City Council
Successor Redevelopment Agency
Financing Authority
Housing Authority

AGENDA

Wednesday

Regular

Closed Session 5:00 p.m.
Regular Session 6:00 p.m.

August 15, 2012

City Hall
100 West California Avenue
Ridgecrest CA 93555

(760) 499-5000

Ronald H. Carter, Mayor
Marshall G. Holloway, Mayor Pro Tempore
Jerry D. Taylor, Vice Mayor
Steven P. Morgan, Council Member
Jason Patin, Council Member

This Page Intentionally Left Blank

LAST ORDINANCE NO. 12-05
LAST RESOLUTION CITY COUNCIL NO. 12-67
LAST RESOLUTION FINANCING AUTHORITY NO. 12-xx
LAST RESOLUTION OF THE HOUSING AUTHORITY NO. 12-xx
LAST RESOLUTION OF THE SUCCESSOR REDEVELOPMENT AGENCY NO. 12-xx

CITY OF RIDGECREST

CITY COUNCIL
REDEVELOPMENT SUCCESSOR AGENCY
HOUSING AUTHORITY
FINANCING AUTHORITY

AGENDA

Regular Council
Wednesday August 15, 2012

CITY COUNCIL CHAMBERS CITY HALL
100 West California Avenue
Ridgecrest, CA 93555

Closed Session – 5:00 p.m.
Regular Session – 6:00 p.m.

This meeting room is wheelchair accessible. Accommodations and access to City meetings for people with other handicaps may be requested of the City Clerk (499-5002) five working days in advance of the meeting.

In compliance with SB 343. City Council Agenda and corresponding writings of open session items are available for public inspection at the following locations:

1. City of Ridgecrest City Hall, 100 W. California Ave., Ridgecrest, CA 93555
2. Kern County Library – Ridgecrest Branch, 131 E. Las Flores Avenue, Ridgecrest, CA 93555
3. City of Ridgecrest official website at http://ci.ridgecrest.ca.us

CALL TO ORDER – 5:00 p.m.

ROLL CALL

APPROVAL OF AGENDA

PUBLIC COMMENT – CLOSED SESSION

CLOSED SESSION

GC54956.9(A)	Conference With Legal Counsel, Existing Litigation. City Of Ridgecrest v. Benz Sanitation, Inc.
GC54956.9(B)	Conference With Legal Counsel, Liability Claim Of Maria Tripp, Claim No. 12-05
GC54956.9(A)	Conference With Legal Counsel, Anticipated Litigation – County Of Kern v. City Of Ridgecrest
GC54956.8	Real Property Negotiations – negotiation for lease APN 419-073-16-00 located at 1521 N. China Lake Blvd - Agency Negotiator Kurt Wilson, City Manager.
GC54957.6	Labor Negotiations – United Food and Commercial Workers Golden State 8 (UFCW); Police Employee Association of Ridgecrest (PEAR); Management; Mid-Management; Confidential; Part-Time Employees. Agency Negotiator City Manager Kurt Wilson
GC54957	Personnel Matters – Public Employee – City Manager

REGULAR SESSION – 6:00 p.m.

- Pledge Of Allegiance
- Invocation

CITY ATTORNEY REPORT

- Closed Session
- Other

PUBLIC COMMENT

PRESENTATION

1. **<u>John Dukes And Representatives Of The Sister City Organization Will Present A Plaque To The Mayor From Tepatitlan</u>** **Ford**

CONSENT CALENDAR

2. **<u>Approve A Resolution Updating The City Of Ridgecrest Alcohol & Drug Policy To Remain Compliant With Federal Department Of Transportation Regulations</u>** **Speer**

3. **Approve A Resolution Of Intention Amending The Contract Between The City Of Ridgecrest And The Board Of Supervisors For The California Public Employee Retirement System** **Wilson**

4. **Approve Authorization To Expend $1,000.00 Of Unallocated General Funds To Support The Local Veteran's Stand-Down Event** **Wilson**

5. **Approve Draft Minutes Of Council Meeting Dated July 18, 2012** **Ford**

PUBLIC MEETING

6. **Public Meeting To Receive Comments Pertaining To The Proposed Ridgecrest Tourism Improvement District** **McRea**

DISCUSSION AND OTHER ACTION ITEMS

7. **Approval Of A Settlement Agreement Between The City Of Ridgecrest And The County Of Kern** **Wilson**

8. **Approve A Resolution Authorizing A Lease Agreement Between The City Of Ridgecrest And Waste Management** **Wilson**

9. **Approve A Resolution Authorizing Amendments To Agreements And Memorandum Of Understanding Between The City Of Ridgecrest And Police Employee Association Of Ridgecrest (PEAR) And Unrepresented Employees** **Wilson**

10. **Approve And Authorize The City Manager To Enter Into An Agreement Between The City Of Ridgecrest And Certain Indian Wells Valley Youth Sports Leagues** **Wilson**

11. **Approve An Appointment For An Interim City Manager** **Wilson**

ORDINANCES

12. **First Reading And Introduction By Title Only An Urgency Ordinance To Amend The Retirement Contract With The California Public Employees Retirements System For Safety Members** **Lemieux**

13. **First Reading And Introduction By Title Only An Ordinance of the Ridgecrest City Council Amending the Ridgecrest Municipal Code as it relates to Trench Cut Fees** **Lemieux**

COMMITTEE REPORTS

Infrastructure Committee

Members: Steve Morgan, Jerry Taylor, Craig Porter, James Sanders
Meeting: 2nd Wednesday Of The Month At 5:00 P.M., Council Conference Room
Next Meeting: September 12, 2012

Quality Of Life

Members: Chip Holloway, Jason Patin, Craig Porter, Carter Pope
Meeting: 1st Saturday Of Every Even Month At 10:00 A.M.; Kerr-McGee Center
Next Meeting: October 6, 2012

City Organization

Members: Ron Carter, Jerry Taylor, Lois Beres, Christopher LeCornu
Meeting: 1st Tuesday Of The Month At 5:00 P.M.; Council Conference Room
Next Meeting: September 4, 2012 (Subject to change)

Community Development Committee

Members: Steve Morgan, Jason Patin, Christopher LeCornu, James Sanders
Meetings: 1st Thursday Of The Month At 5:00 P.M.; Council Conference Room
Next Meeting: September 6, 2012

Activate Community Talents And Interventions For Optimal Neighborhoods Task Force (ACTION)

Members: Ron Carter, Chip Holloway, Ron Strand
Meetings: 2nd Monday Of Odd Numbered Months At 4:00 P.M., Kerr-McGee Center
Next Meeting: September 10, 2012

Ridgecrest Area Convention And Visitors Bureau (RACVB)

Members: Chip Holloway, Jason Patin
Meetings: 1st Wednesday Of The Month, 8;00 A.M.
Next Meeting: September 5, 2012 at location to be announced

OTHER COMMITTEES, BOARDS, OR COMMISSIONS

CITY MANAGER REPORT

MAYOR AND COUNCIL COMMENTS

ADJOURNMENT

1

This Page Intentionally Left Blank

2

This Page Intentionally Left Blank

CITY COUNCIL/SUCCESSOR REDEVELOPMENT AGENCY/FINANCING AUTHORITY/HOUSING AUTHORITY AGENDA ITEM

SUBJECT: Adopt A Resolution of the Ridgecrest City Council Updating the Federal Drug and Alcohol Testing Policy Guidelines for the City of Ridgecrest and rescind Resolution No 10-81.

PRESENTED BY:
Dennis Speer, Public Works Director

SUMMARY:
The City of Ridgecrest feels that it is necessary to provide a safe environment for all employees who work here. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public.

This policy and Exhibits 1-3 (attached) are intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the industry. The U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing specimens.

New Federal mandates have been established and must be in place by September 7, 2012. This policy will go into effect on August 15, 2012. The City's testing policy has been updated to reflect the changes.

FISCAL IMPACT: None

Reviewed by Finance Director

ACTION REQUESTED: Approve A Resolution of the Ridgecrest City Council Updating the Federal Drug and Alcohol Testing Policy Guidelines for the City of Ridgecrest and rescind Resolution No 10-81.

CITY MANAGER / EXECUTIVE DIRECTOR RECOMMENDATION:

Action as requested:

Submitted by: Dennis Speer Action Date: August 15, 2012
(Rev. 02/13/12)

This Page Intentionally Left Blank

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIDGECREST APPROVING THE UPDATE OF THE FEDERAL DRUG AND ALCOHOL TESTING POLICY GUIDELINES FOR THE CITY OF RIDGECREST AND RESCINDING RESOLUTION NO 10-81

WHEREAS, The City of Ridgecrest feels that it is necessary to provide a safe environment for all employees who work here, and

WHEREAS, Our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and

WHEREAS, To ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public

WHEREAS, This policy and Exhibits 1-3 (see attached) are intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the industry

WHEREAS, The U.S. Department of Transportation mandates drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result

WHEREAS, The U. S. Department of Transportation sets standards for the collection and testing specimens, and

WHEREAS, New Federal mandates have been established and will go into effect on August 15, 2012, and

WHEREAS, The City's testing policy has been updated to reflect the changes.

NOW THEREFORE, BE IT RESOLVED the City Council of the City of Ridgecrest approves the update of the federal drug and alcohol testing policy guidelines for the City Of Ridgecrest and rescinds Resolution No 10-81

APPROVED AND ADOPTED this 15th day of August 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Ronald Carter, Mayor

ATTEST_____
Rachel Ford, City Clerk

This Page Intentionally Left Blank

8/15/2012

ZERO TOLERANCE
DRUG AND ALCOHOL TESTING POLICY
City of Ridgecrest
Adopted as of August 15, 2012

A. PURPOSE

1) The City of Ridgecrest provides public transit and paratransit services for the residents of *Ridgecrest, Inyokern, Johannesburg/Randsburg and surrounding County areas pursuant to contract with County*. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, City of Ridgecrest declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.

2) Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.

3) Any provisions set forth in this policy that are included under the sole authority of City of Ridgecrest and <u>are not</u> provided under the authority of the above named Federal regulations are underlined. Tests conducted under the sole authority of City of Ridgecrest will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

B. APPLICABILITY

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full- or part-time) when performing safety sensitive duties <u>City of Ridgecrest employees that do not perform safety-sensitive functions are also covered under</u>

this policy under the sole authority of City of Ridgecrest. See Attachment A for a list of employees and the authority under which they are included.

A safety-sensitive function is operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, dispatchers or persons controlling the movement of revenue service vehicles and any other transit employee who is required to hold a Commercial Drivers License. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.

C. DEFINITIONS

Accident: An occurrence associated with the operation of a revenue service vehicle even when not in revenue service, if as a result:

a. An individual dies;
b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
c. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

Adulterated specimen: A specimen that has been altered, as evidence by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

Alcohol Concentration: Expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.

Aliquot: A fractional part of a specimen used for testing, It is taken as a sample representing the whole specimen.

Canceled Test: A drug test that has been declared invalid by a Medical Review Officer. A canceled test is neither positive nor negative.

Confirmatory Drug Test: A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

Confirmatory Validity Test: A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Covered Employee Under FTA Authority: An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

Covered Employee Under Company Authority: An employee, applicant, or transferee that will not perform a safety-sensitive function as defined by FTA but is included under the company's own authority. (See Attachment A).

Designated Employer Representative (DER): An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

Department of Transportation (DOT): Department of the federal government which includes the, Federal Transit Administration, Federal Railroad Administration, Federal Highway Administration, Federal Motor Carriers' Safety Administration, Pipeline & Hazardous Materials Safety Administration, United States Coast Guard, and the Office of the Secretary of Transportation.

Dilute specimen: A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

Disabling damage: Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated

but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

Evidentiary Breath Testing Device (EBT): A Device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations. Approved devices are listed on the National Highway Traffic Safety Administration (NHTSA) conforming products list.

Initial Drug Test: (Screening Drug Test) The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial Specimen Validity Test: The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid

Invalid Result: The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

Laboratory: Any U.S. laboratory certified by HHS under the National Laboratory Certification program as meeting standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

Limit of Detection (LOD): The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

Limit of Quantitation: For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

Negative Dilute: A drug test result which is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

Negative result: The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

Non-negative test result: A urine specimen that is reported as adulterated, substitute, invalid, or positive for drug/drug metabolites.

Oxidizing Adulterant: A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

Performing (a safety-sensitive function): A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Positive result: The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

Prohibited drug: Identified as marijuana, cocaine, opiates, amphetamines (including ecstasy), or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

Reconfirmed: The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

Rejected for Testing: The result reported by an HHS- Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

Revenue Service Vehicles: All transit vehicles that are used for passenger transportation service.

Safety-sensitive functions: Employee duties identified as:

(1) The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.
(2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).

(3) Maintaining a revenue service vehicle or equipment used in revenue service.
(4) Controlling the movement of a revenue service vehicle and
(5) Carrying a firearm for security purposes.

Split Specimen Collection: A collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed marriage and family therapist, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse(ICRC) or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC)) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Substituted specimen: A urine specimen with creatinine and specific gravity values that are so diminished that they are not consistent with normal human urine.

Test Refusal: The following are considered a refusal to test if the employee:

(1) Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer
(2) Fails to remain at the testing site until the testing process is complete
(3) Fails to attempt to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations
(4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen
(5) Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
(6) Fails or declines to take a second test the employer or collector has directed you to take
(7) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the ``shy bladder'' or “shy lung” procedures

(8) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)

(9) If the MRO reports that there is verified adulterated or substituted test result

(10) Failure or refusal to sign Step 2 of the alcohol testing form

(11) Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.

(12) Possess or wear a prosthetic or other device that could be used to interfere with the collection process

(13) Admit to the collector or MRO that you adulterated or substituted the specimen.

Verified negative test: A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

Verified positive test: A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

Validity testing: The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

D. EDUCATION AND TRAINING

1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

2) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

E. PROHIBITED SUBSTANCES

1) Prohibited substances addressed by this policy include the following.

   a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines (including methamphetamine and ecstasy), opiates (including heroin), phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy

      Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines (including methamphetamine and ecstasy), opiates (including heroin), and phencyclidine as described in Section H of this policy. Employees covered under company authority will also be tested for these same substances. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

   b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a City of Ridgecrest supervisor and the employee is required to provide a written release from his/her doctor or pharmacist

indicating that the employee can perform his/her safety-sensitive functions.

c. Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited. An alcohol test can be performed on a covered employee under 49 CFR Part 655 just before, during, or just after the performance of safety-sensitive job functions. Under City of Ridgecrest authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.

F. PROHIBITED CONDUCT

1) All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR PART 40, as amended.

2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.

3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol

4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.

5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

7) City of Ridgecrest, under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.

8) Consistent with the Drug-free Workplace Act of 1988, all City of Ridgecrest employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit vehicles.

G. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the City of Ridgecrest management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section Q of this policy.

H. TESTING REQUIREMENTS

1) Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49CFR part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in Section K, L, M, and N of this policy, and return to duty/follow-up. All employees covered under company authority will also be subject to testing for reasonable suspicion, post-accident, random and return to duty/follow-up using non-DOT testing forms.

2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion and random alcohol test can be performed just before, during, or after the performance of a safety-sensitive job function. Under City of Ridgecrest authority, an alcohol test can be performed any time a covered employee is on duty.

3) All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with City of Ridgecrest. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section Q of this policy.

I. DRUG TESTING PROCEDURES

1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

2) The drugs that will be tested for include marijuana, cocaine, opiates (including heroin), amphetamines (including methamphetamine and ecstasy), and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to the City of Ridgecrest Drug and Alcohol Program Manager (DAPM). If a legitimate explanation is found, the MRO will report the test result as negative to the DAPM.

4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.

5) Any covered employee who questions the results of a required drug test under paragraphs L through P of this policy may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. City of Ridgecrest will ensure that the cost for the split specimen are covered in order for a timely analysis of the sample, <u>however City of Ridgecrest will seek reimbursement for the split sample test from the employee.</u>

6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled. If the split specimen is not available to analyze the MRO will direct [*GRANTEE/*] to retest the employee under direct observation.

7) The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary is positive, the split will be retained for testing if so requested by the employee through the Medical Review Officer. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year.

8) Observed collections

    a. Consistent with 49 CFR part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:

i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to City of Ridgecrest that there was not an adequate medical explanation for the result;

ii. The MRO reports to City of Ridgecrest that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;

iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to you as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).

iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;

v. The temperature on the original specimen was out of range;

vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.

vii. All follow-up-tests; or

viii. All return-to-duty tests

J. ALCOHOL TESTING PROCEDURES

1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using a non-evidential testing device which is also approved by NHSTA. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a

unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

2) An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section Q. of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours <u>or for the duration of the work day whichever is longer</u> and will be subject to the consequences described in Section Q of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.

3) City of Ridgecrest affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.

4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

K. <u>PRE-EMPLOYMENT TESTING</u>

1) All applicants for covered transit positions shall undergo urine drug testing prior to performance of a safety-sensitive function.

   b. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.

   c. A employee shall not be placed, transferred or promoted into a position covered under FTA authority or company authority until the employee takes a drug test with verified negative results.

d. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be referred to a Substance Abuse Professional. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.

e. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section Q herein.

f. If a pre-employment test is canceled, City of Ridgecrest will require the applicant to take and pass another pre-employment drug test.

g. In instances where a FTA covered employee is on extended leave for a period of 90 consecutive days or more regardless of reason, and is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.

h. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.

i. Applicants are required (even if ultimately not hired) to provide *City of Ridgecrest* with signed written releases requesting FTA drug and alcohol records from all previous, DOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. *City of Ridgecrest* is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a DOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer, the applicant must provide City of Ridgecrest proof of having successfully

completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

L. REASONABLE SUSPICION TESTING

1) All City of Ridgecrest covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under City of Ridgecrest's authority, a reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

2) City of Ridgecrest shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section Q of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section Q of this policy.

3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the City of Ridgecrest

4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the

employee shall be referred for assessment and treatment consistent with Section Q of this policy. City of Ridgecrest shall place the employee on administrative leave in accordance with the provisions set forth under Section Q of this policy. Testing in this circumstance would be performed under the direct authority of the City of Ridgecrest. **Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority.** However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections L through N of this policy or the associated consequences as specified in Section Q.

M. POST-ACCIDENT TESTING

1) All covered employees will be required to undergo urine and breath testing if they are involved in an accident with a transit revenue service vehicle regardless of whether or not the vehicle is in revenue service that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance cannot be completely discounted as a contributing factor to the accident.

2) In addition, a post-accident test will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility; or one or more vehicles incurs disabling damage, unless the operators performance can be completely discounted as a contributing factor to the accident.

    a. As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

    b. The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours,

attempts to conduct the test must cease and the reasons for the failure to test documented.

c. Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.

d. An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

e. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

f. In the rare event that City of Ridgecrest is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), City of Ridgecrest may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

N. RANDOM TESTING

1) All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. Employees covered under company authority will be selected from a pool of non-DOT-covered employees.

2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.

3) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates established by Federal regulations for those safety-sensitive employees

subject to random testing by Federal regulations. The current random testing rate for drugs established by FTA equals twenty-five percent of the number of covered employees in the pool and the random testing rate for alcohol established by FTA equals ten percent of the number of covered employees in the pool.

4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.

5) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of employees that are included solely under City of Ridgecrest authority.

6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can be performed just before, during, or just after the performance of a safety sensitive duty. <u>However, under City of Ridgecrest's authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty.</u> Testing can occur during the beginning, middle, or end of an employee's shift.

7) Employees are required to proceed <u>immediately</u> to the collection site upon notification of their random selection.

O. <u>RETURN-TO-DUTY TESTING</u>

City of Ridgecrest will terminate the employment of any employee that tests positive or refuses a test as specified in section Q of this policy. However, in the rare event, an employee is reinstated with court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions. All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. For an initial positive drug test, a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test, a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the

employee has successfully completed the treatment requirement, is known to be drug, and alcohol-free and there are no undo concerns for public safety.

P. FOLLOW-UP TESTING

Covered employees that have returned to duty following a positive or refused a test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

Q. RESULT OF DRUG/ALCOHOL TEST

1) Any covered employee that has a verified positive drug or alcohol test will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, referred to a Substance Abuse Professional (SAP) for assessment, and will be terminated.

2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.

3) A positive drug and/or alcohol test will also result in disciplinary action as specified herein.

    a. After receiving notice of a verified positive drug test result, a confirmed alcohol test result, or a test refusal, the City of Ridgecrest Drug and Alcohol Program Manager will contact the employee's supervisor to have the employee cease performing any safety-sensitive function.
    b. The employee shall be referred to a Substance Abuse Professional and will be terminated.

4) Refusal to submit to a drug/alcohol test shall be considered a positive test result and a direct act of insubordination and shall result in termination

and referral to an SAP. A test refusal includes the following circumstances:

a. Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer
b. Fails to remain at the testing site until the testing process is complete
c. Fails to attempt to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations
d. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen
e. Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
f. Fails or declines to take a second test the employer or collector has directed you to take
g. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the ``shy bladder'' or “shy lung” procedures
h. Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)
i. If the MRO reports that there is verified adulterated or substituted test result
j. Failure or refusal to sign Step 2 of the alcohol testing form
k. Failure to follow the observer’s instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
l. Possess or wear a prosthetic or other device that could be used to interfere with the collection process
m. Admit to the collector or MRO that you adulterated or substituted the specimen.

5) An alcohol test result of ≥0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder or the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to an alcohol test with a result of less than 0.02 BAC. If the employee has an alcohol test result of ≥ 0.02 to ≤ 0.039 two or more times within a six

month period, the employee will be removed from duty and referred for an assessment and treatment consistent with Section Q 6-7 of this policy.

6) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:

   a. Mandatory referral for an assessment by an employer approved substance abuse professional for assessment, formulation of a treatment plan, and execution of a return to work agreement;
   b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from City of Ridgecrest employment.
      i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as defined in Section P of this policy.
   c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. **All tests conducted as part of the return to work agreement will be conducted under company authority and will be performed using non-DOT testing forms.**
   d. **A self-referral or management referral to the employer's approved substance abuse professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section Q of this policy**.
   e. Periodic unannounced follow-up drug/alcohol test conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section Q of this policy.
   f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with City of Ridgecrest.
   g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.

7) The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider. The employee will be permitted to take accrued sick leave or administrative leave to participate in the prescribed treatment program. If the employee has insufficient accrued leave, the employee shall be placed on leave without pay until the

employee has successfully completed the required treatment program and has been released to return-to-duty. Any leave taken, either paid or unpaid, shall be considered leave taken under the Family and Medical Leave Act.

8) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

R. GRIEVANCE AND APPEAL

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

S. PROPER APPLICATION OF THE POLICY

City of Ridgecrest is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

T. INFORMATION DISCLOSURE

1) Drug/alcohol testing records shall be maintained by the City of Ridgecrest Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.

2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.

3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need to know basis.

4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.

5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the preceding.

6) Records will be released to the National Transportation Safety Board during an accident investigation.

7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.

8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.

9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over City of Ridgecrest or the employee.

10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken

11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

This Policy was adopted by the ***City Council of the City of Ridgecrest*** on *August 15, 2012*

_____

Ronald H. Carter, Mayor

Attachment A

Job Title Testing Authority

City of Ridgecrest—Administration Covered Classifications

Title	Testing Authority
Transit Drivers	Federal Transit Administration
Transit Drivers, Relief Dispatcher	Federal Transit Administration
Dispatchers	Federal Transit Administration
Transit Supervisor	Federal Transit Administration
Mechanics	Federal Transit Administration

Title	Testing Authority
Chief Plant Operator	Federal Motor Carrier Safety Administration
Waste Water Operator Trainee	Federal Motor Carrier Safety Administration
Waste Water Operator I	Federal Motor Carrier Safety Administration
Waste Water Operator II	Federal Motor Carrier Safety Administration
Waste Water Operator III	Federal Motor Carrier Safety Administration
Equipment Operator	Federal Motor Carrier Safety Administration
Mechanic	Federal Motor Carrier Safety Administration

Attachment B Contacts

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

City of Ridgecrest Drug and Alcohol Program Manager
Name: Starla L. Shaver
Title: Transit Services Coordinator
Address: 100 W. California Ave. Ridgecrest, Ca. 93555
Telephone Number: (760)499-5041

Medical Review Officer
Name: Pembrooke, Stephen Kracht & Dr. John Cametas
Title: MD's
Address: 2307 N. Parham Rd., Richmond, Va. 23229
Telephone Number (804) 346-1010

Substance Abuse Professional
Name:Enid Richey
Title: Ph. D
Address: 9089 Baseline Rd ST200, Rancho Cucamonga Ca. 91730
Telephone Number: (909) 980-3567

HHS Certified Laboratory Primary Specimen
Name: Med Tox Labs. Inc.
Address: 402 W. County Rd D, St. Paul MN 55112
Telephone Number: (800)-832-3244

HHS Certified Laboratory Split Specimen
Name:CRL (Clinical Referral Lab)
Address: 11711 W. 83rd Terrace, Lenexa, Ks. 66150
Telephone Number: (800) 452-5677

EXHIBIT 1

PRE-EMPLOYMENT DRUG TESTING ACKNOWLEDGEMENT

I, hereby acknowledge and understand that, as part of my application for employment with the City of Ridgecrest for a position which involves the performance of safety-sensitive functions as defined by 49 CFR Part 655, as amended, I must submit to a urine drug test under the authority of the U. S. Department of Transportation, Federal Transit Administration. In addition, I understand I will be required to submit to a breath alcohol test under the authority of the City of Ridgecrest. I acknowledge and understand that any offer of employment is contingent on the passing of the aforementioned drug & alcohol test and I will not be assigned to perform a safety-sensitive function unless my urine drug test and breath alcohol test has a verified negative result having no evidence of prohibited drug or alcohol use.

	Signature of Applicant	Date
	Print Name	
Witness:	Signature	Date
	Print Name	

(Your application will not be considered for employment of a covered safety-sensitive position unless this acknowledgement is completed and signed.)

EXHIBIT 2

ACKNOWLEDGEMENT OF EMPLOYER'S DRUG AND ALCOHOL TESTING POLICY

I, _____, the undersigned, hereby acknowledge that I have received a copy of the anti-drug and alcohol misuse program policy mandated by the U. S. Department of Transportation, Federal Transit Administration for all covered employees who perform a safety-sensitive function. I understand this policy is required by 49 CFR Part 655, as amended, and has been duly adopted by the governing board of the employer. Any provisions contained herein which are not required by 49 CFR Part 655, as amended, that have been imposed solely on the authority of the employer are designated as such in the policy document.

I further understand that receipt of this policy constitutes a legal notification of the contents, and that it is my responsibility to become familiar with and adhere to all provisions contained therein. I will seek and get clarifications for any questions from the employer contact person listed in the policy. I also understand that compliance with all provisions contained in the policy is a condition of my employment.

I further understand that the information contained in the approved policy dated _____, _____ is subject to change, and that any such changes, or addendum, shall be disseminated to me in a manner consistent with the provision of 49 CFR Part 655, as amended.

_____ _____
Signature of Employee Date

Witness: _____ _____
Signature Date

Exhibit 3

City of Ridgecrest

MEDICAL AUTHORIZATION FOR

PRESCRIPTION AND OVER THE COUNTER MEDICATIONS

I. EMPLOYEE SECTION

Employee Name: _____Date: _____

SSN: _____

Job Title: _____

Safety-sensitive job duties performed:

_____ Operator (e.g. 15-passenger van, 24-passenger transit vehicle; indicate type and size of vehicle)

_____ Dispatcher (indicate type of service: fixed route, demand responsive, specialty)

_____ Maintenance (public transit vehicles)

_____ Carry a firearm for security purposes

_____ other, specify _____

MEDICATIONS I AM CURRENTLY TAKING:

NAME OF DRUG	DATE PRESCRIBED	MEDICAL PRACTITIONER
_____	_____	_____
_____	_____	_____
_____	_____	_____

This information is true and correct to the best of my knowledge. I understand and comply with the prescribed use of these medications and their restrictions while working. Furthermore, I authorize _____ transit system to obtain information from my physician about this medical authorization. I understand that it is my obligation to inform my employer of any medication I intend to take for review and determination of my fitness for duty.

Signature: _____ Date:_____

Printed Name: _____

II. PHYSICIAN SECTION

Please complete this form regarding the patient named above. By signing below, you are acknowledging that you are aware of this employee's job requirements and day-to-day responsibilities, and that the newly prescribed medication(s) in conjunction with medication(s) currently being taken will not impair performance or endanger the safety of this individual, coworker, transit system rider, or the public. Please indicate below what, if any, restrictions/limitations should be placed on the individual throughout the duration of this treatment.

MEDICATION BEING PRESCRIBED:

Name of Drug	**Dosage**	**# of pills/ Refills**	**Date Approval Expires**	**Restriction/ Limitation**

This individual is currently under my medical supervision and was last seen on _____.

I have reviewed the above named transit system employee's medical records and am familiar with the employee's job duties. In my opinion, this patient's condition and the medication(s) listed above _____ (will/will not) interfere with his/her ability to safely perform those job duties.

_____ Printed Name: _____
Signed

_____ Address: _____
Date

_____

Phone number: _____

Comments: _____

_____

_____

This Page Intentionally Left Blank

3

This Page Intentionally Left Blank

CITY COUNCIL/SUCCESSOR REDEVELOPMENT AGENCY/FINANCING AUTHORITY/HOUSING AUTHORITY AGENDA ITEM

SUBJECT:
Approve A Resolution Of Intention To Approve An Amendment To Contract Between The Board Of Administration Of The California Public Employees' Retirement System And The City Council Of The City Of Ridgecrest And Rescinding Resolution No. 12-57

PRESENTED BY:
Kurt Wilson – City Manager

SUMMARY:

This is a Resolution Of Intention to amend the current CalPERS contract for Safety employees enhancing the retirement benefit formula from 2%@50 to 3%@55. This enhancement to the Safety retirement formula is part of an agreement approved in the Memorandum of Understand adopted by Council and ratified by both parties on September 12, 2011.

Safety employees include sworn members of Police Employees Association of Ridgecrest (PEAR).

Members negotiated with management in 2011 to modify the retirement and a portion of the additional cost would be paid directly by the employees. This amendment will go into effect the date the final amendment is completed with CalPERS, projected to be September 17, 2012.

The resolution will rescind resolution 12-57 which Council approved on June 27, 2012 prior to CalPERS generated amendment documents having been received.

FISCAL IMPACT:

1. Change in the Present Value of Benefits	$ 1,120,322
2. Change in the Accrued Liability	$ 832,422
3. Change in the Total Employer Rate	4.741%

Reviewed by Finance Director

ACTION REQUESTED:
Approve A Resolution Of Intent To Amend The Safety Contract Between The City Of Ridgecrest And The Board Of Directors For California Public Employee Retirement Services And Rescinding Resolution 12-57.

CITY MANAGER / EXECUTIVE DIRECTOR RECOMMENDATION:

Action As Requested: Approve The Resolution Of Intent To Amend The Safety Contract Between The City Of Ridgecrest And The Board Of Directors For California Public Employee Retirement Services And Rescinding Resolution 12-57

Submitted by: Kurt Wilson Action Date: August 15, 2012
(Rev. 02/13/12)

This Page Intentionally Left Blank

Resolution No. 12-

RESOLUTION OF INTENTION

TO APPROVE AN AMENDMENT TO CONTRACT

BETWEEN THE

BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

AND THE

CITY COUNCIL
CITY OF RIDGECREST

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 21363.1 (3% @ 55 Supplemental formula) for local safety members.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

By:_____
Presiding Officer

_____
Title

_____
Date adopted and approved

(Amendment)
CON-302 (Rev. 4/96)

This Page Intentionally Left Blank

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
Actuarial and Employer Services Branch
Public Agency Contract Services
(888) CalPERS (225-7377)

SUMMARY OF MAJOR PROVISIONS

3% @ 55 Formula (Section 21363.1)
Local Safety Members

SERVICE RETIREMENT

To be eligible for service retirement, a member must be at least age 50 and have five years of CalPERS credited service. If provided by the employer's contract, mandatory retirement age for local safety members is age 60.

The monthly retirement allowance is determined by age at retirement, years of service credit and final compensation. The basic benefit is 3% of final compensation for each year of credited service upon retirement at age 55. If retirement is earlier than age 55, the percentage of final compensation decreases for each quarter year of attained age to 2.40% at age 50. The allowance is limited to 90% of final compensation.

Final compensation is the average monthly pay rate during the last consecutive 36 months of employment, or 12 months if provided by the employer's contract, unless the member designates a different period of 36 or 12 consecutive months when the average pay rate was higher. Certain items of special compensation earned during your final compensation period will be included in your final compensation, in accordance with Board regulations.

DISABILITY RETIREMENT

Members substantially incapacitated from performing the usual duties for the position for his/her current employer would be eligible for disability retirement provided they have at least five years of service credit. The monthly retirement allowance is 1.8% of final compensation for each year of service. The maximum percentage for members who have between 10.000 and 18.518 years of service credit is one-third of their final compensation. If the member is eligible for service retirement the member will receive the highest allowance payable, service or disability. If provided by the employer's contract, the benefit would be a minimum of 30% of final compensation for the first five years of service credit, plus 1% for each additional year of service to a maximum benefit of 50% of final compensation.

INDUSTRIAL DISABILITY RETIREMENT

Members permanently incapacitated from performing their duties, as defined above under Disability Retirement, and the disability is a result of a job-related injury or illness may receive an Industrial Disability Retirement benefit equal to 50% of their final compensation. If provided in the employer’s contract and the member is totally disabled, the disability retirement allowance would equal 75% of final compensation in lieu of the disability retirement allowance otherwise provided. If the member is eligible for service retirement, the service retirement allowance is payable. The total allowance cannot exceed 90% of final compensation.

PRE-RETIREMENT DEATH BENEFITS

Basic Death Benefit: This benefit is a refund of the member's contributions plus interest and up to six months' pay (one month's salary rate for each year of current service to a maximum of six months).

1957 Survivor Benefit: An eligible beneficiary may elect to receive either the Basic Death Benefit or the 1957 Survivor Benefit. The 1957 Survivor Benefit provides a monthly allowance equal to one-half of the highest service retirement allowance the member would have received had he/she retired on the date of death. The 1957 Survivor Benefit is payable to the surviving spouse or registered domestic partner until death or to eligible unmarried children until age 18.

1959 Survivor Benefit: (If provided by the employer's contract and the member is not covered under social security.) A surviving spouse or registered domestic partner and eligible children may receive a monthly allowance as determine by the level of coverage. This benefit is payable in addition to the Basic Death Benefit or 1957 Survivor Benefit. Children are eligible if under age 22 and unmarried.

Pre-Retirement Option 2W Death Benefit: (If provided by the employer's contract.) The spouse or registered domestic partner of a deceased member, who was eligible to retire for service at the time of death, may to elect to receive the Pre-Retirement Option 2W Death Benefit in lieu of the lump sum Basic Death Benefit. The benefit is a monthly allowance equal to the amount the member would have received if he/she had retired for service on the date of death and elected Option 2W, the highest monthly allowance a member can leave a spouse or registered domestic partner.

Special Death Benefit: A surviving spouse, registered domestic partner, or eligible children or step children may receive a monthly allowance equal to one-half of the final compensation. If the cause of death is due to external violence or physical force while on the job, and there are eligible surviving children in addition to a spouse or registered domestic partner, the allowance may be increased to a maximum of 75%.

COST-OF-LIVING ADJUSTMENTS

The cost of living allowance increases are limited to a maximum of 2% compounded annually unless the employer's contract provides a 3, 4, or 5% increase.

DEATH AFTER RETIREMENT

The lump sum death benefit is $500 (or $600, $2,000, $3,000, $4,000 or $5,000 if provided by the employer's contract) regardless of the retirement plan chosen by the member at the time of retirement.

TERMINATION OF EMPLOYMENT

Members who have separated from employment may elect to leave their contributions on deposit or request a refund of contributions and interest. Those who leave their contributions on deposit may apply at a later date for a monthly retirement allowance if the minimum service and age requirements are met. Members who request a refund of their contributions terminate their membership and are not eligible for any future benefits unless they return to CalPERS membership.

EMPLOYEE CONTRIBUTIONS

Local safety members covered by the 3% @ 55 formula contribute 9% of reportable earnings. Those covered under a modified formula (coordinated with Social Security) do not contribute on the first $133.33 earned.

The employer also contributes toward the cost of the benefits. The amount contributed by the employer for current service retirement benefits generally exceeds the cost to the employee. In addition, the employer bears the entire cost of prior service benefits (the period of time before the employer provided retirement coverage under CalPERS). All employer contribution rates are subject to adjustment by the CalPERS Board of Administration.

CalPERS

EXHIBIT

California
Public **E**mployees' **R**etirement **S**ystem

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Ridgecrest

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective September 20, 1965, and witnessed August 19, 1965, and as amended effective April 9, 1973, August 18, 1980, June 26, 1989, October 3, 1992, May 8, 1997, February 16, 2002, May 22, 2006 and July 30, 2007 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

A. Paragraphs 1 through 13 are hereby stricken from said contract as executed effective July 30, 2007, and hereby replaced by the following paragraphs numbered 1 through 14 inclusive:

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members and age 55 for local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after September 20, 1965 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:

   (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.

   (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.

   (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.

   (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.

   (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.

   (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.

(g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.

4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:

   a. Local Police Officers (herein referred to as local safety members);

   b. Employees other than local safety members (herein referred to as local miscellaneous members).

5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

   a. PERSONS WHO ARE COMPENSATED ON AN HOURLY BASIS; AND
   b. FIREFIGHTERS.

6. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment before and not on or after July 30, 2007 shall be determined in accordance with Section 21354 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 55 Modified and Full).

7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment on or after July 30, 2007 shall be determined in accordance with Section 21354.5 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2.7% at age 55 Modified and Full).

8. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55), supplemental to Federal Social Security.

9. Public Agency elected and elects to be subject to the following optional provisions:

   a. Section 21024 (Military Service Credit as Public Service).

   b. Section 20903 (Two Years Additional Service Credit).

   c. Section 20042 (One-Year Final Compensation).

   d. Section 21623.5 ($5,000 Retired Death Benefit).

10. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on August 18, 1980. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.

11. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.

12. Public Agency shall also contribute to said Retirement System as follows:

    a. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.

    b. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

13. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

14. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY_____
KAREN DE FRANK, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF RIDGECREST

BY_____
PRESIDING OFFICER

_____
Witness Date

Attest:

_____
Clerk

This Page Intentionally Left Blank

California Public Employees' Retirement System
Actuarial Office
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (916) 795-3240
(888) 225-7377 phone • (916) 795-2744 fax
www.calpers.ca.gov

May 14, 2012

CALPERS ID: 2542403229
Employer Name: CITY OF RIDGECREST
Rate Plan: SAFETY PLAN

Dear Requestor:

A contract amendment(s) cost analysis for the valuation(s) requested and related information is enclosed.

The change in the employer contribution rate, as of the effective date of the proposed amendment, is displayed on page 4.

If you are aware of others interested in this information (i.e., payroll staff, county court employees, port districts, etc.), please inform them. Sections 20463 (b) and (c) of the California Public Employees' Retirement Law require the governing body of a public agency which requests a contract amendment cost analysis to provide each affected employee organization with a copy within five days of receipt. Likewise if a cost analysis is requested by an employee organization, the employee organization is required to provide a copy of the analysis to the public agency within five days of receipt.

This cost analysis expires July 1, 2012. A Resolution of Intention (R of I) approved by the agency governing body to amend the contract must be received by this office on or before July 1, 2012 and the amendment effective date must be before July 1, 2013. If either of these two conditions is not met, an updated cost analysis is required to amend the contract. An updated cost analysis may be available as early as November 2012.

To complete the contract amendment process based on the enclosed analysis, you must do the following:

- Follow the Contract Amendment Request process on MyCalPERS with our Retirement Contract Services Unit.

- Complete and return the adopted R of I to CalPERS on or before July 1, 2012. Adoption of the Final Resolution/Ordinance by this date is not required.

Important Risk Disclosure

- **The Nature of Actuarial Work**: All actuarial calculations, including the ones in this cost estimate are based on numerous assumptions about the future. This includes demographic assumptions about the percentage of your employees that will terminate, die, become disabled, and retire in each future year, and economic assumptions about what salary increases each employee receives and the most important assumption, what the assets at CalPERS will earn for each year into the future until the last dollar is paid to current members of your plan. While CalPERS has set these assumptions as our best estimate of the real future of your plan, it must be understood that these assumptions are very long term predictors and will surely not be realized each year as we go forward. **This means that your employer contribution retirement rate can vary dramatically with or without any benefit changes because short term experience does not conform to the long term actuarial assumptions.**

- Investment return is much more volatile than liability fluctuations and can cause employer rates to vary significantly. For example, for the past twenty year period ending June 30, 2011, returns for each fiscal year ranged from -24% to +20.7%. The impact of investment return on employer contribution rates varies significantly based on the plan's volatility index (the ratio of the market value of assets to the payroll).

- **Projected Volatility Index:** As is stated above, the cost estimates supplied in this communication are based on a number of assumptions about very long term demographic and economic behavior. Even if these assumptions (terminations, deaths, disabilities, retirements, salary growth, and investment return) are exactly realized, there will be differences on a year to year basis. This year to year difference between actual experience and the assumptions is called a gain or loss which serves to lower or raise the employer's rates from year to year, respectively. So, the rates will fluctuate, especially due to the ups and downs of investment returns.

  The volatility in annual employer rates may be affected by this amendment. The reason is that this amendment will require your plan to transfer into a pool with higher benefits and earlier retirement ages. This will in turn require the accumulation of more assets per member earlier in their career. Rate volatility can be measured by the ratio of plan assets to active member payroll. Higher asset to payroll ratios produce more volatile employer rates. To see this, consider two pools, one with assets that are 4 times active member payroll, and the other with assets that are 8 times active member payroll. In a given year, when assets rise or fall 10% above or below the actuarial assumption, the pool with a volatility index of 4 experiences a dollar gain or loss of 40% of payroll while the pool with a volatility index of 8 experiences a dollar gain or loss of 80% of payroll. If this gain or loss is spread over 20 years (and we oversimplify by ignoring interest on the gain or loss), then the first pool's rate changes by 2% of pay while the second pool's rate changes by 4% of pay.

  For all pools, the desired state is to be 100% funded (i.e., assets to equal accrued liability). Therefore, we disclose the ratio of accrued liability to payroll rather than assets to payroll as a measure of the pool's potential future rate volatility. The higher the ratio, the more volatile the future rate may be. The table below contains these measures of potential future rate volatility for the plan's current pool and the new pool into which it would transfer. It should be noted that these ratios increase over time but generally tend to stabilize as the plan matures.

As of June 30, 2010	Current Pre-Amendment Pool	New Post-Amendment Pool
Pool's Accrued Liability	$ 469,525,634	$ 1,915,095,826
Pool's Payroll	61,878,177	224,562,008
Projected Volatility Index	7.6	8.5

Modified smoothing policy: As you no doubt are aware, the current financial market volatility has impacted the CalPERS trust fund and will impact future employer rates. The CalPERS Board has adopted a *temporary modification* to the smoothing policy which was implemented in the June 30, 2009 valuation. The modification does the following:

- Expanded the rate smoothing corridor from 80% to 120% of market value of assets (MVA) to 60% to 140% of MVA for June 30, 2009, to 70% to 130% for June 30, 2010, and back to 80% to 120% of MVA for June 30, 2011.
- Isolated and amortized gains and losses recognized on these three years using a fixed and declining 30-year period as opposed to the rolling 30-year amortization period.

If you have questions about the cost analysis, please call (888) CalPERS (225-7377). Please ask to speak to a contract analyst for questions about the timing of the contract amendment. Please ask to speak to me for questions about this cost analysis.

KELLY STURM, ASA, MAAA
Associate Pension Actuary, CalPERS

Enclosures

Actuarial Cost Estimates in General

What will this amendment cost? Unfortunately, there is no simple answer. There are two major reasons for the complexity of the answer:

- The first was described in the risk disclosure and involves the nature of actuarial work based on demographic and economic assumptions.
- The second is the fact that the actuarial funding process produces the answer to the question of amendment cost as the sum of two separate pieces:
    1. The increase in Normal Cost (i.e., the increase in future annual premiums in the absence of surplus or unfunded liability) expressed as a percentage of total active payroll, and
    2. The increase in Past Service Cost (i.e., Accrued Liability – representing the current value of the increased benefit for all past service of eligible members) which is expressed as a lump sum dollar amount.

To communicate the total cost, the Past Service Cost (i.e., the lump sum) is converted to a percent of payroll and added to the Normal Cost to set the employer rate required for the amendment. Converting the Past Service Cost lump sum to a percent of payroll requires a specific amortization period. For plans that amend, the amortization period is usually 20 years.

Assets for Pooled Plans

Pooled plans at CalPERS share assets within the pool. Therefore, the concepts of a plan's assets and surplus/unfunded liability are no longer valid, with two exceptions. The first exception is the need to determine superfunded status and the second exception is the need to transfer assets between pools when a plan changes benefit formulas and must transfer from one pool to another. This transfer process is described in the section below. Replacing the concept of a plan's assets and a plan's surplus/unfunded liability are the pool's assets and surplus/unfunded liability and the concept of the plan's side fund.

The potential change to each meaningful measurement for the plan due to this potential plan amendment will be disclosed in the remaining sections of this communication.

Transfers between Pools

Plans at CalPERS are assigned to pools based on the service retirement formula for which they contract. Therefore, a request to amend from one service retirement formula to another requires a transfer of the plan from its current pool, call it Pool A, to a new pool, call it Pool B. When such an amendment occurs, the **transfer between pools will be deemed to have occurred as of the first annual rate setting actuarial valuation that recognizes the new contract amendment. In this case that will be the June 30, 2011 actuarial valuation**. So, if this proposed amendment is adopted, the plan will "cash out" of pool A and "buy into" pool B as of June 30, 2011. When the plan "cashes out" of Pool A, the plan will receive a prorated share of pool A's assets (excluding side funds) based on the ratio of the plan's liabilities to pool A's liabilities. The plan's remaining unamortized side fund as of June 30, 2011 will be added to this share of Pool A's assets to form the plan's total assets to cover the new higher liabilities that the plan brings into pool B as of June 30, 2011. The difference between total assets brought by the plan into pool B and the amount needed for the plan to "buy into" pool B will form the plan's new side fund.

Changes in the Present Value of Benefits

The table below shows the change in the plan's total present value of benefits for the proposed plan amendment. The present value of benefits represents the total dollars needed today to fund all future benefits for *current* members of the plan (i.e., without regard to future employees). The increase in this amount must be paid by increases in future employer and perhaps future employee contributions. As such, the change in the present

value of benefits due to the plan amendment represents the total "cost" of the plan amendment. Some of this total cost may be covered by additional employee contributions and/or current side fund surplus.

	Pre-Amendment As of 06/30/2010	Change As of 06/30/2010	Post-Amendment As of 06/30/2010
Plan's Present Value of Benefits	$24,322,905	$1,120,322	$25,443,227

Change in Superfunded Status

A plan with actuarial value of assets (AVA) in excess of the total present value of benefits is called *superfunded*, and neither future employer nor employee contributions are required. Of course, events such as plan amendments and investment or demographic gains or losses can change a plan's condition from year to year. For example, a plan amendment could cause a plan to move from being superfunded to being in an unfunded position. It is CalPERS policy to retain a plan's superfunded status throughout a fiscal year based on the most recently completed actuarial valuation regardless of plan amendments. So, superfunded status would change only on the subsequent valuation date, for the 2013/2014 fiscal year. The projected superfunded status for fiscal year 2013/2014 with and without this plan amendment is shown below.

	Pre-Amendment Fiscal Year 2013/2014	Post-Amendment Fiscal Year 2013/2014
Plan's Superfunded Status	No	No

Changes in Accrued Liability

The actuarial funding process calculates a regular contribution schedule of employee contributions and employer contributions (called normal costs) which are designed to accumulate with interest to equal the total present value of benefits by the time every member has left employment. As of each June 30, the actuary calculates this "desirable" level of funding as of that point in time. The *accrued liability* is equal to the present value of benefits less the present value of scheduled future employee contributions and future employer normal costs. That is, the present value of benefits represents the funding level needed if there are to be no future contributions and the accrued liability represents the funding level if there are to be future contributions (employee contributions and future employer normal costs). When a plan is "on schedule", only future employee contributions and future employer normal costs are needed. A plan that is "behind schedule" must temporarily increase contributions to get back on schedule and a plan that is "ahead of schedule" can temporarily reduce future contributions. If this amendment were included in the June 30, 2010 annual valuation, your plan's accrued liability would change as shown below.

	Pre-Amendment As of 06/30/2010	Change As of 06/30/2010	Post-Amendment As of 06/30/2010
Plan's Accrued Liability	$19,175,012	$832,422	$20,007,434

Changes in the Plan's Side Fund

As stated in the section on transfers between pools, if this amendment is adopted in time to be recognized in the June 30, 2011 actuarial valuation, the plan will be deemed to change pools on that valuation date. In this case, the plan's side fund will be adjusted as necessary as of this date. Shown below is the development of the plan's projected assets to be "cashed out" of the pool it is leaving as of June 30, 2011.

Projected Pre-Amendment Amounts as of 06/30/2011		
1. Plan's projected Accrued Liability without the plan amendment	$	20,288,698
2. Current Pool's projected Accrued Liability		501,808,616
3. Plan's share of current Pool's projected Accrued Liability (1) / (2)		4.043%
4. Current Pool's projected Actuarial Value of Assets excluding side funds	$	451,401,243
5. Plan's share of Current Pool's projected non-side fund Assets (3) x (4)		18,250,670
6. Plan's projected side fund without plan amendment		(879,733)
7. Plan's projected total asset "cash out" of current pool at actuarial value (5) + (6)		17,370,937

Shown below is the plan's "buy in" to the new pool and the change in the plan's side fund projected as of June 30, 2011.

Projected Post-Amendment Amounts As of 06/30/2011		
1. Plan's projected Accrued Liability with plan amendment	$	21,222,872
2. New Pool's projected funded ratio		91.6%
3. Projected assets needed to "buy into" new Pool (1) x (2)	$	19,434,845
4. Plan's projected total Assets Available (from (7) in table above)		17,370,937
5. Plan's projected new side fund (4) – (3)		(2,063,908)

Changes in the Initial Employer Contribution Rate

The Public Employees' Retirement Law requires rate changes due to plan amendments to be implemented immediately on the effective date of the change in plan benefits. This change is displayed as the "Change to Total Employer Rate" below. If the contract amendment effective date is on or before June 30, 2012, the change in the employer contribution rate will be added to the employer's rate for the current fiscal year.

In general, CalPERS' policy provides that, upon a plan amendment, the side fund will be broken into two components. The first component is the change in the side fund due to the plan amendment. This component will be separately amortized over 20 years. The second component of the side fund is the remaining unamortized portion of side fund as though no amendment had occurred. This pre-existing component will continue to be amortized as it was prior to the plan amendment. Finally, these two components will be added together to form a single side fund amount. The amortization period of this combined single side fund will be set to produce a single side fund payment that is as close as possible to the payment that would have resulted had the two side fund components not been combined. CalPERS amortization policies may require a further change in the amortization period known as a fresh start. These policies are contained in Appendix A of Section 2 of your 2010 annual actuarial report.

The following table shows the change in your plan's employer contribution rate for fiscal 2012/2013 due to the plan amendment. The post-amendment information shown is the actual initial contribution rate that will apply during fiscal 2012/2013 if you adopt the amendment prior to fiscal 2012/2013. The change in normal cost may be much more indicative of the long term change in the employer contribution rate due to the plan amendment. The plan's amortization of its side fund is a temporary adjustment to the employer contribution to "get the plan back on schedule" over the amortization period shown.

	Pre-Amendment	Change	Post-Amendment
2012/2013 Employer Rate			
Pool's Net Employer Normal Cost	14.215%	1.309%	15.524%
Pool's Payment on the Unfunded Liability	4.989%	(0.456%)	4.533%
Surcharge for Class 1 Benefits			
a) FAC 1	0.880%	0.062%	0.942%
Phase out of Normal Cost Difference	0.000%	0.000%	0.000%
Amortization of Side Fund	6.372%	3.826%	10.198%
Total Employer Rate	26.456%	4.741%	31.197%
Side Fund Amortization Period	6		11
2013/2014 Estimated Employer Rate	*		31.6%

In the above table, the Total Employer Rate is the actual initial contribution rate that will apply during fiscal year 2012/2013 if you adopt the amendment. The 2012/2013 rates do not incorporate the investment return for the fiscal year ending June 30, 2011. However, the 2013/2014 Estimated Employer Rate does incorporate this return, but assumes no demographic gains or losses.

The table below shows the change in your plan's employee contribution rate (if any) for fiscal year 2012/2013 due to the plan amendment.

	Pre-Amendment	Change	Post-Amendment
2012/2013 Employee Rate	9.000%	0.000%	9.000%

Additional Disclosure

If your agency is requesting cost information for two or more benefit changes, the cost of adopting more than one of these changes **may not** be obtained by adding the individual costs. Instead, a separate valuation must be done to provide a cost analysis for the combination of benefit changes. If the proposed plan amendment applies to only some of the employees in the plan, the rate change due to the plan amendment still applies to the entire plan, and is still based on the total plan payroll.

Please note that the cost analysis provided in this document **may not** be relied upon after July 1, 2012. If you have not taken action to amend your contract by this date, you must contact our office for an updated cost analysis, based on the new annual valuation.

Descriptions of the actuarial methodologies, actuarial assumptions, and plan benefit provisions may be found in the appendices of the June 30, 2010 annual report. Please note that the results shown here are subject to change if any of the data or plan provisions differ from what was used in this study.

Certification

This actuarial valuation for the proposed plan amendment is based on the participant, benefits, and asset data used in the June 30, 2010 annual valuation, with the benefits modified if necessary to reflect what is currently provided under your contract with CalPERS, and further modified to reflect the proposed plan amendment. The valuation has been performed in accordance with standards of practice prescribed by the Actuarial Standards Board, and the assumptions and methods are internally consistent and reasonable for this plan, as prescribed by the CalPERS Board of Administration according to provisions set forth in the California Public Employees' Retirement Law.

Kelly Sturm

KELLY STURM, ASA, MAAA
Associate Pension Actuary, CalPERS

Fin Process Ids: Annual - 369531, Base - 382125, Proposal - 382126
Type: A

Summary of Plan Amendments Valued

COVERAGE GROUP 75001

Pre-Amendment

- The Service Retirement benefit calculated for service earned by this group of members is a monthly allowance equal to the product of the 2% @ 50 benefit factor, years of service, and final compensation. (Final compensation is reduced by $133.33 per month for members with a modified formula). The benefit factors for retirement at integral ages are shown below:

Retirement Age	2% at 50 Factor
50	2.000%
51	2.140%
52	2.280%
53	2.420%
54	2.560%
55 and older	2.700%

Post-Amendment

- The Service Retirement benefit calculated for service earned by this group of members is a monthly allowance equal to the product of the 3% @ 55 benefit factor, years of service, and final compensation. (Final compensation is reduced by $133.33 per month for members with a modified formula). The benefit factors for retirement at integral ages are shown below:

Retirement Age	3% at 55 Factor
50	2.400%
51	2.520%
52	2.640%
53	2.760%
54	2.880%
55 and older	3.000%

This Page Intentionally Left Blank

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
Actuarial and Employer Services Branch
Public Agency Contract Services
P.O. Box 942709
Sacramento, CA 94229-2709
(888) CalPERS (225-7377)

CERTIFICATION OF COMPLIANCE WITH GOVERNMENT CODE SECTION 7507

By signing below, I hereby certify that in accordance with Section 7507 of the Government Code statements 1, 2, and 3 are true; and that statement 4 is applicable and is true if I have placed my initials beside the statement:

1. Services of an actuary were secured to provide a statement of the actuarial impact upon future annual costs before authorizing changes in retirement plan benefits.

2. The actuary prepared a statement of the actuarial impact of the proposed changes in benefits upon future annual costs, including normal cost and any additional accrued liability. The statement of the actuarial impact for the increase in benefits was made public on _____ at a public meeting
   (date)
   of the _____ of the
   (governing body)
   _____
   (public agency)

   which is at least two weeks prior to the adoption of the final Resolution / Ordinance.

3. Adoption of the retirement benefit increase will not be placed on the consent calendar.

4. _____[INITIAL HERE IF THIS STATEMENT APPLIES]
   An actuary was present to provide information as needed at the public meeting at which the adoption of the benefit change was considered. (The presence of an actuary is required if future costs of the benefit changes exceed 1/2 of 1% of the future annual costs of the existing benefits.)

_____
Signature

_____
Print Name of Authorized Signer

_____
Title

Date _____

This Page Intentionally Left Blank

4

This Page Intentionally Left Blank

CITY COUNCIL/SUCCESSOR REDEVELOPMENT AGENCY/FINANCING AUTHORITY/HOUSING AUTHORITY AGENDA ITEM

SUBJECT:
Approve Expenditure To Support The Local Veterans Stand-Down Event

PRESENTED BY:
Kurt Wilson – City Manager

SUMMARY:

This item requests the allocation of $1,000 from the unallocated general fund balance to support the local Stand-Down in support of veterans.

This community places a high value on the contributions of service members. In appreciation of that service and in recognition that many veterans have unmet housing, food, and other needs, the event is designed to assist and appreciate those veterans.

As a first year event, the organizers are challenged with finding funds for the basic costs associated with this event. Because of the importance of the event and in order to insure its success, the organizers have requested financial support from the city.

FISCAL IMPACT:
$1,000.00 From Unallocated General Fund Balance
Reviewed by Finance Director

ACTION REQUESTED:
Approval Of A $1,000 Expenditure Of Unallocated General Fund Balance To Support The Veterans Stand-Down Event

CITY MANAGER / EXECUTIVE DIRECTOR RECOMMENDATION:

Action as requested: Approval Of A $1,000 Expenditure Of Unallocated General Fund Balance To Support The Veterans Stand-Down Event

Submitted by: Kurt Wilson Action Date: August 15, 2012
(Rev. 02/13/12)

This Page Intentionally Left Blank

5

This Page Intentionally Left Blank

CITY COUNCIL/SUCCESSOR REDEVELOPMENT AGENCY/HOUSING AUTHORITY/FINANCING AUTHORITY AGENDA ITEM

SUBJECT:
Minutes of the Special City Council/Successor Redevelopment Agency/Housing Authority/Financing Authority Meeting of July 18, 2012

PRESENTED BY:
Rachel J. Ford, City Clerk

SUMMARY:

Draft minutes of the Special City Council/Successor Redevelopment Agency/Housing Authority/Financing Authority Meeting of July 18, 2012

FISCAL IMPACT:
None
Reviewed by Finance Director:

ACTION REQUESTED:
Approve minutes

CITY MANAGER 'S RECOMMENDATION:

Action as requested: Approve Draft Minutes

Submitted by: Rachel J. Ford Action Date: August 15, 2012
(Rev. 6-12-09)

This Page Intentionally Left Blank

MINUTES OF THE SPECIAL MEETING OF THE
RIDGECREST CITY COUNCIL
RIDGECREST HOUSING AUTHORITY
RIDGECREST FINANCE AUTHORITY

City Council Chambers **July 18, 2012**
100 West California Avenue **5:30 pm**
Ridgecrest, California 93555

This meeting was recorded and will be on file in the Office of the City Clerk for a certain period of time from date of approval by City Council/Redevelopment Agency. Meetings are recorded for the purpose of preparation of minutes.

CALL TO ORDER – 11:30 a.m.

CALL TO ORDER

ROLL CALL

Council Present:	Mayor Ronald H. Carter; Mayor Pro Tem Marshall 'Chip' Holloway; Vice Mayor Jerry D. Taylor; and Council Members Steven P. Morgan and Jason Patin
Staff Present:	City Manager Kurt O. Wilson; City Clerk Rachel J. Ford; City; and other staff

APPROVAL OF AGENDA

Added franchise tax board agreements.

Motion To Add To The Consent Calendar A Resolution Authorizing Agreements With The Franchise Tax Board Made By Council Member Taylor, Second By Council Member Patin. Motion Carried By Voice Vote Of 5 Ayes; 0 Nays; 0 Abstain; And 0 Absent.

Motion To Approve Agenda As Amended Made By Council Member Patin, Second By Council Member Holloway. Motion Carried By Voice Vote of 5 Ayes; 0 Nays; 0 Abstain; 0 Absent

PUBLIC COMMENT – CLOSED SESSION

- No comments presented

CLOSED SESSION – 11:30 a.m.

GC54956.9 (A)	Conference With Legal Counsel, Existing Litigation. City Of Ridgecrest v. Benz Sanitation, Inc.
GC54957.6	Labor Negotiations – United Food and Commercial Workers Golden State 8 (UFCW); Police Employee Association of Ridgecrest (PEAR); Management; Mid-Management; Confidential; Part-Time Employees. Agency Negotiator City Manager Kurt Wilson

REGULAR SESSION – 6:00 p.m.

- Pledge Of Allegiance
- Invocation

CITY ATTORNEY REPORT

- Closed Session
  - Conference With Legal Counsel, Existing Litigation. City Of Ridgecrest v. Benz Sanitation, Inc. – received report – no action taken
  - Labor Negotiations – United Food and Commercial Workers Golden State 8 (UFCW); Police Employee Association of Ridgecrest (PEAR); Management; Mid-Management; Confidential; Part-Time Employees. Agency Negotiator City Manager Kurt Wilson – labor negotiations – received report – no action taken
- Other
  - none

PUBLIC COMMENT

Dave Matthews

- Spoke on research about bankrupt City governments in California.
- Listed cities which have already filed or has pending bankruptcy filings.
- Commented on reasons why cities are becoming bankrupt.
- Suggested changing government poor habits.

Loren Smith

- Gave history of growing up in Ridgecrest.
- Spoke on Measure ‘L’ which he voted for.
- Referenced Council discussion of redistributing funds to other areas rather than stated purposes.
- Expressed disappointment in Council.

George 'Andy' Anderson

- Asked Council about funding sources for increases put back into budget for salary increases.

Manuel Farmer

- Agreed with Loren Smith regarding Measure 'L' funds.
- Commented that Council will not use the funds the way it was voted.
- Commented on City Attorney fees to represent City against Benz.
- Questioned where solid waste allocation went.

Harris Brokke

- Has applied as a member of oversight committee and trusts the committee will help hold Council accountable.

PRESENTATIONS

1. **Rededication Of Freedom Park Shrine And Presentation To Council Of United States Flag Flown In Iraq** **Nellavan Jeglum**

- Council and public convened to the foyer to rededicate the freedom shrine. Council accepted a United States flag that was flow over Baghdad Iraq.

CONSENT CALENDAR

2. **Approve A Resolution Authorizing The City Manager To Enter Into Memorandum Of Agreement With Sierra Sands Unified School District For Law Enforcement Services (School Resource Officer Program)** **Strand**

3. **Approve A Resolution Adopting Position Description For Community Service Officer Into The Classification Plan** **Strand**

4. **Approve A Resolution Authorizing Submission Of The Fiscal Year 2011-2012 Transportation Development Act Claim To The Kern Council Of Governments** **Staheli**

5. **Approve A Resolution Of The Ridgecrest City Council Supporting The "Parade Of 1000 Flags"** **Ford**

6. **Approve Draft Minutes of Council Meeting dated June 20, 2012** **Ford**

7. **Approve Draft Minutes of Council Meeting dated June 27, 2012** **Ford**

8. **Approve Resolution Authorizing City Manager To Execute Agreements With The State Board Of Equalization For Measure 'L' Funds** **Staheli**

Items Pulled

- none

Motion to Approve Consent Calendar As Amended Made By Council Member Holloway, Second By Council Member Taylor. Motion Carried By Voice Vote of 5 Ayes; 0 Nays; 0 Abstain; 0 Absent.

DISCUSSION AND OTHER ACTION ITEMS

9. <u>Approve A Resolution Declaring Council's Intention To Establish the Ridgecrest Tourism Improvement District (RTID) and Establishing A Public Hearing Thereon</u> McRea

Keith Lemieux

- Outlined the proposal to establish tourism improvement district thru a special assessment.
- Explained the concept and the legal requirements.
- Defined what an assessment is and how it will be paid.
- Outlined the general process to be followed which includes a public hearing and formal election of the property owners.

Jim McRea

- Outlined the specific details of the proposed Ridgecrest Tourism Improvement District.
- Includes lodging businesses within the City boundaries
- Management district plan is provided
- Petitions representing 89% of the business owners
- Request to establish the public hearing and recommends September 19 as the hearing date.
- Collection will be in same manner as Transient Occupancy Tax and City retains 3% for administration fees.
- Reviewed documentation provided in Council agenda

Chip Holloway

- Asked if there was a requirement for an audit.
    - Doug Leuck – this would be part of the annual audit
    - CIVITIS – there is an annual report that is required from RACVB to Council.
- Suggested budgeting for annual audit.

Jason Patin

- Inquired about the board required to make decisions for the funds collected.

Steve Morgan

- Thanked RACVB for reducing funds and created this method to become self-funded.

Jason Patin

- Added his appreciation and thanks to the RACVB for their work.

Ron Carter

- Thanked RACVB for their efforts.

Jerry Taylor

- Referred to Appendix 1 which talks about improving the district.
    - Keith Lemieux – clarified that appendix 1 is state law which has been summarized. The plan has to be consistent with the statute.
    - CIVITIS – this district is strictly for sales and market for hotels.
    -

Keith Lemieux – clarified the blanks in resolution which will be completed

- CIVITIS –public meeting will be august 15 for public input, September 19 will be public hearing and Council will take action on resolution after public hearing.

Jerry Taylor

- Questioned the inquiries for relocation, can they be referred to this organization.
    - CIVITIS – specific marketing activity must benefit the hotel organization.

Chip Holloway

- Percentages listed, are they flexible for 5 years or can they be changed.
    - CIVITIS – provision allowing for adjustments up to 15%.

<u>PUBLIC COMMENT</u>

Harris Brokke

- Commented about collaboration between museum and RACVB. Asked Council to support the district because it will help everyone.

Dave Matthews

- Questioned if assessments coming from motels, will they then tack a fee to the room rate and has anyone figured out the amount the increase may be. If it is too large a room rental rate could affect travel rentals.
- Mentioned mammoth ski area closing resorts
    - Jerry Taylor – taxes and fees are charged separately in per diem so no affect to travelers. Mammoth is closing due to lease expiration with the forestry.
- Personal travelers and tourism is down because people do not have money.

Jim Sanders

- Requested expansion of the 218 process.
    - Keith Lemieux – process requires notices to all affected parties, a protest hearing and majority must agree or it can't be adopted. Equates to 2% of room rental value.
- Asked if there were increased regulations connected.
    - Keith Lemieux – no additional controls on hotels and funds are regulated in their use.

Jerry Taylor

- Clarified that this is to remove RACVB from City budget by $125,000.

Motion To Approve A Resolution Declaring Council's Intention To Establish the Ridgecrest Tourism Improvement District (RTID) and Establishing A Public Hearing Thereon Made By Council Member Holloway , Second By Council Member Morgan . Motion Carried By Voice Vote of 5 Ayes; Nays; Abstain; Absent.

10. Approve A Resolution Authorizing Application For And Acceptance Of The United States Department Of Justice, 2012 COPS Hiring Program Grant

Strand

Paul Wheeler

- Gave staff report and review of the COPS Hiring Grant.
- Reviewed previous grant award use and focus.
- Current grant would focus on at-risk youth and help fund an at-risk officer to work with local agencies to redirect adverse behavior and keep youth in school.
- Explained the current award and matching funds from Measure 'L' revenue

Chip Holloway

- Clarified this is a three year program.

Steve Morgan

- At-risk youth officer has been requested many years but could not be funded.
- Asked public to remember this item as Council moves thru the agenda
- Fully supports the program

Jason Patin

- Fully supports the program and applauds Chief Strand for the vision to bring all the agencies together to focus on those youth who are slipping thru the cracks.
- Applaud department for reaching out to the community.

Chip Holloway

- Also supported the program and referenced Dan Clark's efforts to get teen court started.
- Referenced successful cases this year.
- Thanked police and Dan Clark

Jerry Taylor

- Funds are for two additional officers who are not in the budget and have to be veterans.

Ron Carter

- Thanked the police department
- Referred to experience as an educator and guidance needed for the youth
- Thanked Dan Clark for teen court
- Appreciate what police have done.

PUBLIC COMMENTS

Howard Auld

- Trouble figuring out system, how this move can forward when Measure 'I' has no money yet.
    - Jerry Taylor – will take time to get officer here and may be opportunity to borrow if found before measure 'I' funds are available.
    - Paul Wheeler – will take several months to find and train the officers.
    - Kurt Wilson – explained the budget process which includes revenues that have not been received at the time of budget adoption.

Dave Matthews

- Asked what happens after 3 years
    - Paul Wheeler – required keeping officer for one additional year.

Loren Smith

- Asked how the at-risk youth would be identified.
    - Paul Wheeler – explained the computer system as well as input from school resource officers and referrals from agencies that work with families in crisis.
- Asked for the program to be brought to the community collaborative for discussion.

'Andy' Anderson

- Clarified 3 year cost and asked Council to figure the funding for the fourth year into the budget.
    - Jerry Taylor – agreed that Council is working ahead for five years.

Jason Patin

- Expressed support for collaborative input from other agencies.
- Include youth who are beyond teen court.
- Community is working on a local level to keep problems from becoming bigger problems.

Steve Morgan

- Agreed with Mr. Anderson that this is a specific item for measure 'l' funds.

Motion To Approve A Resolution Authorizing Application For And Acceptance Of The United States Department Of Justice, 2012 COPS Hiring Program Grant Made By Council Member Morgan, Second By Council Member Holloway. Motion Carried By Voice Vote of 5 Ayes; 0 Nays; 0 Abstain; 0 Absent.

11. <u>Appointments To The Measure 'L' Citizens Advisory Committee</u> Wilson

Kurt Wilson

- Gave staff report outlining the process taken to date resulting 18 applications.
- Timing of Measure 'L' funds was reviewed.
- Number of committee members is fixed at 5 but latitude is given for the method of appointment.

Jerry Taylor

- Requested clarification of the term limits which was provided by the City Attorney

Council discussed the order of term limits and established which Council member would nominate for each term limit.

<u>PUBLIC COMMENT</u>

Dave Matthews

- Suggested making appointment and letting committee members draw straws for term limit.

<u>NOMINATIONS</u>

- Steve Morgan – 1 year appointment – George 'Andy' Anderson
- Jason Patin – 1 year appointment – Lance 'Scott' Garber
- Jerry Taylor – 2 year appointment – Mike Peterson
- Chip Holloway – 2 year appointment – Phil Salvatore
- Ron Carter – 3 year appointment – Eddie Thomas

Motion To Approve Appointments To The Measure 'L' Citizens Advisory Committee Made By Council Member Morgan, Second By Council Member Holloway. Motion Carried By Voice Vote of 5 Ayes; 0 Nays; 0 Abstain; 0 Absent.

Kurt Wilson – Staff will contact appointees

12. Review and Finalization of the Tax Allocation Bond (TAB) Project List

Wilson

Kurt Wilson

- Gave staff report reviewing what Tax Allocation Bonds
- PowerPoint presentation available in the City Clerk's office
- Reviewed State elimination of Redevelopment Agencies and the effect to the Tax Allocation Bonds Ridgecrest had previously sold.
- Clarified provisions of AB 1x26 and recent bill signed by the governor (AB1484)
- Reviewed process City has to follow and complete to be able to receive the funds from the tax allocation bonds.
- Reviewed history of the project list discussions previously held by Council and committees.
- Outlined project encumbrances already in place.
- Recommended priorities listed for funding with streets being the first priority.
- Referenced the pavement management study recommendations.
- Reviewed annual street pavement project lists from the pavement management study.
- Compared costs for alternate pavement methods
- Reviewed development agreements to complete other projects such as Wal-Mart and corporation yard.
- Reviewed miscellaneous projects that could also be funded but are more controversial than streets, Wal-Mart, and corporation yard.

Jim Ponek

- Reviewed projects from Quality of Life recommendations
- Gave history of aquatics study and recommendations
- Reviewed estimated costs for Kerr McGee youth sports complex
- Reviewed Leroy Jackson sports complex estimated costs.
- Reviewed estimated costs for Pearson Park and Upjohn Park
- Reviewed total estimated costs for all parks not including the aquatics park.

Ron Carter

- Asked about expansion to Skate Park
    - Jim Ponek – previous suggested expansion was already cut with exception of small skate pad at Upjohn Park.

Jason Patin

- Current parks are sub-par and not being properly maintained.
- Looking for adequate plan on how we will continue to support and maintain the parks.
- Can't support adding to parks without knowing how it will be maintained in future.
    - Jim Ponek – reviewed the present maintenance employee situations and budget crisis. Recommend funding one full-time employee for every two fields.
    - Kurt Wilson – reviewed existing labor issues and possible contract labor for portions of the parks property which may reduce the workload for existing employees.
- With new facilities come decreased labor costs. Asked if maintenance could be managed with current labor force.
    - Jim Ponek – could not add new fields but with new scenarios could maintain.
- Asked how much more labor would be needed and the cost.
    - Jim Ponek – would recommend two full-time maintenance employees at approximately $90,000 annually.
- Not against the plan but want to make sure it is done correctly and we can maintain the properties.
- City needs both streets and parks and we need to be responsible and take care of them.

Jerry Taylor

- Referred to the PMS study and the numbers used to complete the study recommendations.
- Numbers used are a minimum.
- Asked what monies built the parks and facilities which was already redevelopment dollars.
- Everything seen tonight will increase long-term costs which Council cannot afford.
- Need to keep what we have today working but without everything being balanced should not be discussing.
- Roads recommendations decrease costs but parks projects increase costs.
- Asked for operational costs.
- Council has cut staff to the level of having to be creative to do a sub-standard job.
- Referenced challenges with minimum staff.
- Cannot support the parks proposal as it stands now without knowing the future costs and whether future Council's will be able to continue.
- Asked for the full cost to bring the road backlog current.
- Paving dirt roads adds new surface to our inventory.

Steve Morgan

- Necessary to get the Wal-Mart project which is part of the total roads.

Chip Holloway

- Not going to do all roads or all parks with this Council
- Fact we could do the pavement management system with less money, supports paving more lane miles providing we get a good balance and increase quality of life.
- Have a real problem with the pool and if we aren't going to do something then recommend closing the pool. If we do something with the pool it will still be down for a couple years.
- Feel the scenarios need to be in place before pursuing any parks projects. Would love to have the facilities leased and taken out of our hands.
- Want more lane miles paved.

Ron Carter

- Supports staff recommendations which is fair on all sides
- Would like to see a new pool
- Want to give staff direction and get this done before State changes their mind again and approve as much as we can tonight.

15 minute break

Kurt Wilson

- Recapped part one and part two of the presentation.
- Staff is hopeful Council will come to consensus on a full project list.
- Recognize Council may be comfortable with one part and if consensus on any portion would be recommended to lock that portion in at this time and continue to work on the other portions.

Jerry Taylor

- Asked when 3% administrative support would come into play.
    - Tyrell Staheli – does not apply to Bond projects.

Steve Morgan

- Have no problem with the street totals as presented
- Will be recommending putting more money into streets.
- Asked about an economic development discussion and obligations with contractors to move forward on economic development to create a tax base.
- Believe there should be a small portion of bond funds to continue with economic development.

Jason Patin

- Agreed to the economic development proposal

Chip Holloway

- Supports economic development proposal
- Would like to see china lake technologies agreement added

Jerry Taylor

- Agrees to economic development proposal and remove blight.

PUBLIC COMMENT

Jim Sanders

- Supports more funding for improving the roads. When talking about ball fields needing a rest, my car needs a rest.
- Is City still in a state of fiscal emergency and if so can we justify expanding this much in parks and recreation?
- Need to focus on the proper purpose of government such as maintaining public safety and infrastructure. Love parks and is enjoyable and attractive to community but if in a state of fiscal emergency cannot afford expansion in parks and recreation department.
- Encouraged Council to back off the parks plan at this time. Now isn't the time and adds insult to injury to the community by spending funds that are not a necessary function of the City.
- No to expansion and yes to repair of parks.

Stan Rajtora

- Appreciate positive comments by Council for increasing funds to be spent on roads
- Gave history of street pavement maintenance reports beginning 2003
- Expectations have been lowered from PCI of 90 to 60.
- Referred to various strategies used to develop the present Pavement Maintenance Study.
- Total cost to bring road to what they should be would be up to $70 million so the proposed $9 million isn't a big chunk of what would be needed to bring the road up to a higher PCI
- Referenced funds being back-loaded and suggested spending more the first year and less by the third year.
    - Kurt Wilson – recommendation for tonight is to front-load as much as possible by Council allocating a certain amount of money and then staff would proceed with the projects as quickly as possible.
- Suggested doing as much as we can before the State decides to take it away again.

Andy Anderson

- Requested adding $83,000 to the police request now to fund year 4 of the police officers requested.
- Asked if the figures are based on current costs.
    - Dennis Speer – current figures with fluctuating costs for price of oil.
    - Kurt Wilson – clarified costs and report used as a guide for Council to select benchmark. Not tied to Measure 'L' funds.

Dan Clark

- Is impressed with the presentation from City Manager
- Encouraged Council to move forward.
- By breaking down into phases and passing that piece then come back with the areas that are not as clear can at least give direction to staff so they can move forward.

Steve Morgan

- No problem with streets with additional monies
- Wants to see Wal-Mart move forward
- In favor of expanding Youth sports complex
- Allocate enough money to fix Pinney Pool
- Fuzzy on the Pearson and Upjohn parks
- Leroy Jackson park and supportive of adding a third field at that location but not sure about the soccer field.
- Not comfortable with the entire parks package but agree with fixing what we have to keep maintenance costs about even.
- Supports funds for economic development, need more definition on what could be done with a couple million dollars to improve the vacant business properties.
- Want additional $4.2 into streets
- $2 million to economic development
- Completely fix/repair the pool
- Kerr McGee is priority
- Some work on Leroy Jackson

Jason Patin

- Willing to stick to the original list and figure out where to split the additional $5 million that wasn't expected at that time.
- Parks are no different than any other infrastructure and can't kill them but need to know the continued maintenance costs.
- Economic development has same issues as BRAC process and major issues with trying to get people to come here. Major concern of people looking at coming here was for parks and public safety, not streets. Understand we need more money for streets but need to maintain the parks also to lower costs and attract people to move here.
- Supports putting funds into economic development to remove blight and attract businesses.

Ron Carter

- Will have BRAC again and need to be prepared and if community isn't attractive then will lose out on BRAC.

Chip Holloway

- If Council commits to allocate $13 million for streets then $11 million left to divide into other projects.
- Comfortable with Kerr McGee proposal.
- Not comfortable with the full parks plan.

Jason Patin

- Ok with going forward with restoration project in parks, not comfortable with expansion without knowing the on-going costs for maintaining the new facilities.
- Willing to support re-doing existing parks, not expansions. Fix what we have right now and save expansion on hold until continued maintenance projections for new facilities.

Kurt Wilson

- Staff recommendation is part one which includes streets, corp. yard, development agreement, and encumbered portions.

Jerry Taylor

- Agree with Mr. Holloway that we need to understand the costs of what we already have, and the cost of future maintenance of facilities. Fearful that we will add new stuff that we cannot maintain like the medians.
- Corporation yard is not $3 million because we already have some funds. Other issues such as rehab of existing facility vs. new facility.
- Understand the desire for parks and support. Not willing to fund 100% of backlog on parks and only 15% of roads backlog.
- Willing to come back next week to have discussions. Concerned with building something bigger and better.

Ron Carter

- Add economic development and Kerr McGee to part one recommendation

Steve Morgan

- In agreement with that recommendation

Jerry Taylor

- Gave history of original list.

Ron Carter

- Part one but would like to add economic development, Kerr McGee, chamber of commerce, and old towne enhancement.
- Want to get as much done tonight so staff can get moving so State will not take it from us.

Jason Patin

- Sticking with original list.

Chip Holloway

- Supports Mayor's recommendation but add $4.2 million to streets

Steve Morgan

- $13 million streets
- $2 million economic development
- $100k for chamber of commerce
- $2.527 Kerr McGee

Jim McRea

- Explained the current funding source and shortage

Kurt Wilson

- Reviewed the original presentation

Jerry Taylor

- *Motion to Approve the Part 1 List As Amended To Decrease Corp. Yard to $2 Million Second By Steve. Motion Carried By Roll Call Vote Of 3 Ayes (Holloway, Taylor, And Morgan), 2 Noes (Carter & Patin), 0 Abstain, And 0 Absent*

Ron Carter

- *Motion to Approve Kerr McGee at 2.5 Million, Chamber Of Commerce at $100k, And Economic Development at $2 Million, Second By Morgan. Motion Carried By Roll Call Vote Of 3 Ayes (Carter, Holloway, And Morgan), 2 Noes (Patin & Taylor), 0 Abstain, And 0 Absent.*

Remaining balance will be discussed at the next Council meeting.

13. <u>Budget Discussion and Approval Of Adjustments</u> **Staheli**

Kurt Wilson and Tyrell Staheli

- Gave staff report.
- Reviewed impacts and proposed changes

Steve Morgan

- Questions on the grant writer, lobbyist, and other things that Council has discussed.

Kurt Wilson

- Those items were small amounts and were funded by reserves.
- Salary for Parks & Recreation staff is allocated from City hall maintenance fund for work and administrative functions performed within the scope of the fund.
- Charging the time spent on City hall maintenance to the City hall maintenance fund, same as we charge other functions to specific funds such as human resources. Is general fund dollars, not TAB or Measure 'L' dollars? The $120,000 that was originally allocated for youth programs will now be used to fund the matching funds for two police officers.

Jerry Taylor

- Questioned the ISF fund for maintenance and the depreciation of no fund balance carrying into the next year.

<u>PUBLIC COMMENT</u>

Loren Smith

- Clarified that $120,000 for youth funds but now is to be used for the COPS program.
- Hears the term youth program loosely and wanted to make sure this funding was actually for a youth officer.

Stan Rajtora

- Requested clarification on the ISF building maintenance.
    - Jerry Taylor – moving maintenance staff to correctly allocate their time to City hall maintenance.

Andy Anderson

- Paraphrased the previous discussion about labor charges and allocations.
    - Jerry Taylor – using one-time ISF funds to cover labor costs

a) Motion To Approve A Resolution Approving Budget Amendment #2013-01 Increasing Appropriations And Estimated Revenues In The Annual Budget Made By Council Member patin , Second By Council Member second Holloway . Motion Carried By Roll Call of 5 Ayes; Nays; Abstain; Absent.

b) Motion To Approve A Resolution Of The Ridgecrest City Council Approving A Loan Between The Waste Water Fund And The City General Fund For Cash Flow Purposes Made By Council Member Morgan , Second By Council Member Holloway . Motion Carried By Roll Call Vote of 5 Ayes; Nays; Abstain; Absent.

ORDINANCES

14. First Reading And Introduction By Title Only Of An Ordinance Of The City Council Of The City Of Ridgecrest Authorizing An Amendment To The Contract Between The City Council Of The City Of Ridgecrest And The Board Of Administration Of The California Public Employees' Retirement System **Lemieux**

Kurt Wilson

- Gave staff report highlighting the previous memorandum of understanding provisions already approved and the costs to the City that will be covered by the employees.

PUBLIC COMMENT

- No member of the public presented comment.

a) Motion To Waive Reading In Full Of An Ordinance Of The City Council Of The City Of Ridgecrest Authorizing An Amendment To The Contract Between The City Council Of The City Of Ridgecrest And The Board Of Administration Of The California Public Employees Retirement System. Made by Morgan, second by patin. Voice vote of 5 ayes.

b) Motion To Introduce, By Title Only, An Ordinance Of The City Council Of The City Of Ridgecrest Authorizing An Amendment To The Contract Between The City Council Of The City Of Ridgecrest And The Board Of Administration Of The California Public Employees Retirement System made by Morgan, second by Holloway.

15. Second Reading And Adoption Of Ordinance 12-01 Amending The Ridgecrest Municipal Code With Respect To The Conflict Of Interest Code **Lemieux**

Keith Lemieux

- Gave staff report

PUBLIC COMMENT

- No member of the public presented comment.

a) *Motion to waive reading in full and to adopt by title only, Ordinance 12-01 Amending The Ridgecrest Municipal Code With Respect To The Conflict Of Interest Code made by Morgan, Taylor second. 5 ayes.*

b) *Motion To Adopt, By Title Only, Ordinance 12-01 Amending The Ridgecrest Municipal Code With Respect To The Conflict Of Interest Code made by Morgan, Holloway seconded. Roll call 5 ayes.*

COMMITTEE REPORTS

Infrastructure Committee

Members: Steve Morgan, Jerry Taylor, Craig Porter, James Sanders
Meeting: 2nd Wednesday Of The Month At 5:00 P.M., Council Conference Room
Next Meeting: August 8, 2012

- Jerry Taylor gave report highlighting the five year roads plan.

Quality Of Life

Members: Chip Holloway, Jason Patin, Craig Porter, Carter Pope
Meeting: 1st Thursday Of Every Even Month At 12:00 P.M.; Kerr-McGee Center
Next Meeting: August 2, 2012

- Chip Holloway – no report

City Organization

Members: Ron Carter, Jerry Taylor, Lois Beres, Christopher LeCornu
Meeting: 1st Tuesday Of The Month At 5:00 P.M.; Council Conference Room
Next Meeting: August 7, 2012

- Jerry Taylor – reviewed meeting held on July 17. Looking at transit and deviated fixed route. Next meeting August 21.

Community Development Committee

Members: Steve Morgan, Jason Patin, Christopher LeCornu, James Sanders
Meetings: 1st Thursday Of The Month At 5:00 P.M.; Council Conference Room
Next Meeting: August 2, 2012

- Jason Patin – COSMOT report will be presented at the next meeting.

Activate Community Talents And Interventions For Optimal Neighborhoods Task Force (ACTION)

Members: Ron Carter, Chip Holloway, Ron Strand
Meetings: 2nd Monday Of Odd Numbered Months At 4:00 P.M., Kerr-McGee Center
Next Meeting: Cancelled until the start of the next school year.

Ridgecrest Area Convention And Visitors Bureau (RACVB)

Members: Chip Holloway, Jason Patin
Meetings: 1st Wednesday Of The Month, 8:00 A.M.
Next Meeting: August 1, 2012 and Best Western

- Chip Holloway – presented directors report

OTHER COMMITTEES, BOARDS, OR COMMISSIONS

- Jerry Taylor – LCC meeting on July 27 at Big Bear
- Steve Morgan – Kern COG will be dark in August.

CITY MANAGER REPORT

- Commended Council for the progress made on the TAB project list
- Spoke on candidates' orientation for candidates who are not familiar with Council processes and procedures.

16. MAYOR AND COUNCIL COMMENTS

- Ron Carter – thanked citizens who attended and participated.
- Chip Holloway – no comment
- Jerry Taylor – appreciate evenings discussions and anticipate things moving forward
- Steve Morgan – blogs have been severely hard on this Council the past few weeks and hope that if you hear something is going on at the Council level and haven't watched the meeting, please call Council and ask what is going on rather than listening to the fourth iteration of a story that doesn't give the truth. None of these gentlemen deserve to be filleted for that.
- Jason Patin – blogs are funny, I don't read them. Have a problem with voting on something and then reading the things written by cowards. Is cowardice to attack Council and not put their name on it and own up to saying it. Process tonight was tough, but the citizens who show up and talk about streets are the same but those who support parks don't show up. We have to take care of all the issues of the City. when things do not go your way and Council is influences by a small group of people, then do not complain if you didn't show up to voice your opinion.

ADJOURNMENT at 11:16pm

Rachel J. Ford, CMC
City Clerk

This Page Intentionally Left Blank

6

This Page Intentionally Left Blank

CITY COUNCIL/ REDEVELOPMENT SUCCESSOR AGENCY/ FINANCING AUTHORITY AGENDA ITEM

SUBJECT:
Public Meeting Pursuant To Resolution 12-64, A Resolution Of The Ridgecrest City Council Declaring Its Intention To Establish The Ridgecrest Tourism Improvement District (RTID) And Establishing A Public Hearing For September 19, 2012.

PRESENTED BY:
James E. McRea

SUMMARY:

The Resolution declaring the Intention To Establish the Ridgecrest Tourism Improvement District (RTID) and establishing a Public Hearing thereon was adopted by the City Council at their regular meeting of July 18, 2012. The RTID is a benefit assessment district proposed to fund marketing and sales promotion efforts for the Ridgecrest lodging businesses. The RTID includes all lodging businesses within the boundaries of the City. The annual assessment rate is 2% of gross short term room rental revenue. The estimated total annual budget is $240,000. The RTID Management District Plan has been provided by the RACVB and their consultant CIVITAS. The Public Hearing is an opportunity to submit a written protest to the formation of the RTID. The proposed RTID, after formation, will have a five year life beginning October 01, 2012.

The Public Meeting is to establish the RTID and the levy of assessments. The proposed RTID includes 18 lodging businesses and the assessment will be collected by the City under the same format as the Transient Occupancy Tax (TOT). The City shall retain 3% Administrative Collection Cost and all penalties and interest collected. The City Council, through adoption of the Management District Plan, identifies the RACVB as the Owner's Association for the RTID.

FISCAL IMPACT:
Funding of the RACVB and associated administration of the collection of the assessment.

Reviewed by Finance Director

ACTION REQUESTED:
A Public Hearing for September 19, 2012 to receive any written protests prior to formation has been established and noticed.

CITY MANAGER / EXECUTIVE DIRECTOR RECOMMENDATION:
Review and Comment

Submitted by: James McRea Action Date: 8-15-12

This Page Intentionally Left Blank

RESOLUTION NO. 12-64

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIDGECREST DECLARING ITS INTENTION TO ESTABLISH THE RIDGECREST TOURISM IMPROVEMENT DISTRICT (RTID) AND FIXING THE TIME AND PLACE OF A PUBLIC MEETING AND A PUBLIC HEARING THEREON AND GIVING NOTICE THEREOF

WHEREAS, the Property and Business Improvement Law of 1994, Streets and Highways Code §36600 et seq., authorizes cities and counties to establish property and business improvement districts for the purposes of promoting tourism; and

WHEREAS, lodging business owners, the Ridgecrest Convention and Visitors Bureau (CVB), members of the business community and representatives from the City of Ridgecrest have met to consider the formation of the Ridgecrest Tourism Improvement District (RTID); and

WHEREAS, the hotels and CVB have drafted a Management District Plan which sets forth the proposed boundary of the RTID, a service plan and budget, and a proposed means of governance; and

WHEREAS, a majority of the lodging business owners subject to assessment under the RTID have petitioned the City Council to establish the RTID.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT:

1. The recitals set forth herein are true and correct.

2. The City Council finds that the lodging businesses that will pay more than fifty percent (50%) of the assessment proposed in the Management District Plan have signed and submitted petitions in support of the formation of the RTID. The City Council accepts the petitions and adopts this resolution of intention to establish the RTID and to levy an assessment on certain lodging businesses within the RTID boundaries in accordance with the Property and Business Improvement District Law of 1994.

3. The City Council finds that the Management District Plan satisfies all requirements of Streets and Highways Code §36622.

4. The City Council declares its intention to establish the RTID and to levy and collect assessments on lodging businesses within the RTID boundaries pursuant to the Property and Business Improvement District Law of 1994.

5. The boundaries of the RTID shall be the boundaries of the City of Ridgecrest. Please see the attached map, incorporated herein as Exhibit A.

6. The name of the district shall be the Ridgecrest Tourism Improvement District (RTID).

7. Annual assessment rates are 2% of gross short-term (stays less than 31 days) room rental revenue on lodging businesses. Based on the benefit received, assessments will not be collected on stays of more than thirty (30) consecutive days, nor on any officer or employee of a foreign government who is exempt from transient occupancy taxes by reason of express provision of federal law or international treaty. Assessments pursuant to the RTID shall not include room rental revenue resulting from stays pursuant to contracts executed prior to September 1, 2012.

8. The assessments levied for the RTID shall be applied toward sales promotion and marketing programs to market Ridgecrest lodging businesses as tourist, meeting and event destinations. Funds remaining at the end of any year may be used in subsequent years in which RTID assessments are levied as long as they are used consistent with the requirements of this resolution.

9. The RTID will have a five year term unless renewed pursuant to Streets and Highways Code §36660.

10. Bonds shall not be issued.

11. The time and place for the public meeting to establish the RTID and the levy of assessments are set for August 15, 2012, at 6:00 p.m., or as soon thereafter as the matter may be heard, at the Council Chambers located at 100 W California Avenue, Ridgecrest, CA 93555.

12. The time and place for the public hearing to establish the RTID and the levy of assessments are set for September 19, 2012, at 6:00 p.m., or as soon thereafter as the matter may be heard, at the Council Chambers located at 100 W California A venue, Ridgecrest, CA 93555. The City Clerk is directed to provide written notice to the lodging businesses subject to assessment of the date and time of the hearing and to provide that notice as required by Streets and Highways Code §36623.

13. At the public hearing, the testimony of all interested persons for or against the establishment of the RTID may be received. If at the conclusion of the public hearing, there are of record written protests by the owners of the lodging businesses within the proposed RTID that will pay fifty percent (50%) or more of the estimated total assessment of the entire RTID, no further proceedings to establish the RTID shall occur.

14. The complete Management District Plan is on file with the City Clerk and may be reviewed upon request.

15. This resolution shall take effect immediately upon its adoption by the City Council.

I HEREBY CERTIFY that the foregoing Resolution of Intention was introduced and adopted at a regular meeting of the City Council on the 18th day of July 2012 by the following vote:

AYES: Mayor Carter, Council Members Holloway, Taylor, Morgan, and Patin

NOES: None

ABSTAIN: None

ABSENT: None

Ronald H. Carter, Mayor

ATTEST:

Rachel J. Ford, CMC
City Clerk

This Page Intentionally Left Blank

NOTICE OF PUBLIC MEETING AND PUBLIC HEARING CONCERNING THE ESTABLISHMENT OF THE RIDGECREST TOURISM IMPROVEMENT DISTRICT AND TO LEVY AN ASSESSMENT ON CERTAIN LODGING BUSINESSES WITHIN THE DISTRICT

NOTICE IS HEREBY GIVEN that on July 18, 2012, the City Council (the "Council") of the City of Ridgecrest (the "City") adopted a Resolution of Intention to establish the Ridgecrest Tourism Improvement District (the "RTID") and to levy an assessment on certain Lodging businesses within the RTID as set forth in the attached Resolution of Intention.

NOTICE IS HEREBY FURTHER GIVEN that at 6:00 p.m. on August 15, 2012, at the City of Ridgecrest Council Chambers, 100 W California Avenue, Ridgecrest, CA 93555, a public meeting shall be held pursuant to Government Code section 54954.6 to allow public testimony regarding the establishment of the RTID and the levy of assessments therein as set forth in the enclosed Resolution of Intention and pursuant to Government Code section 54954.6.

NOTICE IS HEREBY FURTHER GIVEN that at 6:00 p.m. on September 19, 2012, at the City of Ridgecrest Council Chambers, 100 W California Avenue, Ridgecrest, CA 93555, has been set as the time and place for a public hearing at which time the Council proposes to establish the RTID and to levy the proposed assessment as set forth in the Resolution of Intention.

Boundaries: The proposed RTID includes all lodging businesses located within the boundaries of the City of Ridgecrest.

Assessment: Annual assessment rates are 2% of gross short term (stays less than 31 days) room rental revenue on lodging businesses. Based on the benefit received, assessments will not be collected on stays of more than thirty (30) consecutive days, nor on any officer or employee of a foreign government who is exempt from transient occupancy taxes by reason of express provision of federal law or international treaty. Assessments pursuant to the RTID shall not include room rental revenue resulting from stays pursuant to contracts executed prior to October 1, 2012.

Budget: The total RTID annual budget for each year of its five-year operation is anticipated to be approximately $240,000.

Purpose: Marketing and sales promotions to increase tourism and to market Ridgecrest lodging businesses as tourist, meeting and event destinations.

Collection: The RTID assessment will be implemented beginning October 1, 2012 and will continue for five years. The City of Ridgecrest will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business located in the boundaries of the RTID. The City shall take all reasonable efforts to collect the assessments from each lodging business.

Protest: Any owner of a Lodging business within the proposed RTID that will be subject to the assessment may protest the establishment of the RTID. If written protests are received from the owners of Lodging businesses in the proposed RTID who represent 50 percent (50%) or more of the estimated annual assessments to be levied, the RTID shall not be established and the assessment shall not be imposed.

You may mail a written protest to:

Office of the City Clerk
City of Ridgecrest
100 W California Avenue
Ridgecrest, CA 93555

You may also appear at the public hearing and submit a written protest at that time.

Information: Should you desire additional information about this proposed RTID or assessment contact:

Doug Lueck, Executive Director
Ridgecrest Convention and Visitors Bureau
139 Balsam Street, Suite 1700
Ridgecrest, CA 93555
(800)847-4830

Dated: July 26, 2012

Rachel J. Ford, CMC
City Clerk

RIDGECREST TOURISM IMPROVEMENT DISTRICT

MANAGEMENT DISTRICT PLAN

Formed pursuant to the Property and Business Improvement District Act of 1994
(Streets and Highways Code §36600 et seq.)

Submitted to the

Ridgecrest Area Convention and Visitors Bureau

June 26, 2012
by

CIVITAS
PARTNERSHIPS PROGRESS PROSPERITY

DRAFT

RIDGECREST TOURISM IMPROVEMENT DISTRICT MANAGEMENT DISTRICT PLAN

TABLE OF CONTENTS

I. INTRODUCTION AND OVERVIEW 2

II. WHY A TOURISM IMPROVEMENT DISTRICT FOR RIDGECREST? 3

III. WHAT IS A TOURISM IMPROVEMENT DISTRICT? 4

IV. RIDGECREST TID BOUNDARY 5

V. SERVICE PLAN AND BUDGET 6

- A. Assessment 6
- B. Delinquencies 6
- C. Determination of Specific Benefit 6
- D. Time and Manner for Collecting Assessments 7
- E. Service Plan Budget Summary 7
- F. Annual Service Plan 7
- G. Adjustments 8
- H. Expiration 8

VI. BID GOVERNANCE 9

- A. Owners' Association 9
- B. Brown Act and California Public Records Act Compliance 9
- C. Annual Report 9

APPENDIX 1 – THE PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994 10

APPENDIX 2 – LODGING BUSINESSES TO BE ASSESSED WITHIN THE RTID 24

I. INTRODUCTION AND OVERVIEW

Developed by Ridgecrest Area Convention and Visitors Bureau (the Bureau), the Ridgecrest Tourism Improvement District (RTID) is a benefit assessment district proposed to help fund marketing and sales promotion efforts for Ridgecrest lodging businesses. This approach has been used successfully in other destination areas throughout the country to improve tourism and drive additional room nights.

Location: The proposed RTID includes all lodging businesses located within the boundaries of the City of Ridgecrest.

Services: Marketing and sales promotions to increase tourism and to market Ridgecrest lodging businesses as tourist, meeting and event destinations.

Budget: The total RTID annual budget for each year of its five-year operation is anticipated to be approximately $240,000.

Cost: Annual assessment rates are 2% of gross short term (stays less than 31 days) room rental revenue on lodging businesses. Based on the benefit received, assessments will not be collected on stays of more than thirty (30) consecutive days, nor on any officer or employee of a foreign government who is exempt from transient occupancy taxes by reason of express provision of federal law or international treaty. Assessments pursuant to the RTID shall not include room rental revenue resulting from stays pursuant to contracts executed prior to September 1, 2012.

Formation: TID formation requires submittal of petitions from lodging businesses representing more than 50% of the total annual assessment followed by a City Council hearing and an opportunity for a written protest. The assessed lodging business owners will receive notice of the public hearing by mail. If there is a majority written protest, the TID will not be formed.

Duration: The proposed RTID will have a five-year life beginning September 1, 2012. Once per year beginning on the anniversary of the formation of the district there is a 30-day period in which owners paying more than 50% of the assessment may protest and terminate the district.

II. WHY A TOURISM IMPROVEMENT DISTRICT FOR RIDGECREST?

There are several reasons why now is the right time to form a TID in Ridgecrest; the most compelling reasons are as follows:

1. The Need to Increase Occupancy

The formation of the RTID is a proactive effort to provide supplemental funding beyond that provided by the City. The funding will ensure that adequate financing exists for the investment required to increase occupancy in the lodging industry and be competitive in the conference segment of the tourism market. The investment will cover an expanded marketing and promotional budget needed to reach this market segment.

2. An Opportunity for Increasing City Tax Revenues

As occupancy rates increase, so too will the City's TOT revenue. With stable public/private funding for tourism marketing efforts, annual occupancy rates should increase significantly as new marketing and sales promotion programs are implemented. Greater occupancy will also produce an increase in sales tax revenues from tourist spending. This represents a substantial return to the City. The formation of the RTID in partnership with the the Bureau creates a stable funding source tied directly to tourism promotion.

3. Stable Funding for Tourism Promotion

The RTID will provide a stable source of funding for consistent tourism promotion efforts. The RTID will provide funding for tourism promotion free of the political and economic circumstances that can reduce or eliminate government funding for tourism promotion.

III. WHAT IS A TOURISM IMPROVEMENT DISTRICT?

Tourism Improvement Districts (TIDs) utilize the efficiencies of private sector operation in the market-based promotion of tourism districts. TIDs allow lodging and tourism-related business owners to organize their efforts to increase tourism. Tourism-related business owners within the district fund a TID, and those funds are used to provide services that the businesses desire and that benefit the lodging businesses within the District.

Tourism Improvement District services may include, but are not limited to:

- Marketing of the Destination
- Tourism Promotion Activities
- Sales Lead Generation

In California, Tourism Improvement Districts are formed pursuant to the Property and Business Improvement District Law of 1994 (PBID Law). This law allows for the creation of a special benefit assessment district to raise funds within a specific geographic area. *The key difference between TIDs and other special benefit assessment districts is that funds raised are returned to the private non-profit corporation governing the district.*

There are many benefits to Tourism Improvement Districts:

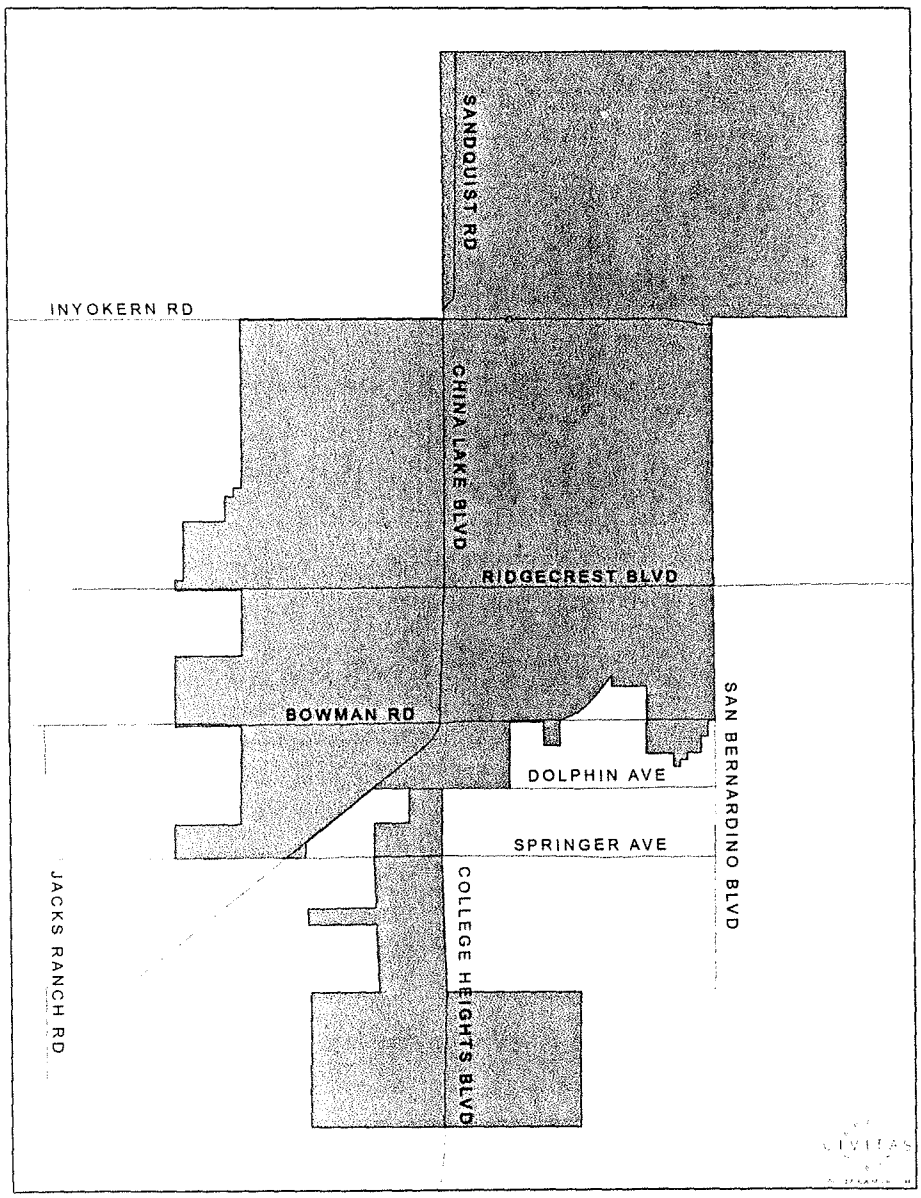
- Funds cannot be diverted for other government programs;
- Tourism Improvement Districts are customized to fit the needs of each tourism district;
- They allow for a wide range of services, including those listed above;
- Tourism Improvement Districts are ***designed, created and governed by those who will pay*** the assessment;
- They provide a stable funding source for tourism promotion.

The Property and Business Improvement District Law of 1994 is provided in Appendix 1 of this document.

IV. RIDGECREST TID BOUNDARY

The RTID will include all lodging businesses, existing and in the future, available for public occupancy within the boundaries of the City of Ridgecrest. Lodging business means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and including any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fix location, or other similar structure or portion thereof. Lodging business does not include a private home, vacation cabin or similar facility which is rented by a person who is not regularly engaged in the business of renting such facility and does so only occasionally and incidentally to his own use thereof.

The boundary currently includes 18 lodging businesses. Please see the map below. A complete listing of lodging businesses within the proposed RTID can be found on Appendix 2 of this Plan.



V. SERVICE PLAN AND BUDGET

A. Assessment

The annual assessment rates is two percent (2%) of gross short term (stays less than 31 days) room rental revenue. Based on the benefit received, assessments will not be collected on stays of more than thirty (30) consecutive days, nor on any officer or employee of a foreign government who is exempt from transient occupancy taxes by reason of express provision of federal law or international treaty. Assessments pursuant to the RTID shall not include room rental revenue resulting from stays pursuant to contracts executed prior to September 1, 2012.

The term "gross revenue" as used herein means the consideration charged, whether or not received, for the occupancy of space in a lodging business valued in money, whether to be received in money, good, labor or otherwise, including all receipts, cash, credits and property and services o any kind or nature, without any deduction therefrom whatsoever. Gross revenue shall not include any federal, state or local taxes collected, including but not limited to transient occupancy taxes. Any other charges shall be considered gross revenue only in accordance with the local transient occupancy tax.

Bonds shall not be issued.

The amount of assessment, if passed on to each transient, shall be disclosed in advance.

B. Delinquencies

1. Any business which fails to remit the assessment within the time required shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment.

2. If the City determines that the nonpayment of any remittance due is due to fraud, a penalty of twenty-five percent (25%) of the amount of the assessment shall be added thereto in addition to the penalties stated in subsection 1 above.

3. In addition to the penalties imposed, any business which fails to remit any assessment shall pay interest at the rate of one-half (1/2) of one percent (1%) per month or fraction thereof on the amount of the assessment, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

4. Every penalty imposed and such interest as accrues shall become a part of the assessment required to be paid.

5. Penalties and interest collected shall be retained by the City to cover the costs of collecting delinquent assessments. The delinquent assessment amount collected shall be forwarded to the Bureau in the same manner as are timely assessments.

C. Determination of Specific Benefit

State law requires that assessment funds be expended on a specific benefit conferred directly to the payors that is not provided to those not charged, and which does not exceed the reasonable cost to the County and cities of conferring the benefit.

The specific benefit the district will provide to assessed lodging businesses, and will not provide to non-assessed lodging businesses, is room night sales. The programs and services provided with the district funds will be designed specifically to drive room night sales at assessed lodging businesses. Only assessed lodging businesses will be featured in marketing materials, receive sales leads generated from district-funded activities, be featured in advertising campaigns, and benefit from other district-funded services. Non-assessed lodging businesses will not receive these and any other district-funded services.

D. Time and Manner for Collecting Assessments

The RTID assessment will be implemented beginning September 1, 2012 and will continue for five years. The City of Ridgecrest will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business located in the boundaries of the RTID. The City shall take all reasonable efforts to collect the assessments from each lodging business. The City of Ridgecrest shall forward the assessments to the Ridgecrest Area Convention and Visitors Burea (the Bureau) which will have the responsibility of managing TID programs as provided in this Management District Plan.

E. Service Plan Budget Summary

A summary of the annual service plan budget for the RTID is provided on the following pages. The total five year improvement and service plan budget is projected at approximately $240,000 annually, or $1,200,000 through 2017.

F. Annual Service Plan

A service plan budget has been developed to deliver services throughout the District. An annual service plan and budget will be developed and approved by the the Bureau Board. Please see the budget exhibit below. In the initial year of operation, the cost of forming the District shall be repaid. Formation costs shall be proportionally deducted from the budget categories.

Ridgecrest Tourism Improvement District
Annual Budget, Years One through Five

Category	Percent of Budget	Dollar Amount
Sales, Marketing, Events and Sales Staff	69%	$165,600
Administration	25%	$60,000
City Collection Costs	3%	$7,200
Contingency/Renewal	3%	$7,200
Total Annual Budget	**100%**	**$240,000.00**

Sales, Marketing, Events and Sales Staff

A sales and marketing program will promote Ridgecrest lodging businesses as tourist and meeting destinations. The sales and marketing program will have a central theme of promoting Ridgecrest as a desirable place to visit, and may include the following activities:

- Internet marketing efforts to increase awareness and optimize internet presence;
- Print ads in magazines and newspapers targeted at potential visitors;
- Television ads targeted at potential visitors;

- Radio ads targeted at potential visitors;
- Attendance of trade shows;
- Sales blitzes;
- Familiarization tours;
- Preparation and production of collateral promotional materials such as brochures, flyers and maps;
- Attendance of professional industry conferences and affiliation events;
- Lead generation activities designed to attract tourists and group events to Ridgecrest;
- Director of Sales and General Manager meetings to plan and coordinate tourism promotion efforts;
- Education of hospitality staff on service and safety (related to alcohol and food) designed to create a visitor experience that will bring repeat visits; and
- Education of lodging business management and the owners' association on marketing strategies best suited to meet Ridgecrest's needs.

Administration and Operations
The administrative and operations portion of the budget shall be utilized for staffing costs, office costs, and other general administrative costs.

City Administration Fee
The City of Ridgecrest shall be paid a fee equal to 3% of the amount of assessment collected to cover their costs of collection and administration. In addition, the City shall retain any penalties and interest collected during the course of pursuing delinquent assessments, to cover the cost of pursuing delinquencies.

Contingency/Renewal
A prudent portion of the budget will be set aside in a contingency fund, to be used for unforeseeable costs in carrying out the sales and marketing programs. If at the expiration of the district there are contingency funds remaining, and business owners wish to renew the district, the remaining contingency funds may be used for renewal costs.

G. Adjustments
Although actual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain the same. However, the City and the the Bureau board shall have the authority to adjust budget allocations between the categories by no more than fifteen percent (15%) per year.

H. Expiration
The budget also includes a portion for contingencies and renewal of the District. Should the the Bureau Board approve, funds may be appropriated for the renewal effort. If there are funds remaining at the end of the District term and lodging businesses choose to renew, these remaining funds could be transferred to the renewed District. If there are funds remaining at the end of the District and lodging businesses choose not to renew, any remaining funds will be spent consistent with this Plan or returned to assessed businesses in equal proportions to the assessment paid by each business.

VI. BID GOVERNANCE

A. Owners' Association

The City Council, through adoption of this Management District Plan, has the right, pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the owners' association of the RTID as defined in Streets and Highways Code §36614.5. The the Bureau will serve as the Owner's Association for the RTID. The Bureau board of directors will be composed of nine directors. Among the nine directors, there shall be: five representatives of assessed hotels, one of which shall be from a hotel with fewer than fifty (50) rooms; one representative of the City; one representative of a business in the transportation industry; and two at-large directors.

B. Brown Act and California Public Records Act Compliance

The owner's association is subject to government regulations relating to transparency, namely the Ralph M. Brown Act and the California Public Records Act, designed to promote public accountability. The owners' association of a TID is considered a legislative body under the Ralph M. Brown Act (Government Code §54950 et seq.). Thus, meetings of the the Bureau board must be held in compliance with the public notice and other requirements of the Brown Act. The Owner's Association is also subject to the record keeping requirements of the California Public Records Act.

C. Annual Report

The the Bureau board shall present an annual report at the end of each year of operation to the City Council pursuant to Streets and Highways Code §36650 (see Appendix 1).

APPENDIX 1 – THE PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994

PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994

STREETS AND HIGHWAYS CODE
Division 18. Parking

*** THIS DOCUMENT IS CURRENT THROUGH 2009-2010 EXTRAORDINARY SESSIONS 1-5, ***
AND 7, AND URGENCY LEGISLATION THROUGH CH 4 OF THE 2010 REGULAR SESSION

§ 36600. Citation of part

This part shall be known and may be cited as the "Property and Business Improvement District Law of 1994."

§ 36601. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) Businesses located and operating within the business districts of this state's communities are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts.

(b) It is in the public interest to promote the economic revitalization and physical maintenance of the business districts of its cities in order to create jobs, attract new businesses, and prevent the erosion of the business districts.

(c) It is of particular local benefit to allow cities to fund business related improvements, maintenance, and activities through the levy of assessments upon the businesses or real property that benefits from those improvements.

(d) Assessments levied for the purpose of providing improvements and promoting activities that benefit real property or businesses are not taxes for the general benefit of a city, but are assessments for the improvements and activities which confer special benefits upon the real property or businesses for which the improvements and activities are provided.

§ 36602. Purpose of part

The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments within a business improvement area. This part does not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes.

§ 36603. Preemption of authority or charter city to adopt ordinances levying assessments

Nothing in this part is intended to preempt the authority of a charter city to adopt ordinances providing for a different method of levying assessments for similar or additional purposes from those set forth in this part. A property and business improvement district created pursuant to this part is expressly exempt from the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800)).

§ 36603.5. Part prevails over conflicting provisions

Any provision in this part that conflicts with any other provision of law shall prevail over the other provision of law.

§ 36604. Severability

This part is intended to be construed liberally and, if any provision is held invalid, the remaining provisions shall remain in full force and effect. Assessments levied under this part are not special taxes.

§ 36605. [Section repealed 2001.]

§ 36606. "Assessment"

"Assessment" means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and promoting activities which will benefit the properties or businesses located within a property and business improvement district.

§ 36607. "Business"

"Business" means all types of businesses and includes financial institutions and professions.

§ 36608. "City"

"City" means a city, county, city and county, or an agency or entity created pursuant to Article 1 (commencing with *Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code*, the public member agencies of which includes only cities, counties, or a city and county.

§ 36609. "City council"

"City council" means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.

§ 36610. 'Improvement"

"Improvement" means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following:

(a) Parking facilities.

(b) Benches, booths, kiosks, display cases, pedestrian shelters and signs.

(c) Trash receptacles and public restrooms.

(d) Lighting and heating facilities.

(e) Decorations.

(f) Parks.

(g) Fountains.

(h) Planting areas.

(i) Closing, opening, widening, or narrowing of existing streets.

(j) Facilities or equipment, or both, to enhance security of persons and property within the area.

(k) Ramps, sidewalks, plazas, and pedestrian malls.

(l) Rehabilitation or removal of existing structures.

§ 36611. "Property and business improvement district"; "District"

"Property and business improvement district," or "district," means a property and business improvement district established pursuant to this part.

§ 36612. "Property"

"Property" means real property situated within a district.

§ 36613. "Activities"

"Activities" means, but is not limited to, all of the following:

(a) Promotion of public events which benefit businesses or real property in the district.

(b) Furnishing of music in any public place within the district.

(c) Promotion of tourism within the district. / Filming

(d) Marketing and economic development, including retail retention and recruitment.

(e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.

(f) Activities which benefit businesses and real property located in the district.

§ 36614. "Management district plan"; "Plan"

"Management district plan" or "plan" means a proposal as defined in Section 36622.

§ 36614.5. "Owners' association"

"Owners' association" means a private nonprofit entity that is under contract with a city to administer or implement activities and improvements specified in the management district plan. An owners' association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners' association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners' association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with *Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code*), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Chapter 3.5 (commencing with *Section 6250) of Division 7 of Title 1 of the Government Code*), for all documents relating to activities of the district.

§ 36615. "Property owner"; "Owner"

"Property owner" or "owner" means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of land by the city council. The city council has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this part. Wherever this subdivision requires the signature of the property owner, the signature of the authorized agent of the property owner shall be sufficient.

§ 36616. "Tenant"

"Tenant" means an occupant pursuant to a lease of commercial space or a dwelling unit, other than an owner.

§ 36617. Alternate method of financing certain improvements and activities; Effect on other provisions

This part provides an alternative method of financing certain improvements and activities. The provisions of this part shall not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these

purposes. Every improvement area established pursuant to the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500) of this division) is valid and effective and is unaffected by this part.

§ 36620. Establishment of property and business improvement district

A property and business improvement district may be established as provided in this chapter.

§ 36620.5. Requirement of consent of city council

A county may not form a district within the territorial jurisdiction of a city without the consent of the city council of that city. A city may not form a district within the unincorporated territory of a county without the consent of the board of supervisors of that county. A city may not form a district within the territorial jurisdiction of another city without the consent of the city council of the other city.

§ 36621. Initiation of proceedings; Petition of property or business owners in proposed district

(a) Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property or a business owned by the same property or business owner that is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property or business owners who will pay more than 50 percent of the total amount of assessments proposed to be levied.

(b) The petition of property or business owners required under subdivision (a) shall include a summary of the management district plan. That summary shall include all of the following:

(1) A map showing the boundaries of the district.

(2) Information specifying where the complete management district plan can be obtained.

(3) Information specifying that the complete management district plan shall be furnished upon request.

(c) The resolution of intention described in subdivision (a) shall contain all of the following:

(1) A brief description of the proposed activities and improvements, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement as to whether bonds will be issued, and a description of the exterior boundaries of the proposed district. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements and activities and the location and extent of the proposed district.

(2) A time and place for a public hearing on the establishment of the property and business improvement district and the levy of assessments, which shall be consistent with the requirements of Section 36623.

§ 36622. Contents of management district plan

The management district plan shall contain all of the following:

(a) A map of the district in sufficient detail to locate each parcel of property and, if businesses are to be assessed, each business within the district.

(b) The name of the proposed district.

(c) A description of the boundaries of the district, including the boundaries of benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected lands and businesses included. The boundaries of a proposed property assessment district shall not overlap with the boundaries of another existing property assessment district created pursuant to this part. This part does not prohibit the boundaries of a district created pursuant to this part to overlap with other assessment districts established pursuant to other provisions of law, including, but not limited to, the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500)). This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with another business assessment district created pursuant to this part. This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with a property assessment district created pursuant to this part.

(d) The improvements and activities proposed for each year of operation of the district and the maximum cost thereof.

(e) The total annual amount proposed to be expended for improvements, maintenance and operations, and debt service in each year of operation of the district.

(f) The proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each property or business owner to calculate the amount of the assessment to be levied against his or her property or business. The plan also shall state whether bonds will be issued to finance improvements.

(g) The time and manner of collecting the assessments.

(h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years. Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.

(i) The proposed time for implementation and completion of the management district plan.

(j) Any proposed rules and regulations to be applicable to the district.

(k) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof, including operation and maintenance. The plan may provide that all or any class or category of real property which is exempt by law from real property taxation may nevertheless be included within the boundaries of the district but shall not be subject to assessment on real property.

(l) Any other item or matter required to be incorporated therein by the city council.

§ 36623. Procedure to levy assessment

(a) If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedure shall comply with *Section 53753 of the Government Code*.

(b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with *Section 54954.6 of the Government Code*, except that notice shall be mailed to the owners of the businesses proposed to be assessed. A protest may be made orally or in writing by any interested person. Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing. Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business. A written protest which does not comply with this section shall not be counted in determining a majority protest. If written protests are received from the owners of businesses in the proposed district which will pay 50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to levy the proposed assessment against such businesses, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

§ 36624. Changes to proposed assessments

At the conclusion of the public hearing to establish the district, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them. At the public hearing, the city council may only make changes in, to, or from the boundaries of the proposed property and business improvement district that will exclude territory that will not benefit from the proposed improvements or activities. Any modifications, revisions, reductions, or changes to the proposed assessment district shall be reflected in the notice and map recorded pursuant to Section 36627.

§ 36625. Resolution of formation

(a) If the city council, following the public hearing, decides to establish the proposed property and business improvement district, the city council shall adopt a resolution of formation that shall contain all of the following:

(1) A brief description of the proposed activities and improvements, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement about whether bonds will be issued, and a description of the exterior boundaries of the proposed district. The descriptions and statements do not need

to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements and activities and the location and extent of the proposed district.

(2) The number, date of adoption, and title of the resolution of intention.

(3) The time and place where the public hearing was held concerning the establishment of the district.

(4) A determination regarding any protests received. The city shall not establish the district or levy assessments if a majority protest was received.

(5) A statement that the properties or businesses in the district established by the resolution shall be subject to any amendments to this part.

(6) A statement that the improvements and activities to be provided in the district will be funded by the levy of the assessments. The revenue from the levy of assessments within a district shall not be used to provide improvements or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the district.

(7) A finding that the property or businesses within the area of the property and business improvement district will be benefited by the improvements and activities funded by the assessments proposed to be levied.

(b) The adoption of the resolution of formation and recordation of the notice and map pursuant to Section 36627 shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan.

§ 36626. Resolution establishing district

If the city council, following the public hearing, desires to establish the proposed property and business improvement district, and the city council has not made changes pursuant to Section 36624, or has made changes that do not substantially change the proposed assessment, the city council shall adopt a resolution establishing the district. The resolution shall contain all of the information specified in paragraphs (1) to (8), inclusive, of subdivision (b) of Section 36625, but need not contain information about the preliminary resolution if none has been adopted.

§ 36626.5. [Section repealed 1999.]

§ 36626.6. [Section repealed 1999.]

§ 36626.7. [Section repealed 1999.]

§ 36627. Notice and assessment diagram

Following adoption of the resolution establishing the district pursuant to Section 36625 or 36626, the clerk of the city shall record a notice and an assessment diagram pursuant to Section 3114. If the assessment is levied on businesses, the text of the recorded notice shall be modified to reflect that the assessment will be levied on businesses, or specified categories of businesses,

within the area of the district. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

§ 36628. Establishment of separate benefit zones within district; Categories of businesses

The city council may establish one or more separate benefit zones within the district based upon the degree of benefit derived from the improvements or activities to be provided within the benefit zone and may impose a different assessment within each benefit zone. If the assessment is to be levied on businesses, the city council may also define categories of businesses based upon the degree of benefit that each will derive from the improvements or activities to be provided within the district and may impose a different assessment or rate of assessment on each category of business, or on each category of business within each zone.

§ 36628.5. Assessments on businesses or property owners

The city council may levy assessments on businesses or on property owners, or a combination of the two, pursuant to this part. The city council shall structure the assessments in whatever manner it determines corresponds with the distribution of benefits from the proposed improvements and activities.

§ 36629. Provisions and procedures applicable to benefit zones and business categories

All provisions of this part applicable to the establishment, modification, or disestablishment of a property and business improvement district apply to the establishment, modification, or disestablishment of benefit zones or categories of business. The city council shall, to establish, modify, or disestablish a benefit zone or category of business, follow the procedure to establish, modify, or disestablish a parking and business improvement area.

§ 36630. Expiration of district; Creation of new district

If a property and business improvement district expires due to the time limit set pursuant to subdivision (h) of Section 36622, a new management district plan may be created and a new district established pursuant to this part.

§ 36631. Time and manner of collection of assessments; Delinquent payments

The collection of the assessments levied pursuant to this part shall be made at the time and in the manner set forth by the city council in the resolution establishing the management district plan described in Section 36622. Assessments levied on real property may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment. All delinquent payments for assessments levied pursuant to this part shall be charged interest and penalties.

§ 36632. Assessments to be based on estimated benefit; Classification of real property and businesses; Exclusion of residential and agricultural property

(a) The assessments levied on real property pursuant to this part shall be levied on the basis of the estimated benefit to the real property within the property and business improvement district. The city council may classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.

(b) Assessments levied on businesses pursuant to this part shall be levied on the basis of the estimated benefit to the businesses within the property and business improvement district. The city council may classify businesses for purposes of determining the benefit to the businesses of the improvements and activities provided pursuant to this part.

(c) Properties zoned solely for residential use, or that are zoned for agricultural use, are conclusively presumed not to benefit from the improvements and service funded through these assessments, and shall not be subject to any assessment pursuant to this part.

§ 36633. Time for contesting validity of assessment

The validity of an assessment levied under this part shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted pursuant to Section 36626. Any appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

§ 36634. Service contracts authorized to establish levels of city services

The city council may execute baseline service contracts that would establish levels of city services that would continue after a property and business improvement district has been formed.

§ 36635. Request to modify management district plan

The owners' association may, at any time, request that the city council modify the management district plan. Any modification of the management district plan shall be made pursuant to this chapter.

§ 36636. Modification of plan by resolution after public hearing; Adoption of resolution of intention; Modification of improvements and activities by adoption of resolution after public hearing

(a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section

36623 . Notice of all other public meetings and public hearings pursuant to this section shall comply with both of the following:

(1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public meeting.

(2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public meeting, to each business owner or property owner affected by the proposed modification.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

§ 36637. Reflection of modification in notices recorded and maps

Any subsequent modification of the resolution shall be reflected in subsequent notices and maps recorded pursuant to Division 4.5 (commencing with Section 3100), in a manner consistent with the provisions of Section 36627.

§ 36640. Bonds authorized; Procedure; Restriction on reduction or termination of assessments

(a) The city council may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of some or all of the proposed improvements described in the resolution of formation adopted pursuant to Section 36625, if the resolution of formation adopted pursuant to that section provides for the issuance of bonds, under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500)) or in conjunction with Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with *Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code*). Either act, as the case may be, shall govern the proceedings relating to the issuance of bonds, although proceedings under the Bond Act of 1915 may be modified by the city council as necessary to accommodate assessments levied upon business pursuant to this part.

(b) The resolution adopted pursuant to subdivision (a) shall generally describe the proposed improvements specified in the resolution of formation adopted pursuant to Section 36625, set forth the estimated cost of those improvements, specify the number of annual installments and the fiscal years during which they are to be collected. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from assessments over 30 years.

(c) Notwithstanding any other provision of this part, assessments levied to pay the principal and interest on any bond issued pursuant to this section shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt.

§ 36641. [Section repealed 2001.]

§ 36642. [Section repealed 2001.]

§ 36643. [Section repealed 2001.]

§ 36650. Report by owners' association; Approval or modification by city council

(a) The owners' association shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvements and activities described in the report. The owners' association's first report shall be due after the first year of operation of the district. The report may propose changes, including, but not limited to, the boundaries of the property and business improvement district or any benefit zones within the district, the basis and method of levying the assessments, and any changes in the classification of property, including any categories of business, if a classification is used.

(b) The report shall be filed with the clerk and shall refer to the property and business improvement district by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following information:

(1) Any proposed changes in the boundaries of the property and business improvement district or in any benefit zones or classification of property or businesses within the district.

(2) The improvements and activities to be provided for that fiscal year.

(3) An estimate of the cost of providing the improvements and the activities for that fiscal year.

(4) The method and basis of levying the assessment in sufficient detail to allow each real property or business owner, as appropriate, to estimate the amount of the assessment to be levied against his or her property or business for that fiscal year.

(5) The amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

(6) The amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(c) The city council may approve the report as filed by the owners' association or may modify any particular contained in the report and approve it as modified. Any modification shall be made pursuant to Sections 36635 and 36636.

The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments, including any commitment to pay principal and interest on any bonds issued on behalf of the district.

§ 36651. Designation of owners' association to provide improvements and activities

The management district plan may, but is not required to, state that an owners' association will provide the improvements or activities described in the management district plan. If the management district plan designates an owners' association, the city shall contract with the designated nonprofit corporation to provide services.

§ 36660. Renewal of district; Transfer or refund of remaining revenues; District term limit

(a) Any district previously established whose term has expired, may be renewed by following the procedures for establishment as provided in this chapter.

(b) Upon renewal, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed district. If the renewed district includes additional parcels or businesses not included in the prior district, the remaining revenues shall be spent to benefit only the parcels or businesses in the prior district. If the renewed district does not include parcels or businesses included in the prior district, the remaining revenues attributable to these parcels shall be refunded to the owners of these parcels or businesses.

(c) Upon renewal, a district shall have a term not to exceed 10 years, or, if the district is authorized to issue bonds, until the maximum maturity of those bonds. There is no requirement that the boundaries, assessments, improvements, or activities of a renewed district be the same as the original or prior district.

§ 36670. Circumstances permitting disestablishment of district; Procedure

(a) Any district established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the city council in either of the following circumstances:

(1) If the city council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.

(2) During the operation of the district, there shall be a 30-day period each year in which assessees may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners of real property or of businesses in the area who pay 50 percent or more of the assessments levied, the city council shall pass a resolution of intention to disestablish the district. The city council shall notice a hearing on disestablishment.

(b) The city council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel or to the owner of each business subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.

§ 36671. Refund of remaining revenues upon disestablishment of district; Calculation of refund; Use of outstanding revenue collected after disestablishment of district

(a) Upon the disestablishment of a district, any remaining revenues, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be refunded to the owners of the property or businesses then located and operating within the district in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in which the district is disestablished. All outstanding assessment revenue collected after disestablishment shall be spent on improvements and activities specified in the management district plan.

(b) If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund.

APPENDIX 2 – LODGING BUSINESSES TO BE ASSESSED WITHIN THE RTID

Best Western #52
400 S. China Lake Blvd.
Ridgecrest, CA 93555

Comfort Inn #58
507 S. China Lake Blvd.
Ridgecrest, CA 93555

Hampton Inn & Suites #93
104 East Sydnor Ave.
Ridgecrest, CA 93555

Motel 6 #76
535 S. China Lake Blvd.
Ridgecrest, CA 93555

Vagabond Inn
426 S. China Lake Blvd.
Ridgecrest, CA 93555

Travelodge
131 W. Upjohn Ave.
Ridgecrest, CA 93555

Rose Garden Inn & Suites
329 E. Ridgecrest Blvd.
Ridgecrest, CA 93555

Budget Inn & Suites
831 N. China Lake Blvd.
Ridgecrest, CA 93555

Vagabond Inn
426 S. China Lake Blvd.
Ridgecrest, CA 93555

Carriage Inn #160
901 N. China Lake Blvd.
Ridgecrest, CA 93555

EconoLodge Inn & Suites #86
201 W. Inyokern Rd.
Ridgecrest, CA 93555

Heritage Inn & Suites #122
1050 N. Norma
Ridgecrest, CA 93555

SpringHill Suites Marriott #93
113 East Sydnor Ave.
Ridgecrest, CA 93555

BevLen Haus Bed & Breakfast #3
809 N. Sanders St.
Ridgecrest, CA 93555

Economy Inn & Suites
416 S. China Lake Blvd.
Ridgecrest, CA 93555

Aloha Motel
706 Balsam St.
Ridgecrest, CA 93555

Desert Motel
339 W. Church
Ridgecrest, CA 93555

American Best Value
131 & 553 S. China Lake Blvd.
Ridgecrest, CA 93555

This Page Intentionally Left Blank

7

This Page Intentionally Left Blank

CITY COUNCIL/SUCCESSOR REDEVELOPMENT AGENCY/FINANCING AUTHORITY/HOUSING AUTHORITY AGENDA ITEM

SUBJECT:
Approval of a Settlement Agreement between the City of Ridgecrest and the County of Kern

PRESENTED BY:
Kurt Wilson – City Manager

SUMMARY:

This agenda item requests approval of a settlement agreement between the City of Ridgecrest, County of Kern, and Successor Agency to the former Ridgecrest Redevelopment Agency. If approved, this item will resolve current disputes related to the payment schedule of Redevelopment tax increment funds and a separate dispute related to the County fire service contract.

As a result of the agreement, the county will receive redevelopment funds in the amount of $2.2 million. The general fund is not the source of these funds. Additionally, the City will receive $620,000 to be deposited into the City's general fund.

FISCAL IMPACT:

Reviewed by Finance Director

ACTION REQUESTED:
Authorize the Settlement Agreement with the County of Kern

CITY MANAGER / EXECUTIVE DIRECTOR RECOMMENDATION:

Action as requested: Authorize the Settlement Agreement with the County of Kern

Submitted by: Kurt Wilson Action Date: August 15, 2012
(Rev. 02/13/12)

This Page Intentionally Left Blank

8

This Page Intentionally Left Blank

CITY COUNCIL/SUCCESSOR REDEVELOPMENT AGENCY/FINANCING AUTHORITY/HOUSING AUTHORITY AGENDA ITEM

SUBJECT:
Approve Of And Authorize The City Manager To Enter A Lease Agreement Between The City Of Ridgecrest And Waste Management.

PRESENTED BY:
Kurt Wilson – City Manager

SUMMARY:
This agenda item requests consideration of entering a property lease agreement with the City's franchise waste and recycling hauler, Waste Management. Waste Management began service in Ridgecrest under an interim franchise agreement during a tumultuous and contentious transition from the previous hauler. To benefit the City, Waste Management agreed to begin service within a matter of weeks after receiving the award. This required a complex logistical operation in order to acquire, stage, and deliver new equipment; create route lists; hire staff; conduct a public relations effort; and begin service for residential and commercial customers.

A transition of this nature generally involves a period of non-cart service where customers use trash bags to store their disposables until a more permanent solution can be reached. The sensitivity related to this issue at the time made it important to go above and beyond the usual efforts. In recognition of the extraordinary effort this required, Waste Management was provided with the use of facilities at no cost for the duration of the interim agreement. The intention of both parties was to enter a formal lease agreement for the property if and when a permanent franchise was awarded.

Title for the property was previously held by the former Ridgecrest Redevelopment Agency. At the time the lease agreement was to have been negotiated, the state took action to prevent us from entering into any new agreements. As a result, we were only permitted to maintain status quo but not to begin collecting rents for the use of the property. Since that time, title to the property has reverted to the City which is now able to enter into new agreements.

The attached agreement is the result of negotiations between the parties and represents income for the City's general fund in the amount of $90,000

FISCAL IMPACT:
The agreement is the result of negotiations between the parties and represents income for the City's general fund in the amount of $90,000

Reviewed by Finance Director

ACTION REQUESTED:
Approve of and authorize the City manager to enter the attached agreement.

CITY MANAGER / EXECUTIVE DIRECTOR RECOMMENDATION:
Action as requested: Approve of and authorize the City manager to enter the attached agreement.

Submitted by: Kurt Wilson Action Date: August 15, 2012
(Rev. 02/13/12)

This Page Intentionally Left Blank

9

This Page Intentionally Left Blank

CITY COUNCIL/REDEVELOPMENT AGENCY AGENDA ITEM

SUBJECT:
Approve A Resolution Authorizing Amendments To Agreements And Memorandum Of Understanding Between The City Of Ridgecrest And Police Employee Association Of Ridgecrest (PEAR) And Unrepresented Employees

PRESENTED BY:
Kurt Wilson – City Manager

SUMMARY:

This Resolution amends the Memorandum of Understanding Police Employee Association of Ridgecrest (P.E.A.R.) and agreements with Unrepresented Employee Groups of employees.

The amendment takes into account the current economic condition of the City.

FISCAL IMPACT:

Funds Are Appropriated In The Approved FY13 Budget

Reviewed by Administrative Services Director

ACTION REQUESTED:
Approve Resolution Adopting An Amendment To The Memorandum Of Understanding Between The City Of Ridgecrest And The Police Employee Association Of Ridgecrest (PEAR) And Agreements With Unrepresented Employee Groups Of Employees

CITY MANAGER / EXECUTIVE DIRECTOR RECOMMENDATION:

Action as requested: Approve Resolution Adopting An Amendment To The Memorandum Of Understanding Between The City Of Ridgecrest And The Police Employee Association Of Ridgecrest (PEAR) And Agreements With Unrepresented Employee Groups Of Employees

Submitted by: Kurt Wilson Action Date: August 15, 2012
(Rev. 2-14-07)

This Page Intentionally Left Blank

RESOLUTION NO. 12-xx

A RESOLUTION OF THE RIDGECREST CITY COUNCIL APPROVING BY REFERENCE AND AUTHORIZING EXECUTION OF AN AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING WITH THE POLICE EMPLOYEE ASSOCIATION OF RIDGECREST AND AGREEMENTS WITH UNREPRESENTED EMPLOYEE GROUPS

The City Council of the City of Ridgecrest, California, hereby approves by reference and authorizes the City Manager to execute an Amendment to Memorandums of Understanding and Agreements between the City of Ridgecrest and the Police Employee Association Of Ridgecrest (PEAR) and unrepresented employee groups.

APPROVED AND ADOPTED this 15th day of August 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Ronald H. Carter, Mayor

ATTEST:

_____
Rachel J. Ford, CMC
City Clerk

This Page Intentionally Left Blank

10

This Page Intentionally Left Blank

CITY COUNCIL/SUCCESSOR REDEVELOPMENT AGENCY/FINANCING AUTHORITY/HOUSING AUTHORITY AGENDA ITEM

SUBJECT:
Approve And Authorize The City Manager To Enter Into An Agreement Between The City Of Ridgecrest And Certain Indian Wells Valley Youth Sports Leagues.

PRESENTED BY:
Kurt Wilson – City Manager

SUMMARY:

This agenda item requests consideration of entering an agreement with the current primary users of the Kerr McGee Youth Sports Complex – IWV Baseball and IWV Football which would permit and require these users to take responsibility for routine field maintenance.

The current parks maintenance city staff has been drastically reduced in recent years, yet the reduced staff is being asked to perform the same quantity of work that the larger workforce previously provided. Despite best efforts, they lack the resources to maintain the desired level of maintenance. Current fiscal constraints prevent the addition of resources to address this need. The alternative presented here is to essentially shrink the quantity of work requested of the limited city staff.

By turning maintenance responsibilities over to the Leagues, the city staff is spared from the burden of maintaining the field with sparse resources. The Leagues are able to affect the level of maintenance so that they can ensure the fields are maintained to the level they desire. Because the reassigned city staff can use the additional time to enhance other areas, this agreement has a positive impact on the rest of the city as well as this specific park.

FISCAL IMPACT:

Undetermined

Reviewed by Finance Director

ACTION REQUESTED:
Approve Of And Authorize The City Manager To Enter The Attached Agreement.

CITY MANAGER / EXECUTIVE DIRECTOR RECOMMENDATION:
Action As Requested: Approve Of And Authorize The City Manager To Enter The Attached Agreement.

Submitted by: Kurt Wilson Action Date: August 15, 2012
(Rev. 02/13/12)

This Page Intentionally Left Blank

11

This Page Intentionally Left Blank

CITY COUNCIL/SUCCESSOR REDEVELOPMENT AGENCY/
FINANCING AUTHORITY/HOUSING AUTHORITY AGENDA ITEM

SUBJECT:
Appointment of Interim City Manager

PRESENTED BY:
Kurt Wilson – City Manager

SUMMARY:
This item requests the appointment of an interim city manager to serve from a period beginning with my separation and lasting until a permanent city manager can be appointed.

In the temporary absence of an existing city manager, he or she can appoint an acting city manager and delegate any range of duties in the absence of the city manager. However, when a city manager is no longer employed by the city, only the city council has the authority to appoint an interim or permanent city manager to fulfill the duties as outlined in the municipal code.

The selection of a city manager can be done any number of ways. In some instances, it is appropriate for the council to simply make a decision to appoint a specific person with whom they are already familiar and who has demonstrated the qualifications for the positions. In other instances, it is appropriate to solicit and review applications for the position.

An external search could include the local community, which does have qualified individuals. Depending on the interest level this could allow for a rapid transition, however, the applicant pool is likely to be relatively limited. Searching outside of the area, on the other hand draws a much larger applicant pool. Conversely, engaging someone from outside the area for an interim position could require additional housing and travel expenses for the city.

Internally, there are current city employees with the skill set to perform the duties. In the event that an internal candidate was selected, the interim city manager could make other staffing adjustments to compensate for the new responsibilities, supplement that with temporary labor, and still realize a savings to the general fund.

If consensus were reached for the appointment, it would be appropriate to develop a strategy to identify mutually agreeable terms of employment. Secondarily, either now or at a later time, the council may wish to consider the process for recruiting a permanent city manager.

The formal recruitment process may not be necessary depending on the terms and intent of the interim appointment. In the event that a recruitment was selected, this could be done in-house, through the city's contract HR provider, or with an external firm that specializes in this type of recruitment. Staff can provide additional information about the cost, timeline, and effectiveness of each of these solutions upon request.

FISCAL IMPACT:
Undetermined
Reviewed by Finance Director

ACTION REQUESTED:
Discuss range of options and either appoint or identify process for selecting and appointing an interim city manager.

CITY MANAGER / EXECUTIVE DIRECTOR RECOMMENDATION:
Action as requested: Discuss range of options and either appoint or identify process for selecting and appointing an interim city manager.

Submitted by: Kurt Wilson Action Date: August 15, 2012
(Rev. 02/13/12)

This Page Intentionally Left Blank

12

This Page Intentionally Left Blank

CITY COUNCIL/REDEVELOPMENT SUCCESSOR AGENCY/
FINANCING AUTHORITY/HOUSING AUTHORITY AGENDA ITEM

SUBJECT:
An Ordinance of the City Council of the City of Ridgecrest authorizing an amendment to the contract between the City Council of the City of Ridgecrest and the Board of Administration of the California Public Employees' Retirement System

PRESENTED BY:
Kurt Wilson – City Manager

SUMMARY:

As part of the FY11 negotiations, the following amendment of the retirement contract with CalPERS was agreed on and is being implemented for all eligible members of CalPERS. The cost of which has been included in the current year's budget. This includes the pending amendment presented herein and all actuarial costs. The actuarial valuation of this amendment is available for public inspection in the City Clerk's Office.

To provide Section 21363.1 (3.0% @ 55 Full, Supplemental or Modified formula) for local safety members.

Pursuant to CalPERS regulation, Resolution no. 12-xx, a resolution of Notice of intent to approve an amendment to the contract between the Board Of Administration of California Public Employees Retirement System and the City Council of the City of Ridgecrest was approved in a previous agenda item.

An Ordinance adopting the amendment to the contract with CalPERS is presented to City Council for first reading and introduction by title only. The City of Ridgecrest is obligated to comply with all CalPERS requirements including Government Code Section 7507.

The following two motions are required:

1. Motion To Waive Reading In Full Of An Ordinance Of The City Council Of The City Of Ridgecrest Authorizing An Amendment To The Contract Between The City Council Of The City Of Ridgecrest And The Board Of Administration Of The California Public Employees' Retirement System

Requires a Second

1. Motion To Introduce, By Title Only, An Ordinance Of The City Council Of The City Of Ridgecrest Authorizing An Amendment To The Contract Between The City Council Of The City Of Ridgecrest And The Board Of Administration Of The California Public Employees' Retirement System

Requires a Second

FISCAL IMPACT:

1. Change in the Present Value of Benefits $1,120,322
2. Change in the Accrued Liability $ 832,422
3. Change in the Total Employer Rate 4.741%

Reviewed by Finance Director

ACTION REQUESTED:

Motion To Waive reading in full and introduce for first reading, an Ordinance Of The City Council Of The City Of Ridgecrest to amend the agency's contract with CalPERS

CITY MANAGER'S RECOMMENDATION:

Approve as requested, an ordinance amending the agency's contract with CalPERS

Kurt Wilson, City Manager

Submitted by: Kurt Wilson Action Date: August 15, 2012

ORDINANCE NO. _____

An Ordinance of the City Council of the City of Ridgecrest authorizing an amendment to the contract between the City Council of the City of Ridgecrest and the Board of Administration of the California Public Employees' Retirement System.

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

Section 1.
That an amendment to the contract between the City Council of the City of Ridgecrest and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit, and by such reference made a part hereof as though herein set out in full.

Section 2.
The Mayor of the City Council is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

Section 3.
This Ordinance is an Urgency Ordinance and shall take effect one day after the date of its adoption, and prior to the expiration of 15 days from the passage thereof shall be published at least once in the Daily Independent, a newspaper of general circulation, published and circulated in the City of Ridgecrest and thenceforth and thereafter the same shall be in full force and effect.

Adopted and approved this _____ day of_____, _____.

_____
Ronald H. Carter, Mayor

Attest:

_____
Rachel J. Ford, CMC,
City Clerk

This Page Intentionally Left Blank

CalPERS

EXHIBIT

California
Public **E**mployees' **R**etirement **S**ystem

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Ridgecrest

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective September 20, 1965, and witnessed August 19, 1965, and as amended effective April 9, 1973, August 18, 1980, June 26, 1989, October 3, 1992, May 8, 1997, February 16, 2002, May 22, 2006 and July 30, 2007 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

A. Paragraphs 1 through 13 are hereby stricken from said contract as executed effective July 30, 2007, and hereby replaced by the following paragraphs numbered 1 through 14 inclusive:

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members and age 55 for local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after September 20, 1965 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:

   (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.

   (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.

   (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.

   (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.

   (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.

   (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.

(g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.

4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:

   a. Local Police Officers (herein referred to as local safety members);

   b. Employees other than local safety members (herein referred to as local miscellaneous members).

5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

   a. PERSONS WHO ARE COMPENSATED ON AN HOURLY BASIS; AND
   b. FIREFIGHTERS.

6. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment before and not on or after July 30, 2007 shall be determined in accordance with Section 21354 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 55 Modified and Full).

7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment on or after July 30, 2007 shall be determined in accordance with Section 21354.5 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2.7% at age 55 Modified and Full).

8. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55), supplemental to Federal Social Security.

9. Public Agency elected and elects to be subject to the following optional provisions:

   a. Section 21024 (Military Service Credit as Public Service).

   b. Section 20903 (Two Years Additional Service Credit).

   c. Section 20042 (One-Year Final Compensation).

   d. Section 21623.5 ($5,000 Retired Death Benefit).

10. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on August 18, 1980. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.

11. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.

12. Public Agency shall also contribute to said Retirement System as follows:

    a. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.

    b. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

13. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

14. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY_____
KAREN DE FRANK, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF RIDGECREST

BY_____
PRESIDING OFFICER

_____
Witness Date

Attest:

_____
Clerk

This Page Intentionally Left Blank

13

This Page Intentionally Left Blank

CITY COUNCIL/REDEVELOPMENT AGENCY/
FINANCING AUTHORITY/HOUSING AUTHORITY AGENDA ITEM

SUBJECT:
Introduction and First Reading; An Ordinance of the Ridgecrest City Council Amending the Ridgecrest Municipal Code as it relates to Trench Cut Fees

PRESENTED BY:
Dennis Speer

SUMMARY:
Excavations in paved streets owned and maintained by the City degrade and shorten the life of the surface of the streets. This degradation increases the frequency and cost to the public of necessary resurfacing, maintenance, and repair. These excavations cause degradation of the streets even where the excavations are refilled and repaired in conformity with applicable standards and requirements. It is appropriate that entities responsible for excavating into the City's right-of-way bear the burden of the resulting cost of this degradation and shortened life of the surface rather than the taxpayers of the City. In addition, establishment of a trench cut cost recovery fee will create an incentive for utilities to coordinate excavations in the streets.

To alleviate the costs associated with degradation of City streets due to excavations, the subject ordinance establishes a street trench cut fee and cost recovery fee fund.

This ordinance specifically amends CHAPTER XIV of the Municipal Code by clarifying the obligations of entities excavating in City streets.

The attached ordinance was prepared by the City Attorney.

FISCAL IMPACT:

No Fiscal Impact

Reviewed by Finance Director

ACTION REQUESTED:

1. Motion To Waive Reading In Full Of An Ordinance Of The Ridgecrest City Council Amending The Ridgecrest Municipal Code As It Relates To Trench Cut Fees
   Requires A Second
2. Motion To Introduce, By Title Only, An Ordinance Of The Ridgecrest City Council Amending The Ridgecrest Municipal Code As It Relates To Trench Cut Fees
   Requires A Second

CITY MANAGER / EXECUTIVE DIRECTOR RECOMMENDATION:

Action as requested: Approve Two Motions Waiving Reading In Full And Introducing By Title Only An Ordinance Amending The Ridgecrest Municipal Code As It Relates To Trench Cut Fees.

Submitted by: Dennis Speer Action Date: 08-15-12

This Page Intentionally Left Blank

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIDGECREST AMENDING THE RIDGECREST MUNICIPAL CODE AS IT RELATES TO TRENCH CUT FEES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIDGECREST as follows:

Section 1. Purpose.

Excavations in paved streets owned and maintained by the City degrade and shorten the life of the surface of the streets, and this degradation increases the frequency and cost to the public of necessary resurfacing, maintenance, and repair. These excavations cause degradation of the streets even where the excavations are refilled and repaired in conformity with applicable standards and requirements. It is appropriate that entities responsible for excavating into the City's right-of-way bear the burden of the resulting cost of this degradation and shortened life of the surface rather than the taxpayers of the City. In addition, establishment of a trench cut cost recovery fee will create an incentive for utilities to coordinate excavations in the streets.

This ordinance amends CHAPTER XIV of the Municipal Code by clarifying the obligations of entities excavating in City streets and by establishing a trench cut cost recovery fee and fund. This chapter shall not be construed to relieve those excavating into the City right-of-way of the obligation to fill, repair, and properly maintain the location of the excavation, as mandated by CHAPTER XIV.

Section 2. Amendment.

CHAPTER XIV of the Ridgecrest Municipal Code is hereby amended and reenacted by the additions of sections 14-2.39 through 14-2.44, which collectively read as follows:

"**14-2.39. - Establishment of trench cut cost recovery fee.**

No person shall excavate in a public right-of-way without, in addition to all other requirements of this code, having first paid to the City a "trench cut cost recovery fee." The amount of this trench cut cost recovery fee shall be set from time to time by resolution, and shall not exceed the reasonable cost necessary to mitigate the degradation to the public streets caused by such excavation.

14-2.40. - Exceptions.

(A) Excavations in City streets scheduled for pavement structural improvements within two years of the date of excavation shall be exempt from the trench cut cost recovery fee.
(B) No trench cut cost recovery fee shall be charged for underground utility district projects initiated by the City, or utility line relocations necessitated by City street work projects or by street vacations or abandonments.
(C) No trench cut cost recovery fee shall be charged for excavations performed by or for the City.

(D) No trench cut cost recovery fee shall be charged with respect to excavation in a sidewalk or a concrete street.

14-2.41. - Utility master plans.

Any utility owning, operating or installing in a public right-of-way facilities providing water, sewer, gas, electric, communication, video or other utility services, shall prepare and submit to the City a utility master plan, in a format specified by the City, that shows the location of the utility's existing facilities in public rights-of-way, and shows all of the utility's planned major utility work in public rights-of-way for the next year. Utilities shall submit an initial utility master plan no later than 180 days after the effective date of the ordinance adopting this section. Thereafter, each utility shall submit annually, on the first regular business day of August, a revised and updated utility master plan. As used in this subsection, the term "planned major utility works" refer to any and all future excavations planned by the utility when the utility master plan or update is submitted that will affect any public right-of-way for more than 15 days; provided, that the utility shall not be required to show future excavations planned to occur more than a year after the date that the utility master plan or update is submitted.

14-2.42. - Coordination with City.

(A) Prior to applying for an excavation permit in the public rights-of-way, the City shall review, on behalf of the applicant, the City's anticipated repaving plans and the utility master plans on file with the City. The applicant shall coordinate, to the extent practicable, with the utility and street work shown on such plans to minimize damage to, and avoid undue disruption and interference with, the public rights-of-way.

(B) To avoid future excavations and to reduce the number of street excavations, telecommunication companies shall be requested, when practical, to install spare conduits.

14-2.43. - Repair of sunken pavement over excavation.

(A) If the subsurface materials or pavement over or within the trench influence area becomes depressed or broken at any time, the person shall, within 14 days of mailing of written notice from the City, immediately inspect the depressed or broken area to ascertain the cause of the failure. The person shall make repairs to the installation or backfill and have the pavement restored in the manner and within the time period specified by the City, but not to exceed 30 days. In the event the City determines the pavement condition creates a road hazard, the City may require the repair to be completed within 48 hours. A trench cut cost recovery fee shall not be charged for work performed under this section.

(B) If the pavement is not restored as specified by the City, unless delayed by conditions beyond the person's control, the City may cause the work to be done after giving the person 24 hours' final notice. The person shall thereafter, upon written demand by City, pay the City an amount calculated by multiplying the number of square feet of pavement restored by the square foot trench repair reimbursement fee set forth in the then most current public works service and capital improvement fees schedule. The person shall remain responsible for any future repairs of that portion of pavement over the excavation that was repaired by the City.

14-2.44. - Trench cut cost recovery fee fund.

There is created and established the "trench cut cost recovery fee fund." All funds received pursuant to sections 14-2.39 through 14-2.46 shall be placed in the trench cut cost recovery fee fund. Funds maintained in the trench cut cost recovery fee fund shall only be expended for the maintenance, rehabilitation, resurfacing, administration, and protection of the public rights-of-way that have been excavated after the effective date of the ordinance codified in this chapter, and for refunds of fees approved by the City."

Section 3. Other.

This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published as set forth below.

At least five (5) days prior to its final adoption, copies of this Ordinance shall be posted in at least three (3) prominent and public locations in the City; and a notice shall be published once in a newspaper of general circulation in the City of Ridgecrest, setting forth the title of this Ordinance, the date of its introduction and the places where this Ordinance is posted. Within fifteen (15) days following final adoption, a summary of the Ordinance with the names of the council members and votes shall be published in a newspaper of general circulation.

Introduced and first read at a meeting of the City Council of the City of Ridgecrest held the _____ day of _____, 2012.

PASSED AND ADOPTED at a regular meeting of said City Council held on _____, 2012, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Ronald H. Carter, Mayor

ATTEST:

_____
Rachel J. Ford, City Clerk

This Page Intentionally Left Blank