

City of Carpinteria
City Council Regular Meeting Agenda
Monday, May 13, 2013
Council Chamber, 5775 Carpinteria Avenue

5:30 p.m. Regular Session

INFORMATION ABOUT CITY COUNCIL MEETINGS:

- The time at which an item on the agenda is scheduled to be heard is an estimate only. The City Council may consider and act on an agenda item in any order it deems appropriate. In addition, an item may be considered earlier or later than the Estimated Time, depending on the length of time which is devoted to other agenda items. All persons interested in an item listed on the agenda are advised to be present throughout the meeting to ensure that they are present when the item is called.
- The regular meeting will be broadcast live over Government Access Television Channel 21. The City Council meetings will be rebroadcast on Wednesdays at 8:00 p.m. and Saturdays at 5:00 p.m.
- Materials related to an Agenda item submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office at 5775 Carpinteria Avenue, Carpinteria, during normal business hours. Such documents are also available on the City of Carpinteria website at www.carpinteria.ca.us subject to staff's ability to post the documents before the meeting.
- Any written or printed material and/or exhibits presented at a City Council meeting or work session become the property of the City.
- Any information presented to the City Council by the public on any agenda item and during Public Comment using electronic media to be displayed on the overhead projector must be arranged with staff for review of materials in advance of the meeting and no later than Friday prior to the Council meeting.
- As a courtesy to others and to avoid interference with the public address system, please refrain from using cell phones in the Council Chambers and please turn off all audible pagers and rings.
- If you wish to speak on a matter scheduled for consideration in a closed session, you will have an opportunity to address the City Council before the Council retires to its closed session deliberations.

**ESTIMATED
TIME:**

5:30 p.m.

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

INTRODUCTIONS, PROCLAMATIONS AND PRESENTATIONS

5:32 p.m.

PUBLIC INFORMATION REPORTS AND ANNOUNCEMENTS

5:33 p.m.

CITY MANAGER'S REPORT

The City Manager will report to the City Council regarding various City and/or community events and/or matters of interest. There will be no City Council discussion except to ask questions or refer matters to staff; and no action will be taken unless listed on a subsequent agenda.

5:35 p.m.

PRESENTATIONS BY CITIZENS/PUBLIC COMMENT

This is a time for public comments on matters not otherwise on the agenda but within the subject matter jurisdiction of the City Council. The Public Comment period is limited to 15 minutes and divided among those persons desiring to speak. No person shall speak longer than three minutes; however, the Mayor may establish shorter periods based on the time available and/or the number of persons waiting to speak. Persons wishing to speak on a specific item will be recognized at the time the agenda item is considered.

Please be aware that items on the consent calendar are considered to be routine and are normally enacted by one unanimous vote of the Council. If you wish to speak on a consent calendar item, or on a matter scheduled for consideration in a closed session at the end of the agenda, please do so during the Presentations by Citizens/Public Comment portion of the meeting.

The City and the City Council are not responsible for the content of statements made during the public comment period, or the factual accuracy of any such statements.

AGENDA MODIFICATIONS: The City Council may modify the regular agenda by tabling items, adding urgency items to the agenda, or changing the order in which items are considered. Changes to the Consent Calendar are considered at the time the Consent Calendar is considered.

5:50 p.m.

CONSENT CALENDAR (to be approved by roll call vote on one motion with all resolutions and ordinances as read by title only).

Individual items may be removed and considered separately at the request of a Councilmember. Any item, which is removed from the Consent Calendar, will be added to the end of the agenda under Other Business.

1. Minutes of the regular meeting held April 22, 2013.
2. Expenditures for the period ending May 7, 2013.
3. Second Reading and Adoption of Ordinance No. 662, Amending Chapter 8.52: Smoking Regulations, Chapter 14.08: Definitions, Chapter 14.20: CPD Commercial Planned Development District and Chapter 14.22: CB Central Business District of the Carpinteria Municipal Code.
4. Resolution No. 5418 entitled, A Resolution of the Carpinteria City Council Authorizing Destruction of Certain Records in the City Clerk's Office.

ADMINISTRATIVE MATTER: NONE

PUBLIC HEARING: NONE

OTHER BUSINESS:

- 5:53 p.m.
5. A new lease agreement regarding the Seaside Building, located at 5103 Carpinteria Avenue between the City of Carpinteria and the Friends of the Carpinteria Public Library

Recommendation: Approve the new lease of the Seaside Building between the City of Carpinteria and Friends of the Carpinteria Public Library.

Staff presenter: Dave Durflinger, City Manager and Kevin Silk, Assistant to the City Manager

- a. Staff Report
- b. Public Comment
- c. City Council Determination

- 6:10 p.m.
6. Approval of Contract with Drake Haglan and Associates for Preliminary Engineering, Environmental, Right of Way, Permitting and Final Design Services for Carpinteria Avenue Bridge Replacement Project

Recommendation: That the City Council authorize the City Manager to execute an agreement with Drake Haglan and Associates, Inc. for preliminary engineering including conceptual design, environmental review, right-of-way engineering, permitting and final design services for the Carpinteria Avenue Bridge Replacement Project.

Staff presenter: Charles W. Ebeling, Public Works Director

- a. Staff Report
- b. Public Comment
- c. City Council Determination

- 6:25 p.m. 7. Adopt Resolution No. 5460 Approving the Positions and Related Descriptions for Civil Engineer and Engineering Technician, and Authorize the City Manager to Establish a Part-time Maintenance Worker Position, All Being Part of the Department of Public Works

Recommendation: That the City Council approve the positions and related descriptions for a Civil Engineer and Engineering Technician, and authorize the City manager to establish a Part-time Maintenance Worker position to improve efficiency and reduce costs in the Department of Public Works.

Staff presenter: Charles W. Ebeling, Public Works Director

- a. Staff Report
- b. Public Comment
- c. City Council Determination

- 6:40 p.m. 8. Report on Parking and Business Improvement Area Assessment District No. 4 for Fiscal Year 2013-14

Recommendation: Adopt Resolution Nos. 5456 and 5457, as read by title only, thereby acting to accept the mandatory annual report and budget and to set the matter of the continuation of Parking and Business Improvement Area District No. 4 for fiscal year 2013-2014 for public hearing at the regular City Council meeting of May 28, 2013.

Staff presenter: Charles W. Ebeling, Public Works Director

- a. Staff Report
- b. Public Comment
- c. City Council Determination

6:55 p.m.

9. Approval of the Amended Measure A Project Cooperative Agreement for the Safe Routes to School and Bicycle and Pedestrian Project Funding Grants

Recommendation: That the City Council authorize the Mayor to sign the amended Measure A Project Cooperative Agreement with the Santa Barbara County Association of Governments to receive \$263,623 in grant funding for Safe Routes to School and Bicycle and Pedestrian Projects Cycle 2.

Staff presenter: Charles W. Ebeling, Public Works Director

- a. Staff Report
- b. Public Comment
- c. City Council Determination

7:15 p.m.

COMMITTEE REPORTS, INQUIRIES AND OTHER MATTERS PRESENTED BY COUNCILMEMBERS

Informational reports from Councilmember representatives on the committees, commissions and organizations listed below. This is also an opportunity for Councilmembers to request information from staff or seek support from fellow Councilmembers for future agenda items.

1. Representatives to Regional Agencies and Committees

- a. Beach Erosion Authority for Clean Oceans and Nourishment (BEACON) (Shaw/Alt. Carty)
- b. California Joint Powers Insurance Authority (CJPIA) (Clark/Alt. Shaw)
- c. Channel Counties Division, League of California Cities (Nomura/Alt. Shaw)
- d. Santa Barbara Association of Governments (SBCAG)(Clark/Alt. Nomura)
- e. Santa Barbara County Air Pollution Control District (APCD)(Clark/Alt. Nomura)
- f. Santa Barbara Joint Housing Task Group (Carty & Shaw)
- g. Central Coast Collaborative on Homelessness (C3H) (Carty)
- h. South Coast Task Force on Youth Gangs Leadership and Executive Council (Carty & Clark)

2. Joint and Special Committees

- a. City Council/Chamber of Commerce Board of Directors Committee (Carty & Nomura)
- b. City Council/Public Safety Committee (Clark & Shaw)
- c. City Council/School Board Committee (Stein & Carty)
- d. City Council/Utilities Committee (Stein & Nomura)
- e. City Council/First District Supervisor Committee (Stein & Carty)

3. Ad Hoc Committees

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- a. Budget Committee (Stein & Clark)
- b. Public Facility Site Acquisition/Development Committee (Carty & Nomura)
- c. Transportation Committee (Stein & Shaw)

4. City Representatives on other Committees

- a. Community Media Access Center (Gary Dobbins)
- b. Santa Barbara Coastal Vector Control District (Ronald Hurd)
- c. Santa Barbara Metropolitan Transit District (Chuck McQuary)

7:18 p.m.

ADJOURNMENT

The next regular meeting to be held on **Tuesday, May 28, 2013**, at **5:30 P.M.**, in the Council Chamber, City Hall, 5775 Carpinteria Avenue, Carpinteria, California.

In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, please contact the City Clerk's Office at 684-5405, extension 403 or the California Relay Service at (866) 735-2929. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements for accessibility to this meeting.

This agenda was posted on Thursday, May 9, 2103, in the City Clerk's Office, on the City Hall Public Notices Board, and on the Internet.

**City of Carpinteria
City Council Minutes
Regular Meeting
Council Chambers
Monday, April 22, 2013**

CALL TO ORDER

The meeting was called to order by Vice Mayor Carty at 5:00 p.m.

ROLL CALL

Councilmember Wade Nomura, Councilmember Fred Shaw, Councilmember Al Carty, and Vice Mayor Gregg Carty were present. Mayor J. Bradley Stein was absent. City Manager Dave Durflinger, City Attorney Peter Brown, Deputy City Attorney Dylan Johnson, Parks and Recreation Director Matt Roberts, and Assistant to City Manager Kevin Silk were also present.

CLOSED SESSION

Peter Brown, City Attorney, announced that the City Council would temporarily adjourn to a Closed Session for the purpose of the following item:

- a. Conference with Real Property Negotiator(s) – Government Code Section 54956.8

Property Owner: City of Carpinteria

Property: Seaside building located at 5103 Carpinteria Avenue; APN 004-047-001

Agency Negotiators: Dave Durflinger, City Manager; Peter Brown, City Attorney; Dylan Johnson, Deputy City Attorney; Matt Roberts, Parks and Recreation Director; and Kevin Silk, Assistant to City Manager

Negotiating Parties: Friends of the Carpinteria Library

Under Negotiation: Price and terms of payment of lease agreement

PUBLIC COMMENT ON CLOSED SESSION MATTERS: NONE

TEMPORARY ADJOURNMENT TO CLOSED SESSION

The City Council recessed to Closed Session at 5:02 p.m.

CALL BACK TO ORDER

The meeting was called to order by Vice Mayor Carty at 5:30 p.m.

Peter Brown, City Attorney, reported that there was no reportable action from the Closed Session Item.

ROLL CALL

Councilmembers present:

Councilmember Al Clark
Councilmember Wade Nomura
Councilmember Fred Shaw
Vice Mayor Gregg Carty

Mayor J. Bradley Stein was absent.

Staff members present:

Dave Durflinger, City Manager
Peter Brown, City Attorney
Dylan Johnson, Deputy City Attorney
Fidela Garcia, City Clerk
Kevin Silk, Assistant to the City Manager
Steve Goggia, Senior Planner
Matt Roberts, Parks and Recreation Director
Charles Ebeling, Public Works Director/City Engineer/Traffic Engineer
John Thornberry, Administrative Services Director

PLEDGE OF ALLEGIANCE

All present were led in the salute to the flag by Vice Mayor Carty.

INTRODUCTIONS, PROCLAMATIONS AND PRESENTATIONS

1. Presentation of the City's Spring 2013 Outstanding Community Partner Award to HELP of Carpinteria.

Vice Mayor Carty presented the City's Spring 2013 Outstanding Community Partner Award to HELP of Carpinteria to Judy Goodbody, Executive Director. Ms. Goodbody introduced Board members Doug Treloar, Neal Bartlett, Jan Walker, Terry Moore, Pat Arrellanes, Renee Henin, and Trudy Olmstead. She noted that Councilmember Clark has volunteered for several years and she acknowledged the volunteers for assisting the community. She thanked the City Council for the recognition.

PUBLIC INFORMATION REPORTS AND ANNOUNCEMENTS: NONE

CITY MANAGER'S REPORT

- Tree Board Meeting on April 25 at 5:30 p.m. in the Council Chambers. The Board will review some of the ideas for neighborhoods adjacent to Camino Triado and Lominita where there are large Ash trees. These are referred to as Special Conditions Streets in regards to street trees and are part of the Work Plan to work on ideas to be brought back to the City Council.
- Invited the public to come to the Conservation Corps' Creek Clean-up on April 27 from 9:00 a.m. to 1:00 p.m.
- Acknowledged everyone who assisted with the City's Household Hazardous Waste Collection Day. Acknowledged the Rotary Club members for their assistance. Clean Harbors collected 8.3 tons of household hazardous waste and E.J. Harrisons & Sons assisted with the disposal of 24 tons of household goods

PRESENTATIONS BY CITIZENS/PUBLIC COMMENT: NONE

AGENDA MODIFICATIONS: NONE

CONSENT CALENDAR

Vice Mayor Carty indicated he would recuse himself from Item 5.

Motion by Councilmember Shaw, seconded by Councilmember Clark, to approve the Consent Calendar as presented.

Upon voice vote, motion carried. Vice Mayor Carty abstained from Item 5 and Mayor Stein was absent.

2. Minutes of the regular meeting held April 8, 2013.
3. Expenditures for the period ending April 17, 2013.
4. Review of Quarterly Investment Results and Certifications Concerning Compliance with Investment Policy and Cash Flow Needs for the Next Six Months.
5. Award the Third Street Drainage Improvements Project, City Project Number 15039 with a Project Budget of \$71,652, to DPM Company and Authorize the City Manager to sign the Contract.

ADMINISTRATIVE MATTER: NONE

PUBLIC HEARING:

6. Adoption of Ordinance No. 663, Extending the Term of the Interim Urgency Ordinance No. 661, Pertaining to the Establishment of a Temporary Moratorium on New Tobacco Retailers Operating Within the City Until March 24, 2014.

Recommendation: Accept this report describing the measures taken to alleviate the conditions which led to the Adoption of the Interim Urgency Ordinance No. 661, and adopt the attached Interim Urgency Ordinance Extension No. 663, thereby extending the temporary moratorium on new tobacco retailers operating within the City for an additional 10 months and 15 days.

Steve Goggia, Senior Planner, presented the staff report.

Vice Mayor Carty opened the Public Hearing at 6:18 p.m.

No public comment.

Vice Mayor Carty closed the Public Hearing at 6:18 p.m.

It was moved by Councilmember Nomura, seconded by Councilmember Clark, to accept the report thereby confirming that the factors still apply which gave rise to the adoption of Ordinance No. 661.

Upon voice vote, motion carried. Mayor Stein was absent.

It was moved by Councilmember Shaw, seconded by Councilmember Shaw, to approve and adopt Interim Urgency Ordinance No. 663, as read by title only, to extend the temporary moratorium on new tobacco retailers operating within the City for an additional 10 months and 15 days, from May 9, 2013, to March 24, 2014.

Upon voice vote, motion carried. Mayor Stein was absent.

7. Ordinance No. 662 Amending Chapter 8.52: Smoking Regulations, Chapter 14.20: CPD Commercial Planned Development District and Chapter 14.22: CB Central Business District of the Carpinteria Municipal Code

Recommendation: Introduce Ordinance No. 662, as read by title only, thereby amending Chapter 8.52; Smoking Regulations, Chapter 14.20: CPD Commercial Planned Development District and Chapter 14.22 CB: Central Business District of the Carpinteria Municipal Code and continue the item to May 13, 2013 for a second reading and final adoption.

Steve Goggia, Senior Planner, presented the staff report and PowerPoint presentation.

Dawn Dunn, County Health Department Administrator for the Tobacco Prevention Settlement Program, spoke regarding what has occurred since the County strengthened its tobacco licensing ordinance.

Mr. Goggia continued the PowerPoint presentation.

Councilmember Clark inquired regarding the significance of admission of violation. Mr. Goggia responded that this would make it clear that there was a violation. Councilmember Clark requested a clarification of designated smoking areas because the original ordinance contained a list of conditions for exceptions for not smoking in certain areas. He inquired whether the intent of the proposed ordinance would be to have people smoke at the three designated smoking areas or whether people could smoke at any place that meets the conditions of the original ordinance. Mr. Goggia responded that people would still be able to smoke at any of the places that meet those areas on their own private property and in their own vehicle with no child present.

Councilmember Shaw inquired regarding the \$35,000 estimate for each platform for the smoking area and whether staff would bring back additional information regarding maintenance. Mr. Goggia responded that staff would bring back this additional information.

Vice Mayor Carty opened the Public Hearing at 6:35 p.m.

Foster Markoff presented a copy of the American Lung Association's listing of the most recent cities who have adopted smoking regulation ordinances. He expressed concern with paragraph D indicating that prior to creating a designated smoking area the City Council shall make a finding that the designated smoking area is consistent with the purposes of this chapter. He noted that the original ordinance adopted in February 2011 was based on a number of findings made by the City Council. He asked that these be kept in mind in determining whether a designated smoking area meets the requirements of paragraph D. He stated that the proposed ordinance would offer much better protection for nonsmokers. He also stated that the smokers' outpost section would likely provide a number of challenges because some people may try to stretch its meaning to lengths that put at risk the critical purpose of the law to protect innocent bystanders from exposure to secondhand smoke.

Don Risdon stated that he is a nonsmoker and he does not condone smoking. He also stated that he was present as a retailer to oppose the proposed \$369 retailer fee and any penalties that would occur should one of his employees mistakenly sell tobacco product to a minor. He inquired whether the proposed penalties would override the penalties already in effect. He also inquired whether the County's program was being run and paid for through the Tobacco Prevention Settlement Program and whether this program was no longer functioning. He questioned whether money received from

enforcement and citations to people who are caught smoking in undesignated areas be used and whether this could be explored before imposing a fee on the retailers. He expressed concern with the amounts presented regarding how much a business makes from the sale of tobacco products because his business makes much less than what was presented. He suggested an educational process regarding the retail sale to minors. He stated that he was opposed to the proposed retail license fee unless the City can show why there is such a fee.

Lisa Guravitz spoke regarding designated smoking areas and inquired whether the original intent of the ordinance was to protect the health and safety of residents and visitors or whether it was to accommodate smokers. She stated that she sees the amendments as a way to accommodate smokers and this would defeat the purpose of the ordinance. She noted that the three proposed designated smoking areas are in parking lots where pedestrians are present and she stated that she did not believe this would be an adequate area. She encouraged the City Council to take this into consideration.

Mr. Goggia noted that when the City Council considered the ordinance two years ago staff indicated it would be difficult to place designated smoking outposts in the downtown area; however, the proposed ordinance includes a provision for doing so. He stated that overall the City would not prohibit people from smoking in Carpinteria.

Mr. Durflinger stated that the benefit of a designated smoking area is that it encourages people to use those areas and make it less likely that people will be exposed to secondhand smoke. He also stated that the proposed ordinance allows the City Council to have the authority to designate designated smoking areas and allows the City Council to make a finding that the designated smoking area is consistent with the purposes established in the Municipal Code.

Councilmember Carty inquired regarding one of the speaker's comments regarding double violation fees. Mr. Goggia responded it was his understanding the current \$300 penalty for selling to a minor would include an additional fee imposed by the City through tobacco retailer licensing. Ms. Dunn added that the statutes governing the sale of tobacco to minors are preemptory and the local jurisdiction has no ability to alter those fees. She stated that the fees are governed by State law and are imposed on the person who provides, furnishes, or sells to minors. She indicated that she believed the fine for the first violation was \$200 plus witness fees and any other additional charges that come through the court process for a total fee of roughly \$500. She noted there is no sanction against an owner, the permit or license is not a fine or a penalty and these fees are completely independent. She stated there is an optional penalty that could be elected to be used by a business owner to reduce facing a suspension and this could be in the language of local law at the City Council's discretion.

Mr. Durflinger noted there was a question whether the existing County Tobacco Enforcement Program pays for additional enforcement and he stated it was his understanding that the funding available through the County program had been enough to pay for the level of enforcement the City is receiving. He noted that the City is seeing three violations every year and the number the City hopes to achieve zero violations which will require an approach with a stronger ordinance.

Vice Mayor Carty closed the Public Hearing at 6:50 p.m.

The City Council discussed designated smoking areas in the downtown and having staff provide six suggested areas from which the City Council may choose three areas. Mr. Goggia responded that staff would review the areas for potential designated smoking areas and bring back the cost for implementation.

Motion by Councilmember Nomura, seconded by Councilmember Clark, to approve and adopt Ordinance No. 662, as read by title only (first reading) to amend Chapter 8.52: Smoking Regulations, Chapter 14.20: CPD Commercial Planned Development District and Chapter 14.22: CB Central Business District of the Carpinteria Municipal Code; and Chapter 14.08: Definitions, including amending CMC Zoning Code Chapters 14.20; CPD Commercial Planned Development District and 14.22: CB Central Business District to prohibit significant tobacco retailers, i.e., a business that primarily sells tobacco products throughout the city; and prohibit new business from selling tobacco products within a certain distance from elementary, middle, junior high or high schools within 1,000 feet; and continue this item to the City Council Meeting of May 13, 2013, for final adoption of Ordinance No. 662 (second reading).

Councilmember Clark expressed support for banning smoking in vehicles with children present.

Councilmember Shaw inquired regarding the designation of designated smoking areas. Mr. Goggia responded that the City Council would designate these areas at a future date for areas within the City on City property.

Roll call on motion

Ayes: Nomura, Shaw, Clark, Carty

Noes: None

Abstain: None

Absent: Stein

OTHER BUSINESS:

8. Report on Street Lighting Assessment District No. 1 for Fiscal Year 2013-14

Recommendation: Adopt Resolution Nos. 5452 and 5453, as read by title only, acting to accept and file the mandatory annual report and set the matter of the continuation of Street Lighting District No. 1 for fiscal year 2013-14 for public hearing at the regular City Council meeting of May 28, 2013.

John Thornberry, Administrative Services Director, presented the staff report.

No public comment.

Motion by Councilmember Shaw, seconded by Councilmember Clark, to adopt Resolution Nos. 5452 and 5453, as read by title only, acting to accept and file the mandatory annual report and set the matter of the continuation of Street Lighting District No. 1 for fiscal year 2013-14 for public hearing at the regular City Council meeting of May 28, 2013.

Upon voice vote, motion carried. Mayor Stein was absent.

9. Report on Right-of-Way Improvement District No. 3 for Fiscal Year 2013-14

Recommendation: Adopt Resolution No. 5454 and 5455, as read by title only, acting to accept and file the mandatory annual report and set the matter of the continuation of Right-of-Way Improvement District No. 3 for fiscal year 2013-14 for public hearing at the regular City Council meeting of May 28, 2013.

John Thornberry, Administrative Services Director, presented the staff report.

No public comment.

Motion by Councilmember Clark, seconded by Councilmember Shaw, to adopt Resolution No. 5454 and 5455, as read by title only, acting to accept and file the mandatory annual report and set the matter of the continuation of Right-of-Way Improvement District No. 3 for fiscal year 2013-14 for public hearing at the regular City Council meeting of May 28, 2013.

Upon voice vote, motion carried. Mayor Stein was absent.

10. Adoption of Resolution No. 5459, A Resolution of Intention to Set the Assessment for the City of Carpinteria's Assessment District No. 5 for Fiscal Year 2013-14

Recommendation: Adopt Resolution No. 5459, a Resolution of Intention, as read by title only, thereby setting the public hearing date for the City Council to consider setting the annual assessment and order the construction of the improvement for Assessment District No. 5.

Matthew Roberts, Parks and Recreation Director, presented the staff report.

No public comment.

Motion by Councilmember Clark, seconded by Councilmember Nomura, to adopt Resolution No. 5459, a Resolution of Intention, as read by title only, thereby setting the public hearing date for the City Council to consider setting the annual assessment and order the construction of the improvement for Assessment District No. 5.

Upon voice vote, motion carried. Mayor Stein was absent.

11. Organization and Staffing of the Department of Public Works

Recommendation: That the City Council receive and file this report on the organization and staffing needs of the Department of Public Works. The Department of Public Works seeks to obtain comments and feedback prior to returning to the City Council on May 13, 2013 to request that new staff positions, as discussed herein, be established.

Charles Ebeling, Public Works Director/City Engineer/Traffic Engineer, presented the staff report.

No public comment.

Received and filed.

12. 3rd Quarterly Finance Results and Preliminary Revenue and Expense Projections for Fiscal Year 2013/14

Recommendation: No Changes to the budget are being recommended at this time. Receive the report and direct staff as determined appropriate.

John Thornberry, Administrative Services Director, and Dave Durflinger, City Manager, presented the staff report.

No public comment.

Received and filed.

COMMITTEE REPORTS, INQUIRIES AND OTHER MATTERS PRESENTED BY COUNCILMEMBERS

Council Nomura requested drawings be brought back along with the staff reports for the Third Street Drainage Improvement Project. City Manager Dave Durflinger responded that staff would provide drawings.

Councilmember Shaw reported that he attended the Beach Erosion Authority for Clean Oceans and Nourishment (BEACON) meeting, a committee formed by Santa Barbara and Ventura counties and cities to protect beaches, coastal waters, and waterways. He stated that the Committee discussed having a dual countywide single-use plastic bag ordinance and they received the environmental impact report (EIR) prepared by BEACON staff. He also stated that the Committee received a status report on sediment management projects and authorized pursuit of grants to fund those reports. Lastly, he noted that the Committee approved a letter of support for using Cap and Trade auction funds for incentivizing vessel speed reduction plans along the coast.

Councilmember Clark reported that the Air Pollution Control District (APCD) is also applying for Cap and Trade auction funds to reduce air pollution from boats and avoid whale strikes. He stated that Measure A was discussed at the Santa Barbara County Association of Government's (SBCAG) meeting which provides funding for widening the freeway and improving local roads. He noted that SBCAG received a presentation showing that when roads are left to degrade the cost to repair goes up exponentially; therefore, SBCAG wants to allocate more money to local jurisdictions.

Vice Mayor Carty requested that prior to paving roads from Carpinteria Creek past Linden Avenue that it would be important to take photographs of where the roads are failing and where pipelines have been cut in order to determine what caused the failures.

ADJOURNMENT

The meeting was adjourned at 7:56 p.m. by Vice Mayor Carty.

Gregg Carty, Vice Mayor

ATTEST:

Fidela Garcia, CMC
City Clerk

10:00 AM
05/08/13

CITY OF CARPINTERIA
Warrant Register
April 18 through May 7, 2013

City Council Meeting: 5/13/13
Agenda Section: Consent
Agenda Item #: 2

Trans #	Entered/Last Modified	Date	Num	Name	Source Name	Memo	Account	Paid Amount
97869	04/24/13 12:17:28	4/24/13	80251	AG ENT INC	AG ENT INC	INVOICE 12631	100010...	
97809	04/24/13 09:59:15	3/30/13	12631		AG ENT INC	TAR PITS BF	236122...	-45.00
TOTAL								-45.00
97870	04/24/13 12:17:28	4/24/13	80252	ALAMO SELF STORA...	ALAMO SELF ...	MAY 2013 STORAGE FEES	100010...	
97810	04/24/13 10:00:25	4/13/13	MAY 2013...		ALAMO SELF ...	MAY 2013 STORAGE FEES	101322...	-295.00
TOTAL								-295.00
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97814	04/24/13 10:02:18	4/15/13	123335		ANIMAL MEDIC...	VET SERVICES	104721...	-1,650.00
TOTAL								-1,650.00
97872	04/24/13 12:17:30	4/24/13	80254	BROWNSTEIN HYAT...	BROWNSTEIN ...		100010...	
97815	04/24/13 10:03:17	4/17/13	531408		BROWNSTEIN ...	MHR SB	101722...	-2,907.00
97816	04/24/13 10:04:32	4/17/13	531379		BROWNSTEIN ...	CITY ATTORNEY OVER 50 HOURS	101722...	-18,994.02
97817	04/24/13 10:05:11	4/17/13	531372		BROWNSTEIN ...	CITY ATTORNEY RETAINER	101722...	-10,000.00
97818	04/24/13 10:05:54	4/17/13	531407		BROWNSTEIN ...	CITY OF CARP V CRUZ	101722...	-576.00
97819	04/24/13 10:06:30	4/17/13	531409		BROWNSTEIN ...	PROJ 1407 - LAGUNITAS	100025...	-142.50
TOTAL								-32,619.52
97873	04/24/13 12:17:30	4/24/13	80255	CA STATE PARKS	CA STATE PAR...	DAY USE FEES FEBRUARY 2013	100010...	
97820	04/24/13 10:07:22	2/28/13	FEB 2013 ...		CA STATE PAR...	STATE PARK FEES	232310...	-1,627.00
TOTAL								-1,627.00
97874	04/24/13 12:17:31	4/24/13	80256	CHANNEL ISLANDS ...	CHANNEL ISLA...	10001	100010...	
97824	04/24/13 10:22:12	3/31/13	MARCH 2...		CHANNEL ISLA...	POOL	486530...	-48.24
					CHANNEL ISLA...	POOL	486630...	-6.30
					CHANNEL ISLA...	ANIMAL CONTROL	104730...	-2.90
					CHANNEL ISLA...	PARKS	236122...	-3.87
					CHANNEL ISLA...	PARKS	236122...	-9.69
					CHANNEL ISLA...	BEACHES	286230...	-18.07
					CHANNEL ISLA...	PARKS	236122...	-3.87
					CHANNEL ISLA...	PROJ 4865 - LIBRARY	100025...	-31.96
					CHANNEL ISLA...	PARKS	236122...	-13.57
					CHANNEL ISLA...	PARKS	236122...	-39.25

10:00 AM

05/08/13

CITY OF CARPINTERIA
Warrant Register
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					CHANNEL ISLA...	PARKS	236122...	-21.30
					CHANNEL ISLA...	POOL	486630...	-1.17
					CHANNEL ISLA...	PARKS	236122...	-54.70
					CHANNEL ISLA...	PARKS	236122...	-61.00
					CHANNEL ISLA...	POOL	486630...	-27.90
					CHANNEL ISLA...	POOL	486630...	-61.82
					CHANNEL ISLA...	POOL	486630...	-39.33
					CHANNEL ISLA...	POOL	486630...	-47.42
TOTAL								-492.36
97875	04/24/13 12:17:32	4/24/13	80257	COAST OFFICE TEC...	COAST OFFIC...		100010...	
97830	04/24/13 10:27:48	4/1/13	4854		COAST OFFIC...	COMPUTER SERVICES	101822...	-2,667.50
97829	04/24/13 10:27:13	4/16/13	2013105		COAST OFFIC...	WIFI EXTENDER	107041...	-380.52
TOTAL								-3,048.02
97876	04/24/13 12:17:33	4/24/13	80258	COASTAL VIEW NEWS	COASTAL VIE...		100010...	
97827	04/24/13 10:26:03	4/4/13	40679		COASTAL VIE...	LINDEN/CASITAS INTERCHANGE	100025...	-338.00
97831	04/24/13 10:28:18	4/11/13	40742		COASTAL VIE...	LEGAL NOTICES	103030...	-148.50
97828	04/24/13 10:26:22	4/17/13	40787		COASTAL VIE...	PET ADS	104730...	-60.00
TOTAL								-546.50
97877	04/24/13 12:17:33	4/24/13	80259	COUNCIL ON ALCOH...	COUNCIL ON A...	INVOICE 033113CALGRIP	100010...	
97858	04/24/13 10:50:50	4/15/13	033113CA...		COUNCIL ON A...	CALGRIP GRANT	200026...	-25,050.98
TOTAL								-25,050.98
97878	04/24/13 12:17:34	4/24/13	80260	DISPENSING TECHN...	DISPENSING T...	INVOICE 6856	100010...	
97833	04/24/13 10:29:35	4/16/13	6856		DISPENSING T...	TRAFFIC PAINT	253130...	-1,785.50
TOTAL								-1,785.50
97879	04/24/13 12:17:34	4/24/13	80261	ENGINEERING NEW...	ENGINEERING ...	ENR RENEWAL 2014	100010...	
97834	04/24/13 10:30:27	3/27/13	RENEWA...		ENGINEERING ...	ENR RENEWAL 2014	103030...	-74.95
TOTAL								-74.95
97880	04/24/13 12:17:35	4/24/13	80262	GRAINGER	GRAINGER	ACCT #838183929	100010...	
97836	04/24/13 10:31:42	3/25/13	9099908528		GRAINGER	PROJ 4865 - LIBRARY MAINTEN...	100025...	-65.12

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TOTAL								-65.12
97881	04/24/13 12:17:36	4/24/13	80263	IMPULSE INTERNET ...	IMPULSE INTE...	INVOICE 730159	100010...	
97838	04/24/13 10:32:45	4/12/13	730159		IMPULSE INTE...	WEBHOSTING	101822...	-89.95
TOTAL								-89.95
97882	04/24/13 12:17:36	4/24/13	80264	MALLORY SAFETY &...	MALLORY SAF...	INVOICE #372307	100010...	
97722	04/17/13 08:58:12	3/29/13	3724307		MALLORY SAF...	SAFETY SUPPLIES	253130...	-166.80
TOTAL								-166.80
97883	04/24/13 12:17:37	4/24/13	80265	MUNICIPAL CODE C...	MUNICIPAL CO...	INVOICE #00227628	100010...	
97835	04/24/13 10:31:01	3/26/13	00227628		MUNICIPAL CO...	SUPPLEMENT PAGES	101122...	-186.46
TOTAL								-186.46
97884	04/24/13 12:17:37	4/24/13	80266	PETER LAPIDUS CO...	PETER LAPIDU...		100010...	
97844	04/24/13 10:38:47	4/10/13	2796		PETER LAPIDU...	JOB #13-008	200026...	-2,844.00
97845	04/24/13 10:39:24	4/10/13	2794		PETER LAPIDU...	BERM REMOVAL	286222...	-7,500.00
TOTAL								-10,344.00
97885	04/24/13 12:17:38	4/24/13	80267	PROFESSIONAL WA...	PROFESSIONA...	INVOICE 4005	100010...	
97849	04/24/13 10:41:37	4/4/13	4005		PROFESSIONA...	BANNERS	333230...	-17.53
TOTAL								-17.53
97886	04/24/13 12:17:38	4/24/13	80268	SANTA BARBARA C...	SANTA BARBA...		100010...	
97850	04/24/13 10:44:07	3/20/13	13-245		SANTA BARBA...	MAY 2013 CONTRACT SERVICES	102121...	-272,974.17
					SANTA BARBA...	MAY 2013 CONTRACT SERVICES	100015...	-8,333.33
97732	04/17/13 09:18:08	3/29/13	13-229		SANTA BARBA...	SHERIFF OVERTIME	102121...	-363.17
TOTAL								-281,670.67
97887	04/24/13 12:17:39	4/24/13	80269	SMARDAN HATCHER...	SMARDAN HAT...	CUSTOMER 180	100010...	
97853	04/24/13 10:46:36	4/8/13	S2235907....		SMARDAN HAT...	SHERIFF DEPT	101322...	-112.27
TOTAL								-112.27

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97888	04/24/13 12:17:40	4/24/13	80270	SOCAL SWIMMING	SOCAL SWIM...	MEET ENTRY FEES	100010...	
97868	04/24/13 11:00:45	4/3/13	MEET EN...		SOCAL SWIM...	MEET ENTRY FEES	486830...	-207.25
TOTAL								-207.25
97889	04/24/13 12:17:40	4/24/13	80271	STAPLES ADVANTAGE	STAPLES ADV...	INVOICE 3195931060	100010...	
97743	04/17/13 09:27:29	3/29/13	3195931060		STAPLES ADV...	OFFICE SUPPLIES	101330...	-131.53
TOTAL								-131.53
97890	04/24/13 12:17:41	4/24/13	80272	VENCO WESTERN INC	VENCO WEST...	INVOICE #1000589-IN	100010...	
97860	04/24/13 10:52:53	3/7/13	1000589-IN		VENCO WEST...	EL CARRO IRRIGATION REPAIRS	236122...	-115.44
TOTAL								-115.44
97891	04/24/13 12:17:42	4/24/13	80273	VERIZON WIRELESS	VERIZON WIR...	INVOICE #9702905036	100010...	
97861	04/24/13 10:53:39	4/9/13	9702905036		VERIZON WIR...	CELL PHONE - BUILDING INSPE...	104230...	-134.75
TOTAL								-134.75
97892	04/24/13 12:17:42	4/24/13	80274	WISSING, ALICE	WISSING, ALICE	PC 04-01-13	100010...	
97863	04/24/13 10:56:11	4/12/13	PC 04-01-13		WISSING, ALICE	MISC PC MINUTES	104122...	-192.50
TOTAL								-192.50
97893	04/24/13 12:17:43	4/24/13	80275	ZEE MEDICAL SERVI...	ZEE MEDICAL ...		100010...	
97864	04/24/13 10:57:12	3/26/13	621374		ZEE MEDICAL ...	FIRST AID SUPPLIES - PUBLIC ...	333230...	-557.50
97865	04/24/13 10:57:33	3/26/13	621375		ZEE MEDICAL ...	FIRST AID SUPPLIES - PUBLIC ...	333230...	-309.47
TOTAL								-866.97
97894	04/24/13 12:17:43	4/24/13	80276	ZUMAR INDUSTRIES ...	ZUMAR INDUS...	INVOICE 0144629	100010...	
97866	04/24/13 10:58:25	3/29/13	0144629		ZUMAR INDUS...	SIGNAGE	253130...	-172.80
TOTAL								-172.80
97895	04/24/13 12:24:34	4/24/13	80277	AFLAC	AFLAC	APRIL 2013 WELLNESS	100010...	
97808	04/24/13 09:58:40	4/11/13	220226		AFLAC	WELLNESS APRIL 2013	236119...	-48.80

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					AFLAC	WELLNESS APRIL 2013	101619...	-75.30
					AFLAC	WELLNESS APRIL 2013	104119...	-24.10
					AFLAC	WELLNESS APRIL 2013	105119...	-43.30
					AFLAC	WELLNESS APRIL 2013	486819...	-63.80
					AFLAC	WELLNESS APRIL 2013	101219...	-62.60
					AFLAC	WELLNESS APRIL 2013	103019...	-43.30
					AFLAC	WELLNESS APRIL 2013	102219...	-23.60
					AFLAC	WELLNESS APRIL 2013	104219...	-43.30
					AFLAC	WELLNESS APRIL 2013	104119...	-32.20
					AFLAC	WELLNESS APRIL 2013	102219...	-35.10
					AFLAC	WELLNESS APRIL 2013	253119...	-48.80
					AFLAC	WELLNESS APRIL 2013	104219...	-63.10
					AFLAC	WELLNESS APRIL 2013	103019...	-69.80
					AFLAC	WELLNESS APRIL 2013	253119...	-52.10
					AFLAC	WELLNESS APRIL 2013	333219...	-106.80
					AFLAC	WELLNESS APRIL 2013	106919...	-30.70
					AFLAC	WELLNESS APRIL 2013	106919...	-76.00
					AFLAC	WELLNESS APRIL 2013	105119...	-32.20
					AFLAC	WELLNESS APRIL 2013	101119...	-40.20
					AFLAC	WELLNESS APRIL 2013	253119...	-37.80
TOTAL								-1,052.90
97896	04/24/13 12:24:35	4/24/13	80278	ALL AROUND LANDS...	ALL AROUND ...	CUSTOMER #354	100010...	
97811	04/24/13 10:00:56	4/3/13	S1647193....		ALL AROUND ...	PW SUPPLIES	253130...	-84.59
TOTAL								-84.59
97897	04/24/13 12:24:35	4/24/13	80279	CAMPBELL GEO, INC	CAMPBELL GE...	INVOICE #032113-2628	100010...	
97821	04/24/13 10:08:23	4/1/13	032113-26...		CAMPBELL GE...	LAND ACQUISITION DIF	310024...	-565.94
TOTAL								-565.94
97898	04/24/13 12:24:36	4/24/13	80280	CLEAN HARBORS E...	CLEAN HARBO...	6W1328903	100010...	
97826	04/24/13 10:25:15	4/2/13	6W1328903		CLEAN HARBO...	HHW DISPOSAL	393722...	-1,062.75
TOTAL								-1,062.75
97899	04/24/13 12:24:36	4/24/13	80281	DETROIT INDUSTRIA...	DETROIT INDU...	INVOICE #481537	100010...	
97832	04/24/13 10:29:07	4/2/13	0000481537		DETROIT INDU...	SHOP TOOLS	253130...	-1,212.78
TOTAL								-1,212.78

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97900	04/24/13 12:24:37	4/24/13	80282	LAWSON PRODUCT...	LAWSON PRO...	INVOICE 9301550642	100010...	
97841	04/24/13 10:34:25	4/2/13	9301550642		LAWSON PRO...	GENERAL SHOP SUPPLIES	333230...	-182.77
TOTAL								-182.77
97901	04/24/13 12:24:37	4/24/13	80283	MALLORY SAFETY &...	MALLORY SAF...	INVOICE #3727118	100010...	
97842	04/24/13 10:35:14	4/3/13	3727118		MALLORY SAF...	SAFETY SUPPLIES	333230...	-111.20
TOTAL								-111.20
97902	04/24/13 12:24:38	4/24/13	80284	OFFICE MAX	OFFICE MAX	INVOICE #193693	100010...	
97726	04/17/13 09:07:23	4/4/13	193693		OFFICE MAX	PW OFFICE SUPPLIES	103030...	-102.99
TOTAL								-102.99
97903	04/24/13 12:24:38	4/24/13	80285	PITNEY BOWES INC	PITNEY BOWE...	1550-8200-20-9	100010...	
97846	04/24/13 10:39:59	4/13/13	7564025-A...		PITNEY BOWE...	POSTAGE SERVICE	101330...	-239.00
TOTAL								-239.00
97904	04/24/13 12:24:39	4/24/13	80286	PORT SUPPLY	PORT SUPPLY		100010...	
97847	04/24/13 10:40:31	4/1/13	0955831		PORT SUPPLY	BOATING SUPPLIES	286230...	-106.92
97848	04/24/13 10:41:02	4/1/13	0955830		PORT SUPPLY	BOATING SUPPLIES	286230...	-403.76
TOTAL								-510.68
97905	04/24/13 12:24:39	4/24/13	80287	PQL LIGHTING	PQL LIGHTING	INVOICE 315139	100010...	
97730	04/17/13 09:13:27	4/2/13	315139		PQL LIGHTING	PW SHOP LIGHTS	333230...	-124.63
TOTAL								-124.63
97906	04/24/13 12:24:40	4/24/13	80288	RADIOSHACK	RADIOSHACK	ACCT. 403062193	100010...	
97612	04/09/13 11:11:01	3/31/13	MAR 2013...		RADIOSHACK	CARP CREEK PARK	236122...	-14.76
					RADIOSHACK	PHONE SUPPLIES	102230...	-21.59
TOTAL								-36.35
97907	04/24/13 12:24:40	4/24/13	80289	SATCOM GLOBAL FZE	SATCOM GLO...	INVOICE AX04130356	100010...	
97851	04/24/13 10:44:59	4/1/13	AX041303...		SATCOM GLO...	IRIDIUM TRADE-UP	102430...	-37.10

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TOTAL								-37.10
97908	04/24/13 12:24:41	4/24/13	80290	SERVICEMASTER O...	SERVICEMAST...		100010...	
97733	04/17/13 09:18:53	4/1/13	428030		SERVICEMAST...	CITY HALL	101322...	-805.00
					SERVICEMAST...	VETS HALL	486522...	-725.00
97734	04/17/13 09:21:05	4/1/13	428033		SERVICEMAST...	ASH AVE	286122...	-586.79
					SERVICEMAST...	LOT 3	333222...	-586.79
					SERVICEMAST...	LOT 1	333222...	-586.79
					SERVICEMAST...	EL CARRO NORTH	236122...	-167.66
					SERVICEMAST...	EL CARRO SOUTH	236122...	-167.66
					SERVICEMAST...	MONTE VISTA	236122...	-167.66
					SERVICEMAST...	VIOLA	286122...	-167.65
TOTAL								-3,961.00
97909	04/24/13 12:24:41	4/24/13	80291	SO CA EDISON	SO CA EDISON		100010...	
97854	04/24/13 10:47:23	4/18/13	2-27-939-9...		SO CA EDISON	ROLLER HOCKEY RINK	101331...	-24.43
97855	04/24/13 10:48:02	4/18/13	2-25-126-2...		SO CA EDISON	VIOLA SPRINKLERS	236131...	-45.09
TOTAL								-69.52
97910	04/24/13 12:24:42	4/24/13	80292	STAPLES ADVANTAGE	STAPLES ADV...		100010...	
97742	04/17/13 09:26:58	4/3/13	3196443073		STAPLES ADV...	PW SUPPLIES	253130...	-29.76
97744	04/17/13 09:29:04	4/3/13	3196443072		STAPLES ADV...	PW SUPPLIES	253130...	-62.36
					STAPLES ADV...	PARKS	236122...	-61.54
					STAPLES ADV...	VETS HALL	486530...	-43.82
97741	04/17/13 09:26:24	4/4/13	3196481612		STAPLES ADV...	POOL SUPPLIES	486630...	-16.19
TOTAL								-213.67
97911	04/24/13 12:24:43	4/24/13	80293	THE WHARF	THE WHARF	RECEIPT 35430	100010...	
97749	04/17/13 09:39:12	4/1/13	35430		THE WHARF	VEGA SAFETY EQUIPMENT	253119...	-139.70
TOTAL								-139.70
97912	04/24/13 12:24:43	4/24/13	80294	TRI-CO BLUE PRINT ...	TRI-CO BLUE ...	INVOICE #040266	100010...	
97859	04/24/13 10:51:39	4/2/13	040266		TRI-CO BLUE ...	COPIES	104230...	-68.95
TOTAL								-68.95
97913	04/24/13 12:24:44	4/24/13	80295	ZUMAR INDUSTRIES ...	ZUMAR INDUS...	INVOICE 0144683	100010...	

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97867	04/24/13 10:58:56	4/3/13	0144683		ZUMAR INDUS...	SIGNAGE	333230...	-93.69
TOTAL								-93.69
97915	04/29/13 16:11:54	4/29/13	80296	BERNARDO CRUZ	BERNARDO C...	ADMIN CITE REFUND	100010...	
97914	04/29/13 16:10:55	4/29/13	ADMIN CI...		BERNARDO C...	ADMIN CITE #377 REFUND	101013...	-225.00
TOTAL								-225.00
97969	05/01/13 13:12:59	5/1/13	80297	AMERICAN RED CRO...	AMERICAN RE...	CRS NO: 2904701	100010...	
97925	04/30/13 15:22:11	4/17/13	10221358		AMERICAN RE...	LIFEGUARD CERTIFICATION - FLY	486630...	-19.00
TOTAL								-19.00
97970	05/01/13 13:13:00	5/1/13	80298	ATT	ATT	ACCOUNT 030-149-5366-001	100010...	
97951	05/01/13 11:36:20	4/19/13	030-149-5...		ATT	CIVIC CENTER	101330...	-464.42
					ATT	PW	253130...	-20.71
					ATT	BEACHES	286230...	-75.43
					ATT	POOL	486630...	-82.82
TOTAL								-643.38
97971	05/01/13 13:13:01	5/1/13	80299	AYSO REGION 683 C...	AYSO REGION ...	DEPOSIT REFUND	100010...	
97946	05/01/13 10:41:48	5/1/13	DEPOSIT ...		AYSO REGION ...	DEPOSIT REFUND	100015...	-190.00
TOTAL								-190.00
97972	05/01/13 13:13:01	5/1/13	80300	BALMADRID, ARLENE	BALMADRID, A...	CELL PHONE REIMBURSMENT -...	100010...	
97933	04/30/13 15:28:25	3/20/13	MAY 2013...		BALMADRID, A...	CELL PHONE REIMBURSEMENT...	101630...	-65.00
TOTAL								-65.00
97973	05/01/13 13:13:02	5/1/13	80301	BENGAL ENGINEERI...	BENGAL ENGI...	INVOICE 2150	100010...	
97919	04/30/13 15:06:46	4/8/13	2150		BENGAL ENGI...	RINCON TRAIL MEASURE A GR...	200026...	-1,442.52
TOTAL								-1,442.52
97974	05/01/13 13:13:03	5/1/13	80302	CA STATE CONTROL...	CA STATE CO...	ANNUAL STREET REPORT FY 11...	100010...	
97822	04/24/13 10:09:25	4/10/13	27191		CA STATE CO...	ANNUAL STREET REPORT FY 11...	251422...	-1,283.16

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TOTAL								-1,283.16
97975	05/01/13 13:13:03	5/1/13	80303	CAMPBELL, JACQUE...	CAMPBELL, JA...	CELL PHONE REIMBURSEMENT...	100010...	
97943	04/30/13 15:32:34	3/20/13	MAY 2013...		CAMPBELL, JA...	CELL PHONE REIMBURSEMENT...	104130...	-65.00
TOTAL								-65.00
97976	05/01/13 13:13:04	5/1/13	80304	CARPINTERIA VALL...	CARPINTERIA ...	ACCOUNT 164	100010...	
97954	05/01/13 11:48:36	3/31/13	MAR 2013...		CARPINTERIA ...	155286 EL CARRO	333222...	-22.36
					CARPINTERIA ...	155472 EL CARRO	236122...	-37.75
					CARPINTERIA ...	155551 PARKS	236122...	-24.96
					CARPINTERIA ...	155639 PW	333230...	-33.86
					CARPINTERIA ...	PROJ 4865 LIBRARY	100025...	-4.91
					CARPINTERIA ...	155808 PARKS	236122...	-16.24
					CARPINTERIA ...	155857 ROW	333222...	-6.69
					CARPINTERIA ...	155946 BEACHES	286230...	-27.84
					CARPINTERIA ...	155953 PW	253130...	-5.39
					CARPINTERIA ...	156004 POOL	486630...	-6.09
					CARPINTERIA ...	156231 ROW	333222...	-26.95
					CARPINTERIA ...	156385 ROW	333230...	-7.11
					CARPINTERIA ...	156939 BEACHES	286230...	-103.64
					CARPINTERIA ...	157060 ROW	253130...	-11.01
					CARPINTERIA ...	157083 PW	333230...	-54.99
					CARPINTERIA ...	157194 BEACHES	286230...	-23.08
					CARPINTERIA ...	157227 PW	333230...	-22.43
					CARPINTERIA ...	157283 PW	333230...	-22.62
					CARPINTERIA ...	157401 PARKS	236122...	-35.99
					CARPINTERIA ...	157622 ROW	333230...	-29.58
					CARPINTERIA ...	157761 PW	333230...	-38.77
					CARPINTERIA ...	157990 STREETS	277961...	-32.29
					CARPINTERIA ...	158055 STREETS	333230...	-40.07
TOTAL								-634.62
97977	05/01/13 13:13:06	5/1/13	80305	CHAVEZ, JORGE	CHAVEZ, JORGE	VETS HALL REFUND	100010...	
97699	05/01/13 10:33:56	4/9/13	VETS HA...		CHAVEZ, JORGE	VETS HALL REFUND	100023...	-65.25
TOTAL								-65.25
97978	05/01/13 13:13:06	5/1/13	80306	COASTAL VIEW NEWS	COASTAL VIE...		100010...	
97950	05/01/13 11:32:07	4/17/13	40767		COASTAL VIE...	AFFORDABLE HOUSING	101130...	-338.00
97920	04/30/13 15:07:15	4/19/13	40799		COASTAL VIE...	TREE BOARD MEETING	103030...	-115.50

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TOTAL								-453.50
97979	05/01/13 13:13:07	5/1/13	80307	COCA-COLA BOTTLI...	COCA-COLA B...	8647365	100010...	
97929	04/30/13 15:25:30	4/23/13	3006184123		COCA-COLA B...	SODA PURCHASES FOR RESAL...	486635...	-159.00
TOTAL								-159.00
97980	05/01/13 13:13:08	5/1/13	80308	COLSON, MARY ANN	COLSON, MAR...	WELLNESS REIMBURSEMENT - ...	100010...	
97938	04/30/13 15:30:30	3/20/13	MAY 2013...	.	COLSON, MAR...	WELLNESS REIMBURSEMENT - ...	101419...	-415.75
TOTAL								-415.75
97981	05/01/13 13:13:08	5/1/13	80309	DIAZ, JAYNE	DIAZ, JAYNE	WELLNESS REIMBURSEMENT - ...	100010...	
97936	04/30/13 15:29:45	3/20/13	MAY 2013...		DIAZ, JAYNE	WELLNESS REIMBURSEMENT ...	101419...	-415.75
TOTAL								-415.75
97982	05/01/13 13:13:09	5/1/13	80310	DRIGGERS, LARRY	DRIGGERS, LA...	WELLNESS REIMBURSEMENT - ...	100010...	
97937	04/30/13 15:30:07	3/20/13	MAY 2013...		DRIGGERS, LA...	WELLNESS REIMBURSEMENT - ...	101419...	-415.75
TOTAL								-415.75
97983	05/01/13 13:13:10	5/1/13	80311	DURFLINGER, DAVID	DURFLINGER, ...		100010...	
93928	09/05/12 09:54:45	9/5/12	SEPT 201...		DURFLINGER, ...	CELL PHONE REIMBURSEMENT...	101230...	-65.00
97942	04/30/13 15:32:09	3/20/13	MAY 2013...		DURFLINGER, ...	CELL PHONE REIMBURSEMENT...	101230...	-65.00
TOTAL								-130.00
97984	05/01/13 13:13:10	5/1/13	80312	EBELING, CHARLES	EBELING, CHA...	CELL PHONE REIMBURSEMENT...	100010...	
97934	04/30/13 15:28:48	3/20/13	MAY 2013...		EBELING, CHA...	CELL PHONE REIMBURSEMENT...	103030...	-65.00
TOTAL								-65.00
97985	05/01/13 13:13:11	5/1/13	80313	EDD-SDI	EDD-SDI	ACCT #776-5147-9	100010...	
97964	05/01/13 12:58:55	4/23/13	PAYROLL...		EDD-SDI	PAYROLL 05-02-13	100022...	-836.84
TOTAL								-836.84
97986	05/01/13 13:13:12	5/1/13	80314	EDD-SIT	EDD-SIT	ACCT #932-0283-6	100010...	

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97965	05/01/13 12:59:23	4/23/13	PAYROLL...		EDD-SIT	PAYROLL 05-02-13	100022...	-3,333.00
TOTAL								-3,333.00
97987	05/01/13 13:13:12	5/1/13	80315	FRONTADO, JOHN	FRONTADO, J...	WELLNESS PAYMENT- MAY 2013	100010...	
97935	04/30/13 15:29:21	3/20/13	MAY 2013...		FRONTADO, J...	WELLNESS - MAY 2013	101419...	-415.75
TOTAL								-415.75
97988	05/01/13 13:13:13	5/1/13	80316	HIDALGO, BENNY	HIDALGO, BEN...	WELLNESS REIMBURSEMENT - ...	100010...	
97941	04/30/13 15:31:40	3/20/13	MAY 2013...		HIDALGO, BEN...	WELLNESS REIMBURSEMENT - ...	101419...	-415.75
TOTAL								-415.75
97989	05/01/13 13:13:14	5/1/13	80317	JIMENEZ, ERNEST	JIMENEZ, ERN...	WELLNESS REIMBURSEMENT - ...	100010...	
97939	04/30/13 15:30:58	3/20/13	MAY 2013...		JIMENEZ, ERN...	WELLNESS REIMBURSEMENT - ...	101419...	-415.75
TOTAL								-415.75
97990	05/01/13 13:13:14	5/1/13	80318	JOY EQUIPMENT PR...	JOY EQUIPME...	INVOICE 50672	100010...	
97839	04/24/13 10:33:14	4/5/13	50672		JOY EQUIPME...	FIRE EXTINGUISHER SERVICE	333222...	-73.88
TOTAL								-73.88
97991	05/01/13 13:13:15	5/1/13	80319	LEMERE, PATRICIA	LEMERE, PAT...	WELLNESS REIMBURSEMENT - ...	100010...	
97940	04/30/13 15:31:19	3/20/13	MAY 2013...		LEMERE, PAT...	WELLNESS REIMBURSEMENT ...	101419...	-415.75
TOTAL								-415.75
97992	05/01/13 13:13:16	5/1/13	80320	LESLIE'S POOL SUP...	LESLIE'S POO...	INVOICE #308-232416	100010...	
97918	04/30/13 15:06:03	3/15/13	308-232416		LESLIE'S POO...	POOL CHEMICALS	486633...	-125.70
TOTAL								-125.70
97993	05/01/13 13:13:16	5/1/13	80321	MCCORMIX CORP	MCCORMIX C...	INVOICE 872541	100010...	
97923	04/30/13 15:20:06	4/15/13	872541		MCCORMIX C...	PUBLIC WORKS FUEL	333230...	-251.88
TOTAL								-251.88

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97994	05/01/13 13:13:17	5/1/13	80322	METLIFE	METLIFE	MAY 2013 DENTAL	100010...	
97928	04/30/13 15:24:55	4/15/13	MAY 2013...		METLIFE	DENTAL PREMIUM MAY 2013	105119...	-546.54
					METLIFE	DENTAL PREMIUM MAY 2013	101119...	-161.86
					METLIFE	DENTAL PREMIUM MAY 2013	101219...	-226.71
					METLIFE	DENTAL PREMIUM MAY 2013	101319...	-174.36
					METLIFE	DENTAL PREMIUM MAY 2013	101419...	-348.72
					METLIFE	DENTAL PREMIUM MAY 2013	101619...	-109.51
					METLIFE	DENTAL PREMIUM MAY 2013	103019...	-333.32
					METLIFE	DENTAL PREMIUM MAY 2013	253119...	-455.33
					METLIFE	DENTAL PREMIUM MAY 2013	104119...	-507.68
					METLIFE	DENTAL PREMIUM MAY 2013	104219...	-174.36
					METLIFE	DENTAL PREMIUM MAY 2013	106919...	-226.71
					METLIFE	DENTAL PREMIUM MAY 2013	102219...	-214.21
					METLIFE	DENTAL PREMIUM MAY 2013	333219...	-280.97
					METLIFE	DENTAL PREMIUM MAY 2013	104419...	-174.36
					METLIFE	DENTAL PREMIUM MAY 2013	236119...	-174.36
					METLIFE	DENTAL PREMIUM MAY 2013	486819...	-52.35
TOTAL								-4,161.35
97995	05/01/13 13:13:19	5/1/13	80323	NORMAN'S NURSERY	NORMAN'S NU...	INVOICE #445507	100010...	
97952	05/01/13 11:37:11	2/12/13	445507		NORMAN'S NU...	CITY TREES	333222...	-1,088.64
TOTAL								-1,088.64
97996	05/01/13 13:13:19	5/1/13	80324	PARENTCLICK INC	PARENTCLICK...	INVOICE 2408	100010...	
97948	05/01/13 11:30:41	3/5/13	2408		PARENTCLICK...	ADVERTISING	286230...	-105.00
					PARENTCLICK...	ADVERTISING	486630...	-105.00
TOTAL								-210.00
97997	05/01/13 13:13:20	5/1/13	80325	RMLA	RMLA	INVOICE #0000174	100010...	
97930	04/30/13 15:26:04	3/31/13	0000174		RMLA	CITY HALL DESIGN	310023...	-1,083.56
TOTAL								-1,083.56
97998	05/01/13 13:13:21	5/1/13	80326	ROBERTS, MATTHEW	ROBERTS, MA...	CELL PHONE REIMBURSEMENT...	100010...	
97945	04/30/13 15:33:24	3/20/13	MAY 2013...		ROBERTS, MA...	CELL PHONE REIMBURSEMENT...	106930...	-65.00
TOTAL								-65.00
97999	05/01/13 13:13:21	5/1/13	80327	S H DUNBAR STUDIOS	S H DUNBAR S...		100010...	

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Trans #	Entered/Last Modified	Date	Num	Name	Source Name	Memo	Account	Paid Amount
97916	04/30/13 15:02:08	4/15/13	1956		S H DUNBAR S...	POOL TILE WALL GRANT	200026...	-576.18
97917	04/30/13 15:05:15	4/24/13	1958		S H DUNBAR S...	POOL TILE WALL GRANT	200026...	-261.90
TOTAL								-838.08
98000	05/01/13 13:13:22	5/1/13	80328	SANTA BARBARA NE...	SANTA BARBA...	INVOICE 03202013	100010...	
97931	04/30/13 15:27:08	3/20/13	03202013		SANTA BARBA...	COUNCIL WEB ACCESS	105130...	-60.00
TOTAL								-60.00
98001	05/01/13 13:13:23	5/1/13	80329	SERVICEMASTER O...	SERVICEMAST...	INVOICE 428681	100010...	
97852	04/24/13 10:46:04	4/5/13	428681		SERVICEMAST...	PARKS	236122...	-224.00
TOTAL								-224.00
98002	05/01/13 13:13:23	5/1/13	80330	SEUI LOCAL 620	SEUI LOCAL 620	UNION DUES	100010...	
97966	05/01/13 12:59:40	4/23/13	PAYROLL...		SEUI LOCAL 620	PAYROLL 05-02-13	100022...	-146.19
TOTAL								-146.19
98003	05/01/13 13:13:24	5/1/13	80331	SILK, KEVIN	SILK, KEVIN	CELL PHONE REIMBURSEMENT...	100010...	
97932	04/30/13 15:28:04	3/20/13	MAY 2013...		SILK, KEVIN	CELL PHONE REIMBURSEMENT...	104430...	-35.00
TOTAL								-35.00
98004	05/01/13 13:13:25	5/1/13	80332	SO CA EDISON	SO CA EDISON	2-17-070-7434	100010...	
97955	05/01/13 11:50:06	3/31/13	2-17-070-7...		SO CA EDISON	STREET LIGHTING	292322...	-52.17
TOTAL								-52.17
98005	05/01/13 13:13:26	5/1/13	80333	STAPLES ADVANTAGE	STAPLES ADV...		100010...	
97745	04/17/13 09:29:42	4/5/13	3196539009		STAPLES ADV...	POOL SUPPLIES	486630...	-38.64
97746	04/17/13 09:35:35	4/5/13	3196539010		STAPLES ADV...	OFFICE SUPPLIES	101330...	-75.74
97747	04/17/13 09:36:11	4/5/13	3196539008		STAPLES ADV...	PW SUPPLIES	253130...	-187.09
TOTAL								-301.47
98006	05/01/13 13:13:26	5/1/13	80334	THORNBERRY, JOHN	THORNBERRY,...	CELL PHONE REIMBURSEMENT...	100010...	
97944	04/30/13 15:33:00	3/20/13	MAY 2013...		THORNBERRY,...	CEL PHONE REIMBURSEMENT ...	101430...	-65.00

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TOTAL								-65.00
98007	05/01/13 13:13:27	5/1/13	80335	TRI-CO BLUE PRINT ...	TRI-CO BLUE ...	INVOICE #0273201-IN	100010...	
97926	04/30/13 15:23:11	3/18/13	0273201-IN		TRI-CO BLUE ...	COPIES	286230...	-22.68
TOTAL								-22.68
98008	05/01/13 13:13:28	5/1/13	80336	UNITED WAY OF SA...	UNITED WAY O...	PAYROLL CONTRIBUTION	100010...	
97967	05/01/13 13:00:00	4/23/13	PAYROLL...		UNITED WAY O...	PAYROLL 05-02-13	100022...	-20.00
TOTAL								-20.00
98009	05/01/13 13:13:28	5/1/13	80337	VANTAGEPOINT TRA...	VANTAGEPOIN...	PAYROLL DEPOSIT PLAN #303555	100010...	
97968	05/01/13 13:00:56	4/23/13	PAYROLL...		VANTAGEPOIN...	PAYROLL 05-02-13	100010...	-964.86
TOTAL								-964.86
98010	05/01/13 13:13:29	5/1/13	80338	VJS BIOLOGICAL CO...	VJS BIOLOGIC...	MARCH 2013 BIOLOGICAL SERV...	100010...	
97753	04/17/13 09:53:35	4/5/13	MAR 2013...		VJS BIOLOGIC...	SAND BERM	286222...	-457.50
					VJS BIOLOGIC...	PROJ 1607 - MAULHARDT	100025...	-52.50
TOTAL								-510.00
98011	05/01/13 13:13:30	5/1/13	80339	WEST COAST ARBO...	WEST COAST ...	INVOICE 87333	100010...	
97921	04/30/13 15:07:47	4/15/13	87333		WEST COAST ...	TREE MAINTENANCE	273222...	-1,185.00
TOTAL								-1,185.00
98012	05/01/13 13:27:48	5/1/13	80340	ALL AROUND LANDS...	ALL AROUND ...		100010...	
97812	04/24/13 10:01:23	4/10/13	S1648498....		ALL AROUND ...	STREETS	333222...	-4.68
97813	04/24/13 10:01:57	4/10/13	S1648481....		ALL AROUND ...	PALM TO LINDEN TRAIL	236122...	-26.78
TOTAL								-31.46
98013	05/01/13 13:27:49	5/1/13	80341	CHEVRON & TEXAC...	CHEVRON & T...	789-819-058-7	100010...	
97825	04/24/13 10:23:56	4/22/13	577722		CHEVRON & T...	VEHICLE FUEL	101330...	-239.38
					CHEVRON & T...	VEHICLE FUEL	333230...	-393.87
					CHEVRON & T...	VEHICLE FUEL	236130...	-273.83
					CHEVRON & T...	VEHICLE FUEL	253130...	-119.91

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TOTAL								-1,026.99
98014	05/01/13 13:27:50	5/1/13	80342	HIGHWAY TECHNOL...	HIGHWAY TEC...	INVOICE 455791-005	100010...	
97837	04/24/13 10:32:18	4/8/13	455791-005		HIGHWAY TEC...	VIA REAL @ SANTA YNEZ KRAIL...	277041...	-700.00
TOTAL								-700.00
98015	05/01/13 13:27:50	5/1/13	80343	KIMBALL MIDWEST	KIMBALL MID...	INVOICE 2920918	100010...	
97840	04/24/13 10:33:53	4/10/13	2920918		KIMBALL MID...	PW SHOP SUPPLIES	333230...	-281.01
TOTAL								-281.01
98016	05/01/13 13:27:51	5/1/13	80344	PAVEMENT ENGINE...	PAVEMENT EN...	INVOICE #1303-035	100010...	
97843	04/24/13 10:37:35	4/8/13	1303-035		PAVEMENT EN...	CITY PM SYSTEM UPDATE	277222...	-2,385.00
TOTAL								-2,385.00
98017	05/01/13 13:27:52	5/1/13	80345	SO CA EDISON	SO CA EDISON		100010...	
97959	05/01/13 11:54:21	4/24/13	2-00-378-2...		SO CA EDISON	ROW	333231...	-201.27
					SO CA EDISON	PARKING	333231...	-138.91
					SO CA EDISON	PARKS	236131...	-47.00
					SO CA EDISON	POOL	486631...	-884.13
					SO CA EDISON	STREET LIGHTING	292322...	-431.58
					SO CA EDISON	BIKEWAYS	292322...	-23.44
97956	05/01/13 11:50:37	4/26/13	2-19-146-8...		SO CA EDISON	STREET LIGHTING	292322...	-32.17
TOTAL								-1,758.50
98018	05/01/13 13:27:53	5/1/13	80346	SO CA GAS COMPANY	SO CA GAS CO...	ACCT# 016-913-9500-6	100010...	
97856	04/24/13 10:49:03	4/19/13	016-913-9...		SO CA GAS CO...	CITY HALL	101331...	-309.30
TOTAL								-309.30
98019	05/01/13 13:27:54	5/1/13	80347	STAPLES ADVANTAGE	STAPLES ADV...		100010...	
97739	04/17/13 09:24:58	4/9/13	3197200573		STAPLES ADV...	OFFICE SUPPLIES	101330...	-189.57
97740	04/17/13 09:25:48	4/9/13	3197200572		STAPLES ADV...	BREAKROOM SUPPLIES	101330...	-25.98
97721	04/17/13 08:56:26	4/11/13	3197285834		STAPLES ADV...	POOL SUPPLIES	486630...	-58.48
TOTAL								-274.03

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98020	05/01/13 13:27:54	5/1/13	80348	WALLACE GROUP	WALLACE GR...	INVOICE #34954	100010...	
97862	04/24/13 10:55:29	4/10/13	34954		WALLACE GR...	MEASURE A GRANT 1	207927...	-205.50
					WALLACE GR...	MEASURE A GRANT 1	202027...	-205.50
TOTAL								-411.00
98021	05/01/13 13:27:55	5/1/13	80349	ZEP SALES & SERVI...	ZEP SALES & ...	INVOICE #9000224024	100010...	
97927	04/30/13 15:23:45	4/10/13	9000224024		ZEP SALES & ...	POOL SUPPLIES	486630...	-263.17
TOTAL								-263.17

TOTAL \$403,024.50

STAFF REPORT
COUNCIL MEETING DATE
May 13, 2013

ITEM FOR COUNCIL CONSIDERATION:

SECOND READING OF ORDINANCE No. 662 AMENDING CHAPTER 8.52: SMOKING REGULATIONS, CHAPTER 14.08: DEFINITIONS, CHAPTER 14.20: CPD COMMERCIAL PLANNED DEVELOPMENT DISTRICT AND CHAPTER 14.22: CB CENTRAL BUSINESS DISTRICT OF THE CARPINTERIA MUNICIPAL CODE

Report prepared by: Steve Goggia, Senior Planner
Community Development Department


Signature

Reviewed by: Jackie Campbell, Director
Community Development Department


Signature

Reviewed by: Dave Durflinger, City Manager


Signature

RECOMMENDATION

Action Item X; Non-Action Item ____

Adopt the attached Ordinance No. 662 as read by title only, thereby amending Chapter 8.52: Smoking Regulations, Chapter 14.08: Definitions, Chapter 14.20: CPD Commercial Planned Development District and Chapter 14.22 CB: Central Business District of the Carpinteria Municipal Code.

I. BACKGROUND

On April 22, 2013 the City Council considered this item on first reading, approving Ordinance No. 662, continuing it to May 13th for second reading. Ordinance No. 662 (Attachment A) incorporates the revisions presented by staff and incorporated into the motion at the first reading. The staff report prepared for the April 22nd City Council meeting is included as Attachment B.

II. ORDINANCE No 662

Ordinance No. 662 would amend CMC Chapter 8.52: Smoking Regulations to add the following provisions:

- Require tobacco retailers within the City to obtain and maintain a valid Tobacco Retailer License and establish local penalties for not maintaining a valid license and for violating laws related to the sale of tobacco products to minors; and
- Amend Section 8.52.060: Places Where Smoking May Be Permitted to modify the requirements of Designated Smoking Areas on public property approved by the City Council and maintained by the City.

Ordinance No. 662 would also amend CMC Zoning Code Chapters 14.08: Definitions, 14.20: CPD Commercial Planned Development District and 14.22: CB Central Business District to:

- Prohibit new significant tobacco retailers, i.e., a business that primarily sells tobacco products throughout the City; and
- Prohibit any new business from selling tobacco products within 1,000 feet from elementary, middle, junior high or high schools within the City.

In preparation for the tobacco retail license program that will be in effect on July 12, 2013 the County of Santa Barbara Public Health Department is working with City staff to assemble education materials that will be provided to retailers later this month. Staff notes that the five-year look back period (§8.52.240.B) does not include violations that may have occurred prior to the establishment of the tobacco retail license program.

Once effectuated, staff will return with Designated Smoking Area location options for the Council to consider.

III. LEGAL

The California State Constitution grants cities and counties the police power to enact ordinances and regulations that protect the health, safety, welfare and morals of their citizens. A local ordinance is legitimate so long as the police power exercised has a rational relationship to a legitimate state purpose. California courts have found that

regulating the smoking of tobacco to protect the health of local residents is a valid exercise of local police power. Facts and findings in the ordinance demonstrate the rationality and legitimacy of the government's actions.

Under California law, local communities have great flexibility in adopting smoking laws. State law expressly provides local jurisdictions with the authority to expand upon state smoking regulations. Local governments also can prohibit smoking in places that are specifically exempted under the Labor Code. In light of the Legislature's intent to allow local regulation, there is little concern that a local ordinance will be deemed to be preempted by state law.

Potential Legal Issues

A ban on significant tobacco retailers in certain areas of the City, or throughout the City, raises the potential for a legal challenge based on the Constitutional rights. The Fourteenth Amendment to the United States Constitution provides in part that "[n]o State shall ... deny to any person within its jurisdiction the equal protection of the laws."

The California Supreme Court has held, "The concept of the equal protection of the laws compels recognition of the proposition that persons similarly situated with respect to the legitimate purpose of the law receive like treatment." (In re Eric J. (1979) 25 Cal.3d 522, 531.) In the case of Walgreen Co. v. City and County of San Francisco (2010) 185 Cal.App.4th 424, the court found that there was no rational basis to treat drugstores selling cigarettes differently from grocery stores selling cigarettes.

While a significant tobacco retailer who is no longer allowed to do business in areas of Carpinteria or throughout the City could potentially bring a suit claiming that the regulation violates Equal Protection, the chances of prevailing on such a suit are minimal because the Ordinance treats all retailers where 20% or more of floor area is devoted to tobacco products, 67% or more of gross sales receipts are derived from tobacco products or where 50% or more of completed sales include tobacco products the same. No matter the store's line of business, if it meets the objective criteria it is regulated the same as every other store that meets the criteria. Furthermore, there is a rational basis for treating significant tobacco retailers differently from tobacco retailers as evidence shows that the highest amount of illegal tobacco sales occurs at stores that would be classified as significant tobacco retailers under the Ordinance.

Aside from Equal Protection claims, some businesses have claimed that regulations restricting tobacco sales violate the Constitutional right to Free Speech. The argument is that selling tobacco products is an expressive act that is entitled to protection under the Free Speech doctrine. Yet in an unpublished opinion, Phillip Morris USA, Inc. v. City and County of San Francisco (2009) 345 Fed.Appx. 276, the Ninth Circuit Court of Appeals found that selling cigarettes is not expressive activity entitled to protection under the First Amendment.

While there is always a risk that someone could bring a claim alleging that an Ordinance is unconstitutional, based on the analysis of the law, the City Attorney's office believes that such claims would be unlikely to succeed in this case.

IV. ENVIRONMENTAL REVIEW

The proposed Ordinance Amendment is not subject to CEQA pursuant to State CEQA Guidelines Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly) and 15061(b)(3) (it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment).

V. FINANCIAL CONSIDERATIONS

Carpinteria would contract with the County of Santa Barbara Public Health Department who would administer the Tobacco Retailer Licensure program for a \$379 fee per retail location, adopted by the County Board of Supervisors in December 2012. These fees cover the actual cost of administering the licensing program, including issuance of the licenses, investigations and administrative enforcement and adjudication of violations. The fee provides for full cost recovery, but does not exceed the actual regulatory cost of administering the program.

The tobacco retailer license will be incorporated into the City's existing Business Tax License Application and annual renewal procedures. In addition to the increase in the City's General Fund due to the potential for settlement payments, the annual tobacco retail shop site inspections carried out by the City's Code Compliance staff will no longer be necessary as these activities will be performed by the County.

The Ordinance also clarifies how Designated Smoking Areas (DSAs) on public property are to be established. Should the Council determine to establish DSAs on public property, there would likely be associated costs. Staff has estimated that the cost for constructing a DSA is expected to be approximately \$3,500.

VI. ALTERNATIVES

If the City Council chooses not to adopt the proposed Ordinance, the Council could direct staff to return with an Ordinance amended per direction provided by the Council.

VII. ATTACHMENTS

- Attachment A Ordinance No. 662 with tracked changes
- Attachment B Staff report prepared for the April 22, 2013 Council meeting

ATTACHMENT A

ORDINANCE NO. 662

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA AMENDING CHAPTER 8.52: SMOKING REGULATIONS, CHAPTER 14.08: DEFINITIONS, CHAPTER 14.20: CPD COMMERCIAL PLANNED DEVELOPMENT DISTRICT AND CHAPTER 14.22: CB CENTRAL BUSINESS DISTRICT OF THE CARPINTERIA MUNICIPAL CODE

The City Council of the City of Carpinteria does ordain as follows:

SECTION 1. FINDINGS

The City Council of the City of Carpinteria hereby finds and declares as follows:

WHEREAS, based in part on the information contained in this section, the City Council finds that the failure of tobacco retailers to comply with all tobacco control laws, particularly laws prohibiting the sale of tobacco products to minors, presents an imminent threat to the public health, safety, and welfare of the residents of the City of Carpinteria; and

WHEREAS, approximately 438,000 people die in the United States from tobacco-related diseases every year, making it the nation's leading cause of preventable death;¹ and

WHEREAS, the World Health Organization (WHO) estimates that by 2030, tobacco will account for 8.3 million deaths per year, killing 50% more people in 2015 than HIV/AIDS, and will be responsible for 10% of all deaths worldwide;² and

WHEREAS, the California Legislature has recognized the danger of tobacco use and has made reducing youth access to tobacco products a high priority, as evidenced by the fact that:

- The Legislature has declared that smoking is the single most important source of preventable disease and premature death in California (Cal. Health & Safety Code § 118950);
- State law prohibits the sale or furnishing of cigarettes, tobacco products, and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors (Cal. Pen. Code § 308);
- State law requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 18 years of age (Cal. Bus. & Prof. Code § 22956) and provides procedures for using minors to conduct onsite compliance checks of tobacco retailers (Cal. Bus. & Prof. Code § 22952);

- State law prohibits the sale of tobacco products and paraphernalia through self-services displays with limited exceptions for tobacco stores (Cal. Bus. & Prof. Code § 22960, 22962);
- State law prohibits the sale of “bidis” (hand-rolled filter-less cigarettes imported primarily from India and Southeast Asian countries) except in adult-only establishments (Cal. Pen. Code § 308.1); and
- State law prohibits the manufacture, distribution, or sale of cigarettes in packages of less than 20 and prohibits the manufacture, distribution, or sale of “roll-your-own” tobacco in packages containing less than 0.60 ounces of tobacco (Cal. Pen. Code § 308.3); and

WHEREAS, state law requires all tobacco retailers to be licensed by the Board of Equalization primarily to curb the illegal sale and distribution of cigarettes due to tax evasion and counterfeiting (Cal. Bus. & Prof. Code §§ 22970.1, 22972); and

WHEREAS, state law explicitly permits cities and counties to enact local tobacco retail licensing ordinances, and allows for the suspension or revocation of a local license for a violation of any state tobacco control law (Cal. Bus. & Prof. Code § 22971.3); and

WHEREAS, California courts in such cases as *Cohen v. Board of Supervisors*, 40 Cal. 3d 277 (1985), and *Bravo Vending v. City of Rancho Mirage*, 16 Cal. App. 4th 383 (1993), have affirmed the power of the cities to regulate business activity in order to discourage violations of law; and

WHEREAS, despite the state’s efforts to limit youth access to tobacco, minors are still able to access cigarettes, as evidenced by the fact that:

- Each day, nearly 4,000 children under 18 years of age smoke their first cigarette, and almost 1,500 children under 18 years of age begin smoking daily;³
- More than 75% of all current smokers in 2001 began smoking before the age of 18;⁴
- Among middle school students who were current cigarette users in 2004, 70.6% were not asked to show proof of age when they purchased or attempted to purchase cigarettes from a store, and 66.4% were not refused purchase because of their age;⁵
- In 2002, youth smoked approximately 540 million packs of cigarettes, generating nearly \$1.2 billion in tobacco industry revenue;⁶ and

WHEREAS, research demonstrates that local tobacco retail ordinances dramatically reduce youth access to cigarettes, as evidenced by the following:

- A review of thirteen California communities with strong tobacco retailer licensing ordinances shows that the youth sales rate declined in twelve of the thirteen communities, with an average decrease of 68% in the youth sales rate;⁷
- A study of the effect of licensing and enforcement methods used in the Philadelphia area revealed a decrease in sales to minors from 85% in 1994 to 43% in 1998;⁸
- A study of several Minnesota cities found that an increased licensing fee in conjunction with strict enforcement of youth access laws led to a decrease from 39.8% to 4.9% in the number of youth able to purchase tobacco;⁹ and

WHEREAS, the implementation of tobacco retailer licensing requirements is supported by most Californians, as evidenced by the following:

- Statewide, over 80% of California adults think tobacco retailers should be licensed;¹⁰
- Similarly, in rural areas in California, 78% of adults think tobacco retailers should be licensed, and 91% agree that a store owner who repeatedly sells cigarettes to minors should no longer have the right to sell cigarettes;¹¹
- 65% of California's key opinion leaders surveyed support implementation of tobacco-licensing requirements;¹²
- Over 90% of enforcement agencies surveyed in 2000 rated license suspension or revocation after repeated violations as an effective strategy to reduce youth access to tobacco;¹³ and

WHEREAS, California retailers continue to sell tobacco to underage consumers, evidenced by the following:

- 5.6% of all tobacco retailers unlawfully sold to minors in 2011;¹⁴
- Non-traditional tobacco retailers such as deli, meat, and donut shops sold to minors in 2011 at a higher rate than the statewide average, as high as 11.6%;¹⁵
- Teens surveyed in 2002 say they bought their cigarettes at: gas stations (58%), liquor stores (45%), and supermarkets and small grocery stores (29% combined);¹⁶

- The results of the 2009 California Youth Tobacco Purchase Survey, shows that 8.6%¹⁷ of retailers surveyed sold tobacco product to minors; though the most recent local youth purchase survey (2010) showed youth buy rates of 17%,¹⁸ and

WHEREAS, the density of tobacco retailers, particularly in neighborhoods surrounding schools, has been associated with increased youth smoking rates;¹⁹ and

WHEREAS, a recent study found that 33% of tobacco underage sales took place within 1,000 feet of schools;²⁰

WHEREAS, a recent study has found that while there has been a clear downward trend in the illegal sales to minors in California during the last 17 years, the number has risen from 5.6 percent in 2011 to 8.7 percent in 2012. Among the traditional retailer store types, tobacco stores (i.e. 80% of merchandise consists of tobacco products) sold illegally to youth at the highest rate of 20.5 percent, up from 6.5 percent in 2011.²¹

WHEREAS, ninety-six cities and counties in California have passed tobacco retailer licensing ordinances in an effort to stop minors from smoking;²² and

WHEREAS, the City Council finds that a local licensing system for tobacco retailers and other restrictions on tobacco retailing is appropriate to ensure that retailers comply with tobacco control laws and business standards of the City of Carpinteria and to protect the health, safety, and welfare of the City's visitors and residents; and

WHEREAS, the City Council finds that a Significant Tobacco Retailer can serve to undermine the healthy, safe, family-friendly environment that the city promotes and relies upon in support of both the important visitor/hospitality segment of the local economy and local residential real estate values; and

WHEREAS, a requirement for tobacco retailer licensing and the establishment of other restrictions on tobacco retailing will not unduly burden legitimate business activities of retailers who sell or distribute cigarettes or other tobacco products to adults, but will, however, allow the City of Carpinteria to regulate the operation of lawful businesses to discourage violations of federal, state, and local tobacco-related laws; and

WHEREAS, the City of Carpinteria has a substantial interest in promoting compliance with federal, state, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by minors; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products to minors; and finally, and most importantly, in protecting children from being lured into illegal activity.

NOW, THEREFORE, THE CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 2. INCORPORATION OF FINDINGS

The above findings are incorporated herein and are each relied upon independently by the City Council for its adoption of this Ordinance. It is the intent of the City Council, in enacting this Ordinance, to ensure compliance with the business standards and practices of the city and to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those which prohibit or discourage the sale or distribution of tobacco and nicotine products to minors, but not to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalties provided therein.

SECTION 3. AMENDMENT OF CHAPTER 8.52

Chapter 8.52 of the Carpinteria Municipal Code shall hereby be amended and shall read as follows.

Chapter 8.52 SMOKING REGULATIONS

8.52.010 Title.

The regulations contained in this chapter may be known and referred to as the "smoking regulation code."

8.52.020 Purpose.

This chapter is enacted with the specific intent to:

- A. Prohibit smoking in certain public places not preempted by California Labor Code Section 6404.5, which provides further smoking regulations;
- B. Protect the public health, safety and general welfare by prohibiting smoking in certain public places under circumstances where other persons will be exposed to secondhand smoke;
- C. Ensure a cleaner and more hygienic environment for the city, its residents, and its natural resources, including its creeks and streams;
- D. Strike a reasonable balance between the needs of persons who smoke and the needs of nonsmokers, including residents and visitors, particularly children, to breathe smoke-free air, recognizing the threat to public health and the environment which smoking causes;
- E. Regulate the manner in which tobacco products are sold;
- F. Discourage violations of laws which prohibit or discourage sale or distribution of tobacco products and tobacco paraphernalia to minors, but not to expand or reduce

the degree to which the acts regulated by state or federal law are criminally proscribed; and

G. Designate the enforcing agency for this chapter and for Labor Code Section 6404.5.

8.52.030 Definitions

The following definitions shall govern construction of this chapter unless the context clearly requires otherwise.

"Arm's Length Transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of a violation of this chapter, is not an "arm's length transaction."

"Business" means any sole proprietorship, partnership, joint venture, corporation, association or other entity formed for profit-making purposes or that has an employee.

"Code compliance officer" means the city code compliance officer or duly authorized designee of the city code compliance officer.

"Dining area" means any area available to or customarily used by the general public that is designed, established or regularly used for consuming food or drink.

"Employee" means any person who is employed or retained as an independent contractor by any employer as defined in this section; or any person who volunteers his or her services for an employer, association, nonprofit or volunteer entity.

"Employer" means any person, partnership, corporation, association, nonprofit or other entity that employs or retains the service of one or more persons, or supervises volunteers.

"Enclosed" means:

1. Any covered or partially covered space having more than fifty percent (50%) of its perimeter area walled in or otherwise closed to the outside such as, for example, a covered porch with more than two walls; or
2. Any space open to the sky (hereinafter "uncovered") having more than seventy-five (75) percent of its perimeter area walled in or otherwise closed to the outside, such as, for example, a courtyard.

"Health officer" means the county health officer or the duly authorized designee of the county health officer.

"Licensing Agent" means the Carpinteria City Community Development Director.

"Nonprofit entity" means any entity that meets the requirements of California Corporations Code Section 5003 as well as any corporation, unincorporated association or other entity created for charitable, religious, philanthropic, educational, political, social or similar purposes, the net proceeds of which are committed to the promotion of the objectives of the entity and not to private gain. A public agency is not a nonprofit entity within the meaning of this section.

"Person" means any natural person, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

"Place of employment" means any area under the legal or de facto control of an employer, business or nonprofit entity that an employee or the general public may have cause to enter in the normal course of operations, but regardless of the hours of operation, including, for example, indoor and outdoor work areas, construction sites, vehicles used in employment or for business purposes, taxis, employee lounges, conference and banquet rooms, bingo and gaming facilities, long-term health facilities, warehouses and private residences that are used as childcare or healthcare facilities subject to licensing requirements.

"Playground" means any park or recreational area designed in part to be used by children that has play or sports equipment installed or has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds, or on city property.

"Premises" means a lot or contiguous lots and any improvements thereon such as is usually described in a deed, deed of trust or mortgage, and includes legally separate but contiguous pieces of land that are owned by the same person or are under common control.

"Present" means within a reasonable distance.

"Proprietor" means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten percent (10%) or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have or share ultimate control over the day-to-day operations of a business.

"Public place" means any public or private place open to the general public regardless of any fee or age requirement, including, for example, streets, sidewalks, parking lots, parking garages, plazas, bars, restaurants, clubs, stores, stadiums, parks, playgrounds, taxis and buses. For the purposes of the provisions of this chapter, a "public place" does not mean a private residence except for (a) residences used as a child care, health care, board and care, or community foster care facility as such terms are defined by the state Health and Safety Code or (b) the common areas of multi-family dwellings, such as apartment buildings and condominiums.

"Reasonable distance" means the greatest distance practicable that ensures that occupants of an area in which smoking is prohibited are not exposed to secondhand smoke created by smokers outside the area. This distance shall generally be twenty (20) feet, with a minimum distance of five (5) feet.

"Recreational area" means any public or private area open to the public for recreational purposes whether or not any fee for admission is charged, including without limitation, parks, trails, gardens, sporting facilities, stadiums and playgrounds.

"Restaurant" means any coffee shop, cafeteria, luncheonette, tavern, cocktail lounge, sandwich stand, soda fountain, private and public school cafeteria, eating establishment, boardinghouse or guest house or similar establishment which gives or offers for sale food to the public.

"School" means any public or private, elementary, middle, junior high or high school. Child day care, preschool and kindergarten are not included for the purposes of this chapter.

"Secondhand smoke" means smoke that is generated from the burning end of a lighted tobacco, weed or plant product, or smoke that is exhaled by a smoker after inhaling or ingesting a lit tobacco, weed or plant product.

"Self-service display" means an open display of tobacco products and point-of-sale tobacco promotional products that the public has access to without the intervention of an employee.

"Service area" means any area designed to be or regularly used by one or more persons to receive or wait to receive a service, enter a public place or make a transaction whether or not such service includes the exchange of money including, for example, ATMs, bank teller windows, telephones, ticket lines, bus stops, taxi stands and takeout counters.

"Significant tobacco retailer" means any tobacco retailer for which the principal or core business is selling tobacco products, tobacco paraphernalia, or both, as evidenced by: twenty percent (20%) or more of floor area or display area is devoted to tobacco products, tobacco paraphernalia, or both; sixty-seven percent (67%) or more of gross sales receipts are derived from tobacco products, tobacco paraphernalia, or both or fifty percent (50%) or more of completed sales transactions include tobacco products or tobacco paraphernalia.

"Smoking" or to "smoke" means possessing or to possess a lighted tobacco product, lighted tobacco paraphernalia, or any other lighted weed or plant (including but not limited to, a lighted pipe, lighted hookah pipe, lighted cigar, or lighted cigarette of any kind), or the lighting of a tobacco product, tobacco paraphernalia, or any other weed or plant (including but not limited to, a pipe, a hookah pipe, cigar, or cigarette of any kind).

"Sports arena" means an outdoor or nonenclosed sports pavilion, stadium, swimming pool, roller rink, or other similar place where members of the general public assemble either to engage in physical exercise, participate in athletic competition or witness sports events, including the concession stand areas thereof.

"Tobacco paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for smoking, preparation, storing or consumption of tobacco products.

"Tobacco product" means any substance containing tobacco leaf, and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

"Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

"Tobacco retailer license" or "license" shall mean a business license that permits the retail sale of tobacco products and/or tobacco paraphernalia.

"Tobacco vending machine" means any machine or device designated for or used for the vending of cigarettes, cigars, tobacco or tobacco products upon the insertion of coins, bills, trade checks, slugs or other form of legal tender or consideration.

"Unenclosed area" means any area which is not enclosed.

"Vendor-assisted" means that only a store employee has access to the tobacco product and assists a customer by supplying the product. The customer does not take possession of the product until it is purchased.

8.52.040 Secondhand Smoke Generally

For all purposes within the jurisdiction of the city, the nonconsensual exposure to secondhand smoke and the uninvited presence of secondhand smoke on property in violation of this chapter shall constitute a nuisance, as is further described by Chapter 9.70 of the Carpinteria Municipal Code.

8.52.050 Public and Other Places Where Smoking Shall Be Prohibited

Except as otherwise provided by this chapter or by state or federal law, smoking shall be prohibited everywhere in the city, including but not limited to:

- A. Public places;

- B. Residences used as a child care, health care, board and care, or community foster care facility as such terms are defined by the state Health and Safety Code;
- C. Common areas of multi-family dwellings, such as apartment buildings and condominiums;
- D. Places of employment;
- E. Enclosed and unenclosed places of hotels, businesses, restaurants, bars and other public accommodations; and
- F. Buses or other means of public transit, and ticket, boarding and waiting areas of public transit depots and bus stops, enclosed or not.

8.52.060 Places Where Smoking May Be Permitted

Except where prohibited by state or federal law, or by Chapter 12.24.21A of the Municipal Code for public parks and beaches, smoking may be permitted in the following locations within the city notwithstanding Section 8.52.050:

- A. Private residential properties. This chapter does not preclude private regulation of smoking on private residential properties;
- B. In up to twenty-five (25) percent of guest rooms in any hotel or motel, if the hotel or motel permanently designates at least seventy five (75) percent of its guest rooms as nonsmoking rooms, appropriately signs nonsmoking rooms and permanently removes ashtrays and matches from them. Smoking rooms shall be segregated from nonsmoking rooms on separate floors, wings or portions of either; smoking and nonsmoking rooms shall not be interspersed. Nothing in this chapter shall require a hotel or motel to provide smoking rooms and the owner or operator of a hotel or motel may choose to prohibit smoking throughout the property;
- C. Designated Smoking Areas on private property provided that all of the following conditions are met:
 - 1. The area is located the greatest distance practicable from:
 - a. any doorway or opening into an enclosed area; and
 - b. any access way to a public place;
 This distance shall generally be twenty (20) feet, with a minimum distance of five (5) feet;
 - 2. The area has a clearly marked perimeter;
 - 3. The area is posted with one or more conspicuously displayed sign(s) identifying the area as a designated outdoor smoking area pursuant to Section 8.52.090 of this code;

4. Smoke is not permitted to enter adjacent areas in which smoking is prohibited by this chapter, other law or by the owner, lessee or licensee of the adjacent property;
 5. Appropriate ash can(s) are placed in the smoking area and are maintained regularly by the owner, operator or manager of the smoking area;
 6. No consistent complaints of secondhand smoke are filed with the city; and
 7. The area is well lit.
- D. Designated Smoking Areas (DSAs) on public property approved by the City Council and developed and maintained as such by the city. Prior to creating a DSA, the City Council shall make a finding that the DSA is consistent with the purposes of this chapter;
 - E. Smoking areas at public events which have been approved as part of the Special Event Permit or Temporary Use Permit issued by the city;
 - F. Inside a private automobile when no minor child is present; and
 - G. Any unenclosed area in which no nonsmoker is present and, due to the time of day or other factors, it is not reasonable to expect another person to arrive.

8.52.070 Modifications of Designated Smoking Area (DSA)

The city reserves the right to prohibit or require modifications to a DSA at a certain location if it undermines the purposes of this chapter.

8.52.080 Allowing, Aiding or Abetting Smoking

- A. No person, employer, business or nonprofit entity shall knowingly permit smoking in an area under his, her or its legal or de facto control in which smoking is prohibited by this chapter or other law.
- B. Except as provided in Section 8.52.100 of this code, no person, employer, business or nonprofit entity shall allow the placement or maintenance of a receptacle for smoking waste in an area under his, her or its legal or de facto control in which smoking is prohibited by this chapter or other law, provided however, that a receptacle may be placed at the entry to a nonsmoking area, along with a "No Smoking" sign, in order to encourage any smokers in violation of this chapter to immediately extinguish and properly dispose of smoking materials."
- C. No person shall intimidate, threaten, effect a reprisal or retaliate against another person who seeks to attain compliance with one or more of this chapter's provisions.

8.52.090 Signs

Notwithstanding this provision, the presence or absence of signs shall not be a defense to the violation of any other provision of this chapter.

- A. "No Smoking" or "Smoke Free" signs, with letters of not less than one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) or any alternative signage approved by the Community Development Director may be conspicuously posted by the person, employer, business or nonprofit entity who or which has legal or de facto control of such place at each entrance to a public place in which smoking is prohibited by this chapter or any other place where the City Manager reasonably determines that smoking in violation of this chapter has occurred, or is likely to occur.
- B. Within designated smoking areas, one or more conspicuously displayed sign(s) shall be posted identifying the area as a smokers' outpost pursuant to Section 8.52.060.B of this code as follows: signs with arrows directing the public to the smoking area may be allowed; signs shall be no smaller than three (3) inches high and eight (8) inches long with a pictorial representation of a burning cigarette; signs shall contain "Designated Smoking Area" and shall be posted prominently between five (5) feet and seven (7) feet above the floor or ground; and all signs are subject to approval by the Community Development Director.
- C. Every hotel and motel shall have signs posted conspicuously in the registration and lobby areas which state that nonsmoking rooms are maintained and may be available; rooms designated as being nonsmoking shall have signs announcing such restriction conspicuously placed inside the room.
- D. No person shall alter, deface, obscure, remove or destroy a sign or placard that this chapter authorizes.

8.52.100 Smoking Waste

Except for disposal of smoking waste in a smoking waste receptacle, no person shall dispose of smoking waste: (1) in or upon a public street or sidewalk; (2) in an area in which smoking is prohibited by this chapter or other law; or (3) in any area a reasonable distance therefrom.

8.52.110 Requirement for Tobacco Retailer License

It is unlawful for any person to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer license pursuant to this chapter for each location at which that activity is to occur. Tobacco retailer licenses are valid for one year. An application to renew a tobacco retailer license shall be submitted prior to the expiration of the license.

8.52.120 Tobacco Retailers must operate at a Fixed Location

No tobacco retailer license may be issued to authorize tobacco retailing at other than a fixed location. For example, tobacco retailing by persons on foot or from vehicles is prohibited.

8.52.130 Prohibition of Tobacco Retailing within Certain Areas of the City

No tobacco retailer license may be issued to authorize a tobacco retailer in the areas of the city described in Sections 14.20.075 and 14.22.070 of this Code.

8.52.140 Application Procedure

- A. An application for a tobacco retailer license, plus one copy shall be submitted to the licensing agent in the name of the person proposing to conduct tobacco retailing and shall be signed by such person or an authorized agent thereof.

It is the responsibility of each proprietor to be informed regarding all laws applicable to tobacco retailing, including those laws affecting the issuance of a tobacco retailer's license. No proprietor may rely on the issuance of a license as a determination by the City of Carpinteria or County of Santa Barbara that the proprietor has complied with all laws applicable to tobacco retailing. A license issued contrary to this chapter, contrary to any other law, or on the basis of false or misleading information supplied by a proprietor shall be revoked pursuant to Section 8.52.240 of this chapter. Nothing in this chapter shall be construed to vest in any person obtaining and maintaining a tobacco retailer's license any status or right to act as a tobacco retailer in contravention of any provision of law.

All applications shall be submitted on a form supplied by the city and shall contain the following information:

1. The name, address, and telephone number of each proprietor of the business seeking a license.
2. The business name, address, and telephone number of the single fixed location for which a license is sought.
3. A single name, mailing address and email address authorized by each proprietor to receive all communications and notices (the "Authorized Address") required by, authorized by, or convenient to the enforcement of this chapter. If an Authorized Address is not supplied, each proprietor shall be understood to consent to the provision of notice at the business address specified in subparagraph (2) above.
4. Proof that the location for which a tobacco retailer's license is sought has been issued a valid state tobacco retailer's license by the California Board of Equalization.
5. Whether or not any proprietor or any agent of the proprietor has admitted violating, or has been found to have violated, this chapter and, if so, the dates and locations of all such violations within the previous five years.

- B. All information specified in an application pursuant to this section shall be subject to disclosure under the California Public Records Act (California Government Code Section 6250 et seq.) or any other applicable law, subject to the laws' exemptions.

8.52.150 Issuance of Tobacco Retailer License

- A. Within thirty days of the licensing agent's receipt of an application for a tobacco retailer license, the licensing agent shall issue a license, unless it has been determined by the Public Health Department that the issuance of the license should be denied, based on the following criteria:
 - 1. The information presented in the application is incomplete, inaccurate or false; or
 - 2. The application seeks authorization for tobacco retailing by a person or at a location for which a suspension is in effect pursuant to Section 8.52.240 of this chapter; or
 - 3. The application seeks authorization for tobacco retailing in an area that is in violation of Sections 14.20.075 and 14.22.070 of this Code.
 - 4. The application seeks authorization for tobacco retailing that is prohibited pursuant to this chapter (e.g., mobile vending), that is unlawful pursuant to this code, or that is unlawful pursuant to any other law.
- B. A denial of a tobacco retailer license may be appealed pursuant to Section 8.52.240 of this chapter.
- C. A licensed tobacco retailer shall inform the licensing agent in writing of any change in the information submitted on an application for a tobacco retailer's license within ten (10) business days of a change.
- D. The licensing agent shall keep a permanent record of all tobacco retailer licenses issued, but may destroy such records as provided by law with the approval of the City Council.

8.52.160 Display of Tobacco Retailer License

Each licensee shall prominently display the tobacco retailer license at each location where tobacco retailing occurs.

8.52.170 Fees for Tobacco Retailer License

- A. The initial or renewal fee for a tobacco retailer license shall be \$379 per year pursuant to Resolution 12-288 adopting the Tobacco Retailer License Fee Schedule for Incorporated Areas of Santa Barbara County passed and approved by the County of Santa Barbara Board of Supervisors on December 11, 2012, subject to subsequent amendments by the County Board of Supervisors. The fee shall be paid to the licensing agent when a tobacco retailer license application is submitted.

- B. Renewal. Renewal fees, paid to the licensing agent, are due the first business day after the date of expiration of a tobacco retailer license. A tobacco retailer will be allowed a thirty day grace period to pay the renewal fee. If the renewal fee has not been paid by the end of the grace period, a penalty of fifty percent of the renewal fee shall be added to the renewal fee. If the renewal fee and any applicable late penalty are not paid within ninety days after the date of expiration of a tobacco retailer license, then the licensing agent shall automatically revoke the license. Thereafter, if the licensee desires to resume tobacco retailing, a new license application must be submitted to the licensing agent in accordance with Section 8.52.140, along with the license fee and late penalty.

8.52.180 Tobacco Retailer Licenses Are Nontransferable

- A. A tobacco retailer license is nontransferable. If a person to whom a tobacco retailer license has been issued, changes the business location or sells the business, then that person must obtain a new license prior to acting as a tobacco retailer at the new location, or the buyer of the business must obtain a license in the buyer's name before acting as a tobacco retailer.
- B. Prior violations at a location shall continue to be counted against a location and license suspension periods shall continue to apply to a location unless:
1. The location is being or has been fully transferred to a new owner; and
 2. The new owner(s) provide the licensing agent with clear and convincing evidence that the new owner(s) is acquiring or has acquired the location in an arm's length transaction.

8.52.190 License Conveys a Limited Conditional Privilege

Nothing in this chapter shall be construed to grant any person obtaining and maintaining a tobacco retailer's license any status or right other than the limited conditional privilege to act as a tobacco retailer at the location in the City of Carpinteria identified on the face of the license. For example, nothing in this chapter shall be construed to render inapplicable, supersede, or apply in lieu of, any other provision of applicable law, including but not limited to, any provision of this code, or any condition or limitation on smoking in an enclosed place of employment pursuant to California Labor Code Section 6404.5. Obtaining a tobacco retailer license does not make the retailer a "retail or wholesale tobacco shop" for the purposes of California Labor Code Section 6404.5.

8.52.200 Positive Identification Requirements for Sale of Tobacco Products and Tobacco Paraphernalia

No person engaged in tobacco retailing shall sell or transfer a tobacco product or tobacco paraphernalia to another person who appears to be under the age of twenty-seven, without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess tobacco products or tobacco paraphernalia.

8.52.210 Minimum Age for Persons Selling Tobacco Products and Tobacco Paraphernalia

No person who is younger than the minimum age established by state law for the purchase or possession of tobacco products or tobacco paraphernalia shall engage in tobacco retailing.

8.52.220 False and Misleading Advertising Prohibited

A tobacco retailer without a valid tobacco retailer license, including for example, a tobacco retailer license that has been suspended or revoked, shall not display any advertisement promoting the sale or distribution of tobacco products or tobacco paraphernalia at the tobacco retailer's location and shall keep all such products out of public view.

8.52.230 Compliance Monitoring

- A. Compliance with the tobacco retailer license provisions of this chapter shall be primarily enforced by the Santa Barbara County Sheriff, in conjunction with the Public Health Department. However, any peace officer may enforce the penal provisions of this chapter.
- B. The Sheriff will check the compliance of each tobacco retailer one to three times per twelve month period. However, the Sheriff may check the compliance of a tobacco retailer more or less often, depending on a tobacco retailer's compliance history. Nothing in this paragraph shall create a right of action for any tobacco retailer or other person, against the city, county or its agents.

8.52.240 Revocation or Suspension of Tobacco Retailer License and Appeals

- A. Grounds for Revocation or Suspension.
 - 1. A tobacco retailer license shall be revoked if the Public Health Department finds that one or more of the basis for denial of a license under Section 8.52.150 of this chapter exists. The revocation shall be without prejudice to the filing of a new application for a license following correction of the conditions that required revocation of the license.
 - 2. A tobacco retailer license shall be suspended under this section if the Public Health Department finds that the licensee or his or her agent or employee has violated any federal, state or local law governing the sale, distribution, advertisement or display of tobacco, tobacco products or tobacco paraphernalia, including, but not limited to: Penal Code Section 308a, Business and Professions Code Sections 22950 et seq. (Stop Tobacco Access to Kids Enforcement Act "STAKE Act") or Sections 8.52.260, 8.52.270 and 8.52.280 of this code, or Business and Professions Code Section 25612.5(c)(7).

3. The Public Health Department shall give notice of revocation or suspension to a licensee by personal service or by certified mail return receipt requested, addressed to where the license was issued. The notice of revocation or suspension shall be effective when notice is personally served, or when the certified mail return receipt is returned to the Public Health Department. If the licensee fails to file a timely appeal of the suspension or revocation pursuant to this section, the notice of suspension or revocation shall be final, subject only to judicial review.
- B. Suspension of Tobacco Retailer License. If the Public Health Department finds that there are grounds for suspension of a tobacco retailer license, the following sanctions shall be imposed:
1. Upon a first finding by the Public Health Department of a violation of this chapter by a licensee or by any agent or employee of a licensee within any five-year period, the license shall be suspended for thirty days.
 2. Upon the second finding by the Public Health Department of a violation of this chapter by a licensee or by any agent or employee of a licensee within any five-year period, the license shall be suspended for ninety days.
 3. Upon the third or subsequent finding by the Public Health Department of a violation of this chapter by a licensee or by any agent or employee of a licensee within any five-year period, the license shall be suspended for twelve months. However, if the licensee is operating within one thousand feet of a school pursuant to Section 8.52.130 of this chapter, upon the third finding by the Public Health Department of a violation by a licensee or by any agent or employee of a licensee within any five-year period the tobacco retailer license may be permanently revoked by the City Council at a public hearing.
- C. Appeal of Denial, Revocation and/or Suspension. The decision of the licensing agent to deny the issuance of a tobacco retailer license or the decision of the Public Health Department to revoke or suspend a license can be appealed to the health officer or his/her designee. All appeals must be in writing and filed with the health officer, Santa Barbara County Public Health Department, 300 North San Antonio Road, Santa Barbara, CA 93110-1316 within ten days of receipt of notice of denial, or within ten days of the effective date of the notice of revocation or suspension of a tobacco retailer license. The health officer shall set an appeal hearing at the earliest practicable time and shall give written notice of the hearing to the parties at least ten days before the date of the hearing. At the hearing any relevant evidence shall be admitted. Within a reasonable time after the conclusion of the hearing, the health officer shall make a written decision. An appeal shall stay all proceedings until the appeal is resolved. Any decision rendered by the health officer shall be a final administrative decision.

D. Settlement in Lieu of Appeal Hearing. For a first or second alleged violation of this chapter within any five-year period, the health officer or his designee may engage in settlement negotiations and may enter into a settlement agreement with a tobacco retailer alleged to have violated this chapter, provided that a timely appeal has been filed. Settlements shall not be confidential.

1. After a first alleged violation, any settlement must contain the following minimum terms:
 - a. Suspension of the tobacco retailer license for at least fifteen days;
 - b. A settlement payment to the public health department of at least one thousand dollars; and
 - c. An admission by the licensee that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.
2. After a second alleged violation, any settlement must contain the following minimum terms:
 - a. Suspension of the tobacco retailer license for at least forty-five days;
 - b. A settlement payment to the public health department of at least five thousand dollars; and
 - c. An admission by the licensee that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.

8.52.250 Minors--Posting of signs

Any person, business, tobacco retailer, or owner, manager or operator of any establishment that sells tobacco products shall post plainly visible signs at the point of purchase of tobacco products which state:

"SALE OF TOBACCO PRODUCTS TO PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW. PHOTO I.D. REQUIRED."

The letters of said signs must be at least one-half inch high.

8.52.260 Sale and distribution of tobacco products

It is unlawful for any person, business or tobacco retailer to sell, permit to be sold, offer for sale or display for purposes of sale by means of self-service displays or by any means other than vendor-assisted sales, any tobacco products other than cartons of cigarettes, multi-container packages of smokeless tobacco and cigars and pipe tobacco. Cartons of cigarettes, multi-container packages of smokeless tobacco, and cigars and pipe tobacco may be sold by means of self-service merchandising only when these products are under direct

surveillance of a store employee. Tobacco products shall be deemed to be under direct surveillance of an employee only if the tobacco products themselves (and not just the racks, shelves, kiosks, etc., where the products are displayed) are in plain view of the store employee.

8.52.270 Vending machines

No person, business, tobacco retailer or other establishment located within the city shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance, or use of, on his, her or its premises any vending machine for the purpose of selling or distributing any tobacco product. Any tobacco vending machine in use on the effective date of the ordinance codified in this chapter shall be removed within thirty days after the effective date of the ordinance codified in this chapter. This provision shall not apply to vending machines which are located in bars, provided that such vending machines in bars must be located at least twenty-five (25) feet from any entry into the bar.

8.52.280 Out-of-package sales

No person, business, tobacco retailer or other establishment shall sell or offer for sale cigarettes or other tobacco or smoking products not in the original packaging provided by the manufacturer and with all required health warnings.

8.52.290 Enforcement

The Code Compliance Officer, in cooperation with the Health Officer of the County of Santa Barbara, shall enforce and implement the provisions of this chapter, the provisions of CMC 12.24.020.21A and the provisions of Labor Code Section 6404.5.

8.52.300 Citizen complaints

Any citizen who desires to register a complaint under the provisions of this chapter may request the Code Compliance Officer to initiate enforcement.

8.52.310 Violation--Premises

It shall be unlawful for any person who owns, manages or operates any premises subject to regulations under the provisions of this chapter to fail to comply with its provisions. No person shall cause, permit, aid, abet or conceal a violation of any provision of this chapter.

8.52.320 Violation--Individuals

It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter or to violate any federal, state or local statutes governing the sale and distribution of tobacco products and paraphernalia.

8.52.330 Violation--Penalty

In addition to any other remedy available at law, violation of any provision of this chapter shall be subject to Chapter 1.06 (Administrative Remedies) and Chapter 1.08 (Penalties) of the Carpinteria Municipal Code. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

8.52.340 Separate offense

A separate offense is committed for each and every day, or part of a day, during which any violation is caused, committed, continued or permitted. Each offense is punishable separately from every other offense.

8.52.350 Public education--Purposes of chapter

The Code Compliance Officer, in conjunction and coordination with the County Health Officer of the County of Santa Barbara and, where feasible, appropriate health or safety oriented community-based organizations and coalitions, shall engage in a continuing program to explain and clarify the purposes of the provisions of the chapter to citizens affected by it, and to guide business owners, operators and managers in their compliance with it.

8.52.360 Governmental cooperation

The City Manager shall request all governmental and educational agencies which maintain an office within the city to establish local operating procedures to cooperate and comply with this chapter.

8.52.370 Other laws

The provisions of this chapter shall not be interpreted or construed to permit smoking or the sale and distribution of tobacco products and paraphernalia where it is otherwise restricted by other applicable laws. Further, it is not the intent of the provisions of this chapter to regulate smoking or the sale and distribution of tobacco products and paraphernalia where such regulation has been preempted by the state.

SECTION 4. AMENDMENT OF CHAPTER 14.08

Chapter 14.08 of the Carpinteria Municipal Code: DEFINITIONS shall hereby be amended and shall include new sections as follows.

14.08.560 Significant tobacco retailer

"Significant tobacco retailer" means any tobacco retailer for which the principal or core business is selling tobacco products, tobacco paraphernalia, or both, as evidenced by: twenty percent (20%) or more of floor area or display area is devoted to tobacco products, tobacco paraphernalia, or both; sixty-seven percent (67%) or more of gross sales receipts are derived from tobacco products, tobacco paraphernalia, or both or fifty percent (50%) or more of completed sales transactions include tobacco products or tobacco paraphernalia.

14.08.616 Tobacco paraphernalia

"Tobacco paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for smoking, preparation, storing or consumption of tobacco products.

14.08.617 Tobacco product

"Tobacco product" means any substance containing tobacco leaf, and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that

the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

14.08.618 Tobacco retailer

"Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

14.08.619 Tobacco retailer license

"Tobacco retailer license" or "license" shall mean a business license that permits the retail sale of tobacco products and/or tobacco paraphernalia.

SECTION 5. AMENDMENT OF CHAPTER 14.20

Chapter 14.20 of the Carpinteria Municipal Code: CPD COMMERCIAL PLANNED DEVELOPMENT DISTRICT shall hereby be amended and shall include a new section as follows.

14.20.075 – Tobacco Retailing

- A. No tobacco retailer license may be issued to authorize a significant tobacco retailer in the City of Carpinteria. However, a significant tobacco retailer in the city operating legally on the date that the ordinance enacting this chapter was first introduced and that otherwise would be entitled to receive a license may receive a license and may continue to operate so long as (1) the license is renewed continually without lapse or revocation; (2) the significant tobacco retailer is not closed for business and does not otherwise suspend tobacco retailing for more than sixty (60) consecutive days; (3) the significant tobacco retailer does not substantially change the business premises or business operation; and (4) the significant tobacco retailer maintains the right to operate under the terms of other applicable laws. If the Department determines that a significant tobacco retailer in the city no longer qualifies to continue tobacco retailing under the standards of this section, it shall revoke the license for the significant tobacco retailer in the manner, and subject to the appeal rights specified in Section 8.52.240 of Chapter 8.52 Smoking Regulations of the CMC.
- B. No tobacco retailer license may be issued to authorize tobacco retailing within one-thousand feet of a public or private, elementary, middle, junior high or high school, as measured in a straight line from the nearest point on the parcel boundary of an existing or proposed tobacco retailer to the nearest point on the parcel boundary of the nearest school; and

- C. A tobacco retailer operating with a valid tobacco retailer license at a location within one-thousand feet of a public or private, elementary, middle, junior high or high school, on the operative date of this Ordinance may continue to operate under their existing tobacco retailer license and under any tobacco retailer license that is timely renewed for that location unless revoked pursuant to Sections 8.52.170.B and 8.52.240 of Chapter 8.52 Smoking Regulations of the CMC. If a tobacco retailer owns a parcel of real property on the operative date of this ordinance, which is also located within one-thousand feet of the same school as their existing tobacco retailer's business, then the tobacco retailer may transfer his or her tobacco retailer license to that property owned by the tobacco retailer, provided that the tobacco retailer does not substantially enlarge the size of the business.

SECTION 6. AMENDMENT OF CHAPTER 14.22

Chapter 14.22 of the Carpinteria Municipal Code: CB CENTRAL BUSINESS DISTRICT shall hereby be amended and shall include a new section as follows.

14.22.070 – Tobacco Retailing

- A. No tobacco retailer license may be issued to authorize a significant tobacco retailer in the City of Carpinteria. However, a significant tobacco retailer in the city operating legally on the date that the ordinance enacting this chapter was first introduced and that otherwise would be entitled to receive a license may receive a license and may continue to operate so long as (1) the license is renewed continually without lapse or revocation; (2) the significant tobacco retailer is not closed for business and does not otherwise suspend tobacco retailing for more than sixty (60) consecutive days; (3) the significant tobacco retailer does not substantially change the business premises or business operation; and (4) the significant tobacco retailer maintains the right to operate under the terms of other applicable laws. If the Department determines that a significant tobacco retailer in the city no longer qualifies to continue tobacco retailing under the standards of this section, it shall revoke the license for the significant tobacco retailer in the manner, and subject to the appeal rights specified in Section 8.52.240 of Chapter 8.52 Smoking Regulations of the CMC.
- B. No tobacco retailer license may be issued to authorize tobacco retailing within one-thousand feet of a public or private, elementary, middle, junior high or high school, as measured in a straight line from the nearest point on the parcel boundary of an existing or proposed tobacco retailer to the nearest point on the parcel boundary of the nearest school; and

- C. A tobacco retailer operating with a valid tobacco retailer license at a location within one-thousand feet of a public or private, elementary, middle, junior high or high school, on the operative date of this Ordinance may continue to operate under their existing tobacco retailer license and under any tobacco retailer license that is timely renewed for that location unless revoked pursuant to Sections 8.52.170.B and 8.52.240 of Chapter 8.52 Smoking Regulations of the CMC. If a tobacco retailer owns a parcel of real property on the operative date of this ordinance, which is also located within one-thousand feet of the same school as their existing tobacco retailer's business, then the tobacco retailer may transfer his or her tobacco retailer license to that property owned by the tobacco retailer, provided that the tobacco retailer does not substantially enlarge the size of the business.

SECTION 7. EFFECTIVE DATE

This Ordinance shall be in full force and effect 60 days following its enactment in accordance with California law; and before the expiration of 15 days following passage, this Ordinance shall be published once with the names of the members of the City Council voting for and against the same in the Coastal View News, a newspaper of general circulation, published in the City of Carpinteria.

SECTION 8. SEVERABILITY

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

SECTION 9. CEQA EXEMPTION

The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly) and 15061(b)(3) (it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment).

PASSED, APPROVED AND ADOPTED this ____ day of _____ 2013, by the following called vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBER(S):

ABSENT: COUNCILMEMBER(S):

Mayor of the City of Carpinteria

ATTEST:

City Clerk, City of Carpinteria

I hereby certify that the foregoing Ordinance was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the _____ day of _____ 2013.

City Clerk, City of Carpinteria

APPROVED AS TO FORM:

Peter N. Brown, City Attorney
City of Carpinteria

- ¹ US Department of Health and Human Services, Centers for Disease Control and Prevention. *Morbidity and Mortality Weekly Report: Annual Smoking - Attributable Mortality, Years of Potential Life Lost, and Productivity Losses - United States 1997-2001*. 2005, 54(25): p. 625-628. Available at: www.cdc.gov/mmwr/preview/mmwrhtml/mm5425a1.htm.
- ² World Health Organization. *World Health Statistics 2007, Part 1: Ten Statistical Highlights in Global Public Health*. 2007, p. 12. Available at: www.who.int/whosis/whostat2007_10highlights.pdf.
- ³ Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies. *Results from the 2004 National Survey on Drug Use and Health: National Findings*. 2005. Available at: <http://oas.samhsa.gov/NSDUH/2k4nsduh/2k4Results/2k4Results.pdf>.
- ⁴ Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies. *2003 National Survey on Drug Use and Health: Results*. 2003. Available at: www.oas.samhsa.gov/nhsda/2k3nsduh/2k3Results.htm#ch5.
- ⁵ US Department of Health and Human Services, Centers for Disease Control and Prevention. *Morbidity and Mortality Weekly Report: Tobacco Use, Access & Exposure to Tobacco Among Middle & High School Students, U.S., 2004*. 2005, 54: p. 297-301. Available at: www.cdc.gov/mmwr/preview/mmwrhtml/mm5412a1.htm.
- ⁶ Heaton C, Farrelly MC, Weitzenkamp D, et al. "Youth Smoking Prevention and Tobacco Industry Revenue." *Tobacco Control*, 15: 103-106, 2006. Available at: <http://tobaccocontrol.bmj.com/cgi/content/full/15/2/103>.
- ⁷ American Lung Association of California, Center for Tobacco Policy and Organizing. *Tobacco Retail Licensing is Effective*. 2007. Available at: www.center4tobaccopolicy.org/files/files/5377_Tobacco%20Retailer%20Licensing%20is%20Effective%20October%202007.pdf.
- ⁸ Ma GX, Shive S and Tracy M. "The Effects of Licensing and Inspection Enforcement to Reduce Tobacco Sales to Minors in Greater Philadelphia, 1994-1998." *Addictive Behaviors*, 26(5): 677-87, 2001. Abstract available at: www.ncbi.nlm.nih.gov/entrez/query.fcgi?cmd=Retrieve&db=PubMed&list_uids=11676378&dopt=Abstract.
- ⁹ Forster JL et al. "The Effects of Community Policies to Reduce Youth Access to Tobacco." *American Journal of Public Health*, 88(8): 1193-1197, 1998. Available at: www.ajph.org/cgi/reprint/88/8/1193.
- ¹⁰ California Department of Health Services, Tobacco Control Section. *California Tobacco Control Update*. 2004. Available at: <http://dhs.ca.gov/tobacco/documents/pubs/2004TCSupdate.pdf>.
- ¹¹ American Lung Association of California, Center for Tobacco Policy and Organizing. *Survey of California Rural and Small Town Voters About Local Tobacco Retail Licensing Ordinances*. 2008. Available at: www.center4tobaccopolicy.org/files/files/Rural_Poll_Summary_of_Findings_Final_5-21-08.pdf.
- ¹² California Department of Health Services, Tobacco Control Section. *Final Report, Independent Evaluation of the California Tobacco Control Prevention & Education Program: Waves 1, 2, and 3 (1996-2000)*. 2003. Available at: www.dhs.ca.gov/tobacco/documents/pubs/WavesComplete.pdf.
- ¹³ *Id.*
- ¹⁴ California Department of Health Services, Tobacco Control Section. *Youth*

Purchase Survey, 2011: Percent of Retailers Selling Tobacco to Youth by Store Type. 2011 (graph on file with TALC).

¹⁵ *Id.*

¹⁶ California Department of Health Services, Tobacco Control Section. *Final Report, Tobacco Control Successes in California: A Focus on Young People, Results from the California Tobacco Surveys, 1990-2002.* 2003, p. 11-12. Available at: www.dhs.ca.gov/tobacco/documents/eval/2003CTSReport.pdf.

¹⁷ California Department of Public Health, California Tobacco Control Program. *Youth Tobacco Purchase Survey, 1995-2009*, July 2009. Available at: <http://www.cdph.ca.gov/Documents/PH09-85-Tobacco-Sales-to-Minors-2009-Chart.pdf>

¹⁸ Dunn, D. & Long, T. *Santa Barbara County Tobacco Retail Licensing Policies: Looking to the Future, Tobacco Retail Licensing, Final Evaluation Report, 2007-2010 Santa Barbara County*, June 2010.

¹⁹ Henriksen L., Feighery E.C., et al. "Is adolescent smoking related to the density and proximity of tobacco outlets and retail cigarette advertising near schools?" *Preventive Medicine*, 47(2): 210-214, 2008.

²⁰ Lipton, Robert, et.al., *The Spatial Distribution of Underage Tobacco Sales in Los Angeles. Substance Use and Misuse*, 2008. Available at: <http://www.informaworld.com/smpp/content~db=all~content=a901982166>

²¹ State Health Officer's Report on Tobacco Use and Promotion in California. Revised January 2, 2013 Available at: <http://www.cdph.ca.gov/Documents/EMBARGOED%20State%20Health%20Officers%20Report%20on%20Tobacco.pdf>

²² Americans for Non-Smokers' Rights. *List of Communities with Licensing and Self-Service Ordinance Services*, July 2010. Available at: [http://www.phlpnet.org/sites/phlpnet.org/files/ANRF List of Communities with Licensing and Self-Service Display Ordinances DOC Updated 12-10 .doc](http://www.phlpnet.org/sites/phlpnet.org/files/ANRF%20List%20of%20Communities%20with%20Licensing%20and%20Self-Service%20Display%20Ordinances%20DOC%20Updated%2012-10.doc)

Attachment B

Smoking Regulations Amendments Staff Report
City Council Hearing April 22, 2013

STAFF REPORT
COUNCIL MEETING DATE
April 22, 2013

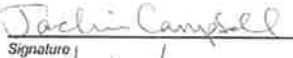
ITEM FOR COUNCIL CONSIDERATION:

ORDINANCE No. 662 AMENDING CHAPTER 8.52: SMOKING REGULATIONS, CHAPTER 14.20: CPD COMMERCIAL PLANNED DEVELOPMENT DISTRICT AND CHAPTER 14.22: CB CENTRAL BUSINESS DISTRICT OF THE CARPINTERIA MUNICIPAL CODE

Report prepared by: Steve Goggia, Senior Planner
Community Development Department


Signature

Reviewed by: Jackie Campbell, Director
Community Development Department


Signature

Reviewed by: Dave Durlinger, City Manager


Signature

RECOMMENDATION

Action Item X; Non-Action Item ____

Adopt the attached Ordinance No. 662, thereby amending Chapter 8.52: Smoking Regulations, Chapter 14.20: CPD Commercial Planned Development District and Chapter 14.22 CB: Central Business District of the Carpinteria Municipal Code.

Motion 1. I move to approve and adopt Ordinance No. 662 as read by title only (first reading) to amend Chapter 8.52: Smoking Regulations, Chapter 14.20: CPD Commercial Planned Development District and Chapter 14.22: CB Central Business District of the Carpinteria Municipal Code.

Motion 2. I move to continue this item to the City Council meeting of May 13, 2013 for final adoption of Ordinance No. 662 (second reading).

I. BACKGROUND

On February 14, 2011, the Carpinteria City Council passed an ordinance to expand the smoking prohibitions in outdoor areas open to the general public in order to protect public health from the effects of second-hand smoke. A related Work Plan item identified for the Community Development Department is to adopt regulations to require tobacco retailers to obtain a license for the sale of cigarettes, tobacco products and smoking paraphernalia in order to establish penalties and other procedures that could discourage the incidence of sales of tobacco products to minors.

Tobacco use and access to tobacco products continue to be a public health concern according to many health organizations including the World Health Organization, the American Lung Association and the US Department of Health and Human Services, Centers for Disease Control and Prevention, in addition to public health officials. Despite improvements in state efforts to stop retail sales of tobacco products to youths in the previous decades, more than 75% of all current smokers in 2001 began smoking before the age of 18.

¹ Among middle school students who were current cigarette users in 2004, 70% were not asked to show proof of age when they purchased or attempted to purchase cigarettes from a store, and 66% were not refused purchase despite being underage.²

Each year, the California Department of Public Health (CDPH) conducts a scientific statewide Youth Tobacco Purchase Survey (YTPS) of California tobacco retailers. This survey monitors retailer compliance with California's Stop Tobacco Access to Kids Enforcement (STAKE) Act. In addition to prohibiting the sale of tobacco to minors, the STAKE Act also requires tobacco retailers to post a STAKE Act age-of-sale warning sign at each point-of-sale stating that selling tobacco to persons under 18 years of age is illegal and subject to penalties.

Since the first YTPS was conducted, California has seen a dramatic decrease in the illegal sales to minors, with the rate declining from 37 percent in 1995 to 8.7 percent in 2012.³ While there has been a clear downward trend during the last 17 years, the 8.7 percent of retailers who sold tobacco to minors has increased compared to 5.6 percent in 2011 and 7.7 percent in 2010.⁴

The upsurge appears to be largely due to an increase in illegal sales at non-traditional retail stores (e.g., donut shops, discount stores, deli/meat markets, gift stores and produce markets) that may not be fully aware of the underage sales law and penalties. These non-traditional tobacco retailers had illegal sales rates of 20.3 percent on average, up from 9.8 percent in 2011, which is nearly three-times higher than traditional tobacco retailers.⁵

Illegal sales at traditional retailers (e.g., convenience stores with and without fuel sales, supermarkets, drug stores/pharmacies) also saw an increase from 4.8 percent in 2011 to 6.9 percent in 2012. Among the traditional retailer store types, tobacco stores (i.e., 80% of

merchandise consists of tobacco products) sold illegally to youth at the highest rate of 20.5 percent, up from 6.5 percent in 2011.⁶

Though there is a state tobacco licensing law (Business & Professions Code §22970, et. seq.), it is designed to prevent smuggling and does little to reduce illegal sales of tobacco to minors. Historically, "sales to minors" laws were not enforced locally since enforcement is cumbersome, a low priority and typically unfunded.

Locally, the Santa Barbara County Public Health Department, working with the Santa Barbara County Sheriff's Department and youth-serving agencies, conducts annual assessments or "sting operations" of tobacco sales to minors. In 2012, five of the 19 tobacco retailers in Carpinteria (26%) sold cigarettes to minors, up from four in previous years (Attachment B).

Though these monitoring efforts have been funded by the Tobacco Prevention Settlement Program (TPSP) for the past five years, the Tobacco Settlement funds used are not a guaranteed source of income. Implementation of the Tobacco Retail License program would ensure that these monitoring activities would continue, and could be stepped up to occur more often if there is reason to believe that a particular retailer is breaking the law. Implementation of the license program would also fund direct education to each of the City's retail sites (to insure that they understand the provisions of the new law), assistance with licensing of all retailers in a timely manner, and management of all formal communications with these retailers.

On March 25th the City Council considered a report on possible amendments to the sections of the Municipal Code pertaining to smoking and zoning. Council provided staff with direction to proceed with a proposed tobacco retailer licensing Ordinance that included options to prohibit new tobacco retailers within a certain distance from schools, options for restricting significant tobacco retailers (smoke shops) in the City and to identify possible locations for establishing Designated Smoking Areas on public property in the downtown.

The attached Ordinance No. 662 (Attachment A to this staff report showing tracked changes) would amend CMC Chapter 8.52: Smoking Regulations to add the following provisions:

- Require tobacco retailers within the City to obtain and maintain a valid Tobacco Retailer License and establish local penalties for not maintaining a valid license and for violating laws related to the sale of tobacco products to minors; and
- Amend Section 8.52.060: Places Where Smoking May Be Permitted to modify the requirements of Designated Smoking Areas on public property approved by the City Council and maintained by the City.

Ordinance No. 662 would also amend CMC Zoning Code Chapters 14.20: CPD Commercial Planned Development District and 14.22: CB Central Business District to:

- Prohibit new significant tobacco retailers, i.e., a business that primarily sells tobacco products. Options for the City Council's consideration would be to prohibit significant tobacco retailers within the Downtown "T" or to prohibit them throughout the City; and
- Prohibit any new business from selling tobacco products within a certain distance from elementary, middle, junior high or high schools within the City. Options would be to prohibit any new business from selling tobacco products within 500 feet or 1,000 feet from these schools.

II. ANALYSIS

Tobacco Retail Licensing

Research demonstrates that local tobacco retail ordinances dramatically reduce youth access to cigarettes. A review of 13 California communities with strong tobacco retailer licensing ordinances shows that the youth sales rate declined in 12 of the 13 communities, with an average decrease of 68% in the youth sales rate.⁷

A table of youth sales rates before and after the adoption of a strong tobacco retailer licensing ordinance in California (included in a pamphlet titled *Tobacco Retailer Licensing is Effective*, published by the Center for Tobacco Policy and Organizing in August of 2012) is attached as Attachment C.

Tobacco retail licensing has proved to be a viable mechanism to provide meaningful sanctions and monitoring of tobacco retailing at the local level. In November of 2001, the Santa Barbara County Board of Supervisors passed an Ordinance that required businesses selling tobacco products to obtain a license annually. The City of Santa Barbara adopted an identical ordinance in 2002. At that time, only a handful of California communities had adopted this type of legislation, which is designed to provide local accountability for violations of state laws that govern the sale and distribution of tobacco products to minors. Ninety-four California communities have strong tobacco retail licensing ordinances in effect as of June 2012. A table of these ordinances is attached as Attachment D.

The County Public Health Department administers the licensing program for the 68 retailers in Santa Barbara County. The Department would likewise help administer Carpinteria's licensing program. There are currently 19 tobacco retailers within the City. While numbers for the sales of cigarettes in Carpinteria are not available, the Center for Tobacco Policy and Organizing has published a 2009 report titled *Cigarettes Generate Big Revenue for Convenience Stores*, included as Attachment E. This report indicates that cigarettes are the second highest-ranking profit producers for convenience stores, after

nonalcoholic beverages, and that in 2009 nationwide the average annual sales of cigarettes per convenience store was \$576,354 and the average gross profit was \$89,923.

In December 2012, the County Board of Supervisors adopted a Fee Schedule to set the 2013 fee for an annual tobacco retail license at \$409 in the unincorporated areas of the County and \$379 for cities wishing to contract with the County Health Department to administer a Tobacco Retailer Licensure program for them (Attachment E). These fees cover the actual cost of administering the licensing program, including issuance of the licenses, investigations and administrative enforcement and adjudication of violations. The fee provides for full cost recovery, but does not exceed the actual regulatory cost of administering the program. Revenue contracts to establish this working relationship would need to be implemented between the City and the County. The Ordinance includes a provision to allow subsequent amendments by the Board of Supervisors to adjust the tobacco retailer license fee at a future date.

The cost for licenses in each of the cities is \$30 less, as it will be the cities' responsibility to issue the license. For the City of Carpinteria, this will include mailing a notice and application to the tobacco retailers, receiving the fee, forwarding the application to the County Health Department for approval and issuing the license. The tobacco retailer license will be incorporated into the City's existing Business Tax License Application and annual renewal procedures.

Through an agreement, the City of Carpinteria would rely on the County to use its existing systems to implement and enforce the City's Tobacco Retailers License regulations. Currently, City Code Compliance staff performs annual tobacco retail shop site inspections to educate retailers about state and local regulations and to ensure that tobacco products are properly located such that they are accessible only to the store clerk. This work effort would be performed by the County under the Tobacco Retailers License program activities. The County Health Department would communicate as needed to identified City and Sheriff Department staff and provide reports/updates to the Council at requested intervals.

Enforcement of the Tobacco Retailers License program is generally broken into two phases: gathering evidence that the law has been broken and taking action against retailers who violate the law. Details of these actions can be found in Carpinteria Municipal Code Section 8.52.230, Compliance Monitoring, and Section 8.52.240, Revocation or Suspension of Tobacco Retail License.

Rather than only citing the clerk who has sold to a minor, the Tobacco Retailer License provisions call for the revocation or suspension of the tobacco retailer's license. For a first or second violation within any five-year period, the Health Officer or his designee may engage in settlement negotiations and may enter into a settlement agreement with a tobacco retailer, reducing the length of the suspension but including a settlement payment of at least \$1,000 for the first violation and \$5,000 for the second. Staff notes that the settlement payments to the County Health Department described in Section 8.52.240(D) would be returned to the City and could be placed into an account to fund the City's outreach efforts on public smoking restrictions and cigarette butt clean-up efforts. Based

on the yearly number of sales to minors within the City over the last five years, staff estimates these payments to be somewhere between one and three thousand dollars initially, decreasing annually as tobacco sales to minors decrease.

Restricting New Significant Tobacco Retailers

One of the provisions of the proposed amendment would restrict "Significant Tobacco Retailers" (smoke shops) in the City. The Ordinance defines a "Significant Tobacco Retailer" as any tobacco retailer for which the principal business is selling tobacco products, tobacco paraphernalia, or both, as evidenced by any of the following: twenty percent (20%) or more of floor or display area is devoted to tobacco products, tobacco paraphernalia, or both; sixty-seven percent (67%) or more of gross sales receipts are derived from tobacco products, tobacco paraphernalia, or both; or fifty percent (50%) or more of completed sales transactions include tobacco products or tobacco paraphernalia. There are currently no significant tobacco retailers in the City, although a business license application was recently submitted and subsequently withdrawn when the applicant was informed of the temporary moratorium on new tobacco retailers.

As previously cited, tobacco stores, i.e., Significant Tobacco Retailers, have been found to sell at the highest rate to underage youth. The City of Carpinteria relies upon its reputation for providing a safe and healthy environment in order to promote itself and remain attractive to visitors seeking a family friendly destination. In particular, the City's Downtown district serves as a focal point for visitors and for much of the City's pedestrian traffic. The City's HOST program volunteers have documented and estimated the number of visitors walking in the Downtown area between the Memorial Day and Veterans Day holidays for the past several years. These pedestrian visitors include many families with children. City staff has also noted that many of the businesses provide youth-oriented goods and services, and that underage children are often not supervised by adults while walking through the City's Downtown district and routinely enter shops along these storefront lined streets.

A Significant Tobacco Retailer in the Downtown can serve to undermine the healthy, safe, family friendly environment that the City promotes and relies upon in support of both the important visitor/hospitality segment of the local economy and local residential real estate values. Restricting Significant Tobacco Retailers from locating in the City's Downtown, i.e., the "T" area (Attachment H), including portions of Linden and Carpinteria Avenues, would ensure that this type of business is not located in such a sensitive location.

The proposed Ordinance provides an option for the Council's consideration. This option would prohibit a significant tobacco retailer from operating anywhere in the City. Staff notes that with the following Ordinance provision that would prohibit any new tobacco retailer within a certain distance from schools, together with prohibiting significant tobacco retailers in the Downtown "T", the locations for significant tobacco retailing would be greatly restricted in Carpinteria. A map depicting these areas is included as Attachment I.

Restricting Sales Near Schools

In order to discourage youth tobacco addiction and to reduce illegal sales of tobacco products to minors, many cities and counties in California have restricted the location of tobacco retailers within a certain distance of schools. Studies have shown that the density of tobacco retailers, particularly in neighborhoods surrounding schools, has been associated with increased smoking rates (Henriksen L., Feighery E.C., et al) and that one-third of illegal tobacco sales take place within 1,000 feet of schools (Lipton, Robert, et.al.). For the purpose of this Ordinance Amendment, "School" means any public or private, elementary, middle, junior high or high school; child day care, preschool and kindergarten are not included. In Carpinteria, presently eight of the 19 tobacco retailers are within 1,000 feet of schools. A matrix of local ordinances restricting tobacco retailers within a certain distance of schools published by the Center for Tobacco Policy and Organizing in April 2011, is attached as Attachment F.

Similar to the County's restriction, the proposed ordinance amendment would prohibit new tobacco retailers within 1,000 feet from schools Sections (14.20.075.B and 14.22.070.B). An option for the Council's consideration would be to reduce this distance to 500 feet from schools. The matrix of local ordinances restricting tobacco retailers within a certain distance of schools (Attachment F) shows the various distances adopted by the jurisdictions, with the majority being 1,000 feet.

Existing retailers within this distance would be allowed to remain, and would be non-conforming subject to the provisions of the code. However, Section 8.52.240.B.3 includes a provision that upon a third finding by the Public Health Department of a violation of the tobacco retailers license by a licensee or employee located a certain distance from a school within any five-year period, the City Council may permanently revoke the license at a public hearing.

Designated Smoking Areas

As part of its presentation in 2011 of the Ordinance to expand the smoking prohibitions in outdoor areas, staff suggested that the City should consider where, and under what circumstances people could smoke outdoors in either public or private spaces. The regulations were approved including provisions for designating outdoor smoking areas. Many businesses already have designated outdoor smoking areas for their patrons and employees. The City does not issue permits for these smoking areas, however, the established standards must be met which aim to ensure that these areas are located to minimize potential exposure of the public to secondhand smoke.

On March 25th the City Council provided direction to clarify the regulations of a Designated Smoking Area (DSA) to make clear that the City Council has the discretion to approve DSAs on public property. Staff was also asked to identify possible locations for establishing DSAs in the downtown. Staff has identified three possible locations, one at each of the City's public parking lots (Attachment J).

These locations have been chosen because they are located such that the possibility of exposure of pedestrians to secondhand smoke is remote, yet they are close enough to the City's downtown pedestrian traffic areas to be used. Each site would require improvements such as grading, installation of a concrete pad, a bench, ash can and signs. Staff believes these DSAs can be developed in these locations consistent with the standards provided in Section 8.52.060(C). In particular, the standard that requires a minimum five-foot separation of a DSA from an access way to a public place.

III. LEGAL

The California State Constitution grants cities and counties the police power to enact ordinances and regulations that protect the health, safety, welfare and morals of their citizens. A local ordinance is legitimate so long as the police power exercised has a rational relationship to a legitimate state purpose. California courts have found that regulating the smoking of tobacco to protect the health of local residents is a valid exercise of local police power. Facts and findings in the ordinance demonstrate the rationality and legitimacy of the government's actions.

Under California law, local communities have great flexibility in adopting smoking laws. State law expressly provides local jurisdictions with the authority to expand upon state smoking regulations. Local governments also can prohibit smoking in places that are specifically exempted under the Labor Code. In light of the Legislature's intent to allow local regulation, there is little concern that a local ordinance will be deemed to be preempted by state law.

Potential Legal Issues

A ban on significant tobacco retailers in certain areas of the City, or throughout the City, raises the potential for a legal challenge based on the Constitutional rights. The Fourteenth Amendment to the United States Constitution provides in part that "[n]o State shall ... deny to any person within its jurisdiction the equal protection of the laws."

The California Supreme Court has held, "The concept of the equal protection of the laws compels recognition of the proposition that persons similarly situated with respect to the legitimate purpose of the law receive like treatment." (In re Eric J. (1979) 25 Cal.3d 522, 531.) In the case of Walgreen Co. v. City and County of San Francisco (2010) 185 Cal.App.4th 424, the court found that there was no rational basis to treat drugstores selling cigarettes differently from grocery stores selling cigarettes.

While a significant tobacco retailer who is no longer allowed to do business in areas of Carpinteria or throughout the City could potentially bring a suit claiming that the regulation violates Equal Protection, the chances of prevailing on such a suit are minimal because the Ordinance treats all retailers where 20% or more of floor area is devoted to tobacco products, 67% or more of gross sales receipts are derived from tobacco products or where 50% or more of completed sales include tobacco products the same. No matter the store's line of business, if it meets the objective criteria it is regulated the same as every other

store that meets the criteria. Furthermore, there is a rational basis for treating significant tobacco retailers differently from tobacco retailers as evidence shows that the highest amount of illegal tobacco sales occur at stores that would be classified as significant tobacco retailers under the Ordinance.

Aside from Equal Protection claims, some businesses have claimed that regulations restricting tobacco sales violate the Constitutional right to Free Speech. The argument is that selling tobacco products is an expressive act that is entitled to protection under the Free Speech doctrine. Yet in an unpublished opinion, *Phillip Morris USA, Inc. v. City and County of San Francisco* (2009) 345 Fed.Appx. 276, the Ninth Circuit Court of Appeals found that selling cigarettes is not expressive activity entitled to protection under the First Amendment.

While there is always a risk that someone could bring a claim alleging that an Ordinance is unconstitutional, based on the analysis of the law, the City Attorney's office believes that such claims would be unlikely to succeed in this case.

IV. ENVIRONMENTAL REVIEW

The proposed Ordinance Amendment is not subject to CEQA pursuant to State CEQA Guidelines Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly) and 15061(b)(3) (it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment).

V. FINANCIAL CONSIDERATIONS

As presented in the Analysis Section of this report, Carpinteria would contract with the County of Santa Barbara Public Health Department who would administer the Tobacco Retailer Licensure program. The tobacco retailer license will be incorporated into the City's existing Business Tax License Application and annual renewal procedures. In addition to the increase in the City's General Fund due to the potential for settlement payments, the annual tobacco retail shop site inspections carried out by the City's Code Compliance staff will no longer be necessary as these activities will be performed by the County.

The cost for constructing a Designated Smoking Area is expected to be approximately \$3,500 each.

VI. ALTERNATIVES

- The Council could direct staff to return with an amended Ordinance adding or removing certain provisions.
- The City Council could take no action and leave the current smoking regulations in place.

VII. ATTACHMENTS

- Attachment A Ordinance No. 662 with tracked changes
- Attachment B Tobacco Sales to Minors Graph, 2008-2012
- Attachment C Tobacco Retailer Licensing is Effective, August 2012
- Attachment D Table of Strong Local Tobacco Retailer Licensing Ordinances, June 2012
- Attachment E Cigarettes Generate Big Revenue for Convenience Stores, 2009
- Attachment F Matrix of Local Ordinances Restricting Tobacco Retailers within a Certain Distance of Schools, April 2011
- Attachment G County Board of Supervisors Resolution No. 12-288 Adopting Fees for Tobacco Retailer Licensing Program, December 2012
- Attachment H Map of the Downtown "T"
- Attachment I Map of the Downtown "T" with Distances from School Shown
- Attachment J Possible Locations for Designated Smoking Areas

¹ Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies. 2003 *National Survey on Drug Use and Health: Results*. 2003. Available at: www.oas.samhsa.gov/nhsda/2k3nsduh/2k3Results.htm#ch5.

² US Department of Health and Human Services, Centers for Disease Control and Prevention. *Morbidity and Mortality Weekly Report: Tobacco Use, Access & Exposure to Tobacco Among Middle & High School Students, U.S., 2004, 2005*, 54: p. 297-301. Available at: www.cdc.gov/mmwr/preview/mmwrhtml/mm5412a1.htm.

³ State Health Officer's Report on Tobacco Use and Promotion in California. Revised January 2, 2013. Available at: <http://www.cdph.ca.gov/Documents/EMBARGOED%20State%20Health%20Officers%20Report%20on%20Tobacco.pdf>.

⁴ *ibid*

⁵ *ibid*

⁶ *ibid*

⁷ American Lung Association of California, Center for Tobacco Policy and Organizing. *Tobacco Retail Licensing is Effective*. 2007. Available at: www.centerfortobacconpolicy.org/files/files/5377_Tobacco%20Retailer%20licensing%20is%20Effective%20October%202007.pdf.

Attachment A
Ordinance No. 662 with Tracked Changes

Smoking Regulations Amendments
City Council Hearing April 22, 2013

ATTACHMENT A
ORDINANCE NO. 662

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA,
CALIFORNIA AMENDING CHAPTER 8.52: SMOKING REGULATIONS,
CHAPTER 14.20: CPD COMMERCIAL PLANNED DEVELOPMENT
DISTRICT AND CHAPTER 14.22: CB CENTRAL BUSINESS DISTRICT OF
THE CARPINTERIA MUNICIPAL CODE

The City Council of the City of Carpinteria does ordain as follows:

SECTION 1. FINDINGS

The City Council of the City of Carpinteria hereby finds and declares as follows:

WHEREAS, based in part on the information contained in this section, the City Council finds that the failure of tobacco retailers to comply with all tobacco control laws, particularly laws prohibiting the sale of tobacco products to minors, presents an imminent threat to the public health, safety, and welfare of the residents of the City of Carpinteria; and

WHEREAS, approximately 438,000 people die in the United States from tobacco-related diseases every year, making it the nation's leading cause of preventable death;¹ and

WHEREAS, the World Health Organization (WHO) estimates that by 2030, tobacco will account for 8.3 million deaths per year, killing 50% more people in 2015 than HIV/AIDS, and will be responsible for 10% of all deaths worldwide;² and

WHEREAS, the California Legislature has recognized the danger of tobacco use and has made reducing youth access to tobacco products a high priority, as evidenced by the fact that:

- The Legislature has declared that smoking is the single most important source of preventable disease and premature death in California (Cal. Health & Safety Code § 118950);
- State law prohibits the sale or furnishing of cigarettes, tobacco products, and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors (Cal. Pen. Code § 308);
- State law requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 18 years of age (Cal. Bus. & Prof. Code § 22956) and provides procedures for using minors to conduct onsite compliance checks of tobacco retailers (Cal. Bus. & Prof. Code § 22952);

- State law prohibits the sale of tobacco products and paraphernalia through self-services displays with limited exceptions for tobacco stores (Cal. Bus. & Prof. Code § 22960, 22962);
- State law prohibits the sale of "bidis" (hand-rolled filter-less cigarettes imported primarily from India and Southeast Asian countries) except in adult-only establishments (Cal. Pen. Code § 308.1); and
- State law prohibits the manufacture, distribution, or sale of cigarettes in packages of less than 20 and prohibits the manufacture, distribution, or sale of "roll-your-own" tobacco in packages containing less than 0.60 ounces of tobacco (Cal. Pen. Code § 308.3); and

WHEREAS, state law requires all tobacco retailers to be licensed by the Board of Equalization primarily to curb the illegal sale and distribution of cigarettes due to tax evasion and counterfeiting (Cal. Bus. & Prof. Code §§ 22970.1, 22972); and

WHEREAS, state law explicitly permits cities and counties to enact local tobacco retail licensing ordinances, and allows for the suspension or revocation of a local license for a violation of any state tobacco control law (Cal. Bus. & Prof. Code § 22971.3); and

WHEREAS, California courts in such cases as *Cohen v. Board of Supervisors*, 40 Cal. 3d 277 (1985), and *Bravo Vending v. City of Rancho Mirage*, 16 Cal. App. 4th 383 (1993), have affirmed the power of the cities to regulate business activity in order to discourage violations of law; and

WHEREAS, despite the state's efforts to limit youth access to tobacco, minors are still able to access cigarettes, as evidenced by the fact that:

- Each day, nearly 4,000 children under 18 years of age smoke their first cigarette, and almost 1,500 children under 18 years of age begin smoking daily;³
- More than 75% of all current smokers in 2001 began smoking before the age of 18;⁴
- Among middle school students who were current cigarette users in 2004, 70.6% were not asked to show proof of age when they purchased or attempted to purchase cigarettes from a store, and 66.4% were not refused purchase because of their age;⁵
- In 2002, youth smoked approximately 540 million packs of cigarettes, generating nearly \$1.2 billion in tobacco industry revenue;⁶ and

WHEREAS, research demonstrates that local tobacco retail ordinances dramatically reduce youth access to cigarettes, as evidenced by the following:

- A review of thirteen California communities with strong tobacco retailer licensing ordinances shows that the youth sales rate declined in twelve of the thirteen communities, with an average decrease of 68% in the youth sales rate;⁷
- A study of the effect of licensing and enforcement methods used in the Philadelphia area revealed a decrease in sales to minors from 85% in 1994 to 43% in 1998;⁸
- A study of several Minnesota cities found that an increased licensing fee in conjunction with strict enforcement of youth access laws led to a decrease from 39.8% to 4.9% in the number of youth able to purchase tobacco;⁹ and

WHEREAS, the implementation of tobacco retailer licensing requirements is supported by most Californians, as evidenced by the following:

- Statewide, over 80% of California adults think tobacco retailers should be licensed;¹⁰
- Similarly, in rural areas in California, 78% of adults think tobacco retailers should be licensed, and 91% agree that a store owner who repeatedly sells cigarettes to minors should no longer have the right to sell cigarettes;¹¹
- 65% of California's key opinion leaders surveyed support implementation of tobacco-licensing requirements;¹²
- Over 90% of enforcement agencies surveyed in 2000 rated license suspension or revocation after repeated violations as an effective strategy to reduce youth access to tobacco;¹³ and

WHEREAS, California retailers continue to sell tobacco to underage consumers, as evidenced by the following:

- 5.6% of all tobacco retailers unlawfully sold to minors in 2011;¹⁴
- Non-traditional tobacco retailers such as deli, meat, and donut shops sold to minors in 2011 at a higher rate than the statewide average, as high as 11.6%;¹⁵
- Teens surveyed in 2002 say they bought their cigarettes at: gas stations (58%), liquor stores (45%), and supermarkets and small grocery stores (29% combined);¹⁶

- The results of the 2009 California Youth Tobacco Purchase Survey, shows that 8.6%¹⁷ of retailers surveyed sold tobacco product to minors; though the most recent local youth purchase survey (2010) showed youth buy rates of 17%,¹⁸ and

WHEREAS, the density of tobacco retailers, particularly in neighborhoods surrounding schools, has been associated with increased youth smoking rates;¹⁹ and

WHEREAS, a recent study found that 33% of tobacco underage sales took place within 1,000 feet of schools;²⁰

WHEREAS, a recent study has found that while there has been a clear downward trend in the illegal sales to minors in California during the last 17 years, the number has risen from in 5.6 percent in 2011 to 8.7 percent in 2012. Among the traditional retailer store types, tobacco stores (i.e. 80% of merchandise consists of tobacco products) sold illegally to youth at the highest rate of 20.5 percent, up from 6.5 percent in 2011.²¹

WHEREAS, ninety-six cities and counties in California have passed tobacco retailer licensing ordinances in an effort to stop minors from smoking;²² and

WHEREAS, the City Council finds that a local licensing system for tobacco retailers and other restrictions on tobacco retailing is appropriate to ensure that retailers comply with tobacco control laws and business standards of the City of Carpinteria and to protect the health, safety, and welfare of the City's visitors and residents; and

WHEREAS, the City Council finds that a Significant Tobacco Retailer can serve to undermine the healthy, safe, family-friendly environment that the city promotes and relies upon in support of both the important visitor/hospitality segment of the local economy and local residential real estate values; and

WHEREAS, a requirement for tobacco retailer licensing and the establishment of other restrictions on tobacco retailing will not unduly burden legitimate business activities of retailers who sell or distribute cigarettes or other tobacco products to adults, but will, however, allow the City of Carpinteria to regulate the operation of lawful businesses to discourage violations of federal, state, and local tobacco-related laws; and

WHEREAS, the City of Carpinteria has a substantial interest in promoting compliance with federal, state, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by minors; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products to minors; and finally, and most importantly, in protecting children from being lured into illegal activity.

NOW, THEREFORE, THE CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 2. INCORPORATION OF FINDINGS

The above findings are incorporated herein and are each relied upon independently by the City Council for its adoption of this Ordinance. It is the intent of the City Council, in enacting this Ordinance, to ensure compliance with the business standards and practices of the city and to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those which prohibit or discourage the sale or distribution of tobacco and nicotine products to minors, but not to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalties provided therein.

SECTION 3. AMENDMENT OF CHAPTER 8.52

Chapter 8.52 of the Carpinteria Municipal Code shall hereby be amended and shall read as follows. Added text is shown in underline; deleted text is shown in strikethrough.

Chapter 8.52 SMOKING REGULATIONS

8.52.010 Title.

The regulations contained in this chapter may be known and referred to as the "smoking regulation code."

8.52.020 Purpose.

This chapter is enacted with the specific intent to:

- Prohibit smoking in certain public places not preempted by California Labor Code Section 6404.5, which provides further smoking regulations;
- Protect the public health, safety and general welfare by prohibiting smoking in certain public places under circumstances where other persons will be exposed to secondhand smoke;
- Ensure a cleaner and more hygienic environment for the city, its residents, and its natural resources, including its creeks and streams;
- Strike a reasonable balance between the needs of persons who smoke and the needs of nonsmokers, including residents and visitors, particularly children, to breathe smoke-free air, recognizing the threat to public health and the environment which smoking causes;
- Regulate the manner in which tobacco products are sold;

F. Discourage violations of laws which prohibit or discourage sale or distribution of tobacco products and tobacco paraphernalia to minors, but not to expand or reduce the degree to which the acts regulated by state or federal law are criminally proscribed; and

G. Designate the enforcing agency for this chapter and for Labor Code Section 6404.5.

8.52.030 Definitions

The following definitions shall govern construction of this chapter unless the context clearly requires otherwise.

"Arm's Length Transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of a violation of this chapter is not an "arm's length transaction."

"Business" means any sole proprietorship, partnership, joint venture, corporation, association or other entity formed for profit-making purposes or that has an employee.

"Code compliance officer" means the city code compliance officer or duly authorized designee of the city code compliance officer.

"Dining area" means any area available to or customarily used by the general public that is designed, established or regularly used for consuming food or drink.

"Employee" means any person who is employed or retained as an independent contractor by any employer as defined in this section; or any person who volunteers his or her services for an employer, association, nonprofit or volunteer entity.

"Employer" means any person, partnership, corporation, association, nonprofit or other entity that employs or retains the service of one or more persons, or supervises volunteers.

"Enclosed" means:

1. Any covered or partially covered space having more than fifty percent (50%) of its perimeter area walled in or otherwise closed to the outside such as, for example, a covered porch with more than two walls; or
2. Any space open to the sky (hereinafter "uncovered") having more than seventy-five (75) percent of its perimeter area walled in or otherwise closed to the outside, such as, for example, a courtyard.

"Health officer" means the county health officer or the duly authorized designee of the county health officer.

"Licensing Agent" means the Carpinteria City Community Development Director.

"Nonprofit entity" means any entity that meets the requirements of California Corporations Code Section 5003 as well as any corporation, unincorporated association or other entity created for charitable, religious, philanthropic, educational, political, social or similar purposes, the net proceeds of which are committed to the promotion of the objectives of the entity and not to private gain. A public agency is not a nonprofit entity within the meaning of this section.

"Person" means any natural person, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

"Place of employment" means any area under the legal or de facto control of an employer, business or nonprofit entity that an employee or the general public may have cause to enter in the normal course of operations, but regardless of the hours of operation, including, for example, indoor and outdoor work areas, construction sites, vehicles used in employment or for business purposes, taxis, employee lounges, conference and banquet rooms, bingo and gaming facilities, long-term health facilities, warehouses and private residences that are used as childcare or healthcare facilities subject to licensing requirements.

"Playground" means any park or recreational area designed in part to be used by children that has play or sports equipment installed or has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds, or on city property.

"Premises" means a lot or contiguous lots and any improvements thereon such as is usually described in a deed, deed of trust or mortgage, and includes legally separate but contiguous pieces of land that are owned by the same person or are under common control.

"Present" means within a reasonable distance.

"Proprietor" means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten percent (10%) or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have or share ultimate control over the day-to-day operations of a business.

"Public place" means any public or private place open to the general public regardless of any fee or age requirement, including, for example, streets, sidewalks, parking lots, parking garages, plazas, bars, restaurants, clubs, stores, stadiums, parks, playgrounds, taxis and buses. For the purposes of the provisions of this chapter, a "public place" does not mean a private residence except for (a) residences used as a child care, health care, board and care, or community foster care facility as such terms are defined by the state Health and Safety Code or (b) the common areas of multi-family dwellings,

such as apartment buildings and condominiums.

"Reasonable distance" means the greatest distance practicable that ensures that occupants of an area in which smoking is prohibited are not exposed to secondhand smoke created by smokers outside the area. This distance shall generally be twenty (20) feet, with a minimum distance of five (5) feet.

"Recreational area" means any public or private area open to the public for recreational purposes whether or not any fee for admission is charged, including without limitation, parks, trails, gardens, sporting facilities, stadiums and playgrounds.

"Restaurant" means any coffee shop, cafeteria, luncheonette, tavern, cocktail lounge, sandwich stand, soda fountain, private and public school cafeteria, eating establishment, boardinghouse or guest house or similar establishment which gives or offers for sale food to the public.

"School" means any public or private, elementary, middle, junior high or high school. Child day care, preschool and kindergarten are not included for the purposes of this chapter.

"Secondhand smoke" means smoke that is generated from the burning end of a lighted tobacco, weed or plant product, or smoke that is exhaled by a smoker after inhaling or ingesting a lit tobacco, weed or plant product.

"Self-service display" means an open display of tobacco products and point-of-sale tobacco promotional products that the public has access to without the intervention of an employee.

"Service area" means any area designed to be or regularly used by one or more persons to receive or wait to receive a service, enter a public place or make a transaction whether or not such service includes the exchange of money including, for example, ATMs, bank teller windows, telephones, ticket lines, bus stops, taxi stands and takeout counters.

"Significant tobacco retailer" means any tobacco retailer for which the principal or core business is selling tobacco products, tobacco paraphernalia, or both, as evidenced by: twenty percent (20%) or more of floor area or display area is devoted to tobacco products, tobacco paraphernalia, or both; sixty-seven percent (67%) or more of gross sales receipts are derived from tobacco products, tobacco paraphernalia, or both or fifty percent (50%) or more of completed sales transactions include tobacco products or tobacco paraphernalia.

"Smoking" or to "smoke" means possessing or to possess a lighted tobacco product, lighted tobacco paraphernalia, or any other lighted weed or plant (including but not limited to, a lighted pipe, lighted hookah pipe, lighted cigar, or lighted cigarette of any kind), or the lighting of a tobacco product, tobacco paraphernalia, or any other weed or plant (including but not limited to, a pipe, a hookah pipe, cigar, or cigarette of any kind).

"Sports arena" means an outdoor or nonenclosed sports pavilion, stadium, swimming pool, roller rink, or other similar place where members of the general public assemble either to engage in physical exercise, participate in athletic competition or witness sports events, including the concession stand areas thereof.

"Tobacco paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for smoking, preparation, storing or consumption of tobacco products.

"Tobacco product" means any substance containing tobacco leaf, and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

"Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

"Tobacco retailer license" or "license" shall mean a business license that permits the retail sale of tobacco products and/or tobacco paraphernalia.

"Tobacco vending machine" means any machine or device designated for or used for the vending of cigarettes, cigars, tobacco or tobacco products upon the insertion of coins, bills, trade checks, slugs or other form of legal tender or consideration.

"Unenclosed area" means any area which is not enclosed.

"Vendor-assisted" means that only a store employee has access to the tobacco product and assists a customer by supplying the product. The customer does not take possession of the product until it is purchased.

8.52.040 Secondhand Smoke Generally

For all purposes within the jurisdiction of the city, the nonconsensual exposure to secondhand smoke and the uninvited presence of secondhand smoke on property in violation of this chapter shall constitute a nuisance, as is further described by Chapter 9.70 of the Carpinteria Municipal Code.

8.52.050 Public and Other Places Where Smoking Shall Be Prohibited

Except as otherwise provided by this chapter or by state or federal law, smoking shall be prohibited everywhere in the city, including but not limited to:

- A. Public places;
- B. Residences used as a child care, health care, board and care, or community foster care facility as such terms are defined by the state Health and Safety Code;
- C. Common areas of multi-family dwellings, such as apartment buildings and condominiums;
- D. Places of employment;
- E. Enclosed and unenclosed places of hotels, businesses, restaurants, bars and other public accommodations; and
- F. Buses or other means of public transit, and ticket, boarding and waiting areas of public transit depots and bus stops, enclosed or not.

8.52.060 Places Where Smoking May Be Permitted

Except where prohibited by state or federal law, or by Chapter 12.24.21A of the Municipal Code for public parks and beaches, smoking may be permitted in the following locations within the city notwithstanding Section 8.52.050:

- A. Private residential properties. This chapter does not preclude private regulation of smoking on private residential properties;
- B. In up to twenty-five (25) percent of guest rooms in any hotel or motel, if the hotel or motel permanently designates at least seventy five (75) percent of its guest rooms as nonsmoking rooms, appropriately signs nonsmoking rooms and permanently removes ashtrays and matches from them. Smoking rooms shall be segregated from nonsmoking rooms on separate floors, wings or portions of either; smoking and nonsmoking rooms shall not be interspersed. Nothing in this chapter shall require a hotel or motel to provide smoking rooms and the owner or operator of a hotel or motel may choose to prohibit smoking throughout the property;
- C. Designated Smoking Areas (~~"smokers'-outposts"~~) on private property provided that all of the following conditions are met:
 - 1. The area is located the greatest distance practicable from:
 - a. any doorway or opening into an enclosed area; and
 - b. any access way to a public place;
 This distance shall generally be twenty (20) feet, with a minimum distance of five (5) feet;
 - 2. The area has a clearly marked perimeter;
 - 3. The area is posted with one or more conspicuously displayed sign(s) identifying the area as a designated outdoor smoking area pursuant to Section 8.52.090 of this code;

- 4. Smoke is not permitted to enter adjacent areas in which smoking is prohibited by this chapter, other law or by the owner, lessee or licensee of the adjacent property;
- 5. Appropriate ash can(s) are placed in the smoking area and are maintained regularly by the owner, operator or manager of the smoking area;
- 6. No consistent complaints of secondhand smoke are filed with the city; and
- 7. The area is well lit.

D. Designated Smoking Areas (DSAs) on public property approved by the City Council and developed and maintained as such by the city. Prior to creating a DSA, the City Council shall make a finding that the DSA is consistent with the purposes of this chapter.

- E. Smoking areas at public events which have been approved as part of the Special Event Permit or Temporary Use Permit issued by the city;
- F. Inside a private automobile when no minor child is present; and
- G. Any unenclosed area in which no nonsmoker is present and, due to the time of day or other factors, it is not reasonable to expect another person to arrive.

8.52.070 Modifications of Designated Smokers' Area (DSA) Outposts

The city reserves the right to prohibit or require modifications to a DSA smokers'-outpost at a certain location if it undermines the purposes of this chapter.

8.52.080 Allowing, Aiding or Abetting Smoking

- A. No person, employer, business or nonprofit entity shall knowingly permit smoking in an area under his, her or its legal or de facto control in which smoking is prohibited by this chapter or other law.
- B. Except as provided in Section 8.52.100 of this code, no person, employer, business or nonprofit entity shall allow the placement or maintenance of a receptacle for smoking waste in an area under his, her or its legal or de facto control in which smoking is prohibited by this chapter or other law, provided however, that a receptacle may be placed at the entry to a nonsmoking area, along with a "No Smoking" sign, in order to encourage any smokers in violation of this chapter to immediately extinguish and properly dispose of smoking materials."
- C. No person shall intimidate, threaten, effect a reprisal or retaliate against another person who seeks to attain compliance with one or more of this chapter's provisions.

8.52.090 Signs

Notwithstanding this provision, the presence or absence of signs shall not be a defense to the violation of any other provision of this chapter.

- A. "No Smoking" or "Smoke Free" signs, with letters of not less than one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) or any alternative signage approved by the Community Development Director may be conspicuously posted by the person, employer, business or nonprofit entity who or which has legal or de facto control of such place at each entrance to a public place in which smoking is prohibited by this chapter or any other place where the City Manager reasonably determines that smoking in violation of this chapter has occurred, or is likely to occur.
- B. Within designated smoking areas, one or more conspicuously displayed sign(s) shall be posted identifying the area as a smokers' outpost pursuant to Section 8.52.060. B of this code as follows: signs with arrows directing the public to the smoking area may be allowed; signs shall be no smaller than three (3) inches high and eight (8) inches long with a pictorial representation of a burning cigarette; signs shall contain "Designated Smoking Area" and shall be posted prominently between five (5) feet and seven (7) feet above the floor or ground; and all signs are subject to approval by the Community Development Director.
- C. Every hotel and motel shall have signs posted conspicuously in the registration and lobby areas which state that nonsmoking rooms are maintained and may be available; rooms designated as being nonsmoking shall have signs announcing such restriction conspicuously placed inside the room.
- D. No person shall alter, deface, obscure, remove or destroy a sign or placard that this chapter authorizes.

8.52.100 Smoking Waste

Except for disposal of smoking waste in a smoking waste receptacle, no person shall dispose of smoking waste: (1) in or upon a public street or sidewalk; (2) in an area in which smoking is prohibited by this chapter or other law; or (3) in any area a reasonable distance therefrom.

8.52.110 Requirement for Tobacco Retailer License

It is unlawful for any person to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer license pursuant to this chapter for each location at which that activity is to occur. Tobacco retailer licenses are valid for one year. An application to renew a tobacco retailer license shall be submitted prior to the expiration of the license.

8.52.120 Tobacco Retailers must operate at a Fixed Location

No tobacco retailer license may be issued to authorize tobacco retailing at other than a fixed location. For example, tobacco retailing by persons on foot or from vehicles is prohibited.

8.52.130 Prohibition of Tobacco Retailing within Certain Areas of the City

No tobacco retailer license may be issued to authorize a significant tobacco retailer in the areas of the city described in Sections 14.20.075 and 14.22.070 of this Code.

8.52.140 Application Procedure

- A. An application for a tobacco retailer license, plus one copy shall be submitted to the licensing agent in the name of the person proposing to conduct tobacco retailing and shall be signed by such person or an authorized agent thereof.

It is the responsibility of each proprietor to be informed regarding all laws applicable to tobacco retailing, including those laws affecting the issuance of a tobacco retailer's license. No proprietor may rely on the issuance of a license as a determination by the City of Carpinteria or County of Santa Barbara that the proprietor has complied with all laws applicable to tobacco retailing. A license issued contrary to this chapter, contrary to any other law, or on the basis of false or misleading information supplied by a proprietor shall be revoked pursuant to Section 8.52.240 of this chapter. Nothing in this chapter shall be construed to vest in any person obtaining and maintaining a tobacco retailer's license any status or right to act as a tobacco retailer in contravention of any provision of law.

All applications shall be submitted on a form supplied by the city and shall contain the following information:

- (1) The name, address, and telephone number of each proprietor of the business seeking a license.
- (2) The business name, address, and telephone number of the single fixed location for which a license is sought.
- (3) A single name, mailing address and email address authorized by each proprietor to receive all communications and notices (the "Authorized Address") required by, authorized by, or convenient to the enforcement of this chapter. If an Authorized Address is not supplied, each proprietor shall be understood to consent to the provision of notice at the business address specified in subparagraph (2) above.
- (4) Proof that the location for which a tobacco retailer's license is sought has been issued a valid state tobacco retailer's license by the California Board of Equalization.
- (5) Whether or not any proprietor or any agent of the proprietor has admitted violating, or has been found to have violated, this chapter and, if so, the dates and locations of all such violations within the previous five years.

- B. All information specified in an application pursuant to this section shall be subject to disclosure under the California Public Records Act (California Government Code Section 6250 et seq.) or any other applicable law, subject to the laws' exemptions.

8.52.150 Issuance of Tobacco Retailer License

- A. Within thirty days of the licensing agent's receipt of an application for a tobacco retailer license, the licensing agent shall issue a license, unless it has been determined by the Public Health Department that the issuance of the license should be denied, based on the following criteria:
1. The information presented in the application is incomplete, inaccurate or false; or
 2. The application seeks authorization for tobacco retailing by a person or at a location for which a suspension is in effect pursuant to Section 8.52.240 of this chapter; or
 3. The application seeks authorization for tobacco retailing in an area that is in violation of Sections 14.20.075 and 14.22.070 of this Code.
 4. The application seeks authorization for tobacco retailing that is prohibited pursuant to this chapter (e.g., mobile vending), that is unlawful pursuant to this code, or that is unlawful pursuant to any other law.
- B. A denial of a tobacco retailer license may be appealed pursuant to Section 8.52.240 of this chapter.
- C. A licensed tobacco retailer shall inform the licensing agent in writing of any change in the information submitted on an application for a tobacco retailer's license within ten (10) business days of a change.
- D. The licensing agent shall keep a permanent record of all tobacco retailer licenses issued, but may destroy such records as provided by law with the approval of the City Council.

8.52.160 Display of Tobacco Retailer License

Each licensee shall prominently display the tobacco retailer license at each location where tobacco retailing occurs.

8.52.170 Fees for Tobacco Retailer License

- A. The initial or renewal fee for a tobacco retailer license shall be \$379 per year pursuant to Resolution 12-288 adopting the Tobacco Retailer License Fee Schedule for Incorporated Areas of Santa Barbara County passed and approved by the County of Santa Barbara Board of Supervisors on December 11, 2012, subject to subsequent amendments by the County Board of Supervisors. The fee shall be paid to the licensing agent when a tobacco retailer license application is

submitted.

- B. Renewal. Renewal fees, paid to the licensing agent, are due the first business day after the date of expiration of a tobacco retailer license. A tobacco retailer will be allowed a thirty day grace period to pay the renewal fee. If the renewal fee has not been paid by the end of the grace period, a penalty of fifty percent of the renewal fee shall be added to the renewal fee. If the renewal fee and any applicable late penalty are not paid within ninety days after the date of expiration of a tobacco retailer license, then the licensing agent shall automatically revoke the license. Thereafter, if the licensee desires to resume tobacco retailing, a new license application must be submitted to the licensing agent in accordance with Section 8.52.150, along with the license fee and late penalty.

8.52.180 Tobacco Retailer Licenses Are Nontransferable

- A. A tobacco retailer license is nontransferable. If a person to whom a tobacco retailer license has been issued, changes the business location or sells the business, then that person must obtain a new license prior to acting as a tobacco retailer at the new location, or the buyer of the business must obtain a license in the buyer's name before acting as a tobacco retailer.
- B. Prior violations at a location shall continue to be counted against a location and license suspension periods shall continue to apply to a location unless:
1. The location is being or has been fully transferred to a new owner; and
 2. The new owner(s) provide the licensing agent with clear and convincing evidence that the new owner(s) is acquiring or has acquired the location in an arm's length transaction.

8.52.190 License Conveys a Limited Conditional Privilege

Nothing in this chapter shall be construed to grant any person obtaining and maintaining a tobacco retailer's license any status or right other than the limited conditional privilege to act as a tobacco retailer at the location in the City of Carpinteria identified on the face of the license. For example, nothing in this chapter shall be construed to render inapplicable, supersede, or apply in lieu of, any other provision of applicable law, including but not limited to, any provision of this code, or any condition or limitation on smoking in an enclosed place of employment pursuant to California Labor Code Section 6404.5. Obtaining a tobacco retailer license does not make the retailer a "retail or wholesale tobacco shop" for the purposes of California Labor Code Section 6404.5.

8.52.200 Positive Identification Requirements for Sale of Tobacco Products and Tobacco Paraphernalia

No person engaged in tobacco retailing shall sell or transfer a tobacco product or tobacco paraphernalia to another person who appears to be under the age of twenty-seven, without first examining the identification of the recipient to confirm that the recipient is at least the

minimum age under state law to purchase and possess tobacco products or tobacco paraphernalia.

8.52.210 Minimum Age for Persons Selling Tobacco Products and Tobacco Paraphernalia

No person who is younger than the minimum age established by state law for the purchase or possession of tobacco products or tobacco paraphernalia shall engage in tobacco retailing.

8.52.220 False and Misleading Advertising Prohibited

A tobacco retailer without a valid tobacco retailer license, including for example, a tobacco retailer license that has been suspended or revoked, shall not display any advertisement promoting the sale or distribution of tobacco products or tobacco paraphernalia at the tobacco retailer's location and shall keep all such products out of public view.

8.52.230 Compliance Monitoring

A. Compliance with the tobacco retailer license provisions of this chapter shall be primarily enforced by the Santa Barbara County Sheriff, in conjunction with the Public Health Department. However, any peace officer may enforce the penal provisions of this chapter.

B. The Sheriff will check the compliance of each tobacco retailer one to three times per twelve month period. However, the Sheriff may check the compliance of a tobacco retailer more or less often, depending on a tobacco retailer's compliance history. Nothing in this paragraph shall create a right of action for any tobacco retailer or other person, against the city, county or its agents.

8.52.240 Revocation or Suspension of Tobacco Retailer License and Appeals

A. Grounds for Revocation or Suspension.

1. A tobacco retailer license shall be revoked if the Public Health Department finds that one or more of the basis for denial of a license under Section 8.52.150 of this chapter exists. The revocation shall be without prejudice to the filing of a new application for a license following correction of the conditions that required revocation of the license.
2. A tobacco retailer license shall be suspended under this section if the Public Health Department finds that the licensee or his or her agent or employee has violated any federal, state or local law governing the sale, distribution, advertisement or display of tobacco, tobacco products or tobacco paraphernalia, including, but not limited to: Penal Code Section 308a, Business and Professions Code Sections 22950 et seq. (Stop Tobacco Access to Kids Enforcement Act "STAKE Act") or Sections 8.52.260, 8.52.270 and 8.52.280 of this code, or Business and Professions Code Section 25612.5(c)(7).

3. The Public Health Department shall give notice of revocation or suspension to a licensee by personal service or by certified mail return receipt requested, addressed to where the license was issued. The notice of revocation or suspension shall be effective when notice is personally served, or when the certified mail return receipt is returned to the Public Health Department. If the licensee fails to file a timely appeal of the suspension or revocation pursuant to this section, the notice of suspension or revocation shall be final, subject only to judicial review.

B. Suspension of Tobacco Retailer License. If the Public Health Department finds that there are grounds for suspension of a tobacco retailer license, the following sanctions shall be imposed:

1. Upon a first finding by the Public Health Department of a violation of this chapter by a licensee or by any agent or employee of a licensee within any five-year period, the license shall be suspended for thirty days.
2. Upon the second finding by the Public Health Department of a violation of this chapter by a licensee or by any agent or employee of a licensee within any five-year period, the license shall be suspended for ninety days.
3. Upon the third or subsequent finding by the Public Health Department of a violation of this chapter by a licensee or by any agent or employee of a licensee within any five-year period, the license shall be suspended for twelve months. However, if the licensee is operating within one thousand [Option: five hundred] feet of a school pursuant to Section 8.52.130 of this chapter, upon the third finding by the Public Health Department of a violation by a licensee or by any agent or employee of a licensee within any five-year period the tobacco retailer license may be permanently revoked by the City Council at a public hearing.

C. Appeal of Denial, Revocation and/or Suspension. The decision of the licensing agent to deny the issuance of a tobacco retailer license or the decision of the Public Health Department to revoke or suspend a license can be appealed to the health officer or his/her designee. All appeals must be in writing and filed with the health officer, Santa Barbara County Public Health Department, 300 North San Antonio Road, Santa Barbara, CA 93110-1316 within ten days of receipt of notice of denial, or within ten days of the effective date of the notice of revocation or suspension of a tobacco retailer license. The health officer shall set an appeal hearing at the earliest practicable time and shall give written notice of the hearing to the parties at least ten days before the date of the hearing. At the hearing any relevant evidence shall be admitted. Within a reasonable time after the conclusion of the hearing, the health officer shall make a written decision. An appeal shall stay all proceedings until the appeal is resolved. Any decision rendered by the health officer shall be a final administrative decision.

D. Settlement in Lieu of Appeal Hearing. For a first or second alleged violation of this chapter within any five-year period, the health officer or his designee may engage in settlement negotiations and may enter into a settlement agreement with a tobacco retailer alleged to have violated this chapter, provided that a timely appeal has been filed. Settlements shall not be confidential.

1. After a first alleged violation, any settlement must contain the following minimum terms:

a. Suspension of the tobacco retailer license for at least fifteen days;

b. A settlement payment to the public health department of at least one thousand dollars; and

c. An admission by the licensee that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.

2. After a second alleged violation, any settlement must contain the following minimum terms:

a. Suspension of the tobacco retailer license for at least forty-five days;

b. A settlement payment to the public health department of at least five thousand dollars; and

c. An admission by the licensee that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.

8.52.140 Minors--Prohibition of sale

No person, business, tobacco retailer or owner, manager or operator of any establishment shall sell, offer to sell or permit to be sold any tobacco product to an individual without requesting and examining photo identification establishing the purchaser's age as eighteen years or greater unless the seller has some reasonable basis for determining that the buyer is at least eighteen years of age.

8.52.260 Minors--Posting of signs

Any person, business, tobacco retailer, or owner, manager or operator of any establishment that sells tobacco products shall post plainly visible signs at the point of purchase of tobacco products which state:

"SALE OF TOBACCO PRODUCTS TO PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW. PHOTO I.D. REQUIRED."

The letters of said signs must be at least one-half inch high.

8.52.260 Sale and distribution of tobacco products

It is unlawful for any person, business or tobacco retailer to sell, permit to be sold, offer for sale or display for purposes of sale by means of self-service displays or by any means other than vendor-assisted sales, any tobacco products other than cartons of cigarettes, multi-container packages of smokeless tobacco and cigars and pipe tobacco. Cartons of cigarettes, multi-container packages of smokeless tobacco, and cigars and pipe tobacco may be sold by means of self-service merchandising only when these products are under direct surveillance of a store employee. Tobacco products shall be deemed to be under direct surveillance of an employee only if the tobacco products themselves (and not just the racks, shelves, kiosks, etc., where the products are displayed) are in plain view of the store employee.

8.52.270 Vending machines

No person, business, tobacco retailer or other establishment located within the city shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance, or use of, on his, her or its premises any vending machine for the purpose of selling or distributing any tobacco product. Any tobacco vending machine in use on the effective date of the ordinance codified in this chapter shall be removed within thirty days after the effective date of the ordinance codified in this chapter. This provision shall not apply to vending machines which are located in bars, provided that such vending machines in bars must be located at least twenty-five (25) feet from any entry into the bar.

8.52.280 Out-of-package sales

No person, business, tobacco retailer or other establishment shall sell or offer for sale cigarettes or other tobacco or smoking products not in the original packaging provided by the manufacturer and with all required health warnings.

8.52.290 Enforcement

The Code Compliance Officer, in cooperation with the Health Officer of the County of Santa Barbara, shall enforce and implement the provisions of this chapter, the provisions of CMC 12.24.020.21A and the provisions of Labor Code Section 6404.5.

8.52.300 Citizen complaints

Any citizen who desires to register a complaint under the provisions of this chapter may request the Code Compliance Officer to initiate enforcement.

8.52.310 Violation--Premises

It shall be unlawful for any person who owns, manages or operates any premises subject to regulations under the provisions of this chapter to fail to comply with its provisions. No person shall cause, permit, aid, abet or conceal a violation of any provision of this chapter.

8.52.320 Violation--Individuals

It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter or to violate any federal, state or local statutes governing the sale and distribution of tobacco products and paraphernalia.

8.52.330 Violation--Penalty

In addition to any other remedy available at law, violation of any provision of this chapter shall be subject to Chapter 1.06 (Administrative Remedies) and Chapter 1.08 (Penalties) of the Carpinteria Municipal Code. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

8.52.340 Separate offense

A separate offense is committed for each and every day, or part of a day, during which any violation is caused, committed, continued or permitted. Each offense is punishable separately from every other offense.

8.52.350 Public education--Purposes of chapter

The Code Compliance Officer, in conjunction and coordination with the County Health Officer of the County of Santa Barbara and, where feasible, appropriate health or safety oriented community-based organizations and coalitions, shall engage in a continuing program to explain and clarify the purposes of the provisions of the chapter to citizens affected by it, and to guide business owners, operators and managers in their compliance with it.

8.52.360 Governmental cooperation

The City Manager shall request all governmental and educational agencies which maintain an office within the city to establish local operating procedures to cooperate and comply with this chapter.

8.52.370 Other laws

The provisions of this chapter shall not be interpreted or construed to permit smoking or the sale and distribution of tobacco products and paraphernalia where it is otherwise restricted by other applicable laws. Further, it is not the intent of the provisions of this chapter to regulate smoking or the sale and distribution of tobacco products and paraphernalia where such regulation has been preempted by the state.

SECTION 4. AMENDMENT OF CHAPTER 14.08

Chapter 14.08 of the Carpinteria Municipal Code: DEFINITIONS shall hereby be amended and shall include new sections as follows.

14.08.560 Significant tobacco retailer

"Significant tobacco retailer" means any tobacco retailer for which the principal or core business is selling tobacco products, tobacco paraphernalia, or both, as evidenced by: twenty percent (20%) or more of floor area or display area is devoted to tobacco products, tobacco paraphernalia, or both; sixty-seven percent (67%) or more of gross sales receipts are derived from tobacco products, tobacco paraphernalia, or both or fifty percent (50%) or more of completed sales transactions include tobacco products or tobacco paraphernalia.

14.08.616 Tobacco paraphernalia

"Tobacco paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for smoking, preparation, storing or consumption of tobacco products.

14.08.617 Tobacco product

"Tobacco product" means any substance containing tobacco leaf, and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

14.08.618 Tobacco retailer

"Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

14.08.619 Tobacco retailer license

"Tobacco retailer license" or "license" shall mean a business license that permits the retail sale of tobacco products and/or tobacco paraphernalia.

SECTION 5. AMENDMENT OF CHAPTER 14.20

Chapter 14.20 of the Carpinteria Municipal Code: CPD COMMERCIAL PLANNED DEVELOPMENT DISTRICT shall hereby be amended and shall include a new section as follows.

14.20.075 – Tobacco Retailing

A. No tobacco retailer license may be issued to authorize a significant tobacco retailer in the Downtown "T" as depicted on the "Downtown T" Tobacco Retailing Map on file at City Hall. [Option: in the City of Carpinteria] However, a significant tobacco retailer in the Downtown "T" operating legally on the date that the ordinance enacting this chapter was first introduced and that otherwise would be entitled to receive a license may receive a license and may continue to operate so long as (1) the license is renewed continually without lapse or revocation; (2) the significant tobacco retailer is not closed for business and does not otherwise suspend tobacco retailing for more than sixty (60) consecutive days; (3) the significant tobacco retailer does not substantially change the business premises or business operation; and (4) the significant tobacco retailer maintains the right to operate under the terms of other applicable laws. If the Department determines that a significant tobacco retailer in the Downtown "T" no longer qualifies to continue

tobacco retailing under the standards of this section, it shall revoke the license for the significant tobacco retailer in the manner, and subject to the appeal rights specified in Section 8.52.240 of this chapter.

B. No tobacco retailer license may be issued to authorize tobacco retailing within one-thousand [Option: five hundred] feet of a public or private, elementary, middle, junior high or high school, as measured in a straight line from the nearest point on the parcel boundary of an existing or proposed tobacco retailer to the nearest point on the parcel boundary of the nearest school; and

C. A tobacco retailer operating with a valid tobacco retailer license at a location within one-thousand [Option: five hundred] feet of a public or private, elementary, middle, junior high or high school, on the operative date of this Ordinance may continue to operate under their existing tobacco retailer license and under any tobacco retailer license that is timely renewed for that location unless revoked pursuant to Sections 8.52.170.B and 8.52.240 of Chapter 8.52 Smoking Regulations of the CMC. If a tobacco retailer owns a parcel of real property on the operative date of this ordinance, which is also located within one-thousand feet of the same school as their existing tobacco retailer's business, then the tobacco retailer may transfer his or her tobacco retailer license to that property owned by the tobacco retailer, provided that the tobacco retailer does not substantially enlarge the size of the business.

SECTION 6. AMENDMENT OF CHAPTER 14.22

Chapter 14.22 of the Carpinteria Municipal Code: CB CENTRAL BUSINESS DISTRICT shall hereby be amended and shall include a new section as follows.

14.22.070 – Tobacco Retailing

A. No tobacco retailer license may be issued to authorize a significant tobacco retailer in the Downtown "T" as depicted on the "Downtown T" Tobacco Retailing Map on file at City Hall. [Option: in the City of Carpinteria] However, a significant tobacco retailer in the Downtown "T" operating legally on the date that the ordinance enacting this chapter was first introduced and that otherwise would be entitled to receive a license may receive a license and may continue to operate so long as (1) the license is renewed continually without lapse or revocation; (2) the significant tobacco retailer is not closed for business and does not otherwise suspend tobacco retailing for more than sixty (60) consecutive days; (3) the significant tobacco retailer does not substantially change the business premises or business operation; and (4) the significant tobacco retailer maintains the right to operate under the terms of other applicable laws. If the Department determines that a significant tobacco retailer in the Downtown "T" no longer qualifies to continue tobacco retailing under the standards of this section, it shall revoke the license for the significant tobacco retailer in the manner, and subject to the appeal rights specified in Section 8.52.250 of this chapter.

B. No tobacco retailer license may be issued to authorize tobacco retailing within one-thousand [Option: five hundred] feet of a public or private, elementary, middle, junior high or high school, as measured in a straight line from the nearest point on the parcel boundary of an existing or proposed tobacco retailer to the nearest point on the parcel boundary of the nearest school; and

C. A tobacco retailer operating with a valid tobacco retailer license at a location within one-thousand [Option: five hundred] feet of a public or private, elementary, middle, junior high or high school, on the operative date of this Ordinance may continue to operate under their existing tobacco retailer license and under any tobacco retailer license that is timely renewed for that location unless revoked pursuant to Sections 8.52.170.B and 8.52.240 of Chapter 8.52 Smoking Regulations of the CMC. If a tobacco retailer owns a parcel of real property on the operative date of this ordinance, which is also located within one-thousand feet of the same school as their existing tobacco retailer's business, then the tobacco retailer may transfer his or her tobacco retailer license to that property owned by the tobacco retailer, provided that the tobacco retailer does not substantially enlarge the size of the business.

SECTION 7. EFFECTIVE DATE

This Ordinance shall be in full force and effect 60 days following its enactment in accordance with California law; and before the expiration of 15 days following passage, this Ordinance shall be published once with the names of the members of the City Council voting for and against the same in the Coastal View News, a newspaper of general circulation, published in the City of Carpinteria.

SECTION 8. SEVERABILITY

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

SECTION 9. CEQA EXEMPTION

The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly) and 15061(b)(3) (it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment)

PASSED, APPROVED AND ADOPTED this ____ day of _____ 2013, by the following called vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBER(S):

ABSENT: COUNCILMEMBER(S):

Mayor of the City of Carpinteria

ATTEST:

City Clerk, City of Carpinteria

I hereby certify that the foregoing Ordinance was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the ____ day of _____ 2013.

City Clerk, City of Carpinteria

APPROVED AS TO FORM:

Peter N. Brown, City Attorney
City of Carpinteria

- ¹ US Department of Health and Human Services, Centers for Disease Control and Prevention. *Morbidity and Mortality Weekly Report: Annual Smoking - Attributable Mortality, Years of Potential Life Lost, and Productivity Losses - United States 1997-2001*. 2005, 54(25): p. 625-628. Available at: www.cdc.gov/mmwr/preview/mmwrhtml/mm5425a1.htm.
- ² World Health Organization. *World Health Statistics 2007, Part 1: Ten Statistical Highlights in Global Public Health*. 2007, p. 12. Available at: www.who.int/whosis/whostat/2007_10highlights.pdf.
- ³ Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies. *Results from the 2004 National Survey on Drug Use and Health: National Findings*. 2005. Available at: <http://oas.samhsa.gov/NSDUH/2k4nsduh/2k4Results/2k4Results.pdf>.
- ⁴ Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies. *2003 National Survey on Drug Use and Health: Results*. 2003. Available at: www.oas.samhsa.gov/nhsda/2k3nsduh/2k3Results/nhsda2k3.htm.
- ⁵ US Department of Health and Human Services, Centers for Disease Control and Prevention. *Morbidity and Mortality Weekly Report: Tobacco Use, Access & Exposure to Tobacco Among Middle & High School Students, U.S., 2004*. 2005, 54: p. 297-301. Available at: www.cdc.gov/mmwr/preview/mmwrhtml/mm5412a1.htm.
- ⁶ Heaton C, Farrelly MC, Weitzkamp D, et al. "Youth Smoking Prevention and Tobacco Industry Revenue." *Tobacco Control*, 15: 103-106, 2006. Available at: <http://tobaccocontrol.bmj.com/cgi/content/full/15/2/103>.
- ⁷ American Lung Association of California, Center for Tobacco Policy and Organizing. *Tobacco Retail Licensing is Effective*. 2007. Available at: www.centerfortobaccopolicy.org/files/files/5377_Tobacco%20Retailer%20Licensing%20is%20Effective%20October%202007.pdf.
- ⁸ Ma GX, Shive S and Tracy M. "The Effects of Licensing and Inspection Enforcement to Reduce Tobacco Sales to Minors in Greater Philadelphia, 1994-1998." *Addictive Behaviors*, 26(5): 677-87, 2001. Abstract available at: www.ncbi.nlm.nih.gov/entrez/query.fcgi?cmd=Retrieve&db=PubMed&list_uids=1167637&dopt=Abstract.
- ⁹ Forster JL et al. "The Effects of Community Policies to Reduce Youth Access to Tobacco." *American Journal of Public Health*, 88(8): 1193-1197, 1998. Available at: www.ajph.org/cgi/reprint/88/8/1193.
- ¹⁰ California Department of Health Services, Tobacco Control Section. *California Tobacco Control Update*. 2004. Available at: <http://dhs.ca.gov/tobacco/documents/pubs/2004TCSupdate.pdf>.
- ¹¹ American Lung Association of California, Center for Tobacco Policy and Organizing. *Survey of California Rural and Small Town Voters About Local Tobacco Retail Licensing Ordinances*. 2008. Available at: www.centerfortobaccopolicy.org/files/files/Rural_Poll_Summary_of_Findings_Final_5-21-08.pdf.
- ¹² California Department of Health Services, Tobacco Control Section. *Final Report, Independent Evaluation of the California Tobacco Control Prevention & Education Program: Waves 1, 2, and 3 (1996-2000)*. 2003. Available at: www.dhs.ca.gov/tobacco/documents/pubs/WavesComplete.pdf.
- ¹³ *Id.*
- ¹⁴ California Department of Health Services, Tobacco Control Section. *Youth*

Attachment B

Tobacco Sales to Minors Graph, 2008-2012

Purchase Survey, 2011: Percent of Retailers Selling Tobacco to Youth by Store Type. 2011 (graph on file with TALC).

¹⁵ *Id.*

¹⁶ California Department of Health Services, Tobacco Control Section. *Final Report, Tobacco Control Successes in California: A Focus on Young People, Results from the California Tobacco Surveys, 1990-2002*. 2003, p. 11-12. Available at: www.dhs.ca.gov/tobacco/documents/eval/2003CTSReport.pdf.

¹⁷ California Department of Public Health, California Tobacco Control Program. *Youth Tobacco Purchase Survey, 1995-2009*, July 2009. Available at: <http://www.cdph.ca.gov/Documents/PH09-85-Tobacco-Sales-to-Minors-2009-Chart.pdf>.

¹⁸ Dunn, D. & Long, T. *Santa Barbara County Tobacco Retail Licensing Policies: Looking to the Future, Tobacco Retail Licensing, Final Evaluation Report, 2007-2010 Santa Barbara County*, June 2010.

¹⁹ Henriksen L., Feighery E.C., et al. "Is adolescent smoking related to the density and proximity of tobacco outlets and retail cigarette advertising near schools?" *Preventive Medicine*, 47(2): 210-214, 2008.

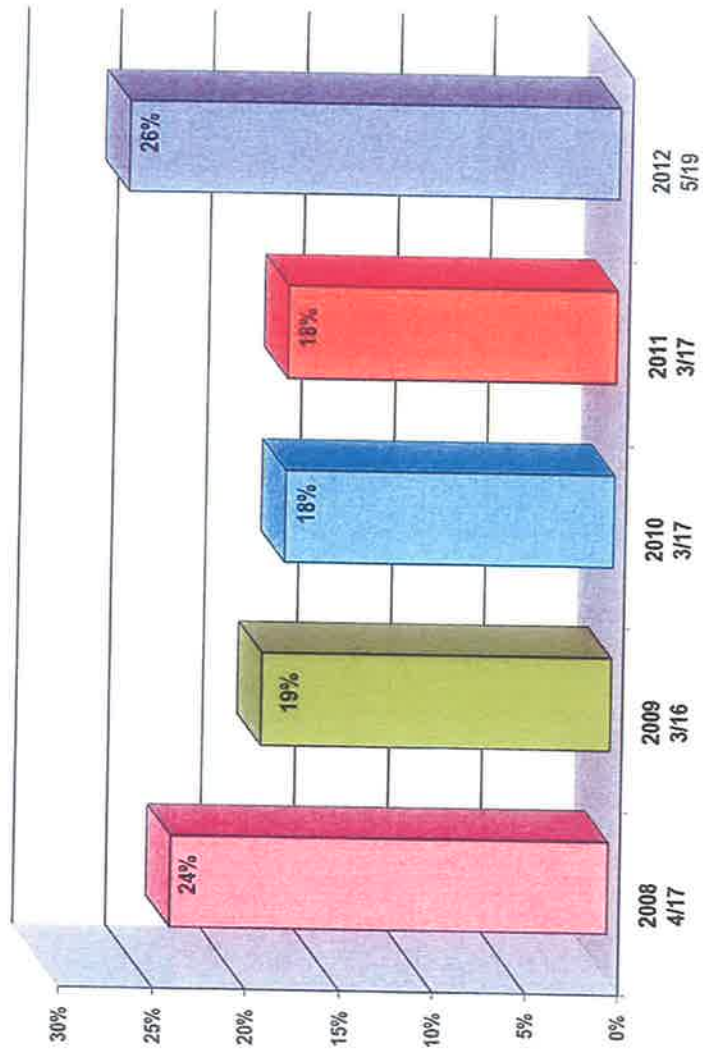
²⁰ Lipton, Robert, et.al., *The Spatial Distribution of Underage Tobacco Sales in Los Angeles. Substance Use and Misuse*, 2008. Available at: <http://www.informaworld.com/sapp/content~db=all~content=s901982166>

²¹ State Health Officer's Report on Tobacco Use and Promotion in California. Revised January 2, 2013. Available at: <http://www.cdph.ca.gov/Documents/EMBARGOED%20State%20Health%20Officers%20Report%20on%20Tobacco.pdf>

²² Americans for Non-Smokers' Rights. *List of Communities with Licensing and Self-Service Ordinance Services*, July 2010. Available at: [http://www.phipnet.org/sites/hipnet.org/files/ANRF List of Communities with Licensing and Self-Service Display Ordinances \[DOC Updated 12-19\].doc](http://www.phipnet.org/sites/hipnet.org/files/ANRF%20List%20of%20Communities%20with%20Licensing%20and%20Self-Service%20Display%20Ordinances%20Updated%2012-19.doc)

Smoking Regulations Amendments
City Council Hearing April 22, 2013

**Illegal Sales of Tobacco to Minors
Carpinteria - 2008-2012**



Attachment C

Tobacco Retailer Licensing is Effective, August 2012

**Smoking Regulations Amendments
City Council Hearing April 22, 2013**



Tobacco Retailer Licensing

Tobacco Retailer Licensing Is Effective August 2012

More than 90 communities in California have adopted strong local tobacco retailer licensing ordinances in an effort to reduce illegal sales of tobacco products to minors. These ordinances require tobacco retailers to obtain a license to sell tobacco, which includes an annual licensing fee high enough to fund strong enforcement programs and financial deterrents for violators through fines and penalties that include the suspension and revocation of the license.

The table below lists illegal sales rates to minors before and after a strong licensing law was enacted in 33 communities where data is available and enough time (usually at least a year) has passed after the ordinance was enacted to determine results. These sales rates were determined by youth tobacco purchase surveys administered by local agencies. It is important to note that results from the youth tobacco purchase surveys are somewhat dependent on certain factors that differ in each community, such as the age of the youth and the number of stores surveyed.

The results overwhelmingly demonstrate that local tobacco retailer licensing ordinances with strong enforcement provisions are effective. Rates of illegal tobacco sales to minors have decreased, often significantly, in all 33 municipalities with a strong tobacco retailer licensing ordinance where there is before and after youth sales rate data available. However, a licensing ordinance by itself will not automatically decrease sales rates; proper education and enforcement about the local ordinance and state youth access laws are always needed.

For more resources on these ordinances, including the Matrix of Strong Local Tobacco Retailer Licensing Ordinances with policy and enforcement details for every strong ordinance in the state, visit www.Center4TobaccoPolicy.org/localpolicies/licensing. For model tobacco retailer licensing ordinance language, visit ChangeLab Solutions at changelabsolutions.org.

TABLE OF YOUTH SALES RATES BEFORE AND AFTER THE ADOPTION OF A STRONG TOBACCO RETAILER LICENSING ORDINANCE

City/County	Date Passed	Annual Fee	Youth Sales Rate Before Ordinance	Most Recent Youth Sales Rate
Banning	August 2006	\$350	77%	21%
Bascom	December 2006	\$350	63%	20%
Berkeley	December 2002	\$427*	38%	4.2%
Burbank	February 2007	\$235	28.7%	4%
Calabasas	June 2009	\$0*	30.8%	5%
Cochella	July 2007	\$350	88%	11%
Contra Costa County	January 2003	\$160*	37%	16%
Corona	October 2005	\$350	50%	17%
Devon	August 2007	\$344	30.5%	2%
Delano	June 2008	\$185	23%	5.6%
Desert Hot Springs	August 2007	\$350	48%	4%
El Cajon	June 2004	\$808	40%	1%
Elk Grove	September 2004	\$270	17%	14%
Grass Valley	November 2008	\$100	27%	0%
Grover Beach	September 2005	\$224	48%	18.7%

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Continued on the next page

TABLE OF YOUTH SALES RATES BEFORE AND AFTER THE ADOPTION OF A STRONG TOBACCO RETAILER LICENSING ORDINANCE (continued)

City/County	Date Passed	Annual Fee	Youth Sales Rate Before Ordinance	Most Recent Youth Sales Rate
Hollister	May 2008	\$288	33%	4.5%
Kern County	November 2006	\$185	34%	13.3%
La Canada Flintridge	June 2008	\$50*	47.1%	0%
Los Angeles County	December 2007	\$235	30.8%	8%
Murietta	May 2006	\$350	31%	7%
Marco	March 2008	\$350	40%	6%
Pasadena	January 2004	\$225	20%	0%
Riverside	May 2006	\$350	85%	31%
Sacramento	March 2004	\$324	27%	0%
Sacramento County	May 2004	\$287	21%	14%
San Fernando	October 2008	\$250	38.5%	3%
San Francisco	November 2003	\$175*	22.3%	15.5%
San Luis Obispo	August 2003	\$255	17%	2.3%
San Luis Obispo County	October 2008	\$342	33.3%	50%
Santa Barbara County	November 2010	\$235	21%	13%
Teahachapi	February 2007	\$185	8%	16.7%
Viola	May 2005	\$250	39%	1.9%
Yolo County	May 2006	\$344	28%	0%

*City or County fee does not fully cover administration and enforcement of the tobacco retailer license. Rather, the fee is supplemented with another stable source of funds, such as Master Settlement Agreement (MSA) funds or general funds. See the Center's Matrix of Strong Local Tobacco Retailer Licensing Ordinances for full details about the administration and enforcement of these ordinances.

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Attachment D

Table of Strong Local Tobacco Retailer Licensing Ordinances, June 2012

Smoking Regulations Amendments
City Council Hearing April 22, 2013



Table of Strong Local Tobacco Retailer Licensing Ordinances June 2012

In order to reduce illegal sales of tobacco products to minors, many cities and counties in California have adopted strong local tobacco retailer licensing ordinances. This document highlights ninety-four ordinances in which the fee and enforcement provisions are particularly noteworthy. A strong local tobacco licensing law is defined as one that includes the following four components:

- Requirements that all retailers that sell tobacco products must obtain a license and renew it annually.
- A fee set high enough to sufficiently fund an effective program including administration of the program and enforcement efforts. An enforcement plan, that includes compliance checks, should be clearly stated.
- Coordination of tobacco regulations so that a violation of any existing local, state or federal tobacco regulation violates the license.
- A financial deterrent through fines and penalties including the suspension and revocation of the license. Fines and penalties should be outlined in the ordinance.

Below is a list of the ninety-four local ordinances in California that have met the requirements for a strong local tobacco retailer licensing ordinance along with basic information about the community population, license fee and designated enforcement agencies. The jurisdictions are listed in alphabetical order under each county in order to make it easy to compare fee and enforcement details for similar jurisdictions.

This Table is a complement to and abbreviated version of the *Matrix of Strong Local Tobacco Retailer Licensing Ordinances*, also produced by the Center. Please refer to the expanded Matrix for the complete details about these ordinances, including more information about enforcement plans, license suspension/revocation schedules, additional noteworthy provisions and local contact information. The Matrix and other documents on tobacco retailer licensing, including a fact sheet on the effectiveness of these ordinances, are available at www.CenterForTobaccoPolicy.org/localpolicies/licensing.

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Alameda County							
Albany	February 2009	18,488	\$250	X			
Darkwood	December 2002	114,821	\$427*	X	X		
Oakland	April 2005	395,341	\$50**	X			
Union City	November 2010	70,646	\$685	X			
Contra Costa County							
Concord	September 2006	123,206	\$160	X			
Contra Costa County	January 2003	182,815***	\$287*		X		
Richmond	June 2009	104,887	\$1,062.44**	X			

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Fresno County							
Firebaugh	August 2009	7,794	\$190	X			
Parlier	April 2012	14,826	\$200	X			
Kern County							
California City	February 2007	13,260	\$165		X		
Delano	June 2008	52,005	\$165	X			
Kern County	November 2005	303,797***	\$165		X		
McFarland	May 2007	12,333	\$165		X		
Tehachapi	February 2007	13,872	\$165		X		
Wasco	March 2007	25,324	\$165		X		
Los Angeles County							
Baldwin Park	October 2008	75,830	\$342	X			X
Beverly Hills	August 2010	34,291	\$204	X			
Burbank	February 2007	104,427	\$300**	X			
Calabasas	June 2008	23,653	No Fee Planned*				X
Carson	November 2006	91,826	\$500	X			X
Cerritos	January 2008	49,223	\$50*	X			
Compton	July 2007	97,058	\$500	X			X
Culver City	July 2009	38,304	\$235	X			X
El Monte	November 2011	113,912	\$300	X			X
El Segundo	June 2010	16,720	\$250	X			
Gardena	July 2008	59,124	\$120 **	X			X
Glendale	September 2007	192,654	\$225	X			X
Hawaiian Gardens	July 2011	14,303	\$245				X
Hawthorne	July 2009	85,047	\$375	X			X
Huntington Park	November 2011	58,329	\$200	X			
Inglewood	October 2007	110,823	\$350	X			X
La Canada Flintridge	June 2009	20,335	\$50*	X		X	
Lawndale	October 2008	32,887	\$150				X
Lomita	May 2007	20,399	\$150	X			X
Long Beach	February 2006	464,662	\$442	X	X	X	
Los Angeles (City)	September 2005	3,825,297	\$300		X	X	X
Los Angeles County	December 2007	1,062,073***	\$235	X	X		
Malibu	November 2011	12,699	No Fee Planned *				X
Montebello	September 2009	62,657	\$300	X			
Monterey Park	April 2010	61,153	\$40*	X			
Palmdale	January 2010	153,708	\$350			X	
Pasadena	February 2004	139,222	\$225	X	X		
San Fernando	October 2008	23,752	\$250				X
San Gabriel	March 2010	39,926	\$300	X			
Santa Monica	November 2008	90,223	\$135.45			X	
Sierra Madre	November 2006	10,963	\$30	X			
South Pasadena	February 2009	25,725	\$150				X

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Mendocino County							
Mendocino County	April 2010	59,054***	\$290		X		
Monterey County							
Monterey County	May 2012	101,644***	TBD	X	X		
Nevada County							
Grass Valley	November 2009	12,636	\$100	X			
Nevada City	November 2006	3,062	\$100	X			
Orange County							
Santa Ana	October 2006	327,731	\$635	X	X		
Riverside County							
Banning	August 2008	28,965	\$350		X		
Beaumont	December 2006	38,851	\$350		X		
Calimesa	June 2007	7,998	\$350		X		
Canyon Lake	June 2009	10,689	\$350		X		
Coachella	July 2007	41,904	\$350		X		
Corona	October 2005	154,520	\$350		X		
Desert Hot Springs	August 2007	27,538	\$350		X		
Eastvale	October 2010	55,002	\$350		X		
Hemet	March 2008	80,089	\$350		X		
Lake Elsinore	August 2007	53,024	\$350		X		
Menifee	December 2009	80,589	\$350		X		
Moreno Valley	September 2007	196,495	\$350		X		
Murrieta	May 2006	104,585	\$350		X		
Norco	March 2006	27,053	\$350		X		
Perris	August 2008	70,180	\$350		X		
Riverside (City)	May 2006	308,511	\$350		X		
Riverside County	January 2010	356,633***	\$350		X		
San Jacinto	June 2008	44,803	\$350		X		
Temecula	June 2006	103,092	No Fee Planned*	X			
Wildomar	July 2008	32,719	\$350		X		
Sacramento County							
Elk Grove	September 2004	155,937	\$270	X			
Rancho Cordova	February 2005	66,093	\$287	X			
Sacramento (City)	March 2004	470,950	\$300	X			
Sacramento County	May 2004	560,675***	\$324	X	X		X
San Benito County							
Hollister	May 2005	35,533	\$269	X			X
San Diego County							
El Cajon	June 2004	100,562	\$675				X
Solana Beach	July 2009	13,000	\$110 **				X
Vista	May 2005	95,036	\$250	X			

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
San Francisco County							
San Francisco	November 2003	812,538	\$175 **	X	X		
San Luis Obispo County							
Arroyo Grande	February 2005	17,291	\$208	X			
Grover Beach	September 2005	13,162	\$224	X			
San Luis Obispo (City)	August 2003	45,308	\$278	X			
San Luis Obispo County	October 2008	119,071***	\$342	X			
San Mateo County							
Pacifica	February 2008	37,858	\$300	X			X
Santa Barbara County							
Golita	November 2001	29,930	\$30 *		X		
Santa Barbara (City)	June 2002	89,082	\$30 *	X			
Santa Barbara County	November 2010	134,890***	\$235 *		X		
Santa Clara County							
Santa Clara County	November 2010	88,354***	\$425	X	X		
Ventura County							
Oxnard	February 2012	199,722	\$51*				X
Yolo County							
Davis	August 2007	65,052	\$344		X		X
Yolo County	May 2008	25,304***	\$344		X		X

*City or County fee does not fully cover administration and enforcement of the tobacco retailer license. Rather, the fee is supplemented with another stable source of funds, such as Master Settlement Agreement (MSA) funds or general funds. See the Center's Matrix of Strong Local Tobacco Retailer Licensing Ordinances for full details about the administration and enforcement of these ordinances.

** Fees noted here have additional restrictions, additional charges or may be combined with another fee. For full information see the Center's Matrix of Strong Local Tobacco Retailer Licensing Ordinances.

*** This is the population in the unincorporated areas of the county.

Guide to Enforcement Agencies:

Law Enforcement: Includes Police Departments and Sheriff Departments

Health Department: Includes Environmental Health Services, Departments of Public Health, Health Services Department, and Health and Human Services Divisions.

City Officials: Includes City Manager, City Attorney, and any authorized city official

Other: Includes Community Development Services, Department of Finance, code enforcement agencies/services, Administrative Services, Neighborhood Preservation Division, neighborhood services inspectors, Business License Division, and District Attorneys

Sources: Population figures are from the State of California, Department of Finance, E-1 Population Estimates for Cities, Counties and the State with Annual Percent Change — Jan. 1, 2011 and 2012

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Attachment E

Cigarettes Generate Big Revenue for Convenience Stores, 2009

Smoking Regulations Amendments City Council Hearing April 22, 2013



Tobacco Retailer Licensing

Cigarettes Generate Big Revenue for Convenience Stores

Analysis of 2009 State of the Industry Report



The Association for Convenience & Petroleum Retailing (NACS) is an international trade association that represents convenience and petroleum retailers. NACS releases an annual report on product sales, store operations, motor fuel and other topics of interest to the convenience store industry. This report is important to the tobacco control community because it includes figures about cigarette sales at convenience stores, which can be helpful for local tobacco retailer licensing efforts. This fact sheet highlights data from the 2009 State of the Industry Annual Report of 2008 Data. Please note, all of these numbers are national averages for 2008 data, not California specific.

Cigarettes Are the Number One Product Sold at Convenience Stores

- Cigarettes accounted for 32.91% of sales inside convenience stores in 2008, by far the number one product. Non-alcoholic packaged beverages were second, with only 15.57% of inside sales.
- This number is a slight decrease from 2007, when cigarettes accounted for 33.01% of sales.
- Average sales of cigarettes per store were \$476,244, an increase of 2.38% from 2007. This figure is more than \$250,000 higher than any other product's per store average.
- Other tobacco products were the seventh best selling product, accounting for 3.42% of inside sales.
- Average sales of other tobacco products per store were \$52,644, an increase of 11.91% from 2007.
- Smokeless tobacco products make up 61.58% of other tobacco product sales, followed by cigars at 32.72% and rolling papers at 3.55%.

Cigarettes Are a Very Important Product for Convenience Stores' Bottom Line

- Convenience stores are the top sellers of cigarettes nationwide. According to this report, nearly 65% of total cigarette sales were made at convenience stores.
- 99.57% of convenience stores sell cigarettes, the largest percentage for any product. Other tobacco products are sold in 98.0% of stores, the third most common item found in stores.
- The average gross profit dollars per store for cigarettes was \$73,008.
- While cigarettes are the top selling product, they rank second in gross profit dollar contribution. Cigarettes contributed 16.69% of the average gross profit dollars per store, ranking behind non-alcoholic packaged beverages which are first at 20.65% and \$80,328.

What This Means for Local Tobacco Retailer Licensing Ordinances

Convenience store owners and other cigarette retailers often oppose efforts to enact a strong local tobacco retailer licensing ordinances, which 78 cities and counties in California have adopted (as of June 2010) in order to reduce illegal sales of tobacco products to minors. A strong local tobacco retailer licensing ordinance requires all tobacco retailers to obtain a license, pay an annual renewal fee and includes enforcement efforts that result in the suspension of a retailer's license for selling tobacco products to minors. The State of the Industry Report shows just how lucrative selling cigarettes are to convenience stores. It is a product that accounts for nearly a third of sales inside convenience stores and generates nearly \$500,000 in revenue for the average convenience store. Being unable to sell cigarettes for a month or longer due to a suspended tobacco retailer license would be very detrimental to the bottom line of any store.

Resources: The Tobacco Education Clearinghouse of California (TECC) has a copy of the 2009 State of the Industry Report available for checkout. Call (800) 258-9090 to borrow the report.

The Center has many other resources related to local tobacco retailer licensing ordinances, including a matrix of communities with strong local licensing ordinances and a fact sheet on the effectiveness of local licensing efforts, available at www.Center4TobaccoPolicy.org/localpolicies-licensing.

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Attachment F

Matrix of Local Ordinances Restricting Tobacco Retailers within a Certain Distance of Schools, April 2011

Smoking Regulations Amendments City Council Hearing April 22, 2013

Tobacco Retailer Licensing

Matrix of Local Ordinances Restricting Tobacco Retailers Within a Certain Distance of Schools April 2011

In order to prevent youth from getting addicted to tobacco products and to reduce illegal sales of tobacco products to minors, many cities and counties in California have restricted the location of tobacco retailers within a certain distance of schools. Studies have shown that the density of tobacco retailers, particularly in neighborhoods surrounding schools, has been associated with increased smoking rates (Henriksen L., Felghery E.C., et al) and that one-third of illegal tobacco sales take place within 1,000 feet of schools (Lipton, Robert, et al.). An additional benefit of this policy is that it restricts some advertising of tobacco products within a certain distance of schools, because if retailers are not able to sell tobacco products, they also cannot display ads for those products that would mislead consumers.

This matrix lists 23 municipalities in California that have adopted an ordinance to restrict the location of tobacco retailers within a certain distance of schools (there are 24 total ordinances as West Hollywood is listed twice and has two separate ordinances). The cities and counties are listed in reverse chronological order from the most recently passed. To be included on this matrix, the ordinance must require all tobacco retailers or significant tobacco retailers to be located 500 feet or more away from schools. The definition of significant tobacco retailers varies by ordinance, such as any store that devotes more than 15 percent of its floor space to tobacco products or any store that generates more than 75 percent of its sales from tobacco products and tobacco paraphernalia. The strength of each of these 24 ordinances varies and the policy details that are included in this matrix help to highlight these differences.

Type of Ordinance

There are four different ways for local governments to restrict the location of tobacco retailers and the first section of the matrix includes an "X" to designate which type of policy each municipality has adopted. While each of these policy options can accomplish the goal of restricting tobacco retailers near schools, using the tobacco retailer licensing ordinance to do this is the best approach for dealing with current tobacco retailers located within the restricted area around a school and more efficient to enforce, and therefore it is recommended. For this reason, the tobacco retailer licensing column is shaded in blue to highlight these ordinances. Full explanations for each of the four policy types, along with the matrix abbreviation and information about how many municipalities have adopted that type of policy, are listed below.

1. **Tobacco Retailer Licensing Ordinance (TRL)** – this type of law requires all tobacco retailers to obtain a license in order to sell tobacco products in the municipality and a requirement can be added to the licensing ordinance that a retailer cannot obtain a license if they are located within a certain distance of schools. Because tobacco retailer licenses are only granted for a set period of time (one year) and must be renewed annually, it is more efficient to implement

- location restrictions through a licensing ordinance by simply not renewing licenses for businesses in prohibited locations. Five municipalities use this type of policy to restrict sales near schools and all of these policies have been adopted since April 2010.
2. **Conditional Use Permit (CUP)** – the requirement that a business obtain a Conditional Use Permit (CUP) is a requirement typically imposed through a community's zoning code that allows a city or county to make an individualized determination about the use of a property in a specific location. If a proposed use such as tobacco retailing near schools is not "permitted" by the zoning code (i.e., always allowed) nor "prohibited" (never allowed), it can be "conditionally permitted" depending on site-specific factors. A retailer would have to apply for a CUP in order to open a business in a specific location and cannot operate a store that sells tobacco in that location if the CUP is not granted. A restriction on the issuance of a CUP can be that the tobacco retailer is not located within a certain distance of schools. Fifteen municipalities have adopted this type of policy.
3. **Zoning Ordinances (Zoning)** – closely related to a CUP requirement, zoning regulations are used to establish what type of uses are allowed for each type of property or district. A zoning ordinance can be used to specifically prohibit a tobacco retailer from operating within a certain distance of schools. Three municipalities use this policy to restrict sales near schools.
4. **Direct Regulation (Reg)** – this type of law is enacted under the general police powers of the municipality to protect the health, safety, welfare and morals of their citizens. Unlike TRL, zoning, and CUP ordinances, for this type of law an enforcement mechanism must be specifically created or incorporated by reference from another part of the municipal code (TRL and zoning ordinances already include enforcement procedures that apply to any violation.) A regulatory ordinance can be enforced in many ways, for example through civil suit or criminal prosecution, administrative citations, and as a nuisance through administrative, civil or criminal nuisance abatement proceedings. One city has adopted this type of ordinance to restrict tobacco retailers near schools.

Type of Tobacco Retailers that are Subject to the Ordinance

Another significant distinction for these policies is whether the policy restricts the location of all tobacco retailers or just significant tobacco retailers. The blue column on the right side contains the information about which type of retailers are subject to the ordinance. The municipalities that contain an "X" in the column are the strongest type of policy and restrict every retailer that sells tobacco products within a certain distance of schools. Nine municipalities have adopted this type of ordinance, including every ordinance that has been adopted since April 2010 with the exception of West Hollywood. The other policy option is to only restrict the location of significant tobacco retailers. Fourteen municipalities have adopted an ordinance that only applies to significant tobacco retailers. One municipality has adopted an ordinance that only applies to retailers other than significant tobacco retailers.

Other Policy Provisions

In addition, the Matrix also contains information about five other policy provisions relevant to restrictions on the sale of tobacco products near schools. For each of these provisions, the full question is listed below along with information on trends and most common responses from the 24 ordinances:

- **The policy prohibits tobacco retailers from being located within what distance of schools?** The restrictions range from 500 feet to 1,500 feet, with the majority (14 of 24) restricting sales within 1,000 feet of schools.
- **Does the policy apply to existing retailers (no grandfathering)?** A majority of the policies (22 of 24) do not subject existing retailers to the location restrictions but would only apply to new retailers and grandfather existing retailers. However, for several of these cities and counties, there were no existing retailers within that restricted distance from schools.
- **Does the municipality have a tobacco retailer licensing ordinance?** While five municipalities use a licensing ordinance to restrict sales near schools, eight other municipalities have a licensing ordinance but have adopted these restrictions as a separate policy from the licensing ordinance.
- **What other youth-oriented areas do the distance requirements apply to other than schools?** In addition to schools, the majority of these policies (16 of 24) also restrict tobacco retailers within a certain distance of other youth-oriented areas. The most popular other location is parks and/or playgrounds, which 18 cities and counties restrict tobacco retailers near in addition to schools.
- **Does the policy restrict tobacco retailers from being located within a certain distance of other tobacco retailers?** In addition to schools and other youth-oriented areas, some of these ordinances contain a density provision that restricts tobacco retailers from being located near other tobacco retailers. Six ordinances contain this provision and the distance restrictions range from 500 to 1,500 feet.

Resources

The Center has additional resources on restricting tobacco retailers near schools and tobacco retailer licensing ordinances available at www.centerfortobacopoly.org/localpolicies/licensing. The Technical Assistance Legal Center has model ordinance language available for tobacco retailer licensing ordinances, conditional use permits and zoning ordinances at www.aphisnet.org.

City/County Date Passed	Type of Policy				Distance (in feet) from schools?	Apply to existing retailers (no grandfathering)?	Does the municipality have TRL?	What other youth- oriented areas (other than schools) are included?	Restricts retailers within a certain distance of other retailers?	Apply to every retailer who sells tobacco products?
	TRL	CUP	Zoning	Reg						
West Hollywood March 2011				X	600	No	No	None	No	
Santa Clara County November 2010	X				1,000	No	Yes	None	Yes (500 feet)	X
Santa Barbara County November 2010	X				1,000	No	Yes	None	No	X
South Pasadena November 2010	X				600	No (but there were no retailers within restricted area)	Yes	None	No	X
Riverbank July 2010	X				600	Yes	Yes	Playgrounds	No	X
Adelanto May 2010			X		1,000	No	No	Playground, church, public library or childcare facility	No	X
Calabasas April 2010	X				500	No (but there were no retailers within restricted area)	Yes	None	No	X
Union City January 2010		X			1,000	No	Yes	Park, playground, library, recreation center, religious institution, youth- oriented establishment	Yes (1,000 feet)	
Palmdale January 2010		X			500	No	Yes	Commercial daycare center, hospitals, parks, libraries, recreation centers	No	X
Vallejo December 2009		X			1,000	No	No	Church, public recreation area	Yes (1,000 feet)	
Windsor November 2009		X			600	No (but there were no retailers within restricted area)	No	Religious institutions, libraries and parks	No	

City/County Date Passed	Type of Policy				Distance (in feet) from schools?	Apply to existing retailers (no grandfathering)?	Does the municipality have TRL?	What other youth- oriented areas (other than schools) are included?	Restricts retailers within a certain distance of other retailers?	Apply to every retailer who sells tobacco products?
	TRL	CUP	Zoning	Reg						
Santa Ana October 2009		X			1,000	No	No	Parks	Yes (500 feet)	X
Albany February 2009		X			500	Yes	Yes	Childcare centers, public libraries, public community centers, parks or playgrounds	No	
Oakland April 2008		X			1,000	No	Yes	Residential zone, library, park, playground, recreation center, licensed daycare facility	No	X
La Mirada 2008		X			600	No	No	Church, temple, park	Yes (500 feet)	
Mountain View February 2005		X			1,000	No (if existing retailers are caught selling to minors twice in a 36 month period, they must apply for a CUP)	No	Childcare facility or preschool other than family daycare, playground, youth center, recreational facility	No	
Pasadena February 2004		X			1,000	No	Yes	Game arcade, internet access studio, library, licensed childcare facility other than family daycare, park and recreation facility, theater	No	
San Rafael February 2003		X			1,000	No	Yes	Parks, libraries, arcades, youth/teen centers, community/recreation centers, licensed daycare centers, shopping malls, houses of worship with youth programs	No	

City/County Date Passed	Type of Policy			Distance (in feet) from schools?	Apply to existing retailers (no grandfathering)?	Does the municipality have TRL?	What other youth- oriented areas (other than schools) are included?	Respective retailers within a certain distance of other retailers?	Apply to every retailer who sells tobacco products?
Alameda County 2002	TRL	CLUP	Zoning	Flag	No	No	Childcare facility or preschool other than family daycare, playground, youth or teen center, community or recreation center, arcade, park, library, houses of worship with youth activities	No	
San Mateo November 2001		X			No	Yes	Public Park	No	
San Leandro July 2001		X			No	No	Park, library, recreational facility	Yes (1,500 feet)	
Novato April 2001			X		No	No	Parks or other land use oriented to minors as determined by acting administrator	No	
West Hollywood 2001		X			No	No	Park, playground, recreation picture theater, game arcade	No	
Vista June 1997			X		No	Yes	None	No	

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Attachment G

County Board of Supervisors Resolution No. 12-288 Adopting Fees for Tobacco Retailer Licensing Program, December 2012

Smoking Regulations Amendments
City Council Hearing April 22, 2013

**RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

IN THE MATTER OF ADOPTING FEES FOR
THE TOBACCO RETAILER LICENSING
PROGRAM PURSUANT TO CHAPTER 37A
OF THE SANTA BARBARA COUNTY CODE
AND THE CALIFORNIA HEALTH AND
SAFETY CODE §101325.

RESOLUTION NO. 12-288

WHEREAS, in November of 2001, Chapter 37A of the Santa Barbara County Code was enacted to establish a Tobacco Retailer Licensing program, which includes a Tobacco Retailer License Fee (Sec. 37A-7(a)) for the unincorporated area of the County. Chapter 37A requires a retailer to obtain a tobacco retailer license before selling tobacco products. The purpose behind the tobacco retailer license is to reduce the sale of tobacco products to minors, by imposing sanctions on tobacco retailers who violate the laws prohibiting the sale of tobacco products to minors; and

WHEREAS, in 2012, the Public Health Department conducted an updated Fee Study, attached as Exhibit B and incorporated by reference, which quantified, analyzed, and reviewed the annual costs for all functions necessary to administer and enforce the Tobacco Retailer Licensing program in the unincorporated areas of the county and established grounds for amending (reducing) the annual tobacco retailer license fee from \$435 to \$409. The Fee Study has been certified by the County Auditor Controller; and

WHEREAS, the 2012 Fee Study also quantified, analyzed, and reviewed the annual costs for having the County Public Health Department administer and enforce the Tobacco Retailer Licensing program in cities that elect to contract for these County services and set that fee at \$379; and

WHEREAS, the California Health and Safety Code §101325 provides that the Board of Supervisors may adopt a resolution prescribing fees to pay the reasonable expenses of the health officer incurred in the enforcement of any statute or regulation relating to public health; and

WHEREAS, the Board of Supervisors has amended Chapter 37A, Sec. 37A-7(a) to allow for the Tobacco Retailer License fee to be adopted by resolution and the effective date of that amendment is January 11, 2013; and

WHEREAS, beginning January 11, 2013 the tobacco retailer license fee for the unincorporated area of the County shall be set by this resolution. Further, if an incorporated city elects to utilize the County to administer and enforce a Tobacco Retailer Licensing program in its incorporated city, then that city shall abide by the fee set forth by this resolution for the County's services. Each incorporated city would be responsible for issuing the tobacco retailer license and collecting that license fee in their jurisdiction; and

WHEREAS, the tobacco retailer license fees established by the Fee Study (Exhibit B) cover the actual costs of administering and enforcing the licensing program. The fees provide for full cost recovery, but do not exceed the actual regulatory costs of administering and enforcing the Tobacco Retailer License program; and

WHEREAS, the County of Santa Barbara has, in connection with the above fees, held a public hearing as part of a regularly scheduled meeting and published notice of the meeting, including a general description of the matter to be considered, in accordance with Government Code §6062a; and

WHEREAS, the fees may be revised as needed by the Santa Barbara County Board of Supervisors;

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED, as follows:

1. The tobacco retailer license fee imposed by Chapter 37A Sec. 37A-7(a) of the Santa Barbara County Code for the unincorporated area of the county is set forth in the attached Fee Schedule, Exhibit A.
2. The tobacco retailer license fee for incorporated cities who elect to have their Tobacco Retailer Licensing program administered and enforced by the County is set forth in the attached Fee Schedule, Exhibit A.
3. That this resolution shall become effective January 11, 2013.

PASSED, APPROVED AND ADOPTED this 11th day of December, 2012, by the following vote:

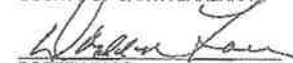
AYES: Supervisors Carbajal, Wolf, Parr, Gray & Lavagnino

NOES: None

ABSTAIN: None

ABSENT: None

COUNTY OF SANTA BARBARA


DOREEN FARR
Chair, Board of Supervisors

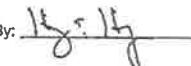
ATTEST:
CHANDRA L WALLAR
CLERK OF THE BOARD

By: 
Deputy

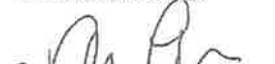
APPROVED AS TO FORM:
DENNIS A. MARSHALL
COUNTY COUNSEL

By: 
Deputy County Counsel

APPROVED
HARRY E. HAGEN, CPA
TREASURER-TAX COLLECTOR

By: 

APPROVED AS TO ACCOUNTING FORM:
ROBERT W GEIS, CPA
AUDITOR-CONTROLLER

By: 
Deputy Auditor-Controller
Gregory Eric Levin
Advanced and Specialty Accounting

APPROVED
BILL BROWN
SHERIFF

By: 

EXHIBIT A

TOBACCO RETAILER LICENSE FEE SCHEDULE
PURSUANT TO CHAPTER 37A OF THE SANTA BARBARA COUNTY CODE
FOR THE UNINCORPORATED AREA OF THE COUNTY
AND PURSUANT TO CONTRACT IN INCORPORATED AREAS OF THE COUNTY

Unincorporated Areas of Santa Barbara County

Initial fee or renewal fee for a tobacco retailer license in year 2013 and subsequent years.....\$409

The initial or renewal fee shall be paid to the Santa Barbara County Tax-Treasurer as the licensing agent when a Tobacco Retailer License application is submitted. The fee shall be allocated between the licensing agent and the Public Health Department: \$30 will be apportioned to the licensing agent for processing the licenses and the balance will be apportioned to the Public Health Department for administration and enforcement of the Tobacco Retailer License program under Chapter 37 of the Santa Barbara County Code.

Incorporated Areas of Santa Barbara County

Initial fee or renewal fee for the administration and enforcement of a Tobacco Retailer Licensing program\$379

The initial or renewal fee shall be paid to the Public Health Department by an incorporated city that contracts to have the County provide the administration and enforcement of tobacco retailer licensing laws within the city's jurisdiction.

An incorporated city shall be responsible for issuing tobacco retailer licenses to businesses in their jurisdiction per the city's ordinance relating to tobacco retailer licensing.

EXHIBIT B
FEE STUDY 2012

Description	Type	Fee				Revenue			
		Application	Annual	Permit	Other	2012	2013	2014	2015
1. Initial fee or renewal fee for a tobacco retailer license in year 2013 and subsequent years.....\$409	Unincorporated Areas of Santa Barbara County								
2. Initial fee or renewal fee for the administration and enforcement of a Tobacco Retailer Licensing program\$379	Incorporated Areas of Santa Barbara County								
3. The initial or renewal fee shall be paid to the Santa Barbara County Tax-Treasurer as the licensing agent when a Tobacco Retailer License application is submitted. The fee shall be allocated between the licensing agent and the Public Health Department: \$30 will be apportioned to the licensing agent for processing the licenses and the balance will be apportioned to the Public Health Department for administration and enforcement of the Tobacco Retailer License program under Chapter 37 of the Santa Barbara County Code.	Unincorporated Areas of Santa Barbara County								
4. The initial or renewal fee shall be paid to the Public Health Department by an incorporated city that contracts to have the County provide the administration and enforcement of tobacco retailer licensing laws within the city's jurisdiction.	Incorporated Areas of Santa Barbara County								
5. An incorporated city shall be responsible for issuing tobacco retailer licenses to businesses in their jurisdiction per the city's ordinance relating to tobacco retailer licensing.	Incorporated Areas of Santa Barbara County								

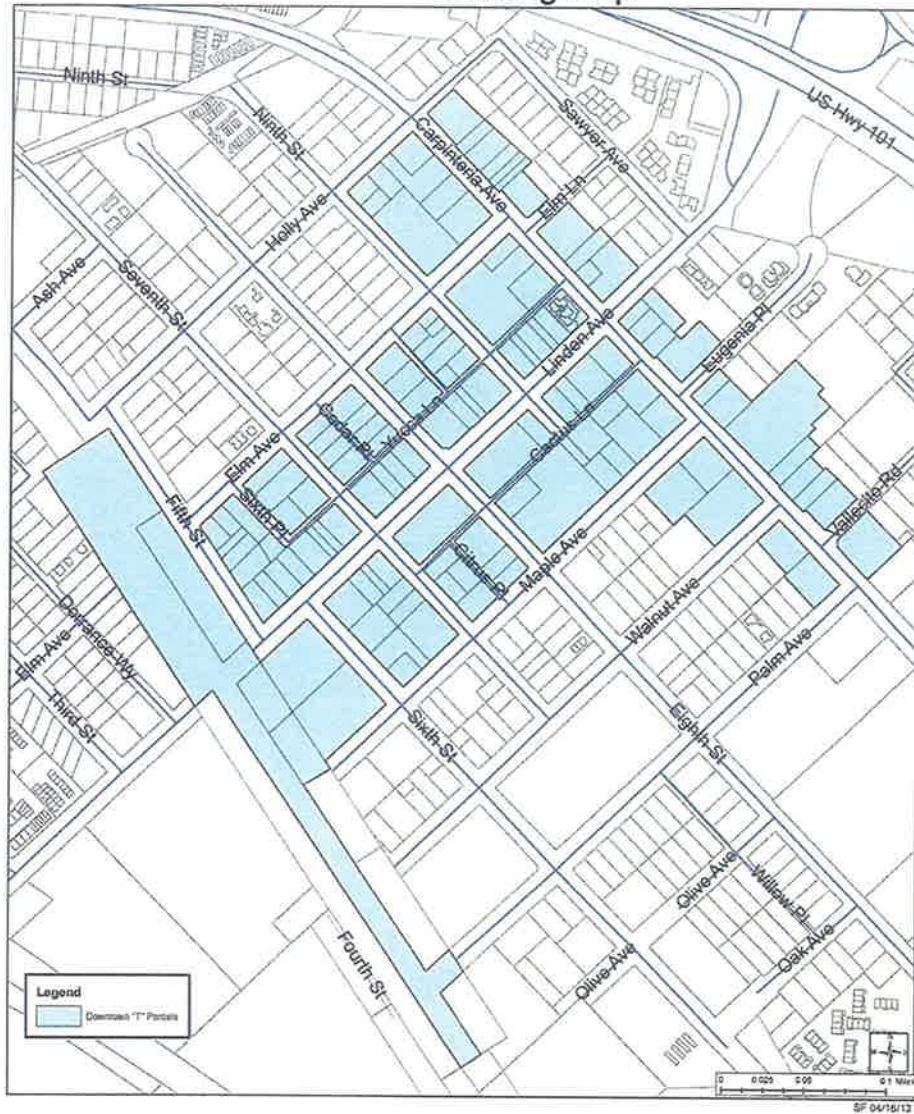
200

[illegible]

Attachment H

Downtown "T"
Tobacco Retailing Map

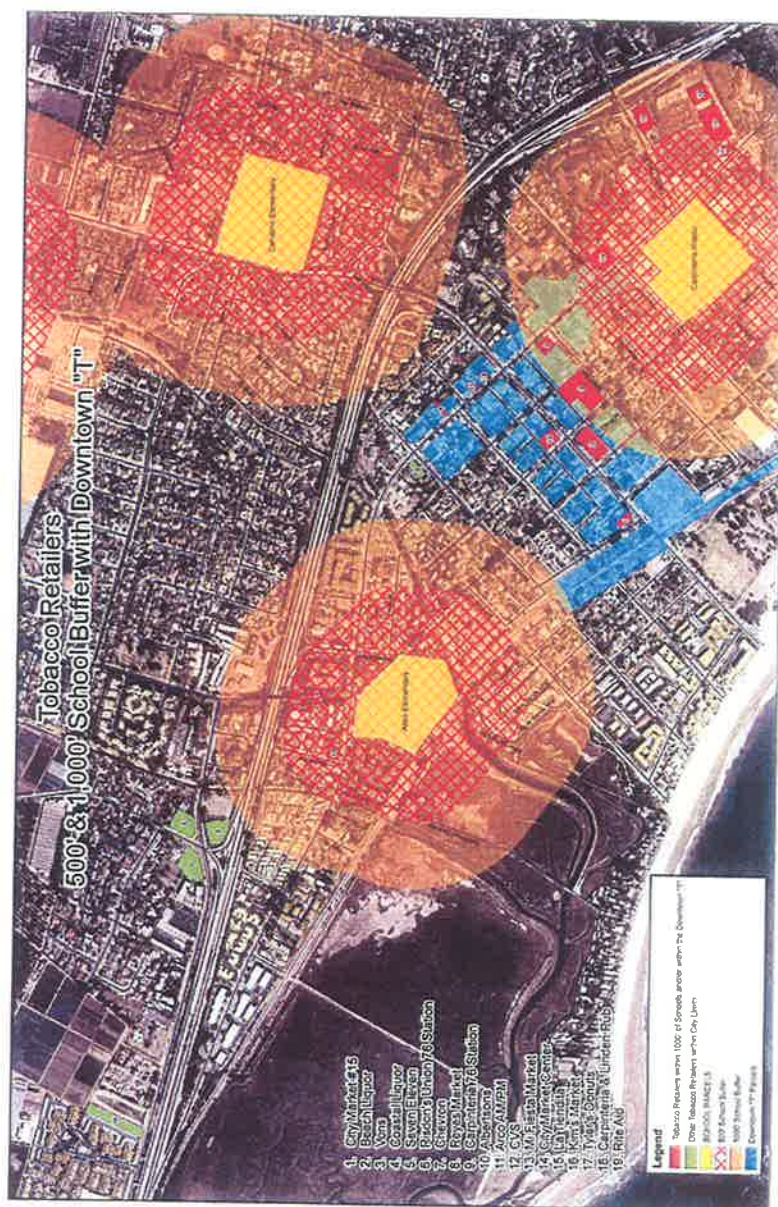
Downtown "T" Tobacco Retailing Map



Attachment I

Map of the Downtown "T" with Distances from Schools Shown

Smoking Regulations Amendments
City Council Hearing April 22, 2013



Attachment J
Possible Locations for Designated Smoking Areas

Smoking Regulations Amendments
City Council Hearing April 22, 2013

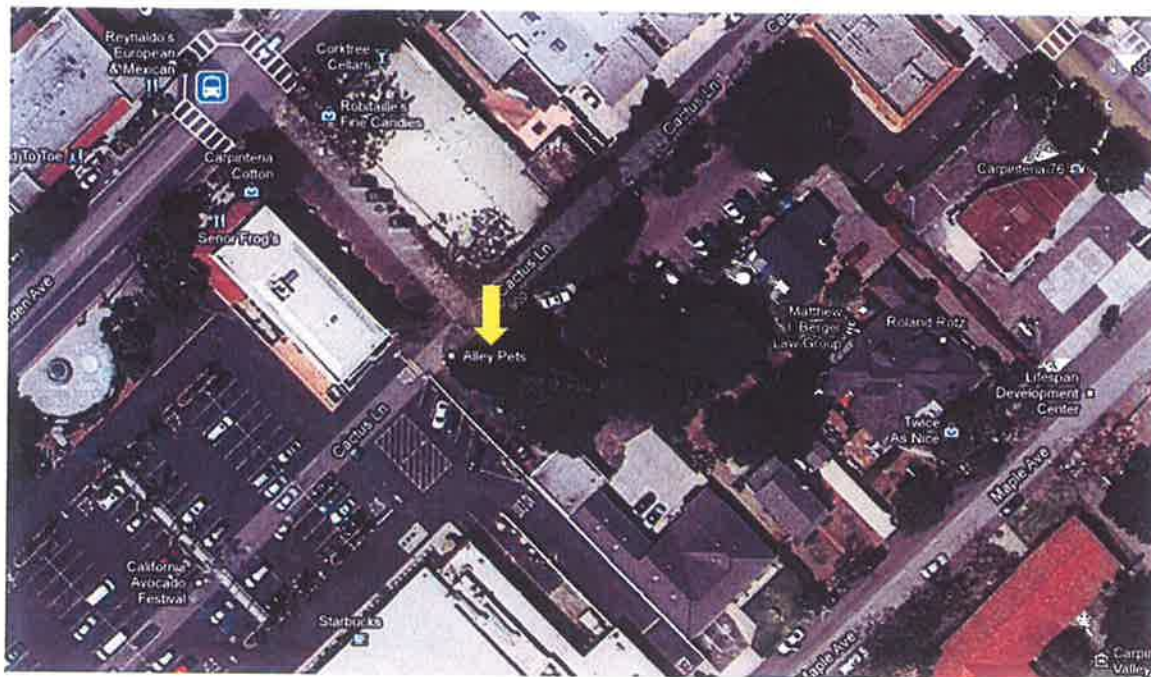
Parking Lot #1 at Ninth and Elm



Parking Lot #1 at Ninth and Elm



Parking Lot #2



Parking Lot #2



Parking Lot #2



Parking Lot #3



Parking Lot #3 at Fifth Street



Parking Lot #3 at Fifth Street



STAFF REPORT
COUNCIL MEETING DATE
May 13, 2013

ITEM FOR COUNCIL CONSIDERATION:

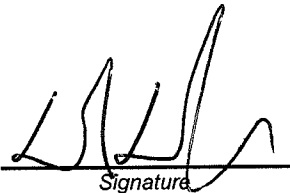
Destruction of Certain Obsolete Records in the City Clerk's Office

Report prepared by: **Fidela Garcia, City Clerk**

Department:

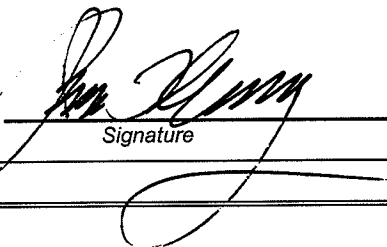
Reviewed by:

City Manager


Signature


Signature

Admin. Services Dir.


Signature

STAFF RECOMMENDATION:

Action Item X ; Non-Action Item ____

Adopt Resolution No. 5418, as read by title only, authorizing the destruction of certain obsolete records in the City Clerk's Office as specified in Exhibit A of the proposed resolution of approval.

I. BACKGROUND:

In a continuing effort to purge files that are no longer needed and in accordance with the City's policy and procedure for the retention and disposition of records and retention schedule, the City Clerk Office wishes to destroy certain obsolete records from the period 1993 through 2007.

II. POLICY:

The records proposed for destruction, exceed retention levels required by law and by City Council Resolution No. 4873, adopted April 12, 2004, concerning the retention and disposition of City records.

III. FINANCIAL CONSIDERATIONS:

Retention of records beyond the historical and/or legal retention requirements will result in additional storage costs.

IV. LEGAL ISSUES:

The City Attorney has reviewed and approved the list of documents to be destroyed contained in Exhibit A of the proposed resolution of approval.

V. ALTERNATIVES:

Continue to retain the records indefinitely.

VI. ATTACHMENTS:

A. Resolution No. 5418

ATTACHMENT A
RESOLUTION NO. 5418

RESOLUTION NO. 5418

**A RESOLUTION OF THE CARPINTERIA CITY COUNCIL
AUTHORIZING DESTRUCTION OF CERTAIN RECORDS
IN THE CITY CLERK'S OFFICE**

WHEREAS, California Government Code Section 34090 permits the destruction of certain records subject to certain conditions; and

WHEREAS, the City Clerk's office has recommended that certain records in their department be destroyed and the City Manager has approved said recommendation; and

WHEREAS, said records have now been retained for periods of time that exceed levels required by law and by City Council Resolution 4873, adopted April 12, 2004, Rules and Regulations Governing the Policy and Procedure for the Retention and Disposition of Records for the City; and

WHEREAS, the City Attorney has issued his consent to said recommendation and approval; and

WHEREAS, a list of records to be destroyed is attached hereto as Exhibit "A," dated May 13, 2013, consisting of four pages.

NOW, THEREFORE, THE CARPINTERIA CITY COUNCIL HEREBY RESOLVES that those records identified in Exhibit A attached hereto are approved for destruction as recommended.

PASSED, APPROVED AND ADOPTED this 13th day of May 2013, by the following called vote:

AYES: COUNCILMEMBER:

NOES: COUNCILMEMBER:

ABSENT: COUNCILMEMBER:

Mayor, City of Carpinteria

ATTEST:

City Clerk, City of Carpinteria

City Clerk, City of Carpinteria

I hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held this 13th day of May 2013.

City Clerk, City of Carpinteria

APPROVED AS TO FORM:

City Attorney

CITY OF CARPINTERIA REQUEST TO DESTROY OBSOLETE RECORDS

The City Manager/City Clerk Department requests authority to destroy obsolete records as detailed below.

Note: Unless otherwise noted all records are located at the City's Storage Facility.

Title or subject matter of records	No. of Records	Originals/Copies	Date(s) covered by records
VHS recordings of various meeting/presentations as follows:			
Bluffs Workshop	1	Original	5/12 (year unknown)
Mobile Home Rent Stabilization Board Meeting	1	Original	12/6/06
MSI Fee Study	1	Original	1/25/93
Call in Show	1	Original	9/30/93
Carpinteria Audubon Recycle	1	Original	
City Council	1	Original	5/9 (year unknown)
Carpinteria Recycle Education Water	1	Original	
Skateboard Meeting	1	Original	1/12 (year unknown)
Carpinteria Beautiful	1	Original	5/2/96
The Redevelopment Advisory Service	1	Original	3/21/97
Visioning Meetings	4	Original	9/17/96, 9/26/96, 9/23/97, & 9/24/97
Marsh- Ash Ave Wetland Dedication	1	Original	10/10/96
Special Meeting Carpinteria City Council and Planning Commission Greenhouse Development	1	Original	6/16/97
Use of Portable fire extinguishers	1	Original	No date
Walkable Communities	1	Original	No date
Redevelopment Forum Part 1 and 2	2	Original	No date
Smart Cities Robert Ooley	1	Copy	9/8/97
Train Service to Carpinteria Grand Opening	1	Original	7/97
Special Meeting Greenhouse Development	1	Copy	6/16/97
Rincon Creek Multi-Jurisdictional Meeting	1	Original	9/16/98
S.B. County Greenhouse Workshop	1	Original	2/16/99
"Where Wall Street Crosses Carpinteria	1	Original	9/14/96
Proposed Road Benefit Assessment	1	Original	No date
City of Carpinteria - Overview	1	Original	No date
Children's Fingerprinting	1	Original	8/3/04
Carpinteria – Summerland Fire District	1	Original	5/17/05
Carpinteria Greenhouse Scoping SIR Meeting	1	Original	5/4/99
Carpinteria Car Show and Parade	1	Original	7/3/99
Greenhouse Meeting	1	Original	9/16/99

Carpinteria Christmas Parade Tree	1	Original	12/4/99
Carpinteria Information on Y2K (Revised)	1	Original	12/14/99
Carpinteria Community Awards Banquet	5	Original	1/22/00, 1/20/01, 1/19/02, 1/17/04 1/15/05, & 1/18/03
1 st District Supervisor Candidates Schwartz and Crossland	2	Original & Copy	2/9/00
Carpinteria Easter Egg Hunt	2	Original	4/22/00 & 4/15/01
July 4 th Parade, Car Show and Plant Show	1	Original	7/1/00
Highway 101 Reconstruction Meeting	1	Original	8/29/00
Mentor Match	1	Original	9/5/00
Carpinteria Coty Council Candidates Forum at City Hall	1	Original	10/5/00
"Student View" – CHS Carpinteria City Council Candidates	1	Original	10/9/00
Touring with the Candidates	2	Original & copy	10/11/00
Carpinteria Christmas Parade	2	Original	12/9/00 & 12/8/01
Carpinteria Beautiful Mural Dedication	1	Original	4/11/01
Rods and Roses and Electric Light Parade	1	Original	6/30/01
Summer Arts Fun	1	Original	9/16/01
(2) Census PSAs	1	Original	No date
Promo Car Show Electric Light Parade	1	Original	No date
Impression in Time. A Story of Santa Barbara	1	Original	No date
Beach Wheelchair	1	Original	No date
ABOP Facility	1	Original	No date
Carpinteria Holiday Parade	1	Original	12/13/03
Carpinteria July 3 Electric Light Parade	1	Original	7/3/04
Viola Fields Carpinteria Bluffs Dedication	1	Original	7/3/03
Carpinteria Electric Light Parade and Parades & Roses	1	Original	6/28 and 6/29 (year unknown)
Special Carpinteria Joint Meeting	1	Original	2/25/04
Touring with the Candidates – 1 st District Supervisor	1	Original	2/20/04
Affordable Housing Meeting at Carp Community Church	1	Original	5/22/03
Visioning Promo	1	Original	9/18/96
Carpinteria Valley Water District. Water Supply & Drought Planning	1	Original	10/27/04
School Board Candidate Forum	1	Original	10/6/04
School Board Candidate Forum by Women's Club	1	Original	10/6/04
Carpinteria City Council Candidate Forum by Chamber of Commerce	1	Original	9/29/04
Carpinteria Water District Meeting	1	Original	7/14/04
Fire District Forum	1	Original	10/23/03
Avocado Festival	1	Original	10/4/03
Carpinteria Valley Museum of History	1	Original	6/03
Women's Club Student Art Contest	1	Original	5/21/03
Aloha Festival	1	Original	5/16/03
Rods & Roses and Carpinteria Spirit	1	Original	7/2/05

Parade			
Carp Cares / Youth & Alcohol	1	Original	No date
Candidate Forum	1	Original	9/21/06
Various Files:			
Proof of Publications of Planning Commission Public Hearing Notices and Meetings	2 Files	Originals	1965 – 1973
Applications for Dog License Certificate issued between the years 2004 and 2007		Copies	2004 – 2007

CITY OF CARPINTERIA
REQUEST TO DESTROY OBSOLETE RECORDS

I hereby certify that:

- The record(s) are under the management or control of the Department head.
- To the best of his/her knowledge, the descriptive titles, information, and classifications contained in the request form are true and accurate.
- The minimum retention time periods required by City Resolution No. 4873 Retention Schedule) have been satisfied for all records included in the request form.
- Retention of the record is no longer required for operation of the department, or to satisfy a city council policy adopted by resolution, or a city Council request, or by the city for administrative, historical, research, fiscal, legal, or cultural purposes.
- The destruction or other disposition of the record will not violate state law, these Rules, or other applicable law.
- Destruction of the record(s) is hereby recommended.

Date: May 13, 2013

Job Title: _____

Signature of Department Head or
authorized Designee, requesting destruction
of records

Approved for Destruction:

City Attorney

Date: _____

Approved for destruction at City Council meeting held May 13, 2013.

STAFF REPORT
COUNCIL MEETING DATE:
May 13, 2013

ITEM FOR COUNCIL CONSIDERATION:

A new lease agreement (attached) regarding the Seaside Building--5103 Carpinteria Avenue--between the City of Carpinteria and the Friends of the Carpinteria Public Library (FOL).

Report prepared by: Kevin Silk, Assistant to the City Manager

Department: General Government

Reviewed by: *Jade Garza for*

City Manager Dave Durlinger
Signature

Admin. Services Dir.

Signature

STAFF RECOMMENDATION:

Action Item ☒; Non-Action Item ☐

Approve the new lease of the Seaside Building between the City of Carpinteria and Friends of the Carpinteria Public Library.

Motion: I move to authorize the Mayor to enter into a new lease (attached) of the Seaside Building between the City of Carpinteria and Friends of the Carpinteria Public Library.

I. BACKGROUND:

The City's Seaside Building is located at 5103 Carpinteria Avenue. It is currently occupied by the Friends of the Carpinteria Public Library as a used bookstore. Current key lease provisions include:

- FOL Space size: 1,087 sf
- Current rent: \$1,050 / month (\$12,600 annually)
- Current term expiration: 7/8/13
- Expenses: As part of the current lease with the FOL, the City also pays for various expenses including utilities, landscape maintenance, janitorial, etc. as well as non-routine maintenance conducted by City staff and major maintenance and replacement costs.
- Current renewal terms: Tenant can request an extension for two (2) consecutive one (1) year periods. Rent to be adjusted by any increase in the CPI, but in no event less than the rent for the month immediately preceding the adjustment.

Proposed New Lease and Key Renewal Terms:

In anticipation of lease related discussions with the FOL and in an effort to “clean-up” the lease document and corresponding amendments, the original lease and prior amendments have been consolidated, clarified, and re-drafted as a new lease; no major substantive changes have been made other than to the Attorney’s Fees section and the addition of business interruption and financial statement language.

Staff met separately with Public Facilities Site Acquisition/Development committee members Nomura and Carty to discuss proposed lease terms. Staff has also met with FOL Chairman and President of the Board of Directors, Foster Markolf to review proposed lease terms. In April, the FOL Board approved the proposed lease. Finally, on April 22, 2013 staff met with City Councilmembers in closed session to review the proposed lease extension. Proposed key lease terms include:

Current Rent	Proposed New Rent	Proposed New Term	Extended Term
\$1,050	\$1,050	Two Years	Two (2), one (1) year options; with option rent to be adjusted per the CPI

The above terms allow for the City to 1) recoup various costs related to the building (e.g., operating expenses, paint, carpet, water heater, etc.), 2) lease the building to a community organization that provides a public benefit by making significant contributions to the Carpinteria Branch Library.

Further, leasing the building to the FOL is consistent with the City’s General Plan Policy Objective (PF-5): To provide a high quality and broad range of public services, facilities and utilities to meet the needs of all present and future residents of the Carpinteria Planning Area, as well as Policy PF-5a.: The City will strive to maintain adequate library service for the community of Carpinteria.

II. FINANCIAL CONSIDERATIONS:

City staff has reviewed financial information related the FOL and they appear to be in a sound financial position. The FOL have been making significant and growing contributions to the library that reflect, in part, the benefit of the subject lease.

III. LEGAL ISSUES:

The proposed new lease has undergone preparation (along with City staff) and review by the Deputy City Attorney.

IV. ATTACHMENTS:

- Proposed new lease agreement between the City of Carpinteria and Friends of the Carpinteria Public Library

V. PRINCIPAL PARTIES EXPECTED AT MEETING:

Representative(s) of Friends of the Carpinteria Public Library

**BUILDING LEASE BY AND BETWEEN
THE CITY OF CARPINTERIA
AND
FRIENDS OF THE CARPINTERIA PUBLIC LIBRARY**

This BUILDING LEASE ("**Lease**") is made and entered into as of this ____ day of _____, 2013, by and between the City of Carpinteria, a municipal corporation located in the County of Santa Barbara, State of California ("**Landlord**" and sometimes "**City**"), and Friends of the Carpinteria Public Library, a non-profit California corporation ("**Tenant**") with reference to the following facts and intentions:

RECITALS:

- A. **WHEREAS**, Landlord is the owner of record of the real property and improvements located at 5103 Carpinteria Avenue, Carpinteria California 93013 and identified as APN # 004-047-001 ("**the Property**"); and
- B. **WHEREAS**, Tenant is in need of a place to conduct its business operations within the City of Carpinteria; and
- C. **WHEREAS**, on an interim basis Landlord desires to lease to Tenant and Tenant desires to lease from the Landlord a portion of the Property ("**the Premises**"), as hereinafter more fully described, on the terms and conditions in this Lease; and
- D. **WHEREAS**, Landlord and Tenant entered into the Original Lease for the lease of the Premises on April 14, 2009, and further entered into the First Amendment to the Original Lease on February 1, 2010, and further entered into the Second Amendment to the Original Lease on July 9, 2011; and
- E. **WHEREAS**, Landlord and Tenant now desire to enter into a new lease agreement and further intend that this Lease shall supersede and replace the Original Lease as amended.

NOW, THEREFORE, IN CONSIDERATION OF THE TERMS, COVENANTS AND CONDITIONS CONTAINED HEREIN, AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, LANDLORD AND TENANT HEREBY AGREE AS FOLLOWS:

1. SUBJECT OF LEASE

- 1.1 **The Premises.** Landlord hereby leases, transfers and demises to Tenant and Tenant hereby leases and takes from Landlord the Premises, which constitute approximately one thousand eighty seven (1,087) square feet of inside rentable space, or approximately ninety-four (94%) of the total square footage of inside rentable space in the Property, as shown on the floor plan of the Property attached as Exhibit "A", on the terms and upon the agreements, covenants and conditions set forth in this Lease.
- 1.2 **Common Areas.** In addition to Tenant's rights to use and occupy the Premises as specified herein, Tenant shall have non-exclusive rights to occupy Common Areas (as hereinafter defined),

but shall not have any rights to the roof or exterior walls of the building(s) on the Property, subject to the terms and upon the agreements, covenants and conditions set forth in this Lease.

- 1.2.1 **Common Areas – Definition.** The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Property that are provided and designated by the Landlord from time to time for the general non-exclusive use of Landlord, Tenant and other tenants of the Property and their respective employees, suppliers, shippers, customers, contractors and invitees, including restroom facilities, parking areas, loading and unloading areas, trash areas, walkways, driveways and landscaped areas. The Common Areas include, but are not limited to, the interior restroom of approximately seventy-two (72) square feet and storage space in the Janitor's Closet within the Premises.
- 1.2.2 **Common Areas – Tenant's Rights.** Landlord grants to Tenant, for the benefit of Tenant and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Landlord under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Tenant shall obtain prior written consent from Landlord to store any property, temporarily or permanently, in the Common Areas. In the event that any unauthorized storage shall occur then Landlord shall have the right, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Tenant, which cost shall be payable upon demand by Landlord.
- 1.2.3 **Rules and Regulations.** Landlord shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable rules and regulations ("**Rules and Regulations**") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Premises and the Property and their invitees. Tenant agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Landlord shall not be responsible to Tenant for the non-compliance with said Rules and Regulations by other tenants of the Property.
- 1.2.4 **Common Areas – Changes.** Landlord shall have the right, in Landlord's sole discretion, from time to time: (a) to make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways; (b) to close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available; (c) to add additional buildings and improvements to the Common Areas; (d) to use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and (f) to do and perform such other acts and make such other changes in, to or

with respect to the Common Areas and Project as Landlord may, in the exercise of sound business judgment, deem to be appropriate.

1.3 **Parties to the Lease.**

1.3.1 **Landlord.** Landlord is the City of Carpinteria, a municipal corporation located in the County of Santa Barbara, California.

1.3.2 **Tenant.** Tenant is Friends of the Carpinteria Public Library, a non-profit California corporation located in the County of Santa Barbara, California.

2. **POSSESSION OF THE PREMISES**

2.1 **As-Is Condition.** The Premises will be delivered to Tenant in its “as is” condition on the date of Tenant’s Acceptance as defined in paragraph 2.2 below.

2.2 **Acceptance of the Premises.** Except as may be otherwise provided herein, Tenant shall, by entering into and occupying the Premises or using any portion of the Premises, be deemed to have accepted the Premises and to have acknowledged that the same is then in the condition called for by this Lease.

2.3 **Quiet Enjoyment.** Except as expressly provided under this Lease, Tenant, upon performing and complying with all covenants, agreements, warranties, terms and conditions of this Lease to be performed, or complied with by Tenant, shall lawfully and quietly hold, occupy and enjoy the exclusive use of the Premises during the Term (as defined in Article 3) of this Lease.

2.4 **Surrender of the Premises.** Upon the expiration or termination of the Term of this Lease, Tenant shall peaceably and quietly leave and surrender the Premises to Landlord, broom clean and in good order, condition and repair, reasonable wear and tear excepted.

3. **TERM**

3.1 **Duration and Commencement.** The initial term (“Initial Term”) of this Lease shall commence on July 1, 2013 and continue through June 30, 2015.

3.2 **Request for Extension.**

3.2.1 Landlord and Tenant agree that Tenant may request an extension of the Initial Term of this Lease subject to all the provisions herein contained for consecutive one (1) year periods (the “**Extended Term**”) following the expiration of the Initial Term, provided Tenant shall give written notice of said request to Landlord not less than three (3) months prior to the expiration of the Term, and provided further that Landlord may agree to such Extended Term in its sole discretion.

3.2.2 Tenant expressly acknowledges and agrees that Landlord is renting the Premises to Tenant on an interim basis while Landlord determines a long term use for the Property

and that Landlord may deny a request for extension under this Section 3.2 if, among other reasons, Landlord elects to use the Premises and/or the Property for itself or any of the public bodies and agencies related to the City. Tenant further agrees to cooperate with Landlord to the fullest extent possible, in Landlord's efforts to secure a long term use for the Property.

3.2.3 Tenant's right to request an extension is subject to the following conditions precedent:

- (i) The Lease shall be in effect at the time notice of exercise is given and on the last day of the Term; and
- (ii) Tenant shall not be in default of any of the terms, conditions, covenants, warranties, agreements or restrictions provided under this Lease or any other discretionary Landlord approvals at the time notice of exercise is given or on the last day of the Term; and
- (iii) The Premises shall be in good operating condition with no material deferred internal or external maintenance other than normal wear and tear and subject to normal and customary replacements and repairs; and
- (iv) Tenant shall not be in violation of any ordinance or regulation of the City at time the notice of exercise is given or on the last day of the Term.

4. RENT

Tenant shall pay, without demand or delay, abatement, deduction, or offset, the Rent in such amounts as provided herein.

4.1 **Security Deposit.** Concurrently with the execution of this Lease, Tenant shall deposit with Landlord a Security Deposit in the amount of one thousand four hundred dollars (\$1,400.00), and thereafter, during the continuance of this Lease, shall maintain the Security Deposit with Landlord. The Security Deposit shall be security for the full, prompt and faithful performance by Tenant of all of its obligations hereunder. Landlord shall have the right, but not the obligation, to apply the Security Deposit or any part thereof toward the cost and expense (including Landlord's attorneys' and other professional fees, if any) of curing any default on the part of Tenant; in which event, Tenant shall restore the Security Deposit to its original amount within thirty (30) days after receipt of Landlord's written request to do so. A failure to restore the Security Deposit shall be a material breach of this Lease. Upon expiration or termination of this Lease and vacation of the Premises in the manner required by this Lease, the Security Deposit, or portion thereof remaining unapplied after the curing of every default by Tenant shall be returned to Tenant. No interest shall be payable to Tenant on account of the Security Deposit.

4.2 **Monthly Rent.** Tenant shall pay to Landlord as rental for the use and occupancy of the Premises, one thousand fifty dollars (\$1,050.00) per month during the Initial Term, in lawful money of the United States ("Monthly Rent"). The rent shall be due on the first day of each calendar month.

If Landlord agrees to any one year Extended Terms, then upon the expiration of the Term, and upon expiration of each additional year thereafter during the Lease Term, the rental rate of one thousand fifty dollars (\$1,050.00) per month shall be adjusted according to any increase in the United States Consumer Price Index of the Bureau of Labor Statistics of the United States

Department of Labor for All Urban Consumers (“CPI”) for LA-Riverside-Orange County, California that is published most immediately preceding the adjustment date. The base for computing the adjustment is the CPI that is published most immediately preceding the date of the commencement of the initial Extended Term (“Beginning Index”). On each adjustment date, the monthly rent for the following year until the next rent adjustment will be set by multiplying \$1,050.00 by a fraction, the numerator of which is the Index published most immediately preceding the adjustment date in question and the denominator of which is the Beginning Index. Provided, however, that in no event shall any adjusted rent be less than the rent for the month immediately preceding the adjustment. If the CPI is no longer published, then the adjustment to Base Rent shall be based on an alternate index that most closely reflects the CPI.

4.3 **Payment.** All payments required to be made by Tenant under this Lease shall be made without any setoff, deduction or counterclaim whatsoever and shall be made by check, payable to the “City of Carpinteria” and delivered to the City at 5775 Carpinteria Ave., Carpinteria, California 93013 Attn: City Manager or any other location as the City may designate.

4.4 **Late Charges; Lease Termination.** Any Rent not paid to Landlord within ten (10) days of the due date under this Lease shall be subject to a late fee of ten percent (10%) of the amount then owing. The parties understand and agree that the late fee is a fair and reasonable estimate of the cost of the late payment to Landlord.

Notwithstanding the above, the parties also understand and agree that persistent and chronic late payments are disruptive and costly to Landlord, requiring Landlord to devote additional time, money, resources and energy to the administration of this Lease, all of which can not be sufficiently reimbursed to Landlord by way of Tenant’s payment of the late fee. Therefore, Tenant’s failure to pay any Rent for three (3) consecutive periods, or four (4) periods during any twelve (12) month period, shall be deemed a material and incurable default under this Lease, giving rise to Landlord’s right, in its sole discretion, to terminate this Lease upon thirty (30) days notice. Landlord’s decision not to exercise this remedy at any time during the Term of this Lease shall not act to waive Landlord’s right to exercise such remedy at a future date during the Term.

4.5 **Utility and Services.** Tenant shall contract and pay for all telephone and cable services to the Premises which shall all be billed directly to Tenant. Landlord shall contract and pay for electric, water, sanitary, trash, janitorial and gas services to the Premises which shall all be directly billed to and paid by Landlord.

4.6 **Taxes, Assessments and Charges.** Tenant covenants to pay when due, its pro rata share of all applicable taxes, assessments (including, without limitation, all assessments for public improvements or benefits, whether or not commenced or completed prior to the date hereof and whether or not to be completed within the term hereof), rates and charges, excises, levies, license fees, permit fees, inspection fees and other authorization fees and other charges, in each case, whether general or special, ordinary or extraordinary, foreseen or unforeseen, of every type of character (including all interest and penalties thereon), which at any time during or in respect of the term hereof may be assessed, levied, confirmed or imposed on, or in respect of, or be measured by, or become a lien upon Landlord, the Property, this Lease or any part thereof, or any estate, or right or interest therein

- 4.7 **Notice of Possessory Interest; Payment of.** In accordance with California Revenue and Taxation Code Section 107.6(a) this Lease may create a possessory interest that is subject to taxation. If such interest is created, Tenant may be subject to the payment of property taxes levied on said possessory interest. Tenant agrees to pay these amounts as Additional Rent in the same manner and on the same schedule as the Monthly Rent.

5. **USE OF THE PREMISES**

- 5.1 **Permitted Use.** The Premises shall be used only for the purpose of conducting Tenant's business of selling used and new books and the operation of Tenant's related business and nonprofit activities. Tenant shall operate the business and conduct activities therein in a prudent and businesslike manner and in full compliance with all terms and conditions of this Lease.
- 5.2 **Prohibited Uses.** Tenant shall not use, or allow use of, the Premises for any activity other than as set forth in paragraph 5.1 without the prior written consent of Landlord. Tenant's uncured breach of the above shall be deemed a material default under the terms of this Lease giving rise to Landlord's right, in its sole discretion, to terminate this Lease.
- 5.3 **Compliance with Rules and Regulations.** Tenant agrees to comply with all rules and regulations of City that are at any time posted on the Premises or delivered to Tenant.
- 5.4 **Compliance with Laws.** Tenant shall not occupy or use the Premises, or permit the Premises to be used or occupied, nor do or permit anything to be done in or on the Premises, in whole or in part, for other than legal purposes, or for a purpose or in a manner liable to create a public or private nuisance or to cause structural injury to the Premises or any part thereof, or which may make it difficult, impossible or cost prohibitive to obtain fire or other insurance thereon required to be furnished by Tenant hereunder, or in violation of any certificate of occupancy or evidence of compliance issued by any governmental agency covering or affecting the use of the Property, or in violation of any ordinance or regulation of the City. Tenant's uncured breach of the above shall be deemed a material default under the terms of this Lease giving rise to Landlord's right, in its sole discretion, to terminate this Lease.
- 5.5 **Alterations; Improvements.** Tenant shall not, without the Landlord's prior written consent, make any alterations, improvements or additions in or about the Premises. As a condition to giving any such consent, the Landlord may require the Tenant to remove any such alterations, improvements, or additions at the expiration of the term and to restore the premises to their prior condition by giving Tenant forty-five (45) days written notice prior to the expiration of the term. Unless the Landlord requires their removal as set forth above, all alterations, improvements or additions which are made on the Premises by the Tenant shall become the property of the Landlord and remain upon and be surrendered with the Premises at the expiration of the term. Any damage to the Premises caused by said removal shall be repaired at Tenant's sole cost.

6. **LIENS**

- 6.1 **Lien Indemnification.** Tenant shall at all times indemnify, save and hold Landlord, the Premises and the Property, free, clear and harmless from any claims, liens, demands, charges, encumbrances or litigation arising directly or indirectly out of any use, occupancy or activity of Tenant, or out of any work performed, material furnished, or obligations incurred by Tenant, in,

upon, about or otherwise in connection with the Premises and shall pay or cause to be paid for all work performed and material furnished to the Premises which will or may result in a lien on the Property, and will keep the Property free and clear of all mechanic's liens and materialmen's liens (including the posting of an appropriate bond which shall release the lien).

7. INDEMNIFICATION, BUSINESS INTERRUPTION AND INSURANCE

- 7.1 **General Indemnification.** Tenant hereby indemnifies, holds harmless and agrees to defend Landlord from and against all claims, damages, expenses (including, without limitation, reasonable attorneys' fees and reasonable investigative and discovery costs), liabilities and judgments on account of injury to persons, loss of life, or damage to property occurring on the Premises and Property and caused by the alleged active or passive negligence or willful misconduct of Tenant, its agents, servants or employees. Tenant's obligations with respect to indemnification hereunder shall remain effective, notwithstanding the expiration or termination of this Lease, as to claims arising or accruing prior to the expiration or termination of this Lease.
- 7.2 **Business Interruption.** Tenant agrees that no claims for damages, loss of business, or loss of income either direct or indirect shall be made against Landlord as a result of improvements to the Premises or Common Areas.
- 7.3 **Liability Insurance Coverage and Limits.** Throughout the Term of this Lease, and the Extended Term, if applicable, Tenant agrees to maintain, and/or cause to be maintained, at no cost to Landlord, liability insurance insuring its interests against claims for personal injury, bodily injury, death and property damage occurring on, in or about the Premises and the ways immediately adjoining the Premises, with a "Combined Single Limit" (covering personal injury liability, bodily injury liability and property damage liability) of not less than One Million Dollars (\$1,000,000.00). Landlord and its officials, employees and agents shall be covered and named as additional insureds with respect to liability arising from activities performed by or on behalf of Tenant. The insurance limits in this section shall be subject to increase from time to time by such amounts as Landlord and Tenant may reasonably agree is necessary or desirable, as may be evidenced by the practice of similarly situated properties. Tenant shall provide Landlord with written evidence that such insurance is in force prior to the commencement date of this lease.
- 7.4 **Property Casualty Insurance.** Throughout the Term of the Lease, and the Extended Term, if applicable, Landlord shall cause the Premises to be insured against loss or damage by fire and the perils commonly covered under the standard extended coverage endorsement.
- 7.5 **Personal Property Insurance.** Tenant shall obtain and maintain insurance coverage on all of Tenant's personal property, along with any trade fixtures, and Tenant-owned alterations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Tenant for the replacement of personal property, trade fixtures, and Tenant-owned alterations. Landlord shall be named as an additional insured. Tenant shall provide Landlord with written evidence that such insurance is in force prior to the commencement date of this lease.

7.6 **Damages for Failure to Provide Insurance.** This Section is applicable only in the event that Tenant is not in compliance with the requirements to maintain insurance as set forth in this Article 7. Landlord shall not be limited in the proof of any damages which Landlord may claim against Tenant arising out of or by reason of Tenant's failure to provide and keep in force insurance as aforesaid, to the amount of the insurance premium or premiums not paid or incurred by Tenant and which would have been payable upon such insurance, but Landlord shall also be entitled to recover as damages for such breach the uninsured amount of any loss (to the extent of any deficiency in the insurance required by the provisions of this Lease), damages, costs and expenses of suit, including attorneys' fees, suffered or incurred by reason of damage to, or destruction of, the Premises or Property, occurring during any period in which Tenant shall have failed or neglected to provide insurance as aforesaid. Tenant's uncured breach of the above shall be deemed a material default under the terms of this Lease giving rise to Landlord's right, in its sole discretion, to terminate this Lease.

7.7 **Landlord Discretion to Insure.** Landlord, in its sole discretion, throughout the Term of this Lease, shall have the right to obtain a commercial comprehensive general liability insurance policy on the Property or alternatively, may self-insure the Property.

8. DAMAGE OR DESTRUCTION

8.1 **Reconstruction and/or Removal.** If, by no fault of Tenant, Premises are totally or partially damaged or destroyed by fire, earthquake, accident or other casualty, Landlord shall have the right to restore the Premises by repair or rebuilding. If Landlord elects to repair or rebuild, and is able to complete such restoration within ninety (90) days from the date of damage, subject to the terms of this paragraph, this Lease shall remain in full force and effect. If Landlord is unable to restore the Premises within this time, or if Landlord elects not to restore, then either Landlord or Tenant may terminate this Lease by giving the other written notice. Rent shall be abated as of the date of damage. The abated amount shall be the current Rent prorated on a thirty (30) day basis. If this Lease is not terminated, and the damage is not repaired, the Rent shall be reduced based on the extent to which the damage interferes with Tenant's reasonable use of Premises. If damage occurs as a result of an act of Tenant or Tenant's guest, only Landlord shall have the right of termination, and no reduction in Rent shall be made.

9. ASSIGNMENT AND SUBLETTING

9.1 **Prior Written Consent.** Tenant may not assign or sublet all or any portion of its interest in this Lease without Landlord's prior written consent, which may not be unreasonably withheld by Landlord.

9.2 **Assignment of Landlord's Interest in Lease or the Leased Premises.** Landlord may convey, transfer, sell, assign or otherwise transfer the Property, this Lease, all or a portion of its interest thereunder, and/or all or a portion of the payments that are payable to it by Tenant pursuant to this Lease. Tenant hereby consents and agrees to any such transfer which Landlord considers necessary or proper, regardless of the reason or reasons for which Landlord makes such transfer and regardless of the entity that is the Transferee thereunder.

10. PERFORMANCE OF TENANT'S COVENANTS

10.1 **Right of Performance.** If Tenant shall at any time fail to pay any tax, assessment, fee or other charge in accordance with this Lease, within the time period therein permitted or shall fail to pay for or maintain any of the insurance policies provided for in this Lease, within the time therein permitted, or fail to make any other payment or perform any other act on its part to be made or performed hereunder, within the time permitted by this Lease, then Landlord, after ten (10) days' written notice as to payments of Rent with other charges and thirty (30) days' written notice as to other breaches, given to Tenant (or, in case of an emergency, on such notice, or without notice, as may be reasonable under the circumstances) and without waiving or releasing Tenant from any obligation of Tenant hereunder, may (but shall not be required to):

10.1.1 Pay such tax, assessment, fee or other charge payable by Tenant, or

10.1.2 Pay for and maintain such insurance policies provided for, or

10.1.3 Make such other payment or perform such other act on Tenant's part to be made or performed as in this Lease provided.

10.2 **Reimbursement and Damages.** All sums so paid by Landlord and all costs and expenses incurred by Landlord in connection with the performance of any such act, together with interest thereon, shall constitute an obligation payable by Tenant under this Lease and shall be paid by Tenant to Landlord on demand. A failure by Tenant to make such a payment shall be a material breach of this Lease. Landlord shall not be limited in the proof of any damages which Landlord may claim against Tenant arising out of or by reason of Tenant's failure to provide and keep in force insurance as aforesaid, to the amount of the insurance premium or premiums not paid or incurred by Tenant and which would have been payable upon such insurance, but Landlord shall also be entitled to recover as damages for such breach, the uninsured amount of any loss (to the extent of any deficiency in the insurance required by the provisions of this Lease), damages, costs and expenses of suit, including attorneys' fees, suffered or incurred by reason of damage to, or destruction of, the Premises, occurring during any period in which Tenant shall have failed or neglected to provide insurance as aforesaid.

11. HAZARDOUS MATERIALS

11.1 **Landlord's Representations and Warranties.** Except as identified by Landlord in writing to Tenant as known environmental conditions prior to the execution of this Lease, Landlord makes no representation or warranty regarding the condition of the Premises or Property.

11.2 **No Use of Hazardous Materials on the Premises.** Tenant covenants and agrees that it shall not, and that it shall not permit any licensee to, treat, use, store, dispose, release, handle or otherwise manage Hazardous Materials on the Premises except in connection with any construction, operation, maintenance or repair of the Premises or in the ordinary course of its business, and that such conduct shall be done in compliance with all applicable federal, state and local laws. Tenant's violation of the foregoing prohibition shall constitute a material breach

hereunder and Tenant shall indemnify, hold harmless and defend the Landlord for such violation as provided below.

- 11.3 **Notice and Remediation by Tenant.** Tenant shall, within five (5) days of such occurrence or immediately in cases of imminent threat of injury to life or property, notify Landlord of any significant release of any Hazardous Materials, and/or any notices, demands, claims or orders received by Tenant from any governmental agency pertaining to Hazardous Materials which may affect the Property. Tenant's breach of the above shall be deemed a material default under the terms of this Lease giving rise to Landlord's right, in its sole discretion, to terminate this Lease.
- 11.4 **Environmental Indemnity by Tenant.** Tenant hereby agrees to hold harmless, defend and indemnify Landlord and its employees, members and officials from and against all liability, loss, damage, costs, penalties, fines and/or expenses (including attorney's fees and court costs) arising out of or in any way connected with (a) Tenant's breach or violation of any covenant, prohibition or warranty in this Lease concerning Hazardous Materials, or (b) the activities, acts or omissions of Tenant, its employees, contractors or agents on or affecting the Premises from and after the Possession Date, including but not limited to the release of any Hazardous Materials or other kinds of contamination or pollutants of any kind into the air, soil, groundwater or surface water on, in, under or from the Premises whether such condition, liability, loss, damage, cost, penalty, fine and/or expense shall accrue or be discovered before or after the termination of this Lease. This indemnification supplements and in no way limits the scope of the indemnification set forth in Article 7.
- 11.5 **Release by Tenant.** Tenant waives, releases, acquits and forever discharges Landlord and its employees, members and officials or any other person acting on behalf of Landlord, of and from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses, or compensation (collectively "Claims") whatsoever including, but not limited to, all Claims at common law, whether direct or indirect, known or unknown, foreseen or unforeseen, which Tenant has as of the Possession Date on account of or in any way growing out of or in connection with any Hazardous Materials or other conditions on, in, under, from, or affecting the Premises, or any law or regulation applicable thereto. Tenant is hereby subrogated to any and all rights possessed by Landlord against third parties with respect to said Claims.
- 11.6 **Environmental Indemnity by Landlord.** Landlord hereby agrees to hold harmless, defend and indemnify Tenant and its employees, members, officers, directors, and agents from and against all liability, loss, damage, costs, penalties, fines and/or expenses (including attorney's fees and court costs) arising out of or in any way connected with the activities, acts or omissions of persons or entities other than Tenant, its employees, contractors or agents on or affecting the Premises, including but not limited to the release of any Hazardous Materials or other kinds of contamination or pollutants of any kind into the air, soil, groundwater or surface water on, in, under or from the Premises whether such condition, liability, loss, damage, cost, penalty, fine and/or expense shall accrue or be discovered before or after the termination of this Lease.
- 11.7 **Release by Landlord.** Landlord waives, releases, acquits and forever discharges Tenant and its employees, members, officers, directors, agents, or any other person acting on behalf of Tenant, of and from any and all Claims whatsoever including, but not limited to, all Claims at common law, whether direct or indirect, known or unknown, foreseen or unforeseen, which Landlord has

as of the Possession Date on account of or in any way growing out of or in connection with any Hazardous Materials or other conditions on, in, under, from, or affecting the Premises, or any law or regulation applicable thereto.

- 11.8 **Termination.** The agreements and obligations of the Parties under this Article 11 with regard to indemnification of Landlord or Tenant shall survive the scheduled termination or sooner expiration of the Term for any reason, for five (5) years and all claims relating thereto must be delivered in writing to Landlord or Tenant, as the case may be, within such period.

12. REPRESENTATIONS AND WARRANTIES

- 12.1 **Landlord's Representations and Warranties.** Landlord represents and warrants to Tenant that:

12.1.1 Landlord has full right and authority to grant the estate and the other rights demised herein and to execute and perform all of the terms and conditions of this Lease.

12.1.2 Tenant, upon performing and complying with all covenants, agreements, terms and conditions of this Lease to be performed or complied with by it, shall peaceably and quietly have, hold and enjoy the full possession and use of the Premises and the easements, rights-of-way, rights, privileges, benefits and appurtenances belonging thereto throughout the Term.

12.1.3 Landlord has the power and authority to enter into this Lease and perform all the obligations of Landlord hereunder.

- 12.2 **Tenant's Representations and Warranties.** Tenant represents and warrants to Landlord that:

12.2.1 Tenant has examined the Premises and accepts the Premises in its "as is" condition.

12.2.2 Tenant acknowledges that Landlord has not made any representations or warranties regarding the condition of the Premises, or its suitability for the use of the Premises contemplated by this Lease.

12.2.3 Tenant has the right, power and authority to enter into this Lease and to perform all the obligations of Tenant hereunder.

13. EVENTS OF DEFAULT; REMEDIES

- 13.1 **Events of Default.** Any one or all of the following events after thirty (30) days written notice to Tenant, unless a shorter period is specified, shall constitute an Event of Default hereunder:

- 13.1.1 The default in the payment of any Monthly Rent or Additional Rent or other charges by Tenant when and as the same becomes due and payable and such default continues for more than ten (10) days after Landlord gives written notice thereof to Tenant; or
- 13.1.2 The abandonment or vacation of the Premises by Tenant; or
- 13.1.3 The entry of any decree or order for relief by any court with respect to Tenant, or any assignee or transferee of Tenant (hereinafter "**Assignee**"), in any involuntary case under the Federal Bankruptcy Code or any other applicable federal or state law; or the appointment of or taking possession by any receiver, liquidator, assignee, trustee, sequestrator or other similar official of Tenant or any Assignee, or of any substantial part of the Premises of Tenant or such Assignee, or the ordering or winding up or liquidating of the affairs of Tenant or any Assignee and the continuance of such decree or order unstayed and in effect for a period of sixty (60) days or more (whether or not consecutive); or the commencement by Tenant of any such Assignee of a voluntary proceeding under the Federal Bankruptcy Code or any other applicable state or federal law or consent by Tenant or any such Assignee to the entry of any order for relief in an involuntary case under any such law, or consent by Tenant or any such Assignee to the appointment of or taking of possession by a receiver, liquidator, assignee, trustee, sequestrator or other similar official of Tenant or any such Assignee, or of any substantial property of any of the foregoing, or the making by Tenant or any such Assignee of any general assignment for the benefit of creditors; or Tenant or any such Assignee takes any other voluntary action related to the business of Tenant or any such Assignee or the winding up of the affairs of any of the foregoing; or
- 13.1.4 The default in Tenant's performance of or compliance with any other material term, covenant or condition of this Lease where Tenant fails to cure such default within thirty (30) days or Tenant fails to use reasonable diligence in curing a default where it is of such character as to require more than thirty (30) days to cure.

13.2 **Remedies.**

- 13.2.1 If an Event of Default shall occur and continue as aforesaid, then in addition to any other remedies available to Landlord at law or in equity, Landlord shall have the immediate option to terminate this Lease and bring suit against Tenant and recover as an award in such suit the following:
- (i) the worth at the time of award of the unpaid Rent and all other sums due hereunder which had been earned at the time of termination;
 - (ii) the worth at the time of award of the amount by which the unpaid Rent and all other sums due hereunder which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided;
 - (iii) the worth at the time of award of the amount by which the unpaid Rent and all other sums due hereunder for the balance of the Term after termination exceeds the amount of such rental loss that Tenant proves could be reasonably avoided;

- (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things could be likely to result therefrom; and
- (v) such amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable California law.

13.2.2 If an Event of Default occurs, Landlord shall also have the right, with or without terminating this Lease, to reenter the Premises and remove all persons and property from the Premises; property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant.

13.2.3 If an Event of Default occurs, Landlord shall also have the right, with or without terminating this Lease, to relet the Premises. If Landlord so elects to exercise its right to relet the Premises without terminating this Lease, then rentals received by Landlord from such reletting shall be applied: First, to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord; Second, to the payment of any cost of such reletting; Third, to the payment of the cost of any alterations and repairs to the Premises; Fourth, to the payment of Rent due and unpaid hereunder; and Fifth, the residue, if any, shall be held by Landlord and applied in payment of future Rent as the same may become due and payable hereunder. Should the amount of rental received from such reletting during any month which is applied to the payment of Rent hereunder be less than that agreed to be paid during that month by Tenant hereunder, then Tenant shall pay such deficiency to Landlord immediately upon demand therefor by Landlord. Such deficiency shall be calculated and paid monthly. Tenant shall also pay to Landlord, as soon as ascertained, any costs and expenses incurred by Landlord in such reletting or in making alterations and repairs not covered by the rentals received from such reletting.

13.2.4 No reentry or taking possession of the Premises by Landlord pursuant to this Lease shall be construed as an election to terminate this Lease unless a written notice of such intention is given to Tenant or unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding any reletting without termination by Tenant because of any default by Tenant, Landlord may at any time after such reletting elect to terminate this Lease for any such default.

13.3 **Receipt of Rent, No Waiver of Default.** The receipt by Landlord of the Rents or any other charges due to Landlord, with knowledge of any breach of this Lease by Tenant or of any default on the part of Tenant in the observance or performance of any of the conditions or covenants of this Lease, shall not be deemed to be a waiver of any provisions of this Lease. No acceptance by Landlord of a lesser sum than the Rents or any other charges then due shall be deemed to be other than on account of the earliest installment of the Rents or other charges due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment of Rent or charges due be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or pursue any other remedy provided in this Lease. The receipt by Landlord of any Rent or any other sum of money or any other consideration paid by Tenant after the termination of this Lease, or after giving by Landlord of any notice hereunder to effect such termination, shall not, except as otherwise expressly set forth in this Lease, reinstate, continue, or extend the Term of

this Lease, or destroy, or in any manner impair the efficacy of any such notice of termination as may have been given hereunder by Landlord to Tenant prior to the receipt of any such sum of money or other consideration, unless so agreed to in writing and signed by Landlord. Neither acceptance of the keys nor any other act or thing done by Landlord or by its agents or employees during the Term shall be deemed to be an acceptance of a surrender of the Premises, excepting only an agreement in writing signed by Landlord accepting or agreeing to accept such a surrender.

13.4 **Effect on Indemnification.** Notwithstanding the foregoing, nothing contained in this Article shall be construed to limit Landlord's right to indemnification as otherwise provided in this Lease.

13.5 **Notice of Landlord's Default; Tenant's Waiver.** Landlord shall not be considered to be in default under this Lease unless (a) Tenant has given notice specifying the default and (b) Landlord has failed for thirty (30) days to cure the default, if it is curable, or to institute and diligently pursue reasonable corrective or ameliorative acts for noncurable defaults.

14. **ENTRY BY LANDLORD**

14.1 **Right of Entry.** Landlord and its respective authorized representatives shall have the right to enter the Premises at all reasonable times and upon reasonable notice for the purpose of inspecting the same and to take all such action thereon as may be necessary or appropriate for any such purpose provided for under this Lease or any other lawful purpose including protecting the Premises or showing the Property to prospective purchasers or tenants (but nothing contained in this Lease shall create or imply any duty on the part of Landlord to make any such inspection or to do any such work). No such entry shall constitute an eviction of Tenant.

15. **PARKING AND STORAGE OF PERSONAL PROPERTY**

15.1 **Parking.** Tenant and its invited guests and licensees shall be entitled to use the Property's vehicular parking spaces upon which the Property is located on a shared basis with the general public. There are no parking spaces reserved for the exclusive use of Tenant.

15.2 **Storage of Personal Property.** Tenant shall store on the Premises only personal property that Tenant owns and shall not store any improperly packaged food or perishable goods, flammable materials, explosives, or other dangerous or hazardous material.

15.3 **Signs.** Tenant may place on the Premises ordinary business signs consistent with applicable law, provided that Tenant and Landlord shall jointly process approvals for such signs and provided further that Landlord shall pay or waive the applicable City fees associated with such signage permit.

16. **SUBMISSION OF ANNUAL FINANCIAL STATEMENTS.**

16.1 **Financial Statement.** Tenant agrees to submit annually to Landlord an annual financial statement of the Friends of the Carpinteria Public Library, a non-profit California corporation.

17. **REPAIRS AND MAINTENANCE**

- 17.1 **Responsibilities.** Landlord shall professionally maintain the Premises including janitorial service, heating, air conditioning, electrical, plumbing and water systems, if any, and keep glass, windows and doors in operable and safe condition. Landlord shall maintain the roof, foundation, exterior walls and common areas. All damage or injury done to the Premises or Property by the Tenant or by any person who may be in or upon the Premises or Property with the Tenant's consent or invitation or by the Tenant's failure to properly secure the Premises or Property shall be paid for by the Tenant.

18. **DEFINITIONS**

- 18.1 "Extended Term" shall mean the one year time period commencing on the date of expiration of the Term and resulting from Landlord's acceptance of Tenant's request to extend the Term of this Lease.
- 18.2 "Hazardous Materials" shall mean any substance or material defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "extremely hazardous waste", "acutely hazardous waste", "restricted hazardous waste", "toxic substances" or "known to cause cancer or reproductive toxicity" (or words of similar import), petroleum products (including crude oil or any fraction thereof) or any chemical substance or material which is prohibited, limited or regulated under any federal, state or local law, ordinance, regulation, order, permit, license, decree, common law or treaty regulating, relating to or imposing liability or standards concerning materials or substances known or suspected to be toxic or hazardous to health and safety, the environment or natural resources..
- 18.3 "Initial Term" is agreed to be May1, 2013 until and including April 30, 2015.
- 18.4 "Landlord's Interest" shall mean its fee interest in the Property and its interest in this Lease, or any part thereof.
- 18.5 "Possession Date" is agreed to be May 1, 2013.
- 18.6 "Rent" refers to the Monthly Rent and Additional Rent and any other amounts due the Landlord under this Lease unless the context clearly manifests a different intent.
- 18.7 "Term" shall mean the Initial Term and each of the Extended Terms described in Article 3, unless otherwise specifically provided herein.

19. GENERAL PROVISIONS

- 19.1 **Notices.** All notices and other communications hereunder shall be in writing, shall be sent by first class registered or certified United States mail, postage prepaid, and shall be deemed to have been given two (2) days after the day of mailing, addressed: (a) if to Landlord: 5775 Carpinteria Ave, Carpinteria, CA 93013, Attn: City Manager or at such other addresses as Landlord shall have furnished to Tenant; and (b) if to Tenant: 5103 Carpinteria Avenue, Carpinteria, CA 93013, Attn: Chair of Friends of the Library, or at such other addresses as Tenant shall have furnished Landlord in writing.
- 19.2 **Successors.** All of the rights and obligations of the Parties under this Lease shall bind and inure to the benefit of the respective heirs, personal representatives, successors, grantees and assigns of the Parties and the restrictions, covenants and obligations pertaining to the Premises shall run with the land and shall continue until this Lease is terminated or expires.
- 19.3 **Mediation and Arbitration.**
- 19.3.1 **Mediation.** Except as otherwise provided herein, any controversy, claim, or dispute arising out of or related to this Lease or the interpretation, performance, or alleged breach of this Lease (a “**Dispute**”) shall be resolved according to the procedures set forth in this paragraph, which shall constitute the sole dispute resolution mechanism under this Lease. In the event that the Parties are unable to resolve any Dispute after meeting and attempting in good faith to reach a negotiated resolution, such Dispute(s) shall first be mediated by a retired judge or justice of a court or by a trained and qualified mediator mutually agreeable to the Parties. If the Parties are unable to agree upon a mediator, either party may apply to a licensed mediation service for the appointment of a mediator from a panel of retired judges or justices or other trained and qualified mediators. Upon the appointment of a mediator, the Parties thereafter shall submit their Dispute to mediation and engage in the mediation process fully and in good faith.
- 19.3.2 **Arbitration.** Except as otherwise provided herein, if the Parties are unable to resolve one or more Dispute(s) by mediation, then either Party may initiate arbitration of such Dispute(s). The arbitration shall be initiated and conducted according to the Commercial Arbitration Rules of a reputable and qualified arbitration service, including rules that allow an Appeal (the “**Arbitration Rules**”). The arbitration shall be conducted at a mutually agreeable location before a single neutral arbitrator appointed in accordance with the Arbitration Rules, except that the Parties shall be entitled to undertake discovery in the arbitration in accordance with the statutory provisions and rules applicable, as of the date of the first Arbitration Notice, to discovery in civil actions before a Court with jurisdiction over the Parties and the subject matter. The arbitrator shall have the authority to hear and rule upon all discovery motions and, in connection therewith, to award sanctions as appropriate in accordance with the then-prevailing law. Any appeal shall be heard and decided by a panel of three neutral arbitrators. The neutral arbitrator and the members of any Appeal Panel shall be retired judges or justices of any state or federal court. In all their substantive (as opposed to procedural or discovery-related) rulings, the arbitrator and Appeal Panel shall apply the law specified in the choice of law provision of this Agreement. If either party refuses to perform any or all of its obligations under the

final arbitration award (following appeal, if applicable) within thirty (30) days of such award being rendered, then the other party may enforce the final award in any court of competent jurisdiction.

19.3.3 Exclusions from Mediation and Arbitration. The following matters are excluded from mediation and arbitration hereunder: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action, (iii) the filing or enforcement of a mechanic's lien; and (iv) any matter that is within the jurisdiction of a probate, small claims, or bankruptcy court. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction or other provisional remedies, shall not constitute a violation of the mediation and arbitration provisions.

- 19.4 Attorney's Fees.** In any action for any relief, declaratory or otherwise, to enforce the terms hereof or to declare rights hereunder (collectively, an "Action"), each party shall bear its own attorney's fees.
- 19.5 Integration.** This Lease, and the exhibits attached hereto, constitute the entire agreement between and final expression of the parties, and there are no agreements or representations between the parties except as expressed herein or therein. All prior negotiations and agreements between Landlord and Tenant with respect to the subject matter hereof are superseded by this Lease. Except as otherwise provided herein, no subsequent change or addition to this Lease shall be binding unless in writing and signed by the parties hereto.
- 19.6 No Waiver By Landlord.** To the extent permitted by applicable law, no failure by Landlord to insist upon the strict performance of any term hereof or to exercise any right, power or remedy consequent upon a default under this Lease, and no acceptance of Rent during the continuance of any such default, shall constitute a waiver of any such default or of any such term. No waiver of any default shall affect or alter this Lease, which shall continue in full force and effect, or the rights of Landlord with respect to any other then existing or subsequent default.
- 19.7 Amendment.** This Lease can be modified, supplemented, amended or rescinded only by a writing expressly referring to this Lease and signed by Landlord and Tenant.
- 19.8 Severability; Consent.** If any term of this Lease or any application thereof shall be invalid or unenforceable, the remainder of this Lease and any other application of such term shall not be affected thereby. Unless otherwise expressly provided herein, any approval or consent of Landlord required hereunder shall not be unreasonably withheld or delayed. This Lease shall be binding upon and inure to the benefit of and be enforceable by the respective successors of the parties hereto. The headings in this Lease are for purposes of reference only and shall not limit or define the meaning hereof. This Lease may be executed in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same instrument.
- 19.9 Holding Over - Consensual.** In the event Tenant shall holdover or remain in possession of the Premises with the written consent of Landlord after the expiration of the Term of this Lease,

such holding over or continued possession shall create a tenancy for month to month only, upon the same terms and conditions as are herein set forth and in effect the last month prior to the expiration of the Term of this Lease.

- 19.10 **Holding Over - Non-Consensual.** If Tenant remains in possession of the Premises or any part thereof after the expiration of Tenant's term hereof without the express written consent of Landlord, such occupancy shall be a tenancy from month to month at a monthly rental in twice the amount of the total of all the last month Rent paid or due, plus all other charges payable hereunder, and upon all the terms hereof applicable to a month-to-month tenancy.
- 19.11 **Warranty Against Payment of Consideration.** Tenant warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Lease.
- 19.12 **Non-liability of Landlord Officials and Employees; Non-liability of Members.** No member, official or employee of Landlord shall be personally liable to Tenant, or any successor in interest, in the event of any default or breach by Landlord or for any amount which may become due to Tenant or its successor or on any obligations under the terms of this Lease.
- 19.13 **Remedies Cumulative.** The various rights, options, elections and remedies of Landlord contained in this Lease shall be cumulative and no one of them shall be construed as exclusive of any other, or of any right, priority or remedy allowed or provided for by law and not expressly waived in this Lease.
- 19.14 **Time of the Essence.** Time is of the essence of this Lease and all of the terms, provisions, covenants and conditions hereof.
- 19.15 **Controlling and Venue Law.** The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties under this Agreement, shall be construed pursuant to and in accordance with California law. All proceedings involving disputes over the terms, provisions, covenants or conditions contained in this Agreement and all proceedings involving any enforcement action related to this Agreement shall be initiated and conducted in the applicable court or forum in Santa Barbara County, California.
- 19.16 **Covenants.** Whenever in this Lease any words of obligation or duty are used in connection with either party, such words shall have the same force and effect as though framed in the form of express covenants on the part of the party obligated.
- 19.17 **Joint and Several Liability.** In the event either party hereto now or hereafter shall consist of more than one person, firm or corporation, then and in such event all such persons, firms or corporations shall be jointly and severally liable as parties hereunder.
- 19.18 **Recitals.** The Recitals are true and correct as of the date hereof and are incorporated into the terms and conditions of this Lease.
- 19.19 **Attachments.** All attachments and exhibits referred to in this Lease are attached to and incorporated herein by reference.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the dates written below.

Landlord: THE CITY OF CARPINTERIA, a California municipal corporation

By: _____

Its: _____

Tenant: Friends of the Library, a nonprofit California Corporation

By: _____

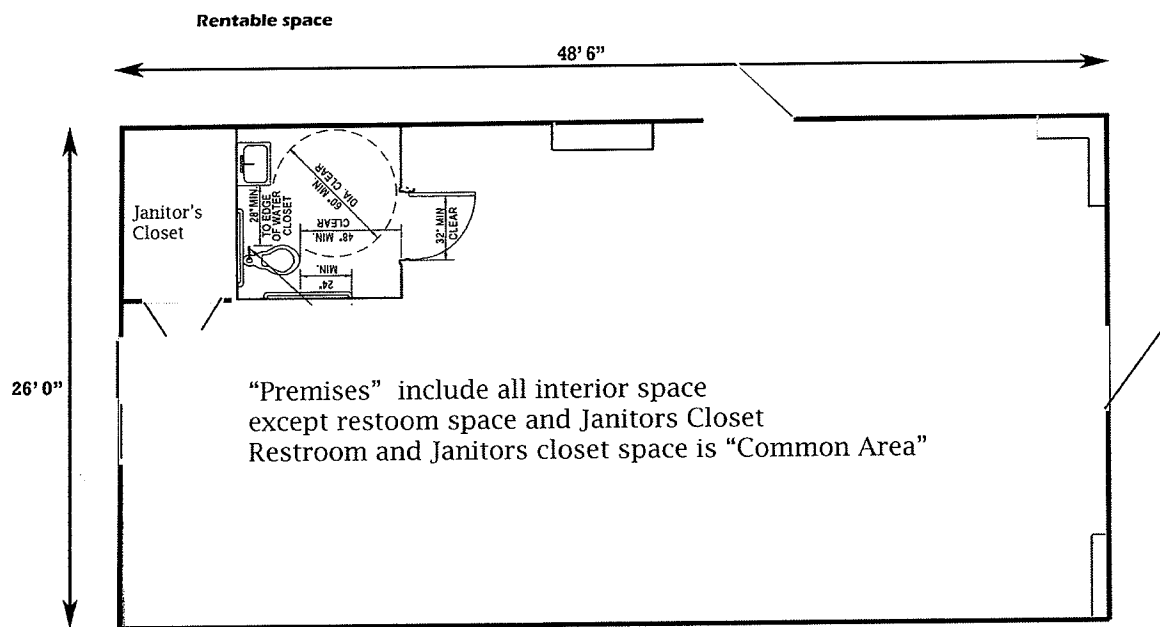
Its: _____

APPROVED AS TO FORM:
City of Carpinteria

By: _____
Peter N. Brown, City Attorney

Attachments: Exhibit A: Premises

Exhibit "A"
PREMISES



5103 Carpinteria Avenue
Carpinteria, CA

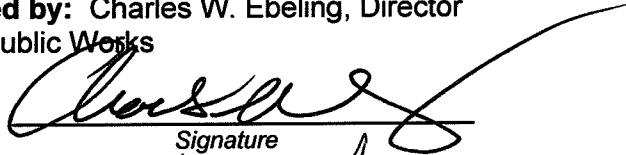
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STAFF REPORT
COUNCIL MEETING DATE:
May 13, 2013

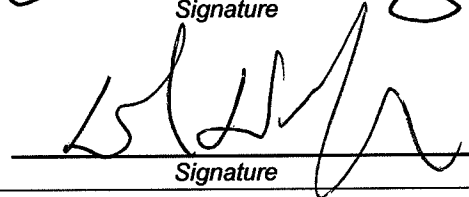
ITEMS FOR COUNCIL CONSIDERATION:

Approval of Contract with Drake Haglan and Associates for Preliminary Engineering, Environmental, Right of Way, Permitting and Final Design Services for the Carpinteria Avenue Bridge Replacement Project

Report prepared by: Charles W. Ebeling, Director
Department: Public Works


Signature

**Reviewed by
City Manager:**


Signature

ACTION ☒ **NON-ACTION** ☐ **STAFF RECOMMENDATION:**

Recommendation: That the City Council authorizes the execution of an agreement with Drake Haglan and Associates, Inc. for Preliminary Engineering including Conceptual Design, Environmental Review, Right of Way Engineering, Permitting and Final Design services for the Carpinteria Avenue Bridge Replacement Project.

Sample Motion: I move to authorize the City Manager to sign the agreement for professional engineering services with Drake Haglan and Associates, Inc. for the Preliminary Engineering services for the Carpinteria Avenue Bridge Replacement Project.

I. BACKGROUND:

In 2010, the City of Carpinteria secured Federal funding through the Federal Highway Administration's Highway Bridge Program to address structural deficiencies at the 1937 Carpinteria Avenue Bridge over Carpinteria Creek. Since that time, the City's Department of Public Works has been working closely with Caltrans District 5 Local Assistance Department on proceeding with the Preliminary Engineering (PE) phase of this project. The PE phase includes all preliminary engineering, environmental review, right of way engineering, permitting and final design work.

The California Department of Transportation (Caltrans) manages the Highway Bridge Program on behalf of the Federal Highway Administration. On July 11, 2011 the City Council authorized the City Manager to sign a Program Supplemental Agreement with Caltrans to receive the Federal-Aid thereby initiating the Carpinteria Avenue Bridge Replacement Project.

At the beginning of 2012, the Public Works Department met with Caltrans representatives to perform a Field Review of the project and to complete the Preliminary Environmental Study. Following the Field Review and completion of the Preliminary Environmental Study, the City, through a consultant contract, also completed a preliminary Hydraulics and Hydrology Study, which assessed the hydraulics capacity within Carpinteria Creek for existing and future conditions to determine if the bridge should be rehabilitated or replaced. The Hydraulics and Hydrology Study found that due to the combination of structural deficiencies and lack of hydraulic capacity the bridge should be replaced. The study also reviewed the existing bridge history and, preliminarily, recommended replacement bridge options. The purpose of the matter is to allow the City Council to authorize the next step in the bridge replacement process that includes preliminary design and engineering, environmental review, right-of-way engineering, final design and permitting.

II. DISCUSSION:

In July 2012, the City Department of Public Works released a Request for Qualifications for Preliminary Engineering services for the Carpinteria Avenue Bridge Project. After review of the Statements of Qualifications, the City selected three qualified firms to receive a Request for Proposal (RFP). In October of 2012, the City Department of Public Works released the Request for Proposal (RFP) for Preliminary Engineering services to the three selected firms. Of the three RFP's released, proposals were received from two firms while one firm declined to submit. The two proposals were carefully reviewed by a Selection Panel made up of the City Public Works Director, a Senior Bridge Engineer from Caltrans and a Senior Bridge Engineer from the County of Santa Barbara. The Selection Panel then interviewed the two firms at the end of November 2012 and selected Drake Haglan and Associates, Inc. from Sacramento.

Subsequently, Staff negotiated the scope and cost of the requested preliminary engineering, environmental review, right of way engineering, final design and permitting services. The resulting recommended contract fee is for \$1,056,912.39, which is considered fair and reasonable for the extent and complexity of the work required.

II. POLICY:

The Carpinteria Avenue Bridge Replacement Project is included in the City's Capital Improvement Program/Development Impact Fee Program and it addresses many of the goals and policy statements in the City's General Plan and other policy documents including the following:

- The purpose of the Circulation Element is to designate an efficient system of streets and highways that will provide adequate linkages between land uses in the city. This Element complements the Land Use Element by contributing to the achievement of the economic, physical, and social goals of the community.

- Circulation and infrastructure needs are typically granted high priority in municipal capital budgets.
- C-1b. The City shall strive to improve vehicular and pedestrian over crossings of the freeway and the various creeks while respecting their habitat value and sensitivity.
- C-3e. In addition to existing at grade railroad crossings located at Linden, Palm, Dump Road, and Sandyland Cove Road, establish at grade or grade separated railroad crossings in order to improve vehicular and emergency access to the Beach neighborhood and ensure that emergency access routes and crossings of U.S. 101 are maintained.
- C-7b. Develop safe and direct pedestrian accessibility between residential areas, schools, parks, and shopping areas in both new and existing urban areas.
- OSC-6a. Support the preservation of creeks and their corridors as open space, and maintain and restore riparian habitat to protect the community's water quality, wildlife diversity, aesthetic values, and recreation opportunities.
- OSC-6b. Protect and restore degraded creeks on City-owned land where protection and restoration does not interfere with good flood control practices.
- Creeks Preservation Program Implementation Policy 2.10, Implementation Measure 2.10.2. The City will specifically promote, through both public and private efforts, the aquatic and riparian habitats of Carpinteria Creek for restoration. (This policy includes several more elements that can be found on Pages 3-34 to 3-36)

III. FINANCIAL CONSIDERATIONS:

The negotiated contract fee to complete the PE services for the Carpinteria Avenue Bridge Project is \$1,056,912.39. This work will be funded through the Federal Highway Bridge Program (HBP), the City's Development Impact Fee Program and Measure A funds. The HBP requires a local match to the Federal funding it provides. The City will provide the minimum match which is 11.47% of the total cost.

Estimated Project Costs and Funding

Estimated Project Costs:		Estimated Funding:	
H&H Study (<i>Completed</i>)	\$58,772	HBR Grant Program	\$7,663,700
Preliminary Engineering (<i>Contract</i>)	\$1,056,912	Development Impact Fees	\$750,000
Staff Costs for PE (<i>Estimated</i>)	\$170,000	Measure A	\$242,915
Construction (<i>Estimated</i>)	\$7,321,341		
Administrative Overhead*	\$49,640		
Total:	\$8,656,615	Total:	\$8,656,615

*Not an eligible grant expense

The cost estimates provided above are based on the preliminary Engineer's Estimate that was included in the July 11, 2011 City Council Staff Report for initiating the project. The total

amount has been revised down by approximately \$311,866 to reflect the actual (lower) proposed contract cost amount for Preliminary Engineering as proposed herein and the lower cost of the preliminary Hydrology and Hydraulics Study.

IV. ATTACHMENTS:

- Attachment A – City Contract with Drake Haglan and Associates (DHA)
- Exhibit A to Contract - DHA Scope of Services
- Exhibit B to Contract – DHA Fee Schedule
- Exhibit C to Contract – Insurance Requirements
- Exhibit D to Contract – Supplemental Federal Provisions

ATTACHMENT A

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT FOR CONSULTANT SERVICES (“**Agreement**”) is made and effective as of the 13th day of May, 2013 by and between the CITY of Carpinteria, a municipal corporation (“**CITY**”), and **Drake Haglan and Associates** (“**CONSULTANT**”) at Carpinteria, California, with reference to the following facts:

- A. CITY has determined that it is necessary and appropriate to engage a design professional to carry out the services described herein; and
- B. CONSULTANT has represented itself as being fully qualified and available to perform the CONSULTANT services necessary to complete the work in a timely manner; and
- C. CITY desires to contract with CONSULTANT and CONSULTANT is willing to perform the CONSULTANT services, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. SERVICES.

- 1.1 **Basic Services.** CITY hereby retains CONSULTANT to perform the services described and set forth in the attached Exhibit A (“**Basic Services**”), which is incorporated by this reference as though set forth in full. CONSULTANT hereby agrees to perform said services within the designated time frames and accepts this retention. CONSULTANT shall complete the Basic Services according to a schedule of performance which is also set forth in Exhibit A.
- 1.2 **Additional Services.** In addition to the Basic Services, CITY may elect to have CONSULTANT perform additional services that are beyond the current scope of the project, but within the expertise of CONSULTANT (“**Additional Services**”). Such Additional Services shall be mutually agreed to in advance and specified in a writing, which shall also specify the basis for the CONSULTANT’s fee for such additional services. Basic Services and Additional Services are referenced collectively as “**Services.**”

2. PERFORMANCE.

- 2.1 **Standard of Performance.** CONSULTANT shall faithfully, competently and diligently perform the obligations and responsibilities required by this Agreement, applying the same standards of care utilized by persons engaged in providing similar services as are required of CONSULTANT hereunder in meeting its obligations under this Agreement.
- 2.2 **Labor and Materials.** CONSULTANT shall furnish, at its own expense, all labor, materials, equipment, tools, transportation and services necessary for the successful completion of the Services. CONSULTANT shall give its attention and supervision to

the fulfillment of the provisions of this Agreement by its employees and subcontractors and shall be responsible for the timely performance of the Services required by this Agreement.

2.3 **Review of Service.** CONSULTANT shall furnish CITY with reasonable opportunities from time to time to ascertain whether the Services of CONSULTANT are being performed in accordance with this Agreement. All work done and materials furnished shall be subject to final review and approval by CITY; CONSULTANT is not providing final approval or review, which is solely CITY's function and role. CITY review and approval of such work and Services shall not, however, relieve CONSULTANT of any of its obligations under this Agreement.

2.4 **Contract Administration.** The CITY Manager or his/her designee shall represent the CITY in all matters relating to the administration of this Agreement. The CITY Manager or his/her designee shall have the authority to act on the CITY's behalf to review and approve all products submitted by CONSULTANT and may execute all necessary documents to authorize CONSULTANT to perform Additional Services as provided for herein.

3. **TERM.** This Agreement shall be effective as of the date first above written, contingent upon approval by CITY, and the CONSULTANT shall commence work after notification to proceed by CITY's Contract Manager. The Agreement shall continue until all Services to be provided by CONSULTANT are completed, but in no event later than the 31st day of December, 2016; unless terminated earlier as provided for herein. CONSULTANT is advised that any recommendation for contract award is not binding on CITY until the Agreement is fully executed and approved by CITY.

4. **FUNDING REQUIREMENTS.** It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of all funds or appropriation of all funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the agreement were executed after that determination was made. As a result, this Agreement is valid and enforceable only, if sufficient funds are made available to CITY for the purpose of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or CITY governing board that may affect the provisions, terms, or funding of this Agreement in any manner.

It is mutually agreed that if sufficient funds are not appropriated, this Agreement may be amended to reflect any reduction in funds. The CITY has the option to void the Agreement under the termination clause, or by mutual agreement to amend the Agreement to reflect any reduction of funds.

5. **COMPENSATION.**

- 5.1 **Basic Services.** For Basic Services, CITY shall pay CONSULTANT a time and materials, not to exceed amount of One Million Fifty Six Thousand Nine Hundred and Twelve Dollars and Thirty Nine Cents (\$1,056,912.39), including the fixed fee specified in Article 5.3, as full compensation for all labor, materials, equipment, tools, transportation, and services. This compensation shall be paid in accordance with the payment rates and schedule as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based on the actual time spent on the tasks
- 5.2 **Method of Payment.** The method of payment for this Agreement will be based on actual cost plus a fixed fee. CITY will reimburse the CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by the CONSULTANT in performance of the work. The CONSULTANT will not be reimbursed for actual costs that exceed the costs set forth in the approved CONSULTANT'S Cost Proposal, unless additional reimbursement is provided for by contract amendment. In no event, will the CONSULTANT be reimbursed for overhead costs at a rate that exceeds the audited overhead rate as stipulated in the Federal Acquisition Regulations. In the event, that CITY determines that a change to the work from that specified in the Cost Proposal and Agreement is required, the Agreement time and/or actual costs reimbursable by CITY shall be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Article 5.1 shall not be exceeded, unless authorized by contract amendment.
- 5.3 **Fixed Fee.** In addition to the allowable incurred costs, CITY will pay the CONSULTANT a fixed fee of Fifty Eight Thousand One Hundred and Eleven Dollars and Thirty Six Cents (\$58,111.36). The fixed fee is nonadjustable for the term of the Agreement, except in the event of a significant change in the scope of work and where such adjustment is made by contract amendment.
- 5.4 All subcontracts in excess of \$25,000 shall contain the above provisions.
- 5.5 **Additional Services.** CONSULTANT shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing in the method provided for herein. CONSULTANT will submit fee estimates for such additional services upon request of CITY.
- 5.6 **Invoices.** Each and every payment by CITY shall be subject to CITY's receipt of an invoice outlining the items for which payment is requested. Payment to CONSULTANT as to any undisputed fees shall be made, after verification of CONSULTANT's performance, within 30 (thirty) days of receipt of invoice. If CITY disputes any of CONSULTANT's fees, it shall give written notice to CONSULTANT within 30 (thirty) days of receipt of an invoice of such disputed fees. Invoices shall be submitted on a monthly basis. Payments will be based on services provided and allowable incurred costs. A pro rata portion of the CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items

according to the schedule set forth in the Statement of Work, CITY shall have the right to delay payment and/or terminate this Agreement in accordance with the provisions of Article 6 Termination.

Reimbursement for transportation and subsistence costs shall be at actual cost with no markup and shall not exceed the total amounts specified for travel and subsistence in the approved Cost Proposal.

No payment will be made prior to approval of any work, nor for any work performed prior to approval of this Agreement.

CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by CITY's Contract Manager of itemized invoices in triplicate. Invoices shall be submitted no later than 45-calendar days after the performance of work for which the CONSULTANT is billing. Invoices shall detail the work performed on each milestone and task as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this Agreement number and project title. The final invoice must contain the final cost and all credits due CITY including any equipment purchased under the provisions of Article XVI Equipment Purchase of this Agreement. The final invoice shall be submitted within 60-calendar days after completion of the CONSULTANT's work. Invoices shall be mailed to CITY's Contract Manager at the following address:

Mr. Charles W. Ebeling P.E. T.E., Public Works Director
City of Carpinteria
5775 Carpinteria Avenue
Carpinteria, CA 93013-2698

Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by CITY's Contract Manager. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

- 5.7 **Withholding.** CITY reserves the right to withhold future payment to CONSULTANT if any aspect of the CONSULTANT's work is found to be substantially inadequate. CITY shall notify CONSULTANT in writing of deficiencies believed to be substantially inadequate within thirty (30) days after receipt of product.
- 5.8 **Taxes/Insurance/Licenses.** CONSULTANT shall be solely responsible for the payment of any federal, state, or local income tax, social security tax, workers' compensation insurance, state disability insurance, and any other taxes or insurance which CONSULTANT is responsible for paying as an independent contractor under federal, state or local law. At all times during the term of this Agreement, CONSULTANT shall have in full force and effect all licenses necessary for the performance of Services

hereunder, including without limitation, business licensing from CITY, all at the sole cost of CONSULTANT

- 5.9 **Full Compensation.** The consideration to be paid CONSULTANT as provided herein, shall be in compensation for all of the CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.
- 5.10 **Cost Principles.** The CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the allowability of cost individual items. The CONSULTANT also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to the CITY.

6. RECORDS.

- 6.1 **Financial Records.** CONSULTANT shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by CITY that relate to the performance of services under this Agreement. CONSULTANT shall also maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible.
- 6.2 **Access to Records.** CONSULTANT shall provide free access to the representatives of CITY or its designees, the State, and the FHWA, at reasonable times, to books and records as set forth in section 6.1; shall give CITY the right to examine and audit said books and records; shall permit CITY to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three years after receipt of final payment.
- 6.3 **Original Records.** Upon completion of, or in the event of termination or suspension of this Agreement, all completed and incomplete original agreements, data, documents, designs, drawings, exhibits, maps, models, computer files, reports, studies, surveys, notes, and other work, materials or documents prepared or used to prepare CONSULTANT's work product in the course of providing the Services pursuant to this Agreement ("CONSULTANT Work Product") shall become the sole property of CITY once the CONSULTANT has received payment. CITY may duplicate, disclose, disseminate, use, reuse or otherwise dispose of CONSULTANT Work Product in whole or in part in any manner it deems appropriate, without the permission of CONSULTANT. With respect to computer files, CONSULTANT shall make available to the CITY, at

CONSULTANT's office and upon reasonable written request by CITY, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files. CONSULTANT may retain copies of such CONSULTANT Work Product as a part of its record of professional activity.

- 6.4 **Retention of Records/Audit.** Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement, shall be reviewed by the CITY's CHIEF FINANCIAL OFFICE. Not later than 30 days after issuance of the final audit report, the CONSULTANT may request a review by the CITY's CHIEF FINANCIAL OFFICER of unresolved audit issues. The request for review will be submitted in writing. Neither the pendency of a dispute nor its consideration by CITY will excuse the CONSULTANT from full and timely performance, in accordance with the terms of this contract
- 6.5 **Audit Review Procedures.** For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable, and other matters connected with the performance of the Agreement pursuant to Government Code 8546.7, the CONSULTANT, subcontractors, and CITY shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under the contract. The State, the State Auditor, CITY, FHWA, or any duly authorized representative of the federal government shall have access to any books, records, and documents of the CONSULTANT that are pertinent to the Agreement for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. All subcontracts entered into as a result of this Agreement in excess of \$25,000 shall contain this provision.

7. TERMINATION.

- 7.1 **Termination Without Cause.** CITY may at any time terminate this Agreement or any portion thereof for any reason by giving CONSULTANT at least thirty (30) days prior written notice of such termination. Upon receipt of said notice, CONSULTANT shall immediately cease all work under this Agreement, unless the notice provides otherwise. If CITY suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.
- 7.2 **Termination With Cause.** CITY may terminate this Agreement with cause, effective immediately upon written notice of such termination to CONSULTANT, based upon the occurrence of any of the following events:
- Material breach of this Agreement by CONSULTANT;
 - Cessation of CONSULTANT to be licensed, as required;

- Failure of CONSULTANT to substantially comply with any applicable federal, state or local law or regulation;
- Filing by or against CONSULTANT of any petition under any law for the relief of debtors; and,
- Filing of a criminal complaint against CONSULTANT for any crime, other than minor traffic offenses.

7.3 **Payment Upon Termination.** In the event this Agreement is terminated, with or without cause, pursuant to this Section, CITY shall pay CONSULTANT for the outstanding balance owed up to the time of termination. Upon termination of the Agreement, CONSULTANT will submit an invoice to CITY as provided for herein.

8. **INSURANCE.** CONSULTANT shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in the attached Exhibit C, which is incorporated by this reference as though set forth in full.

9. **INDEMNIFICATION.**

Indemnification for Professional Liability. To the fullest extent permitted by law, CONSULTANT shall indemnify, protect, defend and hold harmless CITY and any of its officials, employees and agents ("**Indemnified Parties**") from and against any and all losses, liabilities, damages, costs and expenses, including attorneys fees and costs which arise out of the negligence, recklessness, or willful misconduct of the CONSULTANT.

10. **RELEASE OF INFORMATION.**

10.1 **Confidentiality.** All information gained by CONSULTANT in performance of this Agreement shall be considered confidential and shall not be released except to the CITY, directly or indirectly, by CONSULTANT without CITY's prior written authorization. CONSULTANT, its officers, employees, subcontractors or sub-CONSULTANTS shall not voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement unless requested by the City Attorney or authorized in writing by the City Manager. Response to a subpoena or court order shall not be considered "voluntary" provided that CONSULTANT shall give CITY prompt written notice of any such court order or subpoena.

Permission to disclose information on one occasion, or public hearing held by CITY relating to the contract, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion. CONSULTANT shall not comment publicly to the press or any other media regarding the Agreement or CITY's actions on the same, except when commenting to CITY's staff or CONSULTANT's own personnel involved in the performance of this Agreement at public hearings or in response to questions from a Legislative committee. CONSULTANT shall not issue any

news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this Agreement without prior review of the contents thereof by CITY, and receipt of CITY's written permission. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Article. Furthermore, all information related to the project construction estimate is confidential, and shall not be disclosed by the CONSULTANT to any entity other than CITY.

- 10.2 **Notice and Cooperation.** CONSULTANT shall promptly notify the CITY Manager and CITY Attorney in writing if CONSULTANT, its officers, employees, agents, or subcontractors or CONSULTANTS should be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order or subpoena from any person or party related to this Agreement and/or CONSULTANT's related Services. CITY has no obligation to, but may exercise discretion to represent CONSULTANT and/or be present at any deposition, hearing, or similar proceeding. CONSULTANT agrees to cooperate fully with CITY and to provide the CITY an opportunity to review any response to discovery requests provided by CONSULTANT. However, CITY's right to review any such response does not grant or imply a right of CITY to control, direct, dictate or rewrite said response.

11. **RELATIONSHIP TO CITY.**

- 11.1 **Independent Contractor.** CONSULTANT is and shall at all times remain as to the CITY a wholly independent contractor. The personnel performing the services under this Agreement on behalf of CONSULTANT shall at all times be under CONSULTANT's exclusive direction and control. Neither CITY nor any of its officers, employees or agents shall have control over the conduct of CONSULTANT or any of CONSULTANT's officers, employees or agents, except as set forth in this Agreement. CONSULTANT shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of CITY. CONSULTANT shall not incur or have the power to incur any debt, obligation or liability whatever against CITY, or bind CITY in any manner.
- 11.2 **No Employee Privileges.** No CITY employee benefits shall be available to CONSULTANT in connection with the performance of this Agreement. Except for the fees paid to CONSULTANT as provided in the Agreement, CITY shall not pay salaries, wages or other compensation to CONSULTANT for performing services hereunder for CITY. CITY shall not be liable for compensation or indemnification to CONSULTANT for injury or sickness arising out of performing services hereunder.
- 11.3 **CONSULTANT Duty to CITY.** CONSULTANT understands and agrees that its responsibility to provide complete and accurate Services is owed solely to CITY and that its accountability under this Agreement shall likewise be solely to CITY and not to any CITY applicants or any other third person or entity.
- 11.4 **Interest of CONSULTANT.** CONSULTANT represents and warrants to CITY that it presently has no interests, and covenants that it shall not acquire any interests, direct or indirect, financial or otherwise, which would conflict with the performance of the

services to be provided by CONSULTANT under this Agreement. CONSULTANT further covenants that, in the performance of this Agreement, no subcontractor or employee having such an interest shall be employed by CONSULTANT. CONSULTANT certifies that no one who has or will have any financial interest under this Agreement is: (a) an officer or employee of CITY, or (b). an officer or employee of the applicant and any of its CONSULTANTS.

11.5 **Undue Influence.** CONSULTANT declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of CITY in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement or financial inducement. No officer or employee of CITY will receive compensation, directly or indirectly, from CONSULTANT, or from any officer, employee or agent of CONSULTANT, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling CITY to any and all remedies at law or in equity

11.6 **Contingent Fee.** CONSULTANT warrants, by execution of this Agreement that no person or selling agency has been employed, or retained, to solicit or secure this Agreement upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by the CONSULTANT for the purpose of securing business. For breach or violation of this warranty, CITY has the right to annul this Agreement without liability; pay only for the value of the work actually performed, or in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

12. GENERAL PROVISIONS.

12.1 **Further Assurances.** CITY and CONSULTANT each agree to cooperate with one another, to use their best efforts, to act in good faith, and to promptly perform such acts and execute such documents or instruments as are reasonably necessary and proper to consummate the transactions contemplated by this Agreement.

12.2 **Notices.** All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if personally served or on the second day after mailing if mailed by first-class mail, registered or certified, return receipt requested, postage prepaid and properly addressed as follows:

To CITY:

Dave Durflinger, City Manager
City of Carpinteria
5775 Carpinteria Avenue
Carpinteria, CA 93013-2698
P: (805) 684-5405
F: (805) 684-5304

To CONSULTANT:

Craig Drake, Principal
Drake Haglan & Associates
11060 White Rock Road, Suite 200
Rancho Cordova, CA 95670
P: (916) 363-4210 x227
F: (916) 363-4230

Any party may change their address for the purpose of this paragraph by giving the other party written notice of the new address in the above manner.

The CITY's Contract Manager will be Charles W. Ebeling, PE, Public Works Director, Department of Public Works, City of Carpinteria.

- 12.3 **Legal Responsibilities.** CONSULTANT shall keep itself informed of state and federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The CONSULTANT shall reasonably observe and comply with such laws and regulations. The CITY and its officers and employees shall not be liable at law or in equity occasioned by failure of the CONSULTANT to comply with this Section.
- 12.4 **Licenses.** At all times during the term of this Agreement, CONSULTANT shall have in full force and effect, all licenses required by law for the performance of services described in this Agreement.
- 12.5 **Labor Conditions.** CITY is a public entity in the state of California, and therefore, CITY and CONSULTANT are subject to the provisions of the Government Code and the Labor Code of the state of California. All provisions of law applicable to public contracts and/or this Agreement are incorporated herein by this reference and are made a part of this Agreement to the same extent as if they were fully stated in the Agreement and shall be complied with by CONSULTANT.
- 12.6 **Labor Requirements.** CONSULTANT shall abide by all federal and California laws and regulations regarding wages, including, without limitation, the Fair Labor Standards Act and the California Labor Code, which, in part, require CONSULTANT to pay the general prevailing wage rates.
- 12.7 **State Prevailing Wage Rates.** The CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 177, and all federal, state, and local laws and ordinances applicable to the work. Any subcontract entered into as a result of this Agreement, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article.
- 12.8 **National Labor Relations Board Certification.** In accordance with Public Contract Code Section 10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, due to CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

- 12.9 **Discrimination.** No person shall be excluded from employment in the performance of this Agreement on the grounds of race, creed, color, sex, age, marital status, sexual orientation, or place of national origin. CONSULTANT shall comply with all local, state, and federal laws relating to equal employment opportunity rights.
- 12.10 **Assignment.** CONSULTANT shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of CITY, which shall have the sole discretion to consent to any proposed assignment. Because of the personal nature of the Services to be rendered pursuant to this Agreement, only CONSULTANT shall perform the services described in this Agreement.
- 12.11 **Waiver.** No waiver of a provision of this Agreement shall constitute a waiver of any other provision, whether or not similar. No waiver shall constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.
- 12.12 **Construction of Terms.** All parts of this Agreement shall in all cases be construed according to their plain meaning and shall not be construed in favor or against either of the parties. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, in whole or in part, the remainder of this Agreement shall remain in full force and effect and shall not be affected, impaired or invalidated thereby. In the event of any provision shall be adjudged invalid, void or unenforceable, the parties hereto agree to enter into a supplemental agreement to effectuate the intent of the parties and the purposes of this Agreement.
- 12.13 **Controlling Law.** The CITY and CONSULTANT understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement, with venue proper only in the County of Santa Barbara, State of California.
- 12.14 **Attorneys Fees.** In the event any action is brought to enforce or interpret the terms of this Agreement or for damages on account of the breach hereof, the prevailing party therein shall be entitled to recover from the other party its costs and expenses incurred in connection therewith, including without limitation, reasonable attorneys fees and the costs and expenses of litigation.
- 12.15 **Authorization.** All officers and individuals executing this and other documents on behalf of the respective parties hereby certify and warrant that they have the capacity and have been duly authorized to execute said documents on behalf of the entities indicated.
- 12.16 **Disputes.** Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed of by agreement shall be decided by a committee consisting of the CITY's Contract Manager and City Manager, who may consider written or verbal information submitted by the CONSULTANT. Not later than 30 days after completion of all work under the contract, the CONSULTANT may request review by the City Council of unresolved claims or disputes, other than audit. The request for review will be submitted in writing. Neither the pendency of a dispute, nor its

consideration by the committee will excuse the CONSULTANT from full and timely performance in accordance with the terms of this contract.

- 12.17 **Change in Terms.** This Agreement may be amended or modified only by mutual written agreement of the parties. The CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by the CITY's Contract Manager. There shall be no change in the CONSULTANT's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this Agreement without prior written approval by the CITY's Contract Manager.
- 12.18 **Disadvantaged Business Enterprise (DBE) Participation.** For the Scope of Work, CITY has a Disadvantaged Business Enterprise (DBE) goal of 3.57%. CONSULTANT has submitted to CITY completed Caltrans Form 10-O2 reflecting the DBE commitment by CONSULTANT which is attached as part of Exhibit D to this Agreement. In addition, CONSULTANT is required to include in applicable Subcontracts the DBE contract language show in the attached Exhibit Standard Agreement for Subcontractor/DBE Participation (Exhibit D).
- 12.19 **Subcontracting.** The CONSULTANT shall perform the work contemplated with resources available within its own organization; and no portion of the work pertinent to this Agreement shall be subcontracted without written authorization by CITY's Contract Manager, except that which is expressly identified in the approved Cost Proposal. Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all the provisions stipulated in this Agreement to be applicable to subcontractors. Any substitution of subconsultants must be approved in writing by CITY's Contract Manager.
- 12.20 **Safety.** CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by CITY Safety Officer and other CITY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the project site. Pursuant to the authority contained in Section 591 of the Vehicle Code, CITY has determined that such areas are within the limits of the project and are open to public traffic. As such, CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles. Any subcontract entered into as a result of this Agreement, shall contain all of the provisions of this Article.
- 12.21 Prior authorization in writing, by the CITY's Contract Manager shall be required before the CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. The CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.

For purchase of any item, service or consulting work not covered in the CONSULTANT's Cost Proposal and exceeding \$5,000 prior authorization by the CITY's

Contract Manager; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

Any equipment purchased as a result of this contract is subject to the following: "The CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, the CITY shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, the CONSULTANT may either keep the equipment and credit the CITY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established CITY procedures; and credit the CITY in an amount equal to the sales price. If the CONSULTANT elects to keep the equipment, fair market value shall be determined at the CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by the CITY and the CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the CITY." 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5000.00 is credited to the project.

All subcontracts in excess \$25,000 shall contain the above provisions.

- 12.22 **Ownership of Data.** Upon completion of all work under this Agreement, ownership and title to all reports, documents, plans, specifications, and estimates produced pursuant to this Agreement will automatically be vested in the CITY; and no further agreement will be necessary to transfer ownership to the CITY. CONSULTANT shall furnish CITY all necessary copies of data needed to complete the review and approval process.

It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the construction of the project for which this Agreement has been entered into.

CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by CITY of the machine-readable information and data provided by CONSULTANT under this Agreement; further, CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with any use by the CITY of the project documentation on other projects for additions to this project, or for the completion of this project by others, except only as such use may be authorized in writing by CONSULTANT.

Applicable patent rights provisions described in 41 CFR 1-91, regarding rights to inventions, shall apply to this Agreement.

CITY may permit copyrighting reports or other Agreement products. If copyrights are permitted by CITY, the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for government purposes.

Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

- 12.23 **Claims Filed By CITY Construction Contractor.** If claims are filed by CITY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from the CONSULTANT's personnel is required in order to evaluate or defend against such claims, CONSULTANT agrees to make its personnel available for consultation with CITY's construction contract administration and legal staff, and for testimony, if necessary, at depositions and at trial or arbitration proceedings. CONSULTANT's personnel that CITY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from CITY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel services under this Agreement. Services of CONSULTANT's personnel in connection with CITY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Agreement in order to resolve the construction claims. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.
- 12.24 **Evaluation of CONSULTANT.** CONSULTANT's performance will be evaluated by the CITY. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the contract record.
- 12.25 **Statement of Compliance.** CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
- 12.26 **Debarment and suspension Certification.** CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT has complied with Title 49, Code of Federal Regulations, Part 29, Debarment and Suspension Certificate, which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency, has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years, does not have a proposed debarment pending, and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to CTY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
- 12.27 **Conflict of Interest.** CONSULTANT shall disclose any financial, business, or other relationship with CITY that may have an impact upon the outcome of this Agreement, or

any ensuing CITY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this Agreement, or any ensuing CITY construction project which will follow. Furthermore, CONSULTANT hereby certifies that it does not now have, nor shall it acquire, any financial or business interest that would conflict with the performance of services under this Agreement. Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all of the provisions of this Article.

CONSULTANT hereby certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise. Except for subcontractors whose services are limited to providing surveying or materials testing information, no subcontractor who has provided design services in connection with this Agreement shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract

12.28 **Rebates, Kickbacks or Other Unlawful Consideration.** CONSULTANT warrants that this Agreement was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to CITY employee. For breach or violation of this warranty, CITY shall have the right in its discretion, to terminate this Agreement without liability, to pay only for the value of the work actually performed, or to deduct from the Agreement price, or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

12.29 **Prohibition of Expending CITY, State or Federal Funds for Lobbying.** CONSULTANT certifies to the best of his or her knowledge and belief that:

- a. No state, federal or local agency appropriated funds have been paid, or will be paid by or on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract, the making of any state or federal grant, the making of any state or federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this Agreement was entered into. Submission of this certification is a prerequisite for making or entering into this Agreement, imposed by Section 1352, Title 31, US. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CONSULTANT also agrees by signing this Agreement that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly.

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

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

- 12.31 **Entire Agreement.** This Agreement, along with its attached exhibits, which are incorporated herein by this reference, constitutes the entire Agreement between the parties and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. This Agreement may be altered, amended or modified only by a supplemental writing executed by the parties to this Agreement and by no other means. Each party waives any future right to claim, contest, or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreement, course of conduct, waiver or estoppel.
- 12.32 **Counterparts.** This Agreement may be executed in counterparts, each of which shall remain in full force and effect as to each party.

IN WITNESS WHEREOF, the parties have executed this Agreement at the place and as of the date first written above.

"CITY"
City of Carpinteria

By: _____
David Durflinger, City Manager

, P.E. Director

APPROVED AS TO FORM:
City of Carpinteria

By: _____
Peter Brown, City Attorney

"CONSULTANT"
Drake Haglan and Associates, Inc.

By: _____
Dennis M. Haglan, President

By: _____
Craig C. Drake, CFO

LIST OF ATTACHMENTS

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EXHIBIT B – DHA FEE SCHEDULE

EXHIBIT C - INSURANCE REQUIREMENTS

EXHIBIT D – SUPPLEMENTAL FEDERAL PROVISIONS

EXHIBIT A

DHA SCOPE OF SERVICES

EXHIBIT "A"**SCOPE OF SERVICES**

**ENVIRONMENTAL, PLANS, SPECIFICATIONS AND ESTIMATES (PS&E),
RIGHT OF WAY ENGINEERING AND RIGHT OF WAY ACQUISITION SERVICES
FOR
THE CARPINTERIA AVENUE BRIDGE PROJECT**

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PROJECT BACKGROUND

The City of Carpinteria (CITY) has initiated this project to replace the Carpinteria Avenue Bridge over Carpinteria Creek utilizing the federal-aid Highway Bridge Program (HBP) funding. The existing bridge has been classified by Caltrans Bridge Maintenance as structurally deficient due to deterioration of the bridge deck. The Drake Haglan & Associates team (CONSULTANT) will perform the following Scope of Services.

PROJECT DESCRIPTION

Replace the deficient bridge with a new bridge in the same location, in accordance with the requirements of the federal-aid Highway Bridge Program. The project will result in replacement of the existing bridge with at least a similar width bridge, and at most a deck as wide as the existing approach roadways. Due to hydraulic capacity issues, the new bridge will also be higher and longer than the existing bridge to provide required channel capacity for the design and base floods.

Changes to the vertical grade of the roadway at the bridge may be significant, so the roadway profile will affect side streets, driveways, walkways and other hardscape features in the vicinity of the bridge. Surface drainage patterns within the project area will be adjusted as needed, and existing storm drain inlets will be adjusted or augmented as needed. Existing storm drain outlets into the creek will be maintained or restored at or close to their current locations. Any sidewalk features involving driveways, curb ramps, etc, will be per CITY Standards.

Along the roadway approaches, retaining walls may be needed to avoid encroachments into private property. Resulting grade differentials may necessitate reconstruction of access points to adjacent properties. The rise of roadway profile at the bridge may also result in approach roadway construction exceeding the allowable length for an HBP funded project, so appropriate justification memos will be prepared to gain approvals for the entire length of the roadway reconstruction.

ITEMS OF WORK

The following CONSULTANT services are needed to engineer and produce the construction documents for the replacement of the Carpinteria Avenue Bridge over Carpinteria Creek. CONSULTANT shall be responsible for conceptual design, preliminary engineering and environmental documentation, final engineering design, drafting and miscellaneous work associated with the design. Work shall include preparation of construction Plans, Specifications and Engineer's Estimate (PS&E). Work includes preparation of reports, exhibits, details and schedules needed during the design and environmental process including permits.

The CONSULTANT shall prepare the construction plans, specifications, and engineer's cost estimate in English units and in accordance with the latest editions from the following design standards:

- A Policy on Geometric Design of Highways and Streets, AASHTO
- CITY of Carpinteria Municipal Code
- CITY of Carpinteria Stormwater Management Plan
- Caltrans Highway Design Manual
- Caltrans Traffic Manual
- Special Policies amending the Traffic Manual by Caltrans District 5
- Caltrans Standard Plans and Specifications
- Caltrans Standard Special Provisions
- Caltrans Bridge Design Specifications, Division of Structures (AASHTO)
- Caltrans Bridge Details Manual, Division of Structures
- Caltrans Bridge Design Aids Manual, Division of Structures
- Caltrans Bridge Memos To Designers, Division of Structures
- Caltrans Bridge Design Practice Manual, Division of Structures
- Caltrans Plans Preparation Manual
- Caltrans Structural Detailing Standards
- Caltrans Local Assistance Procedures Manual
- Caltrans Local Programs Guidelines Manual

For each submittal review, the CITY will prepare a consolidated written list of comments and notations on the plan sheets. The CONSULTANT will respond to comments, changes and/or corrections obtained from the CITY review comments on the subsequent submittal. If the comments are not incorporated, the CONSULTANT will address why the comments were not incorporated.

CONSULTANT is responsible for all aspects of the Caltrans review process and to provide Caltrans with necessary draft and final documents.

Services to be provided by CITY:

The service to be provided by the CITY shall include, but not necessarily be limited to:

1. Providing general direction to the design consultant firm through the CITY Public Works Director; and
2. Surveys and topographical mapping from prior studies; and
3. Coordinating inter-departmental Project issues with CITY staff.

Services to be provided by CONSULTANT:

The project scope of services is divided into three phases that conforms to the City of Carpinteria Project Approval Process:

Phase 1 – Conceptual Design is the work needed to define the project and gain approval of the replacement bridge concept by the Project Development Team (PDT).

Phase 2 - Preliminary Engineering & Environmental Documentation is the work necessary to obtain environmental clearance for the project and Right-of-Way

Authorization from Caltrans Local Assistance. Phase 2 includes applications, reviews and approvals from the CITY Planning Commission and the Architectural Review Board (ARB) and the Environmental Review Committee (ERC).

Phase 3 – Final Design includes the preparation of the Plans Specifications & Estimate (PS&E), securing the necessary permits, preparation of documents for right-of-way acquisition and utility relocation agreements.

The project team is led by Drake Haglan & Associates as the prime consultant, with the following subconsultants performing various tasks as indicated in the Scope of Services. The DHA team firms are noted under each task in the Scope of Services. Where the term CONSULTANT is used in the scope, it refers to DHA with one or more of these subconsultants working under the direction of DHA.

Firm	Project Role
Drake Haglan & Associates (DHA)	Prime Consultant
Avila and Associates (Avila)	Hydraulics
Ayers & Associates (Ayers)	Public Outreach
Cardenas & Associates (Cardenas)	Surveying
Fugro Consultants (Fugro)	Geotechnical Engineering
Hamner, Jewell & Associates (HJA)	Right of Way Appraisals & Acquisitions
Padre Associates (Padre)	Environmental Services
Van Atta Associates, Inc. (VAI)	Landscape Architecture

All project deliverables will be delivered to the CITY by DHA.

PHASE 1 CONCEPTUAL DESIGN

The Conceptual Design phase begins with confirmation of the existing hydraulic modeling for the bridge provided by the CITY. Evaluation and confirmation of the water surface elevations and flow characteristics will lead to definition of the project constraints and confirmation of the design parameters such as bridge type, deck configuration, roadway profile and preliminary right of way impacts. The technical information needed for this phase includes surveys and mapping, geotechnical exploration with preliminary geotechnical studies, hydraulic analysis of the existing conditions and hydraulic modeling of bridge alternatives.

A Project Development Team (PDT) will be assembled for the project, consisting of the CITY Public Works Director and other key CITY representatives from engineering and planning, along with the CONSULTANT Project Manager and key design team staff and Caltrans Local Assistance. The PDT will approve the project concept design in Phase 1, and will be monitoring the project through preliminary and final design.

TASK 1.1 PROJECT MANAGEMENT (PHASE 1)

TASK 1.1.1 PROJECT MANAGEMENT (PHASE 1) (DHA)

CONSULTANT will manage the project by tracking the schedule, budget and value of the products produced. CONSULTANT will create and maintain an "issues log" for the project, which will include each issue encountered that requires a decision, the responsible decision-maker for that issue, and the date the decision was made. This "issues log" will be transmitted to the CITY on a regular basis.

Progress summary reports will be prepared and submitted to the CITY each month. The progress summary reports will identify work completed to date, work anticipated for the next month, and action items necessary to keep the project on track and moving forward, in bullet point format. CONSULTANT will also maintain the schedule to forecast workload on the project including design, environmental, right-of-way and permitting activities. An updated schedule will be delivered each month with the progress report. The monthly progress report will include detail of expenditures by task and milestone.

CONSULTANT will provide internal quality control on products submitted to the CITY. Quality control checkpoints will be shown on the project schedule.

The CONSULTANT will coordinate with the CITY, Caltrans, County Flood Control, U.S. Army Corps of Engineers and other public agencies as needed for design of the bridge. This task includes coordination with the CITY directly with the CITY Public Works Director and indirectly with the CITY surveyor and CITY planning department.

Services include preparation of Caltrans Local Assistance funding paperwork, such as Exhibits 6-D & 6-B, Request for R/W and Construction Authorizations, PS&E Certification Checklist, etc.

CONSULTANT Project Manager will be available to attend internal CITY planning meetings (Planning Commission, ARB, and ERC).

TASK 1.1.2 PROGRESS MEETINGS AND PDT MEETINGS (PHASE 1) (ALL FIRMS)

CONSULTANT Project Manager and appropriate staff will meet with the CITY and others by phone and in person as necessary to manage and deliver this project. It is assumed that most progress meetings can be held by phone. For purposes of this scope, one face-to-face meeting each month at the CITY offices (with PDT) is assumed. Regular team teleconference meetings will be scheduled bi-weekly to keep the CITY and the design team informed of the status of the project and to encourage timely actions from the design team.

The first meeting will be the Project Kick-Off meeting with the PDT, to be held at the CITY offices. The scope assumes that the PDT will meet monthly during the Conceptual Design Phase.

1.1.3 DEVELOP AND UPDATE PROJECT SCHEDULE (DHA)

CONSULTANT will develop a project schedule using Microsoft Project. The schedule will be provided to the City in both digital and hard copy.

CONSULTANT will provide an updated project schedule and reports of progress to the City at a minimum of monthly intervals. The schedule will show technical study milestones and meeting dates during conceptual review (Phase1).

DELIVERABLES TASK 1.1

- Monthly Progress Summary Reports with Issues Log
- Monthly Updated Project Schedule
- Meeting Agendas and Notes

TASK 1.2 SURVEYS AND MAPPING (CARDENAS)

The CITY will provide the surveys and mapping that were used to develop the prior hydraulics study. The CONSULTANT will supplement this mapping with field surveys as needed to prepare a complete topographic map and digital terrain model suitable for the design of the replacement bridge.

CONSULTANT will prepare the base map at 1 inch = 20 feet scale with 1 foot contour interval and a color orthophoto in the background. The limits of the topographic base map will 500 feet each way from the center of the existing bridge and generally 25-ft behind the back of the sidewalk. Additional areas will be mapped as needed for creek trail reconstruction and contractor access. The map will show existing improvements, trees greater than 4 inches in diameter and any above ground visible utilities within the mapping area. The existing ground conditions will be shown via spot elevations & contours. The mapping will include property lines, right of way lines, existing easements and parcel identification information.

The mapping basis for vertical datum will be NAVD88 and coordinate basis will be NAD83.

DELIVERABLES TASK 1.2

- Topographic Basemap and Survey Control Data Sheet
- Creek Cross Sections and Profile (by CITY)
- Digital Terrain Model (including R/W and Utilities) in AutoCAD 3D format

TASK 1.3 PHASE 1 COMMUNITY OUTREACH AND PRESENTATIONS (AYERS)

This task includes project components to begin community outreach during the conceptual design phase. In general, the objective will be to create a baseline of overall awareness, answer key questions, and work with the PDT to identify any issues that could arise during construction. The main areas of outreach will focus on the following key audiences:

- Carpinteria residents & property owners

- Carpinteria businesses

Special emphasis will be given to residents and businesses that traverse the project area on a daily basis, generally using Carpinteria Avenue between the bridge project site and Bailard Avenue.

Strategic Outreach Plan

CONSULTANT will work with the PDT to solidify community outreach goals, timelines, events, and overall strategy, including developing plans and timelines for:

- Message development
- Public outreach strategy

Message Development

CONSULTANT will work with the PDT to craft a succinct project messaging to introduce overall goals, timelines, and development - tell the "story" of the project. Specific activities include:

- Design of a project logo
- Draft of the initial message points for team: project summary
- Create a project fact sheet & map
- Develop Q & As for anticipated questions and interest areas
- Develop talking points related to project components, construction timeline, and general inconveniences
- Develop separate traffic study fact sheet w/ graphics as needed

Public Outreach Strategy

CONSULTANT will work with the PDT to position the project in the best light, highlighting benefits, and addressing potential concerns or controversial issues. The Public Outreach Strategy will include the following activities:

- Creation of a project web page for the City of Carpinteria website
- Creation of an outreach timeline to reach key businesses and homeowners
- Development of outreach components (including mailers, events, meetings, etc.)
- Facilitation of 3 public meetings during conceptual design phase
- Presentations to, and meetings with, key community leaders and area business owners to introduce project and solicit feedback on issues important to area residents, businesses and community organizations

TASK 1.4 PRELIMINARY HYDRAULIC & SCOUR ANALYSIS (AVILA)

CONSULTANT will direct and oversee the work of Avila and Associates to provide the hydraulic studies, reports and consultations. The hydraulic report will follow the

Caltrans Preliminary Final Hydraulic Report Format in accordance with Memos to Designers 1-24 and will be prepared in accordance with the Caltrans Local Assistance Program Guidelines.

TASK 1.4.1 CONFIRM EXISTING MODELING

Obtain relevant project information including but not limited to the following:

1. Caltrans and City of the Carpinteria information on the existing bridge such as supplemental bridge maintenance reports.
2. Historic hydraulic reports for bridge analysis from Caltrans Structure Hydraulics (if available).

Field review the proposed bridge reach, review the maintenance reports for the existing bridge as well as adjacent bridges over Carpinteria Creek to determine potential scour, drift and overtopping challenges associated with the bridge.

Verify FEMA discharges for the design event, 50- and 100-year flood events.

DELIVERABLES TASK 1.4.1

- Estimate of discharge to be incorporated in the draft hydraulic report

TASK 1.4.2 HYDRAULIC ANALYSIS

Obtain hydraulic parameters (water surface elevations and velocity) from the Army Corps of Engineers HEC-RAS (Hydraulic Engineering Center River Analysis System) model based on:

1. The HEC-RAS model developed by Avila and Associates for the Conditional Letter of Map Revision to be prepared under a separate contract
2. As-built data
3. A reconnaissance level field investigation by Avila and Associates.

Calibration

Research calibration data to determine if any high-water elevations were recorded for the flood of record. If calibration data is found, use it to calibrate the HEC-RAS model by running the HEC-RAS model and adjusting the model parameters until the discharge associated with the highwater elevations are replicated with the model. Input variable discharges into HEC-RAS to determine the discharge that provides a water surface elevation of matching the calibration data. Use calibration data to validate the hydraulic model for the bridge.

The Hydraulic Model – HEC-RAS Analysis

Describe the river reach. Estimate Manning's "n" values for the channel and overbank from field investigation and engineering judgment.

Re-run the HEC-RAS model for various design discharges for up to 4 proposed bridge substructure configurations. Determine the hydraulic variables (water surface elevation, velocity etc.) for the design discharge, 50- and 100-year discharges. Provide results from the hydraulic analysis in both tabular as well as graphical output formats.

Hydraulic Criteria

Chapter 800 of the Caltrans Highway Design Manual (HDM) delineates the hydraulic design criteria for bridges. The basic rule for hydraulic design is that bridges should be designed to pass the Q50 with sufficient freeboard and convey the Q100 without freeboard, exceptions may be granted if sufficient evidence is provided. The HDM notes that 2 feet of freeboard is often assumed for preliminary bridge designs but leaves the recommendation for freeboard to the judgment of the hydraulic engineer based primarily upon the debris anticipated at the bridge.

Drift

Research bridge maintenance records for existing bridges upstream and downstream of the proposed bridge to determine if any maintenance challenges have occurred such as debris getting caught on the bridge piers. Use this information to determine the necessary freeboard, span lengths and the type of bridge pier that will minimize debris capture.

Review maintenance records for the existing and adjacent bridges over Carpinteria Creek to determine if the stream has degraded over time. Estimate contraction and abutment scour using the methods described in the Federal Highway Administration (FHWA) Publication HEC-18, Evaluating Scour at Bridges.

Estimate preliminary bridge scour for up to three alternative pier configurations. Use the Colorado State University Equation (CSU) for estimating local pier scour as recommended in the Federal Highway Administration (FHWA) Publication HEC-18, Evaluating Scour at Bridges. Prepare calculations to determine the need for bank protection. If bank protection is required, provide parameters according to the Bank and Shore Protection Manual using a layered Caltrans Design.

Develop a draft report documenting the hydrology, hydraulics, and scour for the 4 bridge alternatives.

Utilize the HEC-RAS model developed for the Conditional Letter of Map Revision by Avila and Associates Consulting Engineers, Inc. (under separate contract) as the existing conditions model for the bridge replacement project. Estimate degradation using straight line extrapolation using best available data if no numeric sediment transport models are available.

If hydraulic calculations show that bank protection is necessary, it is assumed that rock slope protection will be utilized as the bank protection.

Analysis and design of alternative types of bank protection is beyond this scope of services and will require a separate analysis, (see optional services below).

DELIVERABLES TASK 1.4.2

- Draft Hydraulic Report in PDF format.

TASK 1.5 MATERIALS AND FOUNDATIONS REPORTS (FUGRO)

CONSULTANT will direct and oversee the work of Fugro as CONSULTANT geotechnical staff to provide the geotechnical studies, reports and consultations. The geotechnical services for conceptual design include the Preliminary Geotechnical Report, subsurface explorations and laboratory testing and preparation of a draft Geotechnical Report.

TASK 1.5.1 RECONNAISSANCE AND DATA REVIEW

Compile and review selected geotechnical data in existing files. The purpose of the review is to characterize the geotechnical and geologic conditions at the site prior to performing site-specific subsurface exploration. Visit the site to observe the bridge and adjacent conditions and take photos of the structure and surrounding area.

TASK 1.5.2 PRELIMINARY GEOTECHNICAL REPORT

CONSULTANT will prepare a Preliminary Geotechnical Report using information obtained from available existing geotechnical engineering data to document findings, preliminary opinions, and preliminary recommendations for the new bridge. Geotechnical information provided in the Preliminary Geotechnical Report will consist of:

- Generalized soil and groundwater conditions at the bridge site
- Preliminary seismic information and a qualitative assessment of geologic hazards
- General seismic data, estimated peak ground acceleration, and preliminary site response spectra for the project using the Caltrans web application ARS On-Line
- Geotechnical input to potential foundation types, their advantages/disadvantages for the project site, and our recommended foundation type
- Preliminary opinions regarding construction considerations related to excavation characteristics of the soils encountered, adjacent structures, groundwater and dewatering, pile driving, and CIDH pile construction.

TASK 1.5.3 SUBSURFACE EXPLORATION PROGRAM

CONSULTANT will collect data for the design of the new bridge with a subsurface exploration program consisting of advancing two to three cone

penetrometer test (CPT) soundings and excavating, sampling, and logging two mud-rotary drill holes at the site. Based on initial review of site information, the explorations are expected to reach depths of about 80 to 100 feet.

CONSULTANT will mark exploration locations (borings and CPT) in the field and contact Underground Service Alert. CONSULTANT will prepare and submit an encroachment permit application and traffic control plan to the City of Carpinteria for the field work. CONSULTANT will secure necessary permits from the Ca. Dept of Fish and Game and the Regional Water Quality Control Board for borings within the creek channel. Traffic control services will be provided during the subsurface exploration program.

TASK 1.5.4 GEOTECHNICAL LABORATORY TESTING

CONSULTANT will perform geotechnical laboratory tests on selected samples for characterization of geotechnical engineering properties and design parameters. The actual tests will be selected on the basis of the soil material types encountered and will consist of one or more moisture-density, shear strength tests, UU triaxial, corrosion, consolidation, and classification tests.

TASK 1.5.5 ENGINEERING EVALUATION AND PREPARATION OF A DRAFT FOUNDATION REPORT

CONSULTANT will compile the field and laboratory results and prepare a structure Foundation Report for the new bridge. The Foundation Report will be prepared in accordance with Caltrans guidelines and will provide opinions and recommendations regarding the design of the bridge foundations. The report will include the following:

- Soil, rock, and groundwater conditions encountered;
- Site geology, faulting and seismicity;
- Updated potential for geologic hazards to impact the project (such as seismic shaking, liquefaction, slope instability and lateral spreading, landslides, flooding and inundation, and subsidence);
- Seismic data for use with Caltrans design methods (causative fault, peak bedrock acceleration, depth to bedrock, soil profile type, increases for fault type, increases for near-source faults, and design response spectra developed using Caltrans' web application ARS On-Line;
- Corrosion considerations for design of subsurface structures in accordance with Caltrans guidelines;
- Recommended deep foundation type for the conditions encountered (such as driven concrete or steel piles, CISS piles, or CIDH piles);

- Recommended deep foundation capacities for axial compression and tension loading conditions
- Liquefaction-related consequences and effects on deep foundations such as downdrag forces and settlement;
- Lateral capacity of pile foundations for free-head and fixed-head conditions based on p-y analysis;
- Pile spacing and group reduction factors for vertical and lateral loads;
- Lateral earth pressures, spring constants, and passive pressure resistance for abutment design; and
- Construction considerations: need for dewatering, pile driving, CIDH pile construction, adjacent structures, temporary excavations, shoring, and need for monitoring during construction.

CONSULTANT will prepare a log of test borings sheet (LOTB) for the proposed replacement bridge. The sheet(s) will be prepared on Caltrans standard plan sheets for logs of test borings modified to incorporate the City's plan sheet border.

DELIVERABLES TASK 1.5

- Preliminary Foundation Report (PFR)
- Draft Foundation Report

TASK 1.6 PRELIMINARY ENGINEERING (CONCEPT LEVEL DESIGN) (DHA)

This task includes the engineering studies and project plans needed to define the project so that the PDT can approve the conceptual design.

TASK 1.6.1 PROJECT CONSTRAINTS ANALYSIS

CONSULTANT will prepare project constraints analysis that includes physical site constraints, environmental constraints and regulatory constraints that will affect the development of the project concepts.

The physical site constraints will be presented on mapping and an aerial photograph, and includes constraints such as existing ROW, trees, archeological concerns, traffic handling, final deck width, utilities, hydraulics, existing topography, etc. The environmental constraints will consist of biological, archeological and other resources that may influence the design of the project.

The CONSULTANT will review the regulatory constraints contained within the various City, County, State and Federal regulations that may influence the design. The review will also include identification of conflicting regulations that pertain to the project, especially with regard to City General Plan policies and other planning policies that may influence the project.

TASK 1.6.2 PREPARE INITIAL CONCEPTS

Upon completion of the topographic mapping, hydraulic modeling and project constraints analysis, initial bridge replacement concepts will be developed in consultation with the PDT. Up to five initial concepts identified by the PDT will be further defined and with the development of Bridge Advance Planning Studies, including associated roadway horizontal alignment and vertical profiles. These initial concepts will be used to present the concepts first to departments within the CITY, and then to the public through the outreach meetings.

TASK 1.6.3 CONCEPT REVIEWS AND REFINEMENTS

During this task, it is assumed that the CITY will meet internally to discuss the five alternatives, and that the PDT will meet to discuss the concept APS's and geometrics. This task includes coordination and refinement of the five concept alternatives based on the internal CITY and PDT reviews.

Once the CITY internal reviews and PDT reviews are complete, public comments will be solicited from a public meeting.

TASK 1.6.4 PREPARE PREFERRED CONCEPT

Upon completion of the concept reviews, the CITY will select a preferred concept for the replacement bridge. CONSULTANT will develop conceptual drawings and renderings to illustrate the outward appearance of the replacement bridge. The renderings will include a computer generated 3-D perspective view showing the replacement bridge, especially the bridge railings and other highly visible features of the bridge. The renderings will be suitable for presentation to the ARB, City Council and the general public.

The CONSULTANT will attend ARB, Planning Commission and City Council meetings as requested to present the conceptual design. CONSULTANT will provide Craig Drake and staff from Van Atta Associates to assist the CITY in making presentations.

TASK 1.6.5 CONCEPT APPROVAL**30% Plans**

Upon approval of the replacement concept by the CITY and the PDT, a Bridge General Plan and geometric alignment drawings (30% plans) will be developed for the approved project concept.

Bridge Type Selection

As part of the Caltrans HBP oversight process, selection of the replacement bridge type needs to be documented in accordance with Caltrans Memo to Bridge Designers 1-29. A formal Bridge Type Selection meeting is not anticipated, but a technical memorandum documenting the Type Selection will be prepared and submitted to the CITY for transmittal to Caltrans.

Concept Approval Report

Upon approval of the project concept and Bridge General plan by the CITY and Caltrans, the project description will be prepared for the environmental document. The Bridge General Plan will be finalized and circulated to the CITY and other agencies and stakeholders as necessary.

A Bridge General Plan Estimate will be prepared and combined with an updated roadway estimate to produce a complete updated project preliminary estimate of construction cost.

The information developed during the concept studies and Type Selection study will be assembled into a technical memorandum titled "Concept Approval Report" that includes:

- Preliminary concepts studied with approved concept
- Pros and cons of each concept as it relates to the site constraints
- Anticipated right-of-way (temporary and permanent), construction staging and access plan, utility relocation and accommodation concepts and any anticipated design exceptions for approved concept
- Preliminary quantities and estimated construction cost for approved concept
- List of any design decisions needed from the CITY
- List of issues that will be resolved during final design

DELIVERABLES – TASK 1.6

- Tech Memo – "Concept Study"
- Bridge Type Selection Study
- Bridge General Plan
- 30% Roadway Plans
- Technical Memo – "Concept Approval Report"

PHASE 2 PRELIMINARY ENGINEERING & ENVIRONMENTAL DOCUMENTATION

CITY will authorize CONSULTANT to proceed with Phase 2 upon completion of Phase 1.

TASK 2.1 PROJECT MANAGEMENT (PHASE 2)

TASK 2.1.1 PROJECT MANAGEMENT (PHASE 2) (DHA)

This is the continuation of Project Management into Phase 2. See the Phase 1 Project Management for the details of this task.

TASK 2.1.2 PROGRESS MEETINGS (PHASE 2) (ALL)

This is a continuation of Progress Meetings into Phase 2, except there will be no kick-off meeting.

DELIVERABLES TASK 2.1

- Monthly Progress Summary Reports with Issues Log
- Monthly Updated Project Schedule
- Meeting Agendas and Notes

TASK 2.2 ENVIRONMENTAL TECHNICAL STUDIES (PADRE)

The technical studies included in this Task are based on the PES Form prepared for the project. Some of the technical studies listed in the RFP (traffic impact, historic resources, Section 4F) are not included in this Scope of Services as they are not anticipated to be required by Caltrans. Traffic studies are not needed since the project will not change traffic volumes, number of lanes or roadway alignment. The existing bridge has been evaluated and found not to be eligible for listing on the National Register of Historic Places; therefore, a historic resources evaluation report is not expected to be needed. The project would not directly affect publicly owned parks or historic sites; therefore, a Section 4F analysis is not required.

TASK 2.2.1 VISUAL IMPACT ASSESSMENT (VIA)

Complete a visual impact assessment checklist as required by Caltrans District 5 to determine the level of documentation required. Prepare a VIA memo or abbreviated VIA in conformance with the Caltrans SER and Federal Highway Administration's (FHWA) Technical Advisory T6640.8A. Photo simulations or renderings prepared for public outreach will be used as exhibits for the VIA. The VIA will be submitted for City and Caltrans review and revised as required to obtain approval from Caltrans.

TASK 2.2.2 NOISE TECHNICAL MEMORANDUM

Prepare a Technical Memorandum, focusing on measures to reduce construction noise impacts on adjacent residences. The Technical Memorandum will include a discussion of sensitive noise receptors near the project site, estimation of peak noise levels at the nearest receptors using

the Roadway Construction Noise Model, and avoidance and minimization measures to reduce noise levels at these receptors.

TASK 2.2.3 NATURAL ENVIRONMENT STUDY (NES), WETLANDS STUDY AND BIOLOGICAL ASSESSMENT (BA):

Prepare the NES in accordance with the latest District 5 NES template, and methodology outlined in the Caltrans *Environmental Handbook, Volume 3 - Biological Resources, Chapter 2 – Natural Environment Study*. Biological issues identified to date include listed species (tidewater goby, southern steelhead), bats using the bridge as a night roost and monarch butterfly roost (Salzberger Grove). The project site has also been identified as an environmentally sensitive habitat area in the City's Coastal Plan. Important sources of information for NES preparation will include the Carpinteria Creeks Preservation Program report and the Carpinteria Creek Watershed Plan.

Biological surveys will be completed according to the required seasonal timing, and will include botanical surveys, general wildlife surveys, a general fisheries survey and bat acoustical survey. Based on the results of fisheries surveys conducted in 1995 and 1999, the endangered tidewater goby is assumed to be present at the project site during periods of sufficient surface water. The U.S. Fish & Wildlife Service requires 5 years of surveys with negative findings to demonstrate absence, which is not compatible with the project schedule. The NES will include preliminary consultation with resource agencies to identify issues and species of concern, and provide sufficient information to support permit applications to regulatory agencies.

Prepare a Wetland Study as part of the NES due to the occurrence of wetlands within the project area. The Wetland Study will include a wetland delineation according to the Corps of Engineering requirements, mapping of jurisdictional areas at the project site, impact assessment, recommendations on the significance of the impacts and potential mitigation measures. For the proposed project, the Wetland Study will be incorporated into the NES.

Carpinteria Creek has been designated critical habitat for the endangered southern steelhead, and the proposed bridge replacement project may adversely affect this species. In addition, the endangered tidewater goby has been reported from the project area, and may be affected by bridge replacement. Therefore, a Biological Assessment (BA) will be prepared in accordance with the latest District 5 BA template, using methodology outlined in the Caltrans *Environmental Handbook, Volume 3 - Biological Resources, Chapter 4 – Endangered Species Act Procedures*. The NES/Wetlands Study and BA will be submitted for City and Caltrans review and revised as required to obtain approval from Caltrans.

TASK 2.2.4 WATER QUALITY TECHNICAL MEMORANDUM

Prepare a Technical Memorandum focusing on measures to reduce construction-related water quality impacts to Carpinteria Creek. The

Technical Memorandum will include a discussion of existing water quality (based on existing data), water quality impairment issues, potential sources of pollutants, and best management practices to be implemented. The Memorandum will be based on a preliminary storm water control plan prepared for the project, if available.

TASK 2.2.5 ARCHEOLOGICAL SURVEY REPORT (ASR) AND HISTORIC PROPERTY SURVEY REPORT (HPSR)

Prepare an Area of Potential Effects (APE) map.

The Archaeological Survey Report (ASR) will be based on a Phase I surface survey of the APE and a records search at the South Central Coast Information Center. This work will be performed in accordance with the Advisory Council on Historic Preservation implementing regulations (36 CFR 800), Section 106 of the National Historic Preservation Act of 1996, as amended, and the Caltrans *Environmental Handbook, Volume 2, Cultural Resources*. The ASR will include documentation of outreach to the local Native American community, through solicitation by mail to a contact list provided by the Native American Heritage Commission.

A Historic Property Survey Report (HPSR) will be prepared to address historic issues and to summarize the findings of the ASR. The subject bridge has been found to be ineligible to be placed on the National Register of Historic Places. This finding will be confirmed and documented in the HPSR through review of existing records, photo-documentation and consultation with the Caltrans historian. The ASR and HPSR will be submitted for City and Caltrans review and revised as required to obtain approval from Caltrans.

It is assumed that the cultural studies result in no additional work needed, so extended Phase 1 and/or Phase 2 work is not included in this scope or budget.

TASK 2.2.6 INITIAL SITE ASSESSMENT (ISA) (DHA)

Prepare an ISA per Caltrans ISA Preparation Guidelines and the American Society of Testing and Materials (ASTM) protocol. Research and review pertinent, readily available geologic and hydrogeologic literature, and available historical aerial photographs, Sanborn Fire Insurance Maps, and topographic map of the project site and surrounding area. Additionally, interview knowledgeable personnel identified by the City who are familiar with the historical operations at the project site.

Perform reconnaissance and evaluate the project site and adjacent areas for potential sources of hazardous substances contamination. The reconnaissance will include a detailed site visit to assess the presence of on-site hazardous substances use, storage, treatment, and/or disposal. Obtain a current database search report for the project site and the area within the ASTM-prescribed radii. Contact applicable municipal, county, state, and

federal agencies to review readily available files, records, permits, and known sites lists, as well as interviewing knowledgeable agency personnel.

Prepare an ISA report summarizing the results and findings, which present interpretations and recommendations as they pertain to hazardous substances at the project site and adjacent areas. Recommend additional assessment, if warranted. Prepare the ISA Checklist, according to the Caltrans PDPM, for attachment to the ISA.

TASK 2.3 ENVIRONMENTAL DOCUMENTS

Compliance with the California Environmental Quality Act (CEQA) will be accomplished through preparation and adoption of a Mitigated Negative Declaration (MND). Compliance with the National Environmental Policy Act (NEPA) will be accomplished through preparation of technical studies (see above) and a categorical exclusion. Caltrans will be responsible for preparation of the CE.

The IS/MND document will follow the Caltrans format, using the most recent template. However, the City's Environmental Review Guidelines will be used to identify thresholds of significance. Caltrans and Federal thresholds may also be used when appropriate, such as noise abatement criteria. Methodology to address relevant issue areas is provided below.

Project Description: Prepare a project description based on design information and drawings developed for the project.

Purpose and Need Statement: A purpose and need statement will be developed for the project.

Environmental Impact Analysis: Environmental issue areas included in the Caltrans initial study template will be addressed, including a discussion of setting and impacts. The analyses provided in the technical studies will be summarized in the IS/MND, and updated as needed to address any changes in the project. In addition, a consistency analysis with the policies of the City's General Plan and Local Coastal Plan will be provided.

Noticing: Prepare notices for the MND, including a Notice of Intent and Notice of Completion. Work with the City to develop a distribution list. Upon approval of the notice content and format, distribute the notices using certified mail, as needed.

DELIVERABLES TASK 2.3

- Admin Draft IS/MND
- Draft IS/MND
- Final IS/MND
- Visual Impact Assessment Technical Memorandum
- Natural Environmental Study
- Biological Assessment
- Historic Property Survey Report (short form)
- Initial Site Assessment Checklist
- Noise Impact Analysis and Technical Memorandum (if required)
- Water Quality Technical Memorandum

TASK 2.4 PHASE 2 COMMUNITY OUTREACH AND PRESENTATIONS (AYERS)

Continue public outreach activities from Phase 1. Develop strategic plan to reach out to community leaders and community organizations. Set up meetings and events with community leaders and organizations to introduce project as needed. Work with community leaders to build support and expand awareness of project need and timeline, such as:

Update elected officials, business owners, and local media re: project status & construction timeline. Develop outreach materials for distribution

TASK 2.5 PRELIMINARY DESIGN UTILITY COORDINATION (DHA)

CONSULTANT will provide utility coordination for the proposed project as required for the preliminary design. This phase will consist of the initial contact with the utility companies, (Utility "A" letters), notifying them of a potential project and requesting their facility maps for the project area. All utilities known to operate in the vicinity of the project will be contacted. CONSULTANT will prepare initial relocation notices (Utility A letters) and submit an electronic copy to the CITY Project Manager for transmittal to recipients on CITY letterhead.

DELIVERABLES TASK 2.5

- Utility "A" Letters and Plans (Request for Information)

TASK 2.6 65% PLANS AND UPDATED ESTIMATE (DHA)

TASK 2.6.1 65% CIVIL DESIGN

The roadway civil design will proceed based on the approved concept report.

The Title Sheet will include the appropriate CITY and federal funding project identification, as well as a sheet index, a vicinity map, the project legend, general notes, and the project control points.

The roadway Typical Section Sheet will include the roadway structural section based on CITY standards or existing condition. .

Plan and Profile sheets will be produced. The plan view will delineate the general roadway improvements and pavement dimensions. Geometric information, tied to the project control points, will be shown to sufficiently describe both the horizontal and vertical alignments.

The roadway Construction Details will be prepared at appropriate scales. Utility locations, re-grading and geometric details will be shown. Specific improvement details may also be shown on the Construction Details.

Traffic handling details will be shown on relevant sheets. The plan will show detour route signage to be used during construction closures. Advisory and construction area signs (CAS) will be shown on a Construction Area Signs Sheet.

A signing and pavement marking plan will be developed utilizing CITY standard details and current Caltrans Traffic Manual, Sign Specifications, and Standard Plans, as applicable. Existing as well as new sign locations will be shown. Sign panels will be shown for new nonstandard signs. Standard signs will be designated by appropriate Caltrans standard sign numbers. Temporary signing and striping, portable delineators, temporary crash cushion arrays and temporary railing (Type K) will be shown, as necessary, on this plan. CONSULTANT staff will work closely with the CITY Traffic Engineer to incorporate applicable requirements into the bridge plans.

Drainage will be adjusted to conform to new roadway profiles.

TASK 2.6.2 BRIDGE DESIGN AND DETAILING

Bridge design will be in accordance with Caltrans Bridge Design Specifications and applicable sections of the Caltrans Bridge Memo to Designers and Bridge Design Aids manuals. The design will meet CITY, Caltrans and FHWA standards in effect as of the date of Notice to Proceed. Seismic design will be performed in accordance with latest edition of the Caltrans Seismic Design Criteria.

Detailing of plans will be in accordance with Caltrans Bridge Design Details Manual. Both the design and detailing will be based on the use of the latest CITY Standards and Caltrans Standard Plans and Standard Specifications.

TASK 2.6.3 CONTRACT ITEMS LIST AND ESTIMATE UPDATE

A submittal of the 65% plans will be made to the CITY. A preliminary contract item list will be prepared, as well as an updated GP estimate reflecting any significant changes from the 30% Design and Project Design Report. CONSULTANT will perform an independent QA/QC review of the 65% plans and incorporate appropriate revisions prior to submittal to the CITY.

CONSULTANT will attend one submittal review meeting at the CITY office. Upon receipt of CITY comments on the 65% plans submittal, and approval of the environmental documents, CONSULTANT will review and incorporate applicable revisions into the design and will resubmit with the draft 95% PS&E submittal.

DELIVERABLES TASK 2.6

- Updated Engineers Estimate
- Contract Items List

TASK 2.7 LOCATION HYDRAULIC STUDY (AVILA & DHA)

Using the HEC-RAS output data, complete a Location Hydraulic Study in accordance with 23 CFR 650.113. This report is included in the Environmental Document for the bridge.

DELIVERABLES TASK 2.7

- Location Hydraulic Study

TASK 2.8 SUMMARY FLOODPLAIN ENCROACHMENT REPORT (AVILA & DHA)

Prepare a Summary Floodplain Encroachment Report. This project does not encroach into the floodplain or floodway, since it removes an encroachment into the floodplain. If a significant encroachment into the floodplain is found, a separate task order will be necessary for preparation of a Floodplain Evaluation Report. Other floodplain issues are being provided under a separate project, so no Floodplain Evaluation Report or letter of map revision is expected with this project.

DELIVERABLES TASK 2.8

- Summary Floodplain Encroachment Report

TASK 2.9 FINAL HYDRAULIC DESIGN (AVILA)

CONSULTANT will prepare a Final Hydraulics Report in accordance with the requirements of the Caltrans Local Assistance Programs Guidelines, and will follow the Caltrans Final Hydraulic Report Format.

TASK 2.9.1 PREPARE FINAL REPORT

Prepare Final hydrology, hydraulics and scour report incorporating the comments from the Draft Report.

DELIVERABLES TASK 2.9.1

- 3 hard copies Final Hydraulic Report

TASK 2.9.2 PLANT BASED BANK PROTECTION (OPTIONAL TASK)

Research plant-based alternatives for slope protection at the site and coordinate with relevant permitting agency (or agencies). Visit site to assess soils, slope, and existing plants and observe other potentially relevant issues. Compile plant list for area in and immediately adjacent to project area (~200 yards up and downstream). Develop a bank protection plan based on research and coordination with agencies, including a suggested planting palette and a preliminary schematic drawing of the armor solution.

DELIVERABLES TASK 2.9.2

- Schematic drawing of planting plan, draft and final report of recommendations to be included as an appendix to the Final Hydraulic Report.

TASK 2.9.3 SCOUR COUNTERMEASURES (OPTIONAL)

Provide bank protection parameters for downstream areas potentially impacted by the proposed project.

If hydraulic calculations show that scour countermeasures are necessary, it is assumed that rock slope protection will be utilized as the bank protection,

if alternative bank protection is requested, a separate task order will be necessary.

DELIVERABLES TASK 2.9.3

- Schematic drawing of bank protection downstream of bridge.

TASK 2.10 CITY APPROVAL PROCESS (DHA)

This task includes continuing coordination with the CITY Planning Commission, the Architectural Review Board (ARB) and other City entities as needed for presentation of the project and approval for the new bridge railings and bridge aesthetic treatments. CONSULTANT will develop conceptual drawings and renderings to illustrate the outward appearance of the replacement bridge. The renderings will be computer generated 3-D perspective views showing the replacement bridge, especially the highly visible bridge railings. The renderings will be suitable for presentation to the ARB and the general public.

TASK 2.10.1 COMMUNITY DEVELOPMENT APPLICATION AND REVIEW

CONSULTANT will provide a an application and the backup documents needed for the CITY approval process.

TASK 2.10.2 ARB PROJECT DESIGN APPROVAL

CONSULTANT will incorporate comments from the ARB Concept Review meeting into a submittal package for an ARB Project Design Approval meeting.

CONSULTANT will attend ARB and Planning Commission meetings as requested to present the conceptual design. CONSULTANT will provide Craig Drake and staff from Van Atta Associates to assist the CITY in making presentations to the ARB, Planning Commission and other groups as requested.

DELIVERABLES TASK 2.10

- Draft Application Packet
- Response to ARB Concept Approval Comments
- Renderings and Plans for Project Design Approval

PHASE 3 FINAL DESIGN & PS&E

TASK 3.1 PROJECT MANAGEMENT (PHASE 3)

TASK 3.1.1 PROJECT MANAGEMENT (PHASE 3) (DHA)

This is the continuation of Project Management into Phase 3. See the Phase 1 Project Management for the details of this task.

TASK 3.1.2 PROGRESS MEETINGS (PHASE 3) (ALL)

This is a continuation of Progress Meetings into Phase 2, except there will be no kick-off meeting.

DELIVERABLES TASK 3.1

- Monthly Progress Summary Reports with Issues Log
- Monthly Updated Project Schedule
- Meeting Agendas and Notes

TASK 3.2 ENVIRONMENTAL PERMITS (PADRE)

The permits will address construction timing, access ramps, staging areas, and stream diversion (if needed).

CONSULTANT will be responsible for assisting the City in obtaining the following permits and approvals:

- Coastal development permit (City Community Development);
- Conditional use permit (City Community Development);
- Clean Water Act Section 404 permit from the Corps of Engineers (Nationwide 14: linear transportation projects OR Nationwide 3: maintenance-replacement);
- Clean Water Act Section 401 water quality certification from the Regional Water Quality Control Board;
- Fish & Game Code Section 1602 streambed alteration agreement from the California Department of Fish and Game; and
- Endangered Species Act Section 7 consultation with U.S. Fish and Wildlife Service (tidewater goby) and National Marine Fisheries Service (steelhead).

Coastal Development Permit (CDP)/Conditional Use Permit (CUP). Prepare a complete and comprehensive CDP/CUP application package including a detailed project description (addressing design, construction and operational characteristics of the development), completed City Project Application Form, environmental review documentation (draft CEQA documentation completed as a separate task), and other attachments as determined applicable during the pre-application meeting. This scope assumes that a list of property owners (with addresses) within 300 feet of the project site is provided by the CITY. It is anticipated that one revision to the

CDP/CUP application package may be required after review by the PDT to provide any additional materials that may be determined necessary or to refine points within the application before processing by the City Community Development Department. Once the application is officially determined to be complete, CONSULTANT will continue to serve as permit representative for the project at up to two meetings/hearings.

Construction Related In-Stream Permits. Prepare permit applications for the Corps of Engineers, Regional Water Quality Control Board and California Department of Fish and Wildlife based on the project impact analysis included in the NES and Wetlands Study. The permit applications will include appropriate graphics identifying project impacts, and will be submitted to the CITY for review and signature. The CITY will be responsible for all permit fees. If authorized, CONSULTANT will act as CITY agent and attend site visits and coordinate with regulatory agency staff as appropriate to obtain permits.

Endangered Species Act Consultation. Caltrans will be responsible for facilitating consultation between the Federal Highway Administration and the U.S. Fish and Wildlife Service and National Marine Fisheries Service required under the Endangered Species Act. The BA prepared by CONSULTANT will be the basis of this consultation. Coordinate with Caltrans and resource agency staff as needed, including providing additional information and analysis regarding potential take of listed species.

Mitigation Plan

Permit conditions are expected to require the preparation and approval of a mitigation plan to offset project impacts to Carpinteria Creek. Prepare a mitigation plan consistent with the Corps' Habitat Mitigation and Monitoring Proposal Guidelines to address mitigation requirements of the permit conditions. Potential mitigation concepts may include bank restoration and revegetation, and removal of invasive plant species. The Plan will address restoration, revegetation, maintenance and long-term monitoring of success. The Task will include the preparation of a draft Mitigation Plan for review by the City, and a final Mitigation Plan for submittal to regulatory agencies.

TASK 3.3 UTILITY COORDINATION (DHA)

TASK 3.3.1 FINAL DESIGN UTILITY COORDINATION:

CONSULTANT will provide utility coordination for the proposed project as required for the final design.

Unless specifically stated, it is assumed that all new or relocated utility facilities will be designed and constructed by the applicable utility owners, excluding the CITY owned water and sewer lines. CONSULTANT will provide design of the CITY owned utilities as part of the roadway design package.

When project design is approximately 65% complete, CONSULTANT will prepare initial relocation notices (Utility B letters) and submit to the CITY

Project Manager for transmittal to recipients on CITY letterhead. CITY will forward to CONSULTANT a copy of Utility "B" letters sent and all correspondence received. Copies of all written correspondence and related materials shall be submitted to the CITY for their records, as the work progresses. CONSULTANT shall comply with CITY utility coordination procedures during the design of the project.

DELIVERABLES TASK 3.3.1

- Utility "B" Letters and Plans (Notice of Conflicts)

TASK 3.3.2 FINAL DESIGN UTILITY COORDINATION

Final relocation notices (Utility "C" letters) will be prepared by CONSULTANT and sent to the CITY for distribution upon submittal of the Draft PS&E package.

CONSULTANT will sign off on the utility relocation plan for submittal with the right of way certification package prepared by the CITY.

DELIVERABLES TASK 3.3.2

- Utility "C" Letters and Plans (Notice to Owners)
- Approval of Utility Relocation Plan

TASK 3.4 RIGHT OF WAY SERVICES (CARDENAS & HJA)

TASK 3.4.1 RIGHT OF WAY ENGINEERING

This task prepares the required maps, legal descriptions, deeds, sketches, and back-up data to support the right-of-way acquisition effort. ROW engineering will be performed based upon the Caltrans ROW Manual specifications.

This task includes:

- Prepare right of way and adjacent boundary retracement sufficient for identifying and ultimately describing the areas required for temporary and permanent easements.
- Identify the need for preliminary title reports.
- Determine the precise areas needed for permanent and temporary easements.
- Prepare the appraisal map which identifies the parcel number, owner, type of easement, size of easement, and remainder size.
- Prepare legal descriptions and sketches for each parcel to be acquired for temporary or permanent use.
- Review the Preliminary Title Reports for the necessary parcels, and associated title docs, to aid the surveying team with developing right of way engineering, appraisal maps, and legal descriptions.

TASK 3.4.2 RIGHT OF WAY APPRAISALS (HJA)

Obtain appraisals from a state licensed real estate appraiser, prepared in conformance with state laws and Caltrans guidelines, as required to set the basis of right of way purchase offers to private property owners by the CITY. All appraisals will be submitted to the CITY for review and pre-approval prior to purchase offer presentations. If project funding requires formal third party appraisal reviews, this proposal assumes Caltrans staff will provide the required appraisal reviews. This proposal does not include any appraisal of public lands held by City, County, County Flood Control, or State; it is assumed that appraisals will only be required for the acquisitions of private properties.

TASK 3.4.3 RIGHT OF WAY ACQUISITIONS (HJA)

Prepare offer packages based upon the appraisals, for presentation to each involved property owner. Offer packages will include an offer letter, Appraisal Summary Statement, proposed Acquisition Agreement, and Deed. Present these documents for City review and pre-approval prior to presenting offers to property owners. Concurrently, seek Caltrans review and approval of the appraisals, prior to proceeding with making the purchase offers. After offer presentation, handle all follow up negotiations in pursuit of mutually acceptable amicable purchase agreements with each owner to finalize the property purchases. For any purchase efforts that do not culminate in mutually acceptable amicable agreements coordinate with City and, if appropriate, with the City Attorney's office in conjunction with any required Necessity Hearing scheduling. For final agreements, process all documents for necessary approvals and coordinate escrows, title insurance, and closings.

TASK 3.5 FINAL FOUNDATION REPORT (FUGRO)

The field exploration, lab testing, geotechnical evaluation and Draft Foundation Report were completed during the prior phase of this project. CONSULTANT will incorporate Draft Report review comments from the CITY and Caltrans into the report as appropriate, and prepare and submit a Final Foundation Report for the project. A Log of Test Borings sheet will also be provided in the report. Roadway design parameters will be provided as well as a review of pile adequacy.

DELIVERABLES TASK 3.5

- Final Foundation Report (FR) with Log of Test Borings (LOTB)

TASK 3.6 PLANNING DEPARTMENT APPROVAL PROCESS (DHA)

This task includes continuing coordination with the CITY Planning Commission and Historic Landmarks Commission (HLC) for Final Consent of the project design. CONSULTANT will incorporate comments from the HLC Project Design Approval into the renderings for use by the CITY in gaining final consent from the HLC and Planning Department.

DELIVERABLES TASK 3.6

- Response to Project Design Approval Comments
- Renderings and Plans for Final and Consent Meeting

TASK 3.7 LANDSCAPE DESIGN (VAI)

This task includes the preparation of landscape plans to replace plantings on CITY right of way. The landscape design includes planting and irrigation plans with specifications. Areas outside the CITY right of way that are disturbed by construction activities (bare ground) will be detailed with appropriate erosion control seeding.

TASK 3.8 ELECTRICAL DESIGN (DHA)

CONSULTANT will provide electrical plans for any new street lights needed, as determined by the CITY. The plans will include street light layout, wiring diagram, tie-in and meter pedestal (if needed). Task includes any special provisions for the street light layout.

CONSULTANT will also provide electrical conduits in the bridge as determined through the utility coordination process.

TASK 3.9 WATER QUALITY MANAGEMENT PLAN (DHA)

This task includes the preparation of erosion control and post-construction storm water management plans in accordance with Caltrans Best Management Practices (BMP) Manual.

CONSULTANT will incorporate storm water management principles that address pre- and post-construction measures to the maximum extent practicable to comply with Chapter 9 of the Caltrans Environmental Handbook, Volume 1: Guidance for Compliance: Hydrology/Water Quality /Storm Water, and the Storm Water Data Report (SWDR) checklists as described in the most current version of Caltrans Division of Design Storm Water Quality Handbook - Project Planning and Design Guide.

During Final Design, CONSULTANT will:

- Create the SWDR form to reflect site conditions, storm water quality issues, and measures taken to avoid or reduce potential storm water impacts.
- Prepare plans, specifications, and estimate for pollution prevention and treatment BMPs.
- Prepare storm water associated content for the Resident Engineer's (RE) file.

It is assumed that this project will be exempt from hydromodification requirements.

DELIVERABLES TASK 3.9

- Water Quality Management Plan with 95% and 100% PS&E
- PS&E will include construction BMP's

TASK 3.10 95% DRAFT PLANS, SPECIFICATIONS AND ESTIMATE (DHA)**TASK 3.10.1 BRIDGE DESIGN CHECK**

CONSULTANT will perform an independent design check of the bridge plans in conformance with usual Caltrans bridge design procedures. A plan set will be marked up following CONSULTANT QC plan. Upon completion of design check, discrepancies between the design and checker will be reconciled and plans updated for preparation of quantities, estimate and specifications. CONSULTANT will prepare responses to comments received on the 65% submittal.

TASK 3.10.2 FINAL ROADWAY DESIGN

CONSULTANT will finalize roadway plans and respond to comments received from the 65% submittal.

TASK 3.10.3 SPECIFICATIONS

CONSULTANT will prepare required technical special provisions for the project. CONSULTANT will supply project specific information to the CITY for inclusion into the CITY supplied boilerplate specifications, including order of work, time of completion, etc. The basis of the specifications shall be the latest Caltrans Standard Specifications. It is assumed that the CITY will prepare the "boiler plate" documents, including the notice to bidders, proposal, bond forms, and agreement.

Required mitigation measures and permitting requirements from the environmental permits will be included in the specifications where applicable. CONSULTANT will review project plans and specifications to confirm that appropriate avoidance measures and conditions of permits, including items of work required by the permits, and environmental mitigation measures are incorporated into the bridge plans and specifications. Items of work required by the permits will be included in the estimate and addressed in the specifications.

TASK 3.10.4 ENGINEER'S ESTIMATE

Two independent sets of bridge quantity calculations will be prepared by individuals experienced in this work. The quantity calculations will be organized and detailed for use by field inspectors during construction. Standard Caltrans summary sheets will be used for bridge and road quantity calculations, aiding in facilitating the review process and use by the construction personnel. Bridge quantity estimators must agree within tolerances prescribed in Chapter 11 of the Caltrans Bridge Design Aids

Manual. Any deviations will be resolved and the Marginal Estimate sheet will be prepared.

Unit prices will be applied to each contract item resulting in the Engineer's Estimate of Probable Construction Cost (Estimate). Prices used will be based on the latest available data from the CITY and Caltrans, reflecting the location of the project and the quantity of each item. Non-participating costs, if any, will be segregated and identified as such. Five (5) percent of the total estimate will be added for contingencies, per current Caltrans guidelines, and an additional five (5) percent CITY contingency will also be added to arrive at the cost presented to the CITY.

TASK 3.10.5 QUALITY CONTROL

The plans will be reviewed for compatibility between portions of work and design disciplines, including a Road Plan Review as described in the Caltrans Memo to Designers 2-25.

The Geotechnical Engineer shall review the Structure plans prior to the 65% Plan Submittal for compliance with the geotechnical recommendations.

CONSULTANT shall perform an independent QC/QA review prior to submittals being transmitted to the CITY.

TASK 3.10.6 95% DRAFT PS&E SUBMITTAL

A submittal of Draft PS&E will be made to the CITY. The submittal will include the plans, specifications and estimate. 11x 17 plans with a set of special provisions and the Engineer's Estimate will be submitted to the CITY. CONSULTANT will assist the CITY with preparation of the Caltrans PS&E Certification Form.

Bridge Plans will be submitted in AutoCAD format. Specifications will be prepared in Microsoft Word and the estimate will be prepared in Microsoft Excel.

DELIVERABLES TASK 3.10

- PS&E in electronic format (Plans in PDF, specs in Word, Estimate in Excel)

TASK 3.11 100% FINAL PS&E: (DHA)

Upon receipt of comments from the Draft PS&E submittal to the CITY, and other jurisdictional agencies, which will be routed through the CITY, final revisions will be made. CONSULTANT will incorporate appropriate comments in the plans, specifications, and estimate. CONSULTANT will perform an independent QA/QC review of the Final submittal package and incorporate appropriate revisions prior to submittal to the CITY.

A Resident Engineers file will be prepared that includes the Foundation Report, Hydraulics Report, bridge 4-scale drawings, bridge quantity and quantity check

calculations, estimate summary forms and designers' notes to the Resident Engineer.

DELIVERABLES TASK 3.11

- One set of 24 x 36 Reproducible Mylar Final Design Plans signed by the Registered Engineer responsible for the preparation of the plans
- One un-bound hard copy of Final Project Special Provisions signed by the Registered Engineer responsible for the preparation of specifications
- Electronic Microsoft Excel file of Construction Cost Estimate
- AutoCAD Project Plans on CD
- Electronic Microsoft Word file of specifications
- Hard copy of Construction Cost Estimate
- Resident Engineer's File

TASK 3.12 CONSTRUCTION BIDDING SUPPORT (DHA, FUGRO, PADRE)

CONSULTANT will provide bidding period assistance to the CITY. This will include consultation and interpretation of the contract documents and assisting the CITY in preparing addenda to the PS&E, and attending pre-bid or construction meetings and bid openings. Since the nature of questions and number of questions asked is out of the control of CONSULTANT and the CITY, this work will be provided on a time and materials basis, and a nominal amount has been included in the fee estimate.

DELIVERABLES TASK 3.12

- Prepare Addenda as required
- Respond to RFI's as required

Carpinteria Avenue Bridge Project
Project Schedule
Update: 11-20-12

CITY OF CARPINTERIA

By: COM3 Consulting
 Print Date: 5/1/13

ID	Task Name	Duration	Start	Finish	2012 Qtr 4Qtr 1Qtr 2Qtr 3Qtr 4Qtr	2013 1Qtr 2Qtr 3Qtr 4Qtr 1Qtr 2Qtr 3Qtr 4Qtr	2014 1Qtr 2Qtr 3Qtr 4Qtr 1Qtr 2Qtr 3Qtr 4Qtr	2015 1Qtr 2Qtr 3Qtr 4Qtr 1Qtr 2Qtr 3Qtr 4Qtr	2016 1Qtr 2Qtr 3Qtr 4Qtr 1Qtr 2Qtr 3Qtr 4Qtr	2017 1Qtr 2Qtr 3Qtr 4Qtr
1	PE Contracting	354 days	1/4/12	5/13/13						
17	Preliminary Hydrology and Hydraulics Report	134 days	6/18/12	12/20/12						
24	Preliminary Engineering	140 days	5/14/13	11/25/13						
35	Environmental	465 days	5/13/13	2/23/15						
54	Final Design	505 days	11/26/13	11/2/15						
65	PERMITTING - City Of Carpinteria	425 days	10/29/13	6/15/15						
79	OTHER PERMITS	260 days	12/23/14	12/21/15						
80	Secure All Permits	0 days	12/21/15	12/21/15						
91	Right of Way	280 days	12/23/14	1/18/16						
92	Bid/Award/Construction	450 days	1/19/16	10/9/17						

EXHIBIT B

DHA FEE SCHEDULE

**City of Carpinteria Public Works Department
Carpenteria Creek Bridge Replacement**

**DRAKE HAGLAN AND ASSOCIATES
CONTRACT SUMMARY**

CONTRACT No.
CONSULTANT:

Drake Haglan and Associates

CONSULTANT COST PROPOSAL

DIRECT LABOR

Name	Classification	Hours	Rate	Total
Craig Drake	Principal Engineer	680	\$ 75.00	\$51,000.00
Dennis Haglan	Principal Engineer	36	\$ 75.00	\$2,700.00
Kevin Ross	Principal Engineer	42	\$ 75.00	\$3,150.00
Dave Meils	Senior Engineer, Range C	200	\$ 62.80	\$12,560.00
Stacey Alliguié	Engineer, Range B	1,196	\$ 48.10	\$57,527.60
Jennifer Grant	Engineer, Range A	296	\$ 41.50	\$12,284.00
Melissa Lincoln	Engineer, Range B	552	\$ 45.00	\$24,840.00
Anthony Boyes	Assistant Engineer, Range A	720	\$ 28.00	\$20,160.00
Alex Barba	CAD Draftsperson, Range B	824	\$ 35.00	\$28,840.00
Jennifer Hildebrandt	Environmental Coordinator, Range B	360	\$ 36.00	\$12,960.00
Karen Drebert	Project Administrator	36	\$ 36.35	\$1,308.60
Theresa Bautista	Administration, Range B	32	\$ 30.00	\$960.00

4,974 Total Hours

Subtotal Direct Labor Costs \$228,290.20
Anticipated Salary Increases \$9,131.61

TOTAL - Direct Labor \$237,421.81

INDIRECT COSTS

	Rate	Total
Overhead	95.36%	\$226,405.44
Fringe Benefit	49.40%	\$117,286.37
General & Administrative	0.00%	\$0.00
	144.76%	

TOTAL - Indirect Costs \$343,691.81

FEE (10.00%)

TOTAL - Fee \$58,111.36

OTHER DIRECT COSTS

				Total
Travel Costs (mileage)	Miles	3,200 @	\$ 0.565	\$ 1,808.00
Travel Costs (lodging)	Nights	15 @	\$ 150.00	\$ 2,250.00
Overnight Service	Each	40 @	\$ 15.00	\$ 600.00
Outside Photocopies (11x17)	Each	750 @	\$ 0.20	\$ 150.00
Color Copies	Each	300 @	\$ 1.00	\$ 300.00
Air Fare	Trip	4 @	\$ 180.00	\$ 720.00
Streetlight Plan Sheet (by others)	Plan Sheet	1 @	\$2,500.00	\$ 2,500.00
Potholing	Per Hole	10 @	\$ 500.00	\$ 5,000.00
Surveys (Cardenas)	Per Proposal (Attached)	1 @	\$9,760.00	\$ 9,760.00
R/W Engineering (Cardenas)	Per Proposal (Attached)	1 @	\$9,480.00	\$ 9,480.00

NOTE: All reimbursable project related expenses will be billed at cost, with appropriate invoices and documentation provided for reference.

TOTAL - Other Direct Costs \$32,568.00

SUBCONSULTANTS

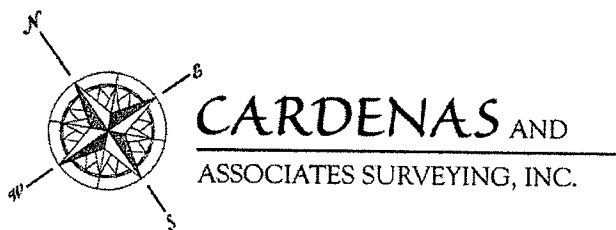
Avila and Associates	\$ 46,158.26
Ayars	\$ 58,600.00
Fugro	\$ 87,896.00
HJA	\$ 55,137.00
Padre	\$ 90,790.00
VAI	\$ 46,538.15

TOTAL - Subconsultants \$ 385,119.41

TOTAL - Contract \$1,056,912.39

Cost Proposal

Project Name: Capinola Avenue Bridge Replacement Project																				
Task No.	TASIS		Project Manager	Bridge Project Engineer	Bridge Designer	Bridge CAD	Senior Roadway Engineer	Roadway Engineer	Environmental Coordinator	Admin	QA/QC Engineer	Materials	Architectural	Arts and Associates	Ayers	Fugro	MJA	Peters	Vall	Subcontractor General
	Estimate	Actual																		
Phase 1: Concept Design																				
1.1	Project Management (Phase 1)	200		80																
1.2	Survey and Mapping																			
1.3	Community Outreach and Presentations (Phase 1)	40		24		120		8	80						214					
1.4	Interim Hydraulic & Geotechnical Analysis																			
1.5	Materials and Foundation Reports			2	8			4												
1.6	Preliminary Engineering (Concept Level Design)			8	220		120	80	180		16									
Phase 2: Preliminary Engineering and Environmental Documentation																				
2.1	Project Management (Phase 2)	200		80																
2.2	Environmental Technical Studies			16																
2.3	Environmental Document																			
2.4	Community Outreach and Presentations (Phase 2)	40		24		40		24	40											
2.5	Preliminary Utility Coordination			16																
2.6	60% Preliminary Estimate			24	400	200	40	200	200											
2.7	Location Hydraulic Study			2																
2.8	Summary Feasibility Environmental Report			2																
2.9	Final Hydraulic Design			10																
2.10	City Approval Process			24	40		40		24		8									
Phase 3: Final Design																				
3.1	Project Management (Phase 3)	120		80																
3.2	Environmental Permits			6																
3.3	Utility Coordination			16				80	40											
3.4	Right of Way					24														
3.5	Final Foundation Report			24																
3.6	Permitting and Construction Approval Process	40		24		40		24	40											
3.7	Structural Design			4																
3.8	Electrical Design			10																
3.9	Water Quality Management Plan																			
3.10	90% Final Plans, Specifications and Estimate	4	100	200	100	24	80	100		8										
3.11	100% Final P&E	4	40		40	16	32	40		4										
3.12	Construction Bidding Support			16																
Subtotal - Items																				
Total Direct Labor Cost																				



December 31, 2012

Drake Haglan & Associates
11060 White Rock Road, Suite 200
Rancho Cordova, CA 95670
Attention: Craig Drake

Re: Topographic base map for Carpinteria Avenue Bridge Project REVISED

Hello Craig;

Thank you for the opportunity to provide a proposal for your project. The following scope and fee is based on review of the revised limits shown on a provided pdf, a site visit and a conversation with you.

Scope:

We will provide a topographic base map of the Carpinteria Bridge per the revised limit areas (A-E) as shown on the provided pdf site plan. The map will be at 1 inch = 20 feet scale with 1 foot contour interval and a color orthophoto in the background. The map will show existing improvements such as sidewalks, building walls, trees greater than 4 inches in diameter, any above ground visible utilities within our mapping areas. The existing ground conditions will be shown via spot elevations & contours.

The mapping basis will be as follows; (vertical datum will be NAVD88 & coordinate basis will be NAD83). If this proposal is acceptable please send me an e-mail to jcardenas@casurveying.com or Fax to 966-3271 to confirm and I will send you an agreement form. We will need 10 working days to complete once we get the ortho from the aerial company back and pending any weather delays or construction projects we may need to respond to.

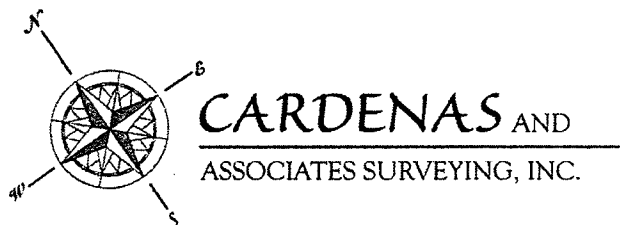
Cost :

Two person field crew	30hrs	@	\$180.00\hr	\$5,400
Drafting	20hrs	@	\$ 80.00\hr	\$1,600
Project Surveyor	4hrs	@	\$105.00\hr	\$420
Principal Surveyor	6hrs	@	\$140.00\hr	\$840
Orthophoto (C&C Aerial)				\$1500
Total				\$9,760

Sincerely, Jose Cardenas, President

Cardenas and Associates Surveying, Inc.
Jose Cardenas, President

201 North Calle Cesar Chavez, Suite 100 • Santa Barbara, CA 93103
P.O. Box 1787 • Goleta, CA 93116
Phone: 805.966.3713 • Fax: 805.966.3271 • Email: jcardenas@casurveying.com



February 13, 2013

Drake Haglan & Associates
Attn: Craig Drake
11060 White Rock Road
Ste 200
Rancho Cordova, CA 95670

Re: Right of Way Mapping for Carpinteria Creek

Hello Craig;

Thank you for the opportunity to provide a proposal for your project. The following scope and fee is based on preliminary research, and conversations with you.

Scope:

We will provide the required maps and legal descriptions for the Right of Way mapping for the above project. After talking with you and reviewing the provided attachment of the parcels involved, we have reviewed all 7 parcels involved there shall be 2 potential full acquisitions and 7 temporary construction easements involved.

To accomplish this task we will need to do field work to tie out property corners to orientate our legals properly as part of our cost. Once the field work is done we will provide you with the legal descriptions and exhibit maps for all parcels involved.

If this proposal is acceptable please send me an e-mail to jcardenas@casurveying.com or Fax to 966-3271 to confirm and I will send you an agreement form. We will need 48 hours noticed to start this project and will need 10 working days to complete pending any weather delays or construction projects we may need to respond to.

Cost :

Two person field crew	24hrs	@	\$180.00\hr	\$4,320
Drafting	26hrs	@	\$ 80.00\hr	\$2,080
Project Surveyor	8hrs	@	\$105.00\hr	\$840
Principal Surveyor	16hrs	@	\$140.00\hr	\$2,240
Total				\$9,480

Sincerely, Jose Cardenas, President

Cardenas and Associates Surveying, Inc.
Jose Cardenas, President

201 North Calle Cesar Chavez, Suite 100 • Santa Barbara, CA 93103
P.O. Box 1787 • Goleta, CA 93116
Phone: 805.966.3713 • Fax: 805.966.3271 • Email: jcardenas@casurveying.com

**City of Carpenteria Public Works Department
Carpenteria Creek Bridge replacement**

**Avila & Associates
Carpenteria Creek**

CONTRACT No.
CONSULTANT:

Avila & Associates

CONSULTANT COST PROPOSAL
February 13, 2013

DIRECT LABOR

Name	Classification	Hours	Rate	Total
Cathy Avila	Project Manager	232	\$ 75.00	\$17,400.00
Todd Remington	Project Engineer	40	\$ 55.00	\$2,200.00
Kate Bode	Plant Ecologist/Technical Editor	16	\$ 52.50	\$840.00

288	
Subtotal Direct Labor Costs	\$20,440.00
Anticipated Salary Increases	

TOTAL - Direct Labor \$20,440.00

INDIRECT COSTS

	Rate	Total
Overhead	56.40%	\$11,528.16
Fringe Benefit	26.00%	\$5,314.40
General & Administrative	16.00%	\$3,270.40
	98.40%	

TOTAL - Indirect Costs \$20,112.96

FEE (10.00%)

TOTAL - Fee \$4,055.30

OTHER DIRECT COSTS

			Total
Travel	2000 @	0.555	\$ 1,110.00
overnight mail	2 @	20.00	\$ 40.00
Reports	2 @	50.00	\$ 100.00
Hotel	2 @	150.00	\$ 300.00

TOTAL - Other Direct Costs \$1,550.00

TOTAL COST \$46,158.26

City of Carpinteria
Carpinteria Avenue over Carpinteria Creek Bridge Replacement Project

Ayars & Associates
CONTRACT SUMMARY

CONTRACT No.
CONSULTANT: Drake Haglan and Associates

CONSULTANT COST PROPOSAL

DIRECT LABOR

<u>Name</u>	<u>Classification</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Kirsten Ayars	Project Executive	104	\$ 90.00	\$9,360.00
Toby Ayars	Project Manager	179	\$ 70.00	\$12,530.00
Tanya Anderson	Graphic Designer	45	\$ 60.00	\$2,700.00

328 Total Hours

Subtotal Direct Labor Costs	\$24,590.00
Anticipated Salary Increases	\$0.00

TOTAL - Direct Labor \$24,590.00

INDIRECT COSTS

	<u>Rate</u>	<u>Total</u>
Overhead	94.463%	\$23,228.45
Fringe Benefit	0%	\$0.00
General & Administrative	0%	\$0.00
	94.463%	

TOTAL - Indirect Costs \$23,228.45

FEE (10.00%)

TOTAL - Fee \$4,781.85

OTHER DIRECT COSTS

			<u>Total</u>
Project Fact Sheet Printing	Job	1 @ \$ 250.00	\$ 250.00
Direct Mailing	Each	1 @ \$ 5,500.00	\$ 5,500.00
Project Hotline	Setup	1 @ \$ 150.00	\$ 150.00
Printing	Each	997 @ \$ 0.10	\$ 99.70

NOTE: All reimbursable project related expenses will be billed at cost, with appropriate invoices and documentation provided for reference.

TOTAL - Other Direct Costs \$5,999.70

TOTAL COST \$58,600.00

City of Carpinteria
Carpinteria Avenue over Carpinteria Creek Bridge Replacement Project

FUGRO CONSULTANTS, INC.
CONTRACT SUMMARY

CONTRACT No.
CONSULTANT: Drake Haglan and Associates

CONSULTANT COST PROPOSAL

DIRECT LABOR

Name	Classification	Hours	Rate	Total
Greg Denlinger	Principal	20	\$ 52.53	\$1,050.60
Jon Blanchard	Principal	19	\$ 57.17	\$1,086.23
Loree Berry	Sr. Project Engineer	113	\$ 37.96	\$4,289.48
Todd Curtis	Sr. Staff Professional	90	\$ 26.63	\$2,396.70
Rowan Cypher	Word Processor	12	\$ 26.63	\$319.56
Brendan Egan	GIS/Draftsperson	25	\$ 40.00	\$1,000.00
		279	Total Hours	

Subtotal Direct Labor Costs	\$10,142.57
Anticipated Salary Increases	\$0.00

TOTAL - Direct Labor \$10,142.57

INDIRECT COSTS

	Rate	Total
Overhead	164.57%	\$16,691.63
Fringe Benefit	64.34%	\$6,525.73
General & Administrative	0.00%	\$0.00
	228.91%	

TOTAL - Indirect Costs \$23,217.36

FEE	(10.00%)	TOTAL - Fee	\$3,335.99
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OTHER DIRECT COSTS

			Total
Permitting & Utility Clearance	Occurrence	1 @ \$ 1,000.00	\$ 1,000.00
Subcontracted Services			
CPT	Site Testing Program	1 @ \$ 3,500.00	\$ 3,500.00
Drilling	Site Drilling Program	1 @ \$31,000.00	\$ 31,000.00
Traffic Control	TC Program	1 @ \$ 4,500.00	\$ 4,500.00
Soil Drum Testing	Each	1 @ \$ 1,200.00	\$ 1,200.00
Soil Drum Disposal (Non-Haz)	Each	1 @ \$ 4,000.00	\$ 4,000.00
Lab Testing	Lab Testing Program	1 @ \$ 6,000.00	\$ 6,000.00

NOTE: All reimbursable project related expenses will be billed at cost, with appropriate invoices and documentation provided for reference.

TOTAL - Other Direct Costs \$51,200.00

TOTAL COST \$87,896.00

City of Carpinteria
Carpinteria Bridge Project

**HAMNER, JEWELL & ASSOCIATES
CONTRACT SUMMARY**

CONTRACT No.
CONSULTANT:

Drake Haglan and Associates

CONSULTANT COST PROPOSAL

DIRECT LABOR

Name	Classification	Hours	Rate	Total
Lillian Jewell	Managing Sr. Associate	60	\$ 55.00	\$3,300.00
Cathy Springford	Senior Associate	20	\$ 45.00	\$900.00
David Jewell	R/W Agent	115	\$ 30.00	\$3,450.00
Brianna Vazquez	Bilingual Relocation Agent	15	\$ 17.50	\$262.50
Valerie Bond	Transaction Coordinator	20	\$ 27.50	\$550.00

230 Total Hours

Subtotal Direct Labor Costs \$8,462.50
Anticipated Salary Increases \$1,500.00

TOTAL - Direct Labor \$9,962.50

INDIRECT COSTS

	Rate	Total
Overhead	135.00%	\$13,449.38
Fringe Benefit	37.27%	\$3,713.02
General & Administrative	0.00%	\$0.00
	172.27%	

TOTAL - Indirect Costs \$17,162.40

FEE (10.00%)

TOTAL - Fee \$2,712.49

OTHER DIRECT COSTS

			Total
Preliminary Title Reports	Reports	5 @ \$ 660.00	\$ 3,300.00
Appraisals	Properties	5 @ \$ 4,000.00	\$ 20,000.00
Travel Costs	Mileage	150 @ \$ 0.57	\$ 84.75
Documentation Fees	Each	5 @ \$ 383.05	\$ 1,915.25

NOTE: All reimbursable project related expenses will be billed at cost, with appropriate invoices and documentation provided for reference.

TOTAL - Other Direct Costs \$25,300.00

TOTAL COST \$55,137.00

City of Carpinteria
Carpinteria Avenue over Carpinteria Creek Bridge Replacement Project

**PADRE ASSOCIATES, INC.
CONTRACT SUMMARY**

CONTRACT No.
CONSULTANT:

Padre Associates, Inc.

CONSULTANT COST PROPOSAL

DIRECT LABOR

Name	Classification	Hours	Rate	Total
Simon Poulter	Senior Professional	30	\$ 56.76	\$1,702.80
Matt Ingamells	Project Professional	424	\$ 44.46	\$18,851.04
Donna Hebert	Staff Professional	224	\$ 30.39	\$6,807.36
Suzun Rasmussen	Drafting	124	\$ 20.00	\$2,480.00
Annette Varner	Word Processor	34	\$ 18.00	\$612.00

836 Total Hours

Subtotal Direct Labor Costs \$30,453.20

Anticipated Salary Increases \$0.00

TOTAL - Direct Labor \$30,453.20

INDIRECT COSTS

	Rate	Total
Overhead	59.40%	\$18,089.20
Fringe Benefit	28.00%	\$8,526.90
General & Administrative	59.00%	\$17,967.39
	146.40%	

TOTAL - Indirect Costs \$44,583.48

FEE (10.00%)

TOTAL - Fee \$7,503.67

OTHER DIRECT COSTS

	Total
Mailings (notices)	\$ 200.00
Printing	\$ 1,955.00
Conejo Archeological Consultants	\$ 4,255.00
Andrew Forde (bat survey)	\$ 1,840.00

TOTAL - Other Direct Costs \$8,250.00

TOTAL COST \$90,790.00

City of Carpinteria
Carpinteria Avenue over Carpinteria Creek Bridge Replacement Project

**VAN ATTA ASSOCIATES, INC.
CONTRACT SUMMARY**

CONTRACT No.
CONSULTANT:

Van Atta Associates, Inc.

CONSULTANT COST PROPOSAL

DIRECT LABOR

Name	Classification	Hours	Rate	Total
Susan Van Atta	Principal Landscape Architect	22	\$ 102.00	\$2,244.00
Guillermo Gonzalez	Senior Associate / Landscape Arch	32	\$ 52.00	\$1,664.00
Bill Wildenberg	Project Manager / Landscape Archi	106	\$ 36.50	\$3,869.00
Anne Ballweg	Associate Designer	72	\$ 28.00	\$2,016.00
Scott Capps	Technical Designer	56	\$ 24.50	\$1,372.00
Chris Arntz	Technical Designer	56	\$ 20.00	\$1,120.00
Rick Echanique	Administration, Range B	3	\$ 15.00	\$45.00

347 Total Hours

Subtotal Direct Labor Costs	\$12,330.00
Anticipated Salary Increases	\$431.55

TOTAL - Direct Labor \$12,761.55

INDIRECT COSTS

Overhead (including fringe benefits)
General & Administrative

Rate	Total
162.50%	\$20,737.52
50.40%	\$6,431.82

TOTAL - Indirect Costs \$27,169.34

FEE (10.00%)

TOTAL - Fee \$3,993.09

OTHER DIRECT COSTS

				Total
Travel Costs (mileage)	Miles	125 @	\$ 0.555	\$ 69.38
Travel Costs (lodging)	Nights	0 @	\$ 150.00	\$ -
Outside Photocopies	Each	0 @	\$ 0.10	\$ -
Plan Reproduction	Full Size Sheets	32 @	\$ 61.25	\$ 1,960.00
Overnight Service	Each	6 @	\$ 15.60	\$ 93.60
Graphic Presentation Boards	Boards	4 @	\$ 122.80	\$ 491.20

TOTAL - Other Direct Costs \$2,614.18

TOTAL COST \$46,538.15

EXHIBIT C

INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of the Work, CONSULTANT will maintain insurance in conformance with the requirements set forth below. CONSULTANT will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, CONSULTANT agrees to amend, supplement or endorse the existing coverage to do so. CONSULTANT acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to CITY in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to CITY.

CONSULTANT shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office "Commercial General Liability" policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$1,000,000 per accident. If CONSULTANT owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If CONSULTANT or CONSULTANT's employees will use personal autos in any way on this project, CONSULTANT shall provide evidence of personal auto liability coverage for each such person.

Workers Compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 per accident or disease.

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured's liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to CITY for injury to employees of CONSULTANT, sub-CONSULTANTS or others involved in the Work. The scope of coverage provided is subject to approval of CITY following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the CONSULTANT and "Covered Professional Services" as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than \$1,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this agreement.

Insurance procured pursuant to these requirements shall be written by insurers that are admitted carriers in the state of California and with an A.M. Bests rating of A- or better and a minimum financial size VII.

General conditions pertaining to provision of insurance coverage by CONSULTANT. CONSULTANT and CITY agree to the following with respect to insurance provided by CONSULTANT:

1. CONSULTANT agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds CITY, its officials, employees and agents, using standard ISO endorsement No. CG 2010 with an edition prior to 1992. CONSULTANT also agrees to require all contractors and subcontractors to do likewise.
2. No liability insurance coverage provided to comply with this Agreement shall prohibit CONSULTANT, or CONSULTANT's employees or agents, from waiving the right of subrogation prior to a loss. CONSULTANT agrees to waive subrogation rights against CITY regardless of the applicability of any insurance proceeds, and to require all contractors and subcontractors to do likewise.
3. All insurance coverage and limits provided by Contractor and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the CITY or its operations limits the application of such insurance coverage.
4. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to CITY and approved of in writing.
5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.
6. All coverage types and limits required are subject to approval, modification and additional requirements by the CITY, as the need arises. CONSULTANT shall not make any reductions in scope of coverage (e.g., elimination of contractual liability or reduction of discovery period) that may affect CITY's protection without CITY's prior written consent.
7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to CONSULTANT's general liability policy, shall be delivered to CITY at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, CITY has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by CITY shall be charged to and promptly paid by CONSULTANT or deducted from sums due CONSULTANT, at CITY option.
8. Certificate(s) are to reflect that the insurer will provide 30 (thirty) days notice to CITY of any cancellation of coverage. CONSULTANT agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation

imposes no obligation, or that any party will “endeavor” (as opposed to being required) to comply with the requirements of the certificate.

9. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by CONSULTANT or any subcontractor, is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self insurance available to CITY.
10. CONSULTANT agrees to ensure that subcontractors, and any other party involved with the project who is brought onto or involved in the project by CONSULTANT, provide the same minimum insurance coverage required of CONSULTANT. CONSULTANT agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. CONSULTANT agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to CITY for review.
11. CONSULTANT agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to CITY. If CONSULTANT's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the CITY. At that time the CITY shall review options with the CONSULTANT, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.
12. The CITY reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving the CONSULTANT ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the CONSULTANT, the CITY will negotiate additional compensation proportional to the increased benefit to CITY.
13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
14. CONSULTANT acknowledges and agrees that any actual or alleged failure on the part of CITY to inform CONSULTANT of non-compliance with any insurance requirement in no way imposes any additional obligations on CITY nor does it waive any rights hereunder in this or any other regard.
15. CONSULTANT will renew the required coverage annually as long as CITY or its employees or agents face an exposure from operations of any type pursuant to this Agreement. This obligation applies whether or not the Agreement is canceled or terminated for any reason. Termination of this obligation is not effective until CITY executes a written statement to that effect.
16. CONSULTANT shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from CONSULTANT's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications

applicable to the renewing or new coverage must be provided to CITY within five days of the expiration of the coverages.

17. The provisions of any workers' compensation or similar act will not limit the obligations of CONSULTANT under this Agreement. CONSULTANT expressly agrees not to use any statutory immunity defenses under such laws with respect to CITY, its employees, officials and agents.
18. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be limiting or all-inclusive.
19. These insurance requirements are intended to be separate and distinct from any other provision in this agreement and are intended by the parties here to be interpreted as such.
20. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.
21. CONSULTANT agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge CITY or CONSULTANT for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to CITY. It is not the intent of CITY to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against CITY for payment of premiums or other amounts with respect thereto.

CONSULTANT agrees to provide immediate notice to CITY of any claim or loss against CONSULTANT arising out of the work performed under this agreement. CITY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve CITY.

ACORD™ CERTIFICATE OF LIABILITY INSURANCEDATE (MM/DD/YY)
2/14/2013

PRODUCER

Dealey, Renton & Associates
P. O. Box 12675 Attn: IFW
Oakland, CA 94604-2675
510 465-3090

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED

Drake, Haglan & Associates, Inc.
11060 White Rock Road, #200
Rancho Cordova, CA 95670

INSURER A: American Ins. Co.

INSURER B: American Automobile Ins. Co.

INSURER C: New Hampshire Ins. Co.

INSURER D:

INSURER E:

COVERAGES

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

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☒ OCCUR ☒ Contractual Liability Included GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC	AZC80878380	10/23/12	10/23/13	EACH OCCURRENCE \$2,000,000 FIRE DAMAGE (Any one fire) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ☒ NON-OWNED AUTOS	AZC80878380 *Shared with General Liab.	10/23/12	10/23/13	COMBINED SINGLE LIMIT (Ea accident) \$2,000,000* BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY ☐ ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
A	EXCESS LIABILITY ☒ OCCUR ☐ CLAIMS MADE ☐ DEDUCTIBLE ☒ RETENTION \$0	AZC80878380	10/23/12	10/23/13	EACH OCCURRENCE \$1,000,000 AGGREGATE \$2,000,000 \$ \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WZP81007239	01/21/13	01/21/14	☒ WC STATUTORY LIMITS ☐ OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPL OYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
C	OTHER Professional Liability	4427192601	10/23/12	10/23/13	\$1,000,000 per claim \$2,000,000 annl aggr.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

General Liability policy excludes claims arising out of the performance of services

RE: Engineering and Related Services for the Carpinteria Avenue Bridge project; Engineering and Related Services for the Carpinteria Avenue Bridge project, Carpinteria, CA

(See Attached Descriptions)

CERTIFICATE HOLDER

ADDITIONAL INSURED; INSURER LETTER:

CANCELLATION

City of Carpinteria
Attn: City Clerk
5775 Carpinteria Avenue
Carpinteria, CA 93013SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ~~SEND BY MAIL~~ **SEND BY MAIL** 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BY ~~THE ISSUING INSURER~~ **THE ISSUING INSURER**AUTHORIZED REPRESENTATIVE
Naomi M. Barrett

DESCRIPTIONS (Continued from Page 1)

GENERAL LIABILITY ADDITIONAL INSUREDS: City of Carpinteria, its officials, employees and agents

Insurance is primary and non-contributory, per policy wording

Excess/Umbrella Coverage Non-owned and Hired Automobile/Workers' Compensation is following form and the
GENERAL LIABILITY ADDITIONAL INSUREDS ENDORSEMENT APPLIES

Additional Insured - Owners, Lessees or Contractors - AB 90 67 12 93
Policy Amendment Section II

Insured Drake, Haglan & Associates, Inc.

Policy Number AZC80878380

Producer Dealey, Renton & Associates

Effective Date 10/23/12

Schedule

Name of Person(s) or Organization(s)

City of Carpinteria
Attn: City Clerk
5775 Carpinteria Avenue
Carpinteria, CA 93013

(If no entry appears above, information required to complete this Endorsement will be shown in the Declarations as applicable to this Endorsement.)

The following is added to Part I - WHO IS AN INSURED in the Business Liability Section of this policy

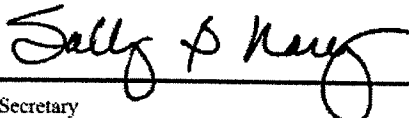
arising out of **your work** for that insured by or for you.

5. The person or organization shown in the Schedule is also an insured, but only with respect to liability

All other terms and conditions of the policy apply.

City of Carpinteria, its officials, employees and agents

This Form must be attached to Change Endorsement when issued after the policy is written.
One of the **Fireman's Fund Insurance Companies** as named in the policy



Secretary



President

EXHIBIT D

SUPPLEMENTAL FEDERAL PROVISIONS

Exhibit 10-J

Exhibit 10-O2

EXHIBIT 10-J STANDARD AGREEMENT FOR SUBCONTRACTOR/DBE PARTICIPATION**1. Subcontractors**

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the Agency and any subcontractors, and no subcontract shall relieve the Contractor of his/her responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the Agency for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the Agency's obligation to make payments to the Contractor.
- B. Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all the provisions stipulated in this Agreement to be applicable to subcontractors.
- C. Contractor shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to the Contractor by the Agency.
- D. Any substitution of subcontractors must be approved in writing by the Agency's Contract Manager in advance of assigning work to a substitute subcontractor.

2. Disadvantaged Business Enterprise (DBE) Participation

- A. This Agreement is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." Proposers who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.
- B. If the contract has a DBE goal, the Consultant must meet the DBE goal by committing DBE participation or document a good faith effort to meet the goal. If a DBE subconsultant is unable to perform, the Consultant must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. The Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT- assisted agreements. Failure by the Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the local agency deems appropriate.
- D. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

3. Performance of DBE Consultant and other DBE Subconsultants/Suppliers

- A. A DBE performs a commercially useful function when it is responsible for execution of the work of the Agreement and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible with respect to materials and supplies used on the Agreement, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, evaluate the amount of work subcontracted, industry practices; whether the amount the firm is to be paid under the Agreement is commensurate with the work it is actually performing; and other relevant factors.
- B. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, Agreement, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- C. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its Agreement with its own work force, or the DBE subcontracts a greater portion of the work of the Agreement than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a commercially useful function.

4. Prompt Payment of Funds Withheld to Subcontractors

(Local agency to use either A,B, or C below; delete the other two.)

- A. No retainage will be withheld by the Agency from progress payments due the prime contractor. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime contractor from progress due subcontractors. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultants and subconsultants.
- B. No retainage will be held by the Agency from progress payments due the prime consultant. Any retainage held by the prime consultant or subconsultants from progress payments due subconsultants shall be promptly paid in full to subconsultants within 30 days after the subconsultant's work is satisfactorily completed. Federal law (49 CFR26.29) requires that any delay or postponement of payment over the 30 days may take place only for good cause and with the Agency's prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

- C. The Agency shall hold retainage from the prime consultant and shall make prompt and regular incremental acceptances of portions, as determined by the Agency, of the contract work, and pay retainage to the prime contractor based on these acceptances. The prime consultant, or subconsultant, shall return all monies withheld in retention from a subconsultant within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49 CFR26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subconsultant performance, or noncompliance by a subcontractor. This provision applies to both DBE and non-DBE prime consultant and subconsultants.
- D. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

5. DBE Records

- A. The Consultant shall maintain records of materials purchased and/or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- B. Upon completion of the Agreement, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subcontractors," CEM-2402F (Exhibit 17-F, Chapter 17, of the LAPM), certified correct by the Consultant or the Consultant's authorized representative and shall be furnished to the Contract Manager with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in 25% of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to the Consultant when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" is submitted to the Contract Manager.

6. DBE Certification and Decertification Status

If a DBE subconsultant is decertified during the life of the Agreement, the decertified subconsultant shall notify the Consultant in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Agreement, the subconsultant shall notify the Consultant in writing with the date of certification. Any changes should be reported to the Agency's Contract Manager within 30 days.

EXHIBIT 10-02: LOCAL AGENCY CONSULTANT DBE INFORMATION

(Inclusive of all DBEs listed at bid proposal)

NOTE: Please refer to instructions on the reverse side of this form.

Consultant to Complete this Section			
1. Local Agency Name: <u>City of Carpinteria</u>			
2. Project Location: <u>Carpinteria Avenue Bridge over Carpinteria Creek</u>			
3. Project Description: <u>Provide environmental, plans, specifications and estimates, right of way engineering and right of way acquisition services</u>			
4. Total Contract Award Amount: \$ <u>1,056,701.39</u>			
5. Consultant Name: <u>Drake Haglan & Associates</u>			
6. Contract DBE Goal %: <u>3.57</u>			
7. Total Dollar Amount for all Subcontractors: \$ <u>384,908.41</u>			
8. Total Number of all Subcontractors: <u>6</u>			
Award DBE Information			
9. Description of Services to be Provided	10. DBE Firm Contact Information	11. DBE Cert. Number	12. DBE Dollar Amount
Hydraulics	Avila & Associates Consulting Engineers 712 Bancroft Road, #333, Walnut Creek, CA 94598 (925) 673-0549	032811	\$46,158.26
	Hamner, Jewell & Associates 340 James Way, Suite 150, Pismo Beach, CA 93449 (805) 773-1459	38270	\$55,137.00
Local Agency to Complete this Section		13. Total Dollars Claimed	14. Total % Claimed
20. Local Agency Contract Number: _____		\$ 101,295.26	9.59 %
21. Federal-aid Project Number: _____			
22. Contract Execution Date: _____		23. Local Agency Representative Name (Print) 24. Local Agency Representative Signature 25. Date 26. Local Agency Representative Title 27. (Area Code) Tel. No. 15. Preparer's Signature 16. Preparer's Name (Print) 17. Preparer's Title 18. Date 19. (Area Code) Tel. No.	
Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate:			
Caltrans to Complete this Section			
Caltrans District Local Assistance Engineer (DLAE) certifies that this form has been reviewed for completeness:			
28. DLAE Name (Print)	29. DLAE Signature	30. Date	

Distribution: (1) Copy – Email a copy to the Caltrans District Local Assistance Engineer (DLAE) within 30 days of contract award. Failure to send a copy to the DLAE within 30 days of contract award may result in delay of payment.
 (2) Copy – Include in award package sent to Caltrans DLAE (3) Original – Local agency files

INSTRUCTIONS - LOCAL AGENCY CONSULTANT DBE INFORMATION

Consultant Section

The Consultant shall:

1. **Local Agency Name** - Enter the name of the local or regional agency that is funding the contract.
2. **Project Location** - Enter the project location as it appears on the project advertisement.
3. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
4. **Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
5. **Consultant Name** - Enter the consultant's firm name.
6. **Contract DBE Goal %** - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-1 form. See LAPM Chapter 10.
7. **Total Dollar Amount for all Subcontractors** - Enter the total dollar amount for all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do not include the prime consultant information in this count.
8. **Total number of all subcontractors** - Enter the total number of all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do not include the prime consultant information in this count.
9. **Description of Services to be Provided** - Enter item of work description of services to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
10. **DBE Firm Contact Information** - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and telephone number, if the prime is a DBE.
11. **DBE Cert. Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
12. **DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE, and include DBEs that are not identified as subcontractors on the Exhibit 10-01 form. See LAPM Chapter 9 for how to count full/partial participation.
13. **Total Dollars Claimed** - Enter the total dollar amounts for columns 12 and 13.
14. **Total % Claimed** - Enter the total participation claimed for columns 12 and 13. SUM = (item "14. Total Participation Dollars Claimed" divided by item "4. Total Contract Award Amount"). If the Total % Claimed is less than item "6. Contract DBE Goal", a Good Faith Effort (GFE) is required.
15. **Preparer's Signature** - The person completing this section of the form for the consultant's firm must sign their name.
16. **Preparer's Name (Print)** - Clearly enter the name of the person signing this section of the form for the consultant.
17. **Preparer's Title** - Enter the position/title of the person signing this section of the form for the consultant.
18. **Date** - Enter the date this section of the form is signed by the preparer.
19. **(Area Code) Tel. No.** - Enter the area code and telephone number of the person signing this section of the form for the consultant.

Local Agency Section:

The Local Agency representative shall:

20. **Local Agency Contract Number** - Enter the Local Agency Contract Number.
21. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
22. **Contract Execution Date** - Enter the date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
23. **Local Agency Representative Name (Print)** - Clearly enter the name of the person completing this section.
24. **Local Agency Representative Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
25. **Date** - Enter the date the Local Agency Representative signs the form.
26. **Local Agency Representative Title** - Enter the position/title of the person signing this section of the form.
27. **(Area Code) Tel. No.** - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

Caltrans Section:

Caltrans District Local Assistance Engineer (DLAE) shall:

28. **DLAE Name (Print)** - Clearly enter the name of the DLAE.
29. **DLAE Signature** - DLAE must sign this section of the form to certify that it has been reviewed for completeness.
30. **Date** - Enter the date that the DLAE signs this section the form.

STAFF REPORT
COUNCIL MEETING DATE:
May 15, 2013

ITEMS FOR COUNCIL CONSIDERATION:

Adopting Resolution No. 5460 approving the positions and related descriptions for a Civil Engineer and Engineering Technician, and authorize the City Manager to establish a Part-Time Maintenance Worker position, all being part of the Department of Public Works.

Report prepared by: Charles W. Ebeling, Director
Department: Public Works


Signature

**Reviewed by
City Manager:**


Signature

ACTION X **NON-ACTION** ____

STAFF RECOMMENDATION:

Recommendation: That the City Council approve the positions and related descriptions for a Civil Engineer and Engineering Technician, and authorize the City Manager to establish a Part-Time Maintenance Worker position to improve efficiency and reduce costs in the Department of Public Works.

Sample Motion:

- 1) I move to adopt Resolution No. 5460, as read by title only, approving the positions and related descriptions for the positions of Civil Engineer and Engineering Technician; and
- 2) I move to authorize the City Manager to establish a Part-Time Maintenance Worker position and position description in the City of Carpinteria Department of Public Works.

I. BACKGROUND:

On May 22, 2013 the Department of Public Works presented an information item to the City Council that discussed how over the past 10 to 15 years both the City and Department of Public Works have experienced transitions from addressing demand for services with a heavy emphasis on new development to a growing and predominant demand for services related to

infill development, redevelopment and maintenance of public facilities. Many of the roadways, bridges, and sidewalks constructed with the development of housing and commercial land use in the City have now met or exceeded design lifetimes. Additionally, state and federal laws such as the Clean Water Act and the Americans with Disabilities Act obligate the City to not only address maintenance concerns but also to upgrade public facilities when significant maintenance work is being performed.

In response to the changes in type and character of Public Works services being demanded, the Department of Public Works administrative and engineering staff has also transitioned from entirely consultant based to a core of City staff managing and directing the work of an extensive array of vendor, construction contractors, and consultants. The purpose of creating a core staff to manage contracts was to reduce costs, obtain higher quality products that are in the best interest of the City and to improve services. While a licensed Civil Engineer was hired on a full-time basis by the City to be the Public Works Director/City Engineer, the additional staffing positions necessary to support the transition in services were not created.

The purpose of this agenda matter is to provide the City Council the opportunity to create new staff positions, as discussed below. The new staff positions will help the Department of Public Works address its responsibilities and workload as well as deliver services to the public more efficiently and at a lower overall cost.

II. DISCUSSION:

The Department of Public Works is recommending that the number of full-time equivalent positions in the Department of Public Works be increased from 9.5 to 11.5. The proposed staffing of the Department of Public Works is shown below:

Department of Public Works Staffing

Current Staff Positions		Proposed Staff Positions	
Director of Public Works	1	Director of Public Works	1
Public Works Supervisor	1	Public Works Supervisor	1
Environmental Coordinator	1	Environmental Coordinator	1
Management Analyst	1	Management Analyst	1
Administrative Assistant Part-Time	0.5	Administrative Assistant Part-Time	0
Maintenance Worker	4	Maintenance Worker	4
Maintenance Technician	1	Maintenance Technician	1
Total	9.5	<i>Civil Engineer (5-year Contract)</i>	1
		<i>Engineering Technician</i>	1
		<i>Maintenance Worker Part-Time</i>	0.5
		Total:	11.5

The Department of Public Works recommends that the City Council adopt Resolution No. 5460 approving the positions and related descriptions for Civil Engineer and Engineering Technician. Additionally, Public Works recommends that the City Council authorize the City Manager to establish a Part-Time Maintenance Worker position. The existing part-time Administrative Assistant position is proposed to be eliminated. The Part-Time Maintenance Worker is proposed to be added to address ongoing and increasing maintenance work in the Downtown

"T" area of the City. The new Maintenance Worker will be assigned maintenance needs such as trash can and sidewalk cleaning, litter pickup, and supplemental public bathroom janitorial service. A brief summary of the duties for the Civil Engineer and Engineering Technician are shown below:

Civil Engineer

- Capital Improvement Program manager
- Capital improvement project construction manager and inspections
- Private development review, permitting and inspections
- Consultant contracts manager
- Board and Committee support – Traffic Safety Committee

Engineering Technician

- Minor engineering permits and encroachments
- Traffic engineering and infrastructure inventories
- Private development inspections
- Vendor and construction contractor management
- Board and Committee support – Tree Advisory Board

In addition to their duties and tasks, the new employees will be expected to assist with all of the Department of Public Works programs on as-needed basis. Those programs include Administration, Capital Improvements, Transportation, Parking and Lighting, Solid Waste, Watershed Management, Right-of-Way Maintenance and Street Maintenance.

III. FINANCIAL CONSIDERATIONS:

The cost of 1 FTE contract consultant currently paid by the City is approximately \$365,000 per year. The Department of Public Works estimates that the new 2.5 FTE positions and the elimination of the 0.5 FTE Administrative Assistant position, as described above, will cost the Department of Public Works approximately \$215,000. This includes the fully burdened rate for each new employee. Adding the full-time staff will not only reduce cost for the Department but also for engineering permit and encroachment permit applicants. The fees that applicants pay for permits, development review and inspection is based on the rates charged by the engineering consultants. Upon approval of the new positions, the following salary ranges will be included in the Fiscal Year 2013-2014 budget:

Civil Engineer:	Grade M-16	\$70,191.52 – \$96,514.02
Engineering Technician:	Grade 9	\$43,062.69 - \$59,212.01
Maintenance Worker Part-Time:	Grade 102	\$17.06 - \$20.74 per hour

The addition of the new staff will not affect the City's General Fund. The Department of Public Works has a budget of approximately \$4.8 million. Less than 2% of Public Works funding comes from the General Fund. Public Work relies on many sources of funding such as State Gas Tax, Measure A Sales Tax, Right-of-Way Assessment District, Engineering Permits and Fees, grants and several other sources. It is expected that the reorganization proposal will free up more of this revenue for much needed maintenance work.

Also, as previously mentioned, a significant portion of the Department of Public Work's current work load is due to the high number of grant funded capital projects. While one of the reasons why Public Works is proposing to add staff is to write more grant applications, there is no

guarantee that the current workload will continue. Therefore, the Department is proposing that the new Civil Engineer position be a full-time contract employee with a five-year term. This will add flexibility to the Department's staffing should funding be reduced over time.

IV. ATTACHMENTS:

Attachment A – Resolution No. 5460

Attachment B – Part-Time Maintenance Worker Position Description

ATTACHMENT A

RESOLUTION NO. 5460

**A RESOLUTION OF THE CITY OF CARPINTERIA CITY COUNCIL APPROVING AND
ADOPTING POSITION DESCRIPTIONS AND POSITIONS FOR CIVIL ENGINEER AND
ENGINEERING TECHNICIAN IN THE CITY OF CARPINTERIA
DEPARTMENT OF PUBLIC WORKS**

WHEREAS, establishing and maintaining appropriate and necessary position descriptions are essential to the efficient operation of the City and the proposed positions will result in improved efficiency and lower cost within the City; and

WHEREAS, after study and review, the City Manager has recommended that the full-time limited-permanent Civil Engineer position description be adopted and the position be established; and

WHEREAS, after study and review, the City Manager has recommended that the full-time Engineering Technician position description be adopted and the position established; and

WHEREAS, the selected candidate for the Civil Engineer position will be hired for duties projects and tasks of a limited duration and the candidate will be required to sign a term of employment letter specifying conditions of employment including acknowledging a duration of engagement of up to five years. The successful candidate will be eligible for benefits during the duration of employment.

WHEREAS, the positions of Civil Engineer and Engineering Technician will implemented with the adoption of the Fiscal Year 2013-2014 City budget at Grade M-16 (\$70,191.52 - \$96,514.02) and Grade 9 (\$43,062.69 - \$59,212.01), respectively.

NOW, THEREFORE, THE CARPINTERIA CITY COUNCIL does hereby resolve that the position descriptions and positions for Civil Engineer and Engineering Technician dated May 13, 2013, and attached hereto as Exhibits 1 and 2, are hereby approved and adopted.

PASSED, APPROVED AND ADOPTED this 13th day of May, 2013 by the following called vote:

AYES: COUNCILMEMBER:

NOES: COUNCILMEMBER:

ABSENT: COUNCILMEMBER:

Mayor, City of Carpinteria

ATTEST:

City Clerk, City of Carpinteria

I hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 13th day of May, 2013

City Clerk, City of Carpinteria

APPROVED AS TO FORM

City Attorney



POSITION DESCRIPTION

POSITION TITLE: CIVIL ENGINEER

DEPARTMENT: Public Works

CLASSIFICATION: Contract Employee

APPROVED BY: City Manager

REPORTING RELATIONSHIPS

POSITION REPORTS TO: Director of Public Works/City Engineer

POSITIONS SUPERVISED: Engineering staff and consultants

POSITION PURPOSE

Applies knowledge to plan and design civil engineering projects. Responsible for acquiring and analyzing data used on projects including feasibility studies and cost analyses. Prepares or guides preparation of documentation for projects. Participates in testing of materials and reporting on properties and results. Visits project sites and provides direction on construction and maintenance operations. Coordinates activities with other departments and outside contractors. Supports public works staff and ensures established goals and deadlines are met. Keeps Director of Public Works/City Engineer informed of status and significant problems.

ESSENTIAL FUNCTIONS AND BASIC DUTIES

1. Performs civil engineering work including the planning, design, preparation of drawing, specifications, contractor's bids and estimates for a variety of public works improvements.
2. Serves as a construction manager/resident engineer when needed on City projects.
3. Supervises a staff of sub-professional personnel and consultants.
4. Performs contract administration duties.
5. Coordinates preparation of plans, specifications and estimates and sets up bid and construction schedules for City capital improvement projects.
6. May represent the Director of Public Works/City Engineer at various community meetings, workshops and the City's boards, committees and councils.

7. Writes and reviews conditions of approval and inspects private development projects.
8. Researches, collects, organize, and analyze technical data used in planning and designing civil engineering projects.
 - a. Analyzes data including reports, maps, test results, and photographs outlining information about soil composition and other environmental and geological data necessary to design and implement projects. Draws appropriate conclusions.
 - b. Oversees materials testing for durability under varying stress, temperature, weather, and geological conditions.
 - c. Researches similar projects and records relevant data. Conducts courthouse and historical research as needed.
 - d. Directs preparation of necessary reports, schedules, or plans detailing data and results of tests conducted at project sites, and in computer modeling scenarios. Utilizes past experience and historical data as appropriate.
 - e. Researches applicable building codes, regional regulations, and safety requirements.
 - f. Uses design software as needed to prepare necessary specifications and designs.
9. Oversees the application of collected data in all stages of engineering projects.
 - a. Determines cost and feasibility of projects based on collected data, knowledge of engineering principles, and advanced mathematics. Makes accurate estimates.
 - b. Projects quantities, profile specifications, and dimensions of materials for projects.
 - c. Oversees surveying crews at construction sites, monitoring conformance to safety standards and project specifications.
 - d. Participates in municipal meetings and approval processes.
 - e. Participates in budgeting and bid processes.
 - f. Develops good working relationships with government agency representatives, outside contractors, and the general public.
 - g. Evaluates plan changes from developers and contractors.
10. Assumes responsibility for establishing and maintaining effective communication, coordination, and working relationships with area staff.
 - a. Keeps superiors informed of significant problems and of progress attained in reaching established objectives.
 - b. Answers questions and concerns in a timely and professional manner.
 - c. Coordinates planning and construction activities with the City's operation goals and meets established timelines.
 - d. Coordinates project activities with other departments and outside agencies.
11. Assumes responsibility for related duties as required or assigned.

- a. Ensures work area is clean, secure, and well maintained.
 - b. Keeps current or new engineering developments, methods, and techniques.
 - c. Completes special projects as assigned.
 - d. Attends and participates in meetings and professional conferences as required.
-

QUALIFICATIONS

EDUCATION/CERTIFICATION:	College degree in civil engineering or related field. Must be a registered Civil Engineer in the State of California or have the ability to obtain registration within six month. Registration as California Traffic Engineer a plus.
REQUIRED KNOWLEDGE:	Understanding of Company operations and needs. Knowledge of municipal approval process. Thorough understanding of civil engineering concepts.
EXPERIENCE REQUIRED:	5 years of progressive experience.
SKILLS/ABILITIES:	Strong analytical and problem-solving skills. Exercise independent judgment Well organized. Able to manage and coordinate subordinate personnel. Good communications skills. Technical writing skills. Basic computer skills (Microsoft Office and engineering software).

PHYSICAL ACTIVITIES AND REQUIREMENTS OF THIS POSITION

FINGER DEXTERITY:	Using primarily just the fingers to make small movements such as typing, picking up small objects, or pinching fingers together.
TALKING:	Especially where one must frequently convey detailed or important instructions or ideas accurately, loudly, or quickly.
AVERAGE HEARING:	Able to hear average or normal conversations and receive ordinary information.
AVERAGE VISUAL ABILITIES:	Average, ordinary, visual acuity necessary to prepare or inspect documents or products, or operate machinery.
PHYSICAL STRENGTH:	Sedentary work; sitting most of the time. Exerts up to 10 lbs. of force occasionally. (Almost all office jobs.).

WORKING CONDITIONS:	Work is performed both inside and outside, including working within designated construction area and in the public roadway right-of-way. Subject to weather. Frequent local travel.
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MENTAL ACTIVITIES AND REQUIREMENTS OF THIS POSITION

REASONING ABILITY:	Ability to apply logical or scientific thinking to define problems, collect data establish facts, and draw conclusions. Able to interpret a variety of technical instructions and can deal with multiple variables.
MATHEMATICS ABILITY:	Ability to use advanced algebra, exponents, logarithms, linear equations, quadratic equations, mathematical induction and binomial theorem, permutations, calculus, and/or analytic geometry. Able to perform basic statistical calculations including frequency distributions, reliability and validity of tests, normal curve, analysis of variance, correlation techniques, chi-square application and sampling theory, and factor analysis.
LANGUAGE ABILITY:	Ability to read a variety of books, magazines, instruction manuals, atlases, and encyclopedias. Ability to prepare memos, reports, and essays using proper punctuation, spelling, and grammar. Ability to communicate distinctly with appropriate pauses and emphasis, correct pronunciation (or sign equivalent), and variation in word order using present, perfect, and future tenses.

INTENT AND FUNCTION OF JOB DESCRIPTIONS

Job descriptions assist organizations in ensuring that the hiring process is fairly administered and that qualified employees are selected. They are also essential to an effective appraisal system and related promotion, transfer, layoff, and termination decisions. Well constructed job descriptions are an integral part of any effective compensation system.

All descriptions have been reviewed to ensure that only essential functions and basic duties have been included. Peripheral tasks, only incidentally related to each position, have been excluded. Requirements, skills, and abilities included have been determined to be the minimal standards required to successfully perform the positions. In no instance, however, should the duties, responsibilities, and requirements delineated be interpreted as all inclusive. Additional functions and requirements may be assigned by supervisors as deemed appropriate.

In accordance with the Americans with Disabilities Act, it is possible that requirements may be modified to reasonably accommodate disabled individuals. However, no accommodations will be made which may pose serious health or safety risks to the employee or others or which impose undue hardships on the City.

Job descriptions are not intended as and do not create employment contracts. The City maintains its status as an at-will employer. Employees can be terminated for any reason not prohibited by law.



POSITION DESCRIPTION

POSITION TITLE: ENGINEERING TECHNICIAN

DEPARTMENT: Public Works

CLASSIFICATION: Full-Time – Non-exempt

APPROVED BY: City Manager

REPORTING RELATIONSHIPS

POSITION REPORTS TO: Director of Public Works/City Engineer

POSITIONS SUPERVISED: N/A

POSITION PURPOSE

Under the general direction of the Director of Public Works/City Engineer performs a variety of tasks and duties pertaining to the programs and projects both office and field technical paraprofessional work in the Department of Public Works.

ESSENTIAL FUNCTIONS AND BASIC DUTIES

1. Prepares simple maps, records, graphs and drawings or provides details on more complex ones.
2. Conducts or assists with routine traffic data collection activities such as speed surveys, inventory/inspection or traffic control devices and roadway markings.
3. Performs simple office engineering work.
4. Check a variety of plans such as improvement drawings.
5. Discusses maps, plan and cost estimates of City capital improvement projects and private development projects with owners, engineers, contractors and other government representatives.
6. Coordinates project delivery activities with owners, utility companies, contractors, other government representative and the general public.
7. May assist with representing the Director of Public Works/City Engineers at various community meetings, workshops and the City's boards, committees and council.

8. Assumes responsibility for related duties as required or assigned.

QUALIFICATIONS

EDUCATION/CERTIFICATION:	High school diploma or equivalent including coursework in algebra, geometry and trigonometry Possession of, or ability to obtain a valid California driver's license. Must have a good driving record.
REQUIRED KNOWLEDGE:	Understanding of Company operations and needs. Knowledge of municipal approval process. Thorough understanding of civil engineering concepts.
EXPERIENCE REQUIRED:	1-3 years of progressive experience in civil engineering work including design, traffic survey, permits, construction inspection or other civil engineering specialties.
SKILLS/ABILITIES:	Ability to learn the basic principles and practices of engineering technology including drawing, cost estimating, data collection, record keeping. Strong analytical and problem-solving skills. Knowledge of mathematics, including algebra, geometry and trigonometry Exercise independent judgment Well organized. Able to deal with the public and other government agencies, contractors and staff. Good communications skills. Technical writing skills. Basic computer skills (Microsoft Office and engineering software).

PHYSICAL ACTIVITIES AND REQUIREMENTS OF THIS POSITION

FINGER DEXTERITY:	Using primarily just the fingers to make small movements such as typing, picking up small objects, or pinching fingers together.
TALKING:	Especially where one must frequently convey detailed or important instructions or ideas accurately, loudly, or quickly.
AVERAGE HEARING:	Able to hear average or normal conversations and receive ordinary information.
AVERAGE VISUAL ABILITIES:	Average, ordinary, visual acuity necessary to prepare or inspect documents or products, or operate machinery.
PHYSICAL STRENGTH:	Sedentary work; sitting most of the time. Exerts up to 10 lbs. of force occasionally. (Almost all office jobs.).

WORKING CONDITIONS:	Work is performed both inside and outside, including working within designated construction area and in the public roadway right-of-way. Subject to weather. Frequent local travel.
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MENTAL ACTIVITIES AND REQUIREMENTS OF THIS POSITION

REASONING ABILITY:	Ability to apply logical or scientific thinking to define problems, collect data establish facts, and draw conclusions. Able to interpret a variety of technical instructions and can deal with multiple variables.
MATHEMATICS ABILITY:	Ability to use advanced algebra, exponents, logarithms, linear equations, quadratic equations, mathematical induction and binomial theorem, permutations, calculus, and/or analytic geometry. Able to perform basic statistical calculations including frequency distributions, reliability and validity of tests, normal curve, analysis of variance, correlation techniques, chi-square application and sampling theory, and factor analysis.
LANGUAGE ABILITY:	Ability to read a variety of books, magazines, instruction manuals, atlases, and encyclopedias. Ability to prepare memos, reports, and essays using proper punctuation, spelling, and grammar. Ability to communicate distinctly with appropriate pauses and emphasis, correct pronunciation (or sign equivalent), and variation in word order using present, perfect, and future tenses.

INTENT AND FUNCTION OF JOB DESCRIPTIONS

Job descriptions assist organizations in ensuring that the hiring process is fairly administered and that qualified employees are selected. They are also essential to an effective appraisal system and related promotion, transfer, layoff, and termination decisions. Well constructed job descriptions are an integral part of any effective compensation system.

All descriptions have been reviewed to ensure that only essential functions and basic duties have been included. Peripheral tasks, only incidentally related to each position, have been excluded. Requirements, skills, and abilities included have been determined to be the minimal standards required to successfully perform the positions. In no instance, however, should the duties, responsibilities, and requirements delineated be interpreted as all inclusive. Additional functions and requirements may be assigned by supervisors as deemed appropriate.

In accordance with the Americans with Disabilities Act, it is possible that requirements may be modified to reasonably accommodate disabled individuals. However, no accommodations will be made which may pose serious health or safety risks to the employee or others or which impose undue hardships on the City.

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ATTACHMENT B



POSITION DESCRIPTION

POSITION TITLE: MAINTENANCE WORKER I

DEPARTMENT: Public Works

CLASSIFICATION: Non-exempt/Part-time

APPROVED BY: City Manager

REPORTING RELATIONSHIPS

POSITION REPORTS TO: Public Works Supervisor

POSITIONS SUPERVISED: N/A

POSITION PURPOSE

Under the general direction of the Public Work Supervisor performs a variety of general janitorial task, litter debris collection and duties pertaining to Public Works areas and equipment.

ESSENTIAL FUNCTIONS AND BASIC DUTIES

1. Perform general janitorial, litter debris collection and cleaning of various objects and equipment on public streets.
2. Perform general painting, carpentry and cement work as needed.
3. Prepares general sign, bathroom and landscaping maintenance work as needed.
4. Make minor adjustments on service equipment.
5. Maintain tools and equipment to ensure that they are in good working order.
6. Maintain logs of daily activities.
7. Assist in preparing inventories and ordering of supplies and tool for the Public Works Department.
8. May handle complaints and questions from the public.
9. Assumes responsibility for related duties as required or assigned.

PERFORMANCE MEASUREMENTS

1.

QUALIFICATIONS

EDUCATION/CERTIFICATION:

High school diploma or equivalent experience

Possession of or ability to obtain a valid California driver's license.
Must have a good driving record.

Certification or ability to obtain CPR and First Aid certification. ?

REQUIRED KNOWLEDGE:

Understanding of Company operations and needs.
Knowledge of municipal approval process.
Thorough understanding of civil engineering concepts.

EXPERIENCE REQUIRED:

One year experience in construction or maintenance work including some semi-skilled assignments in public work maintenance is desirable.

SKILLS/ABILITIES:

Knowledge of common tools and materials used in basic maintenance activities.
Basic repair and maintenance procedures and practices; including safe work practices and policies.
Ability to perform minor maintenance activities.
Understand and follow oral and written instructions
Ability to work with variety of tools related to public works maintenance.
Ability to learn to operate a variety of maintenance equipment
Perform heavy manual labor
Able to deal with the public
Good communications skills.

PHYSICAL ACTIVITIES AND REQUIREMENTS OF THIS POSITION

FINGER DEXTERITY:

Using primarily just the fingers to make small movements such as typing, picking up small objects, or pinching fingers together.

TALKING:

Especially where one must frequently convey detailed or important instructions or ideas accurately, loudly, or quickly.

AVERAGE HEARING:

Able to hear average or normal conversations and receive ordinary information.

AVERAGE VISUAL ABILITIES:

Average, ordinary, visual acuity necessary to prepare or inspect documents or products, or operate machinery.

PHYSICAL STRENGTH:

Require light to heavy physical work with frequent standing, walking, lifting/carrying objects up to 100 pounds, reaching, stooping, field of vision to operated assigned vehicle in traffic. May be required to perform duties at heights between 20 and 30 feet. Color vision required for the position. Exerts up to 10 lbs. of force occasionally.

WORKING CONDITIONS:

Work is performed both inside and outside, including working in areas where there is traffic noise, dirt, vehicle fumes, vibration, heat, cold and dampness from working in a variety of weather conditions. Working conditions is to weather.

Frequent local travel.

MENTAL ACTIVITIES AND REQUIREMENTS OF THIS POSITION**REASONING ABILITY:**

N/A

MATHEMATICS ABILITY:

N/A

LANGUAGE ABILITY:

Ability to understand and follow oral and written instructions in English.

INTENT AND FUNCTION OF JOB DESCRIPTIONS

Job descriptions assist organizations in ensuring that the hiring process is fairly administered and that qualified employees are selected. They are also essential to an effective appraisal system and related promotion, transfer, layoff, and termination decisions. Well constructed job descriptions are an integral part of any effective compensation system.

All descriptions have been reviewed to ensure that only essential functions and basic duties have been included. Peripheral tasks, only incidentally related to each position, have been excluded. Requirements, skills, and abilities included have been determined to be the minimal standards required to successfully perform the positions. In no instance, however, should the duties, responsibilities, and requirements delineated be interpreted as all inclusive. Additional functions and requirements may be assigned by supervisors as deemed appropriate.

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STAFF REPORT
COUNCIL MEETING DATE:
May 13, 2013

ITEM FOR COUNCIL CONSIDERATION:

**Report on Parking and Business Improvement Area Assessment District No. 4 for
Fiscal Year 2013-14**

Report prepared by: Charles W. Ebeling, Director

Department: Public Works



Signature

**Reviewed by Administrative Services
Director:**



Signature

**Reviewed by
City Manager:**



Signature

Action X Non-Action Staff Recommendation:

Recommendation: Adopt Resolution Nos. 5456 and 5457, acting to accept the mandatory annual report and budget and to set the matter of the continuation of Parking and Business Improvement Area District No. 4 for fiscal year 2013-2014 for public hearing at the regular City Council meeting of May 28, 2013.

Sample Motion: I move to adopt Resolution Nos. 5456 and 5457, as read by title only, thereby acting to accept the mandatory annual report and budget; and to set the matter of the continuation of Parking and Business Improvement Area District No. 4 for fiscal year 2013-14 for public hearing at the regular City Council meeting of May 28, 2013.

I. BACKGROUND:

The Parking and Business Improvement Area (City Assessment District No. 4) was formed in September 1986 with the adoption of City Ordinance No. 393, pursuant to the California Parking and Business Improvement Area Law of 1979. Parking and Business

Improvement Areas are formed to enhance a specific area and increase customer/ tourist appeal. This has historically been accomplished through parking improvements, advertising/promotions, and increased public services like restroom and sidewalk cleanings. In 1989, the State of California repealed the Parking and Business Improvement Area Law of 1979 and enacted the Parking and Business Improvement Area Law of 1989 (Streets and Highways Code Section 36500 et seq.). This new law was the impetus for the adoption in 1990 of City Resolution No.1882 which appointed a required five member Parking and Business Improvement Advisory Board (PBIA Advisory Board) to advise City Council regarding the level of assessments, expenditure of revenues from the assessments, and to provide an annual report (Attachments 1-4) outlining certain activities within the District for the coming fiscal year.

On March 25, 2013, by Resolution No. 5449, the City Council ordered a report on the status and projections for Carpinteria Parking and Business Improvement District No. 4 for Fiscal Year 2013-14.

This matter will allow the City Council, if determined appropriate, to accept the Report and to set a public hearing date for its consideration of continuing the District.

II. DISCUSSION:

The PBIA Advisory Board, at their May 1, 2013 meeting, carried a motion recommending that their Annual Report (Attachments 1-4) be forwarded to the City Council. The Annual Report contains the following recommendations:

1. The General Assessment Fee, applicable to all businesses located within the boundaries of Assessment District No. 4, be raised \$2.00 per business to \$119.00¹ annually, and continues to be incrementally adjusted this year and every year thereafter based on a national inflationary index not to exceed 3% in any given year.
2. Special Assessment Fees, which apply only to selected businesses, remain the same from prior years as detailed below.

Parking Lot #1 and Parking Lot #2

Parking Lots #1 and #2 are paid off. No Change.

Parking Lot #3

Board recommends the assessments for Parking Lot #3 (Sub Area A), based on the parking space shortfall per business, remain at \$51.00 per space for FY 2013 - 2014.

3. Although there are occasionally delinquencies in the payment of general business assessment fees, delinquent merchants continue to receive the benefits funded by the business assessment fees. The PBIA Board urges the City Council to continue to support staff in vigorously pursuing delinquent assessment fees,

¹ For the 2013-14 fiscal year, the consumer price index referenced in recommendation #1 is 1.3% or \$2.00 and is included in the total proposed General Assessment of \$119.00. In FY 2012-2013, the General Assessment was \$117.00.

up to and including Small Claims proceedings, with any appeal made directly to the City Council.

4. Unpaid balances from an individual merchant continue to *not* be forgiven, rather that the balance due be carried forward and added to assessments billed to that business in the next fiscal year.
5. Any deficiencies in parking assessments continue to be financed through the City's General Fund. The Board has a duty to uniformly and equitably apply the parking fees throughout the Assessment District and does not feel the burden from: a shortfall of funds between the parking fees assessed; collected; the amount charged for debt service; and/or uncollected revenue, should be placed on other businesses in the District.

Over the last 20 years, expenses for maintaining the City's downtown infrastructure have grown considerably. In the 1990's the City improved the Downtown with new pavement and sidewalks, landscaping, decorative street lighting and street furniture (benches, trash receptacles, newspaper vending racks, etc.) The City of Carpinteria now spends from Public Works funds, such as Gas Tax and Measure A funds, approximately \$10,000 per year on steam cleaning the Downtown sidewalks, approximately \$50,000 on operating and maintaining the restrooms adjacent to Parking Lots Nos. 1 and 3, and approximately \$20,000 on landscaping, lighting and street furniture maintenance. The PBI also spends approximately \$13,000 on various Downtown T promotions and related activities including the Independence Day Parade, Halloween Trick or Treat, the Holiday Spirit Parade, and operation of the light pole banner program.

As discussed above, applying an inflationary index will enable the District to continue to help offset the cost of the maintenance activities and other programs into the future.

III. FINANCIAL CONSIDERATIONS:

Total revenue from the District is projected to be \$30,070. The district collects fees from two main categories: General Assessment Fees and Special Assessment Fees. Attachments C and D detail the state of current fund transactions, the financial condition of the district and the proposed assessment roll for fiscal year 2013-14. A description of the fees, including their status, is provided below:

General Assessment Fees: apply to all businesses within the district and are currently set at \$117.00 per business, and are used for promotion, maintenance, and revitalization activities within district. As discussed above, the General Assessment is proposed to increase 2% or \$2.00 to a total of \$119.00.

Special Assessment Fees: apply only to selected businesses and are based on parking shortfalls as specified by City Zoning Code and a benefit ratio. The benefit ratio is based on a business's proximity to the location of a specific parking improvement and is used for acquisition, construction, and maintenance of those specific sub area parking improvements. The City has three publicly owned parking lots that are improved through special assessments. Only one special assessment (Parking Lot #3) remains active.

Parking Lot # 1 (Located on 9th Street between Yucca Lane and Elm Street)
The funding program for this parking lot, which was financed through the sale of serial bonds, was paid off in 1988 by means of property assessments on the individual property owners. In FY 1996-97 an assessment fee was levied on businesses adjacent to Parking Lot #1 to reimburse the City for half of the costs incurred for resurfacing of the parking lot. Final payments on this assessment were completed in June, 2006.

Parking Lot #2 (Located on Cactus Lane)
The funding program for Parking Lot #2 was established in FY 1987-88. SB 959 Grant monies were used to fund a portion of the cost and funding of the balance was shared equally by the City and the businesses located in the area of benefit. The business share of the assessment was paid off in June, 1997.

Parking Lot #3 (Located at the Amtrak Station on Linden Ave. and Fifth Street)
Parking Lot #3 was completed in FY 1989-90. SB 959 Grant monies were used on this project and, since this lot was intended to benefit both the downtown and the beach area, a portion of the cost was funded through the Tidelands Trust Fund as well as the City's General Fund. Businesses located in the proximity of Parking Lot #3 (also known as Sub Area A) are currently paying an assessment of \$51.00 per parking space shortfall. This debt will be paid off in 2018.

Due to vacancies and delinquencies, there is a potential to create a shortfall in the PBIA budget. Monitoring of the PBIA funds and expenses throughout the year can manage the shortfall. Should a shortfall result, the City may contribute an allocation from the General Fund.

The projected fund balance at the end of this fiscal year (FY 2012-13) is \$21,468. Estimated revenue for Fiscal Year 2013-14 is \$30,070 and the proposed budget will be for \$30,070. The proposed budget can be found in Attachment 1 with the Annual Report, includes expenditures for Downtown Events and Activities.

V. ATTACHMENTS:

- A. PBIA Advisory Board Annual Report and FY 2013-14 Proposed Budget
- B. Map of the District boundaries
- C. State of Fund Transactions and Financial Condition for the District
- D. Proposed Assessment Roll for 2013-14
- E. Resolution 5456
- F. Resolution 5457

Attachment A

**City of Carpinteria
Parking and Business Improvement Area
Advisory Board**

**ANNUAL REPORT RELATIVE TO
ASSESSMENT DISTRICT NO.4
Submitted May 1, 2013**

BOARD RESPONSIBILITIES

In compliance with local and State regulations, the Carpinteria Parking and Business Improvement Area Advisory Board (PBIAAB) is responsible for providing an operational and financial mechanism to acquire, construct, and maintain off-street public parking facilities. Additionally the board makes recommendations to the City Council for general promotion of business activities, economic growth and stability in the District, and general maintenance issues within the Downtown T. The Board has a duty to prepare and present an annual report to the City Council that addresses all matters relating to the Assessment District, including methods and basis of levying the assessments and recommendations on use of funds collected by the District. Prior to preparing this report the Board reviewed the status of delinquent assessment fees and changes that have taken place on the assessment roll during the past year.

BACKGROUND

California State Law and Streets and Highways Code Sections 36500-36504 prescribe the process for levying assessments and establish guidelines for the appointment of an advisory board to make recommendations on assessments and use of funds collected by the Assessment District. The Carpinteria Parking and Business Improvement Area Advisory Board is made up of five members appointed by the Mayor, subject to the advice and consent of the City Council. They serve at the pleasure of the City Council without pay. Three of the members must represent businesses paying assessment fees in District #4. The remaining two members, while preferably business-related and representative of the Assessment District, may be any qualified persons as determined by the Council.

ASSESSMENT DISTRICT #4

Advisory Board

The PBIA Advisory Board meets at City Hall at 8:00 a.m. every other month on the first Thursday during the months of February, April, June, August, October and December. Meetings are conducted in accordance with the Brown Act and open to the public.

Current Board members:

Kiona Gross – Vice Chair – Curious Cup
Roxanne Barbieri – Roxanne's A Wish and A Dream
Lynda Lang - Carpinteria Valley Chamber of Commerce
Gloria Tejeda – Senor Frog's
Arthur Willner - Resident

District Boundaries

The boundaries of Carpinteria Assessment District # 4 include the areas adjacent to Linden Avenue from the railroad to Carpinteria Avenue and from Holly Avenue to Palm Avenue. All businesses located within the boundary of the Carpinteria Parking and Business Improvement District #4 are subject to a general business improvement assessment as set by City Ordinance and, where applicable, a special parking benefit assessment fee based on parking requirements as outlined in the City's zoning ordinance. The District Boundaries can be found in Attachment A.

PARKING ASSESSMENT

Businesses within the boundaries of the Assessment District are subject to a special parking benefit assessment fee, which is used to reimburse the City's General Fund for the costs associated with the City's three parking lots. By Ordinance 393, the funds derived from this assessment must be used exclusively for the purpose of acquisition, construction, and maintenance of off-street parking.

The criteria used for establishing parking assessments is based on the parking requirement per the zoning ordinance, less any on-site parking provided by the business, adjusted to reflect the benefit derived from the parking lot based on distance and accessibility to the parking lot.

- **Parking Lot # 1** (Located on 9th Street between Yucca Lane and Elm Street)
The funding program for this parking lot, which was financed through the sale of serial bonds, was paid off in 1988 by means of property assessments on the individual property owners. In FY 1996-97 an assessment fee was levied on businesses adjacent to Parking Lot #1 to reimburse the City for costs incurred for resurfacing of the parking lot. Final payments on this assessment were completed in June, 2006.
- **Parking Lot #2** (Located on Cactus Lane)
The funding program for Parking Lot #2 was established in FY 1987-88. SB 959 Grant monies were used to fund a portion of the cost and funding of the balance was shared equally by the City and the businesses located in the area of benefit. The business share of the assessment was paid off in June, 1997.
- **Parking Lot #3** (Located at the Amtrak Station on Linden Ave. and Fifth Street)
Parking Lot #3 was completed in FY 1989-90. SB 959 Grant monies were used on this project and, since this lot was intended to benefit both the downtown and the beach area, a portion of the cost was funded through the Tideland Trust Fund as well as the City's General Fund. Businesses located in the proximity of Parking Lot #3 are currently paying an assessment of \$51.00 per parking space shortfall. This assessment will be paid off in 2018.

Board Recommendation:

At the special called meeting of the Parking and Business Improvement Area Advisory Board held on Wednesday, May 1, 2013, the Board unanimously voted to make the following recommendations to the City Council:

Parking Lot # 1 and Parking Lot #2

Parking Lots #1 and #2 are paid off. No action taken by Board.

Parking Lot #3

Board recommends the assessments for Parking Lot #3, based on the parking space shortfall per business; remain at \$51.00 per space for FY 2013 - 2014.

GENERAL BUSINESS ASSESSMENT

All businesses located within the boundaries of District #4 are required to pay a general business assessment fee.

As outlined by Ordinance 393, funds derived from the general business improvement assessment are restricted funds and must be used exclusively for the benefit of general business revitalization, promotion and improvement within the boundaries of the Parking and Business Improvement District No.4.

The General Business Assessment fee for all businesses located within the Parking and Business Improvement District No.4 had not been increased since 1991 when Resolution 1998 increased the assessment from the Fifty Dollars (\$50.00) set by Ordinance in 1988, to One Hundred Dollars (\$100.00) per business per year. On June 27, 2011, the annual general assessment was increased to One Hundred Fifteen Dollars (\$115.00) per business per year, including and annual inflationary adjustments with a maximum increase of 3% annually. In 2012, the general assessment fee was adjusted to \$117.00 following the inflationary adjustments.

The annual inflationary index for this assessment is the Consumer Price Index for Urban Wage Earners and Clerical Workers for Los Angeles-Riverside-Orange County, CA. The calculation is based on a March to March increase evaluation, in accordance with other City fee adjustments. For 2012-2013, the consumer price index rose 1.3%. This would increase the General Business Assessment Fee to \$119.00.

Board Recommendation:

The Parking and Business Improvement Area Advisory Board on Wednesday, May 1, 2013, unanimously voted to make the following recommendation to the City Council:

The General Business Assessment annual fee is applicable to all businesses located within the boundaries of Assessment District #4, be raised \$2.00 per business to \$119.00 annually, due to the consumer price index annual change.

FUNDING OF PBIAAB EVENTS AND ACTIVITIES

With the adoption of a City Marketing Plan in 1993, the City Council authorized the PBIA Board to fund events and activities in the Downtown "T" with monies derived from the annual General Business Assessment fees. The use of the restricted business assessment fees as the primary funding source changed the scope of the 1993 City Marketing Plan, at least geographically, from focus on a "Community-wide" plan to a Downtown "T" plan.

The PBIAAB budget allocates the fees for planning and promotion of events held in the Downtown "T", as well as cooperative advertising programs, preparation and distribution of a courtesy map listing merchants in the Downtown "T", maintenance and replacement of the existing flag (banner) systems, a signage program, and many other maintenance/improvement activities.

It should be noted that the Project Carpinteria Committee, which was formed under the Marketing Plan and made up of PBIAAB members and representatives of the Carpinteria Valley Chamber of Commerce, has been dissolved and is no longer an active Committee under the Parking and Business Improvement Area Advisory Board.

In October, 2007 the City Council approved the formation of a more inclusive community committee, separating it from the PBIAAB. Funding for the new "Carpinteria First" Committee is provided by the General Fund, with the expectation that the Committee will focus on events and activities that benefit the entire community.

The PBIA Advisory Board continues to have the responsibility and duty to oversee the Assessment District parking and business assessment fees in compliance with State regulations, including the responsibility to promote and encourage the economic growth and stability of the district. The Board also continues to plan and promote activities and events in the Downtown "T".

The PBIAAB reviewed the proposed 2013-14 budget prepared by City Staff. The balanced budget included various promotional, marketing, improvements and special events that highlight the Downtown T. In adopting the budget, the PBIAAB recommended that the budget be reviewed during the next fiscal year to explore ways to reduce the costs of the special events and parades while increasing the funds allocated to promotions and marketing.

PROPOSALS

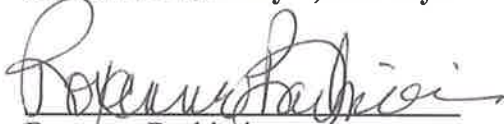
On May 1, 2013, the Parking and Business Improvement Area Advisory Board voted unanimously to recommend the following proposals to the City Council:

1. Although delinquent in the payment of general business assessment fees, the delinquent merchants continue to receive the benefits funded by the business assessment fees. Council is urged to continue to support staff in vigorously pursuing delinquent assessment fees, up to and including Small Claims proceedings, with any appeal made directly to the City Council.
2. Unpaid balances from an individual merchant continue to *not* be forgiven, but the balance due be carried forward and added to assessments billed to that business in the next fiscal year.
3. Any deficiencies in parking assessments continue to be financed through the City's General Fund. The Board has a duty to uniformly and equitably apply the parking fees throughout the Assessment District and do not feel the burden from a shortfall of funds between the parking fees assessed and collected and the amount charged for debt service and transfer created by vacancies and/or uncollected revenue should be placed on other businesses in the District.

PRESENTATION OF REPORT

It is recommended that the City Council accept this report and continue the existing Parking and Business Improvement Area District #4 for Fiscal Year 2013-2014, including the various proposals and recommendations associated therewith as presented or with modification.

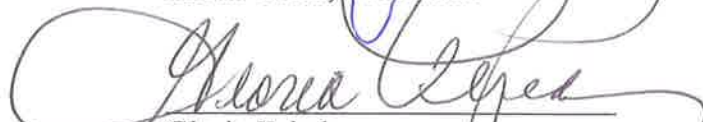
SUBMITTED May 1, 2013 by:


Roxanne Barbieri


Lynda Lang


Arthur Willner


Kiona Gross, Vice Chair


Gloria Tejada

Attachments

A. District Boundaries

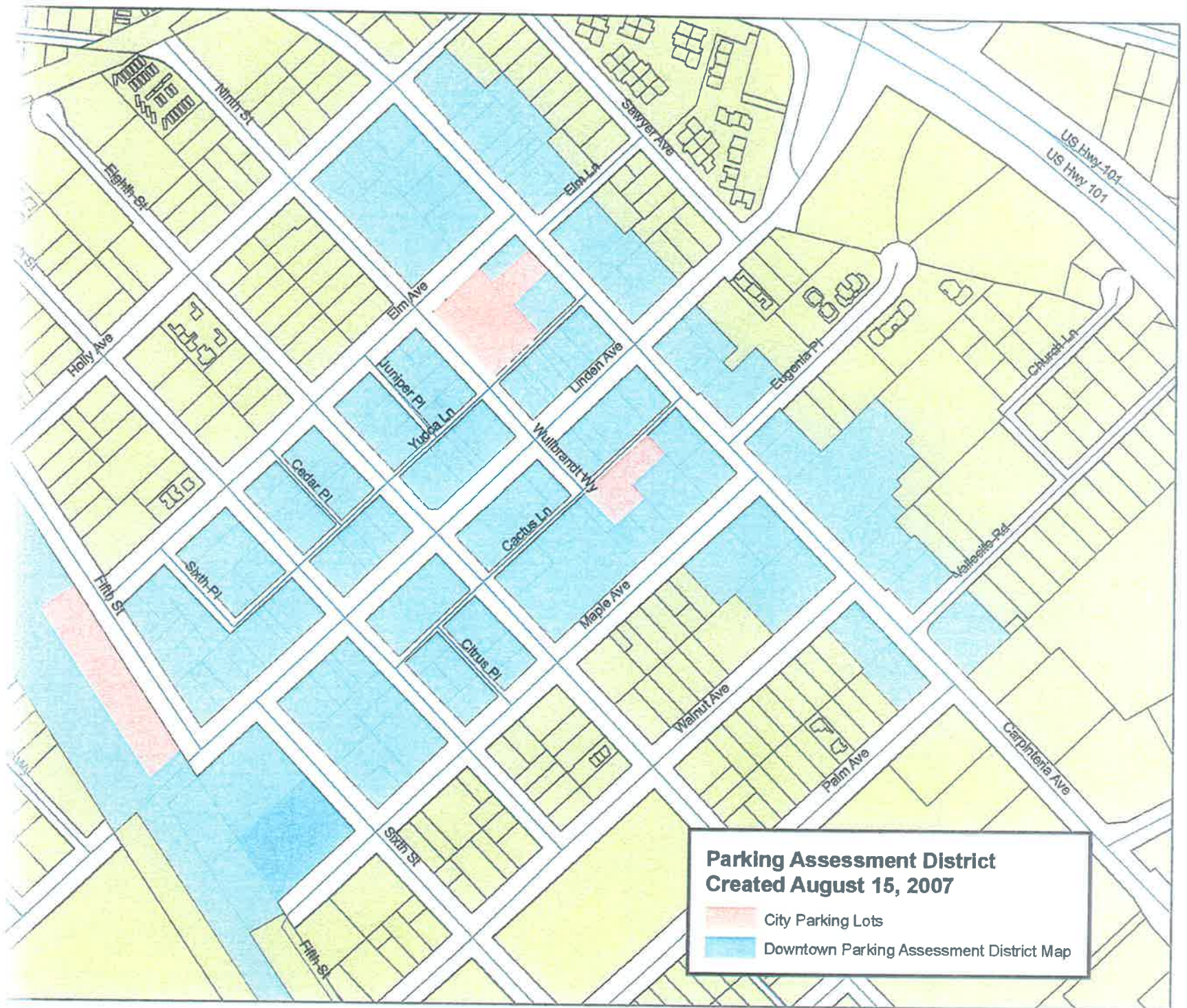
CITY OF CARPINTERIA
Assessment District No. 4
Parking and Business Improvement Area Fund 380
General Business Assessment Budget
FY 2013-2014

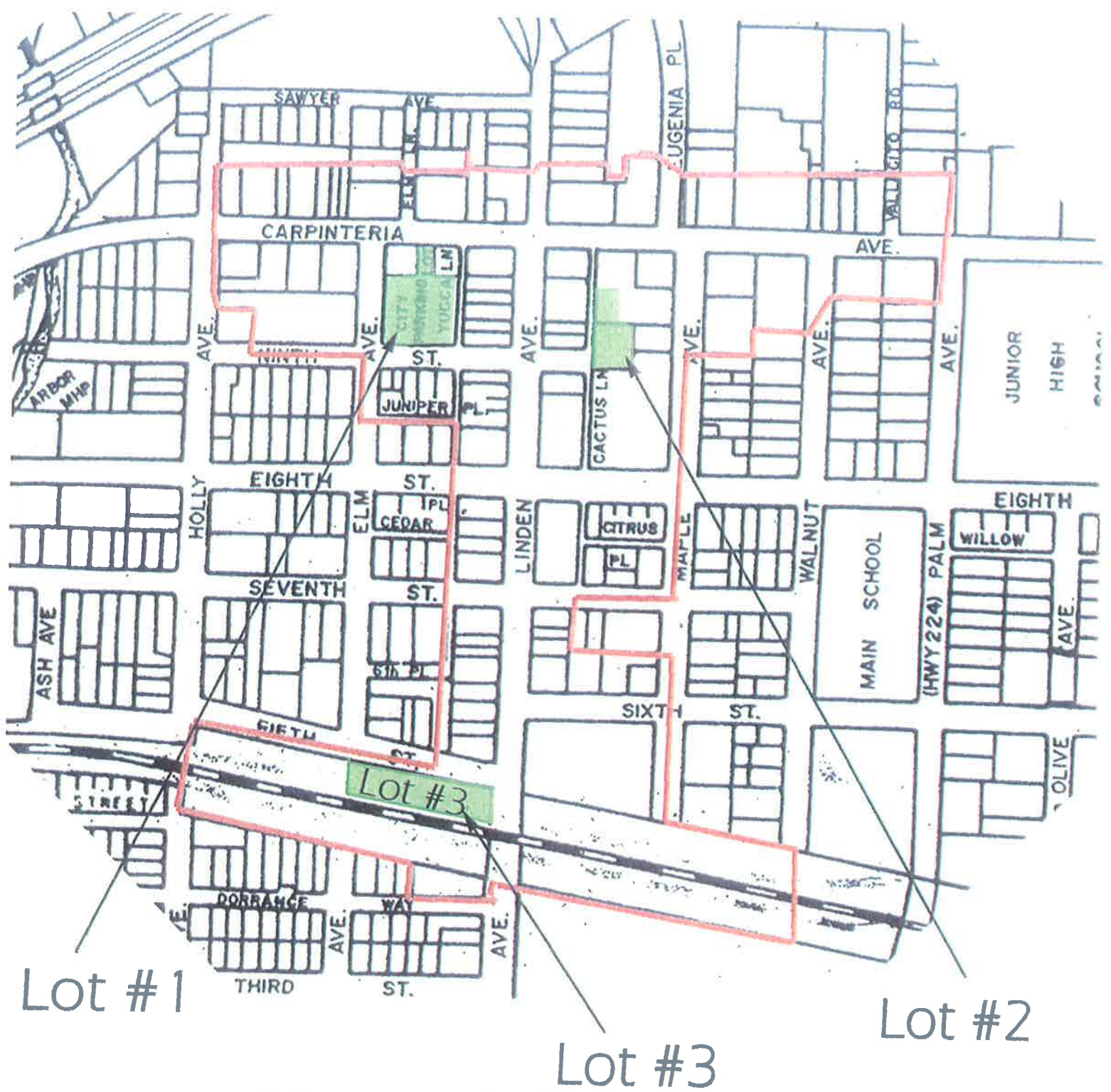
General Assessment \$ 119.00
Estimated General Assessment Revenue 2013-2014 \$ 15,470
Parking Lot Assessment Revenue 2013-14 \$ 14,600
Total Estimated Revenue \$ 30,070
Budgeted Expenditures \$ 30,070
Under/ (Over) Budget \$ -

Item Description	Budgeted Amount	Actual Cost	Revenue
MARKETING/PROJECT CARPINTERIA 38-45-22-2			\$ 12,126
Downtown Events and Activities			
Independence Day Activities			
Carpinteria Events Company	\$ 4,000		
Halloween Safe Trick or Treat			
Fliers and Bags	\$ 500		
Holiday Spirit Activities			
Carpinteria Events Company	\$ 4,000		
Improvements			
Flags and Banners	\$ 2,126		
Directional/Informational Sinage	\$ 500		
Sidewalks/Restrooms/Repairs	\$ 1,000		
SUB TOTAL	\$ 12,126		
DOWNTOWN T PROMOTIONS 38-45-22-8			\$ 695
Advertising Program			
Halloween Safe Trick or Treating	\$ 300		
Sponsorships			
Avocado Festival	\$ 345		
Hospice Light Up a Life Event	\$ 50		
SUB TOTAL	\$ 695		
PARKING LOT #3 DEBT			\$ 17,249
SUB TOTAL	\$ 17,249		
GRAND TOTAL	\$ 30,070		\$ 30,070

Unaudited Existing Fund Balance (Estimated)			\$ 21,468
--	--	--	------------------

Attachment B





Carpinteria Parking
and Business Improvement
District #4
District Boundary Exhibit "A"



Exhibit "A"
Sub Area "C"
Parking Lot #2

Parking Lot #2



Exhibit "A"
Sub Area "B"

Attachment C

FUND 38
PARKING AND BUSINESS IMPROVEMENT AREA DISTRICT NO 4

13

CITY OF CARPINTERIA
Assessment District No. 4
Parking and Business Improvement Area Fund 380
General Business Assessment Budget
FY 2013-2014

General Assessment \$ 119,00
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SUB TOTAL	\$ 12,126		
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SUB TOTAL	\$ 695		
PARKING LOT #3 DEBT			\$ 17,249
SUB TOTAL	\$ 17,249		
GRAND TOTAL	\$ 30,070		\$ 30,070
Unaudited Existing Fund Balance (Estimated)			\$ 21,468

Attachment D

Lot 3 Assessment \$51.00
 Lot 1 Assessment \$0.00
 General Assessment \$119.00

LOT 3 ASSESSMENT 14,683.00
 LOT 3 COP PAYMENT 17,249.00
 G/F SUBSIDY (2,566.00)

Includes 0 occupants
 5 vacants

Proposed PBIA Assessment Roll FY 2013-14

30-Apr

Line #	Number	Address	Name	Gross Assessment		Benefit Adj Factor	Adjusted Assessment		Gen Bus Assess	Prior Year Unpaid Assessments	Total Assess	Sub Area	Total Sq Ft	Spaces Req	Spaces Provided	Deficit Lot 1	Deficit Lot 3	Assess Per Space
				Lot 1	Lot 3		Lot 1	Lot 3										
				Totals				0 00	18,216.38	x=	0 00							
	1	4819	Carpinteria Ave		VACANT LOT	0 00	0 00	30 00%	0 00	0 00	0 00	A	1,474	0 00	0 00	0 00	0 00	0 00
	2	4915-F	Carpinteria Ave		Axis One Mortgage/CLOSED	0 00	0 00	150 00%	0 00	0 00	0 00	A	760	1.52	1 00	0 52	0 00	0 00
	3	4939	Carpinteria Ave		Bryanna's Flowers/CLOSED	0 00	0 00	150 00%	0 00	0 00	0 00	A	633	1.27	0 00	1 27	0 00	0 00
	4	4939	Carpinteria Ave		Karen Gruszka Art Studio/CLOSED	0 00	0 00	150 00%	0 00	0 00	0 00	A	174	0 34	0 00	0 34	0 00	0 00
	5	4950	Carpinteria Ave		Mama's Store/CLOSED	0 00	0 00	90 00%	0 00	0 00	0 00	A	496	1 00	2 00	0 00	0 00	0 00
	6	5032	Carpinteria Ave		VACANT (BURCH INS)	0 00	0 00	90 00%	0 00	0 00	0 00	C	0	0 00	0 00	0 00	0 00	0 00
	7	5292 - B	Carpinteria Ave		VACANT (Import Auto Geeks)	0 00	0 00	70 00%	0 00	0 00	0 00	C	0	0 00	0 00	0 00	0 00	0 00
	8	600	Linden Avenue		Prufrocks Bed & Breakfast/VACANT	0 00	153 00	100 00%	0 00	0 00	0 00	B	3,200	7 00	4 00	0 00	3 00	51 00
	9	619	Linden Avenue		Kostas Jewelry/CLOSED	0 00	96 90	70 00%	0 00	0 00	0 00	B	950	1 90	0 00	0 00	1 90	51 00
	10	700	Linden Avenue		Austin's Home Center/CLOSED	0 00	1,173 00	50 00%	0 00	0 00	0 00	B	15,000	30 00	7 00	0 00	23 00	51 00
	11	901	Linden Avenue		Hollyhock Cottage / VACANT	0 00	0 00	80 00%	0 00	0 00	0 00	A	700	1 60	0 61	0 99	0 00	0 00
	12	901-B	Linden Avenue		The Gym Next Door	0 00	0 00	80 00%	0 00	0 00	119 00	A	700	1 60	0 61	0 99	0 00	0 00
	13	919-B	Linden Avenue		VACANT	0 00	0 00	80 00%	0 00	0 00	0 00	A	350	0 70	0 56	0 14	0 00	0 00
	14	517	Maple Avenue		Carpinteria Sport & Fitness/CLOSED	0 00	489 60	90 00%	0 00	0 00	0 00	B	4,800	9 60	0 00	0 00	9 60	51 00
	15	957	Maple Avenue		Image Net/CLOSED	0 00	0 00	90 00%	0 00	0 00	0 00	C	480	0 96	0 65	0 00	0 00	0 00
	16	5045	Sixth Street		VACANT (formerly Sportwall)	0 00	346 80	90 00%	0 00	0 00	0 00	B	3,400	6 80	0 00	0 00	6 80	51 00
	17	871 B	Yucca Lane		VACANT	0 00	0 00	125 00%	0 00	0 00	0 00	A	0	0 00	0 00	0 00	0 00	0 00
	18	929	Yucca Lane		The Guitar Garage/VACANT	0 00	0 00	125 00%	0 00	0 00	0 00	A	1,062	2 13	2 00	0 13	0 00	0 00
	19	890	Cactus Lane		Petcetera	0 00	0 00	50 00%	0 00	0 00	119 00	C	900	3 60	4 00	0 00	0 00	0 00
	20	4806	Carpinteria Ave		Sansum Clinic CLOSED	0 00	0 00	30 00%	0 00	0 00	0 00	A	9,742	36 00	26 00	10 00	0 00	0 00
	21	4835	Carpinteria Ave		Taqueria El Tapatio	0 00	0 00	30 00%	0 00	0 00	119 00	A	2,000	25 00	12 00	13 00	0 00	0 00
	22	4846	Carpinteria Ave		Angels	0 00	0 00	30 00%	0 00	0 00	119 00	A	2,752	5 50	3 00	2 50	0 00	0 00
	23	4850	Carpinteria Ave		Rockwell Printing	0 00	0 00	90 00%	0 00	0 00	119 00	A	625	1 25	2 50	0 00	0 00	0 00
	24	4850	Carpinteria Ave		Rockwell Cleaners	0 00	0 00	90 00%	0 00	0 00	119 00	A	1,925	3 85	2 50	1 35	0 00	0 00
	25	4856	Carpinteria Ave		Carpinteria - Summerland Coastal	0 00	0 00	90 00%	0 00	0 00	119 00	A	624	1 24	1 00	0 24	0 00	0 00
	26	4859	Carpinteria Ave		DNA Design & Art	0 00	0 00	90 00%	0 00	0 00	119 00	A	1,250	2 50	5 00	0 00	0 00	0 00
	27	4860	Carpinteria Ave		Coastal Liquor	0 00	0 00	90 00%	0 00	0 00	119 00	A	1,900	3 80	1 00	2 80	0 00	0 00
	28	4869	Carpinteria Ave		Husted Plumbing	0 00	0 00	90 00%	0 00	0 00	119 00	A	756	1 51	5 00	0 00	0 00	0 00
	29	4890	Carpinteria Ave		Danny's Deli / Car Wash	0 00	0 00	90 00%	0 00	0 00	119 00	A	1,056	7 00	7 00	0 00	0 00	0 00
	30	4897	Carpinteria Ave		Beach Motors & Tires	0 00	0 00	90 00%	0 00	0 00	119 00	A	1,854	3 70	5 00	0 00	0 00	0 00
	31	4904	Carpinteria Ave		Nueva Imagen	0 00	0 00	90 00%	0 00	0 00	119 00	A	680	1 36	1 00	0 36	0 00	0 00
	32	4912	Carpinteria Ave		Panaderia Maria's	0 00	0 00	90 00%	0 00	0 00	119 00	A	680	1 36	1 00	0 36	0 00	0 00
	33	4915-A	Carpinteria Ave		Peggy's Used Treasures	0 00	0 00	150 00%	0 00	0 00	119 00	A	2,375	4 75	1 00	3 75	0 00	0 00
	34	4915-B/C	Carpinteria Ave		Seascape Realty	0 00	0 00	150 00%	0 00	0 00	119 00	A	1,858	3 71	1 00	2 71	0 00	0 00

Lot 3 Assessment \$51.00
 Lot 1 Assessment \$0.00
 General Assessment \$119.00

LOT 3 ASSESSMENT 14,683.00
 LOT 3 COP PAYMENT 17,249.00
 G/F SUBSIDY (2,566.00)

Includes 0 occupants
 5 vacants

Proposed PBIA Assessment Roll FY 2013-14

30-Apr

Line #	Number	Address	Name	Gross Assessment		Benefit Adj Factor	Adjusted Assessment		Gen Bus Assess	Prior Year Unpaid Assessments	Total Assess	Sub Area	Total Sq Ft	Spaces Req	Spaces Provided	Deficit Lot 1	Deficit Lot 3	Assess Per Space
				Lot 1	Lot 3		Lot 1	Lot 3										
				Totals				0.00	18,216.38	x=	0.00							
35	4915-D	Carpinteria Ave	Farmers Insurance	0.00	0.00	150.00%	0.00	0.00	119.00	0.00	119.00	A	760	1.52	1.00	0.52	0.00	0.00
36	4915-G	Carpinteria Ave	Celebros Inc	0.00	0.00	150.00%	0.00	0.00	119.00	117.00	236.00	A	860	1.72	1.00	0.72	0.00	0.00
37	4915-H	Carpinteria Ave	Rhio Company, Inc	0.00	0.00	150.00%	0.00	0.00	119.00	0.00	119.00	A	480	0.96	1.00	0.00	0.00	0.00
38	4916	Carpinteria Ave	Plaza Theatre	0.00	0.00	90.00%	0.00	0.00	119.00	0.00	119.00	A	3,917	43.20	12.00	31.20	0.00	0.00
39	4920	Carpinteria Ave	Valley Barbers	0.00	0.00	90.00%	0.00	0.00	119.00	232.00	351.00	A	680	1.36	1.00	0.36	0.00	0.00
40	4924	Carpinteria Ave	Puerto Vallarta	0.00	0.00	90.00%	0.00	0.00	119.00	0.00	119.00	A	680	1.36	1.00	0.36	0.00	0.00
41	4928	Carpinteria Ave	Pretty Shoe Repair/Video/CLOSED	0.00	0.00	90.00%	0.00	0.00	0.00	0.00	0.00	A	680	1.36	1.00	0.36	0.00	0.00
42	4939	Carpinteria Ave	Bill's Coins	0.00	0.00	150.00%	0.00	0.00	119.00	0.00	119.00	A	174	0.34	0.00	0.34	0.00	0.00
43	4943-B	Carpinteria Ave	L's Salon	0.00	0.00	150.00%	0.00	0.00	119.00	232.00	351.00	A	633	1.27	0.00	1.27	0.00	0.00
44	4945	Carpinteria Ave	Lemos Feed & Pet Supply	0.00	0.00	150.00%	0.00	0.00	119.00	0.00	119.00	A	4,500	14.99	4.00	10.99	0.00	0.00
45	4954	Carpinteria Ave	Carpinteria & Linden Pub	0.00	0.00	90.00%	0.00	0.00	119.00	232.00	351.00	A	1,100	7.00	2.00	5.00	0.00	0.00
46	4960	Carpinteria Ave	Yesenia's Boutique	0.00	0.00	90.00%	0.00	0.00	119.00	0.00	119.00	A	630	1.26	0.50	0.76	0.00	0.00
47	4961	Carpinteria Ave	Yudith's Salon	0.00	0.00	90.00%	0.00	0.00	119.00	0.00	119.00	A	680	1.36	1.00	0.36	0.00	0.00
48	4962	Carpinteria Ave	El Corte Perfecto	0.00	0.00	90.00%	0.00	0.00	119.00	0.00	119.00	A	630	1.26	0.50	0.76	0.00	0.00
49	4991	Carpinteria Ave	The Coffee Bean and Tea Leaf	0.00	0.00	90.00%	0.00	0.00	119.00	0.00	119.00	A	680	1.36	1.00	0.36	0.00	0.00
50	4994	Carpinteria Ave	Bank of America	0.00	0.00	90.00%	0.00	0.00	119.00	0.00	119.00	A	4,000	8.00	35.00	0.00	0.00	0.00
51	5003	Carpinteria Ave	Giovannis Pizza	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	4,000	28.00	10.00	0.00	0.00	0.00
52	5030	Carpinteria Ave	Rabobank	0.00	0.00	90.00%	0.00	0.00	119.00	0.00	119.00	C	1,925	3.60	5.00	0.00	0.00	0.00
53	5034	Carpinteria Ave	Epsteen & Associates	0.00	0.00	90.00%	0.00	0.00	119.00	0.00	119.00	C	700	2.00	2.00	0.00	0.00	0.00
54	5036	Carpinteria Ave	VACANT	0.00	0.00	90.00%	0.00	0.00	0.00	0.00	0.00	C	0	0.00	0.00	0.00	0.00	0.00
55	5050	Carpinteria Ave	Jack's Famous Bagels	0.00	0.00	90.00%	0.00	0.00	119.00	0.00	119.00	C	5,800	36.60	24.00	0.00	0.00	0.00
56	5065	Carpinteria Ave	VACANT	0.00	0.00	125.00%	0.00	0.00	0.00	0.00	0.00	C	4,250	8.50	7.00	0.00	0.00	0.00
57	5080	Carpinteria Ave	Sunburst Printing	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	0	0.00	0.00	0.00	0.00	0.00
58	5085	Carpinteria Ave	Union 76	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	850	3.40	4.00	0.00	0.00	0.00
59	5096	Carpinteria Ave	Cabo's Baja Grill & Cantina	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	2,200	24.40	19.00	0.00	0.00	0.00
60	5100	Carpinteria Ave	Rincon Cycles	0.00	0.00	70.00%	0.00	0.00	119.00	0.00	119.00	C	4,050	16.20	6.00	0.00	0.00	0.00
61	5100	Carpinteria Ave	VACANT	0.00	0.00	125.00%	0.00	0.00	0.00	0.00	0.00	C	0	0.00	0.00	0.00	0.00	0.00
62	5205	Carpinteria Ave	Foster Freeze	0.00	0.00	70.00%	0.00	0.00	119.00	0.00	119.00	C	2,800	21.20	18.00	0.00	0.00	0.00
63	5210	Carpinteria Ave	Karen Lacks & Co. Real Estate	0.00	0.00	70.00%	0.00	0.00	119.00	0.00	119.00	C	3,150	12.60	0.00	0.00	0.00	0.00
64	5212	Carpinteria Ave	VACANT	0.00	0.00	70.00%	0.00	0.00	0.00	0.00	0.00	C	1,450	4.00	1.00	0.00	0.00	0.00
65	5250	Carpinteria Ave	Rusty's Pizza	0.00	0.00	70.00%	0.00	0.00	119.00	0.00	119.00	C	2,840	29.00	22.00	0.00	0.00	0.00
66	5277	Carpinteria Ave	Eugenia Motel	0.00	0.00	70.00%	0.00	0.00	119.00	0.00	119.00	C	0	12.00	0.00	0.00	0.00	0.00
67	5285	Carpinteria Ave	Rincon Floral, Gifts & Art	0.00	0.00	70.00%	0.00	0.00	119.00	0.00	119.00	C		0.00	0.00	0.00	0.00	0.00
68	5292	Carpinteria Ave	Tom Watts Automotive	0.00	0.00	70.00%	0.00	0.00	119.00	0.00	119.00	C	0	0.00	0.00	0.00	0.00	0.00

Lot 3 Assessment \$51.00
 Lot 1 Assessment \$0.00
 General Assessment \$119.00

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 LOT 3 COP PAYMENT 17,249.00
 G/F SUBSIDY (2,566.00)

Includes 0 occupants
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Proposed PBIA Assessment Roll FY 2013-14

30-Apr

Line #	Number	Address	Name	Gross Assessment		Benefit Adj Factor	Adjusted Assessment		Gen Bus Assess	Prior Year Unpaid Assessments	Total Assess	Sub Area	Total Sq Ft	Spaces Req	Spaces Provided	Deficit Lot 1	Deficit Lot 3	Assess Per Space
				Lot 1	Lot 3		Lot 1	Lot 3										
				Totals				0.00										
69	5292	Carpinteria Ave		City Market Center	0.00	0.00	70.00%	0.00	0.00	119.00	0.00	119.00	C	0	0.00	0.00	0.00	0.00
70	5025	Eighth Street		Beach Medical Clinic	0.00	0.00	150.00%	0.00	0.00	119.00	0.00	119.00	B	0	0.00	0.00	0.00	0.00
71	5025	Eighth Street		Hickey Bros Land Co.	0.00	0.00	150.00%	0.00	0.00	119.00	0.00	119.00	B	0	0.00	0.00	0.00	0.00
72	915	Elm Avenue		Carpinteria Valley Lumber	0.00	0.00	150.00%	0.00	0.00	119.00	0.00	119.00	A	5,130	20.50	11.00	9.50	0.00
73	933	Elm Avenue		Carpinteria Landscape Nursery	0.00	0.00	150.00%	0.00	0.00	119.00	332.00	451.00	A	700	4.69	5.00	0.00	0.00
74	910-A	Linden Ave		S.O.A.P.	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	350	1.00	0.00	0.00	0.00
75	389	Linden Avenue		The Spot	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	B	864	9.78	14.00	0.00	0.00
76	501	Linden Avenue		City Market #15	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	B	2,080	4.16	9.00	0.00	0.00
77	507	Linden Avenue		Esau's	0.00	1,020.00	125.00%	0.00	1,275.00	119.00	0.00	1,394.00	B	1,900	20.00	0.00	0.00	51.00
78	509	Linden Avenue		Jiramat Kelloy	0.00	772.65	125.00%	0.00	966.00	119.00	0.00	1,085.00	B	2,075	15.15	0.00	0.00	51.00
79	550	Linden Avenue		Kilovac Corporation/Tyco	0.00	4,099.38	125.00%	0.00	5,124.00	119.00	0.00	5,243.00	B	43,690	87.38	7.00	0.00	51.00
80	606	Linden Avenue		Blum & Sons Electric	0.00	120.36	70.00%	0.00	84.00	119.00	0.00	203.00	B	3,184	6.36	4.00	0.00	51.00
81	619	Linden Avenue		Tidepools	0.00	96.90	70.00%	0.00	68.00	119.00	0.00	187.00	B	950	1.90	0.00	1.90	51.00
82	655	Linden Avenue		Coast Calibration Co., Inc	0.00	0.00	70.00%	0.00	0.00	119.00	0.00	119.00	B	3,300	3.00	6.60	0.00	0.00
83	659	Linden Avenue		Rincon Designs	0.00	53.04	70.00%	0.00	37.00	119.00	0.00	156.00	B	2,520	5.04	4.00	0.00	51.00
84	666	Linden Avenue		GiannFranco's Trattoria	0.00	510.00	70.00%	0.00	357.00	119.00	0.00	476.00	B	1,200	10.00	0.00	0.00	51.00
85	686	Linden Avenue		Sly's Steakhouse & Seafood	0.00	1,479.00	70.00%	0.00	1,035.00	119.00	0.00	1,154.00	B	3,319	33.00	4.00	0.00	51.00
86	699	Linden Avenue		Tony's Restaurant	0.00	357.00	50.00%	0.00	179.00	119.00	0.00	298.00	B	2,109	20.00	13.00	0.00	51.00
87	701	Linden Avenue		The Palms Restaurant	0.00	1,938.00	50.00%	0.00	969.00	119.00	0.00	1,088.00	B	1,890	47.00	9.00	0.00	51.00
88	741	Linden Avenue		Oaxaca Fresh	0.00	561.00	50.00%	0.00	281.00	119.00	0.00	400.00	B	1,530	15.00	4.00	0.00	51.00
89	751	Linden Avenue		Carpinteria TV/Rainbow Ice Cream	0.00	151.47	50.00%	0.00	76.00	119.00	0.00	195.00	B	1,988	4.97	2.00	0.00	51.00
90	751	Linden Avenue		Tacos Don Roge	0.00	344.25	50.00%	0.00	172.00	119.00	0.00	291.00	B	440	6.75	0.00	0.00	51.00
91	768	Linden Avenue		Traveling Pants	0.00	112.20	50.00%	0.00	56.00	119.00	0.00	175.00	B	1,100	2.20	0.00	0.00	51.00
92	771	Linden Avenue		Lola Bella Salon	0.00	0.00	50.00%	0.00	0.00	119.00	332.00	451.00	B	1,038	2.07	3.00	0.00	0.00
93	776	Linden Avenue		The Princess & The Pea	0.00	40.80	50.00%	0.00	20.00	119.00	0.00	139.00	B	900	1.80	1.00	0.00	51.00
94	794	Linden Avenue		Beach Liquors/ Tacos To Go	0.00	102.00	50.00%	0.00	51.00	119.00	0.00	170.00	B	1,500	3.00	1.00	0.00	51.00
95	801	Linden Avenue		Rite Aid #5776 (SEE MAILING AD)	0.00	0.00	70.00%	0.00	0.00	119.00	0.00	119.00	A	6,400	12.80	14.00	0.00	0.00
96	850	Linden Avenue		Von's Market (see mailing address)	0.00	0.00	70.00%	0.00	0.00	119.00	0.00	119.00	C	27,720	110.90	138.00	0.00	0.00
97	855	Linden Avenue		Carpinteria Valley Art Council (po b	0.00	0.00	70.00%	0.00	0.00	119.00	0.00	119.00	A	600	1.20	0.90	0.30	0.00
98	865	Linden Avenue		Cajun Kitchen	0.00	0.00	70.00%	0.00	0.00	119.00	0.00	119.00	A	1,656	15.32	0.00	15.32	0.00
99	873	Linden Avenue		Island Outfitters on Linden	0.00	0.00	70.00%	0.00	0.00	119.00	0.00	119.00	A	2,160	4.32	4.41	0.00	0.00
100	877	Linden Avenue		Linden Laundromat	0.00	0.00	70.00%	0.00	0.00	119.00	0.00	119.00	C	1,080	2.16	2.20	0.00	0.00
101	887	Linden Avenue		Head to Toe	0.00	0.00	70.00%	0.00	0.00	119.00	0.00	119.00	A	1,080	2.16	2.20	0.00	0.00
102	888	Linden Avenue		Neumann Mendro Andrulaitis Arch	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	3,395	6.75	0.09	0.00	0.00

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Line #	Number	Address	Name	Gross Assessment Lot 1	Gross Assessment Lot 3	Benefit Adj Factor	Adjusted Assessment Lot 1	Adjusted Assessment Lot 3	Gen Bus Assess	Prior Year Unpaid Assessments	Total Assess	Sub Area	Total Sq Ft	Spaces Req	Spaces Provided	Deficit Lot 1	Deficit Lot 3	Assess Per Space
Totals				0.00	18,216.38	x=	0.00	14,683.00	14,875.00	9,140.00	38,698.00							
103	892	Linden Avenue	Senor Frogs	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	1,800	11.00	0.56	0.00	0.00	0.00
104	897	Linden Avenue	Reynaldo's Bakery	0.00	0.00	70.00%	0.00	0.00	119.00	117.00	236.00	A	1,363	2.73	2.78	0.00	0.00	0.00
105	900	Linden Avenue	Robitaille's Fine Candy	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	3,750	7.50	1.40	0.00	0.00	0.00
106	901-C	Linden Avenue	Coast Auto Parts	0.00	0.00	80.00%	0.00	0.00	119.00	0.00	119.00	A	866	1.73	1.21	0.52	0.00	0.00
107	905	Linden Avenue	Blue Pacific	0.00	0.00	80.00%	0.00	0.00	119.00	332.00	451.00	A	1,525	3.05	0.56	2.49	0.00	0.00
108	910	Linden Avenue	Corktree Cellars	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	2,270	9.54	0.34	0.00	0.00	0.00
109	914	Linden Avenue	Hurley Optical	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	1,219	2.44	0.48	0.00	0.00	0.00
110	915	Linden Avenue	Nutbelly Pizzeria & Deli	0.00	0.00	80.00%	0.00	0.00	119.00	0.00	119.00	A	2,750	20.50	1.00	19.50	0.00	0.00
111	916	Linden Avenue	Mirame Salon	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	1,147	2.29	0.45	0.00	0.00	0.00
112	919	Linden Avenue	By The Sea	0.00	0.00	80.00%	0.00	0.00	119.00	0.00	119.00	A	925	1.85	0.56	1.29	0.00	0.00
113	929-A	Linden Avenue	Curious Cup	0.00	0.00	80.00%	0.00	0.00	119.00	0.00	119.00	A	1,120	2.24	1.00	1.24	0.00	0.00
114	933	Linden Avenue	United Studios of Self Defense	0.00	0.00	80.00%	0.00	0.00	119.00	0.00	119.00	A	1,500	9.50	1.30	8.20	0.00	0.00
115	943	Linden Avenue	Homestead Antiques	0.00	0.00	70.00%	0.00	0.00	119.00	0.00	119.00	A	2,000	4.00	4.00	0.00	0.00	0.00
116	944	Linden Avenue	Pacific Health Foods	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	2,800	5.60	2.00	0.00	0.00	0.00
117	954	Linden Avenue	Carpinteria Barber	0.00	0.00	90.00%	0.00	0.00	119.00	0.00	119.00	C	710	3.42	2.00	0.00	0.00	0.00
118	961	Linden Avenue	Magpie	0.00	0.00	80.00%	0.00	0.00	119.00	0.00	119.00	A	2,512	4.00	1.93	2.07	0.00	0.00
119	962	Linden Avenue	Whimsy	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	1,710	3.42	1.88	0.00	0.00	0.00
120	963	Linden Avenue	Chalk Gallery - out of business	0.00	0.00	80.00%	0.00	0.00	119.00	232.00	351.00	A	424	1.00	2.00	0.00	0.00	0.00
121	970	Linden Avenue	Sushi Teri House	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	4,550	25.00	5.01	0.00	0.00	0.00
122	973	Linden Avenue	Worker Bee Cafe	0.00	0.00	80.00%	0.00	0.00	119.00	0.00	119.00	A	1,282	12.00	4.00	8.00	0.00	0.00
123	977	Linden Avenue	Little Rainbow Foot Spa NEW	0.00	0.00	125.00%	0.00	0.00	119.00	117.00	236.00	C	4,550	25.00	5.01	0.00	0.00	0.00
124	991	Linden Avenue	Luxury Nail Salon	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	4,550	25.00	5.01	0.00	0.00	0.00
125	505	Maple Avenue	PK Engineering & Manufacturing	0.00	0.00	90.00%	0.00	0.00	119.00	0.00	119.00	B	0	0.00	0.00	0.00	0.00	0.00
126	509	Maple Avenue	Earth Essentials Inc	0.00	530.40	90.00%	0.00	477.00	119.00	594.00	1,190.00	B	5,200	10.40	0.00	0.00	10.40	51.00
127	555	Maple Avenue	Linden House	0.00	0.00	50.00%	0.00	0.00	119.00	232.00	351.00	B	1,450	2.90	7.00	0.00	0.00	0.00
128	601	Maple Avenue	Phos Industries Inc	0.00	367.20	70.00%	0.00	257.00	119.00	374.00	750.00	B	3,600	7.20	0.00	0.00	7.20	51.00
129	919	Maple Avenue	Roxanne's Wish & a Dream	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	2,690	12.00	7.00	0.00	0.00	0.00
130	919	Maple Avenue	Sea Rose Salon	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	400	12.00	7.00	0.00	0.00	0.00
131	957	Maple Avenue	MOVED - MOORHOUSE FINANCE	0.00	0.00	90.00%	0.00	0.00	119.00	117.00	236.00	C	480	0.96	0.65	0.00	0.00	0.00
132	957	Maple Avenue	Matthew I. Berger Law Group	0.00	0.00	90.00%	0.00	0.00	119.00	0.00	119.00	C	480	0.96	0.65	0.00	0.00	0.00
133	957	Maple Avenue	Lifespan Development Center	0.00	0.00	90.00%	0.00	0.00	119.00	0.00	119.00	C	480	0.96	0.65	0.00	0.00	0.00
134	957	Maple Avenue	Twice As Nice	0.00	0.00	90.00%	0.00	0.00	119.00	0.00	119.00	C	300	0.60	0.41	0.00	0.00	0.00
135	4909	Ninth Street	9th Street Dance Shop	0.00	0.00	150.00%	0.00	0.00	119.00	0.00	119.00	A	440	0.88	2.00	0.00	0.00	0.00
136	4915	Ninth Street	Curtis Dance Studio	0.00	0.00	150.00%	0.00	0.00	119.00	0.00	119.00	A	880	1.76	2.00	0.00	0.00	0.00

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				Lot 1	Lot 3		Lot 1	Lot 3										
				Totals				0.00										
137	4921-A	Ninth Street		Watermark	0.00	0.00	150.00%	0.00	0.00	119.00	117.00	236.00	A	506	2.00	0.00	2.00	0.00
138	5042	Seventh Street		Whimsy On 7th	0.00	36.72	50.00%	0.00	18.00	119.00	0.00	137.00	B	360	0.72	0.00	0.72	51.00
139	5040	Sixth Street		Serigraph Ind. Inc.	0.00	1,157.70	90.00%	0.00	1,042.00	119.00	1,159.00	2,320.00	B	11,328	22.70	0.00	0.00	22.70
140	5049	Sixth Street		Island Brewing Comany	0.00	426.36	125.00%	0.00	533.00	119.00	0.00	652.00	B	3,680	8.36	0.00	0.00	8.36
141	5055	Sixth Street		Super Springs	0.00	268.26	125.00%	0.00	335.00	119.00	0.00	454.00	B	2,632	5.26	0.00	0.00	5.26
142	5095	Sixth Street		Holly Workshop / Flag Factory	0.00	1,412.39	90.00%	0.00	1,271.00	119.00	2,774.00	4,164.00	B	13,847	27.69	0.00	0.00	27.69
143	5096	Sixth Street		Colson's Towing Inc.	0.00	0.00	90.00%	0.00	0.00	119.00	0.00	119.00	B	3,482	6.96	8.00	0.00	0.00
144	5025	Wullbrandt Way		Carpinteria Cotton Co	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	546	1.09	0.17	0.00	0.00
145	5035	Wullbrandt Way		Carpinteria Nails	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	C	532	1.06	0.18	0.00	0.00
146	5045	Wullbrandt Way		State Farm Insurance	0.00	0.00	125.00%	0.00	0.00	119.00	117.00	236.00	C	456	0.91	0.30	0.00	0.00
147	871 A	Yucca Lane		STP Screenprinting	0.00	0.00	125.00%	0.00	0.00	119.00	0.00	119.00	A	0	0.00	0.00	0.00	0.00
148	972	Yucca Lane		Ivy Salon	0.00	0.00	125.00%	0.00	0.00	119.00	117.00	236.00	A	0	0.00	0.00	0.00	0.00

Attachment E

RESOLUTION NO. 5456

**A RESOLUTION OF THE CARPINTERIA CITY COUNCIL
ACCEPTING AND ORDERING THE FILING OF THE REPORT MADE PURSUANT TO
THE REQUIREMENTS OF
RESOLUTION NO. 5449 OF SAID COUNCIL
PARKING AND BUSINESS IMPROVEMENT AREA DISTRICT NO. 4
(FY 2013-14)**

WHEREAS, the City Council of the City of Carpinteria, California, did in Resolution No. 5449, adopted March 25, 2013, pursuant to the provisions of Chapters 3 and 4 "Parking and Business Improvement Area Law of 1989" of the State of California (Part 6 of Division 18 Section 36530 et seq. of the Streets and Highways Code of said State), require the Parking and Business Improvement Area Advisory Board and the City Manager to make and file with the Clerk of the City Council a report in writing, presenting certain matters relating to the proposed acquisition, construction or maintenance of parking facilities for the benefit of the area; decoration of any public place in the area; promotion of public events which are to take place on or in public places in the area; furnishing music in any public place in the area; and general promotion of business activities in the area as contemplated under the provisions of said "Parking and Business Improvement Area Law of 1989"; and

WHEREAS, said Parking and Business Improvement Area Advisory Board and City Manager, pursuant to the requirements of said City Council as expressed in said Resolution and of said law, did make and on the 13th day of May, 2013, file in the office of the City Clerk (who is ex-officio Clerk of the City Council) of said City, the report in writing responsive to the requirements of said Resolution and as contemplated under the provisions of said "Parking and Business Improvement Area Law of 1989"; and

WHEREAS, said City Clerk has presented the said report to the City Council of said City, and said Council has proceeded to carefully examine, inspect and consider the said report and is satisfied with said report and with each and all of the items therein set forth;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the report of the Parking and Business Improvement Area Advisory Board and City Manager of the City of Carpinteria, California, bearing date of the 13th of May, 2013, which said report was prepared and filed pursuant to the requirements of the provisions of Resolution No. 5449 of the City Council of said City and in conformity with the provisions of the "Parking and Business Improvement Area Law of 1989," of the State of California, (Part 6 of Division 18 of the Streets and Highways Code of said State), and which said report was filed in the office of the City

Clerk of the City of Carpinteria, California, on the 13th day of May, 2013, be and the same is hereby approved as so prepared, presented and filed.

SECTION 2. That the City Clerk shall certify to the passage and adoption of this resolution; shall cause the same to be entered among the original resolutions of the City Council of said City and shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council of said City in the minutes of the meeting at which the same is passed and adopted.

PASSED, APPROVED AND ADOPTED this 13th day of May, 2013 by the following called vote:

AYES: COUNCIL MEMBER:

NOES: COUNCIL MEMBER:

ABSENT: COUNCIL MEMBER:

Mayor, City of Carpinteria

ATTEST:

City Clerk, City of Carpinteria

I hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 13th day of May, 2013.

City Clerk, City of Carpinteria

APPROVED AS TO FORM:

Peter Brown
City Attorney

Attachment F

RESOLUTION NO. 5457

**A RESOLUTION OF THE CARPINTERIA CITY COUNCIL
DECLARING ITS INTENTION TO ORDER THE
CONTINUATION OF AN ASSESSMENT DISTRICT
AND COLLECT ASSESSMENTS PURSUANT TO THE
PARKING AND BUSINESS IMPROVEMENT AREA LAW OF 1989
FOR PURPOSES OF ACQUISITION, CONSTRUCTION
OR MAINTENANCE OF PARKING FACILITIES AND GENERAL PROMOTION
OF BUSINESS ACTIVITIES IN THE AREA DESCRIBED AS SHOWN ON
THE PLAN AND DIAGRAM FOR THE FISCAL YEAR COMMENCING
JULY 1, 2013 AND ENDING JUNE 30, 2014;
AND APPOINTING A TIME AND PLACE FOR
HEARING PROTESTS IN RELATION THERETO --
CARPINTERIA PARKING AND BUSINESS IMPROVEMENT AREA DISTRICT NO. 4
(FY 2013-14)**

**THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA, DOES
HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

SECTION 1. That the public interest and convenience require, and that it is the intention of the City Council of the City of Carpinteria, California, to order the continuation of an assessment district known as the Carpinteria Parking and Business Improvement Area District No. 4 and to levy and collect assessments pursuant to the Parking and Business Improvement Area Law of 1989 (Streets and Highways Code 36500 et seq.) and to order the acquisition, construction and maintenance of parking facilities as well as to undertake such other activities for the purpose of the general promotion of business activities within the District as described herein, shown on the diagram and plan for the Carpinteria Parking and Business Improvement Area District No. 4, all as on file in the office of the City clerk, for the fiscal year beginning July 1, 2013.

SECTION 2. The following summarizes the proposed boundaries, assessments and programs for Fiscal Year 2013-14 for Improvement Area District No. 4:

1. The boundaries of the Parking and Business Improvement Area District No. 4 are proposed to be unchanged from FY 1997-98.
2. The General Business Assessment, applicable to all businesses within the Improvement Area District No. 4, for FY 2013-14 is proposed to be increased to \$119.00 per business per year and increase annually with inflation not to exceed 3 percent in a given year.
3. The Parking Lot #3 assessment within Sub-Area "A" will be \$51.00 per parking space shortfall per business as detailed in the Report dated May 13, 2013.

4. Proceeds from the General Business Assessment will be used to promote and advertise business activities within the Improvement Area develop a directional signage program and contribute to parking lot maintenance activities.

SECTION 3. To expedite the making of said improvement, the City Council may at any time transfer into the Carpinteria Parking and Business Improvement Area District No. 4 Fund, from the General Fund, such sums as it shall deem necessary, and the sums so transferred shall be deemed a loan to such Fund and shall be repaid out of the proceeds of the assessments provided for in this resolution, and pursuant to the provisions of the "Parking and Business Improvement Area Law of 1989," referred to herein.

SECTION 4. That said contemplated work and improvement, in the opinion of the City Council, is of more than local or ordinary benefit, and said Council hereby makes the expense of said work and improvement chargeable upon a district, which district said Council hereby declares to be the district benefited by said work and improvement, and to be assessed to pay the cost and expense thereof, which said district consists of portions of the City of Carpinteria as shown on the Diagram and Plan for said District No. 4 on file in the office of the City Clerk, and to which said Diagram and Plan reference is hereby made for a complete and detailed description of said district, excepting from said district any portion of any public street, alley or court that may be included therein. The said Diagram and Plan so on file shall govern for all details as to the extent of said assessment district.

SECTION 5. Any lots or parcels of land known as public property, as the same is defined in Section 22663, Streets and Highways Code, hereinafter referred to, which are included in the said assessment district, shall be omitted and exempt from the assessment to be made to cover the costs and expenses of said contemplated improvement.

SECTION 6. The improvement contemplated by this Resolution of Intention shall be done under the provisions of the "Parking and Business Improvement Area Law of 1989" (now Part 6 of Division 18 of the Streets and Highways Code of the State of California).

SECTION 7. That Tuesday May 28, 2013, at the hour of 5:30 P.M. of said day, be and the same is hereby appointed as the time, and the Council Chamber in the City Hall, at 5775 Carpinteria Avenue in the City of Carpinteria, California, is hereby appointed as the place for hearing protests in reference to said improvement.

SECTION 8. That the City Clerk is hereby authorized, designated and directed to give notice of said hearing in time, form and manner as required by law.

SECTION 9. That the Coastal View, a newspaper of general circulation, published in the County of Santa Barbara and circulated in the City of Carpinteria, California, is hereby designated as the newspaper in which such notice shall be published.

SECTION 10. That this resolution shall take effect immediately, and the City Clerk shall certify to the passage and adoption of this resolution; shall cause the original of the same to be entered among the original resolutions of the City Council of said City; and

shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council of said City in the minutes of the meeting at which the same is passed and adopted.

PASSED, APPROVED AND ADOPTED this 13th day of May, 2013 by the following called vote:

AYES: COUNCIL MEMBER:

NOES: COUNCIL MEMBER:

ABSENT: COUNCIL MEMBER:

ATTEST:

Mayor, City of Carpinteria

City Clerk, City of Carpinteria

I hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 13th day of May, 2013.

City Clerk, City of Carpinteria

APPROVED AS TO FORM:

Peter N. Brown
City Attorney

STAFF REPORT
COUNCIL MEETING DATE:
May 13, 2013

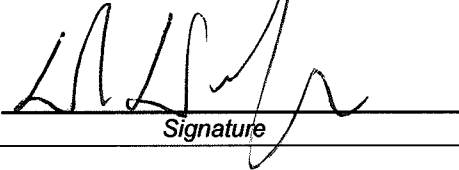
ITEMS FOR COUNCIL CONSIDERATION:

Approval of the Amended Measure A Project Cooperative Agreement for the Safe Routes to School and Bicycle and Pedestrian Project Funding Grants

Report prepared by: Charles W. Ebeling, Director
Department: Public Works


Signature

**Reviewed by
City Manager:**


Signature

ACTION ☒ **NON-ACTION** ☐ **STAFF RECOMMENDATION:**

Recommendation: That the City Council authorize the Mayor to sign the amended Measure A Project Cooperative Agreement with the Santa Barbara County Association of Governments to receive \$263,623 in grant funding for Safe Routes to School and Bicycle and Pedestrian Projects Cycle 2.

Sample Motion: I move to authorize the Mayor to sign the amended Measure A Project Cooperative Agreement with the Santa Barbara County Association of Governments to receive \$263,623 in Measure A grant funding for Safe Routes to School and Bicycle and Pedestrian Projects Cycle 2.

I. BACKGROUND:

Measure A is a transportation funding measure that was approved by nearly 80% of the voters in all regions of Santa Barbara County in November of 2008. Measure A is administered by the Santa Barbara County Association of Governments (SBCAG) and will provide more than \$1 billion of estimated local sales tax revenues for transportation projects in Santa Barbara County over 30 years. Measure A will address traffic congestion and improve safety on US 101 by

providing \$140 million in matching funds to widen the freeway from 4 to 6 lanes in south Santa Barbara County. The Measure A Investment Plan also includes \$455 million for both the North County and South County regions for high priority transportation projects and local transportation programs that will address the current and future needs of each community. In both North and South regions of the County the plan provides funding to local agencies for:

- Local street improvements such as pothole repairs and pavement maintenance
- Local transportation capital improvement projects
- Increasing senior and disabled pedestrian accessibility and connectivity
- Improving school route pedestrian safety
- Improving bicycle and transit facilities

The City of Carpinteria currently receives a population based allocation of approximately \$650,000 per year. This yearly allocation partially funds the Department of Public Works Street Maintenance Program. Other funding for the Street Maintenance Program comes primarily from Gas Tax, the Right-of-Way Assessment Fund and grants. The City of Carpinteria is also eligible to receive competitive grant funding under the Measure A Safe Routes to School and Bicycle and Pedestrian grant programs.

II. DISCUSSION:

In May of 2011 SBCAG announced a call for projects for the Safe Route to School and Bicycle and Pedestrian grant programs (Cycle 1). The City successfully obtained \$551,112 in funding for six projects from the Cycle 1 Measure A Investment Plan. The following projects were funded by this Measure A program.

Cycle 1 (Approved April 9, 2012)

Bicycle and Pedestrian Grant Program

Carpinteria Rincon Shared-Use Trail	\$175,000
County Bike Map	\$9,562
Ninth Street Pedestrian Bridge Rehabilitation	\$105,000
Carpinteria Bicycle Master Plan	\$20,000

Safe Routes to School Program

Carpinteria Ave./Santa Ynez Ave. Intersection Imps.	\$150,000
Calle Ocho/Concha Loma Drive Intersection Imps.	\$91,550

Total Awarded Cycle 1 Amount: \$551,112

The City has made significant progress on all of these projects over that past year. Funding for the County Bike Map was allocated. The Bicycle Master Plan is slated to be completed by June 30, 2013. The two safe routes to school program projects have been designed and are slated for construction to begin by June 30, 2013. The Rincon shared use trail is moving forward and the Ninth Street Bridge project will be going to the ARB review in the next few months.

In addition to the projects listed above, the City Carpinteria co-sponsored three additional on-going County wide applications:

- Adult Bicycle Education and Safety Outreach
- Safe Routes to School (Education, Encouragement and Safety)
- Youth Bicycle Education

Cycle 2 (Spring 2013)

Similar to the Cycle 1 Program, eligible local agencies had to submit preliminary proposals and final applications. SBCAG staff reviewed the applications for completeness and forwarded them on to the scoring committee. The scoring committee was comprised of representatives from each South Coast City (including Carpinteria), the County, and Caltrans. The scoring committee also included members from the Santa Barbara Bicycle Coalition, Metropolitan Transit District, the Coalition for Sustainable Transportation and the Parent-Teachers Association. The scoring committee scored and ranked a total of 34 applications for both grant programs. Local agencies requested funding for projects that totaled \$4.3 million. A total of \$2.2 million was available to be awarded. A total of 20 of the 34 project submitted received the full or partial grant funding requested.

The City of Carpinteria submitted eight grant applications to the two Measure A grant programs. Projects selected for submittal were based on the City's Capital Improvement Plan, Measure A Program of Projects, Annual Work Plans and the Department of Public Works annual approved budget. Staff also selected projects based on the criteria of the Measure A grant programs and to improve safety and operations of City transportation facilities. After the competitive award program, the City of Carpinteria was awarded a total of \$343,781 out of the \$2,200,000 available to South Coast agencies. The following is the list of Carpinteria projects that were awarded funding through the Measure A grant programs:

Bicycle and Pedestrian Grant Program

Carpinteria Rincon Shared-Use Trail	\$ 75,000
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Via Real at Cravens Lane Sidewalk In-fill Project	\$ 74,827
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Safe Routes to School Program

Santa Ynez Avenue Guardrail/Reynolds Avenue Sidewalk In-fill Safety Projects
\$113,796

Total Awarded Cycle 2 Amount: \$263,623

Carpinteria Rincon Shared-Use Trail: The purpose of this project is to connect the East end of Carpinteria Avenue with a shared-use trail that will cross-over the railroad tracks and connect to Rincon County Park. Conceptual design for this project has been completed. The awarded Measure A Bicycle and Pedestrian Program grant will be used for the Environmental and Permitting Phase of the project.

Via Real at Cravens Lane Sidewalk In-fill Project: This project completes and connects the sidewalk along the northern side of Via Real between Cravens Lane and the bus stop at the Sandpiper Mobile Home Park entrance. The MTD bus stop along the freeway side of Via Real across from the Mobile Home Park entrance will also be relocated in coordination with MTD. Improvements to the existing accessibility ramp at Cravens Lane on Via Real will be improved next to the Mobile Home Park.

Santa Ynez Guardrail and Sidewalk In-fill Safety and Reynolds Avenue Sidewalk In-fill Project: This project will replace a section of outdated and damaged guardrail along Santa Ynez Avenue between Via Real and the US Highway 101 overcrossing. In November of 2012, the guardrail was hit and damaged. To replace the damaged guardrail required an improvement of the pedestrian path that was adjacent to the guardrail. This project will formalize and complete the sidewalk on the northerly side of Santa Ynez Avenue and update the accessibility ramp at the intersection.

In addition to the projects listed above, the City Carpinteria continued to co-sponsor three additional on-going County wide project applications:

- Adult Bicycle Education and Safety Outreach
- Safe Routes to School (Education, Encouragement and Safety) COAST
- Youth Bicycle Education

The County of Santa Barbara was the primary applicant and the Cities of Carpinteria, Goleta, and Santa Barbara all co-sponsors for all three applications. The programs are administered by the County of Santa Barbara and the programs are carried out by the Santa Barbara Bicycle Coalition and the Coalition for Sustainable Transportation (COAST). The awarded funds under the Measure A Grant Programs total \$357,000. Carpinteria K-12 schools are eligible to receive bicycle educational assistance from both organizations. COAST conducts "Walk to School Day" programs that Aliso, Canalino, Carpinteria Middle school and Carpinteria High School (the only South Coast High School) participate in.

An additional joint effort project, the Santa Claus Lane Class 1 Bike Path Project received funding from the City. As a co-sponsor with the County of Santa Barbara, SBCAG contributed \$200,000 of the City's Regional State Transportation Program (RSTP) money that was earmarked for improvements to the Pacific Coast Bicycle Trail as the City's contribution to this regional project. This County project would provide an off-street bicycle/trail connection between the Santa Claus Lane area of the County with the City of Carpinteria at the western City Limits near the Salt Marsh Park.

To receive the grant for each project and program described above, the City of Carpinteria must enter into a cooperative agreement with the Santa Barbara County Association of Governments. The cooperative agreement and Measure A Grant Program Guidelines include a requirement for the timely use of funds. All of the projects listed above will need to be completed by the end of the 2015-2016 Fiscal Year. In 2012, the City Council entered into this agreement with SBCAG to receive the Cycle 1 Program funds. This year, SBCAG has amended the original agreement to reference both Cycle 1 and Cycle 2 funding programs including project attachments. The amended cooperative agreement is attached to this staff report. The cooperative agreement includes technical project scope, cost, schedule and funding plans for each project or program for both Cycle 1 and Cycle 2 projects. The technical attachments to the agreement will be available at the City Clerk's office.

SBCAG is in the process of amending the Cooperative Agreement to include the Cycle 2 funding. At the request of SBCAG, Carpinteria and other agencies scheduled the amended agreement to go before the City Council meeting prior to SBCAG's May meeting. At this time, SBCAG is still reviewing SBCAG Counsel's amendments. City Staff is recommending that the City Council take the recommended action on the authorization of the Mayor to sign the amended Cooperative Agreement when it is available, pending our City Attorney's review. If our City Attorney finds substantive changes, the matter will be brought back to the City County for review and consideration, otherwise the Mayor will be authorized to execute the agreement.

II. POLICY:

All of the projects described herein address the goals, objectives and policy statements in the Alternative Modes of Transportation section of the Circulation Element of the City of Carpinteria General Plan.

III. FINANCIAL CONSIDERATIONS:

As discussed above, the three projects receiving Measure A Grant Programs Cycle 2 funding were selected based on the City's Capital Improvement Plan, Measure A Program of Projects, Annual Work Plans and the Department of Public Works annual approved budget. A total of \$263,623 was awarded to the City. Additional funding for each project, when needed, will be funded from a variety of local funds within the Public Works Department Budget.

IV. ATTACHMENTS:

None

