**

Mike Tomasi spoke about freedom and civil rights.

Lynn Robinson spoke about recent articles in the *Sentinel*, and showed the amount of toxic trash she picked up in a 45-minute period in one area.

Consent Agenda

Item 8 was deleted.

Action

Councilmember/Member Madrigal moved, seconded by Mayor/Chair Rotkin, to approve the remaining items on the Consent Agenda. The motion carried unanimously (Councilmember/Member Coonerty absent).

1. Minutes of the May 4, 2010 Special and May 11, 2010 Regular City Council Meetings. (CC)

Motion carried to approve as submitted.

2. Minutes of the May 11, 2010 Regular Redevelopment Agency Meeting. (CC)

Motion carried to approve as submitted.

3. Nickelodeon Theatres, Inc. Loan for Del Mar Theatre Equipment Upgrades. (ED)

Redevelopment Agency Resolution No. 1483 was adopted amending the FY 2010 budget to appropriate an amount up to \$150,000 for a loan to Nickelodeon Theatres, Inc.

Redevelopment Agency Resolution No. 1484 was adopted authorizing and directing the Executive Director to enter into a loan agreement in a form approved by the Agency Attorney with Nickelodeon Theatres, Inc. in an amount up to \$150,000 to fund theatre equipment upgrades and to execute such documents as may be necessary to carry out the loan.

REDEVELOPMENT AGENCY MEETING
 MAY 25, 2010
 3:00 P.M. SESSION

Consent Agenda (continued)

4. Water Street Sewer Project (c400914) – Authorization to Advertise. (PW)

Motion carried to approve the plans and specifications for the Water Street Sewer Project and authorize staff to advertise for bids. The City Manager is hereby authorized and directed to execute the contract as authorized by Resolution No. NS-27,563.

5. San Lorenzo River Flood Control and Environmental Restoration Project (p520002) – Vegetation Variance Request and Agreement. (PW)

Motion carried to authorize the City Manager to sign a Corps of Engineers Vegetation Variance Request and Agreement for the San Lorenzo River Flood Control and Environmental Restoration Project.

6. Encroachment Permit for 207 Church Street Building Corner Encroachment into City Right-of-Way. (PW)

Resolution No. NS-28,208 was adopted granting an encroachment permit for 207 Church Street building corner encroachment into City right-of-way at Church St. and Cedar St.

7. Safe Routes to School - Alternate Adjacent Routes to Mission Street/SR1 (c400921) – Contract Change Order and Notice of Completion. (PW)

Motion carried to ratify Contract Change Order No. 1 and accept the work completed by BDS Construction Inc., Chowchilla, CA, as completed per the plans and specifications and authorize the filing of the Notice of Completion for the Safe Routes to School - Alternate Adjacent Routes to Mission Street/SR1 (c400921).

8. Courtyard Commons (605 Pacific Avenue) – Tract No. 1554 – Approve Final Map. (PW)

This item was deleted.

End Consent Agenda

Councilmember Mathews left the meeting.

REDEVELOPMENT AGENCY MEETING
MAY 25, 2010
3:00 P.M. SESSION

General Business

9. Revisions to Santa Cruz Municipal Code Chapter 16.16, Water Efficient Landscaping. (WT)

Water Conservation Manager T. Goddard presented an oral report and responded to Council's questions.

SPEAKING FROM THE FLOOR EXPRESSING OPPOSITION AND/OR CONCERNS:

Mike Tomasi

Action

Councilmember Lane moved, seconded by Councilmember Beiers, to introduce Ordinance No. 2010-11 for publication repealing Chapter 16.16 and adding a new Chapter 16.16 to the Santa Cruz Municipal Code pertaining to water efficient landscaping, and amending a portion of Section 16.16.030 to read as follows: The director shall be responsible for assuring that all applicants for new, increased, or modified water service shall comply with the standards set forth in this chapter wherever water service is provided by the City as a condition of receiving water service. The motion carried unanimously (Councilmember Mathews and Vice Mayor Coonerty absent).

10. Water Shortage Regulations and Restrictions. (WT)

Water Conservation Manager T. Goddard presented an oral report and responded to Council's questions.

Action

Councilmember Robinson moved, seconded by Councilmember Beiers, to introduce Ordinance No. 2010-12 for publication repealing Ordinance No. 2009-14 and adding a new Chapter 16.01 to the Santa Cruz Municipal Code. The motion carried unanimously (Councilmember Mathews and Vice Mayor Coonerty absent).

11. Council Meeting Calendar

That the City Council reviewed the meeting calendar attached to the agenda and revised as necessary.

REDEVELOPMENT AGENCY MEETING
 MAY 25, 2010
 3:00 P.M. SESSION

General Business (continued)

12. City Attorney Oral Report on Closed Session.

A. Labor Negotiations (Government Code §54956.6).

Lisa Sullivan—Negotiator

- Employee Organizations—
1. Police Management
 2. Police Officers' Association
 3. SEIU—All Units
 4. Operating Engineers-Supervisors
 5. Operating Engineers-Managers

Council received status reports and instructed the negotiator.

B. Real Property (Government Code §54956.8).

212 Church Street Property Disposition Negotiation
 Bonnie Lipscomb-City Negotiator

Council received a status report and instructed the negotiator.

C. Conference With Legal Counsel—Existing Litigation (Government Code §54956.9).

1. Smith v. City of Santa Cruz, Santa Cruz Superior Court Case No. CV166699.
2. Save the Plastic Bag Coalition v. City of Manhattan Beach, California Supreme Court Case No. S180720 (Request for Amicus Curiae Assistance).

Council received status reports and instructed the City Attorney.

13. Council Memberships in City Groups and Outside Agencies.

The Presiding Officer provided Councilmembers with the opportunity to update Council and the public regarding City Groups and Outside Agencies.

REDEVELOPMENT AGENCY MEETING
MAY 25, 2010
3:00 P.M. SESSION

Adjournment — At 5:16 p.m., the Redevelopment Agency adjourned from the regularly scheduled meeting of May 25, 2010 to the next regularly scheduled meeting on June 8, 2010, for a closed litigation session at 1:30 p.m., in the Courtyard Conference Room, followed by open sessions at the approximate hours of 3:00 p.m. and 7:00 p.m. in Council Chambers.

Adjournment — At 5:16 p.m., the City Council adjourned from the regularly scheduled meeting of May 25, 2010, to a Special Meeting of June 7, 2010 in the City Council Chambers at 8:30 a.m., for consideration of the FY 2011 Budget. The next regularly scheduled meeting will be on June 8, 2010, for a closed litigation session at 1:30 p.m., in the Courtyard Conference Room, followed by open sessions at the approximate hours of 3:00 p.m. and 7:00 p.m. in Council Chambers.

Approved

Mike Rotkin
Chair

Attest

Bonnie Lipscomb
Executive Director



CITY COUNCIL AGENDA REPORT

DATE: 6/2/2010

AGENDA OF: 6/8/2010

DEPARTMENT: Economic Development

SUBJECT: Application for a State BEGIN Program Grant for First Time Homebuyers at 605 Pacific Avenue. ED

RECOMMENDATION: Resolution authorizing the City Manager to submit an application to the California State Department of Housing and Community Development (HCD) for funding under the Building Equity and Growth in Neighborhoods (BEGIN) Program; to execute a standard agreement with HCD if selected for BEGIN Program funding and any amendments thereto; to prepare and execute any related documents in forms acceptable to the city attorney necessary to participate in the BEGIN Program; and to accept and appropriate such grant funds as may be awarded under the BEGIN Program.

BACKGROUND: The California Department of Housing and Community Development (HCD) has issued a Notice of Funding Availability (NOFA) for the Building Equity and Growth in Neighborhoods (BEGIN) Program. Approximately \$40 million in BEGIN Program funds are being made available as a result of Proposition 1C (Prop 1C), the Housing and Emergency Shelter Trust Fund Act of 2006. The BEGIN Program is a homeownership program designed to make grants to qualifying cities and counties that provide incentives or reduce or remove regulatory barriers for housing developments, as set forth in the BEGIN Program Guidelines.

The BEGIN Program is designed to promote partnerships between localities and housing developers to join together to reduce the cost and increase the supply of new homeownership opportunities. BEGIN Program grant funds are used for down payment assistance in the form of a loan to qualifying low- and moderate-income first-time homebuyers who purchase newly constructed homes in a BEGIN Program project. Under the BEGIN Program, borrowers must be low- or moderate-income households whose incomes do not exceed 120% of the area median income adjusted for family size. Grants of up to \$30,000 per unit will be made to provide down payment assistance in the form of a silent second loan.

In order to apply for a BEGIN Grant, the City Council is required to adopt a resolution authorizing the submittal of an application to HCD and execution of a standard agreement and any related documents.

DISCUSSION: The BEGIN Program requires that applications be submitted for individual projects that are in the planning, permit or construction phases of development. For a project to qualify, the City must have offered specific forms of regulatory relief, development incentive or

project enhancements, which reduce the per-unit cost of the housing. The project must also be ready for homebuyer occupancy within 36 months of the award of funds.

Easy Access Developers is just completing a mixed use project at 605 Pacific that may qualify based on provisions under the City's Small Ownership Unit (SOU) Ordinance. The three-story mixed use building has eight SOUs on the second and third floors and 342 square feet of commercial space on the ground floor. The sale price range for market rate units will be about \$350,000. The project includes one affordable inclusionary housing program unit. Because the market rate units will be relatively economical, staff recommends that all eight units be included in the BEGIN Program. The BEGIN grant request would be for \$240,000.

ENVIRONMENTAL REVIEW: The project is exempt from the California Environmental Quality Act (CEQA), under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA (Section 15061(b) (3)). In this case the recommended actions serve to provide additional funding by which the City may assist first time homebuyers. It does not result in physical changes to the environment.

FISCAL IMPACT: None at this time. If BEGIN Program funds are made available to the City, some Economic Development and Redevelopment staff time will be required in the future.

Prepared by:
Carol Berg
Housing and Community
Development Manager

Submitted by:
Bonnie Lipscomb
Director of Economic Development

Approved by:
Richard C. Wilson
City Manager

ATTACHMENTS: Resolution

RESOLUTION NO. NS-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ AUTHORIZING THE CITY MANAGER TO SUBMIT AN APPLICATION TO THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD) FOR FUNDING UNDER THE BEGIN PROGRAM; EXECUTE A STANDARD AGREEMENT WITH HCD IF SELECTED FOR BEGIN PROGRAM FUNDING AND ANY AMENDMENTS THERETO; AND ANY RELATED DOCUMENTS IN FORMS ACCEPTABLE TO THE CITY ATTORNEY AND NECESSARY TO PARTICIPATE IN THE BEGIN PROGRAM; AND ACCEPT AND APPROPRIATE SUCH GRANT FUNDS AS MAY BE AWARDED UNDER THE BEGIN PROGRAM.

WHEREAS, the City of Santa Cruz wishes to apply for and receive an allocation of funds through the BEGIN Program; and;

WHEREAS, The California Department of Housing and Community Development (hereinafter referred to as "HCD") has issued a Notice of Funding Availability ("NOFA") for the BEGIN Program established by Chapter 14.5, Sections 50860 through 50866 of Part 2 of Division 31 of the Health and Safety Code (the "statute"). Pursuant to the statute, HCD is authorized to approve funding allocations utilizing monies made available by the State Legislature to the BEGIN program, subject to the terms and conditions of the statute and the BEGIN Program Guidelines adopted as amended by HCD on 05/21/07; and

WHEREAS, the City of Santa Cruz wishes to submit an application to obtain from HCD an allocation of BEGIN funds in the amount of \$240,000 for the 406 Pacific Avenue mixed use project to provide First Time Home Buyer loans for BEGIN units at this project; and

WHEREAS, the BEGIN Program Guidelines stipulate that the City shall have an agreement with developer to support the cooperative efforts under the BEGIN Program; and

NOW, THEREFORE, BE IT RESOLVED that the City of Santa Cruz shall submit to HCD an application to participate in the BEGIN Program in response to the NOFA issued on April 19, 2010 which will request a funding allocation to provide BEGIN Funds through the use of "Silent Second" mortgages for eight first time homebuyer silent second mortgages at 605 Pacific Avenue.

BE IT FURTHER RESOLVED if the application for funding is approved, the City of Santa Cruz hereby agrees to use the BEGIN funds for eligible activities in the manner presented in the application as approved by HCD and in accordance with program Guidelines cited above. It also may execute any and all other instruments necessary or required by HCD for participation in the BEGIN Program; and

BE IT FURTHER RESOLVED that the City Council of the City of Santa Cruz authorizes the City Manager to execute in the name of the City of Santa Cruz the application, the Standard Agreement, enter into participation agreements with the developers of the previously mentioned projects; and execute all other documents required by HCD for participation in the BEGIN Program and any amendments thereto in forms acceptable to the City Attorney.

RESOLUTION NO. NS-

BE IT FURTHER RESOLVED that the City Council of the City of Santa Cruz authorizes the City Manager to accept and appropriate such grant funds as may be awarded under the BEGIN Program.

PASSED AND ADOPTED this 8th day of June, 2010, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk

The undersigned City Clerk of the City of Santa Cruz there before named does hereby attest and certify that the foregoing is a true and full copy of a resolution of the Governing Board adopted at a duly convened meeting on the date above-mentioned, which has not been altered, amended or repealed.

Signature

Date



JOINT CITY COUNCIL/
REDEVELOPMENT AGENCY
AGENDA REPORT

DATE: 6/2/2010

AGENDA OF: 6/8/2010

DEPARTMENT: Economic Development

SUBJECT: Year End Budget Adjustments for the Department of Economic Development and Redevelopment. (ED)

RECOMMENDATION: Redevelopment Agency resolution appropriating funds and amending the Agency's FY 2010 budget in the following amounts: 1) increasing \$280,000 in Merged Project Area pass through payments and increase of \$10,000 in Eastside project area pass through payments; 2) increasing \$625 in project expenses related to two Owner Participation Agreements due to slightly higher than budgeted tax increment generated by the projects; 3) \$1,520 for arbitrage rebate calculation fees for the Agency tax allocation bonds; 4) \$7,500 to fund an increase in the expenses for the Eastside parking lot; and 5) increasing \$11,040 in public art transfers and fees to fund liabilities related to current year project expenditures.

City Council resolution appropriating funds and amending the Departments FY 2010 budget in the amount of \$1,660,000 of additional funding awarded by NOAA for the Monterey Bay National Marine Sanctuary Visitor Center.

BACKGROUND: Annually a budget adjustment is required to make financial adjustments to the Redevelopment Agency budget. The first set of adjustments is to increase the appropriation for the Agency pass through payments to other taxing entities. These payments are based on the actual property tax increment received by the Agency. For the Merged Project Area, the additional pass through payments equal \$280,000 and the Eastside increase is \$10,000. These additional payments are offset by property tax increment revenue.

The second adjustment reflects very minor increases in payments due to Owner Participation Agreements which are based on property tax increment. The increased appropriation required is \$625 broken down between the Shaffer Road project and the 1010 North Pacific project.

The third adjustment is an increase in appropriation of \$1,520 for arbitrage rebate calculation fees related to the Agency tax allocation bonds. This fee was not included in the annual Agency budget.

The fourth adjustment is an increased appropriation of \$7,500 for the Eastside Parking Lot. The current mural on the back wall of the parking lot, which has deteriorated considerably, will be repainted during the dry season to improve the appearance of the Agency owned lot.

The fifth adjustment reflects transfers related to Agency obligations to the Public Art program. The Agency obligations arise as construction contracts are executed for projects. For fiscal year 2010 a budget adjustment of \$8,275 is required for obligations related to the following projects: Downtown Alley Improvements; Refuse Collection Sites; and the Hwy 1 Bike/Pedestrian Underpass. Of the total amount transferred, 25% is owed to the City Public Art fund 311 for the Public Art Administration and the Maintenance & Education activities related to the projects.

The Department of Economic Development currently has two grants from the National Oceanic Atmospheric Administration for planning and construction of the Monterey Bay National Marine Sanctuary Visitor Center. The first grant, amended once with an increase, totals \$1,755,102. The second grant was originally awarded in an amount of \$1,340,000. At the meeting of September 8, 2009, Council approved the acceptance of the first amendment to that grant, increasing the award by \$3,000,000. At the same meeting, Council ratified the submission of additional grant funding applications and the subsequent acceptance by the City Manager. In March of 2010, the Department received a second award, increasing the grant by \$1,660,000. This budget adjustment will increase the grant revenues and appropriate expenditures for the grant amendment. To date a total of \$7,755,102 of grant funds has been awarded to the City by NOAA for the Visitor Center.

DISCUSSION: The proposed budget adjustments are necessary to reflect past Department and Agency actions or more current financial information.

FISCAL IMPACT: The increase in pass through and OPA payments are offset by increased property tax increment revenue. The debt service arbitrage rebate calculation fees will reduce available debt service fund balances by a nominal amount. The increased appropriation for the Eastside Parking lot will reduce available fund balance in the Eastside capital projects fund. The increase in the Public Art transfers will reduce the available fund balances in the Merged Project Area capital projects and debt service funds. The balance in the RDA Public Art fund will be increased by the transfer amount net of the Public Art Administration and Maintenance & Education charges. The overall impact of these adjustments to Agency funds is a net reduction of \$12,410.

The increased Department appropriation for the Monterey Bay National Marine Sanctuary Visitor Center is offset by increased grant funds.

Prepared by:
Kathryn Mintz
Redevelopment Finance
Manager

Submitted by:
Bonnie Lipscomb
Director of Economic Development/
Agency Executive Director

Approved by:
Richard C. Wilson
City Manager

ATTACHMENTS: Budget Adjustments

**City of Santa Cruz
BUDGET ADJUSTMENT REQUEST**

**PAGE 2 OF 2
DATE: 6/8/10**

**TO: FINANCE DIRECTOR
FROM: Agency Executive Director**

<u>ACCOUNT</u>	<u>EXPENDITURE EDEN ACCOUNT TITLE</u>	
481-52-80-5520-56201	Merged Project Area Debt Service Fund: governmental fees	\$280,000.00
482-52-80-5521-56201	Eastside Project Area Debt Service Fund: governmental fees	\$10,000.00
281-52-80-5650-58190	Merged Project Area LMIH Fund:Other Debt principal	
d520012 810	Shaffer Road OPA	\$316.00
d520013 810	1010 Pacific OPA	\$309.00
481-52-80-8910-58912	Merged Project Area Debt Service Fund: TAB other costs d520018 830	\$1,403.00
483-52-80-8910-58912	Merged LMIH Debt Service Fund: TAB other costs d520018 830	\$117.00
382-52-80-5532-54990	Eastside Project Area Capital Projects Fund: Misc supplies & services	\$7,500.00
r527752 100	Eastside parking lot	
481-00-00-0000-59191	Merged Project Area Debt Service Fund: Transfer to public art	\$7,460.00
381-00-00-0000-59191	Merged Project Area Capital Projects Fund: Transfer to public art	\$815.00
485-00-00-0000-56903	Merged Project Area Public Art fund: Administration, education & maintenance	\$2,765.00
	TOTAL EXPENDITURE	\$310,685.00

NET: \$ -12,410.00

Purpose To amend the Agency FY 10 budget to fund additional pass through payments, OPA payments, debt service payments, eastside parking lot expense and public art transfer obligations.

REQUESTED BY	DEPARTMENT HEAD APPROVAL	ACCOUNTING APPROVAL	FINANCE DIRECTOR APPROVAL	CITY MANAGER APPROVAL
Kathryn Mintz <small>Digitally signed by Kathryn Mintz DN: cn=Kathryn Mintz, o=City of Santa Cruz, ou=Finance, email=kymintz@cityofsc.org, ou=US, Date: 2010.06.24 17:16:00 -0700</small> 5/24/10	Bonnie Lipscomb <small>Digitally signed by Bonnie Lipscomb DN: cn=Bonnie Lipscomb, o=City of Santa Cruz, CA, ou=FMAD, email=blipscomb@cityofsc.org, ou=US, Date: 2010.06.25 07:57:59 -0700</small> 5/25/10	Patty Haymond <small>Digitally signed by Patty Haymond DN: cn=Patty Haymond, o=City of Santa Cruz, ou=Finance, email=phaymond@cityofsc.org, ou=US, Date: 2010.06.27 17:28:15 -0700</small> 5/27/10	Jack Dilles <small>Digitally signed by Jack Dilles DN: cn=Jack Dilles, o=Finance, ou=FMAD, email=jdilles@cityofsc.org, ou=US, Date: 2010.06.01 14:22:38 -0700</small>	

Revised October 2006



CITY COUNCIL AGENDA REPORT

DATE: 6/2/2010

AGENDA OF: 6/8/2010

DEPARTMENT: Finance

SUBJECT: General Obligation Refunding Bonds - Tax Rate Authorization. (FN)

RECOMMENDATION: Resolution setting the tax rate for FY 2011 with respect to the City's General Obligation Refunding Bonds.

BACKGROUND: In November 1998, voters in the City of Santa Cruz approved the issuance of General Obligation Bonds in the amount of \$7,000,000 for the purchase of greenbelt property; the renovation of the City's fire stations; and the purchase/improvement of a City park adjacent to the depot site. Resources to repay the Bonds come from property tax levies within the City of Santa Cruz. The tax rate is established by the City Council each year and then forwarded to the County of Santa Cruz for inclusion on the property tax bills. The Bonds were refunded in December 2009 to reduce the overall cost of debt service and, thereby, realize financial savings for the taxpayers.

DISCUSSION: For the upcoming property tax billing, the City directs the County of Santa Cruz to levy on all taxable property in the City, in addition to all other taxes, a continuing direct and ad valorem tax in the amount of \$413,926 to be used toward the payment of principal and interest coming due on the Bonds. Since the County of Santa Cruz is on the "Teeter Plan," the City will receive 100% of the assessment. There is no need to factor in an amount for delinquencies.

The attached resolution establishes the appropriate tax rate, and directs the Director of Finance to forward a copy to the County of Santa Cruz and take whatever action is necessary to have the assessment placed on the 2010-2011 property tax bill.

FISCAL IMPACT: There is no fiscal impact to the City of Santa Cruz.

Prepared by:
Kim Wigley
Accountant II

Submitted by:
Jack Dilles
Finance Director

Approved by:
Richard C. Wilson
City Manager

ATTACHMENTS: Resolution

RESOLUTION NO. NS-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ
SETTING THE TAX RATE FOR FY 2011 WITH RESPECT TO
GENERAL OBLIGATION REFUNDING BONDS

WHEREAS, more than two-thirds of the electors voting at a special municipal election held on November 3, 1998, voted for a proposition authorizing the issuance by the City of general obligation bonds in the aggregate principal of \$7,000,000 (the "Bonds") for the purpose of providing funds for certain municipal improvements, including fire station improvements, community park improvements, and the acquisition of property to be used for open space purposes; and

WHEREAS, pursuant to such authorization the City has previously issued the Bonds in the form of \$4,500,000 principal amount of current interest bonds and \$2,498,473.25 principal amount of capital appreciation bonds; and

WHEREAS, the City Council has issued and sold its City of Santa Cruz 2009 General Obligation Refunding Bonds (the "Refunding Bonds") in the aggregate principal amount not to exceed \$8,000,000 for the purpose of refunding all of the outstanding 1999 current interest bonds and all of the outstanding 1998 capital appreciation bonds and thereby realizing financial savings to the property tax payers of the City; and

WHEREAS, pursuant to Section 43632 of the California Government Code, the City Council is required annually to levy and collect until the bonds are paid, or until there is a sufficient amount in the treasury set apart to meet all payments of principal and interest coming due, a tax sufficient to pay the principal of and interest on the Refunding Bonds coming due and payable before the proceeds of a tax levied at the next general tax levy will be available; and

WHEREAS, the City has determined that it is necessary to levy and collect an amount of \$413,926 toward the payment of principal and interest coming due on the Refunding Bonds on March 1 and September 1, 2011, and thereby directs the County of Santa Cruz to levy on all taxable property in the City, in addition to all other taxes, a continuing direct and ad valorem tax in the amount of \$413,926 based on the estimated assessed values for all rolls (secured, unsecured and utility) for FY 2011.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Cruz as follows:

Section 1. Levy of Tax. The City Council hereby determines that the tax rate necessary to pay the principal of and interest on the Refunding Bonds coming due and payable on March 1 and September 1, 2011, is equal to a continuing direct and ad valorem tax in the amount of \$413,926, and such tax rate shall be and is hereby levied in accordance with all applicable requirements of law.

Section 2. Collection of Tax. The Director of Finance is hereby directed to forward a copy of this Resolution to the Auditor-Controller of the County of Santa Cruz and to the Board of Supervisors of the County of Santa Cruz, and to take such actions and execute such documents as may be required to cause the tax rate set forth in Section 1 to be placed on the 2011 property tax bill and collected by the County of Santa Cruz.

RESOLUTION NO. NS-

Section 3. Application of Tax. As provided in Section 43634 of the California Government Code, all taxes levied pursuant to this Resolution shall be used only for payment of the Refunding Bonds and the interest thereon.

Section 4. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

PASSED AND ADOPTED this 8th day of June, 2010, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk



CITY COUNCIL AGENDA REPORT

DATE: 6/2/2010

AGENDA OF: 6/8/2010

DEPARTMENT: Human Resources

SUBJECT: Liability Claims Filed Against City of Santa Cruz. (HR)

RECOMMENDATION: Motion to reject liability claims a) Bogard Construction, b) California State Automobile Association, c) Gabrielle Ravina and Hayden Hull, and d) Yacht Harbor Cove Homeowners Association, based upon staff investigation.

BACKGROUND:

- a. Claimant: Bogard Construction
Date of occurrence: 02/23/10
Date of claim: 04/15/10
Amount of claim: Unspecified

Claimant alleges silt and debris from a City park overflowed a drainage ditch and covered its parking lot during a winter storm.

Represented by itself.

- b. Claimant: California State Automobile Association (Navarro)
Date of occurrence: 12/29/09
Date of claim: 05/04/10
Amount of claim: \$1,532.69

Claimant alleges a City recycle truck caught a low-hanging power line, damaging insured's roof.

Represented by itself.

- c. Claimant: Gabrielle Ravina and Hayden Hull
Date of occurrence: 02/24/10
Date of claim: 03/01/10
Amount of claim: \$17,509.93

Claimants allege sewage overflow flooded front and back yards, garage and underneath house.

Represented by themselves.

d. Claimant: Yacht Harbor Cove Homeowners Association
Date of occurrence: 03/26/10
Date of claim: 04/12/10
Amount of claim: \$855.00

Claimant alleges a large tree limb from Frederick Street Park fell and damaged its fence.

Represented by Shoreline Property Management.

DISCUSSION: None

FISCAL IMPACT: None

Prepared by:
Kris Kamandulis
Risk & Safety Manager

Submitted by:
Lisa Martinez Sullivan
Director of Human Resources

Approved by:
Richard C. Wilson
City Manager

ATTACHMENTS: None



CITY COUNCIL AGENDA REPORT

DATE: 6/2/2010

AGENDA OF: 6/8/2010

DEPARTMENT: Public Works

SUBJECT: Transportation and Public Works Commission Bylaws. (PW)

RECOMMENDATION: Motion to adopt the Transportation and Public Works Commission (TPWC) Bylaws.

BACKGROUND: The recently merged Transportation and Public Works Commission (TPWC) held its first meeting on May 17, 2010 to elect a chair and vice-chair, and consider the draft bylaws. The bylaws follow the advisory body template provided by the City Clerk's department.

DISCUSSION: The TPWC has approved and adopted its bylaws. Commissioners commented that at a later date they would consider expanding upon the purpose of the TPWC (as stated in Article III. — Duties and Responsibilities), to include consideration of environmental and climate change impacts of transportation and public works projects as part of the Commission's purview. The commission currently provides this review, but wanted to discuss language to reflect the correct terminology.

At the meeting, Derek McKee was elected chair and David Terrazzas was elected vice-chair. The City Attorney has approved the draft bylaws as to form.

FISCAL IMPACT: There is no fiscal impact.

Prepared by:
Robert Solick
Principal Management Analyst

Submitted by:
Mark R. Dettle
Director of Public Works

Approved by:
Richard C. Wilson
City Manager

ATTACHMENTS: Draft Bylaws of the Transportation and Public Works Commission



BYLAWS

of the

**Transportation and Public Works Commission
City of Santa Cruz, California**

**Under authority of applicable statutes of the State of California, and the
City Charter of the City of Santa Cruz, California, for the purpose of establishing rules
and regulations governing the organization and procedures of the
Transportation and Public Works Commission of the City of Santa Cruz, CA**

Adopted May 17, 2010

Amended (Insert date here)

Approved by City Council (Insert dates here)

Amended this th day of , 2010

APPROVED:

Derek McKee
Transportation and Public Works Commission

Richelle Noroyan
Transportation and Public Works Commission

Alan Schlenger
Transportation and Public Works Commission

Deborah Elston
Transportation and Public Works Commission

Ron Pomerantz
Transportation and Public Works Commission

Peter Kennedy
Transportation and Public Works Commission

David Terrazas
Transportation and Public Works Commission

John Carlos Garza
Transportation and Public Works Commission

ATTEST: _____
Robert Solick
Transportation and Public Works Commission, Staff

[Handwritten signature]
CITY ATTORNEY
5-18-10

Transportation and Public Works Commission Bylaws

Table of Contents

ARTICLE I – NAME AND/OR AUTHORITY	4
ARTICLE II – PURPOSE	4
ARTICLE III – DUTIES AND RESPONSIBILITIES	4
Section 1. Membership	5
Section 2. Qualifications.....	5
Section 3. Application for Membership.....	5
Section 4. Method of Appointment.....	5
Section 5. Good Standing and Reporting of Absences	5
Section 6. Termination.....	6
Section 7. Ex-Officio Membership “Optional”	6
ARTICLE V – TERM OF OFFICE	6
Section 1. Term.....	6
Section 2. Membership Year.....	6
Section 3. Length of Term	6
Section 4. Dual Service.....	6
ARTICLE VI – OFFICERS AND ELECTIONS	7
Section 1. Officers	7
Section 2. Election of Officers.....	7
Section 3. Term of Office	7
Section 4. Nominations.....	7
Section 5. Voting	7
Section 6. Vacancy of an Officer.....	7
Section 7. Removal of Elected Officers.....	7
Section 8. Duties of the Chair	8
Section 9. Duties of the Vice Chair	8
Section 10. Duties of the Acting Chair	8
ARTICLE VII – STAFF SUPPORT	8
Section 1. Staff.....	8
Section 2. Staff Relationship to the Advisory Body	9
ARTICLE VIII – MEETINGS	9
Section 1. Time and Location of Meetings.....	9
Section 2. Cancellation	9
Section 3. Special Meetings.....	9
ARTICLE IX – CONDUCT OF MEETINGS	9
Section 1. Compliance with the Brown Act and Council Policies	9
Section 2. General Conduct of Meetings	9
Section 3. How Items Are Placed on the Agenda.....	10
Section 4. Quorum	10

Section 5. Absence of a Quorum	10
Section 6. Agenda	10
Section 7. Order of Business.....	10
ARTICLE X – MOTIONS	10
Section 1. Call for Motion	10
Section 2. Seconding a Motion	10
Section 3. Lack of a Second.....	10
Section 4. Discussion/Debate.....	11
Section 5. Time Limits on Discussion/Debate.....	11
Section 6. Amending a Motion	11
Section 7. Withdrawing a Motion.....	11
Section 8. Motion to Table.....	11
Section 9. Results of Voting	11
ARTICLE XI – VOTING.....	11
Section 1. Statements of Disqualification.....	11
Section 2. Voice Vote	12
Section 3. Roll Call Vote	12
Section 4. Sealed Ballot Votes.....	12
Section 5. Adoption of Motions.....	12
Section 6. Tie Votes.....	12
ARTICLE XII – REPORTS	13
Section 1. Agenda Reports to Advisory Body	13
Section 2. Committee Reports	13
Section 3. Preparation of Advisory Body-Generated City Council Agenda Reports.....	13
ARTICLE XIII – RECORD KEEPING	13
Section 1. Maintenance of Records	13
Section 2. Action Agenda	13
Section 3. Minutes	13
Section 4. Electronic Recording of Meetings	14
ARTICLE XIV – COMMITTEES	14
Section 1. Ad Hoc Committees.....	14
Section 2. Standing Committees.....	14
Section 3. Staff Support to Committees.....	14
Section 4. Appointments.....	15
Section 5. Committee Meetings.....	15
ARTICLE XV – AMENDMENTS	15
ARTICLE XVI – ADOPTION OF BYLAWS.....	15

Transportation and Public Works Commission Bylaws

ARTICLE I – NAME AND/OR AUTHORITY

The Name of this organization shall be the Transportation and Public Works Commission of the City of Santa Cruz, California; hereinafter referred to as the Transportation and Public Works Commission, or the Advisory Body.

ARTICLE II – PURPOSE

Established by Ordinance No. 2010-05 in 2010, the Transportation and Public Works Commission is generally responsible for advising Council in matters pertaining to transportation and public works as defined in this ordinance (Section 2.40.081). Its duties include advising Council on planning, design, construction, reconstruction, installation, operation and maintenance of transportation and public works. It makes recommendations to Council concerning the capital improvement program and the annual budget of the Public Works Department.

ARTICLE III – DUTIES AND RESPONSIBILITIES

The Transportation and Public Works Commission shall have the ability, as vested by the City Council, and be required to:

- (a) Act as the advisory commission to the city council for planning, design, installation and maintenance of public works;
- (b) Review and make recommendations to the city council concerning the capital improvement program;
- (c) Review, monitor and make long-range recommendations concerning the construction, reconstruction, operation and maintenance of public works;
- (d) Consider the annual budget of the public works department during its preparation and make recommendations with respect thereto to the city council;
- (e) Receive complaints pertaining to traffic and transportation patterns;
- (f) Review, monitor and suggest recommendations for city transportation matters including, but not limited to: automotive, rail, bicycle, and pedestrian traffic within the city;
- (g) Review additional transportation matters such as transportation system management, travel demand management and other related issues;
- (h) Review and suggest recommendations for placement and enforcement of warning, regulatory and guide signs on city streets;
- (i) Make recommendations to Council regarding the allocation of funds for capital expenditures related to roadway and transportation improvements; and
- (j) Perform other duties as may from time to time be prescribed by the city council.

ARTICLE IV – MEMBERSHIP

Section 1. Membership

The Transportation and Public Works Commission will be comprised of 11 members, the six commissioners who currently serve on the Public Works Commission and five members who formerly served on the Transportation Commission which sunset with the adoption of Ordinance No. 2010-05. Each of the former Transportation Commission members will serve on the Transportation and Public Works Commission for the remainder of their former current Transportation Commission term, at which time the Transportation and Public Works Commission will have a seven-member composition. Former Transportation Commission members will be eligible for re-appointment to the resulting seven-member Transportation and Public Works Commission.

Section 2. Qualifications

Per Ordinance No. 87-10, Section 1, Chapter 2.40.011:

- a. Each member of the Transportation and Public Works Commission shall be a qualified elector of the city;

Section 3. Application for Membership

Prospective members shall file an application in the office of the City Clerk.

Section 4. Method of Appointment

Per Ordinance 87-10, Section 1, Chapter 2.40.011:

Unless the ordinance, or an amendment, establishing and setting forth the authority of the board or commission provides otherwise:

- a. Each board or commission member shall be appointed by motion of the city council adopted by at least four affirmative votes;
- b. If additional members must be appointed to fill the complement of a board or commission, such appointments shall be made at the earliest reasonable date.

Section 5. Good Standing and Reporting of Absences

Councilmembers shall receive annual attendance reports prepared in the City Clerk's Department. Absences will be identified as "with notification" or "without notification." An absence is considered as "with notification" if the member notifies the chairperson or the staff prior to the meeting. If there has been no prior notification, the absence is considered "without notification." It is important to notify staff of any absences for the purposes of determining a quorum. Advisory body members are expected to attend meetings regularly.

Members who serve on advisory bodies which are scheduled to meet more than once monthly are allowed six absences per year.

Members who serve on advisory bodies which are scheduled to meet seven to twelve times per year are allowed three absences per year.

Members who serve on advisory bodies which meet six or less times per year are allowed one absence per year.

It is the responsibility of staff of an advisory body to bring serious attendance issues to the attention of the Mayor or City Clerk prior to reaching the limit, if possible. If either through study of the annual attendance report or through other channels, the Mayor learns that a member has more than the allowable number of absences, the Mayor may notify the member or chairperson, that action may be initiated by Council to remove the member from the advisory body. The Mayor may choose to postpone or withhold notification to Council in unusual circumstances: for example, if the member is actively performing work for the advisory body outside of the regular meetings or is involved in subcommittee work.

Section 6. Termination

After three meetings following appointment to the Advisory Body, each member shall be subject to removal by motion of any Councilmember, adopted by at least four affirmative votes.

Section 7. Ex-Officio Membership "Optional"

The Transportation and Public Works Commission may find that, because of the complexity of its work, it is desirable to add member(s) at-large to the Advisory Body to serve as non-voting ex-officio members to lend other opinions or expertise to the work of the Advisory Body. The City Council will authorize the Chair of the Advisory Body to nominate member(s)-at-large for Council approval to be non-voting ex-officio members for a determined period of time.

ARTICLE V – TERM OF OFFICE

Section 1. Term

Term of office for each member shall be four years. A member may be appointed to complete an unexpired term. A member may continue to serve until his/her successor has been appointed.

Section 2. Membership Year

A membership year shall be from January 2 to January 1 of the following year.

Section 3. Length of Term

A member shall not serve more than two consecutive full four-year terms. Upon completion of a member's eighth consecutive year of service, that member will be ineligible for reappointment for a period of two years. Members who have served six years or less at the time their term expires are eligible for reappointment.

Section 4. Dual Service

No member shall be eligible to serve on two Advisory Bodies unless one is established for less than 13 months.

ARTICLE VI – OFFICERS AND ELECTIONS

Section 1. Officers

Officers of the Advisory Body shall consist of a Chair and Vice Chair.

Section 2. Election of Officers

As soon as is practicable following the first day of January of every year, there shall be elected from among the membership of the Advisory Body a Chair and Vice Chair.

Section 3. Term of Office

The term of office for the Chair and Vice Chair is one calendar year. Officers may not serve in the same position for more than two consecutive years.

Section 4. Nominations

The Chair will open the floor to nominations. Any member may nominate a candidate from the membership for the position of Chair or Vice Chair; nominations need not be seconded.

A member may withdraw his/her name if placed in nomination, announcing that, if elected, s/he would not be able to serve; but s/he shall not withdraw in favor of another member.

Once the nominations are complete, the Chair will ask for a motion to close the nominations; a second of, and vote on, the motion is required.

The Chair then declares that it has been moved and seconded that the nominations be closed, and the members proceed to the election.

Section 5. Voting

Voting may be by voice vote or by roll call vote.

The candidate who receives a majority of the votes is then declared to be legally elected to fill the office of Chair, and will immediately chair the remainder of the meeting.

The same procedure is followed for the election of Vice Chair.

Section 6. Vacancy of an Officer

Should a vacancy occur, for any reason, in the office of Chair or Vice Chair prior to the next annual election, a special election shall be held to fill the vacant office from among the membership. That member shall serve until a new appointment has been made.

Section 7. Removal of Elected Officers

The Chair or Vice Chair may be removed by a majority vote of the full Advisory Body at a regularly scheduled meeting of the Advisory Body, when all appointed members are present, or at a special meeting convened for that purpose at which a quorum is present. Any officer removed ceases to hold the office once the vote has been tallied and announced. If the Chair is removed, the Vice Chair shall become the new Chair. An election for the Vice Chair shall then be agendized for the next meeting.

Section 8. Duties of the Chair

The Chair shall preside at all regular meetings and may call special meetings. The Chair shall decide upon all points of order and procedure during the meeting; his/her decision shall be final unless overruled by a vote of the Advisory Body, in compliance with Article IX, Section 2, "General Conduct of Meetings." The Chair may not make motions, but may second motions on the floor. The Chair acts as primary contact for staff and shall represent the Advisory Body before City Council whenever the Advisory Body or Council considers it necessary. The Chair and staff shall jointly set the meeting agenda.

Section 9. Duties of the Vice Chair

The Vice Chair shall assume all duties of the Chair in the absence or disability of the Chair.

Section 10. Duties of the Acting Chair

In case of absence of both the Chair and the Vice Chair from any meeting, an Acting Chair shall be elected from among the members present, to serve only during the absence of the Chair and Vice Chair.

ARTICLE VII – STAFF SUPPORT

Section 1. Staff

Staff support and assistance is provided, but advisory bodies do not have supervisory authority over City employees. While they may work closely with advisory bodies, staff members remain responsible to their immediate supervisors and ultimately to the City Manager and Council.

The Director of Public Works shall designate appropriate staff to act as staff person(s) to assist and support the Advisory Body. Staff shall attend all regular and special Advisory Body meetings. Staff shall be responsible for coordination of such reports, studies, and recommendations as are necessary to assist the Advisory Body in the conduct of its business according to City Council policy and the Brown Act. Staff may enlist the assistance of other departments as required. Staff shall be responsible for all public notification regarding all regular and special Advisory Body meetings.

Staff shall record the minutes of the meetings in accordance with the guidelines established in the "Preparation of Minutes" section of the City Councilmembers' Handbook, shall supervise volunteers and interns, shall work closely with the Chair between meetings, shall make recommendations, prepare reports and proposals to the Advisory Body, may represent the Advisory Body at other meetings, presentations, and other public functions as requested, and shall perform administrative tasks.

Staff shall be responsible for the maintenance of proper records and files pertaining to Advisory Body business. Staff shall receive and record all exhibits, petitions, documents, or other materials presented to the Advisory Body in support of, or in opposition to, any question before the Advisory Body. Staff shall sign all notices prepared in connection with Advisory Body business, shall attest to all records of actions, transmittals, and referrals as may be necessary or required by law, and shall be responsible for compliance with all Brown Act postings and noticing requirements.

Section 2. Staff Relationship to the Advisory Body

Given limited staff resources, the Chair or individual members shall not make separate requests of staff without approval of the Advisory Body. If a member has a research or report request, it shall be brought to the Advisory Body for discussion, consideration, and recommendation prior to making the request of staff. If not approved by the Advisory Body, the individual member shall be responsible for his/her own research or report.

Staff and the Chair shall jointly set the meeting agenda.

ARTICLE VIII – MEETINGS

Section 1. Time and Location of Meetings

The Advisory Body will hold its regular meeting on the third Monday of every other month, which shall begin at 7:00 p.m in the City Council Chambers and will adjourn no later than 10:00 p.m., unless the Chair, with concurrence of the Advisory Body, extends the time of adjournment.

If the scheduled date for a regular meeting falls on a holiday, such meeting shall be rescheduled in accordance with Council policy.

Section 2. Cancellation

If a majority of the membership deems it necessary or desirable, a scheduled regular meeting may be cancelled or rescheduled upon giving notice, unless a public hearing has previously been noticed.

Section 3. Special Meetings

The Chair of the Advisory Body, staff, or a majority of the membership of the Advisory Body may call a special meeting. Notice of such meeting shall state the purpose or the business to be transacted during such special meeting. No other business may be transacted at such special meeting other than as stated in the notice. Oral Communications are not required at special meetings as long as a statement appears on the agenda identifying that there will be no Oral Communications, but that members of the public will have the opportunity to address the Advisory Body on item(s) on the agenda.

ARTICLE IX – CONDUCT OF MEETINGS

Section 1. Compliance with the Brown Act and Council Policies

All regular, special, and adjourned meetings of the Advisory Body shall be open meetings to which the public and the press shall be admitted in compliance with the Brown Act. Meetings will be held at City facilities which are accessible to persons with disabilities.

Section 2. General Conduct of Meetings

Points of order and conduct, including those not addressed by these Bylaws, shall be settled by the Chair, unless overruled by a majority vote of the Advisory Body. Points of order and conduct shall comply with the Brown Act, these Bylaws, and the City Councilmembers' Handbook. The Chair will consult with staff as necessary. Unresolved issues shall be referred to the City Attorney and continued to a future meeting.

Section 3. How Items Are Placed on the Agenda

A request to have an item placed for consideration on a future agenda may be made by staff, any Advisory Body member or a member of the public. The Chair and staff will consider the validity (within the approved scope of work) and urgency of the request and determine when and if that item should be placed on an Advisory Body agenda. Issues can be referred to an advisory body by the City Council and may have time sensitive deadlines. The items must comply with the procedures in Article XII, Section 1, "Agenda Reports to Advisory Body."

Section 4. Quorum

A quorum of the Transportation and Public Works Commission shall consist a majority of the total number of members while there are greater than seven members. At such time that the Transportation and Public Works Commission becomes a seven-member commission, a quorum shall consist of four (4) members, whether or not there are vacancies on the Advisory Body.

Section 5. Absence of a Quorum

In the absence of a quorum at any meeting, such meeting shall be adjourned to the next regular meeting date by the Chair, Vice Chair, or staff.

A meeting may be declared adjourned for lack of a quorum after a 15-minute period has elapsed from the scheduled time of the start of the meeting. A meeting may also be declared adjourned in advance, if absence notifications received by staff provided for lack of a quorum. Adjournment may be declared by any member or staff.

Section 6. Agenda

The Chair and staff shall jointly set the meeting agenda and its format shall conform to the template set by Council Policy.

Section 7. Order of Business

The Chair or a majority vote of the Advisory Body may change the order of business.

ARTICLE X – MOTIONS

Section 1. Call for Motion

Upon conclusion of preliminary discussion, any member other than the Chair may place a motion on the floor. The motion shall contain the proposed action.

Section 2. Seconding a Motion

The Chair shall receive all motions and shall call for a second to each motion. The Chair may second a motion.

Section 3. Lack of a Second

If, after a reasonable time, no second has been made, the motion shall be declared dead for lack of a second, and the Chair shall state this. This shall not be considered an action of the Advisory Body and shall not be included in the minutes.

Section 4. Discussion/Debate

After a motion has been made and seconded, the Chair shall call for a discussion of the question. All discussion shall be limited to the motion on the floor. At the close of the discussion, the Chair shall put the matter to a vote.

Section 5. Time Limits on Discussion/Debate

The Chair may, at his/her discretion, limit debate of any motion; except that each member shall have the opportunity to speak.

Section 6. Amending a Motion

A motion to amend may be made by any member to revise a motion on the floor; but it cannot be a freestanding motion on its own, nor can it substitute for a main motion. The motion to amend must be voted upon, unless the maker and the second accept it as a friendly amendment, and, if it passes, it then becomes part of the main motion.

Section 7. Withdrawing a Motion

Any motion may be withdrawn by the maker and the second and shall not be included in the meeting minutes.

Section 8. Motion to Table

A motion to table may be made to suspend consideration of an item that appears on a meeting agenda for reasons of urgency or to end an unproductive discussion. A motion to table is not in order when another member has the floor. A motion to table requires a second, is not debatable, is not amendable, requires a majority vote for passage, and, if adopted, cannot be reconsidered at the meeting at which it is adopted. Members will refrain from using a motion to table as a means of capriciously limiting debate among members, to suppress a minority of the Advisory Body, or to avoid public input on an agenda item under consideration by the Advisory Body.

Section 9. Results of Voting

The Chair shall state the results of each vote, e.g., "The motion passes by a vote of five to two."

ARTICLE XI – VOTING

Section 1. Statements of Disqualification

Section 607 of the City Charter states that "...All members present at any meeting must vote unless disqualified, in which case the disqualification shall be publicly declared and a record thereof made." No member may abstain from voting on any item, except on the approval of the minutes, when that member was absent.

The City of Santa Cruz has adopted a Conflict of Interest Code, and Section 8 of that Code states that "no person shall make or participate in a governmental decision which s/he knows or has reason to know will have a reasonably foreseeable material financial effect distinguishable from its effect on the public generally."

Any member who has a disqualifying interest on a particular matter shall do all of the following:

- 1) Publicly identify the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required;
- 2) Recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of government code Section 87100;
- 3) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded unless the matter has been placed on the portion of the agenda reserved for uncontested matters;
- 4) Notwithstanding paragraph 3, a public official may speak on the issue during the time that the general public speaks on the issue.

Any question regarding conflicts of interest shall be referred to the City Attorney.

Section 2. Voice Vote

All questions shall be resolved by voice vote. Each member shall vote “Aye” or “No” and the vote shall be so entered into the minutes, noting the vote of each member. A member may state the reasons for his or her vote, which reasons shall also be entered into the minutes of the meeting. All members including the Chair shall vote on all matters, except where s/he has a disqualifying interest. The only exception is that a member must abstain on voting to approve the minutes of a meeting at which he or she was not present.

Section 3. Roll Call Vote

Any member may request a roll call vote, either before or immediately after a voice vote. A roll call vote shall be taken without further discussion. The Advisory Body staff shall call the roll and each member shall state his/her vote for the record.

Section 4. Sealed Ballot Votes

No Advisory Body shall take a sealed ballot vote in open session.

Section 5. Adoption of Motions

Adoption of a motion shall be made by a simple majority of the members present, except as otherwise provided. The Chair shall restate the vote for the record, e.g., “The motion is approved by a vote of five to two.”

Section 6. Tie Votes

Tie votes will be resolved as follows:

Statement of Disqualification: A tie vote resulting from a Statement of Disqualification of one or more members, with no members absent and no vacancies on the Advisory Body, shall constitute a defeat of the motion.

Absence: A tie vote during the absence of one or more members, or when there is a vacancy on the Advisory Body, shall cause the item to be automatically continued to the next meeting; except that, as to matters on which action must be taken on a date prior to the next meeting, a tie vote shall constitute a denial of the requested action.

Successive Tie Vote: A tie vote at the next meeting on a matter that has been continued as a result of a tie vote shall constitute a denial of the appeal or defeat of the motion.

ARTICLE XII – REPORTS

Section 1. Agenda Reports to Advisory Body

All agenda items require a written report. Written reports serve as the analysis, detail, history, and justification for each agenda item. Reports shall include recommendation(s) and background. If a report is initiated by an Advisory Body member, a draft of that report shall be provided to staff for formatting at least 10 business days prior to the meeting. Staff shall then format reports to be consistent with content, style, and formatting of City Council agenda reports. Items initiated by a committee shall be processed in the same manner. Draft reports not submitted in a timely manner shall be placed on a future agenda.

Section 2. Committee Reports

Committee reports may be verbal or written and may be accompanied by written documentation.

Section 3. Preparation of Advisory Body-Generated City Council Agenda Reports

All recommendations adopted by the Advisory Body and addressed to the City Council shall be delivered to the Mayor as soon as possible. If the action requests City Council action, the item shall be placed on a future City Council agenda. Agenda reports to the City Council from the Advisory Body shall be written reports consistent with content, style, and formatting of City Council agenda reports.

Additionally, the agenda report shall include a section called analysis, which includes the pros, cons, and foreseeable consequences of the recommendation(s). In the event that staff and the Advisory Body disagree, an analysis of both recommendations shall be included.

ARTICLE XIII – RECORD KEEPING

Section 1. Maintenance of Records

All records shall be maintained according to the City of Santa Cruz Records Retention Schedule.

Section 2. Action Agenda

Action agendas are required for standing Advisory Bodies. An action agenda is an unofficial record of the meeting and shall consist of attendance; meeting start and adjourn times, and a brief description of actions taken. The action agenda shall be made available online within four working days of the meeting.

Section 3. Minutes

Action-only minutes will be produced for all Advisory Body meetings in the same format as that used for City Council meetings as referenced in Council Policy 5.14. Minutes, when approved by the advisory body, are the official record of the meeting and shall consist of attendance, meeting start and adjourn times, a brief description of actions taken, the motion maker and seconder of the motion; and an actual tally of the votes for all actions taken. Advisory Body members who want a particular comment included in the minutes must state “for the record” before making such comment. Minutes shall be reviewed, corrected as appropriate, and or amended and approved by the Advisory Body at a subsequent meeting. Approved minutes are a permanent document and shall be maintained in hard copy in perpetuity in addition to in electronic version.

Subcommittee reports presented orally in a meeting shall be summarized in the minutes.

Section 4. Electronic Recording of Meetings

Proceedings for all standing Brown-Act Advisory Body meetings shall be recorded on CDs or DVRs. The electronic media shall be retained for one year pursuant to the City of Santa Cruz Records Retention Schedule.

As appropriate and/or when requested by the Advisory Body or City Council, a meeting of the Advisory Body may be video recorded or televised.

Members of the public have the right to make recordings of a meeting without disrupting the proceedings under any circumstances.

ARTICLE XIV – COMMITTEES

Section 1. Ad Hoc Committees

Ad hoc committees are established by an Advisory Body to gather information or deliberate on issues deemed necessary to carrying out the functions and purpose of the Advisory Body. Ad hoc committees generally serve only a limited or single purpose, are not perpetual, and are dissolved once their specific task is completed. An ad hoc committee shall be less than six months in term and shall have fewer members than a simple majority of the membership of the appointing Advisory Body. Ad hoc committees shall bring back information to the Advisory Body in either oral or written form.

Following ad hoc committee input, the Advisory Body shall then discuss, deliberate, and make recommendations on the designated issue, thereby providing the public with the opportunity to participate in the decision-making process. This shall take place in the presence of a quorum of the Advisory Body at a properly noticed public meeting.

Ad hoc committees shall not be subject to the Brown Act. City staff shall not be required to be present at ad hoc committee meetings. All ad hoc committees shall provide a final report to the Advisory Body in lieu of minutes.

Section 2. Standing Committees

Standing committees are bodies established to gather information or deliberate on issues deemed necessary to carrying out the functions and purpose of the Advisory Body. Standing committees are ongoing in nature and are created to deal with issues and make decisions on behalf of the Advisory Body. The public has a right to participate in this process. Standing committees are subject to the Brown Act and staff will provide only such support as to ensure such compliance.

Section 3. Staff Support to Committees

City staff shall normally not be required to attend or provide support for standing or ad hoc committee meetings, unless directed by the department head. All ad hoc committees shall provide a final report to the Advisory Body in lieu of minutes. All standing committees shall provide reports, no less than quarterly, to the Advisory Body.

Section 4. Appointments

The Chair of the Advisory Body may designate or solicit participation for standing and ad hoc committees.

Section 5. Committee Meetings

All standing or ad hoc committee meetings shall be held upon call of the Committee Chair.

ARTICLE XV – AMENDMENTS

A majority of the full membership of the Advisory Body may amend these bylaws, subject to the approval of the City Council.

ARTICLE XVI – ADOPTION OF BYLAWS

Immediately upon favorable vote of not less than a majority of the full membership of the Transportation and Public Works Commission of the City of Santa Cruz and approval of the City Council, these Bylaws shall be in full force and effect. Any and all previously adopted bylaws are hereby superseded.

These Bylaws shall not be considered or construed as superseding any ordinance or directive of the City Council of the City of Santa Cruz, nor shall they preclude the preparation and adoption of further procedural manuals and policies by which the Advisory Body may direct its activities.

Approved: _____
Chair, Transportation and Public Works Commission

Attest: _____
Robert Solick, Staff



CITY COUNCIL AGENDA REPORT

DATE: 6/2/2010

AGENDA OF: 6/8/2010

DEPARTMENT: Public Works

SUBJECT: Safe Routes to School Grant Application — Gault School Sidewalk Infill Project. (PW)

RECOMMENDATION: Resolution authorizing the City Manager to submit a grant application to the State of California Safe Routes to School Program for the Gault School Sidewalk Infill Project.

BACKGROUND: California was the first state in the country to legislate a Safe Routes to School program with the enactment of AB 1475 in 1999. Eight years later, in 2007, AB 57 extended the program indefinitely with funding provided from the State Highway Account. The amount of funding available for Cycle 9 is \$24.25 million and is contingent upon being included in the 2010/11 State Budget Act. The goals of the program are to reduce injuries and fatalities to school children and to encourage increased walking and bicycling among students.

DISCUSSION: Safe Routes to School has proven to be an excellent funding source for pedestrian access and safety projects. Past pedestrian projects in Santa Cruz funded by Safe Routes to School include refurbished sidewalk in front of Bay View Elementary School; refurbished sidewalks near Branciforte School on the Water Street hill; new sidewalks in the DeLaveaga Elementary School neighborhood; and, most recently, access ramps on King, Seaside, and California Streets.

This grant application will focus on completing sidewalks and access ramps in the neighborhoods adjacent to Gault Elementary School. The overall objective is to have complete sidewalks on both sides of the street and access ramps on all corners within a 3-block radius of the school. Missing sidewalk locations include Darwin Street, Windsor Street, Sumner Street, and Windham Street.

FISCAL IMPACT: The maximum State reimbursement percentage for any SR2S project is ninety (90) percent. The maximum amount of SR2S funds that will be allocated to any single project is \$450,000. The City's 10% match will come from Transportation Development Act (TDA) funds.

Prepared by:
Cheryl Schmitt
Transportation Coordinator

Submitted by:
Mark R. Dettle
Director of Public Works

Approved by:
Richard C. Wilson
City Manager

ATTACHMENTS: Resolution

RESOLUTION NO. NS-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ
AUTHORIZING THE CITY MANAGER TO SUBMIT A GRANT APPLICATION
TO THE STATE OF CALIFORNIA SAFE ROUTES TO SCHOOL PROGRAM
FOR THE GAULT SCHOOL SIDEWALK INFILL PROJECT

WHEREAS, the Pedestrian Master Plan was adopted by the Santa Cruz City Council on October 14, 2003; and

WHEREAS, a priority of the Pedestrian Master Plan is to complete and maintain the City sidewalk system for the safety and convenience of pedestrians; and

WHEREAS, the State of California offers the Safe Routes to School Program to public agencies to fund projects that reduce injuries and fatalities to school children and to encourage increased walking and bicycling among students; and

WHEREAS, Gault Elementary School would benefit from completion of sidewalks and access ramps in the immediate vicinity of the campus;

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Santa Cruz to authorize the City Manager to submit a grant application to the State of California Safe Routes to School Cycle 9 Program for the Gault School Sidewalk Infill Project.

PASSED AND ADOPTED this 8th day of June, 2010, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk



CITY COUNCIL AGENDA REPORT

DATE: 6/2/2010

AGENDA OF: 6/8/2010

DEPARTMENT: Public Works

SUBJECT: AB2766 Grant Applications – Seaside Company Bike Parking Program
and Bay/High Roundabout Phase 2. (PW)

RECOMMENDATION: Resolution authorizing the City Manager to submit two grant applications to the Monterey Bay Unified Air Pollution Control District AB2766 Program.

BACKGROUND: The objective of the AB2766 Motor Vehicle Emission Reduction Grant Program is to reduce emissions and greenhouse gases from motor vehicle sources. Since the Monterey Bay Unified Air Pollution Control District initiated the AB2766 grant program 19 years ago, the Board of Directors has awarded over \$26 million to 473 projects in Monterey, San Benito and Santa Cruz counties. Although only public agencies may apply and receive funds, private entities may implement the projects under contract to an applicant agency.

DISCUSSION: The two projects proposed for this year's AB2766 grant application cycle are: 1) Boardwalk Bike Lockers and Bike Valet Parking; and 2) Bay/High Roundabout Phase 2.

Boardwalk Bike Lockers and Bike Valet Parking grant is a proposed project of the Santa Cruz Seaside Company through the City of Santa Cruz. The project objective is to purchase 18 bike lockers for 25 employees to share use; and set up bike valet service on Saturday, Sunday and holidays during the summer to provide secure bike parking for 40 additional employees' bikes. The budget for the total project is \$45,132; Santa Cruz Seaside Company is committing \$31,132 and requesting \$14,000 from the Air District. This benefits the City and Seaside Company by reducing parking and circulation impacts during the peak season and furthering our mutual desire to promote alternative transportation.

Bay/High Roundabout Phase 2 grant would fund the next stage of the evaluation process for a roundabout at the intersection of Bay Street and High Street adjacent to UCSC. The Phase 1 feasibility study has been completed, determining that a roundabout is technically feasible from a capacity and safety perspective. Phase 2 is the layout and preliminary design for the project, to better define the number of lanes, sidewalk locations, right-of-way needs, etc. Phase 2 project cost is estimated as \$40,000. City and University staff are exploring the feasibility of a roundabout at this intersection in lieu of modifying the intersection for protected left-turns.

FISCAL IMPACT: There is no fiscal impact from the Santa Cruz Seaside Company grant application. The City's application for the Bay/High Roundabout is proposed as a 50/50 funding split between the Air District and the City. The City's share in the amount of \$20,000 is from Transportation Impact Fee fund. There is no impact to the General Fund.

Prepared by:
Cheryl Schmitt
Transportation Coordinator

Submitted by:
Mark R. Dettle
Director of Public Works

Approved by:
Richard C. Wilson
City Manager

ATTACHMENTS: Resolution

RESOLUTION NO. NS-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ
AUTHORIZING THE CITY MANAGER TO SUBMIT TWO GRANT APPLICATIONS
TO THE MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT
AB2766 MOTOR VEHICLE EMISSION REDUCTION GRANT PROGRAM 2010

WHEREAS, the objective of the AB2766 Motor Vehicle Emission Reduction Grant Program is to reduce emissions and greenhouse gases from motor vehicle sources; and

WHEREAS, the use of bicycles and roundabouts are effective means of reducing motor vehicle emissions.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Santa Cruz to authorize the City Manager to submit two grant applications to the Monterey Bay Unified Air Pollution Control District AB2766 Program for Boardwalk Bike Lockers and Bike Valet Parking Program and the Bay/High Roundabout Phase 2.

PASSED AND ADOPTED this 8th day of June, 2010, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk



CITY COUNCIL AGENDA REPORT

DATE: 5/25/2010

AGENDA OF: 6/8/2010

DEPARTMENT: Public Works

SUBJECT: Lee Street Underpass Lighting Project (c401014) - Budget Adjustment.
(PW)

RECOMMENDATION: Resolution amending the FY 2011 budget to appropriate funds in the amount of \$20,400 from the City-Wide Transportation Impact Fee Account for the Lee Street Underpass Lighting Project.

BACKGROUND: The Highway 1 Merge Lanes Project was completed several years ago. A small pathway under Highway 1 was installed with the Merge Lanes Project to accommodate bicyclists and pedestrians travelling between Lee Street and the public access path at Stonecreek Townhomes to Market Street. Lighting the path under the deck of Highway 1 will enhance the safety of the path at this location.

DISCUSSION: Plans and specifications for the project were approved by CalTrans. CalTrans issued an encroachment permit to the City of Santa Cruz for the project. A notice inviting bids was released and two bids were received. The low bid was submitted by Collins Electrical Co., Inc. in the amount of \$20,400.

FISCAL IMPACT: 15% of funds collected by Traffic Impact Fees are dedicated to alternative transportation projects. This project will be funded by that portion of Traffic Impact Fees. There is no impact to the General Fund.

Prepared by:
Cheryl Schmitt
Transportation Coordinator

Submitted by:
Mark R. Dettle
Director of Public Works

Approved by:
Richard C. Wilson
City Manager

ATTACHMENTS: Budget Adjustment

**City of Santa Cruz
BUDGET ADJUSTMENT REQUEST**

<input checked="" type="radio"/> Council Approval	Resolution No. _____
<input type="radio"/> RDA Approval	Resolution No. _____
<input type="radio"/> Administrative Approval	

<input checked="" type="radio"/> Current Fiscal Year
<input type="radio"/> Prior Fiscal Year

Date:

<u>ACCOUNT</u>	REVENUE EDEN ACCOUNT TITLE	
221-00-00-0000-49124	c401014-925-0-0 From Traffic Impact Fee - City wide fund	\$20,400.00
TOTAL REVENUE		\$20,400.00

<u>ACCOUNT</u>	EXPENDITURE EDEN ACCOUNT TITLE	
226-00-00-0000-59107	To Gas Tax Fund	\$20,400.00
221-40-64-9330-57305	c401014-100-2020-112 Lighting systems	20,400.00
TOTAL EXPENDITURE		\$40,800.00

NET: \$ (20,400.00)

Purpose: To appropriate funds for Lee Street Underpass project: c401014

PREPARED BY	DEPARTMENT HEAD APPROVAL	ACCOUNTING APPROVAL	FINANCE DIRECTOR APPROVAL	CITY MANAGER APPROVAL
ray galindo <small>Digitally signed by ray galindo DN: cn=ray galindo, ou=City of Santa Cruz, ou=Santa Cruz, email=rgalindo@cityofscruz.ca.us, c=US Date: 2010.05.12 10:42:47-0700</small>	Mark R. Dettle <small>Digitally signed by Mark R. Dettle DN: cn=Mark R. Dettle, ou=City of Santa Cruz, ou=Public Works, email=markdettle@cityofscruz.ca.us, c=US Date: 2010.05.10 11:15:10-0700</small>	Patty Haymond <small>Digitally signed by Patty Haymond DN: cn=Patty Haymond, ou=City of Santa Cruz, ou=Public Works, email=p.haymond@cityofscruz.ca.us, c=US Date: 2010.05.20 09:52:22-0700</small>	Jack Dilles <small>Digitally signed by Jack Dilles DN: cn=Jack Dilles, ou=Finance, ou=PW&D, ou=City of Santa Cruz, ou=City of Santa Cruz, ou=US, c=US Date: 2010.05.25 11:26:42-0700</small>	
5/12/10		5/25/10		

Revised December 2009



CITY COUNCIL AGENDA REPORT

DATE: June 1, 2010

AGENDA OF: June 8, 2010

DEPARTMENT: Public Works

SUBJECT: Courtyard Commons (605 Pacific Avenue) – Tract No. 1554 –
Approve Final Map. (PW)

RECOMMENDATION: Resolution approving the final map for Courtyard Commons (605 Pacific Avenue) - Tract no. 1554, and authorizing and directing the City Manager to execute the Subdivision Agreement with Easy Access Builders, Santa Cruz, CA contingent on the execution of an Affordable Housing Agreement with the current owners.

BACKGROUND: At its March 25, 2008 meeting, City Council approved the tentative map for Tract No. 1554, Courtyard Commons. Courtyard Commons proposed to subdivide the lot into nine (9) condominiums (including eight (8) residential and one (1) commercial unit), located at 605 Pacific Avenue. The proposed subdivision will not have any on-site parking. The developer has signed and recorded an agreement with the property owner of 131 Front Street to provide required parking spaces.

DISCUSSION: Staff has reviewed the final map and improvement plans for Tract No. 1554, Courtyard Commons, and found it in conformance with State and local regulations.

FISCAL IMPACT: There is no fiscal impact associated with this action.

This report prepared by Tony Lau, Assistant Engineer.

Submitted by:

Approved by:

Mark R. Dettle
Director of Public Works

Richard C. Wilson
City Manager

Attachments:
Resolution
Vicinity Map
Subdivision Agreement

In the Public Works Department for public review: Final Map

RESOLUTION NO. NS-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ
APPROVING THE FINAL MAP FOR TRACT NO. 1554, COURTYARD COMMONS
(605 PACIFIC AVENUE) AND AUTHORIZING AND DIRECTING THE CITY MANAGER
TO EXECUTE THE SUBDIVISION AGREEMENT WITH EASY ACCESS DEVELOPERS,
LLC, SANTA CRUZ, CA CONTINGENT ON THE EXECUTION OF AN AFFORDABLE
HOUSING AGREEMENT WITH THE CURRENT OWNERS.

WHEREAS, the City Council of the City of Santa Cruz has reviewed the Final Map for Tract No. 1554, Courtyard Commons, and

WHEREAS, Staff has found that the Final Map and Improvement Plans are in conformance with State and local regulations;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Cruz that the Final Map for Tract No. 1554, Courtyard Commons, be and is hereby approved, as presented to the Council this date.

BE IT FURTHER RESOLVED by the City Council of the City of Santa Cruz that the City Manager, be and is hereby authorized and directed to execute the Courtyard Commons Subdivision Agreement with Easy Access Developers, LLC.

PASSED AND ADOPTED this 8th day of June, 2010, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk

SUBDIVISION AGREEMENT

TRACT NO. 1554

THIS AGREEMENT, made and entered into this _____ day of _____, 200__, by and between the CITY OF SANTA CRUZ, a municipal corporation of the State of California,, hereinafter called "City", and Easy Access Developers LLC, hereinafter called "Subdivider";

WITNESSETH:

WHEREAS, Subdivider has heretofore filed with City a final subdivision map for the subdivision of certain real property in the City of Santa Cruz, which map is designated COURTYARD COMMONS, Tract No. 1554, which reference is more particularly made, and has requested that the same be approved by the Council of the City; and

WHEREAS, Subdivider, by said map, has offered for dedication to City those certain streets and ways as delineated thereon; and

WHEREAS, the City Council of City has heretofore on _____ 200__, by Resolution No. NS-_____, approved said map and accepted the offers of dedication as shown thereon, and by said resolution has required that as a condition precedent to the acceptance of any streets, ways of easements as shown on said map, that Subdivide agrees to improve such streets and easements and make and install certain other public improvements within said subdivision; and

WHEREAS, the approval of said subdivision map is conditioned upon the execution by Subdivider of this agreement;

NOW THEREFORE, in consideration of the approval of said subdivision map and the acceptance of streets and easements therein, or some of them, Subdivider and City agree as follows:

1. Performance of Work; Plans and Specifications.

Subdivider will furnish, construct and install at Subdivider's own expense, in a good and workmanlike manner, all improvements as required by Title 24, Chapter 23.24, Section 23.24.020 of the Santa Cruz Municipal Code or as amended. Subdivider shall do all work and furnish all materials necessary to complete the required subdivision improvements in accordance with City subdivision regulations, and in strict accordance with approved subdivision improvements plans and specifications on file as required by said regulations, and with any changes required or ordered by the City which are necessary or required to complete the work. All of said work and improvements pertaining to the water system, or appurtenances, shall be done in accordance with the Water Distribution Main Extension Agreement, hereto attached and shall be under the direction of, and to the satisfaction of the Water Department Director of City, and all

other required work and improvements shall be under the direction of and to the satisfaction of the City Engineer.

2. Time of Essence - Extension.

The work to be performed hereunder shall be completed on or before _____, 20_____. Time is of the essence of this agreement; provided that in the event good cause is shown therefor, the City Engineer may extend the time for completion of the improvements hereunder. Any such extension may be granted without notice to the Subdivider's surety, and extension so granted shall not relieve the surety's liability on the bond to secure the full performance on this agreement. The City Engineer shall be the sole and final judge as to whether or not good cause has been shown to entitle Subdivider to an extension.

3. Improvement by Units.

If it is contemplated that the improvements herein required for said subdivision are to be constructed and installed in portions of the premises covered by the subdivision map, the procedure followed shall be as set forth in the subdivision Map Act. The time of completion, and the amount of the contract security, for each unit to be constructed in the future shall be as follows:

	<u>Time of Completion</u>	<u>Security</u>
Unit No. 2:	_____	_____
Unit No. 3:	_____	_____

In the event Subdivider, or the escrow holder, fails to meet the requirements for construction and installation of said future improvements or to post the required contract security for said future improvements, City may require the escrow holder to immediately proceed to rescind the portion of the subdivision in which improvements have not been installed.

The provisions of this paragraph shall be effective only if Subdivider has obtained the prior approval of the City to proceed on the basis of unit development.

4. Repairs and Replacements.

Subdivider shall replace, or have replaced, or repair, or have repaired, as the case may be, all pipes and monuments shown on the map which have been destroyed or damaged, and Subdivider shall replace or have replaced, repair or have repaired, as the case may be, or pay to the owner, the entire cost of replacement or repairs, of any and all property damaged or destroyed by reason of any work done hereunder, whether such property be owned by the United States or any agency thereof, or the State of California, or any agency or political subdivision thereof, or by the City or by any public or private corporation, or by any person whomsoever, or by any combination of such owners. Any such repair or replacement shall be to the satisfaction, and subject to the approval, of the City Engineer.

5. Permits; Compliance with Law.

Subdivider shall, at Subdivider's expense, obtain all necessary permits and licenses for the construction of such improvements, give all necessary notices and pay all fees and taxes required by law.

6. Inspection by City.

Subdivider shall at all times maintain proper facilities and provide safe access for inspection by City, to all parts of the work, and to the shops wherein the work is in preparation. All improvements are subject to inspection by City, and provision shall be made therefor, for a period of twelve (12) months after acceptance by City.

7. Contract Security.

It is agreed that said Subdivider shall furnish, concurrently with the execution hereof, cash, bond or other security authorized by the subdivision regulations of City, in a sum equal to one hundred twenty-five percent (125%) of the City Engineer's estimated value of the costs of said improvements, including engineering contingencies and incidental expense, for the faithful performance of the terms and conditions of this agreement, and further approved security in a sum equal to one-hundred percent (100%) of the City Engineer's estimated value of the costs of said improvements made to insure to the benefit of laborers and materialmen upon such work and improvements conditioned upon the payment of such laborers and materialmen for labor and material performed or rendered, under the terms of this agreement. The surety on each of said bonds and the form thereof shall be satisfactory to the City. The contract security may be released or reduced by the City Engineer on the conditions specified in the Subdivision Map Act, and the subdivision regulations of City.

8. Performance by City.

It is understood and agreed that should the Subdivider fail to construct any or all of said improvements, as herein provided, the City may construct or cause to be constructed said improvements and the Subdivider agrees to reimburse the City for any and all such labor and materials used, and the contract security herein mentioned shall be security therefor.

9. Hold Harmless Agreement

Subdivider hereby agrees to, and shall hold City, its elective and appointive boards, commissions, officers, agents and employees, harmless from any liability or damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Subdivider's or Subdivider's contractors, subcontractors, agents or employees' operations under this agreement, whether such operations be by Subdivider or by any of Subdivider's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for, Subdivider or any of Subdivider's contractors or subcontractors. Subdivider agrees to, and shall defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damages caused, or alleged to have been caused, by reason of any of the aforesaid operations; provided as follows:

- a. That City does not, and shall not, waive any rights against Subdivider which it may have

by reason of the aforesaid hold harmless agreement, because of the acceptance by City, or the deposit with City by Subdivider, of any of the insurance policies described in paragraph 10 hereof.

- b. That the aforesaid hold harmless agreement by Subdivider shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of aforesaid operations referred to in this paragraph, regardless of whether or not City has prepared, supplied or approved of, plans and/or specifications for the subdivision, or regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

10. Subdivider's Insurance.

Subdivider shall not commence work under this agreement until Subdivider shall have obtained all insurance required under this paragraph and such insurance shall have been approved by city as to form, amount, and carrier, nor shall Subdivider allow any contractor or subcontractor to commence work on his contract or subcontract until all similar insurance required of the contractor or subcontractor shall have been so obtained and approved. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements and shall specifically bind the insurance carrier.

- a. Compensation Insurance. Subdivider shall maintain, during the life of this agreement, Worker's Compensation Insurance for all Subdivider's employees employed at the site of improvement, and in case any work is sublet, Subdivider shall require any contractor or subcontractor's similarly to provide Worker's Compensation Insurance for all contractors or subcontractor's employees, unless such employees are covered by the protection afforded by Subdivider. In case any class of employees engaged in work under this agreement at the site of the project is not protected under any Worker's Compensation Law, Subdivider shall provide, and shall cause each contractor and subcontractor to provide, adequate insurance for the protection of employees not otherwise protected. Subdivider hereby indemnifies City for any damages resulting to it from failure of either Subdivider or any contractor or subcontractor to take out or maintain such insurance.
- b. Public Liability and Property Damage Insurance. Subdivider shall take out and maintain during the life of this agreement such Public Liability and Property Damage Insurance as shall insure City, its elective and appointive boards, commissions, officers, agents and employees, Subdivider and any contractor or subcontractor performing work covered by this agreement from claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Subdivider's or any contractor's or subcontractor's operations hereunder whether such operations by Subdivider or any contractor or subcontractor, or by anyone directly or indirectly employed by either Subdivider or any contractor or subcontractor, and the amounts of such insurance shall be \$1,000,000.00 per occurrence combined single limit bodily injury and property damage liability coverage.
- c. Contractual Liability Insurance. Subdivider shall take out and maintain during the life of

this agreement and insurance policy in the amount of at least one hundred thousand dollars (\$100,000.00) insuring City, its elective and appointive boards, commissions, officers, agents and employees, Subdivider and any contractor or subcontractor performing work covered by this agreement against damages sustained by reason of any action or actions at law or inequity, and/or any claims or demands by reason of any breach or alleged breach of any contract, or provision thereof, or by reason of any contractual liability or alleged contractual liability or alleged contractual liability on any contract, entered into by Subdivider and/or any of Subdivider's contractors, subcontractors, agents and/or employees.

In the event that any of the aforesaid insurance policies provided for in this paragraph 10 insures any entity, person, board or commission other than those mentioned in this paragraph, such policy shall contain a standard form of cross liability endorsement, insuring on such policy the City, its elective and appointive boards, commissions, officers, agents and employees, Subdivider, and any contractor or subcontractor performing work covered by this agreement.

A contractual liability endorsement shall be added to each insurance policy extending coverage to include the liability assumed in paragraph 9 above.

11. Evidence of Insurance.

Subdivider shall furnish City concurrently with the execution hereof, with satisfactory evidence of the insurance required, and evidence that each carrier is required to give City at least thirty (30) days prior notice of a cancellation or deduction in coverage of any policy during the effective period of this agreement.

12. Title to Improvements.

Title to, and ownership of, all improvements constructed hereunder by Subdivider shall vest absolutely in City, upon completion and acceptance of such improvements by City.

13. Repair or Reconstruction of Defective Work.

All work shall be guaranteed for a period of twelve (12) months from the date of acceptance by the City. The Subdivider shall promptly make all needed repairs arising out of defective materials, workmanship or equipment. The contract security referred to above is to be so drawn as to cover such guarantee on the part of the Subdivider. If, within a period of twelve (12) months after final acceptance of the work performed under this agreement, any structure or part of any structure furnished and/or installed or constructed, or caused to be installed or constructed by Subdivider, or any of the work done under this agreement fails to fulfill any of the requirements of this agreement or the specifications referred to herein, Subdivider shall without delay and without any cost to City, repair or replace or reconstruct any defective or otherwise unsatisfactory part or parts of the work or structure. The City is hereby authorized to make such repairs if, within 10 days after the mailing of a notice in writing to the Subdivider or his agent, the Subdivider shall neglect to make or undertake with due diligence the aforesaid repairs, replacements or reconstruction; provided, however, that in case of an emergency where, in the opinion of the City, delay

would cause serious loss or damage, repairs may be made without notice being sent to the Subdivider and the Subdivider shall pay the costs thereof.

14. Subdivider Not Agent of City.

Neither Subdivider nor any of Subdivider's agents or contractors are or shall be considered to be agents of City in connection with the performance of Subdivider's obligation under this agreement.

15. Notice of Breach and Default.

If Subdivider refuses or fails to obtain prosecution of the work, or any severable part thereof, with such diligence as will insure its completion with the time specified, or any extensions thereof, or fails to obtain completion of said work within such time, or if the Subdivider should be adjudicated as bankrupt, or Subdivider should make a general assignment for the benefit of Subdivider's creditors, or if a receiver should be appointed in the event of Subdivider's insolvency, or if Subdivider, or any of Subdivider's contractors, subcontractors, agents or employees should violate any of the provisions of this agreement, City Engineer or City Council may serve written notice upon Subdivider and Subdivider's surety of breach of this agreement or of any portion thereof, and default of Subdivider.

16. Breach of Agreement; Performance by Surety or City.

In the event of any such notice, Subdivider's surety shall have the duty to take over and complete the work in the improvement herein specified; provided, however, that if the surety, within five (5) days of the serving upon it of such notice of breach, does not give City written notice of its intention to take over the performance of the contract, and does not commence performance thereof within five (5) days after notice to City of such election, City may take over the work and prosecute the same to completion, by contract or by any other method City may deem advisable, for the account and at the expense of Subdivider, and Subdividers surety shall be liable to City for any excess cost or damages occasioned City hereby; and, in such event, without liability for so doing, may take possession of, and utilize in completing the work, such materials, appliances, plant and other property belonging to the Subdivider as may be on the site of the work necessary thereof.

17. Location of Storage and Construction Yard.

Subdivider agrees to locate any construction yard for the storage of equipment, vehicles, supplies, and materials, or the preparation or fabrication thereof, to be used in connection with the installation of improvements for said subdivision or the construction of buildings therein, in such manner so as to cause a minimum of inconvenience to persons living in the area immediately adjacent to said subdivision, and to obtain the approval of the City Engineer to the proposed location of the yard. Immediately upon completion of the final building to be constructed in the subdivision, or unit thereof, to which this agreement refers, Subdivider agrees to cease using the construction yard and to remove therefrom all supplies, materials, equipment or vehicles being stored or kept thereon, Subdivider agrees not to use construction yard in connection with the installation of improvements or construction of buildings in any other subdivision, or any other unit of the subdivision to which this agreement refers. City may extend the time which the construction yard may be used or within which supplies, materials, equipment or vehicles

may be stored or kept therein if City shall determine that the granting of such extension will not be detrimental to the public welfare. No extension will be made except on the basis of a written application made by Subdivider stating fully the grounds and facts relied upon for such extension.

18. Breach of Agreement; Legal Expenses to City.

In the event the City shall be forced to resort to action in court to enforce the terms of this agreement, or to obtain relief by way of damages arising from default in the performance thereof by the Subdivider, the Subdivider agrees to pay court costs and to pay such sum as the court may deem reasonable as compensation for such attorneys as the City may employ in the prosecution of said action.

19. Notices.

All notices herein required shall be in writing, and delivered in person or sent by registered mail, postage prepaid. Notices required to be given to City shall be addressed as follows: City of Santa Cruz, Attention: City Engineer, 809 Center Street, Room 201, Santa Cruz, CA 95060; notices required to be given to Subdivider shall be addressed as follows:

_____;

notices required to be given surety of Subdivider shall be addressed as follows:

_____;

provided that any party or the surety may change such address by notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

IN WITNESS WHEREOF, the said parties have hereto executed this agreement on the day and year first hereinabove written.

“City”

CITY OF SANTA CRUZ
A Municipal Corporation

Approved as to Form


City Attorney 7-8-09

City Manager

“Subdivider” 

Easy Access Developers llc



CITY COUNCIL AGENDA REPORT

DATE: June 2, 2010

AGENDA OF: June 8, 2010

DEPARTMENT: City Council

SUBJECT: Protection of the Public Lands and Waterways of Big Sur – Resolution Supporting H.R. 4040. (CN)

RECOMMENDATION: Resolution supporting H.R. 4040, the Big Sur Forest Service Management Unit Act of 2009, urging the bill's passage, and directing the transmittal of the resolution to Congressman Farr, Senators Boxer and Feinstein, and President Obama.

BACKGROUND: On November 9, 2009, Congressman Sam Farr introduced H.R. 4040, which will reorganize the Monterey Ranger District of Los Padres National Forest to establish and create a Big Sur Forest Service Management Unit. The goals of the bill are to:

- Create the Big Sur Management Unit, a division of the Los Padres National Forest, with its own source of funding;
- Add portions of five Central Coast rivers to the National Wild and Scenic Rivers System (Arroyo Seco River, Big Creek, Carmel River, San Antonio River and San Carpoforo Creek);
- Add 2,287 acres to the Ventana Wilderness and adjusts some boundary areas;
- Create a Wildland Urban Interface Special Study Area for use in demonstrating fire prevention methods; and
- Establish the Arroyo Seco-Indians National Recreational Trail and the 65-acre Jeff Norman Botanical Area.

DISCUSSION: The expanded federal protection of the Big Sur wilderness areas and rivers proposed in H.R. 4040 is pivotal to the conservation of these unique natural resources. H.R. 4040 will provide the region with autonomy and budget authority, will further protect this wild public resource and will ensure this region's specific fire protection needs are met. In addition, H.R. 4040 will designate 90 miles of the most biologically and culturally sensitive rivers and streams in the Los Padres National Forest, providing the highest legal protection a waterway may be granted that will exist in perpetuity.

FISCAL IMPACT: There is no fiscal impact.

Submitted by:

Submitted by:

Mike Rotkin
Mayor

Lynn Robinson
Councilmember

Attachments: Resolution
Big Sur Forest Service Management Unit Boundary Map
H.R. 4040 Summary Sheet

H.R. 4040 – Big Sur Forest Service Management Unit Act of 2009

Section by Section Analysis

November 4, 2009

General

This bill makes a series of structural changes designed to improve the management of Los Padres National Forest's (LPNF) Monterey Ranger District. These changes include:

- 1) Reorganize the Monterey Ranger District into a Management Unit to be known as the Big Sur Management Unit.
- 2) Direct the U.S. Forest Service to develop a wildfire management plan tailored to the new Big Sur Management Unit.
- 3) Revise the Forest Service boundaries of the new Big Sur Management Unit to more closely match the boundary with actual federal ownership and remove the Big Sur Valley and other private lands from the current boundary.
- 4) Designate several river segments within the federal lands of the LPNF as wild and scenic under the Wild and Scenic Rivers Act.
- 5) Make several minor boundary changes to wilderness designations enacted by Congress in 2002.

Title I – Big Sur Management Unit

Sec. 101 – Establishment of the Big Sur Management Unit: The bill would convert the 325,000 acres of the Monterey Ranger District into the Big Sur Management Unit. The new management unit would retain the same administrative boundaries and jurisdiction (except as modified by this bill) as the existing Monterey Ranger District. Like the Monterey Ranger District, the new management unit would function as a sub unit of the Los Padres National Forest (LPNF).

A quick look at the map shows the geographic isolation of the Monterey Ranger District is from the remainder of the LPNF. The LPNF is a sprawling National Forest that extends from the upper reaches of Carmel Valley south to the I-5 grapevine pass through the Tehachapi Mountains. The inland mountains of Santa Barbara, Los Angeles, and Ventura Counties make of the majority of the nearly two million acres of public land managed by the LPNF. The LPNF's Goleta based headquarters oversees the Monterey and four other ranger districts.

This reorganization would give the new Big Sur Management Unit a higher profile within the internal USFS budget setting process that would ideally help steer additional resources for operational and maintenance activities. The bill would also create separate budget authority for the new management unit. Currently, ranger district budgets are allocated centrally at the Forest Supervisor level. This reorganization would shift much of that budgetary decision making to the local management unit

Sec. 102 – Boundary Delineation: The bill adjusts the Big Sur Management Unit's western boundary to more closely conform to the current extent of USFS land ownership. The existing boundary, commonly called the "black line" after the thick black line used to delineate it on most maps, dates back to at least the 1950s. It includes many areas of private land, such as the majority of the Big Sur Valley, but excludes significant parcels in federal ownership, such as the Bixby and Calera properties. In addition, the bill transfers to the USFS several Bureau of Land Management parcels that adjoin the current LPNF boundary and incorporates them in the revised BSMU boundary.

Sec. 103 – Use of Brazil Ranch: The bill gives the USFS the authority to retain any fees or other income generated by activities on the Brazil Ranch for use in operating, restoring, or otherwise maintaining the property. It also allows payment to be made through in-kind services.

Sec. 104 – Fire Management: The bill designates the BSMU a wildland urban interface special study area. This designation is designed to help the USFS find more active and innovative strategies to manage wildland fire risk in areas where wildlands and settled areas exist in close proximity. The bill also directs the USFS to develop and annually update a fire management plan expressly for the BSMU. The USFS typically only develops these plans on a national forest wide basis. This separate plan will provide a vehicle to advocate for and design an active management approach for the ‘big box’ fire lines that have historically provided the most effective lines of defense in the large wildfire incidents over the course of the last 50 years.

Title II – Wilderness Area Adjustments

Summary: In 2002, Congress enacted the inclusion of over 50,000 acres of additional federal land into the Ventana and Silver Peak Wilderness Areas (P.L. 107-370). In the following years, it became clear that several minor boundary adjustments should be made to help facilitate USFS management. This title makes several boundary adjustments worked out with USFS input as well as several other minor changes of a technical nature.

Sec. 201 – Findings and Maps: Congressional statement of need for wilderness boundary modification and a requirement that the Forest Service finalize and make available the revised wilderness boundary maps within a year of the Act’s passage.

Sec. 202 – Adjustments to Boundaries of Ventana Wilderness Area

Subsection (a)(1)-(5) – Exclusions: these sections make five minor wilderness exclusions on both the western and eastern edges of the Ventana Wilderness.

- (1) **San Antonio** – Redefines the wilderness boundary to exclude three reservoirs and the back pasture of the Merle Ranch. The Merle Ranch is an USFS administrative site used to support wilderness packing operations. Two of the reservoirs are used as helicopter bucket dipping sites during fires.
- (2) **Bear Canyon** – Provides a 300 foot setback for Memorial Park Campground.
- (3) **Bear Canyon** - Provides a 300 foot setback for the trailhead parking area at the beginning of the Santa Lucia Trail.
- (4) **Chalk Peak** - Provides a uniform wilderness setback of 100 foot from all roads throughout this 2002 addition.
- (5) **Little Sur** – Provides a 200 foot wilderness setback east of the ridge between Post Summit and the USFS boundary with Andrew Molera S.P. This approximates the setback of the adjacent original Ventana Wilderness as designated in 1969.

Subsection (b)(1-2) – Additions: :

(2)(A) **Horse Canyon** – 1,515 acres. The bill designates as wilderness two parcels of Bureau of Land Management property collectively known as Horse Canyon adjacent to the USFS boundary along the southern rim of the Arroyo Seco Canyon. Sec. 102 of the bill transfers the parcels to USFS ownership

(2)(B) Horse Pasture – 772 acres. This parcel is located above the Tassajara Road and was donated to the USFS in 2007 for the purposes of being added to the Ventana Wilderness. It is otherwise surrounded by designated wilderness.

Subsection (c) – Repeater Site: The bill authorizes the USFS to construct and maintain a communications repeater site at the top of Pinyon Peak in existing wilderness for the purposes of emergency and other public safety communications

Sec. 203 – Adjustments to Boundaries of Silver Peak Wilderness Area:

Subsection (a)(1)-(3) – Exclusions: these sections make five minor wilderness exclusions on both the western and eastern edges of the Silver Peak Wilderness.

(1) San Carpoforo – Provides a 300 foot wilderness setback for Lottie Potero Camp.

(2) Willow Creek – Provides a 300 foot setback for Sycamore Camp and increases the access road setback to 100 foot. The current 30 foot is insufficient to exclude popular dispersed camping sites placed in the Silver Peak Wilderness by the 2002 legislation.

(3) Willow Creek – Excludes Miguel Camp and its access road from the Silver Peak Wilderness.

Subsection (b)(1-2) – Additions: The acreage removed from the Silver Peak wilderness by these corrections has been mitigated by the addition of forty two acres to the Silver Peak Wilderness for no net loss in wilderness acreage.

Sec. 204 – Wilderness Fire Management and Related Activities: Standard language including in all wilderness legislation authorizing routine fire control, and other management actions.

Sec. 205 – Repeal of Ventana Land Exchange Authority: In 1990, Congress enacted special legislation to facilitate the expansion of the Los Padres dam and reservoir on the Carmel River. The reservoir’s expansion would have necessitated the flooding USFS land within the Ventana Wilderness Area. The legislation authorized the exchange of this land with nearby land owned by the California American Water Company in the event that the dam expansion project moved forward. In the wake of the 1995 local electoral defeat of the dam project, this section is no longer necessary.

Title III – Wild and Scenic River and National Recreational Trail Designations

Summary: The bill adds several river segments to the National Wild and Scenic River System. *See* the accompanying map for an overview of these designations and their location. Congress adds river segments to this system to preserve certain rivers with outstanding natural, cultural, and recreational values in a free-flowing condition for the enjoyment of present and future generations. Wild and Scenic status prevents any dam or other major development in the designated waterway. Since the segments designated in the bill all flow through USFS wilderness lands such development is already prohibited by federal law. However, wild and scenic river status would also require the USFS to manage the adjacent riparian corridor to enhance the designated stream’s outstanding scenic, recreational, historic/cultural, wildlife, and other similar values. California state law would continue to govern any downstream water rights. Designation comes in three varieties:

Wild: These segments are wild, unroaded and undeveloped. Logging, road building, new mining claims, developed campgrounds, and motorized access are generally prohibited on Wild segments. All other activities associated with public lands such as grazing, mining of valid

existing claims, hunting and other forms of non-motorized recreation are permitted subject to the protection of outstanding values.

Scenic: These segments are generally undeveloped, but may have occasional road crossings and riverside structures which are visually screened from the river. Motorized use on trails may or may not be permitted. All other activities normally associated with public lands are permitted, as long as visual quality and outstanding values are protected.

Recreational: These segments are generally developed, with parallel roads, bridges and structures. All activities normally associated with public lands are permitted subject to the protection of outstanding values.

Sec. 301 – Wild and Scenic River Designations, Big Sur, California: Subsection (a) designates the river segments described in the following subsections as wild and scenic under the terms of the Wild and Scenic Rivers Act.

Subsection (b)(1-12) Arroyo Seco River: The bill designates 34.77 miles of the Arroyo Seco river and its Tassajara and Church Creek tributaries as wild, scenic, or recreational, depending upon the segment.

Subsection (c)(1-8) Big Creek: The bill designates 23.63 miles of Big Creek and its tributaries as wild, scenic, or recreational, depending upon the segment.

Subsection (d) Carmel River: The bill designates as wild the 10.9 miles of the Carmel River located within the boundary of the LPNF.

Subsection (e)(1-9) San Antonio River: The bill designates 21.04 miles of the San Antonio River and its tributaries as wild, scenic, or recreational, depending upon the segment.

Subsection (f) San Carpoforo Creek: The bill designates 1 mile of San Carpoforo Creek as recreational.

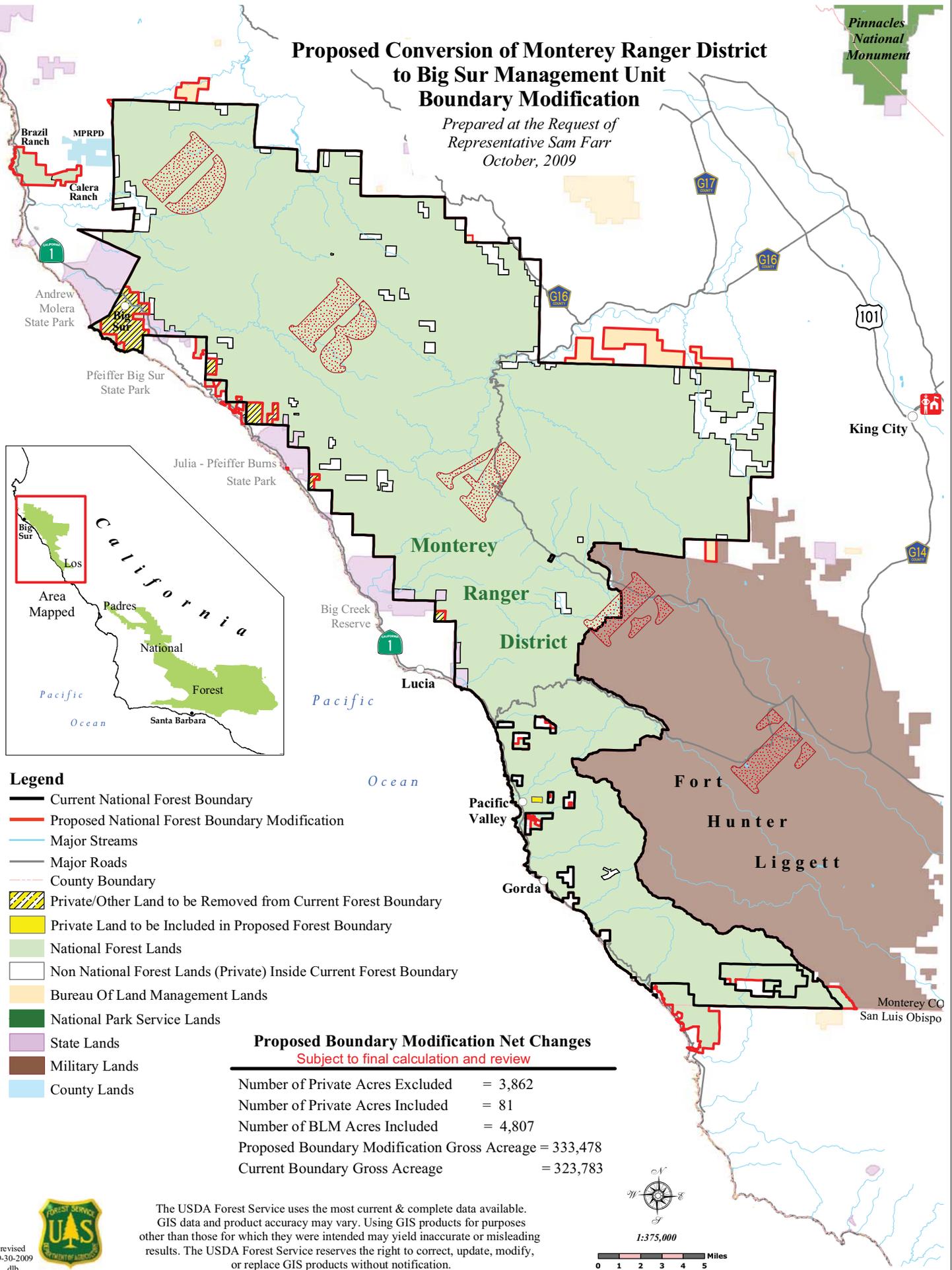
Sec. 302. Designation of Arroyo Seco-Indians Road as a National Recreational Trail: An 11 mile long middle segment of the Arroyo Seco-Indians Road linking Arroyo Seco and Fort Hunter-Liggett has been closed to vehicle traffic for many years as a result of land slide damage. In that time, the closed portion of the road has developed into a widely used recreational trail for mountain bikers, hikers, and equestrian riders. This designation would ensure this closed portion of the roadway continues in this newly popular recreation capacity.

Title IV – Botanical Area

Sec. 401 – Jeff Norman Botanical Area. This section designates the bluff above the southern end of Pfeiffer Beach as the Jeff Norman Botanical Area in honor of the long time Big Sur botanist and community activist, Jeff Norman (1951-2008). The botanical area designation is used to identify USFS land of special botanical significance. It adds no additional management standards or requirements. The area so designated by this bill is home to a community of coastal chaparral first identified by Jeff Norman that is unique to the Pfeiffer Beach site.

Proposed Conversion of Monterey Ranger District to Big Sur Management Unit Boundary Modification

Prepared at the Request of
Representative Sam Farr
October, 2009



Legend

- Current National Forest Boundary
- Proposed National Forest Boundary Modification
- Major Streams
- Major Roads
- County Boundary
- Private/Other Land to be Removed from Current Forest Boundary
- Private Land to be Included in Proposed Forest Boundary
- National Forest Lands
- Non National Forest Lands (Private) Inside Current Forest Boundary
- Bureau Of Land Management Lands
- National Park Service Lands
- State Lands
- Military Lands
- County Lands

Proposed Boundary Modification Net Changes

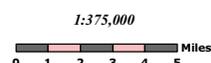
Subject to final calculation and review

Number of Private Acres Excluded	=	3,862
Number of Private Acres Included	=	81
Number of BLM Acres Included	=	4,807
Proposed Boundary Modification Gross Acreage	=	333,478
Current Boundary Gross Acreage	=	323,783

The USDA Forest Service uses the most current & complete data available. GIS data and product accuracy may vary. Using GIS products for purposes other than those for which they were intended may yield inaccurate or misleading results. The USDA Forest Service reserves the right to correct, update, modify, or replace GIS products without notification.



revised
09-30-2009
dlb



RESOLUTION NO. NS-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ
SUPPORTING H.R. 4040, THE BIG SUR FOREST SERVICE MANAGEMENT UNIT ACT,
WHICH WILL ENHANCE PROTECTION OF
PUBLIC LANDS AND WATERWAYS OF THE BIG SUR AREA

WHEREAS, Congressman Sam Farr sponsored H.R. 4040, the Big Sur Forest Service Management Unit Act of 2009, to protect the wild and scenic nature of the Big Sur region; and

WHEREAS, the Big Sur region is host to a nuanced and unique set of local concerns, and H.R. 4040 would establish the Big Sur Management Unit (BSMU) which would reorganize the Monterey Ranger District. Converting the 325,000 acres of the Monterey Ranger District into the Big Sur Management Unit (BSMU) will provide the region with the autonomy and budget authority this spectacular public land deserves. Furthermore, Sec. 104, which designates the BSMU as a Wildland Urban Interface Special Study Area and directs the United States Forest Service to develop and annually update a fire management plan specifically for the BSMU, will ensure this region's specific fire protection needs are met and further protect its wild public resources; and

WHEREAS, the rivers and streams flowing through public lands in the northern Santa Lucia Mountains are of incredible ecological and recreational value and H.R. 4040 will designate 90 miles of the most biologically and culturally sensitive rivers and streams in the Los Padres National Forest as federal Wild and Scenic Rivers, including sections of the Arroyo Seco River, Big Creek, Carmel River, San Antonio River, and the San Carpoforo Creek. This is the highest legal protection a waterway may be granted, and will protect them in perpetuity; and

WHEREAS, the Big Sur Wilderness Areas are of priceless value and importance to the state, as well as outstanding recreational value to the county, H.R. 4040 will modify certain boundaries and incorporate new areas for a gain of approximately 2,000 acres of National Wilderness; and

WHEREAS, thousands of people visit this region every year, the Arroyo Seco/Indians road will be converted into a National Recreation Trail so that it can continue to be used by hikers, equestrians and mountain bikers.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Cruz that it hereby supports the passage of H.R. 4040, as it will be an instrumental step in the protection of the public lands and waterways of the Big Sur area, and will preserve the natural quality of the Central Coast for all to enjoy.

BE IT FURTHER RESOLVED that the Mayor is hereby directly to transmit a copy of this resolution and indicate the City's unqualified support of H.R. 4040 to Congressman Farr, Senators Boxer and Feinstein and President Obama.

RESOLUTION NO. NS-

PASSED AND ADOPTED this 8th day of June, 2010, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk

ORDINANCE NO. 2010-11

AN ORDINANCE OF THE CITY OF SANTA CRUZ
REPEALING CHAPTER 16.16 OF THE SANTA CRUZ MUNICIPAL CODE
AND ADDING CHAPTER 16.16 OF THE MUNICIPAL CODE
PERTAINING TO WATER EFFICIENT LANDSCAPING

BE IT ORDAINED by the City Council of the City of Santa Cruz as follows:

SECTION 1: Chapter 16.16 of the Santa Cruz Municipal Code is hereby repealed.

SECTION 2: Chapter 16.16 of the Santa Cruz Municipal Code is hereby enacted to read as follows:

“Chapter 16.16

Water Efficient Landscaping

Sections:

- 16.16.010 Purpose.
- 16.16.020 Definitions.
- 16.16.030 Applicability.
- 16.16.040 Landscape Plan Review and Approval Required.
- 16.16.050 Persons Qualified to Prepare Landscape Plans.
- 16.16.060 Contents of Plans.
- 16.16.070 Landscape Water Conservation Standards.
- 16.16.080 Alternative to Turf Limitations.
- 16.16.090 Final Inspection/Water Audit.
- 16.16.100 Irrigation System Management and Maintenance.
- 16.16.110 Provisions for Existing Landscapes Over One Acre in Size.
- 16.16.120 Exceptions.
- 16.16.130 Administrative Enforcement.
- 16.16.140 Limit of City Responsibility.

- 16.16.010 Purpose

The purposes of this chapter are to promote efficient water use, to manage peak season water demand, and to preserve water storage in order to ensure a reliable and adequate public water supply by regulating landscape design, construction, and maintenance. It is also the purpose of this chapter to comply with California Government Code section 65591 et. seq., the Water Conservation in Landscaping Act.

- 16.16.020 Definitions

For the purpose of this chapter, the following words shall have the meanings set forth below:

- (a) “applied water” means the portion of water supplied by the irrigation system to the landscape.

ORDINANCE NO. 2010-11

- (b) “automatic irrigation controller” means an automatic timing device used to remotely control valves that operate an irrigation system. Automatic irrigation controllers schedule irrigation events using either evapotranspiration (weather-based) or soil moisture data.
- (c) “backflow prevention device” means a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from the irrigation system.
- (d) “CCF” means one hundred cubic feet, a common billing unit used by water agencies for basing charges for water service. One hundred cubic feet equals 748 gallons.
- (e) “certified irrigation designer” means a person certified to design irrigation systems by an accredited academic institution, a professional trade organization, or other program such as the US Environmental Protection Agency’s WaterSense irrigation designer certification program and Irrigation Association’s Certified Irrigation Designer program.
- (f) “certified landscape irrigation auditor” means a person certified to perform landscape irrigation audits by an accredited academic institution, a professional trade organization or other program such as the US Environmental Protection Agency’s WaterSense irrigation auditor certification program and Irrigation Association’s Certified Landscape Irrigation Auditor program.
- (g) “common area” means those areas in a residential development that are owned, shared, and available for use by all residents, and managed by either the homeowner’s association or governing board.
- (h) “community garden” means a plot of land used by a community group and open to the public for the cultivation of flowers, vegetables, edible plants, or fruit.
- (i) “conversion factor (0.00083)” means the number that converts acre-inch per acre per year to CCF per square foot per year.
- (j) "director" means the director of the water department of the City of Santa Cruz, or the director’s authorized representative.
- (k) “drip irrigation” means any non-spray low volume irrigation system utilizing emission devices with a flow rate measured in gallons per hour. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.
- (l) “establishment period” means the first year after installing the plant in the landscape or the first two years if irrigation will be terminated after establishment. Typically, most plants are established after one or two years of growth.

- (m) “ET adjustment factor” means a factor of 0.7, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency, two major influences upon the amount of water that needs to be applied to the landscape.
- (n) “expanded service” means an additional water meter or larger capacity meter is required to serve the proposed development, as determined by the water agency.
- (o) “evapotranspiration rate” means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.
- (p) “flow rate” means the rate at which water flows through pipes, valves and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.
- (q) “hydrozone” means a portion of the landscaped area having plants with similar water needs. A hydrozone may be irrigated or non-irrigated.
- (r) “irrigation audit” means an in-depth evaluation of the performance of an irrigation system. An irrigation audit includes, but is not limited to: inspection, system tune-up, system test with distribution uniformity or emission uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule.
- (s) “irrigation efficiency” means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices.
- (t) “irrigation survey” means an evaluation of an irrigation system that is less detailed than an irrigation audit. An irrigation survey includes, but is not limited to: inspection, system test, and written recommendations to improve performance of the irrigation system.
- (u) “irrigation water use analysis” means an analysis of water use data based on meter readings and billing data.
- (v) “landscape architect” means a person who holds a license to practice landscape architecture in California as further defined by the California Business and Professions Code, Section 5615.
- (w) “landscape area” means all the planting areas, turf areas, and water features in a landscape design plan subject to the landscape water budget calculation. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation), agricultural uses, commercial nurseries and sod farms.

- (x) “landscape water budget” means the upper limit of annual applied water for the established landscaped area. It is based on the region’s reference evapotranspiration, type of plant material, and landscape area as specified in Section 16.16.070 (b).
- (y) “landscape contractor” means a person licensed by the State of California to construct, maintain, repair, install, or subcontract the development of landscape systems.
- (z) “lateral line” means the water delivery pipeline that supplies water to the emitters or sprinklers from the valve.
- (aa) “local agency” means a city or county, including a charter city or charter county, or water agency that is responsible for adopting and implementing this Chapter. The local agency is also responsible for the enforcement of this Chapter, including but not limited to, in the case of a city or county, approval of a permit and plan check or design review of a project; and in the case of a water agency, approval of a new or expanded water service application.
- (bb) “low volume irrigation” means the application of irrigation water at low pressure through a system of tubing or lateral lines and low-volume emitters such as drip, drip lines, and bubblers.
- (cc) "low water use plant" means a plant species whose water needs are compatible with local climate and soil conditions. Species classified as "very low water use" and "low water use" by WUCOLS, having a regionally adjusted plant factor of 0.0 through 0.3, shall be considered low water use plants.
- (dd) “Model Water Efficient Landscape Ordinance” means the regulations developed by the California Department of Water Resources required by the California Water Conservation in Landscaping Act and contained in the California Code of Regulations, Title 23, Division 2, Chapter 2.7.
- (ee) “modified service” means a substantial change in the water use characteristics of an existing service connection (for example, converting from a single family residential service to multiple residential service, or from a residential use to a commercial use).
- (ff) “mulch” means any organic material such as leaves, bark, straw, compost, or inorganic mineral materials such as rocks, gravel, and decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.
- (gg) “native plant” means a plant indigenous to a specific area of consideration. For the purposes of these guidelines, the term shall refer to plants indigenous to the coastal ranges of Central and Northern California, and more specifically to such

plants that are suited to the ecology of the present or historic natural community(ies) of the project's vicinity.

- (hh) "new construction" means the construction of a new building or structure containing a landscape or other new land improvement, such as a park, playground, or greenbelt without an associated building.
- (ii) "overhead sprinkler irrigation systems" means systems that deliver water through the air (e.g., spray heads and rotors).
- (jj) "overspray" means the irrigation water which is delivered beyond the target area.
- (kk) "pervious" means any surface or material that allows the passage of water through the material and into the underlying soil.
- (ll) "plant factor" or "plant water use factor" is a factor, when multiplied by ETo, estimates the amount of water needed by plants.
- (mm) "precipitation rate" means the rate of application of water measured in inches per hour.
- (nn) "project applicant" means the individual or entity submitting a landscape plan required under 16.16.030, in connection with a building permit application or design review from the local land use agency or requesting new, modified or increased water service from the water agency. A project applicant may be the property owner or his or her designee.
- (oo) "rain sensor" or "rain sensing shutoff device" means a component which automatically suspends an irrigation event when it rains.
- (pp) "recreational area" means areas dedicated to active play such as parks, playgrounds, sports fields, and golf courses where turf provides a playing surface.
- (qq) "reference evapotranspiration" or "ETo" means a standard measurement of environmental parameters which affect the water use of plants.
- (rr) "rehabilitated landscape" means any project that is required to modify its existing landscape as a condition of a land use approval or a discretionary permit or any re-landscaping project that requires a permit, plan check, design review, or requires a new or expanded water service application.
- (ss) "runoff" means water which is not absorbed by the soil or landscape to which it is applied and flows from the landscape onto other areas.
- (tt) "soil moisture sensing device" or "soil moisture sensor" means a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.
- (uu) "sprinkler head" means a device which delivers water through a nozzle.

- (vv) “station” means an area served by one valve or by a set of valves that operate simultaneously.
- (ww) “turf” means a ground cover surface of mowed grass that requires frequent watering during the growing season. Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses. Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, and Buffalo grass are warm-season grasses.
- (xx) “valve” means a device used to control the flow of water in the irrigation system.
- (yy) “water feature” means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied).
- (zz) “WUCOLS” means the Water Use Classification of Landscape Species published by the University of California Cooperative Extension, the Department of Water Resources and the Bureau of Reclamation, 2000, and any subsequent revisions.

16.16.030 Applicability

The director shall be responsible for assuring that all applicants for new, increased, or modified water service shall comply with the standards set forth in this chapter wherever water service is provided by the City as a condition of receiving water service.

- (a) The provisions of this Chapter shall apply to all of the following landscape projects:
 - (1) New commercial, industrial, and public development projects requiring a building permit, land use approval/design review or requiring a new, expanded, or modified water service.
 - (2) Existing commercial, industrial, and public development that is required to rehabilitate or modify their landscape as part of a land use approval/design review process shall also be required to comply with the provisions of this Chapter in the relandscaped area.
 - (3) Developer-installed landscaping. New single and multiple family residential development projects resulting in three or more dwelling units with a total irrigated landscape area which is installed by the developer equal to or greater than 2,500 square feet.
 - (4) Single family and two-unit residences. New single-family and two-unit residential development projects on a parcel of land less than 10,000 square feet shall be required to meet only provision regarding turf limits listed in Section 16.16.070 (c) and spray irrigation setbacks listed in Section 16.16.070 (e). Such projects are encouraged to follow voluntary water efficient landscape guidelines/checklists.

- (5) New single-family and two-unit residential development projects on a parcel of land equal to or greater than 10,000 square feet shall be required to meet all standards set forth below.
 - (6) New recreation areas. New parks, playgrounds, sports fields, and golf courses are subject to the all the provisions of this Chapter except the turf area limits set forth in Section 16.16.070 (c) (1).
- (b) The provisions of this Chapter shall not apply to:
- (1) Remodels/additions to existing one and two unit homes.
 - (2) Existing landscapes of less than one acre in size.
 - (3) Ecological restoration projects that do not require a permanent irrigation system.
 - (4) Community gardens.
 - (5) Registered local, state, or federal historical sites where landscaping establishes an historical landscape style, as determined by a public board or commission responsible for architectural review or historic preservation.
 - (6) Enclosed, private yards and patios in multi-family residential developments.
- (c) Pre-existing landscapes over one acre in size. Existing large landscapes, including existing cemeteries, shall be subject only to the provisions for existing landscapes listed in Section 16.16.110.

16.16.040 Landscape Plan Review and Approval Required

No person shall install landscaping for a project subject to this chapter without the review and approval required by this chapter.

- (a) Design Review. For projects requiring design review or a discretionary land use approval, the applicant shall submit a landscape concept plan. The landscape concept plan shall include general representation of the site features, existing and proposed buildings, proposed planting areas, and the proposed method and type of irrigation.
- (b) Building Permit/Plan Check. A complete landscape plan must be submitted and found to satisfy the requirements of this Chapter before the local agency can approve a building permit application, or the director can approve an application for water service and the installation of new water meter, or authorize a change in water service. The City shall notify the applicant in writing if plans are found to be incomplete or inconsistent with the standards and indicate where such additions or revisions are necessary.

- (c) Plan Review Fee. landscape plan review fee set by resolution of the City Council shall accompany each such application to cover the City's cost to review the landscape plan.

16.16.050 Persons Qualified to Prepare Landscape Plans

Landscape plans for all projects, except a single family or two-unit residence, shall be prepared by, and bear the signature of, a certified irrigation designer, a certified landscape irrigation auditor, a licensed landscape architect, a licensed landscape contractor, a licensed professional engineer, or any other person authorized by the State to do this work.

16.16.060 Contents of Plans

Landscape plans shall consist of separate planting, irrigation, and grading plans, all drawn at the same size and scale, and shall accurately and clearly include the following information:

- (a) Project information
 - (1) Project applicant/contact person;
 - (2) Address;
 - (3) Parcel number(s);
 - (4) Total landscape area, in square feet;
 - (5) Source and type of water supply (potable/recycled/other alternative, including graywater), including number and size of service connections.

- (b) Planting Plan

Planting plans shall identify and locate the following:

- (1) New and existing trees, shrubs, ground covers, and turf areas within the developed landscape area;
- (2) Planting legend indicating all plant species by botanical name and common name, spacing, and quantities of each type of plant by container size;
- (3) Water use classification (high, moderate, low, or very low) for each plant material specified, according to WUCOLS;
- (4) Each hydrozone (including high, medium, and low water uses) delineated and labeled, including the square footage for each area;
- (5) Property lines, streets, and street names;

- (6) Building locations, driveways, sidewalks, retaining walls, and other hardscape features;
- (7) Appropriate scale and north arrow;
- (8) Planting specifications and details.

(c) Irrigation Plan

Irrigation plans shall identify and locate the following:

- (1) Irrigation point of connection (POC) to water system;
- (2) Static water pressure at POC;
- (3) Location and size of water meter(s);
- (4) Backflow prevention devices as may be required the water supply agency;
- (5) Manual shut off valves;
- (6) Location, size, and type of all components of the irrigation system, including automatic controllers, main and lateral lines, valves, sprinkler heads and nozzles, riser protection equipment, soil moisture sensors, pressure regulator, drip and low volume irrigation equipment;
- (7) Flow rate (gallons per minute or gallons per hour), precipitation rate (inches per hour) and design operating pressure (psi) for each irrigation circuit;
- (8) Irrigation legend with the manufacturer name, model number, and general description for all specified equipment, separate symbols for all irrigation equipment with different spray patterns, spray radius, and precipitation rates;
- (9) Irrigation system specifications and details for assembly and installation;
- (10) Recommended irrigation schedule for each month, including number of irrigation days per week, number of start times (cycles) per day and minutes of run time per cycle required for each irrigation event designed to avoid runoff, and estimated amount of applied irrigation water expressed in gallons per month and gallons per year, for the established landscape;
- (11) The parameters used for programming the weather-based irrigation system controller schedule for the established landscape including: soil type, slope, plant type, and type of irrigation nozzle/emitter used for each circuit;
- (12) Calculation of landscape water budget;

- (13) Stormwater management/rainwater collection features and facilities.
- (d) Grading Plan (not required when landscaped slopes on the site are less than 10%)
 - (1) Finish grades, contours, and spot elevations;
 - (2) Grading volume (cubic yards);
 - (3) Elevations of building floors, parking lots, and streets;
 - (4) Location and height of retaining walls;
 - (5) Drainage patterns and drainage control facilities.
- (e) Specifications.
 - (1) In addition to planting, irrigation, and grading plans, any written specifications prepared for a project that are applicable to the landscape improvements shall be submitted for review.

16.16.070 Landscape Water Conservation Standards

- (a) Dedicated Landscape Water Meter
 - (1) Separate water service meters shall be required for all new landscaping, except a single family or two-unit residence, which equals or exceeds 5,000 square feet in area, and for renovated landscape sites that result in expansion of the total landscaped area equal to or more than 5,000 square feet.
 - (2) For all new nonresidential landscapes not required to have a separate water service meter, a private irrigation sub-meter shall be installed between the point of connection on the domestic water service and first irrigation valve. The submeter shall register water use in cubic feet.
- (b) Landscape Water Budget
 - (1) The landscape water budget for new landscapes shall be no more than 70 percent of reference evapotranspiration per square foot of landscaped area. The landscape water budget shall be calculated using the equation below:

Landscape Water Budget = (0.7) (ET_o) (0.00083) (LA), where:

Water Budget = annual upper limit of irrigation water allowed (CCF/year)

0.7 = ET adjustment factor

ET_o = Reference evapotranspiration (inches per year)

0.00083 = Conversion factor to CCF

LA = Landscape area (square feet)

- (2) New landscapes that include a recreation area or are irrigated with recycled water are allowed an additional 30 percent of reference evapotranspiration per square foot for a total of 100 percent of reference evapotranspiration per square foot.
 - (3) The estimated annual water use, calculated by adding the amount of water recommended in the irrigation schedule, or by another method approved by the water agency, shall not exceed the annual landscape water budget.
 - (4) The landscape water budget assigned for a given irrigation account shall not be increased unless review of subsequent landscape plans has occurred and approval of said plans has been obtained by the land use or water agency.
- (c) Turf Limits
- (1) The combined size of turf and areas devoted to high water use plants, decorative pools, fountains, water features and swimming pools shall be limited to no more than 25 percent of the total developed landscape area. This limit does not apply to recreation areas requiring large turf areas for their primary function. However, recreation areas shall be designed to limit turf in any portion of the landscaped area not essential for the operation of the recreational facility.
 - (2) Except when required as a storm water best management practice, turf shall not be planted in the following conditions:
 - a) Planting areas less than 8 feet wide in any direction;
 - b) On slopes greater than 5 percent;
 - c) In street medians, traffic islands, planter strips, and parking lot islands.
 - (3) Turf varieties shall be water-conserving species, such as tall and hard fescues.
- (d) Landscape Design
- (1) Except for areas designated for turf or high water use plants, all plants shall be composed of very low to moderate water use plants, as identified in Water Use Classification of Landscape Species (WUCOLS Guide) or other species, including native plants that are well-adapted to the climate of the region, and require minimal water once established.

- (2) Plants having similar water requirements shall be grouped together in distinct hydrozones, and where irrigation is required, the distinct hydrozones shall be irrigated with separate valves.
 - (3) Planting of trees and the protection and preservation of existing native species and natural areas is encouraged.
 - (4) Water in decorative pools and fountains must be recirculated.
- (e) Irrigation Design
- (1) All irrigation systems shall be designed to avoid runoff, over-spray, low-head drainage and other similar conditions where water flows off-site on to adjacent property, non-irrigated area, walks, roadways, or structures.
 - (2) Areas less than eight feet wide must be irrigated with subsurface or low volume irrigation.
 - (3) Point source irrigation is required where plant height maturity will affect the uniformity of an overhead system.
 - (4) All overhead spray nozzles shall have a precipitation rate of no more than one inch per hour.
 - (5) Overhead sprinkler systems shall not be permitted within 24 inches of any non-permeable surface, including driveways and sidewalks. The setback area may be planted or unplanted. Allowable irrigation within the setback may include drip, subsurface, or other low volume, non-spray irrigation technology.
 - (6) Plants that require different amounts of water shall be irrigated using separate irrigation circuits and valves.
 - (7) Trees shall be watered using separate irrigation circuits.
 - (8) Where available, recycled water shall be used to irrigate landscapes.
- (f) Irrigation Equipment
- (1) A pressure regulator shall be installed if pressure at the water meter exceeds 80 psi.
 - (2) Weather-based or other sensor-based, self-adjusting irrigation controllers shall be required, where feasible.
 - (3) Irrigation systems shall be equipped with rain-sensing devices to prevent irrigation during rainy weather.

- (4) Sprinkler heads shall have matched precipitation rates within each control circuit valve and shall be selected for proper coverage and precipitation rate, thereby minimizing over spray and runoff.
 - (5) Anti-drain check valves shall be installed at strategic points to minimize or prevent low-head drainage.
 - (6) Swing joints or other riser protection components are required on all risers located in high traffic areas.
 - (7) The irrigation system shall provide for the installation of a manual shut-off valve installed as close as possible to the point of connection to minimize water loss in case of an emergency or routine repair. Additional manual shut off valves shall be installed as necessary.
- (g) Soil Management, Preparation, and Mulching
- (1) Soil shall be prepared for planting by ripping and incorporating an organic amendment at the rate of six cubic yards per 1000 square feet into the top six inches, or amended with organic material as recommended by landscape architect or soil laboratory report.
 - (2) All exposed soil surfaces of non-turf areas within the developed landscape area must be mulched with a minimum three-inch layer of organic material.
 - (3) A laboratory analysis and soil management report shall be completed and submitted for review on projects where significant mass grading is planned and the recommendations incorporated into the landscape plans.
- (h) Stormwater Management
- (1) Implementing storm water best management practices to minimize runoff and increase on-site retention and infiltration is encouraged.
- (i) Alternative Water Sources
- (1) Irrigating with alternative water sources such as recycled water, graywater, or rainwater is encouraged where available onsite and permitted.

16.16.080 Alternative to Turf Limitations

The project applicant, in lieu of the requirement that the portion of the landscape devoted to turf, high water use plants, water features, and swimming pools be limited to no more than 25 percent of the total landscape area, may elect to complete the water efficient landscape equations and worksheets contained in Appendix B of the State of California Model Water Efficient Landscape Ordinance. In such cases, selected plant materials and overall landscape design shall not cause the estimated total water use to exceed the landscape water budget.

16.16.090 Final Inspection/Water Audit

The Director shall have the right to enter upon any premises to make an inspection at any time before, during, and after irrigation system and landscape installation for the purpose of enforcing this chapter.

- (a) Upon installation and completion of the landscape, the City shall make a final inspection or require a certified irrigation auditor to conduct a water audit to verify that the landscape improvements were completed in accordance with approved plans. The final inspection or water audit shall verify that:
 - (1) The installed irrigation system is in a leak-free condition.
 - (2) The installed irrigation system is functioning as designed, specified, and approved.
 - (3) The irrigation system does not cause water waste due to runoff, low head drainage, overspray or other similar condition where water flows onto adjacent property, non-irrigated areas structures, walkways, roadways or other paved areas.
 - (4) The person responsible for long-term landscape maintenance and irrigation management at the property has received the recommended irrigation schedule.
- (b) The project must pass inspection or audit before the building permit can be signed off and approved for occupancy.
- (c) Water audit required for large turf areas. Properties with turf areas over 5,000 square feet, upon completing the installation of the landscaping and irrigation system, shall be required to have an irrigation audit performed by a certified landscape irrigation auditor prior to the final field inspection.

16.16.100 Irrigation System Management and Maintenance

- (a) Maintenance. Landscape shall be maintained in good working condition and properly adjusted to ensure water efficiency. Any broken or malfunctioning equipment, including but not limited to main and lateral lines or control valves shall be repaired promptly with identical equipment to maintain the original design integrity.
- (b) Irrigation System Inspections. Irrigation system shall be inspected regularly to correct misaligned, clogged or broken heads, missing heads and risers, stuck valves, and leaks. The irrigation meter shall be read periodically to check consumption and detect any leakage.
- (c) Watering Schedule. Watering schedules shall be adjusted periodically to reflect seasonal variations in plant water requirements. Whenever possible, irrigation

management shall incorporate the use of real-time, ETo data from the California Irrigation Management Information System (CIMIS) or similar weather-based irrigation scheduling system.

- (d) Irrigation Operation. Irrigation shall be scheduled between the hours of 10:00 p.m. and 10:00 a.m. when daily temperature and wind conditions are at a minimum.

16.16.110 Provision for Existing Landscaping Over One Acre in Size

The City will assign a landscape water budget to each existing landscape with a dedicated irrigation account over one acre in size based on 70 percent of reference evapotranspiration, or 100 percent of reference evapotranspiration for recreation areas. When evaluation of these properties shows that annual water use exceeds the landscape water budget, the customer will be required to have a certified irrigation auditor perform a water audit and make recommendations as necessary to reduce water consumption consistent with the landscape water budget.

16.16.120 Exceptions

The purpose of this Chapter is to make optimum use of the water resources available to the City water department service area and to manage peak season water demands. As technology changes and more information is available regarding plant materials, irrigation equipment and techniques, and maintenance techniques that enhance water conservation, the Director may allow the substitution of well-designed conservation alternatives or innovations which equally reduce water consumption and meet the intent of this chapter.

16.16.130 Administrative Enforcement

In addition to any other remedy provided by the Santa Cruz Municipal Code, any provision of this Chapter may be enforced by an administrative order issued pursuant to any one of the administrative processes set forth in Title 4 of the Santa Cruz Municipal Code. The Water Commission shall serve as the administrative enforcement hearing officer for the purpose of considering appeals.

16.16.140 Limit of City Responsibility

The City of Santa Cruz has limited water resources that are vulnerable to shortage in drought conditions. Residential, commercial and irrigation accounts in the water department service area are therefore subject to water restrictions or mandatory rationing during a declared water shortage emergency. Compliance with this chapter does not guarantee the survival of landscape plants or the availability of water for landscape irrigation based on this chapter. Irrigation shall be scheduled according to any water shortage regulations or restrictions in effect.

SECTION 3: Severability. The provisions of this chapter are hereby declared to be severable and if any sentence, clause, section or part hereof is held to be unconstitutional, it is the intent of the City Council that such portion of such chapter be severable from the remainder, and that the remainder be given full force and effect.

ORDINANCE NO. 2010-11

SECTION 4: This ordinance shall be in full force and take effect thirty (30) days following its final adoption. Applications for building permits submitted prior to the effective date will be subject to landscape water conservation regulations in effect at that time.”

PASSED FOR PUBLICATION this 25th day of May, 2010, by the following vote:

AYES: Councilmembers Lane, Beiers, Madrigal, Robinson; Mayor Rotkin.

NOES: None.

ABSENT: Councilmember Mathews, Vice Mayor Coonerty.

DISQUALIFIED: None.

APPROVED: ss/Mike Rotkin
Mayor

ATTEST: ss/Lorrie Brewer
City Clerk

PASSED FOR FINAL ADOPTION this 8th day of June, 2010, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk

This is to certify that the above
and foregoing document is the
original of Ordinance No. 2010-11
and that it has been published or
posted in accordance with the
Charter of the City of Santa Cruz

City Clerk

ORDINANCE NO. 2010-12

AN ORDINANCE OF THE CITY OF SANTA CRUZ REPEALING ORDINANCE 2009-14 AND ADDING A NEW CHAPTER 16.01 OF THE MUNICIPAL CODE PROHIBITING AND REGULATING CERTAIN USES OF WATER FROM THE CITY WATER SUPPLY SYSTEM NOT ESSENTIAL TO THE PUBLIC HEALTH AND SAFETY FOR WATER CONSERVATION PURPOSES, PRESCRIBING PENALTIES FOR VIOLATIONS, AND ESTABLISHING A WATER SHORTAGE APPEAL BOARD

BE IT ORDAINED by the City Council of the City of Santa Cruz as follows:

SECTION 1: Ordinance 2009-14 is hereby repealed.

SECTION 2: Chapter 16.01 of the Santa Cruz Municipal Code is hereby enacted to read as follows:

“Chapter 16.01

Water Shortage Regulations and Restrictions

Sections:

- 16.01.010 Findings.
 - 16.01.020 Declaration of Water Shortage.
 - 16.01.030 Application of Regulations.
 - 16.01.040 Precedence of Regulations.
 - 16.01.050 Definitions.
 - 16.01.060 Water Waste Prohibitions.
 - 16.01.070 Stage 1: Water Shortage Alert.
 - 16.01.080 Stage 2: Water Shortage Warning.
 - 16.01.090 Stage 3: Water Shortage Emergency.
 - 16.01.100 Stage 4: Severe Water Shortage Emergency.
 - 16.01.110 Stage 5: Critical Water Shortage Emergency.
 - 16.01.120 Exceptions.
 - 16.01.130 Water Shortage Appeal Board.
 - 16.01.140 Administrative Enforcement.
 - 16.01.150 Additional Enforcement Authority.
 - 16.01.160 Severability.
- 16.01.010 FINDINGS.

WHEREAS, the City of Santa Cruz water system draws almost exclusively on local surface water sources, whose yield varies from year to year depending on the amount of rainfall received and runoff generated during the winter season; and

WHEREAS, the City water system is susceptible to water shortages in dry and critically dry years or in periods of prolonged regional drought when water conditions characterized by low surface flows in the north coast streams and San Lorenzo River sources, depleted storage in Newell Creek Reservoir, or both, reduce the available supply to a level that cannot support seasonal water demand; and

WHEREAS, on March 10, 2009, the City Council of the City of Santa Cruz adopted an updated Water Shortage Contingency Plan that describes how the City will respond to future water shortages and lists the various actions the City would take to reduce water demand under different water shortage scenarios ranging from 5 percent or less up to and including a 50 percent seasonal water supply deficiency; and

WHEREAS California Water Code sections 350 et seq. authorize water suppliers, after holding a properly noticed public hearing and after making certain findings, to declare a water shortage (emergency) and to adopt such regulations and restrictions to conserve the water supply for the greatest public benefit with particular regard for domestic use, sanitation, and fire protection; and

WHEREAS, the voluntary and mandatory water conservation measures and progressive restrictions on water use and method of use set forth herein provide an effective and immediately available means of conserving water which is essential during periods of water shortage to ensure a reliable and sustainable minimum supply of water for the public health, safety, and welfare and to preserve valuable limited reservoir storage, avoid depleting water storage to an unacceptably low level, and thereby lessen the possibility of experiencing more critical shortages if dry conditions continue or worsen; and

WHEREAS, the usage allotments hereinafter established will equitably spread the burden of restricted and prohibited usage in a manner prescribed by the City's Water Shortage Contingency Plan over all City Water Department customers and other consumers of City water; and

WHEREAS, the purposes of this chapter are to conserve the water supply of the City of Santa Cruz for the greatest public benefit, to mitigate the effects of a water supply shortage on public health and safety and economic activity, and to budget water use so that a reliable and sustainable minimum supply of water will be available for the most essential purposes for the entire duration of the water shortage.

16.01.020 DECLARATION OF WATER SHORTAGE.

The provisions of this chapter shall take effect whenever the Director, upon engineering analysis of City water supplies, finds and determines that a water shortage exists or is imminent within the City of Santa Cruz water service area and a declaration of a water shortage is made by a resolution of the City Council, and they shall remain in effect for the duration of the water shortage set forth in the resolution.

16.01.030 APPLICATION OF REGULATIONS.

The provisions of this chapter shall apply to all persons using or consuming water both inside and outside the City and within the City water service area, and regardless of whether any person using water shall have a contract for water service with the City.

ORDINANCE NO. 2010-12

16.01.040 PRECEDENCE OF REGULATIONS.

Where other provisions of the Municipal Code, whether enacted prior or subsequent to this chapter, are inconsistent with this the provisions of this chapter, the provisions of this chapter shall supersede and control for the duration of the water shortage set forth in the resolution of the City Council.

16.01.050 DEFINITIONS.

- (a) "Director" refers to the Director of the City of Santa Cruz Water Department.
- (b) "Water" refers to water produced and served by the City of Santa Cruz Water Department.
- (c) "City" refers to the City of Santa Cruz.
- (d) "Water Department" refers to the City of Santa Cruz Water Department.
- (e) "Seasonal water demand" refers to the demand, measured in gallons, placed by customers on the City water supply between April 1 and October 31 each calendar year.
- (f) "Issue"/"Declare". Whenever this chapter references the Director's issuance or declaration of an alert, warning, emergency, or regulation, said alert, warning, emergency or regulation shall be put into effect by the placement of a legal advertisement in a newspaper of general circulation, by a posting on the City's internet website and by a posting in the following public places: Santa Cruz City Hall, 809 Center Street, Santa Cruz; Santa Cruz Water Department Office, 212 Locust Street, Santa Cruz; Capitola City Hall, 420 Capitola Avenue, Capitola, and the Santa Cruz County Governmental Center, 701 Ocean Street, Santa Cruz. Any such alert, warning, emergency or regulation shall take effect upon the date of its publication in the Santa Cruz Sentinel.
- (g) "Customer" shall refer to any account customer of the City of Santa Cruz Water Department as well as to any consumer of City water who may not be City of Santa Cruz Water Department account customer.
- (h) "Dry Year" refers to the type of water year under the City's water year classification system, which begins October 1 and ends September 30, in which the total annual discharge of the San Lorenzo River at Felton measures between 29,000 and 49,000 acre-feet.
- (i) "Critically Dry Year" refers to the type of water year under the City's water year classification system, which begins October 1 and ends September 30, in which the total annual discharge of the San Lorenzo River at Felton measures less than 29,000 acre-feet.

16.01.060 WATER WASTE PROHIBITIONS.

It shall be unlawful during any water shortage stage for any person, firm, partnership, association, corporation, political entity (including the City) or any other Water Department customer to use water for any of the following:

- (a) Fire Hydrants. Use of water from any fire hydrant unless specifically authorized by permit from the City, except by regularly constituted fire protection agencies for fire suppression purposes, or for other authorized uses, including distribution system flushing, fire flow testing, and filling of approved vehicles for sewer system flushing, storm drain maintenance, and street sweeping purposes.
- (b) Watering/Irrigation. The watering of grass, lawn, groundcover, shrubbery, open ground, crops and trees, including agricultural irrigation, in a manner or to an extent that causes

or allows excessive water flow or runoff onto an adjoining sidewalk, driveway, street, gutter or ditch.

(c) Plumbing Leaks. The escape of water through leaks, breaks, or other malfunctions within the water user's plumbing or distribution system for any period of time after such break or leak should have reasonably been discovered and corrected. It shall be presumed that a period of twenty-four hours after the water user discovers such break, leak or malfunction, or receives notice from the City of such condition, whichever occurs first, is a reasonable time within which to correct such condition or to make arrangements for correction.

(d) Washing of Exterior Surfaces. The washing of sidewalks, walkways, driveways, parking lots, patios, or other exterior surfaces unless the hose is equipped with an automatic shutoff nozzle.

(e) Cleaning of Structures and Vehicles. The cleaning of building exteriors, mobile homes, cars, boats, and recreational vehicles unless the hose is equipped with an automatic shutoff nozzle.

(f) Fountains and Decorative Water Features. The operation of a water fountain or other decorative water feature that does not use re-circulated water.

(g) Commercial Car Washes. The washing of vehicles at a commercial car wash unless the facility utilizes water recycling equipment, or operates on a timer for a limited time period and shuts off automatically at the expiration of the time period.

(h) Construction. The use of potable water for dust control or soil compaction purposes in construction activities where there is a reasonably available source of reclaimed water appropriate for such use.

(i) The indiscriminate running of water or washing with water not otherwise prohibited in this section, which is wasteful, and without reasonable purpose.

16.01.070 STAGE 1: WATER SHORTAGE ALERT.

(a) The Director is empowered to issue a Water Shortage Alert and to enforce the water shortage restrictions in this Section upon finding that the magnitude of an anticipated water shortage, per the criteria delineated in the City's adopted Water Shortage Contingency Plan, will be five percent (5%) and a minimal consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water supply conditions. In a Stage 1 water shortage, the City will enforce the following water shortage restrictions with the objective of realizing a seasonal water demand reduction of 125 million gallons or an average daily water demand reduction of 600,000 gallons.

(b) During Stage 1, it shall be unlawful for any person, firm, partnership, association, corporation, political entity (including the City) or any other Water Department customer:

1. to water or irrigate lawn, landscape, or other vegetated area between the hours of 10:00 a.m. and 5:00 p.m., except when performed with a bucket or watering can, or by use of a drip irrigation system or similar low-volume, non-spray irrigation equipment, or for very short periods of time for the express purpose of allowing landscape contractors to adjust or repair an irrigation system;

2. to use a hose that is not equipped with a shut off nozzle;

3. to use potable water to wash down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking lots, tennis courts, patios, or other paved surfaces, except when it is necessary to alleviate safety or sanitation hazards or to prepare paved surfaces for sealing;

4. to initially fill or to drain and refill residential swimming pools;
5. to serve water in a restaurant or other commercial food service establishment except upon the request of a patron; and/or
6. to operate a hotel, motel or other commercial lodging establishment without offering patrons the option to forego the daily laundering of towels, sheets and linens.

16.01.080 STAGE 2: WATER SHORTAGE WARNING.

(a) The Director is empowered to issue a Water Shortage Warning and to enforce the water shortage restrictions in this Section upon finding that the magnitude of an anticipated water shortage, per the criteria delineated in the City's adopted Water Shortage Contingency Plan, will be between five percent (5%) and fifteen percent (15%) and a moderate consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water supply conditions. In a Stage 2 water shortage, the City will enforce the following water shortage restrictions with the objective of realizing a seasonal water demand reduction of up to 375 million gallons and an average daily water demand reduction of up to 1.8 million gallons.

(b) During Stage 2, it shall be unlawful for any person, firm, partnership, association, corporation, political body (including the City) or other Water Department customer:

1. to water or irrigate lawn, landscape, or other vegetated area between the hours of 10:00 a.m. and 5:00 p.m., except when performed with a bucket or watering can, or by use of a drip irrigation system or similar low-volume, non-spray irrigation equipment, or for very short periods of time for the express purpose of allowing landscape contractors to adjust or repair an irrigation system;
2. to use a hose that is not equipped with a shut off nozzle;
3. to use potable water to wash down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking lots, tennis courts, patios, or other paved surfaces, except when it is necessary to alleviate safety or sanitation hazards or to prepare paved surfaces for sealing;
4. to initially fill or to drain and refill residential swimming pools;
5. to serve water in a restaurant or other commercial food service establishment except upon the request of a patron;
6. to operate a hotel, motel or other commercial lodging establishment without offering patrons the option to forego the daily laundering of towels, sheets and linens;
7. to water or irrigate lawn, landscape, or other vegetated area on days of the week other than the two days of the week authorized and publicized by the Director, except when performed with a bucket or watering can, or by use of a drip irrigation system or similar low-volume, non-spray irrigation equipment, or for very short periods of time for the express purpose of allowing landscape contractors to adjust or repair an irrigation system. Hourly restrictions set forth in subsection (1) above continue to apply on authorized watering days. This provision shall not apply to commercial growers/nurseries or to residential vegetable gardens/edible plantings watered with a hose equipped with a shut off nozzle;
8. to water or irrigate lawn, landscape, or other vegetated area using an automatic irrigation system for more than fifteen minutes per watering station per assigned day. This provision shall not apply to automatic irrigation systems exclusively using low output sprinkler equipment, including rotors, stream rotors, or micro-spray systems;
9. to wash the exterior of dwellings, buildings or structures (with the exception of window washing and preparation of property for painting or for sale);

10. to irrigate or water landscapes in a manner that conflicts with a customer's landscape irrigation water budget when such a budget is required by the Director per the criteria delineated in the City's adopted Water Shortage Contingency Plan; and/or

11. to disobey Water Department direction to large commercial, industrial or irrigation customers using 1,337 or more billing units (one million gallons) per year to conduct water use audits, to prepare water conservation plans and to submit progress reports, or to immediately repair water system leaks, including leaks attributable to faulty pipes or fixtures.

16.01.090 STAGE 3: WATER SHORTAGE EMERGENCY.

(a) The Director is empowered to declare a Water Shortage Emergency and to enforce the water shortage restrictions in this Section upon finding that the magnitude of an anticipated water shortage, per the criteria delineated in the City's adopted Water Shortage Contingency Plan, will be between fifteen percent (15%) and twenty five percent (25%) and a significant consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water supply conditions. In a Stage 3 water shortage, the City will enforce the following water shortage restrictions with the objective of realizing a seasonal water demand reduction of up to 625 million gallons and an average daily water demand reduction of up to 3.0 million gallons.

(b) During Stage 3, it shall be unlawful for any person, firm, partnership, association, corporation, political body (including the City) or other Water Department customer:

1. to water or irrigate lawn, landscape, or other vegetated area between the hours of 10:00 a.m. and 5:00 p.m., except when performed with a bucket or watering can, or by use of a drip irrigation system or similar low-volume, non-spray irrigation equipment, or for very short periods of time for the express purpose of allowing landscape contractors to adjust or repair an irrigation system;

2. to use a hose that is not equipped with a shut off nozzle;

3. to use potable water to wash down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking lots, tennis courts, patios, or other paved surfaces, except when it is necessary to alleviate safety or sanitation hazards or to prepare paved surfaces for sealing;

4. to initially fill or to drain and refill any swimming pools, outdoor spas, wading pools, and ornamental water features;

5. to serve water in a restaurant or other commercial food service establishment except upon the request of a patron;

6. to operate a hotel, motel or other commercial lodging establishment without offering patrons the option to forego the daily laundering of towels, sheets and linens;

7. to water or irrigate lawn, landscape, or other vegetated area on days of the week other than the specified day(s) of the week authorized and publicized by the Director, except when performed with a bucket or watering can, or by use of a drip irrigation system or similar low-volume, non-spray irrigation equipment, or for very short periods of time for the express purpose of allowing landscape contractors to adjust or repair an irrigation system. Hourly restrictions set forth in subsection (1) above continue to apply on authorized watering days. This provision shall not apply to commercial growers/nurseries or to residential vegetable gardens/edible plantings watered with a hose equipped with a shut off nozzle;

8. to water or irrigate lawn, landscape, or other vegetated area using an automatic irrigation system for more than ten minutes per watering station per assigned day. This

provision shall not apply to automatic irrigation systems exclusively using low output sprinkler equipment, including rotors, stream rotors, or micro-spray systems;

9. to wash the exterior of dwellings, buildings or structures (with the exception of window washing and preparation of property for painting or for sale);
10. to irrigate or water landscapes in a manner that conflicts with a customer's landscape irrigation water budget when such a budget is required by the Director per the criteria delineated in the City's adopted Water Shortage Contingency Plan; and/or
11. to disobey Water Department direction to large commercial, industrial or irrigation customers using 1,337 or more billing units (one million gallons) per year to conduct water use audits, to prepare water conservation plans and to submit progress reports, or to immediately repair water system leaks, including leaks attributable to faulty pipes or fixtures;
12. to violate residential customer water rationing regulations, including regulations intended to preclude excessive water usage and specifying maximum water usage limitations, issued by the Director in accordance with guidelines set forth in the City's' adopted Water Shortage Contingency Plan; and/or
13. to disobey Water Department directives issued to commercial customers requiring the prominent placement of "Save Water" signage at specified locations at the customer's premises.

16.01.100 STAGE 4: SEVERE WATER SHORTAGE EMERGENCY.

(a) The Director is empowered to declare a Severe Water Shortage Emergency and to enforce the water shortage restrictions in this Section upon finding that the magnitude of an anticipated water shortage, per the criteria delineated in the City's adopted Water Shortage Contingency Plan, will be between twenty five percent (25%) and thirty five percent (35%) and an extraordinary consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water supply conditions. In a Stage 4 water shortage, the City will enforce the following water shortage restrictions with the objective of realizing a seasonal water demand reduction of up to 875 million gallons and an average daily water demand reduction of up to 4.2 million gallons.

(b) During Stage 4, it shall be unlawful for any person, firm, partnership, association, corporation, political body (including the City) or other Water Department customer:

1. to water or irrigate landscape or other vegetated area between the hours of 10:00 a.m. and 5:00 p.m., except when performed with a bucket or watering can, or by use of a drip irrigation system or similar low-volume, non-spray irrigation equipment, or for very short periods of time for the express purpose of allowing landscape contractors to adjust or repair an irrigation system;
2. to use a hose that is not equipped with a shut off nozzle;
3. to use potable water to wash down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking lots, tennis courts, patios, or other paved surfaces, except when it is necessary to alleviate safety or sanitation hazards or to prepare paved surfaces for sealing;
4. to fill or to top off any swimming pools, outdoor spas, wading pools, and ornamental water features;
5. to serve water in a restaurant or other commercial food service establishment except upon the request of a patron;

6. to operate a hotel, motel or other commercial lodging establishment without offering patrons the option to forego the daily laundering of towels, sheets and linens;

7. to water or irrigate landscape or other vegetated area on days of the week other than the specified day(s) of the week authorized and publicized by the Director, except when performed with a bucket or watering can, or by use of a drip irrigation system or similar low-volume, non-spray irrigation equipment, or for very short periods of time for the express purpose of allowing landscape contractors to adjust or repair an irrigation system. Hourly restrictions set forth in subsection (1) above continue to apply on authorized watering days. This provision shall not apply to commercial growers/nurseries or to residential vegetable gardens/edible plantings watered with a hose equipped with a shut off nozzle;

8. to water landscapes using automatic irrigation systems for more than ten minutes per watering station per assigned day. This provision does not apply to automatic irrigation systems using water efficient devices, including but not limited to weather-based controllers, drip/micro-irrigation systems and stream rotor sprinklers.

9. to wash the exterior of dwellings, buildings or structures (with the exception of window washing and preparation of property for painting or for sale);

10. to irrigate or water landscapes in a manner that conflicts with a customer's landscape irrigation water budget when such a budget is required by the Director per the criteria delineated in the City's adopted Water Shortage Contingency Plan; and/or

11. to disobey Water Department direction to large commercial, industrial or irrigation customers using 1,337 or more billing units (one million gallons) per year to conduct water use audits, to prepare water conservation plans and to submit progress reports, or to immediately repair water system leaks, including leaks attributable to faulty pipes or fixtures;

12. to violate residential customer water rationing regulations, including regulations intended to preclude excessive water usage and specifying maximum water usage limitations, issued by the Director in accordance with guidelines set forth in the City's adopted Water Shortage Contingency Plan;

13. to disobey Water Department directives issued to commercial customers requiring the prominent placement of "Save Water" signage at specified locations at the customer's premises;

14. to violate commercial customer water rationing regulations, including regulations intended to preclude excessive water usage and specifying maximum water usage limitations, issued by the Director in accordance with guidelines set forth in the City's adopted Water Shortage Contingency Plan;

15. to disobey a Water Department order to customers identified as "dedicated irrigation accounts" directing those customers to further limit their landscape irrigation and watering activity so as to preserve only the customers' most valuable trees and plants;

16. to water lawns or turf, unless such watering is authorized by the Director in accordance with a landscape irrigation water budget and is consistent with the guidelines set forth in the City's adopted Water Shortage Contingency Plan;

17. to install new landscaping which requires any irrigation or watering;

18. to wash or clean vehicles, including but not limited to automobile, truck, van, bus, motorcycle, boat, or trailer including the washing of fleet vehicles and the washing of vehicles on dealer lots. This restriction will not apply to commercial car wash businesses which use recycled water; and/or

19. to exercise any rights conferred by hydrant and bulk water permits that were issued prior to the Severe Water Shortage Emergency declaration absent special permission

granted by the Director. Said special permission may be granted only for projects necessary to protect the public health, safety and welfare where no alternative to potable water exists and for emergency response purposes.

16.01.110 STAGE 5: CRITICAL WATER SHORTAGE EMERGENCY.

(a) The Director is empowered to declare a Critical Water Shortage Emergency and to enforce the water shortage restrictions in this Section upon finding that the magnitude of an anticipated water shortage, per the criteria delineated in the City's adopted Water Shortage Contingency Plan, shall be between thirty five percent (35%) and fifty percent (50%) and an extreme consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water supply conditions. In a Stage 5 water shortage, the City will enforce the following water shortage restrictions with the objective of realizing a seasonal water demand reduction of up to 1,250 million gallons and an average daily water demand reduction of up to 6.0 million gallons.

(b) During Stage 5, it is unlawful for any person, firm, partnership, association, corporation, political body (including the City) or other Water Department customer:

1. to water or irrigate any outdoor landscaping, unless such watering is authorized by the Director and is consistent with the guidelines set forth in the City's adopted Water Shortage Contingency Plan;
2. to use a hose that is not equipped with a shut off nozzle;
3. to use water for any outdoor washing purpose including commercial car washing, window washing, and paint preparation;
4. to fill or to top off any swimming pools, outdoor spas, wading pools, and ornamental water features;
5. to serve water in a restaurant or other commercial food service establishment except upon the request of a patron;
6. to operate a hotel, motel or other commercial lodging establishment without offering patrons the option to forego the daily laundering of towels, sheets and linens;
7. to use water for recreational purposes;
8. to operate public swimming pools;
9. to operate public showers;
10. to disobey Water Department direction to large commercial, industrial or irrigation customers using 1,337 or more billing units (one million gallons) per year to conduct water use audits, to prepare water conservation plans and to submit progress reports, or to immediately repair water system leaks, including leaks attributable to faulty pipes or fixtures;
11. to violate residential customer water rationing regulations, including regulations intended to preclude excessive water usage and specifying maximum water usage limitations, issued by the Director in accordance with guidelines set forth in the City's adopted Water Shortage Contingency Plan;
12. to violate commercial customer water rationing regulations, including regulations intended to preclude excessive water usage and specifying maximum water usage limitations, issued by the Director in accordance with guidelines set forth in the City's December 2008 Water Shortage Contingency Plan;
13. to disobey Water Department directives issued to commercial customers requiring the prominent placement of "Save Water" signage at specified locations at the customer's premises;

14. to install new landscaping which requires any irrigation or watering;
and/or

15. to exercise any rights conferred by hydrant and bulk water permits that were issued prior to the Critical Water Shortage Emergency declaration absent special permission granted by the Director. Said special permission may be granted only for projects necessary to protect the public health, safety and welfare where no alternative to potable water exists and for emergency response purposes.

16.01.120 EXCEPTIONS.

(a) The Director, upon application made in writing by a customer on a form promulgated by the Water Department and accompanied by supporting documentation, shall be authorized to issue an exception from the strict application of any restriction, regulation or prohibition enforced pursuant to this chapter, upon the customer's production of substantial evidence demonstrating the existence of one or more of the following circumstances that are particular to that customer and which are not generally shared by other Water Department customers:

1. Failure to approve the requested exception would cause a condition having an adverse effect on the health, sanitation, fire protection, or safety of the customer or members of the public served by the customer;

2. Strict application of the subject restriction, regulation or prohibition would impose a severe or undue hardship on a particular business customer or render it infeasible for a particular business customer or class of business customers to remain in operation;

3. Alternative restrictions to which the customer is willing to adhere are available that would achieve the same level of demand reduction as the restriction for which an exception is being sought and such alternative restrictions are enforceable by the Water Department;

4. Circumstances concerning the customer's property or business have changed since the implementation of the subject restriction warranting a change in the customer's water usage allocation; or

5. A hospital or health care facility customer using industry best management practices is eligible for an exception upon demonstrating that the subject restriction, regulation or prohibition is interfering with or preventing it from providing health care service to its customers in accordance with industry hygiene, sanitation and health care standards.

6. A business customer has already implemented environmental sustainability measures that have reduced water consumption to the maximum extent feasible. As used in this subsection the term "environmental sustainability measures" refers to installation of high efficiency plumbing fixtures, devices, equipment, and appliances, recycled water systems, and landscaping consisting exclusively of low water using plant materials using drip or similar high efficiency, non-spray irrigation systems, or to buildings that are designed, built, and continuously operated according to Leadership in Energy and Environmental Design (LEED) certification standards.

(b) In order to qualify for an exception, a customer must first complete a self water audit pursuant to standards and procedures promulgated by the Water Department. This audit shall be made part of the customer's exception application and water conservation measures indicated by the audit may be incorporated as conditions of approval to an exception in addition

to any other conditions of approval imposed by the Director in connection with the Director's approval of the customer's exception application.

16.01.130 WATER SHORTAGE APPEAL BOARD.

(a) A Water Shortage Appeal Board is hereby established and shall be eligible to convene upon the Director's issuance of any water shortage declaration and the implementation of water shortage restrictions pursuant to Sections 16.010.070 through 16.01.110. Thereafter the Water Shortage Appeal Board will remain available to convene for as long as the water shortage remains in effect.

(b) Under water shortage Stages 1 and 2, the Water Shortage Appeal Board will be comprised of members of the City Water Commission. Under water shortage Stages 3, 4, and 5, the Water Shortage Appeal Board will be appointed by City Council and will be comprised of one member of the Water Commission, one business customer, one landscape industry customer, one residential customer, and two at-large members who reside within the City's water service area.

(c) Any customer who considers an action taken by the Director or an enforcement official under the provisions of this chapter, including actions on exception applications and the assessment of administrative penalties, to have been erroneously taken or issued, may appeal that action or penalty to the Water Shortage Appeal Board in the following manner:

1. The appeal shall be made in writing, shall state the nature of the appeal specifying the action or penalty that is being appealed and the basis upon which the action or penalty is alleged to be in error. Penalty appeals shall include a copy of the Notice of Violation;

2. An appeal, to be effective, must be received by the Director not later than ten (10) business days following the date of the Notice of Violation or the date that the Director took the action which is the subject to the appeal;

(A) A water service resident who is not an account customer may notify the Water Department of his or her intention to file a petition to force the resident's account customer to appeal an excess water use penalty within ten (10) business days following the penalty;

(B) If the Water Department has been given a notice of intention to file a petition per subsection 2(A) by a water service area resident who is not an account customer, the appeal from the account customer must be received within fifteen (15) business days after the account customer has been petitioned by the resident.

3. The Director shall schedule the appeal for consideration by the Water Shortage Appeal Board at a Water Shortage Appeal Board meeting. The Water Shortage Appeal Board shall hear the appeal within 90 days of the date of the appeal and issue its decision within 30 days of the date of the hearing.

4. The decision of the Water Shortage Appeal Board shall be final. In ruling on appeals, the Water Shortage Appeal Board shall strictly apply the provisions of this chapter, and shall not impose or grant terms and conditions not authorized by this chapter.

(d) The Chair of the Water Shortage Appeal Board shall have the discretion to divide the Board into two-three member hearing panels. Each hearing panel shall have the same authority to hear and rule upon appeals as the entire Water Shortage Appeal Board. A hearing panel shall have no more than one at-large appointee as a member. The decision of any hearing panel shall be final.

16.01.140 ADMINISTRATIVE ENFORCEMENT.

(a) Any person firm, partnership, association, corporation, political entity or other Water Department customer violating any provision of this chapter may be assessed an administrative penalty.

(b) Each and every day a violation of this chapter exists constitutes a separate and distinct offense for which an administrative penalty may be assessed.

(c) Penalties. The purpose of the administrative penalties assessed pursuant to this Section is to assure future chapter compliance by the cited customer through the imposition of increasingly significant penalties so as to create a meaningful disincentive to commit future chapter violations. In acknowledgment of the fact that the City's water is a scarce and irreplaceable commodity and that this chapter is intended to equitably distribute that commodity among Water Department customers and to assure that, to the extent feasible, City water is conserved and used only for purposes deemed necessary for public health and safety, the penalty schedule herein prescribed is not to be construed as creating a "water pricing" structure pursuant to which customers may elect to pay for additional water at significantly higher rates. To this end, a customer's repeated violation of the chapter shall result in either the installation of a flow restriction device or disconnection of the customer's property from the City's water service system at the customer's cost.

(d) Administrative penalties for failure to comply with water waste prohibitions requirements in Section 16.01.060 or mandatory water use restrictions and regulations commencing with Stage 1 in Section 6 are as follows:

1. First Offense: Written notice of violation and opportunity to correct violation.
2. Second Offense: A second violation within the preceding twelve (12) calendar months is punishable by a fine not to exceed one hundred dollars (\$100).
3. Third Offense: A third violation within the preceding twelve (12) calendar months is punishable by a fine not to exceed two hundred fifty dollars (\$250).
4. Fourth Offense: A fourth violation within the preceding twelve (12) calendar months is punishable by a fine not to exceed five hundred dollars (\$500). In addition to any fines, the Director may order a water flow restrictor device be installed.
5. Large customers. Administrative penalties for customers that use an average of 1,337 billing units (one million gallons) or more per calendar year shall be triple the amounts listed above.
6. Discontinuing Service. In addition to any fines and the installation of a water flow restrictor, the Director may disconnect a customer's water service for willful violations of mandatory restrictions and regulations in this chapter. Upon disconnection of water service, a written notice shall be served upon the customer which shall state the time, place, and general description of the prohibited or restricted activity and the method by which reconnection can be made.

(e) Excessive Water Use Penalties. An excessive use penalty shall be assessed where the customer, during any given billing cycle, uses more than the customer's water allotment per the Director's water rationing regulations issued pursuant to this chapter commencing with Stage 3 in Section 16.01.090. Excess use penalties shall be in addition to ordinary water consumption charges, as follows:

1. 1% to 10% over customer rationing allotment: \$25.00/CCF
2. More than 10% over customer rationing allotment: \$50.00/CCF

3. In addition to any excess use penalties, the Director may order a water flow restrictor device be installed and/or may disconnect a customer's water service for willful violations of the water rationing regulations in this chapter. Upon disconnection of water service, a written notice shall be served upon the customer which shall state the time, place, and general description the prohibited or restricted activity and the method by which reconnection can be made.

(f) Cost of Flow Restrictor and Disconnecting Service: A person or entity that violates this chapter is responsible for payment of charges for installing and/or removing any flow restricting device and for disconnecting and/or reconnecting service in accordance with the City's Miscellaneous Water Service Fee Resolution then in effect. The charge for installing and/or removing any flow restricting device must be paid before the device is removed. Nonpayment will be subject to the same remedies as nonpayment of basic water rates.

(g) Notice and Hearing. The Director will issue a Notice of Violation by mail or personal delivery at least ten (10) business days before taking any enforcement action described in subsection 13D. Such notice must describe the violation and the date by which corrective action must be taken. A customer may appeal the Notice of Violation by filing a written notice of appeal with the City no later than the close of business day before the date scheduled for enforcement action accompanied by a \$25 appeal fee. Any Notice of Violation not timely appealed will be final. Upon receipt of a timely appeal, a hearing on the appeal will be scheduled, and the City will mail written notice of the hearing date to the customer at least ten (10) days before the date of the hearing. Pending receipt of a written appeal or pending a hearing pursuant to an appeal, the Director may take appropriate steps to prevent the unauthorized use of water as appropriate to the nature and extent of the violation and the current declared water shortage condition.

16.01.150 ADDITIONAL ENFORCEMENT AUTHORITY.

In addition to the remedies referenced above, the Director is empowered to pursue any additional remedies necessary, including criminal, civil and administrative remedies listed in Title 4 of the Santa Cruz Municipal Code, to correct a violation of this chapter.

16.01.160 SEVERABILITY.

If any portion of this chapter is held to be unconstitutional, it is the intent of the City Council that such portion of the chapter be severable from the remainder and that the remainder be given full force and effect."

SECTION 3: This ordinance shall take effect 30 days after final adoption.

ORDINANCE NO. 2010-12

PASSED FOR PUBLICATION this 25th day of May, 2010, by the following vote:

AYES: Councilmembers Lane, Beiers, Madrigal, Robinson; Mayor Rotkin.

NOES: None.

ABSENT: Councilmember Mathews, Vice Mayor Coonerty.

DISQUALIFIED: None.

APPROVED: ss/Mike Rotkin
Mayor

ATTEST: ss/Lorrie Brewer
City Clerk

PASSED FOR FINAL ADOPTION on this 8th day of June, 2010, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk

This is to certify that the above and foregoing document is the original of Ordinance No. 2010-12 and that it has been published or posted in accordance with the Charter of the City of Santa Cruz.

City Clerk



CITY COUNCIL AGENDA REPORT

DATE: 5/24/2010

AGENDA OF: 6/8/2010

DEPARTMENT: Finance

SUBJECT: Parking and Business Improvement Area Assessments for FY 2011. (FN)

RECOMMENDATION: Resolution adopting the FY 2011 Parking and Business Improvement Area annual plan and levying the business improvement assessments for FY 2011.

BACKGROUND: N/A.

DISCUSSION: At its May 11, 2010 meeting, the City Council approved the report prepared by the Downtown Association for FY 2011. In addition, the City Council adopted a resolution stating its intention to levy business improvement assessments for FY 2011, and scheduled a public hearing for June 8, 2010, in accordance with state law.

At the June 8, 2010 public hearing, written and oral protests, if any, may be made in accordance with State Streets & Highways Code Sections 36524 and 36525, regarding the levy of the business improvement assessments. The Downtown Association's plan proposes no change in the assessment area for FY 2011; however, the per square foot rate of the assessment will increase from \$0.31 to \$0.32 based on the Consumer Price Index adjustment provided for in the assessment formula.

At the conclusion of the public hearing, absent of a majority protest, staff recommends that Council adopt a resolution confirming the Downtown Association's plan. The resolution shall also constitute a levy of business improvement assessments for FY 2011.

FISCAL IMPACT: There is no fiscal impact to the City. Revenues collected from the assessment are turned over to the Downtown Association to be spent for promotional activities in the Parking and Business Improvement Area.

Prepared by:
Raymond Chin
Finance Manager

Submitted by:
Jack Dilles
Finance Director

Approved by:
Richard C. Wilson
City Manager

ATTACHMENTS: Resolution

RESOLUTION NO. NS-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ
CONFIRMING THE FY 2011 PARKING AND BUSINESS
IMPROVEMENT AREA ANNUAL PLAN, AND LEVYING BUSINESS
IMPROVEMENT ASSESSMENTS FOR FY 2011

WHEREAS, the Downtown Association has prepared a report to the City of Santa Cruz for FY 2011 pertaining to the Parking and Business Improvement Area assessments for the Downtown Parking and Business Improvement Area under California Streets and Highways Code §36533; and

WHEREAS, that report was filed with the City Clerk; and

WHEREAS, the City Council on May 11, 2010, adopted Resolution No. NS-28,203 stating its intention to levy business improvement assessments for FY 2011; and

WHEREAS, pursuant to City Council's May 11, 2010, Resolution of Intention, the City Council on June 8, 2010, in accordance with California Streets and Highways Code §§36535 and 36541, held a public hearing as provided for in Streets and Highways §§36524 and 36525, at which time it considered the annual report and the levy of business improvement assessments for FY 2011; and

WHEREAS, at said public hearing, the City Council considered all protests to the annual levy of the business improvement assessments; and

WHEREAS, oral or written protests accounted for a total of _____% of the total proposed assessment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Cruz as follows:

1. The FY 2011 Downtown Parking and Business Improvement Area Annual Plan filed by the Downtown Association of Santa Cruz with the City Clerk, is hereby confirmed by the City Council.

2. The City Council hereby finds that the formula for assessment established pursuant to Santa Cruz Municipal Code §5.05.040 is a reasonable estimate of the benefits derived by the categories of business classified therein. The City Council finds said businesses derive substantial benefit from the improvements and promotional events funded by the assessment, which make the business improvement zone a cleaner, safer, more enjoyable and more economically viable place to conduct business. The formula contained at §5.05.040 is hereby found to constitute a reasonable means of allocating said estimated benefit, by taking into account: (1) the type of business operation; (2) the location and; (3) the size of the operation.

RESOLUTION NO. NS-

3. The adoption of the resolution shall constitute FY 2011 levy of assessment provided for in Chapter 5.05 of the Santa Cruz Municipal Code pertaining to downtown parking and business improvement area zones and rate of business promotion assessments.

PASSED AND ADOPTED this 8th day of June, 2010, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk



REDEVELOPMENT AGENCY AGENDA REPORT

DATE: 6/2/2010

AGENDA OF: 6/8/2010

DEPARTMENT: Economic Development

SUBJECT: Tannery Arts Center – Digital Media Center - Phase Two – Bid Protest.
(ED)

RECOMMENDATION: Motion to deny/overrule the bid protest received on May 17, 2010 from Carpenters Union Local 505 concerning the Notice of Intent to Award the contract for the Tannery Arts Center – Digital Media Center - Phase Two to Douglas Ross Construction, Inc. (Palo Alto, CA) in the amount of \$4,247,098 and direct the Executive Director to proceed with the award of the contract to the lowest bidder, Douglas Ross Construction, Inc.

BACKGROUND: On September 22, 2009 the Agency received notice that it had been awarded a \$4,766,250 grant from the U.S. Department of Commerce, Economic Development Administration (EDA) to fund the renovation the historic Salz Tannery's Tanyard Building and Beam House for their reuse as a Digital Media Center. The specific funding awarded by EDA was through the American Recovery and Reinvestment Act (ARRA) which was passed last year by Congress to help stimulate the US economy. The ARRA funding has a number of very specific requirements, including the requirement that construction on the renovation of the Tanyard Building and Beam House begin within 120 days of the grant award, by January 21, 2010.

In recognition of the limited time within which to initiate construction on this project, the Agency at its September 9, 2009 meeting granted the Executive Director authority, upon approval of necessary documents by the City Attorney, to solicit bids and award the contracts necessary to initiate construction by January 21, 2010. To meet the ARRA time requirements, EDA allowed the Agency to phase the work on the project. Phase One of the project is the construction of the required parking lot at the north end of the Tannery property. The Notice to Proceed on Phase One was issued on January 15, 2010, meeting the ARRA start date requirement, and construction on Phase One is currently underway.

Phase Two is the renovation of the Tanyard Building and the Beam House. Bids for Phase Two were advertised during the period of March 11 to April 15, 2010. The bid opening was conducted on April 15, 2010 and four firms submitted bids. The bids ranged from \$4,247,098 to \$5,191,260 with the project cost estimate of \$5,935,380. The low bid was from Douglas Ross Construction, Inc. (DRC). Staff subsequently conducted background checks on DRC and, based upon positive feedback on its performance elsewhere, issued the Notice of Intent to Award the Phase Two contract to DRC on May 10, 2010.

On May 17, 2010 the City Clerk received a letter from the Carpenters Union Local 505 protesting the Notice of Intent to Award the contract to DRC (attached).

DISCUSSION: The Phase Two Project Manual and Specifications states that in case of a bid protest, the Agency shall follow the procedure set forth in the Santa Cruz Municipal Code §3.08.250. This section states:

“Any contractor who unsuccessfully bids on a city contract awarded by the city council in accordance with the provisions of this chapter or any trade association representing workers who would have potentially been employed by such a contractor may file a protest. The bid protest shall be in writing and filed with the city clerk within five (5) days of the date of the city’s written notice of intention to award the bid. The city council shall hear the bid protest prior to adopting a resolution authorizing the city manager’s execution of the contract. The protesting party may protest the bid award for the city’s or successful bidder’s failure to comply with the requirements of this chapter, the bid documents, or any other applicable provision of this code. The bid protest shall clearly set forth the basis for the bid protest. Grounds not set forth in the written protest may not be considered by the city council at the bid protest hearing. The city council shall sustain a bid protest if the protesting party demonstrates by clear and convincing evidence that, as specified above, the city would act improperly in awarding the bid.”

To summarize the Carpenters Union's protest:

1. The Project Manual and Specifications require that the general contractor perform a minimum of 20% of the work with its own forces. DRC showed George H. Wilson, Mechanical Contractor, as the subcontractor performing sheet metal work, and listed the firm as performing "3 9%" of work, with a decimal point not evident. The protest contends that this listing creates the potential for an interpretation of this percentage of work to be 39%, which would mean that DRC was not performing enough of the work itself. When reviewing this matter Staff concluded that the missing decimal point was likely a typographical error that gave the bidder no competitive advantage, and is a non-material deviation that the Agency can waive.
2. The union contends that awarding the contract to DRC would not be in the Agency's best interest, based on the low amount of DRC's bid. It is argued that the low bid – some \$636,074 lower than the next bid - creates the potential for excessive change orders, project delays and other issues. Staff has gone through the Agency's routine post-bid interview process with DRC. As part of that process, the apparent low bidder certifies, in writing, that its bid includes the entire scope of work and that it takes no exception to the contract documents. This process provides a level of protection for the Agency in the event of any future disputes with the contractor regarding scope or cost. The union has not offered any documents or other facts to support its position, and this is not a valid basis for rejecting Ross's bid.
3. The union contends that the electrical subcontractor DRC listed, Lasco Electric, is debarred from bidding on public contracts at this time based on a Department of Industrial Relations (DIR) debarment order issued in October 2009 against an entity the union believes to be related to Lasco. Listing a subcontractor that is ineligible to perform work on the project does not affect the general contractor's bid. If Lasco is in fact debarred, DRC cannot have them perform work on the project and will have to substitute another subcontractor in place of Lasco.

The legal firm of Leonidou & Rosin, on behalf of Douglas Ross Construction, has filed the a response to the bid protest filed by the Carpenters Union (attached). In the response, two points are raised which require further discussion below.

1. The response on behalf of DRC does not directly discuss the contention in the bid protest that Lasco Electric and S J Ciminio Construction, Inc. have a common officer and that Lasco Electric is, therefore, debarred from public contracts. In fact, S.J. Cimino Electric, Inc. and Savatore Joseph Cimino are debarred but neither Lisa Cimino nor Lasco Electric have been debarred and, therefore, they are still able to accept work on public contracts.

2. A second point raised by the response on behalf of DRC is a cited court case that interprets Federal law in a manner which would not allow a non-bidder (the Carpenters Union) to file a bid protest. The Federal regulations which govern Federal grants specifically reference the use of local procedures in terms of the processing of bid protests. In light of the relevant Federal regulations, the City of Santa Cruz Municipal Code Section referenced above applies to this bid protest process. Therefore, the bid protest by Carpenter Local 505 is a permitted bid protest.

In summary, the May 17, 2010 bid protest letter submitted by the Carpenters Union Local 5050 fails to cite a clear basis upon which the Agency may sustain the bid protest. It is staff's recommendation that the bid protest be denied/overruled and the Executive Director be directed to proceed with the award of the contract to the lowest bidder, Douglas Ross Construction, Inc.

FISCAL IMPACT: The total cost of the contract is \$4,247,098 with the funding awarded through grants from the Federal Economic Development Administration through the American Recovery and Reinvestment Act and the California Cultural and Historical Endowment. Funds have been appropriated in the Agency's FY 10 budget for this purpose.

Prepared by:
Joe H. Hall
Project Manager

Submitted by:
Bonnie Lipscomb
Agency Executive Director

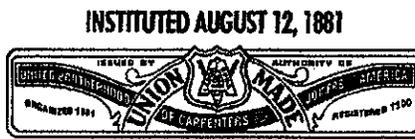
Approved by:
Richard C. Wilson
City Manager

ATTACHMENTS:

Letter from Carpenters Union Local, 505, dated May 17, 2010

Letter from Leonidou & Rosin on behalf of Martin Ross Construction, dated May 24, 2010

Local Union 505
 County of Santa Cruz
 (831) 688-5025



225 Searidge Road
 Aptos, CA 95003
 F(831) 688-5027

ALWAYS DEMAND THE LABEL

May 17, 2010

RECEIVED

Lorrie Brewer, City Clerk
 City of Santa Cruz
 809 Center Street, Room 9
 Santa Cruz, California 95060

MAY 17 2010
 CITY CLERK'S OFFICE
 1:40 p.m.

Attn: Board of Directors of the Redevelopment Agency of the City of Santa Cruz

Re: Contract proposal for Tannery Arts Digital Media Center Ph2 (DR177409)
 1040 River St.
 Santa Cruz, CA 95060

Bid Date: April 15, 2010

Subject: Protest of Douglas Ross Construction, Inc. Bid

Dear Members of the Board;

I am writing on behalf of the Carpenters Union Local 505 of Santa Cruz County representing working carpenters in the City and County of Santa Cruz. In addition to our other roles, our organization monitors bidding for local construction projects to help ensure that taxpayers get the best value for their tax dollars; that fair and open competitive bidding practices are utilized; and that public works construction projects are carried out by responsible contractors.

We have reviewed the bids on the above-named project and request that the Board reject the bid from Douglas Ross Construction, Inc. ("Ross") on the following basis:

- a. The List of Subcontractors submitted with the Ross bid includes a column calling for the percentage of work to be performed by each subcontractor. Corresponding to the "Sheet Metal" portion of work the bid lists "3 9%". Although many of the other of the subcontractor percentages contain decimal points, this listing clearly does not include a decimal point. This listing "3 9%" is very likely a typographical error, however there is no way, from the Ross bid documents alone, the awarding body can determine what was intended. Did Ross intend to type "39%" and simply added an additional space when the percentage was typed; or did Ross intend to type "3.9%" and simply failed to include the decimal point when typing the amount?
- b. This typographical figure, "3 9%", provides Ross with two options.
 1. Ross could maintain that their intention was to type "3.9%" and that omitting the decimal point was merely a typographical error. However such a typographical error would provide Ross the **option** to withdraw its bid under section 5103 of the Public Contract Code without forfeiting its bid bond. This option, whether or not desired or acted upon, provides Ross the opportunity to view the other bids and potentially decide its bid was too low and seek to withdraw its bid without forfeiting its bid bond. This option constitutes an economic advantage not

available to other bidders who did not make errors and who, if they withdrew their bids, would be subject to forfeiture of their bid bonds. When an error provides a bidder with an economic advantage not available to bidders that did not make errors, the awarding body cannot forgive or excuse the error and the bid must be rejected.

2. Ross could maintain that their intention was to type "39%" and that the extra space between the two numbers does not alter the value typed and is therefore not a typographical error. We would concur with the assertion that there is no difference between "3 9%" and "39%". However, if the percentage of work performed by the Sheet Metal subcontractor is 39%, then the total amount of work performed by all of Ross's subcontractors is in excess of 97%. The bid specifications require that the prime contractor to self-perform not less than twenty percent (20%) of the value of all of the work. Thus the Ross bid would violate this requirement, would be non-responsive and must be rejected.
- c. Further, even if the Board determines that the typographical figure, "3 9%", does not require the Ross bid to be rejected and accepts this as a minor error which may be excused, the decision to excuse the error is discretionary and should only be exercised when it is determined that waiving the error and accepting the bid would be in the best interest of the public. We assert that there are at least two reasons why it is not in the best interest of the public to excuse this error.
1. Any anticipated financial savings due to Ross being the low bidder must be balanced against the potential that the Ross bid is low due to errors or omissions. Additionally, knowingly accepting an excessively low bid creates a liability for the public agency.
 2. The Ross bid lists a subcontractor, Lasco Electric, Inc., whose sole officer, Lisa Allen Cimino (aka Alice Lisa Allen), is also an officer in three other contractor corporations that are barred from bidding or performing any work on public works projects as provided by Labor Code section 1777.1 (a). Additionally this sole officer is married to Salvatore J. Cimino, an individual who is similarly barred from bidding or performing any work on any public works project. Further the corporate address of Lasco Electric, Inc. is the residence of this married couple, title of which is held by their common trust, and the same phone number is listed with the Contractors State License Board for all four contractor companies. These multiple ties between the listed subcontractor and a debarred corporation, a debarred individual, as well as two other corporations barred from public works form a circumstance that violates the spirit of the debarment order and the Labor Code Section and risks entangling the project in violations of the debarment order.

I. California Public Contract Code

A. Section 5103 of the Public Contract Code provides that a bidder may withdraw their bid without forfeiting their bid bond provided:

- “(a) A mistake was made.
- (b) He or she gave the public entity written notice within five working days, excluding Saturdays, Sundays, and state holidays, after the opening of the bids of the mistake, specifying in the notice in detail how the mistake occurred.
- (c) The mistake made the bid materially different than he or she intended it to be.
- (d) The mistake was made in filling out the bid and not due to error in judgment or to carelessness in inspecting the site of the work, or in reading the plans or specifications.”

II. The Board Does Not Have the Authority to Waive Errors that Provide the Bidder with Economic Advantages not Available to Bidders Who Did Not have Errors.

A. California law and the Notice to Bidders both confer broad discretion upon the Board to waive inconsequential informalities and irregularities in bids received and to accept such a bid when it is in the best interest of the public entity to do so (*Ghilotti Construction Co. v. City of Richmond* (1996) 45 Cal App.4th 897). Errors, omissions, or deviations from the Bid Requirements may be considered as inconsequential provided they do not (1) affect the amount of the bid, or (2) give a bidder an advantage over other bidders (e.g., by allowing the bidder to expend less resources—time, money, etc.—or to avoid some obligation to perform) or (3) interfere with the awarding body’s evaluation of bidder responsibility, responsiveness, or other reasonable agency interest.

B. Examples of errors, omissions, or deviations which cannot be excused include:

- i. Errors that provide the bidder with an economic advantage not available to those bidders without such errors, even when the economic advantage does not effect the bid amount; (*Valley Crest Landscape, Inc. v. City Council* (1996) 41 Cal.App.4th 1432 at 1442).
- ii. Errors that provide the bidder the opportunity to withdraw their bid without forfeiting their bid bond:

“In *Valley Crest*, the court found the bidder had an unfair advantage where it could have withdrawn its bid under Public Contract Code section 5103. ‘Misstating the correct percentage of work to be done by a subcontractor is in the nature of a typographical or arithmetical error. It makes the bid materially different and is a mistake in filling out the bid. As such, under Public Contract Code section 5103, North Bay [the low bidder] could have sought relief by giving the City notice of the mistake within five days of the opening of the bid. That North Bay did not seek such relief is of no moment. The key point is that such relief was available. Thus, North

Bay had a benefit not available to the other bidders; it could have backed out. Its mistake, therefore, could not be corrected by waiving an 'irregularity'." (*MCM Construction, Inc. v. City and County of San Francisco* (1998) 66 Cal. App.4th 359 at 375).

III. Even if the Board could Waive the Error such a Waiver is at the Board's Discretion and Should only be Allowed if Accepting the Bid is in the Best Interest of the Public.

- A. California law and the Notice to Bidders both confer broad discretion upon the Board to waive inconsequential informalities and irregularities in bids received and to accept such a bid when it is in the **best interest of the public** to do so (*Ghilotti Construction Co. v. City of Richmond* (1996) 45 Cal App.4th 897).
- B. Any anticipated financial savings due to Ross being the low bidder must be balanced against the potential that the Ross bid is low due to errors or omissions.
- i. The Ross bid is over \$600,000 (more than 13%) lower than the second low bidder, yet the differences between the second and third low bidders and between the third and fourth low bidder are each less than \$200,000 (2.34% & 3.68% respectively). Further the total difference between the second and fourth low bidders is only slightly more than \$300,000 (or less than 6 %).
 - ii. Accepting an excessively low bid can result in numerous problems on a job including underpayment of prevailing wages; post-bid pressure on subcontractors to lower their bids; excessive change orders; project delays; and, in the worst case, a contractor defaulting on completing a project and the project being completed, with additional costs and delays, using the payment and performance bonds.
 - iii. Knowingly accepting an excessively low bid is not in the best interest of the public and may create an additional liability for the public agency. . If the awarding agency knowingly accepts an excessively low bid, it too may be subject to liability under Labor Code section 2810.
 - iv. Thus it is the best interest of the public not to waive this error and not to accept the Ross bid.

C. Ross listed Lasco Electric Inc., (CA Contractors License # 641543), (“Lasco”) as its electrical subcontractor.

- i. Salvatore Joseph Cimino was originally licensed as an electrical contractor (S J Cimino Electric, CA Contractors Li # 294141; license issued 5/20/74; sole owner: Salvatore Joseph Cimino).
- ii. Salvatore Joseph Cimino (“Salvatore”) and Lisa Allen Cimino (“Lisa”) were married on December 24, 1974.
- iii. Subsequently they were both corporate officers, together, on three additional licenses.
 - a. **S J Cimino Electric Inc.:** CA Contractors Li # 343802; incorporated 11/16/1976; license issued 9/21/77; at various times up to 4 officers but originally and currently, solely, Salvatore Joseph and Lisa Allen Cimino.
 - b. **Lasco Electric Inc.:** CA Contractors Li # 641543; incorporated 5/3/1982; license issued 4/3/1992 with Salvatore Joseph Cimino and Lisa Allen Cimino as officers. Salvatore disassociated on 7/6/92.
 - c. **S J Cimino Construction Inc.:** CA Contractors Li # 943912; incorporated 3/25/2009, license issued 2/26/2010 with Salvatore Joseph Cimino and Lisa Allen Cimino originally & currently as officers.
- iv. All four companies list the same phone number with the Contractors State License Board (“CSLB”).
- v. S J Cimino Electric and S J Cimino Electric Inc. list 3267 Dutton Ave in Santa Rosa, CA as their address with the CSLB. 3267 Dutton Ave is a commercial property.
- vi. Lasco Electric Inc and S J Cimino Construction Inc. list the 5825 Heights Rd. in Santa Rosa, CA as their address with the CSLB. 5825 Heights Rd is a residence owned by the Salvatore J. Cimino and Lisa A. Cimino Trust. Additionally, S J Cimino Electric Inc. listed \$150,000 worth of unsecured property located at the 5825 Heights Rd address.
- vii. Salvatore Joseph Cimino and S J Cimino Electric Inc. were debarred (9/2/09) from bidding public works contracts or having any interest in an entity bidding public works as owner, partner, officer, manager, employee, agent, consultant or representative of an entity bidding or performing work on a public works project. A copy of the debarment order, which is a public record, is attached.
- viii. These multiple ties between the listed subcontractor and a debarred corporation, a debarred individual, as well as two other corporations barred from public works form a circumstance that violates the spirit of the debarment order and the Labor Code Section and risks entangling the project in violations of the debarment order.

IV. Public Works Debarment

- A.** According to California Labor Code Section 1777.1, when an individual, contractor or subcontractor is debarred "...the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor **has any interest** is ineligible..." to bid on or be awarded a contract for, or to perform work as a subcontractor on a public works project.
- B.** "For the purposes of this section, the term **"any interest"** means an interest in the entity bidding or performing work on the public works project, whether as an owner, partner, officer, manager, employee, agent, consultant, or representative.

"Any interest" includes, **but is not limited to**, all instances where the debarred contractor or subcontractor receives payments, whether cash or any other form of compensation, from any entity bidding or performing work on the public works project, or enters into any contracts or agreements with the entity bidding or performing work on the public works project for services performed or to be performed for contracts that have been or will be assigned or sublet, or for vehicles, tools, equipment, or supplies that have been or will be sold, rented, or leased during the period from the initiation of the debarment proceedings until the end of the term of the debarment period." (emphasis added) California Labor Code section 1777.1 (f).

- C.** The Order of Debarment, effective October 15, 2009, specifically names S.J. Cimino Electric, Inc. and Salvatore Joseph Cimino; however it is clear from the language of Labor Code Section 1777.1 that S.J. Cimino Construction, Inc. (in which Salvatore is currently an officer) is also debarred. It is also clear that the debarment reaches much further than just to those entities in which Salvatore is an officer or employee. Section 1777.1(f) lists a broad range of potential means to benefit from a public works project that are forbidden the debarred individual; yet the language "'Any interest' includes, but is not limited to,..." makes it clear that the debarment reaches beyond even these many potential means of benefiting from a public works project.
- D.** The language in this section of the Labor Code demonstrates the clear legislative intent to prevent the debarred individual or contractor from benefiting from any proceeds generated by public works. The records presented show a compelling likelihood that the debarred individual, Salvatore Joseph Cimino, would benefit from proceeds generated by this project if Lasco were permitted to perform as a subcontractor.
- E.** It is in the best interest of the public to guarantee that this debarred individual does not benefit from the proceeds from this project. Therefore it is in the best interest of the public that this project not be awarded to Ross and thus in the best interest of the public not to waive any errors in the Ross bid.

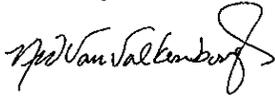
In summary, either Douglas Ross Construction, Inc.'s bid contains errors which provide it with economic advantages not available to other bidders or its bid is non-responsive for failing to comply with the twenty percent self-performance requirement of the specifications. In either case, the bid from Douglas Ross Construction must be rejected.

Further, even if it were within the discretion of the Board to waive the errors in the Ross bid, given the risks associated by the Ross's excessively low bid and the inclusion of Lasco Electric Inc. as the electrical subcontractor, it is not in the best interest of the public to grant such a waiver and the Ross bid should be rejected.

We formally support a contract award to the responsible contractor with the lowest responsive bid that meets the requirements of the solicitation, the specifications of the project, the standards set by the Board, and the requirements of the California State Law.

Thank you for your consideration of these weighty issues, and we look forward to your response. Should you have any questions regarding these requests, please do not hesitate to contact me at 831-760-2429.

Sincerely,



Ned Van Valkenburgh
Marketing Representative

Attachments:

- Douglas Ross Construction Inc. List of Subcontractors (2 pages)
- Decision and Debarment Order for S. J. Cimino Electric, Inc. and Salvatore Joseph Cimino (8 pages)
- S. J. Cimino Electric: Contractors State License Board (CSLB) report (2 pages)
- S. J. Cimino Electric, Inc.: CSLB report (3 pages)
- Lasco Electric, Inc.: CSLB report (3 pages)
- Lasco Electric, Inc.: Secretary of State's Corporate Record summary (1 page)
- S. J. Cimino Construction, Inc.: CSLB report (3 pages)
- 5825 Height Rd, Santa Rosa, CA: Assessor Inquiry: real property ownership (1page)
- 5825 Height Rd, Santa Rosa, CA: Assessor Inquiry: unsecured personal property ownership (1page)

Digital Media Center @ The Tannery - Phase Two
November 16, 2009

00421 - Designation of Subcontractors
Page 2 of 2

List of Subcontractors

% of work	Type of trade, labor, or service	Subcontractor Name and License number	Complete Address (name of city not sufficient) and Phone number
0.21%	Erosion Control	Ground Service Technology License No. 847034	502 South Quince Street Escondido, CA 92025 (760) 745-2010
1.8%	Site Utilities	Pacific Underground Const. License No. 423419	1817 Stone Avenue San Jose, CA 95125 (408) 977-1655
14.5%	Concrete	Spangler Concrete Eng., Inc. License No. 847620 A-CB	620 B. Washington Street, #207 Petaluma, CA 94952 (707) 763-1163
4.9%	Metals	Larco Industries, Inc. License No. 360541	205 Mayock Road Gilroy, CA 95020 (408) 847-5641
2.6%	Finish Carpentry	House Construction License No. 379034	63 Via Pico Plaza, #429 San Clemente, CA 92672 (949) 429-5023
2.1%	Roofing	F. Rodgers Corp. License No. 499755	7775 Las Positas Road Livermore, CA 94551 (925) 294-9400
0.22%	Waterproofing	Tara Coatings License No. 414971	2315 Pacific Avenue Stockton, CA 95204 (209) 463-5066
0.18%	Resinous Flooring	Floor Seal Technology, Inc. License No. 412670	1005 Ames Avenue Milpitas, CA 95035 (408) 436-8181
2.3%	Painting	D & S Painting License No. 747346	P.O. Box 355 Seaside, CA 93955 (831) 394-7260
2%	Fire Protection	Aegis Fire Systems, Inc. License No. 723350	500 Boulder Ct., Suite A Pleasanton, CA 94566 (925) 417-5550
5.3%	Plumbing	CJS Plumbing License No. 752171	9290 Prototype Drive Reno, NV 89521 (775) 826-7546
0.32%	HVAC	CJS Plumbing License No. 752171	9290 Prototype Drive Reno, NV 89521 (775) 826-7548
3.9%	Sheet Metal	Geo H. Wilson Mech. Contractor License No. 128655	250 Harvey West Blvd. Santa Cruz, CA 95060 (831) 423-9522
2.2%	Glazing	Sandman Glass License No. 828715	1334 Brommer Street, Suite B3 Santa Cruz, CA 96965 (831) 454-1966
13.8%	Electrical	Lasco Electric License No. 641543	3267 Dutton Avenue Santa Rosa, CA 95407 (707) 542-6211
2%	Metal & Rigid Roofing	Jeffco Roofing Company License No. 455190	P.O. Box 554 Sunol, CA 94589 (925) 862-2960
0.54%	Landscaping	Park West Landscape, Inc. License No. 441362A, B, C27	6971 Sierra Court Dublin, CA 94568 (925) 566-9390
0.17%	Bath Accessories	Repcold Distribution License No. 929392	47317 Mission Falls Ct. Fremont, CA 94539 (510) 498-8786

*** CONTINUED ON THE NEXT PAGE ***

Attach additional pages if required.

BEFORE THE DIVISION OF LABOR STANDARDS ENFORCEMENT
DEPARTMENT OF INDUSTRIAL RELATIONS
FOR THE STATE OF CALIFORNIA

In the matter of the
Debarment Proceeding Against:

S.J. CIMINO ELECTRIC, INC., a California
Corporation; and SALVATORE JOSEPH
CIMINO, RMO/CEO/President of S.J.
CIMINO ELECTRIC, INC.,

Respondents.

Case No. SAC 1052

DECISION RE DEBARMENT
OF RESPONDENTS FROM
PUBLIC WORKS PROJECTS

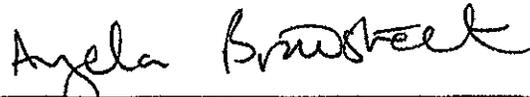
[Labor Code § 1777.1]

The attached proposed Statement of Decision and Order of Debarment making S.J. CIMINO ELECTRIC, INC., a California corporation; and SALVATORE JOSEPH CIMINO, ineligible to bid on or be awarded a contract for a public works project and ineligible to perform work as a subcontractor on a public works project in the State of California for three years, is hereby adopted by the Division of Labor Standards Enforcement as the Decision in the above-captioned matter.

This decision shall become effective October 15, 2009.

IT IS SO ORDERED

Dated: September 2, 2009



ANGELA BRADSTREET
Labor Commissioner and Chief of the California
Division of Labor Standards Enforcement

DIVISION OF LABOR STANDARDS ENFORCEMENT
Department of Industrial Relations
State of California
BY: SUSAN A. DOVI, CA Bar #145543
1515 Clay Street, Suite 801
Oakland, California 94612
Telephone: (510) 622-3246 Fax: (510) 622-3258

Attorney for the Labor Commissioner

BEFORE THE DIVISION OF LABOR STANDARDS ENFORCEMENT
DEPARTMENT OF INDUSTRIAL RELATIONS
FOR THE STATE OF CALIFORNIA

In the matter of the
Debarment Proceeding Against:

S.J. CIMINO ELECTRIC, INC., a California
Corporation; and SALVATORE JOSEPH
CIMINO, RMO/CEO/President of S.J.
CIMINO ELECTRIC, INC.,

Respondents.

) Case No. SAC 1052

) PROPOSED STATEMENT OF
) DECISION RE DEBARMENT
) OF RESPONDENTS FROM
) PUBLIC WORKS PROJECTS

) [Labor Code § 1777.1]

Debarment proceedings pursuant to Labor Code §1777.1 were initiated by the Division of Labor Standards Enforcement ("DLSE") on May 22, 2009, by the filing and service of a Statement of Alleged Violations against the following named respondents: S.J. CIMINO ELECTRIC, INC., a California corporation; and SALVATORE JOSEPH CIMINO, RMO/CEO/President of S.J. CIMINO ELECTIRC, INC. (hereinafter "Respondents").

The hearing on the alleged violations was held on August 4, 2009, at the Oakland Office of the Labor Commissioner. Susan Dovi served as the Hearing Officer. David D. Cross, appeared on behalf of Complainant, the Labor Commissioner, Chief of the Division of Labor Standards Enforcement, Department of Industrial Relations, State of California. None of the Respondents appeared for the hearing although they were duly served with Notice of Hearing, and the Statement of Alleged Violations by First Class and Certified

Mail to the address currently listed with the Contractors State License Board. The signature on the certified mail receipts indicates that S.J. Cimino received the Notice of Hearing and Statement of Alleged Violations. Present as witnesses for Complainant were Deputy Labor Commissioners Rachel Farmer and Christopher Kim.

The hearing was tape recorded. Witnesses Farmer and Kim took the oath and evidence was received. At the conclusion of the hearing, the matter was taken under submission.

FINDINGS

I. NOTICE

The Hearing Officer finds that the Respondents received lawful notice of the August 4, 2009, hearing. The proof of service for the Notice of Hearing and Statement of Alleged Violations together with the return receipts indicating that notice was served both by First Class and Certified Mail are on file in this proceeding and indicate that S.J. CIMINO signed the return receipts for the Notice and Statement.

II. VIOLATIONS OF THE PUBLIC WORKS LAW

1. Respondent S.J. CIMINO ELECTRIC, INC. is a corporation licensed by the Contractor's State Licensing Board under license number 343802.

2. Respondent SALVATORE JOSEPH CIMINO is the Responsible Managing Officer, Chief Executive Officer, and President of S.J. CIMINO ELECTRIC, INC. and is the sole owner of S.J. Cimino Electric licensed by the Contractor's State Licensing Board under license number 294141. S.J. CIMINO holds a substantial interest in both companies.

3. Respondents were subcontractors on three public works projects, namely the Crossings at Santa Rosa, in Sonoma County, California; the Cottonwood Creek

Apartments in Solano County, California; and the Jennings Avenue Apartments in Sonoma County, California (hereinafter "Projects"), during the periods, April 21, 2007 through June 6, 2007; June 9, 2007 through July 5, 2008; and September 2, 2006 through August 18, 2007, respectively.

4. Deputy Labor Commissioners Farmer and Kim are assigned to the Public Works Unit. Deputy Farmer testified that on the Crossings at Santa Rosa and the Cottonwood Creek Apartments projects, her investigations revealed that Respondents violated Labor Code §§ 1774, 1776, and 1773.1 by failing to pay the prevailing wage rates to employees, failing to maintain accurate certified payroll reports and deducting amounts for health and pension benefits, as a credit against the prevailing wage, that were then not paid in the deducted amount, or at all, to a trustee or to a third party pursuant to a plan, fund or program for the benefit of Respondents employees. Deputy Farmer testified and presented documentary evidence that some employees had a portion of the deducted amount paid to provide health benefits but amounts in excess of the premium used to buy the coverage were deducted and kept by Respondents. In addition, some employees did not have health coverage at all yet amounts were deducted and then kept by Respondents. In other words, Respondents deducted amounts they indicated were paid to a health plan that were either paid in a lower amount to the provider or not paid at all to a provider. In addition, amounts were deducted for pension benefits but were not paid to a bona fide pension plan at all on the Crossings at Santa Rosa project and on the Cottonwood project, pension benefits were paid only after the Division issued a Civil Wage and Penalty Assessment. Finally, Ms. Farmer testified that Respondent SALVATORE JOSEPH CIMINO signed the employees' pay checks and directed other employees to make the deductions that were not paid for the benefit of his

workers.

5. Deputy Farmer also testified that Respondents violated Labor Code § 1815 by failing to pay the correct overtime rate on the Crossings at Santa Rosa and the Cottonwood Creek Apartments projects.

6. Deputy Kim testified that on the Jennings Avenue Apartments project, his investigation revealed that Respondents violated Labor Code §§ 1774, 1776, and 1773.1 by failing to pay the prevailing wage rates to employees, failing to maintain accurate certified payroll reports and deducting amounts for health and pension benefits that were not paid in the amount deducted, or not paid at all to a health plan or pension fund. Some employees had a portion of the deducted amount paid to provide health benefits but some employees did not have health coverage yet amounts were deducted and then kept by Respondents. Deputy Kim testified that the Respondent has a six month vesting requirement before a worker would be eligible for health insurance but that during this six month vesting period, Respondents deducted for health insurance for employees who were not eligible for and did not receive benefits. In addition, Deputy Kim testified that Respondents deducted pension contributions for work performed on the Jennings Avenue Apartments project but that the deducted amounts were not paid into a bona fide pension Plan. Instead, Respondents kept the money deducted.

7. Deputy Kim also testified that Respondents violated Labor Code § 1815 by failing to pay the correct overtime rate on the Jennings Avenue Apartments project.

8. DLSE issued three Civil Wage and Penalty Assessments against Respondents based on the violations on the projects listed in paragraph 3 above. DLSE exercised its discretion and assessed full penalties pursuant to Labor Code § 1775 due to the egregious nature of the violations. Judgment was entered against Respondents on the

Crossings at Santa Rosa project, which was later paid. On the Cottonwood Creek Apartments project, the pension benefits were paid after the DLSE issued the Civil Wage and Penalty Assessment. The other issues, including those related to the health benefits are still pending and the matter is set for hearing in September 2009. The wages and penalties assessed by DLSE on the Jennings Avenue Apartment project have been paid.

CONCLUSIONS OF LAW

Labor Code §1777.1 provides:

(a) Whenever a contractor or subcontractor performing a public works project pursuant to this chapter is found by the Labor Commissioner to be in violation of this chapter **with intent to defraud**, except Section 1777.5, the contractor or subcontractor or a firm, corporation, partnership or association in which the contractor, or subcontractor has any interest is ineligible for a period of not less than one year or more than three years to do either of the following:

- (1) Bid or be awarded a contract for a public works project;
- (2) Perform work as a subcontractor on a public works project.

(b) Whenever a contractor or subcontractor performing a public works project pursuant to this chapter is found by the Labor Commissioner to be in **willful violation** of this chapter, except Section 1777.5, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible for a period up to three years for each second and subsequent violation occurring within three years of a separate and previous willful violation of this chapter to do either of the following:

- (1) bid on or be awarded a contract for a public works project;
- (2) perform work as a subcontractor on a public works project.

California Code of Regulations, Title 8, Section 16800 defines "Intent to Defraud" as "the intent to deceive another person or entity, as defined in this article, and to induce

such other person or entity, in reliance upon such deception, to assume, create, transfer, alter or terminate a right, obligation or power with reference to property of any kind."

Labor Code §1777.1(c) defines a "willful violation" as "when the contractor or subcontractor knew or reasonably should have known of his or her obligations under the public works law and deliberately fails or refuses to comply with its provisions." *California Code of Regulations* 8 CCR § 16800 defines "deliberately" as "premeditated and intentional."

Labor Code section 1777.1(b) provides that once a contractor or subcontractor willfully violates this section, that contractor or subcontractor is ineligible for a period up to three years for each second and subsequent violation occurring within three years of a separate and previous willful violation. An intent to deceive or defraud can be inferred from the facts. (*People v. Kiperman* (1977) 69 Cal.App.3d Supp. 25,31.) "An unlawful intent is logically inferred from the doing of an unlawful act." (*People v. McLaughlin* (1952) 111 Cal. App.2d 781, 789.)

The credible and unrefuted evidence presented by Deputies Farmer and Kim establishes that Respondents failed to pay the proper prevailing wage rates, falsified the certified payroll reports and deducted amounts for health and pension benefits that were not deposited to a third party for payment of benefits for the employees. The testimony of Deputies Farmer and Kim, corroborated by documentary evidence, establishes that Labor Code §§ 1774 and 1776 were violated with an intent to defraud S. J. Cimino Electric's workers and the awarding bodies. Furthermore, the violations were willful within the meaning of Labor Code § 1777.1(c) and 8 CCR § 16800 in that the deductions for health and pension benefits were not paid to a trustee, or to a third party pursuant to a plan, fund or program for the benefit of Respondents employees but instead kept by Respondents.

Further, the preparation of false and fraudulent certified payroll records was intentional and deliberate and also exhibits an intent to deceive Respondents' workers, the awarding body and the DLSE.

ORDER OF DEBARMENT

In accordance with the foregoing, it is hereby ordered that Respondents S.J. CIMINO ELECTRIC, INC., a California corporation; and SALVATORE JOSEPH CIMINO, shall be ineligible to, and shall not, bid on or be awarded a contract for a public works project, and shall not perform work as a subcontractor on a public work as defined in Labor Code §§ 1720, 1720.2 and 1720.3, for a period of three (3) years, effective October 15, 2009. A three year period is appropriate under these circumstances where Respondents, experienced contractors, willfully and fraudulently prepared false certified payroll records, failed to pay workers the prevailing wage, kept benefit payments that were deducted from employees' wages, and refused to cooperate and supply records and information requested by DLSE during its investigation, justifying a three year period of debarment.

Dated: September __, 2009

SUSAN A. DOVI
Hearing Officer

Department of Consumer Affairs
Contractors State License Board

Contractor's License Detail - License # 294141

 **DISCLAIMER:** A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

CSLB complaint disclosure is restricted by law (B&P 7124.6). If this entity is subject to public complaint disclosure, a link for complaint disclosure will appear below. Click on the link or button to obtain complaint and/or legal action information.

Per B&P 7071.17, only construction related civil judgments reported to the CSLB are disclosed.

Arbitrations are not listed unless the contractor fails to comply with the terms of the arbitration.

Due to workload, there may be relevant information that has not yet been entered onto the Board's license database.

License Number:	294141	Extract Date: 04/26/2010				
Business Information:	S J CIMINO ELECTRIC 5825 HEIGHTS RD SANTA ROSA, CA 95401 Business Phone Number: (707) 542-6231					
Entity:	Sole Ownership					
Issue Date:	05/20/1974					
Expire Date:	09/30/2013					
License Status:	This license is inactive and not able to contract at this time.					
Additional Status:	The license will need a contractors bond to renew active or reactivate.					
Classifications:	<table border="1"> <thead> <tr> <th>CLASS</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>C10</td> <td><u>ELECTRICAL</u></td> </tr> </tbody> </table>		CLASS	DESCRIPTION	C10	<u>ELECTRICAL</u>
CLASS	DESCRIPTION					
C10	<u>ELECTRICAL</u>					
Bonding:	CONTRACTOR'S BOND This license filed Contractor's Bond number SA6002720 in the amount of \$7,500 with the bonding company STAR INSURANCE COMPANY. Effective Date: 05/15/1995 Cancellation Date: 06/19/1998 Contractor's Bonding History					
Workers' Compensation:	This license is exempt from having workers compensation insurance; they certified that they have no employees at this time. Effective Date: 09/09/1993 Expire Date: None					

Department of Consumer Affairs
Contractors State License Board

Contractor's License Detail (Personnel List)

Contractor License #: 294141
Contractor Name: S J CIMINO ELECTRIC

Click on the person's name to see a more detailed page of information on that person.

NAME	TITLE	ASSOCIATION DATE	DISASSOCIATION DATE	CLASS	MORE CLASS
<u>SALVATORE JOSEPH CIMINO</u>	SOLE OWNER	05/20/1974		C10	More

[Conditions of Use](#) | [Privacy Policy](#)
Copyright © 2010 State of California

Department of Consumer Affairs
Contractors State License Board

Contractor's License Detail - License # 343802

 **DISCLAIMER:** A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

CSLB complaint disclosure is restricted by law (B&P 7124.6). If this entity is subject to public complaint disclosure, a link for complaint disclosure will appear below. Click on the link or button to obtain complaint and/or legal action information.

Per B&P 7071.17, only construction related civil judgments reported to the CSLB are disclosed.

Arbitrations are not listed unless the contractor fails to comply with the terms of the arbitration.

Due to workload, there may be relevant information that has not yet been entered onto the Board's license database.

License Number:	343802	Extract Date: 04/26/2010						
Business Information:	S J CIMINO ELECTRIC INC 3267 DUTTON AVENUE SANTA ROSA, CA 95404 Business Phone Number: (707) 542-6231							
Entity:	Corporation							
Issue Date:	09/21/1977							
Expire Date:	02/29/2012							
License Status:	This license is current and active. All information below should be reviewed.							
Additional Status:	The license may be suspended on 05/05/2010 if the workers' compensation insurance policy is not filed with the CSLB.							
Classifications:	<table border="0"> <thead> <tr> <th>CLASS</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>C10</td> <td><u>ELECTRICAL</u></td> </tr> <tr> <td>B</td> <td><u>GENERAL BUILDING CONTRACTOR</u></td> </tr> </tbody> </table>		CLASS	DESCRIPTION	C10	<u>ELECTRICAL</u>	B	<u>GENERAL BUILDING CONTRACTOR</u>
CLASS	DESCRIPTION							
C10	<u>ELECTRICAL</u>							
B	<u>GENERAL BUILDING CONTRACTOR</u>							
Bonding:	<p>CONTRACTOR'S BOND This license filed Contractor's Bond number 149823 in the amount of \$12,500 with the bonding company <u>AMERICAN CONTRACTORS INDEMNITY COMPANY.</u> Effective Date: 01/01/2007 Contractor's Bonding History BOND OF QUALIFYING INDIVIDUAL</p>							

1. The Responsible Managing Officer (RMO) SALVATORE JOSEPH CIMINO certified that he/she owns 10 percent or more of the voting stock/equity of the corporation. A bond of qualifying individual is **not** required.

Effective Date: 04/17/2007

[BQ's Bonding History](#)

This license has workers compensation insurance with the
[SOUTHERN INSURANCE COMPANY](#)

Policy Number: WSI000958701

Workers' Compensation:

Effective Date: 04/01/2009

Expire Date: 04/01/2010

[Workers' Compensation History](#)

Personnel listed on this license (current or disassociated) are listed on other licenses.

[Personnel List](#)

[Other Licenses](#)

[Conditions of Use](#) | [Privacy Policy](#)
Copyright © 2010 State of California

Department of Consumer Affairs 
Contractors State License Board

Contractor's License Detail (Personnel List)

Contractor License #: 343802
Contractor Name: S J CIMINO ELECTRIC INC

Click on the person's name to see a more detailed page of information on that person.

NAME	TITLE	ASSOCIATION DATE	DISASSOCIATION DATE	CLASS	MORE CLASS
JOSEPH JERRY CIMINO	OFFICER	03/17/1978	03/05/1979		
SALVATORE JOSEPH CIMINO	RMO/CEO/PRES	09/21/1977		C10	More
LISA ALLEN CIMINO	OFFICER	09/21/1977			
SALVATORE JERRY CIMINO	OFFICER	02/24/1999	09/11/2006		

[Conditions of Use](#) | [Privacy Policy](#)
 Copyright © 2010 State of California

Department of Consumer Affairs
Contractors State License Board

Contractor's License Detail - License # 641543

 **DISCLAIMER: A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.**

CSLB complaint disclosure is restricted by law (B&P 7124.6). If this entity is subject to public complaint disclosure, a link for complaint disclosure will appear below. Click on the link or button to obtain complaint and/or legal action information.

Per B&P 7071.17, only construction related civil judgments reported to the CSLB are disclosed.

Arbitrations are not listed unless the contractor fails to comply with the terms of the arbitration.

Due to workload, there may be relevant information that has not yet been entered onto the Board's license database.

License Number:	641543	Extract Date: 04/26/2010				
Business Information:	LASCO ELECTRIC INCORPORATED 5825 HEIGHTS ROAD SANTA ROSA, CA 95404 Business Phone Number: (707) 542-6231					
Entity:	Corporation					
Issue Date:	04/03/1992					
Expire Date:	04/30/2012					
License Status:	This license is current and active. All information below should be reviewed.					
Classifications:	<table border="1"> <thead> <tr> <th>CLASS</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>C10</td> <td><u>ELECTRICAL</u></td> </tr> </tbody> </table>	CLASS	DESCRIPTION	C10	<u>ELECTRICAL</u>	
CLASS	DESCRIPTION					
C10	<u>ELECTRICAL</u>					
Bonding:	CONTRACTOR'S BOND This license filed Contractor's Bond number 357053C in the amount of \$12,500 with the bonding company <u>DEVELOPERS SURETY AND INDEMNITY COMPANY.</u> Effective Date: 02/21/2009 Contractor's Bonding History					
	BOND OF QUALIFYING INDIVIDUAL 1. The Responsible Managing Officer (RMO) LISA ALLEN CIMINO certified that he/she owns 10 percent or more of the voting stock/equity of the corporation. A bond of qualifying individual is not required. Effective Date: 07/06/1992					
Workers' Compensation:	This license has workers compensation insurance with the <u>STATE COMPENSATION INSURANCE FUND</u>					

Policy Number: 1937188

Effective Date: 09/07/2009

Expire Date: 09/07/2010

[Workers' Compensation History](#)

Personnel listed on this license (current or disassociated) are listed on other licenses.

[Personnel List](#)

[Other Licenses](#)

[Conditions of Use](#) | [Privacy Policy](#)
Copyright © 2010 State of California

Department of Consumer Affairs
Contractors State License Board

Contractor's License Detail (Personnel List)

Contractor License #: 641543
Contractor Name: LASCO ELECTRIC INCORPORATED

Click on the person's name to see a more detailed page of information on that person.

NAME	TITLE	ASSOCIATION DATE	DISASSOCIATION DATE	CLASS	MORE CLASS
<u>SALVATORE JOSEPH CIMINO</u>	RMO	04/03/1992	07/06/1992	C10	
<u>LISA ALLEN CIMINO</u>	RMO/CEO/PRES	04/03/1992		C10	More

[Conditions of Use](#) | [Privacy Policy](#)
Copyright © 2010 State of California

Results Detail

Last statement filed on: 3/18/2009

Corporation		
LASCO ELECTRIC INCORPORATED		
Number: C1110271	Incorporation Date: 5/3/1982	Status: Active
Jurisdiction: CA	Type: Domestic Stock	
Address		
5825 HEIGHTS RD,		
SANTA ROSA, CA 95404		
Agent For Service Of Process		
ALICEL ALLEN		
5825 HEIGHTS RD,		
SANTA ROSA, CA 95404		

Please review this information to determine if you have located the correct corporation.

[Search Results](#)[Continue Filing](#)[New Search](#)

Department of Consumer Affairs
Contractors State License Board

Contractor's License Detail - License # 943912

 **DISCLAIMER: A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.**

CSLB complaint disclosure is restricted by law (B&P 7124.6). If this entity is subject to public complaint disclosure, a link for complaint disclosure will appear below. Click on the link or button to obtain complaint and/or legal action information.

Per B&P 7071.17, only construction related civil judgments reported to the CSLB are disclosed.

Arbitrations are not listed unless the contractor fails to comply with the terms of the arbitration.

Due to workload, there may be relevant information that has not yet been entered onto the Board's license database.

License Number:	943912	Extract Date: 04/26/2010
Business Information:	S J CIMINO CONSTRUCTION INC 3267 DUTTON AVENUE SANTA ROSA, CA 95404 Business Phone Number: (707) 542-6231	
Entity:	Corporation	
Issue Date:	02/26/2010	
Expire Date:	02/29/2012	
License Status:	This license is current and active. All information below should be reviewed.	
Additional Status:	The license may be suspended on 05/19/2010 if the workers' compensation insurance policy is not filed with the CSLB.	
Classifications:	CLASS	DESCRIPTION
	B	<u>GENERAL BUILDING CONTRACTOR</u>
Bonding:	<p>CONTRACTOR'S BOND</p> <p>This license filed Contractor's Bond number 100109789 in the amount of \$12,500 with the bonding company <u>AMERICAN CONTRACTORS INDEMNITY COMPANY.</u></p> <p>Effective Date: 01/11/2010</p> <p>BOND OF QUALIFYING INDIVIDUAL</p> <p>1. The Responsible Managing Officer (RMO) SALVATORE JOSEPH CIMINO certified that he/she owns 10 percent or more of the voting stock/equity of the corporation. A bond of qualifying individual is not required.</p> <p>Effective Date: 02/26/2010</p>	

This license has workers compensation insurance with the
SOUTHERN INSURANCE COMPANY

Workers' Compensation: **Policy Number:** WSI000958701
Effective Date: 04/01/2009
Expire Date: 04/01/2010

Personnel listed on this license (current or disassociated) are listed on other licenses.

[Personnel List](#)

[Other Licenses](#)

[Conditions of Use](#) | [Privacy Policy](#)
Copyright © 2010 State of California

Department of Consumer Affairs
Contractors State License Board

Contractor's License Detail (Personnel List)

Contractor License #: 943912
Contractor Name: S J CIMINO CONSTRUCTION INC

Click on the person's name to see a more detailed page of information on that person.

NAME	TITLE	ASSOCIATION DATE	DISASSOCIATION DATE	CLASS	MORE CLASS
SALVATORE JOSEPH CIMINO	RMO/CEO/PRES	02/26/2010		B	
LISA ALLEN CIMINO	OFFICER	02/26/2010			

[Conditions of Use](#) | [Privacy Policy](#)
Copyright © 2010 State of California

Assessor Inquiry - Main
 Asmt: 800-005-794-000 Feeparcel: 067-050-003-000
 Owner: S J CIMINO ELECTRIC INC

Status Address		Values	
Name/Address	5825 HEIGHTS RD UN S J CIMINO ELECTRIC INC 5825 HEIGHTS RD SANTA ROSA CA 95404-1019	Land	
Status	ACTIVE	Structure	
Taxability Code	001	Features	
TRA	120-007	Growing	
Creating Doc#	1992/9999899	Total L&I	
Current Doc#	1992/9999899	Fixture RP	
Terminating Doc#	01/16/2009	MH PP	149,910
Neighborhood C...	AM2	PP	
Asmt Description		Exemption	
Land Use 1	Land Use 2	Net	149,910
Zoning 1	Dwell 1	R/C #	
Acres	Sqft	TR/Date	
SSN1	SSN2	Status	
Parcel Desc:		Description	ENROLLED
Section	TownShip	Range	
Description			
TPZ	Ag Pres	Etal	Bonds
Multi ...	910 MH	Flag 1	Flag 2
Acmt PP	Tax PP	Appeal	Spfk

LEONIDOU & ROSIN
PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

777 CUESTA DRIVE
SUITE 200
MOUNTAIN VIEW, CA 94040

(650) 691-2888
FACSIMILE (650) 691-2889

May 24, 2010

Via Facsimile & U.S. Mail

Ms. Lorrie Brewer
City Clerk
City of Santa Cruz
809 Center Street, Room 9
Santa Cruz, California 95060

Re: Tannery Arts Digital Media Center Phase 2
Response to May 17, 2010 letter from Mr. Ned Van Valkenburgh

Dear Ms. Brewer:

Our office represents Douglas Ross Construction, Inc., which submitted the lowest responsive bid in connection with the Tannery Arts Digital Media Center Phase 2 project. I am writing with respect to a May 17, 2010 letter from Mr. Ned Van Valkenburgh, a marketing representative for Carpenters Union Local 505 ("CU 505").

Neither Mr. Valkenburgh nor CU 505 was a bidder on this project. Accordingly, they do not have standing to object to an award of the contract. We nonetheless address the objections out of an abundance of caution. The objections Mr. Valkenburgh includes in his letter are patently frivolous. None of the other contractors who bid this project has filed a protest. No doubt they would have if there were any basis for a protest. We therefore respectfully request that the City award this project to Douglas Ross Construction, at a savings to the City and its taxpayers of \$600,000 compared to the next lowest bid.

1. The Protest Must Be Denied Because CU 505 Does Not Have Standing.

Mr. Valkenburgh did not bid this project. CU 505 is not a bidder. Neither Mr. Valkenburgh nor CU 505 has standing to file a protest. Cornelius v. Los Angeles County Metropolitan Transportation Authority, 49 Cal. App. 4th 1761 (1996) (plaintiff was not a bidder and therefore could not challenge bidding procedures); see American Fed'n of Gov't Employees v. United States, 258 F.3d 1294 (Fed. Cir. 2001) (union does not have standing to file bid protest on federal project).

2. **Mr. Valkenburgh's Objections To The Listing Information For The Sheet Metal Subcontractor Are Frivolous.**

Mr. Valkenburgh devotes several pages to theories about the percentage amount included for George H. Wilson Mechanical in Douglas Ross Construction's subcontractor list. The decimal point in this percentage amount apparently is difficult to read in the copy that Mr. Valkenburgh has of the subcontractor list. Even if there were no decimal point, however, there would not be a basis for an objection to Douglas Ross Construction's bid.

First, the law does not require a general contractor to list the percentage of work to be performed by a subcontractor. See Pub. Contract Code § 4104. The City is free to waive any supposed inaccuracies with respect to the listing of amounts if any existed. MCM Construction Co., Inc. v. San Francisco, 66 Cal.App.4th 359 (1988).

Second, Douglas Ross Construction has not obtained any advantage from the way that the listing form was completed. Douglas Ross Construction is required to utilize George H. Wilson Mechanical for all sheet metal work. Pub. Contract Code § 4017; Affholder, Inc. v. Mitchell Engineering, Inc., 153 Cal.App.4th 510, (2007). This is true regardless of the number filled out in the subcontractor form. Douglas Ross Construction therefore could not possibly have engaged in bid shopping, which is what the subcontractor listing requirement is intended to prevent.

Third, Douglas Ross Construction cannot withdraw its bid based on a supposedly missing decimal point for the percentage included for George H. Wilson Mechanical in the subcontractor list. The percentage is simply informational in nature and does not make the bid amount different from what was intended. Thus, regardless of what number was filled in for this percentage, Douglas Ross Construction would not have a ground to withdraw its bid and would not have a competitive advantage. Pub. Contract Code § 5103.

3. **Mr. Valkenburgh's Objections To Lasco Electric, Inc. Is Not A Valid Basis For A Protest.**

Lasco Electric, Inc. has not been debarred. The debarment order that Mr. Valkenburgh includes with his letter applies to completely different entities and individuals. Under applicable law and the City's contract documents, Lasco Electric, Inc. could legally be listed and utilized as a subcontractor for this project.

Debarment of Lasco Electric, Inc. in the future would not be a basis for rejecting Douglas Ross Construction's valid bid. If Lasco Electric, Inc. were debarred, it could be replaced under Section 4107(a) of the Public Contract Code.

The decision in D.H. Williams Construction, Inc. v. Clovis Unified School District, 146 Cal.App.4th 757 (2007) is directly on point. There, a subcontractor was not properly licensed at the time of bid. The Court noted that there was a mechanism for replacing a subcontractor during the course of the project if the subcontractor no longer could legally perform its obligations, and the Court therefore refused to find that the general contractor's bid was nonresponsive simply because a subcontractor might not be able to perform during the course of construction.

Similarly, in Mike Moore's 24 Hour Towing v. San Diego 45 Cal.App.4th 1294, 1309 (1996), a bidder filed a protest that asserted that a contractor did not have proper insurance for a contract that a local agency proposed to award. The Court of Appeal ruled that the protest was improper because whether the contractor's insurance complied with the contract documents was a matter of performance to be determined after bidding.

Mr. Valkenburgh's speculation concerning Lasco Electric, Inc., and his attempt to broaden the terms of a debarment order to cover parties who are not included in the order, is not a basis for objecting to an award to Douglas Ross Construction.

4. The Fact That Douglas Ross Construction Submitted The Lowest Bid Is Not A Basis For Rejecting The Bid.

Absurdly, Mr. Valkenburgh objects that Douglas Ross Construction's bid is lower than bids from other companies.

Under Title 3 of the City Code, the City is required to award contract through competitive bidding. (City Code § 3.08.100.) The purpose of competitive bidding is to generate savings for the City and its taxpayers. A bid cannot be rejected simply because a stranger to the bidding process believes it is low. As noted in Riverland Const. Co. v. Lombardo Contracting Co., Inc., 380 A.2d 1161, 1163 (App. Div. 1977), aff'd, 388 A.2d 626 (1978):

"Every contractor may apply his own business judgment in preparation of a public bid ... In the absence of a factual showing that such a decision [to submit a low bid] subverts the principles of fair and competitive bidding there is no reason to invalidate the resulting bid."

Douglas Ross Construction has carefully reviewed its bid and confirms that it can and will perform the project for the amount of its bid. In addition, Douglas Ross Construction has submitted a bid bond as security, and during the course of construction, the City will be fully protected by both performance and payment bonds for 100% of the contract price. Mr. Valkenburgh's objection based upon the price of the bid for the project is frivolous.

Ms. Lorrie Brewer
May 24, 2010
Page 4 of 4

Conclusion

The circumstances here are exactly like those in Ghilotti Construction Co. v. City of Richmond, 45 Cal.App.4th 897 (1996), in which the Court pointed out that it would be a disservice to the public if a protesting party could “comb through the bid proposal or license application low bidder after the fact, and cancel the low bid on minor technicalities ... Such a construction would be adverse to the best interests of the public and contrary to public policy.”

We therefore respectfully request that the objections contained in Mr. Valkenburgh’s letter be overruled. If for any reason the City were to consider any of Mr. Valkenburgh’s objections, Douglas Ross Construction asks that it be given the opportunity to present evidence and argument prior to any award. City of Inglewood-LA County Civic Center v. Superior Court, 7 Cal.3d 861, 867 (1972).

In these difficult economic times, it is extremely important that government be as efficient as possible in the award of contracts. Douglas Ross Construction’s bid satisfied all requirements under applicable law and the City’s bid documents. Accordingly, we respectfully request that the Tannery Arts Digital Media Center Phase 2 contract be awarded to Douglas Ross Construction, Inc.

Very truly yours

JANETTE G. LEONIDOU

cc: Client
Mr. Ned Van Valkenburgh, Marketing Representative



CITY COUNCIL AGENDA REPORT

DATE: June 1, 2010

AGENDA OF: June 8, 2010

DEPARTMENT: Planning and Community Development

SUBJECT: Emergency Ordinance to Amend Chapter 9.37 to Prohibit the Intensification of Use of Premises Where Loud or Unruly Gatherings Have Taken Place. (PL)

RECOMMENDATION: Introduction and final adoption of an emergency ordinance adding Section 9.37.055 to the Santa Cruz Municipal Code prohibiting the intensification of use of premises where loud or unruly gatherings have taken place.

Motion acknowledging the Environmental Determination for an exemption.

BACKGROUND: The City recently created a new website feature that listed loud and unruly party homes. This was one more tool in an ongoing effort to address concerns from the community regarding these party homes which result in an exorbitant amount of time and public funds for police response, code enforcement and remedial actions. The intention of this feature was to provide the community members and potential tenants' information and an extra level of transparency for all involved. This list was created after meeting with neighborhood groups, representatives of UCSC and students. The dwellings on this list – currently approximately 82 - were found to have had parties that created a significant amount of noise, trash, alcohol-fueled violence and other issues that impacted the quality of life in our community. Additionally, the property owners of these nuisance-creating residential rental dwelling units have failed to implement reasonable measures available to them to manage and control their property.

With the onset of summer and the end of the UCSC school year many of these party houses typically undergo a turnover in tenants. Historically, this is the optimum time of the year at which the property owners of these rental units may propose construction activity to increase the number of bedrooms or increase the capacity of the unit to house more occupants during that brief interim period before the start of a new school year in August/September. It is this reason that staff is requesting that an emergency ordinance be adopted immediately to prohibit any such use intensification and construction to such nuisance homes that have been cited under the Loud and Unruly Gatherings Ordinance.

DISCUSSION: The proposed code amendment would disallow issuance of a zoning or building permit to any such responsible person, or a responsible person's agent of such dwelling that has been determined to have been found guilty of violating Section 9.37.050 for which they have conducted or allowed a loud or unruly gathering at those premises or have failed to contest such a citation for that violation. This would prohibit any expansion – or intensification of use of premises - within three years of the date of being found guilty or from which relevant citation was not contested.

The City Attorney has prepared the following clarification of what work would result in being considered an “intensification of use of premises”:

Intensification of use of premises is any zoning permit or building permit which, upon exercise of the permit, will result in an alteration of the premises that either: increases the number of rooms in the premises; converts non-sleeping rooms to sleeping rooms in the premises; increase the interior square footage, whether or not habitable, of the premises; increases the square footage of structures on the site with the addition of new detached buildings; or increases the number of off-street parking spaces on the premises.

It is important to understand that this change to the ordinance would allow for said dwellings to expand if, after a period of three years, neither violation of Section 9.37.050 nor other documented violations have occurred.

The City has, within its police power the ability to create ordinances and amendments which are necessary to preserve the public peace, health, safety, property, and general welfare. As discussed previously the City has had to dedicate an exorbitant number of staff resources to these nuisance houses, and the intensification of such nuisance-creating houses would exponentially exacerbate the negative health, safe and welfare impacts attributable to these units. Therefore, it is of importance to approve this ordinance on an emergency basis and have it effective immediately to prohibit any such use intensification construction that might be undertaken in the summer of 2010 upon completion of the June 2009-2010 school year.

ENVIRONMENTAL REVIEW. The emergency ordinance has been determined to be exempt from the California Environmental Quality Act (CEQA) in that the activity is covered under the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. The proposed ordinance would not result in increased densities or intensification of uses. The ordinance is consistent with and will serve to implement the City’s General Plan and Local Coastal Program. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is exempt from CEQA per Section 15061 (b) (3).

FISCAL IMPACT: While there may be loss of some building and planning permit fees if the subject properties were allowed to expand, the reduction of potential code enforcement issues and police response with adoption of the emergency ordinance may actually reduce staff costs and resources in the future.

Submitted by:

Submitted by:

Approved by:

Juliana Rebagliati
Director of Planning and
Community Development

John Barisone
City Attorney

Richard Wilson
City Manager

Attachments: Draft Ordinance

ORDINANCE NO. 2010-_____

AN EMERGENCY ORDINANCE OF THE CITY OF SANTA CRUZ
ADDING SECTION 9.37.055 TO THE SANTA CRUZ MUNICIPAL CODE PROHIBITING
THE INTENSIFICATION OF USE OF PREMISES WHERE LOUD OR UNRULY
GATHERINGS HAVE TAKEN PLACE

WHEREAS, the City Council finds and declares that there are numerous residential dwelling units in the City which, as a result of a continuous history of loud and unruly gatherings at those premises, have compromised the residential integrity and quality of life of various City neighborhoods; and

WHEREAS, the City Council finds and declares that these residential dwelling units create nuisance impacts which necessitate a disproportionate expenditure of public funds for police response, code enforcement and remedial actions; and

WHEREAS, the City Council finds and declares that the property owner(s) of said residential dwelling units in many instances have failed to implement reasonable measures available to them to manage and control their property or to otherwise meaningfully cooperate with neighbors and City law enforcement officials to eliminate or reduce the adverse impacts that these dwelling units have on their neighborhoods; and

WHEREAS, the City Council finds and declares that historically landlords who own these nuisance-creating residential rental dwelling units undertake construction on the premises, sometimes with building and zoning permits and sometimes without, with the objective of increasing the number of bedrooms in the unit or otherwise increasing the capacity of the unit to house more occupants so as to increase the rental income generated by the unit; and

WHEREAS, the City Council finds and declares that the optimum time of year at which to undertake this type of intensifying construction activity is during that brief interim at the end of the school year in June when the last group of student renters has vacated the premises and the next group of student renters has yet to occupy the premises; and

WHEREAS, the City Council finds and declares that the intensification of use of nuisance-creating residential dwelling units serves to exponentially exacerbate the negative health, safety, and welfare impacts attributable to those units which their immediate neighborhood and residents are already experiencing and which are already unacceptable; and

WHEREAS, the City Council finds and declares that given the City's most recent experience with the frequency of calls for police and code enforcement service attributable to these residential rental dwelling units in conjunction with the City's immediate need, to the extent feasible, to devote its law enforcement resources to other pressing law enforcement objectives including the reduction of violent crime and vandalism, the City can no longer tolerate the use intensification of residential dwelling units which already constitute public nuisances, and that the potential for intensification must therefore be addressed immediately; and

WHEREAS, the City Council finds and declares that its legitimate police power objective of immediately preventing the use intensification of the afore-referenced residential rental dwelling units would be frustrated if this ordinance is not adopted on an emergency basis and does not go into effect immediately so as to prohibit any such use intensification construction that might be undertaken in June 2010 upon completion of the June 2009-2010 school year.

NOW, THEREFORE BE IT ORDAINED By the City Council of the City of Santa Cruz as follows:

Section 1. Section 9.37.055 is hereby added to the Santa Cruz Municipal Code to read as follows:

“9.37.055 INELIGIBILITY TO RECEIVE ZONING PERMITS OR BUILDING PERMITS.

(a) A responsible person, or a responsible person’s agent, shall be ineligible to receive, and shall not be issued, any Title 24 zoning permit or Title 18 building permit authorizing work on the responsible person’s premises that would result in the potential intensification of use of those premises, if within three years of the date of the permit application any responsible person has been found guilty of violating Section 9.37.050 for conducting or allowing a loud or unruly gathering at those premises, or has failed to contest such a citation for a violation of Section 9.37.050. The provisions of this subsection shall apply whether the subject Section 9.37.050 citation is a criminal citation subject to adjudication in the Santa Cruz County Superior Court or an administrative citation subject to adjudication pursuant to the procedures delineated in Chapter 4.14 of this Code.

(b) For purposes of this Section a permit authorizing work that would result in the intensification of use of premises is any zoning permit or building permit which, upon exercise of the permit, will result in an alteration of the premises that either: increases the number of rooms in the premises; converts non-sleeping rooms to sleeping rooms in the premises; increases the interior square footage, whether or not habitable, of the premises; increases the square footage of structures on the site with the addition of new detached buildings; or increases the number of off-street parking spaces on the premises.”

Section 2. For the reasons set forth in the Findings, this Ordinance is declared to be an emergency measure adopted under Section 612 of the Santa Cruz City Charter, and is necessary to preserve the public peace, health, safety, property and general welfare.

Section 3. This ordinance shall take effect immediately and be enforced immediately upon its final adopted.

ORDINANCE NO. 2010-_____

PASSED FOR PUBLICATION AND FINAL ADOPTION this day of , 2010, by
the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk

This is to certify that the above
and foregoing document is the
original of Ordinance No. 2010-
and that it has been published or
posted in accordance with the
Charter of the City of Santa Cruz.

City Clerk



REDEVELOPMENT AGENCY AGENDA REPORT

DATE: 5/26/2010

AGENDA OF: 6/08/2010

DEPARTMENT: Economic Development

SUBJECT: Park Pacific, LLC Owner Participation Agreement and Predevelopment Loan. (ED)

RECOMMENDATION: Redevelopment Agency Resolution amending the FY 2010 budget to appropriate an amount of \$220,000 for a predevelopment loan to Park Pacific, LLC.

Redevelopment Agency Resolution authorizing and directing the Executive Director to enter into an Owner Participation Agreement which includes a loan agreement with Park Pacific, LLC in an amount of \$220,000 to fund certain predevelopment costs associated with a mixed-use project to be developed between 1547-1549 Pacific Avenue and 1110 Cedar Street and to execute such documents as may be necessary to carry out the Owner Participation Agreement and Loan in forms approved by the Agency Attorney.

BACKGROUND: The Agency entered into a Disposition and Development Agreement (DDA) with Park Pacific, LLC (Developer) in late 2004 for the development of a mixed-use project consisting of 50-60 market-rate luxury residential units with 5,000-6,000 square feet of commercial retail space and on-site enclosed parking for the residential development. Due to market conditions over the last two years, the Developer has been unable to finance and construct the approved project.

Since January 17, 2009 the Developer has been in non-compliance with the DDA for failure to initiate and complete the project construction. It is the intent of the Developer to move forward with an alternative development scope to the currently approved and entitled project. The current development proposal is for 59 units ranging in size from 370-1350 square feet including twelve affordable units ranging an average of 420-450 square feet, 3500-4200 square feet of retail and 46 parking spaces for residential units.

Staff has been in discussion with the Developer over the last year regarding the performance obligations under the DDA and the mutual interests of the City and the Developer to move the project on Pacific Avenue forward. In April 2010 the Council approved entering into a new agreement with the Developer that would replace the current DDA and provide for a predevelopment loan of \$220,000 from the Agency to the Developer with specific conditions of approval and performance obligations required of the Developer.

DISCUSSION: The proposed Owner Participation Agreement (OPA) contains the terms and conditions for approval of the Agency predevelopment loan, a new scope of development and schedule of performance for the completion of the proposed project, a predevelopment loan agreement and promissory note. The initial deposit of \$25,000 paid by the Developer under the DDA will continued to be held by the Agency as security for the performance of the obligations of the Developer pursuant to the proposed OPA. Specific financial conditions for the predevelopment loan include the following:

- 1) Predevelopment loan to be secured by a second deed of trust on the property;
- 2) \$75,000 of the \$220,000 predevelopment loan must be additionally secured by a guarantee in a form reasonably approved by the Agency;
- 3) Predevelopment funding to be spent on the following expenses:
 - a. One year of interest on land loan from effective date of the loan agreement
 - b. Architectural and engineering fees sufficient to secure project entitlements
 - c. Applicable City fees (if funding remains after applying funds above);
- 4) Developer to provide evidence reasonably satisfactory to the Agency that a minimum of \$50,000 is available from Developer to pay for balance of initial predevelopment expenses necessary to secure all remaining project entitlements; and
- 5) Developer shall file with the Agency annual reports on each anniversary of the Effective Date of the Loan Agreement detailing the use of all loan funds, including invoices or other supporting documentation as reasonably necessary to verify the use of such funds.

The Schedule of Performance to the OPA shall include the following conditions:

- 1) Developer to provide evidence within sixty days of loan funding that Developer has engaged Enterprise Community Investment (ECI) or another qualified HUD lender and initiated First Round HUD Loan Costs (Engagement Letter executed, engagement fee paid and initial appraisal and market study initiated);
- 2) Developer to secure all project entitlements within one year of effective date of OPA;
- 3) All planning fees owed shall be paid by Developer when due regardless of whether the project will require a new application or a major modification; and
- 4) Developer shall submit to the Agency written progress reports as requested and in a form and detail as reasonably required by the Agency.

The Scope of Development to the OPA shall include general provisions for the development of the site in accordance with the development proposal contemplated above and the plans, drawings and related documents approved by the City. The architectural design of the contemplated development shall be consistent with applicable City standards and ordinances and the architectural design and proposed materials for the project shall be of high quality as further defined in the scope of development.

The proposed predevelopment loan is made on the representation that no fewer than twelve affordable housing units will be provided in the project for persons of low income at affordable

rental or purchase prices in addition to the required fifteen percent inclusionary units or in-lieu fees. If for any reason the Developer does not proceed with the contemplated development that includes the low-income restricted affordable units, the predevelopment loan shall be immediately payable and due.

The proposed OPA and predevelopment loan have been drafted to help effectuate the goals and objectives of the Merged Redevelopment Project Area which includes the removal of blighting conditions in the downtown area. The improvement of the proposed project site through the completion of the contemplated development will contribute to the alleviation of blighting conditions and to the revitalization of the downtown. As no other financial means are available to the Developer at this time to complete the contemplated scope of development under the original DDA, a predevelopment loan from the Agency to the Developer is in the vital and best interests of the City and Agency to accomplish the goals and objectives in the Merged Redevelopment Project Area. Staff recommends that the Agency Board approve the attached resolutions authorizing and directing the Executive Director to enter into an Owner Participation Agreement and accompanying documents with the Developer and to amend the Agency FY 10 budget to appropriate a \$220,000 predevelopment loan to the Developer.

FISCAL IMPACT: Funding for the predevelopment loan in the amount of \$220,000 is available in the Agency's Low and Moderate Income Housing fund balance and will require approval of the attached budget adjustment to the Agency's FY 10 budget. If approved, the loan will bear three percent simple interest annually, with full repayment of principle and interest to occur the earlier of the funding of the construction loan or by the third anniversary of the effective date of the loan agreement. The Developer will begin paying interest on the loan in FY 11.

Submitted by:	Approved by:
Bonnie Lipscomb	Richard C. Wilson
Agency Executive Director	City Manager

ATTACHMENTS:
Resolution
Budget Adjustment

**City of Santa Cruz
BUDGET ADJUSTMENT REQUEST**

<input type="radio"/> Council Approval	Resolution No. _____
<input checked="" type="radio"/> RDA Approval	Resolution No. _____
<input type="radio"/> Administrative Approval	

<input checked="" type="radio"/> Current Fiscal Year
<input type="radio"/> Prior Fiscal Year

Date:

ACCOUNT	REVENUE EDEN ACCOUNT TITLE	
TOTAL REVENUE		\$0.00

ACCOUNT	EXPENDITURE EDEN ACCOUNT TITLE	
281-52-80-5607-56960	Merged Low Mod Income Housing Fund: Loans & grants	\$220,000.00
r521013 100 2020 357	Park Pacific Pre-Development Loan	
TOTAL EXPENDITURE		\$220,000.00

NET: \$ (220,000.00)

Purpose: Appropriation for a \$220,000 loan agreement to fund pre-development costs related to the Park Place mixed use project.

PREPARED BY	DEPARTMENT HEAD APPROVAL	ACCOUNTING APPROVAL	FINANCE DIRECTOR APPROVAL	CITY MANAGER APPROVAL
Kathryn Mintz <small>Digitally signed by Kathryn Mintz DN: cn=Kathryn Mintz, o=City of Santa Cruz, ou=Finance, email=kymintz@cityofscruz.ca.us, c=US Date: 2010.08.26 14:30:05 -0700</small>	Bonnie Lipscomb <small>Digitally signed by Bonnie Lipscomb DN: cn=Bonnie Lipscomb, o=City of Santa Cruz, CA, ou=FIN, email=blipscomb@cityofscruz.ca.us, c=US Date: 2010.08.26 10:11:11 -0700</small>	Patty Haymond <small>Digitally signed by Patty Haymond DN: cn=Patty Haymond, o=City of Santa Cruz, CA, ou=FIN, email=phaymond@cityofscruz.ca.us, c=US Date: 2010.08.23 14:52:28 -0700</small>	Jack Dilles <small>Digitally signed by Jack Dilles DN: cn=Jack Dilles, o=Finance, ou=FIN, email=jdilles@cityofscruz.ca.us, c=US Date: 2010.08.22 14:54:32 -0700</small>	
5/26/10		6/2/10		

Revised December 2009

RESOLUTION NO.

RESOLUTION AUTHORIZING AND DIRECTING THE EXECUTIVE DIRECTOR TO ENTER INTO AN OWNER PARTICIPATION AGREEMENT INCLUDING A LOAN AGREEMENT WITH PARK PACIFIC, LLC IN AN AMOUNT OF \$220,000 TO FUND CERTAIN PREDEVELOPMENT COSTS ASSOCIATED WITH A MIXED-USE PROJECT TO BE DEVELOPED BETWEEN 1547-1549 PACIFIC AVENUE AND 1110 CEDAR STREET AND TO EXECUTE SUCH DOCUMENTS AS MAY BE NECESSARY TO CARRY OUT THE OWNER PARTICIPATION AGREEMENT AND LOAN IN FORMS APPROVED BY THE AGENCY ATTORNEY

WHEREAS, by Ordinance Nos. 90-40 and 90-41, adopted on November 13, 1990, the City Council of the City of Santa Cruz (the "Council") approved and adopted the Redevelopment Plan (the "Merged Redevelopment Plan") for the Merged Earthquake Recovery and Reconstruction Project (the "Merged Project"); and

WHEREAS, on December 8, 2009, the Santa Cruz Redevelopment Agency adopted a Five-Year Implementation Plan, pursuant to Section 33490 of the California Redevelopment Law wherein specific projects and programs were set forth, including actions and expenditures to be made within the term of the Implementation Plan and further described how these projects and programs would alleviate blight; and

WHEREAS, the Five-Year Implementation Plan contains specific goals and objectives to promote revitalization of the Downtown Central Business District; and

WHEREAS, The Agency entered into a Disposition and Development Agreement (DDA) with Park Pacific, LLC (Developer) in late 2004 for the development of a mixed-use project consisting of 50-60 market-rate luxury residential units with 5,000-6,000 square feet of commercial retail space and on-site enclosed parking for the residential development on Pacific Avenue in Downtown Santa Cruz; and

WHEREAS, Due to market conditions over the last two years, the Developer has been unable to finance and construct the approved project; and

WHEREAS, It is the intent of the Developer to move forward with an alternative development scope to the currently approved and entitled project; and

WHEREAS, Staff has been in discussion with the Developer over the last year regarding the performance obligations under the DDA and the mutual interests of the City and the Developer to move the project on Pacific Avenue forward; and

WHEREAS, In April 2010 the Council approved entering into a new agreement with the Developer that would replace the current DDA and provide for a predevelopment loan of \$220,000 from the Agency to the Developer with specific conditions of approval and performance obligations required of the Developer; and

RESOLUTION NO.

WHEREAS, The predevelopment loan meets Redevelopment Plan and Five-Year Implementation Plan objectives of promoting the full and complete recovery of the Merged Project Area from the physical and economic hardships created by the Loma Prieta Earthquake; and

WHEREAS, Funding for the predevelopment loan in the amount of \$220,000 is available in the Agency's Low and Moderate Income Housing fund balance;

NOW, THEREFORE, BE IT RESOLVED by the Redevelopment Agency of the City of Santa Cruz that the Executive Director is authorized and directed to enter into an Owner Participation Agreement including a loan agreement with Park Pacific, LLC in an amount of \$220,000 to fund certain predevelopment costs associated with a mixed-use project to be developed between 1547-1549 Pacific Avenue and 1110 Cedar Street and to execute such documents as may be necessary to carry out the Owner Participation Agreement and Loan in forms approved by the Agency Attorney

PASSED AND ADOPTED this 8th day of June, 2010, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Chair

ATTEST: _____
Executive Director



City Council Meeting Calendar June 2, 2010

Date	Time	Location	Topic
June 9, 2010	10:30 a.m.	City Manager's Conference Room	Special Closed Personnel Session
June 22, 2010	1:30 p.m.	Courtyard Conf. Room	Regular Council/Agency Closed Session
	3:00 p.m. and 7:00 p.m.	Council Chambers	Regular Council/Redevelopment Agency Open Sessions
July 13, 2010	1:30 p.m.	Courtyard Conf. Room	Regular Council/Agency Closed Session
	3:00 p.m. and 7:00 p.m.	Council Chambers	Regular Council/Redevelopment Agency Open Sessions
July 27, 2010	1:30 p.m.	Courtyard Conf. Room	Regular Council/Agency Closed Session
	3:00 p.m. and 7:00 p.m.	Council Chambers	Regular Council/Redevelopment Agency Open Sessions
August Break – No Council Meetings			
September 14, 2010	1:30 p.m.	Courtyard Conf. Room	Regular Council/Agency Closed Session
	3:00 p.m. and 7:00 p.m.	Council Chambers	Regular Council/Redevelopment Agency Open Sessions
September 28, 2010	1:30 p.m.	Courtyard Conf. Room	Regular Council/Agency Closed Session
	3:00 p.m. and 7:00 p.m.	Council Chambers	Regular Council/Redevelopment Agency Open Sessions
October 12, 2010	1:30 p.m.	Courtyard Conf. Room	Regular Council/Agency Closed Session
	3:00 p.m. and 7:00 p.m.	Council Chambers	Regular Council/Redevelopment Agency Open Sessions
October 26, 2010	1:30 p.m.	Courtyard Conf. Room	Regular Council/Agency Closed Session
	3:00 p.m. and 7:00 p.m.	Council Chambers	Regular Council/Redevelopment Agency Open Sessions
November 9, 2010	1:30 p.m.	Courtyard Conf. Room	Regular Council/Agency Closed Session
	3:00 p.m. and 7:00 p.m.	Council Chambers	Regular Council/Redevelopment Agency Open Sessions
November 23, 2010	1:30 p.m.	Courtyard Conf. Room	Regular Council/Agency Closed Session
	3:00 p.m. and 7:00 p.m.	Council Chambers	Regular Council/Redevelopment Agency Open Sessions
December 14, 2010	1:30 p.m.	Courtyard Conf. Room	Regular Council/Agency Closed Session
	3:00 p.m. and 7:00 p.m.	Council Chambers	Regular Council/Redevelopment Agency Open Sessions

Council Membership in City Groups and Outside Agencies

Councilmembers will have the opportunity to present oral updates to Council and the public. Councilmembers may provide direction, request additional information or that a topic raised be agendized for future Council action. The Presiding Officer may request oral updates from Council ad hoc Committees.

The Presiding Officer will ask representatives of each entity if there is any oral update.

Name of Agency/Organization	Currently Serving
Association of Monterey Bay Area Governments (AMBAG)	L. Robinson, T. Madrigal (alternate)
City of Santa Cruz/Soquel Creek Water District (SqCWD) Desalination Project	D. Lane, M. Rotkin, R. Coonerty (Alt.)
City Schools Committee (Ad Hoc)	C. Mathews, T. Madrigal, R. Coonerty
Community Action Board	T. Madrigal, David Sweet (alternate)
Conference and Visitors' Council	C. Mathews, L. Robinson
Cultural Council Board City Representative	K. Beiers
Downtown Management Corporation	C. Mathews, L. Robinson
Economic Development Council (Mayor/Vice Mayor)	R. Coonerty, D. Lane, C. Mathews
Library Joint Powers Authority Board	K. Beiers, M. Rotkin, C. Mathews (alt.)
Library Financing Authority	M. Rotkin
Local Agency Formation Commission (LAFCO)	D. Lane
Monterey Bay Unified Air Pollution Control District	2010 City of Watsonville
Public Safety Committee	D. Lane, M. Rotkin, L. Robinson
Sanctuary Inter-Agency Task Force	K. Beiers, C. Mathews
Santa Cruz County Children's Network	D. Shoemaker, C. Scurich (alt.)
Santa Cruz Community Farmers Market, Inc.	L. Robinson
SC County Integrated Waste Management Local Task Force	M. Rotkin, Alan Schlenger (alternate) Bob Nelson, Mary Arman (alternate)
Santa Cruz Metropolitan Transit District Board	M. Rotkin, L. Robinson
SC County Regional Transportation Commission (SCCRTC)	D. Lane, L. Robinson (alternate)
Social Services Program Committee	R. Coonerty, C. Mathews, L. Robinson

Public comment on the reports given will be heard at a time to be determined by the Presiding Officer.