



# CITY OF BUELLTON

## CITY COUNCIL AGENDA

**Regular Meeting of January 10, 2013 – 6:00 p.m.  
City Council Chambers, 140 West Highway 246  
Buellton, California**

Copies of staff reports or other written documentation relating to each item of business referred to on this Agenda are on file in the office of the City Clerk and are available for public inspection

### **CALL TO ORDER**

Mayor Judith Dale

### **PLEDGE OF ALLEGIANCE**

Council Member Holly Sierra

### **ROLL CALL**

Council Members Ed Andrisek, Leo Elovitz, Holly Sierra, Vice Mayor John Connolly, and Mayor Judith Dale

### **REORDERING OF AGENDA**

### **PUBLIC COMMENTS**

Speaker Slip to be completed and turned in to the City Clerk prior to commencement of meeting. Limited to matters not otherwise appearing on the agenda. Limited to three (3) minutes per speaker. No action will be taken at this meeting.

### **CONSENT CALENDAR**

**(ACTION)**

The following items are scheduled for consideration as a group. Any Council Member, the City Attorney, or the City Manager may request that an item be withdrawn from the Consent Agenda to allow for full discussion.

- 1. Minutes of December 13, 2012 Regular City Council Meeting**
- 2. List of Claims to be Approved and Ratified for Payment to Date for Fiscal Year 2012-13**

### **PRESENTATIONS**

**PUBLIC HEARINGS****(POSSIBLE ACTION)**

3. **Ordinance No. 13-01 – “An Ordinance of the City Council of the City of Buellton, California, to Increase the Buellton Transient Occupancy Tax (TOT) Rate” (Introduction and First Reading)**  
❖ *(Staff Contact: City Attorney Hanson)*

**COUNCIL MEMBER COMMENTS****COUNCIL ITEMS****WRITTEN COMMUNICATIONS**

Written communications are included in the agenda packets. Any Council Member, the City Manager or City Attorney may request that a written communication be read into the record.

**COMMITTEE REPORTS**

This Agenda listing is the opportunity for Council Members to give verbal Committee Reports on any meetings recently held for which the Council Members are the City representatives thereto.

**BUSINESS ITEMS****(POSSIBLE ACTION)**

4. **Presentation by Mark Schleich, Santa Barbara County Public Works Deputy Director of Resource Recovery and Waste Management Regarding Conversion Technology Project**
5. **Request for City Support of 2013 Avenue of Flags (AOF) Criterium**  
❖ *(Staff Contact: City Manager Kunkel)*
6. **Consideration of Botanic Garden Slope Renovation Proposal and Approval of Amendment No. 2 to Agreement with Santa Ynez Valley Botanic Garden Foundation**  
❖ *(Staff Contact: Recreation Coordinator Abello)*
7. **Consideration of a Request to Waive Legal Fees - Buellton Self Storage LP v. Norman Williams, City of Buellton, et al. -- SB Superior Court Case No.1375366**  
❖ *(Staff Contact: City Attorney Hanson)*
8. **Department Reports – (Finance, Personnel, Planning, Public Works, and Sheriff’s Department)**

**CITY MANAGER’S REPORT****ADJOURNMENT**

The next meeting of the City Council will be held on Thursday, January 24, 2013 at 6:00 p.m.

# CITY OF BUELLTON

**CITY COUNCIL MEETING MINUTES**  
**Regular Meeting of December 13, 2012**  
**City Council Chambers, 140 West Highway 246**  
**Buellton, California**

## **CALL TO ORDER**

Mayor Sierra called the meeting to order at 6:00 p.m.

## **PLEDGE OF ALLEGIANCE**

Vice Mayor Dave King led the Pledge of Allegiance

## **ROLL CALL**

**Present:** Council Members Ed Andrisek, John Connolly, Judith Dale, Vice Mayor Dave King and Mayor Holly Sierra

**Staff:** City Manager John Kunkel, City Attorney Ralph Hanson, Public Works Director Rose Hess, Deputy City Engineer Jeff Edwards, Planning Director Marc Bierdzinski, Lt. Erik Raney, and City Clerk Linda Reid

## **REORDERING OF AGENDA**

None

## **PUBLIC COMMENTS**

None

## **CONSENT CALENDAR**

- 1. Minutes of November 8, 2012 Regular City Council Meeting**
- 2. List of Claims to be Approved and Ratified for Payment to Date for Fiscal Year 2012-13**
- 3. Year 2013 Proposed Calendar of City Council Meetings**
- 4. Resolution No. 12-25 – “A Resolution of the City Council of the City of Buellton, California, Declaring and Certifying the Result of the General Municipal Election Held on November 6, 2012 and Such Other Matters as Provided by Law”**
- 5. Growth Mitigation Annual Compliance Report**

6. **Approval of Revised Memorandum of Understanding (MOU) for the Breeze Extension Inter-Regional Transit Service**
7. **Consideration of First Amendment to City Manager Employment Agreement**

**RECOMMENDATION:**

That the City Council approve the Consent Calendar as listed.

**MOTION:**

Motion by Vice Mayor King, seconded by Council Member Andrisek approving the consent calendar as listed.

**VOTE:**

Motion passed by a roll call vote of 5-0.

**PRESENTATIONS**

8. **Recognition of Deputy Win Smith's Service to the City of Buellton**

Mayor Sierra presented Deputy Win Smith with a plaque and thanked him for his service to the City of Buellton for the past six years.

Deputy Smith talked about his new assignment with the Santa Barbara County Sheriff's Department's Probation Unit. Lt. Erik Raney described Deputy Smith's role with the Santa Barbara County Sheriff's Department and his honored professionalism.

**PUBLIC HEARINGS**

None

**COUNCIL MEMBER COMMENTS**

Mayor Sierra announced that the Breeze Transit Service Contract begins January 14, 2013, with service to Santa Maria.

Mayor Sierra announced that she and Council Member Dale participated in Solvang's Christmas Parade on December 8 and stated the "Buellton Bus" was in attendance.

Mayor Sierra welcomed the Webelos Cub Scouts to the meeting tonight.

Council Member Connolly requested a City sponsored Disaster Preparedness Committee and indicated he would discuss it further with Buellton's Emergency Coordinator/Planning Director Bierdzinski and bring a presentation back to Council regarding Buellton's Disaster Preparedness.

## COUNCIL ITEMS

### 9. Presentation to Outgoing Council Member Dave King

Mayor Sierra thanked Vice Mayor King for his term of service to the City of Buellton and presented him with a plaque.

Vice Mayor King thanked his fellow Council Members and staff and spoke about his tenure on the City Council.

Mr. King left the dais and Mayor Sierra called a recess at 6:14 p.m. The Council reconvened at 6:15 p.m.

### 10. Oath of Office for Newly Elected Council Members

- A. Leo Elovitz
- B. Holly Sierra

City Clerk Reid issued the Oath of Office to newly elected Council Members Leo Elovitz and Holly Sierra.

### 11. Council Reorganization

- A. Election of Mayor
- B. Election of Vice Mayor
- C. Presentation to Outgoing Mayor

#### **NOMINATION:**

Council Member Andrisek nominated Council Member Dale as Mayor; Council Member Connolly seconded the nomination.

#### **VOTE:**

Nomination passed by a roll call vote of 5-0.

#### **NOMINATION:**

Council Member Sierra nominated Council Member Connolly as Vice Mayor; Council Member Andrisek seconded the nomination.

#### **VOTE:**

Nomination passed by a roll call vote of 5-0.

Mayor Dale thanked outgoing Mayor Sierra for her service to the City of Buellton and presented her with a plaque.

Outgoing Mayor Sierra thanked her fellow Council Members, staff, and the community for providing support over the past year.

- 12. Consideration of Appointments to the Planning Commission**
  - A. Interviews of Applicants**
  - B. Consideration of Appointments**

**RECOMMENDATION:**

That the City Council make appointments to the Planning Commission with the terms of office expiring December 2016.

**STAFF REPORT:**

City Manager Kunkel presented the staff report.

**DOCUMENTS:**

Staff Report with attachments (Buellton Municipal Code Chapter 2.36: “Planning Commission” and application forms)

**SPEAKERS/DISCUSSION:**

Lisa Figueroa spoke about the reasons why she would like to serve on the Planning Commission.

**MOTION:**

Motion by Council Member Sierra, seconded by Vice Mayor Connolly appointing Foster Reif and Lisa Figueroa to the Planning Commission with terms of office expiring December 2016.

**VOTE:**

Motion passed by a roll call vote of 5-0.

- 13. Consideration of Appointments to the Parks and Recreation Commission**
  - A. Interviews of Applicants**
  - B. Consideration of Appointments**

**RECOMMENDATION:**

That the City Council make appointments to the Parks and Recreation Commission with terms of office expiring December 2016.

**STAFF REPORT:**

City Manager Kunkel presented the staff report.

**DOCUMENTS:**

Staff Report with attachments (Buellton Municipal Code Chapter 2.32: “Parks and Recreation Commission” and application forms)

**SPEAKERS/DISCUSSION:**

Larry Bishop and Marcilo Sarquilla spoke about the reasons why they would like to serve on the Parks and Recreation Commission.

City Attorney Hanson announced that Mr. Sarquilla’s role on the Buellton Union School District will not be an incompatible office with his new position on the Parks & Recreation Commission.

**MOTION:**

Motion by Council Member Andrisek, seconded by Vice Mayor Connolly appointing Larry Bishop and Marcilo Sarquilla to the Parks and Recreation Commission with terms of office expiring December 2016.

**VOTE:**

Motion passed by a roll call vote of 5-0.

- 14. Appointments to Boards, Commissions, and Committees**
- a. Central Coast Water Authority (CCWA)**
  - b. Library Advisory Committee**
  - c. Santa Barbara County Association of Governments (SBCAG)**
  - d. Air Pollution Control District (APCD)**
  - e. California Joint Powers Insurance Authority (CJPIA)**
  - f. League of California Cities (LOCC) – Voting Delegate**
  - g. Buellton Chamber of Commerce Board of Directors (Ex Officio Member)**
  - h. Multi-Jurisdictional Solid Waste Task Group**
  - i. Economic Development Task Force**
  - j. City/School District Joint Use Committee**
  - k. Public Visioning Steering Committee**
  - l. Central Coast Collaborative on Homelessness**

**RECOMMENDATION:**

That the City Council consider appointments to various boards, commissions, and committees for calendar year 2013.

**DOCUMENTS:**

Staff Report with attachment (Boards, Commissions, and Committees Meeting Schedule for 2013)

The City Council nominated the following Council Members to the following Boards, Commissions, and Committees for 2013:

- A. Central Coast Water Authority (CCWA)**  
Council Member Ed Andrisek  
Council Member Holly Sierra (Alternate)
- B. Library Advisory Committee**  
Mayor Judith Dale  
Council Member Holly Sierra (Alternate)
- C. Santa Barbara County Association of Governments (SBCAG)**  
Council Member Holly Sierra  
Mayor Judith Dale (Alternate)
- D. Air Pollution Control District (APCD)**  
Council Member Holly Sierra  
Mayor Judith Dale (Alternate)

- E. California Joint Powers Insurance Authority (CJPIA)  
Council Member Ed Andrisek  
Vice Mayor John Connolly (Alternate)**
- F. League of California Cities (LOCC)  
Mayor Judith Dale (Voting Delegate-Annual Conference)  
Vice Mayor John Connolly (Alternate Voting Delegate-Annual Conference)**
- G. Chamber of Commerce Board of Directors (Ex Officio Member)  
Council Member Holly Sierra**
- H. Multi-Jurisdictional Solid Waste Task Group  
Council Member Ed Andrisek  
Mayor Judith Dale**
- I. Economic Development Task Force  
Mayor Judith Dale  
Council Member Leo Elovitz (Alternate)**
- J. City/School District Joint Use Committee  
Vice Mayor John Connolly**
- K. Public Visioning Steering Committee  
Mayor Judith Dale  
Council Member Leo Elovitz**
- L. Central Coast Collaborative on Homelessness  
Council Member Holly Sierra**

**DIRECTION:**

The City Council agreed by consensus to approve the appointments to boards, commissions, and committees A-L as listed above for 2013.

**WRITTEN COMMUNICATIONS**

None

**COMMITTEE REPORTS**

Council Member Andrisek announced that he attended the California Joint Powers Insurance Authority (CJPIA) Annual Conference in San Francisco and provided a handout for the record.

Mayor Dale announced that the Library Committee met and discussed a proposed parcel tax measure for Library districts to be listed on the next election ballot. The next meeting is scheduled for January 10, 2013 at 10:00 a.m. at Doreen Farr's office in Solvang.

**BUSINESS ITEMS**

15. **Ordinance No. 12-02 - “An Ordinance of the City Council of the City of Buellton, California, Approving a Specific Plan Amendment (12-SP-01) for the Village Specific Plan, Located on Assessor’s Parcel Number 137-090-045 and Making Findings in Support Thereof” (Second Reading)**

**RECOMMENDATION:**

That the City Council consider the adoption of Ordinance No. 12-02.

**STAFF REPORT:**

Planning Director Bierdzinski presented the staff report.

**DOCUMENTS:**

Staff Report with attachment (Ordinance No. 12-02, with Exhibit A)

**MOTION:**

Motion by Council Member Andrisek, seconded by Council Member Sierra approving and adopting Ordinance No. 12-02 – “An Ordinance of the City Council of the City of Buellton, California, Approving a Specific Plan Amendment (12-SP-01) for the Village Specific Plan, Located on Assessor’s Parcel Number 137-090-045 and Making Findings in Support Thereof” by title only and waive further reading.

**VOTE:**

Motion passed by a roll call vote of 5-0.

16. **Ordinance No. 12-03 - “An Ordinance of the City Council of the City of Buellton, California, Adding a Nuisance Noise Section to Chapter 8.04 of the Municipal Code” (Second Reading)**

**RECOMMENDATION:**

That the City Council consider the adoption of Ordinance No. 12-03.

**STAFF REPORT:**

Planning Director Bierdzinski presented the staff report.

**DOCUMENTS:**

Staff Report with attachment (Ordinance No. 12-03)

**MOTION:**

Motion by Council Member Sierra, seconded by Vice Mayor Connolly approving and adopting Ordinance No. 12-03 – “An Ordinance of the City Council of the City of Buellton, California, Adding a Nuisance Noise Section to Chapter 8.04 of the Municipal Code” by title only and waive further reading.

**VOTE:**

Motion passed by a roll call vote of 5-0.

**CITY MANAGER’S REPORT**

City Manager Kunkel announced that Mark Schleich, Executive Director of Santa Barbara County Waste Management, will make a presentation at the Council meeting of January 10 regarding the Conversion Technology Project.

**CLOSED SESSION ITEMS**

- 17. The City Council will conduct a Closed Session pursuant to California Government Code Section 54957 concerning the following:**

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION/CONTRACT REVIEW**

Title: City Manager

The City Council met in closed session to discuss the City Manager’s performance evaluation. There was no reportable action taken.

**ADJOURNMENT**

Mayor Dale adjourned the regular meeting at 8:37 p.m. The next regular meeting of the City Council will be held on Thursday, January 10, 2013 at 6:00 p.m.

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Judith Dale  
Mayor

ATTEST:

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Linda Reid  
City Clerk

BACK-UP/SUPPORT DATA IS AVAILABLE FOR COUNCIL REVIEW IN CITY HALL

The following is a list of claims to be ratified and approved for payment by the City Council at the **January 10, 2013** Council Meeting.

Listed below is a brief summary of the attached claims:

	EXHIBIT A		\$	<u>470,066.38</u>
	EXHIBIT B		\$	<u>60,292.61</u>
	PAYROLL	12/15/12	\$	41,675.17
	Council Pay	12/28/12	\$	2,311.28
	PAYROLL	12/31/12	\$	<u>40,144.99</u>
	<b>TOTAL AMOUNT OF CLAIMS:</b>		<b>\$</b>	<b><u><u>614,490.43</u></u></b>

	<u>FY 2011-12</u>	<u>FY 2012-13</u>
The total amount of claims and demands paid by the City for the Fiscal Year through January 2, 2013	\$ 4,553,557.71	\$ 6,087,956.34

**AUTHORIZATION IS HEREBY GIVEN TO THE CITY TREASURER TO PAY ALL CLAIMS AS REVENUES BECOME AVAILABLE.**

Check-Run	Seq#	Date	Vendor Name	Checking # Obls	Discount	Net amount	Status
27283-	544	1 12/13/2012	0 TREVOR OLSEN	1	.00	53.10	Logged
27284-	544	2 12/13/2012	0 MELISSA BEEBE	1	.00	58.47	Logged
27285-	544	3 12/13/2012	0 SANTA YNEZ STONE & TOPSOIL	1	.00	456.43	Logged
27286-	544	4 12/13/2012	27 AQUA BEN CORPORATION	1	.00	2,306.48	Logged
27287-	544	5 12/13/2012	28 ARAMARK UNIFORM SERVICES	1	.00	353.56	Logged
27288-	544	6 12/13/2012	32 ARROWHEAD	3	.00	76.11	Logged
27289-	544	7 12/13/2012	60 BUELLTON CHAMBER OF COMMERCE	1	.00	180.00	Logged
27290-	544	8 12/13/2012	75 CACEO	3	.00	225.00	Logged
27291-	544	9 12/13/2012	90 CaIPERS LONG-TERM CARE PROGRAM	1	.00	84.25	Logged
27292-	544	10 12/13/2012	91 CENTRAL COAST WATER AUTHORITY	1	.00	25,246.09	Logged
27293-	544	11 12/13/2012	101 CITY OF SOLVANG	1	.00	16,550.00	Logged
27294-	544	12 12/13/2012	105 CITY OF BUELLTON	1	.00	531.29	Logged
27295-	544	13 12/13/2012	118 COASTAL COPY, LP	1	.00	224.92	Logged
27296-	544	14 12/13/2012	122 COMCAST CABLE	1	.00	160.57	Logged
27297-	544	15 12/13/2012	142 DANIEL FITZGERALD dba	1	.00	960.00	Logged
27298-	544	16 12/13/2012	172 ECHO COMMUNICATIONS	1	.00	68.52	Logged
27299-	544	17 12/13/2012	176 EXCLUSIVE ALARMS	3	.00	324.00	Logged
27300-	544	18 12/13/2012	187 FARM SUPPLY COMPANY	1	.00	159.47	Logged
27301-	544	19 12/13/2012	189 FISHER PUMP & WELL SERVICE, IN	1	.00	730.00	Logged
27302-	544	20 12/13/2012	201 G E CAPITAL	1	.00	160.55	Logged
27303-	544	21 12/13/2012	206 GERALD G. PENN dba	1	.00	2,760.00	Logged
27304-	544	22 12/13/2012	268 KEVIN WOLFFALE	1	.00	100.00	Logged
27305-	544	23 12/13/2012	280 LEE CENTRAL COAST NEWSPAPERS	1	.00	523.00	Logged
27306-	544	24 12/13/2012	285 SANTA MARIA TIMES dba	1	.00	288.72	Logged
27307-	544	25 12/13/2012	286 LEAGUE OF CALIFORNIA CITIES	1	.00	2,929.00	Logged
27308-	544	26 12/13/2012	326 MNS ENGINEERS, INC.	11	.00	32,450.00	Logged
27309-	544	27 12/13/2012	342 NIELSEN BUILDING MATERIALS, INC	1	.00	171.45	Logged
27310-	544	28 12/13/2012	352 P G & E	1	.00	24,043.19	Logged
27311-	544	29 12/13/2012	372 PETTY CASH	1	.00	215.95	Logged
27312-	544	30 12/13/2012	379 POSTMASTER	1	.00	595.00	Logged
27313-	544	31 12/13/2012	380 PRAXAIR DISTRIBUTION, INC.	1	.00	122.56	Logged
27314-	544	32 12/13/2012	382 PROCARE JANITORIAL SUPPLY, INC	1	.00	433.48	Logged
27315-	544	33 12/13/2012	387 PURCHASE ADVANTAGE CARD	1	.00	160.06	Logged
27316-	544	34 12/13/2012	395 RAFAEL RUIZ CLEANING	3	.00	4,765.00	Logged
27317-	544	35 12/13/2012	413 SUSAN CAMPBELL dba	1	.00	836.14	Logged
27318-	544	36 12/13/2012	438 SANTA YNEZ VALLEY HARDWARE	1	.00	651.60	Logged
27319-	544	37 12/13/2012	441 SB CO - PUBLIC WORKS DEPT	1	.00	306.00	Logged
27320-	544	38 12/13/2012	444 ALFREDO J. BELLO dba	1	.00	70.04	Logged
27321-	544	39 12/13/2012	450 SB CO SHERIFF'S DEPARTMENT	1	.00	3,553.34	Logged
27322-	544	40 12/13/2012	454 SCOR CARDIAC CYCLISTS CLUB, IN	1	.00	1,342.74	Logged
27323-	544	41 12/13/2012	465 SP MAINTENANCE SERVICES, INC.	1	.00	2,821.00	Logged
27324-	544	42 12/13/2012	473 SPRINT SPECTRUM, L.P. dba	1	.00	33.79	Logged
27325-	544	43 12/13/2012	482 SWRCB	1	.00	130.00	Logged
27326-	544	44 12/13/2012	506 THE CREDIT BUREAU	1	.00	29.82	Logged
27327-	544	45 12/13/2012	507 THE GAS COMPANY	3	.00	298.50	Logged
27328-	544	46 12/13/2012	521 TODD PIPE & SUPPLY	1	.00	257.41	Logged
27329-	544	47 12/13/2012	529 TRANSFIRST	1	.00	403.34	Logged
27330-	544	48 12/13/2012	535 UNDERGROUND SERVICE ALERT	1	.00	16.50	Logged
27331-	544	49 12/13/2012	543 USA BLUEBOOK	1	.00	783.04	Logged
27332-	544	50 12/13/2012	545 KROS ANDRADE dba	1	.00	532.50	Logged
27333-	544	51 12/13/2012	555 VERIZON CALIFORNIA	1	.00	2,223.29	Logged
27334-	544	52 12/13/2012	570 WAYNE KREPS, JR. dba	1	.00	1,096.87	Logged
27335-	544	53 12/13/2012	631 SB CO CLERK/RECORDER/ASSESSOR	1	.00	223.07	Logged

Check-Run	Seq#	Date	Vendor Name	Checking	# Obls	Discount	Net amount	Status
27336-	544	54 12/13/2012	646 nfpACCOUNTING TECHNOLOGIES		1	.00	4,309.45	Logged
27337-	544	55 12/13/2012	655 COAST NETWORK, INC.		2	.00	1,338.00	Logged
27338-	544	56 12/13/2012	668 ONE STOP AUTO PARTS		1	.00	68.99	Logged
27339-	544	57 12/13/2012	677 WALLACE GROUP		1	.00	1,071.83	Logged
27340-	544	58 12/13/2012	679 COURIER SYSTEMS		1	.00	200.73	Logged
27341-	544	59 12/13/2012	681 STATEWIDE SAFEY & SIGNS, INC.		1	.00	163.80	Logged
27342-	544	60 12/13/2012	698 CALIFORNIA STATE DISBURSEMENT		1	.00	706.50	Logged
27343-	544	61 12/13/2012	718 AUTOSYS, INC.		1	.00	3,782.95	Logged
27344-	544	62 12/13/2012	720 MICHAEL E. HEAD dba		1	.00	139.79	Logged
27345-	544	63 12/13/2012	743 ASHBROOK SIMON-HARTLEY		1	.00	161.63	Logged
27346-	544	64 12/13/2012	744 GE CAPITAL INFO TECH SOLUTIONS		1	.00	498.89	Logged
27347-	544	65 12/13/2012	748 MEYERS,NAVE,RIBACK,SILVER & WI		1	.00	2,475.00	Logged
27348-	544	66 12/13/2012	759 JJACPA, INC.		1	.00	455.00	Logged
27349-	544	67 12/13/2012	767 ROCKWOOD GENERAL CONTRACTORS,		1	.00	27,071.88	Logged
27350-	544	68 12/13/2012	768 WEX BANK		1	.00	1,963.57	Logged
27351-	544	69 12/13/2012	777 UNITED STORM WATER, INC.		1	.00	4,105.00	Logged
27352-	544	70 12/13/2012	778 KELCOLE MANUFACTURING CORP. db		1	.00	463.00	Logged
27353-	544	71 12/13/2012	779 LASH CONSTRUCTION, INC.		1	.00	15,345.00	Logged
27354-	544	72 12/13/2012	780 JOHN EBRAHIMI dba		1	.00	544.14	Logged
27355-	544	73 12/13/2012	781 VALLEY CREST LANDSCAPE MAINT,		1	.00	7,395.00	Logged
27356-	544	74 12/13/2012	11343 MARIANNE MADSEN		1	.00	198.00	Logged
27357-	545	1 12/27/2012	0 FREDERICK CARNEY		1	.00	6.68	Logged
27358-	545	2 12/27/2012	5 ABALONE COAST ANALYTICAL, INC.		1	.00	465.00	Logged
27359-	545	3 12/27/2012	27 AQUA BEN CORPORATION		1	.00	1,241.28	Logged
27360-	545	4 12/27/2012	90 CaIPERS LONG-TERM CARE PROGRAM		1	.00	84.25	Logged
27361-	545	5 12/27/2012	107 CITY OF LOMPOC		1	.00	1,666.66	Logged
27362-	545	6 12/27/2012	113 CITY OF SOLVANG		1	.00	21,500.07	Logged
27363-	545	7 12/27/2012	119 CRAIG ADAMS		1	.00	50.00	Logged
27364-	545	8 12/27/2012	121 COC/BBA/VISITORS INFORMATION		1	.00	7,714.09	Logged
27365-	545	9 12/27/2012	127 CONTINENTAL UTILITY SOLUTIONS,		1	.00	1,799.00	Logged
27366-	545	10 12/27/2012	193 FIRST NATIONAL BANK OF OMAHA		7	.00	5,384.43	Logged
27367-	545	11 12/27/2012	199 FOSTER D. REIF		1	.00	50.00	Logged
27368-	545	12 12/27/2012	228 HOLLY SIERRA		1	.00	65.00	Logged
27369-	545	13 12/27/2012	242 JASON L. FUSSEL		1	.00	50.00	Logged
27370-	545	14 12/27/2012	258 JOHN P. SUREY dba		1	.00	1,613.82	Logged
27371-	545	15 12/27/2012	263 JOHN SANCHEZ		1	.00	117.44	Logged
27372-	545	16 12/27/2012	268 KEVIN WOLFCAL		1	.00	300.00	Logged
27373-	545	17 12/27/2012	285 SANTA MARIA TIMES dba		5	.00	687.32	Logged
27374-	545	18 12/27/2012	303 ART MERCADO		1	.00	50.00	Logged
27375-	545	19 12/27/2012	326 MNS ENGINEERS, INC.		8	.00	19,332.50	Logged
27376-	545	20 12/27/2012	380 PRAXAIR DISTRIBUTION, INC.		1	.00	123.85	Logged
27377-	545	21 12/27/2012	395 RAFAEL RUIZ CLEANING		3	.00	4,435.00	Logged
27378-	545	22 12/27/2012	398 RECINOS RICARDO dba		1	.00	181.70	Logged
27379-	545	23 12/27/2012	405 RINCON CONSULTANTS, INC.		1	.00	31,767.60	Logged
27380-	545	24 12/27/2012	429 SAFETY-KLEEN CORP.		1	.00	311.16	Logged
27381-	545	25 12/27/2012	430 SB CO ALCOHOL,DRUG, MH SVCS		1	.00	2,428.00	Logged
27382-	545	26 12/27/2012	450 SB CO SHERIFF'S DEPARTMENT		3	.00	139,346.65	Logged
27383-	545	27 12/27/2012	486 STEVE HARPER dba		1	.00	1,405.00	Logged
27384-	545	28 12/27/2012	543 USA BLUEBOOK		2	.00	323.34	Logged
27385-	545	29 12/27/2012	556 VERIZON WIRELESS		1	.00	257.60	Logged
27386-	545	30 12/27/2012	570 WAYNE KREPS, JR. dba		1	.00	21.53	Logged
27387-	545	31 12/27/2012	582 VINTAGE WALK, LLC OWNERS ASSOC		1	.00	104.00	Logged
27388-	545	32 12/27/2012	589 GERALD T. WITCHER		1	.00	50.00	Logged

Check-Run	Seq#	Date	Vendor Name	Checking	# Obls	Discount	Net amount	Status
27389-	545	33 12/27/2012	598 ENGEL & GRAY, INC.		1	.00	6,056.12	Logged
27390-	545	34 12/27/2012	669 HYDREX PEST CONTROL		1	.00	105.00	Logged
27391-	545	35 12/27/2012	698 CALIFORNIA STATE DISBURSEMENT		1	.00	706.50	Logged
27392-	545	36 12/27/2012	706 SATCOM GLOBAL, INC.		1	.00	42.44	Logged
27393-	545	37 12/27/2012	713 COASTAL COPY, LP		1	.00	483.80	Logged
27394-	545	38 12/27/2012	718 AUTOSYS, INC.		1	.00	293.00	Logged
27395-	545	39 12/27/2012	772 LNI CUSTOM MANUFACTURING		1	.00	2,326.19	Logged
27396-	545	40 12/27/2012	782 WAGE WORKS		1	.00	91.00	Logged
27397-	545	41 12/27/2012	11105 ADRIENNE WALTER		1	.00	72.00	Logged
27398-	545	42 12/27/2012	11142 CHRISTOPHE MILLNER		1	.00	336.00	Logged
27399-	545	43 12/27/2012	11144 COURTNEY R. BOWMAN		1	.00	70.00	Logged
27400-	545	44 12/27/2012	11170 DONELLE MARTIN		1	.00	450.00	Logged
27401-	545	45 12/27/2012	11236 GARY GENE JOHNSON dba		1	.00	131.25	Logged
27402-	545	46 12/27/2012	11244 HERMILA SANCHEZ		1	.00	297.50	Logged
27403-	545	47 12/27/2012	11292 JOSHUA A. GRANT		1	.00	227.50	Logged
27404-	545	48 12/27/2012	11300 KAREN PALMER		1	.00	38.50	Logged
27405-	545	49 12/27/2012	11321 LAURA COGAN		1	.00	60.00	Logged
27406-	545	50 12/27/2012	11342 MARIAH KORTE		1	.00	112.00	Logged
27407-	545	51 12/27/2012	11343 MARIANNE MADSEN		1	.00	270.00	Logged
27408-	545	52 12/27/2012	11476 STEPHEN F. DUNLAP		1	.00	231.00	Logged
27409-	545	53 12/27/2012	11525 VICTORIA L. BENNETT		1	.00	84.00	Logged
27410-	546	1 12/27/2012	0 FARM SUPPLY COMPANY		1	.00	8,116.25	Logged
						.00		
** Total check discount **						.00		
** Total check amount **						470,066.38		
						.00		

Payments via Electronic Fund Transfer (EFT):

Bank Svc Chg	11/30/12	210.00
Health Premium	12/4/12	13,687.22
Deferred Compensation Plan	12/4/12	12,259.67
Retirement Contribution	12/6/12	20,956.32
Aflac Sup Ins	12/6/12	559.12
Dec Life Ins Prem-Staff	12/6/12	484.65
FSA-Staff	12/17/12	712.33
Payroll Taxes	12/18/12	11,423.30

<b>Total</b>		<hr/>	<b>\$ 60,292.61</b>
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**FISCAL YEAR 2012-13 REVENUE AND EXPENDITURE RECAP**

**As of November 30, 2012  
41.7%  
of the year elapsed**

<u>GENERAL FUND</u>	<u>Budgeted</u>	<u>Year to Date</u>	<u>% of Budget YTD</u>
Total Revenues	\$4,296,365.00	\$1,601,646.83	37%
Total Expenditures	\$5,017,791.00	\$2,081,656.49	41%

<u>SPECIAL REVENUE FUNDS</u>	<u>Budgeted</u>	<u>Year to Date</u>	<u>% of Budget YTD</u>
Total Revenues	\$501,419.00	\$201,019.98	40%
Total Expenditures	\$1,164,304.00	\$2,073,032.82	178%

<u>WATER/SEWER</u>	<u>Budgeted</u>	<u>Year to Date</u>	<u>% of Budget YTD</u>
Total Revenues	\$2,051,250.00	\$965,780.96	47%
Total Expenditures	\$2,698,458.00	\$907,769.52	34%

The Revenue Status Report and Expenditure Status Report are available for your review.

**The Cash Balances as of January 2, 2013 are as follows:**

	Balance as of:	<u>FY 2011-12</u>	<u>FY 2012-13</u>
<b>Checking</b>			
Rabobank	1/2/13	70,516.66	366,081.29
<b>Total Checking</b>		<u>70,516.66</u>	<u>366,081.29</u>
<b>Savings/Investments</b>			
LAIIF-savings	11/30/12	12,817,361.98	11,164,648.42
Rabobank-money mkt	11/30/12	202,398.98	203,361.23
Morgan Stanley-bonds	11/30/12	125,000.00	377,688.13
Great Pacific-treasuries	11/30/12	0.00	503,055.00
First Empire-bonds	11/30/12	3,485,248.26	2,747,596.79
<b>Total Savings/Investments</b>		<u>16,630,009.22</u>	<u>14,996,349.57</u>
% of cash invested		22.83%	24.94%
<b>Total Cash</b>		<u><u>16,700,525.88</u></u>	<u><u>15,362,430.86</u></u>

Note: General Fund includes Storm Water, Parks and Rec and Landscape Maintenance

**CITY OF BUELLTON**  
City Council Agenda Staff Report

City Manager Review: JHK  
Council Agenda Item No.: 3

To: The Honorable Mayor and City Council

From: Ralph D. Hanson, City Attorney

Meeting Date: January 10, 2013

Subject: Ordinance 13-01 - “An Ordinance of the City Council of the City of Buellton, California, to Increase the Buellton Transient Occupancy Tax (TOT) Rate”

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**BACKGROUND**

At the November 2012 general election, the voters of the City of Buellton adopted Measure "D2012" to amend the Buellton Municipal Code to allow the City Council to increase the amount of the Transient Occupancy Tax (TOT) rate from ten percent (10%) to a maximum twelve percent (12%). More specifically, Measure "D2012" amended Section 3.28.030 of the Buellton Municipal Code as follows:

**“3.28.030 Rate.**

For the privilege of occupancy in any hotel, the City Council may, by ordinance, establish a tax rate at no greater than twelve percent (12%) of the rent actually charged or customarily charged by the operator for the rooms and/or facilities occupied by the transient. Each transient is subject to and shall pay the tax in the amount set by the City Council. This tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator of the hotel at the time the rent is paid. The unpaid tax is due upon the transient’s ceasing to occupy space in the hotel. If, for any reason, the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax be paid directly to the tax administrator.”

Attached for Council consideration is an ordinance to increase the TOT rate consistent with the voter approved authority of Measure "D2012". Please note, although the attached ordinance is drafted to provide a TOT rate of twelve percent (12%), the Council is free to choose any rate between ten percent (10%) to twelve percent (12%).

**FISCAL IMPACT**

Will likely increase the general fund revenues generated by collection of the TOT.

**RECOMMENDATION**

That the City Council conduct the public hearing and introduce for first reading Ordinance No. 13-01- “An Ordinance of the City Council of the City of Buellton, California, to Increase the Buellton Transient Occupancy Tax (TOT) Rate”

**ATTACHMENT**

Ordinance No. 13-01

**ORDINANCE NO. 13-01**

**AN ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF BUELLTON, CALIFORNIA, TO  
INCREASE THE BUELLTON TRANSIENT  
OCCUPANY TAX (TOT) RATE**

**THE CITY COUNCIL OF THE CITY OF BUELLTON DOES ORDAIN AS  
FOLLOWS:**

**SECTION 1:** The Ordinance involves the following:

A. Chapter 3.28 of the Buellton Municipal Code provides the provisions for the Buellton Transient Occupancy Tax (TOT), a charge for transient occupancy in hotels, motels, etc. (as defined in Section 3.28.020); and

B. Section 3.28.030 sets the TOT rate to be charged at ten percent (10%); and

C. At the November 2012 general election, the voters of the City of Buellton adopted Measure "D2012" to amend the Buellton Municipal Code to allow the City Council to increase the amount of the TOT rate from ten percent (10%) to a maximum twelve percent (12%). More specifically, Measure "D2012" amended Section 3.28.030 of the Buellton Municipal Code as follows:

**“3.28.030 Rate.**

For the privilege of occupancy in any hotel, the City Council may, by ordinance, establish a tax rate at no greater than twelve percent (12%) of the rent actually charged or customarily charged by the operator for the rooms and/or facilities occupied by the transient. Each transient is subject to and shall pay the tax in the amount set by the City Council. This tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator of the hotel at the time the rent is paid. The unpaid tax is due upon the transient’s ceasing to occupy space in the hotel. If, for any reason, the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax be paid directly to the tax administrator.”

D. It is the desire of the City Council to increase the TOT rate consistent with the authority approved by the voters in Measure "D2012" and

E. On January 10, 2013, prior to the adoption of this Ordinance, the City Council conducted and concluded a duly notice public hearing concerning the increase of the TOT rate; and

F. All legal prerequisites have occurred prior to the adoption of this Ordinance.

**SECTION 2:** All proceedings having been duly taken as required by law, and upon review of the information provided in the staff report, consideration of the testimony given at the public hearing, as well as other pertinent information, the City Council finds the following:

**A. Record.** Prior to rendering a decision on the Ordinance, the City Council considered the following:

1. All public testimony, both written and oral, received in conjunction with that certain Public Hearing conducted by the City Council on January 10, 2013 (“City Council Public Hearing”).
2. All oral, written and visual materials presented by City staff in conjunction with the City Council Public Hearing.

**B. Public Review.** On the basis of evidence hereinafter listed, all administrative procedures and public participation requirements have been lawfully satisfied:

1. A notice of public hearing was published in a newspaper of general circulation on December 27, 2012 (the “Public Notice”), in advance of the City Council Public Hearing conducted on January 10, 2013.
2. The Public Notice and Agenda for the City Council meeting of January 10, 2013, was posted in three conspicuous public places before the Public Hearing.

**SECTION 3:** The City Council hereby establishes the TOT rate at twelve percent (12%) for collection in accordance with the provision of Chapter 3.28 Buellton Municipal Code.

**SECTION 4:** This Ordinance shall become effective immediately following adoption pursuant to the authority of Section 36937 (d) as this ordinance relates to taxes for the usual and current expenses of the City of Buellton.

**SECTION 5:** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Buellton hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

**SECTION 6:** The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with California law.

**PASSED, APPROVED AND ADOPTED** this 24<sup>th</sup> day of January, 2013.

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Judith Dale  
Mayor

ATTEST:

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Linda Reid  
City Clerk

**CITY OF BUELLTON**  
City Council Agenda Staff Report

City Manager Review: JHK  
Council Agenda Item No.: 4

To: The Honorable Mayor and City Council

From: John Kunkel, City Manager

Meeting Date: January 10, 2013

Subject: Presentation by Mark Schleich, Santa Barbara County Public Works Deputy Director of Resource Recovery and Waste Management Regarding Conversion Technology Project

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**BACKGROUND**

The County along with several other Cities has been working on a joint project concerning the use of conversion technology at the Tajiguas Landfill site. Mark Schleich, Santa Barbara County Public Works Deputy Director of Resource Recovery and Waste Management will give an update on this project.

**FISCAL IMPACT**

None at this time.

**ATTACHMENTS**

Attachment 1 - Santa Barbara County Board of Supervisors Agenda Letters dated November 13, 2012 and December 4, 2012



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

Department Name: Public Works  
Department No.: 054  
For Agenda Of: November 13, 2012  
Placement: Administrative  
Estimated Tme:  
Continued Item: No  
If Yes, date from:  
Vote Required: Majority

**TO:** Board of Supervisors

**FROM:** Department Scott McGolpin, Director x 3010  
Director(s)  
Contact Info: Mark Schleich, Deputy Director x 3605

**SUBJECT:** Tajiguas Landfill Resource Recovery Project – Contracts for Preparation of a Subsequent Environmental Impact Report and Air Quality Technical Report First, Second and Third Supervisorial Districts

**County Counsel Concurrence**

As to form: Yes

**Other Concurrence:** Risk Management

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Recommended Actions:**

That the Board of Supervisors:

- A. Approve and execute a professional services contract with the consulting firm of Padre and Associates (a local vendor) for preparation of a Subsequent Environmental Impact Report (EIR) for the proposed Tajiguas Landfill Resource Recovery Project in the amount of \$193,178 (which includes a contingency amount of \$32,196) (Attachment 1).
- B. Approve and execute a professional services contract with the consulting firm of AECOM (a local vendor) for preparation of an Air Quality Technical Report and Biological Technical Report for the proposed Tajiguas Landfill Resource Recovery Project in the amount of \$237,000 (which includes a contingency amount of \$21,540) (Attachment 2).

**Summary Text:**

On January 17, 2012, your Board endorsed a recommended resource recovery project (Tajiguas Landfill Resource Recovery Project) to process waste currently buried at the Tajiguas Landfill and directed staff to initiate review of the project pursuant to the California Environmental Quality Act (CEQA). The project involves the construction and operation of a Materials Recovery Facility and an Anaerobic Digestion Facility at the Tajiguas Landfill to further recover recyclable material from the waste stream

and convert the material not recycled into beneficial products such as energy, fuels or other potentially marketable products.

The Resource Recovery & Waste Management Division (RRWMD) is requesting that the Board approve the proposed contract for the preparation of a Subsequent EIR for the Tajiguas Landfill Resource Recovery Project. A request for proposals was sent to six consulting firms, three firms responded (one unsolicited) and Padre and Associates was selected as the recommended Contractor. The proposed not-to-exceed cost is \$193,178<sup>1</sup> which includes a 20% contingency in the amount of \$32,196. The contingency would be used to fund unanticipated work that is beyond the original scope of the Subsequent EIR proposal and could be authorized by the RRWMD Deputy Director.

The Subsequent EIR will incorporate a number of technical studies that are being prepared under separate contracts. Contracts for these technical studies will be issued through purchase orders or through the Public Works Department's Master Services Agreement process. However, due to its higher value, included in this Board Letter is the approval of the proposed Air Quality and Biological Technical Reports with the consulting firm of AECOM in the amount of \$237,000 (which includes a 10% contingency of \$21,540). The contingency would be used to fund unanticipated work that is beyond the original scope of the technical study proposal and could be authorized by the RRWMD Deputy Director. Air Quality (including a health risk assessment and greenhouse gas emissions) is anticipated to be a key issue area in the Subsequent EIR and will require a significant amount technical modeling and analysis. Although not expected to be a key issue area, the Biological Technical Report would also be completed by AECOM and is included in the overall scope of work. AECOM prepared the biological analysis for the prior EIR on the Tajiguas Landfill and has significant knowledge regarding the biological resources present at the landfill.

The total anticipated consultant costs for the CEQA review process including the Subsequent EIR, Technical Studies, and project management is projected to be \$1.2 million to be funded through a surcharge assessed on the Tajiguas Landfill tipping fee.

### **Background:**

On January 17, 2012, your Board endorsed a recommended resource recovery project (Tajiguas Landfill Resource Recovery Project) to process waste currently buried at the Tajiguas Landfill and directed staff to initiate review of the project pursuant to the California Environmental Quality Act (CEQA). The project involves the construction and operation of a Materials Recovery Facility and an Anaerobic Digestion Facility at the Tajiguas Landfill to further recover recyclable material from the waste stream and convert the material not recycled into beneficial products such as energy, fuels or other potentially marketable products. A detailed account of the history of the project and the selection process was provided as an attachment for the January 17, 2012 Board hearing and can be found at \_\_\_\_\_.

Since January, staff has prepared and issued a CEQA Notice of Preparation (NOP) and NOP Scoping Paper, completed a public scoping meeting for the proposed CEQA Subsequent EIR and issued a Request for Proposals (RFP) for a Consultant to prepare the Subsequent EIR. The comment period on the NOP extended from April 19th, 2012 to May 18th, 2012 with the public scoping meeting held on

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<sup>1</sup> Subsequent to selecting Padre Associates based on the original RFP process, additional modifications to the scope of the Subsequent EIR analysis were identified by RRWMD and Padre's scope and cost proposal have been adjusted accordingly. C:\Users\linda.COB\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\NPHY38FD\SEIR Contract Board Agenda Letter.doc

May 14th. The NOP and NOP Scoping Paper are available for review at <http://conversiontechnologystudy.com/pages/environmental-documents.php>. The comment letters will be included in an appendix to the Draft Subsequent EIR.

The Subsequent EIR will include an analysis of the following issue areas: Aesthetics/Visual Resources, Air Quality/Greenhouse Gas Emissions, Biological Resources, Risk of Upset/Fire/Health and Safety, Geologic Processes, Noise, Land Use, Transportation/Circulation, Water Resources, Nuisances, and Growth Inducement. The Subsequent EIR will also address additional input/comments on the scope and content of the EIR received from the CEQA responsible and trustee agencies and public during the NOP comment period.

The State CEQA Guidelines require that an EIR include a statement of the objectives sought by the proposed project. The project objectives help guide the selection of project alternatives to be analyzed in the EIR and ultimately will assist in evaluating whether to adopt or reject project alternatives in lieu of the proposed project. The project objectives for the Resource Recovery Project are based on the Guiding Principles developed by the Multi-Jurisdictional Solid Waste Task Group and the goals set out for the project as contained in the RFP. During the NOP scoping period, the County received comments directed towards eliminating or modifying the objectives included in the NOP. The County has reviewed the comments and as a part of the Subsequent EIR is adjusting the objectives to respond to these comments.

Several comments received were related to the continued use of the Tajiguas Landfill for disposal of residue from the proposed Resource Recovery Project and the stated objective of extending the life of the Tajiguas Landfill. Waste from the south coast of Santa Barbara County, the cities of Santa Barbara, Goleta, Buellton and Solvang, as well as the Santa Ynez and Cuyama valleys is currently disposed of at the Tajiguas Landfill. In the original solicitation for waste conversion technologies and vendors (see <http://conversiontechnologystudy.com/media/documents/10-20-09%20FINAL%20RFP.pdf>) authorized by the Board of Supervisors on October 13, 2009, the county identified that residual waste would be disposed of in the Tajiguas Landfill. In 2002, the Board of Supervisors approved the expansion of the Tajiguas Landfill including adding \_\_\_ cubic yards of additional disposal capacity. At that time, it was estimated that the added cubic yards would be filled by the community's waste in 15 years. Due to the economic downturn and the correlated reduction in waste produced as well as the continued recycling efforts in the community, the landfill is currently expected to have sufficient capacity until 2026. The proposed project is not a replacement for the Tajiguas Landfill but a 20-year solid waste management plan that includes processing waste that is currently disposed to recover recyclable materials and converting the non-recycled material into beneficial products such as energy, fuels or other marketable products. Therefore, it is a reasonable and appropriate County objective to maximize and extend the landfill's useful life and to continue to use the landfill for disposal of any residue (non-recyclable waste) from the Resource Recovery Project.

As required under CEQA, and as requested by the Board of Supervisors at the meeting of January 17, 2012, the Subsequent EIR will include a robust analysis of project alternatives. CEQA requires that an EIR describe a range of reasonable alternatives to the project, including alternative project sites, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen the significant effects of the project. The goal of the EIR analysis would be to identify, and select the environmentally superior project alternative if that alternative is determined to be feasible.

As identified in the NOP, alternatives to be considered will include the no project/no action alternative (which would equate to not building the Resource Recovery Project facilities and continuing to dispose of waste in the Tajiguas Landfill until the permitted capacity is reached), use of alternative waste conversion technologies (including alternatives to the use of anaerobic digestion for organic waste), expansion of the Tajiguas Landfill, disposal at other permitted landfills (in- or out-of-county), and alternative locations for components of the project.

With respect to alternative sites for components of the project, several comments suggested the evaluation of sites for the MRF closer to the urban area. Additionally, MarBorg Industries proposed that their property in downtown Santa Barbara which currently houses their C&D Recycling and Transfer Facility be evaluated as an alternative site for the MRF. This site, and potentially other sites that may be identified as the CEQA process continues, will be included in the Subsequent EIR and evaluated at a level that will allow your Board to make an informed decision in selecting the environmentally and feasibly preferable site.

**Fiscal and Facilities Impacts:**

It is estimated that total costs to complete the environmental review of this project will be \$1.2 million. The City Managers for the cities of Goleta and Santa Barbara as well as the County Executive Officer for the County of Santa Barbara have recommended that the cost of the environmental review be funded through a surcharge at the Tajiguas Landfill to be paid by all ratepayers using the facility. The surcharge would start July 1, 2013 and be in effect until June 30, 2016. Based on the current tonnage of material buried at Tajiguas and the anticipated cost of the review, the surcharge will be approximately \$2.45 per ton. In year 3, the actual revenue from the surcharge and the costs associated with the review will be reconciled and the proposed surcharge will be adjusted accordingly.

**Fiscal Analysis:**

The cost of the attached contracts will be paid out of the Resource Recovery & Waste Management Division Enterprise Fund through a surcharge assessed on the Tajiguas Landfill tipping fee over a 3 year period of time starting July 1, 2013 – June 30, 2016.

**Special Instructions:**

Please send certified stamped copies of the minute order to Mark Schleich, Joddi Leipner, and Colleen Hankins in the Resource Recovery and Waste Management Division of the Public Works Department.

**Attachments:**

1. Agreement for Services of Independent Contractor – Padre and Associates
2. Agreement for Services of Independent Contractor - AECOM

**Authored by:**

Joddi Leipner, Public Works x3614

**cc:** Project File



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

Department Name: Public Works  
Department No.: 054  
For Agenda Of: December 4, 2012  
Placement: Departmental  
Estimated Tme: 20 minutes  
Continued Item: No  
If Yes, date from:  
Vote Required: Majority

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**TO:** Board of Supervisors  
**FROM:** Department Scott McGolpin, Public Works Department Director, ext 3010  
Director(s)  
Contact Info: Mark Schleich, Public Works Deputy Director, ext 3605  
**SUBJECT:** Approval of Tajiguas Resource Recovery Project Term Sheet  
First, Second and Third Districts

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**County Counsel Concurrence**

As to form: Yes

Other Concurrence: N/A

**Auditor-Controller Concurrence**

As to form: N/A

**Recommended Actions:**

That the Board of Supervisors:

- A) Approve the attached Tajiguas Resource Recovery Project Term Sheet on behalf of the County with Mustang Renewable Power Ventures

**Summary Text:**

The Public Works Department Resource Recovery & Waste Management Division, in collaboration with its partner cities of Buellton, Goleta, Santa Barbara and Solvang, has completed a four-year comprehensive procurement process to identify a project and technologies to process municipal solid waste currently being disposed at the Tajiguas Landfill. The Board of Supervisors endorsed the recommended project in January 2012 and directed staff to initiate CEQA and return with a non-binding Term Sheet between the County and Mustang Renewable Ventures (Mustang) to set the basic terms for a contract to be negotiated after the completion of the CEQA process. On November 13, 2012 staff returned to request your Board's approval of two contracts with consulting firms to prepare the environmental review of the recommended project and the item discussed in this Board Letter is the Term Sheet.

As part of the proposal review process, the vendor (Mustang) requested that each of the participating jurisdictions acknowledge the basic terms for a future contract with the preferred vendor and demonstrate their continued interest in the project through the approval of a Term Sheet. The attached Term Sheet largely reiterates the terms contained in the Request for Proposals (RFP) distributed by the

County in October 2009. In consideration of the recent court case related to CEQA, *Cedar Fair v City of Santa Clara*, 194 Ca.App.4<sup>th</sup> 1150, the Term Sheet is a non-binding statement of intent and does not preclude the possibility that the participating jurisdictions may take actions contrary to the parties' current stated intent (or proposed project) in order to comply with CEQA or other provisions of law.

Approval of the Term Sheet does not obligate the County in any way (financially or legally) and is more a demonstration of our continued interest in pursuing this project in a transparent way. Financial provisions of a future contract with the vendor will not be negotiated until the CEQA process is completed and the final project is determined.

**Background:**

The Public Works Department Resource Recovery & Waste Management Division, in collaboration with its partner cities of Buellton, Goleta, Santa Barbara and Solvang, has completed a four-year comprehensive procurement process to identify a project and technologies to process municipal solid waste currently being disposed at the Tajiguas Landfill. The proposed project will further recover recyclable materials to be sold, convert organics into beneficial products such as energy and soil amendments, and bury the residual. The project will enable the community to reduce the quantity of municipal solid waste to be landfilled by 50% potentially doubling the permitted life of the Tajiguas Landfill. The project will provide a 20-year cost-effective solution for our community's waste management needs. The facility will be privately financed and funded through tipping fees paid by users of the facility. Exhibit 1 of the Board Letter submitted for the January 17, 2012 Board hearing provides a detailed description of the procurement process involving extensive collaboration with regional partners, comprehensive public outreach, and the rigorous evaluation process to identify the best project to meet our community's needs. (link to Exhibit 1:<http://santabarbara.legistar.com/View.ashx?M=F&ID=1687916&GUID=57908CEF-ABBB-48E7-9248-298282F7263>)

Implementation of the project will provide a host of benefits to the region in addition to assisting the South Coast and Santa Ynez Valley in meeting many state mandates as described below:

- 1) Provides a 20-year waste management plan
- 2) Is a cost-effective solution (rates currently proposed are comparable to projected landfill costs)
- 3) Provides infrastructure to support existing and future waste management programs (material recovery facility for recyclables, anaerobic digester for organics)
- 4) Meets CalRecycle's 15-year disposal capacity requirement (if built by 2016 would have enough disposal capacity until 2036 at current disposal rates)
- 5) Increases the region's diversion rate from 73% to 80%+ without any changes to current programs (meets AB 341 goal of 75% in 2020)
- 6) Ability to eliminate greenhouse gas equivalent to 22,000 vehicles/year (AB 32: greenhouse gas reductions by 2020)
- 7) Ability to generate 1 megawatt of renewable energy and eligible for renewable energy credits (SBX1 2: 30% of state's power to come from renewable energy sources)

In January 2012, the Board endorsed the recommended project proposed by Mustang Renewable Power Ventures (Mustang) and directed staff to initiate review of the project pursuant to the California Environmental Quality Act (CEQA). A description of the process undertaken by staff to initiate the CEQA process and the scope of the CEQA analysis is described in the Board Letter submitted for the

Board's November 13, 2012 hearing regarding the approval of contracts with two consulting firms to prepare the environmental analysis. Link:  
<http://santabarbara.legistar.com/View.ashx?M=F&ID=2193447&GUID=A2FF709F-F746-4930-8812-C213F0762038>.

As part of the proposal review process, the vendor (Mustang) requested that each of the participating jurisdictions acknowledge the business terms for a future contract with the preferred vendor and demonstrate their continued interest in the project through the approval of a Term Sheet. The attached Term Sheet largely reiterates the terms contained in the Request for Proposals (RFP) distributed by the County in October 2009. In consideration of the recent court case related to CEQA, *Cedar Fair v City of Santa Clara*, 194 Ca.App.4<sup>th</sup> 1150, the Term Sheet is a non-binding statement of intent and does not preclude the possibility that the participating jurisdictions may take actions contrary to the current stated intent (or proposed project) of the parties in order to comply with CEQA or other provisions of law. Approval of the Term Sheet does not obligate the County in any way (financially or legally) and is more a demonstration of our continued interest in pursuing this project in a transparent way. Financial provisions of a future contract with the vendor will be negotiated once CEQA is completed and the final project is determined.

Revisions contained in the Term Sheet that are not contained in the RFP are the Exclusive Right to Negotiate provisions. During the Notice of Preparation process to initiate CEQA on this project, the County received several comments suggesting the analysis of a site in the urban area for a part of the project, the material recovery facility (MRF). Additionally, MarBorg Industries submitted a comment requesting that their site located in the City of Santa Barbara also be reviewed as an alternative for the MRF. Staff has included the MarBorg site in its list of alternatives and made a revision to the Exclusive Right to Negotiate provision in the Term Sheet that allows the County and the other participating public entities to negotiate directly with MarBorg if their property is selected as the preferred site for the MRF component of the project.

Each of the participating public entities will be asked to individually approve the Term Sheet. Once your Board and City Councils' of Goleta and Santa Barbara's approve the Term Sheet, the Exclusive Right to Negotiate provision will become effective and will continue for a period of 48 months. However, the 48 month period will be tolled for an additional 18 months in the event CEQA litigation is initiated by a third party. In addition, if any component of the project is sited on non-County owned property, the private property owner and the participating public entities will have 12 months to negotiate a contract to acquire use of such property after the Final EIR is certified by the Board of Supervisors.

Over the next 18 months, staff will complete the following:

- Preparation and certification of the Environmental Impact Report
- Identification and preparation of a legal structure for the different participating jurisdictions and the vendor such as a Joint Powers Authority or Joint Powers Agreement
- Review of financial information to be provided by MarBorg Industries for the MRF component of the project, if their site is selected as a result of the environmental review

**Performance Measure:**

The ultimate project certified by the Board of Supervisors will, to the extent feasible, meet the objectives set out in the project's RFP as well as the project's Project Description which includes a tipping fee of no more than \$100 per ton, the assumed cost to use other solid waste management facilities in the future (including transportation costs).

**Fiscal and Facilities Impacts:**

Budgeted: N/A

**Fiscal Analysis:**

Narrative: The approval of the Term Sheet will not create any costs to the County. The CEQA analysis of the proposed project will be funded through a surcharge on the tipping fee charged at the Tajiguas Landfill of \$2.45 per ton (or equivalent to \$.20 per customer per month) over a three-year period, effective FY 13/14 as indicated in the Board Letter submitted for the November 13, 2012 hearing to award two contracts to prepare the environmental review of the project.

**Staffing Impacts:** None

**Special Instructions:**

Please send a copy of the minute order and a copy of the signed Term Sheet to Leslie Wells, Resource Recovery & Waste Management Division.

**Attachments:**

Tajiguas Resource Recovery Project Term Sheet

**Authored by:** Leslie Wells, Program Leader, Resource Recovery & Waste Management Div. ext. 3611

**CITY OF BUELLTON**  
City Council Agenda Staff Report

City Manager Review: JHK  
Council Agenda Item No.: 5

To: The Honorable Mayor and City Council

From: John Kunkel, City Manager

Meeting Date: January 10, 2013

Subject: Request for City Support of 2013 Avenue of Flags (AOF) Criterium

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**BACKGROUND**

Last year the City Council authorized funds, and staff for the initial AOF Criterium. The Santa Ynez Valley Cycling Club (SYVCC) is planning this year's Criterium, which is scheduled for June 29<sup>th</sup>. Last year's event went well from a staff planning stand point. The SYVCC is seeking basically the same support as last year.

**FISCAL IMPACT**

To be determined by Council action. (last year's support was \$5,000.00 cash, security and public works crew. That cost would equal another \$5,000.00 in hard cost to the City equaling a total commitment of \$10,000.00).

**RECOMMENDATION**

Staff would recommend that the Council support the request not to exceed last year's amount and further direct that any future consideration from SYVCC for future events be requested in that year's budget. (Request funds for 2014 event in March 2013, during Council's budget sessions).

**CITY OF BUELLTON**  
City Council Agenda Staff Report

City Manager Review: JHK  
Council Agenda Item No.: 6

To: The Honorable Mayor and City Council

From: Kyle Abello, Recreation Coordinator

Meeting date: January 10, 2013

Subject: Consideration of Botanic Garden Slope Renovation Proposal and Approval of Amendment No. 2 to Agreement with Santa Ynez Valley Botanic Garden Foundation

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**BACKGROUND**

The Santa Ynez Valley Botanic Garden Foundation, Inc. requests that the City Council consider a proposal to renovate the planting and irrigation on the south-facing slope below Riverview Drive/Meadow View Drive, directly adjacent to the Santa Ynez Valley Botanic Garden at River View Park. The attached plan shows the area of the proposed slope renovation.

The attached letter details the slope renovation proposal which continues in the spirit of the on-going cooperation between the Foundation and the City that has made the Botanic Garden a model of private-public partnerships. In short, the Foundation proposes to contribute the plant material necessary for replanting the entire slope area as well as the valves and drip line portions of the irrigation system (app. \$4,500 value) and requests \$5,500 from the City for repair of the irrigation system and installation of the plant material on the steep slope; after installation, the Foundation will assume responsibility for the slope area, thereby reducing the on-going landscape maintenance burden of the City. In addition, the letter includes a proposed Addendum to the existing Botanic Garden M.O.U. that would memorialize the change in Foundation and City responsibilities should the Council approve the slope renovation proposal.

The Parks and Recreation Commission recommended approval of the proposal by unanimous vote at its October 22, 2012 meeting.

Staff recommends that the Council consider the slope renovation proposal and Addendum to the MOU and direct staff as appropriate.

**FISCAL IMPACT**

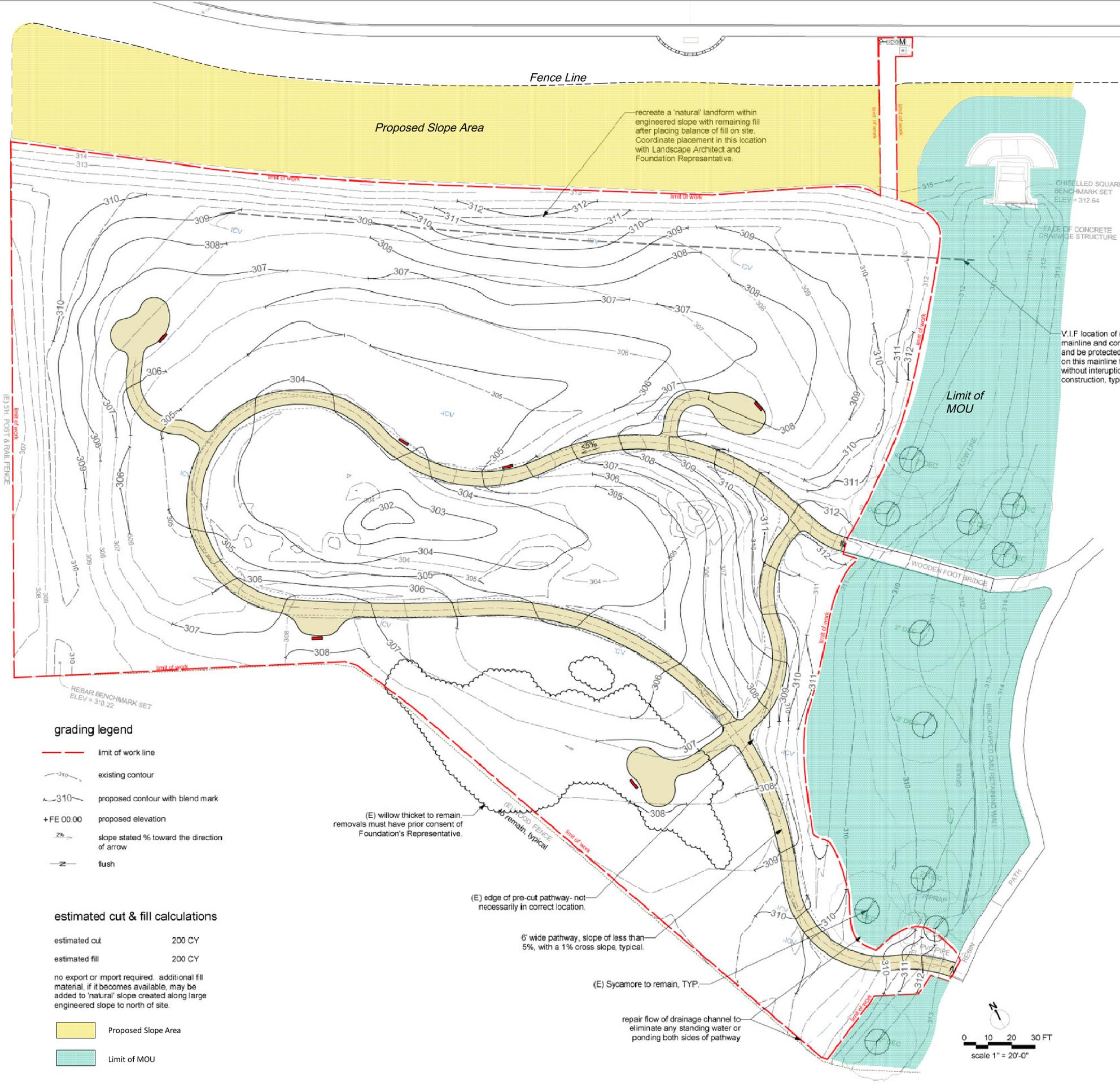
The fiscal impact of this item, if the request is approved, would be \$5,500 from the Parks Fund.

**RECOMMENDATION**

That the City Council consider a proposal by the SYV Botanic Garden Foundation for the renovation of a portion of the slope at the northwestern edge of River View Park and consider approval of an Addendum to the existing Botanic Garden MOU and direct staff as appropriate.

**ATTACHMENTS**

- Attachment 1 - Map of Proposed Slope Area
- Attachment 2 - Slope Renovation Proposal letter - SYV Botanic Garden Foundation
- Attachment 3 - Existing Botanic Garden MOU
- Attachment 4 – Amendment No. 2 to Agreement with SYV Botanic Garden Foundation



- grading legend**
- limit of work line
  - existing contour
  - 310 proposed contour with blend mark
  - +FE 00.00 proposed elevation
  - slope stated % toward the direction of arrow
  - flush

- estimated cut & fill calculations**
- |                |        |
|----------------|--------|
| estimated cut  | 200 CY |
| estimated fill | 200 CY |
- no export or import required. additional fill material, if it becomes available, may be added to 'natural' slope created along large engineered slope to north of site.
- Proposed Slope Area
  - Limit of MOU

**general notes**

- Due to unforeseen circumstances that occur as projects undergo construction, site conditions will change. Therefore, if a proposed built element, grade change, or irrigation element seems problematic and it is evident that it is not realistic due to new site conditions, inform the City's Representative, the SYV Botanic Garden Foundation Representative, and Landscape Architect to resolve this issue **prior** to construction.
- No work shall be done on adjacent properties or access to site through adjacent properties without obtaining written permission from the Owner(s) of the adjacent properties, and submitting a copy thereof to the City.
- Base and survey information was provided to BCLA, Inc. by MNS Engineers. BCLA, Inc. holds no obligation to verify and/or adjust base information. Contractor shall confirm all field dimensions and conditions prior to the start of work. Any discrepancies with plans shall be reported to the City's Representative, the SYV Botanic Garden Foundation, and Landscape Architect.
- Contractor shall make modifications to material or method of installation as required by local code and/or conditions of approval, and shall notify the City's Representative, the SYV Botanic Garden Foundation Representative, and Landscape Architect of such changes.

**grading notes**

- Perform all finish grading as indicated on plans. Follow City of Buellton Grading Ordinance(s) and comply with 2003 Green Book Section 300 Earthwork specifications.
- Verify location of existing underground utilities prior to execution of work. Repair any damage to existing utilities, pipes or related facilities at contractor's expense and in a manner approved by Landscape Architect.
- Protective berms along the western property line and the western bank of the seasonal watercourse are to remain as existing. No work will occur past the top of berm, except as noted for the pathway connection on the southeast side of the site.
- Establish all elevations and dimensions, with a tolerance for finish grade of one tenth of a foot in ten feet, measured with a twenty foot straight edge. Provide all survey work necessary for proper execution of plan.
- Fill slopes to undulat, mimicing 'natural' landform. No fill slopes to exceed 5:1, typical.
- Earthwork quantities stated are provided as estimate only. Contractor shall apply for all permits required for earthwork operations through the City.
- Initial Meeting: Prior to finish grading work, contact the City at least 48 hours prior and contact the following principals: City representative, Landscape Architect, and Santa Ynez Valley Botanic Garden Foundation representative, for pre-grading meeting.
- The project site shall be maintained in a "wet down" condition to the degree necessary to prevent excessive dust.
- Work, once begun, shall be prosecuted to completion without delay so as to provide minimum inconvenience to adjacent property owners and the public.
- Construction site shall be maintained in such condition that an anticipated storm does not carry wastes or pollutants off the site.
- Discharges of material other than storm water are allowed only when necessary for performance and completion of construction practices and where they do not cause or contribute to a violation of any water quality standard; cause or threaten to cause pollution, contamination or nuisance; or contain a hazardous substance in a quantity reportable under federal regulations of 40 CF parts 117 and 302.
- Potential pollutants include but are not limited to: solid or liquid chemical spills; water from paints, stains, sealants, glues, limes, pesticides, herbicides, wood preservative and solvents; asbestos fibers, radiator or battery fluid, fertilizers, vehicle equipment, wash water or concrete wash water, concrete, detergent or floatable wastes; waste from any engine/equipment steam cleaning or chemical degreasing; and super chlorinated potable water line flushing.

- During construction, disposal of such material should occur in a specified and controlled temporary area on-site, physically separate from potential storm water run off, with ultimate disposal in accordance with local, state and federal requirements.
- Dewatering of contaminated groundwater, or discharging contaminated soils via surface erosion is prohibited. Dewatering of non-contaminated groundwater requires a National Pollutant Discharge Elimination System Permit from the respective state regional water quality board.
- Pathway paving installation shall meet ADA requirements for accessibility. All paths to have a 1% cross slope, typical. All paths to have less than 5% slope.
- Protect existing trees and vegetated slope to roadway. Existing willows to remain and be protected in place except where removal is required to perform construction. **Prior to any removals**, the SYVBG foundation's representative will tag willows to be removed. The Foundation will receive a minimum of 48 hours advance notice prior to tagging activity.
- Salvage all irrigation valves not retained in place for reuse on site. PVC pipe to be removed shall be recycled or salvaged.

Project No. **07-07**

**bcla**  
Incorporated  
landscape architect - planning

bethany clough,  
landscape architect  
po box 76  
13 shadow mountain dr.  
buellton, ca 93427

ph/fax: 805.693.8934  
m: 805.693.8910  
BC\_LA@comcast.net  
CLW 4360

**Revisions:**

#	NAME	DATE



# Botanic Garden at River View Park

Buellton CA 93427

**Submittal Date:**  
August 25, 2008

**Drawn By:**  
# NAME DATE  
B. Clough 07Nov27

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**Title:**  
**Bid Set  
Site Work & Finish  
Grading Plan**

**Sheet Number:**  
**L1.1**

If this sheet is not 24x36, then this is a reduced or enlarged print and may not be to scale.



## **SLOPE RENOVATION PROPOSAL**

October 19, 2012

Prepared by: Santa Ynez Valley Botanic Garden Foundation

For: City of Buellton, Parks and Recreation Program and the  
Public  
Works Department

### **Introduction**

This is a proposal to renovate the planting and irrigation on the south-facing slope below Riverview Drive/Meadow View Drive, directly adjacent to the Santa Ynez Valley Botanic Garden ("the slope"). (This area is described on attached plan). The Garden (located on property owned by the City of Buellton) is maintained by the Santa Ynez Valley Botanic Garden Foundation, a 501(c)(3) non-profit public charity.

The original planting and irrigation on the slope was designed and installed as part of the River View Park development. The irrigation system is part of the park system, NOT a part of the Botanic Garden irrigation system. Over the course of the last few years, the irrigation system has failed and a large number of plants have been lost. Apparently during this time period, there was some miscommunication and this area was not included in the scope of work for landscape maintenance for the park, leading to its current state of disrepair.

This slope, as it stands today, is a visual eyesore for the Garden and the Park. It offers much potential for further enhancement of the Garden grounds. Members of the Foundation inventoried the lost material, utilizing the original landscape plan, and believe the following plant material has been lost and not replaced: 138 - 1 gallon plants, 36 - 5 gallon plants, 3 - 15 gallon plants. Also, only approximately 20% of the original grass planting remains.

In the spirit of on-going cooperation between the Garden and the City of Buellton, we propose the following approach as a means to renovate and maintain this area:

1). The Santa Ynez Valley Botanic Garden Foundation will provide a new landscape design for all affected slope areas. The design will incorporate the plants of the coastal chaparral plant communities; this design direction is based on the results of a Foundation design workshop and the recommendations of horticulturalist Carol Bornstein.

Slope Renovation Proposal  
October 19, 2012

--Page 2--

2). The Santa Ynez Valley Botanic Garden Foundation will contribute all plant material necessary for replanting entire slope area adjacent to garden site as well as the valves and drip line portions of the irrigation system..

This is an in-kind contribution with a value of approximately \$4,500.00 [Replacement value of the lost original material and irrigation equipment].

3). The City will provide funding for remaining materials needed for repair of the irrigation system, repair of the irrigation system by a licensed landscape professional, and the installation of plant material. Based on cost estimates provided by Arcadia Studio and local professionals, this work can be done for approximately \$5,500.00.

4). The irrigation system will be retrofitted so it will be controlled and maintained as part of the Garden irrigation system.

5). The Garden will assume responsibility for maintenance of the slope area once installation and a 90-day maintenance period [by installer] have been completed. (This area is described on attached plan). As this area should be within the scope of park maintenance, removing it and allowing the Garden to maintain it will be an on-going cost savings for the city.

We believe this is the soundest approach to rectify this problem. We have used many community volunteers from ages five to eighty five to plant and maintain the Garden. However, due to the extreme steepness of the slope it is simply not safe for volunteers to plant material on the slope.

Also, it will be far more efficient to correct the irrigation problems during planting.

Therefore, we are requesting funding (\$5,500.00) for this project from the City in order for the project to proceed in the spring of 2013.

Respectfully submitted,

**Puck Erickson-Lohnas**

President of the SYVBGF, Inc., a 501(c)(3) non-profit public charity

P.O. Box 1623

Buellton, California 93427

## **Addendum to Memo of Understanding**

October 15, 2012

This MOU will serve to clarify the following landscape maintenance items between the City of Buellton and the Santa Ynez Valley Botanic Garden Foundation:

1). The City will continue to maintain the area of the River View Park western storm channel and head wall. This will include the channel itself, the eastern bank of the channel and an area ten feet (10') from the headwall structure and/or within the fencing adjacent to the headwall.

City staff will mow this area on an annual basis in late fall prior to the onset of the rainy season. It will not be mowed during the spring and summer following the end of the rainy season.

City staff will also clear the area of standing water at the base of the headwall on a monthly basis to remove unsightly and unhealthy debris that accumulates at the outfall.

2). Following renovation of south facing slope adjacent to the Santa Ynez Valley Botanic Garden, the Santa Ynez Valley Botanic Garden Foundation will assume maintenance of the slope area. The scope of this maintenance will include irrigation and on-going plant maintenance.

3). To ensure that effective communication is maintained between the Garden Foundation and the City, the Foundation proposes to engage in quarterly walkthroughs with Park maintenance staff and/or the Public Works department. Reports from these walkthroughs will be prepared and submitted by the Foundation.

**AGREEMENT**

**Santa Ynez Valley Botanic Garden Foundation, Inc.**  
**and**  
**City of Buellton**

**A Private/Public Partnership for the Development of the Santa Ynez Valley Botanic Garden at River View Park**

This **AGREEMENT** ("Agreement") is made and entered into effective as of the 20<sup>th</sup> day of November, 2006, by and between the CITY OF BUELLTON, a California municipal corporation ("City"), and SANTA YNEZ VALLEY BOTANIC GARDEN FOUNDATION, INC. ("Foundation"), a non-profit corporation duly organized and operated under the laws of the State of California.

**1. RECITALS:**

A. The City owns River View Park ("Park") generally located at 151 Sycamore Drive, Buellton, California.

B. Foundation is organized by citizens with an interest in developing, operating, and maintaining a botanic garden described in Exhibit "A" attached hereto and incorporated herein by this reference. The proposed Botanic Garden is located in that area of the Park described in Exhibit "B" attached hereto and incorporated herein by this reference. Foundation and the City contemplate that the City would bear the basic responsibility and cost for the infrastructure and preparation of the Botanic Garden site, described in Exhibit "C" attached hereto and incorporated herein by this reference, and that Foundation would provide funds or in-kind contributions for the development and maintenance of the Botanic Garden.

C. Foundation and the City recognize that the general purpose of the Botanic Garden, as more specifically set forth below, is to enhance public benefit, use and the utilization of the Park.

**2. AGREEMENT**

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions contained herein, the City and Foundation agree as follows:

a. Purpose of Agreement

The purpose of this Agreement is to provide the terms and conditions to enable the City and Foundation to work together to provide a Botanic Garden to be located in the Park as shown in Exhibit "B."

It is the further purpose of this Agreement to set forth the responsibilities of the parties as to the financing, construction, maintenance and use of the Botanic Garden.

**3. CITY RESPONSIBILITIES**

a. The City shall provide a site within the Park for the Botanic Garden of approximately 71,000 square feet as located and set forth in Exhibit "B". The City shall pay for the development of the site as reasonably necessary to fulfill the purposes of this Agreement. In no event shall the City's financial obligations to prepare the Botanic Garden site exceed \$171,000.

b. The City shall prepare a Botanic Garden site (approximately 71,000 square feet) by performing requisite grading, installing the irrigation system, and construction of walking paths, the costs of which are shown in Exhibit "C."

c. The City's Recreation Coordinator will serve as the City liaison to the Foundation.

d. The City will continue to provide water to the site at no cost to Foundation.

**4. FOUNDATION RESPONSIBILITIES**

a. Foundation shall have the following responsibilities under this Agreement:

General Maintenance:

(1) Foundation will be responsible for the maintenance of the garden.

(2) Maintenance tasks include maintaining all plant materials (including trees) maintaining compost piles, maintaining the irrigation system, weed abatement, and pest management.

(3) Foundation may occasionally hire landscape professionals to assist with maintenance activities if the work is beyond the scope of volunteers. Said landscape professionals shall be required to provide insurance which complies with the provisions of this Agreement, name the City as additionally insured on said policy, and execute an indemnification and release of the City.

(4) Foundation will be responsible for litter abatement, cleaning of walkways, and reporting graffiti and vandalism to the Public Works Department of the City within 24 hours.

(5) The cost of all maintenance shall be borne by Foundation.

(6) The City will communicate in writing any concerns regarding the garden maintenance to the Foundation President. Foundation will address these concerns within fifteen working days unless emergency in nature, requiring immediate action.

#### Vandalism Repairs and Financial Responsibility

(1) Foundation will repair minor vandalism. Major site damage will be discussed with the Public Works Director prior to any repair. The City's financial responsibility will be limited to fences and utility service lines.

#### Operation of the Santa Ynez Valley Botanic Garden at River View Park

(1) The botanic garden maintained by Foundation shall be open to the public. Hours of operation of the botanic garden shall be the same as the general Park hours. Any change in hours shall require the consent of the City.

(2) Special events may be held at the Santa Ynez Valley Botanic Garden at the Park subject to the approval of the City's Recreation Coordinator or his or her designee who may impose conditions on the conduct of any such event.

(3) Foundation may construct such improvements as walkways and planters on the property at its own expense with the prior approval of the City Manager or his or her designee. Said improvements shall be considered the property of Foundation during the term of this Agreement and Foundation shall be responsible for maintenance and repair thereof.

(4) On termination of this Agreement, Foundation shall have the right to remove any improvements in a manner reasonably acceptable to the City Manager or his or her designee. Any improvements not removed by Foundation within three months time shall become the property of the City.

### **5. The Botanic Garden**

a. The Botanic Garden is subject to City established Park use requirements and shall be available to the general public and operated under the general terms and conditions regarding the Park.

b. Foundation shall submit written plans for the development, maintenance and use of the Botanic Garden to the City Council for approval.

### **6. Term**

This Agreement shall have a term of three (3) years commencing on the effective date first set forth in this Agreement; the Agreement may be renewed for additional three year terms by mutual agreement of the parties. Either party

may terminate this Agreement at any time, without cause, upon fifteen (15) days written notice to the other.

## **7. Default**

If either Party is in default in the performance of any of the terms and conditions of this Agreement, the non-defaulting Party shall cause to be served upon the defaulting Party a written notice of the default. The defaulting Party shall have thirty (30) days after service upon it of said notice in which to cure the default by rendering satisfactory performance. In the event that the defaulting Party fails to cure its default within such period of time, the non-defaulting Party shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy which it may be entitled at law, in equity or under this Agreement.

In effect, if such default by a Party arises out of causes beyond the Party's control, and without fault or negligence of the Party, it shall not be considered a default.

## **8. Indemnification and Insurance**

a. The City agrees to and does hereby indemnify, hold harmless and defend Foundation, its governing board, its officers, agents and employees from every claim or demand or expense of any nature whatsoever, including but not limited to injury to or death of person(s) or damage to any property which arises as a result of the negligence or willful misconduct of the City, its officers, agents or employees in the performance of this Agreement.

b. Foundation agrees to and does hereby indemnify, hold harmless and defend the City, its City Council members, its officers, agents, and employees from every claim or demand or expense of any nature whatsoever, including but not limited to injury to or death of person(s) or damage to any property which arises as a result of the negligence or willful misconduct of the Foundation, its officers, agents or employees in the performance of this Agreement.

c. The City and Foundation each agree to maintain comprehensive general liability insurance either through an insurance carrier licensed to do business in the State of California or through a joint powers insurance authority with the amount of said insurance required to be at least one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate. The City and Foundation each agree to provide thirty (30) days written notice to the other party if it proposes any substitution, change, or other modification of the aforementioned insurance coverage.

d. The City and Foundation agree that it is their intent that any insurance proceeds received be used to the extent possible to replace and or restore the damaged property.

**9. Notices**

Any notices to be given hereunder by either party shall be in writing and may be effected either by personal delivery or by mail. Mailed notices shall be sent to the address of the parties to be notified which appears below, but each party may change its address by written notice given in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated and received as of ten (10) calendar days following the date of mailing of the notice.

CITY OF BUELLTON

City of Buellton  
Attn: City Manager  
107 W. Highway 246  
P.O. Box 1819  
Buellton, CA 93427

SANTA YNEZ VALLEY  
BOTANIC GARDEN  
FOUNDATION, INC

SYV Botanic Garden Foundation  
Attn: President  
P.O. Box 914  
Los Olivos, CA 93441

**10. Entire Agreement**

This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the subject matter of this Agreement, and contains all of the covenants.

**11. Governing Law**

This Agreement will be governed by and construed in accordance with the laws of the State of California. Any legal action in which enforcement of the terms and conditions of this Agreement is requested, or in which it is alleged that a breach of the Agreement has taken place, shall be filed and prosecuted in the County of Santa Barbara, California.

**12. Breach of Agreement**

If either party defaults in the performance of any of the terms or conditions of this Agreement, it shall have thirty (30) days after service upon it of written notice of such default in which to cure the default by rendering a satisfactory performance. In the event that the defaulting party fails to cure its default within

such period of time, the non-defaulting party shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity, or under this Agreement. This failure of a party to object to any default in the performance of the terms and conditions of this Agreement shall not constitute a waiver of either that term or condition or any other term or condition of this Agreement.

**13. Binding Arbitration**

The parties agree to submit any disputes arising out of this Agreement to a mutually agreeable mediator. Should this process fail to resolve the dispute, the parties agree to submit the matter to binding arbitration, in accordance with the commercial arbitration rules of the American Arbitration Association.

**14. Attorney Fees**

If any legal proceeding, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorney's fees, which shall be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which that party may be entitled.

**15. Severability**

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

**16. Successors and Assigns**

- a. Neither party may assign its interest in this Agreement without the express written consent of the other party.
- b. The terms and conditions of this Agreement shall be binding on the successors and assigns of the parties to this Agreement.

**17. Employees**

a. For purposes of this Agreement, all persons employed in the performance of services and functions for the City shall be deemed City employees and no City employee shall be considered as an employee of the Foundation under the jurisdiction of Foundation, nor shall such City employees have any Foundation pension, civil service, or other status while an employee of the City.

b. For purposes of this Agreement, all persons employed in the performance of services and functions for Foundation shall be deemed Foundation employees and no Foundation employee shall be considered as an employee of the City under jurisdiction of the City, nor shall such Foundation employees have any City pension, civil service, or other status while an employee of Foundation.

**18. Botanic Garden Program Costs**

Except as otherwise provided, neither party shall be responsible to the other party for the cost of its obligations under this Agreement.

**19. Applicable Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of California and to the extent that there is any conflict between this Agreement and the laws of the State of California, the laws of the State of California shall prevail.

IN WITNESS WHEREOF, Foundation and the City have executed this Agreement as of the date first above written.

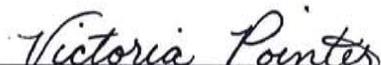
SANTA YNEZ VALLEY BOTANIC  
GARDEN FOUNDATION, INC.

By:   
Puck Erickson Lohnas  
President

ATTEST:

  
Christine Beebe, Secretary to the Board  
Beebe

CITY OF BUELLTON

By:   
Victoria Pointer  
Mayor

ATTEST:

  
\_\_\_\_\_  
Steven L. Thompson  
City Clerk

APPROVED AS TO FORM BY THE CITY  
ATTORNEY FOR THE CITY OF BUELLTON

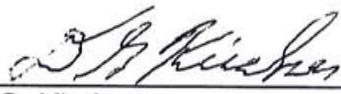
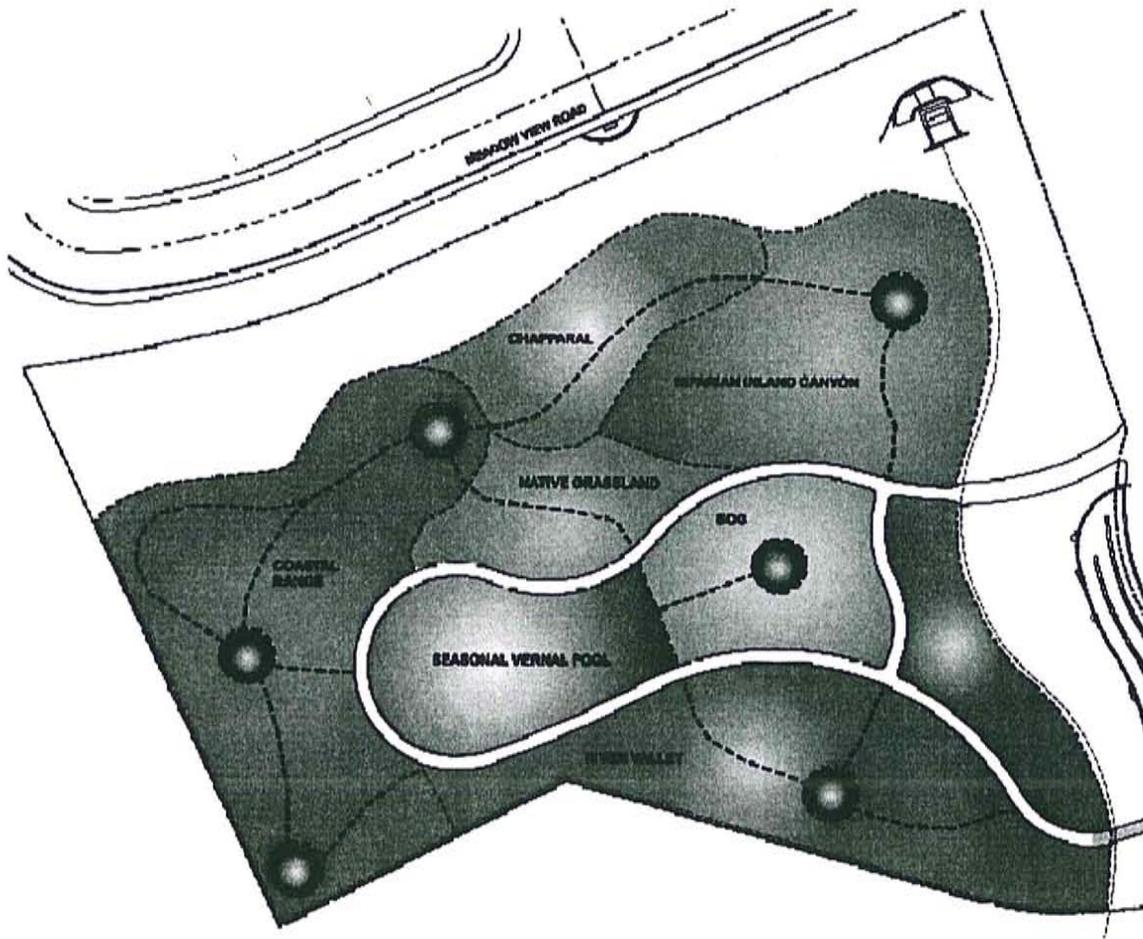
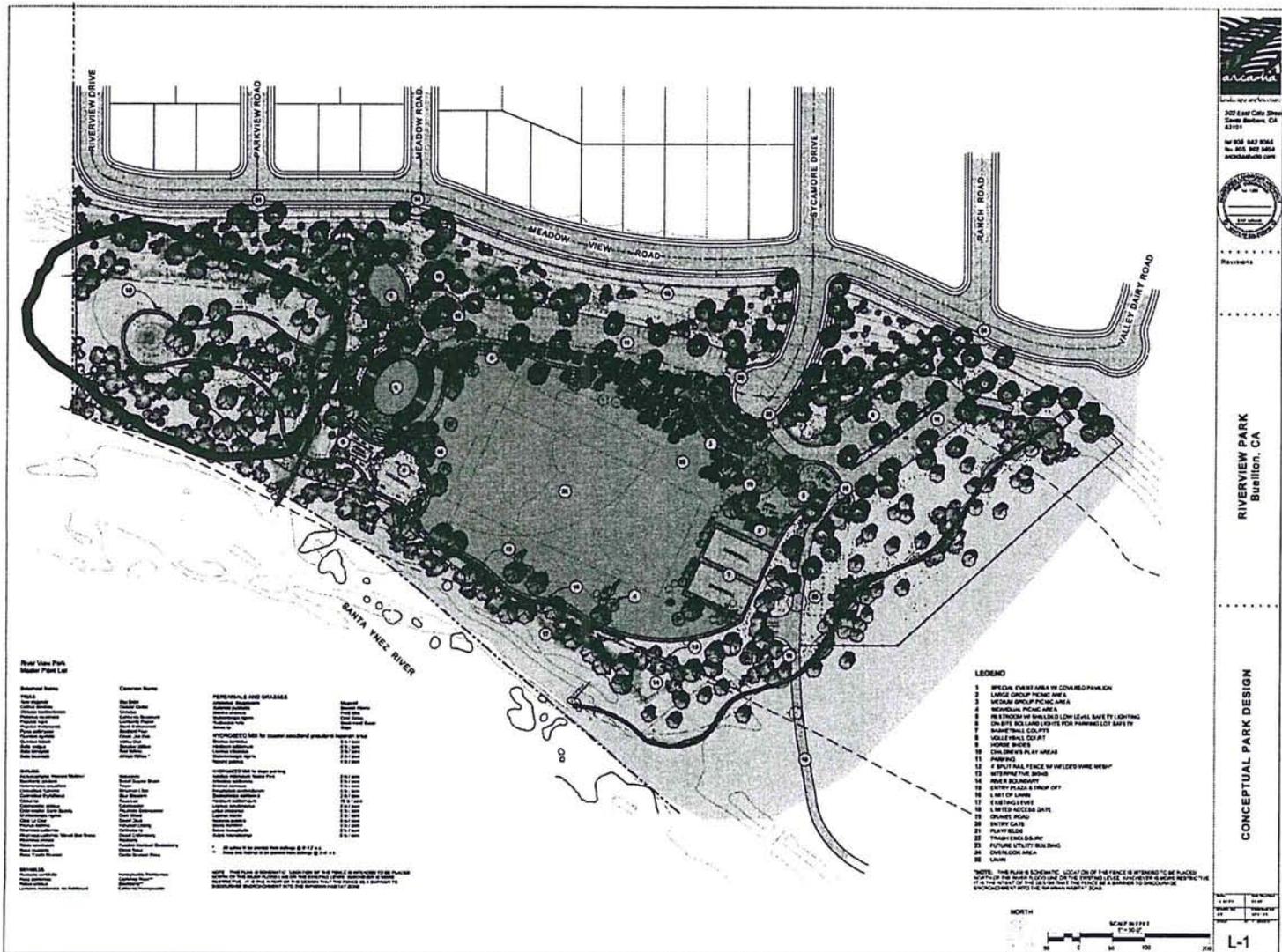
  
\_\_\_\_\_  
Don G. Kircher  
City Attorney

EXHIBIT "A"



# EXHIBIT "B"



**EXHIBIT "C"**

**Cost: City of Buellton - Basic Infrastructure**

ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	ITEM TOTAL
<b>Phase I</b>				
<b>DESIGN FEES</b>				
Fine grading plan , irrigation plan, planting plan and specifications.	L.S.	1	\$28,000.00	\$ 28,000.00
<b>GENERAL REQUIREMENTS</b>				
Mobilization, demobilization, bonds, Insurance	L.S.	1	\$2,500.00	\$2,500.00
<b>SUB TOTAL</b>				<b>\$ 2,500.00</b>
<b>LANDSCAPE &amp; IRRIGATION IMPROVEMENTS</b>				
Fine Grading / Site Preparation (planting areas only)	S.F.	79,280	\$0.38	\$ 30,126.40
<b>SUB TOTAL</b>				<b>\$ 30,126.40</b>
<b>OTHER LANDSCAPE SERVICES</b>				
Irrigation System (main line, valves, lateral stubouts, controllers)	L.S.	1	\$67,600.00	\$67,600.00
90-Day Maintenance	S.F.	79,280	\$0.40	\$ 31,712.00
<b>SUB TOTAL</b>				<b>\$ 99,312.00</b>
<b>TOTAL - PHASE I</b>				<b>\$ 159,938.40</b>
<b>PHASE II</b>				
Decomposed Granite paths*	L.S.	1	\$20,600.00	\$ 20,600.00
<b>TOTAL - PHASE II</b>				<b>\$ 20,600.00</b>
<b>SUB TOTAL PHASE I MINUS PHASE II</b>				<b>\$ 139,338.40</b>
<b>Ten Percent Contingency**</b>				<b>\$ 11,133.84</b>
<b>GRAND TOTAL PHASE I PLUS CONTINGENCY</b>				<b>\$ 150,472.24</b>

\* Note: Pathwork was included in Main Phase of River View Park (show as execution pending in Change Order #9) so line item was deducted from the Botanic Garden budget.

AMENDMENT NO. 2 TO AGREEMENT

Santa Ynez Valley Botanic Garden Foundation, Inc.  
and  
City of Buellton

THIS AMENDMENT NO. 2 TO AGREEMENT (“Amendment No. 2”) is entered into this 10th day of January, 2013 by and the CITY OF BUELLTON, a California municipal corporation (“City”), and SANTA YNEZ VALLEY BOTANIC GARDEN FOUNDATION, INC. (“Foundation”), a non-profit corporation duly organized and operated under the laws of the State of California.

RECITALS

- A. On November 20, 2006, Foundation and the City entered into a Private/Public Partnership Agreement (the “Agreement”) for the purpose of developing, operating, and maintaining the Botanic Garden at River View Park.
- B. Pursuant to the Agreement, the term of the Agreement was for a period of three (3) years, subject to renewal for an additional three (3) years as agreed by the City and Foundation.
- C. On December 10, 2009, the City Council approved Amendment No. 1 to the Agreement to extend the term of the Agreement for six (6) years.
- D. To enhance the enjoyment to the Botanic Garden, Foundation proposes to renovate the planting and irrigation on the south-facing slope below Riverview Drive/Meadow View Drive (currently owned and maintained by City), directly adjacent to the Botanic Garden (the "Slope Renovation Project").
- E. The City Council finds that the Foundation’s efforts at the Botanic Garden continues to be in the best interests of the residents of Buellton and that the Foundation should continue their operations at the Botanic Garden in accordance with the purposes set forth in the Agreement, as amended.

AMENDMENT

In consideration of the mutual covenants and conditions set forth herein, the City and Foundation agree as follows:

- 1. Section 3. “CITY RESPONSIBILITIES” of the Agreement is hereby amended to add a new sub-section 3 e, to read as follows:

"e. As part of the Slope Renovation Project, City agrees as follows:

(1) To provide funding for the Slope Renovation Project in an amount not to exceed Five Thousand Five Hundred Dollars (\$5,500.00). Progress payments shall be provided to Foundation within ten (10) working days following submittal of a written invoice.

(2) City will continue to maintain the area of the River View Park western storm channel and head wall, including the channel, the eastern bank of the channel and an area ten (10) feet from the head wall structure and/or within the fencing adjacent to the head wall. City will mow this area on an annual basis in late fall prior to the onset of the rain season and at all other times shall be left in a natural state. City shall, on a monthly basis, remove accumulated debris that accumulates at the headwall outfall.

(3) City will perform quarterly walkthroughs in the Botanic Garden and Slope Renovation Project area with members of the Foundation."

2. Section 4. "**FOUNDATION RESPONSIBILITIES**" of the Agreement is hereby amended to add a new sub-section 3 b, to read as follows:

"b. As part of the Slope Renovation Project, Foundation agrees as follows:

(1) Foundation shall provide a new landscape design for the slope area incorporating plants of the coastal chaparral plant communities. Foundation shall provide all plant material necessary for replanting the slope area as well as all needed valves and dip line portions of the irrigation system.

(2) Foundation shall be responsible to retain a licensed landscape professional to perform all planting and irrigation work necessary for the Slope Renovation Project.

(3) The irrigation system in the slope area shall be re-designed to be operated, controlled and maintained as part of the Botanic Garden irrigation system.

(4) Following completion of the Slope Renovation Project, Foundation shall assume responsibility for all maintenance of the slope area.

(5) Foundation will perform quarterly walkthroughs in the Botanic Garden and Slope Renovation Project area with members of the City. Based upon the walkthrough, the Foundation shall prepare and deliver a report to the City."

3. Except as expressly modified herein, all the terms referenced in this Amendment shall have the same meaning as the terms defined in the Agreement and Amendment No. 1 to the Agreement.

4. Except as expressly modified by this Amendment, all terms and provisions of the Agreement and Amendment No. 1 to the Agreement shall remain in full force and effect.

IN WITNESS HEREOF, the parties have executed Amendment No. 2 to the Agreement.

**CITY OF BUELLTON**

\_\_\_\_\_  
Judith Dale  
Mayor

ATTEST:

\_\_\_\_\_  
Linda Reid  
City Clerk

**SANTA YNEZ VALLEY BOTANIC  
GARDEN FOUNDATION, INC.**

\_\_\_\_\_  
Puck Erickson Lohnas  
President

ATTEST:

\_\_\_\_\_  
Secretary to the Board

**CITY OF BUELLTON**  
City Council Agenda Staff Report

City Manager Review: JHK  
Council Agenda Item No.: 7

To: The Honorable Mayor and City Council

From: Ralph D. Hanson, City Attorney

Meeting Date: January 10, 2013

Subject: Consideration of a Request to Waive Legal Fees - Buellton Self Storage LP v. Norman Williams, City of Buellton, et al. -- Santa Barbara Superior Court Case No.1375366

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“The following is in response to a request made by Mark Edwards, on behalf of Norm Williams, to waive the repayment of the City's legal fees incurred in connection with the defense of the above-reference action.”

**BACKGROUND**

On July 10, 2008, the City Council adopted Resolution No. 08-12 to approve the applications of Mr. Williams for a Mitigated Negative Declaration, Final Development Plan, Lot Line Adjustment and Tentative Tract Map for the 10 condominium units at 655 Central Avenue. As is a standard condition of the approval of all development entitlements in the City of Buellton, Resolution No. 08-12 included the following condition:

**"6. Indemnity.** Applicant agrees, at its sole cost and expense, to defend, indemnify, and hold harmless the City, its officers, employees, agents, and consultants, from any claim, action, or proceeding brought by a third party against the City, its officers, agents, and employees, which seeks to attack, set aside, challenge, void, or annul all, or any part, of the approval, decision or action of the City Council, Planning Commission, or other decision-making body, or staff action concerning the Project."

Subsequently, the above-referenced action was filed by the adjacent property owners, Buellton Self Storage LP, alleging a variety of claims, including, but not limited to, contesting the validity of the approval of Resolution No. 08-12.

As the defense of this lawsuit progressed it became abundantly clear that the underlying purpose of the lawsuit was not to contest the actions of the City of Buellton, rather this matter stemmed from prior disputes between the adjacent property owners concerning the purchase of the property that now is developed with the self-storage facility. Simply, this action was a tactical maneuver to tie up the development of development project and put pressure on Mr. Williams. In fact, all parties tacitly agreed to this premise and a stipulation was entered that the City of Buellton would not be required to respond or make a formal appearance in the action.

The action finally resulted in a Settlement Agreement; however, only between the property owners. The City of Buellton was not a party to the Settlement Agreement; admitted no wrongdoing, did not change any of the project approved, did not pay any damages or fees as a result of the action and was dismissed, with prejudice, from the action. Nevertheless, in getting to that final result, because the City was a named party and because the City needed to act as a "middleman" in facilitating the final settlement, the City, through our office, expended considerable time and effort resulting in fees totaling over \$11,000.00. Based on the above indemnity provision, that amount, together with other applicable planning fees, has been submitted to the applicant for repayment.

At the time of the settlement, the attorneys for Mr. Williams requested Mark Mulkerin (the litigation attorney from Burke, Williams and Sorensen who handled this action) to request and recommend that the City waive reimbursement of attorney's fees. In fact, he did. Attached is a recent e-mail exchange between Mr. Mulkerin and Mr. Edwards explaining the actions and positions of the parties at the time of the settlement agreement.

Based upon the original request for waiver, it was, and continues to be, the recommendation of the City Attorney's office, the Planning Department and the City Manager that fees not be waived. Nonetheless, despite that collective recommendation, it has repeatedly stressed to Mr. Williams and Mr. Edwards that only the City Council has the authority to waive such fees, not City Staff or the City Attorney's office. Accordingly, this matter is now before the City Council.

## **DISCUSSION**

The City's standard development condition for indemnity in case of a third-party lawsuit is an extension of the longstanding and fiscally prudent policy of the City that services and programs should, to the greatest extent possible, be on a cost-recovery basis and that those who take advantage of City services should not become a burden on the other taxpayers (residents and businesses) of the City.

In the context of development, it has been the policy of Buellton (like virtually every other City in California) that developers seeking the privilege of development (and, presumably profit) should not have their personal profit-making venture become a cost to the existing residents and businesses. For example, developers are expected to install and pay for all public improvements associated with the project and pay all necessary impact fees and planning costs associated with the review and approval of the project. The indemnity provision is simply an extension of that policy.

Notwithstanding the foregoing, the City Council does have the authority to waive any or all applicable development fees, including the reimbursement of legal fees in this matter.

**FISCAL IMPACT**

Potential waiver of the reimbursement of \$11,466.44.

**RECOMMENDATION**

Staff recommends that the City Council deny the request for waiver. However, should Council desire to waive reimbursement of any or all of the costs, that Council determine and provide direction to staff.

**ATTACHMENT**

Attachment 1 - September 28, 2012 E-mail / Mark Mulkerin to Mark Edwards

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**Subject:** FW: 655 Central Ave - Buellton Legal Fees

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**From:** Mulkerin, Mark J.  
**Sent:** Friday, September 28, 2012 5:48 PM  
**To:** 'Mark Edwards'  
**Cc:** Hanson, Ralph D.; Jack Collison; 'John Kunkel'; 'Marc Bierdzinski'; 'Norman Williams'  
**Subject:** RE: 655 Central Ave - Buellton Legal Fees

Mr. Edwards:

The City never agreed to waive its fees in connection with this matter. The City was brought into this case on a claim of questionable merit as part of what I believe was a tactical move in a dispute regarding the project. The City facilitated the settlement discussions by providing information and attempting to get the parties to resolve their differences. Ultimately, that occurred and the matter was dismissed. The City was not a party to the settlement and did not waive its fees.

At the time of the settlement, Mr. Collison asked me if the City would waive its fees and costs. I did not agree to do so. Rather, I expressed to Mr. Collison that I would make that recommendation to the City. Following my discussion with Mr. Collison, you will note that there is no written confirmation of any agreement by the City to waive fees and costs. Also, the City was not asked to be part of the settlement agreement.

If Mr. Collison's recollection is that I conveyed to him that I would make a recommendation to the City, he is absolutely correct. However, I will not discuss the content of any attorney-client communications.

Regards,

Mark Mulkerin

Mark J. Mulkerin | Partner  
1851 East First Street, Suite 1550 | Santa Ana, CA 92705  
d - 949.265.3410 | t - 949.863.3363 | f - 949.863.3350  
[mmulkerin@bwslaw.com](mailto:mmulkerin@bwslaw.com) | [vCard](#) | [bwslaw.com](http://bwslaw.com)



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**From:** Mark Edwards [<mailto:medwards@parton-edwards.com>]  
**Sent:** Friday, September 28, 2012 5:08 PM  
**To:** Mulkerin, Mark J.  
**Cc:** Hanson, Ralph D.; Jack Collison; 'John Kunkel'; 'Marc Bierdzinski'; 'Norman Williams'  
**Subject:** 655 Central Ave - Buellton Legal Fees

Mark,

I am Mark Edwards, and I work with 655 Central Ave, LLC in the City of Buellton. More than a year and a half ago, the LLC was involved in a neighbor litigation, and was being represented by Jack Collison - you were representing the City. Just prior to a time when the City would have had to earnestly enter into that litigation, Jack has relayed that he had a conversation with you wherein he requested that you (the City) would

**not charge any legal costs to the LLC if the litigation could be settled immediately. This was a material consideration at the time, and paved the way for a timely settlement of the lawsuit.**

**It has been our understanding that the request for a consideration to standstill on the legal fees was agreed upon, and evidenced since no fees were charged to project at closeout in May of 2011. Further, this understanding was strengthened in that no legal bills were presented until April of 2012, at which time we were simply trying to have our maintenance bonds released. Obviously, these newly presented billings have raised questions as to their appropriateness, based on our past understandings, even to a point of integrity.**

**Please be advised that we have met with the City, Mr. John Kunkel and Mr. Marc Bierdzinski, regarding these recently presented invoices. After their review, Mr. Kunkel has directed that he does not have authority to resolve this issue, and any further pursuit must be taken before the City Council. Accordingly, we have requested a hearing with the Council to be scheduled on October 11th.**

**Now, it has been my sincere hope that, upon refreshment of the history of this issue, all parties would recall and agree that these fees were not to be charged to 655 Central Ave., LLC, and the current billings would be withdrawn. To that end, it is my understanding that our attorney, Mr. Jack Collison has contacted you in regard to his previous request to not charge fees. Jack has relayed to me that, via a recent voicemail, you have confirmed that you did in fact make this request to forgive the fees back in 2011. As a matter of my due dilligence and discovery, I now need to know to whom you made this request, and the exact response. Please advise.**

Mark Edwards

(805) 570-7518