



City Hall
555 Santa Clara Street
Vallejo, CA 94590

AGENDA

VALLEJO CITY COUNCIL HOUSING AUTHORITY JOINT SPECIAL MEETING OF THE CITY COUNCIL, REDEVELOPMENT AGENCY AND HOUSING AUTHORITY

APRIL 17, 2007

MAYOR
Anthony Intintoli, Jr.

CITY COUNCIL
Gary Cloutier, Vice Mayor
Gerald Davis
Tony Pearsall
Tom Bartee
Hermie Sunga
Stephanie Gomes

This AGENDA contains a brief general description of each item to be considered. The posting of the recommended actions does not indicate what action may be taken. If comments come to the City Council without prior notice and are not listed on the AGENDA, no specific answers or response should be expected at this meeting per State law. The Vallejo City Council meets on Tuesdays at 7:00 p.m. weekly unless otherwise posted.

Those wishing to address the Council on any matter for which another opportunity to speak is not provided on the AGENDA but which is within the jurisdiction of the Council to resolve may come forward to the podium during the "COMMUNITY FORUM" portion of the AGENDA. Those wishing to speak on a "PUBLIC HEARING" matter will be called forward at the appropriate time during the public hearing consideration.

Copies of written documentation relating to each item of business on the AGENDA are on file in the Office of the City Clerk and are available for public inspection. Information may be obtained by calling (707) 648-4527, TDD (707) 649-3562, or at our web site: <http://www.ci.vallejo.ca.us/>

The Vallejo Sanitation & Flood Control District is located at 450 Ryder Street, (707) 644-8949. A public agenda book is available at the District Office during regular business hours for those desiring additional information on agenda items.



Vallejo City Council Chambers is ADA compliant. Devices for the hearing impaired are available from the City Clerk. Requests for disability related modifications or accommodations, aids or services may be made by a person with a disability to the City Clerk's office no less than 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act of 1990 and the federal rules and regulations adopted in implementation thereof.

NOTICE: Members of the public shall have the opportunity to address the City Council concerning any item listed on this notice before or during consideration of that item. No other items may be discussed at this special meeting.

VALLEJO HOUSING AUTHORITY - REGULAR MEETING **6:45 P.M. CITY COUNCIL CHAMBERS**

- 1. CALL TO ORDER**
- 2. ROLL CALL – (HOUSING AUTHORITY)**

3. CONSENT CALENDAR ITEMS

- A. APPROVAL OF A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO SUBMIT AN APPLICATION FOR A HOMEOWNERSHIP PROGRAM TO THE CALIFORNIA HOUSING FINANCE AGENCY (CHFA).

PROPOSED ACTION: Adopt the resolution authorizing the Executive Director to submit an application for funding to CHFA.

4. ADJOURN TO JOINT SPECIAL MEETING OF THE VALLEJO CITY COUNCIL, THE VALLEJO REDEVELOPMENT AGENCY AND THE VALLEJO HOUSING AUTHORITY

1. ROLL CALL – (REDEVELOPMENT AGENCY AND CITY COUNCIL)

2. ADMINISTRATIVE ITEM

- A. APPROVAL OF RESOLUTION AUTHORIZING THE CITY MANAGER, THE EXECUTIVE DIRECTOR OF THE REDEVELOPMENT AGENCY OF THE CITY OF VALLEJO, AND THE EXECUTIVE DIRECTOR OF THE HOUSING AUTHORITY OF THE CITY OF VALLEJO TO SIGN THE PETITION TO RENEW THE PROPERTY BASED IMPROVEMENT DISTRICT KNOWN AS THE DOWNTOWN VALLEJO MANAGEMENT DISTRICT, TO CAST AN ASSESSMENT BALLOT IN FAVOR OF RENEWING THE DISTRICT, AND SIGN SUCH OTHER DOCUMENTS NECESSARY TO ALLOW THE RENEWAL OF THE DISTRICT TO BE HEARD BEFORE THE CITY COUNCIL AT A FINAL HEARING.

PROPOSED ACTION:

Vallejo City Council

Adopt resolution authorizing the City Manager of the City of Vallejo to sign the petition to renew the Property Based Improvement District known as the Downtown Vallejo Management District, to cast an assessment ballot in favor of renewing the District, and sign such other documents necessary to allow the renewal of the District to be heard before the City Council at a final hearing.

Vallejo Redevelopment Agency

Adopt resolution authorizing the Executive Director of the Redevelopment Agency to sign the petition to renew the Property Based Improvement District known as the Downtown Vallejo Management District, to cast an assessment ballot in favor of renewing the District, and sign such other documents necessary to allow the renewal of the District to be heard before the City Council at a final hearing.

Vallejo Housing Authority

Adopt resolution authorizing the Executive Director of the Housing Authority to sign the petition to renew the Property Based Improvement District known as the Downtown Vallejo Management District, to cast an assessment ballot in favor of renewing the District, and sign such other documents necessary to allow the renewal of the District to be heard before the City Council at a final hearing.

3. ADJOURNMENT

VALLEJO CITY COUNCIL
REGULAR MEETING
7:00 P.M. CITY COUNCIL CHAMBERS

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. PRESENTATIONS AND COMMENDATIONS

- A. Presentation of Proclamation Declaring April 15-21, 2007 as Public Schools Week in the City of Vallejo
- B. Presentation of Proclamation for Vallejo Numismatic Society's Annual Coin and Collectibles Show on May 6, 2007.

5. PUBLIC COMMENT REGARDING CONSENT CALENDAR ITEMS

Members of the public wishing to address the Council on Consent Calendar Items are requested to submit a completed speaker card to the City Clerk. Each speaker is limited to three minutes pursuant to Vallejo Municipal Code Section 2.02.310. Requests for removal of Consent Items received from the public are subject to approval by a majority vote of the Council. Items removed from the Consent Calendar will be heard immediately after approval of the Consent Calendar and Agenda.

6. CONSENT CALENDAR AND APPROVAL OF AGENDA

All matters are approved under one motion unless requested to be removed for discussion by a Councilmember, City Manager, or member of the public subject to a majority vote of the Council.

- A. **ADOPTION OF A RESOLUTION APPROVING CONTRACT CHANGE ORDER NO. 3 WITH VANGUARD CONSTRUCTION FOR ADDITIONAL IMPROVEMENTS FOR THE FISCAL YEAR 2004/2005 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM SIDEWALK, CURB AND GUTTER AND CURB RAMP INSTALLATION PROJECT AND FINAL CONTRACT ACCEPTANCE**

PROPOSED ACTION: Staff recommends adopting the resolution approving Contract Change Order No. 3, accepting the work as complete for the CDBG Curb, Gutter, Sidewalk and Curb Ramp Installation Project, and authorizing the City Clerk to file a Notice of Completion in the Office of the Solano County Recorder.

- B. **APPROVAL OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBSTITUTION OF TRUSTEE AND FULL RECONVEYANCE, ACCEPT A DEED OF TRUST AND ASSIGNMENT OF RENTS AND DIRECTING THE CITY MANAGER TO EXECUTE ESCROW INSTRUCTIONS RELATED TO TRIAD COMMUNITIES' SUBDIVISION COMMONLY KNOWN AS THE GROVE AT HIDDENBROOKE**

PROPOSED ACTION: Adopt the resolution authorizing the City Manager to execute a substitution of trustee and full reconveyance, accept a deed of trust and assignment of rents and directing the City Manager to execute escrow instructions related to Triad Communities' subdivision commonly known as The Grove at Hiddenbrooke.

- C. APPROVAL OF A RESOLUTION OF INTENTION TO AMEND THE POLICE DEPARTMENT BUDGET FOR FISCAL YEAR 2006-07 TO ACCEPT A GRANT FROM THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION IN THE AMOUNT OF \$208,333 AND TO APPROPRIATE THE SAME AMOUNT FOR THE IMPLEMENTATION OF THE GRANT AND AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT AWARD AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION FOR THE SOLANO COUNTY PAROLEE REENTRY AND COMMUNITY SAFETY PROGRAM

PROPOSED ACTION: Adopt the resolution of intention to amend the Police Department Fiscal Year 2006-07 budget to accept a Grant from the California Department of Corrections and Rehabilitation in the amount of \$208,333 and to appropriate the same amount for the implementation of the Grant and authorizing the City Manager or his designee to execute the grant agreement between the Vallejo Police Department and the California Department of Corrections and Rehabilitation.

- D. CONSIDERATION OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT WITH LAK ASSOCIATES, LLC, TO PROVIDE CONTRACT PLANNING SERVICES FOR PROCESSING THE PROPOSED WALMART PROJECT AND TO EXECUTE A REIMBURSEMENT AGREEMENT BETWEEN WALMART AND THE CITY FOR SAID CONTRACT PLANNER SERVICES

PROPOSED ACTION: Adopt the resolution authorizing the City Manager to enter into two agreements: 1) a consultant and professional services agreement between the City of Vallejo and LAK Associates, LLC, and 2) a reimbursement agreement with WalMart.

- E. APPROVAL OF A RESOLUTION OF INTENTION TO AMEND THE FISCAL YEAR 2006/2007 HOME INVESTMENT PARTNERSHIPS PROGRAM BUDGET AND UPON BUDGET APPROVAL AUTHORIZES HE CITY MANAGER TO EXECUTE LOAN AMENDMENTS AND RELATED DOCUMENTS BETWEEN THE CITY OF VALLEJO AND VALLEJO NEIGHBORHOOD HOUSING SERVICES FOR THE GRAHAM GARDENS PROJECT

PROPOSED ACTION: Adopt the resolution of intention allocating HOME funds for the Graham Gardens Project.

- F. APPROVAL OF A RESOLUTION TO AMEND THE CITY'S FISCAL YEAR 2006/2007 BUDGET BY INCREASING THE MARE ISLAND CONVERSION FUNDS'S BUDGET REVENUE AND EXPENDITURE AUTHORIZATION LIMITS

PROPOSED ACTION: Approve the attached resolution authorizing the City Manager to amend the City's Fiscal Year 2006/2007 budget by increasing the Mare Island Conversion Program's (Fund 107) budget revenue and expenditure limits by an additional \$2,173,000.00 each.

- G. APPROVAL OF CITY COUNCIL MINUTES FOR THE MEETINGS OF FEBRUARY 14, 2006, MARCH 27, 2007, AND APRIL 3, 2007

PROPOSED ACTION: Approve the minutes.

- H. APPROVAL OF A LEASE AGREEMENT BETWEEN THE CITY OF VALLEJO AND OMNIPOINT COMMUNICATIONS, INC. REGARDING USE OF CITY-OWNED PROPERTY AT 32 CLEARPOINTE DRIVE WITHIN THE P. G.& E. POWER LINE EASEMENT AREA

PROPOSED ACTION: Adopt the resolution authorizing the City Manager to execute a lease with Omnipoint Communications, Inc., with any changes recommended by the City Attorney or Risk Manager, and to take such further actions, including execution of any documents, determined to be necessary to carry out the purposes of the resolution.

- I. APPROVAL OF A RESOLUTION AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE AND SUBMIT AN ALLOCATION REQUEST FOR THE ENVIRONMENTAL PHASE TO THE METROPOLITAN TRANSPORTATION COMMISSION FOR REGIONAL MEASURE 2 FUNDS FOR THE PARKING/BUS TRANSFER FACILITY AT LEMON STREET AND CURTOLA PARKWAY

PROPOSED ACTION: Approve resolution authorizing the City Manager or his designee to submit an allocation request to the Metropolitan Transportation Commission for Regional Measure 2 funds in the amount of \$705,275, for the parking/bus transfer facility at Lemon Street and Curtola Parkway.

7. PUBLIC HEARINGS

- A. CONSIDERATION OF AN APPEAL OF THE PLANNING COMMISSION'S FAILURE TO APPROVE USE PERMIT #06-0011 AND USE PERMIT #06-0012 FOR THE CONSTRUCTION OF A 5,563 SQUARE FOOT SINGLE FAMILY HOME (2,996 SQUARE FEET LIVING AREA) AT 913 WILSON AVENUE AND A 5,026 SQUARE FOOT SINGLE FAMILY HOME (3,167 SQUARE FEET LIVING AREA) AT 915 WILSON AVENUE

On September 18, 2006, the Planning Commission held a public hearing to consider Use Permit #06-0011 and Use Permit #06-0012 for the construction of two single-family homes at Wilson Avenue. Two motions were offered by the Commission with both failing. The original motion would have limited the livable square footage to 3,000 square feet for both homes. The substitute motion would have limited the livable square footage for both homes to 1,900 square feet; height to 25 feet and restrict the non-living area to becoming living space.

On September 28, 2006, Dana Dean, on behalf of Clayton Ranch Developers and Harold Boex, filed an appeal of the Planning Commission's denial of Use Permit #06-0011 and Use Permit #06-0012. Since the Planning Commission hearing, Planning staff and the City Attorney have determined that the proposed homes are not consistent with the requirements of the Waterfront Commercial Zoning District.

PROPOSED ACTION: Deny the Applicant's appeal of the Planning Commission's denial of Use Permits 06-0011 and Use Permit 06-0012 based on the findings contained in the staff report.

8. POLICY ITEMS

- A. APPROVE OF A RESOLUTION OF INTENTION DIRECTING STAFF TO PREPARE AN AMENDED DOWNTOWN VALLEJO SPECIFIC PLAN ALLOWING TEMPORARY USE REGULATIONS WITHIN THE GEORGIA STREET CORRIDOR OF THE DOWNTOWN VALLEJO SPECIFIC PLAN AREA AND EXPRESSING ITS INTENT TO AMEND ORDINANCE. 1553 N.C. (2D), THE MASTER PLAN FOR DOWNTOWN VALLEJO TO ACCOMMODATE THOSE AMENDMENTS

PROPOSED ACTION: Approve a resolution of Intention to authorize staff to prepare a Resolution amending the Downtown Vallejo Specific Plan to permit specified non-retail land uses to occupy the ground floor along the Georgia Street Corridor for a specified time period; and to prepare a draft Ordinance amending the Downtown Master Plan. The draft resolution and ordinance will be forwarded to the Planning Commission for their consideration and recommendation to the City Council within the next 60 days.

9. ADMINISTRATIVE ITEMS

- A. CONSIDERATION OF TWO RESOLUTIONS AUTHORIZING THE CITY MANAGER TO EXECUTE CONSULTANT AND PROFESSIONAL SERVICES AGREEMENTS WITH: 1) EVANS McDONOUGH COMPANY, INC. AND 2) THE LEW EDWARDS GROUP FOR CONDUCTING PUBLIC OPINION SURVEYS TO DETERMINE THE FEASIBILITY OF VARIOUS BALLOT MEASURES AND ELECTION ADVISORY SERVICES

The purpose of this report is to request the Council adopt resolutions approving professional services agreements to obtain the necessary expertise to assist the City with determining the feasibility of various ballot measures and election advisory services.

PROPOSED ACTION: 1) Adopt a resolution approving the Consultant and Professional Services Agreement with Evans McDonough Company, Inc., for conducting public opinion surveys to determine the feasibility of various ballot measures, and authorize the City Manager to execute the agreement on behalf of the City. 2) Adopt a Resolution approving the Consultant and Professional Services Agreement with

The Lew Edwards Group for election advisory services, and authorize the City Manager to execute the agreement on behalf of the City.

B. CONSIDERATION OF A RESOLUTION OF INTENTION DIRECTING THE CITY MANAGER TO SUBMIT AN ORDINANCE FOR FIRST READING TO AMEND SECTION 2.02.360 OF THE VALLEJO MUNICIPAL CODE RELATING TO THE PAYMENT OF CLAIMS

The purpose of this report is to request the Council adopt a resolution of intention to amend Vallejo Municipal Code section 2.02.360, which governs the payment of claims. The current ordinance is drafted ambiguously as to whether the payment of claims requires prior City Council approval.

PROPOSED ACTION: Adopt a resolution of intention directing the City Manager to submit an ordinance for first reading to amend section 2.02.360 of the Vallejo Municipal Code relating to the payment of claims.

C. CONSIDERATION OF PERFORMANCE BASED SALARY ADJUSTMENT FOR THE CITY ATTORNEY AND THE FIFTH AMENDMENT TO HIS EMPLOYMENT AGREEMENT

Mr. Soley completed five and one-half years of service as the City Attorney on January 1, 2007. Mr. Soley's received his last salary increase on January 1, 2003. On December 19, 2006 and January 9, 2007, the City Council conducted a closed session performance evaluation concerning Mr. Soley. The Council will consider authorizing the Mayor to sign the Fifth Amendment to Mr. Soley's employment agreement as recommended by the Council Committee to provide a five percent (5%) salary increase.

PROPOSED ACTION: Approve the resolution authorizing the Mayor to sign the Fifth Amendment of the City Attorney's Agreement (as previously amended) amending his salary with a five percent (5%) increase.

10. APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

A. APPOINTMENT TO ARCHITECTURAL HERITAGE & LANDMARKS COMMISSION

Applicants were interviewed on March 13, 2007.

PROPOSED ACTION: Appoint members to the Architectural Heritage & Landmarks Commission.

11. WRITTEN COMMUNICATIONS

Correspondence addressed to the City Council or a majority thereof, and not added to the agenda by the Mayor or a Council member in the manner prescribed in Government Code, Section 54954.2, will be filed unless referred to the City Manager for a response. Such correspondence is available for public inspection at the City Clerk's office during regular business hours.

12. CITY MANAGER'S REPORT

13. CITY ATTORNEY'S REPORT

14. COMMUNITY FORUM

Anyone wishing to address the Council on any matter for which another opportunity to speak is not provided on the agenda, and which is within the jurisdiction of the Council to resolve, is requested to submit a completed speaker card to the City Clerk. When called upon, each speaker should step to the podium, state his /her name, and address for the record. Each speaker is limited to three minutes pursuant to Vallejo Municipal Code Section 2.20.300.

15. REPORT OF THE PRESIDING OFFICER AND MEMBERS OF THE CITY COUNCIL

16. CLOSED SESSION: *May recess to consider matters of pending litigation (GC 54956.9), personnel (GC 54957), labor relations (GC 54957.6), and real property negotiations (GC 54956.8). Records are not available for public inspection.*

17. ADJOURNMENT



VALLEJO HOUSING AUTHORITY

Agenda Item No.

HA
CONSENT A

BOARD COMMUNICATION

Date: April 17, 2007

TO: Chair and Commissioners of the Housing Authority

FROM: Craig Whittom, Assistant City Manager / Community Development *CW*
Robert V. Stout, Finance Director *RS*
Laura Simpson, Housing and Community Development Manager *LS*

SUBJECT: Approval of a Resolution Authorizing the Executive Director to Submit an Application for a Homeownership Program through the California Housing Finance Agency (CHFA)

BACKGROUND AND DISCUSSION

On February 26, 2007 the California Housing Finance Agency (CHFA) announced the availability of funds for their Housing Enabled by Local Partnerships ("HELP") Program. The purpose of this program is to increase homeownership rates. The deadline for applications is April 20, 2007. The maximum amount that may be requested is \$1.5 million.

Local government agencies are eligible to apply for these funds. Staff proposes the Housing Authority submit an application for the maximum amount. These funds would make homeownership feasible for families with incomes at or below 120 percent (%) of the median for the area. Over ten years, staff estimates up to 25 families might own a home through this program. (A draft program application is provided at Attachment "B").

This program is consistent with addressing the demand for homeownership identified in the City's Consolidated Plan, and Housing Element. The HELP Program will be administered in collaboration with Vallejo Neighborhood Housing Services, Inc. (VNHS). VNHS has provided affordable housing loan programs to low- and moderate-income families for several years. Staff believes VNHS has the administrative capacity to deliver the HELP Program on behalf of the Housing Authority. VNHS already receives a significant amount of the City's Federal Community Development Block Grant (CDBG) and HOME Investment Partnerships Program funds each year to provide affordable housing services, including paint grants, rehabilitation and homebuyer loans, and in-fill construction.

VNHS will require prospective borrowers to complete its homebuyer education program, (the Homebuyers Club). HELP loans will not exceed twenty (20) percent (%) of the housing cost, for an average loan amount of \$65,000. These loans will be amortized or deferred.

These housing units must remain affordable for at least ten (10) years.

Fiscal Impact

The Vallejo Housing Authority may receive up to \$1.5 million in funding through the CHFA HELP Program to provide affordable homeownership loans. Staff proposes that the Housing Authority borrow these funds from CHFA at 3.5 percent (%) simple interest, deferred, for ten years. Simple interest will be collected and deposited monthly. Principal will be accrued over the ten-year loan period to ensure loan payoff to CHFA.

RECOMMENDATION

Authorize the Executive Director to submit a Homeownership Program Application to CHFA by or before April 20, 2007.

ALTERNATIVES CONSIDERED

The Housing Authority has an opportunity to access loan funds from the State of California to help meet its affordable homeownership goals, working with one of its partners, Vallejo Neighborhood Housing Services, Inc., a local non-profit agency. Only local government entities are eligible to apply for these funds. Therefore, no other alternatives were considered.

ENVIRONMENTAL REVIEW

There is no environmental impact associated with this action.

PROPOSED ACTION

Adopt the enclosed resolution authorizing the Executive Director to submit an application for funding to CHFA.

DOCUMENTS ATTACHED

Attachment "A" – Resolution

Attachment "B" – Draft CHFA "HELP" Program Application

CONTACT:

Craig Whittom, Assistant City Manager/Community Development, (707) 648-4579, or cwhittom@ci.vallejo.ca.us.

Laura J. Simpson, Housing and Community Development Manager, (707) 648-4393, or lsimpson@ci.vallejo.ca.us.

Guy L. Ricca, Senior Community Development Analyst, (707) 648-4395, or gricca@ci.vallejo.ca.us.

RESOLUTION NO. _____ N. C.

BE IT RESOLVED by the Housing Authority of the City of Vallejo as follows:

THAT WHEREAS, on February 26, 2007 the California Housing Finance Agency (CHFA) announced the availability of funds for their Housing Enabled by Local Partnerships ("HELP") Program.

WHEREAS, local government agencies are eligible to apply for these funds.

WHEREAS, the deadline to submit applications is April 20, 2007.

WHEREAS, the maximum amount that may be requested is \$1.5 million.

WHEREAS, the receipt of these loan funds by the Housing Authority would make homeownership feasible for families with incomes at or below 120 percent (%) of the median for the area.

WHEREAS, this program is consistent with addressing the demand for homeownership assistance identified in the City of Vallejo's Consolidated Plan, and Housing Element.

WHEREAS, the HELP Program will be administered by Vallejo Neighborhood Housing Services, Inc.

NOW THEREFORE BE IT RESOLVED that the Housing Authority of the City of Vallejo hereby authorizes the Executive Director to submit an application for this homeownership program (the HELP Program) to CHFA by or before April 20, 2007; and

BE IT FURTHER RESOLVED that the Housing Authority further authorizes the Executive Director to execute contractual agreements with CHFA, and other documents or amendments as necessary.

ADOPTED by the Housing Authority of the City of Vallejo at a regular meeting held on April 17, 2007 with the following vote:

CALHFA PROPOSAL---DRAFT
Vallejo Housing Authority
Housing and Community Development Division
 April 6, 2007

APPLICANT INFORMATION	
1. NAME AND ADDRESS OF APPLICANT	Vallejo Housing Authority Housing and Community Development Division 200 Georgia Street Vallejo, CA 94590
2. MAILING ADDRESS	Vallejo Housing Authority Housing and Community Development Division 200 Georgia Street P. O. Box 1432 Vallejo, CA 94590
3. CHIEF ADMINISTRATOR	Laura Simpson Housing and Community Development Manager Phone: (707) 648-4393 FAX: (707) 648-5249 Email: LSimpson@ci.vallejo.ca.us
4. CONTACT PERSON	Guy Ricca, Senior Community Development Analyst Phone: (707) 648-4395 FAX: (707) 648-5249 Email: gricca@ci.vallejo.ca.us

5. APPLICANT HISTORY AND EXPERIENCE WITH HOUSING ACTIVITIES

The Vallejo Housing Authority, Housing and Community Development Division is the government entity responsible for addressing affordable housing needs in the City of Vallejo, California, and the applicant for the proposed CalHFA HELP Program. The Housing Authority is requesting a \$1.5 million CalHFA HELP Loan to provide down payment assistance to very low-, low-, and moderate-income first-time homebuyers. The housing units assisted will remain affordable for at least ten (10) years. It will partner with Vallejo Neighborhood Housing Services, Inc. (VNHS), the City of Vallejo's designated Community Housing Development Organization, to administer the program. The City of Vallejo has had operative agreements with VNHS spanning 25 years. This partnership has resulted in significant progress toward addressing the City's affordable housing and community revitalization priorities as set forth in the Housing Element, and the Consolidated Plan.

Housing affordability and rehabilitation of Vallejo's aging housing stock are the most significant unmet needs identified in the Consolidated Plan. Much of the single-family housing built in the past few years is beyond the price range of low-income households. Households with incomes at or below 50 percent (%) of the area median income (AMI) have the greatest housing cost burden. These households benefit from affordable housing programs, including down payment and closing cost assistance, credit counseling, and home maintenance training. There is also a need to increase

the affordable housing stock through the creation of new units, and the rehabilitation of existing homes.

Through its partnership with VNHS, the City of Vallejo continues to make progress in areas in meeting its housing priorities. Some highlights of its collaborative efforts and achievements are summarized below.

- ✓ In 2006, 168 individuals graduated from VNHS's first-time homebuyer education program. The City of Vallejo provided \$25,000 in funding to serve 95 of these participants.
- ✓ Thirty-seven (37) Down Payment Assistance Loans were initiated by VNHS in 2006, totaling \$1,910,844. The City of Vallejo funded one of these loans for a total of \$126,134. This program has been in existence since 1989.
- ✓ Sixty (60) first-time mortgage loans were initiated by VNHS in 2006, totaling \$17,914,891.
- ✓ VNHS has initiated \$1,882,544 in housing rehabilitation loans, resulting in improvements to 18 homes. Since 1990, the City of Vallejo has provided over 100 housing rehabilitation loans. The owner-occupied and rental property housing rehabilitation loan program has been in existence for 25 years. Last year, the City provided one loan, for a total of \$89,985.
- ✓ VNHS distributed \$101,597 in exterior house paint grants to 31 elderly, disabled, and other low-income homeowners in 2006. The City of Vallejo provided 100 percent (%) of this funding through its Federal Community Development Block Grant (CDBG) Program.
- ✓ Twelve (12) homes were physically enhanced through VNHS's Paint-the-Town event, an annual event involving over 100 volunteers, including City of Vallejo employees, working in a contiguous four-block area to paint the exteriors of blighted homes in 2006.
- ✓ Forty-seven (47) homes were improved through VNHS's Block Blitz, an annual day-long, volunteer-driven event focusing on removing blight and increasing safety through improved landscaping, minor home repairs, lighting, and debris removal in a contiguous block area in a CDBG target area neighborhood. Over 150 volunteers participated, including City of Vallejo staff. This is one of several neighborhood revitalization efforts undertaken to maintain and improve housing conditions in Vallejo.

With respect to the construction of affordable homes, the City of Vallejo and VNHS began partnering to create affordable housing units for first-time homebuyers in 1999. The first development consisted of four single family homes in South Vallejo. VNHS was responsible for all aspects of development, from planning, construction, and homeownership preparation, to financial lending. The City provided partial funding through the use of its Federal HOME Investment Partnerships Program funds.

The table below summarizes the new affordable housing currently under development. VNHS is responsible for the planning, development, financing, marketing, and sale of these homes.

NAME OF DEVELOPMENT	TYPE OF HOUSING	NO. OF UNITS	COMPLETION DATE (EST.)
Graham Gardens	Duet-style	22*	December 2007
McLane Townhouses	Townhouses	12**	May 2008
Courtyard	Single-family dwellings	4**	November 2008

* Eleven will be affordable.

** Number of affordable units to be determined.

In total, 38 new housing units will be constructed over the next two years. The City of Vallejo has allocated a portion of its HOME Program funds to VNHS for the construction of Graham Gardens. The Graham Gardens development will help to satisfy the requirements of the Buchongo Settlement Agreement, which requires the Vallejo Redevelopment Agency to increase its affordable housing opportunities to families at or below 80 percent (%) of the area median income (AMI), and also stipulates that the Agency create housing units able to accommodate large families (Federally-defined as having five or more members). This subpopulation tends to shoulder a higher housing cost burden, and is subject to potential housing overcrowding.

The creation of new homes in these neighborhoods serves the two-fold purpose of increasing homeownership among low-income families, while also stimulating community revitalization and investment. School district data indicates that 50 percent (%) or more of the elementary school children living in the College Park / North Vallejo and South Vallejo Neighborhoods are enrolled in the free and reduced lunch program. In the approximate ten-block radius surrounding the planned Graham Gardens development, there were 1,040 calls for police service; and in the six-block area surrounding the proposed McLane Townhouse development, there were 678 calls for service, from September 2005 to August 2006.

In addition to its work with VNHS, the City of Vallejo and the Vallejo Redevelopment Agency partner with other nonprofit housing developers to preserve affordable rental units in Vallejo. In 1999, the Housing and Community Development Division worked collaboratively with the Solano Affordable Housing Foundation to acquire Marina Vista I, Marina Vista II, and Marina Vista Heights Apartments. This resulted in the preservation of 388 affordable rental units, 64 of which were HUD project-based units for the elderly. In 2006, the City and the Redevelopment Agency loaned funds to a partnership consisting of BRIDGE Housing Corporation and the John Stewart Company for the rehabilitation of 155 rental units for low-income seniors at Marina Tower Apartments. The renovation of the building included seismic upgrades.

In 2002, the Redevelopment Agency collaborated with Citizens Housing Corporation to develop a major transit-oriented family housing project on a five-acre site in North Vallejo. This affordable housing development includes 125 low-income units for families, with a day care center, family resource center, community space, and resident services area.

In 2006, the City of Vallejo and Redevelopment Agency also made significant strides in helping to create new housing units for very low-income renters. Through the Avian Glen Apartments development on Avian Drive in East Vallejo, completed in the spring of 2007 by Affirmed Housing Group, 87 multi-family units were constructed. Solari Enterprises, Inc. manages these units.

The Vallejo Housing Authority does not own or manage any public housing, but rather provides rental assistance through the Housing Choice Voucher Program. The Housing Authority administers 2,266 vouchers annually.

6. Experience and Capacity to Implement Proposed Housing Program

The Housing and Community Development Division administers the City's CDBG and HOME Programs; the Housing Authority's Housing Choice Voucher, Family Self-Sufficiency, and Homeownership Programs; and the Redevelopment Agency's Affordable Housing projects. These allocations are expected to total \$36 million in Fiscal Year (FY) 2007/2008. As discussed in the last section, affordable housing developments and projects are completed in partnership with local nonprofit housing agencies and developers.

The Housing and Community Development Division serves a population of 116,800 residents; 65 percent (%) are people of color. There are an estimated 39,601 households in Vallejo; 45 percent (%), or approximately 17,800 units, were constructed before 1980. There are several Census Block Groups in the City in which 51 percent (%) or more of the residents are at or below 80 percent (%) of the AMI, and also Census Block Groups where at least 70 percent (%) of the residents are non-white. Many of these areas are considered high priority areas for community revitalization and homeownership promotion.

The Vallejo Housing Authority will subcontract with VNHS to administer the proposed Vallejo HELP Down Payment Assistance Program. The City of Vallejo and VNHS have been working in partnership for over 25 years to execute various affordable housing strategies, including down payment and closing cost assistance programs, housing rehabilitation loans, emergency home repair loans, paint grants, homebuyer education and counseling, community revitalization projects, and the development of affordable housing units.

VNHS is a non-profit affordable housing agency, founded in 1980. VNHS's mission is to *facilitate the production, acquisition, rehabilitation, and preservation of housing for low- to moderate-income individuals and families in order to combat community deterioration and preserve neighborhood stability*. To this end, VNHS develops, owns, and manages housing in the public and community interests; expands credit opportunities to residents through education and product line; helps homeowners/residents to improve housing conditions; and fosters creation and

development of locally-based partnerships to address the physical, economic, and social needs of neighborhoods.

VNHS is an affiliate member of NeighborWorks® America, a Congressionally-chartered, public non-profit that exists to promote neighborhood revitalization through homeownership in over 230 cities nationally. VNHS participates in the national NeighborWorks® America Campaign for Homeownership. This campaign received a HUD Best Practice Award for “outstanding and innovative use” of HUD assistance, resulting in 81,238 homeowners and \$7.8 billion invested in communities nationwide. As an affiliate member, VNHS receives ongoing technical assistance, annual training institutes, grant funding, and other vital resources from NeighborWorks® America on a regular basis. In July 2006, NeighborWorks® America conducted an evaluation of VNHS and found it to be a “strong, healthy, and especially productive organization.”

As a NeighborWorks® America organization in excellent standing, VNHS has tremendous credibility among lenders, government agencies, community organizations, and families served. In addition to the City of Vallejo, other partners include Bank of the West, World Savings Bank, Delta Lending Group, State Farm Insurance, Union Bank of California, US Bank, Washington Mutual, and Wells Fargo Bank. VNHS maintains a strong partnership with Neighborhood Housing Services of America (NHTSA), in which NHTSA serves as a secondary market. Since NHTSA founded the NHTSA/Community Development Financial Institutions (CDFI), VNHS has accessed \$1.5 million dollars in single family direct loans for down payment assistance, \$2 million dollars in interim development loan funds, and a \$363,000 permanent loan for the Lake Dalwigk townhouses. In addition, VNHS was just approved for a \$500,000 revolving line of credit for down payment assistance.

VNHS's current mortgage loan portfolio is \$2.7 million dollars. Since 2001, VNHS has produced over 536 low to moderate income first-time homebuyers. It specializes in creating default-resistant borrowers and maintains a loan delinquency rate of less than one (1) percent (9%). One reason why VNHS maintains a successful homeownership rate is because VNHS requires all prospective homeowners to attend its homeownership education program. Another contributing factor is that VNHS lending staff regularly monitor loans and contact borrowers if a payment is more than fifteen (15) days late.

VNHS staff includes eleven (11) full-time members. Renee Walton, Executive Director, has been with VNHS since 1991. In this time, VNHS's operating budget and program budgets increased from \$577,000 in FY 1995/1996 to \$30,812,000 in FY 2005/2006. Key staff positions include Executive Director, Director of Finance and Administration, (Construction) Project Manager, Housing Rehabilitation and Asset Manager, HomeOwnership Center Manager, and HomeOwnership Center Loan Consultant. All lending staff are HUD-certified.

As of June 2006, VNHS has leveraged \$127,421,216 million dollars in community reinvestments in Solano, Napa, Lake, and Contra Costa Counties, resulting in 3,154 households served since 1996. From 2003 through March 31, 2005, 77 percent (%) of clients served were low-income, and twenty (20) percent (%) were moderate-income. Nearly half (48 percent (%)) were female heads of household, eight (8) percent (%) were elderly, and six (6) percent (%) were handicapped. African-Americans represented 54 percent (%) of clients served; twenty-two (22) percent (%) were white;

fourteen (14) percent (%) Hispanic; nine (9) percent (%) Asian, Filipino or Pacific Islander; and one (1) percent (%) Native American.

7. EXECUTIVE SUMMARY

A. CHARACTER AND PURPOSE OF PROGRAM

The Vallejo Housing Authority is requesting a CalHFA HELP Loan to assist very low- to moderate-income homebuyers in Vallejo. The loan will be used to provide Down Payment Assistance Loans to first-time homebuyers. The program will be available to homebuyers at or below 120 percent (%) of AMI. These fixed-rate Down Payment Assistance Loans will be amortized over 30 years and payable in full in ten (10) years, or upon sale, refinance, alienation, or change of ownership. At the option of the Vallejo Housing Authority, some loans provided may be deferred.

The Housing Authority will subcontract with VNHS to administer the CalHFA HELP Loan. VNHS is a premier non-profit affordable housing agency that also serves as the City of Vallejo's CHDO. VNHS has administered a successful Down Payment Assistance Program with the City for seventeen (17) years. As an affiliate member of NeighborWorks® America, VNHS brings considerable assets and resources to the program, including over \$1,435,505 in additional funding, as well as a well-established fiscal and administrative infrastructure from which to execute the proposed program.

The CalHFA HELP Loan Program will help to address the City of Vallejo's housing priority #2 as adopted in its five-year Consolidated Plan: very-low and low-income first-time homebuyers at or below 80 percent (%) of AMI. This Consolidated Plan goal is to provide homeownership to 25 households during the life of the Plan.

The need to expand down payment assistance continues to grow. It is estimated that only twelve (12) percent (%) of Vallejo's population is able to afford a median-priced home in Vallejo, (\$415,000 as of February, 2007). In the prior fiscal year, VNHS originated 37 Down Payment Assistance Loans for a total of \$1,910,844. It achieved 205 percent (%) of its output goal, and 254 percent (%) of its value goal. CalHFA funding will make it possible for the City of Vallejo to meet the increased demand for down payment assistance loans, thereby making homeownership a reality for families of modest means. When a family is able to meet the twenty (20) percent (%) down payment requirement of traditional lending institutions, it increases buying power. Borrowers with twenty (20) percent (9%) down are not subject to the .61 percent (9%) mortgage insurance premium charged to protect the lender against default.

VNHS will require all participants to graduate from its homebuyer education program which covers topics such as saving, budgeting, credit, meeting loan payment obligations, and home maintenance. The program includes group education as well as individual counseling. The program is designed to create default-resistant borrowers.

B. Funding Request

The Vallejo Housing Authority is requesting a \$1.5 million CalHFA HELP Loan. This loan will be used to assist 25 families and households in FY 2007/2008. The interest rate charged will be at three-and-one-half (3.5) percent (%) for borrowers at or below 120

percent (%) of AMI. Area median income is set by the U. S. Department of Housing and Urban Development (HUD) for the County of Solano. Borrower income will be verified through tax statements, payroll, and benefit stubs. As noted in a previous section, some loans provided may be deferred, on a case-by-case basis, depending on need.

The average down payment assistance loan will be \$65,000, not exceed to twenty (20) percent (%) of the home sale price. Fixed rate loans will be amortized over 30 years, and due and payable in ten (10) years. The \$65,000 down payment assistance loan will allow a family to purchase a home of up to \$325,000. (At the time of this writing, there are 119 homes for sale in this price range.¹) When a borrower sells, refinances, rents, alienates, or otherwise vacates the home, the loan balance must be paid in full.

C. Amount and Nature of Other Funding

VNHS has a \$500,000 revolving line of credit with NHSA/CDFI. When loans are funded, they are packaged and sold to their secondary market, NHSA, to replenish funds constantly. In addition, there is a balance of \$389,265 remaining from a direct loan from NHSA/CDFI for down payment assistance loans. VNHS facilitates a fund for the California Association of Realtors (CAR) and the Solano Association of Realtors (SAOR) Housing Affordability Funds (HAF). The current balance is \$54,401. These funds will increase up to \$100,000 as funds are received in from the SAOR membership, with matching funds from the HAF account. There is a balance of \$424,925 in CDBG and HOME funds from the City of Vallejo for down payment assistance loans and closing cost grants, with an additional \$250,606 expected in FY 2007-2008.

D. Implementation Time Frame

Program implementation will begin immediately. The Vallejo Housing Authority will subcontract with Vallejo Neighborhood Housing Services, Inc. (VNHS), its designated Community Housing Development Organization. VNHS has been operating a successful down payment assistance program since 1989. VNHS is a premier non-profit affordable housing agency with over 25 years of experience serving families of modest means. It possesses the needed administrative and fiscal capacity to begin operation immediately upon funding notification. Last year, VNHS graduated 168 families from its first-time homebuyer education program that are potentially eligible for the program. The program will begin on July 1, 2007 and end on June 30, 2008. The CalHFA HELP loan's principal and interest will be paid in full by 2017.

Resources and Capacity Needed for Implementation

The City of Vallejo and VNHS have an existing down payment assistance program. The Vallejo Housing Authority will work with VNHS's Homeownership Center Housing Counselors, Loan Agents, and Finance Director to ensure the well-coordinated implementation of the proposed HELP Program. No additional resources are needed to implement the program. Loan servicing is already in place as is the loan documentation. VNHS has been facilitating the City's DPA program for many years. In addition, VNHS serviced their loans for five (5) years.

¹ www.greathomes.org, April 4, 2007.

8. PROGRAM DESCRIPTION

Type of Program and Timeline

The Vallejo Housing Authority is requesting a \$1.5 million CalHFA HELP Loan to implement the Vallejo CalHFA HELP Down Payment Assistance Program. The Housing Authority will subcontract with VNHS to administer the program. VNHS has a pool of 168 prospective homebuyers currently in the "pipeline" who successfully completed VNHS's first-time homebuyer program in 2006.

The CalHFA HELP Program will begin immediately following receipt of the loan. Rapid start-up is possible because the City of Vallejo and VNHS have an existing contractual relationship to undertake the proposed activities. VNHS has been operating a Down Payment Assistance Program since 1989. It possesses the needed administrative and fiscal infrastructure to execute the program. No new staff will need to be hired. The table below summarizes the CalHFA HELP Program Timeline.

CALHFA HELP PROGRAM TIMELINE		
Activity	Completion Dates	Responsible Party
Program Start-Up: Sign needed contractual agreements Originate 25 DPA Loans	Within 60 days of loan funding July 1, 2007 - June 30, 2008	Vallejo Housing Authority VNHS
Annual Activities: Make monthly deposits to meet the ten-year interest required of the HELP Loan.	Year 1 - Year 10	Vallejo Housing Authority
Program End: Pay \$1,552,500 to CHFA	Year 10	Vallejo Housing Authority

Number of Units/Households Expected to Benefit

DPA loans will be provided to 25 families at or below 120 percent (%) of AMI. DPA loans will be amortized over 30 years at three-and-one-half (3.5) percent (%) interest, with a loan amount not to exceed \$65,000, or twenty (20) percent (%) of the purchase price. The majority of the DPA Loans will be blended with low rate 30-year fixed rate mortgages designed to maximize prospective homeowner's buying power.

Only graduates of VNHS's homebuyers' education program (Homebuyers Club) who meet the income limits per household size will be eligible. The table below summarizes the income thresholds by family size.

Local Government's Affordability Limits (to be updated prior to submission)

2006 VALLEJO MEDIAN INCOME LIMITS BY FAMILY SIZE								
	Number of Persons in Family							
	1	2	3	4	5	6	7	8
Solano	\$51,800	\$59,200	\$66,600	\$74,000	\$79,900	\$85,850	\$91,750	\$97,700
<80% AMI	\$41,450	\$47,350	\$53,300	\$59,200	\$63,950	\$68,650	\$73,400	\$78,150

Income and household size will be verified through the loan process. Potential homebuyers are required to provide the past two years' tax returns, W-2's, and previous month's pay stubs. The tax returns show the number of dependents. The tax returns, pay stubs, and W-2's verify income and family size. In addition, a verbal or written verification of income is obtained from the employer or agency that is providing the income, (Social Security, retirement, etc.).

Statement Addressing Unmet Affordable Housing Need

The City of Vallejo's Consolidated Plan is a five-year planning document required by HUD. The Consolidated Plan focuses on the City's housing and community development needs. The Consolidated Plan has established two priority groups for programs and assistance:

Priority 1: Very low income renters; very low and low income existing homeowners; homeless persons; and non-homeless persons with special needs, i.e., persons living with HIV/AIDS, severe mental illness, or substance abuse addictions.

Priority 2: Very low and low income first-time homebuyers.

The proposed Vallejo Housing Authority HELP Program will help to address the City of Vallejo's housing priority #2: very low and low income first-time homebuyers at or below 80 percent (%) of AMI. The City's goal is to provide homeownership to 25 households during the life of the Plan, adopted in 2005. This is aligned with CalHFA's program objective: *to provide affordable housing opportunities through program partnerships with local government entities, consistent with their affordable housing priorities.*

Although the housing market has slowed from the previous year, Vallejo continues to be one of the most expensive housing markets in the nation. The Wells Fargo Housing Opportunity Index recently placed the Vallejo / Fairfield Metropolitan Area at 175th out of 199 in housing affordability nationwide. An estimated twelve (12) percent (%) of Vallejo residents are able to purchase a median priced home, which as of February 2007, is \$ 415,000.² The demand for down payment assistance continues to grow. In the prior fiscal year, VNHS originated 37 down payment assistance loans. In doing so, it achieved 205 percent (%) of its output goal, and 254 percent (%) of its value goal. The CalHFA HELP Program will enable the City of Vallejo to meet the demand for housing assistance and thereby provide resources to address its unmet housing priorities.

When prospective homebuyers must borrow more than 80 percent (%) on their first mortgage loan, they typically pay higher interest rates than those who have a twenty (20) percent (%) down payment. They must also pay an additional .61 percent (%) premium for mortgage insurance to protect the lender against default. This reduces borrowers' buying power and often pushes many first-time homebuyers out of the

² California Association of Realtors®.

market completely. Through the proposed CalHFA HELP Program, prospective low-and moderate-income homeowners can overcome these barriers.

Comprehensive Program Features

All prospective borrowers must complete VNHS's homebuyer education program, the Homebuyers Club. The Home Buyers Club is a six-week training course offered to low-and moderate-income families. Twelve (12) hours of group training on the topics listed below is coupled with two to ten (2-10) hours of one-on-one credit and budget counseling.

- Session 1: Is Owning a Home Right For You?
- Session 2: How Much Can You Pay For a Home?
- Session 3: Credit Basics: How Do You Manage Your Money?
- Session 4: Finding a Great Home
- Session 5: The Mortgage Loan Process
- Session 6: Protecting Your Investment

VNHS also offers an eight-hour fast-track program, which is a condensed version of the above curriculum for less credit-challenged, more mortgage-ready buyers. VNHS also provides an eight-hour course for Spanish-speaking customers, classes designed specifically for families with Housing Choice Vouchers, as well as one-on-one foreclosure prevention and early intervention delinquency counseling.

The proposed program will also take place within the context of VNHS's Vallejo Neighborhood Revitalization (VNR) initiative. VNR is a multi-agency approach involving the police, Code Enforcement, community groups, and local citizens to promote targeted neighborhood revitalization. VNHS contributes to this effort by increasing homeownership rates and by addressing issues that affect health and safety, including blight and physical deterioration. Homeownership is a primary strategy used throughout the United States to build communities and revitalize neighborhoods. The benefits to communities are well documented. Homeownership creates neighborhood stability. Homeowners tend to live in a community four times longer than renters, as reported in the 1995 American Housing Survey. Researchers William Rohe and Michael Stegman found that homeownership increases civic involvement, as homeowners tend to be more heavily invested in their communities.³ Moreover, homeownership improves neighborhoods because homes are better maintained, and property values are increased.⁴

Amount of Funding and Terms

The Vallejo Housing Authority will be responsible for ensuring that the CalHFA Loan is paid, with three-and-one-half (3.5) percent (%) interest, at the end of the ten year loan period. When a participating homeowner sells, refinances, rents, or vacates the home, the loan will become due, and must be paid in full. If at the end of ten years the owner is still living in the home, he or she will be required to refinance and repay

³ "The Impact of Homeownership on the Social and Political Involvement of Low-Income People," by Rohe, William and Michael Stegman, *Urban Affairs Quarterly*, 30, 1994.

⁴ Homeownership and Neighborhood Reinvestment, Galster, George, C. Durham, NC: Duke University Press, 1987.

the loan. This will ensure the principal is paid to CalHFA in a timely manner. The Vallejo Housing Authority will secure the interest by collecting interest payments from borrowers on a monthly basis and depositing these funds into an interest-bearing account.

No other CalHFA Homeownership or Rental Loan Programs will be utilized in conjunction with the proposed program.

Attachments

1. Resolution Authorizing CalHFA Application
2. City of Vallejo Housing Element
3. City of Vallejo Consolidated Plan
4. Resolution Approving City of Vallejo Housing Element



CITY OF VALLEJO

ADMIN. A
CC/RDA/VHA

Agenda Item No.

CITY COUNCIL COMMUNICATION

Date: April 17, 2007

REDEVELOPMENT AGENCY BOARD COMMUNICATION

VALLEJO HOUSING AUTHORITY BOARD COMMUNICATION

TO: Mayor and Members of the City Council
 Chairperson and Members of the Redevelopment Agency
 Chairperson and Commissioners of the Housing Authority

FROM: Craig Whittom, Assistant City Manager/Community Development *W*
 Susan McCue, Economic Development Program Manager *SMC*
 Laura Simpson, Housing and Community Development Manager *LS*
 Robert Stout, Finance Director *RS*

SUBJECT: Approval of Resolution Authorizing the Executive Director of the Redevelopment Agency of the City of Vallejo, the Executive Director of the Vallejo Housing Authority, the City Manager of the City of Vallejo, to Sign the Petition to Renew the Property Based Improvement District Known as the Downtown Vallejo Management District, to Cast Assessment Ballot(s) in Favor of Renewing the District, and Sign Such Other Documents Necessary to Allow the Renewal of the District to be Heard before the City Council at a Final Hearing

BACKGROUND & DISCUSSION

On January 7, 1997, the City Council authorized the formation of the Downtown Vallejo Management District (DVMD). In December 1997 the City Council approved an agreement with Central Core Restoration Corporation (CCRC) that requires CCRC to provide the services called for in the DVMD Management Plan. CCRC is required to submit to the City for review, comment, and approval an annual report describing the proposed DVMD improvements and services and proposed budget for each year of operation. The District has a five-year limit and must be reestablished after five years. In July 2002 the City Council approved the establishment of the DVMD Management Plan and the establishment of City baseline services for the District. The District was renewed for another five years.

CCRC is operating in the fifth and final year of the renewed DVMD. To date, CCRC has complied with their contractual obligations and has taken seriously their charge of downtown revitalization through multiple efforts including annually publishing and distributing a Downtown Directory to 25,000 residents of Vallejo, receiving Main Street accreditation with the State of California, assisting the City in creating a Sidewalk Café ordinance, assisting the City in creating a Live/Work ordinance, and producing a Historic Walking Tour Map and Guide of the downtown district. The process for reestablishing the DVMD is a 10-12 month intensive process that involves gathering and updating data, creating maps, facilitating stakeholder education and consensus building, developing a District Management Plan, preparing for a property owner petition drive, and preparing for a Proposition 218 ballot drive.

CCRC is currently preparing a property owner petition drive and is requesting that the City of Vallejo, the Redevelopment Agency of the City of Vallejo, and the Vallejo Housing Authority, as

property owners in the District, sign the petition to reestablish the DVMD. State legislation requires a petition to be signed by the owners of a majority of the properties that would pay into the District. This acceptance of the DVMD by a majority of the benefiting properties must be completed before the City can consider approval of the Resolution of Intention to establish the DVMD. Staff is requesting that the Executive Director of the Redevelopment Agency be given the authority on behalf of the respective agencies to take all actions necessary to execute documents including the petition and ballot in favor of the proposed District. Each Agency owns property in the proposed District and must take action to either support or reject approval of the District.

A Management District Plan was drafted to spell out the services to be provided within the District, establish the boundaries of District, the budget, and the term of the District. The Service Plan provides for an increased security effort, cleaning, debris removal, graffiti removal, landscape maintenance and maintenance of streetscape improvement within public right of ways, image enhancement, and business advocacy services, above and beyond those currently provided by the City of Vallejo. The District service levels will vary depending on varying demand. All benefits to parcels shall be provided based on the amount paid into the District.

If CCRC is successful in obtaining signatures of support from downtown property owners paying over fifty percent (50%) of the total assessments by May 2007, the next steps are for the City Council to adopt a resolution of intention to renew the Downtown Vallejo Management District in June 2007. Also in June 2007 a notice of public hearing and Proposition 218 ballots is mailed to the downtown property owners within the District; in July 2007 a public hearing is held on the District and the City Council adopts a resolution of formation establishing the District. If the balloting is in the affirmative, in August 2007 the City Clerk submits DVMD assessment information to the County Assessor.

FISCAL IMPACT

The annual assessment for the City and Agency owned property within the Downtown Vallejo Management District (DVMD) is approximately \$42,526. The Redevelopment Agency is currently paying the annual contribution to the DVMD from Marina Vista and Vallejo Central Redevelopment Areas. The Agency would continue to pay the assessment for properties owned by the City and Agency. Funds are available in these budgets to continue paying this assessment for the five-year lifespan of the DVMD. The annual assessment for the Housing Authority is approximately \$3,679. The Housing Authority would pay the assessment for properties owned by the Housing Authority. There is no impact on the General Fund by approving this authorization to sign the petition to establish the Downtown Vallejo Management District.

The base level of services the City proposes to provide are street sweeping (mechanical) three times a week for streets and once a week for parking lots; landscaping (maintaining shrubs

and weeding) quarterly; landscaping (planters) two times per year plus trouble calls; tree trimming for public hazards only (ongoing tree trimming will be a function of the District); graffiti removal (public facilities and street signs) as requested, subject to overall City-wide graffiti backlog; trash collecting is a service of the Vallejo Garbage however the City to ensure next franchise agreement includes no fewer than two pick ups per week of sidewalk public trash containers; fountain maintenance as needed which consists of cyclical cleaning and repairs when found necessary; sidewalk repair per City standard which consists of repairs made to defects of cracks that are $\frac{1}{2}$ " or wider and a rise of $\frac{3}{4}$ " or more; lawn mowing (parcel on 200 block of Georgia Street adjacent to Vallejo Housing Authority) once a week; and putting up and taking down the Christmas decorations will be a function of the District.

RECOMMENDATION

Adopt the resolution authorizing the Executive Director of the Redevelopment Agency of the City of Vallejo or his designee to sign the petition to form the Property and Business Improvement District known as the Downtown Vallejo Management District, the assessment ballot(s), and such other documents as may be necessary for support and implementation of the District.

ALTERNATIVES CONSIDERED

The alternative is to not have the Executive Director of the Redevelopment Agency or his designee sign the petition to form the District, the assessment ballot(s), and other documents necessary for support of the District, which may result in not having sufficient petitions signed to renew the District. If the District is not renewed, the assessments paid by downtown property owners would not be available to fund such programs as the enhanced public safety program and the expanded maintenance program, which are identified primary uses of the funds.

ENVIRONMENTAL REVIEW

There is no environmental impact associated with authorizing the Executive Director of the Redevelopment Agency or his designee to sign the petition to establish the Downtown Vallejo Management District.

PROPOSED ACTION

Approve the resolution authorizing the signing of the petition to establish the Downtown Vallejo Management District, the assessment ballot(s), and such other documents as may be necessary for support and implementation of the District.

DOCUMENTS AVAILABLE FOR REVIEW

- Attachment A - Resolution from Housing Authority
- Attachment B - Resolution from Redevelopment Agency
- Attachment C - Resolution from City Council
- Attachment D - Draft Downtown Vallejo Management District Plan

CONTACT: Annette Taylor, Senior Community Development Analyst
707-649-3510, annette@ci.vallejo.ca.us

Susan McCue, Economic Development Program Manager
707-553-7283, smccue@ci.vallejo.ca.us

RESOLUTION NO. _____

**RESOLUTION OF THE HOUSING AUTHORITY OF THE CITY OF
VALLEJO**

BE IT RESOLVED by the Housing Authority of the City of Vallejo as follows:

WHEREAS, the Central Core Restoration Corporation (CCRC) has proposed the Downtown Vallejo Management District, and

WHEREAS, the Housing Authority of the City owns property within the proposed District; and

WHEREAS, CCRC has requested that the Housing Authority of the City of Vallejo sign the petition to form the District;

NOW, THEREFORE, BE IT RESOLVED that the Executive Director or his designee is authorized to sign the petition, to cast assessment ballot(s) in favor of renewing the District, and sign such other documents as may be necessary to allow the renewal of the District to be heard before the City Council at a final hearing.

RESOLUTION NO. _____

**RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF
VALLEJO**

BE IT RESOLVED by the Redevelopment Agency of the City of Vallejo as follows:

WHEREAS, the Central Core Restoration Corporation (CCRC) has proposed the Downtown Vallejo Management District, and

WHEREAS, the Redevelopment Agency of the City owns property within the proposed District; and

WHEREAS, CCRC has requested that the Redevelopment Agency of the City of Vallejo sign the petition to form the District;

NOW, THEREFORE, BE IT RESOLVED that the Executive Director or his designee is authorized to sign the petition, to cast assessment ballot(s) in favor of renewing the District, and such other documents as may be necessary to allow the renewal of the District to be heard before the City Council at a final hearing.

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF VALLEJO

BE IT RESOLVED by the City of Vallejo as follows:

WHEREAS, the Central Core Restoration Corporation (CCRC) has proposed the Downtown Vallejo Management District, and

WHEREAS, the City of Vallejo owns property within the proposed District; and

WHEREAS, CCRC has requested that the City of Vallejo sign the petition to form the District;

NOW, THEREFORE, BE IT RESOLVED that the City Manager or his designee is authorized to sign the petition, to cast assessment ballot(s) in favor of renewing the District, and such other documents as may be necessary to allow the renewal of the District to be heard before the City Council at a final hearing.

DOWNTOWN VALLEJO

PROPERTY AND BUSINESS IMPROVEMENT DISTRICT

MANAGEMENT DISTRICT PLAN

*Prepared pursuant to the State of California
Property and Business Improvement District Law of 1994
for the renewal of the Downtown Vallejo PBID*

Submitted to the

Downtown Vallejo Property Owners

March 13, 2007

Prepared by



***Downtown Vallejo
Property and Business Improvement District
Management District Plan***

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APPENDIX 1: LIST OF PROPERTIES TO BE ASSESSED

APPENDIX 2: CITY OF VALLEJO DRAFT RESOLUTION: BASE LEVELS OF SERVICE POLICY AND EVALUATION OF THE BASELINE SERVICES

I. INTRODUCTION AND OVERVIEW

Property owners within the existing Downtown Vallejo Property and Business Improvement District (PBID) have been pleased with the services provided with the current PBID funding and created this Management District Plan to renew the PBID. The renewed Downtown Vallejo PBID establishes an expanded maintenance program including trash and debris collection, an economic development/marketing program, and a public safety program that go above and beyond those services provided by the City of Vallejo (the "City").

Location: The District includes approximately 16 blocks of the central core of downtown Vallejo. The District boundaries include 154 parcels and include Santa Clara St. to the West, Curtola Parkway to the South, up to Pennsylvania St., North along Sonoma Blvd. over to portions of Sutter St., up to Capitol St., including a portion on the North side of Capitol between Sonoma and Marin, West back to Santa Clara St. For a complete description of the District boundaries, please see Section IV of this Plan. Please see the map in Section V of this Plan.

Services: A maintenance program to provide additional cleaning, debris removal, graffiti removal, landscape maintenance and maintenance of streetscape improvements within public right of ways; an economic development and marketing program to provide an internet presence, hand-out publications and improved signage; and a security program to support additional security services.

Budget: Total maximum district budget for each year of its five (5) year operation is a base of approximately \$198,500 per year with a maximum 3% increase in the assessment rates per year.

Cost: All properties will be assessed at a base rate of \$0.027 per parcel square foot per year. The PBID has three benefit zones, which charge differing rates per linear front foot based on the service received. Zone 1, which receives the most service, would pay \$13.30 per linear front foot per year. Zone 2 would pay \$10.64 per linear front foot per year. Zone 3 would pay \$6.40 per linear front foot per year.

Formation: District formation requires submittal of petitions from property owners representing at least 50% of the total annual assessment and a favorable ballot vote of the property owners conducted by the City. The "Right to Vote on Taxes Act" (also known as Proposition 218) requires that more than 50% of the ballots received, weighted by assessment, be in support of the District. There will also be City Council hearings.

Duration: The proposed District will have a five-year life. After five years, the petition process, ballot process, and City Council hearing process must be repeated for the District to be reestablished.

II. WHY CONTINUE THE PBID FOR DOWNTOWN VALLEJO?

There are several reasons why it is imperative to renew the PBID in downtown Vallejo:

1. *The Need to Reverse Downtown Vallejo's Negative Image.*

By keeping the focus on downtown and advocating positive sustainable change, we are changing the real or perceived negative image that downtown Vallejo carries as an unsafe and deteriorating environment. The District's image affects businesses, whether retail, leased office space, or residential. The PBID would continue to provide a stable funding source to be used for visible and effective maintenance and marketing services, which continues to build a positive image for the downtown area.

2. *The Need to Provide Effective Supplemental Services in a Cost Effective Manner.*

The City of Vallejo is responsible for providing services on a citywide basis. The District will continue to build on those services to make downtown Vallejo cleaner and safer than it has ever been. The PBID will also continue to provide unified programming and direct accountability to those who pay.

3. *An Opportunity to Establish Private Sector Control and Accountability.*

These services will continue to be managed by the Central Core Restoration Corporation (CCRC), a non-profit private sector business organization formed for the sole purpose of improving downtown Vallejo. Annual service plans and budgets will be developed by the CCRC Board, composed of stakeholders that own businesses and property in downtown Vallejo. In addition, all downtown Vallejo stakeholders are encouraged to attend PBID meetings and their comments and suggestions are welcome. Additional security, maintenance, and economic development services will be subject to private sector performance standards, controls, and accountability.

III. WHAT IS A MANAGEMENT DISTRICT?

The International Downtown Association estimates that more than 1,200 Districts currently operate throughout the United States and Canada.

A PBID may provide services, identity formulation, market research, and economic development in addition to those provided by local government. In addition, PBID's may provide physical improvements such as entry features, benches, or lighting. These services are concentrated within a distinct geographic area and are paid for by means of a special property owner assessment. A Board of Directors representing those who pay would govern the organization responsible for providing these services.

PBIDs are proven to work by providing services that improve the overall viability of commercial districts, resulting in higher property values and sales volumes.

The Downtown Vallejo PBID will be formed pursuant to a State Law that took effect in January of 1995. The "Property and Business Improvement District Law of 1994," which was signed into law by then Governor Pete Wilson, ushered in a new generation of PBID's or Management Districts in California by allowing a greater range of services and independence from government. The PBID law:

- Allows property owners to undertake services ranging from security to maintenance, and from business advocacy to economic development.
- Allows revenue for services to be raised from annual assessments on real property.
- Allows formation of a district designed and governed by those who will pay the assessment.
- Requires petition support from property owners paying over 50% of the annual proposed property assessments to form a PBID.
- Requires limits for assessments to ensure that they do not exceed pre-established levels.
- Provides a multi-year life for PBID's. Renewal of a PBID requires a new petition process, Proposition 218 ballot vote, and City or County hearings. The Downtown Vallejo PBID will have a five (5) year term.

The "Property and Business Improvement Business District Law of 1994" (AB 3754) as amended January 1, 2004 is provided in Appendix 1 of this document.

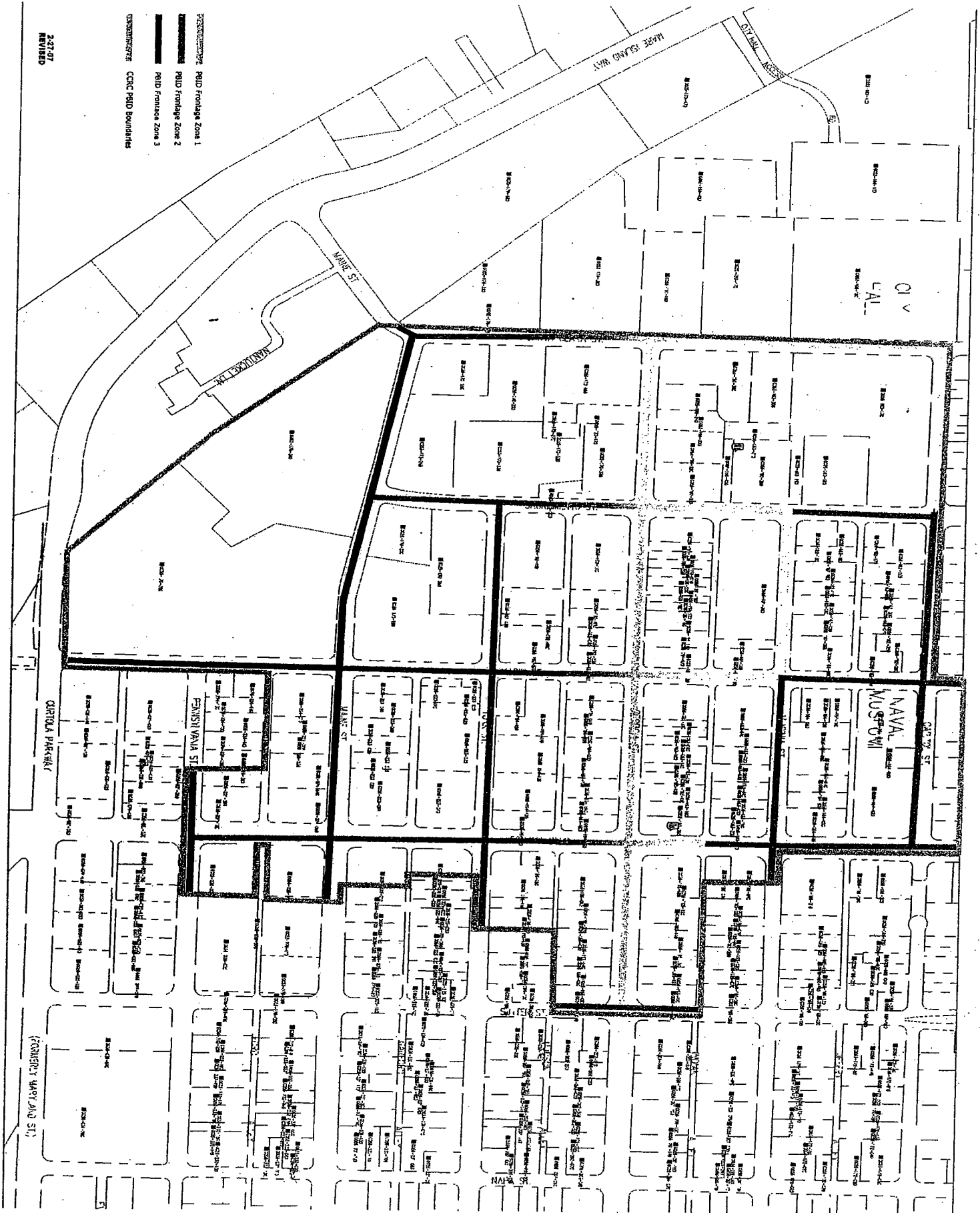
IV. DOWNTOWN VALLEJO PBID BOUNDARIES

The CCRC will deliver services provided by the PBID funding in an approximately 16-block area of downtown Vallejo. The District boundaries are as follows:

The District includes approximately 16 blocks of the central core of downtown Vallejo. The District boundaries begin in the center of the intersection of Capitol Street and Santa Clara Street, thence running south along the center of Santa Clara Street to its intersection with Maine Street, thence southwesterly along the center of Maine Street to a point opposite the southeast boundaries of parcels 0055-170-310 and 0055-170-350, thence southeasterly along the southeast boundaries of parcels 0055-170-310 and 0055-170-350 to the north right-of-way line of Curtola Parkway, thence easterly along the north right-of-way line of Curtola Parkway to the center of Mariñ Street, thence north along the center of Marin Street to the center of Ford Alley, thence easterly along the center of Ford Alley to a point opposite the west boundary of parcel 0056-224-080, thence southerly along the west boundary of parcel 0056-224-080 to the center of Pennsylvania Street, thence east along the center of Pennsylvania Street to a point opposite the east boundary of parcel 0056-226-020, thence north along the east boundary of parcel 0056-226-020 to the south line of vacated Ford Alley, thence west, along the south line of vacated Ford Alley to the east right-of-way line of Sonoma Boulevard, thence north along the east right-of-way line of Sonoma Boulevard to the north line of vacated Ford Alley, thence east along the north line of vacated Ford Alley to the east boundary of parcel 0056-226-100, thence north along the east boundary of parcel 0056-226-100 to the center of Maine Street, thence west to a point opposite the east boundary line of parcel 0056-225-210, thence north along the east boundary line of parcel 0056-225-210 to the center of Garford Alley, thence west along the center of Garford Alley to a point opposite to the east line of parcel 0056-225-010, thence north along the east line of parcel 0056-225-010 to the center of York Street, thence east along the center of York Street to a point opposite the east boundary line of parcel 0056-196-130, thence north along the east boundary line of parcel 0056-196-130 to the center of Hudson Alley, thence east along the center of Hudson Alley to the center of Sutter Street, thence north along the center of Sutter Street to the center of Indian Alley, thence west along the center of Indian Alley to a point opposite the east boundary line of parcel 0056-195-170, thence along the east boundary of parcels 0056-195-170 and 0056-195-010 to the center of Virginia Street, thence west along the center of Virginia Street to the center of Sonoma Boulevard, thence north along the center of Sonoma Boulevard to the intersection of Kissel Alley, thence west along the center of Kissel Alley to the center of Marin Street, thence south along the center of Marin Street to the center of Capitol Street, thence west, along the center of Capitol Street to the point of beginning.

The service area includes approximately 154 parcels. The map on the next page illustrates the PBID boundaries. Please Section VI of this plan for the specific assessment formula based on a combination of parcel square footage and parcel front footage along major streets. A larger map is available on request by calling (707) 649-3510 or (800) 999-7781.

Proposed Downtown Vallejo PBID Map



PROPOSED PBID
 PBID Frontage Zone 1
 PBID Frontage Zone 2
 PBID Frontage Zone 3
EXISTING PBID
 CCRC PBID Boundaries

3-27-07
 REVISED

V. SERVICE PLAN AND BUDGET

A. History of the Service Plan

Property and Business Improvement Districts (PBID's) provide a mechanism for property owners, business owners, and the government to join forces to improve their downtown areas. The owners within the Downtown Vallejo PBID have seized the opportunity to utilize this tool to provide efficient supplemental services in a cost-effective manner and wish to continue the service with some changes.

Property owners in the Downtown Vallejo PBID have been concerned about the need for additional security, maintenance within public rights-of-way, cleaning, and marketing in the downtown. The existing Downtown Vallejo PBID primarily provides a marketing program, with lesser emphasis on security and maintenance. The property owners have indicated a willingness to continue the Downtown Vallejo PBID provided more emphasis is placed on security and maintenance. Owners have also requested marketing efforts to promote the downtown as a clean, safe, and friendly place to do business, including out-of-district signage to direct people to the downtown. City services and efforts in these areas have been welcomed, but limited City resources and limited resources of the existing PBID have not allowed for a more comprehensive approach to managing this District.

The following Service Plan details the nature and extent of the services proposed and provides an itemized budget.

B. Downtown Vallejo Management District Service Plan

In the renewed PBID, the Service Plan provides for an increased security effort, cleaning, debris removal, graffiti removal, landscape maintenance and maintenance of streetscape improvements within public right of ways, image enhancement, and business advocacy services, above and beyond those currently provided by the City of Vallejo. Existing City services will remain intact pursuant to a "base levels of service" policy discussed in Section VIII of this Plan.

PBID service levels will vary depending on varying demand. All benefits to parcels shall be provided based on the amount paid into the District. For a more detailed discussion of the assessments, please see Section VI, Part A, Section 2, "Determination of Special Benefit." Program descriptions and budgets of the proposed programs for public safety, maintenance, image enhancement, business advocacy, and administrative services are provided in the following pages.

The first step in preparing the Service Plan was to identify the existing "baseline" level of services provided by the City of Vallejo. In order to identify the aspects of the District that needed additional services, several property owner meetings were conducted. In addition, numerous meetings were held with City of Vallejo staff, property owners, and business owners. Based on the information and opinions collected during this process, service priorities were

identified. The information from each step of this process was integrated and this Service Plan was developed. The following are some key aspects of the Service Plan budget:

1. Public Safety

The service plan budget allows for a security program which will provide a security program to reduce criminal activity in the Downtown Vallejo area. The security patrol shall coordinate with the Vallejo City Police department to act as additional "eyes and ears" for the police and the property owners. Coordination with the local law enforcement is vital to decreasing crime; educating property owners, and improving the appearance and perception of the downtown. The security program would work to limit areas where crimes can occur. In addition, the District will work closely with the Vallejo Police Department to ensure that downtown receives a heightened level of police service.

2. Internet and Out-of-District Signage

As part of its marketing services, the Downtown Vallejo PBID will operate a unified advocacy and marketing program that will work in collaboration with the businesses and property owners within the District. This program will include will include marketing the District through a website and signage that will extend out of the District boundaries to bring people into Downtown Vallejo. The intent of this program is to allow the public to view the area as a single destination with a rich collection of attractions, events, and services.

3. Community Services

A Community Services program will include a maintenance program, landscaping, publications for the public, and a signage program.

The maintenance program will work to keep the District clean and lit. District personnel or sub-contractors will be on the streets removing illegal dumping, other litter and graffiti within city rights-of-way. They will also trim trees, replace trees that become damaged or diseased, perform upkeep on the flower pots along the sidewalks, and repair and periodically repaint the acorn-style light posts, lighted bollards, drinking fountains and park-style benches. Maintenance personnel will perform bulb replacement in the lighted bollards and acorn lights only.

The District shall also be responsible for various signage programs. This will include the replacement of existing signs that appear deteriorated throughout the Downtown area, and the erection of new way-finding signage deemed appropriate by the District. The District will administer a program to install walking tour signage. These signage programs are in addition to the out-of-district signage program referred to in section 2, above.

The PBID will also be responsible for installing and removing holiday decorations and banners.

C. Service Plan Budget

A Service Plan budget has been developed by CCRC to deliver service levels throughout the District. Annual service plans and budgets will be developed and approved by the CCRC Board of Directors. Please see the budget exhibit on the following page for more detailed information. Should the CCRC Board approve, funds may be appropriated for the renewal effort. If there are funds remaining at the end of the District term and the owners choose to renew the District, these remaining funds could be transferred to the renewed District.

It is anticipated that certain district personnel (such as guides, ambassadors, or similar patrol personnel) will perform a dual function of security and maintenance. To the extent that these personnel perform sidewalk and street maintenance functions, including reporting maintenance needs and assisting with maintenance services, staffing costs attributable to the performance of these functions shall be acceptable expenditures of the funds described the budget on the next page.

**Table V-1
DRAFT Annual Budget for DOWNTOWN VALLEJO PBID - 2008**

Services Provided	Descriptions	Total
I. Security	The security portion of the program shall provide for private, semi-private or private city partnered security patrol(s) (bicycle patrol is an example)	\$81,000
II. Administration, Bookkeeping & Insurance	The Administration program provides for office personnel; office rent; office utilities; photocopy expenses; miscellaneous office expenses; bookkeeping expenses; audit expenses; insurance; 1/5 th cost of PBID renewal; administration of the program to place walking tour plaques and signs in District at the property owner's expense.	\$46,200
III. Internet & Out-of-District Signage	This portion of the program shall be used for the following: Website consultant; website management; website hosting; out-of-district signage (for example, freeway signs). Any surplus in this fund shall be devoted to security.	\$ 8,400
IV. Community Services	The Community Services portion of the District shall include the following: Hand-out publications; in-district signage (replacement of existing signage, such as deteriorated parking signs); finding way signage; graffiti removal within the city right-of-ways within the district; debris removal (illegal dumping of sofas, mattresses, etc.); painting of poles, bollards, acorn light posts (no cobra light posts), within city right-of-way within the district, on a rotational basis (different section of district painted each year); repairs of hardscape (drinking fountains, benches, acorn lights, bollards with lights, no cobra lights), including bulb replacement; installation and removal of December Holiday decorations; annual flower landscaping (replanting, watering, weeding and trimming of barrel type flower pots); tree maintenance in city right-of-way within district (trimming on a rotational basis, different section of district each year), and replacement of individual trees on an "as needed, where needed" basis (i.e. dead, damaged and diseased trees)	\$62,900
PBID Budget from Assessments		\$198,500
GRAND TOTAL BUDGET		\$198,500

D. Budget Notes

1. The budget contained in this document is only for funds which the CCRC receives from the assessments levied through the PBID.
2. Specific purpose funds received from third parties are not included within the budget in this document. Any funds received and accepted by the CCRC from third parties, for specific purposes, shall be devoted to those purposes, even if such purposes are not within the description of a category in the above budget. (Such funds would include, but are not limited to, purpose specific donations, and purpose specific funds received from the City of Vallejo).
3. Donations without purpose specific restrictions may be devoted to any use that benefits the PBID, even if such benefit is not within the description of a category in the above budget.
4. Any assessments collected in excess of the total budget may be devoted to any purpose benefiting the PBID, even if such a purpose is not within the description of a category in the above budget.
5. The budget in this document does not reflect any annual increase in the assessments as permitted by the PBID plan. Nothing in this budget shall prevent the Board of Directors of the CCRC from adopting an annual increase in the assessments, provided such increase is consistent with the PBID plan.
6. The Board of Directors of the CCRC, for good cause, shall have the authority to roll-over and/or reallocate any funds that were unspent, in a previous year's budget, to a different category.
7. If a cost reduction is anticipated in any category within the budget, the Board of Directors of the CCRC shall have the authority to: (a) reallocate the savings to another category within the budget; and/or (b) create a new category within the budget, provided that such a new category shall benefit the PBID.

VI. ENGINEER'S REPORT (ASSESSMENT METHODOLOGY)

A. Assessment Methodology

1. Base Formula

Property owners, merchants, and other Downtown Vallejo stakeholders have emphasized that an assessment formula for the proposed PBID be fair, balanced, and commensurate with benefits received.

Each property owner will pay based on benefit received. The variables used for the base formula are gross parcel square footage and parcel front footage. Parcel square footage is relevant to the highest and best use of a property and will reflect the long-term value implications of the Management District. Parcel front footage directly reflects the value of certain of the services to be provided to the parcels.

The proposed initial annual assessment on parcels will be based upon a rate of \$0.027 per parcel square foot plus an annual frontage rate dependent on their location. The frontage rates are broken into three different zones.

Zone 1 includes properties with frontage along Georgia Street from Santa Clara St to Sutter St., along Santa Clara St. from parcel number 0055-170-180 north to Capitol St., and east along the boundary of parcel 0055-160-170. It continues on Sacramento St. from parcel 0056-192-140, north to Virginia St, east on Virginia St. to Marin and south on Marin St. to the end of parcel 0056-192-060. Also included is Sonoma Blvd. from the alley between York and Georgia St. north to the alley between Georgia and Virginia Streets. Zone 1 will be assessed \$13.30 per front foot per year.

Zone 2 includes properties with frontage along Santa Clara Street, Sacramento Street, Capitol Street, Marin Street, Sonoma Blvd., properties fronting the east side of Sutter Street, Virginia Street, and York Street. Zone 2 properties will be assessed \$10.64 per front foot per year.

Zone 3 includes properties fronting Maine St. from Santa Clara St. to parcel number 0056-226-020, and Marin Street from Curtola Parkway north to Maine Street. The Curtola Parkway frontage is not included in the PBID, and therefore it is not assessed in any zone. Zone 3 properties will be assessed \$6.40 per front foot per year.

Note that the annual frontage assessment will be combined with the annual parcel square foot assessment. If a property has frontage along two different streets, the greatest length frontage will be assessed for the appropriate rate (for example, if a parcel has a frontage of 250 ft. along Georgia Street and 200 ft. on Sonoma Boulevard, the parcel will be assessed the rate for the frontage along Georgia Street plus the parcel square foot rate).

Annual Parcel Square Foot Rate	
Zones 1, 2, and 3	\$0.027
Annual Frontage Rates	
Zone	Rate per front foot per year
1	\$13.30
2	\$10.64
3	\$6.40

If you would like more information about your property assessment, please call (707) 649-3510 or (800) 999-7781.

As members of the community, the CCRC Board of Directors will maintain every effort to be careful stewards of the annual budget; however the Board may at its discretion raise the assessment by no more than the lesser of three-percent (3%) per year, or the Consumer Price Index.

2. Determination of Special Benefit

California Constitution Section 4, Article XIII D (Proposition 218) states, "while assessment district programs may confer a combination of general and special benefits to properties, only the special parcel-related benefits can be funded through assessments."

The law provides that the expenses of the District shall be apportioned in proportion to the special benefit received by each parcel. In addition, Proposition 218 requires that parcel assessments may not exceed the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable.

A special benefit is a particular and distinct benefit over and above general benefits conferred on the public at large, including real property within the District. Conversely, a general benefit is a benefit to properties in the area and in the surrounding community or a benefit to the public in general, resulting from the improvement, activity, or service to be provided by the assessment levied. Many general benefits to the public at large are conveyed by municipal services such as fire protection, police services, and public transit services. These services are targeted to serve the public at large and do not confer special benefits on particular parcels. The general benefits that may be received include the perception of a more aesthetically pleasing District area. These benefits cannot be measured. All general benefits, if any, are intangible and not quantifiable.

The programs and services in the Downtown Vallejo Property and Business Improvement District's Management District Plan are designed to provide targeted services to parcels within the District. These programs and services are tailored not to serve the general public, but rather the specific assessable parcels of the District. For example, the proposed maintenance program is focused on the assessed parcels in the District. The proposed security program shall provide private, semi private or private city partnered security patrols. The proposed

street maintenance program will work to keep the District clean and lit, by removing illegal dumping, other litter and graffiti within city rights of way. It will also aesthetically improve the District with tree trimming, tree replacement, as needed, and upkeep of landscaping along sidewalks, as well as other duties previously mentioned. These programs and services will directly benefit each of the assessed parcels adjacent to the areas being maintained. The proposed security program, internet marketing, out of district signage and community services will improve economic development within the District, thereby benefiting the commercial and public parcels within the District.

The programs and services paid for from assessment revenue are parcel services conferring special benefit on the assessable parcels within the District. In addition, these services are not for the benefit of the general public and do not provide general benefit, as defined above. The programs and services provide special benefits, and all benefits derived from assessments outlined in the Management District Plan, go only for programs and services directly benefiting the parcel. The services are designed to increase foot traffic, improve the commercial core, increase marketing of commercial entities in the District, and improve the aesthetic appearance of the District and to provide these services only to assessed properties within the District boundaries. It is therefore appropriate that these special parcel-related benefits be funded by special assessments. The fact that the proposed District assessments will only be levied on properties within its District boundaries and, in turn, assessment revenues will only be spent on programs, improvements and services that provide direct or special benefit to properties within the District boundaries, it is hereby determined that any general benefits are not quantifiable, measurable or tangible in the District area and to the surrounding community or the public in general. The programs and services listed in the Management District Plan will contribute to a special benefit of each of the assessable parcels within the District.

The expenses of the District will be apportioned in proportion to the benefit received by each parcel. Proposition 218 requires that a parcel's assessment may not exceed the reasonable cost of the proportional special benefit conferred on that parcel. The Proposition provides that only special benefits are assessable, and that the City must separate the general benefits from the special benefits conferred on a parcel. A special benefit is a particular and distinct benefit over and above general benefits conferred on the public at large, including real property within the District. The general enhancement of property value does not constitute a special benefit.

Each parcel within the District, except for exempt parcels (discussed below), receives a particular and distinct benefit from the proposed improvements and activities, over and above general benefits conferred by the improvements and activities of the District. The proposed security program will reduce street disorder and help to prevent crime, thereby protecting the properties within the District and increasing their attractiveness to potential customers. The proposed marketing program will improve economic development within the District, thereby benefiting all businesses within the District.

3. 501(c)(3) Exemption

Properties owned by charitable tax-exempt organizations, such as churches, typically do not have commercial component and are exempt from property tax. Such properties will also be

exempt from this assessment. However, if such a property has a commercial component and pays a percentage of the property tax, the same percentage will be applied to this assessment.

4. Residential Property Exemption

Parcels used exclusively for as low-density residential, such as single family homes or those with four units or less, do not derive sufficient benefit from the proposed improvements to be assessed. The primary purpose of the PBID is to benefit commercial parcels. Therefore, parcels with residential uses of 4 units or less within the boundaries of the District will not be assessed. Properties used exclusively for multi-family residential use (i.e. apartments) are considered commercial income-producing property and will be subject to PBID assessments.

5. Government-Owned Property

Under "The Right to Vote on Taxes Act" (also known as Proposition 218) all publicly owned parcels are required to pay assessments unless they can demonstrate by clear and convincing evidence that their property does not receive benefit. It is proposed that all government agencies pay their "fair share" of all assessment.

6. Assessment Notice

An Assessment Notice will be sent to owners of each parcel in the PBID. The Assessment Notice provides an estimated assessment based upon the square footage and front footage of each parcel. The final individual assessment for any particular parcel may change if the parcel square footage or frontage differs from those found on the Assessment Notice. A Downtown Vallejo PBID Assessment Calculation Table follows this Engineer's Report. Assessments will be calculated based on the most recent available property data provided by the County of Solano. The assessment data will be as accurate as possible; however, the data may contain errors. Changes in property owner and parcel information may take up to one year to transpire. If a property owner discovers an error in the data or calculation please contact Downtown Resources at (916) 325-0604 or 1-800-999-7781. A list of properties to be included in the Management District is provided within Appendix 1.

B. Time and Manner for Collecting Assessments

The Downtown Vallejo PBID assessment will appear as a separate line item on the annual property tax bills prepared by the County of Solano. Property tax bills are generally distributed in the fall, and payment is expected by lump sum or installment. The County of Solano shall distribute funds collected to the City of Vallejo and then to the CCRC pursuant to the authorization of this Plan. Existing laws for enforcement and appeal of property taxes apply to the PBID assessments.

Review of this Management District Plan and preparation of the Engineers Report was completed by:

Orin N. Bennett
State of California
Registered Civil Engineer No. 25169

Downtown Vallejo Property and Business Improvement District Assessment Calculation Table

APN	Owner name	COIF	Assessment	Percentage
0055-160-170	REDEVELOPMENT AGENCY OF VJO	1.00	\$8,036.85	3.94%
0055-160-180	MARINA TOWER ASSOCIATES	1.00	\$2,354.11	1.15%
0055-160-190	REDEVELOPMENT AGENCY OF VJO	0.50	\$233.85	0.11%
0055-160-210	AMIDI PARTNERSHIP	1.00	\$2,560.00	1.25%
0055-160-240	REDEVELOPMENT AGENCY OF VJO	1.00	\$1,274.33	0.62%
0055-160-300	MARE ISLAND FED CREDIT	1.00	\$1,647.79	0.81%
0055-160-310	REDEVELOPMENT AGENCY OF VJO	0.50	\$89.34	0.04%
0055-160-380	VALLEJO CITY HOUSING AUTHORITY	1.00	\$3,679.04	1.80%
0055-160-390	MARINA ANNEX ASSOCIATES	1.00	\$2,488.87	1.22%
0055-160-540	TRIAD 236 GEORGIA STREET LLC	1.00	\$2,649.23	1.30%
0055-170-160	201 GEORGIA STREET	1.00	\$3,845.08	1.88%
0055-170-170	REDEVELOPMENT AGENCY OF VJO	1.00	\$1,049.10	0.51%
0055-170-200	REDEVELOPMENT AGENCY OF VJO	1.00	\$326.17	0.16%
0055-170-220	REDEVELOPMENT AGENCY OF VJO	1.00	\$126.90	0.06%
0055-170-230	REDEVELOPMENT AGENCY OF VJO	1.00	\$3,576.87	1.75%
0055-170-240	MCGOWAN ROBERT C & P C	1.00	\$1,803.19	0.88%
0055-170-250	AL ROSS VICTORY STORES	1.00	\$2,177.12	1.07%
0055-170-260	REDEVELOPMENT AGENCY OF VJO	1.00	\$2,821.99	1.38%
0055-170-270	CHANDLER LLOYD M JR	1.00	\$94.50	0.05%
0055-170-280	REDEVELOPMENT AGENCY OF VJO	1.00	\$3,802.15	1.86%
0055-170-290	BRINSON DENNIS J	1.00	\$4,496.38	2.20%
0055-170-300	KASHANI AHMAD A	1.00	\$1,533.10	0.75%
0055-170-310	VALLEJO MAINE I PARTNERS	1.00	\$8,760.15	4.29%
0055-170-350	VALLEJO MAINE II PARTNERS	1.00	\$11,065.03	5.42%
0055-170-390	BAYLIES BRIAN F	1.00	\$3,389.00	1.66%
0056-162-010	GOOD SAMARITAN MISSIONARY	0.00	\$0.00	0.00%
0056-162-020	GOOD SAMARITAN MISSIONARY	0.00	\$0.00	0.00%
0056-162-030	GOOD SAMARITAN MISSIONARY	0.00	\$0.00	0.00%
0056-162-040	GOOD SAMARITAN MISS BAPTIST CH	0.00	\$0.00	0.00%
0056-162-050	GOOD SAMARITAN MISS BAPT CH VJ	0.00	\$0.00	0.00%
0056-162-060	GLENN L M	1.00	\$1,250.98	0.61%
0056-162-070	PLASCENCIA LUIS R & ANA A	1.00	\$1,106.68	0.54%
0056-162-080	HISTORICAL RESTORATION INC	1.00	\$1,734.20	0.85%
0056-162-090	EMPRESS THEATRE ASSOCIATES LLC	1.00	\$830.98	0.41%
0056-162-100	324 VIRGINIA VALLEJO LLC	1.00	\$850.02	0.42%
0056-162-110	VICTORY CHURCH OF DELIVERANCE	0.00	\$0.00	0.00%
0056-162-120	VICTORY CHURCH OF DELIVERANCE	0.00	\$0.00	0.00%
0056-162-150	PEZZUTO MERILYN R MERILYN	1.00	\$839.30	0.41%
0056-162-160	PEZZUTO MERILYN R MERILYN	1.00	\$719.40	0.35%
0056-162-170	HENSON KAREN H TRUST	0.00	\$0.00	0.00%
0056-162-180	VICTORY CHURCH	0.00	\$0.00	0.00%
0056-163-090	STARK L SUSAN	1.00	\$1,558.70	0.76%
0056-163-100	STARK L SUSAN	0.50	\$353.75	0.17%
0056-163-110	ANNIE MASON	1.00	\$707.50	0.35%
0056-163-120	KAMPHAUSEN BUCK	1.00	\$1,415.00	0.69%
0056-163-130	KAMPHAUSEN BUCK	0.50	\$176.88	0.09%
0056-163-180	KAMPHAUSEN BUCK	0.50	\$910.98	0.45%
0056-164-010	VALLEJO CITY	1.00	\$2,122.50	1.04%

0056-164-020	MARLOWE MELVIN SURV	1.00	\$616.38	0.30%
0056-164-030	VALLEJO HOUSING PARTNERS	1.00	\$2,921.13	1.43%
0056-164-040	VANPELT TERRY A	1.00	\$1,646.45	0.81%
0056-164-050	VANPELT TERRY A	0.50	\$353.75	0.17%
0056-164-060	VANPELT TERRY A	1.00	\$707.50	0.35%
0056-164-070	VALLEJO OUTREACH INC	1.00	\$1,061.25	0.52%
0056-164-080	VANPELT TERRY A	0.50	\$530.63	0.26%
0056-164-090	JOHNSON SARGENT B & C	1.00	\$939.75	0.46%
0056-164-100	CIRIMELE JOE	1.00	\$316.63	0.16%
0056-164-110	KUTLAS JOHN	1.00	\$443.28	0.22%
0056-191-100	VALLEJO CITY	1.00	\$420.25	0.21%
0056-191-110	LEMKE RICHARD H & C C	1.00	\$1,904.50	0.93%
0056-191-120	SAN PABLO LODGE 43	1.00	\$1,904.50	0.93%
0056-191-130	SYLVAIN JOHN & JANET	1.00	\$840.50	0.41%
0056-191-140	RIVERBANK LLC	1.00	\$840.50	0.41%
0056-191-150	RIVERBANK LLC	1.00	\$420.25	0.21%
0056-191-160	RIVERBANK LLC	0.50	\$210.13	0.10%
0056-191-170	MORRIS GEORGE JOEL	1.00	\$420.25	0.21%
0056-191-180	MORRIS GEORGE JOEL	1.00	\$420.25	0.21%
0056-191-190	BROWN ROBERT C JR	1.00	\$420.25	0.21%
0056-191-200	FISCHER DAVID RANDALL	1.00	\$420.25	0.21%
0056-191-210	FISCHER DAVID R & KIRSTEN	1.00	\$420.25	0.21%
0056-191-220	CHANG YIH-JEN L	1.00	\$420.25	0.21%
0056-191-230	CHANG YIH-JEN L	1.00	\$1,904.50	0.93%
0056-191-260	VALLEJO CITY	1.00	\$5,463.25	2.68%
0056-192-030	A J HIGGINS CO	1.00	\$840.50	0.41%
0056-192-040	ALLYN JUDD	1.00	\$840.50	0.41%
0056-192-050	SYLVAIN RICHARD	1.00	\$840.50	0.41%
0056-192-060	VANPELT TERRY A	1.00	\$1,904.50	0.93%
0056-192-070	VALLEJO CITY PARKING AUTHORITY	1.00	\$1,734.20	0.85%
0056-192-080	VALLEJO CITY	1.00	\$424.50	0.21%
0056-192-090	VALLEJO CITY	1.00	\$990.50	0.49%
0056-192-140	BARCEWSKI JAMES D	1.00	\$3,362.00	1.65%
0056-192-150	BARCEWSKI JAMES D	0.50	\$1,415.00	0.69%
0056-193-010	MYRTLE STREET FLATS LLC	1.00	\$2,080.00	1.02%
0056-193-020	VANPELT TERRY A	1.00	\$707.50	0.35%
0056-193-030	MCENTEE JAMES	1.00	\$707.50	0.35%
0056-193-040	VANPELT TERRY A	0.50	\$353.75	0.17%
0056-193-050	VANPELT TERRY A	1.00	\$707.50	0.35%
0056-193-070	WALNUT HILL ESTATE ENT LLC	1.00	\$1,558.70	0.76%
0056-193-090	NEADS WILLIAM ROLAND	1.00	\$827.88	0.41%
0056-193-100	NEADS WILLIAM ROLAND	1.00	\$840.50	0.41%
0056-193-110	EVERGREEN CEMETERY ASSOCIATION	1.00	\$420.25	0.21%
0056-193-120	ELLISON GREGORY	1.00	\$420.25	0.21%
0056-193-130	BWB PROPERTIES INC	1.00	\$840.50	0.41%
0056-193-140	WONG LAP CHI & LAURA	1.00	\$420.25	0.21%
0056-193-150	FISCHER DAVID R & KIRSTEN	1.00	\$420.25	0.21%
0056-193-160	BUCK KARL E	1.00	\$420.25	0.21%
0056-193-190	SNYDER RAYMOND	1.00	\$420.25	0.21%
0056-193-200	SNYDER RAYMOND	1.00	\$420.25	0.21%
0056-193-210	PLAZA DELASAMERICAS RANCHO SQ	1.00	\$1,992.25	0.98%

0056-194-010	VANPELT TERRY A	1.00	\$1,904.50	0.93%
0056-194-020	K & T COMPANY	1.00	\$840.50	0.41%
0056-194-030	K & T COMPANY	1.00	\$840.50	0.41%
0056-194-060	SAMOSET HALL ASSOC	1.00	\$840.50	0.41%
0056-194-100	BRINSON DENNIS J	1.00	\$1,904.50	0.93%
0056-194-110	VALLEJO CITY PARKING AUTHORITY	1.00	\$1,558.70	0.76%
0056-194-120	VALLEJO CITY PARKING AUTHORITY	1.00	\$1,415.00	0.69%
0056-194-130	VALLEJO CITY PARKING AUTHORITY	1.00	\$1,415.00	0.69%
0056-194-140	VALLEJO CITY	1.00	\$1,574.60	0.77%
0056-194-150	VALLEJO CITY PARKING AUTHORITY	1.00	\$1,239.50	0.61%
0056-194-170	VILLANUEVA DAISY	1.00	\$1,681.00	0.82%
0056-194-180	BARTEE THOMAS W	1.00	\$840.50	0.41%
0056-195-010	BURSTEIN JACK B & L	1.00	\$959.20	0.47%
0056-195-100	MCKAY-SUTTER STREET LLC	1.00	\$1,558.70	0.76%
0056-195-110	BROWN LEWIS F & D J	1.00	\$840.50	0.41%
0056-195-120	BRUNK LLOYD S & RENEE E	1.00	\$840.50	0.41%
0056-195-130	LITWIN ROBERT	1.00	\$1,152.86	0.56%
0056-195-140	HIGGINS A J COMPANY	1.00	\$1,362.03	0.67%
0056-195-150	CLARKE C DIXON	1.00	\$840.50	0.41%
0056-195-160	MCDONALD JACK J	1.00	\$1,904.50	0.93%
0056-195-170	BURSTEIN JACK & LEATRICE	1.00	\$732.50	0.36%
0056-196-010	WHITMORE WELLES III & M	1.00	\$2,080.00	1.02%
0056-196-020	BONDEROW ALBERT J	1.00	\$840.50	0.41%
0056-196-030	PORI TIM A	1.00	\$840.50	0.41%
0056-196-040	PORI TIM A	1.00	\$840.50	0.41%
0056-196-050	MONETTA BERNARD	1.00	\$840.50	0.41%
0056-196-060	MANNING GAIL	1.00	\$840.50	0.41%
0056-196-070	BAUM BARRY & LUANN	1.00	\$1,558.70	0.76%
0056-196-130	MCILHATTAN THOMAS J & H H	1.00	\$707.50	0.35%
0056-196-140	MCILHATTAN THOMAS J & H H	1.00	\$396.20	0.19%
0056-196-150	MCILHATTAN THOMAS J & H H	1.00	\$1,664.88	0.82%
0056-196-160	URIBE KARL	1.00	\$753.03	0.37%
0056-223-010	PHILLIPS VIRGIL N & CAROL J	1.00	\$452.74	0.22%
0056-223-020	LOUIE TSE MIN	1.00	\$353.75	0.17%
0056-223-030	VALLEJO CITY	1.00	\$2,830.00	1.39%
0056-223-040	KAMPHAUSEN BUCK	1.00	\$2,122.50	1.04%
0056-223-050	KUKURUZA SAMUEL	1.00	\$1,486.50	0.73%
0056-223-060	IMHOFF G E & Z E 1987 TRUST	0.50	\$247.75	0.12%
0056-223-070	IMHOFF G E & Z E 1987 TRUST	1.00	\$495.50	0.24%
0056-223-080	IMHOFF G E & Z E 1987 TRUST	1.00	\$495.50	0.24%
0056-223-090	KAMPHAUSEN BUCK	0.50	\$247.75	0.12%
0056-223-100	KAMPHAUSEN BUCK	0.50	\$779.35	0.38%
0056-223-110	BETTENCOURT MERVIN	1.00	\$1,018.22	0.50%
0056-224-010	KAMPHUSEN BUCK	1.00	\$1,183.00	0.58%
0056-224-020	LEBARD MORRIS & ALLISON	1.00	\$495.50	0.24%
0056-224-030	ELLISON ROBERT O	0.50	\$247.75	0.12%
0056-224-040	KAMPHAUSEN BUCK	1.00	\$991.00	0.49%
0056-224-050	BRACE RONALD W & JOAN	1.00	\$1,734.20	0.85%
0056-224-080	SOLANO MOTORS INC	1.00	\$495.50	0.24%
0056-224-150	SOLANO MOTORS INC	1.00	\$1,734.20	0.85%
0056-225-010	LANGIT MANUEL & AURORA	1.00	\$2,090.70	1.02%

0056-225-210	CHRISTOV MICHAEL JR	1.00	\$1,734.20	0.85%
0056-226-020	ARRIGHI JOSEPH L & P L	1.00	\$1,821.95	0.89%
0056-226-100	ONG ILDEFONSO C & T P	1.00	\$1,303.41	0.64%
0095-371-100	CAMPBELL DAVID R & TAMSYN A	1.00	\$1,904.50	0.93%
			\$204,207.96	100.00%

VII. IMPLEMENTATION TIMETABLE

The Downtown Vallejo PBID is expected to be approved by August 2007 and funded by January 2008. In order to meet these goals, the following timetable must be followed:

<u>DATE</u>	<u>ACTIVITY</u>
<i>March 2007</i>	Initiate petition drive.
<i>May 2007</i>	Submit petitions that have been signed by property owners who will pay more than 50% of the district assessments.
<i>June 2007</i>	City Council adopts resolution of intention to renew the Downtown Vallejo Property and Business Improvement District.
<i>June 2007</i>	Notice of public hearing and 218 ballots are mailed.
<i>July 2007</i>	Public Hearing is held on Vallejo PBID. City council adopts resolution of formation establishing the District.
<i>August 2007</i>	City Clerk submits PBID assessment information on magnetic tape to the County Assessor. The secured tax roll and bills are printed. Tax bills are mailed. First installment property tax bill including PBID assessment is due. First payment from the County is received by December 2007.

Pursuant to state law, the Downtown Vallejo PBID will have a defined life. The life of the PBID is set at five (5) years. In order to continue the PBID for another set term, the preceding petition, ballot drive, and public hearing process must be repeated.

VIII. CONTINUATION OF CITY SERVICES

A. Citywide Base Levels of Service Policy

Throughout the process of establishing the Downtown Vallejo PBID, property owners have voiced concerns that the City of Vallejo maintains existing services at verifiable "baseline" service levels. A formal base levels of service policy ensures that existing City services are enhanced, not replaced, by Downtown Vallejo PBID services.

B. City Council Resolution

The CCRC has requested that the Vallejo City Council adopt a resolution committing the City to establish and maintain base levels of service within the Management Districts. The policy states that "basic service levels" provided to the area must be paid for by the general City revenues, and not subsidized by revenue which the Downtown Vallejo PBID generates for enhanced and supplemented levels of service.

The policy allows for adjustments in the "basic service levels" commensurate with changes in the City's overall financial condition. Citywide service reductions can trigger a proportionate reduction in base levels of service within a Management District.

A draft City of Vallejo Resolution establishing this policy and an estimate of current services is provided in Appendix 2.

Consistent with this proposed City policy, the Downtown Vallejo PBID's base levels of service will be quantified in an "area specific current services agreement" between the City of Vallejo and the Downtown Vallejo PBID.

IX. DISTRICT GOVERNANCE

A. Downtown Vallejo PBID - Corporation Board of Directors

The Central Core Restoration Corporation (CCRC) is the independent non-profit corporation contracted to provide services to the Downtown Vallejo PBID. CCRC, a 501(c)(6) non-profit corporation formed in 1996 by industrial business and property owners, has managed the Downtown Vallejo PBID since its creation.

The Board of Directors shall be comprised of a total of 11 Board Members of which nine (9) Board members shall be property owners within the PBID, and two (2) Board members may be property owners or non-property owners within the PBID. The CCRC Board of Directors intends to consider a name change for the corporation.

APPENDIX 1: LIST OF PROPERTIES TO BE ASSESSED BY APN

APN	Owner name	Site Address
0055-160-170	REDEVELOPMENT AGENCY OF VJO	
0055-160-180	MARINA TOWER ASSOCIATES	601 SACRAMENTO ST
0055-160-190	REDEVELOPMENT AGENCY OF VJO	
0055-160-210	AMIDI PARTNERSHIP	250 GEORGIA ST
0055-160-240	REDEVELOPMENT AGENCY OF VJO	212 GEORGIA ST
0055-160-300	MARE ISLAND FED CREDIT	536 SANTA CLARA ST
0055-160-310	REDEVELOPMENT AGENCY OF VJO	
0055-160-380	VALLEJO CITY HOUSING AUTHORITY	200 GEORGIA ST
0055-160-390	MARINA ANNEX ASSOCIATES	575 SACRAMENTO ST
0055-160-540	TRIAD 236 GEORGIA STREET LLC	236 GEORGIA ST
0055-170-160	201 GEORGIA STREET	201 GEORGIA ST
0055-170-170	REDEVELOPMENT AGENCY OF VJO	
0055-170-200	REDEVELOPMENT AGENCY OF VJO	
0055-170-220	REDEVELOPMENT AGENCY OF VJO	
0055-170-230	REDEVELOPMENT AGENCY OF VJO	
0055-170-240	MCGOWAN ROBERT C & P C	303 SACRAMENTO ST
0055-170-250	AL ROSS VICTORY STORES	400 SANTA CLARA ST
0055-170-260	REDEVELOPMENT AGENCY OF VJO	
0055-170-270	CHANDLER LLOYD M JR	237 GEORGIA ST
0055-170-280	REDEVELOPMENT AGENCY OF VJO	
0055-170-290	BRINSON DENNIS J	401 MARIN ST
0055-170-300	KASHANI AHMAD A	200 MAINE ST
0055-170-310	VALLEJO MAINE I PARTNERS	201 MAINE ST
0055-170-350	VALLEJO MAINE II PARTNERS	201 MAINE ST
0055-170-390	BAYLIES BRIAN F	241 GEORGIA ST
0056-162-010	GOOD SAMARITAN MISSIONARY	407 CAPITOL ST
0056-162-020	GOOD SAMARITAN MISSIONARY	
0056-162-030	GOOD SAMARITAN MISSIONARY	
0056-162-040	GOOD SAMARITAN MISS BAPTIST CH	427 CAPITOL ST
0056-162-050	GOOD SAMARITAN MISS BAPT CH VJ	435 CAPITOL ST
0056-162-060	GLENN L M	439 CAPITOL ST
0056-162-070	PLASCENCIA LUIS R & ANA A	717 MARIN ST
0056-162-080	HISTORICAL RESTORATION INC	707 MARIN ST
0056-162-090	EMPRESS THEATRE ASSOCIATES LLC	330 VIRGINIA ST
0056-162-100	324 VIRGINIA VALLEJO LLC	324 VIRGINIA ST
0056-162-110	VICTORY CHURCH OF DELIVERANCE	318 VIRGINIA ST
0056-162-120	VICTORY CHURCH OF DELIVERANCE	316 VIRGINIA ST
0056-162-150	PEZZUTO MERILYN R MERILYN	300 VIRGINIA ST
0056-162-160	PEZZUTO MERILYN R MERILYN	
0056-162-170	HENSON KAREN H TRUST	616 SACRAMENTO ST
0056-162-180	VICTORY CHURCH	
0056-163-090	STARK L SUSAN	1901 SONOMA BLVD
0056-163-100	STARK L SUSAN	536 CAPITOL ST
0056-163-110	ANNIE MASON	528 CAPITOL ST
0056-163-120	KAMPHAUSEN BUCK	524 CAPITOL ST
0056-163-130	KAMPHAUSEN BUCK	
0056-163-180	KAMPHAUSEN BUCK	512 CAPITOL ST

0056-164-010	VALLEJO CITY	728 MARIN ST
0056-164-020	MARLOWE MELVIN SURV	519 CAPITOL ST
0056-164-030	VALLEJO HOUSING PARTNERS	531 CAPITOL ST
0056-164-040	VANPELT TERRY A	1801 SONOMA BLVD
0056-164-050	VANPELT TERRY A	
0056-164-060	VANPELT TERRY A	426 VIRGINIA ST
0056-164-070	VALLEJO OUTREACH INC	420 VIRGINIA ST
0056-164-080	VANPELT TERRY A	410 VIRGINIA ST
0056-164-090	JOHNSON SARGENT B & C	700 MARIN ST
0056-164-100	CIRIMELE JOE	710 MARIN ST
0056-164-110	KUTLAS JOHN	714 MARIN ST
0056-191-100	VALLEJO CITY	
0056-191-110	LEMKE RICHARD H & C C	625 MARIN ST
0056-191-120	SAN PABLO LODGE 43	342 GEORGIA ST
0056-191-130	SYLVAIN JOHN & JANET	336 GEORGIA ST
0056-191-140	RIVERBANK LLC	330 GEORGIA ST
0056-191-150	RIVERBANK LLC	326 GEORGIA ST
0056-191-160	RIVERBANK LLC	324 GEORGIA ST
0056-191-170	MORRIS GEORGE JOEL	320 GEORGIA ST
0056-191-180	MORRIS GEORGE JOEL	318 GEORGIA ST
0056-191-190	BROWN ROBERT C JR	316 GEORGIA ST
0056-191-200	FISCHER DAVID RANDALL	312 GEORGIA ST
0056-191-210	FISCHER DAVID R & KIRSTEN	308 GEORGIA ST
0056-191-220	CHANG YIH-JEN L	306 GEORGIA ST
0056-191-230	CHANG YIH-JEN L	300 GEORGIA ST
0056-191-260	VALLEJO CITY	
0056-192-030	A J HIGGINS CO	325 GEORGIA ST
0056-192-040	ALLYN JUDD	331 GEORGIA ST
0056-192-050	SYLVAIN RICHARD	337 GEORGIA ST
0056-192-060	VANPELT TERRY A	343 GEORGIA ST
0056-192-070	VALLEJO CITY PARKING AUTHORITY	340 YORK ST
0056-192-080	VALLEJO CITY	332 YORK ST
0056-192-090	VALLEJO CITY	326 YORK ST
0056-192-140	BARCEWSKI JAMES D	301 GEORGIA ST
0056-192-150	BARCEWSKI JAMES D	310 YORK ST
0056-193-010	MYRTLE STREET FLATS LLC	616 MARIN ST
0056-193-020	VANPELT TERRY A	415 VIRGINIA ST
0056-193-030	MCENTEE JAMES	417 VIRGINIA ST
0056-193-040	VANPELT TERRY A	429 VIRGINIA ST
0056-193-050	VANPELT TERRY A	431 VIRGINIA ST
0056-193-070	WALNUT HILL ESTATE ENT LLC	1717 SONOMA BLVD
0056-193-090	NEADS WILLIAM ROLAND	438 GEORGIA ST
0056-193-100	NEADS WILLIAM ROLAND	436 GEORGIA ST
0056-193-110	EVERGREEN CEMETERY ASSOCIATION	428 GEORGIA ST
0056-193-120	ELLISON GREGORY	424 GEORGIA ST
0056-193-130	BWB PROPERTIES INC	418 GEORGIA ST
0056-193-140	WONG LAP CHI & LAURA	414 GEORGIA ST
0056-193-150	FISCHER DAVID R & KIRSTEN	412 GEORGIA ST
0056-193-160	BUCK KARL E	410 GEORGIA ST
0056-193-190	SNYDER RAYMOND	437 VIRGINIA ST
0056-193-200	SNYDER RAYMOND	439 VIRGINIA ST

0056-193-210	PLAZA DELASAMERICAS RANCHO SQ	400 GEORGIA ST
0056-194-010	VANPELT TERRY A	401 GEORGIA ST
0056-194-020	K & T COMPANY	415 GEORGIA ST
0056-194-030	K & T COMPANY	417 GEORGIA ST
0056-194-060	SAMOSSET HALL ASSOC	431 GEORGIA ST
0056-194-100	BRINSON DENNIS J	445 GEORGIA ST
0056-194-110	VALLEJO CITY PARKING AUTHORITY	1601 SONOMA BLVD
0056-194-120	VALLEJO CITY PARKING AUTHORITY	432 YORK ST
0056-194-130	VALLEJO CITY PARKING AUTHORITY	426 YORK ST
0056-194-140	VALLEJO CITY	508 MARIN ST
0056-194-150	VALLEJO CITY PARKING AUTHORITY	500 MARIN ST
0056-194-170	VILLANUEVA DAISY	419 GEORGIA ST 10
0056-194-180	BARTEE THOMAS W	437 GEORGIA ST
0056-195-010	BURSTEIN JACK B & L	1726 SONOMA BLVD
0056-195-100	MCKAY-SUTTER STREET LLC	807 SUTTER ST
0056-195-110	BROWN LEWIS F & D J	538 GEORGIA ST
0056-195-120	BRUNK LLOYD S & RENEE E	530 GEORGIA ST
0056-195-130	LITWIN ROBERT	524 GEORGIA ST
0056-195-140	HIGGINS A J COMPANY	514 GEORGIA ST
0056-195-150	CLARKE C DIXON	510 GEORGIA ST
0056-195-160	MCDONALD JACK J	1700 SONOMA BLVD
0056-195-170	BURSTEIN JACK & LEATRICE	1714 SONOMA BLVD
0056-196-010	WHITMORE WELLES III & M	501 GEORGIA ST
0056-196-020	BONDEROW ALBERT J	515 GEORGIA ST
0056-196-030	PORI TIM A	521 GEORGIA ST
0056-196-040	PORI TIM A	
0056-196-050	MONETTA BERNARD	531 GEORGIA ST
0056-196-060	MANNING GAIL	539 GEORGIA ST
0056-196-070	BAUM BARRY & LUANN	545 GEORGIA ST
0056-196-130	MCILHATTAN THOMAS J & H H	520 YORK ST
0056-196-140	MCILHATTAN THOMAS J & H H	
0056-196-150	MCILHATTAN THOMAS J & H H	1600 SONOMA BLVD
0056-196-160	URIBE KARL	1610 SONOMA BLVD
0056-223-010	PHILLIPS VIRGIL N & CAROL J	401 YORK ST
0056-223-020	LOUIE TSE MIN	405 YORK ST
0056-223-030	VALLEJO CITY	435 YORK ST
0056-223-040	KAMPHAUSEN BUCK	1521 SONOMA BLVD
0056-223-050	KUKURUZA SAMUEL	1507 SONOMA BLVD
0056-223-060	IMHOFF G E & Z E 1987 TRUST	326 MAINE ST
0056-223-070	IMHOFF G E & Z E 1987 TRUST	320 MAINE ST
0056-223-080	IMHOFF G E & Z E 1987 TRUST	314 MAINE ST
0056-223-090	KAMPHAUSEN BUCK	
0056-223-100	KAMPHAUSEN BUCK	400 MARIN ST
0056-223-110	BETTENCOURT MERVIN	420 MARIN ST
0056-224-010	KAMPHUSEN BUCK	340 MARIN ST
0056-224-020	LEBARD MORRIS & ALLISON	315 MAINE ST
0056-224-030	ELLISON ROBERT O	321 MAINE ST
0056-224-040	KAMPHAUSEN BUCK	327 MAINE ST
0056-224-050	BRACE RONALD W & JOAN	1425 SONOMA BLVD
		330 PENNSYLVANIA
0056-224-080	SOLANO MOTORS INC	ST

0056-224-150 SOLANO MOTORS INC
0056-225-010 LANGIT MANUEL & AURORA
0056-225-210 CHRISTOV MICHAEL JR
0056-226-020 ARRIGHI JOSEPH L & P L
0056-226-100 ONG ILDEFONSO C & T P
0095-371-100 CAMPBELL DAVID R & TAMSYN A

1401 SONOMA BLVD
1518 SONOMA BLVD
1500 SONOMA BLVD
1400 SONOMA BLVD
1416 SONOMA BLVD

APPENDIX 2: CITY OF VALLEJO DRAFT RESOLUTION: BASE LEVELS OF SERVICE POLICY AND EVALUATION OF BASELINE SERVICES

RESOLUTION NO.

**ADOPTED BY THE VALLEJO CITY COUNCIL
ON DATE OF**

RESOLUTION ADOPTING CITY POLICY REGARDING BUSINESS IMPROVEMENT DISTRICTS: BASE LEVELS OF SERVICE

WHEREAS, business areas often face a need for collective efforts to promote their businesses and to improve the overall business climate and health of their districts, and

WHEREAS, businesses often seek enhanced city services and infrastructure improvements.

NOW BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VALLEJO,

1. Revenues garnered from a Property and Business Improvement District (PBID) or other assessment district should be used to improve the overall business climate of the area through various promotional programs and service enhancements. To that end, base service level measures should be established and agreed to at the inception of the financing district.
2. In the event of a significant downturn in citywide revenues, the Council may be forced to reduce base levels of municipal services citywide unless a substitute source of citywide revenues is available.

MAYOR

ATTEST:

CITY CLERK:

**City of Vallejo Baseline Services
FY 2007-08 – FY 2012-13**

The purpose of creating a Property and Business Improvement District for Downtown Vallejo is to finance needed additional services. A critical step in designing these additional services is identifying the services that are currently provided by the City. An agreement will be made with the City to guarantee that the existing level of services, or “baseline,” will be continued. The Baseline Services Agreement will help ensure that the District’s funds will be used to *enhance*, rather than replace, the current level of downtown services.

There are two types of City services that will be addressed in the Baseline Services Agreement: maintenance and security. In the following two tables are estimates of the current level of services provided by the City:

City of Vallejo Maintenance Services

Activity	Level of Service	Comments
<i>Street Sweeping – Mechanical</i>	3/Week for streets 1/Week for parking lots	
<i>Landscaping (Maintaining shrubs and weeding)</i>	Quarterly	
<i>Landscaping - Planters</i>	2 times per year (plus trouble calls)	
<i>Tree-trimming</i>	Public hazards only (ongoing tree trimming a PBID function)	
<i>Graffiti Removal (Public facilities / street signs)</i>	As requested. Subject to overall City wide graffiti backlog	
<i>Trash Collecting</i>	None (Vallejo Garbage Service)	City to ensure next franchise agreement includes no fewer than two pick ups per week of sidewalk public trash containers
<i>Fountain Maintenance</i>	As Needed	Consists of cyclical cleaning and repairs when found necessary.
<i>Sidewalk Repair</i>	Per City standard	Repairs are made to defects of cracks that are ½” or wider and a rise of ¾” or more.
<i>Lawn Mowing (parcel on 200 block of GA Street adjacent to Vallejo Housing Authority)</i>	1/week	
<i>Christmas Decorations</i>	None (PBID function)	

<i>Illegal Dumping</i>	Specific hot spots only	Balance of area is covered, although it will be picked up by Vallejo Garbage .
<i>Street lights (Cobra)</i>	Re-lamp as required	Goal is to respond within 10 business days
<i>Street lights (Acorn)</i>	None (PBID function)	

Police Services

<i>Activity</i>	<i>Level of Service</i>	<i>Comments</i>
<i>Police Patrol</i>	Beat officer patrols	
<i>Cadet Patrol</i>	When available.	



Agenda Item No. CONSENT A

COUNCIL COMMUNICATION

Date: April 17, 2007

TO: Honorable Mayor and Members of the City Council

FROM: Gary A. Leach, Public Works Director
Craig Whittom, Assistant City Manager/Community Development *CW*

SUBJECT: ADOPTION OF A RESOLUTION APPROVING CONTRACT CHANGE ORDER NO. 3 WITH VANGUARD CONSTRUCTION FOR ADDITIONAL IMPROVEMENTS FOR THE FISCAL YEAR (FY) 2004/2005 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM SIDEWALK, CURB AND GUTTER AND CURB RAMP INSTALLATION PROJECT AND FINAL CONTRACT ACCEPTANCE

BACKGROUND

The City Council allocated \$644,945 in Fiscal Year 2004/05 Federal Community Development Block Grant (CDBG) Program funds for the installation of missing curbs, gutters, sidewalks and curb ramps in CDBG target area neighborhoods in which the majority of the residents are low and moderate income. The City Council also allocated \$450,000 in FY 2005/06 CDBG funds to take advantage of existing construction unit prices in Vanguard's contract to complete more improvements bringing the total budget for this project to \$1,094,945. The City installed 172 ramps through this project. These ramps are intended to provide improved access to local bus routes, elementary schools, and public facilities. The City also installed 4,005 linear feet of Curb and Gutter, 12,860 linear feet of sidewalk and 1,767 linear feet of driveway intended to provide a pedestrian friendly environment in the targeted areas identified by City.

The City authorized field modifications to the design, which resulted in changes in final contract quantities. Additionally, adjustments to unit quantities and several modifications to the project design to provide a complete and operational project were encountered during construction. Some changes were initiated by the property owner's request and others were necessary to complete the project in its entirety. It was determined to be more cost effective to have Vanguard perform the additional work under force account to avoid costly standby and delay charges. The additional cost incurred for these changes totaled \$54,811.45.

Due to the nature of the work, some locations required field modifications to conform to the existing site conditions. Therefore, quantities often increased or decreased for certain contract bid items, including curb, gutter, sidewalk, and curb ramps. The work that was performed was deemed necessary to meet the requirements of the Americans with



Disabilities Act (ADA) and to insure the safe passage of not only the disabled, but the public at large.

In 1989, a list of 300 curb ramp locations was developed by an ad-hoc committee consisting of eleven people representing a range of community interests, including the disabled, schools, the local transit system, etc. The committee conducted a survey of the City and established six priorities for curb ramps. Priority items were schools, local transit system connections, replacement of unsafe existing ramps, public facilities, commercial facilities, and residential areas.

Recently, City staff has done further investigation of major residential and commercial corridors to update and add to the original list of curb ramps. With the installation of these ramps, areas within a 2,000 foot radius of most of Vallejo's elementary schools, and local bus routes, have been substantially completed.

With the completion of the 1991, 1995, 1998, 2001, 2003 and 2005 curb ramp projects, the Public Works Department has installed approximately 1,245 ramps.

Information regarding curb ramp locations and date of installation will be incorporated into the City's Geographic Information System (GIS) database for future reference and planning.

Fiscal Impact

The City Council approved funding for this project in the amount of \$644,945 on November 2, 2004, for FY 2004/05 and in the amount of \$450,000 on May 24, 2005, for an overall project budget of \$1,094,945.00. The final contract amount was \$1,149,756.45. The difference of \$54,811.45 was allocated from CDBG contingency funds. This additional amount of \$54,811.45 shall be executed as Contract Change Order No. 3.

RECOMMENDATION

Staff recommends adoption of the resolution approving Contract Change Order No. 3, accepting the work performed by Vanguard Construction for the FY 2004/2005 CDBG Sidewalk, Curb and Gutter, and Curb Ramp Installation Project as complete, and authorizing the City Clerk to file a Notice of Completion in the Office of the Solano County Recorder.

ENVIRONMENTAL REVIEW

A Notice of Exemption was filed and recorded with the Solano County Clerk on March 7, 2005. No further CEQA action is required by the City Council.



PROPOSED ACTION

Adopt the resolution approving Contract Change Order No. 3, and accept the contract as complete, and authorize the City Clerk to file a Notice of Completion with the Solano County Recorder's Office.

DOCUMENTS AVAILABLE FOR REVIEW

- a. A resolution approving Contract Change Order No. 3, accepting the work performed by Vanguard Construction, Oakland, California, for the FY 2004/2005 CDBG Curb, Gutter and Sidewalk and Curb Ramp Installation Project as complete, and authorizing the City Clerk to file a Notice of Completion in the Office of the Solano County Recorder.
- b. A site location map

CONTACT PERSON

Gary A. Leach, Public Works Director
648-4315
gleach@ci.vallejo.ca.us

David A. Kleinschmidt, City Engineer
648-4301
david@ci.vallejo.ca.us

APRIL 17, 2007
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RESOLUTION NO. 07-____ N.C.

BE IT RESOLVED by the Council of the City of Vallejo as follows:

WHEREAS, on January 11, 2005, the City Council through Resolution No. 05-21 N. C. awarded a contract to Vanguard Construction, Oakland, California for the FY 2004/2005 CDBG Curb, Gutter and Sidewalk and Curb Ramp Installation Project; and

WHEREAS, additional improvements beyond the scope of the original contract were necessary to provide a completely operational project; and

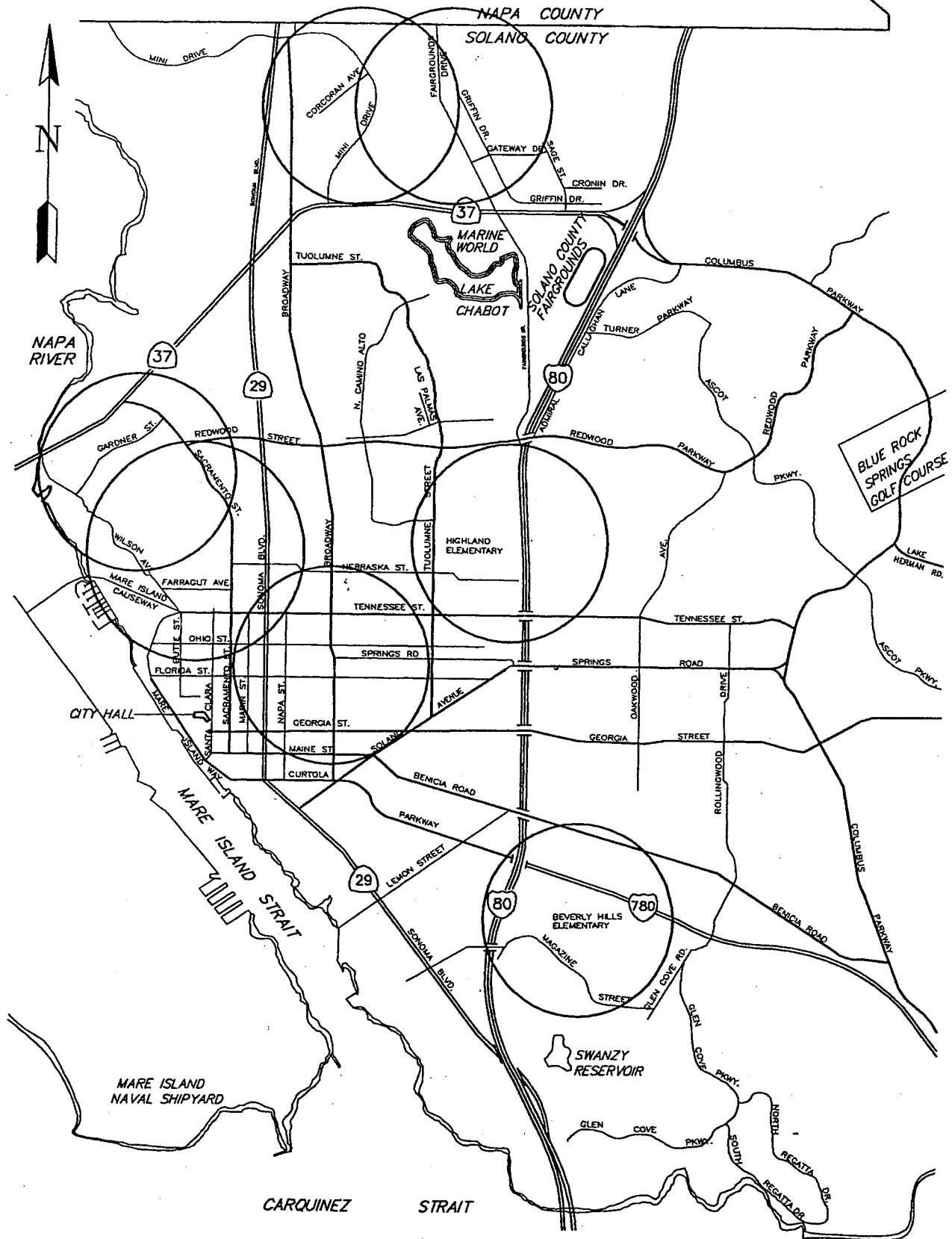
WHEREAS, the work for the CDBG Curb, Gutter, and Sidewalk and Curb Ramp Installation Project within the City of Vallejo, County of Solano, California by Vanguard Construction of Oakland, California, is now complete as detailed in their contract dated January 11, 2005.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Vallejo that Contract Change Order No. 3 with Vanguard Construction of Oakland, California, is hereby approved in the amount of Fifty Four Thousand Eight Hundred Eleven Dollars and Forty-Five Cents (\$54,811.45), with no extension of time, for the construction of miscellaneous tasks.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized and directed to file a Notice of Completion with the Recorder of Solano County, California.

APRIL 17, 2007

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CITY OF VALLEJO, CALIFORNIA

PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION

DWG. NO.	LOCATION	SHEET	1	OF	1
DRAWN BY	SK	FILE NO.	4451	REF.	--
DATE	12/22/04	SCALE	HORIZ: 1"=4000'		
CHECKED	SK				


LOCATION MAP
CURB, GUTTER, SIDEWALK AND CURB RAMPS
ENTIRE CITY OF VALLEJO



Agenda Item No. CONSENT B
Date: April 17, 2007

COUNCIL COMMUNICATION

TO: Honorable Mayor and Members of the City Council

FROM: Gary A. Leach, Public Works Director 

SUBJECT: APPROVAL OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBSTITUTION OF TRUSTEE AND FULL RECONVEYANCE, ACCEPT A DEED OF TRUST AND ASSIGNMENT OF RENTS AND DIRECTING THE CITY MANAGER TO EXECUTE ESCROW INSTRUCTIONS RELATED TO TRIAD COMMUNITIES' SUBDIVISION COMMONLY KNOWN AS THE GROVE AT HIDDENBROOKE

BACKGROUND

In 1991, Sky Valley Limited Partnership entered into an agreement with the City of Vallejo for the construction of improvements within the Sky Valley Phase III Subdivision. Pursuant to the agreement, the developer delivered five Letters of Credit to secure the completion of the subdivision improvements and for the mass grading of this subdivision. Because of the unfavorable housing market in 1991, Sky Valley Limited Partnership proposed to substitute the Letters of Credit with a lien against the property within Phase III of the Sky Valley Subdivision. A Deed of Trust and Rider to Deed of Trust was conveyed to the City for this purpose.

In 1993, by adopting Resolution 93-379 N.C., the Vallejo City Council authorized the execution of the First Amendment to Sky Valley Phase III Subdivision Improvement Agreement, and accepted the Deed of Trust with Rider to Deed of Trust, creating a lien on the property.

Triad Communities, LLC purchased the Sky Valley development from Sky Valley Limited Partnership in 1999 which included the Sky Valley Phase III Subdivision.

On December 5, 2005, the Planning Commission approved Planned Development (Unit Plan) #05-0017, Tentative Map #05-007 and adopted a Mitigated Negative Declaration for a 70-unit single family residential development in Hiddenbrooke commonly known as The Grove at Hiddenbrooke.

On April 11, 2006, after considering appeals, the City Council adopted a resolution denying the appeals and modifying the Planning Commission decision to approve



Planned Development (unit plan) #05-0017, Tentative Map #05-0007 subject to revised conditions and adoption of the Mitigated Negative Declaration.

Triad is attempting to arrange a loan for The Grove at Hiddenbrooke property before the new final map for the subdivision is approved, but the 1993 Deed of Trust is proving to be a significant stumbling block. By approving this action, the City will provide Triad the flexibility it needs to obtain the loan while the City maintains security interest in the property until Triad enters into a new subdivision agreement and provides the required bonds. Upon execution of the instruments, the City Manager will submit them to an Escrow Officer with escrow instructions, in a form acceptable to the City Attorney, stating the proper order of recording the various instruments.

Staff recommends adoption of a resolution authorizing the City Manager to execute a Substitution of Trustee and Full Reconveyance, accept a Deed of Trust and Assignment of Rents and directing the City Manager to execute escrow instructions related to Triad Communities' subdivision, The Grove at Hiddenbrooke.

Fiscal Impact

No fiscal impact to the General Fund.

ENVIRONMENTAL REVIEW

On April 11, 2006, the City Council adopted a Mitigated Negative Declaration for the project with the determination that the project would have "no significant effect on the environment" based on the findings and mitigation measures. This proposed action requires no additional environmental review.

PROPOSED ACTION

Approve the resolution authorizing the City Manager to execute a Substitution of Trustee and Full Reconveyance, accept a Deed of Trust and Assignment of Rents and directing the City Manager to execute escrow instructions related to Triad Communities' subdivision commonly known as The Grove at Hiddenbrooke

DOCUMENTS AVAILABLE FOR REVIEW

- a. A resolution authorizing the City Manager to execute a Substitution of Trustee and Full Reconveyance, accept a Deed of Trust and Assignment of Rents and directing the City Manager to execute escrow instructions related to Triad Communities' subdivision commonly known as The Grove at Hiddenbrooke.



b. Deed of Trust with Assignment of Rents, Recorded on September 2, 1993.

CONTACT PERSONS

Gary A. Leach, Public Works Director
648-4315
gleach@ci.vallejo.ca.us

David Kleinschmidt, City Engineer
707-648-4315
david@ci.vallejo.ca.us

APRIL 17, 2007
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RESOLUTION NO. 07- N.C.

BE IT RESOLVED by the Council of the City of Vallejo as follows:

WHEREAS, In 1993, by adopting Resolution 93-379 N.C., the Vallejo City Council authorized the execution of the First Amendment to Sky Valley Phase III Subdivision Improvement Agreement, and accepted the Deed of Trust with Rider to Deed of Trust, creating a lien on the property, and

WHEREAS, Triad Communities, LLC purchased the Sky Valley development from Sky Valley Limited Partnership in 1999 which included the Sky Valley Phase III Subdivision, and

WHEREAS, On April 11, 2006, the City Council approved Planned Development (Unit Plan) #05-0017, Tentative Map #05-007 and adopted a Mitigated Negative Declaration for a 70-unit single family residential development in Hiddenbrooke commonly known as The Grove at Hiddenbrooke, and

WHEREAS, Triad is unable to arrange project financing for the Grove at Hiddenbrooke property before the new final map for the subdivision is approved, because of the 1993 Deed of Trust that encumbers the property, and

WHEREAS, the City Council of the City of Vallejo desires to work with Triad to provide the flexibility it needs to obtain the project financing while the City maintains security interest in the property until Triad enters into a new subdivision agreement and provides the required bonds.

NOW, THEREFORE, BE IT RESOLVED that the City Manager is hereby authorized to sign and the City Clerk to attest to the signing of a Substitution of Trustee and Full Reconveyance of the Deed of Trust with Rider to Deed of Trust recorded on September 2, 1993.

BE IT FURTHER RESOLVED that the City Council hereby accepts a new Deed of Trust and Assignment of Rents with Rider to Deed of Trust from Triad Communities, LLC encumbering title to the Sky Valley Phase III residential and open space lots as security for the faithful performance of the Subdivision Improvement Agreement dated August 20, 1991.

BE IT FURTHER RESOLVED that the City Clerk is directed to record said Deed of Trust with Rider to Deed of Trust in the office of the Solano County Recorder, and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to sign escrow instructions, in a form acceptable to the City Attorney, stating the proper order of recording the various instruments.

APRIL 17, 2007

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RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO

NAME City Clerk
ADDRESS City of Vallejo
CITY & STATE 555 Santa Clara Street
Vallejo, CA 94590

1993-00081162
Recorded By: CITY OF VALLEJO
Official Records
County of Solano
Robert Blechschmidt
Assessor/Recorder

7A RecFee
SurMon
NoPCOR
DTTax
Free \$. 0
OvrSht

Title Order No. Escrow No.

14:59 02-SEP-93 ARO3 5 Pgs

SPACE ABOVE THIS LINE FOR RETURNER'S USE

DEED OF TRUST WITH ASSIGNMENTS OF RENTS

This DEED OF TRUST, made between

SKY VALLEY LIMITED PARTNERSHIP, an Illinois limited partnership, herein called TRUSTOR,
whose address is 1965 Pratt Boulevard, Elk Grove Village, IL 60007

(Number and Street) (City) (State) (Zip Code)

CHICAGO TITLE COMPANY, a California Corporation, herein called TRUSTEE, and
THE CITY OF VALLEJO, a municipal corporation, herein called BENEFICIARY,
Trustor irrevocably grants, transfers and assigns to Trustee in Trust, with Power of Sale that property in
Vallejo, Solano County, California, described as:

Lots 1 through 84, inclusive, and Lots A through F, inclusive, of Sky Valley Unit No. 3,
according to Map thereof recorded September 12, 1991, Solano County Recorder, Book 61 of Maps
at Page 13, Doc. No. 66462.

Additional terms and conditions of this Deed of Trust are contained in the Rider to Deed of
Trust attached hereto and incorporated herein.

Together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to
collect and apply such rents, issues and profits
For the Purpose of Securing (1) payment of the sum of \$ with interest thereon according to the terms of a promissory note or
notes of even date herewith made by Trustor, payable to order of Beneficiary, and extensions or renewals thereof; (2) the performance of each agreement
of Trustor incorporated by reference or contained herein or reciting it is so secured; (3) Payment of additional sums and interest thereon which may hereafter
be loaned to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust.

To protect the security of this Deed of Trust, and with respect to the property above described, Trustor expressly makes each and all of the agreements, and
adopts and agrees to perform and be bound by each and all of the terms and provisions set forth in subdivision A of that certain Fictitious Deed of Trust referenced
herein, and it is mutually agreed that all of the provisions set forth in subdivision B of that certain Fictitious Deed of Trust recorded in the book and page of
Official Records in the office of the county recorder of the county where said property is located, noted below opposite the name of such county, namely:

Table with columns: COUNTY, BOOK, PAGE, COUNTY, BOOK, PAGE, COUNTY, BOOK, PAGE, COUNTY, BOOK, PAGE. Lists various counties and their corresponding book and page numbers.

shall inure to and bind the parties hereto, with respect to the property above described, said agreements, terms and provisions contained in said subdivisions
A and B, (identical in all counties, and printed on the reverse side hereof) are by the within reference thereto, incorporated herein and made a part of this Deed
of Trust for all purposes as fully as if set forth at length herein, and Beneficiary may charge for a statement regarding the obligation secured hereby, provided
the charge thereof does not exceed the maximum allowed by laws.

The undersigned Trustor requests that a copy of any notice of default and any notice of sale hereunder be mailed to him at his address hereinbefore set forth.

STATE OF ILLINOIS
COUNTY OF COOK } S.S.

On 10 July 1993 before me,
Mary Ellen Carter
a Notary Public in and for said County and State, personally appeared
Frank D. SOVE

Signature of Trustor
SKY VALLEY LIMITED PARTNERSHIP, an Illinois
limited partnership

By: C.T. Mine, Inc., an Illinois
corporation

By: [Signature]
Its: Vice President

personally known to me (or proved to me on the basis of satisfactory
evidence) to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon behalf
of which the person(s) acted, executed the instrument

WITNESS my hand and official seal
Signature [Signature]

NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXP: 3/31/96
MARY Ellen Carter
(This area for official notarial seal)

RIDER TO DEED OF TRUST

This Rider to Deed of Trust ("Rider") is attached to and forms a part of the Deed of Trust with Assignment of Rents ("Deed of Trust") of same date herewith executed by Sky Valley Limited Partnership, an Illinois limited partnership, as Trustor, to Chicago Title Company, a California corporation, as Trustee, in favor of the City of Vallejo, a municipal corporation, as Beneficiary.

1. Security Obligations. Trustor and Beneficiary have entered into that certain First Amendment to Sky Valley Phase 3 Subdivision Improvement Agreement ("Amendment") of even date herewith. Pursuant to paragraph 1 of the Amendment, Trustor has agreed to secure the obligations for construction of improvements contained in said Subdivision Improvement Agreement as described therein ("Secured Obligations"). The Deed of Trust secures performance of the Secured Obligations in accordance with the Amendment.

2. Legal Effect of Deed of Trust. Pursuant to the California Subdivision Map Act (Govt. Code, Sections 66499(a)(4) and 66499(b)), a lien shall attach to the real property particularly described in the Deed of Trust and shall have the priority of a judgment lien in the amount necessary to complete the agreed to improvements, including the grading improvements, from the date of recordation of this Deed of Trust.

3. Reconveyance. Upon tender of acceptable security in form and content satisfactory to Beneficiary as set forth in the Amendment, Beneficiary shall within ten (10) days deliver to Trustor an executed request for full reconveyance of the lien of the Deed of Trust and surrender to Trustor this Deed of Trust. Upon receipt of such request for full reconveyance, Trustee shall reconvey, without warranty, the entire trust estate then held hereunder to the person or persons legally entitled thereto. Should Beneficiary fail or refuse to execute a request for full reconveyance within ten (10) days of receipt of acceptable security from Trustor, Trustor may cause the Trustee to fully reconvey the land free and clear of the Deed of Trust.

TRUSTOR:

SKY VALLEY LIMITED PARTNERSHIP,
an Illinois limited partnership,

By: C.T. Nine, Inc., an
Illinois corporation

By: J. Nine

Its: V. President

BENEFICIARY:

CITY OF VALLEJO, a municipal
corporation,


WALTER V. GRAHAM, City Manager

Attest: 
ALLISON VILLARANTE, City Clerk

(City Seal)

NOTE: Signatures of the parties on this instrument must be
acknowledged before a notary public.

gskydr

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

On this 10th day of August, in the year 1993, before me, Mary Ellen Carter, Notary Public, personally appeared Franklin D. Sove, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed this instrument as Vice President of C. T. Nine, Inc., General Partner of Sky Valley Limited Partnership and acknowledged to me that he executed the same.



Notary Public for Illinois





Agenda Item No. CONSENT C

COUNCIL COMMUNICATION

Date: April 17, 2007

TO: Honorable Mayor and Members of the City Council

FROM: Robert W. Nichelini, Chief of Police **RWN**

SUBJECT: Approval of a resolution approving a Grant Award Agreement with the California Department of Corrections and Rehabilitation for the Solano County Parolee Reentry and Community Safety Program and Declaring the City Council's intention to amend the Police Department Budget for Fiscal Year 2006-07.

BACKGROUND AND DISCUSSION

According to the California Department of Corrections and Rehabilitation (CDCR), 2,020 offenders were paroled to Solano County in 2005. With an average recidivism rate of 62%, 1,252 parolees will either violate their parole or be charged with new crimes in the course of one year. Therefore, of the 2,020 parolees living in Solano County, it is estimated that 325 will commit violent crimes, 375 will be returned to prison for property crimes, and the remainder likely will become involved with drugs or other criminal activity. In spite of this, Solano County lacks a systematic collaborative approach for referring parolees to services that could lessen the likelihood of recidivism.

The CDCR has awarded the Vallejo Police Department a grant in the amount of \$1,208,333 to address the needs of Solano County parolees through June 30, 2009. Fighting Back Partnership will serve as the implementing organization for this grant with oversight by the Vallejo Police Department.

Fighting Back Partnership has agreed to implement a program to provide services to meet the needs of Solano County parolees. This program will include alcohol and drug counseling, clean and sober residential housing, life skills resources, family unification and vocational training services to address community reentry needs.

The grant award includes \$208,333 for Fiscal Year 2006-07 for the implementation of the program for the remainder of this fiscal year.

RECOMMENDATION

Adopt the resolution approving the grant award agreement for Solano County Parolee Reentry and Community Safety Program and declaring the City Council's intention to amend the Police Department budget for Fiscal Year 2006-07.

ALTERNATIVES CONSIDERED

None.

ENVIRONMENTAL REVIEW

The adoption of these resolutions is not a Project under the California Environmental Quality Act ("CEQA") pursuant to section 15378 of Title 14 of the California Code of Regulations as it involves government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment and no environmental review is required.

PROPOSED ACTION

Adopt the Resolution of Intention to amend the Police Department Budget for Fiscal Year 2006-07 in the amount of \$208,333 to allow for the acceptance of the Grant from the California Department of Corrections and Rehabilitation and to appropriate the same amount for the implementation of the Grant and authorizing the City Manager or his designee to execute the attached grant agreement with the California Department of Corrections and Rehabilitation.

DOCUMENTS ATTACHED

- a. Resolution authorizing the City Manager or his designee to execute the attached agreement with the California Department of Corrections and declaring the Council's intention to amend the Police Department Budget for Fiscal Year 2006-07 to accept the Grant and appropriate the funds for implementation of the Grant.
- b. Proposed Agreement with California Department of Corrections and Rehabilitation for February 1, 2007 through June 30, 2009.

CONTACT PERSON

PREPARED BY: Captain JoAnn West, Vallejo Police Department
(707) 648-4516 e-mail: jwest@ci.vallejo.ca.us

RESOLUTION NO. 07-_____N.C.

BE IT RESOLVED by the Council of the City of Vallejo as follows:

WHEREAS, the Vallejo Police Department and Fighting Back Partnership desire to implement a program to reduce the recidivism rate among California Department of Corrections parolees within Solano County; and

WHEREAS, the California Department of Corrections and Rehabilitation has awarded the Vallejo Police Department and the Fighting Back Partnership \$1,208,333 in grant funds to provide services and programs to meet the needs of qualified adult parolees through June 30, 2009 and requires that the Fiscal year 2006-07 budget be amended.

NOW, THEREFORE, BE IT RESOLVED, that the Vallejo City Council hereby declares its intention to amend the Police Department Fiscal Year 2006-2007 budget in the amount of \$208,333 to allow for the acceptance of the Solano County Parolee Reentry and Community Safety Program Grant and to appropriate the same amount for the implementation of the Grant and authorizes the City Manager or his designee to execute the grant agreement between the Vallejo Police Department and the California Department of Corrections and Rehabilitation.

April 17, 2007

K:/CITYWIDE/PUBLIC/AL/PD/SR Parolee Reentry Program 032207

AGREEMENT NUMBER

C06.442

REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

California Department of Corrections and Rehabilitation

CONTRACTOR'S NAME

City of Vallejo Police Department

2. The term of this Agreement is: February 1, 2007 through June 30, 2009

3. The maximum amount of this Agreement is: \$1,208,333.00
 One Million, Two Hundred Eight Thousand, Three Hundred Thirty-three Dollars and no cents

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work – Fighting Back Partnership	4 pages
Exhibit B – Budget Detail and Payment Provisions	2 pages
Attachment 1 – Request for Fund Disbursement	1 page
Exhibit B-1 – Budget Proposal	3 pages
Exhibit C* – General Terms and Conditions	GTC306
Check mark one item below as Exhibit D:	
<input checked="" type="checkbox"/> Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement)	11 pages
<input type="checkbox"/> Exhibit - D* Special Terms and Conditions	
Exhibit E – Additional Provisions	3 pages

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.
 These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

City of Vallejo Police Department

BY (Authorized Signature)



DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

111 Amador Street, Vallejo, CA 94590
 Telephone (707) 648-4540

STATE OF CALIFORNIA

AGENCY NAME

Department of Corrections and Rehabilitation

BY (Authorized Signature)


 PRINTED NAME AND TITLE OF PERSON SIGNING

Karen V. Smith, Chief, Service Contracts Section

ADDRESS

P.O. Box 942883, Sacramento, CA 94283-0001

**California Department of General
 Services Use Only**

CITY OF VALLEJO
INTERGOVERNMENTAL PARTNERSHIPS GRANT PROGRAM
SCOPE OF WORK

1. **PROJECT DESCRIPTION**

This project will provide a collaborative partnership between the Vallejo Police Department, the Fighting Back Partnership and other stakeholder agencies to support successful reentry of parolees into Solano County.

In an effort to reduce parolee recidivism in Solano County, the Vallejo Police Department will enter into an agreement with The Fighting Back Partnership to provide services and programs to meet the needs of the qualified parolees.

A. **Project Goal**

Design and implement a sustainable and effective program of Case Management services and referrals to local available services as needed including: Alcohol and Drug Counseling, Clean and Sober Residential Housing, Life Skills Resources, Family Unification and Vocational Training Services to address the community reentry needs of adult CDCR inmates and/or parolees in Solano County.

B. **Project Objectives**

Specific project objectives include:

- 1) Conduct coordinating meetings with The Fighting Back Partnership, Solano County Youth and Family Services, CDCR Adult Parole Division, and other stakeholder agencies in Solano County that provide services to parolees;
- 2) Initiate contract between the Vallejo Police Department and The Fighting Back Partnership;
- 3) Refer eligible participants as appropriate to Fighting Back Partnership Services;
- 4) Provide Case Management and Referral services to eligible participants through contract with the Fighting Back Partnership;
- 5) Develop and implement a program of client assessment and peer mentoring;
- 6) Develop and implement a process to track and evaluate individual participant progress; and
- 7) Develop and implement a process for evidence based program evaluation and improvement.

C. Expected Outcomes

- 1) Provide Outreach to a **minimum** of 5,000 eligible participants during the project period;
- 2) Provide Case Management and Referral services to a **minimum** of 2,500 eligible participants during the project period; and
- 3) Gather, analyze and report on data regarding program outcomes and effectiveness.

D. Expected Program Requirements for Participants

Eligible applicants must be adults under the supervision of the California Department of Corrections and Rehabilitation. They must be willing to adhere to all program guidelines, show up for services as determined necessary and appropriate by program staff and must be willing to work with the case managers to eliminate other obstacles that will prevent them from reintegrating successfully.

E. Program Structure

The Vallejo Police Department – Fighting Back Partnership Program will consist of the following elements:

- 1) Coordination of available services;
- 2) Client needs assessment;
- 3) Client Case Management Services;
- 4) Client Referral services
- 5) Family Unification; and
- 6) Develop and implement a process for evidence based program assessment and improvement.

2. TARGET POPULATION

The Target Population for this grant program is adults under the supervision of the California Department of Corrections and Rehabilitation, willing to adhere to all program guidelines, participate in services as determined necessary and appropriate by program staff and willing to work with the case managers to eliminate other obstacles that will prevent them from reintegrating successfully.

3. PROGRAM AND PARTICIPANT DATA AND REPORTING REQUIREMENTS

Within 30 days of contract execution, the contractor will be required to develop a system that is acceptable to CDCR to collect and report program and participant related data in an accurate and timely manner. The data will be used for reporting program progress and evaluating the program performance as well as for services coordination. The system must be compatible with CDCR data systems (e.g., MS Access, MS Excel, etc.). At a minimum, the program and participant data will include:

California Department of Corrections and Rehabilitation (CDCR)
SCOPE OF WORK

Exhibit A

a. Participant Data:

The Contractor is required to develop a system for accurate and timely collection and reporting of all participant data consistent with the specific nature of each specific program.

- 1) CDCR number for all participants.
- 2) Demographic, socioeconomic and criminogenic data on all program participants and potential participants on the program waiting list.
- 3) Names of all assessment instruments used and baseline data summarizing: the participant's level of criminality, education, vocational abilities, substance abuse history, self-sufficiency, and social competency at program admission.
- 4) Appropriate case management data designed for follow up of progress in receiving services, such as name of case manager(s), date case manager assigned, follow up dates, status on entry, and end of month status for ongoing treatments or terminations.
- 5) Date participant is assessed, referred, and shows up for service.
- 6) Program participation; daily, weekly, and monthly attendance records, hours of treatment(s) and outcome/performance measures specific to each program both on the individual and the cohort level, as appropriate.
- 7) Monthly follow-up data detailing participant progress specific to objectives and goals identified and services received. Length of follow-up will be based upon each grants specific goals, objectives, and predetermined time frames.
- 8) Program data on successful or unsuccessful discharge status upon release/transfer from program/facility.

Data requirements may be modified to accommodate comparisons between projects with similar treatment models.

b. Program Data:

The Contractor shall submit monthly, quarterly, and 6-month interim progress reports to the Division of Community Partnerships on or before the 15th of the following month that include the number of:

- New program admissions.
- Program exits by status at exit.
- Participant referrals to services by service type.
- Participant placements in services by service type.
- Active participants in the program during the reporting month.
- Number of eligible participants on the program waiting list.
- Program capacity.

c. The following requirements must be met along with the data collection:

The Contractor shall submit monthly, quarterly, and 6-month interim progress reports describing program activities, any upcoming major events and activities, all problems encountered, and plans for problem resolutions. These reports shall be submitted to the Division of Community Partnerships Program Manager on or before the 15th of the following month.

The Contractor shall have procedures developed and in place to:

- 1) Ensure and verify the validity of the data;
- 2) Protect the data from unauthorized access and/or destruction due to negligence, malice, or disaster. If it has been determined that participant data has been compromised the contractor must notify CDCR immediately.
- 3) Ensure no report, publication, and/or statistical data related to the programs is released or revealed without the prior written approval from CDCR.
- 4) Cooperate in the evaluation of the program and assist CDCR and any designated evaluators on any additional data collection efforts and program analysis.
- 5) Submit participant level program data to CDCR by the 10th day of each month. The data file shall include all program activity for the previous month.

1. Invoicing and Payment

- a. For services satisfactorily rendered, and upon receipt and approval of contractor's invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with Exhibit B-1, Budget Proposal which are attached hereto and made a part of this Agreement.
- b. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears on the enclosed Attachment 1, Request for Fund Disbursement form to:

California Department of Corrections and Rehabilitation (CDCR)
Division of Community Partnerships
Attention: Gwen Corso,
1515 "S" Street, Room 349-N
Sacramento, CA 95814

2. Budget Transfer Requests

The CDCR Division of Community Partnerships (DCP) shall be responsible for monitoring the contract Budget Proposals. Transfer of funds within line items in established categories is allowable; however, movement of funds outside these categories (e.g. Personnel to Operating Expenses) shall require the Contractor to submit a completed Budget Transfer Request (BTR) from obtained from DCP for approval. Invoices submitted to the CDCR Accounting Office are paid by monies available in the overall category of the Budget Proposal, not by line item, or total contract amount; therefore, failure to submit and receive an approved BTR may result in non-payment of invoices.

3. Budget Contingency Clause

- a. It is mutually agreed that if the California State Budget Act for the current fiscal year and/or any subsequent fiscal years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor, or to furnish any other considerations under this Agreement, and Contractor shall not be obligated to perform any provisions of this Agreement.
- b. If funding for the purposes of this program is reduced or deleted for any fiscal year by the California State Budget Act, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an Agreement amendment to Contractor to reflect the reduced amount.

4. **Prompt Payment Clause**

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927. Payment to small/micro businesses shall be made in accordance with and within the time specified in Chapter 4.5, Government Code 927 et seq.

5. **Subcontractors**

For all Agreements, with the exception of Interagency Agreements and other governmental entities/auxiliaries that are exempt from bidding, nothing contained in this Agreement, or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of Contractor's responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

FISCAL YEAR 2006/2007
(February 1, 2007 – June 30, 2007)

A. PERSONNEL*	No. of Positions	Monthly Salary	% of Project Time	No. of Months	Total
1. LEA: Vallejo Police Department					
Lieutenant	1	\$18,052.50	10%	5	\$ 9,026.25
Administrative Analyst	1	\$10,638.07	30%	5	\$ 15,957.11
Police Clerk	1	\$ 5,561.12	60%	5	\$ 16,683.36
2. FBP Program Personnel					
Project Director	1	\$ 4,583.32	25%	5	\$ 5,729.15
System Coordinator	1	\$ 4,166.66	50%	5	\$ 10,416.66
I&R Specialist	1	\$ 3,125.00	100%	5	\$ 15,625.00
3. Administrative Personnel					
Executive Director	1	\$ 5,360.00	5%	5	\$ 1,340.00
Bookkeeper/Payroll	1	\$ 3,363.40	5%	5	\$ 840.85
Admin. Assist	2	\$ 3,363.30	5%	5	\$ 1,681.65
Total Staff Salaries					\$ 77,300.03
Total Staff Benefits (10 – 35% of Total Staff Salaries)					\$ 8,552.02
TOTAL PERSONNEL COSTS (A)					\$ 85,852.05
B. SUB-CONTRACTORS/CONSULTANTS COSTS (list firms and costs)					
Youth and Family Services (YFS) Administrative Cost					\$ 22,916.66
Sub-Contractor Program Personnel Cost (Salaries) (3 FT Case Managers X \$3,000/Month Salary X 5 Months = \$45,000)					\$ 45,000.00
Sub-Contractor Program Personnel Cost (Benefits)					\$ 10,800.00
TOTAL SUB-CONTRACTORS/CONSULTANTS COSTS (B)					\$ 78,716.66
C. OPERATING COSTS					
Facility Lease/Rent					\$ 5,900.00
Maintenance/Repair					\$ 1,400.00
Communications					\$ 1,501.82
Utilities					\$ 1,000.00
Insurance					\$ 800.00
Food					\$ 3,101.00
Supplies/Expendable Equipment					\$ 1,929.00
Non-Expendable Equipment					\$ 5,000.00
Transportation					\$ 2,800.00
Line Item Additions: Training and Development					\$ 2,832.33
Peer Mentor Stipends					\$ 5,000.00
TOTAL OPERATING COSTS (C)					\$ 31,264.15
SUBTOTAL ANNUAL DIRECT COSTS (A+B+C)					\$195,832.86
TOTAL INDIRECT COSTS (D)					\$ 12,500.14
TOTAL BUDGET FOR FISCAL YEAR (2006/2007) (A+B+C+D)					\$208,333.00

FISCAL YEAR 2007/2008
(July 1, 2007 – June 30, 2008)

A. PERSONNEL*	No. of Positions	Monthly Salary	% of Project Time	No. of Months	Total
1. LEA: Vallejo Police Department					
Lieutenant	1	\$18,052.50	10%	12	\$ 21,663.00
Administrative Analyst	1	\$10,638.07	30%	12	\$ 38,297.05
Police Clerk	1	\$ 5,561.12	60%	12	\$ 40,040.06
2. FBP Program Personnel					
Project Director	1	\$ 4,583.32	25%	12	\$ 13,749.96
System Coordinator	1	\$ 4,166.66	50%	12	\$ 24,999.96
I&R Specialist	1	\$ 3,125.00	100%	12	\$ 37,500.00
3. Administrative Personnel					
Executive Director	1	\$ 5,360.00	5%	12	\$ 3,216.00
Bookkeeper/Payroll	1	\$ 3,363.40	5%	12	\$ 2,018.04
Admin. Assist	2	\$ 3,363.30	5%	12	\$ 4,035.96
Total Staff Salaries					\$185,520.03
Total Staff Benefits (10 – 35% of Total Staff Salaries)					\$ 23,032.84
TOTAL PERSONNEL COSTS (A)					\$208,552.87
B. SUB-CONTRACTORS/CONSULTANTS COSTS (list firms and costs)					
Youth and Family Services (YFS) Administrative Cost					\$ 55,000.00
Sub-Contractor Program Personnel Cost (Salaries) (3 FT Case Managers X \$3,000/Month Salary X 12 Months = \$108,000)					\$108,000.00
Sub-Contractor Program Personnel Cost (Benefits)					\$ 25,920.00
TOTAL SUB-CONTRACTORS/CONSULTANTS COSTS (B)					\$188,920.00
C. OPERATING COSTS					
Facility Lease/Rent					\$ 22,200.00
Maintenance/Repair					\$ 4,000.00
Communications					\$ 5,500.00
Utilities					\$ 2,600.00
Insurance					\$ 1,200.00
Food					\$ 8,656.88
Supplies/Expendable Equipment					\$ 2,029.79
Non-Expendable Equipment					\$ 4,500.00
Transportation					\$ 7,500.00
Line Item Additions: Training and Development					\$ 2,083.33
Peer Mentor Stipends					\$ 12,000.00
TOTAL OPERATING COSTS (C)					\$ 72,270.00
SUBTOTAL ANNUAL DIRECT COSTS (A+B+C)					\$469,742.87
TOTAL INDIRECT COSTS (D)					\$ 30,257.13
TOTAL BUDGET FOR FISCAL YEAR (2007/2008) (A+B+C+D)					\$500,000.00

FISCAL YEAR 2008/2009
(July 1, 2008 – June 30, 2009)

A. PERSONNEL*	No. of Positions	Monthly Salary	% of Project Time	No. of Months	Total
1. LEA: Vallejo Police Department					
Lieutenant	1	\$18,052.50	10%	12	\$ 21,663.00
Administrative Analyst	1	\$10,638.07	30%	12	\$ 38,297.05
Police Clerk	1	\$ 5,561.12	60%	12	\$ 40,040.06
2. FBP Program Personnel					
Project Director	1	\$ 4,583.32	25%	12	\$ 13,749.96
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I&R Specialist	1	\$ 3,125.00	100%	12	\$ 37,500.00
3. Administrative Personnel					
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Admin. Assist	2	\$ 3,363.30	5%	12	\$ 4,035.96
Total Staff Salaries					\$185,520.03
Total Staff Benefits (10 – 35% of Total Staff Salaries)					\$ 23,032.84
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Insurance					\$ 1,200.00
Food					\$ 8,656.88
Supplies/Expendable Equipment					\$ 2,029.79
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SUBTOTAL ANNUAL DIRECT COSTS (A+B+C)					\$469,742.87
TOTAL INDIRECT COSTS (D)					\$ 30,257.13
TOTAL BUDGET FOR FISCAL YEAR (2008/2009) (A+B+C+D)					\$500,000.00

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 1005 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a). The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

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1. **Contract Disputes with Public Entities** (Supersedes provision number 6, Disputes, of Exhibit C)

As a condition precedent to Contractor's right to institute and pursue litigation or other legally available dispute resolution process, if any, Contractor agrees that all disputes and/or claims of Contractor arising under or related to the Agreement shall be resolved pursuant to the following processes. Contractor's failure to comply with said dispute resolution procedures shall constitute a failure to exhaust administrative remedies.

Pending the final resolution of any such disputes and/or claims, Contractor agrees to diligently proceed with the performance of the Agreement, including the delivering of goods or providing of services. Contractor's failure to diligently proceed shall constitute a material breach of the Agreement.

The Agreement shall be interpreted, administered, and enforced according to the laws of the State of California. The parties agree that any suit brought hereunder shall have venue in Sacramento, California, the parties hereby waiving any claim or defense that such venue is not convenient or proper.

A county, city, district or other local public body, state board or state commission, another state or federal agency, or joint-powers authority shall resolve a dispute with CDCR, if any, through a meeting of representatives from the entities affected. If the dispute cannot be resolved to the satisfaction of the parties, each entity may thereafter pursue its right to institute litigation or other dispute resolution process, if any, available under the laws of the State of California.

2. **Confidentiality of Data**

All financial, statistical, personal, technical and other data and information relating to State's operation, which are designated confidential by the State and made available to carry out this Agreement, or which become available to the Contractor in order to carry out this Agreement, shall be protected by the Contractor from unauthorized use and disclosure.

If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used with the written consent of the State. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data already rightfully in the Contractor's possession that is independently developed by the Contractor outside the scope of the Agreement or is rightfully obtained from third parties.

No reports, information, inventions, improvements, discoveries, or data obtained, repaired, assembled, or developed by the Contractor pursuant to this Agreement shall be released, published, or made available to any person (except to the State) without prior written approval from the State.

Contractor by acceptance of this Agreement is subject to all of the requirements of California Government Code Section 11019.9 and California Civil Code Sections 1798, et seq., regarding the collection, maintenance, and disclosure of personal and confidential information about individuals.

3. Workers' Compensation

Contractor hereby represents and warrants that Contractor is currently and shall, for the duration of this agreement, carry workers' compensation insurance, at Contractor's expense, or that it is self-insured through a policy acceptable to the CDCR, for all of its employees who will be engaged in the performance of this agreement. Such coverage will be a condition of CDCR's obligation to pay for services provided under this agreement.

Prior to approval of this agreement and before performing any work, Contractor shall furnish to the State evidence of valid workers' compensation coverage. Contractor agrees that the workers' compensation insurance shall be in effect at all times during the term of this agreement. In the event said insurance coverage expires or is canceled at any time during the term of this agreement, Contractor agrees to give at least thirty (30) days prior notice to CDCR before said expiration date or immediate notice of cancellation. Evidence of coverage shall not be for less than the remainder of the term of the agreement or for a period of not less than one year. The State reserves the right to verify the Contractor's evidence of coverage. In the event the Contractor fails to keep workers' compensation insurance coverage in effect at all times, the State reserves the right to terminate this agreement and seek any other remedies afforded by the laws of this State.

Contractor also agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all of Contractor's workers' compensation claims and losses by Contractor's officers, agents and employees related to the performance of this agreement.

4. Liability for Loss and Damages

Any damages by the Contractor to the State's facility including equipment, furniture, materials or other State property, will be repaired or replaced by the Contractor to the satisfaction of the State at no cost to the State. The State may, at its option, repair any such damage and deduct the cost thereof from any sum due Contractor under this Agreement.

5. Computer Software

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

6. Accounting Principles

The Contractor will adhere to generally accepted accounting principles as outlined by the American Institute of Certified Public Accountants. Dual compensation is not allowed; a contractor cannot receive simultaneous compensation from two or more funding sources for the same services performed even though both funding sources could benefit.

7. Liability for Nonconforming Work

The Contractor will be fully responsible for ensuring that the completed work conforms to the agreed upon terms. If nonconformity is discovered prior to the Contractor's deadline, the Contractor will be given a reasonable opportunity to cure the nonconformity. If the nonconformity is discovered after the deadline for the completion of the project, CDCR, in its sole discretion, may use any reasonable means to cure the nonconformity. The Contractor shall be responsible for reimbursing CDCR for any additional expenses incurred to cure such defects.

8. Subcontractor/Consultant Information

Contractor is required to identify all subcontractors and consultants who will perform labor or render services in the performance of this Agreement. Additionally, the Contractor shall notify the Department of Corrections and Rehabilitation, Office of Business Services, in writing, within ten (10) working days, of any changes to the subcontractor and/or consultant information.

9. Contract Violations

The Contractor acknowledges that any violation of Chapter 2, or any other chaptered provision of the Public Contract Code (PCC), is subject to the remedies and penalties contained in PCC Sections 10420 through 10425.

10. Temporary Nonperformance

If, because of mechanical failure or for any other reason, the Contractor shall be temporarily unable to perform the work as required, the State, during the period of the Contractor's inability to perform, reserves the right to accomplish the work by other means and shall be reimbursed by the Contractor for any additional costs above the Agreement price.

11. Extension of Term

This Agreement may be amended to extend the term if it is determined to be in the best interest of the State. Upon signing the amendment, Contractor hereby agrees to provide services for the extended period at the rates specified in the original Agreement.

12. Employment of Ex-Offenders

Contractor cannot and will not either directly, or on a subcontract basis, employ in connection with this Agreement:

- a. Ex-Offenders on active parole or probation;
- b. Ex-Offenders at any time if they are required to register as a sex offender pursuant to Penal Code Section 290 or if such ex-offender has an offense history involving a "violent felony" as defined in subparagraph (c) of Penal Code Section 667.5; or
- c. Any ex-felon in a position which provides direct supervision of parolees.

Ex-Offenders who can provide written evidence of having satisfactorily completed parole or probation may be considered for employment by the contractor subject to the following limitations:

- a. Contractor shall obtain the prior written approval to employ any such ex-offender from the Authorized Administrator; and
- b. Any ex-offender whose assigned duties are to involve administrative or policy decision-making; accounting, procurement, cashiering, auditing, or any other business-related administrative function shall be fully bonded to cover any potential loss to the State of California.

13. Electronic Waste Recycling

The Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.

14. Taxes

Unless required by law, the State of California is exempt from federal excise taxes. The State will only pay for any state or local sales or use tax on the services rendered or goods supplied to the State pursuant to this Agreement.

15. Conflict of Interest

The Contractor and their employees shall abide by the provisions of Government Code (GC) Sections 1090, 81000 et seq., 82000 et seq., 87100 et seq., and 87300 et seq., Public Contract Code (PCC) Sections 10335 et seq. and 10410 et seq., California Code of Regulations (CCR), Title 2, Section 18700 et seq. and Title 15, Section 3409, and the Department Operations Manual (DOM) Section 31100 et seq. regarding conflicts of interest.

a. Contractors and Their Employees

Consultant contractors shall file a Statement of Economic Interests, Fair Political Practices Commission (FPPC) Form 700 prior to commencing services under the Agreement, annually during the life of the Agreement, and within thirty (30) days after the expiration of the Agreement. Other service contractors and/or certain of their employees may be required to file a Form 700 if so requested by the CDCR or whenever it appears that a conflict of interest may be at issue. Generally, service contractors (other than consultant contractors required to file as above) and their employees shall be required to file an FPPC Form 700 if one of the following exists:

- (1) The Agreement service has been identified by the CDCR as one where there is a greater likelihood that a conflict of interest may occur;
- (2) The Contractor and/or Contractor's employee(s), pursuant to the Agreement, makes or influences a governmental decision; or
- (3) The Contractor and/or Contractor's employee(s) serves in a staff capacity with the CDCR and in that capacity participates in making a governmental decision or performs the same or substantially all the same duties for the CDCR that would otherwise be performed by an individual holding a position specified in the CDCR's Conflict of Interest Code.

b. Current State Employees

- (1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- (2) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.
- (3) In addition to the above, CDCR officials and employees shall also avoid actions resulting in or creating an appearance of:
 - (a) Using an official position for private gain;
 - (b) Giving preferential treatment to any particular person;
 - (c) Losing independence or impartiality;
 - (d) Making a decision outside of official channels; and
 - (e) Affecting adversely the confidence of the public or local officials in the integrity of the program.
- (4) Officers and employees of the Department must not solicit, accept or receive, directly or indirectly, any fee, commission, gratuity or gift from any person or business organization doing or seeking to do business with the State.

c. Former State Employees

- (1) For the two year (2-year) period from the date he or she left state employment, no former state officer or employee may enter into an Agreement in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the Agreement while employed in any capacity by any state agency.
- (2) For the twelve-month (12-month) period from the date he or she left state employment, no former state officer or employee may enter into an Agreement with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed Agreement within the 12-month period prior to his or her leaving state service.

In addition to the above, the Contractor shall avoid any conflict of interest whatsoever with respect to any financial dealings, employment services, or opportunities offered to inmates or parolees. The Contractor shall not itself employ or offer to employ inmates or parolees either directly, or indirectly through an affiliated company, person or business unless specifically authorized in writing by the CDCR. In addition, the Contractor shall not (either directly, or indirectly through an affiliated company, person or business) engage in financial dealings with inmates or parolees, except to the extent that such financial dealings create no actual or potential conflict of interest, are available on the same terms to the general public, and have been approved in advance in writing by the CDCR. For the purposes of this paragraph, "affiliated company, person or business" means any company, business, corporation, nonprofit corporation, partnership, limited partnership, sole proprietorship, or other person or business entity of any kind which has any ownership or control interest whatsoever in the Contractor, or which is wholly or partially owned (more than 5% ownership) or controlled (any percentage) by the Contractor or by the Contractor's owners, officers, principals, directors and/or shareholders, either directly or indirectly. "Affiliated companies, persons or businesses" include, but are not limited to, subsidiary, parent, or sister companies or corporations, and any company, corporation, nonprofit corporation, partnership, limited partnership, sole proprietorship, or other person or business entity of any kind that is wholly or partially owned or controlled, either directly or indirectly, by the Contractor or by the Contractor's owners, officers, principals, directors and/or shareholders.

The Contractor shall have a continuing duty to disclose to the State, in writing, all interests and activities that create an actual or potential conflict of interest in performance of the Agreement.

The Contractor shall have a continuing duty to keep the State timely and fully apprised in writing of any material changes in the Contractor's business structure and/or status. This includes any changes in business form, such as a change from sole proprietorship or partnership into a corporation or vice-versa; any changes in company ownership; any dissolution of the business; any change of the name of the business; any filing in bankruptcy; any revocation of corporate status by the Secretary of State; and any other material changes in the Contractor's business status or structure that could affect the performance of the Contractor's duties under the Agreement.

If the Contractor violates any provision of the above paragraphs, such action by the Contractor shall render this Agreement void.

Members of boards and commissions are exempt from this section if they do not receive payment other than payment for each meeting of the board or commission, payment for preparatory time and payment for per diem.

16. Disclosure

Neither the State nor any State employee will be liable to the Contractor or its staff for injuries inflicted by inmates or parolees of the State. The State agrees to disclose to the Contractor any statement(s) known to State staff made by any inmate or parolee which indicate violence may result in any specific situation, and the same responsibility will be shared by the Contractor in disclosing such statement(s) to the State.

17. Security Clearance/Fingerprinting

The State reserves the right to conduct fingerprinting and/or security clearance through the Department of Justice, Bureau of Criminal Identification and Information (BCII), prior to award and at any time during the term of the Agreement, in order to permit Contractor and/or Contractor's employees access to State premises. The State further reserves the right to terminate the Agreement should a threat to security be determined.

18. Notification of Personnel Changes

Contractor must notify the State, in writing, of any changes of those personnel allowed access to State premises for the purpose of providing services under this Agreement. In addition, Contractor must recover and return any State-issued identification card provided to Contractor's employee(s) upon their departure or termination.

The following provisions apply to services provided on departmental and/or institution grounds:

19. Bloodborne Pathogens

Provider shall adhere to California Division of Occupational Safety and Health (CAL-OSHA) regulations and guidelines pertaining to bloodborne pathogens.

20. Tuberculosis (TB) Testing

In the event that the services required under this Agreement will be performed within a CDCR institution/parole office/community-based program, prior to the performance of contracted duties, Contractors and their employees who are assigned to work with inmates/parolees on a regular basis shall be required to be examined or tested or medically evaluated for TB in an infectious or contagious stage, and at least once a year thereafter or more often as directed by CDCR. Regular basis is defined as having contact with inmates/parolees in confined quarters more than once a week.

Contractors and their employees shall be required to furnish to CDCR, at no cost to CDCR, a form CDCR 7336, "Employee Tuberculin Skin Test (TST) and Evaluation," prior to assuming their contracted duties and annually thereafter, showing that the Contractor and their employees have been examined and found free of TB in an infectious stage. The form CDCR 7336 will be provided by CDCR upon Contractor's request.

21. Primary Laws, Rules, and Regulations Regarding Conduct and Association with State Prison Inmates

22. Individuals who are not employees of CDCR, but who are working in and around inmates who are incarcerated within California's institutions/facilities or camps, are to be apprised of the laws, rules and regulations governing conduct in associating with prison inmates. The following is a summation of pertinent information when non-departmental employees come in contact with prison inmates.

By signing this Agreement, the Contractor agrees that if the provisions of the Agreement require the Contractor to enter an institution/facility or camp, the Contractor and any employee(s) and/or subcontractor(s) shall be made aware of and shall abide by the following laws, rules and regulations governing conduct in associating with prison inmates:

- a. Persons who are not employed by CDCR, but are engaged in work at any institution/facility or camp must observe and abide by all laws, rules and regulations governing the conduct of their behavior in associating with prison inmates. Failure to comply with these guidelines may lead to expulsion from CDCR institutions/facilities or camps.

SOURCE: California Penal Code (PC) Sections 5054 and 5058; California Code of Regulations (CCR), Title 15, Sections 3285 and 3415

- b. CDCR does not recognize hostages for bargaining purposes. CDCR has a "NO HOSTAGE" policy and all prison inmates, visitors, and employees shall be made aware of this.

SOURCE: PC Sections 5054 and 5058; CCR, Title 15, Section 3304

- c. All persons entering onto institution/facility or camp grounds consent to search of their person, property or vehicle at any time. Refusal by individuals to submit to a search of their person, property, or vehicle may be cause for denial of access to the premises.

SOURCE: PC Sections 2601, 5054 and 5058; CCR, Title 15, Sections 3173, 3177, and 3288

- d. Persons normally permitted to enter an institution/facility or camp may be barred, for cause, by the CDCR Director, Warden, and/or Regional Parole Administrator.

SOURCE: PC Sections 5054 and 5058; CCR, Title 15, Section 3176 (a)

- e. It is illegal for an individual who has been previously convicted of a felony offense to enter into CDCR institutions/facilities or camps without the prior approval of the Warden. It is also illegal for an individual to enter onto these premises for unauthorized purposes or to refuse to leave said premises when requested to do so. Failure to comply with this provision could lead to prosecution.

SOURCE: PC Sections 602, 4570.5 and 4571; CCR, Title 15, Sections 3173 and 3289

- f. Encouraging and/or assisting prison inmates to escape is a crime. It is illegal to bring firearms, deadly weapons, explosives, tear gas, drugs or drug paraphernalia on CDCR institutions/facilities or camp premises. It is illegal to give prison inmates firearms, explosives, alcoholic beverages, narcotics, or any drug or drug paraphernalia, including cocaine or marijuana.

SOURCE: PC Sections 2772, 2790, 4533, 4535, 4550, 4573, 4573.5, 4573.6 and 4574

- g. It is illegal to give or take letters from inmates without the authorization of the Warden. It is also illegal to give or receive any type of gift and/or gratuities from prison inmates.

SOURCE: PC Sections 2540, 2541 and 4570; CCR, Title 15, Sections 3010, 3399, 3401, 3424 and 3425

- h. In an emergency situation the visiting program and other program activities may be suspended.

SOURCE: PC Section 2601; CCR, Title 15, Section 3383

- i. For security reasons, visitors must not wear clothing that in any way resembles state issued prison inmate clothing (blue denim shirts, blue denim pants).

SOURCE: CCR, Title 15, Section 3171 (b) (3)

- j. Interviews with SPECIFIC INMATES are not permitted. Conspiring with an inmate to circumvent policy and/or regulations constitutes a rule violation that may result in appropriate legal action.

SOURCE: CCR, Title 15, Sections 3261.5, 3315 (3) (W), and 3177.

23. Clothing Restrictions

While on institution grounds, Contractor and all its agents, employees, and/or representatives shall be professionally and appropriately dressed in clothing distinct from that worn by inmates at the institution. Specifically, blue denim pants and blue chambray shirts, orange/red/yellow/white/chartreuse jumpsuits and/or yellow rainwear shall not be worn onto institution grounds, as this is inmate attire. Contractor should contact the institution regarding clothing restrictions prior to requiring access to the institution to assure the Contractor and their employees are in compliance.

24. Tobacco-Free Environment

Pursuant to Penal Code Section 5030.1, the use of tobacco products by any person on the grounds of any institution or facility under the jurisdiction of the Department of Corrections and Rehabilitation is prohibited.

25. Security Regulations

- a. Unless otherwise directed by the entrance gate officer and/or Contract Manager, the Contractor, Contractor's employees and subcontractors shall enter the institution through the main entrance gate and park private and nonessential vehicles in the designated visitor's parking lot. Contractor, Contractor's employees and subcontractors shall remove the keys from the ignition when outside the vehicle and all unattended vehicles shall be locked and secured while on institution grounds.
- b. Any State- and Contractor-owned equipment used by the Contractor for the provision of contract services, shall be rendered temporarily inoperative by the Contractor when not in use, by locking or other means unless specified otherwise.
- c. In order to maintain institution safety and security, periodic fire prevention inspections and site searches may become necessary and Contractor must furnish keys to institutional authorities to access all locked areas on the worksite. The State shall in no way be responsible for Contractor's loss due to fire.
- d. Due to security procedures, the Contractor, Contractor's employees and subcontractors may be delayed at the institution vehicle/pedestrian gates and sally ports. Any loss of time checking in and out of the institution gates and sally ports shall be borne by the Contractor.
- e. Contractor, Contractor's employees and subcontractors shall observe all security rules and regulations and comply with all instructions given by institutional authorities.
- f. Electronic and communicative devices such as pagers, cell phones and cameras/microcameras are not permitted on institution grounds.
- g. Contractor, Contractor's employees and subcontractors shall not cause undue interference with the operations of the institution.

h. No picketing is allowed on State property.

26. Gate Clearance

Contractor and Contractor's employee(s) and/or subcontractor(s) must be cleared prior to providing services. The Contractor will be required to complete a Request for Gate Clearance for all persons entering the facility a minimum of ten (10) working days prior to commencement of service. The Request for Gate Clearance must include the person's name, social security number, valid state driver's license number or state identification card number and date of birth. Information shall be submitted to the Contract Liaison or his/her designee. CDCR uses the Request for Gate Clearance to run a California Law Enforcement Telecommunications System (CLETS) check. The check will include Department of Motor Vehicles check, Wants and Warrants check, and Criminal History check.

Gate clearance may be denied for the following reasons: Individual's presence in the institution presents a serious threat to security, individual has been charged with a serious crime committed on institution property, inadequate information is available to establish positive identity of prospective individual, and/or individual has deliberately falsified his/her identity.

All persons entering the facilities must have a valid state driver's license or photo identification card on their person.

1. Confidentiality of Information

CDCR and Provider agree that all inmate/patient medical record information is identified as confidential and shall be held in trust and confidence and shall be used only for the purposes contemplated under this Agreement.

Provider by acceptance of this Agreement is subject to all of the requirements of the federal regulations implementing the Health Insurance Portability and Accountability Act of 1996 (Code of Federal Regulations (CFR), Title 45, Sections 164.501 et seq.); the California Government Code Section 11019.9; California Civil Code Sections 56 et seq.; and California Civil Code Sections 1798, et seq.; regarding the collections, maintenance, and disclosure of personal and confidential information about individuals. Attached as Exhibit "G" and incorporated herein is a Business Associate Agreement which memorializes the parties' duties and obligations with respect to the protection, use, and disclosure of protected health information,

2. Contractor Employee Misconduct

During the performance of this Agreement, it shall be the responsibility of the Contractor whenever there is an incident of use of force or allegation(s) of employee misconduct associated with and directly impacting inmate and/or parolee rights, to immediately notify the CDCR of the incident(s), to cause an investigation to be conducted, and to provide CDCR with all relevant information pertaining to the incident(s). All relevant information includes, but is not limited to: a) investigative reports; b) access to inmates/parolees and the associated staff; c) access to employee personnel records; d) that information reasonably necessary to assure CDCR that inmates and/or parolees are not or have not been deprived of any legal rights as required by law, regulation, policy and procedures; and e) written evidence that the Contractor has taken such remedial action, in the event of unnecessary or excessive force, or employee misconduct with inmates and/or parolees, as will assure against a repetition of incident(s) or retaliation. To the extent that the information provided by the Contractor fails to so assure CDCR, CDCR may require that any implicated Contractor staff be denied access to and the supervision of CDCR inmates and/or parolees at the facility and access to inmate and/or parolee records. Notwithstanding the foregoing, and without waiving any obligation of the Contractor, CDCR retains the power to conduct an independent investigation of any incident(s). Furthermore, it is the responsibility of the Contractor to include the foregoing terms within any and all subcontracts, requiring that subcontractor(s) agree to the jurisdiction of CDCR to conduct an investigation of their facility and staff, including review of subcontractor employee personnel records, as a condition of the Agreement.

3. Right to Terminate

The parties hereto agree that either party may cancel this Agreement by giving the other party written notice thirty (30) days in advance of the effective date of such cancellation. In the event of such termination, the State agrees to pay Contractor for actual services rendered up to and including the date of termination.

4. **Résumés, Job Descriptions and Duty Statements**

If this is a consultant Agreement or Request for Proposal (RFP), the Contractor must provide and maintain résumés, duty statements and/or job descriptions for all staff paid through this Agreement. In addition, all contracted staff personnel files must indicate the date of employment, rate of pay and benefits, funding source, pay increases, promotions and status changes, and, if applicable, the date and reason(s) for employment termination.

5. **Project Manager**

If this is a consultant Agreement or RFP, the Contractor shall designate a Project Manager to be responsible for ensuring the terms, conditions, and provisions of this Agreement are met. The Contractor shall notify the CDCR within five (5) working days of a change in Project Manager. The continuation and subsequent replacement of this position is subject to the provisions contained in the section entitled "Personnel".

6. **Personnel**

If this is a consultant Agreement or RFP, the Contractor agrees to allow the State the right to 1) approve, in advance, any personnel to be assigned to this project, and 2) disapprove the continuing assignment of any personnel. If any employee of the Contractor is unable to perform due to illness, resignation or other factors beyond the Contractor's control, the Contractor shall immediately provide acceptable substitute personnel.

The Contractor shall report in writing the resignation or dismissal of personnel who are an essential part of the successful operation of the contracted program. The State may immediately terminate the Agreement if the replacement of personnel is detrimental to the program as determined by the State.

7. **Insurance Requirements**

Insurance as required herein shall be a condition of the State's obligation to pay for services provided under this Agreement. Prior to approval of this Agreement and before performing any work, Contractor and any subcontractor shall furnish to the State evidence of valid coverage. The following shall be considered evidence of coverage: A certificate of insurance, a "true and certified" copy of the policy, or any other proof of coverage issued by Contractor's insurance carrier. Binders are not acceptable as evidence of coverage. Providing evidence of coverage to the State conveys no rights or privileges to the State, nor does it insure any State employee or insure any premises owned, leased, used by or otherwise or under the control of the State. It does, however, serve to provide the State with proof that the Contractor and any subcontractor is insured at the minimum levels required by the State of California.

8. Equipment

All equipment purchases considered "theft-sensitive" (e.g. laptop computers/printers, electronic devices, etc.) or has a unit acquisition of at least \$5,000 necessary for the performance of the agreement must be pre-approved by the CDCR Program Manager. For audit purposes, the Contractor must retain a detailed list of these purchases that shall include equipment description, make/model, serial number and location of equipment. CDCR reserves the right to disallow equipment deemed necessary or applicable to the services provided under the agreement. The cost of any equipment described herein and purchased by the Contractor without prior approval of the CDCR shall be absorbed at the expense of the Contractor.

Upon termination of the agreement, the equipment purchased shall become the property of the State and CDCR shall determine the disposition of the equipment which may include, but shall not be limited to the following: use by subsequent Contractors, disposal by the State, or authorization to the Contractor for continued use for work to be performed under a different agreement.

9. Subvention Contracts

Contractor shall be responsible for providing the CDCR Program Manager with detailed information that allows for fiscal controls to be maintained in accordance with State Contracting Manual Section 3.17.

Contractor agrees that any liability insurance required in the performance of this Agreement shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires or is canceled during the term of this Agreement, Contractor's insurance provider must agree to give at least thirty (30) days prior notice to the State before said expiration date or notice of cancellation. Evidence of coverage required in the performance of this Agreement shall not be for less than the remainder of the term of this Agreement or for a period of not less than one year. The State and the Department of General Services (DGS) reserve the right to verify the Contractor's evidence of coverage; evidence of coverage is subject to the approval of the DGS. In the event the Contractor fails to keep insurance coverage as required herein in effect at all times, the State reserves the right to terminate this Agreement and to seek any other remedies afforded by the laws of the State of California.

Self-insured public entities MUST provide proof of self-insurance.

State of California REQUEST FOR FUND DISBURSEMENT Form DCP GRANT 004 (Revised 03/07)	Department of Corrections and Rehabilitation Division of Community Partnerships Recidivism Reduction Grant Programs
---------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------

Grantee:	Contract #:	Claim #: _____
Address:	Claim Period (mm/dd/yy):	
<input type="checkbox"/> Monthly Disbursement Claim	From: ___/___/___	Modified F.Y. Budget? Yes <input type="checkbox"/> No <input type="checkbox"/>
<input type="checkbox"/> Quarterly Disbursement Claim	To: ___/___/___	(Modification #: _____)

FISCAL YEAR BUDGET (FY /)

Disbursement Allocations	GRANT FUNDS	COSTS CLAIMED THIS PERIOD	TOTAL COSTS TO DATE	BALANCE	APPROVED FOR PAYMENT BY DCP
Grantee Personnel Costs					
Admin Subcontracts					
Program Subcontracts					
Facilities Expense					
Travel					
Expendable Supplies					
Equipment Purchase					
Equipment Rental					
Volunteer Expense Reimbursement					
Indirect Costs					
Other					
Grand Total					

I certify (as an authorized representative of the grantee/contractor named herein) that this claim is accurate and for actual expenditures legally incurred during the claim period as required under applicable rules and the current grant contract/Public Entity Agreement (PEA). I further agree to maintain on file supporting documentation for all claimed costs for a period of three years beyond the date that the last encumbrance was liquidated and to provide such documentation to CDCR (if requested) as a condition of receiving payment of this claim.

PERSON PREPARING REPORT	PROJECT FINANCIAL OFFICER	PROJECT MANAGER
Signature _____	Signature _____	Signature _____
Name _____	Name _____	Name _____
Title _____	Title _____	Title _____
Telephone () - _____	Telephone () - _____	Telephone () - _____
Date _____	Date _____	Date _____

FOR DIVISION OF COMMUNITY PARTNERSHIPS USE ONLY

I have reviewed this claim and applicable grant contract agreement. I hereby:

APPROVE
 APPROVE AS MODIFIED
 DISAPPROVE

This claim for payment for the amount listed in the “Approved For Payment by DCP” Grand Total Field.

Approved: _____ **Date:** _____
Division of Community Partnerships Representative, Title



Agenda No. CONSENT D

COUNCIL COMMUNICATION

Date: April 17, 2007

TO: Honorable Mayor and Members of the City Council

FROM: Craig Whittom, Assistant City Manager/Community Development *CW*
Brian Dolan, Development Services Director *BD*

SUBJECT: CONSIDERATION OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT WITH LAK ASSOCIATES, LLC TO PROVIDE CONTRACT PLANNING SERVICES FOR PROCESSING THE PROPOSED WALMART PROJECT AND TO EXECUTE A REIMBURSEMENT AGREEMENT BETWEEN WALMART AND THE CITY FOR SAID CONTRACT PLANNER SERVICES

RECOMMENDATION

Adopt the resolution authorizing the City Manager to enter into 2 agreements: 1) a consultant and professional services agreement between the City of Vallejo and LAK Associates, LLC, and 2) a reimbursement agreement with WalMart.

SUMMARY

WalMart has prepared and submitted planning applications and the next steps will include preparing environmental review documents. A selection process is underway to identify a firm to prepare those documents, however, due to limitations of current staffing levels, and the amount of public outreach and input anticipated in the environmental review process, City staff recommends Council also authorize the use of a contract planner to manage this project. In addition to paying the normal fees and paying for the cost of the environmental consultant, WalMart has agreed to reimburse the City for the extra cost of hiring a contract planner.

BACKGROUND AND DISCUSSION

WalMart has approached the City with conceptual proposals to develop the old K-Mart sites that is 12.45 acres on the northwest corner of the intersection of Sonoma Boulevard (Highway 29) and Redwood Street. The project includes the construction of a new 2-story building measuring a total of approximately 393,000 square feet. The project will be subject to a comprehensive City planning process and environmental review, pursuant to the California Environmental Quality Act (CEQA).

The project will be subject to the development standards of the White Slough Plan, an inter-jurisdictional document that included participation by the City of Vallejo, Solano County, and the Bay Conservation and Development Commission (BCDC). The White Slough Plan development standards address site organization and architecture. The City will prepare both an Environmental Impact Report and an Economic Impact Analysis. This is a project that will require extensive public involvement and coordination with various City work units.

For these reasons, City staff has determined that the hiring of a contract planner is desirable and necessary to manage this project. LAK Associates, LLC would work for the City of Vallejo and under the direction of the Development Services Director or his designee. They were selected by the Development Services Director from a pool of approximately 10 candidates. They have considerable experience in similar roles for other cities in the region and come highly recommended. The role of LAK staff will be to manage the contract of the environmental consultant, prepare memos, staff reports and coordinate local meetings, as well as maintain a point of contact for the community. It is anticipated that their role will last anywhere from 6-18 months.

Following the actions recommended tonight, the next step will be to select the consulting firm to prepare the environmental documentation. Statements of Qualifications are due on April 23 and award of a contract is anticipated to be recommended to the City Council in May of this year.

ENVIRONMENTAL REVIEW

Consideration of a WalMart Supercenter in Vallejo is subject to the California Environmental Quality Act (CEQA), and the City is moving ahead to conduct the appropriate environmental review process. However, the proposed contract with LAK Associates, LLC and the execution of a reimbursement agreement with WalMart are not activities in and of themselves that will directly result in a direct or indirect physical change in the environment. Thus these proposed actions are not considered a project under CEQA. (See Guidelines, Section 15378(a), and do not require separate CEQA review.

FISCAL IMPACT

Under the requirements of the proposed agreement, WalMart will fund all costs associated with this contract for LAK Associates, LLC's services. The proposed agreement with WalMart requires that they pre-pay the City for the costs anticipated for LAK Associates, LLC to complete the work. These funds are considered "developer deposits" and will be held in trust, separate from the General Fund, or any other discretionary fund. As LAK Associates, LLC's costs are incurred and then invoiced, the City will draw down the payments from this special fund. Both agreements include safeguards to ensure all the work by LAK Associates, LLC is pre-paid and fully funded by WalMart. Thus, neither of these proposed agreements will have any impact on the General Fund. The costs estimated for the remainder of FY06/07 are not expected to be significant (<\$10,000) and thus are expected to fit within the adjusted budget.

The General Fund does receive the fees paid by WalMart for various stages of this development project. To date, WalMart has paid \$14,563 in fees relating to this proposed project. The City will also collect additional fees totaling 25 percent of the cost

of the Environmental Impact Report. These fees cover both the city's direct and indirect costs. It is important to note that the use of the contract planner will not eliminate the involvement of the City Attorney's office and managers in the Community Development and Public Works Departments, as well as the City Manager and City Council.

ATTACHMENTS

1. Draft City Council Resolution
2. Consultant and Professional Services Agreement, including the following attachments:
 - Exhibit A – Scope of Work
 - Exhibit B – Compensation
 - Exhibit C – Insurance Requirements for Consultant
3. Reimbursement Agreement

PREPARED BY / CONTACT

Brian Dolan, Development Services Director – 707-649-5458; email bdolan@ci.vallejo.ca.us

RESOLUTION NO. _____ N.C.

A RESOLUTION TO 1) AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT WITH LAK ASSOCIATES, LLC TO PROVIDE CONTRACT PLANNING SERVICES FOR PROCESSING OF THE PROPOSED WALMART PROJECT, AND 2) TO EXECUTE A REIMBURSEMENT AGREEMENT BETWEEN WALMART AND THE CITY FOR SAID CONTRACT PLANNER SERVICES

BE IT RESOLVED by the City Council of the City of Vallejo as follows:

WHEREAS, WalMart has approached the City with conceptual proposals to develop the property at the northwest corner of the intersection of Sonoma Boulevard (Highway 29) and Redwood Street. The WalMart project involves the proposed development of a 2-story building approximately 393,000 square feet; and

WHEREAS, the proposed WalMart project will be subject to a comprehensive planning and environmental review process, which will include an Amendment to the White Slough Specific Area Plan, a Major Conditional Use Permit and a Planned Development Unit Plan. An Economic Impact Analysis is required in addition to an Environmental Impact Report for the proposed Amendment to the White Slough Specific Area Plan and the project.

WHEREAS, the Development Services function within the Community Development Department currently has insufficient staff available to process and manage this large and controversial project. City staff has determined that hiring a contract planner to manage this project is desirable and necessary; and

WHEREAS, the Development Services Department has received a proposal for planning services from LAK Associates, LLC, a contract-planning consultant. This proposal outlines services and tasks that would be needed to manage the WalMart project through the next phase of the City's planning and environmental review process. The proposal is structured for charges and payment on a time and material basis, which will best accommodate the uncertain scope and duration of these tasks; and

WHEREAS, WalMart has agreed to pay all the costs associated with LAK Associates, LLC's services and has executed a reimbursement agreement documenting this commitment; and

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves a consultant and professional services agreement with LAK Associates, LLC and authorizes the City Manager to sign the agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Council hereby approves the reimbursement agreement with WalMart and authorizes the City Manager or his designee to sign the agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Manager or his designee are hereby authorized to execute any other document or instrument and take any additional action, including an amendment to the terms of this agreement that do not require the expenditure of City funds, as may be necessary to carry out the purposes of these agreements.

K/Public/AI/PL/Walmart Contract Planner CC Resolution 4 3 07.doc

CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT

This Agreement ("AGREEMENT") is made at Vallejo, California, on the _____ day of _____, 2007, by and between the CITY OF VALLEJO, a Municipal Corporation ("CITY"), and LAK Associates, LLC, hereinafter referred to as CONSULTANT, who agree as follows:

1. **Services.** Subject to the terms and conditions set forth in this AGREEMENT, CONSULTANT shall provide the CITY professional services as specified in Exhibit A, entitled "Scope of Work", which is attached hereto and made a part hereof.
2. **Payment.** CITY shall pay CONSULTANT for services rendered pursuant to this AGREEMENT at the times and in the manner set forth in Exhibit B, which is attached hereto and made a part hereof. The payments specified in Exhibit B shall be the only payments to be made to CONSULTANT for services rendered pursuant to this AGREEMENT.
3. **Facilities and Equipment.** CONSULTANT shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this AGREEMENT.
4. **Indemnification.** CONSULTANT shall defend and hold harmless CITY, its officers, officials, directors, employees, agents, volunteers and affiliates and any each of them from and against any and all claims, losses or liability, arising out of or in connection with CONSULTANT'S work, or any subcontractor's work, to be performed under this agreement for CONSULTANT'S or subcontractor's tort negligence including active or passive, or strict negligence, caused by any act or omission of CONSULTANT, or any subcontractor, for the full period of time allowed by the law, regardless of any limitation by insurance, with the exception of the sole negligence or willful misconduct of the CITY.

Approval of insurance coverage does not, in any way, relieve the CONSULTANT of any liability.

5. **Insurance Requirements.** CONSULTANT agrees to comply with all of the Insurance Requirements set forth in Exhibit C, entitled "Insurance Requirements For Consultant", which is attached hereto and made a part hereof.

6. **Conflict of Interest.** CONSULTANT shall not enter into any contract or agreement during the performance of this AGREEMENT which will create a conflict of interest with its duties to CITY under this AGREEMENT.
7. **Independent Contractor.** CONSULTANT shall be an independent contractor and shall not be an employee of CITY while performing services pursuant to this AGREEMENT. CITY shall have the right to control CONSULTANT only insofar as the results of CONSULTANT'S services rendered pursuant to this AGREEMENT; however, CITY shall not have the right to control the means by which CONSULTANT accomplishes services pursuant to this AGREEMENT.
8. **Licences, Permits, Etc.** CONSULTANT represents and warrants to CITY that it has all professional licenses, permits, qualifications and approvals of whatsoever nature which are legally required for CONSULTANT to practice its profession. CONSULTANT represents and warrants to CITY that it shall, at its sole cost and expense, keep in effect at all times during the term of this AGREEMENT any licenses, permits, and approvals which are legally required for CONSULTANT to practice its profession.
9. **Standard of Performance.** CONSULTANT shall perform all services required pursuant to this AGREEMENT in a manner and according to the standards observed by a competent practitioner of the profession in which CONSULTANT is engaged. All products and services of any nature which CONSULTANT provides to CITY pursuant to this AGREEMENT shall conform to the standards of quality normally observed by licensed, competent professionals practicing in CONSULTANT'S profession.
10. **Time for Performance.** CONSULTANT shall devote such time to the performance of the services required by this AGREEMENT as may be reasonably necessary for the satisfactory performance of its obligations pursuant to this AGREEMENT. Neither party shall be considered in default of this AGREEMENT to the extent performances are prevented or delayed by any cause, present or future, which is beyond the reasonable control of the parties set forth in this AGREEMENT.
11. **Personnel.** CONSULTANT agrees to assign only competent personnel according to the reasonable and customary standards of training and experience in the relevant field to perform services pursuant to this AGREEMENT. Failure to assign such competent personnel shall constitute grounds for termination of this AGREEMENT pursuant to Section 14 of this AGREEMENT.
12. **Consultant Not Agent.** Except as CITY may authorize in writing,

ATTACHMENT 2

CONSULTANT shall have no authority, express or implied to act on behalf of CITY in any capacity whatsoever as an agent. CONSULTANT shall have no authority, express or implied, pursuant to this AGREEMENT, to bind CITY to any obligation whatsoever.

13. **Abandonment by CITY.** Upon abandonment of the project encompassed by this AGREEMENT by CITY, and written notification to CONSULTANT, this AGREEMENT shall terminate. CONSULTANT shall be entitled to compensation earned by it prior to the date of termination, computed prorated up to and including the date of termination. CONSULTANT shall not be entitled to any further compensation as of the date of termination. All charges incurred shall be payable by CITY within thirty (30) days following submission of a final statement by CONSULTANT.
14. **Termination by CITY.** Should CITY, at any time, and in its sole discretion, become dissatisfied with CONSULTANT'S performance under this AGREEMENT, it may terminate the AGREEMENT immediately upon giving notice to CONSULTANT. In the event of such a termination, CONSULTANT shall be compensated for all reasonably satisfactory work completed at the time of termination.
15. **Products of Consulting Services.** All information developed pursuant to this AGREEMENT, and all work sheets, reports and other work products, whether complete or incomplete, of CONSULTANT resulting from services rendered pursuant to this AGREEMENT, shall become the property of CITY. CONSULTANT does not assume any liability which may arise from the use of its work products created under this AGREEMENT for other than their specific intended purpose.
16. **Cooperation by CITY.** CITY shall, to the extent reasonable and practicable, assist and cooperate with CONSULTANT in the performance of CONSULTANT'S services hereunder.
17. **Assignment and Subcontracting Prohibited.** No party to this AGREEMENT may assign any right or obligation pursuant to this AGREEMENT. Any attempted or purported assignment of any right or obligation pursuant to this AGREEMENT shall be void and of no effect.

CONSULTANT shall not subcontract any services to be performed under this AGREEMENT without the prior written consent of CITY.

18. **Non-Discrimination/Fair Employment Practices.** CONSULTANT agrees to observe the provisions of CITY'S Public Works Contracts Affirmative Action Ordinance (Ordinance No. 36 N.C. (2d), as amended, Vallejo

ATTACHMENT 2

Municipal Code, Chapter 2.72) obligating every contractor or consultant under a contract or subcontract to CITY for public works or for goods or services to refrain from discriminatory employment practices on the basis of race, religious creed, color, sex, national origin, or ancestry of any employee of, or applicant for employment with, such contractor or consultant. By this reference, said Ordinance is incorporated in and made a part of this AGREEMENT.

19. **Notices.** All notices pursuant to this AGREEMENT shall be in writing and mailed, postage prepaid, first class mail or personally delivered as follows:

If to CITY: Brian Dolan
Development Services Director
555 Santa Clara Street
Vallejo, CA 94590

If to CONSULTANT: LAK Associates, LLC
Larry Kennings
3030 Bridgeway, Suite 103
Sausalito, CA 94965

20. **Integration Clause.** This AGREEMENT constitutes the entire agreement of the parties and may not be amended, except in a writing signed by both parties.
21. **Severability Clause.** Should any provision of this AGREEMENT ever be deemed to be legally void or unenforceable, all remaining provisions shall survive and be enforceable.
22. **Law Governing.** This AGREEMENT shall in all respects be governed by the law of the State of California. Litigation arising out of or connected with this AGREEMENT shall be instituted and maintained in the courts of Solano County in the State of California, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.
23. **Waiver.** Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.
24. **Confidentiality of CITY Information.** During performance of this AGREEMENT, CONSULTANT may gain access to and use City information

ATTACHMENT 2

regarding, but not limited to, Development Services Department procedures, policies, training, operational practices, and other vital information (hereafter collectively referred to as "City Information") which are valuable, special and unique assets of the CITY. CONSULTANT agrees to protect all City Information and treat it as strictly confidential, and further agrees CONSULTANT will not at any time, either directly or indirectly, divulge, disclose or communicate in any manner any City Information to any third party without the prior written consent of CITY. A violation by CONSULTANT of this paragraph shall be a material violation of this AGREEMENT and will justify legal and/or equitable relief.

25. **CITY Representative.** The CITY Representative specified in Exhibit A, or the representative's designee, shall administer this AGREEMENT for the CITY.
26. **Counterparts.** The Parties may execute this AGREEMENT in two or more counterparts, which shall, in the aggregate, be signed by all the Parties; each counterpart shall be deemed an original of this AGREEMENT as against a Party who has signed it.
27. **Authority.** The person signing this Agreement for CONSULTANT hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of CONSULTANT
28. **Exhibits.** The following exhibits are attached hereto and incorporated herein by reference:
 - A. Exhibit A, entitled "Scope of Work"
 - B. Exhibit B, entitled "Compensation"
 - C. Exhibit C, entitled "Insurance Requirements For Consultant"

(SIGNATURES ARE ON FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties have executed this AGREEMENT
the day and year first above written.

**CITY OF VALLEJO,
A Municipal Corporation**

By: _____
Larry Kennings,
LAK Associates, LLC

By: _____
Joe Tanner
City Manager

ATTEST:

(City Seal)

By: _____
Mary Ellsworth
Acting City Clerk

APPROVED AS TO CONTENT:

Brian Dolan
Development Services Director

APPROVED AS TO FORM:

Frederick G. Soley
City Attorney

APPROVED:

Will Venski
Risk Manager



LAK ASSOCIATES, LLC

3030 Bridgeway, Suite 103, Sausalito, CA 94965
tel: (415) 331 - 4551 fax: (415) 331-4573 lakassoc@sbcglobal.net

Contract Planning Services Agreement

Scope of Work

LAK Associates, LLC agrees to perform the following services:

- Review of the city's General Plan, Zoning Ordinance, specific plans, reports and other background materials relevant to the proposed development site.
- Review of proposed development plans prepared by applicant, as directed by city staff.
- Meetings with applicant, as directed by the Development Services Director.
- Site visits, and analysis thereof, as directed by city staff.
- Meetings, as directed by Development Services Director from time to time, with city staff, federal, state and local agency staff, interested stakeholders, including special interest groups and individuals to further the objectives of the city.
- Telephone and electronic communication, as necessary, to facilitate the project application process.
- Assist city staff during public hearings of the Planning Commission and City Council, as directed by the Development Services Director
- Assistance in the identification, selection and management of technical environmental consultants, as directed by Development Services Director.
- Written staff reports, memoranda, letters, and other documentation, as requested by the Development Services Director.
- Oral presentations, as required by the Development Services Director.
- Other, unspecified services, as requested by Development Services Director.

Payment

In consideration for the services to be performed by Contractor, Client agrees to pay Contractor at the rate of \$200.00 per hour for Larry Kennings, and \$120.00 per hour for Sean Kennings.

CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT

COMPENSATION

1. CONSULTANT'S Compensation.

A. Services: City agrees to pay CONSULTANT, at the rate specified below, for those services set forth in Exhibit A of this AGREEMENT and for all authorized reimbursable expenses.

B. Additional Services:

1. Additional Services are those services related to the scope of Services of CONSULTANT as set forth in Exhibit A but not anticipated at the time of execution of this AGREEMENT. Additional Services shall be provided only when a Supplemental AGREEMENT authorizing such Additional Services is approved by CITY in accordance with CITY'S Supplemental AGREEMENT procedures. CITY reserves the right to perform any Additional Services with its own staff or to retain other Consultants to perform said Additional Services.

2. CONSULTANT'S compensation for Additional Services shall be based on the total number of hours spent on Additional Services multiplied by the employees' appropriate billable hourly rate as established below. CITY, at its option, may negotiate a fixed fee for some or all Additional Services as the need arises. Where a fixed fee for Additional Services is established by mutual AGREEMENT between CITY and CONSULTANT, compensation to CONSULTANT shall not exceed the fixed fee amount.

2. Appropriate Billable Hourly Rates for Services and Additional Services.

CONSULTANT'S billable hourly rate shall be as provided in the Scope of Services. Funds will be submitted to the City by the developer, deposited into a City account, and paid by the City when invoices are received.

3. CONSULTANT'S Reimbursable Expenses.

- A. Reimbursable Expenses shall be limited to actual expenditures of CONSULTANT for expenses that are necessary for the proper completion of the Services and shall only be payable if specifically authorized in advance by CITY.

4. Payments to CONSULTANT.

- A. Payments to CONSULTANT shall be made within a reasonable time after receipt of CONSULTANT'S invoice, said payments to be made in proportion to services performed. CONSULTANT may request payment on a monthly basis. CONSULTANT shall be responsible for the cost of supplying all documentation necessary to verify the monthly billings to the satisfaction of CITY.

- B. All invoices submitted by CONSULTANT shall contain the following information:

- 1. Description of services billed under this invoice
- 2. Date of Invoice Issuance
- 3. Sequential Invoice Number
- 4. CITY'S Purchase Order Number
- 5. Amount of this Invoice (Itemize all Reimbursable Expenses")
- 6. Total Billed to Date

- C. Items shall be separated into Services and Reimbursable Expenses. Billings that do not conform to the format outlined above shall be returned to CONSULTANT for correction. CITY shall not be responsible for delays in payment to CONSULTANT resulting from CONSULTANT'S failure to comply with the invoice format described above.

- D. Request for payment shall be sent to:

Brian Dolan
Development Services Director
555 Santa Clara Street
Vallejo, CA 94590

5. Accounting Records of CONSULTANT.

CONSULTANT shall maintain for three (3) years after completion of all services hereunder, all records under this AGREEMENT, including, but not limited to, records of CONSULTANT'S direct salary costs for all Services and Additional Services performed under this AGREEMENT and records of CONSULTANT'S Reimbursable Expenses, in accordance with generally accepted accounting practices and shall keep such records available for inspection and audit by representatives of the Finance Department of CITY at a mutually convenient time.

6. Taxes.

CONSULTANT shall pay, when and as due, any and all taxes incurred as a result of CONSULTANT'S compensation hereunder, including estimated taxes, and shall provide CITY with proof of such payments upon request. CONSULTANT hereby agrees to indemnify CITY for any claims, losses, costs, fees, liabilities, damages or injuries suffered by CITY arising out of CONSULTANT'S breach of this Section.

EXHIBIT C

CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT

INSURANCE REQUIREMENTS FOR CONSULTANT

CONSULTANT shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of work hereunder by the CONSULTANT, their agents, representatives, or employees or subconsultants:

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office form number GL 0002 (Ed. 1/73) covering Comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/78) covering Automobile Liability, code 1 any auto and endorsement CA 0025.
3. Professional Liability insurance appropriate to the CONSULTANT'S profession (Errors and Omission).

B. Minimum Limits of Insurance

Consultant shall maintain limits no less than:

1. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.

3. Professional Liability (Errors and Omission): \$1,000,000 combined single limit per occurrence, and annual aggregate.

C. Deductible and Self-Insured Retention

Any deductibles or self-insured retention must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City of Vallejo, its officers, officials, employees and volunteers; or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions

The general liability and automobile liability policies, as can be provided, are to contain, or be endorsed to contain, the following provisions:

1. The City of Vallejo, its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects; liability, including defense costs, arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City of Vallejo, its officers, officials, employees, agents or volunteers. The insurance is to be issued by companies licensed to do business in the State of California.
2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City of Vallejo, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City of Vallejo, its officers, officials, employees, agents or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.
4. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

F. Verification of Coverage

Consultant shall furnish the City with original endorsements effecting general and automobile liability insurance coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before work commences.

G. Subconsultants

Consultant shall include all subconsultants as insureds under its policies or shall furnish separate certificates and endorsements for each subconsultant. All coverages for subconsultants shall be subject to all of the requirements stated herein.

**WalMart
Reimbursement Agreement**

THIS AGREEMENT is entered into this _____ day of April, 2007, (the "Effective Date"), between WalMart ("Developer") and the CITY OF VALLEJO, a municipal corporation organized and existing under the laws of the State of California ("City").

RECITALS

This Agreement is predicated upon the following findings:

- A. Developer has approached the City with conceptual proposals to develop the property at the northwest corner of the intersection of Sonoma Boulevard (Highway 29) and Redwood Street. The WalMart project involves the proposed development of a 2-story building approximately 393,000 square feet.
- B. The proposed WalMart project will be subject to a comprehensive planning and environmental review process, which will include an Amendment to the White Slough Specific Area Plan, a Major Conditional Use Permit, and a Planned Development Unit Plan. An Economic Impact Analysis is required in addition to an Environmental Impact Report for the proposed Amendment to the White Slough Specific Area Plan and the project.
- C. Developer desires City review for the Project on a time frame that is beyond the capacity of the City's in house planning staff.
- D. The City is willing to hire additional contract staff to expedite the review of Developer's Project on the condition that developer reimburse the City for its expense in contracting with an outside vendor ("Contract Planner").
- E. The parties contemplate that they may enter into a later Development Agreement regarding the construction of the Project pursuant to the authorities set forth in Government Code Section 65864 et seq. However, the parties acknowledge that this agreement is not a development agreement, and does not commit them to enter a development agreement at some later date or provide any land use entitlements.
- F. The Parties further acknowledge that the California Fair Political Practices Act requires that Developer have no direction or control over the response times, selection, supervision, activities, recommendations or decisions of the Contract Planner.

NOW THEREFORE, the parties agree as follows:

- 1. **Contract Planner/Reimbursement.** City will contract directly with a Contract Planner to provide review services for the Project. Developer will reimburse City for all costs associated with or arising out of the contract with the Contract Planner to the extent that they relate to the Project.
- 2. **Deposit.** Developer shall deposit \$60,000.00 cash (or other equivalent security in

a form approved by the City Manager) with the City within 15 days of receiving notice of the execution of a contract between the City and the Contract Planner. The City will hold the deposit and charge invoices received from the Contract Planner against the deposit. In the event that the deposit is drawn down by the Contract Planner's charges to a balance of less than \$30,000.00, Developer shall deposit additional funds to maintain an evergreen balance of at least \$30,000.00("WalMart Deposit"). Developer shall deposit the WalMart Deposit within 15 days of receiving notice from the City. In the event that funds remain on deposit at the conclusion of the services contemplated by this agreement; they shall be refunded to Developer.

3. **Binding Effect of Agreement.** The burdens of this Agreement bind and the benefits of the Agreement inure to the successors in interest to the parties to it.

4. **Relationship of Parties.**

a. It is understood that the contractual relationship between the City and

Developer is such that Developer is an independent contractor and not the agent of the City; and nothing herein shall be construed to the contrary.

b. City and Developer agree that nothing contained herein or in any document executed in connection herewith shall be construed as making Developer and City joint venturers or partners.

c. This Agreement is made and entered into for the sole protection and

benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision in this Agreement.

5. **No Entitlements Granted.** Nothing in this Agreement shall provide developer with any right to secure approval of any development plan or other entitlement. In addition, Developer agrees that it will have no rights to select the Contract Planner; or direct the work, response times, recommendations or approvals of the Contract Planner

6. **Notices.** All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the principal offices of the City and Developer and its representative and Developers' successors and assigns. Notice shall be effective on the date it is delivered in person, or the date when the postal authorities indicate the mailing was delivered to the address of the receiving party indicated below:

Notice to City:
Brian Dolan
Development Services Director
City of Vallejo
555 Santa Clara St.

Vallejo, CA, 94591

Notice to Developer:

8. Indemnification, Defense and Hold Harmless.

a. Developer agrees to and shall indemnify, defend and hold the City, its council members, officers, agents, employees and representatives harmless from liability for damage or claims of damage, for personal injury, including death, and claims for property damage which may arise from City's hiring of a Contract Planner and the service provided thereby.

b. Developer's obligation under this section to indemnify, defend and hold harmless the City, its council members, officers, agents employees, and representatives shall not extend to liability for damage or claims for damage arising out of the sole negligence or willful act of the City, its council members, officers, agents, employees or representatives. In addition, developer's obligation shall not extend to any award of punitive damages against the City resulting from the conduct of the City, its council members, officers, agents, employees or representatives.

c. With respect to any action challenging the validity of this Agreement or any environmental, financial or other documentation related to approval of this Agreement, Developer further agrees to defend, indemnify, hold harmless, pay all damages, costs and fees, if any incurred to either the City or plaintiff (s) filing such an action should a court award plaintiff(s) damages, costs and fees, and to provide a defense for the City in any such action.

IN WITNESS WHEREOF this Agreement has been executed by the parties on the day and year first above written.

THE CITY OF VALLEJO,

By: _____
Joseph Tanner, City Manager

Attest: _____
Mary Ellsworth, City Clerk

DEVELOPER:

WalMart

By: _____

Approved as to Form

Frederick G. Soley
City Attorney



COUNCIL COMMUNICATION

Date: April 17, 2007

TO: Mayor and Members of the City Council

FROM: Craig Whittom, Assistant City Manager/Community Development *CW*
Robert V. Stout, Finance Director *RV*
Laura J. Simpson, Housing and Community Development Manager *LJS*

SUBJECT: APPROVAL OF A RESOLUTION OF INTENTION TO AMEND THE FISCAL YEAR (FY) 2006/2007 HOME INVESTMENT PARTNERSHIPS PROGRAM BUDGET AND UPON BUDGET APPROVAL AUTHORIZES THE CITY MANAGER TO EXECUTE LOAN AMENDMENTS AND RELATED DOCUMENTS BETWEEN THE CITY OF VALLEJO AND VNHS

BACKGROUND AND DISCUSSION

The City of Vallejo has \$301,511 available from the U. S. Department of Housing and Urban Development (HUD) in Federal HOME Investment Partnerships Program funds for affordable housing production. This activity may be provided by a Community Housing Development Organization, or CHDO. Vallejo Neighborhood Housing Services, Inc. (VNHS) is the sole qualified CHDO in Vallejo.

VNHS has previously received \$613,123 in CHDO (HOME) funding from the City as a deferred loan, dated November 1, 2006, at a simple interest rate of three (3) percent (%) per year, toward the construction of Graham Gardens at the corner of Mini and Stanford Drives. Graham Gardens will consist of 22 for-ownership duets. Eleven (11) of these units will be affordable for families at 80 percent (%) of the median income or below. When completed, these HOME-assisted units will remain affordable for the next 45 years, through the recording of deed restrictions.

VNHS has requested \$220,000 of the available unallocated CHDO funding for this project. If approved, this additional funding will replace a grant request by VNHS that was not approved by the Federal Home Loan Bank Affordable Housing Program (AHP). Staff recommends this additional amount of \$220,000 be provided as an amendment to the existing loan of \$613,123, with the same terms and conditions, including deferral for 45 years, at a simple interest rate of three (3) percent (%) per year.

The total sources and uses of the project are shown below.

<u>Sources</u>	<u>Previous Amount</u>	<u>Proposed Amount</u>
NRC [1] Capital Building Project Fund	500,000	500,000
NRC 2006 Development Grant	110,000	110,000
City of Vallejo HOME Funds	613,123	833,123
FHLB/AHP [2]	220,000	- 0 -
NHSA/CDFI [3]	1,000,000	1,000,000
Bank of the West	<u>7,150,329</u>	<u>7,150,329</u>

TOTAL	\$9,593,452	\$9,593,452
[1] Neighborhood Reinvestment Corporation		
[2] Federal Home Loan Bank/Affordable Housing Program		
[3] Neighborhood Housing Services of America/Community Development Financial Institutions		

The completion of the Graham Gardens Project is vital to aiding the City in complying with terms of the Buchongo Settlement Agreement. This Agreement requires the Redevelopment Agency to assist in the production of affordable housing in the community, either through new construction, or substantial rehabilitation of housing. Work on this project is scheduled to begin in May.

Fiscal Impact

If \$220,000 in unallocated HOME funds is approved for Graham Gardens, the balance of funds available for CHDO activities will be \$81,511.

RECOMMENDATION

Approve a resolution of intent to allocate additional HOME funds to a CHDO Project, Graham Gardens and upon budget approval authorizes the City Manager to execute loan amendments and related documents as may be necessary by and between the City of Vallejo and VNHS, Inc. for an additional amount of \$220,000 in HOME CHDO funds for the Graham Gardens Project.

ALTERNATIVES CONSIDERED

The completion of Graham Gardens will enable the City of meet its affordable housing goals. VNHS is the only qualified CHDO in Vallejo. Therefore, no other alternatives were considered.

ENVIRONMENTAL REVIEW

There is no environmental impact associated with this action. An environmental review of this project was completed in a prior program year.

PROPOSED ACTION

Adopt the enclosed resolution of intention allocating HOME funds to the Graham Gardens Project Gardens and upon budget approval authorizes the City Manager to execute loan amendments and related documents as may be necessary by and between the City of Vallejo and VNHS, Inc. for an additional amount of \$220,000 in HOME CHDO funds for the Graham Gardens Project.

DOCUMENTS ATTACHED

Attachment "A" – Resolution

CONTACT:

Craig Whittom, Assistant City Manager/Community Development, (707) 648-4579, or cwhittom@ci.vallejo.ca.us.

Laura J. Simpson, Housing and Community Development Manager, (707) 648-4393, or lsimpson@ci.vallejo.ca.us.

Guy L. Ricca, Senior Community Development Analyst, (707) 648-4395, or gricca@ci.vallejo.ca.us.

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RESOLUTION NO. _____ N.C.

BE IT RESOLVED by the Council of the City of Vallejo as follows:

THAT WHEREAS, the City of Vallejo has \$301,511 available from the U. S. Department of Housing and Urban Development (HUD) in Federal HOME Investment Partnerships Program funds for affordable housing production.

WHEREAS, this type of affordable housing project may be provided by a Community Housing Development Organization (CHDO).

WHEREAS, Vallejo Neighborhood Housing Services, Inc. (VNHS) has requested \$220,000 of these funds to assist in the completion of the Graham Gardens Project.

WHEREAS, VNHS is the sole qualified CHDO in Vallejo.

WHEREAS, the completion of the Graham Gardens is vital to the City meeting its affordable housing goals.

NOW THEREFORE BE IT RESOLVED that the City Council hereby declares its intention to amend the FY 2006/2007 HOME Program Budget as described in the attached staff report dated April 17, 2007; and

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager to execute loan amendments and related documents as may be necessary by and between the City of Vallejo and VNHS, Inc. for an additional amount of \$220,000 in HOME CHDO funds for the Graham Gardens Project.

ADOPTED by the Council of the City of Vallejo at a regular meeting held on April 17, 2007 with the following vote:



COUNCIL COMMUNICATION

Date: April 17, 2007

TO: Mayor and Members of the City Council

FROM: Craig Whittom, Assistant City Manager / Community Development *CW*
Susan McCue, Economic Development Program Manager *SMC*

SUBJECT: Approval of a Resolution to Amend the City's Fiscal Year 2006/2007 Budget by increase the Mare Island Conversion Fund's Budget Revenue and Expenditure Authorization Limits.

BACKGROUND & DISCUSSION

On January 9, 2007, the Vallejo City Council approved Resolution 07-10 N.C. which authorized the City Manager to execute an Exclusive Right to Negotiate (ERN) Agreement with Touro University for Mare Island Reuse Area #1A. The ERN Agreement requires Touro University to fund North Island-related prior and future early transfer costs and City negotiation costs during the ERN period. On February 27, 2007, the Vallejo City Council approved Resolution No. 07-44 N.C. which authorized the City Manager to execute the Early Transfer Processing Agreement (ETPA) between the City of Vallejo and Weston Solutions, Inc. This agreement was executed on March 19, 2007. The estimated cost to Weston Solutions, Inc. to negotiate the final Early Transfer Agreement is \$2,173,000.00. As agreed in the ETPA the City's not-to-exceed cost cap is \$1,229,010.79 which will be paid by Touro University to the City and the City will, in turn, pay Weston Solutions, Inc. The remaining cost (all cost over \$1,229,010.79) will be absorbed by Weston Solutions, Inc. or paid by Lennar Mare Island LLC., as per Western Solutions/Lennar Mare Island's separate agreement(s).

In order for the City to accept the payment from Touro University and subsequently pay Weston Solution, Inc. the City's Mare Island Conversion Program's Fiscal Year 2006/2007 Budget (Fund 107) revenue and expenditure authorization limits must be increased by \$2,173,000.00 each. As required by the City Ordinances, the City Council approved a Resolution of Intent to amend the City's Budget by increasing the Mare Island Conversion Program's budget on April 03, 2007.

RECOMMENDATION

Staff proposes increasing the City's Mare Island Conversion Program's (Fund 107) budget revenue and expenditure authorization limits an additional \$2,173,000.00 each. This action will have no effect on either the City's General Fund or the Mare Island Conversion Program Fund (Fund 107). Weston Solutions, Inc. will bill the City and Touro University concurrently for our percentage share of the Early Transfer Processing Agreement's cost. Touro University will pay the City the requested share, up to the established caps and the City will in turn pay Weston Solutions, Inc.

ALTERNATIVES CONSIDERED

This is a budget authorization action governed by City Ordinances and Generally Accepted Accounting Principals. No alternatives were considered.

ENVIRONMENTAL REVIEW

The approval of the attached Resolution, as presented, will have no environmental impacts.

PROPOSED ACTION

Approve the attached Resolution authorizing the City Manager to amend the City's Fiscal Year 2006/2007 Budget by increasing the Mare Island Conversion Program's (Fund 107) budget revenue and expenditure limits by an additional \$2,173,000.00 each.

DOCUMENTS ATTACHED

Attachment A - Resolution

CONTACT: Susan McCue, Economic Development Program Manager
707-553-7283 or e-mail: smccue@ci.vallejo.ca.us

Gil Hollingsworth, Mare Island Conversion Program Manager
(707) 649-5454 or e-mail: gil@ci.vallejo.ca.us

RESOLUTION NO. _____ N.C.

A RESOLUTION TO AMEND THE CITY'S FISCAL YEAR 2006/2007 BUDGET BY INCREASING THE MARE ISLAND CONVERSION PROGRAM BUDGET (FUND 107)

BE IT RESOLVED by the City of Vallejo as follows:

THAT WHEREAS, in June 2006, the City Council adopted a budget for the Fiscal Year 2006-2007; and

WHEREAS, on February 27, 2007 the City Council approved Resolution No. 07-44 N.C. which authorized the City Manager to execute the Early Transfer Processing Agreement between the City of Vallejo and Weston Solutions, Inc.; and

WHEREAS, the Early Transfer Processing Agreement executed on March 19, 2007 requires the City to pay Weston Solutions, Inc. a percentage share of the prior and future cost up to the designated cost caps for development and execution of a Early Transfer of various parcels on Mare Island, and

WHEREAS, Touro University has agreed to reimburse the City for its percentage share of the prior and future cost up to the designated cost cap for development and execution of a Early Transfer, and

WHEREAS, on April 3, 2007, the City Council approved a Resolution of Intention to amend the City's Fiscal Year 2006-2007 Budget;

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby authorizes the City Manager to increase the City's Fiscal Year 2006-2007 Budget, by increasing the Mare Island Conversion Program budget (Fund 107) revenue and expenses limits by an additional \$2,173,000.00 each.

ADOPTED by the Council of the City of Vallejo at a regular meeting held on April 17, 2007 with the following vote:

K:\PUBLIC\AI\ED\EDC Early Transfer.ETPA RES #2.04.17.07.doc

ATTACHMENT A

VALLEJO CITY COUNCIL

MINUTES

FEBRUARY 14, 2006

1. CALL TO ORDER

A regular meeting of the Vallejo City Council was held on the above date in the Council Chambers of the Vallejo City Hall. The meeting was called to order at 7:00 p.m. by Mayor Anthony J. Intintoli, Jr.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Present: Mayor Intintoli, Vice Mayor Pearsall, Councilmembers Cloutier , Davis, Barteo, Gomes, Sunga.

Absent: None

Staff: Interim City Manager John P. Thompson
City Attorney Fred Soley
City Clerk Allison Villarante

4. PRESENTATIONS AND COMMENDATIONS- None

5. PUBLIC COMMENT REGARDING CONSENT CALENDAR ITEMS- None

6. CONSENT CALENDAR, APPROVAL OF AGENDA

At the request of Councilmember Gomes, Item 6C Approval of a resolution authorizing the City Manager to enter into contract with Princeton Media, Inc., for ferry advertising services, be heard as Item 6.1; and 6-D, Approval of three resolutions: 1) approving the Highlands at Garthe Ranch Final Map; 2) approving the Subdivision Improvement Plans; and 3) authorizing the City Manager to execute the Subdivision Improvement Agreement be heard as 6.2.

Mayor Intintoli explained that Item 7A, Public Hearing to consider approving a fuel surcharge on the Baylink Ferry Service, would be open but the matter would be continued to February 28th, 2006.

Hearing no further additions or deletions, the amended agenda was approved and the following resolutions were offered by Vice Mayor Pearsall:

RESOLUTION NO.06-46 N.C. AUTHORIZING THE CITY MANAGER TO SIGN AGREEMENTS RELATING TO THE ACCEPTANCE OF A FEDERAL GRANT IN THE AMOUNT OF \$697,000 FOR THE REHABILITATION OF LEMON STREET BETWEEN SONOMA BOULEVARD AND CURTOLA PARKWAY AND COMMITTING TO BUDGET A TOTAL OF \$91,000 AS LOCAL MATCH REQUIRED FOR THIS GRANT.

RESOLUTION NO.06-47 N.C. AUTHORIZING THE CITY MANAGER TO EXECUTE THE MARE ISLAND IMPROVEMENT PLAN REVIEW AND INSPECTION AGREEMENT BETWEEN THE CITY OF VALLEJO AND LENNAR MARE ISLAND, LLC. AND

RESOLUTION NO.06-48 N.C. RESOLUTION OF INTENTION TO AMEND THE BUDGET TO ADD TWO ENGINEERING POSITIONS TO BE FUNDED BY THIS LENNAR AGREEMENT.

The above resolutions were adopted with the following vote:

AYES: Mayor Intintoli, Vice Mayor Pearsall, Councilmembers Cloutier, Davis, Bartee, Gomes, Sunga.
NOES: None
ABSENT: None
ABSTENTIONS: Councilmember Davis on those items pertaining to the companies/corporations/firms, in which their stock ownership is \$10,000 or more as listed in their current FPPC Form 700 Statement of Economic Interests, and Councilmember Bartee on Consent Item 10.L due to conflict of interest.

6.1 APPROVAL OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO CONTRACT WITH PRINCETON MEDIA, INC., FOR FERRY ADVERTISING SERVICES

On March 8, 2005, the City issued a Request for Proposals (RFP) for Ferry Advertising Services. The City was seeking proposals from qualified contractors to provide revenue generating Ferry Advertising Services on the City's ferry vessels and at the Vallejo Ferry Terminal, interiors only.

It is recommended that the City Manager be authorized to enter into a contract with Princeton Media, Inc. (PMI) for the purpose of ferry advertising services. In response to the RFP, two proposals were received. Following an initial evaluation it was recommended that Meara & Company, Ltd. (Meara) be awarded the contract based on the evaluation factors; however, Meara has since refused to execute the contract. Staff is now recommending that the City enter into a contract with PMI. The ferry advertising contract term will be for up to five years, one year firm with City options for up to four additional years. The guaranteed City revenue for the first year of the five year contract is 50% of the gross advertising sales generated by PMI.

Councilmember Gomes expressed concerns related to the number of bids received and asked if staff thought they received a good representation of bids.

Staff reported that there were inquiries from five firms, with two formal bids, of which one defaulted. Staff believes the bid being recommended is good.

Councilmember Gomes asked that certain details of the contract be made more definitive. She proposed that the contract language "promptly" be changed to "immediately" and offered that change to the resolution.

RESOLUTION NO.06-49 N.C., offered by Councilmember Gomes authorizing the City Manager to enter into a contract with Princeton Media, Inc., for ferry advertising services.

The above resolutions were adopted with the following vote:

AYES: Mayor Intintoli, Vice Mayor Pearsall, Councilmembers Cloutier, Davis, Bartee, Gomes, Sunga.
NOES: None
ABSENT: None
ABSTENTIONS: None

6.2 APPROVAL OF THREE RESOLUTIONS: 1) APPROVING THE HIGHLANDS AT GARTHE RANCH FINAL MAP; 2) APPROVING THE SUBDIVISION IMPROVEMENT PLANS; AND 3) AUTHORIZING THE CITY MANAGER TO EXECUTE THE SUBDIVISION IMPROVEMENT AGREEMENT

The "The Highlands at Garthe Ranch" Subdivision is being developed by Garthe, L.P., a California limited partnership, who proposes to construct 105 small lot single-family two-story dwellings on the 42 acre former dairy farm, Garthe Ranch. The project also involves an upgrade to the intersection of Springs Road and Columbus Parkway and a realignment of Columbus Parkway.

The developer has provided development securities required by the Development Agreement, and has paid all engineering and inspection fees.

Councilmember Gomes referred to the Map Act, and made addressed the tentative map, open space improvements, and fiscal impact.

There was some discussion concerning the details of the plans.

Brian Dolan, Acting Development Services Director, reviewed the details of plans related to transportation issues and the costs to the city.

Councilmember Gomes asked if the City was violating any ordinances by using water money to pay for traffic impacts or visa versa.

Mr. Dolan said that the City Attorney was in concurrence with this.

Councilmember Gomes said that in the future she needs more background information.

Mr. Thompson said that the information could be provided and that the topic would be a good one to discuss at a staff meeting.

Councilmember Gomes spoke about the Desilva Group and said that she thought the Council should know who they are entering into agreements with and whether or not there would be conflicts. She asked the staff to give her information on the developers.

Mr. Thompson said that he would try his best to give her this information.

RESOLUTION NO.06-50 N.C., offered by Mayor Intintoli approving "The Highlands at Garthe Ranch" Final Map;

The above resolution was adopted with the following vote:

AYES: Mayor Intintoli, Vice Mayor Pearsall, Councilmembers Cloutier,
Davis, Bartee, Gomes, Sunga.
NOES: None
ABSENT: None
ABSTENTIONS: None

RESOLUTION NO.06-51 N.C., offered by Councilmember Davis approving the
Subdivision Improvement Plans; and

The above resolution was adopted with the following vote:

AYES: Mayor Intintoli, Vice Mayor Pearsall, Councilmembers Cloutier,
Davis, Bartee, Gomes, Sunga.
NOES: None
ABSENT: None
ABSTENTIONS: None

RESOLUTION NO.06-52 N.C., offered by Councilmember Sunga authorizing the City
Manager to sign the Subdivision Improvement Agreement.

The above resolution was adopted with the following vote:

AYES: Mayor Intintoli, Vice Mayor Pearsall, Councilmembers Cloutier,
Davis, Bartee, Gomes, Sunga.
NOES: None
ABSENT: None
ABSTENTIONS: None

7. PUBLIC HEARINGS

A. CONSIDERATION OF A RESOLUTION APPROVING A FUEL SURCHARGE ON THE BAYLINK FERRY SERVICE

Marine diesel fuel prices have increased and decreased with a great deal of volatility since the inception of the City of Vallejo's Baylink ferry service. However, the overall trend has been an average annual increase of 21% since July 1998. Given that fuel prices represent 25-35% of total ferry system operating costs, these fluctuations can and have had a significant effect on overall ferry system economic performance.

Staff is requesting Council approval of a fuel surcharge mechanism that will track key economic factors of the ferry service operational costs, including fuel prices. The mechanism will allow the imposition of a fuel surcharge in times of higher fuel prices and reduce or eliminate the fuel surcharge when it is no longer needed for the City to recover its increased fuel costs. Staff is proposing that City Manager be authorized to impose, reduce or eliminate a fuel surcharge based on the mechanism approved by City Council.

The Public Hearing was fully noticed in the Vallejo Times Herald on January 28, 2006. As the staff is still working on the proposed mechanism and wishes to

avoid the necessity of republishing the notice, it is recommending that Council open the hearing and continue it to February 28, 2006.

RESOLUTION NO.06-53 N.C.: Open the Public Hearing and continue the hearing to February 28, 2006.

The above resolution was adopted with the following vote:

AYES: Mayor Intintoli, Vice Mayor Pearsall, Councilmembers Cloutier, Davis, Bartee, Gomes, Sunga.
NOES: None
ABSENT: None
ABSTENTIONS: None

8. POLICY ITEMS - NONE

9. ADMINISTRATIVE ITEMS

A. FINAL READING AND ADOPTION OF ORDINANCE APPROVING ZONING MAP AMENDMENT # 05-0004 AS RECOMMENDED BY THE PLANNING COMMISSION

Subject ordinance was held on first reading at the city council meeting of February 7, 2006 and adopted by vote.

Brian Dolan reminded the Council that this particular item was voted on at the last meeting and adopted with a vote of 6-1.

Councilmember Gomes said that she did not vote in the affirmative on the rezoning and announced that she would not be voting in the affirmative on this item as well.

RESOLUTION NO.1565 N.C.(2D), offered by Mayor Intintoli adopting the Ordinance Approving Zoning Map Amendment #05-0004 as recommended by the Planning Commission.

The above resolution was adopted with the following vote:

AYES: Mayor Intintoli, Vice Mayor Pearsall, Councilmembers Cloutier, Davis, Bartee, Sunga.
NOES: Gomes
ABSENT: None
ABSTENTIONS: None

B. FINAL READING AND ADOPTION OF ORDINANCE APPROVING A PLANNED DEVELOPMENT UNIT PLAN # 05-0020 AS RECOMMENDED BY THE PLANNING COMMISSION

Subject ordinance was held on first reading at the city council meeting of February 7, 2006 and adopted by unanimous vote.

RESOLUTION NO.1566 N.C.(2D), offered by Mayor Intintoli adopting the Ordinance Approving A Planned Development Unit Plan #05-0020, as recommended by the Planning Commission.

The above resolution was adopted with the following vote:

AYES: Mayor Intintoli, Vice Mayor Pearsall, Councilmembers Cloutier,
Davis, Bartee, Sunga.
NOES: Gomes
ABSENT: None
ABSTENTIONS: None

C. CONSIDERATION OF A RESOLUTION ACCEPTING THE QUARTERLY RIDGECREST REPORT

In the matter of Ridgecrest Homeowners Association v. City of Vallejo, it was agreed that on a quarterly basis, the City General Fund would reimburse the Landscape Maintenance District program account (LMD account) for landscape inspection services provided to projects outside official landscape maintenance district areas.

The use of General Funds and other appropriate project accounts for this purpose has been approved by City Council and a final report has been prepared for presentation which documents the transfer of funds to the LMD program for costs of landscape inspection services in the first quarter of 2005/06. Total reimbursement for the quarter ending September 30, 2005 is \$17,815.54 which has been transferred from the General Fund into the Landscape Maintenance Fund.

RESOLUTION NO.06-54 N.C., offered by Mayor Intintoli accepting the report documenting the reimbursement to the Landscape Maintenance District Program for the period of July 1, 2005 through September 30, 2005, for landscape inspection services provided by the LMD program in the amount of \$17,815.54 which has been transferred from the General Fund into the Landscape Maintenance Fund.

The above resolution was adopted with the following vote:

AYES: Mayor Intintoli, Vice Mayor Pearsall, Councilmembers Cloutier,
Davis, Bartee, Gomes, Sunga.
NOES: None
ABSENT: None
ABSTENTIONS: None

D. PRESENTATION BY SOLANO LAND TRUST ON SKY VALLEY/CORDELIA HILLS RESOURCE MANAGEMENT PLAN

Marilyn Farley, Executive Director of the Solano Land Trust, gave a presentation on the Sky Valley/Cordelia Hills open space. She addressed the history of the open space, stating that the land needed an overall plan before being opened for public use. She spoke about community outreach and also provided important details related to the land itself including its size, endangered wildlife, views, and links to other trails. She also talked about challenges and maintenance issues.

Mayor Intintoli said that, over time, the Council could give instructions to its representatives for the Tri-City JPA and convey its recommendations regarding the use for the open space.

Ms. Farley said that she would be willing to give private tours and to let her know if there were any questions.

Mayor Intintoli thanked Ms. Farley her work.

No action was required. Solano Land Trust presented this item to the City Council for their comment only.

E. DOWNTOWN ASSOCIATION OF VALLEJO QUARTERLY REPORT

On April 21, 1969 the City Council enacted a Parking and Business Improvement Area called the Downtown Improvement District and designated the Downtown Association of Vallejo as the District's Advisory Commission to the Council. As a result of the new district, merchants located in the Downtown Improvement District pay an assessment as an addition to their annual business license fee. While the City Council has sole discretion as to how the revenue derived from the tax is to be used within the scope of the approved purposes, the City Council has historically designated the Downtown Association of Vallejo to manage the funds. On August 15, 2005 the City Council approved an annual service agreement and budget for the Downtown Association of Vallejo which included a program of activities intended to carry out the goals and purposes of the Downtown Improvement District. The attached report provides additional information on the DAV activities for the second quarter of Fiscal Year 2005-2006.

Bonnie Robinson-Lipscomb, liaison to the Downtown Groups, said that there was only one verbal report presented by Janet Sylvaine and several others representing CCRC which would follow Item G on the Agenda.

Mayor Intintoli asked if it would be better to take all of the items at once and have the speakers speak to all three, to which the answer was yes. Mayor Intintoli moved on to 9F.

This item was provided for information only. No action was required.

F. VALLEJO MAIN STREET QUARTERLY REPORT

In September 1999, the City of Vallejo, Central Core Restoration Corporation (CCRC) and the Downtown Association of Vallejo agreed to a number of new initiatives related to downtown revitalization. One of the initiatives agreed upon was the pursuit of a "Main Street" designation under the National Main Street Program. In November 2000, downtown Vallejo was certified as a California Main Street Community. The Main Street Program is a comprehensive revitalization program that relies on an executive director coordinating volunteers from all sections of the community to work together for the common good of the downtown core. The Program divides volunteers into four separate categories focused on a specific area of need; Economic Restructuring, Design, Organization and Promotion. One of the main responsibilities of the Main Street Program is the successful operation of the Wednesday Night Celebration, a

summer evening downtown event held for fifteen successive weeks each summer. Funds for the Main Street Program for the 2005-2006 fiscal year in the amount of \$30,400 were included in the Community Development Budget approved by the City Council and Redevelopment Agency on June 14, 2005.

Staff has been working on the development of a new Property Based Improvement District (PBID) with the input of property owners and board members from both Vallejo Main Street and the Central Core Restoration Corporation (CCRC). The new PBID is expected to encompass the functions and responsibilities of both CCRC and the Main Street Program and replace the Downtown Vallejo Management District managed by CCRC which is currently scheduled to expire in December 2007. Creation of the new PBID will require a majority vote of the property owners in the District. The target date for creation of the new PBID is August 2006. The Main Street Quarterly Report is for your information.

This item was provided for information only. No action was required.

G. CENTRAL CORE RESTORATION CORPORATION QUARTERLY REPORT

In September 1996, the Central Core Restoration Corporation (CCRC) prepared and released the Downtown Vallejo Management District Plan, which proposed the establishment of a Property and Business Improvement District for the purpose of providing improvements and services in downtown Vallejo. On January 7, 1997, the City Council authorized the formation of the Downtown Vallejo Management District (DVMD) and later approved an agreement with CCRC to provide the services outlined in the DVMD Management Plan. The DVMD, initiated and approved by property owners in the downtown area, generates approximately \$140,000 per year for downtown revitalization services. These services include security, maintenance, marketing, promotions and administration.

Staff has been working on the development of a new Property Based Improvement District (PBID) with the input of property owners and board members from both Vallejo Main Street and the Central Core Restoration Corporation (CCRC). The new PBID is expected to encompass the functions and responsibilities of both CCRC and the Main Street Program and replace the Downtown Vallejo Management District managed by CCRC which is currently scheduled to expire in December 2007. Creation of the new PBID will require a majority vote of the property owners in the District. The target date for creation of the new PBID is August 2006. The report provides an update on the activities and services provided by CCRC in the last quarter.

Ms. Robinson-Lipscomb added that in relation to Vallejo Mainstreet and the Central Core Restoration Corp. that staff was working on the development of a new property-based improvement district with the input of property owners and board member.

Janet Sylvaine, President of the CCRC, gave a presentation which included a review of the Downtown district's history, progress, and transformation.

Ms. Parks of the CCRC Board spoke about challenges and safety concerns. She explained the necessity for bicycle patrols, a beat police officer, and waste management. She asked Council to allocate funding for the project.

Ms. Mackelhatton of the CCRC Board spoke about the beautification of the Downtown district and asked for assistance and funding.

Ms. Sylvaine showed slides, addressed blight issues, and spoke about the various benefits of allocating funds to the Downtown District.

Mayor Intintoli thanked the CCRC for their work in the community.

Mr. Dolan addressed the proposed new Vallejo Business Improvement District.

Councilmember Gomes spoke about the feral cat population in the Downtown district. She said that the problem needed to be addressed humanely and controlled for everyone's benefit.

Councilmember Cloutier commented on the excessive garbage in the area and spoke about the possibility of a landscape maintenance district to address the growing population in the Downtown district.

Mr. Dolan confirmed that the plan included a landscape maintenance district.

Councilmember Cloutier made suggestions for marketing efforts.

Councilmember Barteo encouraged the Councilmembers to strongly consider the CCRC's recommendations.

This item was provided for information only. No action was required.

10. APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES- None

11. WRITTEN COMMUNICATIONS

Mayor Intintoli reported he had received the following communications:

A Press Release from Vacaville Chamber of Commerce; an email from Dan Miller expressing concerns related to Little League fields; an email concerning the Public Hearing on the ferry from Diane Fernandez and Gordon Bailey which would be made part of the record at the public hearing.

12. CITY MANAGER'S REPORT- None

13. CITY ATTORNEY'S REPORT- None

14. COMMUNITY FORUM

Diana Lang, 1255 Tuolumne St., addressed the progress of the Vallejo Dog Park.

Michael R. McWilliams, (Address not available), Battleship Iowa Committee, suggested bringing the Battleship Iowa to Mare Island.

15. REPORT OF PRESIDING OFFICER AND MEMBERS OF CITY COUNCIL

Vice Mayor Pearsall addressed the Intersection at Tennessee Street and Sutter. He reported that the Police Department has taken a pro-active role in ensuring safety in that location. He asked the City Manager to contact the UC Berkeley Traffic Institute for a more detailed city-wide survey.

Mr. Thompson explained that the Institute of Traffic Safety would do the survey for free and described it as a systems check. He said the last time it was done was in 1994 and, with the Council's concurrence, would look into completing it.

Mayor Intintoli thanked Mr. Thompson and his wife Diane for taking time off their 30th anniversary to come to the Council meeting.

16. CLOSED SESSION- 8:14 P.M.

The Council met in closed session at 8:14 p.m. concerning the following issues:

- A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: SIGNIFICANT EXPOSURE TO LITIGATION; PURSUANT TO GOVERNMENT CODE SECTION 54956.9(B); GRIEVANCE FILED BY THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, LOCAL 1186 REGARDING THE FAIR LABOR STANDARDS ACT AND THE ASSIGNMENT OF ASSISTANT FIRE CHIEFS TO THE FIRE PREVENTION BUREAU
- B. CONFERENCE WITH LABOR NEGOTIATORS: JOHN P. THOMPSON, INTERIM CITY MANAGER AND DENNIS MORRIS, HUMAN RESOURCES DIRECTOR; EMPLOYEE ORGANIZATION: INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 2376; PURSUANT TO GOVERNMENT CODE SECTION 54957.6

17. ADJOURNED

The meeting was adjourned at 8: 38 P.M.

ANTHONY J. INTINTOLI, JR., MAYOR

ATTEST:

ALLISON VILLARANTE, CITY CLERK

**VALLEJO CITY COUNCIL
MINUTES**

MARCH 27, 2007

1. CALL TO ORDER

A regular meeting of the Vallejo City Council was held on the above date in the Council Chambers of the Vallejo City Hall. The meeting was called to order at 7:02 p.m. by Vice Mayor Gary Cloutier.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Present: Vice Mayor Cloutier, Councilmembers Bartee, Davis, Gomes, Pearsall and Sunga

Absent: Mayor Intintoli, excused

Staff: City Manager Joseph Tanner
Assistant City Attorney John Nagel
Acting City Clerk Mary Ellsworth

4. PRESENTATIONS AND COMMENDATIONS - None

5. PUBLIC COMMENT REGARDING CONSENT CALENDAR ITEMS

John Osborne noted that the payment of claims is not being included as part of the agenda.

6. CONSENT CALENDAR AND APPROVAL OF AGENDA

At the request of Councilmember Pearsall, Consent Item 6F concerning the City Attorney's compensation was removed to be heard as Item 6.1. At the request of Councilmember Gomes, Consent Item 6-B was removed to be heard as Item 6.2. Hearing no further additions, corrections or deletions, the agenda was approved as amended and the following minutes and resolutions were offered by Councilmember Pearsall:

CITY COUNCIL MINUTES FEBRUARY 27 AND MARCH 13, 2007

APPROVAL OF A LEASE AGREEMENT BETWEEN THE CITY OF VALLEJO ND
VALLEJO CONVENTION AND VISITORS BUREAU FOR OFFICE SPACE LOCATED AT 289
MARE ISLAND WAY (This Item was moved to 6.2)

RESOLUTION NO. 07-66 N.C. ACCEPTING THE RESIGNATION OF JOYCE SCHARF
FROM THE COMMISSION ON CULTURE AND THE ARTS

RESOLUTION NO. 07-67 N.C. IN SUPPORT FOR SB 286, ALLOCATION OF PROPOSITION
1B LOCAL STREETS AND ROAD FUND

RESOLUTION NO. 07-68 N.C. CONSIDERATION OF FIRST AMENDMENT TO THE CITY MANAGER'S EMPLOYMENT AGREEMENT

The above minutes and resolutions were adopted by the following vote:

AYES: Vice Mayor Cloutier, Councilmembers Bartee, Davis, Gomes,
Pearsall and Sunga
NOES: None
ABSENT: Mayor Intintoli, excused
ABSTAINING: None

6.1 CONSIDERATION OF PERFORMANCE BASED SALARY ADJUSTMENT FOR THE CITY ATTORNEY AND THE FOURTH AMENDMENT TO HIS EMPLOYMENT AGREEMENT (This item was moved from 6F)

Speakers: Robert Schussel addressed the survey conducted by the City for comparable salaries, and why department heads' salaries are more than Mr. Soley's.

Dennis Morris, Human Resources Director, responded to Mr. Schussel's questions concerning how and by whom the surveys were conducted. He noted that of the cities surveyed, Mr. Soley was significantly below the rate of compensation for full time city attorneys.

Councilmember Pearsall stated that Mr. Soley is paid far below the city attorneys in other comparable cities. He asked the City Manager and the Human Resources Director to research this. He suggested postponing the resolution for the salary increase pending information as he requested; but approving the PERS contribution paid for by the City.

Councilmember Gomes stated that Mr. Soley is deserving of the pay increase noting that he has relinquished pay increases in the past to help the City; however, she questioned whether this was the appropriate time to be considering increasing Mr. Soley's salary as is being suggested due to the financial situation the City is in.

Councilmember Sunga addressed the fact that a negotiating team consisting of two Councilmembers and the Mayor reviewed Mr. Soley's contract. He agrees that Mr. Soley is doing a great job, but the salary has already been negotiated and he does not agree with delaying the action.

Joseph Tanner, City Manager, responded to questions of Councilmembers Bartee and Sunga. He stated that Mr. Soley is the lowest paid department head in the City.

Councilmember Davis stated that he was on the negotiating committee. He stated that the Committee based its recommendation on the market rate. He noted that paying a portion of the retirement cost is an additional benefit.

Councilmember Gomes stated that it should be noted that the Council as a whole is not bound by a subcommittee's recommendation.

RESOLUTION NO. 07-69 N.C. (substitute resolution) offered by Councilmember Pearsall delaying the approval of the City Attorney's salary adjustment pending further review and bring it back to the Council at an appropriate time.

The resolution was adopted by the following vote:

AYES: Vice Mayor Cloutier, Councilmembers Bartee, Davis, Gomes,
Pearsall
NOES: Councilmember Sunga
ABSENT: Mayor Intintoli, excused
ABSTAINING: None

RESOLUTION NO. 07-70 N.C. offered by Vice Mayor Cloutier, to report and pay the value of the Employer Paid Member Contributions for the Council Appointed Executive Group.

The resolution was adopted by the following vote:

AYES: Vice Mayor Cloutier, Councilmembers Bartee, Davis, Gomes,
Pearsall and Sunga
NOES: None
ABSENT: Mayor Intintoli, excused
ABSTAINING: None

6.2 APPROVAL OF A LEASE AGREEMENT BETWEEN THE CITY OF VALLEJO
AND VALLEJO CONVENTION AND VISITORS BUREAU FOR OFFICE
SPACE LOCATED AT 289 MARE ISLAND WAY

Councilmember Gomes expressed concern about the City's one dollar a year leases and stated that during the three months this lease will be in effect, the VCVB should be encouraged to pay market rate. Councilmember Gomes further questioned if this was the best use of the waterfront property, suggesting that there may be another space for the VCVB in the City. She believes the ferry building space can be better utilized. She stated that she is supporting the resolution tonight with the caveat that this lease be discussed over the next three months.

RESOLUTION NO. 0765 N.C. offered by Councilmember Bartee authorizing the City Manager to execute the lease agreement between the City of Vallejo and Vallejo Convention and Visitors Bureau through June 30, 2007 and to execute any other documents necessary to effect the agreement.

The resolution was adopted by the following vote:

AYES: Vice Mayor Cloutier, Councilmembers Bartee, Davis, Gomes,
Pearsall and Sunga
NOES: None
ABSENT: Mayor Intintoli, excused
ABSTAINING: None

7. PUBLIC HEARINGS

- A. CONSIDERATION OF A MITIGATED NEGATIVE DECLARATION AND MONITORING PROGRAM, ZONING MAP AMENDMENT #05-0002 TO REZONE TWO PARCELS FROM INTENSIVE USE LIMITED (IU-L) TO PLANNED DEVELOPMENT RESIDENTIAL (PDR), AND A

PLANNED DEVELOPMENT (MASTER PLAN / UNIT PLAN) #05-0012 TO CONSTRUCT SIX DETACHED SINGLE FAMILY MANUFACTURED HOMES. THE PROJECT IS LOCATED ON ILLINOIS STREET APPROXIMATELY 500 FEET WEST OF BROADWAY AND 1,050 FEET EAST OF SONOMA BOULEVARD AT FERN STREET.

On November 20, 2006 the Planning Commission voted 5 to 0 to recommend that the City Council approve the Mitigated Negative Declaration; adopt the Zoning Map Amendment #05-0002 to rezone two parcels from Intensive Use Limited (IU-L) to Planned Development Residential (PDR); and to adopt a Planned Unit Development (Master Plan / Unit Plan) #05-0012 to construct six detached single family manufactured homes on lots ranging from 2,936 square feet to 3,915 square feet with an overall project density of 12.76 units per acre. The project is located on Illinois Street approximately 500 feet west of Broadway and 1,050 feet east of Sonoma Boulevard at Fern Street.

Don Hazen, Planning Manager, presented the staff report. He described the proposed zoning changes and the units planned for the site, including the different designs proposed. He stated that the Planning Commission gave staff approval to upgrade the design of the units, and to work with the applicant on architectural upgrades that would best blend in with the materials and character of the neighborhood prior to the issuance of a building permit. Mr. Hazen also addressed the five potentially significant environmental impacts that were identified: air quality, cultural resources, hydrology and water quality, and noise. He stated that it was determined that with the conditions of approval this project would not have a significant impact on the environment, and explained the measures to be taken. Mr. Hazen noted a correction to the resolution.

Vice Mayor Cloutier opened the public hearing.

Vice Mayor Cloutier asked if there was any reason to delay voting on this if the details have not been worked out. Mr. Hazen replied that the Planning Commission was comfortable with staff working with the applicant to get the details worked out.

Kent Peterman, Chair, Planning Commission, stated that the Planning Commission asked that trees be planted in keeping with the trees on the street so they will blend in with the existing environment.

Councilmember Gomes stated a policy for infill development needs to be considered to avoid "patch work" development throughout the city. She asked how manufactured homes will fit in with the 1920-1930 style homes.

Mr. Hazen explained the options available with manufactured homes. He stated that staff will be addressing style, including roof pitches, exterior building materials, and porch design with the applicant.

Councilmember Gomes questioned why Council wasn't shown the presentation that the Planning Commission saw. She stated that although this appears to be a good project, she is not comfortable approving something not knowing what it will look like. Mr. Hazen explained the presentation by the applicant that was shown to the Planning Commission.

Mr. Peterman stated that after seeing the presentation, the Planning Commission felt comfortable that the standards required for homes in Vallejo would be met.

Councilmember Gomes stated that she would like more assurance and amended the resolution to include that the architecture be reviewed by the Planning Commission.

In answer to a question of Councilmember Pearsall concerning the price range of the homes, Mr. Hazen replied between \$410,000 to \$430,000.

Councilmember Davis stated that he was at the Planning Commission meeting and was pleased with the presentation that the applicant made and believes the applicant will do a good job.

Councilmember Sunga asked if the issues raised in the petition that was submitted by the neighbors have been addressed, noting that Council received a letter tonight from a neighbor on Morningside Avenue. He asked staff if any other letters had been received. Mr. Hazen replied the issues have been addressed, and no additional correspondence has been received.

Vice Mayor Cloutier stated that prefabricated homes in older neighborhoods can sometimes be a huge contribution in the revitalization of those neighborhoods. He agrees with Councilmember Gomes suggestion to return the matter back to the Planning Commission for final review.

Mr. Hazen referred to Condition No. 4 in the resolution which addresses the changes that need to be made prior to building permit issuance. He suggested that if that is the desire of the Council that it be modified to require that prior to issuance of a building permit, the Planning Commission shall approve the design changes.

The applicant, John Piccolo, stated that he concurs with the condition that he work with the Planning Commission.

Vice Mayor Cloutier closed the public hearing.

RESOLUTION NO. 07-71 N.C. offered by Vice Mayor Cloutier approving the Mitigated Negative Declaration, holding on first reading an ordinance amending the Vallejo Zoning Map from Intensive Use Limited to Planned Development Residential (Zoning Map amendment #05-0002), and holding on first reading an ordinance approving the Planned Development Residential Master Plan/Unit Plan. (Planned Development Master Plan/Unit Plan #05-0012) to include in Condition No. 4, to the Master Plan/Unit Plan Ordinance to issuance of a building permit, the Planning Commission approve the design changes.

The resolution was adopted by the following vote:

AYES: Vice Mayor Cloutier, Councilmembers Bartee, Davis, Gomes,
Pearsall and Sunga
NOES: None
ABSENT: Mayor Intintoli, excused
ABSTAINING: None

8. POLICY ITEMS

- A. CONSIDERATION OF AN INTERIM ORDINANCE OF THE CITY OF VALLEJO ADOPTED AS AN URGENCY MEASURE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION ESTABLISHMENT OF CERTAIN NEW ACTIVITIES AND FACILITIES INVOLVING THE SALE OF TOBACCO OR TOBACCO RELATED PRODUCTS OR PARAPHERNALIA.

Consideration of an urgency ordinance prohibiting new retailers of tobacco and tobacco related products from establishing new or expanded uses within the City of Vallejo for a period of 45 days and making findings of urgency regarding the health, safety and general welfare of Vallejo citizens.

Assistant City Attorney Claudia Quintana presented the staff report and stated that the ordinance is broad in scope, but short in duration. Ms. Quintana referred to the arrest reports associated with the smoke shops over the past year.

Speakers: Robert Schussel; Kent Peterman, Chair, Planning Commission, Liat Meitzenheimer, Vallejo Alcohol Tobacco Coalition, Katie Miessner, and Elaine Rairden spoke in support of the moratorium.

Councilmember Gomes read an excerpt from one of the police reports concerning illegal items found in one of the smoke shops. She thanked the City Attorney's office and the Police Department for their work on this matter.

Councilmember Pearsall asked if there was work being done to amend the deemed approved ordinance to include the smoke shops, noting the more regulations the better. Ms. Quintana stated that those issues will be explored and discussed during the next 45 days.

Vice Mayor Cloutier questioned what the immediate response is to the issue of some of the smoke shops selling products that are injurious to minors. Lt. Reggie Garcia replied that the Police Department will be going to the smoke shops and will take proper action against them if necessary.

Councilmember Bartee suggested asking the smoke shop owners to voluntarily remove the items. Lt. Garcia replied that that is something they will do.

ORDINANCE NO. 1585 N.C. (2D) offered by Councilmember Pearsall prohibiting new retailers of tobacco and tobacco related products from establishing new or expanded uses within the City of Vallejo for a period of 45 days and making findings of urgency regarding the health, safety and general welfare of Vallejo citizens.

The ordinance was adopted by the following vote:

AYES:	Vice Mayor Cloutier, Councilmembers Bartee, Davis, Gomes, Pearsall and Sunga
NOES:	None
ABSENT:	Mayor Intintoli, excused
ABSTAINING:	None

9. ADMINISTRATIVE ITEMS - None
10. APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES - None
11. WRITTEN COMMUNICATIONS - None
12. CITY MANAGER'S REPORT - None
13. CITY ATTORNEY'S REPORT - None

14. COMMUNITY FORUM

Speakers: Robert Schussel addressed the status of the upgrade of the interchange at I-80 and American Canyon Road; and addressed increasing the ferry fares.

Vice Mayor Cloutier asked the City Manager to provide an update on the status of the upgrade to the I-80 and American Canyon Road Interchange to Council.

Beth Garber, Vallejoans for Responsible Growth, expressed concern that the list of possible consultants on the City's website is predominantly composed of firms that have worked for Walmart in the past and asked that the City keep the process open and public and insist on the selection of an independent consulting firm. John Osborne addressed the issue of the Redevelopment Agency owing the City money that is not included in the financial statement; City Council goals including financial stability; the sale of City property for commercial or industrial purposes would generate money on the tax rolls; was the decision not to include the redevelopment debt to the City a Council or staff decision.

15. REPORT OF THE PRESIDING OFFICER AND MEMBERS OF THE CITY COUNCIL

Councilmember Sunga requested a study session on the possibility of having a free trade zone designation on Mare Island and other parts of the City.

Councilmember Gomes reported that the first Front Porch Forum held in the Council Chambers on March 21 concerning quality of life issues was a great evening. The next Forum is scheduled for April 18 at the Norman King Center.

Councilmember Pearsall reported on the grand opening of Six Flags Discovery Kingdom and noted the dramatic changes that have been made to enhance the park.

16. CLOSED SESSION - None

17. ADJOURNMENT

The meeting adjourned at 8:24 p.m.

GARY CLOUTIER, VICE MAYOR

Attest: _____
MARY ELLSWORTH, ACTING CITY CLERK

**VALLEJO CITY COUNCIL
MINUTES**

APRIL 3, 2007

1. CALL TO ORDER

A regular meeting of the Vallejo City Council was held on the above date in the Council Chambers of the Vallejo City Hall. The meeting was called to order at 7:02 p.m. by Mayor Anthony J. Intintoli, Jr.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Present: Mayor Intintoli, Vice Mayor Cloutier, Councilmembers Bartee, Gomes, and Sunga

Absent: Councilmembers Davis and Pearsall, excused

Staff: City Manager Joseph Tanner
City Attorney Fred Soley
Acting City Clerk Mary Ellsworth

4. PRESENTATIONS AND COMMENDATIONS - None

5. PUBLIC COMMENT REGARDING CONSENT CALENDAR ITEMS

6. CONSENT CALENDAR AND APPROVAL OF AGENDA

At the request of staff, Mayor Intintoli removed Policy Item 8A, Consideration of a resolution of intention directing staff to prepare an amended Downtown Vallejo Specific Plan allowing temporary use regulations within the Georgia Street Corridor of the Downtown Vallejo Specific Plan Area and expressing its intent to review Ordinance 1553 N.C. (2d), the Master Plan for Downtown Vallejo, to accommodate those amendments; and Administrative Items 9A, Consideration of two resolutions authorizing the City Manager to execute consultant and professional services agreements with 1) Evans McDonough Company, Inc., and 2) the Lew Edwards Group for conducting public opinion surveys to determine the feasibility of various ballot measures and election advisory services; and Consideration of a resolution authorizing the City Manager to execute a consultant and professional services agreement with Munifinancial for fire suppression assessment engineering and related services.

Hearing no further additions, corrections or deletions, the agenda was approved as amended and the following Resolutions and Ordinances were offered by Vice Mayor Cloutier:

RESOLUTION NO. 07-72 N.C. PROCLAIMING THE MONTH OF APRIL 2007 AS "FAIR HOUSING MONTH".

RESOLUTION NO. 07-73 N.C. PROCLAIMING THE WEEK OF APRIL 9, 2007 AS

"COMMUNITY DEVELOPMENT WEEK."

- C. RESOLUTION NO. 07-74 N.C. AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE ATTACHED AGREEMENT WITH THE ALAMEDA COUNTY SHERIFF'S DEPARTMENT FOR POLICE DEPARTMENT FORENSIC SERVICES
- D. RESOLUTION NO. 07-75 N.C. AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SUBMIT 2006-2007 APPLICATIONS FOR REGIONAL MEASURE 2 FUNDS FOR ENHANCED VALLEJO FERRY/BUS SERVICES AND ENHANCED SOLANO COUNTY I-80 EXPRESS SERVICE
- E. RESOLUTION NO. 07-76 N.C. APPROVING ANMENDMENT TO QUIT CLAIM DEED BETWEEN THE U.S. NAVY AND THE CITY OF VALLEJO REGARDING MARE ISLAND'S EASTERN EARLY TRANSFER PARCEL INVESTIGATION AREAS A3, D1.1 AND D2
- F. ORDINANCE NO. 1586 N.C. (2D) AMENDING ORDINANCE NO. 558 N.C. (2D) AS AMENDED ENTITLED ZONING ORDINANCE OF THE CITY OF VALLEJO, TO REZONE CERTAIN PROPERTY (TAX ASSESSOR NUMBERS 0056-024-080 AND 0056-024-090) FROM INTENSIVE USE LIMITED (IU-L) TO PLANNED DEVELOPMENT RESIDENTIAL (PDR).
- G. ORDINANCE NO. 1587 N.C. (2D) ADOPTING PLANNED DEVELOPMENT (MASTER PLAN/UNIT PLAN) #05-0012 TO CONSTRUCT SIX MANUFACTURED SINGLE FAMILY HOMES AND IMPLEMENTS ZONING MAP AMENDMENT #05-0002 FOR THE PAISSANO VILLAGE PROJECT.

The above Resolutions and Ordinances were adopted by the following vote:

AYES:	Mayor Intintoli, Vice Mayor Cloutier, Councilmembers Bartee, Gomes and Sunga
NOES:	None
ABSENT:	Councilmembers Davis and Pearsall (excused)
ABSTAINING:	None

7. **PUBLIC HEARINGS** - None

8. **POLICY ITEMS**

- A. CONSIDERATION OF A RESOLUTION OF INTENTION DIRECTING STAFF TO PREPARE AN AMENDED DOWNTOWN VALLEJO SPECIFIC PLAN ALLOWING TEMPORARY USE REGULATIONS WITHIN THE GEORGIA STREET CORRIDOR OF THE DOWNTOWN VALLEJO SPECIFIC PLAN AREA AND EXPRESSING ITS INTENT TO REVISE ORDINANCE 1553 N.C. (2d), THE MASTER PLAN FOR DOWNTOWN VALLEJO, TO ACCOMMODATE THOSE AMENDMENTS.

This item was removed from the agenda to be heard on April 17, 2007.

9. ADMINISTRATIVE ITEMS

- A. CONSIDERATION OF TWO RESOLUTIONS AUTHORIZING THE CITY MANAGER TO EXECUTE CONSULTANT AND PROFESSIONAL SERVICES AGREEMENTS WITH 1) EVANS MCDONOUGH COMPANY, INC., AND 2) THE LEW EDWARDS GROUP FOR CONDUCTING PUBLIC OPINION SURVEYS TO DETERMINE THE FEASIBILITY OF VARIOUS BALLOT MEASURES AND ELECTION ADVISORY SERVICES (This item was removed to be heard on April 17, 2007.)

Speakers: J. D. Miller, 1350 Tennessee Street, spoke in support of conducting the poll for both Item 9A and 9B. Robert Schussel, Hiddenbrooke, stated that if there is not enough money to do it right, don't do it. He submitted a list of questions which were made part of the record: How much more money will the City require for an effective communication plan in addition to the \$93,0-00 already set aside and where will it come from? How much does a successful communications campaign typically cost other cities? Will the disconnect between companies response to the RFP and what Mr. Tanner was quoted in the Times Herald create a problem? What makes the city think a Speakers Bureau will significantly influence the vote? What will the City do between the first and second survey that will justify a second survey? Who from the city and the public will be involved in the design of the survey(s)? How many hours of consulting will the City get and how much is given to underlings versus the company principals? Will the survey results be shared with the public?

- B. CONSIDERATION OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT WITH MUNIFINANCIAL FOR FIRE SUPPRESSION ASSESSMENT ENGINEERING AND RELATED SERVICES (This item was removed to be heard on April 17, 2007.)
- C. RESOLUTION NO. 07-OF INTENTION TO AMEND THE MARE ISLAND CONVERSION FUND'S FISCAL YEAR 2006-2007 BUDGET REVENUE AND EXPENDITURE AUTHORIZATION LIMITS

Recently the City has entered into an Agreement with Weston Solutions, Inc. to negotiate an Early Transfer Agreement with the U. S. Navy. The total cost of the Early Transfer Process Agreement is approximately \$2,173,000.00. The City's is responsible for 56.6% of the total cost. Touro University has agreed to pay the concurrently. Touro University will pay the City and the City will pay Weston Solutions, Inc. In order to receive and pay the funds, the Mare Island Conversion Fund's Fiscal Year 2006-2007 Budget revenue and expenditure authorization limits must be increased by \$2,173,000.00 each.

Craig Whittom, Assistant City Manager/Community Development, stated that staff is meeting with Touro on a weekly basis on the ERN regarding North Island, and they expect to be back to Council within the next two months with an update. The first meeting on the early transfer processing agreement with the Navy, Weston, Touro and Lennar went well.

Councilmember Sunga questioned the increase in the expenditure authorization from the Mare Island Conversion Plan. Mr. Whittom explained that this is merely an accounting mechanism to make sure it is close to our balance sheet.

RESOLUTION NO. 07-77 N.C. offered by Mayor Intintoli amending the Mare Island Conversion Fund's Fiscal Year 2006-2007 budget revenue and expenditure authorization limits.

The above resolution was adopted by the following vote:

AYES:	Mayor Intintoli, Vice Mayor Cloutier, Councilmembers Barteo, Gomes and Sunga
NOES:	None
ABSENT:	Councilmembers Davis and Pearsall (excused)
ABSTAINING:	None

10. **APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES** - None
11. **WRITTEN COMMUNICATIONS** - None
12. **CITY MANAGER'S REPORT** - None
13. **CITY ATTORNEY'S REPORT** - None
14. **COMMUNITY FORUM**

Speakers: Burky Worel stated that since he has not received the information he requested on false alarms after three attempts, under the California Public Records Act, he demands the information on burglar alarms, and on how much of the budget is public safety compared to other cities and how much the police officers are paid more than other cities, within ten days. He further requested a list of all the sworn people on the Police Department and what positions they hold and where they work within the Police Department.

Mayor Intintoli asked the City Manager, in consultation with the City Attorney, to respond to Mr. Worel's request(s).

Robert Schussel asked for an update on the status of the I-80/American Canyon interchange at Hiddenbrooke. He stated that \$7 million was appropriated for the interchange. He asked why the City doesn't use some of the set-aside money and hire an outside contractor so at least most of the money that was promised can be used.

15. REPORT OF THE PRESIDING OFFICER AND MEMBERS OF THE CITY COUNCIL

Mayor Intintoli reported on his trip to Washington, D.C. with the Solano County Mayors representing the Solano Transportation Authority. The purpose of the trip was to request funding for a number of transportation projects throughout the County. The projects for the City of Vallejo that all the Mayors agreed that they could support was the new Ferry Maintenance Facility on Mare Island. That facility will ultimately cost \$11 million. The City has accumulated \$8 million through the federal grant, and state and local funding. With another \$3 million, construction of the maintenance facility could begin as early as July 2008 and completed by July 2009. The facility would include a refueling facility which would enable a savings of approximately \$200,000-250,000 a year in fuel costs alone; in addition, we would have a maintenance facility that would be able to meet the needs of not only our own boats but the boats that are being constructed now and will be put into service ultimately by the Water Transport Agency which is expanding ferry service throughout the Bay. As new ferries are put

into operation in places like Antioch and Martinez, they could be serviced out of the Mare Island facility.

Mayor Intintoli stated that they have the support of the Water Transit Authority, and the Solano Transportation Authority. The general response from our Representatives was very positive. He particularly thanked George Miller for his untiring support of the City in all of the things they have approached Washington for over the years; and thanked Senator Barbara Boxer as well. He thanked all the other Mayors for their support for Vallejo's project and the staff of the Solano Transportation Authority in preparing for the trip.

Councilmember Sunga reported on his attendance at the Change of Command Ceremony at Travis Air Force Base on Monday and the activation of a unit at Travis. He was assured by the General that Travis Air Force Base will not be included in future base closures.

Councilmember Gomes congratulated Peter Wilson and the Benicia Vallejo Humane Society for the event they sponsored on March 30. She reported that she participated in the City Park Clean up event on March 31. She thanked the Fighting Back Partnership and Tom Howard and everyone who participated and encouraged other groups throughout the City to organize these events.

- 16. CLOSED SESSION - None**
- 17. ADJOURNMENT**

The meeting adjourned at 7:27 p.m.

ANTHONY J. INTINTOLI, JR., MAYOR

ATTEST: _____
MARY ELLSWORTH, ACTING CITY CLERK



COUNCIL COMMUNICATION

Date: April 17, 2007

TO: Mayor and Members of the City Council

FROM: Craig Whittom, Assistant City Manager / Community Development *W*
Susan McCue, Economic Development Program Manager *SMC*

SUBJECT: APPROVAL OF A LEASE AGREEMENT BETWEEN THE CITY OF VALLEJO AND OMNIPOINT COMMUNICATIONS, INC., REGARDING USE OF CITY-OWNED PROPERTY AT 32 CLEARPOINTE DRIVE WITHIN P.G. & E. POWER LINE EASEMENT AREA

BACKGROUND & DISCUSSION

Pacific Gas and Electric Company ("P.G. & E.") owns and operates transmission tower facilities located within an easement on City of Vallejo owned property at 32 Clearpointe Drive. Omnipoint Communications, Inc. ("Omnipoint") has selected the site to install antennas on the P.G. & E. Tower #33/233. Ground support for these antennas is provided by equipment that must be installed on land. Therefore, Omnipoint is requesting the City lease its property beneath the transmission tower in order to place this equipment.

The equipment enclosure proposed by Omnipoint is roughly 10' foot by 12' foot and is located within the P. G. & E. easement at the base of the lattice tower. The City maintains the power line easement and P. G. & E. and the telecommunications carrier is responsible for maintaining their equipment, cover any operating costs, providing insurance on the improvements, and indemnifying the City. Omnipoint will be required to obtain all standard building and planning permits and approvals.

FISCAL IMPACT

The lease payment with Omnipoint for an equipment-only site is \$1,300.00 per month or (\$15,600.00) annually. The initial term is for five (5) years with a maximum 5% annual CPI adjustment and a 3% minimum adjustment. There are four 5-year option periods, all with CPI increases and market rate adjustments in the eleventh and twentieth years. Market rates comparables were used to determine the initial lease rate and the City's standard telecommunications lease documents the terms and conditions governing the use of the land. Total revenue over the first 5-year term of the lease is \$82,833.00 plus permitting fees.

RECOMMENDATION

Adopt Resolution authorizing the City Manager to execute the lease between the City of Vallejo and Omnipoint at the base of the P.G. & E. transmission tower located at 32 Clearpointe Drive, Vallejo.

ALTERNATIVES CONSIDERED

The alternative considered was not entering into a lease. However, the lease will generate revenue for the City's General Fund.

ENVIRONMENTAL REVIEW

This is an exempt project under the California Environmental Quality Act ("CEQA"), pursuant to Section 15303 of Title 14 of the California Code of Regulations which exempts the construction of a limited number of new, small facilities, structures, and equipment. No environmental review under CEQA is required.

PROPOSED ACTION

Adopt the attached resolution authorizing the City Manager to execute the lease with Omnipoint Communications, Inc., with any recommended changes by the City Attorney or Risk Manager, and to take such further actions, including execution of any documents, determined to be necessary to carry out the purposes of the Resolution.

DOCUMENTS ATTACHED

Attachment A - Resolution

Attachment B - Telecommunication Lease between the City of Vallejo and Omnipoint Communications, Inc.

CONTACT: Steve England, Real Property and Asset Manager
707-649-4848, sengland@ci.vallejo.ca.us

Susan McCue, Economic Development Program Manager
707-553-7283, smccue@ci.vallejo.ca.us

RESOLUTION NO. _____ N.C.

APPROVAL OF A OMNIPPOINT, INC., CELLULAR WIRELESS LEASE AT CLEARPOINTE DRIVE WITHIN THE P.G. & E. TRANSMISSION TOWER, VALLEJO

BE IT RESOLVED by the City of Vallejo as follows:

WHEREAS, the City of Vallejo ("City") owns the real property located at 32 Clearpointe Drive in the City of Vallejo, California ("Property"); and

WHEREAS, Omnipoint Communications, Inc. ("Omnipoint") has requested the City enter into a lease between Omnipoint and the City for the Property; and

WHEREAS, if granted the subject lease, Omnipoint will install an enclosure and electric equipment within the P.G. & E. power line easement at the base of the transmission tower; and

WHEREAS, staff has determined that approval of this lease and the installation of an equipment enclosure and associated equipment racks is exempt from the California Environmental Quality Act pursuant to Section 15303 of Title 14 of the California Code of Regulations as it consists of the construction of a limited number of new, small facilities, structures and equipment; and

WHEREAS, the City desires to approve a lease with Omnipoint for the use of the 32 Clearpointe Drive site.

NOW THEREFORE, BE IT FOUND AND DETERMINED that the approval of this lease and the installation of an equipment enclosure and electronic racks is exempt from the California Environmental Quality Act pursuant to Section 15303 of Title 14 of the California Code of Regulations.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the lease with Omnipoint Communications, Inc., subject to any changes recommended by the City Attorney or Risk Manager, and authorizes the City Manager's execution thereof and to take such further actions, including execution of any documents, determined to be necessary to carry out the purposes of this Resolution.

ANTHONY J. INTINTOLI JR., Mayor

ATTEST:

MARY ELLSWORTH, Interim City Clerk

TELECOMMUNICATIONS LEASE AGREEMENT

This Lease Agreement ("Agreement") is entered into, at Vallejo, California, this day, _____ of _____ 2006 between the City of Vallejo, a municipal corporation ("Lessor") and Omnipoint Communications, Inc., ("Lessee").

In consideration of the mutual covenants contained herein and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Premises. Lessor is the owner of a parcel of land (the "Land") as described in Exhibit A attached hereto (APN: # 0075-271-028 (PG&E Tower) and Lessor hereby leases to Lessee and Lessee hereby leases from Lessor a certain portion of the Land (the "Premises") described in Exhibit B :See Attached.

2. Encroachment Permit. Lessor grants an encroachment permit to Lessee for a vehicle and utility access to the Premises across real property in the City of Vallejo, County of Solano, described as Assessor's Parcel Number # 0075-271-028 (the "Parcel"). Said permit shall terminate with the termination of this Agreement. The location of the vehicle, personnel and utility access permitted under this permit shall be at the locations shown in Exhibit B attached hereto.

3. Use. The Premises may be used by Lessee for any lawful activity in connection with the provision of wireless communications services, including without limitation, the transmission and the reception of radio communication signals on various frequencies, and for the construction, maintenance and operation of necessary ground based equipment and facilities, foundation and an air conditioned equipment shelter. Lessor agrees to cooperate with Lessee, at Lessee's expense, in making application for and obtaining all licenses, permits and any and all other necessary approvals that may be required for Lessee's intended use of the Premises. Lessee shall apply for, and obtain all necessary permits required by all applicable governmental agencies for Lessee's use of the Premises and shall abide by all of the conditions thereof. Installation of an antenna tower, antennas or other antenna-related structure or facilities are not included in this Agreement.

4. Term and Options. The initial term of this Agreement shall be five (5) years commencing on the the date that Lessee commences construction of the Lessee Facilities (defined below) on the Premises (the "Lease Commencement Date") and terminating on the fifth (5th) anniversary of the Lease Commencement Date (the "Term"). Lessee shall have the right to extend the Term for five (4) successive five (5) year periods (the "Renewal Terms") on the same terms and conditions as set forth herein. This Agreement shall automatically be extended for each successive Renewal Term unless Lessee notifies Lessor in writing not less than sixty (60) days prior to the respective expiration date of Lessee's intention not to extend such Term or Renewal Term.

If the Lessee continues to occupy the Premises following the expiration or termination of this Agreement with Lessor's consent, then such holding over shall constitute a renewal of this Agreement on a month to month basis, with the Rent during such holdover period to be five percent (5%) greater than the Rent in effect immediately prior to such expiration or termination. In such event, either party shall be entitled to terminate such holdover tenancy on thirty (30) days' prior written notice to the other party.

5. Rent; Consideration.

(a) For the initial Term, Lessee shall pay, without demand, deduction, offset or abatement, to Lessor as Rent and One Thousand Three Hundred DOLLARS (\$1300.00.00) per month ("Rent"). Rent shall be payable in advance on the first day of each month to Lessor at: City of Vallejo, Economic Development Program Manager, 555 Santa Clara Street, Vallejo, CA 94590; Attention: Susan McCue

(b) Rent shall be increased on each anniversary of the Lease Commencement Date annually by an amount equal up to FIVE percent (5%) of the Rent for the previous year with an absolute minimum adjustment of the THREE (3%) percent. The percentage change shall be determined by the changes that occurred in the Consumer Price Index for all Urban Consumers (All Terms) for the San Francisco, Oakland and San Jose (Bay Area CPI), as indicated in the Schedule on the following chart.

Rent Schedule over Term:

Period	Rental
Year 1	\$1300.00 per month
Year 2 – 10	\$1300.00 per month with annual adjustment based upon the Bay AREA CPI, 5% maximum cap with an absolute minimum of 3% increase allowed.
Year 11	Market rate adjustment, but not less than the total rent due for the 10 th year (see Market Rate Adjustment methodology below).
Year 12 – 19	Annual adjustment from the year end rent for the 11 th year based upon the Bay Area CPI, 5% maximum cap with an absolute minimum of 3% increase allowed.
Year 20	Market rate adjustment, but not less than the total rent due for the 19 th year (see Market Rate Adjustment methodology below).
Year 21-25	Annual rental adjustment based upon the year end rent for the 20 th year each year through the 25 th year adjustment based upon the Bay Area CPI, 5% maximum cap with an absolute minimum of 3% increase allowed.

(c) If this Agreement is terminated prior to its expiration, Rent shall be prorated as of the date of termination, and any prepaid Rent shall be returned to Lessee.

(d) Rent shall be payable upon the Commencement of construction on the Premises for which Lessee shall provide Lessor at least two (2) weeks prior written notice.

(e) Lessee acknowledges that in the event Lessee fails to deliver to Lessor Rent when due, such failure will cause Lessor to incur costs not contemplated in this Agreement, the exact dollar amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and personnel costs. Accordingly, if such payment is not received by Lessor when due, Lessee shall pay Lessor a late payment charge equal to five percent (5%) of the overdue payment. Lessee agrees that this late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of Lessee's late payment. Lessor's acceptance of such late charge shall not constitute a waiver by Lessor of Lessee's default with respect to the overdue payment, nor prevent Lessor from exercising any of the other rights or remedies granted Lessor under this Agreement, at law or in equity.

(f) In addition to the late charges set forth above, any Rent due under this Agreement that is not paid to Lessor when due under this Agreement shall commence to bear interest at the rate of eight percent (8%) per annum, from the date due until fully paid. Neither the accrual nor Lessee's payment of interest to Lessor shall be deemed to cure any default by Lessee under this Agreement.

(g) By written notice given by the Lessor to Lessee not less than one hundred and eighty (180) days prior to the expiration of the Year 10 and Year 19 Lessor shall be entitled to a readjustment of the rental rate (Market Rate Adjustment) to the greater of the Rent then payable, or the then current market rent ("Current Market Rent"). Current Market Rent shall be determined by the rent charged for comparable communications facilities at comparable properties in the Solano, Napa and Contra Costa Counties, California. If Lessee and Lessor cannot agree on the Current Market Rent within 30 (days) after the delivery of the referenced notice, each party, at its own expense, shall hire an appraiser licensed in the State of California holding a Certified General License, who is familiar with leasing of communications facilities in and around the Solano Napa and Contra Costa counties. The Current Market Rent agreed to by both appraisers shall be the Current Market Rent for the purposes stated herein. If, however, the appraisers hired by the Lessor and Lessee cannot agree on the Current Market Rent for the Premises, and if the differences between the determinations by such appraisers is less than (10%), the amount submitted by each appraiser shall be averaged and the average amount shall be the Current Market Rent for the purposes stated herein. Otherwise, the two appraisers shall select a similarly qualified and licensed third appraiser, who shall independently determine the Current Market Rate within the range set by the first two appraisers herein, and the parties shall divide equally the cost of the third appraiser. The Current Market Rent, as determined shall further adjust during futures years and shall be determined by the described process if agreement cannot be reached by the Lessor and Lessee on Current Market Rent. If Lessor fails to timely deliver a notice seeking an adjustment to Current Market Rent no rights to increase rental rates per the above schedule are waived. The Lessor however acknowledges that time is of the essence.

6. Improvements; Liability; subscription or service Utilities; Access.

(a) Subject to the prior approval of Lessor as to location and architectural detail, which approval shall not be unreasonably withheld, conditioned, or delayed, Lessee shall have the right to erect, maintain and operate on the Premises a 7 feet high redwood fence and/or steel fencing with lockable door hardware, radio communications facilities, foundation, utility lines, an air conditioned equipment shelter, radio transmitting equipment thereto and the Improvements, as described in Exhibit B ("Lessee Facilities"). In connection therewith, Lessee has the right to do all work necessary to prepare, maintain and alter the Premises for Lessee's business operations and to install transmission lines connecting the antennas to the transmitters and receivers. All of Lessee's construction and installation work ("Lessee's Work") shall be performed at Lessee's sole cost and expense and in a good and workmanlike manner. Title to the Lessee Facilities shall be held by

Lessee. All of Lessee Facilities shall remain Lessee's personal property and are not fixtures. Lessee shall remove all Lessee Facilities at its sole expense on or before the expiration or earlier termination of the Term or any Renewal Term, and Lessee shall repair any damage to the Premises caused by such removal. Upon the expiration or earlier termination of this Agreement, Lessee shall remove the foundation for such portion of the Facilities to a level of three feet below grade level, and Lessee shall not be required to remove any foundation more than three feet below grade level.. Notwithstanding the above, if at the expiration or earlier termination of this Agreement, Lessee does not desire to remove some portion or all of the Lessee Facilities, Lessor shall have the option to have such Facilities remain intact. Lessee shall remove any portion which Lessor does not desire to remain on the Premises in the manner provided herein above.

(b) Lessee shall obtain, at its expense, a separate electrical service from Pacific Gas & Electric Company including the installation of a separate meter and main breaker. Lessee shall have the right to install, at its expense, utilities to service the Premises (including a standby power generator for Lessee's exclusive use at a location on the Premises acceptable to both parties). Lessee also has the right to bring utilities to and across the Land in order to service the Premises. Lessor shall have the right to approve the location of Lessee's proposed utilities across the Land, which approval shall not be unreasonably withheld, conditioned or delayed. Lessee shall have the right to install, at its sole expense, underground telephone and electrical conduits, lines, wires, pull boxes and related facilities in, under and across Lessor's existing utility easement which adjoins the Land. The location and route of such utility lines are depicted on Lessee's Site Plans, which are attached hereto as Exhibit C. Lessee shall pay for the electricity it consumes in its operations.

(c) Lessor shall provide to Lessee, Lessee's employees, agents and subcontractors access over the Land to the Premises twenty-four (24) hours a day, seven (7) days a week, at no charge to Lessee. Lessee's access route over the Land to the Premises shall be from the street on Clearpointe Drive, along the existing path to the base of the PG&E transmission tower.

(d) Lessor shall provide for the maintenance of the access road from Clearpointe Drive to the Land (the "Access Road"). Except for damage directly caused by Lessee's construction or use of the Access Road, Lessee shall not be obligated to pay any additional amounts for the maintenance or repair of the Access Road.

(e) to the extent consistent with Lessee's permitted use hereunder and taking into account the commercial reasonableness of such requirements, the telecommunications equipment, antenna transmission lines, antenna(s) and facilities shall be installed and textured to have the least visible impact and, subject to 6g, below, to match the native landscaping, transmission tower and to preserve to the greatest extent possible the natural appearance of the area.

(f) Lessee's equipment, facilities and enclosure shall be provided with suitable locking provisions to assure that electrical and electronic equipment, service equipment and couplings/ connectors are not exposed or generally accessible to the public. The Lessee shall provide the Lessor with a contact name (s) and phone number (s) to report security and/or maintenance concerns reported by the public or the Lessor's maintenance staff.

(g) Lessee shall not have any obligation to provide any landscaping on or around the Premises. Lessee's proportionate share of the cost of landscaping the Land shall be a component of its Rent obligation.

(h) Lessee shall not permit any mechanics', materialman's or any other lien to be filed against the Land or against Lessee's leasehold interests in the Premises. Lessee further covenants and agrees that any lien filed against the Land for work claimed to have been done for, or materials claimed to have been furnished to Lessee will be discharged by Lessee, by bond or otherwise, within thirty (30) days after the filing of the lien, at the cost and expense of Lessee. If such liens are filed and not released within such thirty (30) days period, Lessor may, without waiving its rights and remedies based on such breach by Lessee and without releasing Lessee from any of its obligations, cause such liens to be released by any means it shall deem proper, including payment in satisfaction of the claim giving rise to such liens. Lessee shall pay Lessor, promptly upon notice to Lessee, any sum paid by Lessor to remove such liens, together with interest at the rate of eight percent (8%) per annum from the date of such payment by Lessor.

7. Interference.

(a) Lessee shall operate the Lessee Facilities in a manner that will not cause interference to Lessor and other lessees of the communications site, provided that their installation or any modification thereto predates the Lessee Facilities. All operations by Lessee shall be lawful and in compliance with all Federal Communications Commission ("FCC") requirements.

(b) Subsequent to the installation of the Lessee Facilities, Lessor shall not permit itself, its lessees or licensees to install new equipment on the Land if such equipment is likely to cause interference with Lessee's operations. Such interference shall be deemed a material breach by Lessor.

(c) If Lessor breaches its obligations under this paragraph, Lessor, upon receiving notice from Lessee of any such breach, shall take all steps necessary to correct and eliminate such interference, including, without limitation, enforcing provisions in any license or other agreement between Lessor and the persons or entities causing such harmful interference, pursuant to which Lessor may compel such persons or entities to cease operation, modify their equipment and/or antennas, or remove their equipment and/or antennas from any facilities or towers owned or leased and/or managed by Lessor on the Land. If Lessor cannot correct such harmful interference within five (5) days, Lessee shall have the right, in

addition to any other rights that it may have at law or in equity, to terminate this Agreement. Upon such termination, Lessor shall return any unearned Rent to Lessee.

8. Taxes. If any taxes are assessed as a direct result of the installation of the Lessee Facilities and Site Equipment, including without limitation ad valorem property taxes or possessory interest taxes levied by reason of the possessory leasehold interest created hereunder, Lessee shall be responsible for and pay such taxes, provided Lessor gives Lessee reasonably acceptable documentation that such taxes result from the installation of the Lessee Facilities and Site Equipment.

9. Equipment.

(a) Lessee shall provide all transmitters and receivers and all related electronic equipment ("Site Equipment") required for the installation and operation of Lessee's system. The Site Equipment is and shall remain the sole property of the Lessee and may be removed from the Premises at any time by the Lessee. Lessee shall remove all Site Equipment from the Premises at Lessee's expense upon the termination of this Agreement.

(b) Lessee shall provide all of the equipment and labor necessary to the installation of Lessee's system including the antennas, associated feed lines, isolation equipment and electrical terminals. The equipment provided by Lessee shall remain the sole personal property of Lessee and shall not be deemed fixtures.

(c) Lessee shall, at its sole cost and expense, maintain and repair its Site Equipment.

10. Waiver of Lessor's Lien.

(a) Lessor waives any lien rights it may have concerning the Lessee Facilities which are and shall at all times remain deemed Lessee's personal property, and Lessee has the right to remove the same at any time without Lessor's consent.

(b) Lessor acknowledges that Lessee may have financed the Lessee Facilities and Site Equipment (the "Collateral") and in connection therewith, Lessor (i) consents to the installation of the Collateral; (ii) disclaims any interest in the Collateral, as fixtures or otherwise; and (iii) agrees that the Collateral shall be exempt from execution, foreclosure, sale, levy, attachment, or distress for any Rent due or to become due and that such Collateral may be removed by Lessee at any time without recourse to legal proceedings.

11. Termination.

This Agreement may be terminated without further liability on thirty (30) days prior written notice as follows: (i) by either party upon a default of any covenant or term hereof by the other party, which default is not cured within sixty (60) days of receipt

of written notice of default, provided that the grace period for any monetary default is ten (10) days from receipt of notice; or (ii) by either party if Lessee does not obtain or maintain any license, permit or other approval necessary for the construction and operation of Lessee Facilities; or (iii) by Lessee if Lessee is unable to occupy and utilize the Premises due to any action of the FCC, including without limitation, a take back of channels or change in frequencies; or (iv) by Lessee if Lessee determines that the Premises are not appropriate for its operations for economic or technological reasons, including without limitation, signal interference.

12. Termination in the Event of Casualty or Condemnation.

(a) In the event of any damage, destruction or condemnation of the Premises or any part thereof, Lessee shall have the right, but not the obligation, to terminate this Agreement and all of its duties and obligations herein by giving written notice to Lessor within thirty (30) days after such damage, destruction or condemnation, if by virtue of such casualty or condemnation the Premises are no longer adequate for Lessee to continue its operations or any repairs to the Premises have not been completed or cannot reasonably be completed within sixty (60) days from the date of the damage.

(b) If Lessee does not terminate this Agreement: (1) the Rent payable herein shall be reduced or abated in proportion to the actual reduction or abatement of use of the Premises; and (2) within sixty (60) days from the date of such damage or destruction, Lessor shall make any necessary repairs to the Premises caused by any such damage or destruction.

(c) In the event of condemnation, unless Lessee is allowed by the condemning authority to continue its operations on the Premises, this Agreement shall terminate as of the date title to the Land vests in the condemning authority or Lessee is required to cease its operations, whichever is earlier. Lessee shall be entitled to share in the proceeds of any condemnation, but only to the extent of the value of any Lessee Facilities and Site Equipment which are transferred to the condemning authority, moving expenses, prepaid Rent and business dislocation expenses.

13. Insurance.

(a) Lessee shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Lessee's operation and use of the leased Premises. The cost of such insurance shall be borne by the Lessee.

(b) Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage ("occurrence" Form CG 0001).

2. Workers' Compensation insurance as required by the State of California and Employer's Liability insurance (for lessees with employees).

3. Property insurance against all risks of loss to any tenant improvements or betterments.

(c) Minimum Limits of Insurance. Lessee shall maintain limits no less than:

1. General Liability: \$2,000,000.00 per occurrence for bodily injury and property damage. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2. Employer's Liability: \$1,000,000.00 per accident for bodily injury or disease.

3. Property Insurance Full replacement cost with no co-insurance penalty provision.

(d) Other Insurance Provisions. The general liability policy is to contain, or be endorsed to contain, the following provisions:

1. Lessor, its officers, officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of premises owned, occupied or used by the Lessee. The coverage shall contain no special limitations on the scope of protection afforded to Lessor, its officers, officials, employees or volunteers.

2. Lessee's insurance coverage shall be primary insurance as respects Lessor, its officers, officials, employees and volunteers. Any insurance of self-insurance maintained by Lessor, its officers, officials, employees or volunteers shall be excess of the Lessee's insurance and shall not contribute with it.

3. Any failure to comply with reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided Lessor, its officers, officials, employees or volunteers.

4. Coverage shall state that the Lessee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to Lessor.

(f) Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. less than A-VII.

(g) Verification of Coverage. Lessee shall furnish Lessor with original endorsements effecting coverage required by this clause in the form attached hereto as Exhibit D. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by Lessor before work commences.

(h) Landlord insurance. Landlord shall maintain standard form property insurance ("All Risk" coverage) equal to at least 90% of the replacement cost of its property.

14. Waiver of Subrogation. Lessor and Lessee each waives any and all rights of recovery against the other or against the directors, officers, employees, agents and representatives of the other, for loss of or damage to such waiving party or its property or the property of others under its control, where such loss or damage is insured against under any insurance policy in force at the time of such loss or damage. Lessor and Lessee shall, upon obtaining the policies of insurance required hereunder, give notice to the insurance carriers that the foregoing mutual waiver of subrogation is contained in this Lease.

15. Assignment and Subletting.

(a) Lessee may not assign or otherwise transfer all or any part of its interest in this Agreement or in the Premises without the prior written consent of Lessor, such consent not to be unreasonably withheld; provided, however, that Lessee may assign or transfer its interest in this Agreement or in the Premises without Lessor's prior written consent to its parent company, its member, any subsidiary or affiliate or to any successor-in-interest or entity merged or consolidated with Lessee or acquiring more than fifty percent (50%) of its stock or assets or more than fifty percent (50%) of its site agreements and communications facilities within the geographic market area defined by the Federal Communications Commission (FCC) in which the Premises are located.

(b) Lessee shall not sublet all or any portion of the Premises without the prior written consent of Lessor. Lessor shall be entitled to share in the proceeds from any such subletting, and Lessor's share shall be agreed upon by the parties at the time Lessee seeks Lessor's consent.

16. Premises. Lessee shall maintain the Premises in good and sanitary condition and operate its facilities thereon in such manner as will best enable it to fulfill its service requirements, and in accordance with the specifications herein mentioned.

17. Warranty of Title and Quiet Enjoyment.

(a) Lessor warrants that: (i) Lessor owns the Land and has rights of access thereto adequate for Lessee's use; (ii) execution and performance of this Lease will not violate any laws, ordinances, covenant, or the provisions of any lease or other

agreement binding on Lessee,; and (iii) Lessor covenants and agrees with Lessee that upon Lessee paying the Rent and observing and performing all the terms, covenants and conditions on Lessee's part to be observed and performed, Lessee may peacefully and quietly enjoy the Premises; subject, nevertheless, to the terms and conditions of this Agreement. Lessor is prepared to document its interests in the Land and Lessee's leasehold interest in the Premises.

18. Repairs. Lessee shall not be required to make any repairs to the Premises or Land unless such repairs shall be necessitated by reason of the default or neglect of Lessee, its agents, servants and employees as specified herein. Lessee expressly waives its right to make repairs at the expense of Lessor as provided under California Civil Code, Section 1942.

19. Indemnification/Liability. Lessee shall indemnify, hold harmless and defend Lessor, its officers, officials, directors, employees, agents and volunteers from and against all claims, damages, losses and expenses including attorney fees to the extent arising out of Lessee's use of the leased Premises described herein, caused in whole or in part by any negligent act or omission of the Lessee, any subleases, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the negligence or willful misconduct of Lessor. Lessor shall indemnify, hold harmless and defend Lessee, its officers, officials, directors, employees, agents and volunteers from and against all claims, damages, losses and expenses including attorney fees to the extent arising out of Lessor's use of the Property, caused in whole or in part by any negligent act or omission of the Lessor, any subleases, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the negligence or willful misconduct of Lessee. Notwithstanding the foregoing, a party's obligation under this section to indemnify the other party is contingent upon (i) its receiving prompt written notice of any event giving rise to an obligation to the other party and (ii) the indemnified party granting it the right to control the defense and settlement of the same. Lessee shall not be responsible to Lessor, or any third-party, for any claims, costs or damages (including, fines and penalties) attributable to any pre-existing violations of applicable codes, statutes or other regulations governing the Land, including the Premises.

The provisions of this section shall survive the expiration or termination of this Agreement.

20. Limitation of Liability. In no event shall a party be liable to the other party for indirect, incidental or consequential damages, and the indemnified party hereby waives any right of it or its assigns or successors to obtain consequential damages from the other party. The parties acknowledges that this waiver of consequential damages is a material term of this Agreement and that each party would not enter into this Agreement in the absence of such waiver.

21. Compliance with Laws. Lessor represents that it has no actual notice or knowledge that the Land (including the Premises), and all improvements located

thereon, are not in substantial compliance with, life/safety, disability and other laws, codes and regulations of applicable governmental authorities. Lessor will substantially comply with all applicable laws directly relating to Lessor's use of the Land. Lessee will substantially comply with all applicable laws directly relating to Lessee's operation of the Lessee Facilities and improvements constructed by Lessee on the Land.

22. Hazardous Substances. Without a duty of independent investigation or inquiry, Lessor represents that it has no actual knowledge of any substance, chemical or waste (collectively, "substance") on or under the Land or Premises that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Lessee will not introduce or use any such substance on the Land in violation of any applicable law. Lessor shall indemnify and hold Lessee harmless from and against all claims, actions, damages, fines, liabilities, costs and expenses (including attorneys' and expert fees) arising, directly or indirectly, from the presence of any substance on, under or around the Land or Premises, unless said substance was actually brought onto the Land or Premises by Lessee. This obligation to indemnify Lessee shall include damages, costs and expenses incurred in connection with any investigation, cleanup, remediation, monitoring, removal or restoration related to the presence of any substance. This indemnity shall survive the expiration or termination of this Agreement. Lessee shall indemnify and hold Lessor harmless from and against all claims, actions, damages, fines, liabilities, costs and expenses (including attorneys' and expert fees) arising, directly or indirectly, from the presence of any substance brought on or under or around the Land or Premises by Lessee. This obligation to indemnify Lessor shall include damages, costs and expenses incurred in connection with any investigation, cleanup, remediation, monitoring, removal or restoration related to the presence of any substance. This indemnity shall survive the expiration or termination of this Agreement.

23. Miscellaneous.

(a) This Agreement constitutes the entire agreement and understanding between the parties, and supersedes all offers, negotiations and other agreements concerning the subject matter contained herein. There are no representations or understandings of any kind not set forth herein. Any amendments to this Agreement must be in writing and executed by both parties.

(b) If any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(c) This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees of the respective parties.

(d) The captions of this Agreement have been inserted for convenience only and are not to be construed as part of this Agreement or in any way limiting the scope or intent of its provision.

(e) All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to parties as follows:

Lessor (Landlord)	City of Vallejo 555 Santa Clara Street Vallejo, CA 94590 Attn: Susan McCue Economic Development Program Manager
Lessee (Tenant)	Omnipoint Communications, Inc. 1855 Gateway Blvd., 9 th Fl. Concord, Ca 94520

Lessor or Lessee may from time to time designate any other address for this purpose by written notice to the other party.

(f) If requested by Lessee, Lessor agrees, within a reasonable length of time, to execute and deliver to Lessee a recordable Memorandum of this Agreement in the form of Exhibit E.

(g) This Agreement shall be governed by the laws of the State of California. Litigation arising out of or connected with this Agreement shall be instituted and maintained in the courts of Solano County in the State of California, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

(h) Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

(i) The person signing this Agreement for Lessee hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of Lessee.

(j) Time is of the essence for the performance of each term, condition and covenant of this Agreement.

(k) This Agreement may be executed in several counterparts, each of which shall be an original, but all of which together shall constitute one and the same agreement.

(l) The captions and headings used in this Agreement are for the purposes of convenience only and shall not be construed to limit or extend the meaning of any part of this Agreement.

(m) Except as Lessor may authorize in writing, Lessee shall have no authority, express or implied to act on behalf of Lessor in any capacity whatsoever as an agent. Lessee shall have no authority, express or implied, pursuant to this Agreement, to bind Lessor to any obligation whatsoever. The sole purpose and intent of this Agreement is to create a relationship of landlord and tenant.

(n) All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

(o) Each party agrees to furnish to the other, within twenty (20) days after request, such truthful estoppel information as the other may reasonably request.

(SIGNATURES ARE ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

Omnipoint Communications, Inc.

By: 
David Gallacher

Its: Vice- President
Engineering West Region

CITY OF VALLEJO
a municipal corporation

By: _____
Joseph M. Tanner
City Manager

ATTEST: _____
Allison Villarante
City Clerk

APPROVED AS TO CONTENT:

Susan McCue
Economic Development Program
Manager

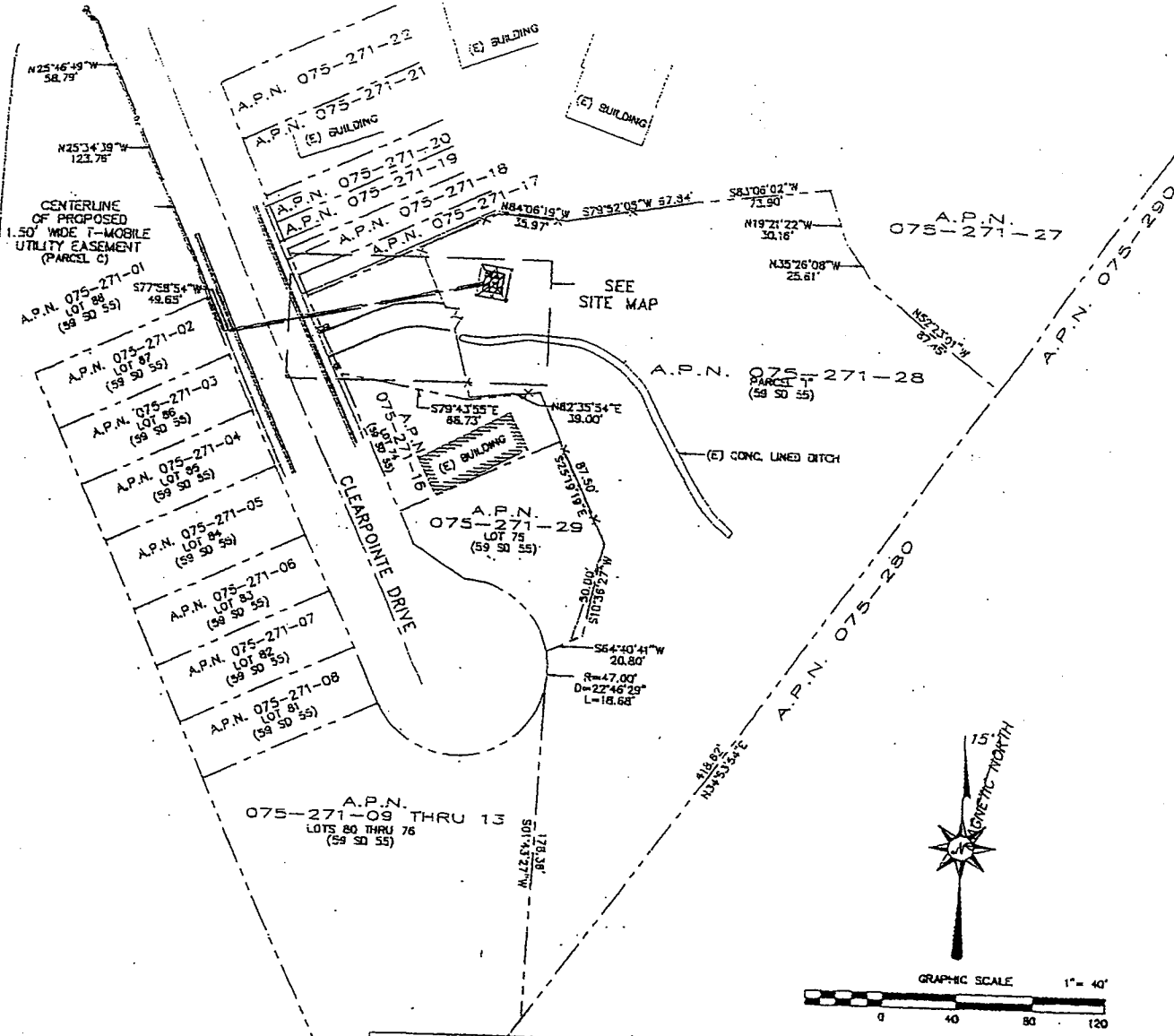
APPROVED AS TO INSURANCE
REQUIREMENTS

William R. Venski
Risk Manager

APPROVED AS TO FORM:

Frederick G. Soley
City Attorney

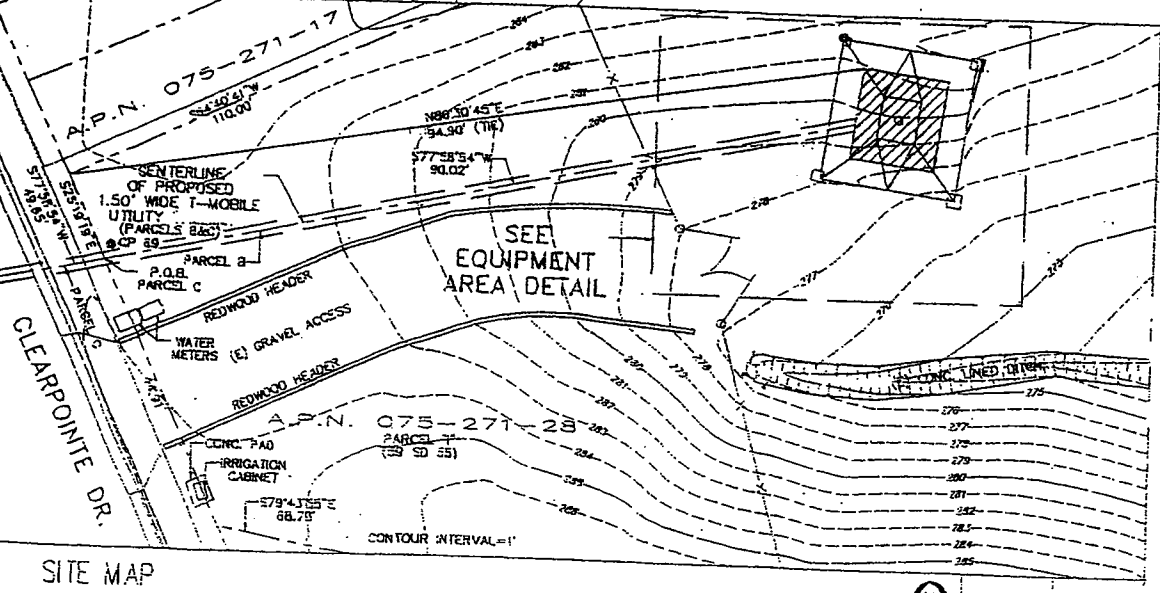
EXHIBIT B - UTILITY ENCROACHMENT



OVERALL SITE MAP

SCALE: 1" = 40'

F:\ES1 PROJECTS\1-HIBBLEY-MOBILE 2006 JOBS\RA10011\OFFICE_BA-10011 2006-06-28.prn



SITE MAP

SCALE: 1" = 10'

EXHIBIT B – PREMISES

DESCRIPTION:

The land referred to herein is situated in the State of California, County of Solano, City of Vallejo, and is described as follows:

BEING ALL OF PARCEL I AND A PORTION OF LOT 75 AS SAID LOT AND SAID PARCEL ARE SHOWN ON THAT CERTAIN SUBDIVISION MAP ENTITLED "CLEARPOINTE", FILED SEPTEMBER 12, 1990 IN BOOK 59 OF SUBDIVISION MAPS AT PAGE 51, OFFICIAL SOLANO COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL ONE:

ALL OF SAID PARCEL I (59 SD 51)

PARCEL TWO:

BEGINNING AT THE MOST EASTERLY CORNER OF SAID LOT 75 (59 SD 51); THENCE, ALONG THE BOUNDARY OF SAID LOT 75 THE FOLLOWING TWO COURSES:

SOUTH 10° 36' 27" WEST 50.00 FEET; THENCE SOUTH 64° 40' 41" WEST 7.25 FEET.

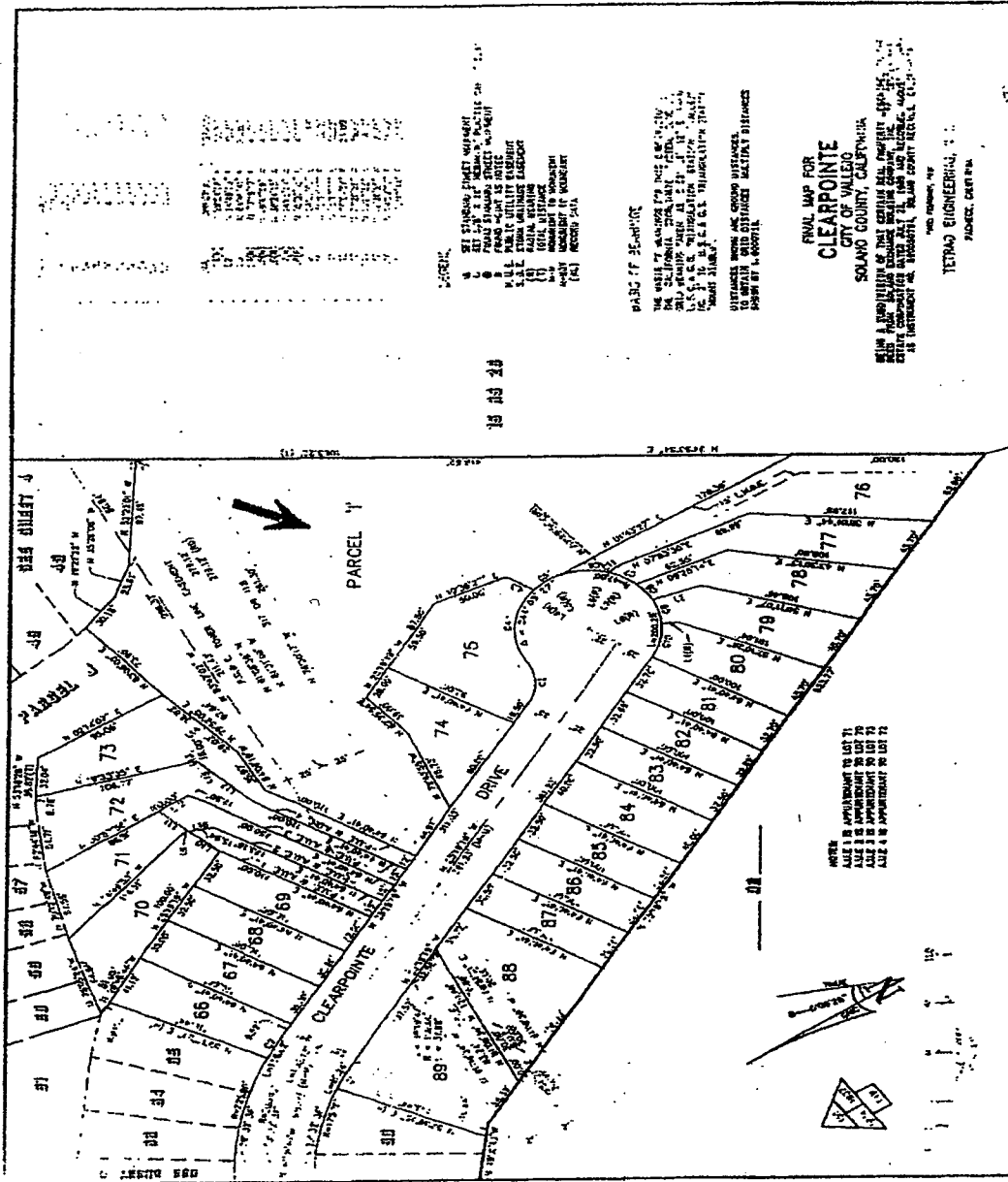
THENCE LEAVING SAID BOUNDARY NORTH 16° 46' 59" EAST 54.57 FEET TO THE POINT OF BEGINNING.

APN: 075-271-028

JAN-23-2007 10:41

P.01/01

FOR INFORMATION ON THIS PLAN TO THE
YOUR CONVENIENCE AS A GUIDE TO THE ACCURATE
LOCATION OF THE SUBJECT PROPERTY. THE ACCURACY
OF THIS PLAN IS NOT GUARANTEED, NOR IS IT A PART
OF ANY POLICY REPORT OR GUARANTEE TO WHICH
ANY RE-ATTACHMENT



LEGEND

- (A) SET BACKS
- (B) EASEMENTS
- (C) UTILITIES
- (D) FLOOD HAZARD
- (E) FLOOD HAZARD IS NOTED
- (F) FLOOD HAZARD IS NOTED
- (G) FLOOD HAZARD IS NOTED
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- (W) FLOOD HAZARD IS NOTED
- (X) FLOOD HAZARD IS NOTED
- (Y) FLOOD HAZARD IS NOTED
- (Z) FLOOD HAZARD IS NOTED

PARC OF CLEARPOINTE

THE LOTS IN THIS MAP ARE NOT TO BE CONSIDERED AS A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE INFORMATION CONTAINED HEREIN IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TO BE USED AS A BASIS FOR ANY DECISION. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED AS A BASIS FOR ANY DECISION. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED AS A BASIS FOR ANY DECISION.

FINAL MAP FOR CLEARPOINTE CITY OF MILPITAS

SOLANO COUNTY, CALIFORNIA

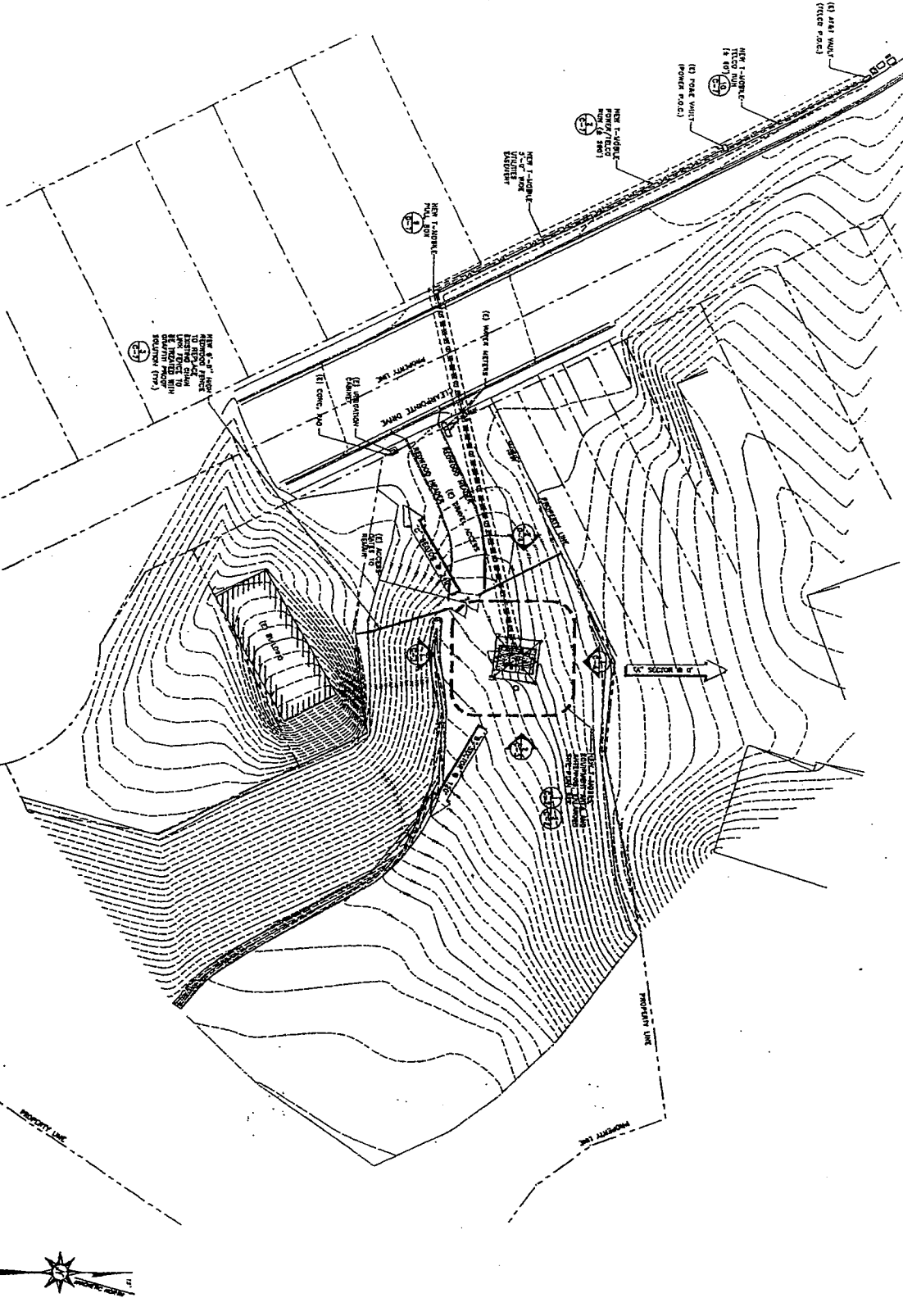
TETRAD ENGINEERING, INC.

PROJECT: CLEARPOINTE

WHERE APPROPRIATE TO LOT 71
 ALLE 1 IS APPROPRIATE TO LOT 72
 ALLE 2 IS APPROPRIATE TO LOT 73
 ALLE 3 IS APPROPRIATE TO LOT 74

59 SD 55

SITE PLAN



1" = 100' (GRAPHIC SCALE)



C-1
SHEET TITLE
SITE PLAN

PG&E TOWER CLEARPOINT
TOWER #33233

BA10011
330 CLEARPOINTE DRIVE
VALLEJO, CA 94591

OMNIPONT
by **T-Mobile**
1855 GATEWAY BLVD 9TH FLOOR
CONCORD, CA 94520

PROPRIETARY INFORMATION
NO PART OF THIS DOCUMENT IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE PROJECT ENGINEER.

DATA GROUPS ENGINEERING, INC.
CONSULTING ENGINEERS
4411 LINDENBROOK DRIVE SUITE 214
VALLEJO, CA 94588
OFFICE: (925) 484-0118
FAX: (925) 484-0288

ISSUE STATUS	
NO.	DESCRIPTION
1	PRELIMINARY
2	PERMITTING
3	CONSTRUCTION
4	OPERATION
5	DECOMMISSIONING

ACORD CERTIFICATE OF PROPERTY INSURANCE

DATE (MM/DD/YY)
10/31/06

PRODUCER
Aon Risk Services, Inc of Washington
1420 Fifth Avenue
Suite 1200
Seattle WA 98101-4030 USA

PHONE (206) 749-4800 FAX (206) 749-4860

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY A	Allianz Global Risks US Insurance Co.
COMPANY B	
COMPANY C	
COMPANY D	

INSURED
T-Mobile USA, Inc.
and its Affiliates & Subsidiaries
12920 SE 38th Street
Bellevue WA 98006 USA

COVERAGES

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

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	COVERED PROPERTY	LIMITS
A	<input checked="" type="checkbox"/> PROPERTY	CLP3007139	05/01/06	05/01/07	BUILDING	
	CAUSES OF LOSS				PERSONAL PROPERTY	
	<input type="checkbox"/> BASIC				BUSINESS INCOME <small>w/o Extra Expense</small>	
	<input type="checkbox"/> BROAD				EXTRA EXPENSE	
	<input checked="" type="checkbox"/> SPECIAL				BLANKET BUILDING	
	<input type="checkbox"/> EARTHQUAKE				BLANKET PERS PROP	
	<input type="checkbox"/> FLOOD				<input checked="" type="checkbox"/> BLANKET BLDG & PP	\$5,000,000
		<input checked="" type="checkbox"/> Deductible	\$100,000			
	<input type="checkbox"/> INLAND MARINE					
	TYPE OF POLICY					
	CAUSES OF LOSS					
	<input type="checkbox"/> NAMED PERILS					
	<input type="checkbox"/> OTHER					
	<input type="checkbox"/> CRIME					
	TYPE OF POLICY					
	<input type="checkbox"/> BOILER & MACHINERY					
	<input type="checkbox"/> OTHER					

LOCATION OF PREMISES / DESCRIPTION OF PROPERTY

Site Number: BA10011B Site Name: PG&E Tower Vallejo Site Address: 330 Clearpoint Drive, Vallejo, CA 94591.

SPECIAL CONDITIONS / OTHER COVERAGES

All Risk of Direct Physical Loss or Damage; Includes Property, BPP, BI, EE, Flood & Earth Movement; Replacement Cost - Property Damage; Actual Loss Sustained - Time Element

CERTIFICATE HOLDER

City of Vallejo
Real Property & Assessment Management,
Economic Development Department
555 Santa Clara Street
Vallejo CA 94590 USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Hay Vitales

Holder Identifier: BA10011B

570019986984

Certificate Number:



Agenda Item No. **CONSENT I**
Date: April 17, 2007

COUNCIL COMMUNICATION

TO: Honorable Mayor and Members of the City Council

FROM: Gary A. Leach, Public Works Director *GL*

SUBJECT: APPROVAL OF A RESOLUTION AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SUBMIT AN ALLOCATION REQUEST TO THE METROPOLITAN TRANSPORTATION COMMISSION (MTC) FOR REGIONAL MEASURE 2 FUNDS IN THE AMOUNT OF \$705,275, FOR THE PARKING/BUS TRANSFER FACILITY AT LEMON STREET AND CURTOLA PARKWAY

BACKGROUND

The proposed parking/bus transfer facility at Lemon Street and Curtola Parkway, is currently a Park-and-Ride lot located off of the Curtola Parkway, just west of the Lemon Street Intersection in the City of Vallejo. The Solano Transportation Authority (STA) and the Metropolitan Transportation Commission (MTC), in cooperation with the city of Vallejo, nominated the project for funding from Regional Measure 2 (RM 2), which was approved by Bay Area voters in early 2004. A total of \$12.0 million in RM 2 funds are available for this project. The RM 2 program is administered by the Bay Area Toll Authority (BATA) which is staffed and administered by the MTC.

Most of the parking spaces (approximately 410) in the existing Park-Ride lots are located to the west of the Curtola/ Lemon intersection, but an additional 90 spaces or so are in a small lot on the east side of the intersection. Both lots are typically full by 6:30 a.m., at which time motorists begin to park on adjacent streets. Up to 100 additional vehicles park on adjacent streets on a typically day, bringing the total parking usage to 600 approximately vehicles per day. The I-80/ I-780/ I-680 Major Investment and Corridor Study (MIS) completed by the Solano Transportation Authority (STA) in July of 2004 identified the need for parking for as many as 1200 cars at this location.

Vallejo Transit currently serves the site with its Route 80 buses, which operate seven days a week and provide frequent service during commute periods (six buses an hour in the peak direction). The Benicia bus route also serves the Curtola stop and provides opportunities for Benicia passengers to transfer to buses headed to the El Cerrito del Norte BART station. Vallejo passengers can connect to destinations in Benicia and to the Pleasant Hill BART station using the Benicia bus service.



The proposed parking/bus transfer facility at Lemon Street and Curtola Parkway project, once complete, would provide additional parking at this location and expand the facility into a Transit Center with improved circulation for the various bus routes that serve the facility and improved facilities for the traveling public. The proposed project is central to Regional Measure 2's strategy to mitigate congestion along the I-80 corridor between Solano, Contra Costa, Alameda, and San Francisco Counties through the development of attractive alternatives to the single occupant commuter. Once complete, the Curtola/Lemon Transit Center would reduce the number of single-occupant motor vehicles traveling in the I-80 corridor from Vallejo to the Central Bay Area during both the morning and evening commute periods.

The initial phase of this proposed project will expand upon the work done by the STA in the 2004 MIS, quantify the demand for additional parking and bus access at this location and identify options for the City and its partners (STA and BATA) to consider with respect to the proposed parking/bus transfer facility at Lemon Street and Curtola Parkway.

In addition, other sites may be evaluated as options to be used in conjunction with the parking/bus transfer facility at Lemon Street and Curtola Parkway in order to expand overall system capacity. Traffic and parking studies may be necessary to evaluate alternative options, as well as Phase I and Phase II Environmental Assessments. Parking at Curtola/Lemon will be problematic during construction, and these other sites may be utilized on a temporary or permanent basis.

Using funds from the RM 2 program, the City intends to retain a consultant to evaluate alternative sites, develop initial concept level plans for the proposed facility and complete the necessary environmental assessments and documentation. This initial request to BATA is for \$705,275.

Fiscal Impact

This project would be funded 100% from RM 2 revenues.

ENVIRONMENTAL REVIEW

The environmental assessment and review of this project will be completed as a part of the application for RM2 funding. The allocation request itself is not an action with a direct or indirect foreseeable environmental impact, and therefore, does not qualify as a project under CEQA.



ALTERNATIVES CONSIDERED

None

PROPOSED ACTION

Approve resolution authorizing the City Manager or his designee to submit an allocation request to the Metropolitan Transportation Commission (MTC) for Regional Measure 2 funds in the amount of \$705,275, for the parking/bus transfer facility at Lemon Street and Curtola Parkway.

DOCUMENTS AVAILABLE FOR REVIEW

- a. A resolution authorizing the City Manager or his designee to submit an allocation request to the Metropolitan Transportation Commission (MTC) for Regional Measure 2 funds in the amount of \$705,275, for the parking/bus transfer facility at Lemon Street and Curtola Parkway.
- b. Draft Initial Project Report

CONTACT PERSONS

Gary A. Leach, Public Works Director
(707) 648-4315
gleach@ci.vallejo.ca.us

Crystal Odum Ford, Transportation Superintendent
(707) 648-52441
codumford@ci.vallejo.ca.us

APRIL 17, 2007

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RESOLUTION NO. 07-_____ N.C.

BE IT RESOLVED by the Council of the City of Vallejo as follows:

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

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

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

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

WHEREAS, the City of Vallejo is an eligible sponsor of transportation projects in Regional Measure 2, Regional Traffic Relief Plan funds; and

WHEREAS, the Vallejo Parking/Bus Transfer Facility at Lemon Street and Curtola Parkway is eligible for consideration in the Regional Traffic Relief Plan of Regional Measure 2, as identified in California Streets and Highways Code Section 30914(c) or (d); and

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

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

BE IT FURTHER RESOLVED that the City of Vallejo certifies that the project is consistent with the Regional Transportation Plan (RTP).

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

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

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

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

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

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

BE IT FURTHER RESOLVED that the City of Vallejo is authorized to submit an application for Regional Measure 2 funds for the Vallejo Curtola Transit Center in accordance with California Streets and Highways Code 30914(c); and

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

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

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

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

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

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

BE IT FURTHER RESOLVED that assets purchased with RM2 funds including facilities and equipment shall be used for the public transportation uses intended, and should said facilities and equipment cease to be operated or maintained for their intended public transportation purposes for its useful life, that the Metropolitan Transportation Commission (MTC) shall be entitled to a present day value refund or credit (at MTC's option) based on MTC's share of the Fair Market Value of the said facilities and equipment at the time the public transportation uses ceased, which shall be paid back to MTC in the same proportion that Regional Measure 2 funds were originally used; and

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

BE IT FURTHER RESOLVED that the City Council of the City of Vallejo authorizes its City Manager or his designee to execute and submit an allocation request for the environmental phase with MTC for Regional Measure 2 funds in the amount of \$705,275, for the project, purposes and amounts included in the project application attached to this resolution; and

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

NOW, THEREFORE, BE IT RESOLVED, that a copy of this resolution be transmitted to MTC in conjunction with the filing of the City of Vallejo application referenced herein.

APRIL 17, 2007

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PUB HRG
A

Agenda No.

COUNCIL COMMUNICATION

Date: April 17, 2007

TO: Honorable Mayor and Members of the City Council

FROM: Craig Whittom, Assistant City Manager/Community Development *CW*
Brian Dolan, Development Services Director *BD*
Don Hazen, Planning Manager *DH*

SUBJECT:

Consideration of an appeal of the Planning Commission's denial of Use Permit #06-0011 and Use Permit #06-0012 for the construction of a 5,563 square foot single family home at 915 Wilson Avenue and a 5,026 square foot single family home at 913 Wilson Avenue.

BACKGROUND AND DISCUSSION:

On September 18, 2006, the Planning Commission considered a proposal for the construction of two single family homes on vacant parcels located at 913 and 915 Wilson Avenue. This item had been continued from the August 21, 2006 public hearing per the Planning Commission's request for further analysis of neighborhood compatibility (related to scale, bulk, coverage and density) and an analysis of the feasibility of commercial uses on the ground floor of the homes. The Commission also requested clarification on the applicability of the "Residential View District" policies for visual impacts created outside of the Residential View District boundary (see Exhibit 3- memo to Planning Commission).

The original proposed square footage for the Cape Cod style homes was 5,563 square feet (915 Wilson) and 5,026 square feet (913 Wilson) with proposed heights of 34'3" and 34'10," respectively. The Planning Division's major concerns were related to the overall mass of the structures relative to surrounding structures, the height of the structures based on neighborhood concern about view blockage, and the consistency of proposed roofing material with the surrounding neighborhood character.

The Planning Commission's major concerns about the proposed homes were also related to the overall mass and height, the square footage of habitable space, the use of the non-habitable space, and the size of the proposed center cupola at 913 Wilson Avenue (see Exhibit 2-Planning Commission minutes).

Letters of concern regarding the project and requests for story poles were received from staff by the Vallejo Heights Neighborhood Association and a resident of the neighboring Lighthouse Condominiums.

In response to the expressed concerns, the applicant submitted revised section drawings (without a floor plan or elevations for three sides of the buildings) at the second Planning Commission hearing, which illustrated a height reduction of five feet for both homes.

The applicant stated that the height reduction also reduced the square footage of the homes from 5,563 gross square feet to just under 5,000 (living area square footage 3,169) at 915 Wilson Avenue and from 5,026 gross square feet to 3,600 (living area square footage 2,995). Staff was unable to confirm what effect the five foot reduction in height would have on the homes (beyond less view blockage), due to the fact that no revised floor revised plans or elevations were submitted.

The Planning Commission voted on two motions:

- Approval of the applications with the restriction of 3,000 square feet maximum for the habitable area of the homes, and a special emphasis on the Planning Division's conditions in the staff report. This motion failed 4 no's, 1 yes.
- A substitute motion limiting the habitable area of both homes to 1,900 square feet, a maximum height of 25 feet, no future conversion of non-habitable space to habitable space, and no obligation of staff to accept the plans submitted at the hearing. This motion also failed 3 no's , 2 yes

Without a successful motion to approve, the project was deemed denied. On September 28, 2006, the applicant filed an appeal of the Planning Commission's failure to approve the two use permits.

Since the hearing, staff received a letter stating opposition to the use permits from Vallejo Heights Neighborhood Association (see Exhibit 4). The Association's continued opposition is based on their belief that the homes are not harmonious with existing single family homes within 500 feet of the subject sites; that the structures will impede views of many neighbors; and the faulty assumption (in their opinion) of the appellant that the size of the proposed homes has been reduced if one only considers the "living area" square footage instead of the overall building square footage.

After a reexamination by staff of both the proposed project and the allowed uses (with limitations) within the current zoning district of Waterfront Shopping and Service District (CW), it was determined that the proposed homes were neither consistent with the surrounding neighborhood in regards to overall height and square footage or with the purpose of allowed residential uses in the CW district.

PREVIOUS RECOMMENDATION:

Staff's original recommendation for approval of the two homes to the Planning Commission required the following two modifications to the homes:

- A minimum five foot reduction in height to the homes in order to bring them closer in

compatibility with the surrounding neighborhood in terms of both height and square footage.

- An alternate roofing material which would be compatible with the composition roofs in the surrounding neighborhood.

Staff still believes that these two modifications would aid in bringing the homes closer to consistency with the surrounding neighborhood in terms of height and design; however, as stated earlier in this report, because staff has not received a full set of revised plans from the applicant, staff cannot decisively conclude that the proposed height reduction would make the proposed homes compatible in mass and scale with the surrounding neighborhood.

REVISED RECOMMENDATION:

Subsequent to the Planning Commission meeting, Planning staff determined that the project as proposed does not comply with the zoning regulations for the Commercial Waterfront District. This determination is based on the following sections of the Vallejo Zoning Ordinance:

- Section 16.26.010: "The purpose of Section 16.26.010 through Section 16.26.070, inclusive, is to create and establish regulations for a waterfront shopping and service district, in which the development of marine-oriented activities adjacent to the city's waterfront is encouraged."
- Section 16.57.020(B): "Dwelling units shall be permitted only when located on other than the street level of the building; except in the waterfront shopping and service district where ground level dwelling units associated with the waterfront may be permitted, upon issuance of a major use permit, as prescribed in Chapter 16.82."
- Section 16.82.060(l): "Dwelling units in commercial districts shall be located on other than the street level of a building, except that ground level dwellings may be permitted in commercial districts if they meet the following criteria: 1) The dwelling is attached to a commercial facility; 2) The parcel of land upon which the dwelling is constructed abuts a residential zone; 3) The dwelling faces the residential zone, although its entrance may be oriented to either the residential or the commercial zone."

Staff believes the project is not consistent with the purpose of the waterfront shopping and service district as described above. The City Attorney has been consulted and agrees with this determination. Staff also notes that dwelling units "associated with the waterfront" are difficult to define. If the properties were to include a dock, which the applicant has represented that they will, the units could minimally be considered to be "associated with the waterfront."

While project compliance with the first two criteria is debatable, the proposed homes are clearly not consistent with Section 16.82.060(l)(1) which requires that any dwellings on the

ground floor in the WC district must be "attached to a commercial facility." The project does not include a commercial facility nor do the sites appear to be large enough to accommodate such a facility with associated required parking.

With these factors in mind, staff has suggested that the applicant consider either: a) submitting a revised plan that incorporates a commercial component as required by the code and addresses the design and scale considerations expressed by the neighbors, or b) pursue a zoning amendment application to change the zoning designation from CW to one of two zoning designations (LDR, PDR) compatible with the General Plan which would allow residential uses. The applicant has declined to pursue either of these suggestions.

Staffs recommendation to deny the applicant's appeal is based on the following findings:

1. The proposed dwelling units are not attached to a commercial facility as specified in Section 16.82.060(l) of the Vallejo Municipal Code; and
2. The proposed development size and design will not be compatible with adjacent uses, building or structures, with consideration given to harmony in scale, bulk, coverage, and density, as specified in Section 16.82.050(A) of the Vallejo Municipal Code.

ALTERNATIVES CONSIDERED:

As cited above in the Background and Discussion section of this report, the Planning Commission did offer two motions for the projects which failed. Though detailed discussion was not presented by either of the two Commissioners as part of their motions, it was apparent from their earlier comments and questions during the hearing that their rationale for a reduction in the living square footage of the homes was as follows:

- 1) to bring the homes closer to consistency with existing square footages of structures in the neighborhood and;
- 2) to have custom home living area square footages that one would expect when taking into account the size of today's subdivision home square footages

These two motions are contrary to the more recent conclusions and regulatory interpretation of the City Attorney regarding the current zoning of the property.

If the Council accepts the staff conclusion that the project as proposed does not meet the current requirements of the WC district but also feels that residential use of the properties are more appropriate than commercial or mixed use, the Council could ask staff to pursue a rezoning of the property. The Low Density Residential district (LDR) would allow the homes, subject to a site development permit. The Planned Development Residential district (PDR) could also allow the single family homes but would also allow the City to craft site specific development criteria and design guidelines to address neighborhood compatibility issues.

ENVIRONMENTAL REVIEW:

The project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303 (a), Class 3. The project consists of two single family homes on two lots in a zone where residential units are allowed with a use permit.

PROPOSED ACTION:

Deny the applicant's appeal of the Planning Commission's denial of Use Permits 06-0011 and Use Permit 06-0012 based on the findings of this staff report.

DOCUMENTS ATTACHED:

- Exhibit 1. Resolution denying the appeal of the Planning Commission's denial based on the Planning Division's original and additional conditions of approval
- Exhibit 2. Appellant statement letter dated September 28, 2006
- Exhibit 3. Vallejo Heights Neighborhood Association opposition letter
- Exhibit 4. September 18, 2006 memo to the Planning Commission and applicant's revised plans given to staff at the hearing
- Exhibit 5. December 4, 2006 Planning Commission staff report, Attachments, and opposition letter from Darrell Schramm dated August 7, 2006
- Exhibit 6. September 18, 2006 Planning Commission minutes
- Exhibit 7. Conflict of Interest radius map

CONTACT:

Don Hazen, Planning Manager
(707) 649-5458 or dhazen@ci.vallejo.ca.us

Marcus Adams, Associate Planner
(707) 648-5392 or marcusadams@ci.vallejo.ca.us

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RESOLUTION NO. _____ N.C.

A RESOLUTION UPHOLDING THE PLANNING COMMISSION DENIAL OF USE PERMIT #06-0011 AND USE PERMIT #06-0012 FOR THE CONSTRUCTION OF TWO SINGLE FAMILY HOMES LOCATED AT 913 AND 915 WILSON AVENUE

BE IT RESOLVED by the City Council of the City of Vallejo as follows:

WHEREAS, on September 18 2006, the Planning Commission held a public hearing to consider Use Permit #06-0011 and Use Permit #06-0012 to allow two single family homes at 913 and 915 Wilson Avenue; and

WHEREAS, on September 18, 2006, on completion of the public hearing, the Planning Commission failed to approve two motions constituting a denial of Use Permit #06-0011 and Use Permit #06-0012 ; and

WHEREAS, a timely appeal of the Planning Commission denial was filed with the City Clerk by Dana Dean on behalf of Clayton Ranch Developers and Harold Boex, on September 28, 2006; and

WHEREAS, the City Council has reviewed the report provided to the Planning Commission on Use Permit #06-0011 and Use Permit #06-0012 and the minutes from the public hearing held on September 18, 2006, and all other comments and information provided by the applicant; and

WHEREAS, the City Council, on April 17, 2007, in the City Council Chambers of City Hall, 555 Santa Clara Street, held a public hearing to consider the appeal to the Planning Commission denial of Use Permit #06-0011 and Use Permit #06-0012 ; and

WHEREAS, all interested persons filed written comments with the City Clerk at or before the hearing, all persons desiring to be heard were given an opportunity to be heard in this matter, and all such verbal and written testimony was considered by the City Council.

NOW, THEREFORE, IT IS FOUND AND DETERMINED by the City Council of the City of Vallejo that after consideration of all the evidence in the record, including the staff report, written correspondence, and testimony, that:

1. The location, size, design and operating characteristics of the proposed conditional use will not be compatible with adjacent uses, building or structures, with consideration given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities, to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity and physical character of surrounding streets; and to any other relevant impact of the proposed use;

2. The proposed dwelling units are not attached to a commercial facility as specified in Section 16.82.060(I) of the Vallejo Municipal Code

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby denies the appeal and upholds the Planning Commission's denial of Use Permit #06-0011 and Use Permit #06-0012

April 17, 2007

k/citywide/public/ai/pl/913-915Wilson-appeal(resolution-denial)

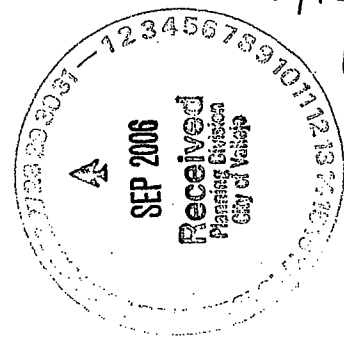
LAW OFFICES OF
DANA DEAN
835 First Street
Benicia, California 94510

Dana Dean
Lindsey Stern
Amber Vierling, Of Counsel

Tel (707) 747-5206
Fax (707) 747-5209
www.danadean.com

September 28, 2006

City Council
City of Vallejo
555 Santa Clara Street
Vallejo, California 94590



Re: APPLICATION FOR MAJOR USE PERMIT
913- 915 WILSON AVENUE
APPEAL OF PLANNING COMMISSION DETERMINATION

Dear Councilmembers:

This office represents Clayton Ranch Developers and Harold Boex, the owners of 913-915 Wilson Avenue, regarding the above-referenced application for a major use permit. Planning Staff has recommended approval of the application.

The application came before the Planning Commission in a series of hearings culminating in a hearing on September 18, 2006. Despite Staff's recommendation, the Commission failed to approve the application. Pursuant to §16.102.020 of the Vallejo Municipal Code, please accept this correspondence as a formal appeal of the Commission's determination. We are filing this appeal, because there was no legitimate basis for the Planning Commission's refusal to approve the project, as the application met all legal requirements for a major use permit at the site, including but not limited to the Vallejo Municipal Code.

The applicants are adversely affected by the Planning Commission's refusal to approve the project in that they cannot develop the property in a manner to which they are legally entitled.

As the record of the Planning Commission hearing is not yet available, please expect a detailed brief prior to hearing.

Respectfully Submitted,


Dana Dean
DD/ca



NOV 29 2006

November 28, 2006

Mayor Intintoli
Vallejo City Council
Vallejo City Hall
555 Santa Clara Street
Vallejo, CA 94590

Re: No-vote Appeal of Use Permits 06-0011 and 06-0012

Dear Mayor Intintoli and City Council Members:

The purpose of this letter is to express Vallejo Heights Neighborhood Association's (VHNA) opposition to the approval of the appeal of use permits 06-0011 and 06-0012 by applicant Hal Boex because of the location and scale of the proposed buildings. Additionally, VHNA recognizes that the parcel is zoned for residential and waterfront commercial development; however, we also consider the proposal inconsistent with current community standards due to subsequent developments in the area in the years since the zoning was established. Therefore, we are requesting the appeal be denied.

VHNA carefully monitors reviews and comments on proposed developments within its boundaries to ensure that development is in harmony with existing development and adheres to current ordinances like the City of Vallejo's residential view ordinance. The proposed parcels at 913 and 915 Wilson Avenue fall within our boundaries and if not included in the Residential View District (RVD), are less than 500 feet from it and overlooked by properties situated in the RVD.

The applicant has proposed each dwelling be 2 ½ stories, with an approximate height of 34 feet and each structure with total floor area of approximately 5,000 square feet *. Clearly, this proposal is not in harmony with existing single-family structures within 500 feet of the applicant's property. Furthermore it is not consistent with more recent community standards for development, particularly in light of the Wilson Avenue Project, Phases I and II which resulted in virtually all other structures being permanently removed from the west side of Wilson where these parcels are located.

Additionally, the proposed structures are situated adjacent to a residential view district and at the proposed scale will obstruct and impede views of many of our residents. VHNA considers this type and scale of land use – in such close proximity to the Napa River and adjacent wetlands – to be inappropriate and we believe it is neither congruent nor harmonious with current community standards for development. Most importantly, every neighborhood group whose residents will have to live with the ramifications of such a large-scale project has opposed it and already voiced their opposition to the Planning Commission.

However, although VHNA requests a denial of the appeal, in the event that Council approves it, VHNA requests that conditions be placed on the use permits so that the proposed structures each have a floor area of no more than 2,000 square feet in contrast to the applicant's current request of 5,000* square feet each. This will at a minimum make the structures consistent and more harmonious with structures on adjacent parcels and reduce potential impact on views.

Finally, we strongly urge the Mayor and each Councilmember member to visit the site in person to view the impact of the applicant's proposed development on existing property owners and carefully reflect on that impact before taking any action on the applicant's proposed development.

VHNA very much appreciates all thoughtful review by the City Council of any development on highly valuable and visible parcels of land within the Vallejo Heights Neighborhood Association boundaries.

Sincerely,

A handwritten signature in black ink that reads "David I. Cates". The signature is written in a cursive style with a large, looping initial "D".

David Cates

President

Vallejo Heights Neighborhood Association


Cc. Bill Toika

**It is VHNA's understanding that the applicant recently reduced the amount of square footage by not counting some of the area included in his original proposal to the Planning Commission of 5,000 square foot structures. However, the actual size of the structures was not reduced, and so VHNA requests the Council use the actual (and original) 5,000 square feet, as this is what will impact the neighborhood regardless if the applicant chooses to exclude some of the structures' square footage from his totals.*

**DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION
CITY OF VALLEJO**

September 18, 2006

TO: Planning Commission

FROM: Bill Tuikka, Associate Planner 

SUBJECT: UP 06-0011 and UP 06-0012, 913 and 915 Wilson Avenue

At the Planning Commission meeting of August 21, 2006, the Commission, in its motion to continue the above-referenced items, requested that Planning Staff perform an analysis that would compare the project to other neighboring dwellings in the area of compatibility of scale, bulk, coverage and density. Additionally, the Commission requested that staff analyze the potential for commercial uses on the first floor level.

Consistency with Surrounding Neighborhood

The surrounding neighborhood to the east consists of the Lighthouse at Bridgeport Condominiums, which is mostly configured in two-story buildings containing two units and a total of approximately 1,640 square feet to 1,900 square feet, and one larger building containing four units and a total of 3,272 square feet. These buildings are approximately 28 to 30 feet high. Slightly south and east of the project site is Lighthouse Court, containing 16 single family homes, eight of which are two-story, containing a total of 1,825 square feet including garage, and eight are one-story, ranging from 1,700 square feet to 1,790 square feet, including garage. These houses are a maximum height of 24 feet.

Based on this analysis, the proposed houses of 5,563 and 5,026 square feet and 35 feet high are significantly larger than any of the surrounding residential dwellings and are not compatible as proposed and displayed at the Planning Commission hearing on August 21. However, staff continues to believe that the proposed houses at 913 and 915 Wilson Avenue, if reduced in height by 5-feet to a total of 30 feet, as required by the recommended conditions of approval, would be more compatible with the neighborhood as the reduction in height would also result in a reduction of square footage. A reduction in height by 5-feet would result in buildings that appear to be 24 feet high from Wilson Avenue, as the base elevation of the dwellings is approximately 5-feet lower than Wilson Avenue. Staff believes that the proposal would then be substantially compatible with the surrounding neighborhood.

Allowed Uses in the Waterfront Shopping and Service Zone

The Commission also requested that a zoning analysis be performed to determine what commercial activities would be allowed on the site. Chapter 16.26 of the Municipal Code, Waterfront Shopping and Service District allows as permitted uses civic uses such as picnic areas, swimming areas and historic sites. Other permitted uses would include general retail sales, lodging, parking services and telecommunications facilities. Please be aware that even though a use is a "permitted use" in the zoning district, adequate parking must be supplied.

The CW zone also lists many permitted uses that are subject to limitations. These include Cultural exhibits and library services, automotive and equipment: sales or rental, business equipment, sales and services, consumer repair services, and small scrap operations or collection facilities. The limitation on these above-listed uses is that they must include a marine-related component such as sales or servicing of boats, sales of marine-related products or contain historical or marine related cultural exhibits.

Finally, there are several uses which would require a major use permit. These include residential uses, Civic uses such as administration buildings, ambulance services, clinics, community recreation, and postal services. A major use permit is also required for commercial uses such as automotive and heavy equipment repair, gasoline sales, convenience sales and personal services, and indoor participant sports and recreation and bingo. Any type of marine-related live-work use also requires a use permit.

Findings for Denial

The Planning Commission, at the August 21 hearing, stated that the facts as presented to them, including the fact that the applicant had not provided story poles, seemed to show that the proposed structures were too big for the neighborhood. Commissioners requested that staff provide them with findings for denial. The following findings would allow the Planning Commission to deny the project as presented.

Findings:

1. The location, size, design and operating characteristics of the two single family homes, as proposed and described in UP06-0011 and UP06-0012, are not compatible with adjacent buildings and structures.
2. The proposed structures described in UP06-0011 and UP06 -0012 are not harmonious in scale and bulk with the surrounding neighborhood, as the structures are considerably taller and contain more square footage than the surrounding single family and multi family dwellings.
3. The proposed dwellings, as shown in the drawings provided, are not compatible and will have a harmful effect on neighborhood character.



MEMORANDUM

OFFICE OF THE CITY ATTORNEY CITY OF VALLEJO

TO: **Members of the City of Vallejo Planning Commission
Brian Dolan, Development Services Director**

FROM: Frederick G. Soley, City Attorney
Claudia Quintana, Assistant City Attorney CQ

DATE: **September 18, 2006**

SUBJECT: The View District

Background

On August 21, 2006, Commissioner McConnell requested legal authority on the issue of "What is the impact of the presence of a view ordinance in a district when a project that adjoins that view district, but is not within that district impacts upon the views that are provided to that district."

The general rule with regard to views is that in the absence of a statute or ordinance giving property owners that right, California landowners do not have a right of access to air, light and view over adjoining property. (*Wolford v. Thomas* (1987) 190 Cal.App.3d 347, 358 [235 Cal.Rptr.422].)

The City of Vallejo has a zoning ordinance which establishes a "Residential View District" (see Chapter 16.36 of the Vallejo Municipal Code.) The purpose of that chapter is to "...create regulations for residential view districts which recognize that many of the city residential neighborhoods are located on hills, thus affording residents panoramic views of the surrounding natural and manmade environment.... Thus, it is the intent of this district to perpetuate this development pattern to the maximum extent practicable." Vallejo's zoning ordinance, however, does *not* create a right for owners regarding access to air, light and view over adjoining property. The special "view district" promotes the general health and welfare of the *public* through:

- A. The protection, enhancement, and perpetuation of views to the residents of the unique topographical features which the Vallejo area offers, or that provide unique and irreplaceable assets to the city;

- B. The retention of views;
- C. The establishment of a design review process by which the city may pursue in conjunction with property owners the objective that views enjoyed by residents of the city will not be significantly obstructed;
- D. The protection of views as it pertains to the general plan goals and policies to preserve the natural character of the hillsides.

However, the means selected to carry out these ends are merely zoning regulations, which run with the land to which they are attached by means of a notice of restriction. (See VMC 16.36.040.) The properties restricted in this way are subject to review and evaluation if and when exterior changes or new structures are to be constructed. (See VMC 16.36.030.) No private rights are articulated.

It should be noted at this point that a "view district" is different than a "view ordinance". Normally a "view ordinance" is a law adopted by some cities or towns with desirable vistas -- such as those in the mountains or overlooking the ocean -- that protects a property owner from having his or her view obstructed by growing trees. Because view ordinances are particular to each municipality, there is no centralized way of comparing them, or of ascertaining what happens in the event of a lawsuit. It seems clear, however, that two distinctive items separate view ordinances from the "view district" which is contained in the Vallejo Municipal Code. First, view ordinances tend to give a landowner a right of action if his/her view is obstructed, and secondly, there is generally a mechanism for resolution of neighborly disputes.

In comparison, a "view district" is a land regulation tool which governs the uses and development in a particular district. A private person has no rights under it, other than bringing a potential zoning violation to the attention of city staff, who has the power to enforce the Code. Likewise, staff has the discretion and the responsibility to enforce the view district regulation in the course of their work. However, private rights of action and neighbor mediations are outside the scope of the "view district" regulations.

The following View Ordinances were obtained for purposes of comparison with the "view district" description contained in the Vallejo Municipal Code. Note that they all contain either a recognition of a private right to a view, or a mediation mechanism or both.

1. Town of Tiburon:

Section 15-1. Purpose and Principles.

The purposes of this Chapter are to:

- A. Establish the right of persons to preserve views or sunlight which existed at any time since they purchased or occupied a property from unreasonable obstruction by the growth of trees.
- B. Establish a process by which persons may seek restoration of such views or sunlight when unreasonably obstructed by the growth of trees or other vegetation (see definition of "Tree")...

2. City of Oakland:

VIEW ORDINANCE

Title 15, Chapter 15.52 of the Oakland Municipal Code (OMC) provides a claim procedure to compel the removal of trees that may obstruct private views and which existed at the time the claimant acquired his or her property. Certain trees that are part of the natural habitat are exempt from this code. The City does not take an active role in these issues; rather, it encourages the private resolution of such disputes. If a view dispute cannot be resolved privately, and if a claimant prevails through court trial or judicial arbitration, a civil penalty of \$1,000 may be imposed upon the defendant. The claimant generally bears the cost of tree removal, but splits the cost with the tree owner if the tree was planted after August 5, 1990. The tree owner bears all costs if he or she fails to cooperate in a non-judicial resolution of the view dispute and if he or she receives an adverse judicial decision.

3. City of Laguna Beach:

View Preservation Ordinance.

On November 4, 2003, the City amended its View Preservation Ordinance ("View Ordinance"). The intent of the View Ordinance is to:

- 1) Recognize that property owners are entitled to a process to resolve disputes related to view and sunlight access obstruction by trees or vegetation located within 500 feet of their property.
- 2) Establish procedures and evaluation criteria by which property owners may seek resolution of view and sunlight access disputes.
- 3) Discourage damage to trees or vegetation and promote proper landscaping maintenance.

View Equity/Sunlight Claim Resolution Process

The goal of the View Equity/Sunlight Claim Resolution Process is to facilitate the preservation of view equity and/or sunlight access that has been obstructed by trees or vegetation. The City's View Ordinance applies to any view or sunlight obstruction that occurs after the Ordinance effective date of December 4, 2003. The View Ordinance does not guarantee that any particular view remediation action will be implemented. The City's View Ordinance establishes a process that is designed to promote a reasonable balance between the values of trees or vegetation and of maintaining view equity and sunlight access. The View Ordinance encourages reasonable cooperation from the tree or vegetation owner. If there is no such cooperation, a complainant with a View Claim may initiate a civil action. The steps outlined below are presented as a summary of the process. It is imperative that the complainant obtain and review a copy of the City's View Ordinance before proceeding with the View Equity/Sunlight Claim Resolution Process. Initial Discussion is the First Step for a complainant to attempt resolution of the view equity and/or sunlight access issue with a neighboring tree/vegetation owner. The complainant shall invite the tree/vegetation owner to view the alleged obstruction

from the complainant's property, and the tree/vegetation owner is urged to invite the complainant to view the situation from his/her property. If an agreement regarding resolution of the view and/or sunlight access issue is attained, then that agreement is implemented. If the discussion does not result in a mutually agreeable solution, the complainant may file a claim with the City as described below in the second step.

4. **City of El Cerrito:**

10.90.110 Principles.

This Chapter is enacted in recognition of the following findings:

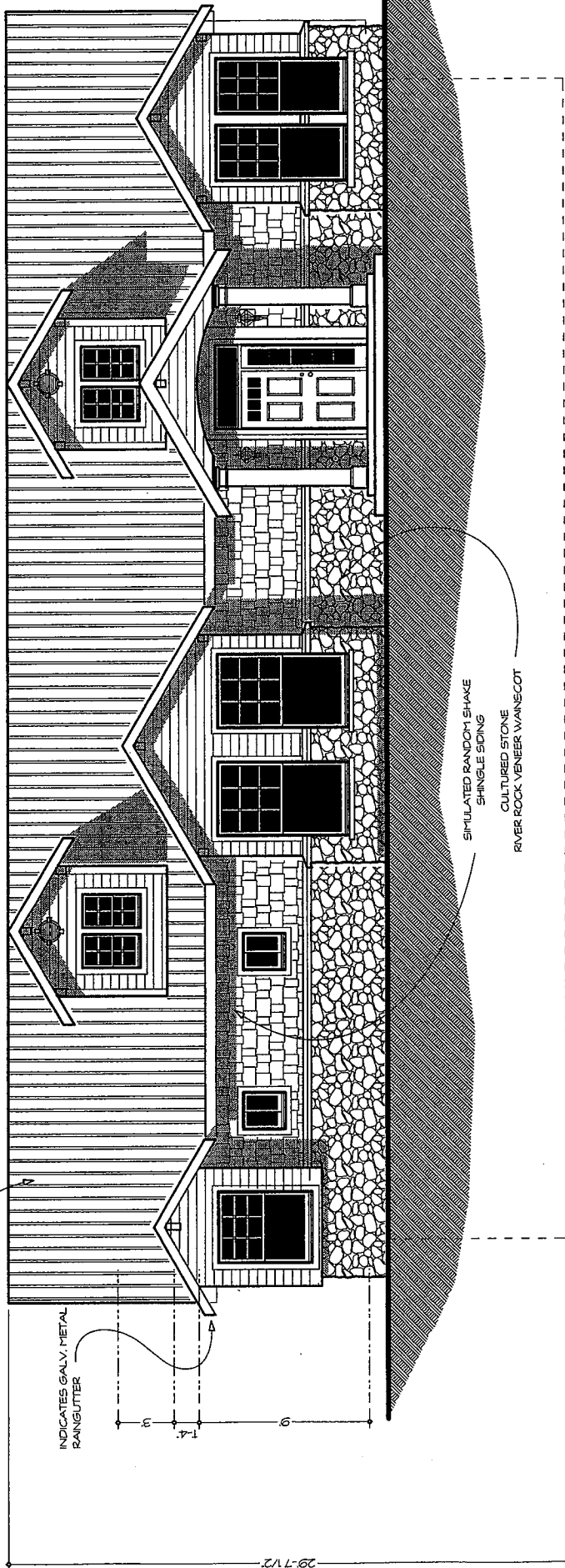
- A. The attractiveness and livability of the city are enhanced by its trees and its views of surrounding areas obtained from the range of elevations found in the city;
- B. Both views and trees contribute to the quality of life in El Cerrito and promote the general welfare of the entire community;
- C. Views and trees contribute to both the economic and the aesthetic value as well as the public health benefits to the community;
- D. When disputes arise over views obstructed by trees, neighbors are expected to make every effort to come to agreement among themselves and maintain positive relationships within the community;
- E. When all efforts have failed to produce an agreement, it is the intent of this chapter to provide a method to resolve disputes between neighbors and to allow the balancing of the benefits of both treescapes and beautiful views. (Ord. 2004-1 Div. 1 (part), 2004.)

Conclusion

The City of Vallejo does not have a view ordinance. It has a 'view district' which affords only a limited opportunity to review proposed plans through a design review process applicable only to property located "in a residential view district" (16.36.030). If there were a view ordinance, such ordinance might apply to everyone, regardless of whether their property were located in a particular district, or not. As it is, the impact of a project adjoining a 'view district' which blocks the view of residents of that district is not recognized by the ordinance, as the ordinance does not give individual owners a right to a view, nor does it establish a process for resolution of the obstructed view.

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CONSULT W/ OWNER
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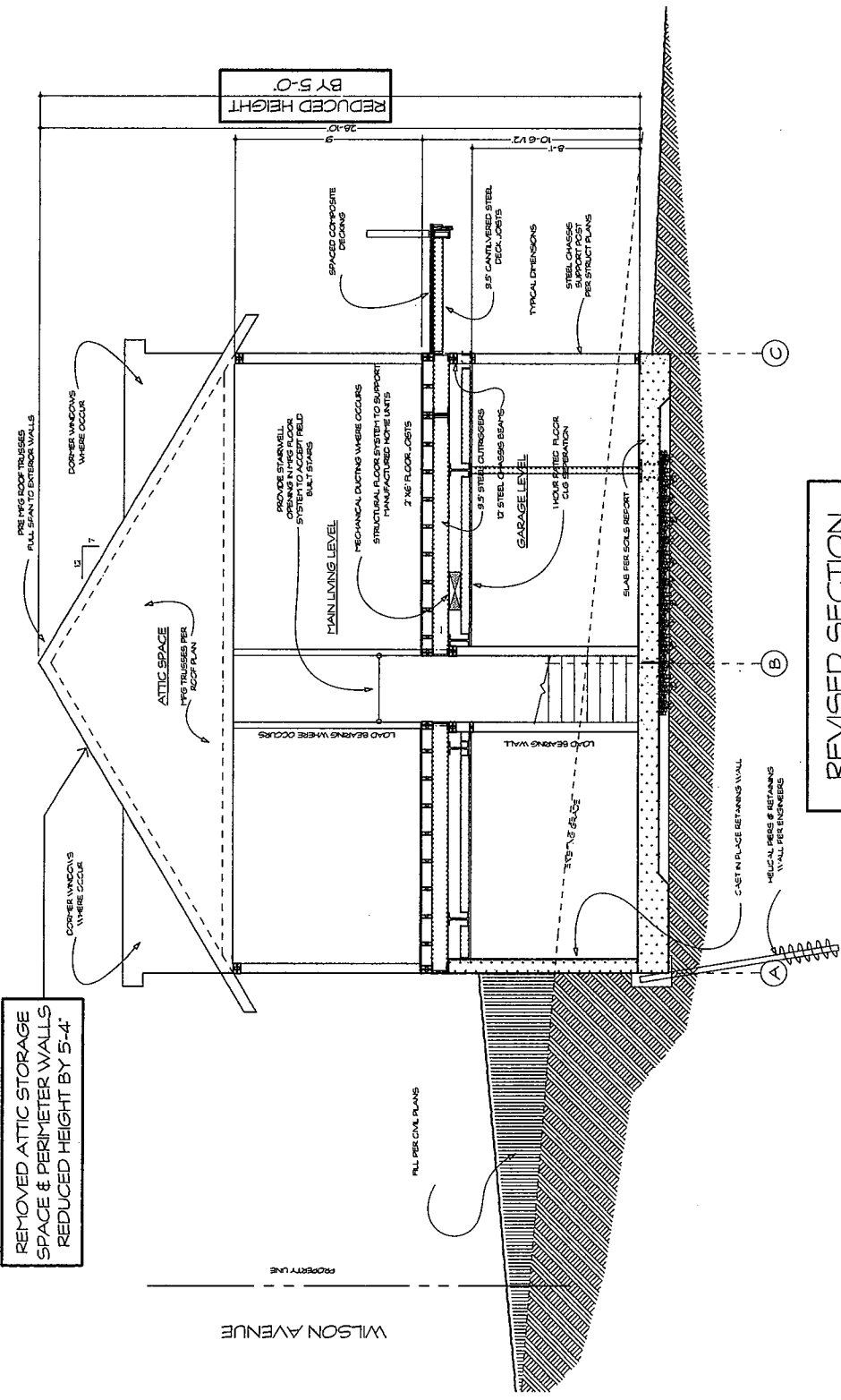
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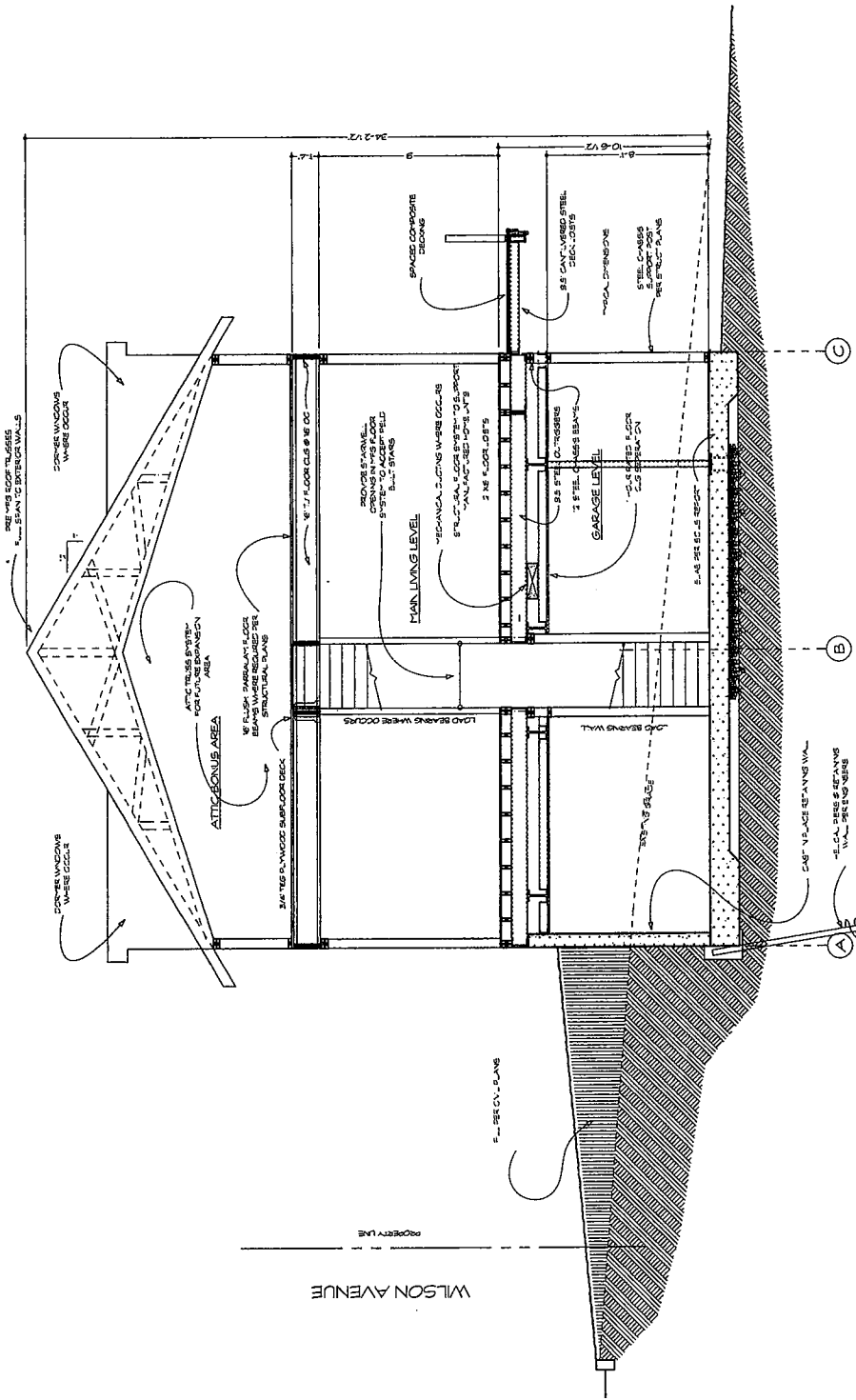
SIMULATED RANDOM SHAKE
SHINGLE SIDING
CULTURED STONE
RIVER ROCK VENEER WAINECOT

REVISED FRONT ELEVATION - REDUCED HEIGHT BY 5'

REMOVED ATTIC STORAGE
SPACE & PERIMETER WALLS
REDUCED HEIGHT BY 5'-4"



REVISED SECTION
913 WILSON AVENUE



THIS SECTION INDICATES
BUILDING HEIGHT PER
DESIGN REVIEW SUBMITTAL

SECTION

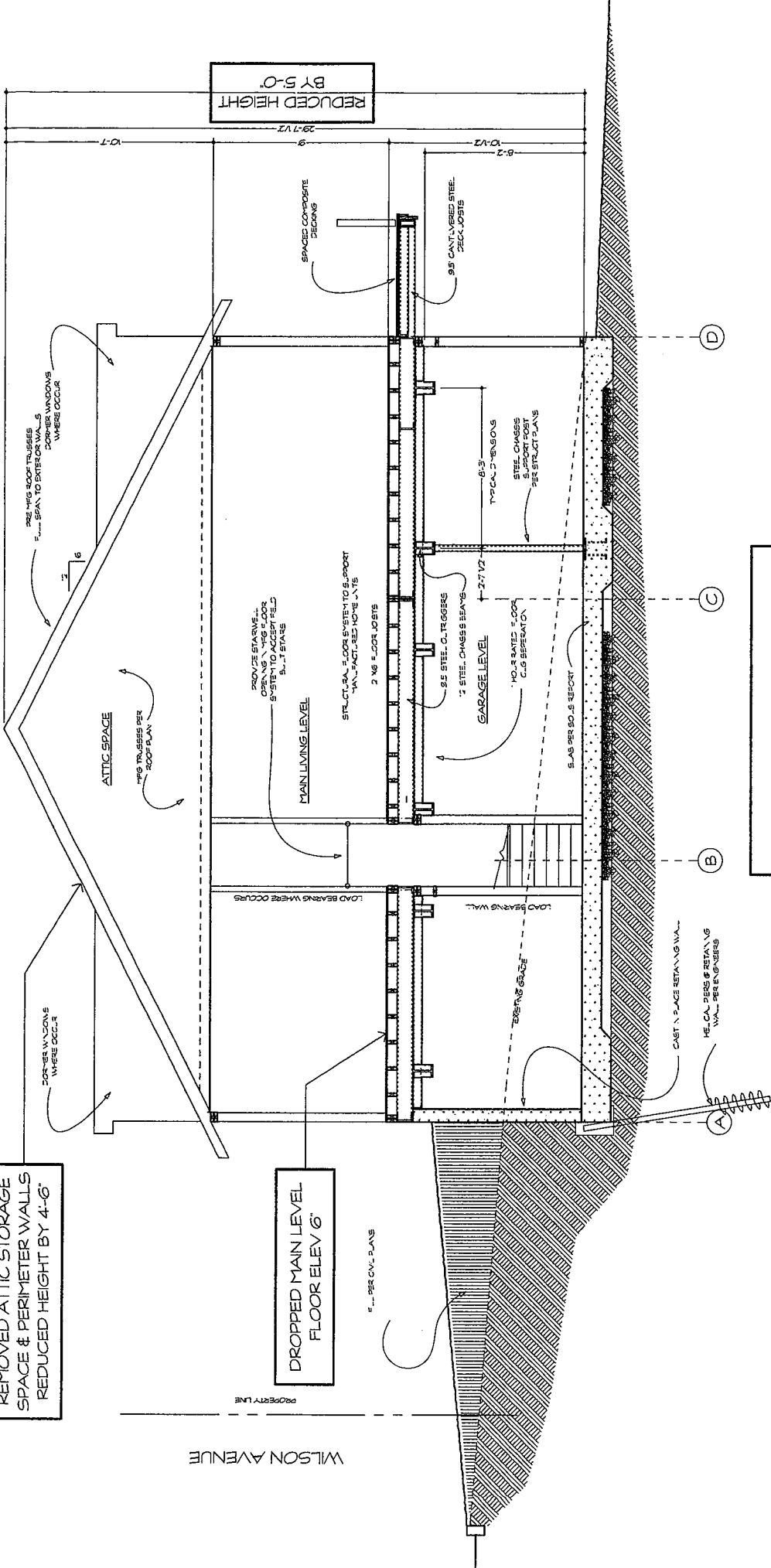
913 WILSON AVENUE

WILSON AVENUE

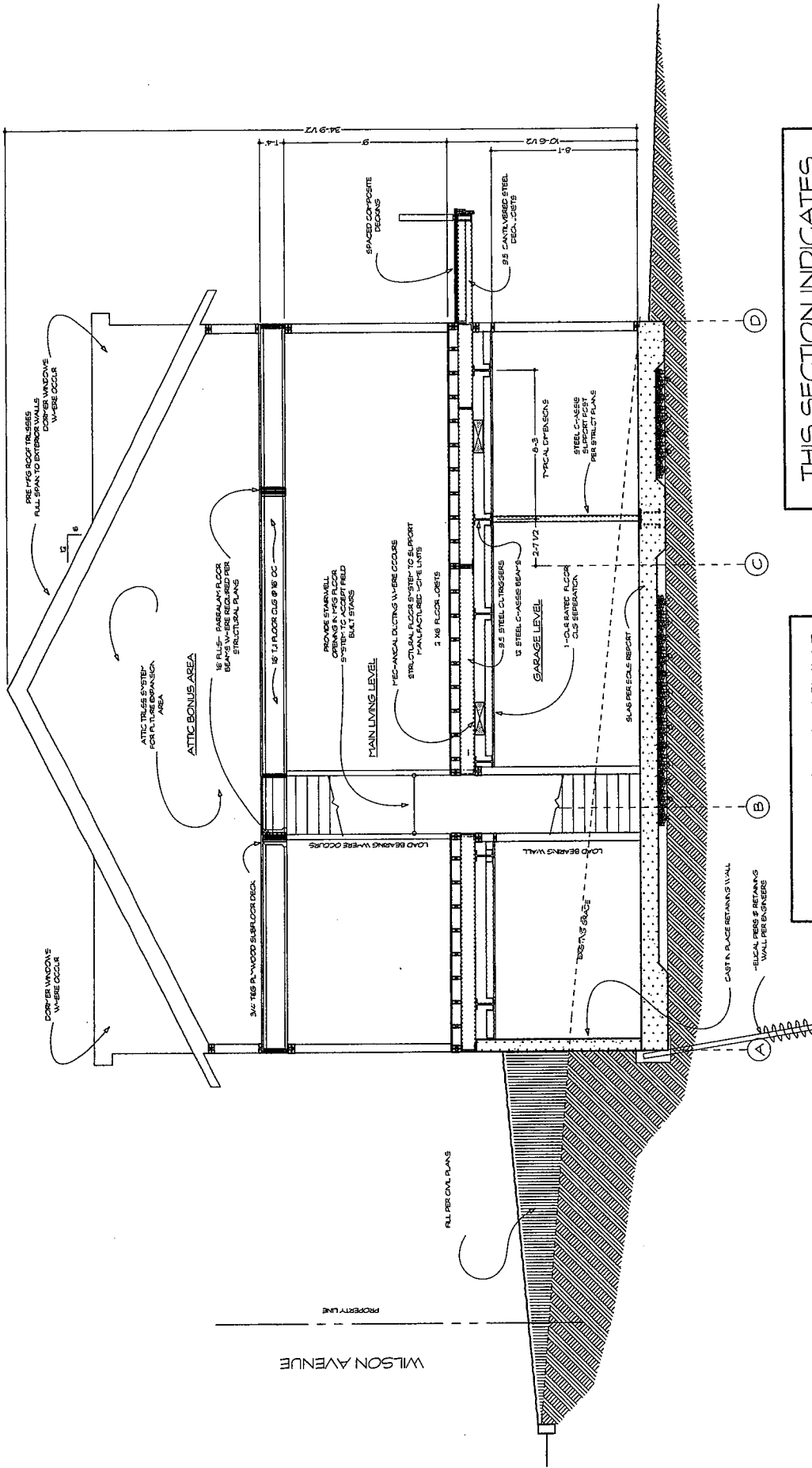
REMOVED ATTIC STORAGE SPACE & PERIMETER WALLS REDUCED HEIGHT BY 4'-6"

DROPPED MAIN LEVEL FLOOR ELEV 6"

REDUCED HEIGHT BY 5'-0"



REVISED SECTION
915 WILSON AVENUE



THIS SECTION INDICATES
BUILDING HEIGHT PER
DESIGN REVIEW SUBMITTAL

915 WILSON AVENUE
SECTION

WILSON AVENUE

PROPERTY LINE

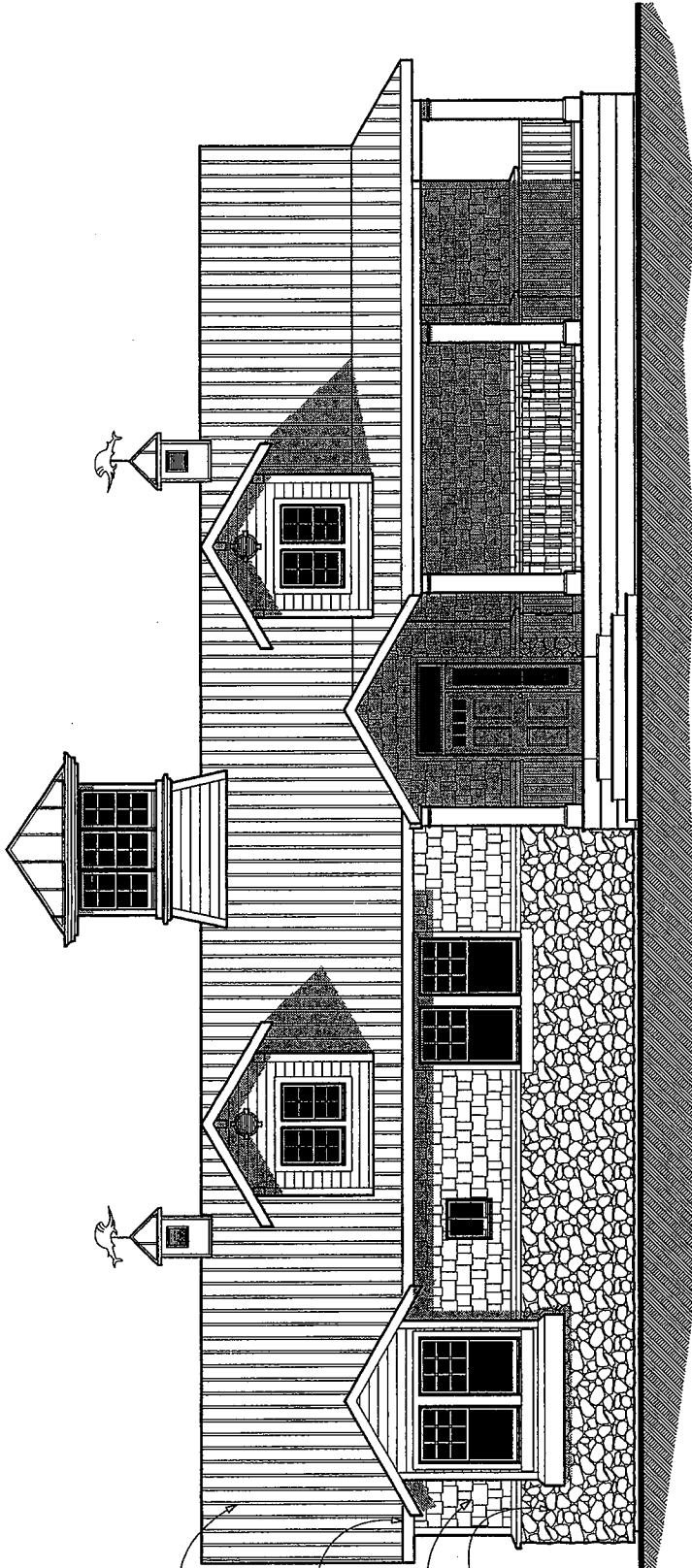
ALL PER CIVIL PLANS

(D)

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(A)



REVISED FRONT ELEVATION - REDUCED HEIGHT BY 5 FEET



STAFF REPORT

CITY OF VALLEJO PLANNING COMMISSION

Date of Hearing: August 21, 2006

Agenda Item: K2

Application Number: Use Permit # UP 06-0011 and UP06-0012 as governed by Sections 16.82 of the Vallejo Municipal Code.

Recommendation: Approve Use Permit #06-0011 and Use Permit #06-0012 subject to the findings and conditions in the staff report.

Project Description: The applicant is proposing to construct two single family homes on two vacant parcels located at 913 and 915 Wilson Avenue. The proposed houses are to be 35 feet high, with total square footage of each at 5,503 square feet and 5,026 respectively; The project is illustrated on plans drawn by Paul Friend, Architect, dated July 2006. (see Attachments A through K).

Location: 913 Wilson Avenue, APN 0051-100-160; 915 Wilson Avenue, APN 0051-100-150

Applicant: Dana Dean

Property Owner: Clayton Ranch Investors, Hal Boex

Environmental Review: The project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303, (a), Class 3. The project consists of two single family houses on two lots in a zone where residential units are allowed with a use permit. The project involves constructing two single family homes with total square footage of 5,563 and 5,026 square feet

General Plan: Medium Density Residential.

Zoning: CW – Waterfront Shopping and Service District.

Existing Land Use: The subject parcels are currently vacant.

Surrounding Land Use: To the west is the Napa River, to the north a vacant open space parcel, to the east the Lighthouse Condominium project, and to the south is a gas station with a mini-mart.

Public Notice: Notice of the public hearing was sent to the property owners within 500 feet of the property and the Vallejo Heights Neighborhood Association and the Bridgeport Homeowners Association on July 14, 2006. The notice was also published in the Vallejo Times Herald on July 17, 2006. It is the applicant's responsibility to hold a neighborhood meeting and no neighborhood meeting was held for this project.

1. PROJECT DESCRIPTION

The applicant is proposing to construct two single family houses on two vacant lots at 913 Wilson Avenue and 915 Wilson Avenue. The dwelling at 913 Wilson Avenue is proposed to be a total of 5,563 square feet, including 2,996 square feet of living area, a 634 square foot garage and mechanical area, and 1,933 square feet of unfinished attic area on a 14,063 square foot lot. This house will include three bedrooms, 2 ½ baths, a kitchen, family room, office, living room and a three car garage and rumpus room. The dwelling at 915 Wilson Avenue is proposed to be a total of 5,026 square feet, including 3,167 square feet of living area, a 944 square foot garage and mechanical area, and a 915 square foot unfinished attic area on a 22,147 square foot lot. This house will include a kitchen/dining/family room/living room area plus three bedrooms and two bathrooms on the main level, with a three-car garage, laundry area and storage area. The houses are proposed to have random shake shingle type siding, with a cultured stone rock veneer base at the garage level, and a metal standing seam roof. The project is illustrated on the attached plans drawn by Paul D. Friend, Architect, and Robert Karn, Engineer.

2. ENVIRONMENTAL REVIEW

The project meets the requirements of Section 15303, Class 3 of the California Environmental Quality Act. This exemption is allowed for "single-family residences not in conjunction with the building of two or more such units, in urbanized areas, up to three single-family residences may be constructed or converted under this exemption". In addition to qualifying the project for the categorical exemption, staff also reviewed the plans relative to site constraints to determine whether there would be any potential environmental impacts from the development. The single family homes have been designed to fit on to a site that has neither wetlands nor wildlife habitat. An Initial Study was completed in April 1998 for a project involving expansion to single family home that was on the site. That study determined that the project site is not located on an identified dispersal or migration corridor and is so small that there would be no impact to wildlife. As part of the City of Vallejo's standard conditions, an erosion control/siltation fence will be required to be constructed to insure that sediment run-off will not reach the marsh during the construction phase of the project. Also, as a standard condition, all roof drains will be connected to the onsite storm drainage system, which will also be connected to the public system in the street.

Staff has also examined the project with regard to potential view obstruction from the public roadway and the private properties across Wilson Avenue. The houses are proposed to be constructed to the height of 34 feet, three inches, however, the grade level of Wilson Avenue ranges from 10 to 12 feet above sea level, and the houses will be constructed at the elevation or approximately 6 to 7 feet above sea level. Therefore, the houses will appear to be 28 to 29 feet above the existing Wilson Avenue. There are existing trees on the site that are approximately 30 to 35 feet high. In addition, any views lost to motorists, bicyclists or pedestrians along Wilson Avenue would also be lost with homes of a reduced height. As a result, staff has determined that the potential view impact does not significantly affect any views from public viewpoints in any way that significantly impacts the economic value, habitability or enjoyability of the neighborhood.

3. CONSISTENCY WITH THE GENERAL PLAN

The General Plan Land Use designation for these two parcels is Community Park. The General Plan provides that residential development is compatible with the Community Parks designation with several different zoning designations including Low Density Residential (LDR), Rural Residential (RR), Planned Development Residential (PDR) and Waterfront Commercial (CW).

Since family residential is allowed in the CW district with a Use Permit, residential uses can be found to be compatible with this General Plan Land Use designation.

The text of the General Plan indicates that development along the Napa River Waterfront should be "devoted exclusively to water oriented uses, including industrial, residential, commercial and open space uses that permit public access".

As the above goal indicates, access to the public waterways is encouraged with development of property along the Napa River. While the General Plan encourages access along the Napa River and the Mare Island Strait, that provision may not be appropriate for this property for a number of reasons. First, in order to clear up the title to one of the properties, a former property owner had to relinquish a significant portion of the site to the State Lands Commission. With that dedication, the property with frontage immediately along the water is now owned by the State. Additionally, as part of the permit process for a parcel map that created these lots approved in the 80's, an easement for access to the water and to view the marsh was also granted to the State on each one of the parcels owned by another at both ends of the property. Additionally, the River Park is only several hundred feet to the south, and an access easement is within 1,500 feet, the distance required by the General Plan for public access to the water.

Noise Element:

The Noise Element of the General Plan sets standards for development related to the noise environment of the project site. The Goal of the Noise Element is to "maintain noise compatibility in a manner that is acceptable to residents and reasonable for commercial and industrial land uses." Policy 1 of this goal is to "apply the noise guidelines shown in Table 2 to land use decisions and other City actions." Policy 1a states that "the exterior noise level at primary outdoor use areas for residences should not exceed the maximum "normally acceptable" level in Table 2 (Ldn of 60dB for residences). Small decks and entry porches do not need to meet this goal. Noise levels up to Ldn 65 dB may be allowed at the discretion of the City where it is not economically or aesthetically reasonable to meet the more restrictive outdoor goal.

The "Existing Noise Contours", Appendix A of the Noise Element indicate that a distance of 62 feet from the closest travel lane of Wilson Avenue would be required to reach an Ldn of 60 dB. The primary outdoor areas are the rear yards, which are approximately 90 and 100 feet from Wilson Avenue. According to noise consultants, the houses would attenuate the noise level by up to 10 dB. As a result, the rear yards would have a noise level of less than Ldn 50 dB, which is within the acceptable level of noise for residential development for existing conditions.

The General Plan also lists "Future Noise Contours" for the year 2025 in Appendix A. This chart indicates that a distance of approximately 70 feet from the center of the street of Wilson Avenue would be required to reach an Ldn of 60 dB with year 2025 traffic volumes on Wilson Avenue. As stated above, the primary outdoor areas are toward the rear, and the houses would attenuate the noise level by 10 dB. The 2025 noise level for the rear yards would be less than 60dB, within the acceptable level for noise for residential development for future conditions.

General Plan Policy 1b of the Noise Element requires the interior noise standard to be 45 Ldn for all residential uses. Since the front of the houses could be subject to noise greater than 70 Ldn in the year 2025, a detailed analysis of the noise reduction requirements must be made and needed noise insulation features included in the design. A condition of approval is attached in order to achieve compliance with this requirement for both existing conditions and 2025 conditions.

4. CONFORMANCE WITH ZONING REGULATIONS

The subject property is zoned CW, Waterfront Shopping and Service District. A family residential unit is allowed subject to the granting of a major use permit. Both parcels contained a single family home in the past and also have been granted approvals for the construction of new homes that were never built. The subject properties appear to have been used for some type of residential dwellings since the 1950's. The following standards are applicable to the project:

Building Height – Maximum Height is 35 feet.

The height from the lowest foundation to the peak of the roof is proposed to be 34-feet, 3-inches, however, the structure will appear to be 28 to 29 feet high from Wilson Avenue as the elevation of Wilson Avenue in front of the parcels is approximately ten to twelve feet above sea level, while the location of the houses is approximately six to seven feet above seal level.

Required Landscaping – A minimum of five feet of landscaping is required along all street frontages and two street trees for each 50 feet of frontage.

As the City will be dedicating additional area to this parcel as a result of the Wilson Avenue project, there will be 15 feet of land between each structure and the new property lines at Wilson Avenue to provide the required landscaping. Staff is recommending a condition that would require the applicant to submit a detailed landscape plan for the frontage of each parcel which would include providing at least two street trees for each 50 feet of frontage.

Parking – One covered and one uncovered parking space is required for each dwelling.

The project proposes to provide a three-car garage for each dwelling, plus substantial driveway parking area.

Standards for One-Family and Two-Family Dwelling Unit Projects – (Site Development Standards).

The Zoning Ordinance requires that new single family dwellings in developed neighborhoods be consistent with the existing development on neighboring properties. These standards are generally applicable to the LDR, MDR or HDR districts, and are not applied to other zones. In this particular case, these standards would not be applicable as this zoning is CW, Waterfront Shopping and Service District, which allows uses other than residential and often consists of more intense commercial uses. However, compatibility with the surrounding neighborhood is analyzed in Section 8 of this report and staff believes that the proposed dwellings would be appropriate for the site with some reduction in total height and changes to roof materials as detailed in Section 8.

5. PUBLIC COMMENTS/NEIGHBORHOOD MEETING

Staff suggested to the applicant early in the process that a neighborhood meeting would be advisable for this project. The applicant had been resistant to meeting any of the neighborhood groups until Thursday, August 3, when they met with the Vallejo Heights Neighborhood Association, after the agenda was set for the public hearing and the staff report was mostly complete. At this meeting, the project representative stated to the Homeowners that there was "no room to move on the design" and any additional changes to the houses would not be possible. The Vallejo Heights Association stated that they would like story poles installed before any further action is taken on these houses.

Staff also contacted the other two nearby Homeowners Associations which included the Lighthouse Homeowners Association and the Bridgeport Homeowners Association. The Lighthouse Condominium Homeowner's Association, the closest Association to the project, stated that they had not been informed about this project. The Bridgeport Homeowners Association stated that they knew about the project, but had no concerns as no residents that they represent were affected by this development. As of the writing of the staff report, two letters have been received about this project, one from a resident of the Lighthouse Condominiums, and the other from the Vallejo Heights Neighborhood Association. Both letters express concern that no story poles were installed on the site, and the letter from the Lighthouse Condominium resident also expresses concern that the Lighthouse Homeowners were not contacted by the applicant regarding this project. Additionally, the letter Lighthouse Condominium letter requests that in addition to story poles, the project applicant supply copies of plans to the Homeowners Association before project approval for their review.

6. AGENCY/DEPARTMENT REVIEW AND COMMENTS

The plans for this project were sent to the following city departments: Building, Traffic Engineer, City Engineer, Vallejo Sanitation and Flood Control District, Fire Prevention, Water Superintendent, Health Department, Vallejo Garbage Service, Crime Prevention, and Community Development. Plans were also routed to Pacific Gas & Electric. Comments from the various departments and agencies have been incorporated into the staff analysis and conditions of approval for this project.

7. REFERENCES

State of California, Office of Planning and Research; CEQA: California Environmental Quality Act (Statutes and Guidelines 2003, as amended)

City of Vallejo General Plan

City of Vallejo Zoning Ordinance:

Chapter 16.26 - Waterfront Shopping and Service District

Chapter 16.70 - Screening and Landscaping Regulations

Chapter 16.82 - Conditional Use Permit procedures

Vallejo Housing Element Update

Vallejo General Plan Noise Element

8. STAFF ANALYSIS

The subject parcels were subdivided in 1986 to create an additional building site. In 1995, the Planning Commission approved the development of one of the parcels with a two-story approximately 30-foot high single family house, but it was never built. The other parcel had an approximate 1,900 square foot 1 ½ story single family house on it until several years ago. The area has been used for some type of residential development since the 1950's.

As part of the Wilson Avenue project, a portion of the Wilson Avenue right-of-way is proposed to be abandoned. This abandonment will allow the dwellings to have a 15-foot setback from the front property line. Based on an agreement established by the Public Works Department with a former property owner, this owner will be required to install on demand of the City all street improvements including curb, gutter, sidewalk, paving, relocating water lines and other improvements required by the City and VSFC.

Staff initially expressed concern to the applicant that the houses were too large at over 5,000 gross square feet each (including garage and basement area). The buildings have also been designed to be built to the zoning height limit of 35 feet. Using the nearby dwellings to determine neighborhood compatibility, staff determined that the proposed two story houses would have a footprint similar in size to the multi-unit buildings at the Lighthouse Condominium complex across the street. Additionally, many of the single family homes on Lighthouse Court are two stories. However, the applicant was advised that story poles and a photomontage would be helpful to determine the extent of any view blockage. The applicant refused to install story poles but did provide photo montages of both the street and water frontage elevations just several days before the printing of the staff report. As a result, staff has not been able to determine the exact extent that the views of the water and Mare Island are blocked by the project. The elevation of Wilson Avenue is approximately 10 to 11 feet above mean sea level (MSL), and the elevation of the foundation of the houses is approximately 6 to 7 feet above MSL. The proposed houses, at 35 feet (above MSL 6 or 7 feet), will appear as viewed from Wilson Avenue, to be approximately 30 feet high. Additionally, the Lighthouse Condominium project is a two-story project built on land that is at 18 to 19 feet above sea level. As a result, staff believes, but can not verify without the installation of story poles, that the views toward Mare Island and the water from Wilson Avenue or from the Lighthouse project across the street will not be significantly altered by the two proposed houses if the houses were approximately 5-feet shorter, which would mean that they would appear approximately 25 feet high as viewed from Wilson Avenue. The lot previously contained a large number of trees as high as 25 feet based on a picture taken approximately 10 years ago (Attachment R), and a 5-foot shorter house would also be more consistent with former approvals for the site.

Staff also has concerns about the proposed standing seam metal roof. Staff believes that a composition roof would be more appropriate for the traditional architecture of these houses, and would look less commercial. Additionally, most of the surrounding dwellings have composition roofs, and staff believes that the project would blend more successfully with the neighboring residential subdivisions with a more traditional type roofing material. A condition of approval is attached requiring the architect to explore alternatives for obtaining a more appropriate roof material for this project.

11. STAFF RECOMMENDATION

Staff believes that this proposal is an appropriate use of this site and would be compatible with the neighborhood with the following recommendations: 1) that an alternate roofing material be considered that would be more consistent with the composition roofs used on the surrounding condominium dwellings and single family homes; and 2), that the proposed homes be designed to be at least five feet shorter to achieve consistency with surrounding two-story homes and preserve views from homes and public areas above the houses. Staff recommends the Planning Commission, having reviewed and considered the information presented including the staff report and any testimony received; approve the proposed two single family dwellings based on the findings and subject to the conditions below.

However, if the Planning Commission believes that additional visual information such as story poles is desired, the Commission could continue the project pending instillation of story poles for the two houses.

Findings:

These findings are based upon all evidence in the record including the staff report, testimony, and written correspondence, all of which is incorporated by reference:

1. As described in Section 3, 4 and 8 of this report, the location, size, design and operating characteristics of the proposed conditional use are adequately compatible with adjacent buildings and structures. With the implementation of the conditions of approval and with consideration given to harmony in scale, bulk, coverage and density, the proposed conditional use is compatible with the adjacent residential uses, will not have a harmful effect on neighborhood character, or existing traffic volumes, and is consistent with the land use designation of Waterfront Shopping and Service District.
2. As described in Section 3 of this report, with the implementation of the Conditions of Approval, the proposed use of these parcels for single family dwellings is consistent with the Vallejo General Plan.

CONDITIONS OF APPROVAL:

A. Planning Division

3. Prior to the issuance of a building permit, submit a numbered list to the Planning Division stating how each condition of project approval contained in this report will be satisfied. The list shall be submitted to the project planner who will coordinate development of the project.
2. The applicant and architect shall work with the Planning Division to design dwellings approximately 5 feet shorter that will have minimum impact on adjacent properties.
3. Prior to the issuance of a building permit, submit a lighting plan to the Planning Division for review and approval. The fixture housing shall be constructed so that the light is diffused downward. Weather and vandal resistant covers shall protect all light devices.
4. Prior to issuance of a building permit, a noise analysis shall be done in order to determine how the project meets the General Plan requirements for interior noise attenuation based on the projected traffic noise contours for Wilson Avenue in 2025. The project sites are located approximately 70 and 80 feet from the centerline of Wilson Avenue. According to the future noise contours (Table 2) of the City's Noise Element, this project would be exposed to a future Ldn of over 70 dBA. According to the Noise Element, this means that the project applicant must complete a detailed analysis of the noise reduction

requirements and the needed noise insulation features must be included in the design.

5. Prior to issuance of any building permit for the dwellings, work on any piers or floating docks or any work near the shore area, the project applicant shall contact the appropriate responsible agencies, if applicable, and determine what permits are required and obtain those permits. These agencies include Bay Conservation and Development Commission, Army Corps of Engineers, State Lands Commission, Regional Water Quality Control Board, California Department of Fish and Game and the United States Fish and Wildlife Service.
6. Prior to the issuance of a building permit, three sets of final landscape plans prepared by a registered landscape architect shall be submitted to the Planning Division for review and approval. Landscape plans shall comply with Chapter 16.70 (VMC). These landscape plans shall contain all proposed driveway alignments and shall accurately depict the trees and landscaping along the area dedicated to the landowner abutting Wilson Avenue. Landscape plans shall include the following:
 - a: The plans shall contain all proposed driveway alignments and area to be abandoned fronting Wilson Avenue.
 - b: Street trees shall be planted consistent with City of Vallejo requirements.
 - c: Street trees shall be planted at least 6 feet from any sewer line.
 - d: Plans shall include specifications of low-growth-type species adjacent to doors, windows, and walkways.
 - e: Plantings shall be low-water-using and drought-resistant plant materials.
 - f: The required backflow preventers shall be screened.
 - g: All newly planted trees shall be a minimum of 15-gallon, double staked; at least 50 percent of the proposed shrubs shall be a minimum of 5-gallon.
 - h: Plan shall include irrigation plans indicating all components of the irrigation system including sprinklers and other outlets, valves, backflow prevention devices, controllers, piping and water usage.
 - i: Plans shall include six inch high curbing around planters.
7. Detailed landscape plans shall include details and location of any proposed fencing. Fencing shall comply with Chapter 16.70 (VMC).
8. All mechanical equipment and utility meters shall be screened in a manner approved by the Planning Division and shown on the final landscape plans. Electrical transformers shall be screened or placed underground.
9. Prior to issuance of a building permit, submit proof that the requirements of BCDC, if any, have been complied with.

10. Prior to issuance of a building permit, plans for any temporary construction trailer shall be submitted for review to the Planning Division.
11. Prior to building permit issuance, plans showing an alternative roofing material such as dimensional composition shall be reviewed and approved by the Planning Division.
12. Prior to building permit issuance, the Planning Division shall confirm that the building permit drawings and subsequent construction substantially conform to the approved Planning drawings.
13. Construction-related activities shall be limited to between the hours of 7:00 a.m. until 6:00 p.m., Monday through Saturday. No construction is to occur on Sunday or Federal Holidays. Construction equipment noise levels shall not exceed the City's maximum allowable noise levels.
14. Prior to issuance of an occupancy permit, obtain an inspection from the Planning Division prior to occupancy/final building inspection. Occupancy permits shall not be granted until all construction, landscaping and parking are completed and finalized in accordance with the approved plans and required conditions of approval, or a bond has been posted to cover all costs of the unfinished work as agreed to by the Planning Manager.
15. Prior to the issuance of an occupancy permit, applicant shall obtain a final inspection from the Planning Division. Occupancy permits shall not be granted until all construction, landscaping and parking are completed and finalized in accordance with the approved plans and required conditions of approval, or a bond has been posted to cover all costs of the unfinished work as agreed to by the Planning Manager.
16. Energy Star products and appliances shall be utilized during construction of the apartment homes. Proof of Energy Star compliance shall be submitted to the Planning and Building Division before application for building permit

B. Building Division

1. Prior to issuance of a building permit, submit three sets of construction plans to the Building Division for review and approval. The project is to be designed to meet the requirements of the Uniform Building Code (as adopted).
2. Pay plan check review fee and all applicable building permit fees.

C. Public Works (Standard Conditions)

1. Upon submittal of Improvement Plans, a numbered list shall be submitted to the Engineering Division stating how each condition of project approval contained in this report will be satisfied.

2. All public improvements shall be designed to City of Vallejo standards and to accepted engineering standards, except as specifically authorized in this approval. The City Engineer has all such standards on file and the Engineer's decision shall be final regarding the specific standards that shall apply.
3. Submit three sets of plans to the Department of Public Works for plan check review and approval. (Improvement or civil plans are to be prepared by a licensed Civil Engineer.) Plans are to include, but may not be limited to, grading and erosion control plans, improvement plans, joint trench utility, street light plans, and landscaping, irrigation and fencing plans and all supporting documentation and pertinent reports.
4. Site grading shall comply with Chapter 12.40 – Excavations, Grading, and Filling (VMC). Prior to issuance of grading permit, submit a soils report for review. An independent soils and geological review of the project may be required. The City shall select the soils engineer, with the cost of the study to be borne by the developer/project sponsor.
5. In design of grading and landscaping, line-of-sight distance shall be provided based on Caltrans standards. Installation of fencing, signage, above ground utility boxes, etc. shall not block the line-of-sight of traffic and must be set back as necessary.
6. During grading operations, the project geologist or soils engineer and necessary soils testing equipment must be present on site. In the absence of the soils engineer or his representative on site, the Department of Public Works shall shut down the grading operation.
7. All dust and erosion control shall be in conformance with City standards, ordinance, and NPDES requirements.
8. Prior to building permit issuance or acceptance of grading, compaction test results and certification letter from the project soils engineer and civil engineer confirming that the grading is in conformance with the approved plans must be submitted to the Department of Public Works for review and approval. Test values must meet minimum relative compaction recommended by the soils engineer (usually at least 90 percent).
9. Entrances to any private street must be standard driveway approaches unless deviation is permitted by the City Engineer.
10. Obtain a street excavation permit from the Department of Public Works prior to performing any work within City streets or rights-of-way, or prior to any cutting and restoration work for utility trenches in existing public streets. All work shall conform to City standards.
11. Obtain an encroachment permit from the Department of Public Works for all work proposed within the public right-of-way.

12. Prior to start of construction; submit a traffic control plan to the Department of Public Works for review and approval.
13. Construction inspection shall be coordinated with the Department of Public Works and no construction shall deviate from the approved plans.
14. The project design engineer shall be responsible for the project plans. If plan deviations are necessary, the project engineer must first prepare a revised plan or details of the proposed change for review by the Department of Public Works and, when applicable, by Vallejo Sanitation and Flood Control District. Changes shall be made in the field only after approval by the City. At the completion of the project, the design engineer must prepare and sign the "as built" plans.
15. Prior to approval of construction plans, provide bonds and pay applicable fees. Bonding shall be provided to the City in the form of a "Performance Surety" and a separate "Labor and Materials Surety" in amounts stipulated by City ordinances.
16. Prior to occupancy/final building inspection, install the improvements required by the Department of Public Works including but not limited to streets and utilities.
17. Prior to occupancy/final building inspection, all broken curb, gutter, sidewalk or driveway approaches shall be removed or repaired as directed in the field by the City Engineer.
18. The project is within the 100-year flood zone and shall therefore comply with Chapter 7.98 – Flood Damage Protection, VMC. Prior to obtaining grading permit, apply to Federal Emergency Management Administration (FEMA) for a Conditional Letter of Map Revision (CLOMR). Prior to obtaining a building permit, apply to FEMA for a Letter of Map Revision (LOMR). Prior to obtaining a certificate of or acceptance by the City, whichever is applicable, obtain an approved Letter of Map Revision from FEMA. It will take FEMA at least 90 days to obtain CLOMR or LOMR. FEMA can be contacted at telephone 415-923-7177, or FEMA, Mitigation Division, Building 105, Presidio of San Francisco, CA 94129-1250.
19. Prior to release for occupancy, all street trees shall be planted in accordance with Vallejo Municipal Code, Section 15.06.190 and Regulations and Specifications for Public Improvements, Section 3.3.48. The list of approved trees is available in the office of the Public Works Director. The minimum standard shall be at least one tree for each 50 feet of street frontage or fraction thereof, including secondary or side streets. Public Works Landscape Inspector shall inspect street tree(s) prior to release for occupancy.

Public Works, (Project Specific Conditions)

20. Prior to issuance of building permit, pay to Public Works for the cost of frontage improvements along Wilson Avenue in accordance to the City's formal request dated May 23, 2005. Under the Agreement for Construction of Public Improvements between the City and the previous property owner dated January 27, 1986, that the property owner is obligated to install on demand of the City all street improvements including curb, gutter, sidewalk, paving, relocating waterlines and appurtenances, and storm and sanitary improvements as may be required by VSFC, and underground all overhead utility lines for former APN 0051-100-110. Said parcel was divided in 1986 to what is known now as APN 0051-100-150 (915 Wilson Avenue) and 0051-100-160 (913 Wilson Avenue).
21. Prior to issuance of grading permit, submit soil and geology report and title report for review.
22. Grading operation must be done during dry season (April 15 to October 1).
23. Prior to site grading, obtain required jurisdictional permit.
24. Submit site grading, drainage, improvement, utility and landscaping & irrigation plans for review and approval. Site plan shall show all proposed and existing improvements and utility services. Secure approval of site plans prior to building permit.
25. Surface runoff from the site shall be intercepted on site and directed into Wilson Avenue gutter through City standard sidewalk cross drain. Since Wilson Avenue fronting these properties is under re-construction, owner/engineer of this project shall coordinate with City of Vallejo project engineer for Wilson Avenue to accommodate these improvements. The costs shall be born by the property owner.
26. Location of proposed driveway approaches shall be in conformance with the approved improvement plans for Wilson Avenue. Otherwise, owner/engineer shall coordinate with City of Vallejo project engineer of Wilson Avenue to revise approved Wilson Avenue improvement plans to reflect the actual location of driveway approaches that matches the two dwellings.
27. Any underground utility services for these two dwellings crossing Wilson Avenue shall be completed prior to final lift of the asphalt concrete of Wilson Avenue.
28. Provide on-site turnaround for cars backing out from the garages. No car back up from the property into Wilson Avenue is allowed.

Public Works, (Standard City Requirements):

29. Slope of driveways shall not be more than 6%. (VMC Section 16.62.150).
30. Comply with Flood Damage Control Ordinance of the City of Vallejo.
31. Driveway approach shall be per City standard.
32. Any utility that would be in conflict with proposed improvements shall be relocated.
33. During construction, it shall be the responsibility of the contractor to provide for safe traffic control in and around the site. This may include but not be limited to signs, flashing lights, barricades and flag persons.

D. VSFCD

1. Project plans submitted for this project shall be considered subject to all VSFCD (Vallejo Sanitation and Flood Control District) guidelines, policies and standards.
2. Prior to building permit issuance, submit complete improvement plans and supporting documentation for proposed sanitary sewage and storm drainage work to VSFCD for review and approval.
3. Prior to building permit issuance, a VSFCD Connection Permit is required. Pay all applicable review and connection fees.
4. Project shall drain and sewer directly into the public system.
5. The project, as submitted, was incomplete. Please show location of all proposed and existing sanitary sewer and storm drain facilities, mains, laterals, connections, etc.
6. Prior to building permit application, submit grading and erosion plans to VSFCD for review and approval. Do not block drainage from adjacent lands.
7. The 100-year storm overflow pattern shall be shown on the existing plans. Provide a secondary (surface flow) drainage system to handle flows in excess of the capacity of the primary system (piped or channelized). The proposed building locations shall avoid this secondary path. Also, determine the 100-year storm tributary area. This may differ from the 15-year tributary area.
8. All storm drainage shall be collected onsite and conveyed underground to the public storm drain system.

9. Prior to occupancy/final building inspection, provide a standard VSFCDD cleanout at the right-of-way/easement line per District standards and a two-way cleanout at the building per U.P.C.
10. Strongly recommend that incorporation as feasible, of measures contained in the "Start at the Source" a residential site planning and design guidance manual for storm water quality protection (written by BASMA) as a means of mitigating project impacts of increases in impervious surfaces.
11. Direct roof drainage across non-paved areas prior to entering storm drain inlets and gutter, when feasible.
12. Submit proof of NOI, Storm Water Pollution Prevention Plan, and Post Construction Best Management Practice Design Plan (see current VSFCDD Storm Water Management Plan Appendix 4B).
13. Grading and improvement plans shall include storm water pollution prevention plans for use during site development and building construction to mitigate impacts of this development. This plan shall include calculations, measures related to debris, refueling areas, disposal of excess materials, site cleanup, hazardous substance containment, street cleaning, catch basin cleaning, and other similar measures (see current VSFCDD Storm Water Management Plan Section 4.4.5).

Sanitary Sewer:

1. Material and construction of sanitary sewers shall conform to Vallejo sanitation and flood control district (VSFCDD) standard specifications and standard drawings as shown in VSFCDD master bid document dated April, 2003.
2. Sewer mains and laterals shall be either vitrified clay pipe or polyvinyl chloride sewer pipe. Laterals shall be of the same material as that of the main line.
3. Sewer laterals, unless otherwise shown on plans and approved by the district, shall be installed as shown by the typical standard details and constructed normal to the street centerline with no horizontal curves in the lateral between the district clean out and the factory wye at the new sewer main. Each sewer lateral for a lot shall be parallel to the water service for the lot, unless otherwise shown.
4. Backfill for sanitary sewer and storm drain shall be per VSFCDD standard specifications.
5. Three working days prior to construction of any sanitary sewer improvements in the street or on private property, including any pipes or cleanouts outside of the building wall), the contractor is to schedule an inspection with the Vallejo

sanitation and flood control district (VSFCD), 450 Ryder street, Vallejo, 644-8949.

6. The District does not have any sanitary sewer facilities to serve the residences. In order for the residences to have Sanitary Sewer Service, the owner must either install a new 8-inch sanitary sewer main along Wilson Avenue from the sanitary sewer manhole at the intersection of Wilson Avenue and Simms Street to the frontage of the two residences; or, the owner shall install private pump stations and laterals with a check valve and connect to existing sanitary sewer manholes.

Storm Drains

Best management practices (bmp's) for storm water and sanitary sewer quality

1. During construction the contractor shall be responsible to conform to the practices as described in "blueprint for a clean bay— best management practices to prevent stormwater pollution from construction-related activities."
2. Cleanup of pavement surfaces shall be performed using dry sweep vacuum methods only. Cleanup shall be performed two times daily. No discharge of waste into the storm drainage system is allowed. Cleanup of spills should be immediate (contain spread), automatic, and routine using dry methods.
3. Condensate from the building HVAC, or refrigeration systems shall not be allowed to discharge into the storm drain system. Condensate from these systems shall be discharged into the sanitary sewer, or may be plumbed into the ground.

E. Fire Prevention

1. Submit a numbered list to the Fire Prevention Division stating how each condition of project approval will be satisfied.
2. Approved numbers or addresses to be installed on l buildings in such a position as to be clearly visible and legible from the street. Residential buildings shall have numerals or letters not less than 3 inches in height, with an approved color that contrasts the background.
2. All fees and plans must be submitted to the Vallejo Fire Prevention Division.
3. Additional fire hydrants may be required. Submit a complete set of plans for review and approval. All fire hydrants are to have "blue dot" highway reflectors installed on the adjacent street of the driveway to clearly identify the fire hydrant locations.

4. Automatic fire sprinkler/Extinguishing systems shall be installed as **recommended** by the City of Vallejo Fire Marshal for all residential, commercial and industrial occupancies. (1998 CFC Section 1003.12 added VMC Section 12.28.190). Smoke detectors shall be installed in all bedrooms and in corridor central to bedrooms/sleeping areas.
5. Prior to building permit issuance, building/construction plans and plans for required fire protection systems (automatic sprinklers, smoke alarms, etc.) shall be submitted to the Fire Prevention Division for review and approval. All applicable plan review and inspection fees shall be paid.
6. Development sites shall be maintained weed free during construction.

F. Water

1. Submit a numbered list to the Water Division stating how each condition of project approval will be satisfied.
2. All water system improvements shall be consistent with the Vallejo Water System Master Plan, 1985 prepared by Kennedy/Jenks Engineers as updated by Brown & Caldwell, 1996. Submit water system improvement plans to the Water Division for review and approval that contain at least.
 - b. Location and size of fire service/sprinkler service connection(s).
 - c. Location of fire hydrants.
 - d. Location of structures with respect to existing public water system improvements, such as mains, meters, etc.
3. Fire flow requirements of the Fire department shall be complied with. For low at no less than 25 psig residual pressure shall be available within 1,000 feet of any structure. One half of the fire flow shall be available within 300 feet of any structure. For single family residential units, the fire flow is 1,500 gpm.
4. Prior to building permit issuance, hydraulic calculations shall be submitted to the Water Superintendent demonstration that the fire flow requirements are complied with.
5. Fire hydrant placement and fire sprinkler system installation if any, shall meet the requirements of the Fire Department. For combined water and fire services, the requirements of both the Fire Department and the Vallejo Water System Master Plan, with latest revisions, shall be satisfied.
6. Each unit or structure shall be metered separately.
7. Water service shall be provided by the City of Vallejo following completion of the required water system improvements and payment of applicable fees. Performance and payment bonds shall be provided to the City of Vallejo prior to construction of water system improvements. Fees include those fees

specified in the VMC including connection and elevated storage fees, etc. and fees for tapping, tie-ins, inspections, disinfections, construction water, and other services provided by the City with respect to the water system improvements, The Water Division may be contacted for a description of applicable fees.

8. Install water system improvements as required. Backflow devices/s where required shall be installed in areas hidden from public view and/or shall be mitigated by landscaping.
9. Water service sizing shall and/or meter size shall meet the current Plumbing Code requirements.

G. Police Department

1. The project developer, owner or general contractor shall provide the Communications Supervisor of the Police Department with a list of at least 2 persons who will be able to respond to the construction site after normal business or construction hours in the event of an emergency. The contact person in the Police Department who should receive this information is Bill Powell at 707-648-4321.
2. All plan or project changes shall be submitted to the Police Department for approval.
3. The construction site and all open storage of materials, supplies, and equipment shall be secured by the use of fencing and a lockable access gate. Any building or trailer used as storage or as an office shall be within the fenced portion of the construction site. The fenced area shall be illuminated during all hours of darkness.
4. Prior to building permit issuance, a final landscape and lighting plan shall be reviewed by the Police Department.
5. Street numbers shall be displayed in a prominent location on the street side of the property in such a position that the number is easily visible to approaching emergency vehicles. The numbers shall be no less than four inches in height and shall be of a contrasting color to the background to which they are attached. The address numbers shall be illuminated during darkness.
6. Prior to occupancy/final building inspection, obtain an inspection from the Police Department. All meetings and inspections require a minimum 24-hour advance request.

GENERAL CONDITIONS AND CONSTRUCTION DUST IMPACT MITIGATION

1. Landscaping shall be maintained in a neat, clean, and healthy condition. This shall include regular watering, pruning, mowing of lawns, weeding, removal of litter, fertilizing, and replacement of plants when necessary.
2. Construction-related activities shall be limited to between the hours of 7 a.m. and 6 p.m., Monday through Saturday. No construction is to occur on Sunday or federal holidays. Construction equipment noise levels shall not exceed the City's maximum allowable noise levels.
3. During clearing operations, prewet surface soils where equipment will be operated; stabilize surface soil with dust palliative unless immediate construction is to continue; and use water or dust palliative to form crust on soil immediately following clearing operations.
4. While clearing forms, use single stage pours where allowed; use water spray to clear forms; use sweeping and water spray to clear forms; use industrial shop vacuum to clear forms and avoid use of high pressure air to blow soil and debris from the forms.
5. In staging areas, limit size of area; apply water to surface soils where support equipment and vehicles are operated; limit vehicle speeds to 15 mph; and limit ingress and egress points.
6. To prevent tackout, pave construction roadways as early as possible; install gravel pads; install wheel shakers or wheel washers and limit site access.
7. When materials are transported off-site, all material shall be covered, effectively wetted to limit visible dust emissions, or at least six inches of freeboard space from the top of the container shall be maintained.
8. All operations shall limit or expeditiously remove the accumulation of mud and dirt from adjacent public streets at least once every 24 hours when operations are occurring. Do not use dry rotary brushes without wetting and do not use blower devices.
9. Following the addition of materials to, or the removal of materials from the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.
10. Post a publicly visible sign with the telephone and person or persons to contact regarding dust complaints. This person shall respond and take corrective action within 24 hours.

11. Gravel pads must be installed at all access points to prevent tracking of mud on to public roads.
12. The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering as necessary to prevent transportation of dust offsite.
13. Prior to land use clearance, the applicant shall include, as a note on a separate informational sheet to be recorded with map these dust control requirements. All requirements shall be shown on grading and building plans.
14. All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
15. During construction, maintain and operate construction equipment so as to minimize particulates from exhaust emissions. During construction, trucks and equipment should be running only when necessary. Equipment should be kept in good condition and well tuned to minimize exhaust emissions.
16. The conditions herein contained shall run with the property and shall be binding on the applicant and all heirs, executors, administrators, and successors in interest to the real property that is the subject of this approval.
17. The applicant shall defend, indemnify, and hold harmless the City of Vallejo and its agents, officers, and employees from any claim, action, or proceeding against the City and its agents, officers, and employees to attack, set aside, void, or annul this approval by the City. The City may elect at its discretion to participate in the defense of any action.

EXPIRATION

This Use Permit shall expire automatically 24 months after its approval unless authorized construction has commenced or unless this permit is extended by the City prior to the expiration date.

12. ATTACHMENTS


- A. Site Plan and Sections
- B. Lower Level, 913 Wilson Ave.
- C. Upper Level, 913 Wilson Ave.
- D. Elevations 913 Wilson Ave.
- E. Elevations, 913 Wilson Ave.
- F. Building Section, 913 Wilson Ave.
- G. Lower Level, 915 Wilson Ave.
- H. Main Level, 915 Wilson Ave.
- I. Elevations, 915 Wilson Ave.

- J. Elevations, 915 Wilson Ave.
 - K. Building Section, 915 Wilson Ave.
 - L. Photographs
 - M. Conflict of Interest Map
 - N. Public Notice
 - O. Correspondence
 - P. Street Frontage Montage (submitted by applicant)
 - Q. Water Frontage Montage (submitted by applicant)
-

The applicant or any party adversely affected by a decision of the Planning Commission may appeal the decision by filing an appeal to the City Council. Such appeal must be filed in writing with the City Clerk within ten calendar days after the Commission's action. The Council may affirm, reverse, or modify any decision of the Planning Commission that is appealed.

If you challenge the Planning Commission's actions regarding this item in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Secretary of the Planning Commission at, or prior to, the public hearing.

Prepared by: _____


Bill Tuikka
Associate Planner

Reviewed by: _____

Brian Dolan
Interim Development Services Director

PDI
DESIGNS

PAUL D. FRIEND
ARCHITECT

2500 WILSON AVENUE
VALLEJO, CA 94589
TEL: 925.938.1111
WWW.PDI-DESIGNS.COM

REVISIONS

1	DATE	DESCRIPTION

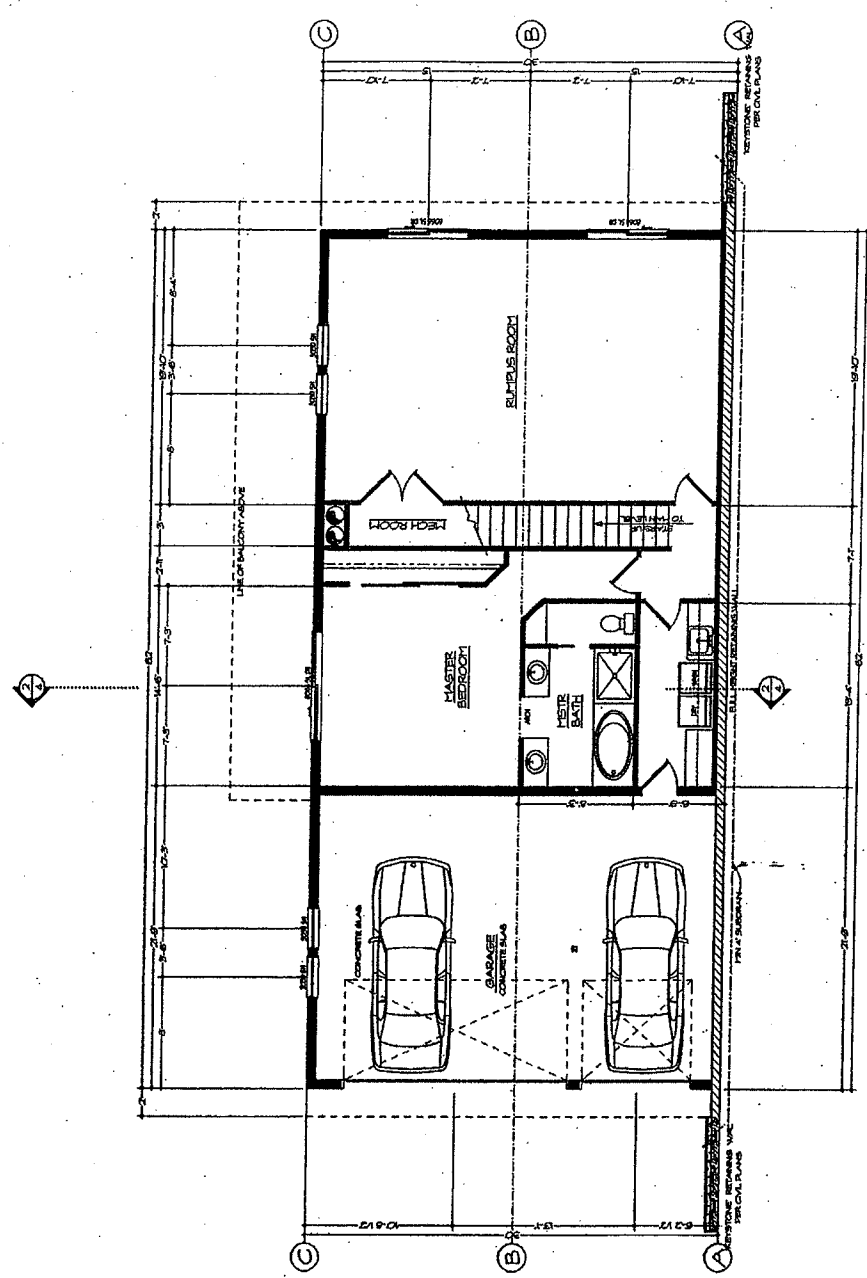
Proposed Residence

Clayton Ranch Development
913 & 915 Wilson Avenue, Vallejo Ca



913 Lower Level Floor Plan
Scale: AS NOTED
August 2008

Sheet Number
3 OF 12



Lower Level Floor Plan
Scale: 1/4" = 1'-0"

P&P
DESIGNS

PAUL D. FREUND
ARCHITECT

27 BIRCH VALLEY ROAD
FALMOUTH, V.T. 05740
PHONE: 802.779.1111
WWW.P&PDESIGNS.COM

REVISIONS

1	2006-08-01	ISSUED FOR PERMITS
2	2006-08-01	ISSUED FOR PERMITS

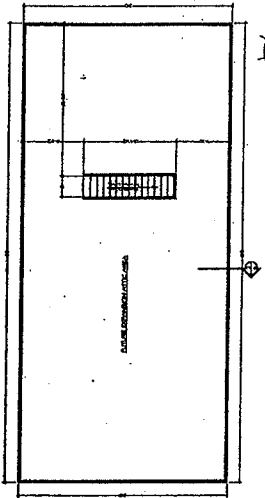
Proposed Residence

Clayton Ranch Development
913 & 915 Wilson Avenue, Vallejo Ca

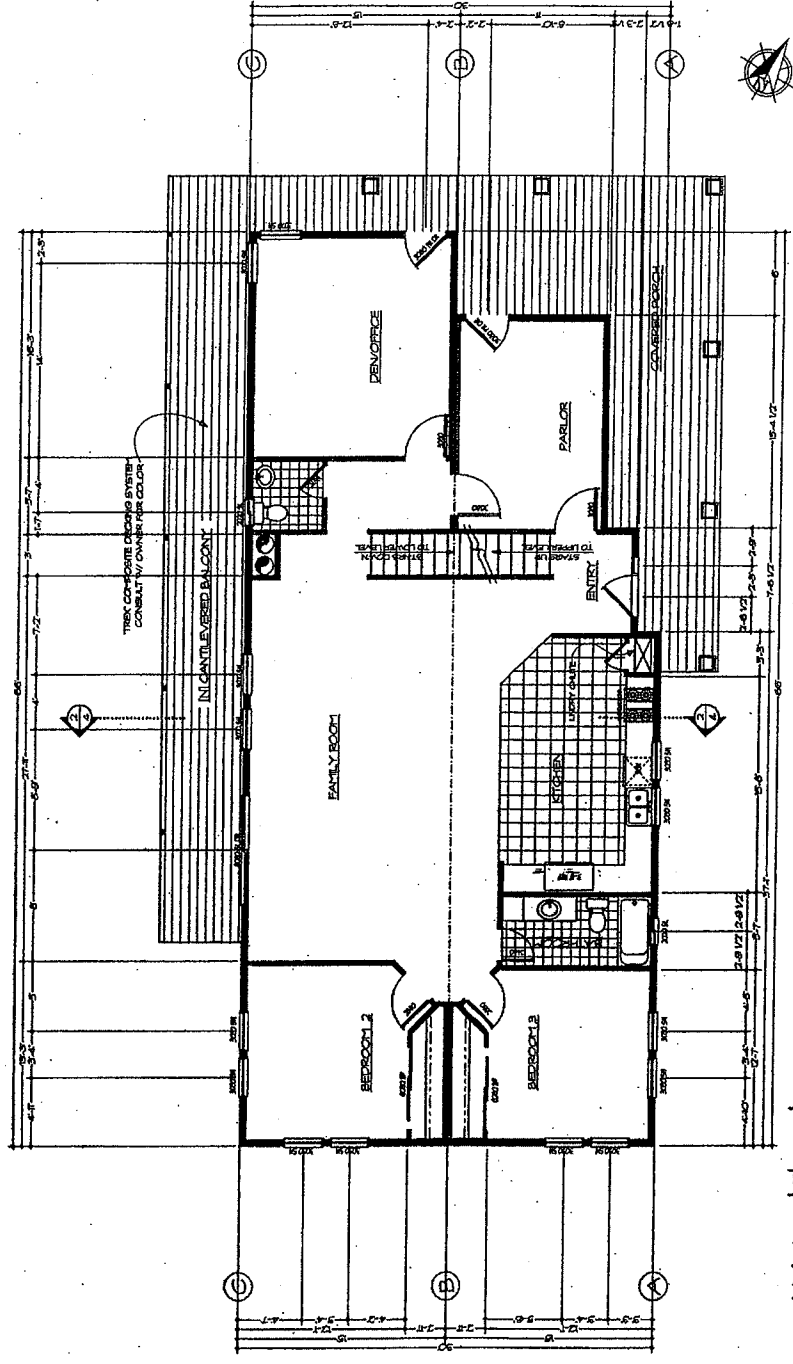


913 Main Level
& Attic Floor
Plan
SCALE AS NOTED
August 2006

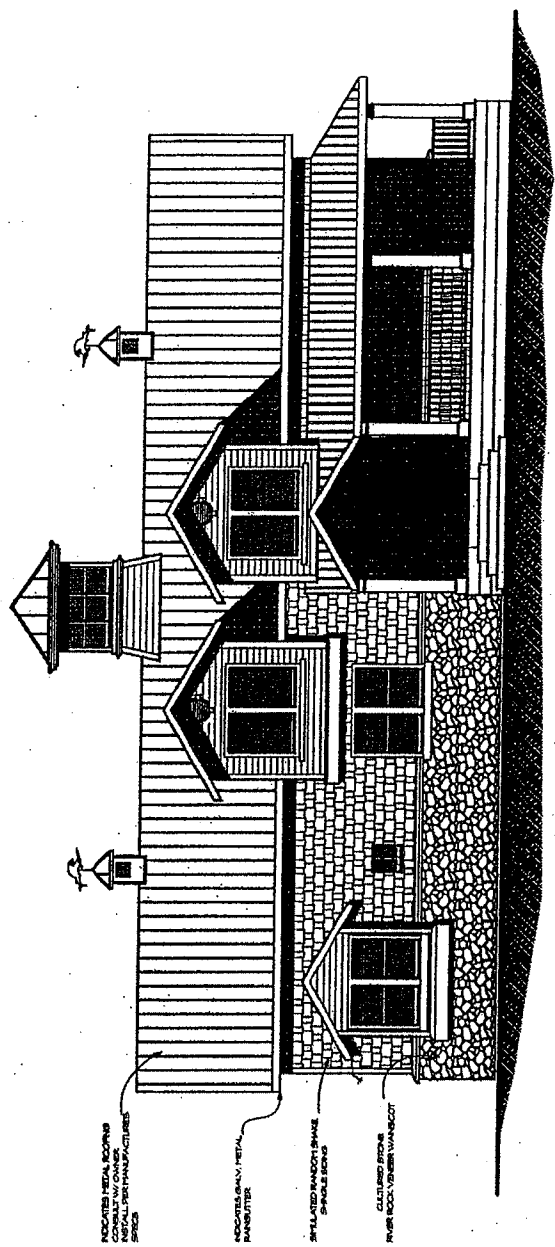
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4 OF 12



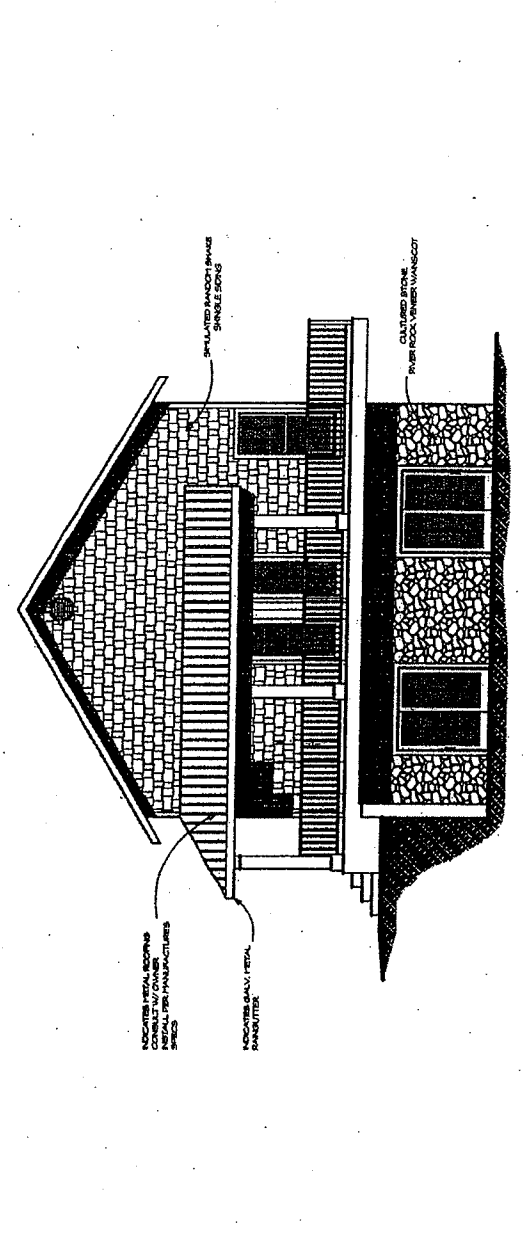
Attic Level Floor Plan
Scale: 1/4" = 1'-0"



Main Level Floor Plan
Scale: 1/4" = 1'-0"



Front Exterior Elevation
 Scale 1/4" = 1'-0"



Left Side Exterior Elevation
 Scale 1/4" = 1'-0"

P&T
DESIGN
ARCHITECTS

PAUL D. FRIEND
ARCHITECT

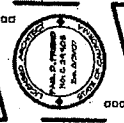
47 BERRY VALLEY ROAD
SANTA FE SPRING, CA 92686
TEL: 714.942.2222
WWW.P&TDESIGN.COM

REVISIONS

NO.	DATE	DESCRIPTION

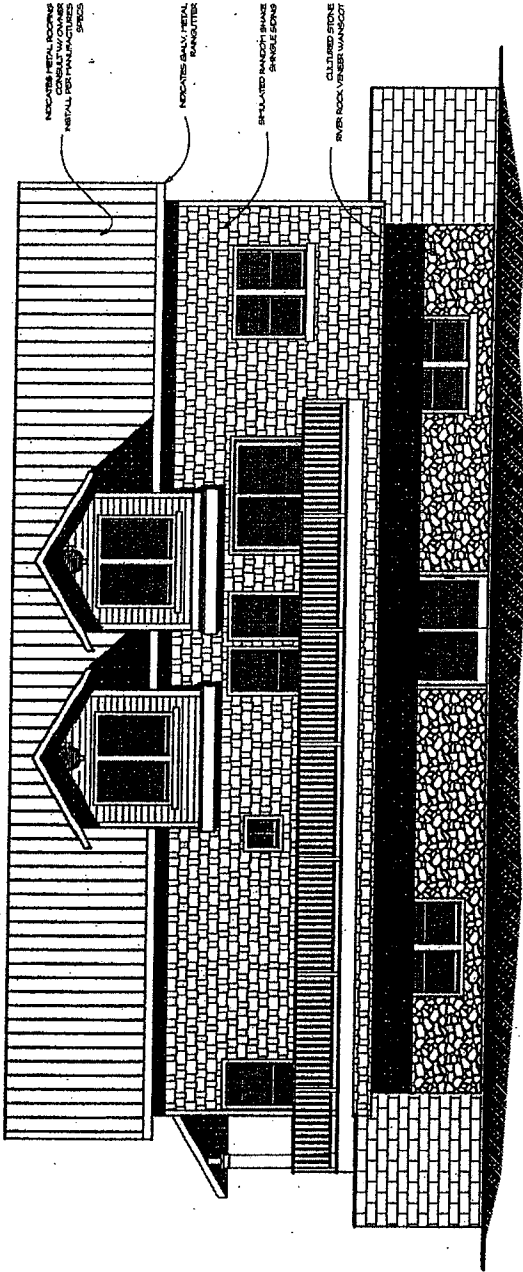
Proposed Residence

Clayton Ranch Development
913 & 915 Wilson Avenue, Vallejo Ca

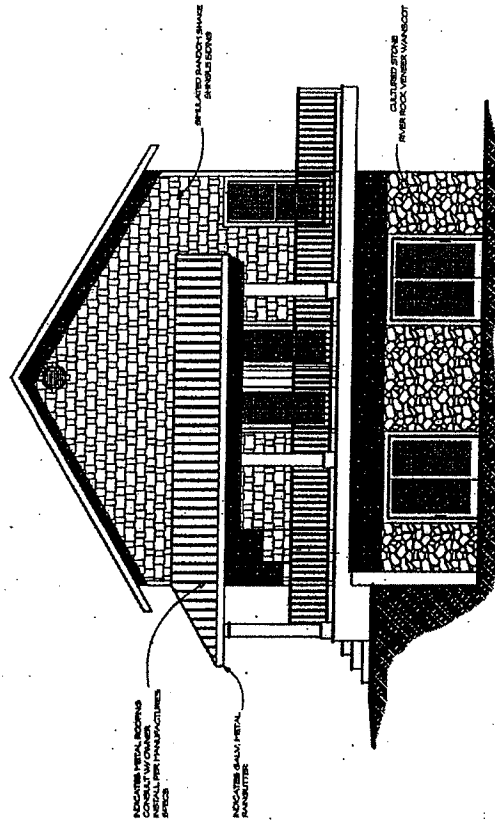


Paul D. Friend & Associates
Right
Exterior
Elevations
August 2008

Sheet Number
6 OF 12



Rear Exterior Elevation
Scale: 1/4" = 1'-0"



Right Side Exterior Elevation
Scale: 1/4" = 1'-0"

PD
DESIGNS

PAUL D. FRIEND
ARCHITECT

27 BISH WALK RD
SAN JOSE, CA 95128
408.261.1111

REVISIONS

1	2/20/08	REVISED PER COMMENTS
2	3/10/08	REVISED PER COMMENTS

Proposed Residence

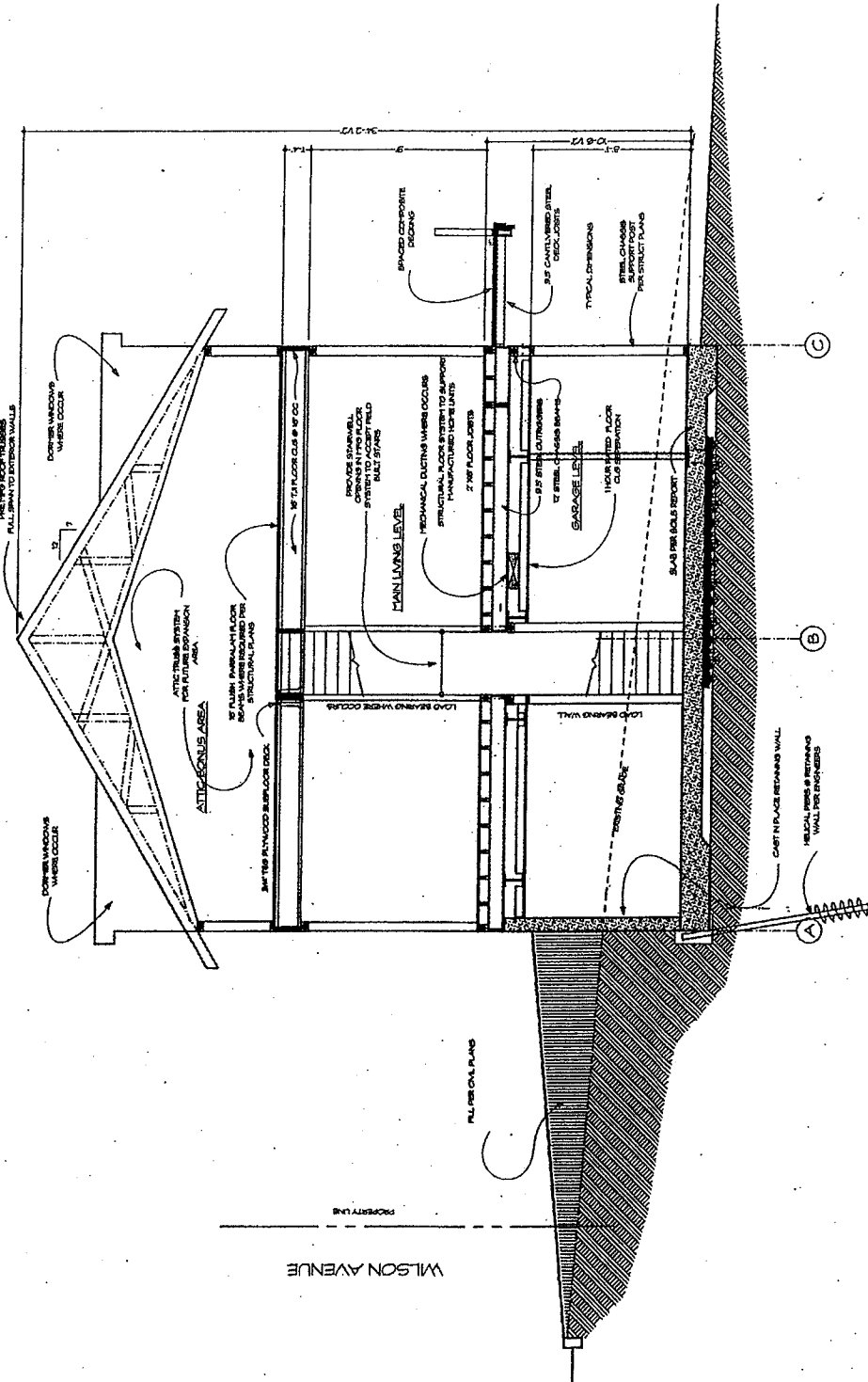
Clayton Ranch Development
915 & 915 Wilson Avenue, Vallejo Ca



915 Building
Section

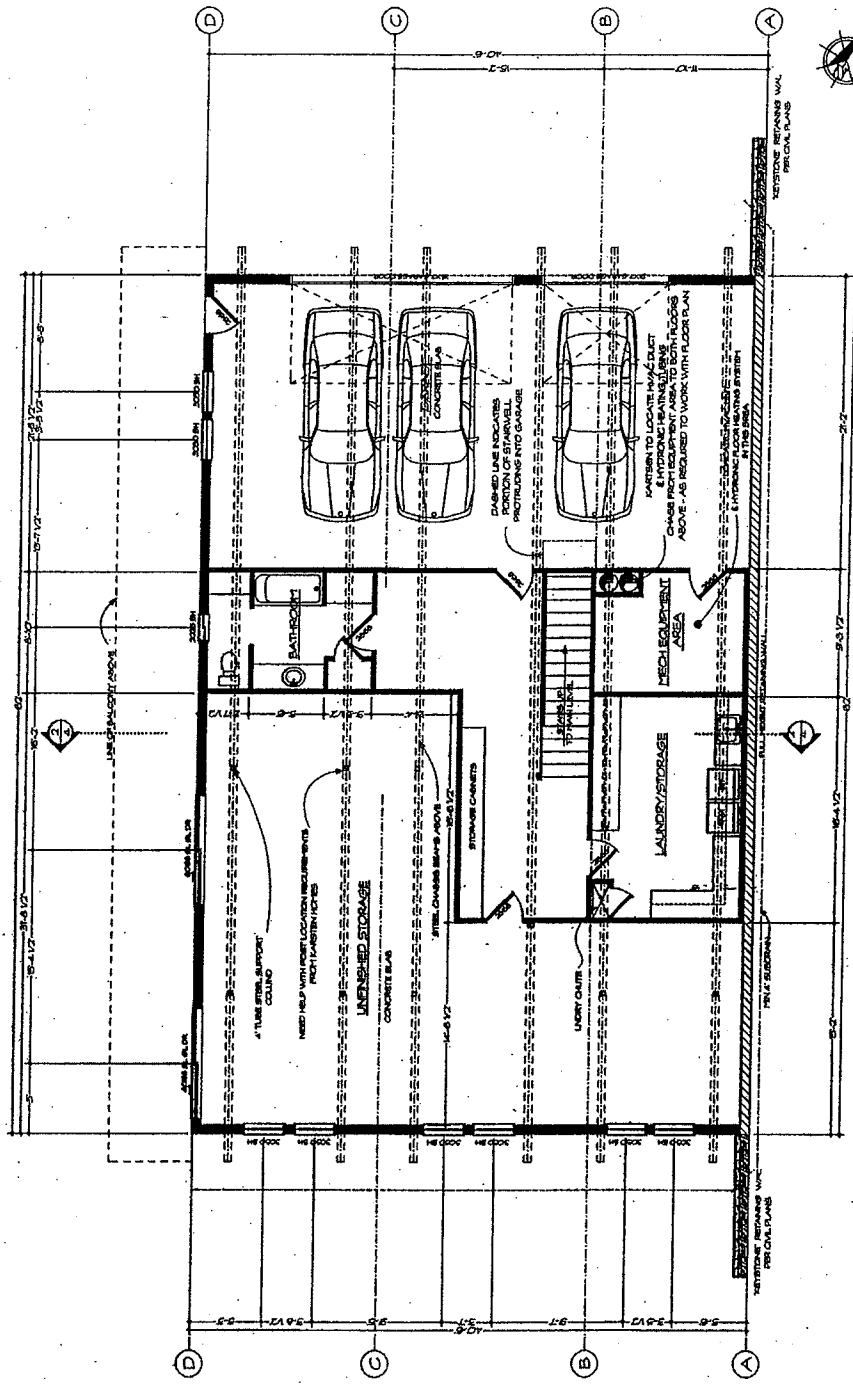
SCALE: AS NOTED
August 2008

Sheet Number
7 OF 12

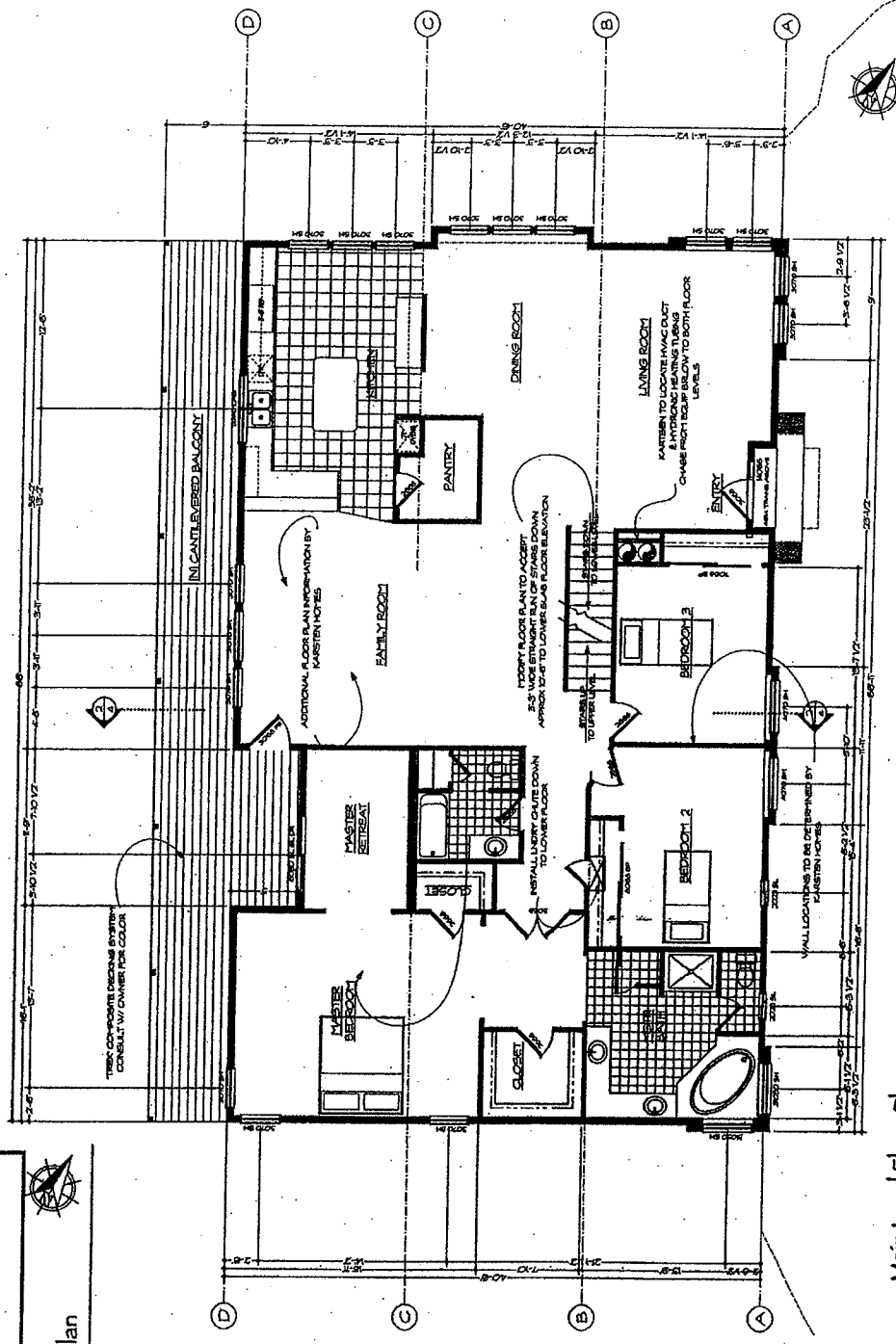
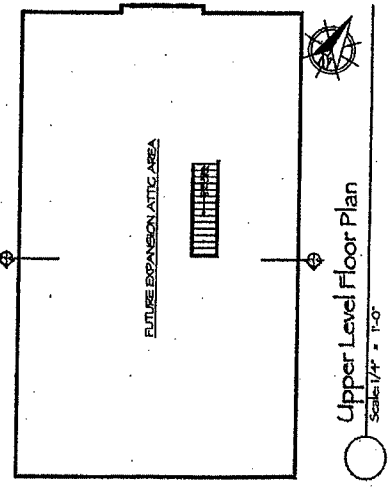


1 Building Section
Scale: 1/8" = 1'-0"

REVISIONS	DATE	BY	DESCRIPTION



Lower Level Floor Plan
Scale: 1/4" = 1'-0"



PDT
DESIGNS

PAUL D. FRIEND
ARCHITECT

47 SHAW WALKY DR
FAIRFIELD, CA 94508
925.438.8810

REVISIONS

NO.	DATE	DESCRIPTION

Proposed Residence

Clayton Ranch Development
915 & 915 Wilson Avenue, Vallejo Ca

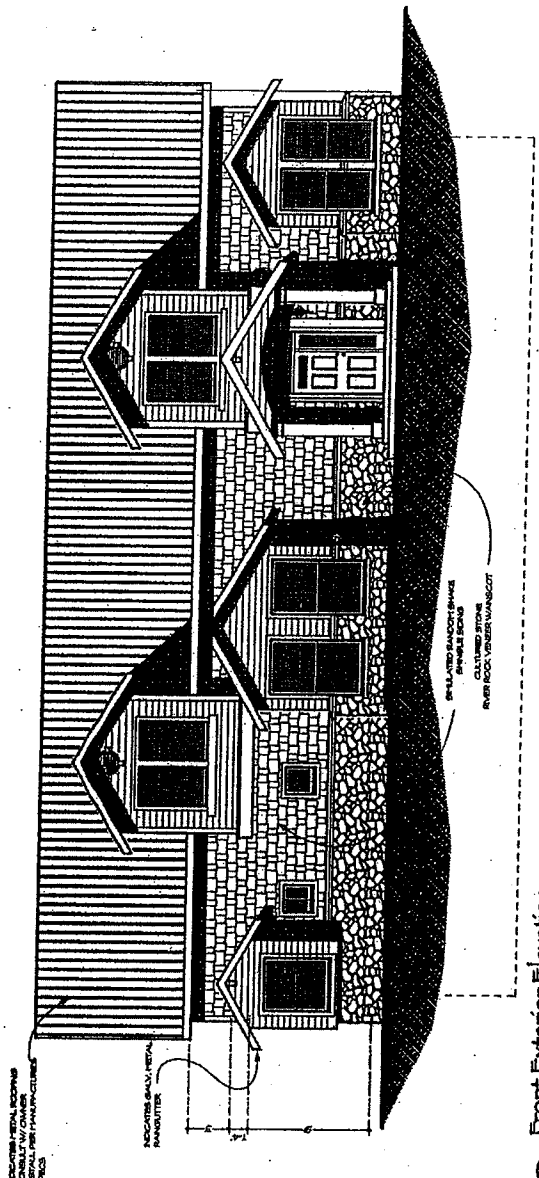
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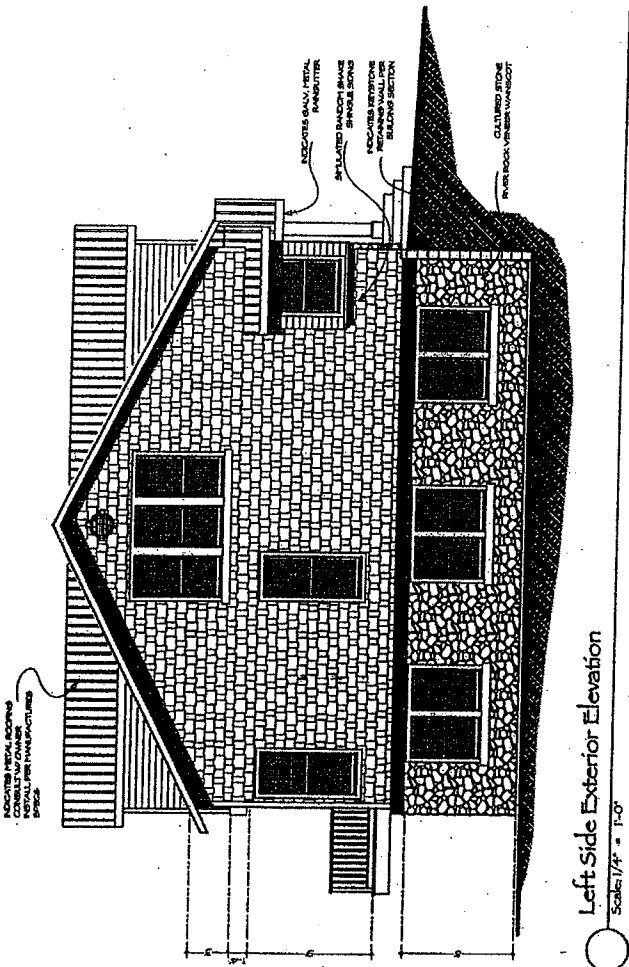
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915 Front & Left Exterior Elevation
BOULDER A&S NOTED
AUGUST 2008

Sheet Number
10 of 12



Front Exterior Elevation
Scale: 1/4" = 1'-0"



Left Side Exterior Elevation
Scale: 1/4" = 1'-0"

PDT
DESIGNS

PAUL D. TREND
ARCHITECT

201 SHAW WALKER BOG
311 HILL ST., SUITE 200
SAN FRANCISCO, CA 94104
WWW.ADDRESSES.COM

REVISIONS

1	DATE	DESCRIPTION

Proposed Residence

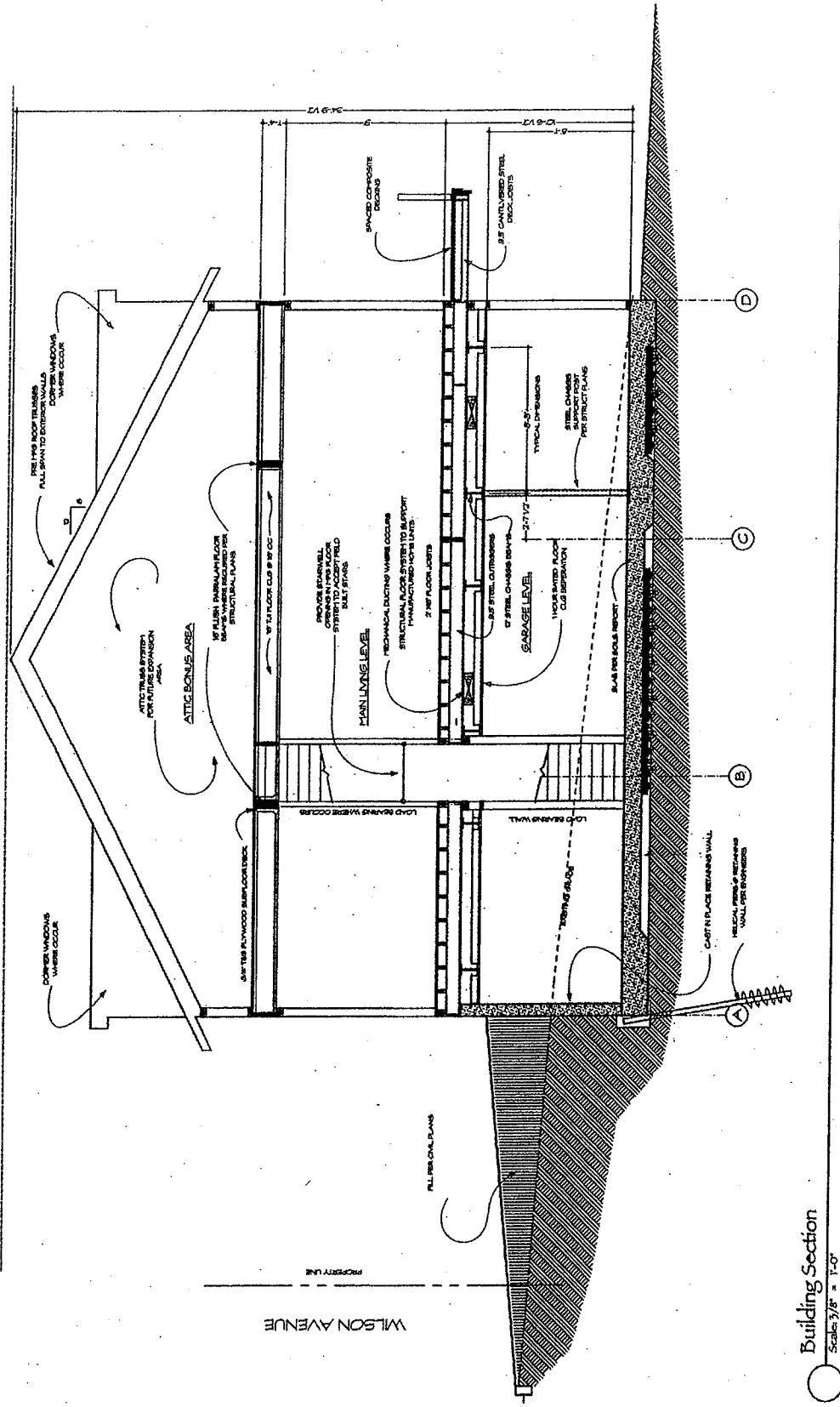
Clayton Ranch Development
913 & 915 Wilson Avenue, Vallejo Ca



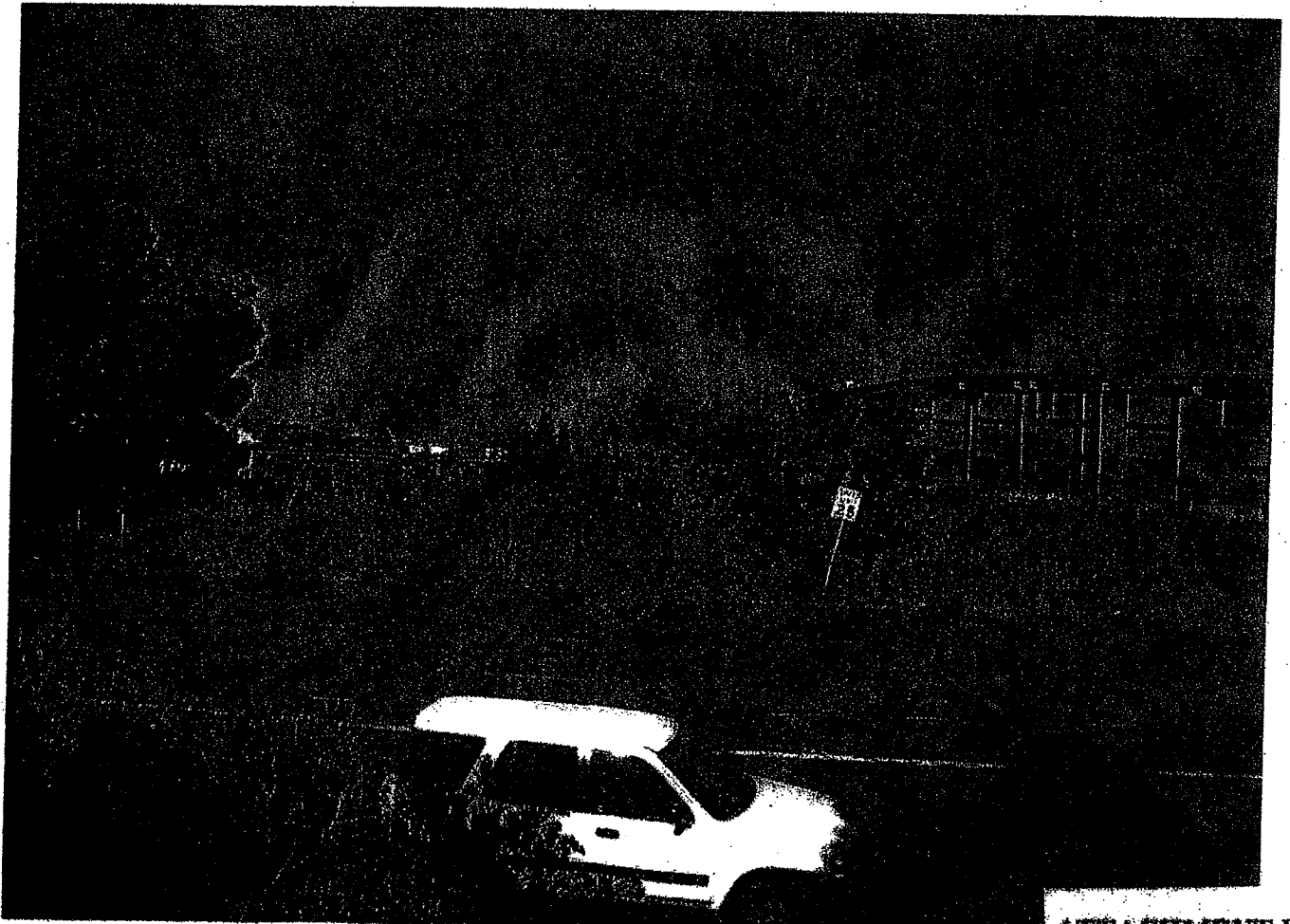
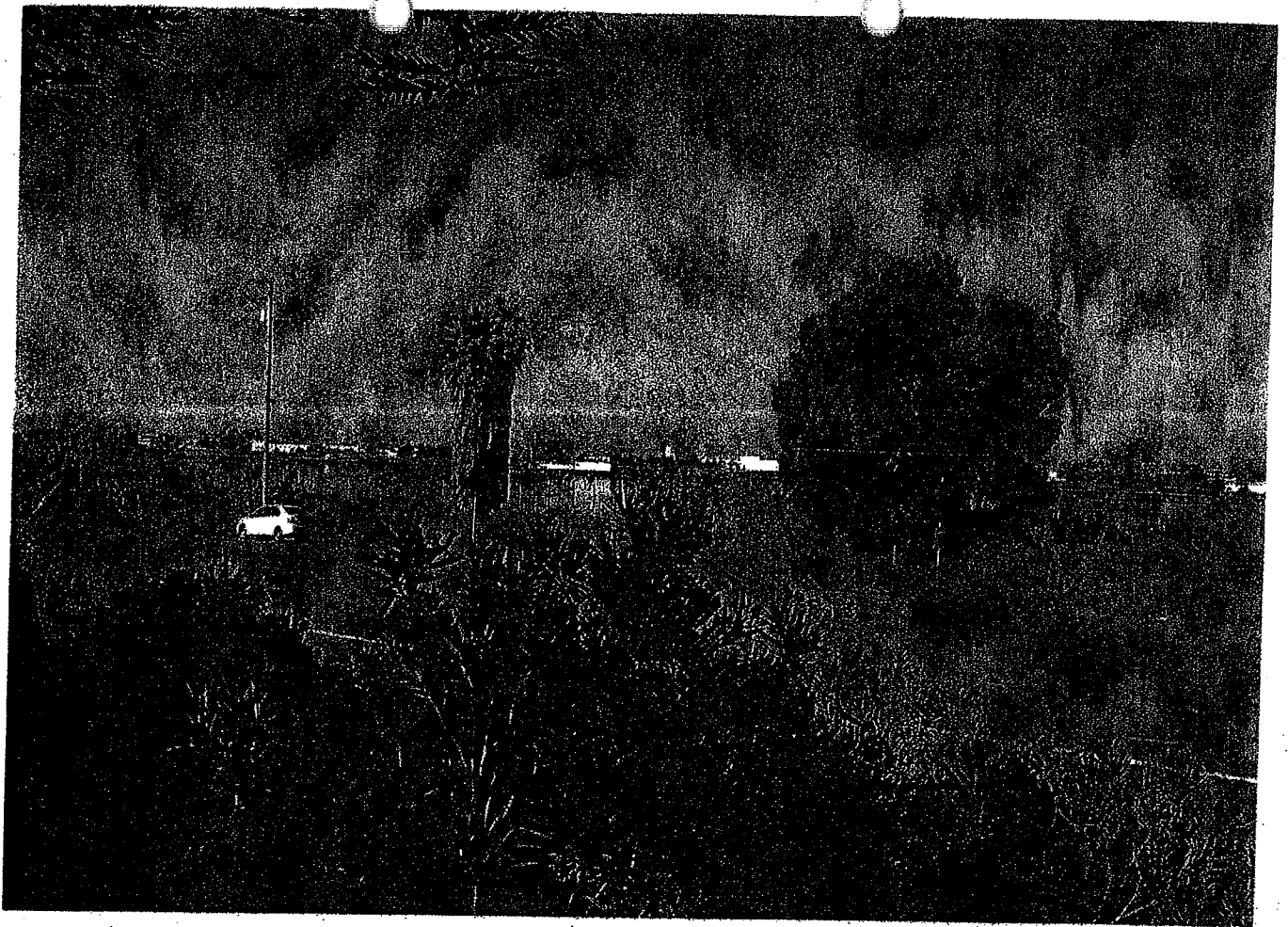
913 Building
Section

SCALE: AS NOTED
August 2006

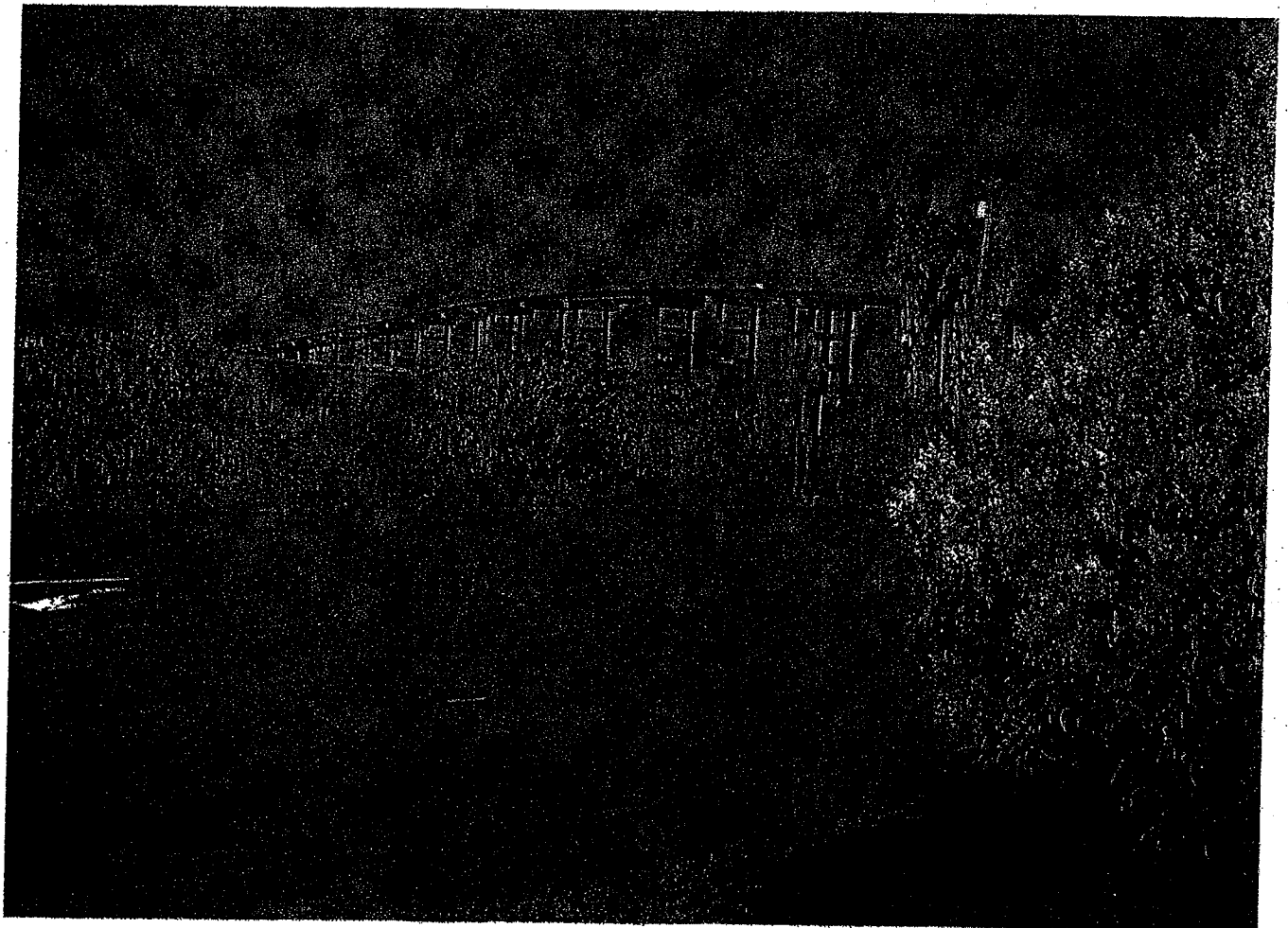
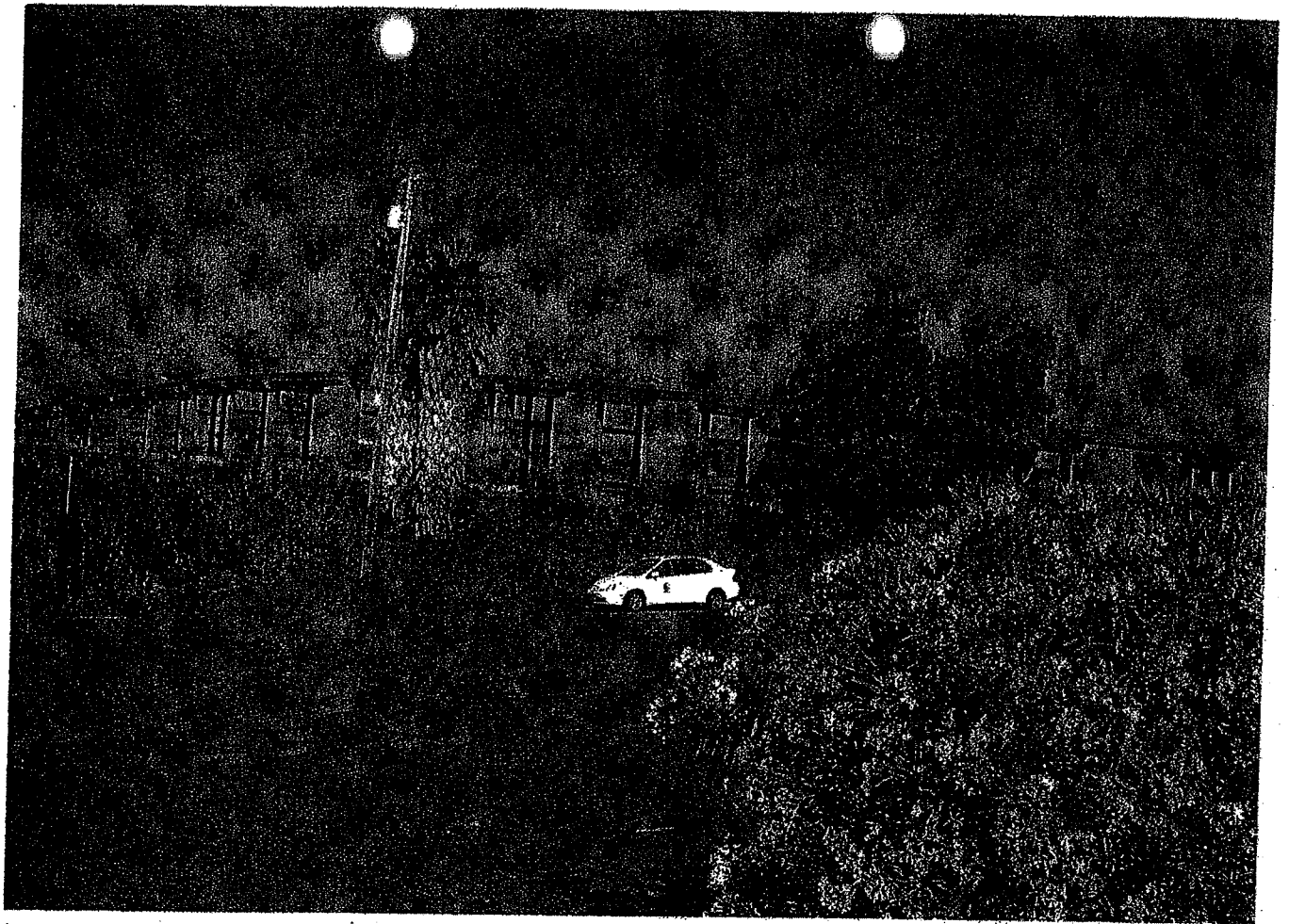
Sheet Number
12 of 12

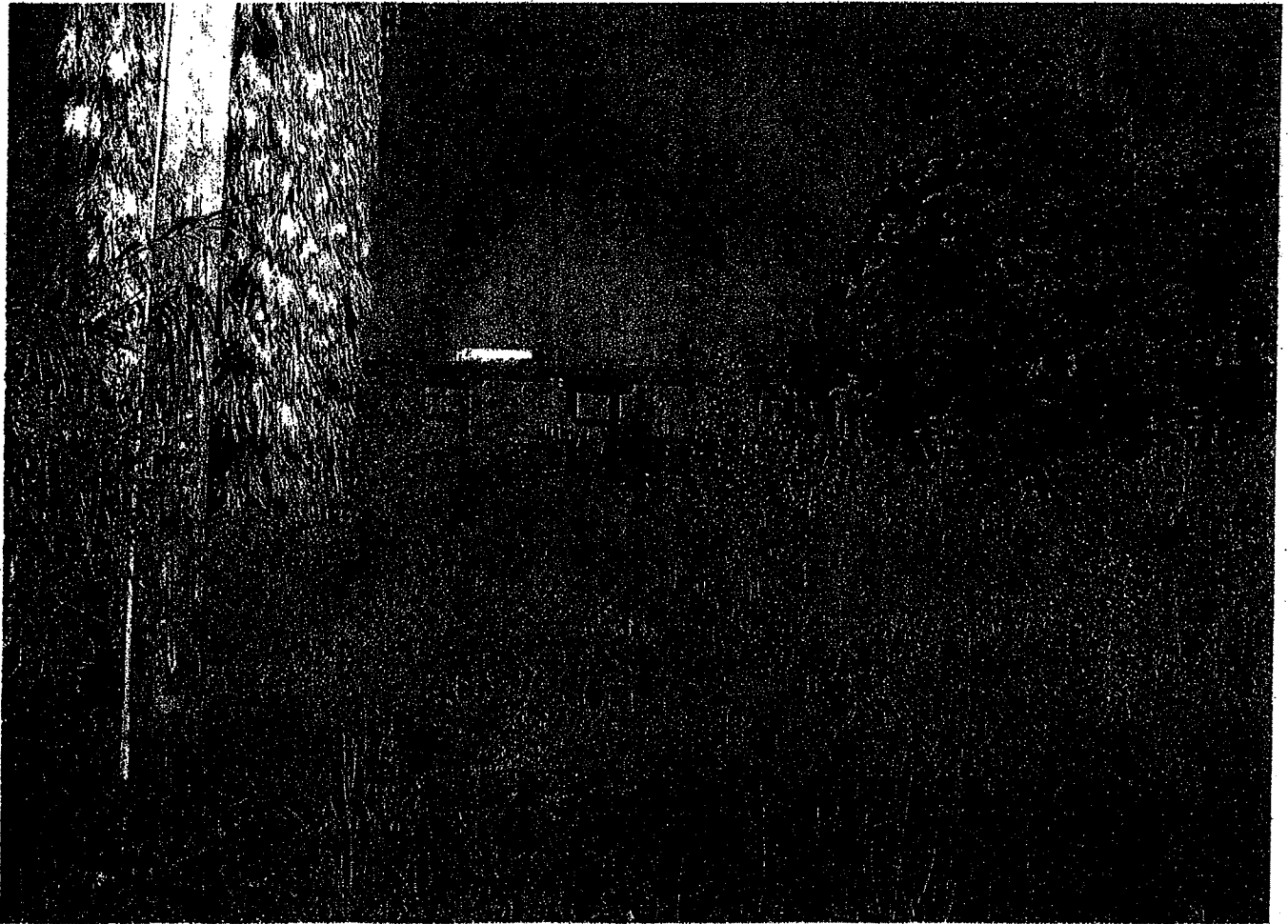


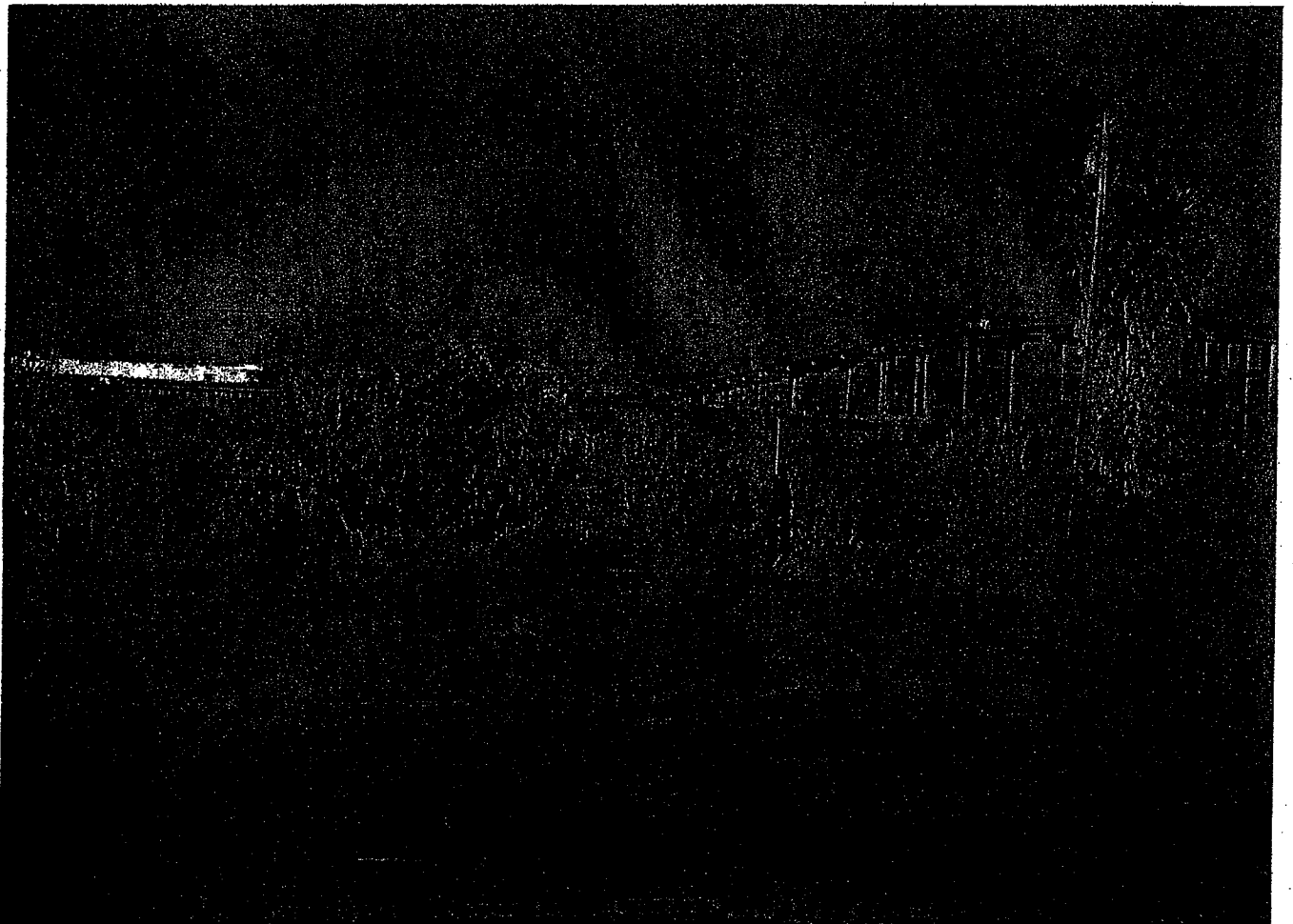
Building Section
Scale: 3/8" = 1'-0"



ATTACHMENT L









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Google

Point: 38°07'10.38" N, 122°16'28.47" W elev: 17 ft

Streaming: [progress bar] 100%

Eye alt: 1742 ft



CITY OF VALLEJO

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Vallejo Planning Commission will hold a hearing on the project described below:

PROJECT APPLICATION:

Use Permit #06-0011 and Use Permit #06-0012

LOCATION:

913 and 915 Wilson Avenue APN 0051-100-150 and 160

PROJECT DESCRIPTION:

Use Permits for a two single family homes. The property owner is proposing to construct two single family homes on vacant parcels at 913 and 915 Wilson Avenue. The proposed houses are to be 2 ½ stories, 35-feet high (29 feet high from Wilson Avenue elevation), with total square footage of 5,503 and 5,026 respectively.

PROJECT APPLICANT:

Gary Morris

PROPERTY OWNER:

Harold Boex

NEIGHBORING PROPERTY OWNERS, RESIDENTS, AND/OR TENANTS SHOULD CONTACT CITY STAFF BY TELEPHONE OR COME TO CITY HALL TO REVIEW THE PROJECT PLANS AND POTENTIAL CONDITIONS TO DETERMINE HOW THE PROPOSED PROJECT MAY AFFECT THEM INDIVIDUALLY.

The hearing on this project will be held on August 7, 2006 at 7:00 p.m. in the Council Chambers, City Hall, 555 Santa Clara Street, Vallejo. If you challenge the Planning Commission's action on this project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Secretary of the Planning Commission at the public hearing or to the project planner at the address below.

If you have any questions regarding this project, please call the Planning Division at (707) 648-5391 before the public hearing. You may also submit comments or questions in writing to the attention of the project planner Bill Tuikka, Planning Division, City Hall, P.O. Box 3068, Vallejo, CA 94590, or e-mail at btuikka@ci.vallejo.ca.us.

BRIAN DOLAN, Planning Manager

Date of Notice: July 12, 2006

July 28, 2006

Bill Tuikka, Project Planner
City of Vallejo Planning Commission
555 Santa Clara Street
Vallejo, California 94590

Re: Use Permit # 06-0011 & 06-0012 913 and 915 Wilson Avenue, Vallejo, California
Assessor's Parcel Nos. 051-100- 150 & -160—Harold Boex

Dear Planning Commission:

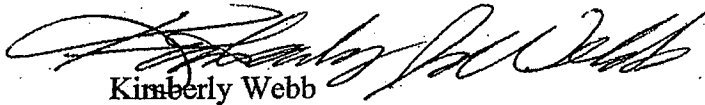
I am a resident in the Lighthouse Condominiums across the street from the above mentioned project. I recently received a Notice of Public hearing in the mail concerning the proposal by Mr. Boex to build two single-family residences on commercially zoned property on Wilson Street. Being unfamiliar with the process and greatly concerned over the affects that this project may have on my existing ocean view, I made inquires at the Planning Department. While the gentleman I spoke with, Mr. Tukkia, was very helpful there simply was not enough information in the file for me to make an informed decision about the how the project may affect me or whether it met the criteria for approval of a use permit. I am writing you this letter for two reasons:

1. Additional information is needed prior to any decision on the two proposed residences. When I visited with Mr. Tukkia, I requested copies of the plans that had been filed with the city for this project. I was informed that extra copies of the plans were not available to me. I wanted these plans to show to other neighbors who might be affected by the project. Further, I asked Mr. Tukkia if it would be possible to have the owner stake the location of each proposed residence and put up story poles or other visuals aides that might help me and the other homeowners in our complex fully understand how the proposed project might affect my ocean views, which are a major asset of my property. Mr. Tukkia informed me that while he also felt this would be good information to have available to the commission and the public, Mr. Boex was not required to provide such information even though he had been asked to do so by city staff. I am concerned because Mr. Tukkia tells me that each new house will extend up to 42 feet above sea level and the windows that provide me with my ocean view are at elevation 24 feet above sea level. On the face of it, it seems that this project will comprise my views of the water and thus negatively impact the value of my property. I need to be reassured that my views will not be comprised and at present there is insufficient information available to the public to make this determination.
2. More time is needed to determine the full extent of the potential impacts on my property and that of other neighbors in the condominium complex. Mr. Planning Commissioner, there is little need to rush city action on this project since it may have profound impacts on a number of condominium owners. We just don't have enough information to make this judgment. Further, when I spoke to the manager

of the Homeowners Association, I found out that contrary to the statements attributed to Mr. Boex, this project was not presented to the HOA. In fact, prior to my calling her, no one from either city staff or the owner had called to inform her of the project. I feel it important for the Commission to direct the owner to provide us both the information and time that is required to become better informed of the impacts of this project.

Mr. Planning Commissioner, in summary, I respectfully request that the Commission direct the property owner to provide copies of his plans so that they might be reviewed by the Lighthouse Condominium HOA, that the location of each house be staked in the field with story poles to the proposed height erected and additional information on how this project might affect the existing ocean views of myself and my neighbors. Until such information can be provided to the HOA and me, I request that the hearing on this project be continued or removed from calendar.

Sincerely,



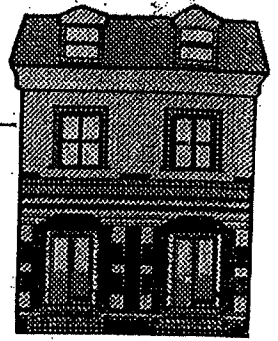
Kimberly Webb
103 Lighthouse Avenue
Vallejo, California 94590
(707) 552-9322

I have reviewed this letter and agree with the contents.

*Carl S. Everett
LBHOA President*

VALLEJO HEIGHTS NEIGHBORHOOD ASSOCIATION

Post Office Box 4243 • Vallejo, California 94590



August 2, 2006

Vallejo Planning Commission
Vallejo City Hall
555 Santa Clara Street
Vallejo, CA 94590

Re: Use Permits 06-0011 and 06-0012

Dear Commissioners:

The purpose of this letter is to express concern by Vallejo Heights Neighborhood Association (VHNA) to use permits 06-0011 and 06-0012 by the applicant Hal Boex because of the size and location of the proposed buildings.

The parcels located at 913 and 915 Wilson Avenue fall within the boundaries of VHNA and are in close proximity of our Residential View District. Therefore, VHNA carefully monitors and reviews any development within its boundaries.

The applicant has proposed each dwelling be 2 1/2 stories with an approximate height of 35 feet. VHNA is concerned with the scale of the buildings at this location adjacent to a residential view district, as it may obstruct views of many of our residents. In addition, VHNA recognizes that the parcel is zoned for residential development; however, is also concerned with the appropriateness of having this type of land use in such close proximity to the Napa River and adjacent wetlands.

Furthermore, VHNA membership requests that the applicant be required to erect "story poles" at the sites so that property owners, commissioners and the public can view the full impact of this type of development on surrounding habitat and properties.

In conclusion, we would urge each commission member to visit the site in person to view the impact of the applicant's proposed development on existing property owners and carefully reflect on that impact before taking any action on the applicant's proposal. The board of directors of VHNA will be meeting with Mr. Boex and/or his representatives on Thursday, August 3 to discuss these plans. We will decide after that meeting what our position will be and will inform the Commission at the August 7th meeting.

VHNA very much appreciates all thoughtful review by the Planning Commission of any development on highly valuable and visible parcels of land in the Vallejo Heights neighborhood area.

Sincerely,


David Cates
President
Vallejo Heights Neighborhood Association

CC: Vallejo City Council Members

101 Benson Ave
Vallejo, CA 94590

7 August 2006

Vallejo Planning Commission
Vallejo City Hall
555 Santa Clara Street
Vallejo, CA 94590

Dear Commissioners:

I am concerned and disturbed about Permits 06-0011 and 06-0012 applied for by Hal Boex, who proposes two dwellings of two and a half stories at 913 and 915 Wilson Ave.

First and foremost is my concern that any building is proposed at all. A visit to every housing development, every condo development site now open, every multi-unit apartment complex in Vallejo will show you that they contain empty units. I spent a Saturday morning not long ago driving both east and west sides of Vallejo to ascertain this information.

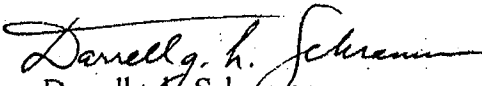
Before any further building is approved, Vallejo needs to 1) fill its empty units and 2) renovate dilapidated housing. I urge a moratorium on all new housing until more housing units become a proven necessity. Constructing new housing just to fill up empty space will not solve Vallejo's problems.

Second, the height of these two new buildings will obstruct view of the water for both citizens living across the road and for drivers and pedestrians who frequent Wilson Ave. Taking from those who are established to give to those who are not does not promote equity.

Third, while I understand those parcels of land in question are zoned for residence, I ask you what environmental impact studies have been done in adding yet more human occupation onto land only yards away from wetlands and the Napa River. Consider the environment. Consider what beauty in Vallejo still remains.

Rather than rubber-stamp approval for new housing, consider the complexities and impact for such proposals.

Thank you for your consideration.


Darrell G. Schramm
Cc: City Council

From: "Sherri Lucy" <mgmt@tmamulti.com>
To: <btuikka@ci.vallejo.ca.us>
Date: 8/15/2006 5:13 pm
Subject: Use Permits #06-0011 and #06-0012

Dear Mr. Tuikka,

As manager of the Lighthouse @ Bridgeport Owners Association, I am writing at the direction of the Association's Board of Directors in regard to the above use permits.

As you know, the Lighthouse @ Bridgeport Owners Association is a 180 unit condominium project off of Wilson and Lighthouse Drive in Vallejo. Many of our owners may be affected by this project, particularly the owners of units that border Wilson Avenue may be negatively impacted by this proposed project.

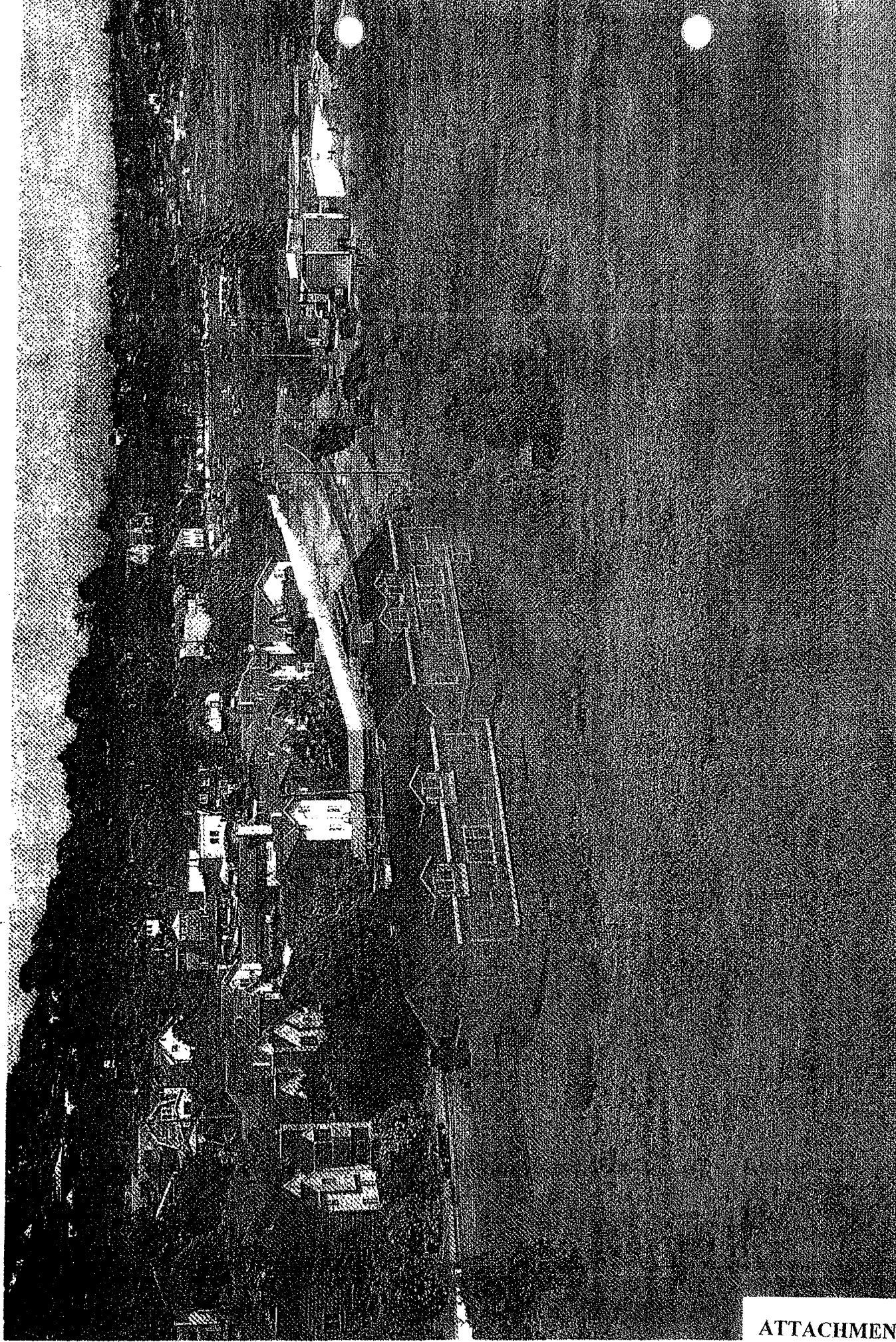
The Board has several concerns in this regard as follows:

1. The Association did not receive any notification in regard to the proposed project nor we were advised of any scheduled hearing on this issue. I had to call you directly to receive any information at all. Isn't the City required to give some kind of notice for these types of hearings and proposed projects?
2. Per your statements, the attorney for the developer of the project indicated to you that the Association had approved the project. This is a complete untruth. The attorney has never contacted the Association nor have we expressed any approval for the project.
3. The Association is seriously concerned about the project and the impact it will have on the view for some of our owners. Many of our owners paid a premium when purchasing units with a view and this project may affect the view resulting in decreased property values for our community.

Our Board President, Carl Everett, plans to attend the upcoming hearing on this issue but we did want to put our concerns in writing also for Planning Commission review.

If you have any questions or need any additional information, please feel free to contact me.

Sherri Annoni Lucy, PCAM, CCAM
The Management Alternative
CEO/Association Manager
906 13th Street
Modesto, CA 95354
(209) 544-3422 or (888) 862-3335
www.tmamulti.com

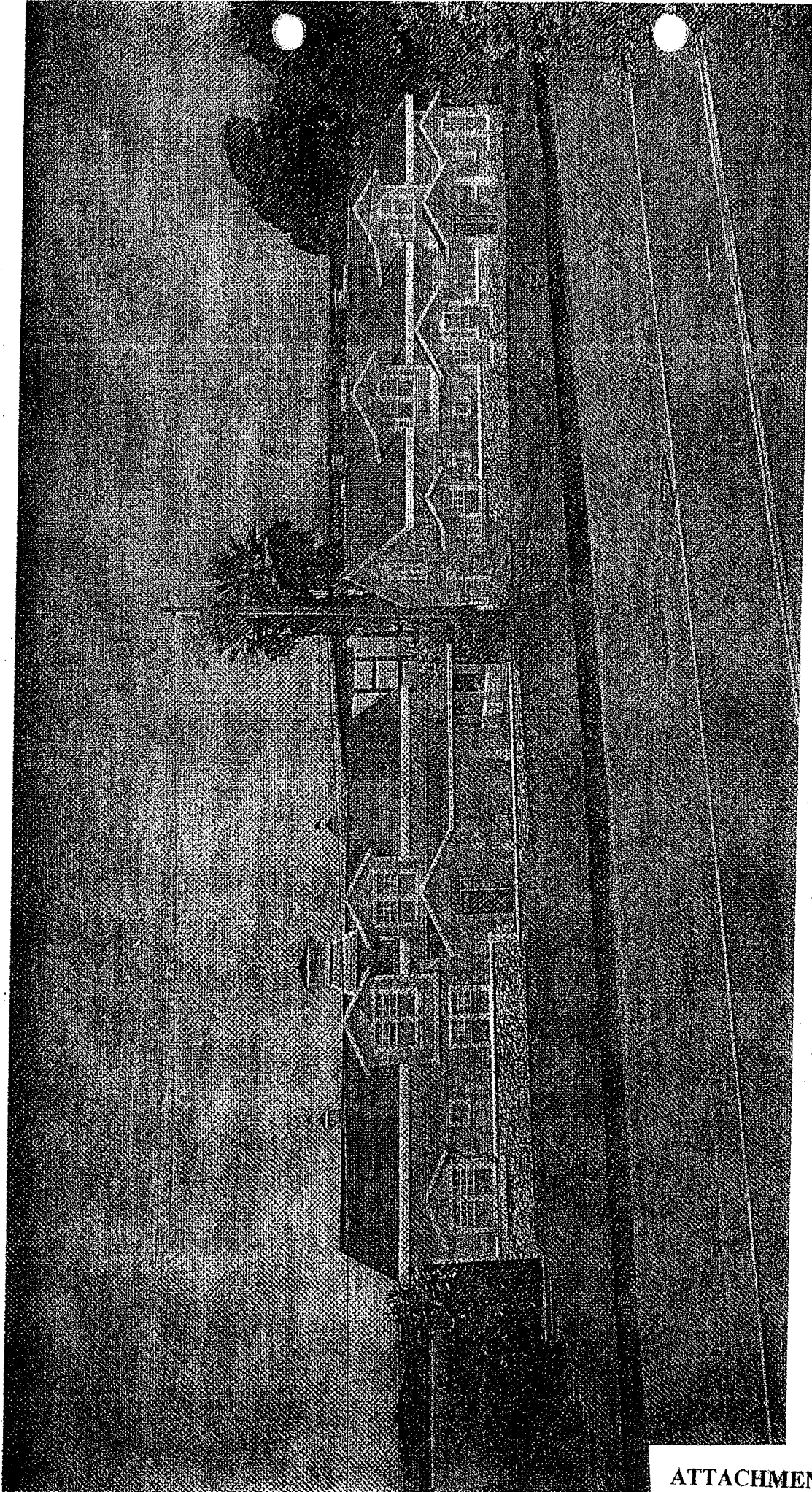


ATTACHMENT P

Proposed Water Frontage

Clayton Ranch Development

913 & 915 Wilson Ave, Vallejo, CA



ATTACHMENT Q

Proposed Street Frontage

Clayton Ranch Development

913 & 915 Wilson Ave, Vallejo, CA



1996 Photos

A. The meeting was called to order at 7:00 p.m.

B. The pledge of allegiance to the flag was recited.

C. ROLL CALL:

Present: Commissioners Turley, McConnell, Morris, Legalos, Salvadori,
Peterman.

Absent: Engelman.

D. APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF AUGUST 7, 2006
AND THE REGULAR MEETING OF SEPTEMBER 6, 2006 WERE UNANIMOUSLY
CONTINUED TO THE NEXT MEETING ON A MOTION BY COMMISSIONER
LEGALOS.

E. CONSENT CALENDER AND APPROVAL OF THE AGENDA

Brian Dolan: Item L-1 was put on the agenda but I do not really think it is ready to go.
There is some more dialogue to have. We do not have a report on it and I would
recommend that we reschedule that to the next meeting.

On a motion by Commissioner Legalos the consent calendar and agenda, with revisions,
were unanimously approved.

F. REPORT OF THE SECRETARY

1. Upcoming Meeting of Monday, October 2, 2006

A. No items scheduled at this time.

2. A. Consideration of canceling the October 2, 2006 Planning Commission
Meeting.

Meeting cancelled.

G. CITY ATTORNEY REPORT

None.

H. COMMUNITY FORUM

None.

I. REPORT OF THE PRESIDING OFFICER AND COMMISSIONERS

None.

J. LIAISON REPORTS

1. Council Liaison to Planning Commission

None.

2. Planning Commission Liaison to City Council

None.

K. PUBLIC HEARINGS

1. **Use Permits 06-0011 and 06-0012** for new single family dwelling in the CW District located at 913 and 915 Wilson Avenue. Continued from the meeting of August 8, 2006 and August 21, 2006. Proposed CEQA Action: Exempt. Continued from July 17, 2006.

Staff recommends approval with the findings and conditions in the staff report.

Chairperson Morris recused himself and turned the meeting over to Commissioner Legalos.

Bill Tuikka: At the Planning Commission meeting of Aug. 21, the Commission continued this item and requested additional information from staff, specifically that staff perform an analysis that compared the proposal to other neighboring dwellings, as well as an analysis on the allowed uses in the Waterfront Shopping and service district, particularly commercial uses on the first floor.

The surrounding neighborhood consists of the Lighthouse at Bridgeport Condominiums, which is mostly configured in two-story building containing approximately 1,640 to 1,900 square feet, and one larger building containing four units and 3,272 square feet. These buildings are approximately 28 to 30 feet high.

Slightly south of the proposal is Lighthouse Court, containing 16 single family homes, eight of which are two story. The square footage of these homes range from 1,700 square feet to 1,825 square feet, including garage. The two story houses are a maximum of 24 feet high.

Based in this analysis, the proposed houses of 5,026 to 5,523 square feet and 35 feet high are larger than any of the surrounding residential dwelling, and staff continues to believe that the proposed houses, if reduced in height by 5-feet which would also likely result in a reduction of square footage, would be more compatible with the neighborhood. A 5-foot reduction in height would result in buildings that appear to be 24 feet high as viewed from Wilson Avenue.

We received a phone call today from the one would contain buildings with reduced height. We have not receive these plans and, if they are produced tonight, we would be ready to recommend approval if the revisions meet the conditions of approval.

Regarding the uses allowed in the Waterfront Shopping and service district. Page 2 of your memo lists permitted and uses subject to limitations and uses subject to a major use permit. A wide variety of uses are allowed, and many of these uses are required to be marine-related. The proposed residential use is allowed with a major use permit. Commercial uses would be allowed on the first floor; however, these uses would be subject to providing adequate parking, which would be difficult on this parcel. I can elaborate on this if you like, however I believe I've listed all the uses as they are allowed by the zoning ordinance.

At the August 21 meeting, commissioner McConnell requested legal authority on the issue of what is the impact of the presence of a view ordinance in a district when a project that adjoins that view district, but is not within that district, impacts upon the views that are provided to that district.

The City attorney's office has prepared a memo that, in summary, states that the City of Vallejo has a View District, which is different than a view Ordinance. The difference here is that an ordinance tends to give a landowner a right of action if their view is obstructed, and also, there is generally a mechanism for resolution of disputes. A view district is a

Vallejo Planning Commission Minutes
September 18, 2006

regulation too which governs development in a particular district, and generally doesn't contain private rights of action or a mediation mechanism. Claudia Quintana can elaborate on that if you have any questions regarding her memo.

Commissioner Salvadori: Do you know, with this reduction in 5 feet, what the reduction in livable, usable square footage will be?

Bill Tuikka: I was just trying to figure that out. It appears that they still have a two-story building with attic space. Whether that attic space can actually be counted as livable space is questionable. It appears that it still would be larger, in square footage, than the surrounding buildings, though it is less than what was originally proposed in square footage.

Commissioner Salvadori: Maybe we can get a better for that from the applicant. I would be very interested in knowing what that reduction was. As I read this and I am looking at the third paragraph down, tell me if my interpretation is correct. The ordinance does not protect the views over adjoining properties that are developed consistent with the zoning for those properties. We have seen over the past year a number of projects come before this Commission where it may or may not be in the view district where people have assumed that since they have had a view they should be able to continue to have a view. Your memo says in no uncertain terms that that is not true. The development on the adjoining property as long as it is consistent with the zoning and use of the property there is no overriding need to protect the view. Is that right?

Claudia Quintana: I think the general law is that absent a statute or an ordinance you are correct there is no individual right to view or light. That is how that general rule usually goes. In this particular instance it does seem like the City of Vallejo wants to have that right. What you are seeing, I think, is a measure of people wanting to afford that right to individual homeowners, but not having the mechanism to, in fact, do that.

Commissioner Salvadori: My second question, pertains to view districts. If you have a view district and there is a vacant property in that district and it is vacant for some time, maybe forever, and yet someone wants to develop that piece of property, consistent with the zoning in that district, is there a grandfathering of the view over that property simply because there is nothing there? This is in a view district.

Claudia Quintana: I do not think that is correct. I think that in that instance whoever wants to develop the property would have to comply with the regulations that are set forth in the view district.

Commissioner Salvadori: That is the whole question, if someone assumes they have a view over that property if there is nothing built on it do they still have a right to that view if the people who own that property want to build on it?

Claudia Quintana: The person who wants the view does not have an individual right to that view.

Brian Dolan: I agree with the City Attorney's opinion. If we have a vacant lot in the view district there are criteria that the new development would have to follow but it does not exclude development in its entirety. They have to make good efforts to try and preserve certain types of views that are described in the ordinance but the view is not a definitive right to a person who had it for some number of years just because the owner did not build.

Vallejo Planning Commission Minutes
September 18, 2006

Commissioner Salvadori: I want to thank the City Attorney's office because we have been through this a number of times lately. Mr. Tuikka, do you expect that the applicant is going to make a presentation?

Bill Tuikka: I believe so.

Commissioner Turley: Has 915 Wilson been reduced 5' in height?

Bill Tuikka: Yes. The architect would be reducing both of the houses by five feet.

Commissioner Turley: On this plan here that was handed to us tonight it still says 34' 9 1/2".

Bill Tuikka: It is building heights per design submittal. I believe he is showing the difference between the last submittal and this one. The architect's representative is here tonight and can explain that further.

Commissioner Turley: Still at 915 Wilson, is the 35 feet to the roof ridge line, we have three cupolas at this house.

Bill Tuikka: The ridge line at 915 Wilson is 29' 7 1/2".

Commissioner Turley: The center cupola seems to be 8 feet higher than the ridge.

Bill Tuikka: That could be. I do not have the dimensions to determine that. That was part of the original plans as well.

Commissioner Peterman: I realize I do need to be a voice crying in the wilderness, I really think that when we redo the General Plan we need to have a view ordinance. The views in Vallejo are wonderful, charming, and a reason people move here. We need to protect them.

Vice-Chairperson Legalos opened the public hearing.

Dana Dean: I am the attorney for the applicant. It is nice to see you again. I want to go over three points and address any questions you might have. In particular regarding the height, the plans that I brought tonight are in response to the staff report and a particular request staff thinks would help bring this project into a more comfortable position for everyone. There is a five foot reduction and in terms of Commissioner Salvadori's question about the massing it does change. 915 Wilson which was at 5,563 gross square feet changes to just under 5,000 total square feet and living square footage is 3,169. I say that because I do think it is important to compare apples to apples. When we were here last time I think there was some confusion about, for example when you purchase a house and someone says I am getting a 2,500 square foot house, you are talking about the living area. I thought it was important to include that. 913 Wilson goes from just over 5,000 to a total square footage of just over 3,600 and a living area of 2,995. That is still somewhat more than the single-family condos but if you take for example the Lighthouse building that is at 3272 it is more compatible in terms of what staff and the community are looking for. In terms of the height by our calculations the height drops to a visible height of about 24 feet on both of those. The cupola, I am sorry I don't have the old plans, I thought the original plans would still be in your packet, but I believe it was about 2 feet high.

Commissioner Turley: If it is drawn in proportion it is approximately 8 feet.

Vallejo Planning Commission Minutes
September 18, 2006

Dana Dean: I don't think it is intended at 8 feet but I can't say for sure because I don't have the old plans. I actually thought you had the old plans in your packet, which would have detailed that out. In any case you can see we are trying to accommodate the City's concerns. Mr. Peterman's original concern about the mass of the structure and everyone's concern about view. Although I do want to come to my third point, and that is that Commissioner McConnell graciously offered that I might give my opinion on the view ordinance. Ms. Quintana's memo was right on except that I would add a couple of things. The answer to the question is a legislative answer. If the law is not suitable then the law needs to be changed. It does need to be changed through the General Plan update process. The one thing I point out in those ordinances that were included for Tiburon, Oakland and the other cities, you will note that they really reference trees, and vegetation and shrubbery. They do not talk about structures. There is a reason they do not talk about structures. If you go further into the case law it is plain that property owners have their rights and you can only go so far to diminish those before you are going deep into constitutional issues that are uncomfortable. Certainly to the extent that a view ordinance is appropriate that is something that is going to be considered. Regardless, it does not apply here. I am happy to answer questions. I can't recall if there was another one that remained unanswered. I do hope that you see that we have made an effort to address some of your concerns.

Commissioner Salvadori: I do have the original staff report. The plans do show the cupolas but do not show the architectural dimensions. Unfortunately, I agree with Commissioner Turley that the cupolas seem to be about 8 feet. Thank you for answering my question about square footage. On 915 Wilson between the living area total square footage is about 1800 to 1900 square feet. What is that space?

Dana Dean: Garage and the unfinished lower area. It is the ground level, essentially.

Commissioner Salvadori: At 913 the total square footage is 3600 and the livable is right at 3000. That is 600 and that makes sense to me that that would be the garage. What is the difference in the two? Why is one considered living area and the other not?

Dana Dean: I am sorry that we did not get a chance to include the other drawings but the actual layout is essentially the same as the original drawings that you had before. I hope you still have them. You will note that there is about 900 square feet of unfinished space in 915 Wilson. It is adjacent to the garage. I think, also, it might be a three car garage, although, I don't have that.

Commissioner Salvadori: It is garage, unfinished storage space, why wouldn't unfinished storage space be living space? It could be couldn't it?

Dana Dean: It could be. It is not proposed as such right now. It would also, eventually, become commercial space. That goes back to our original plan of having evolved this project from one that actually was required to have commercial space. That was a long answer but I think you understand what I am saying.

Commissioner Turley: This original staff report was only handed to us tonight and I have not had a chance to re-read it. Was there something in there that said this property was zoned commercial?

Bill Tuikka: The property is in the Waterfront Shopping and Service District, the CW District.

Katy Meisner: I am here representing Vallejo Heights. I want to put on the record that the Heights is opposed to this project. There are several reasons. First of all what about all the houses that were demolished on the west side? How could you even consider

now the construction of these really large homes. Also the City Attorney stated that private owners in view districts have no rights over adjoining properties, I question whether 913 and 915 should be excluded from the View District. I was never told that the west side of Wilson was excluded. It seems like the most important part of Vallejo Heights. The City Attorney states that Vallejo does not have a View Ordinance only a limited View District. View Ordinances are adopted by cities or towns with desirable vistas. Vallejo can certainly claim that feature. I urge the Commission to adopt a true View Ordinance. This speaks to the whole General Plan update. To be honest it seems like there should be another moratorium on building along rivers and scenic streets. In the mean time our outdated General Plan's zoning really threatens to destroy what makes Vallejo a unique and beautiful city. Not just Vallejo Heights of course but there are many sections of Vallejo that have wonderful views. It is really what makes Vallejo such a great place to live. I do not know anything about Tiburon or anything but I cannot imagine that someone in Tiburon with all the views and money they have that it would be allowable that someone could destroy someone's view. Thank you.

Joe Blaney: I have property adjacent to 915 and 913 Wilson. First of all I am going to state that I am categorically for this development. I have very literal minded reasons for that. We are the gateway to Vallejo on Wilson Avenue. When you come off 37 this is what you see. I recall the house that was there before and I recall the gentleman's effort to do something with it when he purchased it. He ran into a great deal of difficulty partially because he was doing another thing. Namely, he was in the Navy and he did not have enough time to devote to really producing what he wanted. You have a choice, the way I see it. You can leave it open space. If you owned it I do not think you would want to do that. If you build something it should be what you envision as the house you want to live in. I have known, the owner, Hal Boex for many, many years. He has never built anything shoddy or restrictive of view to my knowledge. I at the moment am involved in putting a cappuccino building on Wilson Avenue on my property. It has taken me 2 ½ years to get to the stage that I am at; to put a 10 x 20 building that will serve the public, commuters and the general neighborhood. Coming back to my original thought, when you have something as beautiful as Vallejo you have got to take care of making the approach that we live in as attractive and something that Vallejo can be proud of. I can't imagine a person of Hal's stature doing something that would be shoddy and would not be neighborly. Let me give you a for instance. In 1999 the State of California decided to take out all the tanks in operational gas stations and put in new ones. We did that. We complied. We spent \$250,000. We had a complaint from the neighbors who built less than five years ago. They complained that the lights from our canopy were in their windows. We accommodated by cutting off the outside lights. I am sure that the gesture of cutting down the height by five feet that is exactly what Hal is trying to do. Therefore I really think this should be granted. Thank you.

Vice-Chairperson Legalos closed the Public Hearing.

Commissioner Salvadori: Since the staff recommendation is to approve this I would like staff to talk to me about the volume and scale and how you believe it is consistent with the area.

Bill Tuikka: First of all I was hoping we would have a full set of plans here to view and not just several snapshots of the proposed plan. However, as we detailed in the last staff report, one of the ruling issues here is the height of these buildings. There were several buildings on this sight before that were approximately 25 feet high as well as much vegetation that was that high. We believe the analysis would bear out that this is substantially in conformance with those other buildings as far as the height goes. He has made an attempt architecturally to break up the façade so it does not have a large expanse. We have also made recommendations in the last staff report that the roofing material be more compatible with the residential buildings which would also attempt to

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minimize the way that it stands on the lot. However, as I said, I was hoping for a more dimensioned drawings. We believe we are working in the right direction with the plans here.

Brian Dolan: I would recommend that if the Commission is inclined to approve the application that you approve it with the recommended conditions of approval and not attach any approval to these specific plans because we have not been able to go over them. As Bill says it gives an indication they are working towards compliance. I look at it as a study of can they meet our conditions. It appears that their architect believes that they can but we want to take the opportunity to make sure that these specific plans actually meet that condition of actually lowering it five feet. I just encourage you, if you do go forward, to not necessarily, reference these which we have only had for a short time.

Commissioner Turley: The metal roof is still a go, right?

Bill Tuikka: Staff has recommended that the metal roof not be installed but a composition or more residential material be provided.

Commissioner Turley: I guess we agree that to the top of the tallest cupola is about 38 feet?

Bill Tuikka: The top of the ridge, minus the cupola is 29'7". I am unable to make an exact determination as to the height of the cupola. We do not have dimension plans at the moment.

Commissioner Turley: They had some negotiable items at our last meeting. Would the cupolas be a negotiable item this time?

Bill Tuikka: If the Planning Commission prefers that the house not contain that you certainly can make that a recommendation.

Brian Dolan: I just wanted to remind the Commission that our definition of height would exclude a small architectural feature, as is being discussed. If the Commission is interested in reducing the size from what is presented in these revised plans I think that is a pretty reasonable request. They do seem to be a little bit out of proportion. But, we do not measure height to the top of small architectural features. We would just go to the ridgeline. I don't believe this feature, even drawn at this size, presents a significant view blockage for anyone.

Commissioner McConnell: You made a comment that the buildings that were there in the past were 25 feet, is that correct?

Bill Tuikka: Yes, that is correct. There were two buildings on this site and actually, a building that was approved but never built that was slightly lower than 25 feet high.

Commissioner McConnell: Were the previous buildings residences?

Bill Tuikka: Yes.

Commissioner McConnell: The predominant size of the residences in this general area are from 1640 to 1900 square feet?

Bill Tuikka: The Lighthouse Court houses are approximately that size.

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Commissioner McConnell: So as far as size goes, a smaller size would be more consistent with the general area.

Bill Tuikka: That would be correct. A smaller size building would make it exactly consistent with some of the buildings that are to the south of this.

Commissioner McConnell: In your staff report you talk about this being a 30 foot building that actually would appear to be a 25 foot building to the eye. I am not sure I really follow that thought. Can you explain it to me.

Bill Tuikka: If you look at the elevation of Wilson Ave. The elevation of the base of the house is approximately 5 or 6 feet lower than if you were standing on Wilson Avenue. As you can see the house, as it faces the water, has two floors that are open whereas, the house facing the street has the one floor with the cupola. That is where it looks lower as the land slopes away from the street towards the water.

Commissioner McConnell: This is where the new Wilson Avenue is going to be?

Bill Tuikka: Wilson Avenue remains the same elevation as it is today when it is completed. The elevation of Wilson Avenue is not changing in that area.

Commissioner McConnell: In this particular are the zoning is such that residential could be built or commercial, is that correct?

Bill Tuikka: Residential is allowed with a use permit and commercial would also be allowed but I would caution the Commission that parking would be an issue for any commercial allowed there. Any commercial project would require significantly more parking than an residential structure. This parcel is not able to accommodate that due to many constraints.

Commissioner McConnell: So you would not recommend ever that commercial activity be conducted in this area?

Bill Tuikka: We probably would not based on the configuration of the parcel and the fact that there is commercial nearby that is sufficient for the area.

Commissioner Turley: In the elevation here, how come there are no garages indicated?

Bill Tuikka: The garage is accessed from the side and below so from the front elevation you do not see the garage. The problem with these plans is that they have not provided us with a full set of plans showing the revisions. I understand that it is a little difficult to see that but the garage would be a lower level and accessed from below.

Commissioner Salvadori: I am still concerned with the size. I do think they have moved in the direction consistent with what staff has asked. I am a little concerned with the "quote" non-living area. I am also concerned with the potential for creating living area in the attic area. It begs to be a building with the ability to support more than one family, which is not what we are proposing here. But I guess I have got to feel comfortable and confident that staff will not let that happen. One of the first paragraphs in the findings states that before you go any further staff has to review the issues like bulk and scale and whether or not they are appropriate in this area. I think there is a real benefit that it looks like a single story house form Wilson Avenue as long as it is kept that way. I am concerned about the storage/unfinished/unused space in the basement and that might be especially inviting to commercial use. Staff said that they probably would not allow commercial use and so it is not likely to become a commercial space. Because of this it begs the question is it going to be residential use and then you have a 5,000 square foot

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house again. I think we have to put at least a level of trust in staff to make the right decision. If they believe that this project, as proposed, is a good project then they are not going to let something bad go forward. With that and special emphasis on the staff findings and conditions in the initial staff report I move that we approve these applications.

Brian Dolan: If the Commission had a particular building area that was acceptable that they wanted to add into the conditions it would assist us as we go through the specific design with the applicant. We do have spaces that area not labeled as living area but look like they at least have the potential to ultimately be proposed as such. Ultimately they would be internal to the box. They aren't going to affect the mass and so you have to weigh that against your comfort level and the size of the home. Ultimately if there is storage or bedrooms it is not going to have any more impact in terms of compatibility with the neighborhood. If the Commission felt more comfortable with a square footage it might inspire the applicant to shrink the house some. If that was what you were really trying to get to.

Commissioner McConnell: I would like to offer a substitute motion. That would be that the applications be approved with the condition that the living space not exceed 1900 square feet and a maximum height of 25 feet and that there be a specific restriction against altering any non heated use or non-living area to a situation where it could be used for that purpose, as well as not being obligated to go by the plans that have been submitted this evening.

AYES: McConnell, Turley.
NOS: Legalos, Salvadori, Peterman.
ABSENT: Engelman.
RECUSED: Morris.

Motion fails.

Commissioner Salvadori: I wish to amend my original motion to include a square footage allowance up to no more than 3000 livable square feet. Larger homes in some of the subdivisions that are being built now are creeping up to 2600 and 2700 and even 2800 square feet. For a custom home I would consider 3000 square feet.

Commissioner Turley: How many thousand?

Commissioner Salvadori: 3000. This is a single family home it is not a condominium. It needs to be bigger than 1900 square feet. I would like to amend my motion to that.

AYES: Salvadori.
NOS: Legalos, Peterman, McConnell, Peterman.
ABSENT: Engelman.
RECUSED: Morris.

Motion fails.

Brian Dolan: You can keep trying or you can just choose not to act and it will be considered a denial and it will move forward on appeal, presumably, to the City Council.

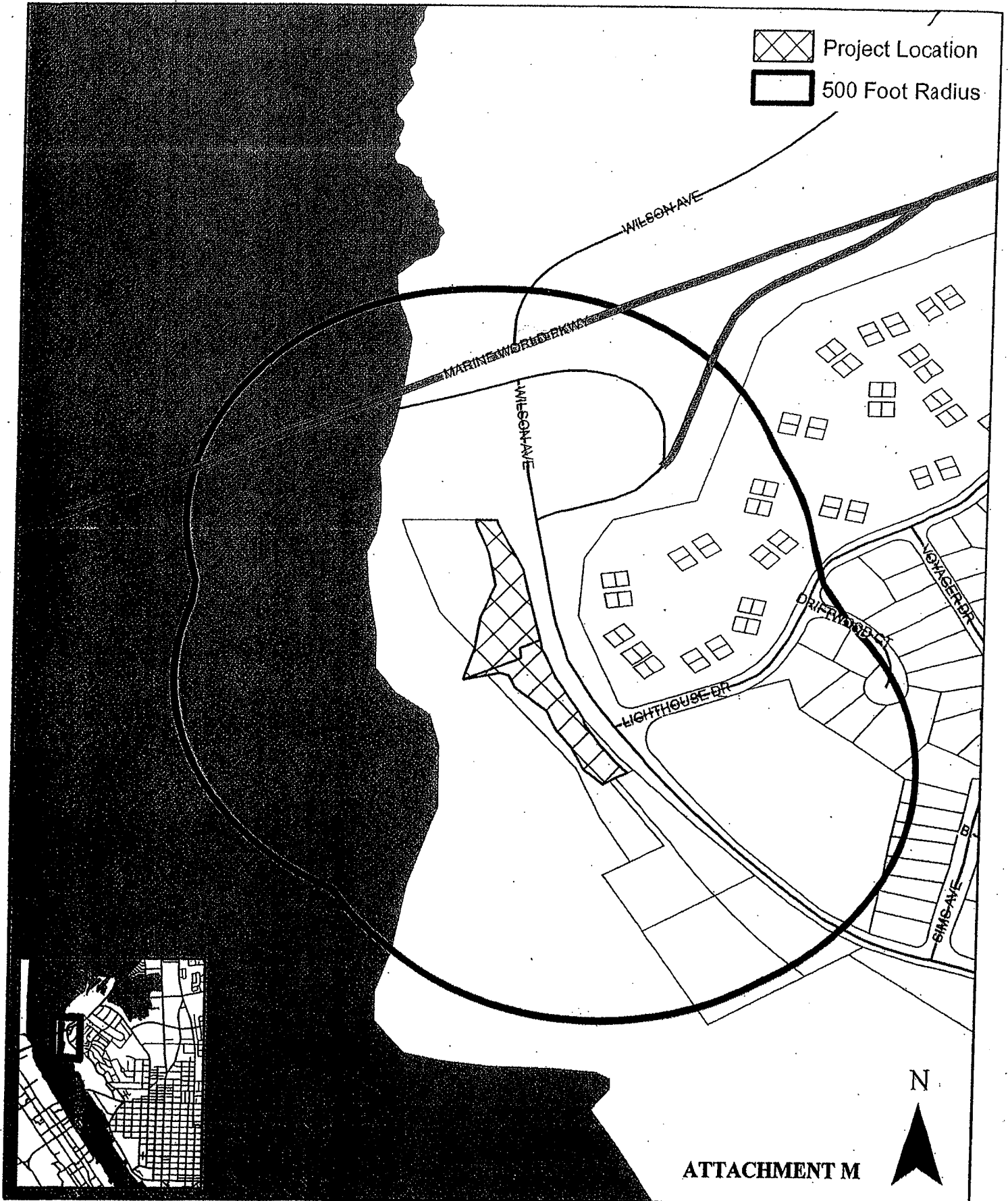
Commissioner Turley: Then I move that we not act.

Brian Dolan: I do not think you need to vote on it. I think you just need to move to the next item.

Conflict of Interest Map

Use Permit - #06-0011 & Use Permit - #06-0012

913 & 915 Wilson Avenue - (APN# 0051-100-150 and -160)





Agenda No. POLICY A

COUNCIL COMMUNICATION

Date: April 17, 2007

TO: Honorable Mayor and Members of the City Council

FROM: Craig Whitton, Assistant City Manager/Community Development *CW*
Brian Dolan, Development Services Director *BD*
Don Hazen, Planning Manager *DH*

SUBJECT: Consideration of a Resolution directing staff to prepare an amended Downtown Vallejo Specific Plan allowing temporary use regulations within the Georgia Street Corridor of the Downtown Vallejo Specific Plan area and expressing its intent to revise Ordinance 1553 N.C. (2d), the Master Plan for Downtown Vallejo, to accommodate those amendments.

BACKGROUND AND DISCUSSION:

The Downtown Vallejo Specific Plan was adopted by the City Council on September 20, 2005. Included in the Plan are land regulations which are intended to maintain and enhance Georgia Street as the "primary retail corridor" of downtown. Consequently, the list of permitted uses on the ground floor along the Georgia Street Corridor is retail-oriented. However, the Plan also acknowledges the need to "identify appropriate interim uses in retail spaces until such time as there is a market for retail uses" (pg. 4.3).

There has been a concern from local merchants that the current restrictions on uses for the ground floor spaces along Georgia Street Corridor are too prohibitive and have resulted in a high vacancy rate. In order to relax the rules on the types of uses which may be found in those spaces, City Council is being asked to direct the preparation of a change to the ordinance adopting the Downtown Vallejo Specific Plan as a Master Plan for the area. Once the amendment is prepared, the Amended Downtown Vallejo Specific Plan would be brought back to Council for Adoption by Resolution, and the Ordinance Adopting the Master Plan would be amended to incorporate the proposed changes as well.

On February 13, 2007, the City Council considered a proposed Resolution of Intention to adopt interim land use regulations that would have broadened the range of uses that could be permitted on the ground floor along the Georgia Street Corridor for a maximum of six years (staff report attached as Exhibit 3). The key provisions of the recommended Resolution were as follows:

- Conditionally permit specified non-retail uses to be temporarily established during an initial three-year period, with an additional three-year occupancy
- Reevaluate the retail market prior to termination of the interim regulations

All five participating City Council members (Councilmembers Bartee and Gomes recused

themselves) expressed support for interim regulations that provide an opportunity for non-retail uses on the ground floor. The City Council members expressed various concerns with the draft Resolution, including the temporary use status versus "grandfathering" and the appropriate period for "grandfathering." Additionally, implementation issues were discussed such as the need for a conditional use permit, specificity regarding the type non-retail uses allowed on an interim basis, application fees, and the process for approval. Subsequent to the meeting the City Attorney has opined that City Councilmember Gomes does not have a conflict of interest in this decision.

The City Council referred the matter back to staff to consider alternatives and to work out the various implementation details. Staff has further studied the intent of the Downtown Plan and offers the same basic recommendation, but without the requirement for a conditional use permit. Staff has also identified an alternative for the City Council's consideration.

Recommended Proposal:

- No change to the "Three-year plus three-year" interim land uses
- No grandfathering
- Reevaluate interim regulations by March 2009.
- Administrative Permit required, no conditional use permit
- Temporary land use agreement between property owner/tenant/City required as part of Administrative Permit

Analysis:

This alternative would not grant permanent status to the non-retail uses which are established during the initial three-year period. Staff believes that the recommended proposal is consistent with the Specific Plan intent that "interim" land uses be identified during this transitional period. Permanent "grandfathering" of non-retail uses would be inconsistent with the intent of the Specific Plan to establish Georgia Street as the primary retail corridor.

This alternative would require that any tenant improvement costs of new businesses would need to be amortized during the maximum lease period of six years. This encourages leasing to non-retail users that will not require significant capital investments in the first floor space.

Alternative Proposals:

There are many variations of the staff recommendation that will also preserve the integrity of the Downtown Specific Plan. Those variations could include:

- Three-year period for allowing non-retail uses, with a reevaluation prior to extending the occupancy timeframe an additional three years
- Linking the extension of non-retail occupancies to performance standards such

- as building improvements, building code retrofits, etc.
- Require interior layouts to allow views into the storefronts and create pedestrian interest

Analysis:

The staff alternative or its variations stated above would not completely address all concerns expressed about amortizing the cost of tenant improvements, because it does place some limits on the term of the lease. However, the long term intent that Georgia Street function as the primary retail corridor cannot be overlooked either. The recommended alternative would provide a three-year timeframe during which a specified non-retail tenant could establish occupancy and not be subject to occupancy termination by the City. This alternative would also provide for a reevaluation of the interim regulations, and possibly link lease extensions to additional building improvements in order to help achieve the long term design goals of the downtown. It is unknown how many non-retail uses would be established in long term tenancies during the three-year period.

Proposed Non-retail Uses:

The following recommended non-retail uses are recommended to be permitted by the amendment and were suggested by the Downtown Task Force. The Specific Plan refers to Municipal Code Chapter 16.06 for clarification of all uses permitted in the Plan:

- Administrative and Professional Offices
- Business Support Services
- Communication Services
- Financial Insurance and Real Estate Offices
- Medical Offices
- Medical Services
- Participant Sports and Recreation

It should be noted that all pre-existing legal nonconforming uses would not be subject to this ordinance and would be legally entitled to continue their use, provided the use is not discontinued for more than twelve consecutive months.

Implementation:

If the City Council directs the amendment of the Downtown Specific Plan, this would require both a new resolution amending the Downtown Specific Plan, as well as an amendment to the ordinance adopting the Downtown Specific Plan as The Master Plan. For all Specific Plan amendments, the Planning Commission is required to conduct a public hearing and make a recommendation to the City Council. Due to noticing requirements, the earliest this hearing could be scheduled for the Planning Commission would be May 14, 2007. Following action by the Planning Commission, the City Council will need to conduct a hearing of the first reading of the ordinance, and this could be scheduled on June 5, 2007. Second reading of the ordinance could occur on June 12, 2007, and the ordinance would be effective on July 12, 2007.

Individual requests for occupancy would require approval of an Administrative Permit. The cost of this application is currently \$220.00 and it is a staff decision that takes approximately two weeks to process. As a way of expediting applications, staff could accept applications prior to the effective date of the ordinance, allow construction work to occur at applicant's own risk, and condition the permit for occupancy to not occur until the ordinance is in effect.

Consistency with General Plan and Downtown Specific Plan:

The proposed amendment to the Downtown Specific Plan to provide interim land uses during this transition period is consistent with the Downtown Vallejo Specific Plan goals and policies which include encouraging an active pedestrian corridor and identifying measures intended to implement the Plan's goals and policies. Two measures already identified in the Downtown Specific Plan which will assist in implementing Goal 4.2 and Policy 4.2.2 include "Identifying appropriate interim uses in retail spaces until such time as there is a market for retail uses, and prohibiting "boarded up" storefronts even during transition periods" and also, "Encouraging flexibility in land use regulations to promote as much development and redevelopment with a mix of uses, by not having separated land uses identified on a land use map" (DVSP p. 4.3).

FISCAL IMPACT

If adopted, the revised land use regulations will help reduce the vacancy rate of ground floor retail space. There will likely be economic benefits to the City in the form of additional sales and business taxes.

RECOMMENDATION

Staff recommends that the City Council direct staff to prepare an amended Downtown Vallejo Specific Plan allowing temporary use regulations within the Georgia Street Corridor of the Downtown Vallejo Specific Plan area and expressing its intent to revise Ordinance 1553 N.C. (2d), the Master Plan for Downtown Vallejo, to accommodate those amendments. The recommendation is to structure the use regulations so that the non-retail uses would be permitted for "three-years plus three-years" and the ordinance would be reevaluated in March 2009.

ALTERNATIVES CONSIDERED

Staff considered the comments from members of the Council at the February 13th hearing and has analyzed two alternative proposals for consideration. As noted, the staff recommendation is the option that does not provide grandfathering, but does provide for a reevaluation of the retail market prior to the expiration of the interim policy.

An alternative proposal could provide for a longer timeframe for allowing new non-retail tenants. The longer the time period, the greater the potential number of non-retail tenants that could occupy the ground floor of the main retail corridor for downtown. Another option could be to allow a maximum percentage of tenant spaces in the corridor to be non-retail, and when that percentage is achieved, not allow any additional non-retail tenants. This would require establishing an appropriate percentage, inventorying existing uses, and monitoring new and discontinued uses in order to respond to inquiries from potential new users. This option would be difficult for staff to manage.

During the City Council discussion on April 17, 2007, the City Council may wish to discuss variations on the time limits of either alternative in an attempt to achieve a solution acceptable to the majority of the City Council. A reevaluation clause is also recommended if the Council is inclined to support grandfathering.

ENVIRONMENTAL REVIEW

This resolution of intention is a precursor to the possible adoption of a future resolution, or a future ordinance, and therefore this resolution is an action which may not cause either a direct physical change in the environment or a reasonable foreseeable indirect physical change in the environment. It is therefore not a 'project' within the meaning of CEQA guidelines 21065.

In the future, were the City Council inclined to adopt a resolution amending the Downtown Specific Plan, or the ordinance adopting the Master Plan, the action would not have a significant impact on the environment. The use regulations would not establish nor authorize any new uses or construction in the broader downtown area that were not previously envisioned by the Downtown Specific Plan Environmental Impact Report; and each new application will require a separate environmental review as a condition of granting an Administrative Permit. The proposed uses are already permitted on the upper floors.

PROPOSED ACTION

Approve a Resolution directing staff to prepare an amended Downtown Vallejo Specific Plan allowing temporary use regulations within the Georgia Street Corridor of the Downtown Vallejo Specific Plan area and expressing its intent to revise Ordinance 1553 N.C. (2d), the Master Plan for Downtown Vallejo, to accommodate those amendments.

DOCUMENTS ATTACHED

Attachment A. Resolution with Exhibits directing the preparation of an amendment to the Downtown Vallejo Specific Plan to permit certain specified non-retail uses on the first floor along the Georgia Street Corridor.

Attachment B. Excerpted Minutes, City Council meeting of February 13, 2007.

Attachment C. Staff Report, City Council meeting of February 13, 2007.

CONTACT:

Don Hazen, Planning Manager
(707) 649-5458 or dhazen@ci.vallejo.ca.us

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RESOLUTION NO. _____ N.C.

A RESOLUTION OF THE CITY COUNCIL DIRECTING STAFF TO PREPARE AN AMENDED DOWNTOWN VALLEJO SPECIFIC PLAN ALLOWING TEMPORARY USE REGULATIONS WITHIN THE GEORGIA STREET CORRIDOR OF THE DOWNTOWN VALLEJO SPECIFIC PLAN AREA AND EXPRESSING ITS INTENT TO REVISE ORDINANCE No. 1553 N.C. (2d), THE MASTER PLAN FOR DOWNTOWN VALLEJO, TO ACCOMMODATE THOSE AMENDMENTS.

BE IT RESOLVED by the City Council of the City of Vallejo as follows:

WHEREAS, the Downtown Vallejo Specific Plan was adopted by the Vallejo City Council on September 20, 2005, with the stated vision that "Downtown will become the focus of community pride as the revitalized "heart" of Vallejo; and

WHEREAS, the Downtown Specific Plan Land Use Goal 4.2c strives to enrich the mix of Downtown uses by "identifying appropriate interim uses in retail spaces until such time as there is a market for retail uses and prohibiting boarded up storefronts even during transition periods"; and

WHEREAS, it is necessary to allow a broader range of temporary uses on the ground floors of buildings along the Georgia Street corridor as depicted in the attached Exhibit "A", in order to provide a transition of land uses until the retail market improves; and

WHEREAS, allowing certain temporary uses would be consistent with the Downtown Vallejo Specific Plan, and the City of Vallejo General Plan; and

WHEREAS, this action is a precursor to the possible adoption of an amended specific plan and an amended ordinance at a future time, and therefore it is an action which may not cause either a direct physical change in the environment or a reasonable foreseeable indirect physical change in the environment, it is therefore not a 'project' within the meaning of CEQA guidelines 21065, and

NOW THEREFORE BE IT RESOLVED, that the City Council hereby directs staff to prepare an Amended Downtown Specific Plan that allows temporary use regulations consistent with one staff recommendation in the staff report, including a reevaluation of the interim regulations in March 2009.

BE IT FURTHER RESOLVED, that the City Council hereby expresses its intent to Amend the Ordinance adopting the Master Plan for Downtown Vallejo to

accommodate the proposed amendments, and Staff is directed to prepare an Amended Specific Plan and Amended Master Plan Ordinance which implements this resolution and forward said draft Amended Specific Plan and the Amended Master Plan Ordinance to the Planning Commission and City Council for consideration within the next sixty (60) days.

Downtown Vallejo Map

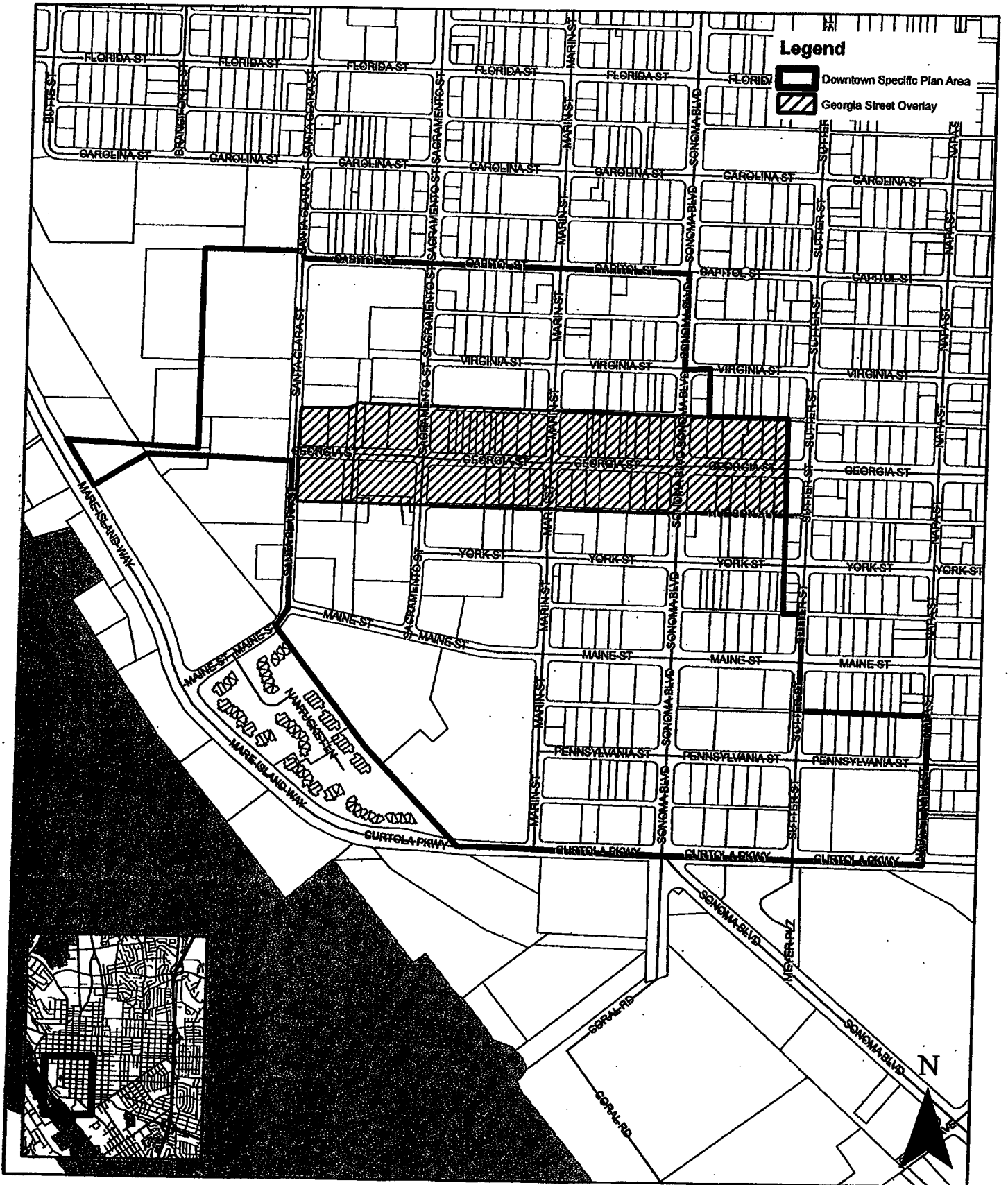


EXHIBIT B**INTERIM LAND USE REGULATIONS, GEORGIA STREET CORRIDOR
(GROUND FLOOR)**

<u>Land Use Types</u>	<u>Land Use Permit Required</u>
Administrative & Professional Services (V.M.C. Sec. 16.06.240)	AP
Business Support Services (V.M.C. Sec. 16.06.300)	AP
Communication Services (V.M.C. Sec. 16.06.310)	AP
Financial Insurance and Real Estate Services (V.M.C. Sec. 16.06.360)	AP
Medical Offices (V.M.C. Sec. 16.06.405)	AP
Medical Services (V.M.C. Sec. 16.06.410)	AP
Participant Sports and Recreation, Indoor (e.g. Fitness clubs, yoga, martial art studios, dance, etc.) (V.M.C. Sec. 16.06.420)	AP

Note: AP is an Administrative Permit to be processed in accordance with Vallejo Municipal Code Chapter 16.96. Any exterior building modifications associated with the new use may also be subject to obtaining other applicable land use permits. The effective date of the above regulations shall be in accordance with the terms established under Ordinance No. _____. As a condition of approval, all uses established under the interim land use regulations shall be for a term not to exceed the sunset date of said Ordinance unless extended, and shall be subject to recordation of a land use agreement signed by the property owner, City, and tenant acknowledging said restrictions on the use.

FOR REVIEW OF THE ASSOCIATION OF BAY AREA OVERTMENTS' (ABAG) REPORT *TAMING NATURAL DISASTERS* AND ASSOCIATED DOCUMENTS (LOCAL HAZARD MITIGATION PLAN ANNEX AND MITIGATION STRATEGIES) IN PREPARATION FOR ADOPTION BY THE COUNCIL AT A LATER DATE OF SAID REPORT AND ASSOCIATED DOCUMENTS AS THE CITY OF VALLEJO'S LOCAL HAZARD MITIGATION PLAN

The Federal Disaster Mitigation Act of 2000 requires all cities, counties and special districts to have a Local Hazard Mitigation Plan in place before any disaster mitigation funding can be received from the Federal Emergency Management Agency (FEMA). On March 17, 2005, ABAG adopted *Taming Natural Disasters* as the Local Hazard Mitigation Plan for the San Francisco Bay Area. The next logical step for the City of Vallejo is to adopt the same plan, including our local annex and strategy documents, for our use.

Fire Chief Don Parker addressed the document and explained its development, stating that by adopting this plan, the City will be in a position to receive recovery funds for a disaster.

Chief Parker responded to a question of Councilmember Sunga concerning how this is related to the Alert Project.

RESOLUTION NO. 07-31 N.C. adopting the Resolution authorizing the City Clerk to publish for ten (10) days a notice of availability for review of the ABAG report *Taming Natural Disasters* and associated documents (the Local Hazard Mitigation Plan ANNEX and Mitigation Strategies) in the Vallejo City Clerk's Office or the Vallejo Fire Prevention Division, in preparation for adoption of said report and associated documents as the City of Vallejo's Local Hazard Mitigation Plan.

The resolution was approved by the following vote:

AYES:	Mayor Intintoli, Vice Mayor Cloutier, Councilmembers Bartee, Davis, Gomes, Pearsall and Sunga
NOES:	None
ABSENT:	None
ABSTAINING:	None

E. CONSIDERATION OF A RESOLUTION OF INTENTION TO ADOPT AN INTERIM ORDINANCE ALLOWING TEMPORARY CONDITIONAL USE REGULATIONS WITHIN THE GEORGIA STREET CORRIDOR OF THE DOWNTOWN SPECIFIC PLAN AREA.

Councilmembers Bartee recused himself from participating in this discussion because he owns property in the area; Councilmember Gomes recused herself from participating in this matter because her personal residence is within the sphere of influence. They left the dais at 7:47 p.m.

Staff is seeking authorization to prepare an interim ordinance for temporary conditional use regulations for the Downtown Georgia Street corridor. Certain specified conditional uses would be permitted to establish occupancy on the ground floor during an initial three (3) year period, and once established, would be allowed to continue for an additional three (3) year period before the

ordinance would sunset and the Downtown Plan regulations would become fully effective once again. The draft Ordinance will be forwarded to the Planning Commission for their consideration and recommendation to the City Council within the next 60 days.

Mayor Intintoli asked if this matter would need to go before the Planning Commission. Mr. Dolan replied yes.

Don Hazen, Planning Manager, presented background information using a power point presentation. He stated that a number of meetings were held between various groups with downtown interest, Economic Development staff and Planning staff. He summarized the two proposals presented to staff: business owners felt the City should relax the regulations for a period of three years to allow the non-retail users to occupy the ground floor and at the end of the three years, they would be grandfathered in. The other proposal is to allow the three-year window of opportunity and at the end of the three years they would not be grandfathered in. The premises would have to be vacated.

Mr. Hazen stated that Staff's recommendation is that the owners with specific non-retail uses be given a three-year window of opportunity to occupy and when that time period has ended, they would be granted an additional three years to conduct their business. Mr. Hazen stated that staff believes the uses could generate pedestrian activity. The resolution of intention would require a minor use permit, which is an administrative action that provides notice to the surrounding businesses and allows staff to impose conditions. He further stated that the City Attorney has recommended that the City enter into a recorded agreement between the City, the business owner and the tenant acknowledging that there are certain time frames in which this lease would be allowed to operate and then revert back.

Speakers: David Fischer, 312 Georgia Street, owner of property on Georgia Street, compared the cost of having a business on Tennessee Street versus Georgia Street stressing that the cost for the downtown is too expensive. He stated that the grandfather clause is needed.

Daisy Villanueva, owner of 419 Georgia Street, spoke in support of the grandfather clause.

Judy Schilling, 410 El Dorado Street, Chairman of the Downtown Retail Corridor Task Force, stated that in response to a survey conducted by the Task Force, 18 of 26 property owners supported the task force plan of three years for the non-conforming uses and at the end of three years would be grandfathered in. If the tenant moved, the use would revert back to retail corridor. She stated that a minor use permit costs approximately \$800 for the Georgia Street corridor and asked that lowering this be considered.

Joanne Schivley asked that the three plus three that has been offered and the grandfather clause be considered, plus the second third year be extended to the completion of Phase II of the Downtown Project or the three years which ever comes later. Consider the people who have put their money into the City.

Chris Austin, Triad Communities, 1095 Hiddenbrooke Parkway, stated that Triad supports relief for property owners; they support staff's proposal.

Vice Mayor Cloutier stated that he believes the property owners are entitled to some

type of interim relief. However the City is trying to achieve a retail corridor on Georgia Street that would serve the needs of the people. We need to be cautious about grandfathering in businesses because we don't know what kind of businesses will be coming into that retail corridor if we grant this relief. He questioned the issue and cost of the minor use permit.

Mr. Hazen replied that it was the City Attorney's opinion that the use permit is needed as a mechanism of tying the uses to a temporary basis to avoid potential litigation by a tenant who would say they had vested rights to occupy the building. Council has the authority to stipulate that the fee be adjusted, waived, etc.

Mr. Dolan stated that another option that can be considered is an administrative process that doesn't involve public notification and has a lower fee; however, it may not meet the needs that the City Attorney expressed.

Vice Mayor Cloutier agreed that the use permit option should be reviewed, stating that the fee we are talking about is definitely prohibitive. He went on to say that he would be inclined to grant a three-year period, possibly four.

Councilmember Pearsall stated that the temporary uses (administrative offices) need to be more detailed. He stressed that retail is needed on the ground floor and language needs to be added that states all other uses are prohibited on the ground floor other than what we decide on. Although he is not in favor of a six-year lease in the area we are trying to revitalize, he realizes that we need to provide some leeway for the people who have spent money in the downtown.

Councilmember Sunga stated that this issue has to be studied further. He does not believe this is good for downtown business owners. He is not prepared to vote on this tonight.

Mayor Intintoli stated that he has very serious concerns about restricting people who are on leases to such a short period.

Mr. Dolan explained that if the business is operating now, they are grandfathered under the current rules and will continue to be. This proposal will not affect them.

Councilmember Davis stated that he is in favor of three years plus three years and then grandfathered until there is a change in that particular business at which time it will revert to retail.

Mr. Soley suggested referring the subject of a temporary use regulation to the Planning Commission for a recommendation to Council and perhaps in the process develop something that comes closer to what would be acceptable to a majority of the Council.

City Manager Tanner suggested that the Council take no action and refer this matter back to staff for further review.

The matter was referred to staff. Councilmembers Bartee and Comes returned to the Dais at 8:35 p.m.

F. COMMUNITY DEVELOPMENT DEPARTMENT REORGANIZATION UPDATE

**COUNCIL COMMUNICATION**

Date: February 13, 2007

TO: Honorable Mayor and Members of the City Council**FROM:** Craig Whitton, Assistant City Manager/Community Development *W*
Brian Dolan, Development Services Director *BD*
Don Hazen, Planning Manager *DH*

SUBJECT: Consideration of a Resolution of Intention to adopt an interim ordinance allowing temporary conditional use regulations within the Georgia Street Corridor of the Downtown Vallejo Specific Plan area. The temporary use regulations would permit certain non-retail uses which are otherwise prohibited on the ground floor, to establish occupancy on the ground floor during an initial three (3) year period, and once established, the uses would be allowed to continue for an additional three (3) year period before the ordinance would sunset and the Downtown Plan regulations would become fully effective once again.

BACKGROUND AND DISCUSSION:

Approximately two months ago, staff was approached by the various Downtown business interests to consider allowing certain non-retail uses to occupy ground floor space along the Georgia Street Corridor. It was recognized that the Specific Plan prohibited such uses on the ground floor, but the groups indicated that it was becoming a financial hardship not being able to lease vacant ground floor space in strict accordance with the Specific Plan regulations.

Planning and Economic Development staff met with the various groups and received two separate proposals:

- 1) Allow non-retail tenants to lease ground floor space during a three-year window of opportunity and the tenants would then be "grandfathered" in after the three-year period ended (Downtown Groups)
- 2) Allow non-retail tenants to lease ground floor space during a three-year period and not be "grandfathered" at the end of the three-year period, with possible one year extensions granted by staff in the case of hardships (Triad)

Staff studied the two proposals in terms of consistency with the General Plan and underlying goals and vision of the Specific Plan, and developed a third alternative which we are recommending.

- 3) Adopt an interim ordinance allowing non-retail uses to occupy ground floor space

during a specified three-year period beginning with the date of final Ordinance adoption. Those uses established during that three-year period would then be able to continue operating for an additional three-year period. At the end of that period, the ordinance would sunset, those non-retail uses would be required to cease and the Specific Plan use regulations would then become fully effective once again. Note: all legal pre-existing uses established prior to the adoption of the Specific Plan would continue to have legal non-conforming status and would not be affected by this regulation.

On January 16, 2007, staff presented their recommendation to the various groups and there was broad support for it, provided the City reevaluate the retail market at the end of the six year period to determine if a time extension of those temporary use regulations is warranted. In addition, it was suggested that the groups meet with staff on a semi-annual or quarterly basis to jointly discuss the effectiveness of the implementation of the Downtown Specific Plan. The group concurred and views the Specific Plan as a dynamic document that must be regularly monitored.

The recommended temporary use regulations would permit the following uses, subject to certain conditions, to occupy the ground floor with a Minor Use Permit:

- Administrative and Professional Offices
- Business Support Services
- Communication Services
- Financial Insurance and Real Estate Offices
- Medical Offices
- Medical Services
- Participant Sports and Recreation

The Minor Use Permit is an administrative permit issued after notification to property owners within 500 feet of the subject site is given, and a determination that the required findings for approval can be made. Upon the advice of the City Attorney, the uses would be permitted subject to the recordation of a zoning agreement signed by the building owner and tenant, acknowledging the time limits being placed on the use. The agreement would record against the property, and the responsibility and any legal costs incurred for eviction would be borne by the property owner.

The proposed Interim Ordinance allowing temporary use regulations is consistent with the Downtown Vallejo Specific Plan goals and policies which include encouraging an active pedestrian corridor and identifying measures intended to implement the Plan's goals and policies. Two measures already identified in the Downtown Specific Plan which will assist in implementing Goal 4.2 and Policy 4.2.2 include "Identifying appropriate interim uses in retail spaces until such time as there is a market for retail uses, and prohibiting "boarded up" storefronts even during transition periods" and also, "Encouraging flexibility in land use regulations to promote as much development and redevelopment with a mix of uses, by not having separated land uses identified on a land use map" (DVSP p. 4.3).

FISCAL IMPACT

If adopted, the interim land use regulations will help reduce the vacancy rate of ground floor retail space which will help maintain property values, and there will likely be economic benefits to the City in the form of additional sales tax.

RECOMMENDATION

Staff recommends that the City Council approve a Resolution of Intent to adopt an interim ordinance allowing temporary use regulations for the Georgia Street Corridor, as summarized above, making the findings contained in the resolution, and authorizing staff to prepare said interim Ordinance for action following review by the Planning Commission.

ALTERNATIVES CONSIDERED

Staff considered the alternatives proposed by the various downtown business groups, as well as the proposal offered by Triad Development. Staff's primary concern with those proposals was that it would require the City to monitor the "tenants" as opposed to the "use"; and staff was not supportive of permanent "grandfathering" of non-retail tenants, because the number of those tenants which could occur during a three-year period is unknown and could have a detrimental impact on achieving the ultimate objectives of the Downtown Specific Plan for retail pedestrian-oriented uses. As noted, the staff recommendation is the preferred option and has received broad support from the various groups.

ENVIRONMENTAL REVIEW

This resolution of intention is a precursor to the possible adoption of an interim ordinance at a future time, and therefore this resolution is an action which may not cause either a direct physical change in the environment or a reasonable foreseeable indirect physical change in the environment. It is therefore not a 'project' within the meaning of CEQA guidelines 21065.

In the future, were the City Council inclined to adopt the Interim Ordinance, the adoption of temporary use regulations would not have a significant impact on the environment. The temporary use regulations would not establish nor authorize any new uses or construction that was not previously envisioned by the Downtown Specific Plan Environmental Impact Report, and each new application will require a separate environmental review as a condition of granting a Minor Use Permit. The uses are already permitted on the upper floors.

PROPOSED ACTION

Approve a Resolution of Intention with the findings contained therein, to adopt an Interim Ordinance allowing temporary conditional use regulations for certain specified uses within the Georgia Street Corridor of the Downtown Specific Plan area to establish occupancy on the ground floor during an initial three (3) year period; and once established, the uses would be allowed to continue for an additional three (3) year period before the ordinance would sunset and the Downtown Plan regulations would become fully effective once again.

DOCUMENTS ATTACHED

Exhibit 1. Resolution of Intention approving temporary conditional use regulations.

CONTACT:

Don Hazen, Planning Manager
(707) 649-5458 or dhazen@ci.vallejo.ca.us

K:/citywide/public/ai/pl/costco-appeal(ccstaffreport)ll

**INTERIM LAND USE REGULATIONS, GEORGIA STREET CORRIDOR
(GROUND FLOOR)**


<u>Land Use Types</u>	<u>Land Use Permit Required</u>
Administrative & Professional Services	MNUP
Business Support Services	MNUP
Communication Services	MNUP
Financial Insurance and Real Estate Services	MNUP
Medical Offices	MNUP
Medical Services	MNUP
Participant Sports and Recreation, Indoor (e.g. Fitness clubs, yoga, martial art studios, dance, etc.)	MNUP

Note: MNUP is a Minor Conditional Use Permit to be processed in accordance with Vallejo Municipal Code Chapter 16.82. Any exterior building modifications associated with the new use may also be subject to obtaining other applicable land use permits. The effective date of the above regulations shall be in accordance with the terms established under Ordinance No. _____. As a condition of approval, all uses established under the interim land use regulations shall be for a term not to exceed the sunset date of Ordinance No. _____ and shall be subject to recordation of a land use agreement signed by the propert owner, City, and tenant acknowledging said restrictions on the use.

**COUNCIL COMMUNICATION**

Date: April 17, 2007

TO: Honorable Mayor and Members of the City Council

FROM: Robert V. Stout, Finance Director **SUBJECT: CONSIDERATION OF RESOLUTIONS APPROVING CONSULTANT AND PROFESSIONAL SERVICES AGREEMENTS WITH 1) EVANS McDONOUGH COMPANY FOR POLLING SERVICES AND 2) THE LEW EDWARDS GROUP FOR ELECTION ADVISORY SERVICES.****BACKGROUND & DISCUSSION**

The purpose of this staff report is to recommend to the City Council that the City engage two consulting firms to assist staff in assessing citizen acceptance of various potential revenue ballot measures. During the Mid-Year Report presented last month, staff discussed the need to revise our Utility User Tax ("UUT") to ensure its continued applicability to telecommunication service providers. As we discussed, these companies provide in excess of \$4.0 million of annual revenues. At that time, Council approved \$200,000 for various costs necessary to prepare a ballot measure for this purpose. This staff report recommends hiring the consulting help necessary to begin the process. In addition, staff is recommending that we expand the scope of the polling and election consulting firms to explore other potential revenue enhancements to alleviate the City's current financial difficulties.

Staff proposes to engage the services of Evans McDonough Company to conduct public opinion surveys to determine the feasibility of various ballot measures to raise and secure additional revenues for addressing the City's operating needs. The consultant's scope of work includes, but is not limited to:

- the development and administration of two public opinion telephone surveys with the objective of determining voter tolerance of various measures.
- collect survey data by conducting telephone interviews.
- perform in-depth analysis of the data.
- tabulate survey results and statistical data.
- prepare full report of findings.
- present findings to the City.

Depending on the responses to the surveys it is possible that an optional third public opinion survey may need to be conducted, and the contract allows for the third poll should it be necessary.



In addition, staff proposes to engage the services of The Lew Edwards Group to provide election consultant advisory services. The consultant's scope of work includes:

- strategic advice and planning during the 2007 project period.
- facilitate the polling questionnaire design and content, including identification of key issues, risks, and opportunities.
- assessment of polling results and the viability of any future tax measure(s).
- developing a focused city-sponsored community outreach plan to educate the public and opinion leaders on the City's public safety and fiscal needs.
- implement a direct-mail educational material program.
- advise the City's legal counsel as to the most effective wording of a ballot question and associated measure and voter handbook materials.
- coordinate and supervise vendors for any printing, mailing, associated with any ballot measure.
- prioritizing alternative measures.
- identifying the likelihood of passage of such measures.
- recommending specific ballot measures to the City Council.

To continue providing existing levels of police services, fire protection, paramedic services, street maintenance, and other valuable City services in order to protect the public health, safety and general welfare, the City needs additional funding; otherwise the City could face significant reduction in City services.

To secure this much needed additional funding, staff needs election-related expertise to manage a complex process to test public support for a wide variety of potential new revenue measures, conducting community outreach and education, and telephone surveys before any tax measure is placed on the ballot or assessment submitted for approval by the City's property owners. Staff has concluded, and with a strong recommendation from the selected polling consultant, that it will take the combined assistance of both consulting firms working together to assist the City in putting forth revenue measures that are supported by the public.

As you can see above, from start to finish, there are many steps that must be completed before placing an item on the ballot. Furthermore, given the broad range of tasks to be completed, each of the consultants has their area of specialty and will provide the City with different skills and resources. Staff and both consultants will need to work together as a "team" in order to give the City the greatest chance of understanding the desires and support of Vallejo citizens and property owners regarding any new tax measure or assessment.



The City is faced with a complex choice of various revenue measure options which could be put before the voters for consideration. An election consultant can help the City sort through the pros and cons of each potential tax measure, and help the City gain valuable input from its citizens as to which measures have sufficient public support for passage. Before the polling consultant can conduct a telephone survey, the City needs to determine what revenue measures would afford the City the best vehicle for meeting the City's current revenue crisis, a process in which the election consultant would be extremely helpful, questions the voter should be asked, and to focus the survey questions to help the City understand the desires of Vallejo citizens and property owners.

Potential revenue measures could include the creation of an assessment district for fire and/or police services, parcel tax, public safety tax, general sales tax, and/or the reauthorization of a modernized Utilities User Tax (UUT), or other revenue raising measures.

In order to place any measure on the November 2007 ballot, the City Council would need to take additional actions in the future, including the adoption of a resolution of consolidation and other resolutions regarding the preparation of ballot language and ballot arguments. These actions would need to be taken by mid-July 2007 to meet the deadlines set by the Solano County Registrar of Voters. In order to meet the foregoing schedule it is crucial that the City Council approve these contracts.

If the formation of an assessment district for fire and/or police services is determined to be supported by the City's property owners, then the formation of such a district would be initiated in the summer of 2007.

FISCAL IMPACT

The Evans McDonough Company polling services are estimated to cost up to \$46,400 to conduct two public opinion survey polls, with the cost to conduct a third survey not to exceed \$20,000. The Lew Edwards Group election consultant advisory services are estimated to cost \$47,000.

The budget appropriation for these costs was previously approved by the City Council on March 13, 2007, as part of the mid-year report. No additional budget appropriation is needed at this time as a result of approval of the proposed resolutions.

When the polling and data analysis has been completed staff will bring the results back to Council for further consideration and actions, which could include request of additional budget appropriations, at that time.



RECOMMENDATION

Staff proposes that Council adopt the attached resolutions authorizing the City Manager to execute professional services agreements with the Evans McDonough Company, and the Lew Edwards Group for election advisory services.

PROPOSED ACTION

Staff proposes that the Council:

1. Adopt a Resolution approving the Consultant and Professional Services Agreement with Evans McDonough Company for conducting public opinion surveys to determine the feasibility of various ballot measures, and authorize the City Manager to execute the agreement on behalf of the City.
2. Adopt a Resolution approving the Consultant and Professional Services Agreement with The Lew Edwards Group for election advisory services, and authorize the City Manager to execute the agreement on behalf of the City.

ENVIRONMENTAL REVIEW

This program is not a project as defined by the California Environmental Quality Act (CEQA) pursuant to section 15378 (b)(3) of Title 14 of the California Code of Regulations and is not subject to CEQA review.

DOCUMENTS ATTACHED

1. A Resolution approving the Consultant and Professional Services Agreement with Evans McDonough Company for conducting public opinion surveys to determine the feasibility of various ballot measures, and authorize the City Manager to execute the agreement on behalf of the City.
2. A Resolution approving the Consultant and Professional Services Agreement with The Lew Edwards Group for election advisory services, and authorize the City Manager to execute the agreement on behalf of the City.
3. Consultant and Professional Services Agreement between the City of Vallejo and Evans McDonough Company, Inc.



4. Consultant and Professional Services Agreement between the City of Vallejo and The Low Edwards Group.

PREPARED BY:

Jon R. Oiler, Auditor Controller

(707) 648-4593

CONTACT:

Robert V. Stout, Finance Director

(707) 648-4592

RESOLUTION NO. _____ N.C.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALLEJO APPROVING THE CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT WITH EVANS MCDONOUGH COMPANY FOR CONDUCTING PUBLIC OPINION SURVEYS TO DETERMINE THE FEASIBILITY OF VARIOUS BALLOT MEASURES, AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY.

BE IT RESOLVED by the Council of the City of Vallejo as follows:

WHEREAS, the City has a need for election advisory services, including conducting public opinion surveys to determine the feasibility of various ballot measures, and assistance in the area of placing revenue measures on the ballot; and

WHEREAS, staff finds that Evans McDonough Company has both the expertise and the capacity to conduct such public opinion survey at a competitive price; and

WHEREAS, the Evans McDonough Company is specially trained and experienced and competent to perform such services and render such advice to City; and

WHEREAS, staff has been advised that polling services are estimated to cost up to \$46,400 to conduct two public opinion survey polls, and that it may be necessary to conduct a third public opinion survey at a cost not to exceed \$20,000; and

WHEREAS, the City has budget appropriations available in the General Fund non-departmental in the amount of \$200,000; and

WHEREAS, the City Council has considered the report and recommendations of the City Manager on the proposed agreement and has determined that the acceptance of the agreement is in the best interest of the City of Vallejo and the agreement is both fair and appropriate.

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

- Section 1. The Consultant and Professional Services Agreement with Evans McDonough Company, Inc. is hereby approved.
- Section 2. The City Manager is hereby authorized to execute said Agreement on behalf of the City of Vallejo.

- Section 3. The City Manager is further authorized to execute an Amendment, in an amount not to exceed \$20,000, to said Agreement, if he determines that the conducting of a third public opinion survey is necessary and beneficial to the City regarding the feasibility of various ballot measures.
- Section 4. The Vallejo City Council authorizes the Finance Director to pay all claims for this agreement out of the appropriate account(s).

RESOLUTION NO. _____ N.C.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALLEJO APPROVING THE CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT WITH THE LEW EDWARDS GROUP FOR ELECTION ADVISORY SERVICES, AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY.

BE IT RESOLVED by the Council of the City of Vallejo as follows:

WHEREAS, the City has a need for election advisory services and assistance in the area of placing revenue measures on the ballot; and

WHEREAS, Consultant is specially trained and experienced and competent to perform such services and render such advice to City at a competitive price; and

WHEREAS, the City has budget appropriations available in the General Fund non-departmental in the amount of \$200,000; and

WHEREAS, the City Council has considered the report and recommendations of the City Manager on the proposed agreement and has determined that the acceptance of the agreement is in the best interest of the City of Vallejo and the agreement is both fair and appropriate.

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

- Section 1. The Consultant and Professional Services Agreement with The Lew Edwards Group is hereby approved.
- Section 2. The City Manager for the City of Vallejo is hereby authorized to execute said Agreement on behalf of the City of Vallejo.
- Section 3. The Vallejo City Council authorizes the Finance Director to pay all claims for this agreement out of the appropriate account(s).

ATTACHMENT 3

CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT

This Consultant Services Agreement ("Agreement") is made at Vallejo, California, dated for reference this 17th day of April, 2007, by and between the City of Vallejo, a municipal corporation ("City"), and Evans McDonough Company, Inc., a Washington corporation, hereinafter referred to as "Consultant", who agree as follows:

1. **Services.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide the City professional services as specified in Exhibit A, entitled "Scope of Work."
2. **Payment.** City shall pay Consultant for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit B, entitled "Compensation." The payments specified in Exhibit B shall be the only payments to be made to Consultant for services rendered pursuant to this Agreement.
3. **Facilities and Equipment.** Consultant shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this Agreement.
4. **Indemnification.** Consultant shall indemnify, hold harmless, and defend City, its officers, officials, directors, employees, agents, volunteers and affiliates and each of them from any and all claims, demands, causes of action, damages, costs, expenses, actual attorney's fees, consultant's fees, expert fees, losses or liability, in law or in equity, of every kind and nature whatsoever arising out of or in connection with Consultant's operations, or any subcontractor's operations, to be performed under this agreement for Consultant's or subcontractor's tort negligence including active or passive, or strict negligence, including but not limited to personal injury including, but not limited to bodily injury, emotional injury, sickness or disease, or death to persons and/or damage to property of anyone, including loss of use thereof, caused or alleged to be caused by any act or omission of Consultant, or any subcontractor, or anyone directly or indirectly employed by any of them or anyone for the full period of time allowed by the law, regardless to any limitation by insurance, with the exception of the sole negligence or willful misconduct of the City.

The provisions of this section shall survive the expiration or termination of this Agreement.

5. **Insurance Requirements.** Consultant agrees to comply with all of the Insurance Requirements set forth in Exhibit C, entitled "Insurance Requirements for Consultant." Failure to maintain required insurance at all times shall constitute a default and material breach.

6. Accident Reports. Consultant shall immediately report (as soon as feasible, but not more than 24 hours) to the City Risk Manager any accident or other occurrence causing injury to persons or property during the performance of this Agreement. The report shall be made in writing and shall include, at a minimum: (a) the names, addresses, and telephone numbers of the persons involved, (b) the names, addresses and telephone numbers of any known witnesses, (c) the date, time and description of the accident or other occurrence.

7. Conflict of Interest. Consultant warrants and represents that to the best of its knowledge, there exists no actual or potential conflict between Consultant's family, business, real property or financial interests and the services to be provided under this Agreement. Consultant shall not enter into any contract or agreement during the performance of this Agreement which will create a conflict of interest with its duties to City under this Agreement. In the event of a change in Consultant's family, business, real property or financial interests occurs during the term of this Agreement that creates an actual or potential conflict of interest, then Consultant shall disclose such conflict in writing to City.

8. Independent Contractor. Consultant is an independent contractor. Neither Consultant nor any of Consultant's officers, employees, agents or subcontractors, if any, is an employee of City by virtue of this Agreement or performance of any services pursuant to this Agreement. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement; however, City shall not have the right to control the means by which Consultant accomplishes services pursuant to this Agreement.

9. Licences, Permits, Etc. Consultant represents and warrants to City that all consultant services shall be provided by a person or persons duly licensed by the State of California to provide the type of services to be performed under this Agreement and that Consultant has all the permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant represents and warrants to City that it shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Consultant to practice its profession.

10. Business License. Consultant, and its subcontractors, has obtained or agrees to apply prior to performing any services under this Agreement to City's Finance Department for a business license, pay the applicable business license tax and maintain said business license during the term of this Agreement. The failure to obtain such license shall be a material breach of this Agreement and grounds for termination by City. No payments shall be made to Consultant until such business license(s) has been obtained.

11. Standard of Performance. Consultant shall provide products and perform

all services required pursuant to this Agreement in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised under similar conditions by a member of Consultant's profession currently practicing in California.

Consultant is responsible for making an independent evaluation and judgment of all conditions affecting performance of the work, including without limitation site conditions, as well as all areas appurtenant to the site, existing facilities, seismic, geologic, soils, hydrologic, geographic, climatic conditions, applicable federal, state, and local laws and regulations, and all other contingencies or design considerations.

Data, calculations, opinions, reports, investigations, and other similar information provided by City relating to site, local, or other conditions is not warranted or guaranteed, either expressly or implied, by City.

Consultant's responsibilities under this section shall not be delegated. Consultant shall be responsible to City for acts, errors, or omissions of Consultant's subcontractors.

Consultant shall prepare plans, specifications, reports, and/or other work products in such a way that amendments or change orders to the agreement between City and its construction contractor will not be necessary, except for unforeseeable circumstances. As used herein, "unforeseeable circumstances" shall mean facts or inferences from those facts that could not be ascertained by a combination of reasonable site inspection during the preparation of the plans and specifications by Consultant and the reasonable application to such inspection of expertise consistent with the level of care and skill ordinarily exercised under similar conditions by a members of Consultant's profession currently practicing in California.

Whenever the scope of work requires or permits review, approval, conditional approval or disapproval by City, it is understood that such review, approval, conditional approval or disapproval is solely for the purposes of administering this Agreement and determining whether the Consultant is entitled to payment for such work, and not be construed as a waiver of any breach or acceptance by the City of any responsibility, professional or otherwise, for the work, and shall not relieve the Consultant of responsibility for complying with the standard of performance or laws, regulations, industry standards, or from liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of Consultant.

12. Time for Performance.

Consultant will complete all services by October 31, 2007.

13. Force Majeure. Neither party shall be considered in default of this Agreement to the extent performances are prevented or delayed by any cause,

present or future, by circumstances beyond either party's reasonable control, such as war, riots, strikes, lockouts, work slow down or stoppage, acts of God, such as floods or earthquakes, and electrical blackouts or brownouts.

In the event that the Consultant is unable to meet the completion date or schedule of services, Consultant shall inform the City Representative of the additional time required to perform the work and the City Representative may adjust the schedule.

14. Time is of the Essence. Time is of the essence in this Agreement. Any reference to days means calendar days, unless otherwise specifically stated.

15. Personnel. Consultant agrees to assign only competent personnel according to the reasonable and customary standards of training and experience in the relevant field to perform services under this Agreement. Failure to assign such competent personnel shall constitute grounds for termination of this Agreement.

Consultant is aware of the requirements of the Immigration Reform and Control Act of 1986 and shall comply with those requirements, including, but not limited to, verifying the eligibility for employment of all of Consultant's officers, employees, agents and subcontractors that are included in this Agreement.

The payment made to Consultant pursuant to this Agreement shall be the full and complete compensation to which Consultant and Consultant's officers, employees, agents, and subcontractors are entitled for performance of any work under this Agreement. Neither Consultant nor Consultant's officers or employees are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to employees of the City. The City will not make any federal or state tax withholdings on behalf of Consultant. The City shall not be required to pay any workers' compensation insurance on behalf of Consultant.

Consultant shall pay, when and as due, any and all taxes incurred as a result of Consultant's compensation hereunder, including estimated taxes, and shall provide City with proof of such payments upon request.

Consultant agrees to defend, indemnify and hold harmless, pursuant to the indemnification provisions of this Agreement, the City for any obligation, claim, losses, costs, fees, liabilities, suit or demand for tax, retirement contribution including any contribution to the Public Employees Retirement System (PERS), social security, salary or wages, overtime payment, or workers' compensation payment which the City may be required to make on behalf of Consultant or any employee of Consultant, or any employee of Consultant construed to be an employee of the City, for work done under this Agreement. This is a continuing obligation that survives the completion of the services, expiration or termination of this Agreement.

16. Consultant Not Agent. Except as City may authorize in writing, Consultant shall have no authority, express or implied to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, under this Agreement, to bind City to any obligation whatsoever.

17. Termination or Abandonment by City. The City has the right, at any time and in its sole discretion, to immediately terminate or abandon any portion or all of the services to be provided under this Agreement by giving notice to Consultant. Upon receipt of a notice of termination, Consultant shall perform no further work except as specified in the notice. Before the date of termination, Consultant shall deliver to City all work product, whether completed or not, as of the date of termination and not otherwise previously delivered.

The City shall pay Consultant for services performed in accordance with this Agreement before the date of termination. If this contract provides for payment of a lump sum for all services or by task and termination occurs before completion of the work or any defined task which according to the performance schedule was commenced before the notice of termination, the fee for services performed shall be based on an amount mutually agreed to by City and Consultant for the portion of work completed in conformance with this Agreement before the date of termination.

In addition, the City will reimburse Consultant for authorized expenses incurred and not previously reimbursed. The City shall not be liable for any fees or costs associated for the termination or abandonment except for the fees, and reimbursement of authorized expenses, payable pursuant to this section.

18. Products of Consulting Services. The work product, including without limitation, all writings, work sheets, reports, recordings, drawings, files, detailed calculations and other work products, whether complete or incomplete, of Consultant resulting from services rendered pursuant to this Agreement, shall become the property of City. Consultant agrees that all copyrights which arise from creation of the work under this Agreement shall be vested in the City and waives and relinquishes all claims to copyright or other intellectual property rights in favor of the City. City acknowledges that its use of the work product is limited to the purposes contemplated by the scope of work and that the Consultant makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

Documents submitted to the City in electronic format shall be formatted according to specifications provided by the City, or if not otherwise specified, in Microsoft Word, Excel, PowerPoint or other Microsoft Office Suite (2002) format as appropriate for the particular work product or, if directed by the City Representative in Adobe Acrobat PDF format.

19. Cooperation by City. City shall, to the extent reasonable and practicable,

assist and cooperate with Consultant in the performance of Consultant's services hereunder.

20. Assignment and Subcontracting. Consultant shall not subcontract, assign or transfer voluntarily or involuntarily any of its rights, duties or obligation under this Agreement without the express written consent of City in each instance. Any attempted or purported assignment of any right, duty or obligation under this Agreement without City's consent shall be void and of no effect.

If subcontracting of work is permitted, Consultant shall pay its subcontractor within ten (10) days of receipt of payment by City for work performed by a subcontractor and billed by the Consultant. Use of the term subcontractor in any other provision of this contract shall not be construed to imply authorization for Consultant to use subcontractors for performance of any service under this Agreement.

The City is an intended beneficiary of any work performed by Consultant's subcontractor for purposes of establishing a duty of care between the subcontractor and City.

21. Successors and Assigns. All terms, conditions, and provisions of this Agreement shall apply to and bind the respective heirs, executors, administrators, successors, and assigns of the parties. Nothing in this section is intended to affect the limitation on assignment.

22. Non-Discrimination/Fair Employment Practices.

(a) Consultant warrants and represents it is an equal opportunity employer and agrees it shall not discriminate on the basis of race, religious creed, color, sex, national origin, ancestry, disability, medical condition, age, marital status or sexual orientation in the selection and retention of employees, subcontractors or procurement of materials or equipment.

In all solicitations either by competitive bidding or negotiations made by Consultant for work to be performed under any subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligation under this Agreement relative to nondiscrimination and fair employment practices.

Consultant shall include the above provisions of this section in every subcontract, including procurement of materials or equipment.

(b) Consultant agrees to comply with Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act, the Americans with Disabilities Act of 1990, any other applicable federal and state laws and regulations and City ordinances and regulations hereinafter enacted.

(c) To the fullest extent permitted by law, without limitation by the insurance provisions of this Agreement, and in addition to Consultant's obligations under section 4 of this Agreement, the Consultant shall also indemnify, defend and hold harmless the City, pursuant to the indemnification provisions of this Agreement, from and against all liability (including without limitation all claims, damages, penalties, fines, and judgments, associated investigation and administrative expenses, and defense costs, including but not limited to reasonable attorneys' fees, court costs, and costs of alternative dispute resolution) resulting from any claim of discrimination or harassment, including but not limited to sexual harassment, arising from the conduct of the Consultant or any of the Consultant's officers, employees, agents, licensees, or subcontractors. In the event of a discrimination or harassment complaint against any employee, agent, licensee or subcontractors of the Consultant or its subcontractors, the Consultant shall take immediate and appropriate action in response to such complaint, including, but not limited to termination or appropriate discipline of any responsible employee, agent, licensee or subcontractors. The provisions of this section survive completion of the services or termination of this Agreement.

23. Notices. All notices or instruments required to be given or delivered by law or this Agreement shall be in writing and shall be effective upon receipt thereof and shall be by personal service or delivered by depositing the same in any United States Post Office, registered or certified mail, postage prepaid, addressed to:

If to City:

Robert V. Stout
Finance Director
Finance Department
555 Santa Clara Street
Vallejo, CA 94590

If to Consultant:

Mark Jaskowiak
Bookkeeper
Evans/McDonough Company
315 First Ave S, Ste 400
Seattle, WA 98104

Any party may change its address for receiving notices by giving written notice of such change to the other party in accordance with this section.

Routine administrative communications shall be made pursuant to section 1 of Exhibit A.

24. Integration Clause. This Agreement, including all Exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. This Agreement shall not be amended or modified except by a written agreement executed by each of the parties hereto.

25. Severability Clause. Should any provision of this Agreement ever be deemed to be legally void or unenforceable, all remaining provisions shall survive and be enforceable.

26. Law Governing. This Agreement shall in all respects be governed by the law of the State of California. Litigation arising out of or connected with this Agreement shall be instituted and maintained in the courts of Solano County in the State of California or in the United States District Court, Eastern District of California, Sacramento, California, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

27. Waiver. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

28. Ambiguity. The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

29. Gender. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identifications of the person or persons, firm or firms, corporation or corporations may require.

30. Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

31. Compliance with Laws. Consultant will comply with all statutes, regulations and ordinances in the performance of all services under this Agreement.

32. Confidentiality of City Information. During the performance of services under this Agreement, Consultant may gain access to and use City information regarding, but not limited to, Finance Department procedures, policies, training, operational practices, and other vital information (hereafter collectively referred to as "City Information") which are valuable, special and unique assets of the City. Consultant agrees that it will not use any information obtained as a consequence of

the performance of services under this Agreement for any purpose other than fulfillment of Consultant's scope of work , to protect all City Information and treat it as strictly confidential and proprietary to City, and that it will not at any time, either directly or indirectly, divulge, disclose or communicate in any manner any City Information to any third party, other than its own employees, agents or subcontractors who have a need for the City Information for the performance of services under this Agreement, without the prior written consent of City, or as required by law.

Consultant shall treat all records and work product prepared or maintained by Consultant in the performance of this Agreement as confidential.

A violation by Consultant of this section shall be a material violation of this Agreement and will justify legal and/or equitable relief.

Consultant's obligations under this section shall survive the completion of services, expiration or termination of this Agreement.

33. News and Information Release. Consultant agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from City through the City Representative.

34. City Representative. The City Representative specified in Exhibit A, or the representative's designee, shall administer this Agreement for the City.

35. Counterparts. The parties may execute this Agreement in two or more counterparts, which shall, in the aggregate, be signed by all the parties; each counterpart shall be deemed an original of this Agreement as against a Party who has signed it.

36. Authority. The person signing this Agreement for Consultant hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of Consultant.

37. Exhibits. The following exhibits are attached hereto and incorporated herein by reference:

Exhibit A, entitled "Scope of Work," including any attachments.

Exhibit B, entitled "Compensation," including any attachments.

Exhibit C, entitled "Insurance Requirements," including any attachments.

(SIGNATURES ARE ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year shown below the name of each of the parties.

EVANS MCDONOUGH COMPANY,
INC.,
a Washington corporation

CITY OF VALLEJO,
a municipal corporation

By: _____
Ruth Bernstein
Secretary

By: _____
Joseph M. Tanner
City Manager

DATE: _____

DATE: _____

ATTEST:

Vallejo Business License No.

By: _____
Mary Ellsworth, Acting City Clerk

(City Seal)

APPROVED AS TO CONTENT:

Robert V. Stout
Finance Director

APPROVED AS TO INSURANCE
REQUIREMENTS:

William R. Venski
Risk Manager

APPROVED AS TO FORM:

Frederick G. Soley
City Attorney

EXHIBIT A
SCOPE OF WORK

1. Representatives.

The City Representative for this Agreement is:

Robert V. Stout
Finance Director
Finance Department
555 Santa Clara Street
Vallejo, CA 94590

Telephone: 707-648-4592
Facsimile: 707-649-5406

The Consultant's Representative for this Agreement is:

Ruth Bernstein
Principal
Evans/McDonough Company
436 14th Street, Ste 820
Oakland, CA 94612

Telephone: 510-844-0680 ext 312
Facsimile: 510-844-0690

All routine administrative communications between the parties will be between the above named representatives and may be by personal delivery, mail, facsimile transmission or electronic mail as agreed between the Consultant Representative and City's Representative.

2. Services to be Provided.

Baseline Survey

EMC will conduct a citywide baseline telephone survey to gain an in-depth understanding of the attitudes and opinions of Vallejo voters.

The baseline survey would be extensive and broad, designed to gather a variety of information on the current state of mind of the Vallejo electorate. The survey would yield measurements of:

- Voters' general optimism or pessimism;
- Voters' opinions of the City;
- Voters' opinions of key interest groups/organizations;
- Voters' general attitudes toward taxes and revenue measures – and specifically towards a fire assessment measure;
- Voters' level of understanding of Vallejo's budget challenges; and,
- Key demographic information.

At the conclusion of the baseline survey, the City would have a detailed, in-depth understanding of Vallejo voters, which will help inform future strategic decisions. The baseline survey will let you know where you stand today in the minds of the voters.

Project Detail

This survey will include a final sample size of 600 registered voters in the City of Vallejo. A sample of this size will yield an overall margin of error of +/- 4.0% at the 95% confidence interval. This sample size will also provide an opportunity to analyze geographic and demographic sub-populations within the City. We anticipate an average interview length of 15 minutes.

Specifically, EMC will:

- Work with the City and it's consultants to design a survey methodology;
- Work with the City and it's consultants to design and prepare a survey instrument (questionnaire);
- Pretest the questionnaire for clarity of questions, and revise the questionnaire as necessary;
- Draw a random sample of voters or property owners (depending on survey objectives);
- Collect survey data by conducting interviews by telephone from a central telephone bank, supervised by an on-duty supervisor;
- Code open-ended responses, if any, for computer analysis;
- Perform in-depth analysis of the data;
- Tabulate survey results and design and generate cross-tabulations and other statistical tables as needed;
- Prepare a full report of the findings, a visual presentation including graphs and tables, a summary of results and key findings, and strategic analysis;
- Meet with City representatives, Boards, and committees as needed to review the results and discuss the applications of findings to future strategy decisions.

Telephone Survey

EMC will conduct a citywide telephone survey to gain an in-depth understanding of the attitudes and opinions of Vallejo voters regarding a proposed revenue measure.

This follow-up survey will be specifically geared toward gathering information about a specific revenue measure or measures. This survey would yield measurements of:

- Any changes in voters' attitudes and opinions from the baseline survey;
- Voters' initial reactions to a specific revenue measure(s) (such as a Utility User Tax renewal)
- Voters' reactions to additional information about the measure(s); and
- Key demographic information.

The survey would each be designed to assist with developing the ballot language and the identifying recommended public information.

The exact design of the follow-up surveys would depend on the exact revenue measures being considered. For example, in the case of a property assessment, we would propose surveying only property owners, excluding renters, and focus the majority of the questionnaire on the language of the assessment measure, its components, and statements about it. In the case of a sales tax measure or UUT, we would propose surveying likely voters, with voter likelihood driven by which specific election is being targeted.

Project Detail

This survey will include a final sample size of 400 likely voters in the City of Vallejo. We anticipate an average interview length of 15 minutes.

Specifically, EMC will:

- Work with the City and it's consultants to design a survey methodology;
- Work with the City and it's consultants to design and prepare a survey instrument (questionnaire);
- Pretest the questionnaire for clarity of questions, and revise the questionnaire as necessary;
- Draw a random sample of voters or property owners (depending on survey objectives);
- Collect survey data by conducting interviews by telephone from a central telephone bank, supervised by an on-duty supervisor;
- Code open-ended responses, if any, for computer analysis;
- Perform in-depth analysis of the data;
- Tabulate survey results and design and generate cross-tabulations and

- other statistical tables as needed;
- Prepare a full report of the findings, a visual presentation including graphs and tables, a summary of results and key findings, and strategic analysis;
- Meet with City representatives, Boards, and committees as needed to review the results and discuss the applications of findings to future strategy decisions.

3. Term.

The term of this Agreement shall commence on the date of complete execution of this Agreement and shall continue in full force and effect until October 31, 2007.

4. Key Personnel. All of the individuals identified below are necessary for the successful prosecution of the services due to their unique expertise and depth and breadth of experience. There shall be no change in the personnel listed below, without written approval of the City Representative. Consultant recognizes that the composition of this team was instrumental in the City's decision to award the work to Consultant and that compelling reasons for substituting these individuals must be demonstrated for the City's consent to be granted. Any substitutes shall be persons of comparable or superior expertise and experience. Failure to comply with the provisions of this section shall constitute a material breach of Consultant's obligations under this Agreement and shall be grounds for termination.

Ruth Bernstein
Alex Evans
Tom Patras
Shani McElroy
Rebecca Graff
Avi Zevin

EXHIBIT B
COMPENSATION

1. Consultant's Compensation.

A. Services: City agrees to pay Consultant for those services set forth in Exhibit A of this Agreement and for all authorized reimbursable expenses, for a total not to exceed Forty-Six Thousand and Four Hundred Dollars and no/100 (\$46,400.00).

Baseline Survey Cost

All proposed costs assume the stated types of research, number of interviews, length of interviews, and stated interview population. If any of these factors were to change, the price would be adjusted accordingly.

Baseline Survey

600 interviews, 15 minutes \$26,000.00

These costs represent the beginning to end costs to conduct the research, and include a reasonable level of strategic consultation and advice related to the research data. The only costs not included are any travel, shipping, or printing expenses, which will be billed separately. These costs will be kept to a minimum and no cost of more than \$200.00 will be incurred without prior approval from the City.

Telephone Survey Cost

All proposed costs assume the stated types of research, number of interviews, length of interviews, and stated interview population. If any of these factors were to change, the price would be adjusted accordingly.

Telephone Survey

400 interviews, 15 minutes \$20,000.00

These costs represent the beginning to end costs to conduct the research, and include a reasonable level of strategic consultation and advice related to the research data. The only costs not included are any travel, shipping, or printing expenses, which will be billed separately. These costs will be kept to a minimum and no cost of more than \$200.00 will be incurred without prior approval from the City.

City agrees to pay Consultant for the services to be provided upon satisfactory completion of the services and pursuant to the following

schedule:

- a. \$13,000.00 at the beginning of survey drafting process for the Baseline Survey.
- b. \$13,000.00 upon delivery of results of Baseline Survey
- c. \$10,000.00 upon beginning of survey drafting process for Telephone Survey
- d. \$10,000.00 (plus reimbursable expenses, if any) at delivery of results for the Telephone Survey.

Reimbursable Expenses shall be limited to actual reasonable expenditures of Consultant for expenses that are necessary for the proper completion of the services and shall not exceed Four Hundred Dollars and no/1000 (\$400.00).

2. Payments to Consultant.

A. Payments to Consultant shall be made within a reasonable time after receipt of Consultant's invoice, said payments to be made in proportion to services performed. Consultant may request payment on a monthly basis. Consultant shall be responsible for the cost of supplying all documentation necessary to verify the monthly billings to the satisfaction of City.

B. All invoices submitted by Consultant shall contain the following information:

1. Description of services billed under this invoice
2. Date of Invoice Issuance
3. Sequential Invoice Number
4. City's Purchase Order Number (if issued)
5. Social Security Number or Taxpayer Identification Number
6. Amount of this Invoice (Itemize all Reimbursable Expenses")
7. Total Billed to Date

C. Items shall be separated into Services and Reimbursable Expenses. Billings that do not conform to the format outlined above shall be returned to Consultant for correction. City shall not be responsible for delays in payment to Consultant resulting from Consultant's failure to comply with the invoice format described above.

D. Request for payment shall be sent to:

Robert V. Stout
Finance Director
Finance Department
555 Santa Clara Street
Vallejo, CA 94590

3. Accounting Records of Consultant.

Consultant shall maintain for three (3) years after completion of all services hereunder, all records under this Agreement, including, but not limited to, records of Consultant's direct salary costs for all Services and Additional Services performed under this Agreement and records of Consultant's Reimbursable Expenses, in accordance with generally accepted accounting practices. Consultant shall keep such records available for audit, inspection and copying by representatives of the City's Finance Department or other government agencies during regular business hours upon twenty four (24) hours notice.

The obligations of Consultant under this section shall survive this Agreement.

4. Taxes.

Consultant shall pay, when and as due, any and all taxes incurred as a result of Consultant's compensation hereunder, including estimated taxes, and shall provide City with proof of such payments upon request. Consultant hereby agrees to indemnify and defend City for any claims, losses, costs, fees, liabilities, damages or injuries suffered by City arising out of Consultant's breach of this section pursuant to the Indemnification provisions of this Agreement.

- 5. Taxpayer Identification Number.** Consultant shall provide City with Consultant's complete Request for Taxpayer Identification Number and Certification, Form W-9, as issued by the Internal Revenue Service, and any other State or local tax identification number requested by City.

EXHIBIT C

INSURANCE REQUIREMENTS

Consultant shall procure and maintain for the duration of this Agreement, including any extensions thereto, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by the Consultant, their agents, representatives, or employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office form number GL 0002 (Ed. 1/73) covering Comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/78) covering Automobile Liability, code 1 any auto and endorsement CA 0025.
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Professional Liability insurance appropriate to the Consultant's profession (Errors and Omission).

B. Minimum Limits of Insurance

Consultant shall maintain limits no less than:

1. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability: \$1,000,000 per accident for bodily injury or disease. If Consultant is not subject to California Workers' Compensation requirements, Consultant shall file

a completed certificate of exemption form which may be obtained from the City prior to commencing any activity authorized hereunder.

4. Professional Liability (Errors and Omission): \$1,000,000 combined single limit per occurrence, and annual aggregate.

C. Deductible and Self-Insured Retention

Any deductibles or self-insured retention must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City of Vallejo, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions

The general liability and automobile liability policies, as can be provided, are to contain, or be endorsed to contain, the following provisions:

1. The City of Vallejo, its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects; liability, including defense costs, arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City of Vallejo, its officers, officials, employees, agents or volunteers. The insurance is to be issued by companies licensed to do business in the State of California.
2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City of Vallejo, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City of Vallejo, its officers, officials, employees, agents or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.
4. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to

state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

The workers' compensation and employer's liability policy required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against City, its officers, officials, employees, agents and volunteers, which might arise by reason of payment under such policy in connection with Consultant's performance under this Agreement.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

F. Verification of Coverage

Consultant shall furnish the City with original endorsements effecting general and automobile liability insurance coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before work commences.

G. Subcontractors

Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

H. Payment Withhold

City will withhold payments to Consultant if the certificates of insurance and endorsements required in Paragraph F, above, are canceled or Consultant otherwise ceases to be insured as required herein.

CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT

This Consultant Services Agreement ("Agreement") is made at Vallejo, California, dated for reference this 17th day of April 2007, by and between the City of Vallejo, a municipal corporation ("City"), and The Lew Edwards Group, a California corporation, hereinafter referred to as "Consultant", who agree as follows:

1. **Services.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide the City professional services as specified in Exhibit A, entitled "Scope of Work." The parties expressly agree that legal advice is not within Consultant's scope of work and that the City Attorney or other designated legal counsel will be the final authority on all legal matters and determinations arising out of performance of this Agreement.
2. **Payment.** City shall pay Consultant for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit B, entitled "Compensation." The payments specified in Exhibit B shall be the only payments to be made to Consultant for services rendered pursuant to this Agreement.
3. **Facilities and Equipment.** Consultant shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this Agreement.
4. **Indemnification.** Consultant shall indemnify, hold harmless, and defend City, its officers, officials, directors, employees, agents, volunteers and affiliates and each of them from any and all claims, demands, causes of action, damages, costs, expenses, actual attorney's fees, consultant's fees, expert fees, losses or liability, in law or in equity, of every kind and nature whatsoever arising out of or in connection with Consultant's operations, or any subcontractor's operations, to be performed under this agreement for Consultant's or subcontractor's tort negligence including active or passive, or strict negligence, including but not limited to personal injury including, but not limited to bodily injury, emotional injury, sickness or disease, or death to persons and/or damage to property of anyone, including loss of use thereof, caused or alleged to be caused by any act or omission of Consultant, or any subcontractor, or anyone directly or indirectly employed by any of them or anyone for the full period of time allowed by the law, regardless to any limitation by insurance, with the exception of the sole negligence or willful misconduct of the City.

The provisions of this section shall survive the expiration or termination of this Agreement.

5. Insurance Requirements. Consultant agrees to comply with all of the Insurance Requirements set forth in Exhibit C, entitled "Insurance Requirements for Consultant." Failure to maintain required insurance at all times shall constitute a default and material breach.

6. Accident Reports. Consultant shall immediately report (as soon as feasible, but not more than 24 hours) to the City Risk Manager any accident or other occurrence causing injury to persons or property during the performance of this Agreement. The report shall be made in writing and shall include, at a minimum: (a) the names, addresses, and telephone numbers of the persons involved, (b) the names, addresses and telephone numbers of any known witnesses, (c) the date, time and description of the accident or other occurrence.

7. Conflict of Interest. Consultant warrants and represents that to the best of its knowledge, there exists no actual or potential conflict between Consultant's family, business, real property or financial interests and the services to be provided under this Agreement. Consultant shall not enter into any contract or agreement during the performance of this Agreement which will create a conflict of interest with its duties to City under this Agreement. In the event of a change in Consultant's family, business, real property or financial interests occurs during the term of this Agreement that creates an actual or potential conflict of interest, then Consultant shall disclose such conflict in writing to City.

8. Independent Contractor. Consultant is an independent contractor. Neither Consultant nor any of Consultant's officers, employees, agents or subcontractors, if any, is an employee of City by virtue of this Agreement or performance of any services pursuant to this Agreement. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement; however, City shall not have the right to control the means by which Consultant accomplishes services pursuant to this Agreement.

9. Licences, Permits, Etc. Consultant represents and warrants to City that all consultant services shall be provided by a person or persons duly licensed by the State of California to provide the type of services to be performed under this Agreement and that Consultant has all the permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant represents and warrants to City that it shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Consultant to practice its profession.

10. Business License. Consultant, and its subcontractors, has obtained or agrees to apply prior to performing any services under this Agreement to City's Finance Department for a business license, pay the applicable business license tax

and maintain said business license during the term of this Agreement. The failure to obtain such license shall be a material breach of this Agreement and grounds for termination by City. No payments shall be made to Consultant until such business license(s) has been obtained.

11. Standard of Performance. Consultant shall provide products and perform all services required pursuant to this Agreement in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised under similar conditions by a member of Consultant's profession currently practicing in California.

Consultant is responsible for making an independent evaluation and judgment of all conditions affecting performance of the work, including without limitation applicable federal, state, and local laws and regulations, and all other contingencies or considerations.

Consultant's responsibilities under this section shall not be delegated. Consultant shall be responsible to City for acts, errors, or omissions of Consultant's subcontractors.

Consultant shall prepare plans, reports, and/or other work products in such a way that additional costs will not be incurred, beyond a project budget approved or amended by City.

Whenever the scope of work requires or permits review, approval, conditional approval or disapproval by City, it is understood that such review, approval, conditional approval or disapproval is solely for the purposes of administering this Agreement and determining whether the Consultant is entitled to payment for such work, and not be construed as a waiver of any breach or acceptance by the City of any responsibility, professional or otherwise, for the work, and shall not relieve the Consultant of responsibility for complying with the standard of performance or laws, regulations, industry standards, or from liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of Consultant.

12. Time for Performance.

Consultant will complete all services by October 31, 2007.

13. Force Majeure. Neither party shall be considered in default of this Agreement to the extent performances are prevented or delayed by any cause, present or future, by circumstances beyond either party's reasonable control, such as war, riots, strikes, lockouts, work slow down or stoppage, acts of God, such as floods or earthquakes, and electrical blackouts or brownouts.

In the event that the Consultant is unable to meet the completion date or schedule of services, Consultant shall inform the City Representative of the additional time required to perform the work and the City Representative may adjust the schedule.

14. Time is of the Essence. Time is of the essence in this Agreement. Any reference to days means calendar days, unless otherwise specifically stated.

15. Personnel. Consultant agrees to assign only competent personnel according to the reasonable and customary standards of training and experience in the relevant field to perform services under this Agreement. Failure to assign such competent personnel shall constitute grounds for termination of this Agreement.

Consultant is aware of the requirements of the Immigration Reform and Control Act of 1986 and shall comply with those requirements, including, but not limited to, verifying the eligibility for employment of all of Consultant's officers, employees, agents and subcontractors that are included in this Agreement.

The payment made to Consultant pursuant to this Agreement shall be the full and complete compensation to which Consultant and Consultant's officers, employees, agents, and subcontractors are entitled for performance of any work under this Agreement. Neither Consultant nor Consultant's officers or employees are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to employees of the City. The City will not make any federal or state tax withholdings on behalf of Consultant. The City shall not be required to pay any workers' compensation insurance on behalf of Consultant.

Consultant shall pay, when and as due, any and all taxes incurred as a result of Consultant's compensation hereunder, including estimated taxes, and shall provide City with proof of such payments upon request.

Consultant agrees to defend, indemnify and hold harmless, pursuant to the indemnification provisions of this Agreement, the City for any obligation, claim, losses, costs, fees, liabilities, suit or demand for tax, retirement contribution including any contribution to the Public Employees Retirement System (PERS), social security, salary or wages, overtime payment, or workers' compensation payment which the City may be required to make on behalf of Consultant or any employee of Consultant, or any employee of Consultant construed to be an employee of the City, for work done under this Agreement. This is a continuing obligation that survives the completion of the services, expiration or termination of this Agreement.

16. Consultant Not Agent. Except as City may authorize in writing, Consultant shall have no authority, express or implied to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied,

under this Agreement, to bind City to any obligation whatsoever.

17. Termination or Abandonment by City. The City has the right, at any time and in its sole discretion, to terminate or abandon any portion or all of the services to be provided under this Agreement by giving thirty (30) days notice to Consultant. Upon receipt of a notice of termination, Consultant shall perform no further work except as specified in the notice. Before the date of termination, Consultant shall deliver to City all work product, whether completed or not, as of the date of termination and not otherwise previously delivered.

The City may also immediately terminate this Agreement at any time, upon notice to Consultant, for good cause. For the purposes of the Agreement, good cause shall be defined as Consultant's failure to perform its services as specified in Exhibit A or a breach by Consultant of the provisions of this Agreement. The parties may also mutually agree to terminate at any time.

The City shall pay Consultant for services performed in accordance with this Agreement before the date of termination. If this contract provides for payment of a lump sum for all services or by task and termination occurs before completion of the work or any defined task which according to the performance schedule was commenced before the notice of termination, the fee for services performed shall be based on an amount mutually agreed to by City and Consultant for the portion of work completed in conformance with this Agreement before the date of termination. In addition, the City will reimburse Consultant for authorized expenses incurred and not previously reimbursed. The City shall not be liable for any fees or costs associated for the termination or abandonment except for the fees, and reimbursement of authorized expenses, payable pursuant to this section.

18. Products of Consulting Services. The work product, including without limitation, all writings, work sheets, reports, recordings, drawings, files, detailed calculations and other work products, whether complete or incomplete, of Consultant resulting from services rendered pursuant to this Agreement, shall become the property of City. Consultant agrees that all copyrights which arise from creation of the work under this Agreement shall be vested in the City and waives and relinquishes all claims to copyright or other intellectual property rights in favor of the City. City acknowledges that its use of the work product is limited to the purposes contemplated by the scope of work and that the Consultant makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

Documents submitted to the City in electronic format shall be formatted according to specifications provided by the City, or if not otherwise specified, in Microsoft Word, Excel, PowerPoint or other Microsoft Office Suite (2002) format as appropriate for the particular work product or, if directed by the City Representative in Adobe Acrobat PDF format.

19. Cooperation by City. City shall, to the extent reasonable and practicable, assist and cooperate with Consultant in the performance of Consultant's services hereunder.

20. Assignment and Subcontracting. Consultant shall not subcontract, assign or transfer voluntarily or involuntarily any of its rights, duties or obligation under this Agreement without the express written consent of City in each instance. Any attempted or purported assignment of any right, duty or obligation under this Agreement without City's consent shall be void and of no effect.

If subcontracting of work is permitted, Consultant shall pay its subcontractor within ten (10) days of receipt of payment by City for work performed by a subcontractor and billed by the Consultant. Use of the term subcontractor in any other provision of this contract shall not be construed to imply authorization for Consultant to use subcontractors for performance of any service under this Agreement.

The City is an intended beneficiary of any work performed by Consultant's subcontractor for purposes of establishing a duty of care between the subcontractor and City.

21. Successors and Assigns. All terms, conditions, and provisions of this Agreement shall apply to and bind the respective heirs, executors, administrators, successors, and assigns of the parties. Nothing in this section is intended to affect the limitation on assignment.

22. Non-Discrimination/Fair Employment Practices.

(a) Consultant warrants and represents it is an equal opportunity employer and agrees it shall not discriminate on the basis of race, religious creed, color, sex, national origin, ancestry, disability, medical condition, age, marital status or sexual orientation in the selection and retention of employees, subcontractors or procurement of materials or equipment.

In all solicitations either by competitive bidding or negotiations made by Consultant for work to be performed under any subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligation under this Agreement relative to nondiscrimination and fair employment practices.

Consultant shall include the above provisions of this section in every subcontract, including procurement of materials or equipment.

(b) Consultant agrees to comply with Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act, the Americans with Disabilities Act of 1990, any other applicable federal and state laws and regulations and City ordinances and regulations hereinafter enacted.

(c) To the fullest extent permitted by law, without limitation by the insurance provisions of this Agreement, and in addition to Consultant's obligations under section 4 of this Agreement, the Consultant shall also indemnify, defend and hold harmless the City, pursuant to the indemnification provisions of this Agreement, from and against all liability (including without limitation all claims, damages, penalties, fines, and judgments, associated investigation and administrative expenses, and defense costs, including but not limited to reasonable attorneys' fees, court costs, and costs of alternative dispute resolution) resulting from any claim of discrimination or harassment, including but not limited to sexual harassment, arising from the conduct of the Consultant or any of the Consultant's officers, employees, agents, licensees, or subcontractors. In the event of a discrimination or harassment complaint against any employee, agent, licensee or subcontractors of the Consultant or its subcontractors, the Consultant shall take immediate and appropriate action in response to such complaint, including, but not limited to termination or appropriate discipline of any responsible employee, agent, licensee or subcontractors. The provisions of this section survive completion of the services or termination of this Agreement.

23. Notices. All notices or instruments required to be given or delivered by law or this Agreement shall be in writing and shall be effective upon receipt thereof and shall be by personal service or delivered by depositing the same in any United States Post Office, registered or certified mail, postage prepaid, addressed to:

If to City:

Robert V. Stout
Finance Director
Finance Department
555 Santa Clara Street
Vallejo, CA 94590

If to Consultant:

Lloyd A. Edwards
Managing Partner
The Lew Edwards Group
5454 Broadway
Oakland, CA 94618

Any party may change its address for receiving notices by giving written notice of such change to the other party in accordance with this section.

Routine administrative communications shall be made pursuant to section 1 of

Exhibit A.

24. Integration Clause. This Agreement, including all Exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. This Agreement shall not be amended or modified except by a written agreement executed by each of the parties hereto.

25. Severability Clause. Should any provision of this Agreement ever be deemed to be legally void or unenforceable, all remaining provisions shall survive and be enforceable.

26. Law Governing. This Agreement shall in all respects be governed by the law of the State of California. Litigation arising out of or connected with this Agreement shall be instituted and maintained in the courts of Solano County in the State of California or in the United States District Court, Eastern District of California, Sacramento, California, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

27. Waiver. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

28. Ambiguity. The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

29. Gender. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identifications of the person or persons, firm or firms, corporation or corporations may require.

30. Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

31. Compliance with Laws. Consultant will comply with all statutes, regulations and ordinances in the performance of all services under this Agreement.

32. Confidentiality of City Information. During the performance of services under this Agreement, Consultant may gain access to and use City information regarding, but not limited to, Finance Department procedures, policies, training, operational practices, and other vital information (hereafter collectively referred to as

"City Information") which are valuable, special and unique assets of the City. Consultant agrees that it will not use any information obtained as a consequence of the performance of services under this Agreement for any purpose other than fulfillment of Consultant's scope of work , to protect all City Information and treat it as strictly confidential and proprietary to City, and that it will not at any time, either directly or indirectly, divulge, disclose or communicate in any manner any City Information to any third party, other than its own employees, agents or subcontractors who have a need for the City Information for the performance of services under this Agreement, without the prior written consent of City, or as required to be disclosed by the California Public Records Act or other law.

Consultant shall treat all records and work product prepared or maintained by Consultant in the performance of this Agreement as confidential. The parties expressly acknowledge that City Information shall not include any information that is or becomes publicly known through no wrongful act of the Consultant.

A violation by Consultant of this section shall be a material violation of this Agreement and will justify legal and/or equitable relief.

Consultant's obligations under this section shall survive the completion of services, expiration or termination of this Agreement.

33. News and Information Release. Consultant agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from City through the City Representative.

34. City Representative. The City Representative specified in Exhibit A, or the representative's designee, shall administer this Agreement for the City.

35. Counterparts. The parties may execute this Agreement in two or more counterparts, which shall, in the aggregate, be signed by all the parties; each counterpart shall be deemed an original of this Agreement as against a Party who has signed it.

36. Authority. The person signing this Agreement for Consultant hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of Consultant.

37. Exhibits. The following exhibits are attached hereto and incorporated herein by reference:

Exhibit A, entitled "Scope of Work," including any attachments..

Exhibit B, entitled "Compensation," including any attachments.

Exhibit C, entitled "Insurance Requirements," including any attachments.

Exhibit D, entitled "Performance Schedule," including any attachments.

(SIGNATURES ARE ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year shown below the name of each of the parties.

THE LEW EDWARDS GROUP
A California corporation

CITY OF VALLEJO,
A municipal corporation

By: _____
Lloyd A. Edwards
Vice President/Secretary-Treasurer

By: _____
Joseph M. Tanner
City Manager

DATE: _____

DATE: _____

Vallejo Business License No.

ATTEST:

By: _____
Mary Ellsworth, Acting City Clerk

(City Seal)

APPROVED AS TO CONTENT:

Robert V. Stout
Finance Director

APPROVED AS TO INSURANCE REQUIREMENTS:

William R. Venski
Risk Manager

APPROVED AS TO FORM:

Frederick G. Soley
City Attorney

EXHIBIT A

SCOPE OF WORK

1. **Representatives.**

The City Representative for this Agreement is:

Robert V. Stout
Finance Director
555 Santa Clara Street
Vallejo, CA 94590

Telephone: 707-648-4593
Facsimile: 707-648-5406

The Consultant's Representatives for this Agreement are:

Catherine Lew, Esq., President & CEO and/or Jessica Reynolds, Senior Vice President

The Lew Edwards Group
5454 Broadway
Oakland, CA 94618

Telephone: 510-594-0224
Facsimile: 510-420-0734

All routine administrative and project-based communications between the parties will be between the above named representatives and may be by personal delivery, mail, facsimile transmission or electronic mail as agreed between the Consultant's Representatives and City's Representative.

2. **Services to be Provided.**

- (a) Strategic advice and planning, to prepare and position the City of Vallejo during the 2007 project period (through October 31, 2007) on its election preparation effort consistent with a planning timetable to be continuously updated and approved by the City;
- (b) Working with the City and its pollster to facilitate the poll design, including identification of key issues, themes, risks and opportunities to be evaluated; assessment of the results and the viability of any future measure(s), and refinement of a project timetable, budget, and communications plan moving forward to assess the viability of 2007 finance measure(s).

- (c) Developing a focused nonpartisan, city-sponsored community outreach plan to educate the public and opinion leaders on the City's public safety and fiscal needs, including conceiving and implementing a nonpartisan direct mail program within a project budget approved by the City, developing a Speakers' Bureau program and associated presentation materials, training City staff and stakeholders on outreach deployment, writing opinion leader letters, and advising on Earned Media strategies;
- (d) Advising the City's legal counsel and other professionals as to the most effective and optimal wording of the ballot question and associated measure and voter handbook materials. The parties expressly acknowledge, however, that legal services are not within Consultant's scope of work, as the City Attorney or other designated counsel, shall be the final arbiter on all legal requirements and deadlines.
- (e) Consultant will coordinate and supervise the vendors, which shall include, but not be limited to the printer, mailhouse, and graphic artist, required for any mailers associated with any ballot measures. City shall have approval of the final layouts and shall be responsible for all costs associated with the mailers, subject to a budget approved by the City Manager or his designee.

3. Term.

The term of this Agreement shall commence upon full execution of this Agreement and shall continue in full force and effect until October 31, 2007.

4. Key Personnel. All of the individuals identified below are necessary for the successful prosecution of the services due to their unique expertise and depth and breadth of experience. There shall be no change in the personnel listed below, without written approval of the City Representative. Consultant recognizes that the composition of this team was instrumental in the City's decision to award the work to Consultant and that compelling reasons for substituting these individuals must be demonstrated for the City's consent to be granted. Any substitutes shall be persons of comparable or superior expertise and experience. Failure to comply with the provisions of this section shall constitute a material breach of Consultant's obligations under this Agreement and shall be grounds for termination.

CATHERINE LEW, Esq.
President and CEO

Catherine Lew, a co-founder and President/CEO of The Lew Edwards Group, is a premier consultant in California providing campaign management services, communications and political strategy, and strategic advice to cities, counties, special districts, transportation, K-12 school and community college districts, and

other public agencies, as well as private sector and nonprofit clients.

Lew has more than 25 years of experience in the communications and political arena. She is a veteran of over 400 political campaigns, many of them difficult two-thirds requirement public tax measures. Selected clients represented by Lew include: Palomar Pomerado Health District (\$496 Million at two-thirds requirement); Los Angeles Unified School District (three successive bond elections at more than \$3 Billion per election); El Camino Community College District (\$394 Million Bond); and Tulare County Yes on R Transportation Sales Tax Measure (\$652 Million over the 30-year life of the measure).

The Lew Edwards Group's professionals have expertise in disciplines such as media, community organizing/coalition-building, political campaigns, government/legislative affairs, and public relations. The firm has passed billions of dollars in California finance measures, winning more than 90% of its issue campaigns. Lew prides herself on her firm's excellent service to each and every client, diverse agencies and organizations that range dramatically in size and scope of strategic needs.

Lew and her team of experts are frequently sought-after trainers and speakers for local leadership organizations and advocacy groups such as the League of California Cities, California School Board Association, California Municipal Treasurers Association, Local Government Commission, Coalition for Adequate School Housing, Institute for Local Government, and Community College League of California.

Catherine Lew, a graduate of the University of California, Berkeley and the University of San Francisco School of Law, is also a member of the California State Bar.

JESSICA REYNOLDS
Senior Vice President

As Senior Vice President, Jessica Reynolds provides high level political consulting and strategic planning to assist clients with their communication and public affairs needs and to ensure successful election outcomes.

Prior to joining the Lew Edwards Group, Reynolds served as President of Grand Parameter LLC, a prominent political consulting, communications and government relations company based in Northern California. Her clients benefit tremendously from her expertise in creative design, strategic political consulting, coalition-building, and event planning.

Reynolds has consulted with The California Stem Cell Research & Cures Initiative,

Yes on Prop. 71; the San Jose Repertory Theatre; Assemblymember Alberto Torrico; Assemblymember John Dutra; the Alameda County Democratic Party; Californians for Budget Accountability, Yes on Prop. 56; and Dominic Dutra, Fremont City Councilmember.

Reynolds has held multiple senior positions in the California State Assembly, where she served as Creative Director to Speaker Emeritus Robert M. Hertzberg. She previously served Speaker Hertzberg as his Special Assistant and was Chief of Staff for Assemblyman Simon Salinas (D-Salinas) during 2001. Reynolds was a senior staff member at Assembly Democratic Leadership 2000, where she held critical campaign roles in the successful central operation that helped to elect 47 Democrats to the Assembly.

Reynolds was the Legislative Instructor and Creative Director for the CAPITOL Institute from 1999-2000, where she helped to develop the core curriculum for freshman Assemblymember orientation and a comprehensive, now-mandatory, staff training program. In implementing these new classes on legislative policies and procedures she trained more than 300 staff members from both Capitol and District offices.

In 1998, Reynolds was the Statewide Speakers Bureau and Endorsements Director for the Californians to Protect Employee Rights Campaign to Defeat Proposition 226. As Director, she implemented a statewide coalition building plan and acted as a spokesperson for the campaign at numerous debates and events. The No on 226 campaign directly benefited from her experiences as a Senior Account Executive of Public Affairs, at Stoorza, Ziegau, Metzger & Hunt, from 1996 to 1998. In addition to producing and implementing comprehensive media relations plans, her responsibilities to clients included graphic design and production, special event planning, and collateral material development for legislators, policy stakeholders, and the media at-large.

Reynolds is the veteran of scores of state, initiative, and local campaigns. As a senior member and consultant of the LEG team, her clients benefit significantly from her previous hands-on experience as a campaign manager, field director, volunteer coordinator, fundraiser and all-around campaigner.

Reynolds serves as a Board Member for The Crucible, an arts education center that fosters a collaboration of arts, industry and community. She is currently a resident of Oakland where she resides with Mike Jacob and their daughter Trinity Lillianne.

EXHIBIT B
COMPENSATION

1. Consultant's Compensation.

A. Services:

City agrees to pay Consultant for those services set forth in Exhibit A of this Agreement and for all authorized reimbursable expenses, for a total not to exceed of Forty-Seven Thousand Dollars and no/100 (\$47,000.00). City shall pay Consultant a lump sum of Forty-Five Thousand Dollars and no/100 (\$45,000.00) in equal monthly installments due by close of business, on the last business day of each month for the term of this Agreement, beginning the month that this Agreement is executed, through October 31, 2007, for the services to be provided. As noted in Consultant's proposal dated March 12, 2007, Consultant's fee does not include hard project costs such as graphics, postage, printing, and materials to be developed on City's behalf. Consultant shall recommend a project budget for the City's approval following review of City's initial baseline survey.

Reimbursable Expenses (such as teleconferencing, mileage, messenger or delivery services) shall be limited to actual reasonable expenditures of Consultant for expenses that are necessary for the proper completion of the services and shall be payable upon invoice, at a not to exceed amount of Two Thousand Dollars and no/100 (\$2,000.00) for the term of the Agreement. Only those expenses actually incurred will be billed, at cost.

B. Additional Services:

1. Additional Services are those services related to the scope of Services of Consultant as set forth in Exhibit A but not anticipated at the time of execution of this Agreement, such as extension of the project period to accommodate planning for future election cycle(s). Additional Services shall be provided only when a Supplemental Agreement authorizing such Additional Services is approved by the City Manager, or his or her designee, in accordance with City's Supplemental Agreement procedures. City reserves the right to perform any Additional Services with its own staff or to retain other Consultants to perform said Additional Services.

2. City and Consultant will negotiate a fixed fee for some or all Additional Services as the need arises. Where a fixed fee for Additional Services is established by mutual Agreement between City and Consultant, compensation to Consultant shall not exceed the fixed fee amount.

2. Payments to Consultant.

A. Payments to Consultant shall be made within thirty (30) Days after receipt of Consultant's invoice, said payments to be made in proportion to services performed. Consultant may request payment on a monthly basis. Consultant shall be responsible for the cost of supplying all documentation necessary to verify the monthly billings to the satisfaction of City.

B. All invoices submitted by Consultant shall contain the following information:

1. Description of services billed under this invoice
2. Date of Invoice Issuance
3. Sequential Invoice Number
4. City's Purchase Order Number (if issued)
5. Social Security Number or Taxpayer Identification Number
6. Amount of this Invoice (Itemize all Reimbursable Expenses")
7. Total Billed to Date

C. Items shall be separated into Services and Reimbursable Expenses. Billings that do not conform to the format outlined above shall be returned to Consultant for correction. City shall not be responsible for delays in payment to Consultant resulting from Consultant's failure to comply with the invoice format described above.

D. Request for payment shall be sent to:

Robert V. Stout
Finance Director
Finance Department
555 Santa Clara Street
Vallejo, CA 94590

3. Accounting Records of Consultant.

Consultant shall maintain for three (3) years after completion of all services hereunder, all records under this Agreement, including, but not limited to, records of Consultant's direct salary costs for all Services and Additional Services performed under this Agreement and records of Consultant's Reimbursable Expenses, in accordance with generally accepted accounting practices. Consultant shall keep such records available for audit, inspection and copying by representatives of the City's Finance Department or other government agencies during regular business hours upon twenty four (24) hours notice.

The obligations of Consultant under this section shall survive this Agreement.

4. Taxes.

Consultant shall pay, when and as due, any and all taxes incurred as a result of Consultant's compensation hereunder, including estimated taxes, and shall provide City with proof of such payments upon request. Consultant hereby agrees to indemnify and defend City for any claims, losses, costs, fees, liabilities, damages or injuries suffered by City arising out of Consultant's breach of this section pursuant to the Indemnification provisions of this Agreement.

- 5. Taxpayer Identification Number.** Consultant shall provide City with Consultant's complete Request for Taxpayer Identification Number and Certification, Form W-9, as issued by the Internal Revenue Service, and any other State or local identification numbers as required by City.

EXHIBIT C

INSURANCE REQUIREMENTS

Consultant shall procure and maintain for the duration of this Agreement, including any extensions thereto, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by the Consultant, their agents, representatives, or employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office form number GL 0002 (Ed. 1/73) covering Comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/78) covering Automobile Liability, code 1 any auto and endorsement CA 0025.
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Professional Liability insurance appropriate to the Consultant's profession (Errors and Omission).

B. Minimum Limits of Insurance

Consultant shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage, until May 1, 2007 and \$2,000,000 per occurrence thereafter. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.

3. Workers' Compensation and Employer's Liability: \$1,000,000 per accident for bodily injury or disease. If Consultant is not subject to California Workers' Compensation requirements, Consultant shall file a completed certificate of exemption form which may be obtained from the City prior to commencing any activity authorized hereunder.
4. Professional Liability (Errors and Omission): \$1,000,000 combined single limit per occurrence, and annual aggregate.

C. Deductible and Self-Insured Retention

Any deductibles or self-insured retention must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City of Vallejo, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions

The general liability and automobile liability policies, as can be provided, are to contain, or be endorsed to contain, the following provisions:

1. The City of Vallejo, its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects; liability, including defense costs, arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City of Vallejo, its officers, officials, employees, agents or volunteers. The insurance is to be issued by companies licensed to do business in the State of California.
2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City of Vallejo, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City of Vallejo, its officers, officials, employees, agents or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.

4. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

The workers' compensation and employer's liability policy required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against City, its officers, officials, employees, agents and volunteers, which might arise by reason of payment under such policy in connection with Consultant's performance under this Agreement.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

F. Verification of Coverage

Consultant shall furnish the City with original endorsements effecting general and automobile liability insurance coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before work commences.

G. Subcontractors

Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

H. Payment Withhold

City will withhold payments to Consultant if the certificates of insurance and endorsements required in Paragraph F, above, are canceled or Consultant otherwise ceases to be insured as required herein.

EXHIBIT D

PERFORMANCE SCHEDULE

Due to the nature of the Services to be performed under this Agreement, the parties expressly acknowledge that the following performance schedule is subject to revision based on the changing circumstances of the City environment, new or unforeseen developments, or the City's election viability. The parties expressly agree that the below schedule may be updated and revised from time to time, subject to the approval of the City.

CITY OF VALLEJO-- SAMPLE NOVEMBER 2007 TIMELINE

*A similar timeline is being deployed successfully in other client cities planning November 2007 elections.

MARCH 2007

- Retain professional assistance
- Conduct Kick-Off Session
- Draft and approve Baseline Survey

APRIL 2007

- Field Survey Interviews
- Analyze Survey Results & Assess Feasibility
- Provide City with all poll results, summaries
- Refine Community Information Plan & Budget
- Conduct Council & Stakeholder briefings/presentations on poll results
- Develop initial Message Points, FAQ
- Update data base of opinion leaders
- Identify informational Speakers' Bureau Hit List
- Implement earned media

MAY 2007

- Update City website with FAQ, message points
- Implement Opinion Leader Letter #1
- Implement nonpartisan community update #1
- Develop informational Speakers' Bureau Materials
- Launch informational Speakers' Bureau
- Refine measure specifics as needed

JUNE 2007

- Continue informational Speakers' Bureau
- Implement opinion leader letter #2
- Review first drafts of voter handbook materials

JULY 2007

- Implement community update #2
- Finalize impartial analysis, resolution and voter hand-book materials
- Prepare for City Council Adoption Meeting

Presentation

- Implement earned media

AUGUST 2007

- If feasible, Council acts to place Measure on November 07 Ballot.
- Implement opinion leader letter #3
- Continue Speakers' Bureau
- Implement Earned Media

SEPTEMBER 2007

- Implement community update #3
- Conclude Speakers' Bureau efforts
- Implement Earned Media


OCTOBER 2007

- Final community update #4
- Final opinion leader letter #4
- Implement Earned Media

**COUNCIL COMMUNICATION**

Date: April 17, 2007

TO: Honorable Mayor and Members of the City Council

FROM: Robert V. Stout, Finance Director **SUBJECT: CONSIDERATION OF A RESOLUTION OF INTENTION DIRECTING THE CITY MANAGER TO SUBMIT AN ORDINANCE FOR FIRST READING TO AMEND SECTION 2.02.360 OF THE VALLEJO MUNICIPAL CODE RELATING TO THE PAYMENT OF CLAIMS****BACKGROUND & DISCUSSION**

The purpose of this report is to request the Council adopt a resolution of intention to amend Vallejo Municipal Code section 2.02.360, which governs the payment of claims. The current ordinance is drafted ambiguously as to whether the payment of claims requires prior City Council approval, and staff recommends amending the ordinance to clarify the claims submittal procedure.

In response to a question posed at the Community Forum portion of a February 2007 City Council meeting regarding changes in the manner in which claims (invoices) for payment have been approved, the Mayor asked City staff to look into the matter and report back to City Council their findings.

After researching the issue, staff recommends amending code section 2.02.360 to update the language to reflect current practices and modern terminology.

As a starting point, matters related to a charter city's fiscal affairs are consider "municipal affairs" and are subject to the City Charter and ordinances. Vallejo Charter section 600 states that the City Council "shall by ordinance provide the form of organization thorough with the functions of the City may be administered." In Title 2 (Administration and Personnel) the City Council has established the organizational structure of the City and has reserved the review and approval of the payment of claims to itself.

Specifically, section 2.02.360 of the Vallejo Municipal Code currently states:

The presiding officer shall appoint a councilmember to review the claims. Payment of claims may be placed on the consent calendar as an item for council action in the manner specified in Section 2.02.310. Any councilmember may inquire or request further investigation and report as to any item appearing upon the written claims printout.



In May 2006, at the direction of the City Manager, staff reviewed Vallejo Municipal Code section 2.02.360 and determined that the provisions of this section were permissive and removed the approval of the payment of claims from the consent calendar. Upon a more in depth review of the code section and its legislative history, staff has changed its opinion and feels that the code section is ambiguous and that it is in the best interest of the public that the City Council adopts a clearer approval process.

Government Code Section 37208 provides that checks drawn in payment of claims on the City Treasury need not be audited by the legislative body prior to payment.

Government Code Section 53912 provides that when funds are available for the payment of approved claims, the approval of claims for payment shall, without the issuance of any warrant, be authority to pay the claims by check or electronic transfer.

The proposed resolution changes the current policy, and the proposed ordinance will now require that the Council adopt a resolution ratifying the payment of claims after their release as a consent calendar item at a regularly scheduled City Council meeting. The proposed ordinance will allow for the efficient administration of payment of claims, and will not delay the timely payment of claims.

FISCAL IMPACT

There is no immediate budget or fiscal impact from adopting the proposed resolution. No additional budget appropriation is needed at this time as a result of approval of the proposed resolution.

RECOMMENDATION

Staff recommends the Council adopt a resolution of intention directing the City Manager to submit an ordinance for first reading to amend section 2.02.360 of the Vallejo Municipal Code relating to the payment of claims.

PROPOSED ACTION

Adopt a resolution of intention directing the City Manager to submit an ordinance for first reading to amend section 2.02.360 of the Vallejo Municipal Code relating to the payment of claims.

ENVIRONMENTAL REVIEW

The adoption of this Resolution is not a project as defined by the California Environmental Quality Act (CEQA) pursuant to section 15378 (b)(1) of Title 14 of the California Code of



Regulations as it involves the City Council's setting general policies and procedures and is not subject to CEQA review.

DOCUMENTS ATTACHED

1. A Resolution of Intention directing the City Manager to submit an ordinance for first reading to amend section 2.02.360 of the Vallejo Municipal Code relating to the payment of claims.
2. Draft Ordinance amending section 2.02.360 of the Vallejo Municipal Code relating to the payment of claims.

PREPARED BY:

Jon R. Oiler, Auditor Controller

(707) 648-4593

CONTACT:

Robert V. Stout, Finance Director

(707) 648-4592

RESOLUTION NO. 07-___ N.C.

A RESOLUTION OF INTENTION DIRECTING THE CITY MANAGER TO SUBMIT AN ORDINANCE FOR FIRST READING TO AMEND SECTION 2.02.360 OF THE VALLEJO MUNICIPAL CODE RELATING TO THE PAYMENT OF CLAIMS

WHEREAS, Government Code Section 37208 provides that checks drawn in payment of demands on the City Treasury need not be audited by the legislative body prior to payment; and

WHEREAS, Government Code Section 53912 provides that when funds are available for the payment of approved claims, the approval of claims for payment shall, without the issuance of any warrant, be authority to pay the claims by check or electronic transfer; and

WHEREAS, the necessary internal controls are in place to safeguard the City's assets in conformance with Generally Accepted Accounting Principles, sound business practices, and prudent budgetary principles; and

WHEREAS, staff is recommending an amendment to section 2.02.360 of the Vallejo Municipal Code to permit checks or electronic transfers to be drawn and paid prior to audit by the City Council; and

WHEREAS, the Council has determined that it would like to consider such an ordinance.

NOW, THEREFORE BE IT RESOLVED that the Council of the City of Vallejo hereby adopts a resolution of intention, pursuant to Vallejo Municipal Code section 2.02.070B, to consider said Ordinance and directs the City Manager or his designee to submit said Ordinance for first reading.

ORDINANCE NO. _____ N.C. (2d)

AN ORDINANCE OF THE CITY OF VALLEJO AMENDING ORDINANCE NO. 1422. (2d) AND SECTION 2.02.360 OF THE VALLEJO MUNICIPAL CODE RELATING TO THE PAYMENT OF CLAIMS

THE COUNCIL OF THE CITY OF VALLEJO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 2 (part) of Ordinance No. 1422 N.C. (2d) and Section 2.02.360 of the Vallejo Municipal Code are hereby amended to read as follows:

"2.02.360 Payment of claims.

- "A. All demands, invoices or claims for purchases, supplies or services included within budgetary appropriations shall be presented in writing to the Finance Director.
- B. Each demand shall be appropriately documented to the satisfaction of the Finance Director.
- C. Such demands, invoices, or claims shall be audited by Finance Director or his or her designee, who shall prepare a check register.
- D. The check register and summary of electronic transfers shall be ratified by the City Council at a regular City Council meeting. An affidavit of the Finance Director shall be attached to the check register and summary of electronic transfers certifying their accuracy.
- E. Payroll claims paid by checks or electronic transfer shall be presented to the City Council for ratification and approval in the form of an audited comprehensive annual financial report.
- F. All claims shall be paid by checks or electronic transfer."

SECTION 2. Severability.

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact one or more provisions may be declared invalid.

SECTION 3. Effective Date.

This Ordinance shall take effect and be in full force and effect thirty (30) days from its final passage.



Agenda No. ADMIN C

COUNCIL COMMUNICATION

Date: April 17, 2007

TO: Honorable Mayor and Members of the City Council
FROM: Dennis Morris, Director of Human Resources *DM*
SUBJECT: Consideration of Authorizing the Mayor to Sign the Fifth Amendment to the City Attorney's Employment Agreement

BACKGROUND AND DISCUSSION:

Mr. Soley completed five and one-half years of service as the City Attorney on January 1, 2007. On December 19, 2006 and January 9, 2007, the City Council conducted a closed session performance evaluation concerning Mr. Soley.

Mr. Soley's received his last salary increase on January 1, 2003. A recommendation is being offered authorizing the Mayor to sign a Fifth Amendment to Mr. Soley's employment agreement. The amendment will provide for the following:

As recommended by the appointed Council Committee, provide for a salary increase of five percent (5%) retroactive to January 1, 2007.

RECOMMENDATION:

Upon finding that Mr. Soley's job performance has met the standards as set forth by the City Council and that he last received a salary increase on January 1, 2003, it is recommended that the City Council authorize of the Mayor to sign the Fifth Amendment to the City Attorney's Employment Agreement.

ENVIRONMENTAL REVIEW:

No environmental review is required for this action.

PROPOSED ACTION:

Approve the Resolution authorizing the Mayor to sign the Fifth Amendment of the City Attorney's Agreement (as previously amended) adjusting his salary by a five percent (5%) increase.



DOCUMENTS AVAILABLE FOR REVIEW:

- a. Resolution authorizing the Mayor to execute the Fifth Amendment to his employment agreement.
- b. Fifth Amendment to the City Attorney's Employment Agreement

CONTACT PERSON: Dennis Morris, Human Resources Director (707) 648-4362

PREPARED BY: Debora R. Boutté, HR Operations Manager (707) 648-4436

RESOLUTION NO. 07- N.C.

BE IT RESOLVED by the Council of the City of Vallejo a follows:

WHEREAS, Fred Soley has completed five and one-half years of service to the City of Vallejo in the position of City Attorney as of January 1, 2007; and

WHEREAS, the City Council has conducted an evaluation of Mr. Soley's performance as City Attorney, and found that his job performance under the terms of his employment agreement has been satisfactory and merits an increase in salary; and

WHEREAS, Soley last received an increase in salary on January 1, 2003 and on March 8, 2007, the City increased his retirement benefit; now therefore

BE IT RESOLVED, Mr. Soley will receive a five percent (5%) salary increase, beginning January 1, 2007 and that the City Council agrees to review the performance of the City Attorney in one year.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute and the City Clerk to attest, the Fifth Amendment to Mr. Soley's employment agreement incorporating the adjustments as set forth above.

ADOPTED by the Council of the City of Vallejo at a regular meeting held on April 17, 2007 with the following vote:

ATTACHMENT B

**FIFTH AMENDMENT TO CITY ATTORNEY'S
EMPLOYMENT AGREEMENT**

THIS FIFTH AMENDMENT to that certain Employment Agreement made and entered into by and between the **CITY OF VALLEJO**, a municipal corporation, hereinafter referred to as "City", and **FREDERICK G. SOLEY**, an individual, hereinafter referred to as "Soley", and dated May 8, 2001, and subsequently amended on June 4, 2002, June 18, 2003, July 1, 2004, and March 8, 2007 is made with respect to the following facts and circumstances:

RECITALS

WHEREAS, on December 19, 2006 and January 9, 2007, the City Council held a closed session to evaluate Soley's performance as City Attorney under the terms of his Employment Agreement; and

WHEREAS, the City Council has determined that Soley's performance under the terms of his Employment Agreement is satisfactory and merits an increase in salary; and

WHEREAS, Soley's current salary of \$143,810.37 per annum is approximately twenty eight percent (28%) below the average of City Attorney salaries for the Bay Area region cities which have a similar position, as shown by a salary survey provided by the City's Human Resources Department; and

WHEREAS, Soley last received an increase in salary on January 1, 2003 and on March 8, 2007, the City increased his retirement benefit; and

WHEREAS, in order to bring Soley's salary closer to the average, the City will provide a five percent (5%) salary increase; and

NOW, THEREFORE, THE PARTIES HERETO AGREE TO AMEND THE CITY ATTORNEY'S AGREEMENT AS FOLLOWS:

AGREEMENT

1. Section 2, Compensation, on pages 1 and 2 of said Employment Agreement is amended to add the following: "E. Effective January 1, 2007, City agrees to increase Soley's salary by five percent (5%) to \$151,000.89. City agrees to evaluate Soley's performance at least on an annual basis, with the next performance review to occur no later than on or about November 1, 2007. The City Council shall review Soley's compensation at that time, and may provide increases thereto, subject to a finding of satisfactory performance as expressed in a resolution adopted by the City Council.

2. All other terms and conditions of said Employment Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment to Employment Agreement as of the _____ day of _____, 2007.

CITY OF VALLEJO, A Municipal Corporation

FREDERICK G. SOLEY

ANTHONY J. INTINTOLI, JR.
Mayor

ATTEST:

MARY ELLSWORTH
City Clerk

Approved as to Content: