



**BENICIA CITY COUNCIL
CITY COUNCIL MEETING AGENDA**

**Benicia City Hall, 250 East L Street
June 2, 2020
7:00 PM**

Coronavirus (Covid-19) Advisory Notice

The Solano County Public Health Department has advised that non-essential gatherings should be canceled, postponed, or done remotely. Additional information is available at <http://www.solanocounty.com/depts/ph/ncov.asp>.

This meeting is necessary so that the City can continue to conduct its business and is considered an essential gathering. Consistent with Executive Orders No. 25-20 and No. 29-20 from the Executive Department of the State of California, the meeting will not be physically open to the public. Members of the City Council and staff will participate in this meeting via videoconferencing as permitted under Executive Orders No. 25-20 and No. 29-20.

As always, the public may submit public comments in advance and may view the meeting from home. Below is information on how to watch the meeting via cable and/or live stream and how to send in public comments that will be part of the public record.

How to Watch the Meeting:

- 1) Cable T.V. Broadcast on Channel 27
- 2) Livestream online at www.ci.benicia.ca.us/agendas.

How to Submit Public Comments for this videoconferencing meeting:

Members of the public may provide public comments to the City Clerk by email at lwolfe@ci.benicia.ca.us. Any comment submitted to the City Clerk should indicate what item of the agenda the comment relates to. Comments received by 3:00 pm will be electronically forwarded to the City Council and posted on the City's website. Comments received after 3:00 pm, but before the start time of the meeting will be electronically forwarded to the City Council, but will not be posted on the City's website. Comments received after the start time of the meeting, but prior to the close of the public comment period for an item will be read into the record, with a maximum allowance of 5 minutes per individual comment, subject to the Mayor's discretion. All comments should be limited to a

maximum of 750 words, which corresponds to approximately 5 minutes of speaking time. If a comment is received after the agenda item is heard, but before the close of the meeting, the comment will still be included as a part of the record of the meeting but will not be read into the record.

Additionally, the public may provide live public comment via Zoom on a particular agenda item during the public comment period for that item by calling into the number listed below and entering the Meeting ID number and password. After dialing in, you will automatically be placed on hold until the moderator releases your call to provide public comment. Your comments will be limited to 5 minutes. After you have made your comments the host will mute your audio.

Call in Number to Provide Public Comment via Zoom: (669) 900-9128

Meeting ID: 816 4435 2470

Password: 684838

Any member of the public who needs accommodations should email City Clerk Lisa Wolfe at lwolfe@ci.benicia.ca.us, who will use her best efforts to provide as much accessibility as possible while also maintaining public safety.

Call To Order

1. Convene Open Session (7:00 P.M.)

2. Roll Call

3. Pledge Of Allegiance

4. Reference To The Fundamental Rights Of The Public

The fundamental rights of each member of the public can be found in the municipal code posted on the City's website per section 4.04.030 of the City of Benicia's Open Government Ordinance.

5. Announcements

5.A - OPENINGS ON BOARDS AND COMMISSIONS

- Community Sustainability Commission
 - 1 Partial Term, Expiring July 31, 2021
 - 1 Partial Term, Expiring January 31, 2022
 - 1 Full Term, Expiring January 31, 2023
 - 1 Full Term, Expiring July 31, 2023

- Historic Preservation Review Commission

2 Full Terms, Expiring January 31, 2024

- Housing Authority Board
1 Full Term, Expiring January 31, 2024
2 Tenant Terms, Expiring January 31, 2022
- Planning Commission
1 Full Term, Expiring January 31, 2024
- Sky Valley Open Space Committee
2 Full Terms, Expiring January 31, 2024
- Open Government Commission
1 Full Term, Expiring January 31, 2024
- Human Services Board
1 Partial Term, Expiring July 31, 2021

6. Proclamations

6.A - LGBTQ PRIDE MONTH

[Proclamation - LGBTQ Pride Month](#)

7. Appointments

7.A - CITY COUNCIL APPOINTMENTS; SUBCOMMITTEE'S PREFERENCES FOR BOARDS AND COMMISSIONS

Subcommittee's preference to the Mayor of David Hayer, appointment to the Planning Commission for a full term ending January 31, 2024.

Subcommittee's preference to the Mayor of Thomas DeMasi, appointment to the Community Sustainability Commission for a partial term ending January 31, 2022.

Subcommittee's preference to the Mayor of Randy Ramos, reappointment to the Housing Authority Board for a full term ending January 31, 2024.

Subcommittee's preference to the Mayor of Atiba Murphy, reappointment to the Housing Authority Board for a full tenant term ending January 31, 2022.

Subcommittee's preference to the Mayor of Nelia Rimando, reappointment to the Housing Authority Board for a full tenant term ending January 31, 2022.

Additional Boards and Commissions Applicants:
Erin Mahaney, Planning Commission

Diane Dooley, Planning Commission
Timothy Morgan, Planning Commission
Ella Kallios, Planning Commission
Joseph Miesch, Planning Commission
Christian Cohea, Planning Commission
Barbara Lloyd, Housing Authority Board

[Hayer, David, Redacted](#)

[DeMasi, Thomas, Redacted](#)

[Ramos, Randy, Redacted](#)

[Murphy, Atiba, Redacted](#)

[Rimando, Nelia, Redacted](#)

[Mahaney, Erin, Redacted](#)

[Morgan, Timothy, Redacted](#)

[Dooley, Diane, Redacted](#)

[Kallios, Ella, Redacted](#)

[Miesch, Joseph, Redacted](#)

[Cohea, Christian, Redacted](#)

[Lloyd, Barbara, Redacted](#)

8. Presentations

None

9. Adoption Of Agenda

10. Opportunity For Public Comments

Members of the public may provide public comments to the City Clerk by email at lwolfe@ci.benicia.ca.us. Any comment submitted to the City Clerk should indicate what item of the agenda the comment relates to. Comments received by 3:00 pm will be electronically forwarded to the City Council and posted on the City's website. Comments received after 3:00 pm, but before the start time of the meeting will be electronically forwarded to the City Council, but will not be posted on the City's website. Comments received after the start time of the meeting, but prior to the close of the public comment period for an item will be read into the record, with a maximum allowance of 5 minutes per individual comment, subject to the Mayor's discretion. All comments should be limited to a

maximum of 750 words, which corresponds to approximately 5 minutes of speaking time. If a comment is received after the agenda item is heard, but before the close of the meeting, the comment will still be included as a part of the record of the meeting but will not be read into the record.

Additionally, the public may provide live public comment via Zoom on a particular agenda item during the public comment period for that item by calling into the number listed below and entering the Meeting ID number and password. After dialing in, you will automatically be placed on hold until the moderator releases your call to provide public comment. Your comments will be limited to 5 minutes. After you have made your comments the host will mute your audio.

Call in Number to Provide Public Comment via Zoom: (669) 900-9128

Meeting ID: 816 4435 2470

Password: 684838

11. Written Comment

12. Public Comment

13. Consent Calendar

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

13.A - APPROVAL OF CITY COUNCIL MINUTES FROM MAY 19, 2020 (City Clerk)

Recommendation:

Approve the minutes.

[May 19, 2020 City Council Meeting Minutes](#)

13.B - FIRE INSPECTION COMPLIANCE REPORT (Fire Chief)

California Health and Safety Code Sections 13145 and 13146 require every city or county fire department or district providing fire protection services to enforce the fire code as adopted. Additionally, Section 13146.2 requires the fire department to annually inspect every building used as a public or private school, as well as all apartment houses, hotels, motels, lodging houses, and jails for compliance. On September 27, 2018, Governor Brown approved Senate Bill 1205, which added Section 13146.4 to the California Health and Safety Code. Section 13146.4 requires every fire department to report annually to its administering authority, as defined, on the department's compliance with the above-described inspection requirements. The section requires the administering authority to acknowledge receipt of the report in a resolution or a similar formal document. This report serves as the annual report for 2019 compliance and provides additional details of the Benicia Fire Department's fire and life safety inspection program.

Recommendation:

Move to adopt the resolution (Attachment 1) acknowledging receipt of the 2019 state mandated fire inspections report.

[Staff Report - Fire Inspection Compliance Report](#)

[1. Resolution - 2019 Fire Inspection Compliance Report](#)

13.C - POSTPONEMENT OF WATER AND WASTEWATER RATE INCREASES FOR SIX MONTHS (Public Works Director)

During the April 21, 2020 City Council meeting, Council asked staff to return with a recommendation on delaying the water and wastewater rate increases scheduled for July 1, 2020 until the Master Plan Updates and Major Facilities Condition Assessments are completed. This staff report addresses the potential consequences of postponing the water and wastewater rate increases six months from July 1, 2020 to January 1, 2021.

Recommendation:

If Council wishes to postpone the 3% water rate increase and the 5% wastewater rate increase scheduled for July 1, 2020, the attached resolution (Attachment 1) delaying the scheduled water and wastewater rate increases to January 1, 2021 is offered for Council's consideration.

[Staff Report - Postponement of Water and Wastewater Rate Increases](#)

[1. Resolution - Postponement of Water and Wastewater Rate Increases](#)

13.D - AUTHORIZATION FOR SUBMITTAL OF APPLICATION FOR LOCAL EARLY ACTION PLANNING (LEAP) GRANTS PROGRAM (Community Development Director)

The City of Benicia is eligible to apply for one-time, non-competitive funding of up to \$150,000 from the State of California to support planning activities to accelerate the production of housing. This requested action would authorize the City Manager, or designee, to execute an application for the Local Early Action Planning (LEAP) Grants Program to partially fund permit automation and to partially fund the upcoming Housing Element Update planning and implementation activities.

Recommendation:

Move to adopt a resolution (Attachment 1) that authorizes the submittal of an application for the LEAP Grants Program.

[Staff Report - LEAP Grant Authorization](#)

[1. Resolution - LEAP Grant Authorization](#)

[2. LEAP Planning Grant - 2020 Notice of Funding Availability](#)

13.E - APPROVAL OF AGREEMENT FOR NEXT WATER AND WASTEWATER RATE STUDY (Public Works Director)

The current water and wastewater rate study was adopted in 2016 and recommended utility rates for Fiscal Years (FY) 16/17 through FY20/21. The next rate study is planned to start in 2020 and will study the projected future financial needs of the Water and Wastewater Enterprise Funds from FY21/22 through FY25/26. After conducting a thorough consultant selection process, staff recommends approving a \$75,000 (\$64,900 for consultant services and \$10,100 contingency) contract with Bartle Wells Associates to conduct the next five-year comprehensive rate study.

Recommendation:

Move to adopt a resolution (Attachment 1) approving a consultant agreement with Bartle Wells Associates (Attachment 2) for professional financial services to perform a water and wastewater rate study for a not-to-exceed cost of \$75,000 and authorizing the City Manager to sign the agreement on behalf of the City.

[Staff Report - Water and Wastewater Rate Study](#)

[1. Resolution - Water and Wastewater Rate Study](#)

[2. Consultant Agreement with Bartle Wells - Water and Wastewater Rate Study](#)

13.F - NOMINATION OF BENICIA EAST 5TH STREET PRIORITY DEVELOPMENT AREA (Community Development Director)

The Priority Development Area (PDA) designation, as part of the regional Plan Bay Area 2050, is intended to promote transit access and production of new housing, with an emphasis on reducing vehicle miles traveled (VMT). Following on the designation of the area at East 5th Street and Military East as a potential mixed-use zone district to support additional housing through the Senate Bill 2 (SB2) Grant, the City of Benicia has an opportunity to nominate this area as a PDA, which would provide opportunities for future planning and transportation grant funds.

Recommendation:

Move to adopt the resolution (Attachment 1) nominating the designation of the Benicia Priority Production Area.

[Staff Report - Nominating Benicia East 5th Street PDA](#)

[1. Resolution - Nominating Benicia East 5th Street PDA](#)

13.G - APPROVAL TO WAIVE THE READING OF ALL ORDINANCES INTRODUCED OR ADOPTED PURSUANT TO THIS AGENDA (City Attorney)

14. Business Items

14.A - ACCEPT GRANT FROM BENICIA LIBRARY FOUNDATION (Director of Library and Cultural Services)

The Benicia Library Foundation, at the request of the Director of Library and Cultural Services, has approved a grant in the amount of \$50,000 to the Benicia Public Library in order to re-align some library services to allow for a robust response to the Coronavirus crisis, with an emphasis on building up the Library's digital and online services.

Recommendation:

Move to approve the resolution accepting the grant of \$50,000 from the Benicia Library Foundation to the City of Benicia Public Library, to be deposited to account 2707000-5350 (Library Grants – Local Grants) for the purposes of improving the Library's digital and online services over the course of the next 12-18 months, in response to the Coronavirus emergency, and to adjust the revenue budget for the amount of the grant.

[Staff Report - Accept Library Foundation Grant](#)

[1. Resolution - Benicia Library Foundation Grant](#)

14.B - REQUEST CALTRANS TO FUND THE EFFORT TO PLANT REPLACEMENT TREES ALONG I-780 CORRIDOR AND WORK WITH LOCAL ORGANIZATIONS IN TREE PLANTING AND MAINTENANCE PROJECTS (City Manager)

The Benicia General Plan identifies I-780 as a "scenic corridor". During the CalTrans CEQA public presentation to the City Council several years ago for tree removal along I-780, the City Council and the public requested replacement tree planting. CalTrans indicated there were no plans to do so at that time. Now is the time to replant appropriate trees in furtherance of state policy to be carbon neutral by 2045. Replanting trees would mitigate the impacts to Benicia's "scenic" I-780.

Recommendation:

Move to adopt the resolution (Attachment 1), requesting CalTrans to fund the effort to plant replacement trees along the I-780 corridor through Benicia and work with local organizations in tree planting and maintenance projects.

[Staff Report - Request to CalTrans to Replant Trees](#)

[1. Resolution - Request to CalTrans to Replant Trees](#)

14.C - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA RATIFYING THE ORDER OF THE DIRECTOR OF EMERGENCY SERVICES (CITY MANAGER) OF THE CITY OF BENICIA REGARDING OUTDOOR ACTIVITIES AND ENCROACHMENTS FOR BUSINESSES OPERATING IN COMPLIANCE WITH SOCIAL DISTANCING REQUIREMENTS (City Attorney)

The proposed resolution ratifies the order of the Director of Emergency Services (City Manager) of the City of Benicia and facilitates the reopening of businesses in a manner that is consistent with State and

local social distancing requirements by waiving certain City permits and establishing a Temporary COVID-19 Outdoor Activities and Encroachment Agreement.

Recommendation:

Move to adopt the resolution (Attachment 1) of the City Council of the City of Benicia ratifying the order of the Director of Emergency Services (City Manager) of the City of Benicia No. 20-3 (Attachment 2) regarding outdoor activities and encroachments for businesses operating in compliance with social distancing requirements.

[Staff Report - Ratifying Emergency Services Order No. 20-3](#)

[1. Resolution - Ratifying Emergency Services Order No. 20-3](#)

[2. Emergency Services Order No. 20-3](#)

15. Adjournment (9:15 P.M.)

Public Participation

The Benicia City Council and its Boards and Commissions welcome public participation.

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

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

Disabled Access or Special Needs

In compliance with the Americans with Disabilities Act (ADA) and to accommodate any special needs, if you need special assistance to participate in this meeting, please contact Alan Shear, the ADA Coordinator, at (707) 746-4200. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting.

Meeting Procedures

All items listed on this agenda are for Council discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the City Council.

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

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

Public Records

The agenda packet for this meeting is available at the City Manager's Office and the Benicia Public Library during regular working hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the

City Manager's Office located at 250 East L Street, Benicia, or at the meeting held in the Council Chambers. If you wish to submit written information on an agenda item, please submit to the City Clerk as soon as possible so that it may be distributed to the City Council. A complete proceeding of each meeting is also recorded and available through the City Clerk's Office.

Contact Your Council Members

If you would like to contact the Mayor or a Council Member, please call the number listed below to leave a voicemail message.

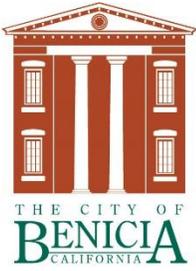
Mayor Patterson: 746-4213

Vice Mayor Strawbridge: 746-4213

Council Member Campbell: 746-4213

Council Member Young: 746-4213

Council Member Largaespada: 746-4213



PROCLAMATION

IN RECOGNITION OF

LGBTQ Pride Month June 2020

WHEREAS, fifty-one years ago, in June 1969, a riot at a Manhattan gay bar, the Stonewall Inn, in retaliation to a police raid, precipitated the modern fight for Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) rights; and

WHEREAS, because of acts of courage from those who demanded justice and from those who quietly pushed for progress, our Nation has made great strides in recognizing what these brave individuals long knew to be true in their hearts – that love is love and that no person should be judged by anything but the content of their character; and

WHEREAS, 2015's landmark Supreme Court decision was a historic victory for LGBTQ Americans, guaranteeing marriage equality in all 50 States, ensuring dignity for same-sex couples and therefore all couples; and

WHEREAS, for every partnership that was not previously recognized under the law and for every American who was denied their basic civil rights, this monumental ruling instilled newfound hope, affirming the belief that we are all freer when we are all treated as equals; and

WHEREAS, despite this extraordinary progress, LGBTQ Americans still face discrimination simply for being who they are, and there remains much work to do to extend the promise of our country to every American; and

WHEREAS, in memory of the 49 victims of the 2016 Pulse Nightclub massacre in Orlando, it is ever more important that we continue to push for equality, protections and acceptance of LGBTQ people everywhere; and

WHEREAS, 2020 is the 22nd year of the LGBTQ Community coming together to show our pride in Solano County through service and support of the LGBTQ community, in the organization known as Solano Pride Center; and

WHEREAS, during LGBTQ Pride Month, as we wave our flags of pride high and march boldly forward in parades and demonstrations, let us celebrate how far we have come and reaffirm our steadfast belief in the equal dignity of all Americans; and



WHEREAS, the City of Benicia proudly stands with the LGBTQ community, and with all communities who struggle for basic human rights, for acceptance, visibility, safety, acknowledgement, and equitability, in the quest for full equality under the law.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor of the City of Benicia, and on behalf of the City Council of the City of Benicia hereby proclaim June 2020 as Lesbian, Gay, Bisexual, Transgender and Queer Pride Month.

Elizabeth Patterson, Mayor
June 2, 2020

Benicia, CA Application

Profile

David _____ Hayer _____
 First Name Middle Initial Last Name

_____ _____
 Email Address

_____ _____
 Street Address Suite or Apt

Benicia _____ CA _____ 94510 _____
 City State Postal Code

_____ _____
 Primary Phone Home: Alternate Phone

Self-employed _____ _____
 Employer Job Title

Which Boards would you like to apply for?

Planning Commission: Submitted

Interests & Experiences

Why are you interested in serving on a board or commission?

I'd like to share my experience and knowledge to help support key decisions related to the future of our city. I have deep experience in leading businesses, sustainability for large enterprises, and non-profits.

[Hayer_David_PC_Redacted.doc](#)

Upload a Resume

Demographics

Gender *

_____ _____
 Date of Birth

Application Received in 2019



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services & Arts Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: David Hayer _____

Address: _____ Benicia _____

Phone: (Work) _____ (Home) _____

(Cell) _____ Fax: _____

Email: _____ Years as Benicia resident: 10 _____

Occupation/Employer: President, Gap Foundation; & Sr. VP Sustainability, Gov. Affairs, Gap Inc.

Please note your most recent community or civic volunteer experience: _____
See Page 3

Please describe any applicable experience/training: _____
See Page 3

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: _____ Date: 2/11/2019



Planning Commission Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Commission? Have you attended a Planning Commission meeting? If so, when?

See page 4

2. Participation on this Commission involves monthly meetings, periodically special meetings, and possibly attending community events related to planning. Do you feel you have the time and commitment to be a viable member of this Commission?

See page 4

3. Is there a particular segment of planning and development that interests you more than others?

See page 4

4. Why do you think planning needs to play a lead role in fortifying the quality of life in Benicia? Do you see an area of planning that needs to be expanded at this point? How does zoning reinforces the goal of the General Plan?

See page 5

Page 2 Answers

1. What interests you about this Commission? Have you attended a Planning Commission meeting? If so, when?

Three primary reasons drive my interest.

Through my daily work, I've been engaged with national and international governments fairly regularly. My work has been quite diverse, from dealing with large cities domestically, to small towns in developing countries. During that experience, I've learned that regardless of the size of the city, or where it may be on the globe, Planning Commissions play an incredibly influential role on the future of cities.

Secondly, I like spending time in areas where strategic agility is required and results can be seen or measured. Much of the Commission's work is about what implications could be for future years and quite possibly generations. This responsibility should be taken very thoughtfully, seriously, and with lots of input from constituents. I know it's challenging work, and that excites me.

Lastly, utilizing my experience, and passion for service, I'd like to add more value for the community I live in. My wife, our two children, and I, have been living in Benicia for nearly a decade. We've decided to be here for the long term.

I have attended dozens of Planning Commission meetings during the last decade in multiple cities. My in-person attendance at Benicia Planning Commission meetings has been limited but I do check in on the video feed from time to time on topics that I may peak my interest.

2. Participation on this Commission involves monthly meetings, periodically special meetings, and possibly attending community events related to planning. Do you feel you have the time and commitment to be a viable member of this Commission?

-Yes. This work is incredibly important and the role should be taken seriously. I understand I would need to prioritize time. I enjoy trying to truly understand issues before making decisions. Although I believe reading prepared reports is vital, I will have a strong tendency to also want to take the time to physically experience a site.

3. Is there a particular segment of planning and development that interests you more than others?

Balancing the long-term quality of life in Benicia and needs of businesses is a fascinating challenge. Through my day job, I've gotten to learn a lot about the impact business has on communities, both positive and negative. More often than not, the questions, the answers, and the decisions needed, are far from binary.

Page 2 Answers continued

4. Why do you think planning needs to play a lead role in fortifying the quality of life in Benicia? Do you see an area of planning that needs to be expanded at this point? How does zoning reinforces the goal of the General Plan?

A) As custodians of the General Plan, Planning plays an integral role in improving quality of life in Benicia. It's the entity that reviews implications of activity for all community members, vets businesses, thoughtfully makes decisions that promote conservation and development.

B) First, I'd want to better understand the current community needs and opportunities from as many angles as possible prior to stating what needs to be expanded. Although I hear of opportunities, I want to ensure I've heard enough differing perspectives. One possible opportunity could be to better understand if there's room for additional progress with community engagement. For instance, I'd like to understand if we have best in-class public outreach. This may be less difficult on larger issues that arise, and I wonder how we could get more routine involvement from community members. Secondly, I'd be interested to review how planning, permitting, and community engagement processes could be further streamlined, or if additional use of technology would be wise.

C) Zoning and the General Plan is the blue print for business and citizen activities. These are the parameters set in place so our community can maintain or improve quality of life.

Benicia, CA Application

Profile

Thomas
First Name

J
Middle Initial

DeMasi
Last Name

[Redacted]
Email Address

[Redacted]
Street Address

[Redacted]
Suite or Apt

Benicia
City

CA
State

94510
Postal Code

[Redacted]
Primary Phone

Home:
Alternate Phone

Coffman Engineers
Employer

Senior Fire Protection Engineer
Job Title

Which Boards would you like to apply for?

Community Sustainability Commission: Submitted

Interests & Experiences

Why are you interested in serving on a board or commission?

I'm interested in serving on the Community Sustainability Commission as sustainability is an issue which has been highlighted for many years, which needs to be addressed on a local, state, country and global level. Working in the built environment, I've been able to see first hand many interesting sustainable initiatives and would like to see if there are further innovations which could be implemented in Benicia.

[Resume_DeMasi_Tom_Sustainability_Commission.pdf](#)

Upload a Resume

Demographics

Gender *

[Redacted]

[Redacted]
Date of Birth

Thomas J. DeMasi, P.E.

Professional Licensure: Registered Mechanical Engineer (CA), Registered Fire Protection Engineer

EXPERIENCE

Senior Fire Protection Engineer

Coffman Engineers *Oakland CA* February 2016- Present

- Provide fire protection and life safety consulting to architects, engineers, and general contractors for new and existing built environment conditions for complex issues requiring prescriptive and performance based design.
- Lead a team of four fire protection engineers to complete technical work and grow as a discipline.
- Design and provide construction administration for multiple types of fire protection systems for various occupancies.

Associate (I and II) - Fire Protection Engineering

Rolf Jensen and Associates/Jensen Hughes *Atlanta, GA/Walnut Creek, CA* October 2011 - February 2016

- Provide fire protection and life safety consulting to architects, engineers, and general contractors for new and existing built environment conditions for complex issues requiring prescriptive and performance based design.
- Design fire alarm, automatic fire sprinkler, and smoke control systems. Develop drawings (using AutoCAD) and specifications for projects.
- Conduct and manage smoke control commissioning projects, using teams of up to three people.
- Peer review technical documents (drawings, reports, and specifications) for accuracy with codes and standards.
- Manage projects (routinely up in the 10-15 range).
- Develop proposals for new and existing clients. Respond to new clients/cold calls for office.

Project Consultant - Fire Protection Engineering

Schirmer Engineering, *Torrance, CA* June-August 2007; January-December 2008

- Reviewed construction document packages (e.g., architectural/mechanical/electrical/life safety) for compliance with adopted Codes and Standards.
- Conducted inspections of mechanical smoke control systems, automatic fire alarm, automatic sprinkler systems.
- Managed projects for high-rise residential and commercial, large assembly life safety, building code and egress reviews and reports.
- Represented clients in stakeholder meetings with local authorities to negotiate building modifications.

Project Manager / Laborer / Machinist - Metal Fabrication and Demolition

Industrial Dismantling Co./ Accurate Metal Sales, *Southbridge, MA* May-August 2001-2006; 2009 - October 2011

- Metal fabrication using various shop tools and machines. Operated various vehicles (e.g., fork truck, Bobcat) for project work.
- Developed Proposals and responded to RFPs, managed projects including scheduling and assembling teams for fabrication/refurbishment projects.
- Assisted in dismantling and demolition projects.

SKILLS: AutoCAD, Microsoft Suite, technical writing, principles of mechanical engineering, project management, operation of heavy machinery (fork truck, Bobcat, Lull), operation of metalworking equipment.

EDUCATION: Worcester Polytechnic Institute (WPI), Worcester, MA

Bachelors of Science, MECHANICAL ENGINEERING (May 2007)

Masters of Science, Fire Protection ENGINEERING (May 2010)

Benicia, CA Application

Profile

Randy _____ Ramos _____
 First Name Middle Initial Last Name

 Email Address

 Street Address Suite or Apt

Benicia _____ CA _____ 94510 _____
 City State Postal Code

 Primary Phone Home: _____
 Alternate Phone

S/E _____ Owner _____
 Employer Job Title

Which Boards would you like to apply for?

Housing Authority: Submitted

Interests & Experiences

Why are you interested in serving on a board or commission?

Please see attached questions.

[Randy Ramos Questions.pdf](#)

Upload a Resume

Demographics

Gender *

 Date of Birth

City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Building Board of Appeals
- SolTrans Public Advisory Committee

Name: Bryan Ramos

Address: [REDACTED]

Phone: (Work) [REDACTED] (Home) [REDACTED] (Cell) [REDACTED]

Email: [REDACTED]

Employer: S/E Job Title: OWNER

Gender: [REDACTED] Date of Birth: [REDACTED]

Comments (Optional): _____

*** You may attach a resume if you wish to. ***

Signature: [REDACTED]

Date: 5-8-2020

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about the Housing Authority Board?

TO SERVE MY COMMUNITY & CONTINUE TO VOLUNTEER MY TIME IN THE AREA OF AFFORDABLE HOUSING.

2. What are your expectations for this Board and how do you see your role on the Board?

I SEE MY ROLE AS A COMMISSIONER TO OVERSEE THE HOUSING AUTHORITY'S AFFORDABLE HOUSING PROGRAMS AND CONTINUE TO SERVE THE NEEDS OF THE COMMUNITY

3. This Board meets on the 4th Wednesday of the month. Currently, the meetings begin at 6:00 P.M. In addition, there may be several meetings of smaller Board committees during the year. Does this present a problem for you? If so, please explain.

NO CONFLICTS

4. What has your experience been with the Housing Authority, if any?

I CURRENTLY SERVE AS A COMMISSIONER FOR THE BENICIA HOUSING AUTHORITY

Benicia, CA Application

Profile

Atiba _____ Murphy _____
 First Name Middle Initial Last Name

 Email Address

 Street Address Suite or Apt

Benicia _____ CA _____ 94510 _____
 City State Postal Code

 Primary Phone

 Alternate Phone

Ontrac _____ Sorter _____
 Employer Job Title

Which Boards would you like to apply for?

 Housing Authority: Submitted

Interests & Experiences

Why are you interested in serving on a board or commission?

 Please see attached questions.

[Atiba_Murphy_Questions.pdf](#)
 Upload a Resume

Demographics

Gender *

 Date of Birth

City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Building Board of Appeals
- SolTrans Public Advisory Committee

Name: Atiba Murphy

Address: 

Phone: (Work)  (Home)  (Cell) 

Email: 

Employer: Ontrec Job Title: Sorter

Gender:  Date of Birth: 

Comments (Optional): _____

*** You may attach a resume if you wish to. ***

Signature: 

Date: April 25, 2020

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about the Housing Authority Board?

Keeping affordable housing in my community and love being able to have a voice serving my community.

2. What are your expectations for this Board and how do you see your role on the Board?

My expectations for this Board to keep doing a great job making sure affordable housing stays in our community and that we do what's best for them.

3. This Board meets on the 4th Wednesday of the month. Currently, the meetings begin at 6:00 P.M. In addition, there may be several meetings of smaller Board committees during the year. Does this present a problem for you? If so, please explain.

no

4. What has your experience been with the Housing Authority, if any?

Its been great being a tenant commissioner.

Benicia, CA Application

Profile

Nelia _____ Rimando _____
 First Name Middle Initial Last Name

 Email Address

 Street Address Suite or Apt

Benicia _____ CA _____ 94510 _____
 City State Postal Code

 Primary Phone

 Alternate Phone

None-Retired _____
 Employer Job Title

Which Boards would you like to apply for?

Housing Authority: Submitted

Interests & Experiences

Why are you interested in serving on a board or commission?

Please see attached questions.

[Nelía_Rimando_Questions.pdf](#)
 Upload a Resume

Demographics

Gender *

 Date of Birth

City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Building Board of Appeals
- SolTrans Public Advisory Committee

Name: Nelia Rimando

Address: [REDACTED]

Phone: [REDACTED] (Home) [REDACTED] (Cell) [REDACTED]

Email: None

Employer: None – Retired Job Title: None

Gender: [REDACTED] Date of Birth: [REDACTED]

Comments (Optional): _____

*** You may attach a resume if you wish to. ***

Signature: [REDACTED]

Date: 05-10-20

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about the Housing Authority Board?

I have served as Tenant Commissioner for the Benicia Housing Authority Board of Commissioners and wish to continue to serve for another term.

2. What are your expectations for this Board and how do you see your role on the Board?

Expectations are for the Board to continue to improve upon the services that the Benicia Housing Authority provides for its residents and the general community of Benicia. As a resident within the BHA, I take pride in having a role as a Tenant Commissioner and will continue to provide value through input and feedback to the Board about the community's overall environment and tenancy experience.

3. This Board meets on the 4th Wednesday of the month. Currently, the meetings begin at 6:00 P.M. In addition, there may be several meetings of smaller Board committees during the year. Does this present a problem for you? If so, please explain.

4. What has your experience been with the Housing Authority, if any?

I have been a resident within the Benicia Housing Authority for over 30 years, have served as a Tenant Commissioner, and wish to renew my services.

Benicia, CA Application

Profile

Erin _____ KL _____ Mahaney _____
 First Name Middle Initial Last Name

 Email Address

 Street Address Suite or Apt

Benicia _____ CA _____ 94510 _____
 City State Postal Code

 Primary Phone

 Alternate Phone

State of California _____ Attorney IV _____
 Employer Job Title

Which Boards would you like to apply for?

Planning Commission: Submitted

Interests & Experiences

Why are you interested in serving on a board or commission?

The Planning Commission plays a critical role in preserving and enhancing Benicia's unique urban and natural environment. My application to the Commission reflects both my life-long dedication to public service and my interest in contributing to the development and implementation of policies that maintain Benicia's special character while planning for a sustainable future. My professional experience with CEQA, resource planning, and individual permitting actions is well suited to the day-to-day and long-term work of the Commission.

[Mahaney_resume_2020.doc](#)
 Upload a Resume

Demographics

Gender *

 Date of Birth

ERIN K.L. MAHANEY



EDUCATION

VERMONT LAW SCHOOL

Juris Doctor, *cum laude*, May 1995.

Master of Studies in Environmental Law, *magna cum laude*, May 1995.

Honors: Dean's List, Spring 1995; Academic Excellence Award in Law & Science, Spring 1995; American Jurisprudence Award in Property, Spring 1993.

UNIVERSITY OF CALIFORNIA AT BERKELEY

B.A., Environmental Science, Biological Emphasis, May 1987.

Published thesis: *Endangered Species and Development: The Salt Marsh Harvest Mouse*.

Honors: Dean's List, Fall 1986; California Alumni Scholar's Scholarship, 1983–1984, 1986–1987.

EXPERIENCE

ATTORNEY IV

State Water Resources Control Board, Sacramento, California. 1998 – present (Attorney IV since 2015).

Advise Board members, executive staff, and Division of Water Rights personnel on complex legal issues involving state and federal environmental law, with an emphasis on water rights, the California Environmental Quality Act (CEQA), administrative law, federal and tribal reserved rights, and interstate issues. Responsibilities include assisting with adjudicative proceedings, water quality control planning, strategic planning, providing advice on legislation, drafting regulations, and defending lawsuits.

ASSOCIATE ATTORNEY

Adams Broadwell & Joseph, San Francisco, California. 1997 – 1998.

Practiced state and federal environmental law, land use law, and energy law. Responsibilities included environmental impact analysis under CEQA, reviewing energy plant siting issues, legislative analysis, and appellate work.

ATTORNEY

Santa Cruz, California. 1995 – 1997 (Law Clerk from August – December 1995). Provided contract legal services on a variety of civil matters. Prepared legal memoranda, pretrial motions, and appellate briefs. Volunteered part-time with the Santa Cruz District Attorney's Office, prepared legal memoranda and motions on criminal and procedural issues, and assisted attorneys at pre-trial hearings (August 1995 – June 1996).

STUDENT LAW CLERK

Vermont Supreme Court, Montpelier, Vermont. August 1994 – December 1994.

Prepared legal memoranda and opinions on civil and criminal issues for Justice Morse.

LAW CLERK

California Attorney General's Office, Oakland, California. May 1994 – August 1994.

Assisted Deputy Attorneys General in the Environment Section. Prepared legal memoranda on a variety of topics involving state and federal environmental acts and related legal issues.

UNITED STATES PEACE CORPS VOLUNTEER

Jamaica. 1988 – 1990.

Served as a Field Officer with an environmental education organization. Developed a long-term management plan, coordinated all programming and volunteer activities, and produced an award-winning newsletter for 5,000 teachers and children. Organized fund-raising events and grant requests that generated over \$7,000.

Honors: Peace Corps Volunteer of the Year for Jamaica, 1989.

PUBLICATIONS

Samantha K. Olson & Erin K.L. Mahaney, *Searching for Certainty in a State of Flux: How Administrative Procedures Help Provide Stability in Water Rights Law*, 36 McGeorge Law Review 73 (2005).

Erin K.L. Mahaney, *Assessing the Fitness of Novel Scientific Evidence in the Post-Daubert Era*, 26 Environmental Law 1161 (1996).

OTHER

- Parent of two Benicia High School students
- Solano County Master Gardener since 2002
- Interests include kayaking and paddleboarding, learning to paint, hiking, reading

Benicia, CA Application

Profile

Timothy _____ E _____ Morgan _____
First Name Middle Initial Last Name

Email Address

_____ Suite or Apt _____
Street Address

Benicia _____ CA _____ 94510 _____
City State Postal Code

_____ Alternate Phone _____
Primary Phone

CA Education Audit Appeals Panel _____ Staff Counsel (IV) _____
Employer Job Title

Which Boards would you like to apply for?

Planning Commission: Submitted

Interests & Experiences

Why are you interested in serving on a board or commission?

After 41 years of legal work, the latter half in Sacramento, I would like to focus on the community I moved to in 2001. Benicia has unique challenges in planning its future, as well as a reputation to protect and advance.

[Res10.doc](#) _____
Upload a Resume

Demographics

Gender *

Date of Birth

TIMOTHY E. MORGAN

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Admitted to California Bar
November 29, 1978

[REDACTED]
[REDACTED]

Skills: federal, state, administrative, and appellate litigation and ADR; regulations; health care law; education finance law; antitrust, securities, constitutional law.

PROFESSIONAL BACKGROUND

Education Audit Appeals Panel

770 L Street, Suite 1100
Sacramento, CA 95814
<Direct Line.: 916.445.7342>

April 2005 to present. Advise Executive Officer on summary review and on recommendation to adopt, modify or “alternate” proposed decisions by admin. law judges. Update Audit Guide regs. Advise on open meetings, political reform and public records issues.

California Department of Health Services

P. O. Box 997413
Sacramento, California 95899-7413

December 8, 2000 to present. Administrative litigation: Medi-Cal audits, licenses and nursing home discipline. Privacy and other health care legal research.

Wilson, Sonsini, Goodrich & Rosati

650 Page Mill Road
Palo Alto, California 94304

March 1999 to Aug. 2000 (contract work): document review in securities, antitrust and commercial litigation, corporate transactions, and pre-merger antitrust review.

California Department of Insurance

45 Fremont Street, 21st Floor
San Francisco, California 94105

February 1992 to February 1999: Rate Enforcement and Insurer Compliance Bureaus: administrative law and litigation, mostly arising from Prop. 103 reforms.

McDermott & Trayner

225 S. Lake Avenue, Suite 410
Pasadena, California 91101

January 1987 to August 1988: business litigation and arbitration; health care antitrust compliance, incl. Hart-Scott review and expert analysis, for hospital mergers.

Law Offices of Timothy E. Morgan

San Francisco, California

Late 1982 to January 1987: trial and appellate litigation ranging from antitrust and securities to landlord-tenant.

Burden, Aiken, Mansuy & Stein

San Francisco, California [dissolved]

August 1981 through April 1982: general civil litigation including construction, real property and securities.

Goux, Romasanta & Cappello

Santa Barbara, California [dissolved]

July 1980 to July 1981: federal and State court litigation; won federal court preliminary injunction in health care monopolization case (outpatient dialysis).

PROFESSIONAL VOLUNTEER WORK

Pro Tem Judge , Carol Miller Justice Center Sacramento (Small Claims)	Since March 21, 2007
Appellate Mediator Court of Appeal, Third Appellate District Sacramento	Since March 24, 2007
Administrative Law Section (President) Sacramento County Bar Association	Since January 27, 2010 (prev. VP for approx. 3 years)

EDUCATION

Boalt Hall School of Law University of California Berkeley, California	J.D. May 1978 Published in <i>ECOLOGY LAW QUARTERLY</i> 6:4 Moot Court and Trial Practice Course
Harvard College Cambridge, Massachusetts	B.A. with Honors (Dean's List 4 years) Linguistics & Social Relations

Pre-Admission Internships

Department of Consumer Affairs Sacramento, California	Spring 1978: antitrust research concerning hospital privileges for allied health practitioners.
Federal Trade Commission San Francisco, California	Summer 1977 through May 1978 (summer Clerk, part-time during 2d year): antitrust and consumer protection.
Greene, Kelley & Tobriner San Francisco, California	Spring 1977: full-time Clinical in general civil practice firm; research; pleadings, discovery; group legal services intake.
District Attorney's Office San Francisco, California	Fall 1976: student internship, Consumer Fraud Unit; developed successful new taxicab antitrust tie-in theory.

Benicia, CA Application**Profile**

Diane

First Name

Dooley

Last Name

Middle Initial

Email Address

Street Address

Suite or Apt

Benicia

City

CA

State

94510

Postal Code

Primary Phone

Alternate Phone

Retired

Employer

Pediatrician

Job Title

Which Boards would you like to apply for?

Planning Commission: Submitted

Interests & Experiences**Why are you interested in serving on a board or commission?**

I am a pediatrician, past school board member and professor who has lived in Benicia for the past 38 years. I love living in Benicia and want to help preserve our unique, community-friendly atmosphere. We moved here to raise our children because of the forward-thinking solar village development, the charming downtown and the beautiful location. More recently, my husband and I continue to appreciate our community through our daily walks and the joys of playing here with our grandsons. I believe that my past experiences would support the Planning Commission in addressing the challenges and opportunities coming before Benicia over the next few years. I recently retired from my work as a pediatrician serving low-income families for the past 41 years. I served as an elected school board Trustee for Benicia Unified School District from 1992- 2001. During this time, I witnessed the incredible commitment that people have to this town and to our children. I also learned how to face many crises and work effectively within a governmental structure. I additionally had the opportunity to serve on Benicia's General Plan committee. More recently, I have been the Benicia representative for the Solano Transportation Authority Pedestrian Advisory Committee for the past 2 years and recently partnered with city staff to develop a draft Active Transportation Plan for Benicia. I am also on the Board of the Friends of the Library and a regular volunteer supporting the Friends book sales. I would like to use my experiences to keep Benicia the thriving and nurturing town that it is presently. My recent work on the Active Transportation Plan has reinforced for me the importance of walking and biking in Benicia, as well as access to hiking and trails. I'm also interested in participating in the Planning Commission's discussions regarding housing, safety, global warming and reviving our recently stressed downtown. I would be honored to be a part of a Commission that addresses these critically important issues.

Demographics

Gender *

[REDACTED]

[REDACTED]

Date of Birth

Resume

Name

Diane Dooley MD MHS FAAP
 Retired Pediatrician, Contra Costa Health Services
 Associate Clinical Professor, UCSF Department of Medicine, Family and Community Medicine

Education/Training

INSTITUTION AND LOCATION	DEGREE <i>(if applicable)</i>	YEAR(s)	FIELD OF STUDY
Stanford University	BA	1974	Human Biology
Philip R. Lee Institute of Health Policy Studies	Fellow	1975	Health Policy
University of California, Berkeley	MHS	1977	Health Sciences
University of California, San Francisco	MD	1979	Medicine
California HealthCare Leadership Program	Two-year Fellowship	2002-2004	Health Care Leadership
University of California, San Francisco		2012-2016	Clinical and Translational Science Institute

Positions and honors

1979-1982: Pediatrics Resident, Kaiser Foundation Hospital, San Francisco

1979- 2020: Pediatrician, Contra Costa Regional Medical Center and Health Centers

1992- 2001: School Board Trustee, Benicia Unified School District

1986-1993: Chairperson, Department of Pediatrics, Contra Costa Regional Medical Center

2001 – 2008: Chairperson, Department of Pediatrics, Contra Costa Regional Medical Center

2004 – 2018: Quality physician for Contra Costa Health Plan, working on quality projects, including improving HEDIS quality rates documenting health care for low income children served by our health plan.

2007 – 2019: Executive Committee Member, Past Chairperson, Healthy and Active Before 5, a Contra Costa County collaborative that advances health equity through local policy and environmental changes to support the health and well-being of children ages 0-5 and their families.

2011 – present: Associate Clinical Professor, UCSF Department Medicine, Family and Community Medicine

2016: California State Innovation Awards for:

- Healthy and Active Before 5 - Collaborative Partnerships and Environments to Address Early Childhood Obesity
- Contra Costa Health Plan – Reducing Early Childhood Caries in the Medical Home

2017: Recognized by the Childhood Obesity Prevention and Treatment (CHOPT) project of the Institute for Medicaid Innovation (IMI), for CCHP’s Go! Club – Disease Management Program for Childhood Obesity

2019: Recognized by AAP California, Chapter 1 for leadership of our Mental Health Access Committee

Ongoing Community projects

California Chapter 1 American Academy of Pediatrics

Member, Executive Board

Co-chair of the Mental Health Committee

California Children's Trust

Steering Committee Member; an initiative to reimagine California's approach to children's behavioral health

Recording Secretary and volunteer, Benicia Friends of the Library

Member, Solano Transportation Authority Pedestrian Advisory Committee

Alternate committee member, Solano Active Transportation Plan Steering Committee

Peer-reviewed publications:

1. Dooley D, Moultrie NM, Heckman B, Gansky SA, Potter MB, Walsh MM. Oral health prevention and toddler well-child care: Routine integration in a safety net system. *Pediatrics*. 2016;137(1):1-8.
2. Dooley D, Patel A, Schmidt LA. Chocolate milk in schools. *Pediatrics*. 2015;136(6):e1680-3202A.
3. Dooley D, Moultrie NM, Sites E, Crawford PB. Primary care interventions to reduce childhood obesity and sugar-sweetened beverage consumption: Food for thought for oral health professionals. *J Public Health Dent*. 2017.

Personal

I have lived in Benicia with my husband, Jon Stanger for 38 years. My three children are living nearby with four (and a fifth on the way) young grandsons who enjoy our parks!

Intermediate fluency in Spanish.

Hobbies: Walking, golf, reading and Benicia history.

Benicia, CA Application

Profile

Ella Marie _____ Kallios _____
 First Name Middle Initial Last Name

 Email Address

 Street Address Suite or Apt

Benicia _____ CA _____ 94510 _____
 City State Postal Code

 Primary Phone

 Alternate Phone

Roberts Companies _____ President _____
 Employer Job Title

Which Boards would you like to apply for?

Special Planning Commission: Submitted

Interests & Experiences

Why are you interested in serving on a board or commission?

I am very interested in better serving my community and being a part of Benicia's history. I was born and raised in Benicia but did reside in Vacaville for 20 years. While living there I was appointed to the Planning Commission for three consecutive terms until I resigned when I moved back to Benicia in 2009. My experience in the engineering and construction industry also allows me to understand the planning and project review process.

[Ella Marie Kallios 2020 resume.doc](#)
 Upload a Resume

Demographics

Gender *

 Date of Birth

ELLA MARIE KALLIOS

[REDACTED]

[REDACTED]

[REDACTED]

Qualifications: Over 30 years of extensive business management and human resources expertise in the engineering and construction industries. Strong communication and conflict resolution skills.

Education: BA in Business Management, Saint Mary's College, Moraga, California
Graduated with Honors and Distinction

Certification: Professional in Human Resources (PHR)

Memberships: Contra Costa CAER (Community Action Emergency Response) Board Chair
SHRM (Society for Human Resource Management)
HR California

Roberts Companies, Concord, CA

1988 – Present

President – General Manager

1994 – Present

Responsible for the overall financial well-being and growth of the company. Cultivate and maintain relationships with clients, community organizations, and over one hundred employees where responsibilities include, but are not limited to:

- **Strategic Management**
Develop annual business plans and budgets; assist in company's reorganization; participate in management team building retreats and seminars; work with Accounting to develop accurate reports for financial planning; assist management project teams in forecasting manpower needs and staff accordingly.
- **Sales Account Management**
Satisfy the engineering project support and contract staffing needs of our client companies; adhere to individual site requirements; create a relationship whereas Roberts is an extension of each client's staffing and project management teams.
- **Health & Safety**
Administer the company's Drug Prevention Program; perform new hire safety orientations, safety audits, and oversee PPE requirements; work with consultants to develop project specific H&S programs and training; track and monitor OSHA recordables.
- **Employee Relations**
Work with staff to facilitate company sponsored events such as the annual recognition dinner and safety and harassment information luncheons; coordinate our employee participation with clients in support of their charitable events such as golf tournaments and auctions. Develop and implement Employee Recognition program.

- **Human Resource Development**
PHR Certification with HRCI – Active since 2003
Staffing and compensation analysis; recruitment and hiring of employees; perform continuous review of company onboarding procedures and policies; conduct exit interviews; develop current job descriptions; conduct individual quarterly Goals and Objectives reviews with upper management staff, providing a clear and monitored career path; development of company's forms, policy handbooks, and IIPP; ensure strict adherence and compliance with Federal and State labor laws; mediate harassment, worker's compensation, and disgruntled employee issues; work with company's insurance broker and legal consultants on specific employee related issues; negotiate employee healthcare benefits; attend employment Law Update seminars.

Engineering and Design Discipline Lead

1988-1994

Project Controls Coordinator

- Liaison between project managers and upper management responsible for tracking budgets, manpower, and schedules on engineering projects
- Coordinate and orchestrate two company office relocations
- Negotiate contracts with clients and subcontractors
- Manage electrical, piping, and CAD design teams
- Provide project management on an array of engineering projects
- Develop, distribute and maintain company design standards
- Coordinate company standards, policies and practices with Seattle, WA office
- Review and approve project proposals for scope, budget, manpower, and schedule
- Facilitate lessons learned meetings upon completion of projects

Contract Positions, Bay Area, CA

1977-1982, 1984-1988

Create standardized CAD drawings for electrical, piping, architectural, mechanical, and isometric disciplines. Develop standards.

Bechtel Corporation, San Francisco, CA

1982-1984

Produce civil/structural plot plans and detailed drawings for various airports and bridges in Saudi Arabia. Assist in training other employees on drafting and design software.

Community and Volunteer Functions

- City of Vacaville, Vacaville California
Planning Commissioner for three consecutive terms
- Vacaville Chamber of Commerce, Vacaville, California
Member of the Business Issues Committee

- Buckingham Charter High School, Vacaville, California
Served two years on the Board of Directors
This school is a Blue-Ribbon Award Recipient
- Notre Dame Parochial School, Vacaville California
Three years as secretary on the PTA
Five years as committee member (two as Co-Chair) for the FANTASY TIME
Annual Auction
- Benicia I.D.E.S. (A Portuguese Society)
Historic Preservation committee member (for the 100-year-old I.D.E.S. Hall)
Annual Fundraising events such as auctions and crab feeds
Coordinator for special events
- Co-Chair for the East Bay Leadership Council Annual Golf Tournament
- Committee Member and Sponsor of the Viet Nam Veterans of Diablo Valley Annual Walk
of Honor Fundraiser
- We Care for Children Fundraising Board
- Volunteer through various agencies to assist individuals with resume writing when re-
entering the workforce.

Benicia, CA Application

Profile

Joseph _____ J. _____ Miesch _____
 First Name Middle Initial Last Name

_____ _____
 Email Address

_____ _____
 Street Address Suite or Apt

BENICIA _____ CA _____ 94510 _____
 City State Postal Code

_____ _____ Home: _____
 Primary Phone Alternate Phone

Optimal Exit Solutions _____ Owner _____
 Employer Job Title

Which Boards would you like to apply for?

Planning Commission: Submitted

Interests & Experiences

Why are you interested in serving on a board or commission?

I want to contribute the experience and expertise that I have gained over the last 50 years to benefit the City of Benicia, the place that I have called home for the past 40 years, and my fellow residents. My interest in the workings of local government and the issues that face local government entities started about 44 years when I was in graduate school, and has continued throughout my time as a resident of the City of Benicia. I want to give back to the community that has given so much to me and my family over the past 40 years and believe that I can be a valuable member of the City of Benicia Planning Commission.

[Resume - Benicia Planning Commission.pdf](#)

Upload a Resume

Demographics

Gender *

_____ _____
 Date of Birth

JOSEPH J. MIESCH – BUSINESSMAN

Education and Training:

BA - Syracuse University, Syracuse, New York, 1972

MBA - University of Nevada, Reno, 1977

US Small Business Administration, Small Business Institute, 1976

Work Experience:

Alexander Grant & Company, Certified Public Accountants - (currently known as Grant Thornton) - Staff Accountant, 1978-79

Business Team (Business Brokerage, Mergers and Acquisitions, and Business Valuations) – Team Leader, Trainer / Mentor, Sales Associate and Valuation Consultant, 1989–2017

Exit Strategies Group, Inc. - (Business Brokerage, Mergers and Acquisitions, and Business Valuations and Assessments), 2017–2019

Optimal Exit Solutions – (Business Brokerage, Mergers and Acquisitions, Business Valuations and Assessments, and Exit Planning), 2020–current

Certifications and Licenses:

Real Estate Salesperson, California

Qualified as Expert Witness in the Valuation of Small, Closely Held Businesses, Solano County Superior Court, 1993

Professional Affiliations:

Institute of Business Appraisers – former member

California Association of Business Brokers (CABB) – current member

International Business Brokers Association (IBBA) – current member

Presentations Given:

“Valuation of Small Businesses from the Broker's Perspective” to the East Bay Chapter of the California Society of CPA's Management Consulting Services Group, January, 1993

“What's Reality Got to Do with It?” to the East Bay Chapter of the California Society of CPA's Litigation Support Group, June, 1997

“Using Databases in Business Valuation” to the East Bay Chapter of the California Society of CPA's Litigation Support Group, June, 1998

Community Involvement:

City of Benicia Finance Committee – committee member - 2018–2018

Benicia Chamber of Commerce – member – 2000–current

Board of Directors – Benicia Chamber of Commerce – 2014–2019

Benicia Resident:

Since 1979

Benicia, CA Application

Profile

Christian _____ Cohea _____
First Name Middle Initial Last Name

Email Address

Street Address Suite or Apt

Benicia _____ CA _____ 94510 _____
City State Postal Code

Primary Phone

Home: _____
Alternate Phone

Employer

Job Title

Which Boards would you like to apply for?

Planning Commission: Submitted

Interests & Experiences

Why are you interested in serving on a board or commission?

As a longtime resident of Solano County and a Benicia resident for 5 years, I'm interested in the opportunity to engage in local government within our city. My wife and I have two school age children and have enjoyed establishing roots in the community of Benicia. I would love the opportunity to help plan the Benicia of the future for our family and our city. My experience in facilities management has provided me with a background in the planning and construction processes that I believe may be helpful on the planning commission. I am a creative collaborator and enjoy working with a wide variety of people. I am excited to participate in shaping our city and look forward to serving should I be selected.

[Chris Cohea Resume March 2020.pdf](#)

Upload a Resume

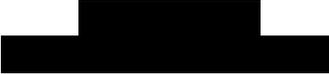
Demographics

Gender *

Date of Birth

CHRISTIAN COHEA

Benicia, CA 94510



SUMMARY OF QUALIFICATIONS

Innovative leader and strategist who has expertise in facilities management, staff development and project management. Demonstrated success in managing energy efficient projects. Focused on operational leadership and strategic analysis with an exceptional ability to understand business and organizational needs. Proven ability to analyze data and translate into measurable results. Experienced in the development, implementation and evaluation of effective policies and procedures.

PROFESSIONAL EXPERIENCE

California State University, Maritime Academy, Vallejo, CA

2016 - 2020

Director, Facilities Management

- Directed maintenance and operations for an 80-acre campus with approximately 50 buildings.
- Developed, integrated and implemented the University's first comprehensive preventative maintenance program.
- Created best practices and developed a culture of service that transformed business operations, and improved client satisfaction and employee morale.
- Managed a team of 28 working closely with human resources staff on union labor relations.
- Ensured compliance with OSHA, OSFM, and CalOSHA.
- Directed staff in prioritization, tracking and completion of building service requests.
- Re-engineered department business processes, policies and procedures.
- Responded to buildings and grounds emergencies, including the October 2019 fire, working with outside agencies and vendors on the campus wide cleanup, restoration and large scale landscape stabilization.
- Directed staff in managing inventory, storage, distribution, and reordering of supplies and equipment.
- Assisted with budgeting and worked closely with the procurement department on proposal requests and contract negotiations for maintenance services, equipment and supplies.

Assistant Director, Facilities Management

- Supervised the day-to-day operations of building maintenance and repairs, grounds and landscaping, fleet vehicles, shipping and receiving, custodial and contracted services.
- Managed a staff of 18 and was responsible for hiring, training and performing HR duties.
- Developed and implemented operational procedures to ensure continuity of service.
- Established and tracked department key performance indicators to ensure responsive service.
- Monitored compliance with OSHA, OSFM, and other authorities having jurisdiction (AHJ).
- Managed vendors during the transition of projects from construction to occupancy; reviewed technical specifications, suggested and submitted facilities renewal projects, reviewed contracts, and ensured correct project close-out.
- Maintained documentation in all areas related to buildings and grounds supervision and management.
- Advised campus staff and clients on event coordination and permitting.

California State University, San Francisco, San Francisco, CA

2013 – 2015

Campus Energy & Utility Analyst

- Assisted with all aspects of campus energy management including issuing corrective work orders, communicating with the project team, monitoring project status and timeline.
- Responsible for campus-wide utilities metering, ensuring all utility meters were operating.
- Participated in data gathering, tracking and analyzing campus building energy usage projects. Provided historical utility data & costs with analysis for buildings being considered for energy conservation measures.
- Liaison between campus and all utility providers, serving as first point of contact for all utility projects, shutdowns or outages.
- Supervised consultants and contractors for energy and utility related projects.
- Participated in a large-scale campus lighting project. Provided measurements before and after analyzing electrical usage data and communicating that data to PG&E or their third-party vendor. This project involved campus electricians working closely together and resulted in eliminating 52,000 kilowatt hours from the electrical grid, resulting in a \$12,000 reimbursement for the University from PG&E.
- Assisted with completion and submission of Monthly Energy Reports (MERs) reports for the Chancellor's Office and campus.
- Presented at the California Higher Education Sustainability Conference (CHESC) on San Francisco State's energy usage and utility usage patterns.

Facilities Controls Specialist

- Responsible for daily operation and maintenance of the campus Central Plant serving the 140 acre campus. Duties included checking all boilers, pumps and accessory equipment.
- Responsible for the installation, maintenance, adjustment and repair of electric, electronic, and digitally controlled building automation systems (Automated Logic) which controlled complex HVAC/R systems. Monitored, troubleshot, modified, calibrated and programmed system features and responded to technical and mechanical problems, either remotely or on-site.
- Participated in the VFD installation project for Hensill Hall, an eight story science and research building, installing approximately 20 Variable Frequency Drives and 20 pressure sensors in the building HVAC system in order to minimize fan speed and reduce energy consumption.
- Confirmed system performance by designing and conducting tests. Reviewed collected trends within systems and utilized fault detection schemes to achieve operational improvements.

University of California, Berkeley, Berkeley, CA

2013 –2013

Electronics Technician/Stationary Engineer, Physical Plant Campus Services, Energy Office

- Monitored, diagnosed and modified existing HVAC equipment and controls for 150+ campus buildings and 50 off-site campus facilities. Identified and implemented opportunities to increase the campus' energy efficiency. Utilized building automation systems (Barrington, Automated Logic) to identify and implemented energy conservation measures.
- Created a reference document of all building consumption and usage and submitted findings to the energy office for evaluation and planning so greenhouse gas reduction goals were met.
- Collected monthly utility (domestic water, sewer, electricity, steam) readings for campus.

California State University, Long Beach, Long Beach, CA

2000 – 2012

Facilities Controls Specialist, Physical Planning & Facilities Management, Engineering Shop

- Served as the department specialist for direct digital and pneumatic controls.
- Monitored 18+ academic buildings to ensure proper operation of HVAC and fire alarm systems.
- Worked with outside vendors to identify and troubleshoot software issues.
- Participated in an award-winning Monitoring Based Commissioning Project (MBCx) with EnerNOC.

- Installed, modified, and adjusted existing HVAC controls equipment and programming for continuous improvement, optimization and efficiency.
- Implemented building control strategies for digitally controlled systems.
- Conducted mandatory fire alarm testing including coordinating with the campus community and outside vendors as well as matrix managing a facilities testing crew.
- Collected, analyzed and monitored data of building automation systems looking for trends in energy, usage, and temperatures as well as modifying control sequence, which saved money, and reduced run-time of equipment.

**Facilities Controls Apprentice, Physical Planning & Facilities Management, Engineering Shop
Crew Worker, Facilities Worker I, Physical Planning & Facilities Management, Movers Shop
Warehouse Worker, Physical Planning & Facilities Management, Warehouse**

HONORS AND PROFESSIONAL DEVELOPMENT

Certified Energy Manager, 2016; Building Operator Certificate, Level I, 2008 and Building Operator Certificate Level II, 2011; UC/CSU Energy Efficiency and Sustainability Best Practice Award, Monitoring Based Commissioning, 2013; PG&E Existing Building Commissioning Workshop Series, 2015.

EDUCATION

Long Beach City College, Certificate of Completion, Air Conditioning/Refrigeration
California State University, Long Beach, B.M., Music Performance

Benicia, CA Application

Profile

Barbara _____ W _____ Lloyd _____
 First Name Middle Initial Last Name

 Email Address

 Street Address Suite or Apt

Benicia _____ CA _____ 94510 _____
 City State Postal Code

 Primary Phone

 Alternate Phone

Gallagher _____ Senior Vice President _____
 Employer Job Title

Which Boards would you like to apply for?

Housing Authority: Submitted

Interests & Experiences

Why are you interested in serving on a board or commission?

30 year resident with an interest in our community development and future

[Barbara Weaver Lloyd resume 2020.pdf](#)

Upload a Resume

Demographics

Gender *

 Date of Birth

Barbara Weaver Lloyd

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about the Housing Authority Board?

I'm care about the future of Benicia, my home for more than 30 years.

I have a passion around homelessness, the underprivileged and finding a solution. A Board role for BHA would provide me with an excellent opportunity to positively affect change and support an organization that helps lower income families.

My personal qualities, as a corporate executive for decades, includes integrity, competence, insight, dedication and effectiveness.

Serving on the BHA board will bring my knowledge, energy, and expertise to the table, benefiting the BHA as well as me.

2. What are your expectations for this Board and how do you see your role on the Board?

I understand that City of Benicia Housing Authority is a Public Housing Agency in Benicia, California that participates in the Section 8 Housing Choice Voucher (HCV), and Public Housing programs.

I see from the City website, the Mission of the BHA is to *provide quality housing without discrimination which is safe, decent, accessible, attractive, and affordable to very low, low and moderate income residents of the City of Benicia; and, further, to increase additional housing opportunities and foster self-sufficiency.*

As a Board member, I see my role as a fiduciary who helps steer the organization towards a sustainable future by adopting sound, ethical, and legal governance and financial management policies, as well as by making sure the BHA has adequate resources to advance its mission.

3. This Board meets on the 4th Wednesday of the month. Currently, the meetings begin at 6:00 P.M. In addition, there may be several meetings of smaller Board committees during the year. Does this present a problem for you? If so, please explain.

This schedule does not present a problem for me.

4. What has your experience been with the Housing Authority, if any?

I have no experience with the Housing Authority.

DRAFT

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
MAY 19, 2020
7:00 PM

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape. These are action minutes; a full video is available online at www.ci.benicia.ca.us/agendas.

CORONAVIRUS (COVID-19) ADVISORY NOTICE

CALL TO ORDER

Mayor Patterson called the Closed Session to order at 6:00 p.m.

All Council Members were present.

1) CLOSED SESSION (6:00 P.M.)

1.A - CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(d)(2)

Number of Potential Cases: 1 (Historical Arsenal Park, LLC Government Code Claim on File with City Clerk's Office)

1.B - CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1)

Name of Case: Catalli, et al. v. City of Benicia, et al., Case Number FCS053300

2) CONVENE OPEN SESSION (7:00 P.M.)

Mayor Patterson called the Open Session to order at 7:00 p.m.

3) ROLL CALL

All Council Members were present.

4) PLEDGE OF ALLEGIANCE

5) REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC

6) ANNOUNCEMENTS

6.A - ANNOUNCEMENTS FROM CLOSED SESSION FROM 4/30/2020 AND 5/19/2020, IF ANY

DRAFT

Ben Stock, City Attorney stated the only reportable action taken was at the 5/19/20 City Council meeting Closed Session involving the Catalli v. City of Benicia relating to an automobile accident. Council voted unanimously to settle the claim. Details of the settlement would be available on file in the City Clerk's office.

6.B - OPENINGS ON BOARDS AND COMMISSIONS

7) PROCLAMATIONS

7.A - NATIONAL PUBLIC WORKS WEEK

Proclamation - National Public Works Week 

7.B - MENTAL HEALTH MONTH

Proclamation - Mental Health Month 

8) APPOINTMENTS

9) PRESENTATIONS

10) ADOPTION OF AGENDA

On motion of Council Member Largaespada, seconded by Vice Mayor Strawbridge, Council approved the Adoption of the Agenda, as presented, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson

Noes: (None)

11) OPPORTUNITY FOR PUBLIC COMMENTS

12) WRITTEN COMMENT

Five items received (copies on file).

13) PUBLIC COMMENT

1. Pat Toth-Smith - Ms. Toth-Smith requested the City impose a mandatory mask ordinance/requirement.
2. Lorie Tinfow, City Manager - Ms. Tinfow discussed the changes to the City facilities and services due to Covid-19. She also discussed the business walk that Staff and Council held down First Street today.
3. Council Member Campbell - Council Member Campbell suggested putting Mark Hughes on the economic development recovery task force.

DRAFT

- 4. Council Member Largaespada - Council Member Largaespada discussed the need to not have a gap between the Governor making changes and the City implementing those changes.
- 5. Council Member Young - Council Member Young asked Staff to discuss the protocols for opening up the Farmers Market. He also discussed the issue of Covid-19 testing.

14) CONSENT CALENDAR

14.A - APPROVAL OF CITY COUNCIL MINUTES FROM MAY 5, 2020 (City Clerk)

May 5, 2020 City Council Meeting Minutes 

14.B - APPROVAL OF AGREEMENT WITH BEN NOBLE FOR PLANNING SERVICES (Community Development Director)

- Staff Report - Agreement with Ben Noble for Planning Services 
- 1. Resolution - Agreement with Ben Noble for Planning Services 
 - 2. Agreement with Ben Noble 

RESOLUTION 20-46 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING AN AGREEMENT WITH BEN NOBLE, CITY AND REGIONAL PLANNING CONSULTANT, FOR TECHNICAL PLANNING SERVICES FOR \$160,000 AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

Council Member Young and Staff discussed the issue of public outreach and public engagement.

Council Member Largaespada asked, moving forward, for Staff to include a basic cost analysis when future consultants are hired.

Public Comment:
None

On motion of Council Member Largaespada, seconded by Vice Mayor Strawbridge, Council approved the adoption of Resolution 20-46, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson
Noes: (None)

14.C - PURCHASE OF TWO PORTABLE GENERATORS FOR WASTEWATER TREATMENT PLANT EMERGENCY OPERATIONS (Public Works Director)

DRAFT

- Staff Report - Purchase of Two Portable Generators 
1. Resolution - Purchase of Two Portable Generators 

RESOLUTION 20-44 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE PURCHASE OF TWO PORTABLE GENERATORS MANUFACTURED BY MULTIQUIP, INC. FOR THE PUBLIC WORKS DEPARTMENT IN THE AMOUNT OF \$100,341.75 AND AUTHORIZING THE CITY MANAGER TO SIGN THE PURCHASE ORDER ON BEHALF OF THE CITY

- 14.D - APPROVAL OF TASK ORDER NO. 3 WITH GHILOTTI CONSTRUCTION, INC. FOR POTHOLING WORK (Public Works Director)**

- Staff Report - Task Order No. 3 with Ghilotti Construction, Inc. 
1. Resolution - Task Order No. 3 with Ghilotti Construction, Inc. 
2. Task Order No. 3 with Ghilotti Construction, Inc. 
3. On-Call Emergency Construction Contract and Amendment with Ghilotti Construction, Inc. 

RESOLUTION 20-45 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING TASK ORDER NO. 3 WITH GHILOTTI CONSTRUCTION, INC. FOR POTHOLING EXPLORATION WORK RELATED TO FUTURE SHUT-OFF VALVE INSTALLATION AND PROVIDING THE SHUT-OFF VALVE TO THE CITY FOR A COST OF \$67,381.68 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE TASK ORDER ON BEHALF OF THE CITY

- 14.E - PUBLIC ART SELECTIONS (Director of Library and Cultural Services)**

- Staff Report - Public Art Selections 
1. Bill Gian - Library Arbor Benches 
2. Kathy Oja - First Street Promenade Bench 

Council Member Largaespada thanked the Arts & Culture Commission for expanding the public art.

Public Comment:
None

On motion of Council Member Largaespada, seconded by Council Member Young, Council approved by motion, the Arts & Culture Commission's recommendation for public art pieces to be installed on existing wood benches at the Library and on the First Street Promenade, on a roll call by the following vote:

DRAFT

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson
Noes: (None)

14.F - APPROVAL TO WAIVE THE READING OF ALL ORDINANCES INTRODUCED OR ADOPTED PURSUANT TO THIS AGENDA (City Attorney)

Council pulled items 14.B, 14.E for discussion.

On motion of Council Member Young, seconded by Council Member Largaespada, Council approved the adoption of the Consent Calendar, as amended, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson
Noes: (None)

15) BUSINESS ITEMS

15.A - DEBT RETIREMENT FOR THE WASTEWATER INFLOW AND INFILTRATION IMPROVEMENT PROJECT (Public Works Director)

Staff Report - Debt Retirement 
1. Resolution - Debt Retirement 
2. Letter of Intent 

RESOLUTION 20-47 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE DEBT RETIREMENT OF THE CLEAN WATER STATE REVOLVING FUND LOAN ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD FOR THE WASTEWATER INFLOW AND INFILTRATION IMPROVEMENT PROJECT IN THE NOT TO EXCEED AMOUNT OF \$4,000,000

Will Tarbox, Public Works Director, and Kyle Ochendusko, Deputy Public Works Director, reviewed the staff report.

Mayor Patterson and Staff discussed the issue of storm water.

Vice Mayor Strawbridge and Staff discussed the impact this could have on the wastewater fund budget.

Council Member Young and Staff discussed the issue of developer fees and wastewater capacity fees, and how those funds come from developers.

Public Comment:

None

DRAFT

On motion of Vice Mayor Strawbridge, seconded by Council Member Largaespada, Council approved the adoption of Resolution 20-47, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson

Noes: (None)

15.B - CLIMATE EMERGENCY RESOLUTION (City Manager)

Staff Report - Climate Emergency Resolution

1. Resolution - Climate Emergency

2. Two-Step Request, Mayor Patterson

RESOLUTION 20-48 - RESOLUTION ENDORSING THE DECLARATION OF A CLIMATE EMERGENCY AND REQUESTING REGIONAL COLLABORATION ON AN IMMEDIATE MOBILIZATION EFFORT TO RESTORE A SAFE CLIMATE

Lorie Tinfow, City Manager, reviewed the staff report.

Mayor Patterson discussed how the Covid-19 pandemic has affected the climate.

Council Member Young discussed the changes he and Council Member Campbell made (as the subcommittee) to the original proposed resolution.

Council Member Campbell discussed the process the subcommittee went through to amend the original resolution.

Public Comment: (written comments read into the record)

1. Michael Easter, EnSight - Mr. Easter submitted written comment urging Council to address more important issues such as Covid-19, rather than focusing on man-made climate change.

Public Comment: (individuals calling into the meeting)

1. Marilyn Bardet - Ms. Bardet - Ms. Bardet spoke in support of the proposed resolution. She asked Council to strengthen the 'be it further resolved' to show real leadership and exert our City's capability to demonstrate such leadership. This must be expressed as a long-term commitment with regional impact.

Mayor Patterson discussed the City's stalled Climate Action Plan, the issue of air quality, why this resolution makes sense during the current Covid-19 situation, climate warming, and support for stronger implementation language.

Vice Mayor Strawbridge discussed the last 'be it further resolved', the need to add the Benicia Industrial Park and Benicia businesses to the language, the need to get other Solano County cities involved, and the need to add language regarding conservation

DRAFT

into the resolution. She suggested amending the 'now therefore be resolved' to use the word 'reduce' rather than end citywide greenhouse gas.

Mayor Patterson discussed her proposed resolution and how it addresses conservation, and the need for the City to be a leader in combating climate change, and adding back the original last paragraph to the resolution.

Council Member Campbell suggested changing the 'be it resolved' (that is under the 'now therefore be it resolved') to add 'businesses' after 'Sol Trans'.

Council Member Young discussed support for reinserting the Mayor's last paragraph from the original resolution and Council Member Campbell's suggestion regarding adding 'businesses'.

Mayor Patterson clarified that the amendments were to include the suggestion above by Council Member Campbell, as well as adding back the original paragraph discussed by Mayor Patterson.

Council Member Largaespada discussed climate change, support for the resolution, and suggested the following five amendments:

1. In the 6th paragraph amend the language 'end' before 'Citywide greenhouse gas' to use 'actively reduce'.
2. He supported Vice Mayor Strawbridge's request for an amendment to the language after 'community' to insert 'Benicia Industrial Park and/or Benicia businesses'.
3. Amend the language after the phrase 'local agencies' insert 'and cities of Solano County'.
4. Amend the language after 'emergency mobilization effort' by inserting the language 'without putting undue burden on local businesses'.
5. Amend the language in the 8th paragraph after 'technology develops' by inserting 'economically feasible'.

Council Member Campbell stated he was fine with the suggested changes.

Council Member Young stated he was fine with the suggested changes. He discussed the issue of the transition to the electronic fleet and using the term 'economically feasible.' He would expect that Staff would provide Council with options of an electric vehicle and a gas vehicle so they could choose one or the other. He was looking for a commitment that Staff would include electric vehicle options when making a vehicle purchase. He would also like to see the long-term cost of ownership of the vehicles regarding cost of gas, maintenance, etc.

On motion of Council Member Largaespada, seconded by Council Member Young, Council approved the adoption of Resolution 20-48, as amended, on a roll call by the following vote:

DRAFT

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson
Noes: (None)

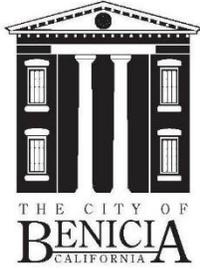
16) **COUNCIL MEMBER COMMITTEE REPORTS:**

16.A - COUNCIL MEMBER COMMITTEE REPORTS

[Committee Reports](#) 

17) **ADJOURNMENT (9:00 P.M.)**

Mayor Patterson adjourned the meeting at 8:40 p.m.



AGENDA ITEM
CITY COUNCIL MEETING DATE – JUNE 2, 2020
CONSENT CALENDAR

TO : City Manager

FROM : Fire Chief

SUBJECT : **FIRE INSPECTION COMPLIANCE REPORT**

EXECUTIVE SUMMARY:

California Health and Safety Code Sections 13145 and 13146 require every city or county fire department or district providing fire protection services to enforce the fire code as adopted. Additionally, Section 13146.2 requires the fire department to annually inspect every building used as a public or private school, as well as all apartment houses, hotels, motels, lodging houses, and jails for compliance. On September 27, 2018, Governor Brown approved Senate Bill 1205, which added Section 13146.4 to the California Health and Safety Code. Section 13146.4 requires every fire department to report annually to its administering authority, as defined, on the department's compliance with the above-described inspection requirements. The section requires the administering authority to acknowledge receipt of the report in a resolution or a similar formal document. This report serves as the annual report for 2019 compliance and provides additional details of the Benicia Fire Department's fire and life safety inspection program.

RECOMMENDATION:

Move to adopt the resolution (Attachment 1) acknowledging receipt of the 2019 state mandated fire inspections report.

BUDGET INFORMATION:

Adopting the resolution acknowledging receipt of the 2019 state mandated fire inspections report will have no financial impact on the City of Benicia. The costs associated with the required inspections and reporting are in staff time. The California Health and Safety Code specifically states that the inspecting fire department may charge and collect a fee which shall be in an amount sufficient to pay the costs of that inspection or related fire and life safety activities. During the most recent City fee study, the Fire Department fees were established in an attempt to obtain full cost recovery. These costs have been absorbed in the current Fire Department budget.

BACKGROUND:

State law requires California fire departments to enforce the fire code as adopted. Additionally, fire departments are required to perform annual inspections of every building used as a public or private school as well as all apartment houses, hotels, motels, lodging houses, and jails for compliance with adopted fire codes.

On December 2, 2016, the deadly Ghost Ship Fire occurred in Oakland, California. This fire struck in a warehouse which had been converted into an artist collective where the tenants lived and worked. Ultimately, 36 people lost their lives in the fire. In response to the Ghost Ship fire, a series of investigative articles and editorials revealed that many of the required fire and life safety inspections were not being performed by the local fire department. In order to provide assurances that fire departments are performing the mandated inspection duties, SB1205 was authored, requiring the reporting of certain inspection statistics to the local governing board. This bill passed and was signed by the governor in September 2018, adding Section 13146.4 to the California Health and Safety Code.

The Benicia Fire Department has a long-established program of conducting fire and life safety inspections at commercial occupancies. While the total number of completed inspections has fluctuated from year to year based on staffing levels and other factors, the department has maintained near 100% compliance with all state mandated inspections. The annual review of inspection activity shows 136 occupancies designated as state mandated. The Benicia Fire Department accomplished 100% compliance of state mandated inspections within the City.

State Mandated Inspections (annual)

Occupancy Type	Example	2018	2019
Educational E	Schools (public and private)	17 of 17	19 of 19
Institutional I-3	Jails	1 of 1	1 of 1
Residential R-1	Hotels / Motels	9 of 9	9 of 9
Residential R-2	Apartment / Condos	116 of 116	107 of 107

While the Benicia Fire Department recognizes the importance of performing state mandated inspections, we also recognize the value of performing fire and life safety inspections citywide. Therefore, we have established a goal of inspecting every commercial occupancy on an annual, biennial or triennial basis, based on the associated hazard.

The following chart shows our inspection statistics for high hazard occupancies in 2019. Although these annual inspections are not mandated, Health and Safety Code § 13145 does require the local Fire Department to enforce the fire code standards.

High Hazard Inspections (annual)

Occupancy Type	Example	2018	2019
Assembly A	Theater, Restaurant, Church	56 of 60	58 of 60
Hazardous H	Based on Type and Quantity	4 of 4	5 of 5

The final group of inspections are categorized as moderate and low hazard occupancies. The Benicia Fire Department has set a goal of performing fire and life safety inspections at these occupancies on a biennial or triennial basis.

Moderate & Low Hazard Inspections (biennial/triennial)

Occupancy Type	Example	2018	2019
Business/Mercantile B/M	Business office, Service, Boutique, Market	622 of 982	631 of 836
Factory F	Manufacturing/ Industrial Use	62 of 122	59 of 118
Storage S	Structure Used for Storage	83 of 216	123 of 216
Residential R-3 & R-3.1	Large Family Day Care Adult Residential Day Care	14 of 17	3 of 17

In summary, the department completed 1,015 inspections in 2019, including 100% of the state mandated inspections. The following chart details the total fire and life safety inspections completed by the Benicia Fire Department in 2019.

Total 2019 Inspection Activity

Inspection Type	Quantity	Complete	Percent
State Mandated	136	136	100%
High Hazard	65	63	97%
Moderate & Low Hazard	1,187	816	69%
Total	1,388	1,015	73%

NEXT STEPS:

Staff will continue to perform mandated inspections as required by California Health and Safety Code as well as the non-mandated inspections as set by department policy. The next compliance report, for calendar year 2020, will be provided in early 2021.

ALTERNATIVE ACTIONS:

Reject the report and return it to the Fire Department with direction from Council.

General Plan	Goal 4.1: Make community health and safety a high priority for Benicia.
	Goal 4.7: Ensure that existing and future neighborhoods are safe from risks to public health that could result from exposure to hazardous materials.
	Goal 4.15: Reduce fire hazards

Priority Based Budgeting	Strategic City Result Impacted by this Agenda Item
	<p>The City Council and community identified six (6) key “Results” that establish the key goals for which the City of Benicia aspires to achieve with our programs and services. Agenda Items often influence multiple Results, the primary Result impacted by this Agenda Item is (please check one):</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Protect Community Health & Safety <input type="checkbox"/> Maintain & Enhance A High Quality of Life <input type="checkbox"/> Preserve & Enhance Infrastructure <input type="checkbox"/> Strengthen Economic & Fiscal Conditions <input type="checkbox"/> Protect & Enhance the Environment

	<input type="checkbox"/> High Performing Government City Programs Impacted by This Agenda Item (Top 3): 1. Fire – Prevention – Fire Prevention & Inspection 2. Fire – Prevention – Code Enforcement 3. Fire – Prevention – Public Education – Community Outreach Priority Based Budgeting (PBB) Website: Coming soon in Spring 2020 will be a link to the City of Benicia’s PBB website to learn more about these programs and their costs.
--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

CEQA Analysis	The proposed action is not a Project per Section 15378 of the California Environmental Quality Act (CEQA), because it does not result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.
--------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

ATTACHMENT:

1. Resolution – 2019 Fire Inspection Compliance Report

For more information contact: Josh Chadwick, Fire Chief

Phone: 707-746-4275

E-mail: jchadwick@ci.benicia.ca.us

RESOLUTION NO. 20-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING THE 2019 STATE MANDATED FIRE INSPECTION REPORT FROM THE BENICIA FIRE DEPARTMENT ON BEHALF OF THE CITY

WHEREAS, California Health and Safety Code Section 13146.4 requires an annual reporting to Council regarding the fire inspections of certain occupancies; and

WHEREAS, California Health and Safety Code requires Council to acknowledge receipt of this report by resolution; and

WHEREAS, the Fire Department is responsible for providing said inspections; and

WHEREAS, the Fire Chief has presented a report satisfying the requirements of the California Health and Safety Code Section 13146.4; and

WHEREAS, this report demonstrates the Benicia Fire Department has met the requirements of the California Health and Safety Code.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby acknowledges receipt of the 2019 State Mandated Fire Inspections Report as required by the California Health and Safety Code Section 13146.4.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 2nd day of June, 2020 by the following vote:

Ayes:

Noes:

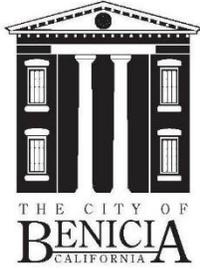
Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date



**AGENDA ITEM
CITY COUNCIL MEETING DATE – JUNE 2, 2020
CONSENT CALENDAR**

TO : City Manager

FROM : Public Works Director

SUBJECT : **POSTPONEMENT OF WATER AND WASTEWATER RATE INCREASES FOR SIX MONTHS**

EXECUTIVE SUMMARY:

During the April 21, 2020 City Council meeting, Council asked staff to return with a recommendation on delaying the water and wastewater rate increases scheduled for July 1, 2020 until the Master Plan Updates and Major Facilities Condition Assessments are completed. This staff report addresses the potential consequences of postponing the water and wastewater rate increases six months from July 1, 2020 to January 1, 2021.

RECOMMENDATION:

If Council wishes to postpone the 3% water rate increase and the 5% wastewater rate increase scheduled for July 1, 2020, the attached resolution (Attachment 1) delaying the scheduled water and wastewater rate increases to January 1, 2021 is offered for Council’s consideration.

BUDGET INFORMATION:

If the scheduled rate increases are postponed, the Water Enterprise Fund and Wastewater Enterprise Fund will forgo \$193,393 and \$279,371, respectively.

Table 1. Estimated Forgone Revenue of Six-Month Rate Increase Postponement

Enterprise Fund	6-month revenue total estimate if rates increase on 7/1/2020	6-month revenue total estimate if rates postponed to 1/1/2021	Estimated Forgone Revenue
Water	\$6,658,575	\$6,464,636	(\$193,939)
Wastewater	\$5,866,794	\$5,587,423	(\$279,371)

BACKGROUND:

Current Rate Structure

In 2016, the City of Benicia completed a five-year rate study. The purpose of the rate study was to raise enough revenues for both utilities to return to solvency and to begin saving for capital projects. On August 22, 2016, City Council adopted Resolution No. 16-117, which acknowledged that revenues were incapable of covering operating expenses, and that the new

water and wastewater rates “do not exceed the reasonable cost of providing services”, and adopted the current rate structure with annual increases each July 1 thereafter.

In 2018, City Council directed staff to reevaluate projects identified in 2016 for potential reprioritization and/or removal. Staff’s evaluation resulted in changes to the water and wastewater capital projects lists. On April 17, 2018, City Council adopted Resolution No. 18-35, which maintained water rate increases as adopted in 2016 and revised the wastewater rate increase scheduled for implementation on July 1, 2018. The last of the five-year increases are scheduled for July 1, 2020. A summary of rate increases is provided in Table 2.

Table 2. City Council Approved Five-Year Rate Increases 2016-2021 Effective April 2018.

	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FY 20/21
Water	20%	16%	10%	3%	3%
Wastewater	16%	12%	9% 0% *	7%	5%

**Note: On April 17, 2018, City Council reduced the FY 18/19 wastewater rate increase from 9% to 0%.*

Infrastructure Condition Assessment Underway

Stantec, on behalf of the City, is currently conducting an infrastructure condition assessment for the water and wastewater utilities. The City Council approved this contract and the scope of work on May 7, 2019. Stantec will independently assess the useful life of the City’s water and wastewater key infrastructure, update the City’s water and wastewater master plans, and provide the City a suggested update to both utilities’ capital investment program (CIP) project list for the next 20 years. These activities are planned to conclude in summer 2020.

April 21, 2020 City Council Meeting

At the April 21, 2020 City Council meeting, staff reported that the Water Enterprise Fund is solvent and has minimal capacity for reinvestment and maintenance projects; the Wastewater Enterprise Fund was stunted by lower than expected revenues, is barely solvent, and will likely need to be reassessed. At the conclusion of the meeting, City Council asked staff to consider delaying the rate increases scheduled for July 1, 2020 until Stantec completes the water and wastewater master plans and major facilities condition assessments (20-year planning horizon).

IMPACTS OF POSTPONING RATE INCREASES:

If the scheduled water and wastewater rate increases are postponed, there will be negative consequences to both utilities. If the attached resolution (Attachment 1) is adopted, this will be the second time Council decided to forego revenues for the wastewater enterprise within two years.

Water Cash Balances and Reserve Requirements

Table 3, shown below, was part of the April 21, 2020 staff report. It has since been modified to add a column in yellow with the Revised Projected Fiscal Year 2020/21 figures, which show lower cash balances if the water rates are postponed six months.

Table 3. Historical and Current Water Cash Balances FY16/17 through FY20/21

(\$ millions)	Actual FY 16/17	Actual FY 17/18	Actual FY 18/19	Projected FY 19/20	Projected FY 20/21	Revised Projected FY 20/21
Actual & Projected Cash	\$6.6	\$7.8	\$10.6	\$10.4	\$8.7	\$8.5
Operating Reserve	2.0	2.1	2.4	2.4	2.5	<u>2.5</u>
Capital Rehab/Replacement	0.9	1.1	1.0	1.1	1.1	<u>1.1</u>
Rate Stabilization	0.5	0.6	0.6	0.7	0.8	<u>0.8</u>
Debt Reserve	1.7	2.3	1.4	1.4	1.4	<u>1.4</u>
Total Reserve Requirement	\$5.1	\$5.4	\$5.0	\$5.6	\$5.8	\$5.8
Ending Cash	\$1.5	\$1.7	\$5.2	\$4.8	\$2.9	\$2.7

Wastewater Cash Balances and Reserve Requirements

Table 4, shown below, was part of the April 21, 2020 staff report. It has since been modified to add a column in yellow with the Revised Projected Fiscal Year 2020/21 figures, which show lower cash balances if the wastewater rates are postponed six months.

Table 4. Historical and Current Wastewater Cash Balances FY16/17 through FY20/21

(\$ millions)	Actual FY 16/17	Actual FY 17/18	Actual FY 18/19	Projected FY 19/20	Projected FY 20/21	Revised Projected FY 20/21
Actual & Projected Cash	\$5.4	\$6.5	\$8.4	\$5.2	\$4.7	\$4.4
Operating Reserve	1.7	2.0	2.1	2.3	2.4	<u>2.4</u>
Capital Rehab/Replacement	1.5	1.1	1.3	1.4	1.4	<u>1.4</u>
Rate Stabilization	0.5	0.5	0.5	0.7	0.7	<u>0.7</u>
Debt Reserve	2.4	2.3	2.4	2.3	1.9	<u>1.9</u>
Total Reserve Requirement	\$6.1	\$5.9	\$6.3	\$6.7	\$6.4	\$6.4
Ending Cash	(\$0.7)	\$0.6	\$2.1	(\$1.5)	(\$1.7)	(\$2.0)

As stated in the April 21, 2020 staff report, negative “Ending Cash” figures in FY19/20 and FY20/21 reflect the wastewater utility’s inability to meet the total reserve requirements in future years, even including the projected FY20/21 rate increase. In order to meet the reserve requirements, revenues will need to increase, or staff will need to re-evaluate and defer capital projects or preventative maintenance costs. Elimination of future rate increases will decrease services provided by the City and reduce its ability to invest in and maintain critical infrastructure. The risk of infrastructure failure continues to increase as the capital projects and

preventative maintenance are delayed and left unfunded.

Unfunded Projects and Services

Each time modifications are made to the revenue structure of the water and/or wastewater utility, staff must also reprioritize its operations and capital budgets. When less funds come in, less projects and services can be delivered. If Council adopts the attached resolution (Attachment 1), the water utility will not deliver the Cordelia 24-inch Transmission Main Isolation Valve Project or the Raw Water Transmission Line Air Relief Valves Project and the wastewater utility will not deliver the Digester Gas Line Project. Tables 5 and 6 show the current capital projects with strikeout lines through projects that will be delayed if the attached resolution is adopted.

Table 5. Summary of Water CIP Projects

Water Project Name	Total	FY Start	Status
Treated Water Flowmeter Replacement Project	\$200,000	19/20	Construction
Master Plan Update	\$499,507	18/19	In Process
P-2 Pump Station Motor Control Center Replacement	\$300,000	19/20	Design
Recoating of R2 Reservoir	\$462,000	19/20	Planning
Chlorine Gas Conversion Project	\$1,600,000	19/20	Design
W 7th St 12-inch Water Main & Pressure Reducing Valve Improvement Project	\$957,000	19/20	Planning
Water Line Replacement Program	\$2,300,000	19/20	Construction
Drolette Way 8-inch Reliability Loop	\$51,000	20/21	Planning
Valero Magmeter Flow Meters	\$105,000	20/21	Planning
Cordelia 24" Transmission Main Isolation Valves	\$150,000	20/21	Not Started
Water Treatment Plant Ozone Treatment	\$27,600,000	21/22	Not Started
Cordelia Transmission Main Replacement	\$4,700,000	22/23	Not Started
Backwash Pump #3, Motor and Pump	\$20,000	23/24	Not Started
Raw Water Transmission Line Air Relief Valves	\$75,000	23/24	Not Started
12" Water Main in West 7th for Zone 3	\$220,000	23/24	Not Started
Total	\$39,239,507		

Table 6. Summary of Wastewater CIP Projects

Wastewater Project Name	Total	FY Start	Status
El Bonito Way Force Main Replacement	\$60,000	19/20	Design
Solids Building Platforms (Belt Press & Cyclones)	\$211,000	19/20	Design
Master Plan Update	\$499,507	18/19	In Process
E. 7th St. Sewerline Replacement	\$276,000	19/20	Construction
West H Pipeline Replacement	\$283,000	19/20	Design
Bayshore Rd Force Main Sewer Crossovers	\$560,000	19/20	Design
Bayshore Road Gravity Main Rehabilitation	\$911,000	19/20	Construction
Sewer Line Replacement Program	\$2,800,000	19/20	Construction
Recoat Concrete Channels	\$487,000	19/20	Not started

Wastewater Project Name	Total	FY Start	Status
Cathodic Protection Improvements	\$540,000	19/20	Not started
E. Channel Sewerline Improvements	\$3,720,000	19/20	Not started
Digester Cleaning	\$200,000	20/21	Not started
Digester Gas Line above ground	\$320,000	20/21	Not started
Lift Station Upgrades	\$594,000	20/21	Not started
Rake Shaftless Screw	\$75,000	21/22	Not started
Modify Belt Filter Press	\$100,000	21/22	Not started
Chemical Tank Replacement at WWTP	\$100,000	21/22	Not started
Boiler Replacement	\$540,000	21/22	Not started
Influent Pumps Rehabilitation	\$620,000	21/22	Not started
Gas Box	\$825,000	21/22	Not started
Overhaul Natural Gas Genset	\$100,000	22/23	Not started
Water Reuse Project	\$33,100,000	23/24	Not started
Total	\$46,921,507		

All three projects are very important to the City’s water and wastewater utilities. The water projects that may be delayed will reduce the City’s ability to bring untreated water to the Water Treatment Plant and will delay and/or complicate repairs on the Raw Water Transmission Line. Delaying the Digester Gas Line project will reduce operational flexibility at the Wastewater Treatment Plant and may complicate compliance with air quality regulations and standards.

NEXT STEPS:

If no action is taken, the water and wastewater increases will occur as scheduled on July 1, 2020. If Council adopts the attached resolution, staff will immediately begin cancelling CIP projects and will likely need to engage with a consultant to provide another updated revenue projection and utilities update.

ALTERNATIVE ACTIONS:

Council could take no action and rate increases would occur, as previously adopted, on July 1, 2020. Or, Council could delay or eliminate the previously adopted rate increases for the water and wastewater enterprise funds. Any delay or elimination of adopted rate increases would deviate from the Council adopted rate study and revenue plan. Further deviations from the adopted rate study will impact the Water and Wastewater Enterprise Funds’ ability to maintain minimum reserves, operate and maintain the existing systems, and deliver projects in the future to maintain/improve the City’s aging infrastructure.

General Plan	None
---------------------	------

Priority Based Budgeting	<p align="center">Strategic City Result Impacted by this Agenda Item</p> <p>The City Council and community identified six (6) key “Results” that establish the key goals for which the City of Benicia aspires to achieve with our programs and services. Agenda Items often influence multiple Results, the primary Result impacted by this Agenda Item is (please check one):</p> <p><input type="checkbox"/> Protect Community Health & Safety</p> <p><input type="checkbox"/> Maintain & Enhance A High Quality of Life</p> <p><input type="checkbox"/> Preserve & Enhance Infrastructure</p> <p><input type="checkbox"/> Strengthen Economic & Fiscal Conditions</p> <p><input type="checkbox"/> Protect & Enhance the Environment</p> <p><input type="checkbox"/> High Performing Government</p>
	<p align="center">City Programs Impacted by This Agenda Item (Top 3):</p> <ol style="list-style-type: none"> Administration - Water Administration - Wastewater Capital Improvement Program
	<p align="center">Priority Based Budgeting (PBB) Website:</p> <p>Coming soon in Spring 2020 will be a link to the City of Benicia’s PBB website to learn more about these programs and their costs.</p>

CEQA Analysis	Per CEQA Section 15273, CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates.
----------------------	-----------------------------------------------------------------------------------------------------------------------------------

ATTACHMENT:

- Resolution – Postponement of Water and Wastewater Rate Increases

For more information contact: Kyle Ochenduszko, Deputy Public Works Director

Phone: 707-746-4376

E-mail: KOchenduszko@ci.benicia.ca.us

RESOLUTION NO. 20 -

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
POSTPONING THE 3% WATER RATE INCREASE AND THE 5% WASTEWATER
RATE INCREASE SCHEDULED FOR JULY 1, 2020 TO JANUARY 1, 2021**

WHEREAS, in 2016, the City adopted water and wastewater rate increases to ensure the health and safety of the community and to ensure that Benicia's water and wastewater utilities remain financially solvent; and

WHEREAS, revenues from water and wastewater charges are meant to cover operations and maintenance costs, debt service obligations, fund reserves, and rate-funded capital improvement projects (CIP); and

WHEREAS, On April 17, 2018, City Council reduced the Fiscal Year 2018/19 wastewater rate increase from 9% to 0% based on a reprioritization and/or removal of CIPs; and

WHEREAS, the City is currently conducting a 20-year infrastructure condition assessment and master plan updates for the water and wastewater utilities that will include CIP updates; and

WHEREAS, upon completion of the above referenced condition assessment and master plan updates, the City will update its rate studies; and

WHEREAS, at the April 21, 2020 meeting, City Council asked staff to consider delaying the water and wastewater rate increases scheduled for July 1, 2020 until the condition assessment and master plan update reports are complete.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves postponing the 3% water rate increase scheduled for July 1, 2020 to January 1, 2021 and postponing the 5% wastewater rate increase scheduled for July 1, 2020 to January 1, 2021.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 2nd day of June, 2020 by the following vote:

Ayes:

Noes:

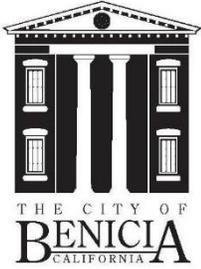
Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date



**AGENDA ITEM
CITY COUNCIL MEETING DATE – JUNE 2, 2020
CONSENT CALENDAR**

TO : City Manager

FROM : Community Development Director

SUBJECT : **AUTHORIZATION FOR SUBMITTAL OF APPLICATION FOR LOCAL EARLY ACTION PLANNING (LEAP) GRANTS PROGRAM**

EXECUTIVE SUMMARY:

The City of Benicia is eligible to apply for one-time, non-competitive funding of up to \$150,000 from the State of California to support planning activities to accelerate the production of housing. This requested action would authorize the City Manager, or designee, to execute an application for the Local Early Action Planning (LEAP) Grants Program to partially fund permit automation and to partially fund the upcoming Housing Element Update planning and implementation activities.

RECOMMENDATION:

Move to adopt a resolution (Attachment 1) that authorizes the submittal of an application for the LEAP Grants Program.

BUDGET INFORMATION:

The proposed work relating to the sixth cycle (2023-2030) Housing Element is required by State Law, so the acquisition of \$100,000 of grant funds for this purpose will reduce the City's net cost of the upcoming Housing Element. The request of \$50,000 would fund a portion of the work necessary to automate permit services for improved e-services. These activities will be performed on a reimbursement basis.

BACKGROUND:

The LEAP Grants Program is providing over-the-counter, non-competitive funds to assist local jurisdictions in implementing planning activities that will increase housing production. Based on population, Benicia is eligible for \$150,000 from this program. Applications must be submitted to the Department of Housing and Community Development (HCD) by July 1, 2020, as detailed in the Notice of Funding Availability (Attachment 2), and funds must be expended no later than December 1, 2023.

The Notice of Funding Availability also details eligible uses of these funds (Attachment 2, Page 4), which include, "revamping local planning processes to speed up housing production," and, "preparing and adopting housing elements of the general plan that include an implementation component to facilitate compliance with the sixth cycle RHNA (Regional Housing Needs

Allocation).” The City must demonstrate that the proposed use of the grant funds will further the goals of the LEAP Grant Program.

The City of Benicia proposes to utilize LEAP funds for two purposes: automating and improving the City's permitting process to accelerate the production of housing, and for the planning and implementation activities that will be necessitated by the upcoming Housing Element update.

Recommended Project Scope: Software for Automation

The need for software systems that accommodate user “self-service” functions and electronic processes has been underscored by recent events, which include an extended shelter in place order. By further automating and refining the City's permitting system, the building permit review process will be more resilient, review of permits will be faster, and the quality of data used for reporting purposes and policy development will be higher. The requested grant funds will be used to either improve workflows and features in our existing permitting system, Accela, or to transition to a permitting system more conducive to the department's needs. Past paper-based processes have delayed the intake and routing of building permit applications and subsequent submittals by up to three days, due to the need for applicants to physically visit City Hall during business hours (for applicants traveling from out of town), and the work that must be done to intake the plans.

During the shelter in place orders associated with the 2020 Covid-19 pandemic, the City's building permitting process was limited by a reliance upon paper-based submission processes. Although an electronic dropbox solution was developed, it is not integrated with the Accela permit software and presents workflow limitations. An investment in automation software will facilitate the production of housing by providing resiliency for periods when access to City Hall is limited and providing options for remote application submittal, routing and permit issuance capabilities.

The City’s existing permitting software also is not programmed to capture all relevant housing data electronically, meaning that the acquisition of the most minimal housing data for state reporting purposes is an arduous task. Having the local data to support future streamlining of housing development is the first step to being able to develop and implement these initiatives. With these grant funds, the City could develop much more robust data reporting functionalities. These automation activities fall within the category "revamping local planning processes to speed up housing production," because they will make the City's review of new development more resilient and more efficient.

Recommended Scope: Housing Element

The City of Benicia must adopt an updated Housing Element by January 2023 to comply with State law, and it is anticipated that the City will need to rezone parcels and possibly amend the regulations of existing zone districts to accommodate the new Regional Housing Needs Allocation (RHNA). This allocation may be 2-3 times the allocation of the 327 units previously assigned to the City for the 2015-2023 Housing Element. The City intends to select a consultant and begin tasks related to the Housing Element Update this year and is currently exploring a potential partnership with other Solano County municipalities to achieve an efficient, cost effective update. Implementation activities, such as rezoning activities, may take place after January of 2023, but the majority of research and outreach will occur concurrently with the Housing Element Update. As a result, Staff can commit to the completion of the implementation activities that will be funded by this grant by the deadline for LEAP Grant fund expenditures which is December 2023.

The City of Benicia is almost fully built out, so the City must first identify parcels that could accommodate new housing development, an effort that will be intensive in terms of data collection

and analysis. The City must also fully engage constituents to develop an understanding of the community’s priorities for different areas of town that could allow greater housing development, and to ensure that the public understands the implications of the changes being made. This process will likely include visualizations for potential project sites and development regulations. Additionally, the City must complete adequate environmental analysis for the new zone districts and prepare written analysis for review by the public and relevant commissions. The requested funding of \$100,000 for these purposes is anticipated to significantly offset the cost incurred by the City for these planning activities that will increase the production of housing in Benicia.

NEXT STEPS:

If the City Council adopts the proposed resolution and recommended scope (Attachment 1, Exhibit A), staff will prepare the application for LEAP funding in the amount of \$150,000. Upon confirmation that the requested funds have been awarded, the City would proceed with the proposed work. Staff will seek approval from the City Council for contracts exceeding \$50,000. Additionally, through the process of preparing the Housing Element update, there will be multiple opportunities for commission and community engagement beginning in 2021.

ALTERNATIVE ACTIONS:

If no action is taken, the City will still be responsible for accommodating the new Regional Housing Needs Allocation, which is anticipated to be 2-3 times our most recent allocation. Accommodating an allocation of this size will likely require amendments to the existing zoning map and regulations, so the cost of associated outreach and baseline research would be incurred by the City. The proposed automation and improvements to the electronic permitting system would be an asset to the Department and the public, but these activities are not mandated.

The Council could choose to reallocate the available funds within the proposed initiatives or to another project that falls within the goals of the grant program. However, if the application is not submitted with an executed resolution by July 1, 2020, the City will not be able to secure the available over-the-counter funding. Additionally, the department’s ability to take on new projects is limited by the existing workload.

General Plan	<p>Goal 2.1: Preserve Benicia as a small-sized city.</p> <ul style="list-style-type: none"> ➤ Policy 2.1.7: The City shall promote compact urban development within the Urban Growth Boundary (UGB) and shall encourage development of public, semi-public, active recreational and all other uses deemed desirable for the community inside the UGB.
	<p>Housing Element Goal 1: Benicia shall be an active leader in attaining the goals of the City’s Housing Element</p> <ul style="list-style-type: none"> ➤ Policy 1.01: To the extent possible and within the City’s control, the City shall facilitate the production of housing that is affordable to people with a wide range of incomes. ➤ Provide a fast-track processing procedure for projects with extremely low-, very low-, low- and moderate-income affordable housing units.

Priority Based Budgeting	Strategic City Result Impacted by this Agenda Item
	<p>The City Council and community identified six (6) key “Results” that establish the key goals for which the City of Benicia aspires to achieve with our programs and services. Agenda Items often influence multiple Results, the primary Result impacted by this Agenda Item is (please check one):</p> <p> <input type="checkbox"/> Protect Community Health & Safety <input type="checkbox"/> Maintain & Enhance A High Quality of Life <input type="checkbox"/> Preserve & Enhance Infrastructure <input type="checkbox"/> Strengthen Economic & Fiscal Conditions <input type="checkbox"/> Protect & Enhance the Environment <input checked="" type="checkbox"/> High Performing Government </p>
	City Programs Impacted by This Agenda Item (Top 3):
	<ol style="list-style-type: none"> 1. Grant Writing and Administration 2. Permit Services 3. Housing Element Implementation
	Priority Based Budgeting (PBB) Website:
	Coming soon in Spring 2020 will be a link to the City of Benicia’s PBB website to learn more about these programs and their costs.

CEQA Analysis	Authorization of grant application is not a project under Section 15378 (b) of the CEQA Guidelines, which excludes administrative activities of governments. Therefore, it is not subject to CEQA under Guidelines Section 15060 (c).
----------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

ATTACHMENTS:

1. Resolution – LEAP Grant Authorization
2. LEAP Planning Grant - 2020 Notice of Funding Availability

For more information contact: Brad Misner, Community Development Director

Phone: (707) 746-4280

E-mail: bmisner@ci.benicia.ca.us

RESOLUTION NO. 20-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
AUTHORIZING APPLICATION FOR, AND RECEIPT OF, LOCAL GOVERNMENT
PLANNING SUPPORT GRANT PROGRAM FUNDS**

WHEREAS, pursuant to Health and Safety Code 50515 et. Seq, the Department of Housing and Community Development (Department) is authorized to issue a Notice of Funding Availability (NOFA) as part of the Local Government Planning Support Grants Program (hereinafter referred to by the Department as the Local Early Action Planning Grants program or LEAP); and

WHEREAS, the City Council of the City of Benicia desires to submit a LEAP grant application package (“Application”), on the forms provided by the Department, for approval of grant funding for projects that assist in the preparation and adoption of planning documents and process improvements that accelerate housing production and facilitate compliance to implement the sixth cycle of the Regional Housing Need Assessment; and

WHEREAS, the Department has issued a NOFA and Application on January 27, 2020 in the amount of \$119,040,000 for assistance to all California Jurisdictions;

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia (“Applicant”) resolves as follows:

The City Manager is hereby authorized and directed to apply for and submit to the Department the Application package consistent with Exhibit A;

In connection with the LEAP grant, if the Application is approved by the Department, the City Manager of the City of Benicia is authorized to submit the Application, enter into, execute, and deliver on behalf of the Applicant, a State of California Agreement (Standard Agreement) for the amount of \$150,000, and any and all other documents required or deemed necessary or appropriate to evidence and secure the LEAP grant, the Applicant’s obligations related thereto, and all amendments thereto; and

The Applicant shall be subject to the terms and conditions as specified in the NOFA, and the Standard Agreement provided by the Department after approval. The Application and any and all accompanying documents are incorporated in full as part of the Standard Agreement. Any and all activities funded, information provided, and timelines represented in the Application will be enforceable through the fully executed Standard Agreement. Pursuant to the NOFA and in conjunction with the terms of the Standard Agreement, the Applicant hereby agrees to use the funds for eligible uses and allowable expenditures in the manner presented and specifically identified in the approved Application.

On motion of Council Member _____, seconded by Council Member _____, the above resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 2nd day of June, 2020 by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

Exhibit A: Proposed Scope for LEAP Grants Program

The City of Benicia proposes to utilize LEAP funds for two purposes: automating and improving the City's permitting process to accelerate the production of housing, and for the planning and implementation activities that will be necessitated by the upcoming Housing Element update. It is not anticipated that the requested funds will cover the cost of all activities associated with these projects, but the grant funds will offset the cost of these projects to the City. The proposed projects will be substantially completed prior to the deadline for LEAP funding expenditures.

Recommended Project Scope: Software for Automation

- The requested grant funds will be used to either improve workflows and features in the City's existing permitting system, Accela, or to transition to a permitting system more conducive to the City's needs.
- The proposed automation activities will facilitate the submission of plans electronically in a manner that is integrated with the permitting software system.
- The proposed automation activities will eliminate the use and maintenance of physical plan sets.
- The proposed automation activities will facilitate procedural resiliency in periods when access to City Hall is limited.
- The proposed automation activities will facilitate more robust reporting and data collection capabilities, which will inform future development policies in Benicia.

These automation activities fall within the category "revamping local planning processes to speed up housing production," identified in the LEAP Grants Program 2020 Notice of Funding Availability because they will make the City's review of new development more resilient and more efficient.

Recommended Scope: Housing Element

- The requested grant funds will be used to implement the sixth Cycle Housing Element Update and Regional Housing Needs Allocation (RHNA), which could be 2-3 times the 327 unit allocation assigned to the City during the Fifth Cycle Housing Element Update.
- Implementation activities will include creation and adoption of a new Zone Map that accommodates Benicia's sixth Cycle RHNA, and may also include changes to development regulations that would result in increased opportunity for housing development.
- To achieve this goal, the City will identify parcels that could accommodate new housing development, and will conduct community outreach to develop an understanding of the community's priorities for different areas of town that could accommodate this development. Through this process, the City will ensure that the public understands the implications of the changes being proposed.
- Prior to adoption, the City must also prepare the proposed zone map and text amendments, written analysis of the proposed changes, and adequate environmental documents in accordance with California the Environmental Quality Act (CEQA).

These housing planning activities fall within the category "preparing and adopting housing elements of the general plan that include an implementation component to facilitate compliance with the sixth cycle RHNA," identified in the LEAP Grants Program 2020 Notice of Funding Availability.

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF FINANCIAL ASSISTANCE**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2771 / FAX (916) 263-2763
www.hcd.ca.gov



January 27, 2020

MEMORANDUM FOR: All Potential Applicants

**FROM: Zachary Olmstead, Deputy Director
Division of Housing Policy Development**

**SUBJECT: NOTICE OF FUNDING AVAILABILITY -
LOCAL EARLY ACTION PLANNING GRANTS PROGRAM**

The California Department of Housing and Community Development (Department) is pleased to announce the release of this Notice of Funding Availability (NOFA) for approximately \$119,040,000 as part of the Local Early Action Planning Grants Program (LEAP or Program). LEAP is made available as a portion of the Local Government Planning Support Grants Program pursuant to Chapter 3.1 of Health and Safety Code (Sections 50515 to 50515.05) (Chapter 159, Statutes of 2019). LEAP provides funding to jurisdictions for the preparation and adoption of planning documents, process improvements that accelerate housing production, and facilitate compliance in implementing the sixth cycle of the regional housing need assessment (RHNA).

In order to be eligible for grant funding, an applicant must submit a completed, signed original application and an electronic copy on CD or USB flash drive. Applications will be accepted on an Over-the-Counter (OTC) basis as of the date of this NOFA through July 1, 2020. The Department encourages early applications and will accept applications post-marked by the July 1, 2020 deadline. Applicants may utilize various carrier services, such as the U.S. Postal Service, UPS, FedEx, or other carrier services. All applications must be submitted to the Department at the following address:

**California Department of Housing and Community Development
Division of Housing Policy Development
2020 West El Camino Ave, Suite 500
Sacramento, CA 95833**

Program applications, forms and instructions are available on the Department's website at <https://www.hcd.ca.gov/grants-funding/active-funding/leap.shtml>. If you have questions regarding this NOFA, please email the Department at EarlyActionPlanning@hcd.ca.gov.

Attachment

LOCAL EARLY ACTION PLANNING GRANTS PROGRAM (LEAP) 2020 NOTICE OF FUNDING AVAILABILITY



**State of California
Governor Gavin Newsom**

**Alexis Podesta, Secretary
Business, Consumer Services and Housing Agency**

**Douglas R. McCauley, Acting Director
California Department of Housing and Community Development**

**Zachary Olmstead, Deputy Director
California Department of Housing and Community Development
Division of Housing Policy Development**

2020 West El Camino Avenue, Suite 500
Sacramento, CA 95833
Telephone: (916) 263-2911

Website: <https://www.hcd.ca.gov/grants-funding/active-funding/leap.shtml>

Email: EarlyActionPlanning@hcd.ca.gov

Table of Contents

I.	Introduction.....	1
II.	Authority and Scope	1
III.	Program Summary	2
IV.	Program Timeline	2
V.	Award Amounts	3
VI.	Eligible Applicants	3
VII.	Eligible Activities.....	4
VIII.	Ineligible Activities	6
IX.	Eligible Uses.....	7
X.	Ineligible Uses	7
XI.	Application Requirements.....	7
XII.	Application Submission Requirements	8
XIII.	Application Review	8
XIV.	Award Letter and Standard Agreement	9
XV.	Appeals	9
XVI.	Administration.....	10
XVII.	Right to Modify or Suspend the NOFA, and Final Decision-making	13
XVIII.	Definitions.....	14

2019 NOTICE OF FUNDING AVAILABILITY LOCAL EARLY ACTION PLANNING GRANTS PROGRAM

I. Introduction

The California Department of Housing and Community Development (Department) is pleased to announce the release of this Notice of Funding Availability (NOFA) for approximately \$119,040,000 as part of the Local Early Action Planning Grants Program (LEAP or Program). LEAP is made available as a portion of the Local Government Planning Support Grants Program pursuant to Chapter 3.1 of Health and Safety Code (Sections 50515.03 (Chapter 159, Statutes of 2019)). The Program provides funding to jurisdictions for the preparation and adoption of planning documents, process improvements that accelerate housing production, and facilitate compliance in implementing the sixth cycle of the RHNA.

II. Authority and Scope

This NOFA is authorized pursuant to Chapter 3.1 of Health and Safety Code (Sections 50515 to 50515.05). The NOFA implements, interprets, and makes specific provisions for purposes of implementing planning grants to jurisdictions pursuant to 50515.03 (hereinafter "LEAP").

This NOFA establishes terms, conditions, forms, procedures and other mechanisms as the Department deems necessary to exercise the powers and perform the duties conferred by Chapter 3.1.

The matters set forth herein are regulatory mandates, and are adopted in accordance with the authorities set forth below:

Quasi-legislative regulations ... have the dignity of statutes ... [and]... delegation of legislative authority includes the power to elaborate the meaning of key statutory terms...

Ramirez v. Yosemite Water Co., 20 Cal. 4th 785, 800 (1999)

Further, the Department may implement the Program through the issuance of forms, guidelines, and one or more NOFAs, as the Department deems necessary, to exercise the powers and perform the duties conferred on it by this chapter. Any forms, guidelines, and notices of funding availability adopted pursuant to this section are hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). (Health and Safety Code Section 50515.04(f)).

The Department reserves the right, at its sole discretion, to suspend or amend the provisions of this NOFA, including, but not limited to, grant award amounts.

III. Program Summary

The Local Early Action Planning Grants Program (LEAP or Program) is part of the broader Program formerly known as the Local Government Planning Support Grants Program, which was established as part of the 2019-20 Budget Act. The 2019-20 Budget Act provides a spectrum of support, incentives, resources and accountability to meet California's housing goals. Some specific elements include:

- Planning Support (local and regional planning grants)
- Incentives (Prohousing preference and infill incentive grants)
- Funding Resources
- Accountability (penalties for noncompliant housing plans)
- Reform (collaborative processes to reform regional housing needs)

The Local Government Planning Support Grants Program provides one-time grant funding to regions and jurisdictions for technical assistance, preparation and adoption of planning documents, and process improvements. The over-arching goals of the Program are to (1) accelerate housing production; and (2) facilitate compliance to implement the sixth cycle of the regional housing need assessment (RHNA).

IV. Program Timeline

Grants will be available to eligible applicants on a noncompetitive, Over-the-Counter (OTC) basis. Applications will be accepted from the date of the release of this NOFA and up until July 1, 2020. See Table 1 below for the anticipated timeline for awards for the OTC period.

Event	Date
NOFA Release	January 27, 2020
NOFA Application Webinar	February 14, 2020
NOFA Application Workshops	February and March 2020
Final Due Date for OTC Applications	July 1, 2020
Technical Assistance	February 2020 through December 31, 2023
Expenditure Deadline	December 31, 2023

The Department will review applications within 30 days and target award of applications within 60 days, with subsequent Standard Agreements processed within 60 days of award. Applicants are encouraged to submit early in the application window.

The Department will hold workshops and a webinar to review the LEAP NOFA and application and will be conducting technical assistance to aid applicants throughout the OTC period and implementation of the grant. For a list of dates, times, and locations for the workshops as well as information on technical assistance, please visit the Department's website at <https://www.hcd.ca.gov/grants-funding/active-funding/leap.shtml>.

V. Award Amounts

This Program will make \$119,040,000 dollars available to jurisdictions for Program implementation, including state operations and expenditures, and technical assistance. Maximum award amounts are based on population estimates as of January 1, 2019.¹ The minimum award amount is \$25,000. The maximum amount that a jurisdiction may receive pursuant to this subdivision shall be as follows:

Jurisdiction Size (in population)	Maximum Award Amount
750,000 or greater	\$1,500,000
300,000 to 749,999	\$750,000
100,000 to 299,999	\$500,000
60,000 to 99,999	\$300,000
20,000 to 59,999	\$150,000
Less than 20,000	\$65,000

Applicants seeking partnerships with other local governments will be additive. For example, two jurisdictions between 100,000 and 299,999 people could submit a proposal for up to \$1.0 million.

VI. Eligible Applicants

Eligible applicants are limited to local governments, i.e., cities and counties. However, local governments may partner through legally binding agreements with other forms of governments or entities where the proposal will have a direct effect

¹ Population estimates, posted as of January 1, 2019, are based on the Department of Finance E-1 report. Official maximum amounts per jurisdiction can be found at the Department's website at <https://www.hcd.ca.gov/grants-funding/active-funding/leap.shtml>.

on land-use or development within the participating localities. This includes, but is not limited to, partnerships with other localities, regional governments, housing authorities, school districts, special districts, community-based organizations, or any duly constituted governing body of an Indian Reservation or Rancheria. Applicants forming partnerships, must submit separate, completed and signed application packages, including resolutions and a copy of the signed agreement between partners to the Department in order to be awarded funds.

VII. Eligible Activities

Eligible activities must demonstrate an increase in housing related planning activities and facilitate accelerated housing production. Eligible activities may be part of a larger planning effort (e.g., a comprehensive zoning code update) if proposed activities have not been completed prior to the NOFA date, are distinct, and demonstrate a nexus to accelerating housing production. Eligible activities are not necessarily jurisdiction-wide and may include a smaller geography with a significant impact on housing production. For example, eligible activities may include a housing development-related project with a significant community level impact, or planning or process improvement for a project with an ongoing community impact beyond the project. Eligible activities may include a variety of planning documents and processes, including, but not limited to, the following as set forth in Health and Safety Code section 50515.03(c):

1. Rezoning and encouraging development by updating planning documents and zoning ordinances, such as General Plans, community plans, specific plans, implementation of sustainable communities' strategies, and local coastal programs;
2. Completing environmental clearance to eliminate the need for project-specific review;
3. Establishing housing incentive zones or other area-based housing incentives beyond State Density Bonus Law such as a workforce housing opportunity zone pursuant to Article 10.10 (commencing with Section 65620) of Chapter 3 of Division 1 of Title 7 of the Government Code, or a housing sustainability district pursuant to Chapter 11 (commencing with Section 66200) of Division 1 of Title 7 of the Government Code;
4. Performing infrastructure planning, including for sewers, water systems, transit, roads, or other public facilities necessary to support new housing and new residents;
5. Planning documents to promote development of publicly-owned land, such as partnering with other local entities to identify and prepare excess or surplus property for residential development;
6. Revamping local planning processes to speed up housing production;
7. Developing or improving an accessory dwelling unit ordinance in compliance with Section 65852.2 of the Government Code;
8. Planning documents for a smaller geography (less than jurisdiction-wide) with a significant impact on housing production, including an overlay district, project level specific plan, or development standards modifications proposed for significant areas of a locality, such as corridors, downtown or priority growth areas;

9. Rezoning to meet requirements pursuant to Gov. Code Section 65583(c)(1), and other rezoning efforts to comply with Housing Element requirements, including Gov. Code Section 65583.2(c) (AB 1397, Statutes of 2018);
10. Upzoning or other implementation measures to intensify land use patterns in strategic locations, such as close proximity to transit, jobs or other amenities;
11. Rezoning for multifamily housing in high resource areas (according to Tax Credit Allocation Committee/Housing Community Development Opportunity Area Maps);
12. Establishing pre-approved architectural and site plans;
13. Preparing and adopting Housing Elements of the General Plan that include an implementation component to facilitate compliance with the sixth cycle RHNA;
14. Adopting planning documents to coordinate with suballocations under Regional Early Action Planning Grants (REAP) pursuant to Health and Safety Code Section 50515.02(f) that accommodate the development of housing and infrastructure, and accelerate housing production in a way that aligns with state planning priorities, housing, transportation equity and climate goals, including hazard mitigation or climate adaptation;
15. Zoning for by-right supportive housing, pursuant to Gov. Code section 65651 (Chapter 753, Statutes of 2018);
16. Zoning incentives for housing for persons with special needs, including persons with developmental disabilities;
17. Planning documents related to carrying out a local or regional housing trust fund;
18. Environmental hazard assessments; data collection on permit tracking; feasibility studies, site analysis, or other background studies that are ancillary (e.g., less than 15 percent of the total grant amount) and part of a proposed activity with a nexus to accelerating housing production; and
19. Other planning documents or process improvements that demonstrate an increase in housing related planning activities and facilitate accelerating housing production; and
20. Establishing Prohousing Policies, as follows:

Prohousing Policies

The Department encourages applicants to consider LEAP funds to facilitate designation as a Prohousing jurisdiction.

The 2019-20 Budget Act requires the Department to develop the Prohousing designation emergency regulations by no later than July 1, 2021. This program will allow the Department to designate jurisdictions as “Prohousing,” when they demonstrate policies and strategies to accelerate housing production. In turn, Prohousing jurisdictions will be awarded additional points or preference in programs such as the Affordable Housing and Sustainable Communities (AHSC), Transformative Climate Communities (TCC), Infill Infrastructure Grant (IIG) programs and other state funding programs. The Department anticipates developing emergency regulations and Prohousing designations prior to July 1, 2021, and will seek to designate jurisdictions prior to future rounds of AHSC, TCC and IIG

programs.

Pursuant to Gov. Code Section 65589.9(f)(2), “Prohousing” policies mean policies that facilitate the planning, approval, or construction of housing. These policies may include, but are not limited to, the following:

- A. Planning for local financial incentives for housing, including, but not limited to, establishing a local housing trust fund;
- B. Reducing parking requirements for sites that are zoned for residential development;
- C. Adoption of zoning allowing for use by right for residential and mixed-use development;
- D. Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing RHNA for the current Housing Element cycle;
- E. Adoption of accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond the requirements outlined in Section 65852.2, as determined by the Department;
- F. Process improvements that reduce permit processing time;
- G. Creating of objective development standards;
- H. Studies and implementing actions that reduce development impact fees; and
- I. Establishing a Workforce Housing Opportunity Zone, as defined in Section 65620, or a housing sustainability district, as defined in Section 66200.”

VIII. Ineligible Activities

1. Activities unrelated to preparation and adoption of planning documents, and process improvements to accelerate housing production and facilitate compliance to implement the sixth cycle of the RHNA;
2. Activities that obstruct or hinder housing production, e.g., moratoriums, downzoning, planning documents with conditional use permits that significantly impact supply, cost, approval certainty and timing, planned development, or other similarly constraining processes; and
3. Project specific planning documents that do not have a significant impact on accelerating housing production or significant community level or re-occurring benefit beyond the project.
4. The Department may consider proposals that are combined with larger proposals that have a positive housing component and the net effect on accelerating housing production is significant. For example, an applicant may propose combining an open-space designation, downzoning, or anti-displacement measures with by-right upzoning that has a significant net gain in housing capacity.

IX. Eligible Uses

1. Grant funds may cover the costs of temporary staffing or consultant needs associated with eligible activities;
2. Grant funds shall be used for the costs of preparing and adopting the proposed activity;
3. A jurisdiction that receives funds under this Program may use a subcontractor. The subcontract shall provide for compliance with all the requirements of the Program. The subcontract shall not relieve the jurisdiction of its responsibilities under the Program;
4. Eligible expenditures may be incurred and expended for the project(s) subject to the terms and conditions of the Standard Agreement; and
5. Only approved and eligible costs incurred for work after the NOFA date, continued past the date of the Standard Agreement, and completed during the grant term, will be reimbursable.

X. Ineligible Uses

1. Program grant funds may not be used for administrative costs of persons employed by the grantee for activities not directly related to the preparation and adoption of the proposed activity;
2. No more than 5 percent of the grant amount may be used for administrative costs for any proposed use, to be approved by the Department upon disbursement; and
3. Approved and eligible costs incurred prior to the NOFA date are ineligible.

XI. Application Requirements

Until July 1, 2020, a jurisdiction may request an allocation of funds pursuant to this section by submitting a complete application to the Department that demonstrates:

1. A budget, including timelines, deliverables, sub-steps and adoption, that demonstrates funds will be utilized for eligible activities and uses;
2. How proposed activities will increase housing planning and facilitate accelerating local housing production;
3. Completed or proposed activities consistent with the state or other planning priorities; and
4. All other required information contained in the Department's application

Applicants will demonstrate consistency with these requirements utilizing the forms and manner prescribed in the Department application.

Accelerating Housing Production: Applicants must propose and document plans or processes that increase housing planning and facilitate accelerating local housing production. The application must demonstrate a significant positive effect on accelerating housing production through timing, cost, approval certainty, entitlement streamlining, feasibility, infrastructure capacity, or impact on housing

supply and affordability. An application must include an explanation and documentation of the nexus to accelerating housing production based on a reasonable and verifiable methodology and must utilize the Department's form (see the Department's application). A verifiable methodology may include a statement of support from a non-profit or for-profit developer that is active in the locality.

State and Other Planning Priorities: Consistency with state or other planning priorities may be demonstrated through proposed activities in the application **OR** activities that were completed within the last five years. Applicants must self-certify utilizing the Department's form (see Department's application).

XII. Application Submission Requirements

In order to be eligible for grant funding, an applicant must submit a completed, signed original application and an electronic copy on CD or USB flash drive. Applications will be accepted on an OTC basis as of the date of this NOFA through July 1, 2020. The Department encourages early applications and will accept applications post-marked by the July 1, 2020 deadline. Applicants may utilize various carrier services, such as the U.S. Postal Service, UPS, FedEx, or other carrier services. All applications must be submitted to the Department at the following address:

**California Department of Housing and Community Development
Division of Housing Policy Development
2020 West El Camino Ave, Suite 500
Sacramento, CA 95833**

Applications must be on Department forms and cannot be altered or modified by the applicant. Program applications and forms are available on the Department's website located at <https://www.hcd.ca.gov/grants-funding/active-funding/leap.shtml>.

XIII. Application Review

1. The Program will not utilize a competitive process to award funds.
2. Funds will be available to eligible applicants on a rolling OTC basis that begins as of the date of this NOFA and ends July 1, 2020.
3. An application form will be available upon release of the NOFA and will include forms to demonstrate meeting eligibility requirements such as, among other forms, a resolution, a proposed budget and timeline table and self-certified attachments demonstrating a nexus to housing production and consistency with state planning and other priorities;
4. Applications will first be reviewed for, among other things, completeness, eligibility requirements, and accuracy;
5. In order to be considered complete, an application must contain requested

- information and supporting documentation where appropriate;
6. All applications must meet the eligibility requirements as specified in this NOFA;
 7. If the application is ineligible, it will not be considered for funding, but may be amended and resubmitted;
 8. The Department may request additional information to complete and approve the application for funding;
 9. Applications recommended for funding are subject to conditions specified by the Department;
 10. Applications will be reviewed within 30 days from the date the Department receives the application; and
 11. All applicants not meeting the eligibility requirements will be informed within 30 days from the date the Department receives the application.

XIV. Award Letter and Standard Agreement

Successful applicants will receive an Award Letter from the Department and will be awarded funds. Applicants will enter into a state Standard Agreement (Standard Agreement) for distribution of funds. The Standard Agreement process will specify, among other things, the amount of funds granted, timeline for expenditure of funds, and the approved use of funds. Expenditure report dates and other requirements will also be identified in the Standard Agreement.

XV. Appeals

1. Basis of Appeals:
 - A. Upon receipt of the Department's notice deeming an application incomplete or ineligible, applicants under this NOFA may appeal such decision(s) to the Department Director.
 - B. The decision of the Director is final and not subject to further administrative or judicial review.
 - C. No applicant shall have the right to appeal a decision of the Department relating to another applicant's eligibility, award, denial of award, or any other related matter.
2. Appeals Process and Deadlines:
 - A. Process. In order to lodge an appeal, applicants must submit to the Director by the deadline set forth in subsection (b) below, a written appeal which states all relevant facts, arguments, and evidence upon which the appeal is based. No new or additional information will be accepted. Once the written appeal is submitted to the Director, no further information or materials is required to be accepted or considered thereafter. Appeals are to be submitted to the Director at following address:

California Department of Housing and Community Development
 Division of Housing Policy Development
 2020 W. El Camino Avenue, Suite 500
 Sacramento, California 95833
EarlyActionPlanning@hcd.ca.gov

The Director will accept appeals delivered through a carrier service such as the U.S. Postal Service, UPS, Fed-Ex, or other carrier services that provide date stamp verification of delivery. Deliveries must be received during the Department's weekday (non-state holiday) business hours of 9:00 a.m. to 5:00 p.m. Pacific Standard Time. Additionally, emails to the email address listed above will be accepted if the email time stamp is prior to the appeal deadline.

B. Filing Deadline. Appeals must be received by the Director no later than (5) five business days from the date of the Department's determination.

3. Decision:

Any request to amend the Department's decision shall be reviewed for compliance with this NOFA and its application. The Director shall render his/her decision in writing within fifteen (15) business days of receipt of the applicant's written appeal. The decision of the Director shall be the Department's final decision, and shall not be appealable to any court or tribunal.

XVI. Administration

1. Grant Execution and Term

- A. The Department will notify the grantee if they have been selected for a grant award;
- B. After the Standard Agreement has been drawn, the grantee will be provided instructions for signing all required documents. The grantee must submit all supporting materials and a signed Standard Agreement within the timeline provided in the instructions, or risk forfeiting the grant award;
- C. The grant term begins on the day the Department and the grantee have fully executed the Standard Agreement. The Department will notify the grantee and partners when work may proceed under the agreement. However, eligible activities that are approved by the Department may be retroactively reimbursed to the date of the NOFA; and
- D. The end of the grant term will be determined by the state based on the availability of grant funds and the administrative requirements for liquidation.

2. Payment and Accounting of Grant Funds

- A. Grant funds cannot be disbursed until the Standard Agreement has been fully executed;
- B. The grantee will be responsible for compiling and submitting all invoices and reporting documents. Grantees will submit for reimbursements to the Department based on actual cost incurred;
- C. The grantee must bill the state based on clear deliverables outlined in the Standard Agreement or budget timeline. Only approved and eligible costs incurred for work after the NOFA date, continued past the date of the Standard Agreement, and completed and processed prior to the expenditure deadline, will be reimbursable. Approved and eligible costs incurred prior to the NOFA date are ineligible;
- D. Work must be completed prior to requesting reimbursement;
- E. Grant fund payment will be made on a reimbursement basis; advance payments are not allowed. The grantee and partners must have adequate cash flow to pay all grant-related expenses prior to requesting reimbursement from the Department. Project invoices will be submitted to the Department by the grantee on a quarterly basis;
- F. In unusual circumstances, the Department may consider alternative arrangements to reimbursement and payment methods based on documentation demonstrating cost burdens, including the inability to pay for work;
- G. Supporting documentation may include, but is not limited to: receipts, progress payments, subcontractor invoices, time cards, etc.;
- H. Invoices must be accompanied by reporting materials where appropriate. Invoices without the appropriate reporting materials will not be paid. The Department may withhold 10 percent of the grant until grant terms have been fulfilled; and
- I. Each recipient of funds under the Program shall expend those funds no later than December 31, 2023.

3. Accounting Records and Audits

- A. The grantee must establish a separate ledger account for receipts and expenditures of grant funds and maintain expenditure details in accordance with the budget and timeline. Separate bank accounts are not required;
- B. The grantee shall maintain documentation of its normal procurement policy and competitive bid process (including the use of sole source purchasing), and financial records of expenditures incurred during the course of the project, in accordance with generally accepted accounting principles;
- C. The grantee agrees that the state or designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of the Standard Agreement;
- D. The grantee 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;
- E. Subcontractors employed by the grantee and paid with moneys under the

terms of this Standard Agreement shall be responsible for maintaining accounting records as specified above;

- F. At any time during the term of the Standard Agreement, the Department may perform, or cause to be performed, a financial audit of any and all phases of the award. At the Department's request, the awardee shall provide, at its own expense, a financial audit prepared by a certified public accountant. The State of California has the right to review project documents and conduct audits during project implementation and over the project life;
 - G. The Department may request additional information, as needed, to meet other applicable audit requirements; and
 - H. The Department may monitor expenditures and activities of an applicant, as the Department deems necessary, to ensure compliance with Program requirements.
4. Remedies of Nonperformance
- A. In the event that it is determined, at the sole discretion of the state, that the grantee is not meeting the terms and conditions of the Standard Agreement, immediately upon receiving a written notice from the Department to stop work, the grantee shall cease all work under the Standard Agreement. The Department has the sole discretion to determine that the grantee meets the terms and conditions after a stop work order, and to deliver a written notice to the grantee to resume work under the Standard Agreement;
 - B. Both the grantee and the Department have the right to terminate the Standard Agreement at any time upon 30 days written notice. The notice shall specify the reason for early termination and may permit the grantee or the Department to rectify any deficiency(ies) prior to the early termination date. The grantee will submit any requested documents to the Department within 30 days of the early termination notice; and
 - C. There must be a strong implementation component for the funded activity through this Program, including, where appropriate, agreement by the locality to formally adopt the completed planning document. Localities that do not formally adopt the funded activity could be subject to repayment of the grant.
 - D. The Department may, as it deems appropriate or necessary, request the repayment of funds from an applicant, or pursue any other remedies available to it by law for failure to comply with Program requirements (Health and Safety Code section 50515.04(e)).

5. Reporting

- A. At any time during the term of the Standard Agreement, the Department may request a performance report that demonstrates satisfaction of all requirements identified in the Standard Agreement with emphasis on eligible activities, eligible uses, ineligible uses, and expenditures, according to timelines and budgets referenced in the Standard Agreement;
- B. Awardees shall submit a report, in the form and manner prescribed by

the Department, to be made publicly available on its internet website, by April 1 of the year following the receipt of those funds, and annually thereafter until those funds are expended, that contains the following information:

- The status of the proposed uses listed in the entity's application for funding and the corresponding impact on housing within the region or jurisdiction; and
 - A summary of building permits, certificates of occupancy, or other completed entitlements issued by entities within the region, or by the jurisdiction, as applicable.
- C. The awardee must, in lieu of a separate report, provide the above described information as part of its annual report pursuant to Gov. Code Section 65400;
- D. The Department may request additional information, as needed, to meet other applicable reporting requirements;
- E. Upon completion of all deliverables within the Standard Agreement, the awardee shall submit a close out report. See Attachment 1; and
- F. The Department shall maintain records of the following and provide that information publicly on its internet website:
- The name of each applicant for Program funds and the status of that entity's application;
 - The number of applications for Program funding received by the Department; and
 - The information described in 5(B) above for each recipient of Program funds.

XVII. Right to Modify or Suspend the NOFA, and Final Decision-making

The Department reserves the right, at its sole discretion, to suspend, amend, or modify the provisions of this NOFA at any time, including, without limitation, the amount of funds available hereunder. If such an action occurs, the Department will notify all interested parties and will post the revisions to the Department's website. You may subscribe to the Department's email list here: http://www.hcd.ca.gov/HCD_SSI/subscribe-form.html.

Further, the Department's decision to approve or deny an application or request for funding pursuant to the Program, and its determination of the amount of funding to be provided, shall be final.

XVIII. Definitions

All terms not defined below shall, unless their context suggests otherwise, be interpreted in accordance with the meanings of terms described in Health and Safety Code section 50470.

- A. "Accelerating Housing Production" means improving the timing, cost, feasibility, approval and amount of development through various mechanisms such as zoning incentives (e.g., increased density and heights, reduced parking requirements), upzoning, zoning amendments to permit residential in non-residential zones, corridor planning, development standards modifications, non-discretionary review, financing strategies, sliding scale fee modifications, facilitating adequate infrastructure to support development, approval streamlining that addresses quickness and ease of entitlements, and other mechanisms that promote production or remove or mitigate regulatory barriers.
- B. "Affordability" means a housing unit that satisfies at least one of the following criteria:
1. It is available at an "affordable rent" as that term is used and defined in Section 50053 of the Health & Safety Code;
 2. It is offered at an "affordable housing cost", as that term is used and defined in Section 50052.5 of the Health & Safety Code; or
 3. It is available at an "affordable rent" or an "affordable housing cost" according to the alternative percentages of income for agency-assisted rental and cooperative housing developments pursuant to Department regulations adopted under Health and Safety Code section 50462(f).
- C. "Annual Progress Report" (APR) means the annual report required to be submitted to the Department pursuant to paragraph (2) of subdivision (a) of Section 65400 of the Government Code.
- D. "Completed entitlement" means a housing development project that has received all the required land use approvals or entitlements necessary for the issuance of a building permit and for which no additional action, including environmental review or appeals, is required to be eligible to apply for and obtain a building permit.
- E. "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code that is responsible for allocating regional housing need pursuant to Sections 65584, 65584.04, and 65584.05 of the Government Code.
- F. "Department" means the California Department of Housing and Community Development.

G. "Housing" means any development that satisfies both of the following criteria:

1. At least two-thirds of the square footage of the development must be designated for residential use; and
2. Includes a house, an apartment, a mobile home or trailer, a group of rooms, or a single room that is occupied as separate living quarters, or, if vacant, is intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other individuals in the building, and which have a direct access from the outside of the building, or through a common hall.

Note: accessory dwelling units (ADU) and junior accessory dwelling units (JADU) pursuant to Gov. Code sections 65852.2 and 65852.22 meet the definition above.

- H. "Housing Element" or "element" means the Housing Element of a community's General Plan, as required pursuant to subdivision (c) of Section 65302 of the Government Code and prepared in accordance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.
- I. "Jurisdiction" means any city, including a charter city, county, including a charter county or city and county, including a charter city and county.
- J. "Local government" or "Locality" means any city, including a charter city, county, including a charter county or city and county, including a charter city and county.
- K. "Objective zoning standard", "objective subdivision standard", and "objective design review standard" means standards that involve no personal or subjective judgment by a public official, and are uniformly verifiable by reference to an external and uniform benchmark or criterion available, and knowable by both the development applicant or proponent and the public official prior to submittal. "Objective design review standards" means only objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application, which are broadly applicable to development within the jurisdiction.
- L. "Other Planning Priorities" means planning, policies, programs or investments to promote housing choices and affordability to lower and moderate income households, the encouragement of conservation of the existing affordable housing stock, and efforts to take into account current and future impacts of climate change, including hazard mitigation.
- M. "Regional housing need assessment" means the existing and projected need for housing for each region, as determined by the Department pursuant to Section 65584.01 of the Government Code.

- N. “State Planning Priorities” means priorities which are intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety in the state, including in urban, suburban, and rural communities pursuant to Gov. Code Section 65041.1.

- O. “Streamlined Housing Production” means improving the entitlement process through actions such as removing, mitigating or minimizing local regulatory requirements, reforming the local approval process to reduce processing times, the number of local discretionary approvals and permits needed for projects, improving approval certainty, establishing non-discretionary processes, modifying development standards, such as reducing parking requirements and increasing height limits, or other efforts, such as taking the fullest advantage of existing streamlining mechanisms provided in state law.

Attachment 1

Close Out Reporting Form

LEAP Grant Close Out Reporting Template

Brief Summary

- Overview of the project
- Project start date and duration
- Project goals and relevance to LEAP goals
- Quantified outcomes

Lead Agency and Partnerships

- List lead agency and partnerships (including names, titles, organizations, and roles and responsibilities of each)
- What did those collaborative relationships and processes look like?

Drivers

- Did any local, state, or federal legislation or mandates drive the project? (SB 35, AB 1397, etc.)
- Was it a community driven effort?
- Were there additional funding opportunities present?

Engagement Process

- Who were your stakeholders?
- What did the engagement process look like?
- What role did stakeholders play in the process? (Keep in mind: training, education, council formation, technical assistance, etc.)
- What were the outcomes of the engagement process?

Challenges

- What challenges were encountered?
- What solutions were encountered or created?
- Are there areas for improvement of policy alignment at the state or federal level to help achieve this project more easily?

LEAP Grant Close Out Reporting Template

Outcomes

- What are the current or projected outcomes? Benefits?
- Were outcomes as anticipated?
- Have new opportunities arisen as a result of this project?
- What are the next steps?

Replicability

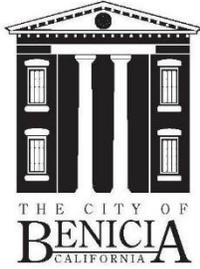
- What aspects of the project could be replicated in other communities?
- Useful resources and tools? For a specific region or sector?

Additional Resources

- Links to the project itself
- Links to resources used throughout and any other relevant resources

Further Information

- Who can be reached to ask more questions about this project?
- Name
- Number and/or email



**AGENDA ITEM
CITY COUNCIL MEETING DATE – JUNE 2, 2020
CONSENT CALENDAR**

TO : City Manager

FROM : Public Works Director

SUBJECT : **APPROVAL OF AGREEMENT FOR NEXT WATER AND WASTEWATER RATE STUDY**

EXECUTIVE SUMMARY:

The current water and wastewater rate study was adopted in 2016 and recommended utility rates for Fiscal Years (FY) 16/17 through FY20/21. The next rate study is planned to start in 2020 and will study the projected future financial needs of the Water and Wastewater Enterprise Funds from FY21/22 through FY25/26. After conducting a thorough consultant selection process, staff recommends approving a \$75,000 (\$64,900 for consultant services and \$10,100 contingency) contract with Bartle Wells Associates to conduct the next five-year comprehensive rate study.

RECOMMENDATION:

Move to adopt a resolution (Attachment 1) approving a consultant agreement with Bartle Wells Associates (Attachment 2) for professional financial services to perform a water and wastewater rate study for a not-to-exceed cost of \$75,000 and authorizing the City Manager to sign the agreement on behalf of the City.

BUDGET INFORMATION:

This work is ratepayer funded. Sufficient funds are budgeted in the Water and Wastewater Enterprise Funds to cover the cost of the rate study. The total cost is \$75,000 (\$64,900 for Bartle Wells Associates contract and \$10,100 contingency) and will be split evenly between Account Nos. 7508020-7011 (Water Operations – Professional Services) and 7108030-7011 (Wastewater Operations – Professional Services).

BACKGROUND:

The water and wastewater utilities operate as “enterprise funds”, meaning that all revenues and expenses associated with each utility’s operation are reflected separately from other City funds, including the General Fund. Both utilities rely almost exclusively on revenues from water and wastewater service charges (in the form of bi-monthly bills). These revenues need to cover each utility’s expenses, savings, investments, restricted withholdings, and reserves.

In 2016, the City Council adopted water and wastewater rates for F16/17 through FY20/21, based on the results of a five-year rate study. The next rate study is planned to start in 2020 and

would cover the projected financial needs of the Water and Wastewater Enterprise Funds for FY21/22 through FY25/26.

A Request for Proposal (RFP) was issued on December 12, 2019 and six firms submitted a proposal by the due date of January 30, 2020. Staff evaluated the proposals and interviewed four firms on February 19, 2020. Staff recommends entering into a contract with Bartle Wells Associates based on the proposed methodology, qualifications, and expertise in water and wastewater rate development.

Bartle Wells Associates will provide the following services:

1. Project Initiation and Data Collection
2. Develop 10-year Financial Projections for Water and Wastewater Enterprise Funds
 - a. Develop forecasts and projections
 - b. Evaluation of financing alternatives for capital improvements
 - c. Establish prudent minimum fund reserve targets
 - d. Develop 10-year financial projections and evaluate scenarios
 - e. Evaluate rate increase options
3. Cost of Service Rate Design
 - a. Identify water and wastewater rate structure alternatives
 - b. Conduct survey of regional utility rates
 - c. Analyze water consumption and utility billing data
 - d. Cost of service rate derivation
 - e. Develop preliminary and final rate recommendations with City input
 - f. Develop water shortage/drought rates if applicable
 - g. Evaluate rate impacts and review/update low income discount
4. Meetings, Reports and Rate Adoptions
 - a. Project team, City Council, and public outreach meetings
 - b. Compliance with relevant statutes, regulations, and judicial decisions
 - c. Provide support with public outreach activities

Bartle Wells Associates will develop revenue forecasts based on expense forecasts described in the City's forthcoming water and wastewater utilities condition assessment, master plan update, and proposed CIP update (scheduled completion in summer 2020). The revenue forecasts will serve as financial roadmaps for funding future operating and capital programs, meeting debt service requirements, and supporting long-term financial stability. Staff intends to maintain rates that fund each utility's short and long-term costs of providing service, that are fair and equitable to all customers, that provide a prudent balance of revenue stability and conservation incentive, that are easy to understand and administer, and that are in compliance with relevant statute, regulations and judicial decisions.

NEXT STEPS:

If the resolution is adopted, staff will continue processing the agreement. Bartle Wells Associates will hold a kickoff meeting with staff, and an implementation plan will be drafted. Once data is collected and analyzed, staff will come back to the public with potential future rate scenarios for discussion leading up to another rate-setting process.

ALTERNATIVE ACTIONS:

Council could choose to not approve this agreement and another consultant could be selected, which would delay or possibly prevent the hiring of a consultant to perform the next water and wastewater rate study.

Alternatively, Council could decide not to conduct another rate study and existing rates would remain in place until a new rate study is conducted, adopted, and implemented. This alternative would put the City in financial risk because staff would not have updated financial data to operate both utilities leading to potential fund deficits.

General Plan	<p>Goal 2.28: Improve and maintain public facilities and services.</p> <p>Goal 2.36: Ensure an adequate water supply for current and future residents and businesses</p> <p>Goal 2.38: Protect water quality</p> <p>Goal 2.39: Provide safe drinking water and improve its taste and odor</p> <p>Goal 2.40: Ensure adequate wastewater treatment capacity to serve all development shown in the General Plan</p> <p>Goal 2.41: Minimize WWTP operational upsets, potential discharge of inadequately treated wastewater, and the emission of odor and noise</p> <p>Goal 2.42: Enhance the recycling of solid waste</p> <p>Goal 4.1: Make community health and safety a high priority for Benicia</p> <p>Goal 4.9: Ensure clean air for Benicia residents</p> <p>Goal 4.10: Support improved regional air quality</p> <p>Goal 4.13: Prevent property damage caused by flooding</p> <p>Goal 4.14: Prevent ground and surface water contamination</p> <p>Goal 4.22: Update and maintain the City’s Emergency Response Plan</p>
---------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Priority Based Budgeting	Strategic City Result Impacted by this Agenda Item
	<p>The City Council and community identified six (6) key “Results” that establish the key goals for which the City of Benicia aspires to achieve with our programs and services. Agenda Items often influence multiple Results, the primary Result impacted by this Agenda Item is (please check one):</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Protect Community Health & Safety <input checked="" type="checkbox"/> Maintain & Enhance A High Quality of Life <input checked="" type="checkbox"/> Preserve & Enhance Infrastructure <input checked="" type="checkbox"/> Strengthen Economic & Fiscal Conditions <input checked="" type="checkbox"/> Protect & Enhance the Environment <input checked="" type="checkbox"/> High Performing Government
	City Programs Impacted by This Agenda Item (Top 3):
	<ol style="list-style-type: none"> 1. Administration - Water 2. Administration - Wastewater 3. Capital Improvement Program
Priority Based Budgeting (PBB) Website:	

	Coming soon in Spring 2020 will be a link to the City of Benicia's PBB website to learn more about these programs and their costs.
--	------------------------------------------------------------------------------------------------------------------------------------

CEQA Analysis	Per CEQA Section 15273, CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates.
----------------------	-----------------------------------------------------------------------------------------------------------------------------------

ATTACHMENTS:

1. Resolution – Water and Wastewater Rate Study
2. Consultant Agreement with Bartle Wells Associates – Water and Wastewater Rate Study

For more information contact: Kyle Ochendusko, Deputy Public Works Director

Phone: 707-746-4376

E-mail: KOchendusko@ci.benicia.ca.us

RESOLUTION NO. 20-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A CONSULTANT AGREEMENT WITH BARTLE WELLS ASSOCIATES FOR PROFESSIONAL FINANCIAL SERVICES TO PERFORM A WATER AND WASTEWATER RATE STUDY FOR A NOT-TO-EXCEED COST OF \$75,000 AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

WHEREAS, a Request for Proposal (RFP) for a water and wastewater rate study was issued on December 12, 2019. Six consulting firms responded with proposals on the due date of January 30, 2020. Four consulting firms were interviewed by staff on February 19, 2020; and

WHEREAS, Bartle Wells Associates was selected as the most qualified firm based on their expertise, proposed methodology, and qualifications. Bartle Wells Associates' bid was \$64,900; and

WHEREAS, City staff does not have the capacity or expertise to perform this work in-house; and

WHEREAS, staff recommends approval of the consultant agreement with Bartle Wells Associates for the water and wastewater rate study.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby approve the consultant agreement with Bartle Wells Associates for professional financial services to perform a water and wastewater rate study for a not-to-exceed cost of \$75,000 (\$64,900 for consultant services and \$10,100 contingency), split evenly between Account Nos. 7508020-7011 and 7108030-7011, and authorizing the City Manager to sign the contract on behalf of the City.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 2nd day of June, 2020 by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
CITY OF BENICIA AND
CONSULTANT**

This Professional Services Agreement (the "**Agreement**") is dated June 2, 2020 and is by and between the City of Benicia, a political subdivision of the State of California ("**City**") and Bartle Wells Associates, a California Corporation, licensed to do business in California, ("**Consultant**") relating to professional financial services to perform a water and wastewater rate study ("**Services**").

Recitals

WHEREAS, City wishes to retain Consultant to provide professional financial services to perform a water and wastewater rate study and related services;

WHEREAS, Consultant was selected by means of City's consultant selection process, and represents that they possess all necessary training, licenses and permits to perform the services required by City as set forth in this Agreement, and that their performance of such services will conform to the standard of practice consistent with a firm having experience and expertise in performing professional services of like nature and complexity working on similar, successfully completed projects;

WHEREAS, Government Code section 53060 permit the City to enter into agreements for professional temporary services with individuals specially trained and experienced and competent to perform those services; and

WHEREAS, the services proposed in this Agreement are professional and temporary in nature.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, stipulated and agreed, the parties agree as follows:

AGREEMENT

1. Definitions

1.1 Where any word or phrase defined below, or a pronoun used in place thereof, is used in any part of this Agreement, it shall have the meaning herein set forth.

"Agreement"	This Agreement consists of this Agreement, together with all attachments and appendices and other documents incorporated herein by reference, including, but not limited to, <u>Appendix A</u> (Services to be Provided by Consultant), <u>Appendix B</u> (Payments to Consultant), <u>Appendix C</u> (Projects and Schedule), <u>Appendix D</u> (Deliverables), <u>Appendix E</u> (Insurance), and <u>Appendix F</u> (Key Personnel), attached hereto.
"Consultant"	Bartle Wells Associates
"City"	City of Benicia
"Project"	Water and Wastewater Rate Study Project

"Services"	All work, labor, materials and services required under the terms and conditions of this Agreement, provided pursuant to the terms and conditions of this Agreement, including without limitation architectural, engineering, building information modeling, coordination, and administrative services. Services that may be required, dependent on Project needs, are further described in Appendix A, Services, Appendix C, Projects and Schedule, and Appendix D, Deliverables.
"Subconsultants"	Consultant's, subconsultants, contractors and subcontractors, of any tier.

2. Term of Agreement

2.1 This Agreement is for a period of approximately 12 months, beginning with the execution of the Agreement and concluding June 30, 2021 unless it is extended in accordance with paragraph 2.2 below.

2.2 This Agreement may be extended by mutual agreement of the parties hereto. Any extension shall be in written form, signed by both parties, and shall specify the length of the extension and compensation.

3. Services Consultant Agree to Perform

3.1 Consultant shall perform all Services described in Appendix A, Services to be Provided by Consultant, and provide all Deliverables described in Appendix D, Deliverables attached hereto and incorporated by reference as though fully set forth herein,

3.2 Consultant may recover compensation for extended services as set forth in Appendix B.

3.3 Should the progress of the Services under this Agreement at any time fall behind schedule for any reason other than Excusable Delays, Consultant shall apply such additional manpower and resources as necessary without Additional Services Compensation to bring progress of the Services under this Agreement back on schedule and consistent with the standard of professional skill and care required by this Agreement. Time is of the essence in the performance of this Agreement.

4. Compensation

4.1 City shall pay Consultant compensation according to the process established in Appendix B "Payments to Consultant".

4.2 City shall not incur any charges under this Agreement, nor shall any payments become due to Consultant for any payment period on the Project, until City receives all deliverables required under Appendix D, Deliverables, for the payment period (if any) and reasonably accepts such deliverables as meeting the requirements of this Agreement. In cases where Consultant has partially completed one or more deliverables due during a payment period, and if Consultant demonstrates diligent progress thereon, then City may make a partial progress payment based upon percentage completion of the partially completed deliverables and diligent progress but taking into account any adverse impacts upon City. City shall not be liable for, and Consultant shall not be entitled to, any payment for Services performed before this Agreement's execution.

4.3 City will not withhold entire payment if a questioned amount is involved, but will issue payment in the amount of the total invoice less any questioned amount(s). City will make payment for questioned amounts(s) upon City's receipt of any requested documentation verifying the claimed amount(s) and City's determination that the amount is due under the terms of this Agreement. City shall advise Consultant, in writing, within 15 calendar days of receipt of the requested documentation. Final

payment will be made when all Services required under this Agreement have been completed to the reasonable satisfaction of City including, without limitation, Consultant's transmittal of all deliverables to City required by Appendix A, Services to be provided by Consultant, and Appendix D, Deliverables.

- 4.4 Invoices furnished by Consultant under this Agreement must be in a form acceptable to City. All amounts paid by City to Consultant shall be subject to audit by City. Payment shall be made by City to Consultant at the address stated in Paragraph 6.1 below.
- 4.5 City may set off against payments due Consultant under this Agreement any sums that City determines that Consultant owes to City because of their errors, omissions, breaches of this Agreement, delays or other acts that caused City monetary damages. Prior to exercising such right, City must demand and attend mediation pursuant to Paragraph 21.3 below of this Agreement, to be attended by City, Consultant, and any applicable insurance carriers; such mediation to occur within 30 calendar days of demand. If the parties cannot agree upon the time, place, and mediator, within one week of the City's demand, then the Solano City Superior Court may upon application by any party make such selection for the parties. If a party other than City refuses to mediate under this paragraph 4.5, then City shall have satisfied its obligations under this Paragraph.

5. Maximum Costs

- 5.1 City's obligation hereunder shall not at any time exceed the amount approved by the City Council and approved by City for payment to the Consultant pursuant to the terms of this Agreement.
- 5.2 Except as may be provided by applicable law governing emergency conditions, City has not authorized its Supervisors, employees, officers and agents to request Consultant to perform Services or to provide materials, equipment and supplies that would result in Consultant performing Services or providing materials, equipment and supplies that exceed the scope of the Services, materials, equipment and supplies agreed upon in the Agreement unless the City amends the Agreement in writing and approves the amendment as required by law to authorize the additional Services, materials, equipment or supplies.
- 5.3 City shall not reimburse Consultant for Services, materials, equipment or supplies provided by Consultant beyond the scope of the Services, materials, and office equipment and supplies agreed upon in the Agreement and unless approved by a written amendment to the Agreement having been executed and approved in the same manner as this Agreement.

6. Qualified Personnel

- 6.1 For purposes of this Agreement, except for notices specified under Paragraph 17 below, City and Consultant shall direct all communications to each other as follows:

City:

Kyle Ochendusko, Deputy Public Works Director
City of Benicia
250 East L Street
Benicia, CA 94510
Phone: (707) 746-4376
Email: kochendusko@ci.benicia.ca.us

Consultant:

Alex Handlers, Principal/Vice-President
Bartle Wells Associates
1889 Alcatraz Avenue
Berkeley, CA 94703
Phone: (510) 653-3399
Email: alex@bartlewells.com

- 6.2 Services under this Agreement shall be performed only by qualified, competent personnel under the supervision of and/or in the employment of Consultant. Consultant shall conform with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, shall be supervised by Consultant.
- 6.3 Consultant agrees that professional personnel assigned to the Project will be those listed in Appendix F, and by this reference incorporated herein, and that the listed personnel will continue their assignments on the Project during the entire term of this Agreement. It is recognized that the listed personnel may in the future cease to be employed by Consultant and because of the termination of such employment no longer able to provide Services. However, Consultant agrees that replacement of any of the listed personnel during the Agreement period shall only be with other professional personnel who have equivalent experience and shall require the prior written approval of City, which shall not be unreasonably withheld. Any costs associated with replacement of personnel shall be borne exclusively by Consultant. Resumes for listed professional personnel are attached via Exhibit 1 to Appendix F, and by this reference incorporated herein.
- 6.4 Consultant agrees that should the above personnel not continue their assignments on the Project during the entire term of this Agreement, then Consultant shall not charge City for the cost of training or "bringing up to speed" replacement personnel. City may condition its reasonable approval of substitution personnel upon a reasonable transition period wherein new personnel will learn the Project and get up to speed at Consultant's cost.

7. Representations

- 7.1 Consultant represents that it has reviewed Appendix A, Services to be Provided by Consultant, and that in its professional judgment the Services to be performed under this Agreement can be performed for a fee within the maximum amount set forth in the Compensation Schedule established in Appendix B, Payments to Consultant, and within the times specified for each individual Project.
- 7.2 Consultant represents that it is qualified to perform the Services and it possesses, and will continue to possess at its sole cost and expense, the necessary licenses and/or permits required to perform the Services or will obtain such licenses and/or permits prior to time such licenses and/or permits are required. Consultant also represents that it has knowledge of, and will comply with, all applicable building codes, laws, regulations and ordinances.
- 7.3 Consultant represents that it possesses all necessary training, licenses and permits to perform the Services and that its performance of the Services will conform to the standards of practice of a professional having experience and expertise in performing professional services of like nature and complexity of the Services working on similar, successfully completed projects.
- 7.4 The granting of any progress payment by City, or the receipt thereof by Consultant, or any inspection, review, approval or oral statement by any representative of City or any other governmental entity, shall in no way waive or limit the obligations in this Paragraph 7 or lessen the liability of Consultant for unsatisfactory Services, including but not limited to cases where the defective or below standard Services may not have been apparent or detected at the time of such payment, inspection, review or approval.

8. Indemnification and General Liability

- 8.1 To the fullest extent allowed by law (including without limitation California Civil Code Sections 2782 and 2782.8), Consultant shall defend, indemnify, and hold harmless City, its officers, directors, officials, agents employees, and volunteers (collectively “**Indemnitees**”) from and against any and all claims, suit, action, loss, cost, damage, injury (including, without limitation, economic harm, injury to or death of an employee of Consultant or its Subconsultants) expense and liability of every kind, nature, and description, at law or equity, that arises out of, pertain to, or relate to (including without limitation, incidental and consequential damages, court costs, attorneys’ fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) any negligence, recklessness, or willful misconduct of Consultant, any Subconsultant, anyone directly or indirectly employed by them, or anyone that they control (collectively “**Liabilities**”). Such obligations to defend, hold harmless and indemnify and Indemnitee shall not apply to the extent that such Liabilities are caused in whole or in part by the sole negligence active negligence, or willful misconduct of such Indemnitee but shall apply to all other Liabilities and in no event shall the cost to defend charges to the Consultant exceed the Consultant’s proportionate percentage of fault.
- 8.2 Consultant shall defend (including providing legal counsel reasonably acceptable to City at no cost to City), indemnify and hold harmless the Indemnitees from all loss, cost, damage, expense, suit, liability or claims, in law or in equity, including attorneys’ fees, court costs, litigation expenses and fees of expert consultants or expert witnesses, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by City, or any of the other Indemnitees, of articles or Services to be supplied in the performance of this Agreement.

9. Liability of City

- 9.1 Except as provided in Appendix A, Services to be Provided by Consultant and Appendix E, Insurance, City’s obligations under this Agreement shall be limited to the payment of the compensation provided for in Paragraphs 3, 4, and 5 of this Agreement,
- 9.2 Notwithstanding any other provision of this Agreement, in no event shall City be liable, regardless of whether any claim is based on contract, tort or otherwise, for any special, consequential, indirect or incidental damages, lost profits or revenue, arising out of or in connection with this Agreement, the Services, or the Project.
- 9.3 City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Consultant, or by any of its employees, even though such equipment be furnished, rented or loaned to Consultant by City. The acceptance or use of such equipment by Consultant or any of its employees shall be construed to mean that Consultant accepts full responsibility for and shall exonerate, indemnify, defend and save harmless City from and against any and all claims for any damage or injury of any type, including attorneys’ fees, arising from the use, misuse or failure of such equipment, whether such damage be to the Consultant, its employees, City employees or third parties, or to property belonging to any of the above.
- 9.4 Nothing in this Agreement shall constitute a waiver or limitation of any right or remedy, whether in equity or at law, which City or Consultant may have under this Agreement or any applicable law. All rights and remedies of City or Consultant, whether under this Agreement or other applicable law, shall be cumulative.

10. Independent Contractor; Payment of Taxes and Other Expenses

- 10.1 Consultant shall be deemed at all times to be independent contractors and shall be wholly responsible for the manner in which Consultant perform the Services required by the terms of this

Agreement. Consultant shall be fully liable for the acts and omissions of it their Subconsultants, employees and agents.

- 10.2 Nothing contained herein shall be construed as creating an employment, agency or joint venture relationship between City and Consultant. Consultant acknowledge that neither they nor any of their employees or agents shall, for any purpose whatsoever, be deemed to be City employees, and shall not be entitled to receive any benefits conferred on City employees, including without limitation workers' compensation, pension, health, insurance or other benefits.
- 10.3 Consultant shall be solely responsible for payment of any required taxes, including California sales and use taxes, city business taxes and United States income tax withholding and social security taxes, levied upon this Agreement, the transaction, or the Services delivered pursuant hereto.
- 10.4 Consultant shall make its designated representative available as much as reasonably possible to City staff during the City's normal working hours or as otherwise requested by City. Terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Consultant's Services only and not as to the means by which such a result is obtained.

11. Insurance

- 11.1 Prior to execution of this Agreement, Consultant shall furnish to City Certificates of Insurance showing satisfactory proof that it maintains the insurance required by this Contract as set forth in Appendix E, Insurance, which are attached and made a part of this Agreement. Consultant shall maintain all required insurance throughout the term of this Agreement and as otherwise provided in Appendix E. In the event Consultant fails to maintain any required insurance, and notwithstanding Paragraph 4.6 above, City may (but is not obligated to) purchase such insurance and deduct or retain premium amounts from any sums due Consultant under this Agreement (or Consultant shall promptly reimburse City for such expense).

12. Suspension of Services

- 12.1 City may, without cause, order Consultant to suspend, delay or interrupt Services pursuant to this Agreement, in whole or in part, for such periods of time as City may determine in its sole discretion. City shall deliver to Consultant written notice of the extent of the suspension at least seven (7) calendar days before the commencement thereof. Suspension shall be treated as an Excusable Delay and Consultant shall be compensated for such delay to the extent provided under this Agreement.
- 12.2 Notwithstanding anything to the contrary contained in this Paragraph 12, no compensation shall be made to the extent that performance is, was or would have been so suspended, delayed or interrupted by a cause for which Consultant is responsible.

13. Termination of Agreement for Cause

- 13.1 If at any time City believes Consultant may not be adequately performing their obligations under this Agreement, that Consultant may fail to complete the Services as required by this Agreement, or that City has provided written notice of observed deficiencies in Consultant's performance, City may request from Consultant prompt written assurances of performance and a written plan, acceptable to City, to correct the observed deficiencies in Consultant's performance ("**Cure Plan**"). The Cure Plan must include, as applicable, evidence of necessary resources, correction plans, Subconsultant commitments, schedules and recovery schedules, and affirmative commitments to correct the asserted deficiencies, must meet all applicable requirements and show a realistic and achievable plan to cure the breach. Consultant shall provide such written assurances and Cure Plan within ten (10) calendar days of the date of notice of written request. Consultant acknowledges and agrees

that any failure to provide written assurances and Cure Plan to correct observed deficiencies, in the required time, is a material breach under this Agreement.

13.2 Consultant shall be in default of this Agreement and City may, in addition to any other legal or equitable remedies available to City, terminate Consultant's right to proceed under the Agreement, in whole or in part, for cause:

- a. Should Consultant make an assignment for the benefit of creditors, admit in writing its inability to pay its debts as they become due, file a voluntary petition in bankruptcy, be adjudged a bankrupt or insolvent, file a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future statute, law, or regulation, file any answer admitting or not contesting the material allegations of a petition filed against Consultant in any such proceeding, or seek, consent to, or acquiesce in, the appointment of any trustee, receiver, custodian or liquidator of Consultant or of all or any substantial part of the properties of Consultant, or if Consultant, its directors or shareholders, take action to dissolve or liquidate Consultant; or
- b. Should Consultant commit a material breach of this Agreement and not cure such breach within ten (10) calendar days of the date of notice from City to Consultant demanding such cure; or, if such failure is curable but not curable within such ten (10) day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for Consultant to avail themselves of this time period in excess of ten (10) calendar days, Consultant must provide City within the ten (10) calendar day period a written Cure Plan acceptable to City to cure said breach, and then Consultant must diligently commence and continue such cure according to the written Cure Plan); or
- c. Should Consultant violate or allow a violation of any valid law, statute, regulation, rule, ordinance, permit, license or order of any governmental agency in effect at the time of performance of the Services and applicable to the Project or Services and does not cure such violation within ten (10) calendar days of the date of the notice from City to Consultant demanding such cure; or, if such failure is curable but not curable within such ten (10) calendar day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for Consultant to avail themselves of this time period in excess of ten (10) calendar days, Consultant must provide City within the ten (10) calendar day period a written Cure Plan acceptable to City to cure said breach, and then Consultant must diligently commence and continue such cure according to the written Cure Plan.)

13.3 In the event of termination by City as provided herein for cause:

- a. City shall compensate Consultant for the value of the Services delivered to City upon termination as determined in accordance with the Agreement, subject to all rights of offset and back charges, but City shall not compensate Consultant for its costs in terminating the Services or any cancellation charges owed to third parties.
- b. Consultant shall deliver to City possession of all tangible aspects of the Services in their then condition including, but not limited to, all copies (electronic, CAD, and PDF format, and hard copy) of designs, engineering, Project records, cost data of all types, drawings and specifications and contracts with vendors and Subconsultants, and all other documentation associated with a Project, and all supplies and aids dedicated solely to performing Services which, in the normal course of the Services, would be consumed or only have salvage value at the end of the Services period.
- c. Consultant shall remain fully liable for the failure of any Services completed and drawings and specifications provided through the date of such termination to comply with the provisions of the Agreement. The provisions of this Paragraph shall not be interpreted to diminish any right

that City may have to claim and recover damages for any breach of this Agreement, but rather, Consultant shall compensate City for all loss, cost, damage, expense, and/or liability suffered by City as a result of such termination and failure to comply with the Agreement, including without limitation City's costs incurred in connection with finding a replacement.

- 13.4 In the event a termination for cause is determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience pursuant to Paragraph 14 below, and Consultant shall have no greater rights than they would have had if a termination for convenience had been effected in the first instance. No other loss, cost, damage, expense or liability may be claimed, requested or recovered by Consultant.

14. Termination of Agreement for Convenience

14.1 City may terminate performance of the Services under the Agreement in accordance with this Paragraph 14 in whole, or from time to time in part, whenever City shall determine that termination is in the City's best interests. Termination shall be effected by City delivering to Consultant, at least seven (7) calendar days prior to the effective date of the termination, a Notice of Termination ("Notice of Termination") specifying the extent to which performance of the Services under the Agreement is terminated.

14.2 After receipt of a Notice of Termination, and except as otherwise directed by City, Consultant shall:

- a. Stop Services under the Agreement on the date and to the extent specified in the Notice of Termination;
- b. Place no further orders or subcontracts (including agreements with Subconsultants) for materials, Services, or facilities except as necessary to complete the portion of the Services under the Agreement which is not terminated;
- c. Terminate all orders and subcontracts to the extent that they relate to performance of Services terminated by the Notice of Termination;
- d. Assign to City in the manner, at times, and to the extent directed by City, all right, title, and interest of Consultant under orders and subcontracts so terminated. City shall have the right, in its discretion, to settle or pay any or all claims arising out of termination of orders and subcontracts;
- e. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with approval or ratification of City to the extent City may require. City's approval or ratification shall be final for purposes of this clause;
- f. Transfer title and possession of Consultant's and their Subconsultants' work product to City, and execute all required documents and take all required actions to deliver in the manner, at times, and to the extent, if any, directed by City, completed and uncompleted designs and specifications, Services in process, completed Services, supplies, and other material produced or fabricated as part of, or acquired in connection with performance of, Services terminated by the Notice of Termination; City acknowledges that said documents were prepared for the purpose of the Project.
- g. Complete performance of any part of the Services that were not terminated by the Notice of Termination; and
- h. Take such action as may be necessary, or as City may direct, for the protection and preservation of property related to this Agreement which is in Consultant's possession and in which City has or may acquire an interest.

- 14.3 After receiving a Notice of Termination, Consultant shall submit to City a termination claim, in the form and with the certification City prescribes. The claim shall be submitted promptly, but in no event later than three months from the effective date of the termination, unless one or more extensions in writing are granted by City upon Consultant's written request made within such three month period or authorized extension. However, if City determines that facts justify such action, it may receive and act upon any such termination claim at any time after such three month period or extension. If Consultant fails to submit the termination claim within the time allowed, City may determine, on basis of information available to it, the amount, if any, due to Consultant because of the termination. City shall then pay to Consultant the amount so determined.
- 14.4 Subject to provisions of Paragraph 14.3 above, Consultant and City may agree upon the whole or part of the amount or amounts to be paid to Consultant because of any termination of Services under this Paragraph. The amount or amounts may include a reasonable allowance for profit on Services done. However, such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Agreement price as reduced by the amount of payments otherwise made and as further reduced by the Agreement price of Services terminated. The Agreement may be amended accordingly, and Consultant shall be paid the agreed amount.
- 14.5 If Consultant and City fail, under Paragraph 14.4 above, to agree on the whole amount to be paid to Consultant because of termination of Services under this Paragraph 14.5, then Consultant's entitlement to compensation for Services specified in the Agreement which are performed before the effective date of Notice of Termination, shall be the total (without duplication of any items) of:
- a. Reasonable value of Consultant's Services performed prior to Notice of Termination, based on Consultant's entitlement to compensation under Appendix B, Payments to Consultant. Such amount or amounts shall not exceed the total Agreement price as reduced by the amount of payments otherwise made and as further reduced by the Agreement value of Services terminated. Deductions against such amount or amounts shall be made for deficiently performed Services, rework caused by deficiently performed Services, cost of materials to be retained by Consultant, amounts realized by sale of materials, and for other appropriate credits against cost of Services. Such amount or amounts may include profit, but not in excess of ten (10) percent of Consultant's total costs of performing the Services.
 - b. When, in opinion of City, the cost of any item of Services is excessively high due to costs incurred to remedy or replace defective or rejected Services (including having to re-perform Services), reasonable value of Consultant's Services will be the estimated reasonable cost of performing Services in compliance with the requirements of the Agreement, and any excessive actual cost shall be disallowed.
 - c. Reasonable cost to Consultant of handling material returned to vendors, delivered to City or otherwise disposed of as directed by City.
- 14.6 Except as provided in this Agreement, in no event shall City be liable for costs incurred by Consultant (or Subconsultants) after receipt of a Notice of Termination. Such non-recoverable costs include, but are not limited to, anticipated profits on the Agreement or subcontracts, post- termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, costs of preparing and submitting claims or proposals, attorney's fees or other costs relating to prosecution of the claim or a lawsuit, pre-judgment interest, or any other expense that is not reasonable or authorized under Paragraph 14.5 above.
- 14.7 This Paragraph shall not prohibit Consultant from recovering costs necessary to discontinue further Services under the Agreement as provided for in Paragraph 14.2 above or costs authorized by City to settle claims from Subconsultants.
- 14.8 In arriving at amounts due Consultant under this Paragraph 14, there shall be deducted:

- a. All unliquidated advance or other payments on account theretofore made to Consultant, applicable to the terminated portion of Agreement,
 - b. Any substantiated claim that City may have against Consultant in connection with this Agreement, and
 - c. The agreed price for, or proceeds of sale of, any materials, supplies, or other things kept by Consultant or sold under the provisions of this Paragraph 14, and not otherwise recovered by or credited to City.
- 14.9 If the termination for convenience hereunder is partial, before settlement of the terminated portion of this Agreement, Consultant may file with City a request in writing for equitable adjustment of price or prices specified in the Agreement relating to the portion of this Agreement that is not terminated. City may, but shall not be required to, agree on any such equitable adjustment. Nothing contained herein shall limit the right of City and Consultant to agree upon amount or amounts to be paid to Consultant for completing the continued portion of the Agreement when the Agreement does not contain an established price for the continued portion. Nothing contained herein shall limit City's rights and remedies pursuant to this Agreement or at law.

15. Conflicts of Interest/Other Agreements

- 15.1 Consultant represents that it is familiar with Section 1090 and Section 87100, et seq., of the Government Code of the State of California, the Conflict of Interest Code, Resolution 06-23, adopted by the City on October 3, 2006, and that it does not know of any facts that constitute a violation of those sections.
- 15.2 Consultant represents that it has completely disclosed to City all facts bearing upon any possible interests, direct or indirect, which Consultant believes any member of City, or other officer, agent or employee of City or any department presently has, or will have, in this Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute ground for termination of this Agreement by City for cause. Consultant shall comply with the City's conflict of interest codes and their reporting requirements.
- 15.3 Consultant covenants that it presently has no interest, and during the term of this Agreement shall not have any interest, direct or indirect, that would conflict in any manner with the performance of Services required under this Agreement. Without limitation, Consultant represents to and agrees with the City that Consultant has no present, and in the future during the term of this Agreement will not have any, conflict of interest between providing the City the Services hereunder and any interest Consultant may presently have, or will have in the future, with respect to any other person or entity (including, but not limited to, any federal or state wildlife, environmental or regulatory agency) that has any interest adverse or potentially adverse to the City, as determined in the reasonable judgment of the City.

16. Proprietary or Confidential Information of City; Publicity

- 16.1 Consultant acknowledges and agrees that, in the performance of the Services under this Agreement or in the contemplation thereof, Consultant may have access to private or confidential information that may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Consultant agree that all private, confidential, or proprietary information disclosed by City to or discovered by Consultant in the performance of the Services shall be held in strict confidence and used only in performance of the Agreement. Consultant shall exercise the same standard of care to protect such information as a reasonably prudent Consultant would use to protect its own proprietary data, and shall not accept employment adverse to the City's interests where such confidential information could be used adversely to the City's interests. Consultant shall notify the

City immediately in writing if it is requested to disclose any information made known to or discovered by Consultant during the performance of or in connection with the Services pursuant to this Agreement.

- 16.2 Any publicity or press releases with respect to the Project or Services shall be under the City's sole discretion and control. Consultant shall not discuss the Services, the Project, or matters pertaining thereto, with the public press, representatives of the public media, public bodies or representatives of public bodies, without City's prior written consent. Consultant shall have the right, however, without City's further consent, to include representations of Services among Consultant's promotional and professional material, and to communicate with persons or public bodies where necessary to perform under this Agreement.
- 16.3 The provisions of this Paragraph 16 shall remain fully effective indefinitely after termination of Services to the City hereunder.

17. Notices to the Parties

- 17.1 All notices (including requests, demands, approvals or other communications other than ordinary course Project communications) under this Agreement shall be in writing and shall include the word "NOTICE" in the subject line.
- 17.2 Notice shall be sufficiently given for all purposes as follows:
- a. When personally delivered to the recipient, notice is effective on delivery.
 - b. When mailed by certified mail with return receipt requested, notice is effective on receipt if delivery is confirmed by a return receipt.
 - c. When delivered by reputable delivery service, with charges prepaid or charged to the sender's account, notice is effective on delivery if delivery is confirmed by the delivery service.
 - d. Notice by facsimile or electronic mail shall not be allowed or constitute "Notice" under this Paragraph 17.
- 17.3 Any correctly-addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be considered to be effective as of the first date that the notice was refused, unclaimed, or considered undeliverable by the postal authorities, messenger, or overnight delivery service,
- 17.4 Addresses for the purpose of giving notice are set forth in Paragraph 6.1 above. Either party may, by written notice given at any time or from time to time require subsequent notices to be given to another individual person, whether a party or an officer or a representative, or to a different address or fax number, or both, by giving the other party notice of the change in any manner permitted by this Paragraph 17.

18. Record Keeping and Audit Requirements

- 18.1 Consultant shall keep such full and detailed accounting records as are necessary for proper financial management of the Project. Consultant shall maintain a complete and current set of all books and records relating to the Project. City shall be entitled, upon forty-eight (48) hour written notice, to inspect all books, records, and accounts kept by Consultant relating to the work contemplated by this Contract. Within 90 calendar days after Final Completion, Consultant shall deliver to City those records necessary for City to perform a financial audit of the Project ("Final Audit").

- 18.2 Invoice and progress/final reports and all required audit reports shall be submitted to City in a timely manner.
- 18.3 Maintain adequate fiscal and Project books, records, documents, and other evidence pertinent to Consultant's work on the Project in accordance with generally accepted accounting principles. Adequate supporting documentation shall be maintained in such detail so as to permit tracing transactions from the invoices, to the financial statement, to the accounting records, and to the supporting documentation. These records shall be maintained for a period of three years after Final Completion of the Project, and shall be subject to examination and/or audit by City or designees, state government auditors or designees.
- 18.4 Make such books, records, supporting documentations, and other evidence available to City or designees, their designated representatives, during the course of the Project and for a period of three years after Final Completion of the Project, and provide suitable facilities for access, monitoring, inspection, and copying thereof. Further, Consultant agrees to include a similar right of City to audit records and interview staff in any subcontract related to the performance of this Contract.

19. Subcontracting/Assignment/City Employees

- 19.1 Consultant and City agree that Consultant's unique talents, knowledge and experience form a basis for this Agreement and that the Services to be performed by Consultant under this Agreement are personal in character. Therefore, Consultant shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder unless approved by City in a written instrument executed and approved by the City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Paragraph 19.1 shall confer no rights on any party and shall be null and void.
- 19.2 Consultant shall not employ or engage, or attempt to employ or engage, any person who is or was employed by City or any department thereof at any time that this Agreement is in effect, and for a period of two years after the termination of this Agreement or the completion of the Services, without the written consent of City.

20. Other Obligations

- 20.1 Discrimination, Equal Employment Opportunity and Business Practices. Consultant shall not discriminate against any employee or applicant for employment, nor against any Subconsultant or applicant for a subcontract, because of race, color, religious creed, age, gender, actual or perceived sexual orientation, national origin, disability as defined by the ADA (as defined below) or veteran's status. To the extent applicable, Consultant shall comply with all federal, state and local laws (including, without limitation, City ordinances, rules and regulations) regarding non-discrimination, equal employment opportunity, affirmative action and occupational-safety-health concerns, shall comply with all applicable rules and regulations thereunder, and shall comply with same as each may be amended from time to time.
- 20.2 Drug-Free Workplace Policy. Consultant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Consultant agrees that any violation of this prohibition by Consultant, its employees, agents or assigns shall be deemed a material breach of this Agreement.
- 20.3 Compliance with Americans with Disabilities Act and Rehabilitation Act. Consultant acknowledges that, pursuant to the Americans with Disabilities Act ("ADA"), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Consultant shall provide the Services specified in this Agreement

in a manner that complies with the standard of care established under this Agreement regarding the ADA and any and all other applicable federal, state and local disability rights legislation. Consultant agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Consultant, its employees, agents or assigns shall constitute a material breach of this Agreement. Consultant shall comply with §504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.

- 20.4 Violation of Non-Discrimination Provisions. Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Consultant to penalties, including but not limited to: (a) termination of this Agreement; (b) disqualification of the Consultant from bidding on or being awarded a City contract for a period of up to 3 years; (c) liquidated damages of \$2,500 per violation; and/or (d) imposition of other appropriate contractual and civil remedies and sanctions. To effectuate the provisions of this section, the City shall have the authority to examine Consultant's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Consultant under this Agreement or any other agreement between Consultant and City. Consultant shall report to the City the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 calendar days of such filing, provided that within such 30 days such entity has not notified Consultant that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Consultant shall provide City with a copy of their response to the complaint when filed.

21. Disputes

- 21.1 Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to the Project Manager and a principal of the Consultant who shall attempt, in good faith, to resolve the dispute. Such referral shall be initiated by written request from either party, and a meeting between the Project Manager and principal of the Consultant shall then take place within five (5) calendar days of the date of the request.
- 21.2 Provided that City continues to compensate Consultant in accordance with this Agreement, Consultant shall continue its Services throughout the course of any and all disputes. Nothing in this Agreement shall allow Consultant to discontinue Services during the course of any dispute. Consultant's failure to continue Services during any and all disputes shall be considered a material breach of this Agreement Consultant agrees that the existence or continued existence of a dispute does not excuse performance under any provision of this Agreement including, but not limited to, the time to complete the Services. Consultant also agrees that should Consultant discontinue Services due to a dispute or disputes, City may terminate this Agreement for cause as provided herein.
- 21.3 In the event of claims exceeding \$50,000, as a precondition to commencing litigation, the parties shall first participate in non-binding mediation pursuant to the construction mediation procedures of JAMS, in Benicia, California, before a mediator mutually agreeable to the parties, and in the event the parties are unable to agree, selected by a judge of the Solano City Superior Court from an approved list of JAMS qualified construction mediators. The parties may initially agree to engage in discovery prior to mediation. Should parties proceed with discovery, they shall follow the procedures prescribed in the California Code of Civil Procedure, Section 201 9, et seq., and discovery so conducted shall apply in any subsequent litigation as if conducted in that litigation.

22. Agreement Made in California; Venue

- 22.1 This Agreement shall be deemed to have been executed in the City of Benicia, County of Solano. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules. The exclusive venue for all disputes or litigation arising out of this Agreement shall be in the Superior Court of the County of Solano unless the parties agree otherwise in a written amendment to this Agreement.
- 22.2 The parties shall execute four (4) copies of this Agreement, each of which shall be deemed originals.

23. Compliance with Laws

- 23.1 Consultant shall comply with the Standard of Care in the interpretation and application of all applicable laws in the performance of the Services, regardless of whether such laws are specifically stated in this Agreement and regardless of whether such laws are in effect on the date hereof. Consultant shall comply with all security requirements imposed by authorities with jurisdiction over any Project, and will provide all information, work histories and/or verifications as requested by such authorities for security clearances or compliance.
- 23.2 Consultant represents that all plans, drawings, specifications, designs and any other product of the Services will comply with all applicable laws, codes and regulations and be consistent with the Standard of Care.

24. Miscellaneous

- 24.1 All section and paragraph captions are for reference only and shall not be considered in construing this Agreement.
- 24.2 As between the parties to this Agreement: as to all acts or failures to act by either party to this Agreement, any applicable statute of limitations shall commence to run on the date of issuance by City of the final Certificate for Payment, or termination of this Agreement, whichever is earlier. This Paragraph 24.2 shall not apply to latent defects as defined by California law or negligence claims, as to which the statute of limitations shall commence to run on discovery of the defect and its cause. However, the applicable statutes of repose, California Code of Civil Procedure, Sections 337.1 and 337.15, shall continue to apply.
- 24.3 Any provisions or portion thereof of this Agreement that is prohibited by, unlawful or unenforceable under any applicable law of any jurisdiction, shall as to such jurisdiction be ineffective without affecting other provisions of this Agreement. If the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement may be deemed to be a valid and binding agreement enforceable in accordance with its terms. If any provisions or portion thereof of this Agreement are prohibited by, unlawful, or unenforceable under any applicable law and are therefore stricken or deemed waived, the remainder of such provisions and this Agreement shall be interpreted to achieve the goals or intent of the stricken or waived provisions or portions thereof to the extent such interpretation is consistent with applicable law. In dispute resolution arising from this Agreement, the fact finder shall receive detailed instructions on the meaning and requirements of this Agreement.
- 24.4 Either party's waiver of any breach, or the omission or failure of either party, at any time, to in force in force any right reserved to it, or to require performance of any of the terms, covenants, conditions or other provisions of this Agreement, including the timing of any such performance, shall not be a waiver of any other right to which any party is entitled, and shall not in any way affect, limit, modify or waive that party's right thereafter to in force or compel strict compliance with every term,

covenant, condition or other provision hereof, any course of dealing or custom of the trade or oral representations notwithstanding.

- 24.5 Except as expressly provided in this Agreement, nothing in this Agreement shall operate to confer rights or benefits on persons or entities not party to this Agreement. Time is of the essence in the performance of this Agreement.
- 24.6 Consultant acknowledges that Consultant, and all Subconsultants hired by Consultant to perform services under this Agreement, are aware of and understand the Immigration Reform and Control Act ("IRCA"). Consultant is and shall remain in compliance with the IRCA and shall ensure that any Subconsultants hired by Consultant to perform services under this Agreement are in compliance with the IRCA. In addition, Consultant agrees to indemnify, defend and hold harmless the City, its agents, officers and employees, from any liability, damages or causes of action arising out of or relating to any claims that Consultant's employees, or the employees of any Subconsultant hired by Consultant, are not authorized to work in the United States for Consultant or its Subconsultant and/or any other claims based upon alleged RCA violations committed by Consultant or Consultant's Subconsultant(s).

25. Entire Agreement; Modifications

- 25.1 The Agreement, and any written modification to the Agreement, shall represent the entire and integrated Agreement between the parties hereto regarding the subject matter of this Agreement and shall constitute the exclusive statement of the terms of the parties' Agreement. The Agreement, and any written modification to the Agreement, shall supersede any and all prior negotiations, representations or agreements, either written or oral, express or implied, that relate in any way to the subject matter of this Agreement or written modification, and the parties represent and agree that they are entering into this Agreement and any subsequent written modification in sole reliance upon the information set forth in the Agreement or written modification and the parties are not and will not rely on any other information. All prior negotiations, representations or agreements, either written or oral, express or implied, that relate in any way to the subject matter of this Agreement, shall not be admissible or referred to hereafter in the interpretation or enforcement of this Agreement.
- 25.2 To the extent this Agreement conflicts with the terms of any proposal, invoice, or other document submitted to or by either party, the terms of this Agreement shall control.
- 25.3 This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by a fully authorized representative of City, Consultant expressing such an intention in the case of a modification or by the party waiving in the case of a waiver.
- 25.4 Consultant, in any price proposals for changes in the Services that increase the Agreement amount, or for any additional Services, shall break out and list its costs and use percentage markups. Consultant shall require their Subconsultants (if any) to do the same, and the Subconsultants' price proposals shall accompany Consultant's price proposals.
- 25.5 Consultant and its Subconsultants shall, upon request by City, permit inspection of all original unaltered Agreement bid estimates, subcontract Agreements, purchase orders relating to any change, and documents substantiating all costs associated with all cost proposals.
- 25.6 Changes in the Services made pursuant to this Paragraph 25 and extensions of the Agreement time necessary by reason thereof shall not in any way release Consultant's representations and agreements pursuant to this Agreement.

- 25.7 Whenever the words "**as directed**", "**as required**", "**as permitted**", or words of like effect are used, it shall be understood as the direction, requirement, or permission of City. The words "**approval**", "**acceptable**", "**satisfactory**", or words of like import, shall mean approved by, or acceptable to, or satisfactory to City, unless otherwise indicated by the context.

[SIGNATURE LINES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day first mentioned above.

“City”

CITY OF BENICIA

By: _____

Its: _____

“Consultant”

BARTLE WELLS ASSOCIATES, a California

Corporation

By: Alex Handliss _____

Its: Principal / Vice-President _____

APPENDIX A

SERVICES TO BE PROVIDED BY Consultant

This is an Appendix attached to, and made a part of and incorporated by reference to the Agreement dated June 2, 2020, by and between Bartle Wells Associates, hereinafter referred to as "**Consultant**" and the City of Benicia, hereinafter referred to as "**City**" providing for professional financial consulting services.

1. Description of the Project:

- 1.1 Conduct a rate study to project future financial needs of the water and wastewater enterprise funds from FY 2021/22 through FY 2025/26.

2. Basic Services:

The City and Consultant have developed a general scope of work as described below and described in more detail in the Scope of Services in Exhibit 1 to Appendix A:

2.1 Project Initiation and Data Collection

2.2 Develop 10-year Financial Projections for Water and Wastewater Enterprise Funds

- Develop forecasts and projections
- Evaluation of financing alternatives for capital improvements
- Establish prudent minimum fund reserve targets
- Develop 10-year financial projections and evaluate scenarios
- Evaluate rate increase options

2.3 Cost of Service Rate Design

- Identify water and wastewater rate structure alternatives
- Conduct survey of regional utility rates
- Analyze water consumption and utility billing data
- Cost of service rate derivation
- Develop preliminary and final rate recommendations with City input
- Develop water shortage/drought rates if applicable
- Evaluate rate impacts and review/update low income discount

2.4 Meetings, Reports and Rate Adoptions

- Project team, City Council, and public outreach meetings
- Compliance with relevant statutes, regulations, and judicial decisions
- Provide support with public outreach activities

EXHIBIT 1 TO APPENDIX A SCOPE OF SERVICES

Phase 1. Project Initiation & Data Collection

1. Project Team Orientation

To initiate our work, hold a meeting with City staff and others as appropriate, to accomplish the following:

- Identify members of City staff, City Council, engineering consultants, and others who will participate in the project.
- Determine the roles and responsibilities of all project participants.
- Identify other parties that may have a significant interest in the project, such as community groups, business organizations, developers, and large customers.
- Establish project schedule and key milestone dates.
- Confirm the key goals and expectations of the project team.

2. Investigation and Data Collection

Assemble the information necessary to understand the City's water and sewer systems, finances, customers and usage, rate and fee structures, capital improvement needs and alternatives, and legal agreements. Assistance and cooperation of City staff will be needed to assemble the relevant background information. The objectives of investigation and data collection are to develop a complete understanding of the City's utilities and finances, and to reach an agreement on basic assumptions to be used in the study as well as key alternatives for evaluation.

Phase 1 Deliverables Include:

- Project kickoff meeting
- Identification of project goals and objectives
- Identification of key issues impacting the study
- Project schedule and budget
- Project team contact list
- Summary of current and historical rates and finances

Phase 2. 10-Year Financial Plans

1. Develop Forecasts and Projections

Based on evaluation of the data assembled and input provided by the City, prepare forecasts and projections to be used in the development of financial models for the City's water and sewer utilities. Develop projections for the following areas (and others as appropriate). Review projections and alternatives with City staff for agreements on assumptions, interpretation of data, and completeness of approach.

- **Capital Improvements Including Long-Term Repairs & Replacements:** Based on input from City staff, identify future capital improvement program costs or alternatives to include in the financial analysis and determine a reasonable amount to include for future, ongoing capital repairs and replacements. BWA often recommends that agencies phase in funding for long-term system rehabilitation.
- **Projected Water and Sewer Demand:** With City input, forecast water and sewer demand. Identify future demand scenarios for evaluation.
- **Growth & New Development:** Work with the City to identify levels of growth to incorporate in the financial projections. Evaluate financial impacts under different levels of growth.
- **Projected Water Supply Costs:** Review historical and projected costs of water supply. Work with City to develop projections or a range of projections for inclusion in the water rate study.

- **Cost Escalation Factors:** Review historical cost trends and work with project team to develop reasonable cost escalation factors for both operating and capital expenditures. Work with City staff to identify any anticipated changes in future staffing, benefits, and/or other operating costs.

2. Evaluate Financing Alternatives for Capital Improvements

Evaluate options for financing capital improvement projects. Our evaluation will:

- Allocate capital improvement costs to existing customers and new development based on the share of each project benefitting current vs. future customers.
- Estimate the amount and timing of any debt, if needed, to finance capital projects.
- Evaluate the alternative borrowing methods available including bonds, COPs, state and federal loan programs (including the State Revolving Fund Financing Program), bank loans and lines of credit, and other options.
- Recommend the appropriate type of debt, its term and structure.
- As needed, develop debt service estimates to incorporate in the financial projections.

3. Establish Prudent Minimum Fund Reserve Targets

Evaluate the adequacy of the City's current utility fund reserves. Establish prudent minimum fund reserve targets based on the City's operating and capital funding projections. Develop an implementation plan for achieving and maintaining the recommended reserve fund levels.

4. Develop 10-Year Financial Projections & Evaluate Scenarios

Develop 10-year cash flow projections showing the financial position of the water and sewer utilities over the next 10 years. The cash flows will project fund balances, revenues, expenses, and debt service coverage, and will incorporate the forecasts developed with staff input. After developing a base-case cash flow scenario, we can model alternatives for additional evaluation such as capital improvement alternatives, project financing alternatives, the impacts of various levels of water demand, etc. During this phase, BWA will work closely with the project team to evaluate financial and rate projections under alternative scenarios.

5. Evaluate Rate Increase Options

Based on the cash flow projections, determine future annual revenue requirements from rates and project the overall level of required rate increases. Evaluate rate adjustment alternatives, such as gradually phasing in required rate increases over a number of years. If appropriate, evaluate different levels of rate increases and their impacts on the City's ability to fund future operating and capital needs.

Phase 2 Deliverables Include:

- Summary of 10-year capital improvement plans and/or key alternatives
- Evaluation of financing alternatives for capital improvements
- Minimum fund reserve target recommendations
- 10-year financial projections with supporting tables
- Evaluation of alternative financial scenarios as needed
- Evaluation of rate increase options
- Meet with the City's project team to present findings, discuss alternatives, and gain input

Phase 3. Cost of Service Rate Design

1. Identify Water and Sewer Rate Structure Alternatives

Review the City's current water and sewer rate structures and discuss advantages and disadvantages compared to other rate approaches. Identify potential alternatives and modifications that could help improve rate equity, address City concerns, or help achieve other City objectives. Discuss pros and cons of different rate structure options and their general impacts on different types of customers. Rate structure options can be refined as the study progresses based on input from the project team.

2. Conduct Survey of Regional Utility Rates

Review and summarize water and sewer rates of other regional agencies. Summarize results in tables and charts.

3. Analyze Consumption & Utility Billing Data

Analyze current and historical usage and utility billing data to determine reasonable and conservative estimates of water and sewer demand to use in developing financial projections and rates. Water use can fluctuate from year to year depending on various factors such as weather and local and regional conservation efforts. Ideally, we would prefer to analyze multiple years of utility billing data in order to determine slightly conservative demand projections and evaluate water and sewer demands under various normal year and water shortage scenarios.

4. Cost of Service Rate Derivation

BWA has helped many agencies develop utility rates designed to reflect the costs of providing service, be fair and equitable to all customers, and comply with Proposition 218 and other legal requirements. In recent years, we have worked collaboratively with a number of legal experts to ensure our recommendations account for the latest legal understanding of Proposition 218. For this task, we will derive proposed rates based on a defensible cost of service methodology. A key component of this task includes allocating operating, maintenance, capital, and debt service expenses for cost recovery from appropriate rate components. Water rates will be based on a) an allocation of costs to be recovered from fixed vs. variable charges, b) a cost-based justification to support the City's water usage charges. Sewer rates will be based on cost allocations to wastewater flow and strength (as measured by BOD and SS) in order to develop underlying unit costs for flow, BOD and SS. These unit costs are then applied to the wastewater discharge characteristics of each customer class to ensure rates reflect the proportional cost of providing service to each class.

5. Develop Preliminary & Final Rate Recommendations with City Input

Based on evaluation of rate structure alternatives and the overall level of rate increases identified in the financial plans, develop draft rate recommendations for City input. The recommendations may include a multi-year phase in of both overall rate increases and proposed rate structure adjustments in order to help mitigate the annual impact on ratepayers. Revise recommendations based on input received. Final rate recommendations will be designed to:

- a) fund the costs of providing service, including operating, capital, and debt service funding needs
- b) be fair and equitable to all customers,
- c) provide a prudent balance of conservation incentive and revenue stability,
- d) be easy to understand and administer, and
- e) comply with the substantive requirements of Proposition 218.

6. Develop Water Shortage/Drought Rates

BWA will also develop a series of escalating water shortage or drought rates. These rates will be designed to support financial stability during droughts and periods of reduced water sales, periods in which the City may experience a decrease in water sales revenues and potentially higher water supply and/or conservation program expenses. The water shortage rates can be phased in as conditions warrant, and should also be phased out as water use gradually returns to normal.

7. Evaluate Rate Impacts & Review/Update Low Income Discount

Calculate the impacts of each rate alternative on a range of City customers Discuss additional rate structure adjustments that may reduce the impact on certain customers if warranted. Assist City with review and update of its low-income discount program.

Phase 3 Deliverables Include:

- Evaluation of current utility rates and potential rate structure modifications
- Regional utility rate surveys
- Analysis of historical consumption and utility billing data
- Cost of service analysis to support equitable and legally-defensible rates
- Development of draft water and sewer rate alternatives for City evaluation and input
- Development of a series of escalating water shortage or drought rates
- Meet with City to discuss findings and alternatives, gain input, and develop recommendations

Phase 4. Meetings, Reports and Rate Adoptions

1. Project Team/Progress Meetings (4 Project Team Meetings)

Attend 4 Project Team/Progress Meetings to present findings, discuss alternatives and preliminary recommendations, and gain ongoing input.

2. City Council Meetings (2 City Council Meetings including the Proposition 218 Rate Hearing)

Attend a City Council Meeting to present findings and draft recommendations and receive input. Incorporate input as warranted to ensure final recommendations reflect Council preferences. BWA will subsequently attend the Proposition 218 Rate Hearing at a City Council Meeting as described below.

3. Public Outreach Meetings (3 Public Outreach Meetings)

Participate in 3 Public Outreach Meetings to explain findings and recommendations, receive public input, respond to questions, and build understanding and acceptance for proposed rates. The timing of these meetings can be determined by City staff as the project progresses. Rate and fee adjustments are often controversial. BWA has helped many agencies with their public education and outreach efforts regarding rate and fee increases. We understand the importance of building consensus and public acceptance for our recommendations and can assist the City in any outreach and public education efforts.

4. Prepare Draft & Final Reports

Develop a draft report summarizing study objectives, findings and draft recommendations. The report will provide an administrative record supporting the proposed utility rates and capacity charges and will be developed to demonstrate compliance with applicable legal requirements of Proposition 218, Proposition 26, and Government Code 66013. The report will be written for a non-technical audience and will clearly explain the rationale for recommendations and key alternatives when applicable. Submit a draft report for City review and feedback. Incorporate input into a revised report and ultimately provide the City with printed and electronic copies as needed

5. Proposition 218 Rate Notice

Develop a draft Proposition 218 notice for City review. Incorporate revisions and develop a final notice. BWA recommends the notice go beyond the minimum legal requirements and provide clear and concise explanation of the reasons for any rate adjustments. BWA has helped many agencies adopt rates via the Proposition 218 process. We have found that ratepayers are generally much more accepting of rate increases or rate structure modification when they understand the reasons underlying the adjustments. BWA also helps agencies coordinate the printing and mailing of the Proposition 218 notices and will remain available to assist the City with these services on a time and materials basis as needed.

6. Proposition 218 Rate Hearing

Attend the Proposition 218 Public Rate Hearing and remain available to present a summary of findings and recommendations and respond to Council and public comments. BWA has extensive experience presenting financial and rate recommendations to non-technical audiences, dealing with challenging questions, and building acceptance for final recommendations.

Phase 4 Deliverables Include:

- 4 Project Team Meetings (progress meetings)
- 2 Council Meetings (including the Prop. 218 Rate Hearing)
- 3 Public Outreach Meetings
- Draft and final reports
- Draft of the required Proposition 218 Notice of proposed rate increases

END OF APPENDIX A

APPENDIX B**PAYMENTS TO Consultant**

This is an Appendix to, and made a part of and incorporated by reference to the Agreement dated June 2, 2020, by and between Bartle Wells Associates, hereinafter referred to as "**Consultant**" and the City of Benicia, hereinafter referred to as "**City**" providing for professional financial consulting services.

1. The maximum payment to Consultant under this Agreement for the Project shall be as follows:

Consultant services	\$64,900
Contingency	<u>\$10,100</u>
Total	\$75,000

PROJECT TASK	Alex Handlers Principal \$260	Erik Helgeson Sr. Consultant \$190	Total Hours	Project Cost
PHASE 1. PROJECT INITIATION & DATA COLLECTION	12	12	24	\$5,400
1. Project Team Orientation / Kickoff Meeting				
2. Investigation & Data Collection				
PHASE 2. 10-YEAR WATER & SEWER FINANCIAL PLAN	40	40	80	\$18,000
1. Develop Forecasts & Projections				
2. Evaluating Financing Alternatives for Capital Improvements				
3. Establish Prudent Minimum Fund Reserve Targets				
5. Develop 10-Year Financial Projections & Evaluate Scenarios				
6. Evaluate Rate Increase Options				
PHASE 3. COST OF SERVICE RATE DESIGN	40	40	80	\$18,000
1. Identify Rate Structure Alternatives				
2. Conduct Survey of Regional Water & Sewer Rates				
3. Analyze Consumption & Utility Billing Data				
4. Cost of Service Rate Derivation				
5. Develop Preliminary & Final Rate Recommendations				
6. Develop Water Shortage and/or Drought Rates				
7. Evaluate Rate Impacts & Review/Update Low Income Discount				
TASK D. MEETINGS, REPORTS & RATE ADOPTION	50	50	100	\$22,500
1. Project Team Meetings (4 progress meetings)				
2. City Council Meetings (2 including Prop 218 Public Hearing)				
3. Public Outreach Meetings (3 meetings)				
4. Prepare Draft & Final Reports				
5. Proposition 218 Rate Notice & Public Hearing				
TOTAL ESTIMATED HOURS	142	142	284	\$63,900
ESTIMATED EXPENSES				\$1,000
CONTINGENCY (ADDITIONAL MEETINGS/ANALYSIS)				\$10,100
TOTAL PROJECT BUDGET WITH CONTINGENCY				\$75,000

EXHIBIT 1 TO APPENDIX B

BILLING RATES

This is an Appendix to, and made a part of and incorporated by reference to the Agreement dated June 2, 2020, by and between Bartle Wells Associates, hereinafter referred to as "**Consultant**" and the City of Benicia, hereinafter referred to as "**City**" providing for professional financial consulting services.

1. **BILLING RATES** - The Billing Rates for Additional Services beyond the scope of Consultant's Pricing Proposal are the attached hourly rates.

2. **REIMBURSABLE EXPENSES** - The Reimbursable Expenses for Additional Services beyond the scope of Consultant's Pricing Proposal are the attached rates.



BARTLE WELLS ASSOCIATES
BILLING RATE SCHEDULE 2020
Rates Effective 1/1/2020

Professional Services

Financial Analyst I	\$110 per hour
Financial Analyst II	\$130 per hour
Consultant.....	\$160 per hour
Senior Consultant.....	\$190 per hour
Senior Project Manager	\$220 per hour
Principal Consultant	\$260 per hour

The hourly rates for professional services include all overhead and indirect expenses. Bartle Wells Associates does not charge for administrative support services. Expert witness, legal testimony, or other special limited assignments will be billed at one and one-half times the consultant’s hourly rate.

The rates listed above will be in effect for the duration of this project.

Direct Expenses

Subconsultants will be billed at cost plus ten percent. Word processing and computer-assisted services related to official statement production are charged as direct expenses at \$75 per hour. Other reimbursable direct expenses incurred on behalf of the agency will be billed at cost plus ten percent. These reimbursable costs include, but are not limited to:

- Travel, meals, lodging
- Printing and photocopying
- Special statistical analysis
- Outside computer services
- Bond ratings
- Automobile mileage
- Messenger services and mailing costs
- Graphic design and photography
- Special legal services
- Legal advertisements

Insurance

Bartle Wells Associates maintains insurance in the amounts and coverage as provided in the attached schedule of insurance. Additional or special insurance, licensing, or permit requirements beyond what is shown on the schedule of insurance are billed in addition to the contract amount.

Payment

Fees are typically billed monthly for the preceding month and will be payable within 30 days of the date of the invoice. A late charge of 1.0 percent per month may be applied to balances unpaid after 60 days.

END OF APPENDIX B

APPENDIX C

PROJECTS AND SCHEDULE

This preliminary project schedule is an Appendix to, and made a part of and incorporated by reference to the Agreement dated June 2, 2020, by and between Bartle Wells Associates, hereinafter referred to as "**Consultant**" and the City of Benicia, hereinafter referred to as "**City**" providing for professional financial consulting services. Consultant understands that the projects and dates within this list may change.

Project Task	2020				2021			
	Jun-Sep		Oct-Dec		Jan-Mar		Apr-Jun	
Project Initiation & Data Collection	█	█						
10-Year Utility Financial Plans		█	█	█				
Cost of Service Rate Design			█	█	█			
Kickoff & Project Team Meetings	█		█		█			
Draft & Final Report					█	█	█	
Public Outreach Meetings (tbd)					█		█	
Council Meetings & Prop 218 Hearing						█		█

Note: Individual project milestones will be established based on consultation with the City's project team.

END OF APPENDIX C

APPENDIX D

DELIVERABLES

This is an Appendix to, and made a part of and incorporated by reference to the Agreement dated June 2, 2020, by and between Bartle Wells Associates, hereinafter referred to as "**Consultant**" and the City of Benicia, hereinafter referred to as "**City**" providing for professional financial consulting services.

Consultant's deliverables under the Agreement are enunciated throughout the Professional Services Agreement and include but are not limited to the following:

1. PROJECT DELIVERABLES

- 1.1 10-year Water and Wastewater Utility Financial Plans
- 1.2 Cost of Service Rate Analysis
- 1.3 Draft and final reports
- 1.4 Draft Proposition 218 rate notice

Refer to Scope of Services in Exhibit 1 to Appendix A for complete list of project deliverables.

2. CONSULTANT SERVICES. The deliverables considered part of Consultant's professional services are defined in this Appendix D and include, but are not limited to, the following deliverables:

Refer to Scope of Services in Exhibit 1 to Appendix A.

END OF APPENDIX D

APPENDIX E

INSURANCE REQUIREMENTS

This is an Appendix to, and made a part of and incorporated by reference to the Agreement dated June 2, 2020, by and between Bartle Wells Associates, hereinafter referred to as "**Consultant**" and the City of Benicia, hereinafter referred to as "**City**" providing for professional financial consulting services.

1. **Consultant's Duty to Show Proof of Insurance.** Consultant, in order to protect City and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of Consultant's acts, errors, or omissions in connection with the performance of Consultant's obligations, as required in this Agreement, shall secure and maintain insurance as described below. Consultant shall not perform any work under this Agreement until Consultant has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the City's authorized insurance representative, insurance Tracking Services Inc. (ITS). Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, Consultant shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon, Consultant shall promptly deliver to ITS a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to ITS prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. Consultant shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by Consultant or City as an additional insured.

1.1 Commercial General Liability Insurance

Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the City), Products-Completed Operations Hazard, liability for slander, false arrest and invasion of privacy arising out of professional services rendered hereunder, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Consultant's performance of services under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. Consultant shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least five million dollars (\$5,000,000) each occurrence and five million dollars (\$5,000,000) aggregate.

1.2 Business Automobile Liability Insurance

Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of Services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence.

1.3 Workers' Compensation Insurance

Consultant shall submit written proof that Consultant is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code. Consultant shall require any Subconsultants to provide workers' compensation for all of the Subconsultants' employees, unless the Subconsultants' employees are covered by the insurance

afforded by Consultant. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, Consultant shall provide and/or require each Subconsultant to provide adequate insurance for the coverage of employees not otherwise covered. Consultant shall also maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.

1.4 Professional Liability Insurance

Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, all negligent acts, errors or omissions in connection with services to be provided under this Agreement, with no exclusion for claims of one insured against another insured, with coverage equal to the policy limits, which shall not be less than two million dollars (\$2,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.

1.5 Self-Insured Retention

Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of insurance or other documentation provided to City and must be approved by the City Risk Manager.

1.6 Claims-Made Basis Coverage

If any of the insurance coverages required under this Agreement is written on a claims-made basis, Consultant, at Consultant's option, shall either (i) maintain said coverage for at least five (5) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement; (ii) purchase an extended reporting period of not less than five (5) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

2. Insurance terms and conditions:

2.1 Cancellation of Insurance

The above stated insurance coverages required to be maintained by Consultant shall be maintained until the completion of all of Consultant's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by Consultant shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by Consultant in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. Consultant shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

2.2 City as Additional Insured

On Consultant's Commercial General Liability and Automobile policies, the City of Benicia, its officers, officials, agents, employees, and volunteers, shall be named as additional insured's, but only with respect to liability arising out of the activities of the named insured. Any endorsement shall be provided using one of the following three options: (i) on ISO form CG 20 10 1 1 85; or (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 1 1 85.

2.3 All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII Any exception to these requirements must be approved by the City Risk Manager.

2.4 If Consultant is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, Consultant shall provide coverage equivalent to the insurance coverages and endorsements required above. The City will not accept such coverage unless the City determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by Consultant is equivalent to the above-required coverages.

2.5 For any claims related to the Agreement, the Consultant's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

2.6 Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve Consultant for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the City from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.

2.7 Failure by Consultant to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by Consultant. City, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, City may purchase such required insurance coverage, and without further notice to Consultant, City shall deduct from sums due to Consultant any premiums and associated costs advanced or paid by City for such insurance. If the balance of monies obligated to Consultant pursuant to this Agreement are insufficient to reimburse City for the premiums and any associated costs, Consultant agrees to reimburse City for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by City to take this alternative action shall not relieve Consultant of its obligation to obtain and maintain the insurance coverages required by this Agreement.

2.8 Should any of the required insurance (other than errors and omissions insurance) be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defenses costs be included in such general aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limit specified above.

2.9 City may (but is under no obligation to) secure project-specific insurance, wrap-up insurance, or administer an owner controlled insurance program ("OCIP"), in which case Consultant and its subconsultants shall communicate this fact to their insurance carriers and request that the risk of this project be excluded from their practice policies. Consultant's fees under this Agreement (and the fee of its subconsultants under subconsultant agreements) shall be reduced by the amount of insurance premiums that may be avoided by Consultant and its subconsultants by virtue of the City's obtaining the project-specific insurance, wrap-up insurance or administering an OCIP, and the exclusion of this project from coverage of Consultant's and subconsultants policies. Construction Manager and its subconsultants shall afford City access to their books and records and cooperate with City in verifying the amount of savings realized.

END OF APPENDIX E

APPENDIX F

KEY PERSONNEL

This is an Appendix to, and made a part of and incorporated by reference to the Agreement dated June 2, 2020, by and between Bartle Wells Associates, hereinafter referred to as "**Consultant**" and the City of Benicia, hereinafter referred to as "**City**" providing for professional financial consulting services.

ARTICLE 1 – CONSULTANT’S KEY PERSONNEL

1.1 Consultant's Key Personnel are identified below and their resumes appended to this Appendix F as Exhibit 1, including but not limited to the following:

Name	Responsibility
Alex Handlers	Principal/Vice-President
Erik Helgeson	Sr. Consultant

ARTICLE 2 - CHANGES TO KEY PERSONNEL AND ADDITIONS

2.1 For Key Personnel, Consultant shall not remove, reassign or make changes to any of the Key Personnel or their assignment durations without City's prior written approval.

2.2 Added personnel ("Added Personnel") shall be added to Consultant’s staff as necessary, but subject to approval by City. Prior to adding personnel, Consultant will develop a Staffing Plan, subject to City approval. The Staffing Plan will identify staff by position, name, responsibility, rate, and planned level of effort, projected hours, and his or her planned periods of involvement with the Project.

2.3 Unless directed to reduce staff by City, in the event that any Key Personnel or Added Personnel, for any reason thereafter ceases to fill that position, within ten (10) days thereof, Consultant shall propose a replacement person for City's approval pursuant to the following process:

2.3.1 Consultant shall prepare and submit to City for its review, comment and approval, a proposal listing all personnel that Consultant proposes to assign to the Project as replacement, and the proposed duration of each such assignment.

2.3.2 Within fifteen (15) days following Consultant's submittal of the proposal and resumes, City shall either give its written approval of such submission or provide comments. In the event City approval is withheld, Consultant, in response to such comments, shall promptly, but no later than five (5) business days after receipt of City's comment, make all necessary and appropriate changes to the proposal (including changes in proposed staff) and resubmit it to City for its approval, and such process shall continue until City approves Consultant's proposed staffing. Such approvals shall not be unreasonably withheld.

2.4 For replacement of Key Personnel, Consultant shall be subject to liquidated damages as described below, and also may not receive reimbursement for substitute personnel in amounts greater than would have been paid for the initial Key Personnel.

2.5 City may, in its sole discretion, direct Consultant to add to or reduce Consultant's staff to meet changing Project requirements. Consultant's Fee shall be equitably adjusted based upon addition or reduction of Consultant staff

ARTICLE 3 - UNSATISFACTORY PERSONNEL

3.1 Consultant shall remove any person employed by Consultant or any subconsultant whom City may deem incompetent, improper or a hindrance to the progress of any Work or Services on the Project, and in the event of any such removal, Consultant shall immediately replace (or cause to be replaced) such person with a properly qualified and experienced replacement and, in the case of removal of any person holding any position described in the Staffing Plan, Consultant shall propose properly experienced and qualified replacement personnel for City approval, pursuant to the same process as is described in Article 2 above.

ARTICLE 4 - LIQUIDATED DAMAGES FOR KEY PERSONNEL

4.1 Consultant and City agree that the personal services of the Key Personnel is a material term of the Agreement, and substitution or removal or change in role or level of effort, of such Key Personnel would result in damages to the City, the measure of which would be impractical or extremely difficult to fix, and in lieu of which City and Consultant have agreed to liquidated damages as described below.

4.2 City may assess and Consultant shall accept liquidated damages in the amount of three (3) times the gross monthly salary for unauthorized substitutions of any Key Personnel.

4.3 No liquidated damages shall be due under this paragraph if the substitution is required due to death, incapacity, or resignation of Key Personnel.

4.4 City in its sole discretion, may elect to waive, reduce or delay implementation of liquidated damages.

**EXHIBIT 1 TO
APPENDIX F KEY
PERSONNEL RESUMES**



ALEX T. HANDLERS, CIPMA

Experience

Alex Handlers is a principal and vice president of Bartle Wells Associates with expertise in the areas of utility rates and finance. He has extensive experience developing long-term financial plans, utility rates, and development impact fees for utility enterprises. Alex has helped agencies implement a wide variety of water and sewer rate and fee structures and is knowledgeable about the legal requirements of rates and fees. He has managed projects for over 150 cities, counties, and special districts.

Alex is also an independent financial advisor who helps public agencies secure low-cost financing for capital projects. He is an MSRB-Registered Municipal Advisor, a Certified Independent Professional Municipal Advisor, and a current Board Member of the National Association of Municipal Advisors. He has expertise helping public agencies evaluate financing alternatives for capital improvement programs and obtain over \$2 billion in financing via bonds, COPs, bank loans/private placements, lines of credit, and various state and federal funding programs.

Education

M.P.A. - University of Washington
B.A. - Lehigh University

Certifications

Board Member – National Association of Municipal Advisors
CIPMA – Certified Independent Professional Municipal Advisor
MSRB-Registered Municipal Advisor (Series 50)

Representative Projects

- **City of San Carlos:** Developed a sewer enterprise financial plan and rate study designed to support sewer collection system capacity improvements, long-term pipeline replacements, and over \$120 million for the City's share of costs for rebuilding the regional wastewater treatment plant. Evaluated residential rate alternatives and recommended modifications to the City's sewer rate structure designed to improve rate equity and align rates with the cost of service. Updated the City's sewer capacity charges levied on new development and developed solid waste rate recommendations to support future funding requirements and restore rate equity.
- **City of Redwood City:** Developed water and sewer financial plans and utility rate studies designed to support long-term operating and capital needs while providing a defensible cost-justification for the City's water and sewer rates. BWA has assisted Redwood City on a number of financial consulting assignments since the early 2000s including developing financial plans and utility rates supporting a) construction of a \$72 million recycled water project, b) funding the City's roughly \$400 million share of improvements to the regional wastewater treatment plant, c) funding major increases in wholesale water rates, and d) increasing funding for ongoing investment in the City's aging water and sewer infrastructure.
- **City of Petaluma:** Developed water and sewer financial plans and rate studies designed to support each utility's long-term capital improvement program. Recommendation included a gradual phase-in of rate increases along with automatic inflationary rate adjustments designed to keep rates aligned with the cost of providing service.

Alex T. Handlers, continued

- **City of Mountain View:** Developed 10-year water and wastewater financial plans and rate studies. Evaluated water and sewer rate structures and recommended modifications to improve rate equity and compliance with Prop. 218. Updated the City's water and wastewater connection fees.
- **Monterey One Water** (formerly Monterey Regional Water Pollution Control Agency): Developed a long-term financial plan, sewer rate study, capacity charge study, and update of a range of miscellaneous fees and charges.
- **City of North Miami Beach:** Developed water and sewer financial plans and rate studies designed to support each utility's updated capital improvement programs and a substantial increase in costs for wastewater treatment provided by Miami-Dade County.
- **City of Morro Bay:** Developed water and sewer rate studies. Developed a financial plan and rate recommendations supporting the construction of a new \$125 wastewater treatment plant with water recycling and indirect potable reuse facilities.
- **Mid-Peninsula Water District (Belmont):** Developed 10-year financial plan and water rate study with a gradual phase in of rate increases and modifications to rate structure to improve equity and conservation incentive. Developed water system capacity charges levied on new development and a new water demand offset fee to recover costs for generating water supply to serve growth.
- **City of San Mateo:** Developed a sewer enterprise financial plan and rate recommendations supporting funding for a roughly \$900 million wastewater capital improvement program needed to improve wet weather capacity and rebuild the City's aging wastewater treatment plant. Transitioned residential sewer rates from 100% volumetric rates (subject to a minimum charge) to a hybrid 50% fixed & 50% volumetric rate structure.
- **City of Sunnyvale:** Developed sewer enterprise financial projections and rate recommendations. Updated the City's water and sewer capacity charges levied on new development.
- **Silicon Valley Clean Water:** Developed 10-year financial plan supporting over \$750 million of capital improvements to a regional JPA that provides sewer treatment to Belmont, Redwood City, San Carlos, and the West Bay Sanitary District. Served as financial advisor on issuance of \$200 million of financing via bonds, State Revolving Fund (SRF) loans, and a line of credit.
- **City of San Bruno:** Developed 10-year water and wastewater financial plans and rate studies. Recommended a series of gradual annual rate increases to fund operating and capital needs and increase funding for repair and replacement of the City's aging water and sewer infrastructure. Evaluated water and sewer rate structures and recommended modifications to improve rate equity and increase conservation incentive.
- **Alameda County Water District:** Comprehensive development fee study; recommended a series of modifications to existing charges to improve revenue recovery, equity and fee administration
- **Union Sanitary District:** Conducted a comprehensive analysis and update of the District's capacity fees levied on new development. Developed a long-term financial plan supporting over \$100 million of wastewater system capital improvements.
- **City of Fresno:** Developed wastewater enterprise financial plan and Excel-based financial model used by City staff to update financial and rate projections. Developed new water connection fees designed to recover costs of existing facilities and future supplemental water supply projects.
- **City of Millbrae:** Developed a water rate study and revised the City's Clean Bay Charges levied to fund improvements designed to eliminate sanitary sewer system overflows during major storms.
- **San Francisco Public Utilities Commission:** Developed financial projections supporting over \$2 billion of bonds issued to help fund a \$4.3 billion upgrade to the Hetch-Hetchy regional water system and improvements to the City's wastewater system.



ERIK W. HELGESON

Experience

Erik Helgeson is a consultant with nine years of industry experience including serving as a senior analyst in the rates division for Denver Water, as a rate consultant for a large engineering firm, and in recent years as a consultant for Bartle Wells Associates. His areas of expertise include the development of financial, ratemaking, and policy solutions for water and wastewater utilities. Erik has extensive expertise working with executive level staff and assisting in strategic decision-making. He is an active member of the Rates and Charges Committee of the American Water Works Association (AWWA).

Education

M.B.A., Entrepreneurship – University of Colorado, Denver

B.A., Business Administration – Gonzaga University

Certifications

Member of the *American Water Works Association (AWWA)* Rates & Charges Committee

MSRB- Registered Municipal Advisor (Series 50)

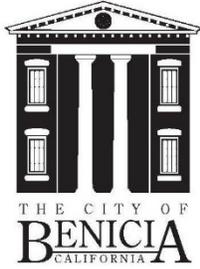
Representative Projects

- **Madera County, CA:** Rate studies for ten of the County's service districts
- **King City, CA:** Wastewater financial plan and rate study
- **City of Vacaville, CA:** Water and wastewater development impact fee updates
- **Marin Municipal Water District, Marin, CA:** Water financial plan and rate study
- **Big Bear City, CA:** Water, sewer, and solid waste rate studies
- **City of Imperial, CA:** Water and wastewater financial plans and rate studies
- **Sacramento County Water Authority, Sacramento, CA:** Water financial plan and rate study
- **Castle Pines North Metro District, CO:** Water and wastewater financial plans and rate studies
- **City of Willits, CA:** Water and wastewater financial plans and rate studies
- **Humboldt Bay Municipal Water District, CA:** 10-year financial plan update
- **The Cities of Pinole and Hercules, CA:** Assisted the cities with the co-financing of a wastewater project with SRF loans. This included the design of the payment and reimbursement process, the administration of the process, and navigating the State requirements.
- **Carlsbad, CA:** Created a supply-based cost allocation and supply layered, tiered, rate design.
- **Denver Water:** Cash-basis water rate study for eight classes of domestic, wholesale, raw and recycled customers all in three different service areas. Utility-basis water rate studies for three separate ditch companies.

Public Utility Experience

Denver Water, Denver, CO:

Senior Finance Analyst- Assisted with the annual cost of service study and financial plan, provided regular revenue reports, and oversaw the gathering and reporting of metrics to support Denver Water's organizational improvement initiatives. As the lead analyst on the initiative to change the rate design he facilitated research (customer survey and affordability study), performed rate design analysis, and assisted with stakeholder outreach (municipalities, customers, business representatives, non-profits, and Denver Water executives and Board) which led to the adoption of new rate structures.



AGENDA ITEM
CITY COUNCIL MEETING DATE – JUNE 2, 2020
CONSENT CALENDAR

TO : City Manager

FROM : Community Development Director

SUBJECT : **NOMINATION OF BENICIA EAST 5th STREET PRIORITY DEVELOPMENT AREA**

EXECUTIVE SUMMARY:

The Priority Development Area (PDA) designation, as part of the regional *Plan Bay Area 2050*, is intended to promote transit access and production of new housing, with an emphasis on reducing vehicle miles traveled (VMT). Following on the designation of the area at East 5th Street and Military East as a potential mixed-use zone district to support additional housing through the Senate Bill 2 (SB2) Grant, the City of Benicia has an opportunity to nominate this area as a PDA, which would provide opportunities for future planning and transportation grant funds.

RECOMMENDATION:

Move to adopt the resolution (Attachment 1) nominating the designation of the Benicia Priority Development Area.

BUDGET INFORMATION:

No direct impacts to the City budget are anticipated. The City will be obligated to complete land use and transportation planning for the PDA in order to retain the designation. The grant-funded SB2 zoning proposal, which will be underway in 2020, would fulfill the land use component of this obligation. The City may seek additional grant funds to support planning for transportation to reduce VMT; however, this will likely augment work already completed by the Solano Transportation Authority (STA) as part of the Countywide Active Transportation Plan, which identifies bicycle and pedestrian infrastructure improvements for each jurisdiction in Solano County, including Benicia.

BACKGROUND:

The Association of Bay Area Governments (ABAG) is preparing *Plan Bay Area 2050*, the 30-year regional plan for the San Francisco Bay Area. The Regional Growth Framework, which coordinates housing and job growth throughout the region, will shape the investments and growth pattern to be detailed in *Plan Bay Area 2050*. PDAs are backbone elements of *Plan Bay Area 2050* and are intended as areas of regional investment to support the production of significant new housing.

Downtown Priority Development Area

Benicia's Downtown PDA was designated in 2008 to support a complete and connected community through investments in vibrant neighborhoods with accessible services and amenities. Within the plan framework, Benicia's Downtown PDA is considered a "Connected Community PDA", which is served by buses with 30 minutes of headway during peak hours.¹ In order to retain the Downtown PDA, the City submitted a Letter of Confirmation stating its policy intentions for VMT reduction, which include adoption of a Bicycle/Pedestrian Infrastructure Plan and a Citywide Impact Fee. Both efforts are currently underway:

- Benicia has participated in the STA's preparation of the Countywide Active Transportation Plan and will bring forward the Benicia chapter for local review and adoption. The timing of this local review has been affected by the current coronavirus pandemic but must be completed by 2025.
- A comprehensive impact fee study is currently underway that will account for anticipated bicycle and pedestrian infrastructure within the nexus analysis for transportation impact fees. As the City is primarily built-out, the scale of new development may not result in impact fee receipts that fully fund such improvements; however, the presence of a dedicated funding source would help to position Benicia for grants to support improvements for bicycle and pedestrian infrastructure. The Active Transportation Plan, currently underway, will provide detailed facility recommendations and a project priority list for bicycle and pedestrian projects at the roadway and road segment level. These projects have been evaluated for integration with Safe Routes to Schools and other local planning documents.

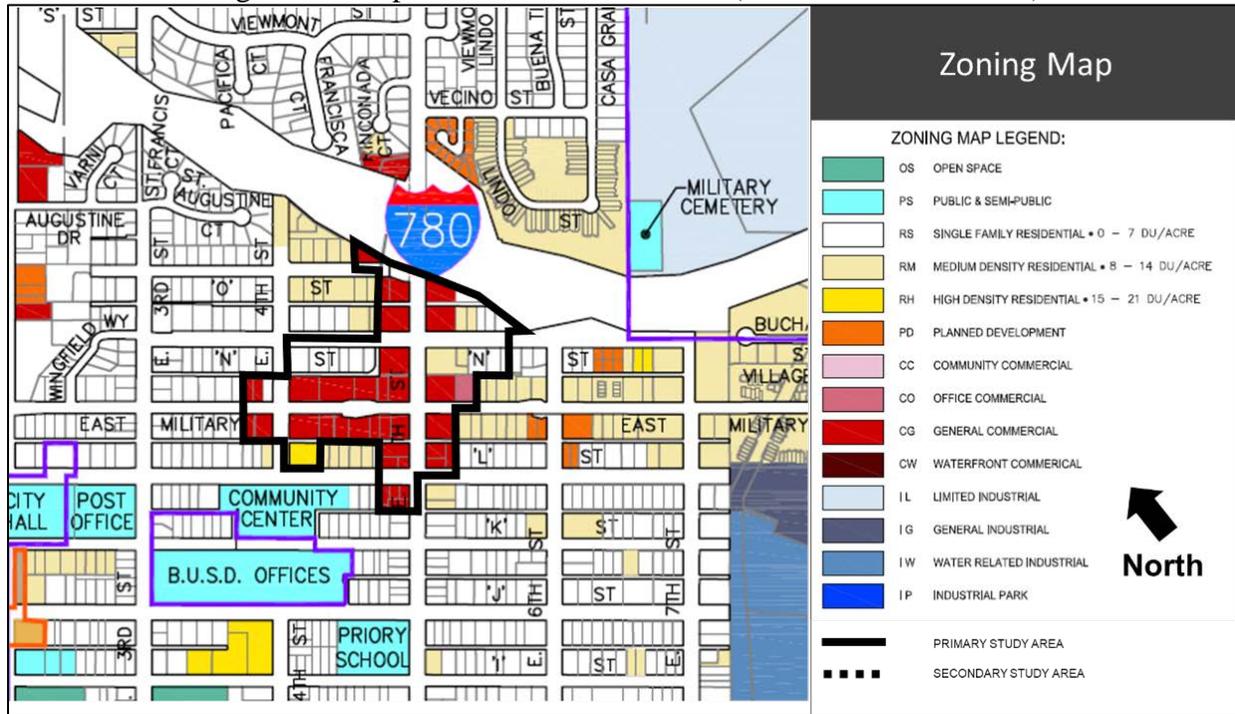
Proposed East 5th Street Priority Development Area

The proposed East 5th Street PDA would also be a Connected Community PDA, as it is served by the same buses providing 30 minutes of headway during peak hours as those that serve the Downtown PDA. The VMT reduction strategies that were selected for the Downtown PDA could also be applied to the East 5th Street PDA. The boundaries of the PDA would align with the study area for the SB2 Grant, which was reviewed by the Planning Commission and approved by the City Council in Fall 2019.

The SB2 Grant will provide \$160,000 of funding to rezone an existing commercial corridor at the intersection of Military East and East Fifth to a new mixed-use zone district that would expand housing development opportunity within the City. The new zoning district will accommodate new multi-family housing in the area, which could serve a range of incomes and occupants, as it is accessible within a one-half mile distance of the Downtown core and adjoins existing bus transit service. The creation of a new zoning district will include community outreach, an amendment to the General Plan, an amendment to the Zoning Ordinance, and environmental review in accordance with the California Environmental Quality Act (CEQA). The City Council approved an award of contract for this project on May 19, 2020.

¹ Currently, bus service is provided with the required headway during peak commute hours; however, these hours do not align with the ABAG criteria. ABAG and STA are coordinating on increased service through the SolTrans Short Range Service Plan and increased funding through Regional Measure 3 (RM3).

Figure 1 – Proposed East 5th Street PDA (shown in black outline)



A Priority Development Area positions the City to be eligible for funding, primarily through the One Bay Area Grant (OBAG), to fund planning and transportation improvements. PDAs may additionally be eligible for grants that support production of housing. The designation assumes that the City will complete land use, environmental and transportation planning activities, equivalent to a Specific Plan, to retain the PDA. These activities are anticipated to occur within the coming four years as outlined herein (SB2 Grant and Active Transportation Plan). If the City does not fulfill its planning obligations, the PDA designation would lapse.

NEXT STEPS:

Following the City Council’s action, if adopted, the resolution nominating the Priority Development Area will be transmitted to the Association of Bay Area Governments by June 30, 2020.

ALTERNATIVE ACTIONS:

The City Council may choose not to nominate the East 5th Street Priority Development Area or may choose to amend the boundaries of the PPA.

General Plan	Goal 2.1: Preserve Benicia as a small-sized city. <ul style="list-style-type: none"> ➤ Policy 2.1.7: The City shall promote compact urban development within the Urban Growth Boundary (UGB) and shall encourage development of public, semi-public, active recreational and all other uses deemed desirable for the community inside the UGB.
	Goal 2.13: Support the economic viability of existing commercial centers.

	<ul style="list-style-type: none"> ➤ Policy 2.13.1: Direct new commercial ventures first, towards Downtown, and second, to other existing economic centers (instead of dispersing resources to new areas). ➤ Policy 2.13.2: Preclude extension of the existing commercial development east long Military East and south along East Fifth Street.
	<p>Goal 2.14: Enhance Benicia’s small-town atmosphere of pedestrian-friendly streets and neighborhoods.</p> <ul style="list-style-type: none"> ➤ Policy 2.14.1: Give priority to pedestrian safety, access, and transit over automobile speed and volume.
	<p>Goal 2.15: Provide a comprehensive system of pedestrian and bicycle routes which link the various components of the community: employment centers, residential areas, commercial areas, schools, parks, and open space.</p> <ul style="list-style-type: none"> ➤ Policy 2.15.1: Make pedestrian and bicycle circulation, and safety improvements a high priority for transportation funding, utilizing locally generated revenues and State and federal grants.
	<p>Housing Element Goal 1: Benicia shall be an active leader in attaining the goals of the City’s Housing Element</p> <ul style="list-style-type: none"> ➤ Policy 1.01: To the extent possible and within the City’s control, the City shall facilitate the production of housing that is affordable to people with a wide range of incomes.

Priority Based Budgeting	Strategic City Result Impacted by this Agenda Item
	<ul style="list-style-type: none"> <input type="checkbox"/> Protect Community Health & Safety <input checked="" type="checkbox"/> Maintain & Enhance A High Quality of Life <input type="checkbox"/> Preserve & Enhance Infrastructure <input type="checkbox"/> Strengthen Economic & Fiscal Conditions <input type="checkbox"/> Protect & Enhance the Environment <input type="checkbox"/> High Performing Government
	City Programs Impacted by This Agenda Item (Top 3):
	<ol style="list-style-type: none"> 1. Housing Element Implementation 2. Transportation Planning 3. Intergovernmental Relations – Community Development Department
	Priority Based Budgeting (PBB) Website:
	Coming soon in Spring 2020 will be a link to the City of Benicia’s PBB website to learn more about these programs and their costs.

CEQA Analysis	The PDA nomination is exempt from the California Environmental Quality Act per CEQA Guidelines Section 15378 (b), which excludes administrative activities of governments. Designation of the PDA supports established City policies and would not result in a foreseeable change to the environment. Therefore, it is not subject to CEQA under Guidelines Section 15060 (c).
--------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

ATTACHMENT:

1. Resolution - Nominating Benicia East 5th Street Priority Development Area

For more information contact: Brad Misner, Community Development Director

Phone: (707) 746-4280

E-mail: bmisner@ci.benicia.ca.us

RESOLUTION NO. 20-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
NOMINATING THE BENICIA EAST 5th STREET PRIORITY DEVELOPMENT AREA**

WHEREAS, the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) are preparing Plan Bay Area 2050 (Plan), a long-range plan charting the course for the future of the nine-county San Francisco Bay Area; and

WHEREAS, the Plan will serve as the Bay Area's Regional Transportation Plan and Sustainable Communities Strategy, outlining strategies for growth and investment through the year 2050; and

WHEREAS, ABAG and the MTC are creating a Regional Growth Framework to be used in the Plan; and

WHEREAS, this Framework includes locally nominated Priority Development Areas as places with convenient public transit service prioritized for housing, jobs, and services; and

WHEREAS, jurisdictions with Priority Development Areas are eligible for dedicated funding for plans and infrastructure improvements; and

WHEREAS, the East 5th Street area, located at the intersection of Military East and East 5th Street, meets the criteria for a Connected Communities PDA because SolTrans bus service is provided every 30 minutes during peak commute hours and the area is planned for future housing and job growth as a new mixed-use district, to be funded by the recently awarded SB2 Grant; and

WHEREAS, the Priority Development Area designation supports and aligns with the City of Benicia's General Plan Goals for economic development and land use;

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby nominate the Benicia East 5th Street Priority Development Area (Exhibit A).

On motion of Council Member _____, seconded by Council Member _____, the above resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 2nd day of June, 2020 by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

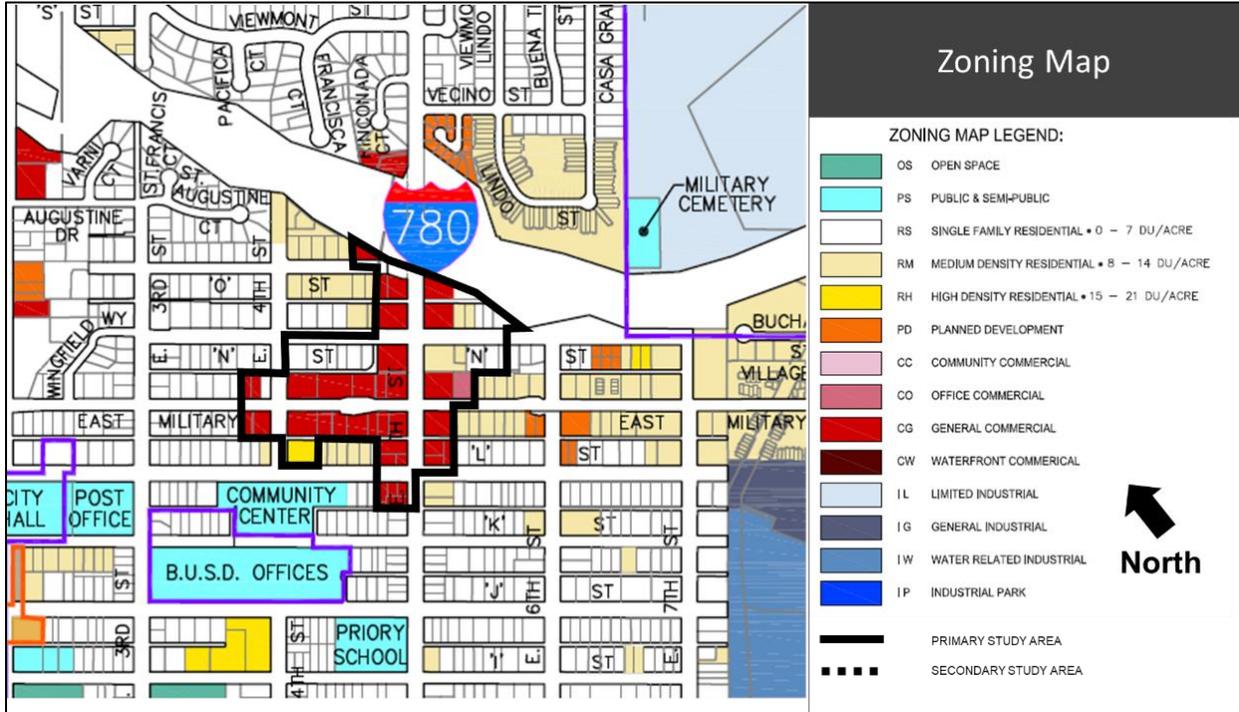
Attest:

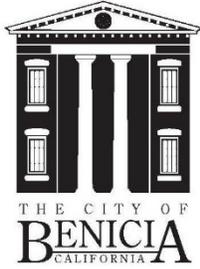
Lisa Wolfe, City Clerk

Date

EXHIBIT A

East 5th Street Priority Development Area





AGENDA ITEM
CITY COUNCIL MEETING DATE – JUNE 2, 2020
BUSINESS ITEMS

TO : City Manager

FROM : Director of Library and Cultural Services

SUBJECT : **ACCEPT GRANT FROM BENICIA LIBRARY FOUNDATION**

EXECUTIVE SUMMARY:

The Benicia Library Foundation, at the request of the Director of Library and Cultural Services, has approved a grant in the amount of \$50,000 to the Benicia Public Library in order to re-align some library services to allow for a robust response to the Coronavirus crisis, with an emphasis on building up the Library's digital and online services.

RECOMMENDATION:

Move to approve the resolution accepting the grant of \$50,000 from the Benicia Library Foundation to the City of Benicia Public Library, to be deposited to account 2707000-5350 (Library Grants – Local Grants) for the purposes of improving the Library's digital and online services over the course of the next 12-18 months, in response to the Coronavirus emergency, and to adjust the revenue budget for the amount of the grant.

BUDGET INFORMATION:

This action will approve a revenue budget and appropriations increase in the amount of \$50,000 to its appropriate accounts in grant fund (#2707000) in project #700008.

BACKGROUND:

The Benicia Library Foundation has generously voted to grant \$50,000 to the Benicia Public Library in order to reposition itself in the era of the coronavirus, in order to provide excellent service in new and reimagined ways.

During the past several months, as public libraries have closed temporarily in the face of the coronavirus and its deadly result, Covid-19, we have all needed to consider our mission in light of a new and daunting set of circumstances which made it impossible for us to serve our public face to face with physical materials.

Benicia's Library staff have been creative. They have stepped up to staff our Text-a-Librarian service, answering questions from a virtual reference desk. They have increased the number of Dial-A-Stories, accessible to anyone with a telephone. They have implemented virtual storytimes, using YouTube and Facebook Live to connect with young patrons.

And staff have redirected materials spending for the fourth quarter of the fiscal year away from physical books, audiobooks, DVDs and CDs to their online, downloadable counterparts, increasing the Library’s collections so that we can provide the materials patrons are used to in new ways.

One of those new ways was the provision, through a free trial offered by the company, of Kanopy—a streaming video service featuring an excellent array of movies. Staff knew that once the 30-day free trial was ended (on April 30), staff would have to make a decision on whether to spend funds to subscribe. With this grant, that has been possible.

The Library’s Management Team began to talk seriously about the impact on the materials budget if the Library moved more strongly into the realm of digital offerings. There would be a redirection of funds away from print-on-paper and other physical formats, which would require an infusion of initial capital to create an impact. Staff discussed other services they could provide in the virtual realm, including ongoing storytimes, book club meetings via Zoom, streaming music, wifi hotspots for those with Internet access, and more.

The Benicia Library Foundation agreed to be the source of this infusion of funds, after the Director of Library and Cultural services requested a grant of \$50,000 to kick off this pivot to digital, framing it as a capital improvement effort. The Foundation Board grasped immediately that “capital improvements” are not limited to brick-and-mortar projects, and voted to allocate the funds.

Over the next few months, Library staff will be surveying patrons, examining options, and deciding the most effective way to implement this funding. Immediately, and more clearly by early fall, we can expect to see some important changes in the City’s beloved Library. Staff certainly hope to be open to the public at some point in the coming weeks, but it will be under a changed set of circumstances. The virus is not going away soon, and the entire City is in a changed environment for a long time to come. It is important to find ways to fulfill the mission of the public library when some of the old ways are no longer—at least for a time—practical.

NEXT STEPS:

Library staff will conduct the necessary needs assessment through a variety of techniques, including surveying our public, reading the current literature on the topic, and working with regional and state-wide partners. Regular reporting on progress and expenditures will be provided to the Library Foundation.

ALTERNATIVE ACTIONS:

Decline to accept the grant.

General Plan	Goal 3.4 Support the library and the services it provides to the community. Policy 3.4.1 Maintain and expand library services. Program 3.4.A Keep the library up-to-date with electronic and other technological developments.
---------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Priority Based Budgeting	Strategic City Result Impacted by this Agenda Item
	The City Council and community identified six (6) key “Results” that establish the key goals for which the City of Benicia aspires to achieve with our programs and services. Agenda Items often influence multiple Results, the primary Result impacted by this Agenda Item is (please check one):
	<input type="checkbox"/> Protect Community Health & Safety <input checked="" type="checkbox"/> Maintain & Enhance A High Quality of Life <input checked="" type="checkbox"/> Preserve & Enhance Infrastructure <input type="checkbox"/> Strengthen Economic & Fiscal Conditions <input type="checkbox"/> Protect & Enhance the Environment <input checked="" type="checkbox"/> High Performing Government
	City Programs Impacted by This Agenda Item (Top 3):
	<ol style="list-style-type: none"> 1. Library: Online Resources 2. Library: Technology for All 3. Library: Collection Development
	Priority Based Budgeting (PBB) Website:
	Coming soon in Spring 2020 will be a link to the City of Benicia’s PBB website to learn more about these programs and their costs.

CEQA Analysis	Acceptance of the grant is not a project under Section 15378 (b) of the CEQA Guidelines, which excludes administrative activities of governments. The proposed digital expansion will not result in direct or indirect physical changes in the environment. Therefore, it is not subject to CEQA under Guidelines Section 15060 (c).
----------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

ATTACHMENT:

1. Resolution – Benicia Library Foundation Grant

For more information contact: David Dodd, Director of Library and Cultural Services

Phone: (707) 746-4340

E-mail: ddodd@ci.benicia.ca.us

RESOLUTION NO. 20-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
AUTHORIZING THE ACCEPTANCE OF A BENICIA LIBRARY FOUNDATION
GRANT OF \$50,000 AND AUTHORIZING THE APPROPRIATION AND
EXPENDITURE OF FUNDS FOR THE LIBRARY'S GRANT ACCOUNT**

WHEREAS, the Benicia Library Foundation, on request of the Benicia Public Library, has authorized an award in the amount of \$50,000 to assist the Library in providing new and expanded services during the Coronavirus emergency; and

WHEREAS, the Library needed this infusion of funds as a capital expenditure to rethink and retool its services for expanded online and digital services; and

WHEREAS, the grant will allow the Library to expand its holdings of downloadable and online materials, internet and wi-fi access for the public, increased remote programming, and other services to be determined; and

WHEREAS, the Board of the Benicia Library Foundation unanimously voted to allocate these funds in April 2020.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby authorizes the acceptance of a grant from the Benicia Library Foundation in the amount of \$50,000 to be deposited into the Library's Grant account #2707000-5350, Project #700008 to be expended for the above mentioned designated purposes.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 2nd day of June, 2020 by the following vote:

Ayes:

Noes:

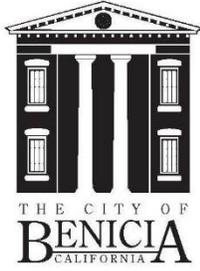
Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date



**AGENDA ITEM
CITY COUNCIL MEETING DATE – JUNE 2, 2020
BUSINESS ITEMS**

TO : City Council

FROM : City Manager

SUBJECT : **REQUEST CALTRANS TO FUND THE EFFORT TO PLANT REPLACEMENT TREES ALONG I-780 CORRIDOR AND WORK WITH LOCAL ORGANIZATIONS IN TREE PLANTING AND MAINTENANCE PROJECTS**

EXECUTIVE SUMMARY:

The Benicia General Plan identifies I-780 as a “scenic corridor”. During the CalTrans CEQA public presentation to the City Council several years ago for tree removal along I-780, the City Council and the public requested replacement tree planting. CalTrans indicated there were no plans to do so at that time. Now is the time to replant appropriate trees in furtherance of state policy to be carbon neutral by 2045. Replanting trees would mitigate the impacts to Benicia’s “scenic” I-780.

RECOMMENDATION:

Move to adopt the resolution (Attachment 1), requesting CalTrans to fund the effort to plant replacement trees along the I-780 corridor through Benicia and work with local organizations in tree planting and maintenance projects.

BUDGET INFORMATION:

There are no financial or budgetary impacts associated with this request.

BACKGROUND:

Recently, CalTrans has undertaken the process of removing Eucalyptus trees along a segment of I-780 in Benicia between I-80 and I-680 associated with an overall 1,900-tree North Bay (i.e., Marin, Sonoma, Solano and Napa counties) emergency tree removal project of trees that have been identified as diseased or deemed to be dead. The removal of these trees has created a barren landscape along the I-780 corridor through Benicia. The City has previously requested CalTrans plant replacement trees, but not through a Council resolution.

The resolution before Council this evening is a formal request from the City requesting CalTrans to fund the effort to plant replacement trees along the I-780 corridor through Benicia and work with local organizations in tree planting and maintenance projects.

NEXT STEPS:

If the resolution is adopted, staff will proceed with sending the request to CalTrans.

ALTERNATIVE ACTIONS:

Council could choose to not adopt the resolution.

General Plan	Goal 4.9: Ensure clean air for Benicia residents
	Goal 4.10: Support improved regional air quality.

Priority Based Budgeting	Strategic City Result Impacted by this Agenda Item
	The City Council and community identified six (6) key “Results” that establish the key goals for which the City of Benicia aspires to achieve with our programs and services. Agenda Items often influence multiple Results, the primary Result impacted by this Agenda Item is (please check one):
	<input checked="" type="checkbox"/> Protect Community Health & Safety <input type="checkbox"/> Maintain & Enhance A High Quality of Life <input type="checkbox"/> Preserve & Enhance Infrastructure <input type="checkbox"/> Strengthen Economic & Fiscal Conditions <input checked="" type="checkbox"/> Protect & Enhance the Environment <input type="checkbox"/> High Performing Government
	City Programs Impacted by This Agenda Item (Top 3):
	<ol style="list-style-type: none"> 1. Climate Action Plan (CAP) Implementation 2. Open Space Management 3. Intergovernmental Relations – City Manager’s Office
	Priority Based Budgeting (PBB) Website:
	Coming soon in Spring 2020 will be a link to the City of Benicia’s PBB website to learn more about these programs and their costs.

CEQA Analysis	Pursuant to Title 14, the California Code of Regulations, Section 15378(b)(5) of the California Environmental Quality Act (“CEQA”) guidelines, the proposed action is an administrative activity of the City that will not result in direct or indirect physical changes to the environment
----------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

ATTACHMENT:

Resolution – Request to CalTrans to Replant Trees

For more information contact: Lorie Tinfow, City Manager

Phone: 707.746.4200

E-mail: LTinfow@ci.benicia.ca.us

RESOLUTION NO. 20-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
REQUESTING CALTRANS TO FUND THE EFFORT TO PLANT REPLACEMENT
TREES ALONG THE I-780 CORRIDOR THROUGH BENICIA AND WORK WITH
LOCAL ORGANIZATIONS IN TREE PLANTING AND MAINTENANCE PROJECTS**

WHEREAS, the Benicia General Plan identifies I-780 and I-680 as principle scenic routes in Benicia; and

WHEREAS, General Plan Policy 3.9.2 states the City to *Work with the State to complete and maintain landscaping of I-680 and I-780*; and

WHEREAS, trees serve important functions of cleaning our air and water, capturing greenhouse gases, providing wildlife habitat and reducing summertime temperatures in our urban areas; and

WHEREAS, Caltrans removed over 400 diseased eucalyptuses along I-780 in 2005, and indicated this landscaping would be replaced as a separate project, subject to the availability of funding; and

WHEREAS, Caltrans is currently removing a substantial number of trees along I-780 and I-680 as part of a \$9.73 million project to remove dead or dying drought-damaged trees in four North Bay counties and has no plans to replant these trees; and

WHEREAS, during the CalTrans CEQA public presentation to the City Council several years ago for tree removal along the I-780 corridor, council and the public requested replacement tree planting; and

WHEREAS, during that same presentation to the City Council, CalTrans indicated there were no plans to plant trees at that time; and

WHEREAS, local organizations such as the Benicia Tree Foundation have approached CalTrans on more than one occasion through the Adopt-a-Highway Program to assist in planting and maintaining trees along the I-680 and I-780 corridor; and

WHEREAS, CalTrans has rejected those entreaties from local organizations; and

WHEREAS, replanting trees would mitigate the impacts to our “scenic” I-780; and

WHEREAS, now is the time to replant appropriate trees in furtherance of state policy to be carbon neutral by 2045.

NOW, THEREFORE, BE IT RESOLVED THAT, the City Council of the City of Benicia is requesting CalTrans to fund the effort to plant replacement trees along the I-780 corridor through Benicia and work with local organizations in tree planting and maintenance projects.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 2nd day of June, 2020 by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date



AGENDA ITEM
CITY COUNCIL MEETING DATE – JUNE 2, 2020
BUSINESS ITEMS

TO: City Council

FROM: City Attorney

SUBJECT: **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA RATIFYING THE ORDER OF THE DIRECTOR OF EMERGENCY SERVICES (CITY MANAGER) OF THE CITY OF BENICIA REGARDING OUTDOOR ACTIVITIES AND ENCROACHMENTS FOR BUSINESSES OPERATING IN COMPLIANCE WITH SOCIAL DISTANCING REQUIREMENTS**

EXECUTIVE SUMMARY:

The proposed resolution ratifies the order of the Director of Emergency Services (City Manager) of the City of Benicia and facilitates the reopening of businesses in a manner that is consistent with State and local social distancing requirements by waiving certain City permits and establishing a Temporary COVID-19 Outdoor Activities and Encroachment Agreement.

RECOMMENDATION:

Move to adopt the resolution (Attachment 1) of the City Council of the City of Benicia ratifying the order of the Director of Emergency Services (City Manager) of the City of Benicia No. 20-3 (Attachment 2) regarding outdoor activities and encroachments for businesses operating in compliance with social distancing requirements.

BUDGET INFORMATION:

There are no financial or budgetary impacts associated with the adoption of this resolution.

BACKGROUND:

In May 2020, in response to the COVID-19 pandemic, the Governor of California and the California Department of Public Health (CDPH) initiated a staged reopening of non-essential businesses throughout the State. The staged reopening authorizes counties throughout the State to obtain “Variances to Stage 2 of California’s Roadmap to Modify the Stay-at-Home Order.” These variances allow certain businesses that were previously required to remain closed due to the COVID-19 state of emergency, to reopen subject to County guidelines and social distancing requirements.

On May 20, 2020, the Health Officer of the County of Solano submitted an attestation to the CDPH on behalf of the County stating that Solano County had met the State readiness criteria outlined by the CDPH designed to mitigate the spread of COVID-19. Said attestation allowed

the County to move into the “Stage 2” reopening of non-essential businesses including restaurants and retail businesses.

In response to the State’s staged reopening plans, and pursuant to the City’s emergency police powers, on May 22, 2020, the City Manager, who serves as the Director of Emergency Services, signed Emergency Order Number 20-3. This order authorizes certain businesses that require outdoor space in order to effectively run their business while complying with social distancing requirements, to operate outside.

The proposed resolution ratifies Order Number 20-3. The resolution only authorizes businesses to operate outside pursuant to the order if such outdoor activities are allowed under State and County orders. All businesses operating pursuant to the resolution must remain in full compliance with all State and County orders regarding reopening and operation in order to comply with the resolution.

The proposed resolution does the following:

- To facilitate the reopening of businesses in a manner that is consistent with State and local social distancing requirements, the resolution temporarily suspends all City of Benicia laws, regulations and/or policies that would otherwise prohibit businesses from engaging in their business activities outside.
- Allows businesses to submit an application to enter into a Temporary COVID-19 Outdoor Activities and Encroachment Agreement (hereinafter the “Agreement.”) The City Manager is authorized to review and execute the Agreement on behalf of the City. The City Manager may modify the proposed outdoor activities in order to ensure public health and safety. Such a provision is important in order for the Community Development Department and/or the Public Works Department to ensure that encroachments and uses of outdoor spaces do not impede traffic flow, create fire hazards or interfere with public access.
- To streamline the issuance of rights of encroachment into the public right-of-way, the resolution temporarily suspends the requirement to obtain an encroachment permit or encroachment agreement from the City.
- Requires that business owners obtain private property consent for use of private property in conducting outdoor activities.
- Requires a building permit if a building permit would otherwise be required for the erection of structures or improvements.
- Requires Design Review pursuant to the Downtown Historic Conservation Plan (DHCP) if design review would otherwise be required by the DHCP, except that temporary structures and installations to accommodate outdoor activities would not be required to undergo design review.
- Declares violations of the resolution to be a public nuisance subject to enforcement as such.

Staff recommends that the City Council ratify the City Manager’s order by adopting the attached proposed resolution. Doing so would enable businesses to reopen pursuant to State and County

guidelines and orders. The resolution would remain in force and effect until repealed by the City Council or until the City Council declares that the state of emergency due to COVID-19 has terminated.

BUDGET INFORMATION: Budgetary impacts include staff time reviewing and executing Temporary COVID-19 Outdoor Activities and Encroachment Agreements; staff has not proposed a fee to applicants to enter into these agreements.

NEXT STEPS:

If the proposed resolution is adopted, it shall remain in effect until repealed by the City Council or until the City Council declares that the state of emergency due to COVID-19 has terminated.

ALTERNATIVE ACTIONS:

Direct City Attorney to make certain changes and/or amendments to the resolution.

General Plan	Goal 2.13: Support the economic viability of existing commercial centers.
	Goal 4.1: Make community health and safety a high priority for Benicia.

Priority Based Budgeting	Strategic City Result Impacted by this Agenda Item
	The City Council and community identified six (6) key “Results” that establish the key goals for which the City of Benicia aspires to achieve with our programs and services. Agenda Items often influence multiple Results, the primary Result impacted by this Agenda Item is (please check one):
	<input checked="" type="checkbox"/> Protect Community Health & Safety <input type="checkbox"/> Maintain & Enhance A High Quality of Life <input type="checkbox"/> Preserve & Enhance Infrastructure <input checked="" type="checkbox"/> Strengthen Economic & Fiscal Conditions <input type="checkbox"/> Protect & Enhance the Environment <input checked="" type="checkbox"/> High Performing Government
	City Programs Impacted by This Agenda Item (Top 3):
	<ol style="list-style-type: none"> 1. Community Emergency Notification 2. Emergency Operation System Management and Emergency Preparedness 3. Community Engagement and Public Relations – City Manager’s Office
	Priority Based Budgeting (PBB) Website:
	Coming soon in Spring 2020 will be a link to the City of Benicia’s PBB website to learn more about these programs and their costs.

CEQA Analysis	Pursuant to Title 14, the California Code of Regulations, Section 15378(b)(5) of the California Environmental Quality Act (“CEQA”) guidelines, the proposed action is an administrative activity of the City that will not result in direct or indirect physical changes to the environment.
--------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

ATTACHMENTS:

1. Resolution - Ratifying Emergency Services Order No. 20-3
2. Emergency Services Order No. 20-3

For more information contact: Benjamin Stock, City Attorney

Phone: 415-755-2600

E-mail: bstock@ci.benicia.ca.us

RESOLUTION NO. 20-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA REGARDING OUTDOOR ACTIVITIES AND ENCROACHMENTS FOR BUSINESSES OPERATING IN COMPLIANCE WITH SOCIAL DISTANCING REQUIREMENTS

WHEREAS, California Government Code Section 8630 empowers the City Council to proclaim the existence or threatened existence of a Local Emergency when the City is affected or likely to be affected by a public calamity; and

WHEREAS, Government Code Section 8634 empowers the City to promulgate orders and regulations to provide for the protection of life and property; and

WHEREAS, pursuant to Benicia Municipal Code section 2.36.050(A)(1), the Director of Emergency Services has declared the existence of a Local Emergency, which Local Emergency has been ratified by the City Council on March 19, 2020; and

WHEREAS, the Director of Emergency Services does hereby find that conditions of extreme peril and a crippling disaster, which severely impairs the safety of persons or property, have arisen within the City caused by the virus COVID-19 and its rapid transmission as reported by various local, state and national health organizations; and

WHEREAS, the aforesaid conditions of extreme peril warranted and necessitated the proclamation of the existence of a Local Emergency; and

WHEREAS, on March 18, 2020, the County of Solano Health Officer issued a County-wide shelter-in-place directive that requires individuals to isolate in their places of residence, except as needed for the performance of essential activities; and

WHEREAS, on March 19, 2020, the Governor of the State of California (“Governor”) issued Executive Order N-33-20, which provides that individuals living in the State of California are required to stay at home except as needed to maintain continuity of operations of the critical infrastructure sectors; and

WHEREAS, in mid-May 2020, the Governor of the State of California and the California Department of Public Health published guidance regarding the opening of certain businesses subject to stages established by the State; and

WHEREAS, the City has an important governmental interest in maintaining a thriving business community and protecting the health, safety, and economic welfare of its citizens and businesses; and

WHEREAS, in order to protect the health and safety of the City, while fostering economic wellbeing of the City’s citizens and businesses, the City wishes to assist both essential and non-essential businesses in remaining open, or re-opening when lawfully permitted to do so; and

WHEREAS, to the extent non-essential businesses are permitted to re-open pursuant to State and County orders, laws, and/or guidance, the City hereby suspends certain permit and license requirements in order to facilitate business operations in a manner that is consistent with social distancing requirements, and protects the health and safety of the citizens of Benicia; and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the Director of Emergency Services of the City of Benicia issued Emergency Order No. 20-3 on May 22, 2020, finding it necessary to issue and implement said Order to protect life, property and civil order; and

WHEREAS, the City Council of the City of Benicia wishes to ratify this order by adopting this Resolution.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby ordain as follows:

SECTION 1. Outdoor Activities Permitted. To facilitate the reopening of businesses in a manner that is consistent with State and local social distancing requirements, all City of Benicia laws, regulations and/or policies that would otherwise prohibit businesses from engaging in their business activities outside are hereby suspended.

SECTION 2. Eligible Businesses. Only those businesses that require outdoor space in order to effectively run their business while complying with State and local social distancing requirements are eligible to operate pursuant to this Resolution. Nothing in this Resolution shall authorize a particular business to operate outside unless and until that business is authorized to operate pursuant to State and County Orders. All businesses must be in full compliance with all State and County Orders regarding reopening and operation in order to comply with this Resolution.

SECTION 3. Temporary COVID-19 Outdoor Activities and Encroachment Agreement. To be eligible to engage in outdoor activities pursuant to this Resolution, businesses shall be required to enter into a Temporary COVID-19 Outdoor Activities and Encroachment Agreement (hereinafter the “Outdoor Activities Agreement”) attached hereto and incorporated herein by reference.

The Director of Emergency Operations (hereinafter the “Director”) or her designee shall be authorized to enter into an Outdoor Activities Agreement with the applicant and shall be entitled to seek the review of any City staff regarding any and all site-specific considerations related to the proposed outdoor activities. The Director may choose to enter into an Outdoor Activities Agreement on any terms she deems necessary, including but not limited to modifications to the proposed location of outdoor activities, to ensure ongoing protection of the public health and safety of the City.

The City shall only enter into an Outdoor Activities Agreement that authorizes activities which are consistent with State and County orders regarding essential businesses.

SECTION 4. Encroachment Into Public Right-of-Way. To streamline the issuance of temporary rights of encroachment into the public right-of-way, the City hereby amends its encroachment permit and agreement process as follows:

1. The following requirements set forth in the Benicia Municipal Code Chapter 12.12 regarding encroachment permits and encroachment agreements shall not apply to businesses seeking to encroach into the public right of way for purposes of conducting business in compliance with State and local social distancing requirements: BMC §§ 12.12.020, 12.12.060, 12.12.070, and 12.12.270.

2. Businesses seeking to encroach into the public right way for purposes of conducting business in compliance with State and local social distancing requirements, shall execute an Outdoor Activities Permit in lieu of obtaining (1) encroachment permits and encroachment agreements required by BMC Ch. 12.12 and (2) sidewalk table permits.

SECTION 5. No Interference with Private Property. Nothing in this Resolution relieves a business from any obligations or laws requiring consent of adjacent property owners for use of private property. Businesses seeking to operate outdoors shall obtain consent of any private property owners whose property will be used for outdoor operations.

SECTION 6. Building Permit and Design Review Required. Nothing in this Resolution relieves a business from the requirement to obtain a building permit for outdoor activities if a building permit would otherwise be required, nor does this Resolution relieve a business from complying with all provisions of the Building Code, including but not limited to, maximum occupancy requirements. Nothing in this Resolution relieves a business from the requirement to undergo design review for exterior alterations if such design review is required pursuant to the City of Benicia Downtown Historic Conservation Plan, except that temporary installments, including but not limited to, tents, fencing, barriers and enclosures, may be authorized to facilitate proposed outdoor activities.

SECTION 7. County Permits. Nothing in this Resolution relieves a business from the requirement to obtain any and all County permits regarding the provision of food and dining services.

SECTION 8. Violations of Resolution. Any violation of this Resolution or any other local, State, or Federal law shall constitute an imminent threat to the public health and is hereby declared to be a public nuisance and shall be subject to enforcement as such; violations of this Resolution may result in the immediate termination of an Outdoor Activities Agreement and the cessation of any activities authorized by said Agreement and this Resolution.

SECTION 9. Effective Date of Resolution. This Resolution shall become effective on the date of adoption of the City Council of the City of Benicia and shall expire when repealed by the City Council or upon a declared termination of the state of emergency regarding COVID-19 by the Benicia City Council. This Resolution shall only apply to the extent businesses are authorized to operate pursuant to State and County orders regarding essential businesses.

SECTION 10. The City Clerk shall certify the adoption of this Resolution and shall cause a certified Resolution to be filed in the Office of the City Clerk.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 2nd day of June, 2020 by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

TEMPORARY COVID-19 OUTDOOR ACTIVITIES AND ENCROACHMENT AGREEMENT

1. Business Identification

Business Name (Permittee): _____

Mailing Address: _____

Business Address: _____

Business Phone: _____

Business Email: _____

2. Type of Business [Check one]

Restaurant

Retail

Other Please Describe _____

3. Proposed Encroachment [Check one or more if Business Proposes to Use Public Right-of-Way for Outdoor Activities]

Outdoor Dining

Outdoor Food Sales

Outdoor Retail Display

Outdoor Retail Sales

Other Please Describe _____

4. Will proposed outdoor activity require the use of private property not owned or leased by Permittee? Yes No

If response to above question is yes, has Permittee obtained all required authorizations (including but not limited to written agreements, licenses, and/or leases) to use said private property? Yes No

5. **Proposed Activities.** Please provide the following information on separate attachment: (1) a description of the Business, (2) proposed outdoor activities, (3) a description of all improvements, structures and/or materials to be used to facilitate outdoor activities, (4) description of area in which proposed outdoor activities will take place along with a drawing, map or other visual depiction showing said area, improvements, structures and/or materials to be placed in said area.

6. **Requested Start Date of Outdoor Activities:** _____

7. **Proposed Duration of Outdoor Activities:** _____

8. **Amendments to Proposal by City and/or Additional Terms of Agreement** [To be Completed by City]:

9. **Terms of Agreement:**

A. Permittee agrees to accept all responsibility for loss or damage to any person or entity and to indemnify, hold harmless, and defend and release the City of Benicia, its agents, and employees from and against any and all liability actions, claims, damages, costs, or expenses which may be asserted by any person or entity, including Permittee, arising out of or in connection with the willful act or negligence of Permittee engaging in the activities associated with this Agreement, whether or not there is concurrent negligence on the part of the City, but excluding liability due to the sole active negligence or sole willful misconduct of the City.

B. The City reserves the right to order the removal or relocation of the improvements listed in paragraphs 3-6, above, at Permittee's cost in the event same is required by the City and/or a Utility. Whether or not said removal or relocation is required shall be left to the unfettered discretion of the City and/or a Utility. Permittee hereby grants to the City the right to remove or relocate said improvements and to come upon Permittee's land to effect said removal or relocation if deemed necessary by the City and/or a Utility. Permittee waives any claim or right he/she/it may have for inverse condemnation, damages, or loss of income or business resulting from said removal. However, the City will be responsible for repairing any physical damage caused to Permittee's structure(s) or property by the City's but not a Utility's removal or relocation of said improvements. Upon removal or relocation of said improvements, all rights of Permittee under this agreement and the permit itself shall terminate.

C. Permittee shall comply with all applicable local, State, and Federal laws and regulations at all times during the effective period of this agreement, including but not limited to laws regarding the obstruction of vehicular traffic, the Americans with Disabilities Act and County health laws regarding provision of food services.

D. If Permittee's proposed activities encroach into public right-of-way and/or a public easement, Permittee shall procure and maintain for the duration of this Agreement, and furnish proof of along with this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with this Agreement, as set forth in this section. The cost of such insurance shall be borne by Permittee. Permittee's whose activities do not encroach into public right-of-way and/or a public easement, shall not be required to obtain said insurance.

Minimum Scope of Insurance. Permittee shall obtain and all times during duration of this Outdoor Activities Agreement maintain coverage at least as broad as:

(a) Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).

(b) Workers' Compensation insurance as required by the State of California and Employer's Liability insurance (for Permittees with employees).

(c) Property insurance against all risks of loss to any tenant improvements or betterments.

Permitee shall maintain limits no less than:

(a) General Liability: **\$1,000,000** 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.

(b) Employer's Liability: **\$1,000,000** per accident for bodily injury or disease.

(c) Property Insurance: Full replacement cost with no coinsurance penalty provision.

Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions 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 retentions as respects the City, its officers, officials, employees and volunteers; or the Permitee shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions.

The general liability policy is to contain, or be endorsed to contain, the following provisions:

(a) The City, its officers, officials, employees and volunteers are to be covered as insureds with respect to liability arising out of ownership, maintenance or use of the premises/property owned by or leased to the Permitee.

(b) The Permitee's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Permitee's insurance and shall not contribute with it.

(c) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

Acceptability of Insurers.

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII unless prior approval is received from the City Attorney.

E. If Permittee proposes to sell or serve alcohol as a part of a its outdoor activities, Permittee shall furnish, along with this Agreement, proof of a liquor liability coverage endorsement or policy.

F. Violation of Agreement. Any violation of this Agreement or any other local, State, or Federal law shall constitute an imminent threat to the public health and is hereby declared to be a public nuisance and shall be subject to enforcement as such; violations of this Agreement and/or Resolution No. [REDACTED] may result in the immediate termination of this Agreement and the cessation of any activities authorized by this Agreement and Resolution No. [REDACTED].

G. No Vested or Ongoing Rights Conferred. Permittee understands and agrees that this Agreement and Resolution No. [REDACTED] confer no vested rights to any ongoing or continued activities, and any and all activities authorized by this Agreement and Resolution are temporary in nature and granted solely to enable businesses to operate in compliance with State and local orders regarding social distancing and COVID-19. All improvements, structures and installments approved pursuant to this Agreement shall be removed in their entirety upon expiration of this Agreement.

H. Non-Transferable. This Agreement is non-transferable. Only the permittee with whom this Agreement was entered shall be permitted to engage in the activities authorized herein.

I. Entire Agreement. This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations of modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing, signed by the party to be charged and duly recorded.

THE UNDERSIGNED AGREES THAT THE PROPOSED ACTIVITIES DESCRIBED ABOVE SHALL BE IN ACCORDANCE WITH AND SUBJECT TO THIS AGREEMENT'S TERMS AND CONDITIONS, CITY OF BENICIA RESOLUTION NO. _____, AND ALL OTHER APPLICABLE LOCAL, STATE AND FEDERAL LAWS, INCLUDING BUT NOT LIMITED TO STATE AND COUNTY EMERGENCY ORDERS REGARDING THE COVID-19 PANDEMIC.

Permittee

Date

Lorie Tinfow
City Manager
Director of Emergency Services
City of Benicia

Date

**CONSENT TO USE PRIVATE PROPERTY
FOR TEMPORARY OUTDOOR ACTIVITIES**

[This form must be completed if proposed outdoor activity requires the use of private property which is neither owned nor leased by Permittee]

I, _____, declare that:

1. I am the record title owner of the property located at:
_____, Benicia, California,
(Physical Address)

2. I am aware that the Permittee _____ (Business name) is in the process of entering into a Temporary COVID-19 Outdoor Activities and Encroachment Agreement with the City of Benicia to use my property, described in paragraph 1, for certain outdoor activities described in the Agreement.

3. I consent and agree to use of my property for the outdoor activities described in the Agreement.

Signed this _____ day of _____, 20

(Landowner Signature)

DIRECTOR OF EMERGENCY SERVICES ORDER NO. 20-3

AN ORDER OF THE DIRECTOR OF EMERGENCY
SERVICES (CITY MANAGER) OF THE CITY OF BENICIA
REGARDING OUTDOOR ACTIVITIES AND
ENCROACHMENTS FOR BUSINESSES OPERATING IN
COMPLIANCE WITH SOCIAL DISTANCING
REQUIREMENTS

WHEREAS, California Government Code Section 8630 empowers the City Council to proclaim the existence or threatened existence of a Local Emergency when the City is affected or likely to be affected by a public calamity; and,

WHEREAS, Government Code Section 8634 empowers the City to promulgate orders and regulations to provide for the protection of life and property; and,

WHEREAS, pursuant to Benicia Municipal Code section 2.36.050(A)(1), the Director of Emergency Services has declared the existence of a Local Emergency, which Local Emergency has been ratified by the City Council on March 19, 2020; and,

WHEREAS, the Director of Emergency Services does hereby find that conditions of extreme peril and a crippling disaster, which severely impairs the safety of persons or property, have arisen within the City caused by the virus COVID-19 and its rapid transmission as reported by various local, state and national health organizations; and,

WHEREAS, the aforesaid conditions of extreme peril warranted and necessitated the proclamation of the existence of a Local Emergency; and

WHEREAS, on March 18, 2020, the County of Solano Health Officer issued a County-wide shelter-in-place directive that requires individuals to isolate in their places of residence, except as needed for the performance of essential activities; and

WHEREAS, on March 19, 2020, the Governor of the State of California ("Governor") issued Executive Order N-33-20, which provides that individuals living in the State of California are required to stay at home except as needed to maintain continuity of operations of the critical infrastructure sectors; and

WHEREAS, in mid-May 2020, the Governor of the State of California and the California Department of Public Health published guidance regarding the opening of certain businesses subject to stages established by the State; and

WHEREAS, the City has an important governmental interest in maintaining a thriving business community and protecting the health, safety, and economic welfare of its citizens and businesses; and

WHEREAS, in order to protect the health and safety of the City, while fostering economic wellbeing of the City's citizens and businesses, the City wishes to assist both essential and non-essential businesses in remaining open, or re-opening when lawfully permitted to do so;

WHEREAS, when non-essential businesses are permitted to re-open pursuant to State and County orders, laws, and/or guidance, the City will suspend certain permit and license requirements in order to facilitate business operations in a manner that is consistent with social distancing requirements, and protects the health and safety of the citizens of Benicia;

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to issue and implement this Order to protect life, property and civil order.

NOW, THEREFORE, THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF BENICIA DOES HEREBY ORDER AS FOLLOWS:

SECTION 1. Outdoor Activities Permitted. To facilitate the reopening of businesses in a manner that is consistent with State and local social distancing requirements, all City of Benicia laws, regulations and/or policies that would otherwise prohibit businesses from engaging in their business activities outside are hereby suspended.

SECTION 2. Eligible Businesses. Only those businesses that require outdoor space in order to effectively run their business while complying with State and local social distancing requirements are eligible to operate pursuant to this Order. Nothing in this Order shall authorize a particular business to operate outside unless and until that business is authorized to operate pursuant to State and County Orders. All businesses must be in full compliance with all State and County Orders regarding business reopening and operation in order to comply with this Order.

SECTION 3. Temporary COVID-19 Outdoor Activities and Encroachment Agreement. To be eligible to engage in outdoor activities pursuant to this Order, businesses shall be required to enter into a Temporary COVID-19 Outdoor Activities and Encroachment Agreement (hereinafter the "Outdoor Activities Agreement") attached hereto and incorporated herein by reference.

The Director of Emergency Operations (hereinafter the "Director") or her designee shall be authorized to enter into an Outdoor Activities Agreement with the applicant and shall be entitled to seek the review of any City staff regarding any and all site-specific considerations related to the proposed outdoor activities. The Director may choose to enter into an Outdoor Activities Agreement on any terms she deems necessary, including but not limited to modifications to the proposed location of outdoor activities, to ensure ongoing protection of the public health and safety of the City.

The City shall only enter into an Outdoor Activities Agreement that authorizes activities which are consistent with State and County orders regarding essential businesses.

SECTION 4. Encroachment Into Public Right-of-Way. To streamline the issuance of temporary rights of encroachment into the public right-of-way, the City hereby amends its encroachment permit and agreement process as follows:

1. The following requirements set forth in the Benicia Municipal Code Chapter 12.12 regarding encroachment permits and encroachment agreements shall not apply to businesses seeking to encroach into the public right of way for purposes of conducting business in compliance with State and local social distancing requirements: BMC §§ 12.12.020, 12.12.060, 12.12.070, and 12.12.270.

2. Businesses seeking to encroach into the public right way for purposes of conducting business in compliance with State and local social distancing requirements, shall execute an Outdoor Activities Permit in lieu of obtaining (1) encroachment permits and encroachment agreements required by BMC Ch. 12.12 and (2) sidewalk table permits.

SECTION 5. No Interference with Private Property. Nothing in this Order relieves a business from any obligations or laws requiring consent of adjacent property owners for use of private property. Businesses seeking to operate outdoors shall obtain consent of any private property owners whose property will be used for outdoor operations.

SECTION 6. Building Permit and Design Review Required. Nothing in this Order relieves a business from the requirement to obtain a building permit for outdoor activities if a building permit would otherwise be required, nor does this order relieve a business from complying with all provisions of the Building Code, including but not limited to, maximum occupancy requirements. Nothing in this Order relieves a business from the requirement to undergo design review for exterior alterations if such design review is required pursuant to the City of Benicia Downtown Historic Conservation Plan, except that temporary installments, including but not limited to, tents, fencing, barriers and enclosures, may be authorized to facilitate proposed outdoor activities.

SECTION 7. County Permits. Nothing in this Order relieves a business from the requirement to obtain any and all County permits regarding the provision of food and dining services.

SECTION 8. Violations of Order. Any violation of this Order or any other local, State, or Federal law shall constitute an imminent threat to the public health and is hereby declared to be a public nuisance and shall be subject to enforcement as such; violations of this order may result in the immediate termination of an Outdoor Activities Agreement and the cessation of any activities authorized by said Agreement and this Order.

SECTION 9. Effective Date of Order. This Order shall become effective on the date signed by the Director of Emergency Operations for the City of Benicia and shall expire when repealed or upon a declared termination of the state of emergency regarding COVID-19 by the Benicia City Council. This Order shall only apply to the extent businesses are authorized to operate pursuant to State and County orders regarding essential businesses.

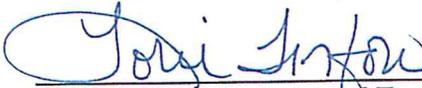
SECTION 10. The City Clerk shall certify the adoption of this Order and shall cause a certified Order to be filed in the Office of the City Clerk.

PASSED and ADOPTED this 22nd day of May 2020.

Attest:

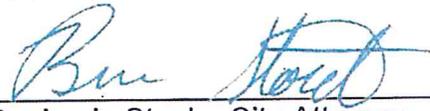


Lisa Wolfe, City Clerk



Lorie Tinfow, Director of Emergency Services/City Manager

Approved as to Form:



Benjamin Stock, City Attorney

TEMPORARY COVID-19 OUTDOOR ACTIVITIES AND ENCROACHMENT AGREEMENT

1. Business Identification

Business Name (Permittee): _____
Mailing Address: _____
Business Address: _____
Business Phone: _____
Business Email: _____

2. Type of Business [Check one]

Restaurant
Retail
Other Please Describe _____

3. Proposed Encroachment [Check one or more if Business Proposes to Use Public Right-of-Way for Outdoor Activities]

Outdoor Dining
Outdoor Food Sales
Outdoor Retail Display
Outdoor Retail Sales
Other Please Describe _____

4. Will proposed outdoor activity require the use of private property not owned or leased by Permittee? Yes No

If response to above question is yes, has Permittee obtained all required authorizations (including but not limited to written agreements, licenses, and/or leases) to use said private property? Yes No

5. Proposed Activities. Please provide the following information on separate attachment: (1) a description of the Business, (2) proposed outdoor activities, (3) a description of all improvements, structures and/or materials to be used to facilitate outdoor activities, (4) description of area in which proposed outdoor activities will take place along with a drawing, map or other visual depiction showing said area, improvements, structures and/or materials to be placed in said area.

6. Requested Start Date of Outdoor Activities: _____

7. Proposed Duration of Outdoor Activities: _____

8. Amendments to Proposal by City and/or Additional Terms of Agreement [To be Completed by City]:

9. Terms of Agreement:

A. Permittee agrees to accept all responsibility for loss or damage to any person or entity and to indemnify, hold harmless, and defend and release the City of Benicia, its agents, and employees from and against any and all liability actions, claims, damages, costs, or expenses which may be asserted by any person or entity, including Permittee, arising out of or in connection with the willful act or negligence of Permittee engaging in the activities associated with this Agreement, whether or not there is concurrent negligence on the part of the City, but excluding liability due to the sole active negligence or sole willful misconduct of the City.

B. The City reserves the right to order the removal or relocation of the improvements listed in paragraphs 3-6, above, at Permittee's cost in the event same is required by the City and/or a Utility. Whether or not said removal or relocation is required shall be left to the unfettered discretion of the City and/or a Utility. Permittee hereby grants to the City the right to remove or relocate said improvements and to come upon Permittee's land to effect said removal or relocation if deemed necessary by the City and/or a Utility. Permittee waives any claim or right he/she/it may have for inverse condemnation, damages, or loss of income or business resulting from said removal. However, the City will be responsible for repairing any physical damage caused to Permittee's structure(s) or property by the City's but not a Utility's removal or relocation of said improvements. Upon removal or relocation of said improvements, all rights of Permittee under this agreement and the permit itself shall terminate.

C. Permittee shall comply with all applicable local, State, and Federal laws and regulations at all times during the effective period of this agreement, including but not limited to laws regarding the obstruction of vehicular traffic, the Americans with Disabilities Act and County health laws regarding provision of food services.

D. If Permittee's proposed activities encroach into public right-of-way and/or a public easement, Permittee shall procure and maintain for the duration of this Agreement, and furnish proof of along with this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with this Agreement, as set forth in this section. The cost of such insurance shall be borne by Permittee. Permittee's whose activities do not encroach into public right-of-way and/or a public easement, shall not be required to obtain said insurance.

Minimum Scope of Insurance. Permittee shall obtain and all times during duration of this Outdoor Activities Agreement maintain coverage at least as broad as:

(a) Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).

(b) Workers' Compensation insurance as required by the State of California and Employer's Liability insurance (for Permittees with employees).

(c) Property insurance against all risks of loss to any tenant improvements or betterments.

Permitee shall maintain limits no less than:

(a) General Liability: **\$1,000,000** 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.

(b) Employer's Liability: **\$1,000,000** per accident for bodily injury or disease.

(c) Property Insurance: Full replacement cost with no coinsurance penalty provision.

Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions 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 retentions as respects the City, its officers, officials, employees and volunteers; or the Permitee shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions.

The general liability policy is to contain, or be endorsed to contain, the following provisions:

(a) The City, its officers, officials, employees and volunteers are to be covered as insureds with respect to liability arising out of ownership, maintenance or use of the premises/property owned by or leased to the Permitee.

(b) The Permitee's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Permitee's insurance and shall not contribute with it.

(c) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

Acceptability of Insurers.

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII unless prior approval is received from the City Attorney.

E. If Permittee proposes to sell or serve alcohol as a part of a its outdoor activities, Permittee shall furnish, along with this Agreement, proof of a liquor liability coverage endorsement or policy.

F. Violation of Agreement. Any violation of this Agreement or any other local, State, or Federal law shall constitute an imminent threat to the public health and is hereby declared to be a public nuisance and shall be subject to enforcement as such; violations of this Agreement and/or Emergency Order No. 20-3 may result in the immediate termination of this Agreement and the cessation of any activities authorized by this Agreement and Emergency Order No. 20-3.

G. No Vested or Ongoing Rights Conferred. Permittee understands and agrees that this Agreement and Order No. 20-3 confer no vested rights to any ongoing or continued activities, and any and all activities authorized by this Agreement and Order are temporary in nature and granted solely to enable businesses to operate in compliance with State and local orders regarding social distancing and COVID-19. All improvements, structures and installments approved pursuant to this Agreement shall be removed in their entirety upon expiration of this Agreement.

H. Non-Transferable. This Agreement is non-transferable. Only the permittee with whom this Agreement was entered shall be permitted to engage in the activities authorized herein.

I. Entire Agreement. This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations of modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing, signed by the party to be charged and duly recorded.

THE UNDERSIGNED AGREES THAT THE PROPOSED ACTIVITIES DESCRIBED ABOVE SHALL BE IN ACCORDANCE WITH AND SUBJECT TO THIS AGREEMENT'S TERMS AND CONDITIONS, CITY OF BENICIA EMERGENCY ORDER NO. 20-3, AND ALL OTHER APPLICABLE LOCAL, STATE AND FEDERAL LAWS, INCLUDING BUT NOT LIMITED TO STATE AND COUNTY EMERGENCY ORDERS REGARDING THE COVID-19 PANDEMIC.

Permittee

Date

Lorie Tinfow
City Manager
Director of Emergency Services
City of Benicia

Date

**CONSENT TO USE PRIVATE PROPERTY
FOR TEMPORARY OUTDOOR ACTIVITIES**

[This form must be completed if proposed outdoor activity requires the use of private property which is neither owned nor leased by Permittee]

I, _____, declare that:

1. I am the record title owner of the property located at:

_____, Benicia, California,
(Physical Address)

2. I am aware that the Permittee _____ (Business name) is in the process of entering into a Temporary COVID-19 Outdoor Activities and Encroachment Agreement with the City of Benicia to use my property, described in paragraph 1, for certain outdoor activities described in the Agreement.

3. I consent and agree to use of my property for the outdoor activities described in the Agreement.

Signed this ____ day of _____, 20

(Landowner Signature)